

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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JANE DOE et al.,      :
:                    :   CA No. 00-674
:   Plaintiff,       :
:   v.               :
:                    :
JOHNY LUMINTANG,     :
:                    :   DAY 2
:   Defendant.      :
:                    :
- - - - - X

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Washington, D.C.
March 28, 2001
9:55 a.m.

Transcript of Trial
Before the Honorable Alan Kay
United States District Court Magistrate

APPEARANCES:

For the Plaintiff: ANTHONY DiCAPRIO, ESQ.
 JUDITH CHOMSKY, ESQ.
 JENNIFER GREEN, ESQ.
 STEVE SCHNEEBAUM, ESQ.
 BRIAN HENDRIX, ESQ.
 SUSAN ROBERTS, ESQ.

For the Defendant: NO APPEARANCE

Court Reporter: JON HUNDLEY
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 Washington, D.C. 20003
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1 PROCEEDINGS

2 THE CLERK: Civil Action 2000-674, Jane
3 Doe et al. versus Johny Lumintang. Anthony
4 DiCaprio, Judith Chomsky, Jennifer Green, Steve
5 Schneebaum, Brian Hendrix and Susan Roberts
6 representing the plaintiffs. The defendant is not
7 present and there is no representation by counsel.

8 THE COURT: Good morning.

9 MR. DiCAPRIO: Good morning, Your Honor.

10 THE COURT: Are you ready to proceed, Mr.
11 DiCaprio?

12 MR. DiCAPRIO: Yes, Your Honor.

13 THE COURT: You are calling John Doe 3 to
14 the stand. Very well.

15 MR. DiCAPRIO: Yes, Your Honor.

16 THE COURT: We have the same interpreter.
17 The interpreter has previously been sworn, as has
18 the witness, so they remain under oath.

19 Mr. DiCaprio, again, we have a new
20 reporter today, and I hope that we can be
21 solicitous of his need to get everything down on
22 the record. So if there are names of villages and
23 towns which I'm sure he's not familiar with, if you
24 would be good enough to have the interpreter spell
25 out the names so there's no misunderstanding.

1 MR. DiCAPRIO: Yes, Your Honor.

2 THE COURT: Very well.

3 MR. DiCAPRIO: Would it be easier for the
4 interpreter if I were to put the easel by him so he
5 could write it out? We have it here for that
6 purpose.

7 THE COURT: That might be easier. I'm
8 sure if it was spelled out letter by letter, the
9 court reporter could get it, but I have no
10 objection to having the easel adjacent to the
11 interpreter where it can be written out.

12 MR. DiCAPRIO: Shall I proceed, Your
13 Honor?

14 THE COURT: You may proceed.

15 MR. DiCAPRIO: Thank you.

16 Your Honor, I would like to offer Exhibit
17 19, which is the letter that was referred to and
18 testified to by John Doe 3.

19 Before I offer it, I would like to advise
20 the Court that on February 28th, 2001, John Doe 3
21 and I went to the UNTAET--that is
22 U-N-T-A-E-T--Special Crimes Unit in Dili, East
23 Timor, to speak to Mr. Stein Hagen, who is the
24 acting chief investigator, to retrieve the original
25 of Exhibit 19. Because this letter is going to be

1 used in a criminal prosecution, we were not able to
2 get the original and we actually were not able to
3 speak to Mr. Hagen, although I spoke to his
4 assistant and received his phone number.

5 I called him on four or five occasions
6 when I returned to the United States and I spoke to
7 him on March 21st, 2001. He indicated to me that
8 he would copy the letter, he would sign the letter
9 and indicate that the letter is an accurate and
10 complete copy. So that there is a signature by Mr.
11 Hagen and there is writing in blue and that is his
12 writing. We received these documents on Monday by
13 Express Mail.

14 I therefore offer Exhibit 19.

15 THE COURT: Very well. The Court will
16 accept a copy of the letter which has been
17 identified as Exhibit 19 for identification and
18 admit it into evidence.

19 [Plaintiffs' Exhibit 19
20 was received in
21 evidence.]

22 MR. DiCAPRIO: Thank you, Your Honor.

23 I also offer at this time Exhibit 23,
24 which is the graduation photo of John Doe 5.

25 THE COURT: And Exhibit 23 for

1 identification will be accepted into evidence also.

2 [Plaintiffs' Exhibit 23
3 was received in
4 evidence.]

5 MR. DiCAPRIO: Thank you, Your Honor.

6 Your Honor, one additional request, if I
7 may, of the Court. Many of these documents have
8 the actual name of the parties. We would like the
9 opportunity at some point in time to redact the
10 names before these documents become part of the
11 record, the permanent record.

12 THE COURT: I have no problem, Mr.
13 DiCaprio, with respect to the names of individuals
14 who are named plaintiffs so that we can then have a
15 cross-reference to a John Doe or Jane Doe, but to
16 have a redacted name--let me think about that.

17 I have no objection to the redaction, but
18 there should be somewhere perhaps in the sealed
19 file a cross-reference to the actual person who may
20 have authored a document or been the recipient of a
21 document.

22 MR. DiCAPRIO: That seems very
23 appropriate, Your Honor.

24 THE COURT: So if something could be
25 worked out along those lines, because we have to

1 have a record that makes sense in terms of having a
2 legitimate document from a legitimate individual
3 who is known somewhere in the court record.

4 MR. DiCAPRIO: Okay. Thank you, Your
5 Honor.

6 INTERPRETER PREVIOUSLY SWORN

7 JOHN DOE 3, PLAINTIFFS' WITNESS, PREVIOUSLY SWORN

8 CONTINUED DIRECT EXAMINATION

9 BY MR. DiCAPRIO:

10 Q Yesterday, as we broke for the day, you
11 were describing your father's condition and the
12 effect that the events that you testified to has
13 had upon your father. Do you recall that?

14 A Yes.

15 Q And I believe that you indicated that he
16 is very thin.

17 A Yes.

18 Q And is that a change from his former
19 appearance?

20 A Yes.

21 Q All right. Would you describe the change
22 that took place in your father's physical
23 appearance?

24 A Before the incident, my father was strong
25 and healthful man. He could work as an agriculture

1 and in the government as a civil servant. But
2 after the incident, he became real weak man. He
3 became very fragile and get sick easily. He lost
4 his hope of living and he lost faith of life and et
5 cetera.

6 Q When you say "and et cetera," what do you
7 mean by that?

8 A Because before, he has hope and will to
9 live as agriculture--as agriculture or even as a
10 civilian, also a civil servant. But after that, he
11 seems like there is no meaning of life for him and
12 he just stay at home all the time.

13 Q And you're bringing this case on his
14 behalf; is that true?

15 A Yes.

16 Q And can you tell me whether or not,
17 because of his condition, he has not traveled here
18 to this courtroom?

19 A Yes, that's why he could not come, because
20 of his physical condition and because of his age,
21 and he has some heart problem as well. He was also
22 shot and that's why it's affect physically to have
23 long-distance travel.

24 Q Would you repeat that part of the answer?
25 I didn't understand the first portion--he was so

1 short.

2 THE INTERPRETER: My fault. He was shot
3 as well.

4 MR. DiCAPRIO: Oh, shot.

5 THE INTERPRETER: Yes.

6 MR. DiCAPRIO: Okay.

7 BY MR. DiCAPRIO:

8 Q By whom was he shot?

9 A Indonesian armed force, Indonesian
10 military. He was shot by a gun.

11 Q When was he shot?

12 A It was in 8 September 1990 in our village,
13 Hatoudo.

14 Q And you've referred to the village, and
15 for the record, I'm going to point to the southwest
16 portion of East Timor, and I'm pointing to Hatoudo,
17 H-a-t-o-u-d-o. And is this the village that you're
18 referring to?

19 A [In English] Yes.

20 THE INTERPRETER: Yes.

21 BY MR. DiCAPRIO:

22 Q Now, you have been able to answer some
23 questions in English. You do speak some English;
24 is that correct?

25 A [In English] Yes.

1 Q But you don't feel comfortable testifying
2 in English?

3 A [In English] Yes.

4 Q Now, did you observe your father's
5 residence in October of 1999?

6 A Yes, I went there and observed and the
7 house was burned down and there was nothing left.

8 MR. DiCAPRIO: May I approach the witness,
9 Your Honor?

10 THE COURT: You may.

11 BY MR. DiCAPRIO:

12 Q I am showing you what has been marked and
13 received into evidence as Exhibit Number 11. Do
14 you recognize that document?

15 A Yes, I do.

16 Q And have you seen the original of the army
17 manual at some point?

18 A Yes, I saw.

19 Q When did you see that?

20 A I don't remember the exact day when I saw
21 the document, but it was in the beginning of August
22 1990.

23 Q Where were you when you saw the document?

24 A I saw the document in my office at that
25 day I was there and then--and then Timorese who

1 was--belonged to the Indonesian Armed Force or
2 military came to my office with one of his friend
3 and they hand over the document to my director, and
4 then my director called me to his office and I saw
5 the document in front of three of them. And then
6 my director hand over the document to me. He
7 handed over to me because I was in charge at that
8 moment for all the file of the office.

9 Q What did the original document look like?

10 A It was an original document. I could see
11 it--I say it because I saw the original signature
12 of the document and it was integral document
13 because from the first page until the last one was
14 complete.

15 Q Was the document bound together?

16 A Yes.

17 Q And whose signature was on the document
18 that you saw?

19 A Yes, I did. The signature was the
20 signature of General John Lumintang.

21 Q Now, you had the opportunity to see the
22 individual that brought the document?

23 A Yes, I saw him.

24 Q And can you tell me what he was wearing?

25 A He was wearing military uniform, and he

1 has two insignia.

2 Q Two stripes?

3 THE INTERPRETER: Yes.

4 BY MR. DiCAPRIO:

5 Q Two stripes?

6 A Yes.

7 Q And was the uniform an army uniform?

8 A Yes, it was a military uniform.

9 Q And do you know what the rank of this
10 individual was?

11 A He's a--I know he's a Timorese. He's from
12 the district of Bobonaro. He's from district of
13 Bobonaro and he is still a relative of my director.

14 Q Do you know what the rank of this
15 individual was in the Indonesian military?

16 A I don't know which rank he belonged to,
17 but I know that he was working at the Korem.
18 Belonged to the--he was working in Korem 164.

19 Q And was this--do you know what branch of
20 the military he belonged to?

21 A I don't know.

22 Q Was there--withdraw that.

23 Was this an Army uniform?

24 A Yes.

25 Q Now, did you talk with this individual?

1 A Yes, I did.

2 Q What did you say to him and what did he
3 say to you?

4 A I asked him where he got the document and
5 where did he find it, and he told me and he said
6 that it's very confidential document, so please
7 don't let it known by other people.

8 Q Did he say why he didn't want you to tell
9 other people about that document?

10 A Because if someone else knew about the
11 document, then his life would be in danger, because
12 even he was--belonged to Indonesian army force, but
13 he support pro-independence movement, so if they
14 found the document, then they eventually could kill
15 him.

16 Q You indicated yesterday that you
17 were--that you returned to Dili on October 16th,
18 1999.

19 A Yes.

20 Q Would you describe the condition of Dili
21 when you returned?

22 A I came from Jakarta to Dili through
23 Baucau. It's the second biggest city of East
24 Timor.

25 Q Can you point to that on the map?

1 THE INTERPRETER: This is the district,
2 Baucau.

3 MR. DiCAPRIO: Let the record reflect that
4 the interpreter is pointing to an area known as
5 Baucau which is in the northern--northeastern
6 portion of East Timor, Exhibit Number 1.

7 BY MR. DiCAPRIO:

8 Q And where did you go from there?

9 A From Baucau, I saw that the town was
10 totally destroyed, all houses was--were burned
11 down. And then I went to Dili through Manatuto--

12 Q Could you spell that, please?

13 A --the other district before Dili.

14 Q Could you point to that, please, on
15 Exhibit Number 1.

16 THE INTERPRETER: Okay. This one.

17 MR. DiCAPRIO: Let the record reflect that
18 the interpreter is pointing to a spot on Exhibit 1
19 which is located approximately in the middle of the
20 country, northern portion.

21 THE WITNESS: In Baucau, Manatuto, all
22 houses near the street, too, were burned down and I
23 saw it and I went to Dili.

24 BY MR. DiCAPRIO:

25 Q When you say the houses were burned down,

1 could you describe the condition of the homes?

2 A All of them were totally burned down and
3 they were in no condition to use it anymore or to
4 live there.

5 Q And where did you go from--

6 A From Manatuto, I went to Dili.

7 Q Would you describe the conditions in Dili?

8 A When I arrived in Dili, I saw that there
9 were no houses in the street where I went through.

10 Q When you say there were no houses in the
11 street that you went through, what do you mean?

12 A I meant that all the houses in the street
13 were burned down as well. There were no one who
14 lived there. I saw the civilian who--was living in
15 a tent. The tent was distributed by the
16 U.N.--U.N.H.C.R.

17 Q Is that the U.N. Human Rights Commission?

18 A This organization that distribute all the
19 tent for the Timorese who lived in Dili at the
20 moment.

21 Q Did the people in Dili live in tents for a
22 period of time?

23 A Yes, it was for a long time, and even now
24 some of them still live under tent.

25 Q Was there any electricity in Dili when you

1 returned?

2 A There were--there was no electricity, just
3 in the Interfret and UNTAET, but they used--and the
4 compound--at the compound of UNTAET, but they used
5 the generator.

6 Q So the only form of electricity was by
7 generator?

8 A Yes, but just for the international staff
9 or for Interfret and UNTAET.

10 Q Did the East Timorese population in Dili
11 have generators?

12 THE INTERPRETER: Do you mean now?

13 MR. DiCAPRIO: No.

14 THE INTERPRETER: At the time?

15 MR. DiCAPRIO: At that time.

16 THE WITNESS: They didn't have.

17 BY MR. DiCAPRIO:

18 Q And what did the people do for food and
19 water?

20 A They simply depend on the distribution of
21 food and water by the U.N.H.C.R.

22 Q Now, as part of your duties in your
23 capacity, have you travelled throughout East Timor
24 since October 16, 1999?

25 A Yes, we start work again in November '99,

1 and since then, we traveled to different places of
2 East Timor.

3 Q Generally how would you describe these
4 places that you've been to?

5 A What we observed in the different district
6 is it was--the civilian or the people live--some of
7 them live under tent and some of them would start
8 rebuild their houses, but most of their houses that
9 they had before was--were also burned down or
10 destroyed. And they start rebuild their house with
11 the traditional material like wood or grass and
12 things that they had in their villages. And the
13 civilian who live in those villages informed me
14 about what had happened, like their violation of
15 human rights in these different villages, you know,
16 the rape of their daughters and the forced
17 evacuation to West Timor and so on, and some of
18 them was killed, too, and some of them was
19 disappeared and they don't know their whereabouts
20 until now.

21 Q Did you take reports from these people as
22 part of your job?

23 A Yes. Yes, I took notes, I record some of
24 them, and I did report on this issue.

25 Q And were you in towns and villages from

1 the eastern portion of East Timor to the western
2 border?

3 A Yes.

4 Q How many different towns did you visit?

5 A I visit all the 13 districts and 124 towns
6 or villages.

7 Q And did each of the towns look similar in
8 the nature in the extent of the destruction?

9 A Yes, almost the same.

10 Q The people that made the reports to you,
11 did they indicate to you who had inflicted the
12 injuries upon them and the damages?

13 A They told me that all of this destruction
14 was carried out by the Indonesian military and the
15 militia. Instead of this information I got, I also
16 went to civilians--to some places where we found
17 corpse, dead person, together with the personnel of
18 crime unit from East Timor and we collect the
19 information and we also pick up some of their bone.

20 THE WITNESS: [In English] Their bodies.

21 THE INTERPRETER: Bodies.

22 THE WITNESS: [In English] The corpse.

23 BY MR. DiCAPRIO:

24 Q Are you familiar with the judicial system
25 in East Timor?

1 A Yes, I am.

2 Q Is there any mechanism to bring a case
3 against General Lumintang, the defendant, in East
4 Timor?

5 A It is not possible because the East Timor
6 law doesn't provide article that can allow to sue
7 general in East Timor, and East Timor law doesn't
8 have power to just sue general in East Timor.

9 Q I have one more question for you. If you
10 would, in English or in Tetum, is there anything
11 that you would like to tell Judge Kay about the
12 damages that you and your family sustained as a
13 result of the actions of the Indonesian military
14 and the militia after October 30, 1999?

15 A First thing that I would like to say, that
16 for the death of my brother, the effect of the loss
17 a lot because we are not able to sue the General
18 Lumintang in East Timor, who is responsible for all
19 these damages. For us particularly as a family, we
20 feel that it's unfair because the death of my
21 brother and the suffer, especially by my father, it
22 just --without--it's remain without resolve. And I
23 would like to take this--advantage of being here in
24 United States to let--to let American know that not
25 only my family or me who went through this kind of

1 torture and physical damages, but most of the East
2 Timor population have the same experience. And a
3 lot of crime has happened in all district of East
4 Timor.

5 MR. DiCAPRIO: May I approach the witness?

6 THE COURT: Yes.

7 THE WITNESS: The first case was in
8 Liquica.

9 MR. DiCAPRIO: Would you spell that,
10 please?

11 THE INTERPRETER: L-i-t-u-i-c-a.

12 MR. DiCAPRIO: When you say T, are you
13 referring to Q?

14 THE INTERPRETER: Q, yes.

15 MR. DiCAPRIO: L-i-q?

16 THE INTERPRETER: Exactly.

17 MR. DiCAPRIO: Okay.

18 THE WITNESS: In this specific village,
19 the incident happened or took place in April '99
20 where 100 civilians was gathered in a church and
21 the Indonesian military assault the church and
22 killed more than 50 persons, and until now, we
23 don't know where is the whereabouts of more than
24 100 people.

25 BY MR. DiCAPRIO:

1 Q Did you visit Liquica?

2 A Yes, I did. And since that month, a lot
3 of civilians who lived in Liquica before fled to
4 other town, Maubara, M-a-u-b-a-r-a. The civilian
5 who hide there, more than 2,000 people, from
6 children and all ages, I went there and I visited
7 them.

8 And in August, 6 August '99, the
9 Indonesian military and militia came to Suai,
10 S-u-a-i, and they assault a church where a dozen
11 civilian were gathered together there. There they
12 killed three Catholic priests and a hundred
13 civilians. Most of them were children, pregnant
14 women, and women. I visit the family and talk
15 about what had happened and they gave me the
16 information I need.

17 When I arrived in Suai district, I saw a
18 lot of body, corpse, laying down in the church--in
19 front of the church, and some of them had their
20 head arrested by dogs to the local markets.

21 MR. DiCAPRIO: I didn't understand your
22 interpretation. What did he say?

23 THE INTERPRETER: I said that some of the
24 corpse was without head and the head was arrested
25 by dogs to the local market.

1 THE WITNESS: And in August 5th, same
2 year, the Indonesian military and militia went to
3 Bobonaro--B-o-b-o-n-a-r-o--and they forced the
4 civilian to get in a police station, and later on,
5 some of the--in the evening, in the night, some of
6 the Indonesian military came to the police station
7 and killed some of the civilians who were there.

8 BY MR. DiCAPRIO:

9 Q Did you go to the town after the incident?

10 A Yes, I went there in October.

11 Q Did you take testimony from people who had
12 been involved in that massacre?

13 A [In English] Yes.

14 THE INTERPRETER: Yes. And in September
15 23rd, the same year, '99, they went to the district
16 of Ainaro--A-i-n-a-r-o--and they killed 15
17 civilians. Three of them were children.

18 BY MR. DiCAPRIO:

19 Q When you refer to "they," who do you mean?

20 A I refer to Indonesian military.

21 Q Let me ask you this. You visited many
22 towns, --

23 A [In English] Yes.

24 Q --did you not?

25 A [In English] Yes.

1 Q And were the sites that you saw similar to
2 the conditions of the villages that you have just
3 described?

4 A Yes, it's almost in the same condition,
5 but just that I mention of the destruction and the
6 kill people, what is different.

7 Q One last question. Dr. Tanter yesterday
8 testified to a gruesome incident regarding a
9 pregnant woman. Do you recall that testimony?

10 A Yes.

11 Q Thank you. Where did that take place?

12 A It was in Covalima, Covalima,
13 C-o-v-a-l-i-m-a.

14 Q Were you the individual that took the
15 report of that incident?

16 A Yes, it was me.

17 MR. DiCAPRIO: Thank you.

18 May I have a moment, please, Your Honor?

19 THE COURT: Yes.

20 [Pause.]

21 MR. DiCAPRIO: Nothing further, Your
22 Honor.

23 THE COURT: The witness may step down.

24 [Witness excused.]

25 MR. HENDRIX: Your Honor, what you're

1 about to see is the testimony of John Doe 4 via a
2 videotape deposition taken by Mr. DiCaprio in late
3 February, I believe the 27th of February of this
4 year. Mr. DiCaprio deposed John Doe 4, who is not
5 able to travel, and we're going to present that
6 today as testimony.

7 The first thing we're going to present is
8 the oath that was administered for the record.
9 Following that is going to be a brief bit of
10 background information. After the background
11 information, you will see testimony regarding the
12 post popular consultation vote violence.

13 THE COURT: The deposition was taken
14 where?

15 MR. HENDRIX: It was taken in East Timor.

16 THE COURT: All right.

17 Would you announce yourself for the
18 record, sir?

19 MR. HENDRIX: I'm Brian Hendrix.

20 THE COURT: Mr. Hendrix.

21 MR. DiCAPRIO: Does the Court depend upon
22 my ability, Your Honor, for--

23 THE COURT: We will see if we can find a
24 five-year-old in the courthouse.

25 [Laughter.]

1 MR. DiCAPRIO: That may be necessary.

2 [Video presentation of deposition of John
3 Doe 4.]

4 THE COURT: Mr. DiCaprio, I can't hear it
5 and the court reporter can't hear it, so to have it
6 meaningfully transcribed, you're going to have to
7 increase the sound.

8 Why don't you start again?

9 THE REPORTER: Did you want me to follow
10 it?

11 THE COURT: Well, it should be in the
12 record. What's easier for you? I can see that
13 you've got a copy of the tape. What would you
14 prefer?

15 THE REPORTER: Do they already have a
16 transcript?

17 THE COURT: Mr. Hendrix, do you have a
18 copy of the transcript of the deposition? Well,
19 you're going to introduce a copy of the videotape
20 into evidence, are you not?

21 MR. HENDRIX: Yes, Your Honor.

22 THE COURT: What's more convenient for
23 you, Mr. Hundley?

24 THE REPORTER: Usually what I do is just
25 say a videotape was played and if they want to look

1 at it, they do later.

2 THE COURT: But if you're going to type up
3 a copy of the transcript, for instance, you would
4 just make that available, then?

5 THE REPORTER: Is that what you wanted
6 done?

7 THE COURT: Are you going to be ordering a
8 copy of the transcript?

9 MR. HENDRIX: Your Honor, we certainly
10 could play the tape and then the portions that we
11 play have transcribed for the Court, leave the
12 record open for that purpose.

13 THE COURT: That would be helpful because
14 the court reporter is not sure how to handle this.
15 He could try and take it down, but he may not hear
16 everything. On the other hand, if a copy of the
17 relevant portions could be transcribed, obviously
18 he can include those in the transcript.

19 MR. HENDRIX: We could move the TV a
20 little bit closer to the court reporter if that
21 would assist him.

22 THE COURT: Well, I don't know whether
23 seeing it close up is going to make any difference;
24 as long as he can hear it.

25 MR. HENDRIX: That's--

1 THE COURT: Is there any way of you
2 plugging into the television and having it
3 transcribed on tape?

4 THE REPORTER: There's supposed to be a
5 jack that they plug in to that goes to the system.
6 I am not familiar with how it's done.

7 THE COURT: Unfortunately, we have
8 electronic courtrooms, but this is not one of them.

9 MR. HENDRIX: We also have a problem, Your
10 Honor, that this was taken in PAL, which is the
11 system used in East Timor. We tried to get it
12 transcribed into a copy and they couldn't do it
13 because it's a different system in the United
14 States. So if we--

15 THE COURT: So the tape that you have is
16 not readily playable in--

17 MR. HENDRIX: No. You--

18 THE COURT: --in America?

19 MR. HENDRIX: I am sorry, Your Honor.

20 THE COURT: Could it be played on a
21 standard VCR?

22 MR. HENDRIX: No. It's a digital video.
23 You can play it on a digital video player VCR.

24 THE COURT: You're getting too technical
25 for me.

1 MR. DiCAPRIO: Judge, I'm sure that, if
2 the Court would like to take a brief recess, we can
3 set up the television so that it's right by the
4 court reporter and--

5 THE COURT: All right. Why don't we do
6 so. I'll give you a few minutes to do that.

7 MR. DiCAPRIO: Thank you.

8 THE COURT: We'll take a ten-minute break.

9 [Recess.]

10 THE CLERK: All rise. Please be seated.

11 THE COURT: Tell me you solved the
12 problem.

13 MS. CHOMSKY: Could we have one moment?

14 THE COURT: Surely.

15 [Pause.]

16 THE COURT: You may proceed, Mr. Hendrix.

17 MR. HENDRIX: Your Honor, I believe we
18 have solved the problem. We're going to submit a
19 written version of what you're about to see--

20 THE COURT: Very well.

21 MR. HENDRIX: --to the reporter later on.

22 THE COURT: Thank you.

23 [Video presentation of deposition of John
24 Doe 4.]

25 MR. HENDRIX: Your Honor, we are going to

1 offer a transcript to the reporter of this.

2 THE COURT: Okay. Thank you, Mr. Hendrix.

3 Ms. Chomsky.

4 MS. CHOMSKY: This is Judith Chomsky.

5 I would like to call Jane Doe 1.

6 INTERPRETER PREVIOUSLY SWORN

7 JANE DOE 1, PLAINTIFFS' WITNESS, SWORN

8 DIRECT EXAMINATION

9 BY MS. CHOMSKY:

10 Q Is your name, for the purposes of this
11 trial, Jane Doe 1?

12 A Yes.

13 Q That's not your real name, is it?

14 A No.

15 Q Why aren't you using your real name?

16 A I don't want to use my real name because
17 the problem of East Timor hasn't solved yet, so
18 that's why I prefer to use nickname.

19 Q Are you afraid something might happen to
20 you if your real name were known?

21 A Yes.

22 Q Are you married?

23 A Yes.

24 Q How long have you and your husband been
25 together?

1 A I was married in 1968.

2 Q Do you have children?

3 A I have nine children.

4 Q I would like to bring your attention to
5 December 7th, 1975.

6 A In December--December 7th, the Indonesian
7 start invading East Timor, exactly the capital of
8 East Timor, Dili.

9 Q Where were you living?

10 A I live in Santa Cruz, S-t C-r-u-s.

11 Q Who were you living with at the time?

12 A I lived with my husband and my children.

13 Q How old was your youngest child at that
14 time?

15 THE INTERPRETER: At that time?

16 MS. CHOMSKY: At that time.

17 THE WITNESS: He hasn't born yet at that
18 time.

19 BY MS. CHOMSKY:

20 Q At that time, how many children did you
21 have?

22 A Seven of them.

23 Q And how old was the youngest?

24 A The youngest one was nine months. Nine
25 months, yes.

1 Q How did you learn of the invasion?

2 A I know because I could see the parachute
3 landing in my house.

4 Q Around your house?

5 A Yes, around my house, and some of them was
6 landing in front of my house, in the main gate.

7 Q What did you and your family do?

8 A And we left home and we went to my--and we
9 went to the house of my--

10 THE INTERPRETER: Let me see.

11 MS. CHOMSKY: Mother-in-law.

12 THE INTERPRETER: The parents of her
13 husband house.

14 BY MS. CHOMSKY:

15 Q Your mother-in-law?

16 A Yes, that's right.

17 Q Was that the last time you saw your house?

18 A Yes, but later on, my husband came back to
19 our house.

20 Q Did you go back to your house?

21 A No. My husband, who went back home. My
22 husband, who came back home for the food, and the
23 house were apparently burned.

24 Q From that day, from December 7th, 1975,
25 how long did the soldiers of the Indonesian army

1 stay in Dili?

2 A They stayed there for a long time.

3 Q Did they stay there--how did the fact that
4 they were in Dili affect you and your family?

5 A It's affect me in the sense that they just
6 arrest people or killing people without
7 asking--without talking to them or without
8 recognizing if these people belong to the Fretilin
9 Party or not.

10 Q Can you speak up a little?

11 THE INTERPRETER: Yes. I said that--

12 MS. CHOMSKY: You don't need to repeat
13 that, but--

14 THE INTERPRETER: Okay. Sure.

15 BY MS. CHOMSKY:

16 Q Was your husband able to stay with you?

17 A After December 7th, he went home, and then
18 later on he came back to his parents' house where
19 we were staying, and after that, he fled or went to
20 the mountain and he never come back.

21 Q Were you afraid for your husband?

22 A Yes. I afraid because of his safety and
23 at that time the situation of the civilian in Dili
24 was in danger, especially for those--for men. I
25 had to take care of all my children just with my

1 mother- and father-in-law. It was in a very
2 complicated situation. That's why I was really
3 afraid.

4 Q Did a time come when you yourself were
5 seized by the Indonesian army?

6 A Yes. My own situation turned out to
7 become complicated because after he went to the
8 mountain, he came over once to my house, brought
9 letter from those who went to the jungle with him
10 for their family in Dili, in the city, and then his
11 written--home was known by the Indonesian military.
12 That's why when he came back to the mountain, the
13 Indonesian military in Dili start watch us.

14 Q Was there occasion when they actually took
15 you into custody?

16 A Yes, that's right. That's right. The
17 Indonesian military start arresting women who were
18 in Dili and some of them were my friends or
19 relatives, and when they were arrested to--in
20 prison, they were interrogated and they talk about
21 me, and then in the evening around eleven o'clock,
22 the Indonesian military came over to my house and
23 arrest me and put me in prison.

24 Q What happened to you after they took you
25 to the prison?

1 A Before I go to the custody, they took me
2 to three different army stations where I was
3 interrogated there.

4 Q Were you pregnant at the time?

5 A Yes, I was.

6 Q How pregnant?

7 THE COURT: How long was she pregnant?

8 MS. CHOMSKY: How long was she pregnant.

9 THE COURT: I don't know if there's a
10 matter of degree. I'm not an expert on that.

11 THE WITNESS: I was seven months pregnant.

12 BY MS. CHOMSKY:

13 Q What happened to you in the police
14 station?

15 A I was interrogated why me and the women in
16 Dili want to flee or go to mountain or jungle, and
17 I told them that because the husband in jungle, in
18 the mountain, so that's why they wanted to go and
19 live together with them.

20 Q During the interrogation, did the soldiers
21 do anything to you other than ask you questions?

22 A I was pregnant, so they didn't brutally
23 beat me, but they slapped me and hit me sometimes.
24 And in the evening around twelve o'clock, they took
25 me to another army station.

1 Q And what happened to you in the second
2 station?

3 A At this army station, I was interrogated
4 from twelve-thirty until three a.m. in the morning.

5 Q Did you suffer any physical abuse at that
6 time?

7 A Yes. They beat me in my back.

8 Q How many days were you in this second
9 station?

10 A We stayed there for three days and--two
11 days, and the third day they took us back home to
12 see what we had lived at home. When we arrived,
13 they took me with another woman, a married woman,
14 and then when we arrived at home, they forced me to
15 wait outside and they took the other woman into
16 house and I presume that they raped her in house.

17 Q Did you hear her?

18 A Yes, I hear what happened in the room
19 because I just sit next to it and they--I hear the
20 woman scream, calling, "Oh, god, I'm a married
21 woman, please," and so on.

22 Q Did they--where did they take you after
23 you were in that house?

24 A They took us back to the army station.

25 Q Who did they take back?

1 A They took us both back to the army station
2 and she told me--she asked me please don't tell her
3 mother-in-law what had happened. If I told them,
4 then her situation will be more complicated.

5 Q Did you see other women hurt by the
6 Indonesian army in those three days when you were
7 in custody?

8 A Two of them, and one of two--two women and
9 one of them has a child of--on the Indonesian army.

10 Q Did you see any of the women who were cut
11 by the army?

12 THE INTERPRETER: Who were?

13 MS. CHOMSKY: Cut.

14 THE INTERPRETER: Cut.

15 THE WITNESS: Yes. The mother of a man
16 named Joaquim Saidanha.

17 BY MS. CHOMSKY:

18 Q Would you describe how it happened that
19 she was cut?

20 THE INTERPRETER: Just a second.

21 [Pause.]

22 THE INTERPRETER: Would you please repeat
23 the question, your question?

24 BY MS. CHOMSKY:

25 Q Would you describe how it happened that

1 the woman was cut?

2 A They asked her what was the position of
3 her son, Mr. Joaquim Saidanha, and why did he flee
4 to mountain, and she was trying to answer their
5 question and they start hurt her in her face with
6 bottle, but it's not an integral bottle, it's--

7 Q Broken bottle?

8 A A broken bottle, yes, that's right.

9 Q During this period, these three days, were
10 you able to contact your family?

11 A No.

12 Q Did you know where your children and your
13 baby were?

14 A Yes, I knew that they were staying with my
15 mother-in-law.

16 Q Were there any men arrested at the time
17 you were arrested?

18 A Yes, there is a lot of men because the
19 men want to flee to mountain and some of them were
20 not succeed to do so and was arrested by the
21 Indonesian military.

22 Q Were these men who were arrested at that
23 time neighbors of yours who you knew?

24 A Yes, I--I know--I know them.

25 Q After they were arrested, were they

1 separated from the women?

2 A They were--the men were arrested first,
3 and when I arrived in the army station, I didn't
4 see any one of them there.

5 Q Did you ever see any of those men who were
6 arrested again?

7 A No, I never seen them again.

8 Q And what did you believe happened to them?

9 A I believe that they were killed.

10 Q What happened to you after the three days
11 when you were in the police station?

12 A After those three days, they took us to
13 the last police station named Santai Ho.

14 Q How long did you stay in Santai Ho?

15 A Two days.

16 Q Were you interrogated there also?

17 A Yes. There they still interrogated me,
18 but they didn't beat me because they saw that I had
19 some blood in back of--in my back. Some blood in
20 my back. But I saw they tortured some other woman.

21 Q Where did the soldiers take you after
22 Santai Ho?

23 A After Santai Ho, the prison guards came
24 and took us to the prison.

25 Q How long were you in prison?

1 A Two months.

2 Q What was your physical condition when you
3 were in the prison?

4 A In the prison, I could not sleep with--

5 THE INTERPRETER: I'm sorry.

6 THE WITNESS: In the prison, we just slept
7 on floor, but I had to slept with my face pressed
8 into the floor because I had--my back hurt.

9 BY MS. CHOMSKY:

10 Q They hurt from the beatings?

11 A Yes.

12 Q You were in prison from the time you were
13 seven months pregnant until almost the end of your
14 pregnancy?

15 A Yes. They released me in July. They
16 released me a month before I give birth.

17 Q Did you receive medical care when you were
18 in the prison?

19 A No. And they said that no medical
20 treatment, you can die.

21 Q Excuse me? Can you repeat that?

22 A They told me that there is no medical
23 treatment for you, just keep it like this so you
24 can die slowly.

25 Q During the time that you were in prison,

1 did you have contractions?

2 A Yes.

3 Q Did the--were you being guarded by
4 soldiers?

5 THE INTERPRETER: Beg your pardon?

6 BY MS. CHOMSKY:

7 Q Were you being guarded by soldiers?

8 A No, they didn't do anything.

9 Q They didn't do anything.

10 THE INTERPRETER: Yes.

11 BY MS. CHOMSKY:

12 Q Even when you were having contractions?

13 A Yes. No.

14 Q Eventually, after you went back home, did
15 you go back to your mother-in-law's house?

16 A Yes.

17 Q Did a time come when your husband came
18 back to stay with you and your children?

19 A Yes. It was in '79 when he was captured
20 by Indonesian military in mountain.

21 Q Was he released and permitted to rejoin
22 you?

23 THE INTERPRETER: I beg your pardon?

24 Could you please repeat the question?

25 MS. CHOMSKY: I'll withdraw the question.

1 BY MS. CHOMSKY:

2 Q Did he come back--

3 THE INTERPRETER: Oh, I'm sorry. She said
4 that it was in '78, not '79.

5 BY MS. CHOMSKY:

6 Q Did he come back to live with you and the
7 children?

8 A Yes.

9 Q When was your youngest child born?

10 A My youngest kid was born in December the
11 4th, '79.

12 Q And is he known in this lawsuit as John
13 Doe 1?

14 A Yes.

15 Q Was he named after you and your husband?

16 A Yes. His real name is [name given].

17 MS. CHOMSKY: Your Honor, I have
18 instructed the translator not to give the full
19 response of the witness.

20 THE COURT: We will strike the actual name
21 from the record.

22 MS. CHOMSKY: Thank you, Your Honor.

23 BY MS. CHOMSKY:

24 Q Did your children go to school?

25 A Yes.

1 Q Did any of them go to college?

2 A One of them went to--one of my children
3 went to college.

4 Q How far did John Doe 1 go in school?

5 A He went till the last year of junior
6 school.

7 Q Did you expect that he would get to go to
8 college?

9 A Yes, I could support him through college.

10 Q I would like to bring your attention to
11 1991 and to an incident that involved three of your
12 children.

13 You recall a time when three of your
14 children went off with their uncle to a
15 demonstration?

16 A Yes.

17 Q Would you describe the occasion?

18 A There was a mass after two weeks in memory
19 of one of East Timorese youth activists. It was on
20 November 12, and three of my children went to the
21 church for the mass with their uncle.

22 Q Continue.

23 A So after mass, they went to the cemetery
24 to put flower, and there the Indonesian military
25 was there already and surrounding them and start

1 open fire on the people who were taking a part in
2 the demonstration or in the mass, and then two of
3 my children was escape and came back home.

4 Q What happened to your third child?

5 A I would like to ratify what I mean. Three
6 of my children was escape and came back home; just
7 the uncle who disappear.

8 Q After the time that their uncle left the
9 house with them, did you ever see the uncle again?

10 A No, I never see him again.

11 Q He was your brother-in-law?

12 A Yes, the youngest brother of my husband.

13 Q And what do you believe happened to your
14 brother-in-law?

15 A I believe he's dead because it has been
16 many years and if he still alive in mountain, he
17 should written home, but he didn't, so I believe
18 that he is dead.

19 Q How did you feel about your children going
20 to the mass?

21 A I was glad because I was sure that there
22 would be no incident because there were so many of
23 foreign journalists there.

24 Q There were foreign journalists at this
25 cemetery in Santa Cruz?

1 A Yes. Some of them was climbing the tree
2 in the cemetery.

3 Q And you believed their presence would make
4 your children safe?

5 A Yes, I believed so.

6 Q After the soldiers fired on people at the
7 cemetery in Santa Cruz, did your children continue
8 to participate in demonstrations and masses?

9 A Yes, especially my youngest son.

10 Q That would be John Doe 1?

11 A Yes.

12 Q What did you think about their
13 participation in these activities?

14 A I was kind of proud, but I always take
15 precaution because I had my own experience, went
16 through the hard time, be a prisoner, so I always
17 ask them to take care and so on, and I also
18 remember them about the situation of the uncle who
19 went to the church with them and disappeared later
20 on.

21 Q Did you believe that they were in danger
22 when they went?

23 A Yes, I knew how was the situation and I
24 knew that it was danger for their life. That's why
25 I always tried to spoke to them, but they always

1 respond me that, don't worry, that it will be fine.

2 Q I would like to bring your attention now
3 to January 1999 when there was an announcement by
4 Indonesian President Habibie that there would be a
5 chance for the East Timorese to choose autonomy or
6 independence.

7 What happened after the announcement in
8 your neighborhood?

9 A What observed in my town after the
10 announcement from the President Habibie, the civil
11 servant in the lowest position in East Timor
12 start--go door to door and distribute some pamphlet
13 with information and ask the civilian to vote for
14 the autonomy.

15 Q Were there any threats that accompanied
16 this request that you vote for autonomy?

17 A It was--there was some indirect
18 threatening, like they said, "Now you are under our
19 domain, so you have to choose, vote for the
20 autonomy. Otherwise, your life will be in danger."

21 Q Were there army patrols in the area?

22 A In every group, there was always one
23 Indonesian military who worked together with those
24 people around the city.

25 Q Were there tanks in the streets at the

1 time?

2 A A lot. Yes, there is a lot.

3 Q Were you worried about your daughters
4 walking in the streets during this period?

5 A Yes.

6 Q Why?

7 A I was afraid because--I was afraid because
8 there was possibility to be arrested and disappear.

9 Q Did you vote on August 30th, 1999?

10 A Yes, all of us in my family, we went for
11 the vote.

12 Q You all went together?

13 A Yes, we went together.

14 Q Did John Doe 1 go with you?

15 A Yes.

16 Q After the family came back from voting,
17 did you talk to your children about what you and
18 they should do?

19 A Yes.

20 Q What were the discussions about?

21 A I told them to be quiet and to stay at
22 home, and particularly to my youngest son, don't
23 join his friends, and I told them so if something
24 happen, we could be together here and if some
25 dangerous situation come or if we had to die, then

1 it's better to die together at home.

2 Q Did your son disagree with you?

3 A Yes, he didn't listen to me, but he also
4 was afraid because in my home the majority was
5 girls and women and all of his friends is in other
6 place, so that's why he didn't listen to what I
7 told him that day.

8 Q Did you and your son argue at that time?

9 A Yes, we disagree in our discussions, so I
10 scream on him because he asked me money to go and
11 stay with his friend, and at the beginning, I
12 didn't want to give him money.

13 Q Why didn't you want to give him money?

14 A I didn't want to give him money because I
15 wonder after that he would not be back home. But
16 then I gave him 20,000 rupiah to pay the transport
17 to his friend's place.

18 Q Was that the last time that you saw your
19 son?

20 A Yes, that was the last time I saw my son,
21 and after he left house, we also was written by one
22 of our neighbors--not written--was advised by one
23 of our neighbor to leave the house as well.

24 Q What did your neighbor tell you when he
25 advised you to leave your house?

1 A My neighbor told me you, the Fretilin--or
2 you who belong to the Fretilin party, why don't you
3 leave and stay--you still stay here. But I didn't
4 listen to him, I stay at home because I was
5 expecting that my son would be back.

6 Q Was your neighbor a mobile policeman?

7 A He's Indonesian.

8 Q An Indonesian army person?

9 A Yes, he is Indonesian military army force.

10 Q Bringing your attention to September 6th,
11 you and your family, except for John Doe 1, were
12 still in the home, right?

13 THE INTERPRETER: I'm sorry.

14 BY MS. CHOMSKY:

15 Q On September 6th, you and your family with
16 the exception of John Doe 1 were still in your
17 family home.

18 A Yes. In September 6th, the Indonesian
19 policemen came home and asked my house key and then
20 they told us that the car is waiting, that they
21 were taking us to West Timor.

22 Q What did you and your family do?

23 A And then they took us to West Timor, to
24 Atambua. That's the name of a city.

25 Q Did you leave your house willingly?

1 A Yes, because I was forced to leave and I
2 didn't bring anything with me, just the document of
3 the house.

4 Q Did you get to take even photographs with
5 you from the house?

6 A Yes.

7 Q Did you take clothing or food?

8 A Nothing. We just left.

9 Q How did you get from Dili to West Timor?

10 A It was quite a mess situation and the
11 street was full of cars and the cars also was full
12 of the civilians who lived in Dili, they were--they
13 went by these trucks that was recruit by Indonesian
14 military, but my family, we went together with
15 these people in our own car.

16 Q And when you say there were--the streets
17 were filled with people, were they all being forced
18 to leave by the Indonesian military?

19 A Yes, everyone was forced by the Indonesian
20 military to leave, not to go to--not to go to
21 mountain, but had to go to West Timor.

22 Q How long did the trip take from Dili to
23 West Timor?

24 A We left September 6th and we arrived in
25 the frontier of West Timor in a village called

1 Noelbaki the next day.

2 Q Did you sleep in the car?

3 A Yes, we slept one night before arriving in
4 this Noelbaki, but there was like a camp, so people
5 who arrive first had supplied the tent and places,
6 so we had to sleep in the car.

7 Q This was at Noelbaki?

8 A Yes.

9 Q What were the--was Noelbaki a camp?

10 A Yes. It's a big camp.

11 Q And who was in the camp?

12 A A lot of Indonesian military and the
13 militia members.

14 Q And they were running the camp?

15 A Yes.

16 Q And who was staying in the camp along with
17 you?

18 A Me and my eight children.

19 Q Were there other East Timorese in the
20 camp?

21 A Yes, a lot of Timorese were there, too.

22 Q What were conditions like in the camp?

23 A It's a camp surrounded by the rice field,
24 and in the night we could not sleep because we
25 heard the guns fire around the rice field.

1 Q What did you and your family do?

2 A We was afraid--we were afraid and we could
3 not sleep at that night, so the next day at five
4 o'clock in the morning, we decided to leave the
5 camp, and then just some few minutes, we faced the
6 Indonesian army and Indonesian policemen and they
7 asked where we were going, and we told them that we
8 were looking for some relatives in West Timor, and
9 then they said that if you want to leave, you can
10 go to the west providence, but not back to East
11 Timor. So we went to Kupang, is the capital of
12 West Timor. And then we arrived in port of Kupang
13 and we took ferry to another Indonesian city called
14 Maumere.

15 Q Who was with you in Maumere?

16 A Me and all of my family members.

17 Q Did you have grandchildren with you?

18 A Yes.

19 Q How old were your grandchildren?

20 A My grand--my grandson was three years old.

21 Q Did you have a second grandchild with you?

22 A Yes. It's my grandson, but it's adopted.

23 Q And how old was that child?

24 A Seven years old.

25 Q They were all part of the family that fled

1 with you--that was forced to leave with you from
2 Dili?

3 A Yes.

4 THE COURT: Ms. Chomsky, maybe this would
5 be a convenient time to break for the lunch recess.

6 MS. CHOMSKY: Certainly.

7 Would you explain to the witness we're
8 breaking for lunch.

9 THE COURT: We'll reconvene at two
10 o'clock, Ms. Chomsky.

11 MS. CHOMSKY: Thank you, Your Honor.

12 [Proceedings recessed for lunch.]

1 A F T E R N O O N S E S S I O N

2 THE CLERK: All rise. This Honorable
3 Court is again in session. Please be seated and
4 come to order.

5 THE COURT: Ms. Chomsky, you may proceed.

6 MS. CHOMSKY: Thank you, Your Honor.

7 JANE DOE 1, PLAINTIFFS' WITNESS, PREVIOUSLY SWORN

8 CONTINUED DIRECT EXAMINATION

9 BY MS. CHOMSKY:

10 Q Before the break, you testified about
11 going with your family to Maumere; is that correct?

12 A Yes.

13 Q That's part of West Timor; is that
14 correct?

15 A Yes.

16 Q What did your family do in Maumere?

17 A We did nothing in Maumere.

18 Q How did you live?

19 A There was no possibility to get a job. I
20 had a daughter who was living in Australia at that
21 moment, so we talked to her and she asked us to
22 open an account book in a bank and we survived by
23 financial aid from her.

24 Q How did you come to leave Maumere?

25 A Because of the situation itself and we

1 thought that Maumere is safer than Kupang, the
2 capital of West Timor, that's why we went there.

3 Q Did you--when did you leave Maumere?

4 A October 11, I received a phone call from
5 my daughter in Australia. She said that my
6 youngest son who we left in East Timor was dead.
7 So we decided to go back to East Timor and we have
8 no money, so we had to sold the car we brought to
9 Maumere and we talked to the chief of the Maumere
10 town to issue some travel document for us to go
11 back to East Timor.

12 Q Did you have to pay him money to get a
13 travel document to go back to East Timor?

14 A I was just issued the passport. What we
15 bought is the air flight, the ticket.

16 Q When did you return to East Timor?

17 A We had to stay in Kupang, the capital of
18 West Timor, for five days because there were
19 no--there was no flight, and on October 21st, we
20 took the ferry from Kupang to East Timor.

21 Q Did you return to the home that you had
22 left in East Timor?

23 A When we arrived in East Timor, there was
24 no house anymore, so we went to my son-in-law place
25 and we built a partially destroyed house near his

1 place and we lived there for the first days.

2 Q Before you got back to East Timor, did you
3 expect that you would find your home there?

4 A Yes, I expect that I would find my house
5 because the key, when we left home I hand it over
6 to the Indonesian policeman was--they ask, they
7 require.

8 Q How did you feel when you saw your house
9 destroyed for the first time?

10 A I didn't know what I thought at the moment
11 because when I left home, I left everything, and
12 then when I went back to East Timor and there was
13 no more house and there was no more young son.

14 MS. CHOMSKY: I am showing the plaintiff
15 what has been marked as Exhibit 23. I'm sorry.
16 24.

17 You want to translate what she said?

18 THE INTERPRETER: She said, I lost
19 everything, my house and everything that I had
20 to--I got--I lost my youngest son, a thing that I
21 never expect to happen.

22 BY MS. CHOMSKY:

23 Q Is Exhibit 24 a picture of your son, John
24 Doe 1?

25 A Yes, this is the picture of my youngest

1 son that was an original from my daughter in
2 Australia.

3 MS. CHOMSKY: I would like to move Exhibit
4 24 into evidence and ask that it be sealed.

5 THE COURT: Very well. Plaintiffs'
6 Exhibit 24 will be admitted into evidence and will
7 be sealed.

8 [Plaintiffs' Exhibit 24
9 was received in
10 evidence.]

11 MS. CHOMSKY: Thank you, Your Honor.

12 BY MS. CHOMSKY:

13 Q Did you ever--strike that.

14 Was your son's body ever located?

15 A No because he was presumed to die in
16 October 11, and we arrive in East Timor October
17 21st, and he was buried already by his friends.

18 Q Do you go to his grave?

19 A Yes.

20 Q Did you have an opportunity to have a mass
21 said for him?

22 A Yes. Since in Maumere, at that day when I
23 was told that my son was dead, I asked for a mass.

24 Q How did the loss of your son, John Doe 1,
25 affect you and your family?

1 A It's affected us. It's a big loss for the
2 family, for me, for my husband, and all my
3 children. My--like for example my husband, every
4 time when--even we are having lunch or dining, and
5 if he remembers our son and he will lose his
6 appetite and he just keep the food away, and
7 sometimes he just go to his parents house to be
8 relieved. And he cannot even--he don't feel like
9 working, so now me and my husband, we just rely on
10 our children.

11 MS. CHOMSKY: I have no further questions.
12 Thank you.

13 THE COURT: Just one moment, Ms. Chomsky.

14 Ms. Chomsky, did Jane Doe 1 receive any
15 information as to the circumstances surrounding the
16 death of her son? I am not suggesting you ask her
17 that question, but I'm just--my notes don't reflect
18 any evidence. Do you contemplate putting on
19 evidence that will address that issue? I mean, we
20 know the son left. According to my notes, she
21 indicated her son--she gave him an amount of money
22 and he left and she never saw him again.

23 MS. CHOMSKY: We have the video deposition
24 of a witness--

25 THE COURT: I see. So there will be

1 evidence addressing that issue. That was my only
2 question. Thank you.

3 You may step down, ma'am.

4 [Witness excused.]

5 MR. DiCAPRIO: Your Honor, our next
6 witness is Theodore Folke. I ask that--we're
7 calling Mr. Folke now because he is an opinion
8 witness and also has prepared some video of East
9 Timor.

10 The deposition that Ms. Chomsky was
11 referring to is a deposition by a witness to John
12 1's shooting, so that--

13 THE COURT: Okay.

14 THEODORE FOLKE, PLAINTIFFS' WITNESS, SWORN

15 DIRECT EXAMINATION

16 BY MR. DiCAPRIO:

17 Q Would you please state your full name?

18 A Theodore McClain Folke.

19 Q And where do you reside, sir?

20 A In Westport, Connecticut.

21 Q And did there come a period of time when
22 you became employed by the United Nations?

23 A Yes. I was working for the United Nations
24 Transitional Administration in East Timor from
25 January through--well, through to June--I had a

1 contract--of the year 2000. So I was actually in
2 East Timor working as a television producer for
3 UNTAET, which is the acronym for United Nations
4 Transitional Administration East Timor, from
5 February 4th through May 18th of the year 2000.

6 Q And would you describe the nature of your
7 employment with the U.N. in East Timor?

8 A I basically had two functions. One was to
9 train East Timorese journalists and television
10 crews for future production work, and the other was
11 to cover the activities of the United Nations
12 Transitional Administration East Timor.

13 To do this, I drove around the island, I
14 flew around the island in a helicopter, and I got a
15 pretty extensive view of what was going on on the
16 island.

17 MR. DiCAPRIO: Your Honor, may I approach
18 the witness?

19 THE COURT: You may.

20 BY MR. DiCAPRIO:

21 Q Mr. Folke, would you be kind enough to
22 identify Exhibit 31, please?

23 A Yes. This is my current resume and my
24 current curriculum vitae.

25 Q And do you have any academic degrees?

1 A Yes. I have a master's degree in film and
2 television direction from the Swedish Dramatic
3 Institute, and I'm a doctoral candidate in
4 international communications at the University of
5 London, Sweden.

6 Q And are you presently employed?

7 A Yes. I am a professor at the Fashion
8 Institute of Technology in New York, a professor of
9 English and speech.

10 Q And have you had the opportunity to do any
11 film production?

12 A Yes. Over the years, over the last 30
13 years, I have worked in a number of different
14 television productions around the world, mostly
15 documentary.

16 Q Approximately how many documentaries have
17 you prepared?

18 A I have been involved in the production of
19 many, but I would say the ones that I've written
20 and directed or been involved with the writing and
21 directing, I would say about eight or nine.

22 Q And did you do any documentaries or
23 prepare any documentaries for the United Nations?

24 A Yes. I have done several different films,
25 starting with the United Nations 30th anniversary

1 film in 1975, To Be 30; also Footnotes to a War for
2 the International Year of the Refugee, 1981;
3 Shelter for the Homeless, 1988, for the
4 International Year, Shelter for the Homeless; and
5 while in Timor, I did a few programs for CNN World
6 Report.

7 Q And in that capacity, what was your
8 relationship between--I'll withdraw that.

9 In your capacity as a U.N. employee, did
10 you have the opportunity to interface with outside
11 news organizations?

12 A Yes. I mean, well, I don't--in what
13 context? I'm sorry, I don't quite follow.

14 Q Did you provide or prepare any films which
15 were then delivered to CNN?

16 A Yes. There was one report on the changing
17 role of peacekeepers in East Timor which was
18 broadcast on CNN several times, on CNN World
19 Report.

20 Q Now, showing you--

21 MR. DiCAPRIO: May I approach, Judge?

22 THE COURT: Yes.

23 BY MR. DiCAPRIO:

24 Q Exhibit 26 is a jacket, is it not, to a
25 videotape?

1 A Yes.

2 Q And there is also a tape that goes along
3 with the jacket, is there not?

4 A Inside the jacket, yes. Hopefully.

5 Q And would you describe what that--just
6 generally in terms of what the process--did you
7 produce the videotape?

8 A Yes. When I first arrived in East Timor,
9 I was struck by the extent of the destruction
10 around the capital of Dili. All infrastructure had
11 been destroyed, any building that might have been
12 of any use had been destroyed. The destruction
13 appeared to me to be systematic and organized
14 rather than say the work of an angry mob or a
15 disorganized group.

16 So I decided that it would be a good idea
17 to document some of the major sites that had been
18 destroyed for posterity, and so I did a tour with a
19 Timorese journalist whom I was working with,
20 Sabastiao Guteriez, and we visited some of the most
21 prominent buildings in East Timor or in Dili which
22 had been destroyed.

23 Q Before we talk about the tape that we have
24 today, would you describe briefly what other travel
25 you did through East Timor and what you observed?

1 A Sure. I was in--after I had been in East
2 Timor for about a week, I went to the enclave of
3 Oecussi, and there the destruction--we filmed
4 destruction from a helicopter and there the
5 destruction was almost 100 percent. It reminded me
6 of--sorry?

7 Q I apologize. Is that Oecussi village?

8 A No. Oecussi is an enclave. It's a
9 section of East Timor which is geographically
10 separated from the rest of East Timor. It's on the
11 northern coast and it's actually in--inside West
12 Timor, so it's quite isolated and therefore very
13 hard to defend. And this area was one of the
14 hardest hit during the violence after the popular
15 consultation in September.

16 So we filmed from a helicopter and it
17 reminded me of films I had seen from World War II,
18 showing Warsaw after World War II. Nothing
19 was--all buildings were flattened and destroyed.

20 I was also in Suai on the southern coast,
21 which is right near the border to West Timor.
22 There the damage was similar to that of Oecussi
23 though not quite as extensive. The U.N. estimates,
24 if I recall, were about 80 percent there.

25 I continued around to Liquica, which is a

1 city on the south coast--I'm sorry--on the north
2 coast, an hour from Dili. Liquica had--did not
3 have quite as much damage as the other places, but
4 there was also estimated say 50 percent damage.

5 I then did a tour of the west coast--well,
6 we did a tour of--we did several different tours.
7 We did a tour of the south coast doing stories on
8 fishing. We went to Beaco, which is a fishing
9 village. All fishermen had lost their boats and
10 lost their nets, and it seemed as though everyone
11 we talked to had lost at least one family member,
12 and so on and so forth. I mean, I could go on.

13 MR. DiCAPRIO: Your Honor, I am going to
14 play the video with the Court's permission. I
15 would also ask for the Court's permission to allow
16 the plaintiffs and the other lawyers that are
17 involved in the case to move to this side of the
18 courtroom so they can also view it.

19 THE COURT: All right.

20 MR. DiCAPRIO: Thank you, Your Honor.

21 I would ask you, for each clip, if you
22 could describe what is being shown as it is shown.

23 THE COURT: Can you see the television?

24 THE WITNESS: Yes, sir.

25 [Video presentation.]

1 THE WITNESS: Yes. This first building is
2 the Machkota Hotel, which was the fanciest hotel in
3 Dili, the capital. The Machkota was built by the
4 Portuguese in the '70s and after the Indonesian
5 evasion was taken over by Indonesian business
6 persons.

7 The Machkota Hotel was used for weddings
8 and other important ceremonial events. On
9 September 4, 1999, Sir Ian Martin, the head of the
10 UNAMET Mission, announced the results of the
11 popular consultation on Timorese independence in
12 this hotel, and we're going to see the ballroom
13 where he actually made this announcement. Shortly
14 after he made this announcement, the entire hotel
15 was destroyed.

16 BY MR. DiCAPRIO:

17 Q Would you describe who this individual is,
18 please?

19 A Yes. This is Sabastiao Guteriez, who was
20 one of the journalists I was training and working
21 with. Sabastiao is an East Timorese who was very
22 active in the struggle for Timorese independence.
23 He also helped a number of foreign journalists
24 during the UNAMET period. And I worked with him on
25 this, he taught me a lot about East Timor and I was

1 thankful for that.

2 [Video presentation continues.]

3 THE WITNESS: This is the actual site
4 where Sir Ian Martin, on the podium now, made the
5 announcement of the results of the referendum.

6 [Video presentation continues.]

7 THE WITNESS: We are about to see the
8 exterior of the building on the back side. This is
9 the corridor to the kitchens.

10 BY MR. DiCAPRIO:

11 Q The black marks on the wall, could you
12 describe what those are, please?

13 A I'm sorry, I didn't hear.

14 Q The black marks on the wall?

15 A I mean, I'm not an incinerary expert, but
16 I would assume that these were caused by the
17 flames.

18 This is the exterior on the outside, and
19 the next building we will see is the--this is the
20 Santa Cruz cemetery, which is the most famous
21 Catholic cemetery in Dili. There was a famous
22 massacre here in 1991 which got much world
23 attention, and we are about to see the site of a
24 memorial to the massacre.

25 [Video presentation continues.]

1 THE WITNESS: This is the memorial to the
2 Santa Cruz massacre.

3 [Video presentation continues.]

4 THE WITNESS: This is what used to be the
5 military barracks at Taibessi in Dili. This was
6 the largest Indonesian military barracks in East
7 Timor, and we're about to see some monuments
8 erected by the Indonesian military to their
9 invasion of East Timor which I suppose they saw as
10 a liberation of some kind. But these are
11 monuments. These military barracks were also
12 destroyed by the military as they were leaving
13 because one assumes they did not want the East
14 Timorese to have any use of these buildings.

15 [Video presentation continues.]

16 THE WITNESS: This is the Camera
17 Ecclesiastica, the Bishop's printing press, the
18 Diocese printing press, which is now the home of
19 Thrifty Car Rental as you see. This building was
20 built by the Canossiam Order in the 1930s and was
21 used by the Diocese as a printing press. Also it
22 was from here that pensioners who used to work for
23 the Portuguese Colonial Services were paid, and
24 here we see some safes that at one point in time
25 held the money which was paid to these pensioners.

1 [Video presentation continues.]

2 THE WITNESS: Now, this building is the
3 Banco da Urgencia, an emergency health clinic built
4 during the Portuguese colonial era. This was the
5 major emergency health clinic in Dili and this was
6 also destroyed at some point in time in September
7 of 1990.

8 [Video presentation continues.]

9 THE WITNESS: This building is the Camarca
10 Mascarenas, which was a notorious prison in Dili.
11 It was here that many East Timorese political
12 prisoners were held. In the early part of the year
13 2000, former prisoners got together and cleaned
14 this prison up, and now it's a national monument to
15 political prisoners of that era.

16 [Video presentation ends.]

17 BY MR. DiCAPRIO:

18 Q Mr. Folke, when were the film clips that
19 were just shown filmed?

20 A Over a period from March to April of last
21 year.

22 MR. DiCAPRIO: Your Honor?

23 THE COURT: Yes?

24 MR. DiCAPRIO: I move Exhibit Number 26
25 and Exhibit Number 31 into evidence.

1 witness is John Doe 2.

2 THE COURT: All right.

3 JOHN DOE 2, PLAINTIFFS' WITNESS, SWORN

4 DIRECT EXAMINATION

5 BY MR. DiCAPRIO:

6 Q Are you the individual named as John Doe 2
7 in the complaint?

8 A Yes.

9 Q Why have you asked the Court to proceed
10 anonymously?

11 A Because the problem of East Timor is not
12 totally solved yet and for my own safety, I decided
13 to use a false name.

14 Q Are you afraid?

15 A Yes, I do.

16 Q What are you afraid of?

17 A Because in East Timor, there--now you
18 cannot recognize--you don't know who is
19 pro-independence, who is militia member. So it's
20 for my, just like I said, for my own safety, I
21 decide to use this name.

22 Q What is your date of birth and place of
23 birth?

24 A I was born in Liquica, April 5th, 1970.

25 Q In 1975, were you residing with your

1 parents for part of the year?

2 A Yes.

3 Q Did something happen on December 7th,
4 1975?

5 A Yes, I do.

6 Q Would you describe what happened?

7 A Even I was a child, I know that in
8 December 7, 1975, the invasion took place, or in
9 other words East Timor was invaded by Indonesian,
10 then me and my parents, we fled to mountain, where
11 my parents died.

12 Q Approximately how long after the invasion
13 did your parents die?

14 A I don't exactly remember when, but we
15 lived for some time in the mountain and I know that
16 they got sick and there was no way how to treat
17 them and they died by the disease.

18 Q When you first went into hiding in the
19 mountains with your parents, were any other family
20 members with you?

21 A Yes, with some relatives and some other
22 people.

23 Q Did your sisters go with you?

24 A Yes, my two older sisters.

25 THE CLERK: Excuse me. Could you please

1 instruct the witness to speak a little bit louder,
2 please? Thank you.

3 BY MR. DiCAPRIO:

4 Q How long did you reside in the mountains?

5 A It was around three years.

6 Q And when you left the mountains, where did
7 you go and with whom did you go?

8 A We were arrested after--by the Indonesian
9 military at that time after three years in
10 mountain, and in '78 when we were arrested, they
11 took us to a village named Atabae, and then we
12 moved to Liquica later on.

13 Q Did you move to Liquica in 1980?

14 A It was around in 1980.

15 Q All right. And in 1982, did you move from
16 Liquica to Caiculi?

17 A Yes.

18 Q And is that a suburb or an area around
19 Dili?

20 A It's inside the city Dili.

21 Q Did you attend school in Caiculi?

22 A Yes, I attended school for two years.

23 About at that time, I was living with a
24 half-brother of mine and because the financial and
25 economical problem, I had to quit study.

1 Q And did you become employed in 1990?

2 A After I quit school, officially I didn't
3 work, I just start work officially in 1981.

4 Q In 1990, were you employed?

5 THE INTERPRETER: 1990?

6 MR. DiCAPRIO: 1990.

7 THE WITNESS: I work as laborer, building
8 bridges, street and so on.

9 MR. DiCAPRIO: Did you say laborer?

10 THE INTERPRETER: Yes.

11 BY MR. DiCAPRIO:

12 Q What were your duties as a laborer?

13 A Yes. I worked as a master laborer, people
14 who was in charge for building--build buildings and
15 houses.

16 Q Did you enjoy your work?

17 A Yes.

18 Q And did you become involved in the
19 resistance movement?

20 A Yes.

21 Q When did you become involved?

22 A Yes, I start involved in the students or
23 youth movement in '90s, but as kind officially
24 involved in the activity in '98 before the
25 referendum.

1 the witness to answer the question that you ask
2 him, to limit his answers to that, and I will ask
3 him other questions.

4 THE WITNESS: After the vote, I went to--I
5 went for hiding in a farmer near Dili.

6 BY MR. DiCAPRIO:

7 Q Why did you go into hiding?

8 A Because if I stayed at home, I was sure
9 that I would be captured or arrested. That's why I
10 went to the farmer during the night. In the day, I
11 stay at home.

12 Q Okay. On September 1, 1999, did you
13 observe an incident in your home village of
14 Caiculi?

15 A Yes. On September 1st, the militia came
16 to my town, Caiculi, and then burn--first burn down
17 the house that belonged to Mr. Caetano and the
18 civilians who lived at the town afraid, so they
19 fled to mountain.

20 Q On September 4, 1999--on September 4,
21 1999, where did you go?

22 A In September 4, the Indonesian military
23 arrived in the place where we were hiding and I
24 came back to Dili and I went to the headquarter of
25 UNAMET.

1 Q And that's the U.N. headquarters; is that
2 correct?

3 A Yes. Yes.

4 Q Did you remain there?

5 A Yes, I just remained there one day, and
6 there were so many Indonesian military and
7 policemen who were walking around watching the
8 headquarters of United Nations, so I could escape
9 and I fled to Dare.

10 Q Is Dare located in the
11 hills above Dili?

12 A Yes.

13 MR. DiCAPRIO: Your Honor, may I ask, when
14 does the Court intend to take its afternoon recess?

15 THE COURT: Why? Is this a convenient
16 time to break for you, Mr. DiCaprio?

17 MR. DiCAPRIO: It would be fine, Judge,
18 and I can also keep going.

19 THE COURT: I was going to take a break
20 around 3:30, but if you would like to take one now,
21 that's convenient.

22 MR. DiCAPRIO: That would be great, Your
23 Honor.

24 THE COURT: All right. We'll take a
25 ten-minute break at this time.

1 [Recess.]

2 THE CLERK: Please be seated.

3 THE COURT: Mr. DiCaprio, you may proceed.

4 MR. DiCAPRIO: Thank you, Your Honor.

5 BY MR. DiCAPRIO:

6 Q You said you left the U.N. compound
7 because there were soldiers and militia there; is
8 that correct?

9 A Yes.

10 Q When you went to Dare, where did you live?

11 A I live in--I stay in the bush.

12 Q And how long did you--I'll withdraw that,
13 please.

14 What did you have to eat in Dare?

15 A When I fled to Dare, I brought some few
16 foods and I survived with them for two days. When
17 it has gone, I survived or I--I survived with some
18 food supplied by UNAMET and some potato that grew
19 out there naturally on the farm of other people.

20 Q Were there other people in hiding with you
21 up in Dare?

22 A Yes, there was a lot of people hiding
23 there.

24 Q Did you run out of food?

25 A I ran out of food on September 10, and on

1 September 11, in the morning, I had some few money
2 and I brought them with me and went down Dili to
3 buy food.

4 Q Okay. When you went to Dili to buy food,
5 did you find any stores that were open?

6 A No.

7 Q Did you find any food in Dili?

8 A Yes, I found some biscuits and I picked
9 them up.

10 Q Where did you find the biscuits?

11 A In a town inside Dili called Vilaverde.

12 Q Were these biscuits in an abandoned house?

13 A Yes, they were biscuits that people left
14 in the house.

15 Q After finding the biscuits, where did you
16 go?

17 A When I--after find the biscuits, I took
18 them with me and I went back to Dare.

19 Q Did you make it back to Dare that day?

20 THE INTERPRETER: Excuse me?

21 BY MR. DICAPRIO:

22 Q Were you able to make it back to Dare on
23 that day?

24 A Yes.

25 Q On your way back to Dare, did you

1 encounter anybody?

2 A Yes. On my way back to Dare, I
3 encountered seven Indonesian military, but three of
4 them was more closer to me and they who called me
5 to approach them.

6 THE INTERPRETER: Okay. Now, I would ask
7 you to ask the witness to answer only the question
8 that's asked.

9 BY MR. DICAPRIO:

10 Q Did you encounter these three soldiers
11 before arriving--I'll withdraw that.

12 Did you encounter these three soldiers on
13 your return trip to Dare?

14 A Yes.

15 Q And did the soldiers say anything to you?

16 A They called me and I come close to them
17 and they ask where I go and I told them that I'm on
18 my way to Dare.

19 Q Did they say anything else to you?

20 A And then they asked what I had and I told
21 them that it was biscuits.

22 Q Did they say anything to you after you
23 responded?

24 A Yes. After I said that it was biscuit,
25 they asked me to open the bag.

1 Q Did you open the bag?

2 A Yes, I opened the bag.

3 Q And what did they do next?

4 A They just left the things or the biscuits
5 and they ask me.

6 Q Did these Indonesia soldiers ask you any
7 other questions?

8 A Yes, they asked the same question, where I
9 was taking them back to, and I told them that I was
10 on my way to Dare.

11 Q What did they say after that?

12 A And then they asked me for whom the
13 biscuits and I told them it's--they asked if the
14 biscuits was for the Fretilin or Falintil, and I
15 told them that not, it's for me and my family.

16 MR. DiCAPRIO: Would you spell out the two
17 names, please.

18 THE INTERPRETER: Falintil.

19 [Pause.]

20 MR. DiCAPRIO: And you also mentioned
21 Fretilin?

22 THE INTERPRETER: Fretilin, yes.

23 BY MR. DiCAPRIO:

24 Q Are these two groups independence
25 organizations? You can ask that question, please.

1 Are these two independence organizations?

2 A Yes. Fretilin is a political organization
3 and Falintil is effect armed force of East Timor
4 liberation.

5 Q What did you say to the soldiers when they
6 asked you that question?

7 A I told them that the biscuit was for me
8 and for my family.

9 Q And what did they say next?

10 A Then they asked me if I had my ID card.

11 Q Did you give them your ID card?

12 A Yes, I did.

13 Q What happened next?

14 A Then they asked me to give them my wallet.

15 Q And did you give them your wallet?

16 A Yes, I did.

17 Q What did they do next?

18 A They took off my wallet and then they
19 start picking every pieces of document that I had
20 in the--inside the wallet, and then they found a
21 small receipt--a small piece called Apelo.

22 Q And was this a receipt for money that you
23 had contributed to Fretilin?

24 A Yes.

25 Q Did the soldiers ask you about this

1 receipt?

2 A Yes, and they asked me if I were Falintil
3 member, and I told them no, I am a civilian.

4 Q What did they say to you?

5 A And then they asked where I got the
6 receipt, this paper, and I told them that it's from
7 Falintil but not directly from Falintil, but
8 through someone else.

9 Q Would you describe what happened next,
10 please?

11 THE INTERPRETER: I'm sorry?

12 BY MR. DICAPRIO:

13 Q What happened next?

14 A And then they asked me if I knew about the
15 death of one Indonesian military in Dili.

16 Q And did you respond?

17 A And I told them that I didn't know about
18 the death of this Indonesian military.

19 Q Please describe what happened next.

20 A And I told them that I didn't know, and
21 then they said that I was lying and then they start
22 kicking me in my legs, in my back, in my head and
23 so on.

24 Q And after they struck you, did something
25 happen?

1 A While they were kicking and beating me,
2 show up one of their friend and then they stop and
3 they said, okay, you can pick up your stuff and go
4 to mountain and tell Falintil member there what
5 happened.

6 Q All right. I didn't understand the first
7 part of the answer. After they started kicking
8 you, did you say that one of their friends arrived?

9 A Yes.

10 Q And how was this person dressed?

11 A He also used Indonesia army force uniform.

12 Q And were the other three soldiers that
13 were there also dressed in the army uniform?

14 A Yes.

15 Q And did this fourth person that arrived
16 say something?

17 A He--I hear that he talk to his friend in
18 mobile phone and he ask what they should do about
19 me and should be released or send him back to
20 mountain or what they should do with me.

21 Q What did he say?

22 A And he turned off the phone and he walked
23 down to Dili and three other friends of him ordered
24 me to tidy up my bag and asked me to go to--go back
25 to mountain.

1 Q Did you pick your things up?

2 A Yes, I was trying to tidy up and pick up
3 my bag, and then I hear guns fire.

4 Q What did the soldiers do in response to
5 the gunfire?

6 A Three of them lay down and they start
7 shooting to air.

8 Q And did they stop shooting at some point?

9 A Yes, and then they stop shooting and they
10 forced me to walk up the hill.

11 Q And did you arrive at a structure once you
12 walked up the hill?

13 I'll withdraw that question.

14 Did you arrive at an army barrack?

15 I am going to ask the witness to answer
16 the question. Did you arrive at an Army barrack,
17 yes or no?

18 A Yes, I did.

19 Q And were there other soldiers present
20 there?

21 A Yes, I saw other three military.

22 Q Were there six soldiers in total?

23 A Yes.

24 Q What happened next, please?

25 A When I met the other three of them, one of

1 the three who came with me start beating me with
2 gun in my mouth.

3 Q How did he hit you with his gun?

4 A Yes, he hold on his arms and beat in my
5 mouth and my mouth started bleeding.

6 Q Did he swing his gun like a baseball bat?

7 A Yes.

8 Q This was a rifle? This was a rifle that
9 he used?

10 A Yes.

11 Q And then please describe what happened
12 next.

13 A While they were beating me, I fall down
14 and I rolling down the hill.

15 Q This was a hilly area? This was a hill, a
16 hilly area?

17 A Yes.

18 Q And did you get up and run?

19 A Yes, I rolling down for some few distance
20 and I could wake up and I wake up and I start
21 running, and then --

22 MR. DiCAPRIO: When you say wake up, you
23 mean--are you saying he got--is he saying he got
24 up?

25 THE INTERPRETER: Yes, yes.

1 MR. DiCAPRIO: Okay.

2 THE INTERPRETER: He got up.

3 BY MR. DICAPRIO:

4 Q Now, after you started running, where did
5 you--were you running toward a riverbank?

6 A Yes.

7 Q And what happened next, please?

8 A And then they--I got shot.

9 Q You got shot?

10 A Yes.

11 Q And after you were shot, would you
12 describe what took place?

13 A And I--I got shot in my leg and I realized
14 that my--the bone of my leg is broken, and it
15 almost fall down. So--

16 MR. DiCAPRIO: I'm sorry, you said it
17 almost fall down. Are you saying that the leg, his
18 leg almost fell down, or are you saying that his
19 leg almost fell off?

20 THE INTERPRETER: Yes. It's almost fall
21 off. I'm sorry.

22 BY MR. DICAPRIO:

23 Q And would you describe the condition of
24 the leg?

25 A When I realized that my leg was almost

1 fall off and it was bleeding a lot and I tried to
2 stop, and then I--later on--and I tried to run
3 again, but it was hard, so I just stopped running.

4 Q Did you fall to the ground?

5 A Yes, and then I fall down.

6 Q After you fell, what did you do?

7 A After I fall down, I was snaking.

8 Q Crawling?

9 A Crawling to the Maloa River.

10 Q How far did you crawl?

11 A It was quite far.

12 Q On your way to the Maloa River, did you
13 encounter two men?

14 A Yes.

15 Q And were these men in a home hiding?

16 A Yes, they were there hiding.

17 Q Did you say anything to these men?

18 A Yes, I did.

19 Q Please describe what you said.

20 A When I met both of them, I could not
21 support the pain anymore, so I asked them if they
22 had a knife or something like that, then please
23 kill me.

24 Q What did these men say to you?

25 A And then they told me that they could not

1 do it, and they told me that they would take me to
2 a physician or a doctor.

3 Q When you asked them to kill you, why did
4 you ask them to kill you?

5 A Because it was too pain and I couldn't
6 support it anymore, and I know that I would not be
7 able to be medically treated.

8 Q It was too painful?

9 A Yes.

10 Q Then what happened?

11 A And then they give me a ride in a
12 motorcycle and took me to a physician or a doctor.

13 Q And where did they take you?

14 A They took me back to the river--it's in
15 the foot of the mountain--where we--I was assisted
16 by a doctor or a physician.

17 Q What did the doctor do for you?

18 A The doctor, after seeing my--observe my
19 leg, he said that he could not give medical
20 treatment because he had no enough medicine and so
21 on, so he just give me an injection--if I'm not
22 wrong, was an anesthetic--and then he asked them to
23 take me to other place.

24 Q And did these two men take you someplace
25 else?

1 A And he asked them to take me to Dare.

2 Q Did you arrive in Dare?

3 A I don't--I didn't arrive in Dare the same
4 day.

5 Q Where did you go?

6 A They just left me in a hiding place before
7 Dare because they hear that--they hear guns fire
8 near Dare area, region.

9 Q Approximately what date was this?

10 A It was in September, September 11.

11 Q All right. And before arriving in Dare,
12 did you and these two men that were transporting
13 you meet up with members of your family?

14 A Yes.

15 Q And where was it that you met your family?

16 A It's near Dare.

17 Q And when you went to Dare--

18 MR. DiCAPRIO: I'll withdraw that, please,
19 Your Honor.

20 BY MR. DICAPRIO:

21 Q Did your family members then take you from
22 these two men?

23 A Yes, they did.

24 Q And where did you go from there?

25 A They took me to Dare and then there I was

1 assisted by Catholic nuns.

2 Q In Dare, did you go into the village of
3 Dare?

4 A In the village of Dare.

5 Q How long did you remain in Dare?

6 A I remained in Dare from September 11 until
7 September 25th--September 24th.

8 Q Where did you stay when you were in Dare?

9 A I stay in Dare.

10 Q Where in Dare?

11 A Behind a Catholic seminary of Dare.

12 Q Did you hide in the bush in Dare?

13 A Yes. It's in coffee plantation.

14 Q And this was close to the church?

15 A Yes. It's just next to the seminary.

16 Q From September 11th through September 24,
17 would you describe the condition of your foot and
18 leg?

19 A First they told me that we would be able
20 to go back to--go back to Dili soon, but it didn't
21 happen, and after three days, my injured leg was
22 swollen and it start--

23 Q Fester?

24 THE INTERPRETER: It's a kind of--create
25 condition for bark rising. I don't know how to--

1 MR. DiCAPRIO: I don't understand what
2 you're saying. All right.

3 BY MR. DICAPRIO:

4 Q Your leg started to swell. Did you
5 observe anything else about your leg and foot?

6 A Yes. It was start swollen and had barks,
7 and then my brothers wash it with hot water and
8 just leave me like they did until 24th.

9 Q Did you notice any smell that came from
10 your leg or foot?

11 A Yes, it was. Yes, it was smelling really
12 bad and it started to decay.

13 Q It started to--

14 THE INTERPRETER: Start to decay.

15 MR. DiCAPRIO: To decay?

16 THE INTERPRETER: Yes.

17 BY MR. DICAPRIO:

18 Q Did you observe anything else about your
19 foot as it was decaying?

20 A Yes. It--I think the situation of my
21 injured leg affect my whole body and I start feel
22 really, really bad, and I could not even open my
23 mouth and I could not talk and so on, like fever.

24 Q Did you lapse into unconsciousness during
25 periods of time?

1 A [In English] Yes.

2 THE INTERPRETER: Yes.

3 BY MR. DICAPRIO:

4 Q Was there a reason why you didn't go to
5 the hospital immediately after arriving in Dare?

6 A The hospital--the only hospital that was
7 open, it's far away from the place where I--we were
8 hiding and the situation was not that safe, and the
9 Interfet--Interfet, the International Armed
10 Force--hasn't arrived in Dili.

11 Q What was unsafe about the situation?

12 A Because--yes, because Indonesian military,
13 the armed force, was still in Dili.

14 Q And did you--

15 MR. DiCAPRIO: I will withdraw that,
16 please, Your Honor.

17 BY MR. DICAPRIO:

18 Q After Interfet arrived, did you go to the
19 hospital in Dili?

20 A Yes. After the Interfet arrived, we
21 went--I was taken by the Catholic nuns to the
22 hospital.

23 Q Was there--were you provided with medical
24 attention at the hospital?

25 A Yes, they had a little.

1 MR. DiCAPRIO: I'm sorry, I didn't mean to
2 cut you off. What was the last--

3 THE INTERPRETER: Yes, they had a little.

4 MR. DiCAPRIO: All right.

5 BY MR. DICAPRIO:

6 Q What day was this, please?

7 THE INTERPRETER: I'm sorry?

8 BY MR. DICAPRIO:

9 Q When did you go to the hospital?

10 A It was in September 24th.

11 Q And did you have surgery at that hospital?

12 A Yes, the next day on September 25th.

13 Q And what was the surgery?

14 A They just cut off the other part that was
15 almost falling off.

16 Q And this was of your left foot and ankle?

17 THE INTERPRETER: I'm sorry, could you
18 repeat?

19 BY MR. DICAPRIO:

20 Q This was your left foot and ankle that was
21 amputated?

22 A Yes.

23 Q How long did you remain in the hospital?

24 A I remained in the hospital until October
25 25th.

1 MR. DiCAPRIO: May I have a moment,
2 please, Your Honor?

3 THE COURT: Yes.

4 [Pause.]

5 MR. DiCAPRIO: Your Honor, I apologize, I
6 don't have copies of the exhibits that I'm going to
7 be introducing. So I would ask the Court's
8 permission to be able to have the witness identify
9 each of the exhibits and then to hand the exhibits
10 up to the Court.

11 THE COURT: Very well.

12 MR. DiCAPRIO: And I would also ask that
13 the Court also take these exhibits under seal
14 because they're photographs.

15 THE COURT: Very well.

16 MR. DiCAPRIO: May I approach the witness,
17 Your Honor?

18 THE COURT: You may.

19 BY MR. DiCAPRIO:

20 Q Can you identify Exhibit Number 27,
21 please?

22 A Yes.

23 Q When was that picture taken?

24 A It's long time ago. This picture was
25 taken before the referendum, before the vote.

1 Q Is that a picture of you?

2 A Yes.

3 Q And that's a picture of you before your
4 injury?

5 A Yes.

6 MR. DiCAPRIO: Your Honor, I offer Exhibit
7 27, move it into evidence.

8 THE COURT: Very well. Plaintiffs'
9 Exhibit 27 for identification will be received in
10 evidence.

11 [Plaintiffs' Exhibit 27
12 was received in
13 evidence.]

14 BY MR. DICAPRIO:

15 Q Is Exhibit 28 a picture of you?

16 A Yes.

17 Q And is there somebody in the picture with
18 you?

19 A Yes.

20 Q Who is the person in the picture?

21 A My friend.

22 Q All right. Is that a girlfriend?

23 A No. No. We worked together.

24 Q Do you know when the picture was taken?

25 A I don't remember the date.

1 Q But that is a picture of you?

2 A Yes.

3 MR. DiCAPRIO: Your Honor, I would move
4 Exhibit Number 28 into evidence.

5 THE COURT: Exhibit 28, Plaintiffs'
6 Exhibit 28 for identification will be received into
7 evidence.

8 [Plaintiffs' Exhibit 28
9 was received in
10 evidence.]

11 BY MR. DICAPRIO:

12 Q I'm showing you Exhibit 29. Is that a
13 picture of you?

14 A Yes.

15 Q When was that picture taken?

16 A It was taken a few days ago.

17 Q And does that picture show your injury to
18 your left leg?

19 A Yes.

20 MR. DiCAPRIO: I move Exhibit 29 into
21 evidence, Your Honor.

22 THE COURT: Very well. Plaintiffs'
23 Exhibit 29 for identification will be received in
24 evidence.

25 [Plaintiffs' Exhibit 29

1 was received in
2 evidence.]

3 [Pause.]

4 THE COURT: Can the witness continue, Mr.
5 DiCaprio, or--

6 MR. DiCAPRIO: Would you ask the witness,
7 please, if he needs to step down?

8 THE INTERPRETER: I beg your pardon?

9 MR. DiCAPRIO: Please ask the witness if
10 he needs to step down from the stand.

11 THE INTERPRETER: He said that if you
12 don't mind, then he would like to stop.

13 THE COURT: Would you like to recess the
14 witness? Do you have another witness prepared to
15 go forward at this time?

16 MR. DiCAPRIO: We have a very brief video,
17 Your Honor. I'm not so sure that I'm going to play
18 it. I would just like a moment or two to talk to
19 counsel.

20 THE COURT: I would be prepared to let the
21 witness step down and you can call him at some
22 subsequent time, I assume, either later on today--I
23 contemplate adjourning around five o'clock.

24 MR. DiCAPRIO: Yes, Your Honor.

25 THE COURT: So if you have a short witness

1 or a video, if you wish to play a video, we can
2 take the other testimony.

3 MR. DiCAPRIO: Thank you.

4 THE COURT: The witness may step down.

5 [Witness excused.]

6 MR. DiCAPRIO: May I just have a moment,
7 Your Honor?

8 THE COURT: Sure.

9 [Pause.]

10 MR. DiCAPRIO: I apologize, Your Honor.
11 This TV does not work with the video that we have,
12 so we will just have to--it will just take a
13 minute.

14 THE COURT: That's fine. If you want, you
15 can leave the television over there, Mr. DiCaprio.

16 [Pause.]

17 MR. DiCAPRIO: Your Honor, this is a
18 deposition that was taken in Dare, East Timor, on
19 February 26th. The witness is a man by the name of
20 Sertorio, S-e-r-t-o-r-i-o, Junior.

21 THE COURT: All right.

22 MR. DiCAPRIO: This witness is also the
23 head of the CNRT in the village where John 1 lived;
24 therefore, he is also the person that prepared the
25 death certificate that was marked, I believe, as

1 Exhibit Number 5.

2 THE COURT: Yes. This was taken February

3 20--

4 MR. DiCAPRIO: Twenty-six.

5 THE COURT: Twenty-six. Of this year.

6 MR. DiCAPRIO: This year, yes.

7 THE COURT: Very well.

8 Now, is this deposition--this video is
9 again not compatible with the American VCR; is that
10 correct?

11 MR. DiCAPRIO: Exactly, Your Honor.

12 THE COURT: I see. So do you contemplate
13 having a transcript of this deposition?

14 MR. DiCAPRIO: Yes, Your Honor.

15 THE COURT: So the court reporter does not
16 have to record this as it's being played.

17 MR. DiCAPRIO: That's correct.

18 THE COURT: Great.

19 MR. DiCAPRIO: We're only going to show a
20 very small portion,--

21 THE COURT: Very well.

22 MR. DiCAPRIO: --but we want to offer the
23 entire deposition.

24 THE COURT: Very well.

25 MR. DiCAPRIO: Thank you, Your Honor.

1 May we start?

2 THE COURT: You may start.

3 [Video presentation of deposition of
4 Sertorio Junior.]

5 MS. CHOMSKY: Your Honor, may I consult
6 with counsel for a moment?

7 THE COURT: Which counsel? There's a lot
8 of counsel, Ms. Chomsky. All counsel. Very well.

9 [Pause.]

10 THE COURT: Mr. DiCaprio.

11 MR. DiCAPRIO: Yes, Your Honor.

12 Counsel tells me that it's basically
13 unintelligible to present the videotape in this
14 fashion, so--

15 THE COURT: Well, I was anxiously waiting
16 for the transcript.

17 MR. DiCAPRIO: And that's what they
18 suggested and that's what we hope to do, Your
19 Honor, with the Court's permission.

20 THE COURT: On the other hand, if there
21 was anything dramatic that needs to be watched, I'm
22 prepared to do that.

23 MR. DiCAPRIO: Well, the rest of the video
24 describes the injuries that John Doe 1 sustained,
25 but I think the transcript will do just as good a

1 job as the video.

2 THE COURT: Fine. Well, I mean, I already
3 have a synopsis in the proposed findings of fact,
4 so I think probably you will be well served just to
5 prepare a legible transcript for the Court. I can
6 then read it at my leisure.

7 MR. DiCAPRIO: We will do that, Your
8 Honor. Thank you.

9 THE COURT: Good. All right.

10 Assuming that Mr. John Doe is not prepared
11 to go forward again this afternoon--is that your
12 understanding?

13 MR. DiCAPRIO: Yes, it is, Your Honor.

14 THE COURT: Do you have any of your--how
15 many more witnesses do you have, Mr. DiCaprio?

16 MR. DiCAPRIO: We have one witness who is
17 the--

18 THE COURT: The expert?

19 MR. DiCAPRIO: Yes.

20 THE COURT: Yes. Okay. That's it?

21 MR. DiCAPRIO: That's it, Judge.

22 MS. CHOMSKY: If I may, Your Honor, we
23 were just contacted--while Mr. DiCaprio was--

24 THE COURT: Otherwise engaged?

25 MS. CHOMSKY: --otherwise engaged, I was

1 just contacted by an expert who returned from East
2 Timor yesterday.

3 THE COURT: Was he one of the three
4 experts that you were planning to call?

5 MS. CHOMSKY: No, we weren't planning to
6 call him, but he has pertinent information. His
7 testimony would take less than an hour.

8 THE COURT: All right.

9 MS. CHOMSKY: And I think he has--

10 THE COURT: Is he here in the courtroom?

11 MS. CHOMSKY: He's not in the courtroom
12 now. He went home to go to sleep, Your Honor. And
13 we would like to put him on first thing tomorrow.

14 THE COURT: All right. And then you have
15 a social scientist?

16 MR. DiCAPRIO: Yes.

17 THE COURT: All right. Who is in the
18 courtroom or not in the courtroom?

19 MR. DiCAPRIO: No, she is not.

20 THE COURT: She's not in the courtroom.
21 So they're the only two witnesses remaining, except
22 that you may want to finish up with your John Doe
23 witness?

24 MR. DiCAPRIO: I believe so, yes.

25 THE COURT: So, in other words, you're

1 saying that--well, if you need to caucus, go ahead.

2 MS. CHOMSKY: We also have the possibility
3 of satellite imagery that shows the burning, also
4 very short.

5 THE COURT: All right.

6 MS. CHOMSKY: And that--

7 THE COURT: I set aside three days and I
8 think you're going to fall within that.

9 MS. CHOMSKY: We will definitely.

10 THE COURT: Yes. All right.

11 Do I understand, Mr. DiCaprio, that you
12 have no further testimony you wish to present this
13 afternoon, that we should adjourn?

14 MR. DiCAPRIO: With the Court's
15 permission.

16 THE COURT: Very well. I will grant you
17 permission. We will reconvene tomorrow at
18 nine-thirty.

19 MS. CHOMSKY: Thank you, Your Honor.

20 THE COURT: And you anticipate concluding
21 your testimony certainly by midday? You have an
22 hour of one expert. How long is your social
23 scientist or sociologist?

24 Mr. Schneebaum? You mean they're calling
25 you into service?

1 MR. SCHNEEBAUM: Well, yes. I have been
2 sitting here minding my own business all day.

3 THE COURT: Patiently.

4 MR. SCHNEEBAUM: Patiently.

5 I will be questioning the clinical social
6 worker.

7 THE COURT: Yes.

8 MR. SCHNEEBAUM: I think that testimony
9 will take less than an hour.

10 THE COURT: Very well.

11 MR. SCHNEEBAUM: And I would ask the
12 Court's indulgence for less than an hour for a
13 closing argument.

14 THE COURT: Very well.

15 Let me ask you, do you contemplate
16 submitting any additional written pleading?

17 MR. SCHNEEBAUM: I think we are going to
18 need to revise our proposed findings of fact and
19 conclusions of law to conform to the evidence as it
20 has been heard by the Court. But aside from simply
21 an amendment to what the Court already has before
22 it, we do not contemplate anything additional.

23 THE COURT: All right. Should there be
24 any specific issue that I would like you to
25 address, I will advise you tomorrow.

1 Very well. We'll adjourn this evening and
2 reconvene tomorrow at nine-thirty. Thank you.

3 MR. DiCAPRIO: Thank you, Your Honor.

4 THE COURT: Before you leave, Mr.
5 DiCaprio, I think Ms. Kay, the courtroom deputy,
6 would like to chat with you with respect to the
7 introduction of certain exhibits and one that we
8 seem to be missing. It was not handed up to the
9 Court.

10 MR. DiCAPRIO: Yes, Your Honor. May I
11 also say that if, after counsel has the opportunity
12 to discuss the matter, if we feel that there is a
13 point of law or more, or two, that we would like to
14 specifically address to the Court, would we be
15 permitted to provide--

16 THE COURT: Certainly. I will give you
17 leave to file whatever you think is appropriate.
18 The--particularly the area of punitive damages,
19 there's a lot of evidence that has been introduced
20 that goes beyond obviously the damages or certainly
21 the compensatory damages component of the John Doe
22 witnesses, the plaintiffs who have testified. So
23 to the extent that you may want to tie in the more
24 general evidence as to the general destruction and
25 policies of the government, I will give you an

1 opportunity to respond to that.

2 MR. DiCAPRIO: Thank you, Your Honor.

3 THE COURT: Thank you, counsel.

4 THE CLERK: All rise. This court stands
5 in recess until tomorrow morning at 9:30.

6 [Proceedings adjourned at 4:42 p.m. to
7 reconvene at 9:30 a.m., Tuesday, January 25, 2001.]

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