

1 THE COURT: Good morning, ladies and gentlemen.
2 Please be seated.

3 This is case number 99-8364. It is the case of
4 Dr. Juan Romagoza et al., versus General Jos, Guillermo
5 Garcia, et al.

6 We are here this morning for presentation of
7 opening statements, and I am going to move to that in just
8 a moment.

9 I wanted to advise counsel that I misspoke when I
10 spoke about the Monday we would not be sitting, and I have
11 had a chance to look at the calendar again. The Monday we
12 will not be sitting is Monday, July 1st, rather than
13 July 8th, and I wanted to bring that to your attention.

14 I also wanted to take a moment. When we were
15 concluding on Thursday, Mr. Klaus mentioned his concern,
16 having read some of the expert reports that had been
17 provided to him, and voiced the concern as to whether
18 because of what was in those reports, whether that would
19 permit the admission into evidence of the prior verdict.

20 The parties will recall that I have signed an
21 order granting a motion in limine finding that the verdict
22 would not be admissible. Now, as I mentioned to the
23 parties in a telephone conversation that we had on Friday,
24 the thrust of that order was that just as though the
25 Plaintiffs are clearly free to bring this lawsuit, the

1 Defendants would not be entitled to assert the judgment in
2 the prior case as a defense to this lawsuit.

3 Now, I know the parties because of the discussion
4 that we had on Friday probably have given more thought to
5 this and I think the parties indicated they were going to
6 have a written submission for me on this. If you do, I
7 would appreciate it. You can pass it up at the break.

8 I have had occasion to look again at the case law
9 governing collateral estoppel, res judicata, and so on. I
10 have also looked at the case law regarding admissibility
11 of judgment of acquittals in criminal cases, and I
12 continue to believe that the order that was entered is a
13 correct order.

14 That means that the verdict in the prior case
15 should not be raised unless you alert me beforehand and we
16 can talk about it. It may be, I simply don't know, it is
17 very hard now in the abstract, it may be there would be
18 some situation that might open the door to that. But it
19 seems to me that would be the only way conceivably that
20 the verdict would be admissible.

21 So, why don't we agree that the order stays in
22 effect, that is no one should mention the decision, the
23 verdict in the prior case unless you've alerted me to it,
24 unless we have had the opportunity to discuss it at the
25 close of business one day so we can have a discussion

1 about that.

2 And having said that, the Plaintiffs, obviously,
3 are free to discuss whatever historical facts they choose
4 to discuss in presenting the theory or analysis of their
5 claims.

6 Okay. Are we set and ready to proceed with the
7 opening statements?

8 MR. KLAUS: I have a couple issues, Your Honor.
9 I don't know if The Court wants to inquire as to the
10 jury -- newspaper articles.

11 THE INTERPRETER: Your Honor, I can't hear.

12 THE COURT: Counsel, we have a problem. You need
13 to come to the lectern only because the interpreters are
14 using the sound system. Maybe we ought to have
15 microphones put at the counsel table.

16 MR. KLAUS: There are two articles in the paper,
17 one in Parade Magazine about crime in Central America
18 including crippling El Salvador, and one about today's
19 trial. I don't know if the judge wants to inquire of the
20 jury if they read it or not. The article of this sets
21 forth what the burden of proof is, and it is not correct.
22 I don't know if the jury would be influenced with that.
23 You want this?

24 THE COURT: Yes, let me see it. I will ask the
25 jury -- I thought I would limit it to the local section of

1 the local papers, and I would ask the jury to be extra
2 careful about any article dealing with the case that might
3 appear in any other section of the paper and ask them to
4 be extra careful about that.

5 Would that be adequate for both sides?

6 MR. KLAUS: Yes. That appeared in the local
7 section of my version of the Miami Herald.

8 THE COURT: Okay. Anything else we need to
9 discuss before we start?

10 Mr. Stern?

11 MR. STERN: If it please The Court, several
12 items, Your Honor. First thing this morning we did file a
13 short paper in response to The Court's request on Friday
14 and The Court will review that, of course. I think bottom
15 line is that we don't feel that that issue is going to be
16 an impediment, and the position we set out in the papers
17 we believe moots the issue.

18 We are willing to forego the admission of
19 substantive evidence regarding the churchwomen's murders
20 to avoid any complexity in issues in this regard. Perhaps
21 it would make sense for us to talk more about it after the
22 court has reviewed our papers. We would appreciate -- we
23 would like an understanding if we agree not to elicit
24 testimony regarding the churchwomen's murders, by the same
25 token the Defendants would not be allowed to put on

1 investigation or remedial measures that have been taken in
2 that regard.

3 THE COURT: Let's save those matters for our
4 meeting this evening. Those are substantive issues, and
5 it would help me if maybe you would privately talk with
6 defense counsel so everybody is aware what it is you are
7 proposing, and both sides can reflect on it. And if they
8 are able to enter into a stipulation, fine, if not, we can
9 deal with that at an appropriate time.

10 MR. STERN: Certainly, Your Honor.

11 The only other thing, we do have exhibits that we
12 have agreed on by stipulation and we would like to enter
13 into evidence at the appropriate time, certainly before
14 Ambassador White's testimony.

15 THE COURT: My suggestion is when The Court
16 finishes preliminary jury instructions and before opening
17 statements, it might be appropriate to receive those if
18 any of those are going to be read in the opening
19 statement. If they are not, why don't we wait until we
20 are ready to begin the first witness, and take that before
21 the first witness testifies. And I will leave it up to
22 you to tell me how you would like to approach that.

23 MR. STERN: Thank you, Your Honor.

24 THE COURT: Okay. All set and ready to proceed?

25 MR. GREEN: One other matter, Judge. We will be

1 invoking the Rule of Sequestration. We should wait until
2 after opening, but we will have one, if not two experts in
3 the courtroom with us throughout the trial.

4 THE COURT: Well, you are raising a couple of
5 issues. The first is the parties wish to invoke the Rule
6 of Sequestration. That means anyone who is going to be a
7 witness needs to remain outside until they are called.
8 And certainly they can talk with the lawyers on either
9 side, but I need to ask the lawyers if you would be good
10 enough that those conversations take place in such a
11 physical location and such a tone of voice that no other
12 potential witness is able to overhear them.

13 The second issue you are raising, whether the
14 experts on either side should be excepted from the Rule of
15 Sequestration. Mr. Klaus, do you have any objection to
16 that?

17 MR. KLAUS: I object to that because of the
18 nature of this case.

19 THE COURT: Why don't we agree until we have had
20 a chance to further discuss it, that since the rule is
21 being invoked, it be applied across the board. And let's
22 talk about it further this evening to see if there is an
23 exception. Sometimes exceptions are made for expert
24 witnesses because one expert is entitled to listen to
25 another so they can respond to the same issues. I have

1 seen it done both ways. It is a discretionary matter with
2 The Court, but I would like to have an opportunity to talk
3 with you about that.

4 MR. GREEN: Your Honor, I assume the rule will be
5 invoked after opening statement.

6 THE COURT: Do you care when the rule is invoked?
7 It really doesn't make a difference. It can be invoked
8 now or after, whatever you want.

9 MR. KLAUS: Now.

10 MR. GREEN: We do have an expert, I would like
11 her to be here for the opening statement. My
12 understanding is the rule is generally invoked after
13 opening statement but before the first witness is called.

14 THE COURT: If the rule is being invoked now,
15 that is all right. I would ask anybody who is going to be
16 a witness to remain outside, and hopefully we can further
17 clarify this to see whether someone is an expert witness,
18 maybe we will exempt them. That is the safer and easier
19 approach.

20 Anything else we need to talk about?

21 MR. GREEN: Your Honor, are you going to give a
22 preliminary instruction on burden of proof?

23 THE COURT: I am. Not on burden of proof, I am
24 going to give the traditional opening statement, but I
25 want to remind you counsel were introduced to the first

1 panel but not the second panel. What I thought I would
2 do, if it is okay with you, is turn to you again and allow
3 you to introduce yourselves and the parties so that the
4 jury again has a chance to meet everybody. Okay.

5 But remember, through my oversight the parties
6 were introduced to the second jury panel but not the
7 lawyers. So I think we really need to do that. Okay.

8 And I want to just review one other thing with
9 you. By mutual agreement we have agreed now the jury may
10 take notes and the jury may ask questions.

11 MR. KLAUS: Yes.

12 MR. GREEN: Yes, Your Honor.

13 THE COURT: Okay, fine, good.

14 Mr. Marshal, would you bring in the jury, please?

15 (Thereupon, the jury returned to the courtroom.)

16 MR. GREEN: Your Honor, we do have one board --
17 we prefer to do the stipulation on the evidence after
18 opening statement. We do have one board which has been
19 stipulated into evidence.

20 THE COURT: Good.

21 MR. GREEN: I am going to show the jury that
22 during opening.

23 THE COURT: Good. Mr. Klaus, did you decide you
24 were going to give an opening statement?

25 MR. KLAUS: I am not, unless they say something

1 so outrageous I would have to respond.

2 THE COURT: All right.

3 (Thereupon, the jury returned to the courtroom.)

4 THE COURT: Good morning, ladies and gentlemen.

5 I thought I would start by asking Mr. Caldwell if you
6 would be good enough to administer the oath in this case.

7 (Thereupon, the jury was sworn.)

8 THE COURT: Ladies and gentlemen, please be
9 seated.

10 Ladies and gentlemen, I would like to begin, if I
11 might, by once again, on behalf of all of the parties in
12 the lawsuit to express to you our gratitude at your
13 willingness to serve. We are deeply indebted and most
14 appreciative to you.

15 I thought I would begin this morning, if I might,
16 before we turn to counsel for opening statements, first to
17 again allow the lawyers to introduce themselves to you,
18 and to allow them to introduce their clients to you.

19 I apologize, but to the second panel of jurors
20 who came in on Thursday afternoon, while the parties had
21 the opportunity to introduce themselves to you, I
22 neglected to invite the lawyers to do that. And I want to
23 make sure you have a chance to meet everybody who is going
24 to be involved in the lawsuit.

25 Let me begin, if I might, by turning to counsel

1 for the Plaintiff, and allow him to introduce himself to
2 you and the other lawyers together with the other party
3 Plaintiffs who are present today.

4 Mr. Green.

5 MR. GREEN: My name is James Green, and
6 co-counsel with me are Peter Stern, Beth VanSchaack, and
7 my three clients are Dr. Juan Romagoza. Neris Gonzalez,
8 and Carlos Mauricio.

9 THE COURT: Thank you very much.

10 Counsel for the defense.

11 MR. KLAUS: Kurt Klaus, and General Carlos Vides,
12 former administrator of the defense, and General Garcia,
13 former defense minister of El Salvador.

14 THE COURT: Thank you.

15 Now, ladies and gentlemen, by taking the oath you
16 took a few moments ago, you became the jury to decide the
17 issues in this case, and by taking that oath you literally
18 have become judges of the facts of this case. By your
19 verdicts you will decide the disputed issues of fact.

20 As I mentioned to you when we were talking about
21 the selection of the jury, it is going to be my
22 responsibility to decide all questions of law and
23 procedure that arise during the trial, and before you
24 retire to the jury room at the very end of the trial to
25 deliberate upon your verdict and decide the case, I will

1 explain to you the rules of law that you must follow and
2 apply in making your decision. I want you to know it is
3 my hope I will have a written copy of the jury
4 instructions for each member of the jury at that time.

5 Now, the evidence presented to you during the
6 trial will primarily consist of the testimony of
7 witnesses, in other words, people who will come in and
8 come up to the witness stand, who will take the oath and
9 be examined, and cross examined. And the evidence may
10 also consist of tangible items, documents or other
11 exhibits that will be offered into the record.

12 I need to tell you what you will have and what
13 you will not have to decide the issues in this case.

14 You want to pay close attention to the testimony
15 as it is presented because it will be necessary for you to
16 rely on your memories concerning what that testimony was.

17 Although as you can see, Mrs. Stipes, our court
18 reporter, is making a stenographic record of everything
19 that is said, typewritten transcripts will not be prepared
20 in sufficient time or in appropriate form for your use
21 during your deliberations, and so I want you to know up
22 front that we will not be able to provide them for you.

23 We've made some tremendous strides in court
24 reporting because Mrs. Stipes literally has a computer
25 built into her stenographic machine, but we are not quite

1 there yet where we have a record to be able to present it
2 to the jury. So you want to pay close attention to the
3 evidence as it is presented.

4 Now, I want you to know on the other hand that
5 anything that is introduced into evidence, in other words,
6 any document or exhibit, that will be available to you for
7 your detailed study in the jury room during your
8 deliberations.

9 We've been talking about maybe developing an
10 exhibit book that we would be able to have for you here in
11 the courtroom so if there were exhibits that we might be
12 using repetitively, you have it at your hands and be able
13 to flip to it. However, sometimes the lawyers will
14 introduce an exhibit and might pass it among you. If you
15 don't have the time to study it to the degree you want,
16 please know at the very end of the trial it absolutely
17 will be back in the jury room with you.

18 I think you know the answer to this already,
19 because I think sometimes jurors have come to court and
20 they look around and everybody else has pads and papers
21 and pencils, and jurors have said what about me, can I
22 take notes if I want to? The answer is absolutely, yes,
23 you can. That is why we've passed out those note pads.

24 We put a number on them, and I want to tell you
25 why. We need to collect those during the break, but I

1 want you to know, we regard those as your private notes,
2 and so they are locked up. No one looks at them. At the
3 end of the trial they are yours to take and as you will,
4 if you leave them here, we destroy them because we regard
5 those as your private notes.

6 Now, if you do want to take notes, I want to
7 simply remind you about what is the -- really, the unique
8 function of the jury, and we discussed it during the jury
9 selection process. I think everybody understands that it
10 is only the jury that can decide the credibility of the
11 witnesses.

12 Now, I want to tell you, if you are trying to
13 take notes, there is no way to get everything down word
14 for word. The problem is if you do try to do that, you
15 can get lost in the note taking. You want to stay focused
16 on your ability to judge the credibility of the witnesses.
17 You need to be able to see the expression of the witness
18 while they are testifying, body language, and all the
19 other things you normally look at when you are trying to
20 decide someone's credibility.

21 So my suggestion would be if you want to take
22 notes, first I would write the witness' name down, and I
23 will always ask the witness to identify themselves, and
24 tell us the spelling of their last name.

25 I also suggest that you may want to write a note

1 to yourself about who they are, and I say that because at
2 the end of the trial when you are trying to look back and
3 distinguish or differentiate one witness from another, you
4 may need something that you've used as a little reminder
5 for yourself so you can in fact differentiate one witness
6 from another.

7 And then I would limit the note taking to the
8 things you think are significant, measurements, distances,
9 or relationships, things like that.

10 Now, I want to emphasize to you your notes should
11 be used only as aides to your memory and if your memory
12 should later differ from your notes, you should rely upon
13 your memory and not your notes.

14 Let me give you an example. When a witness comes
15 in to testify, the lawyer who called the witnesses gets to
16 ask some questions first. That's called direct
17 examination. Then the other side, the lawyer on the other
18 side gets to ask some questions, cross examination, and
19 usually, the lawyer for the side that calls the witness
20 gets a chance to go back and ask more questions, that is
21 redirect examination.

22 Now, what if during the direct examination the
23 witness said something that you thought was significant so
24 you wrote a cryptic note, and then later when you are back
25 in the jury room at the end of the case, as you are

1 looking at that note and thinking about the witness'
2 testimony, you remember on cross examination the witness
3 modified the answer. Well, remember, it is your memory
4 that has to control, not that cryptic note. Okay?

5 Now, if you do not take notes, you want to the
6 rely on your own independent recollection or memory of
7 what the testimony was and you should not be unduly
8 influenced by the notes of other jurors. I want to
9 emphasize again that notes are not entitled to any greater
10 weight than the recollection or the impression of each
11 juror concerning what the testimony was.

12 Now, during the trial, you should keep an open
13 mind, and you should avoid reaching any hasty impressions
14 or conclusions. You want to reserve judgments until three
15 things have happened.

16 Number one, until you have heard all of the
17 evidence in the case.

18 Secondly, until at the very end you've had the
19 benefit of listening to the lawyers make their closing
20 arguments to you.

21 Now, I wanted to make sure you understand this:
22 What the lawyers say in the case, what the lawyers will
23 talk to you about in the beginning, and what the lawyers
24 will argue to you at the end, it is meant to help you,
25 certainly the arguments are meant to persuade you, but I

1 want to emphasize to you what the lawyers say is not
2 evidence. The evidence, in other words, what you need to
3 look to to decide the issues in this case is going to be
4 whatever comes from the witness stand and any of the
5 exhibits that are actually offered into the record.

6 Now, at the end of the case, as I mentioned, the
7 lawyers on each side will get a chance to argue the case
8 to you. One side will point out the strengths, the other
9 side point out the weaknesses, and as I said before, it is
10 all meant to help you. It is not binding on you, but you
11 want to listen to it to see does it assist you in deciding
12 the issues.

13 And the third thing you want to hold off before
14 you reach any decisions. You want to wait until you know
15 what is the law, what are the legal principles that govern
16 this particular case.

17 Now, I think what I have just told you kind of
18 goes against what we normally do in every day life. I
19 think most of us when we are doing things, we start to
20 draw tentative conclusions. And so what I am really
21 asking you to do is, if you would, consciously remind
22 yourself to be a fair juror in this case, you must remind
23 yourself, number one, that you want to suspend judgment
24 until you heard all of the evidence from all sides.

25 Secondly, until you heard the lawyers make their

1 final arguments.

2 And third, until I have had the chance to talk
3 with you in detail about what is the law that governs this
4 particular case.

5 Now, because of your obligation to keep an open
6 mind during the trial, coupled with your obligation to
7 then decide the case based only on the testimony and
8 evidence presented, you must not discuss the case during
9 the trial in any manner among yourselves or with anybody
10 else.

11 Now, let me stop for a second. We are all
12 strangers to each other, and the most natural thing in the
13 trial is the matter we have in common, and it is so easy
14 to slip into a discussion that touches on the trial.
15 Remember, before I mentioned that this is kind of a
16 protective device, a protective measure because we want to
17 make sure when you begin your deliberations at the end of
18 the case, everyone is starting fresh.

19 There is that fear if somebody said this is my
20 tentative view, or this is what I am thinking, that they
21 might feel somehow compelled to defend that position. And
22 so I ask you to be extra careful, it really goes to the
23 integrity of our process. Please do not discuss anything
24 about the case among yourselves, and, of course, please do
25 not let anybody else discuss it with you or in your

1 presence.

2 That is why the juror badges are so helpful. You
3 might be in the elevator, someone not realizing you are a
4 juror might be discussing the case. Should that happen,
5 remember, it is your responsibility to tap them on the
6 shoulder, let them know you are a juror, and ask them
7 please stop talking about the case in your presence.

8 If there is any problem in that regard, I want
9 you to talk to our Marshal when you come upstairs or
10 Mr. Caldwell and I will take care of that right away. I
11 don't expect there to be any problem, but I want to make
12 sure everybody understands how careful we need to be about
13 these things.

14 Now, remember before I mentioned that what
15 happens is a witness gets called and they get examined,
16 they get cross examined by the other side, and then there
17 is redirect examination.

18 That whole process is aimed at scrutinizing that
19 testimony so you can look at it and you can make whatever
20 judgment you feel is correct regarding its credibility,
21 the credibility of the witness and the weight you want to
22 give that testimony.

23 Now, because it is so important that you decide
24 the case based only on the evidence presented, I am going
25 to ask you, and I know this may be tough, but during the

1 trial, would you please avoid reading the local section of
2 the local newspapers. Okay. The Palm Beach Post, Sun
3 Sentinel or the Herald. And should you see anything about
4 the case in any other newspaper or in any other section,
5 would you be extra careful and please don't read that.

6 Okay.

7 And the whole reason for that is, whatever your
8 decision is going to be at the end of the case, we want to
9 make sure it is based on evidence presented here in open
10 court in front of everybody that has been subject to that
11 process of examination, cross examination, and redirect
12 examination. I think it is fair, and I am sure you
13 understand, this is a case of enormous importance to both
14 sides, and certainly to the community in general. So it
15 is possible, perhaps even likely that there will be some
16 reporting of the case.

17 So I am asking you, if you will, to kind of take
18 that extra step again to preserve the integrity of the
19 process.

20 Now, if you are sort of a newspaper junky, you
21 wake up in the morning and grab that cup of coffee and
22 grab the newspapers, we don't want you to lose touch of
23 what is happening in the community. If you want to, would
24 you bring the local section in and run it by Mr. Caldwell.
25 If there is nothing in the paper, we will get it right

1 back to you. If there is a little story, I hope you don't
2 mind, we will clip it out and I hope we don't destroy the
3 rest of the paper for you, but we will get it back to you.

4 I know it is tough, but it is a precaution, it is
5 a precaution because it is really important that we want
6 to protect the integrity about the case.

7 May I ask you, did anybody happen to see any
8 stories in the newspaper over the weekend in any
9 publication?

10 Everyone shaking their head no.

11 I want to ask you to be on guard, because we want
12 to be so careful about that.

13 Now, from time to time during the trial I want
14 you to -- I may be called upon to make rulings of law on
15 objections and motions made by the lawyers.

16 First, I want to make sure you understand you
17 should not infer or conclude from any ruling that I might
18 make that I have any opinion one way or the other on the
19 merits of this case or what your verdict should be. I
20 want to tell you right up front, I do not. One of the
21 great strengths in our justice system is that we divide
22 the decision making process here.

23 What the verdict should be is your responsibility
24 and yours alone, and it is in good hands.

25 Now, when a lawyer makes an objection, all I am

1 doing is, I am looking at a rule of evidence or rule of
2 procedure and taking a second look at that.

3 So I don't want you to try to read the tea
4 leaves, because I am not doing anything else other than
5 that. Okay?

6 I also want you to know when the lawyers make
7 objections, they are not trying to hide something from you
8 or anything else. They are doing their job. That is
9 their way of saying to me I need to take another look at
10 one of these rules so we can be sure we are going to have
11 a fair trial for all of the parties.

12 Now, when an objection is made, I am going to do
13 one of two things. Either I will overrule the objection
14 or I will sustain it. If I overrule the objection, the
15 witness goes right ahead and answers the question, but if
16 I sustain the objection, the witness does not answer.

17 Now, let me give you an example. Do you remember
18 I said to you before that what the lawyers say is not
19 evidence? In other words, the evidence consists of the
20 answers that come from the witness. Sometimes a lawyer's
21 question may have some facts inside it. The lawyer may
22 turn to a witness and say, isn't it true that you live at
23 105 Myrtle Avenue? If the witness says yes, the witness
24 has effectively adopted those facts.

25 If the lawyer asks that kind of a question and

1 there is an objection, if the objection is sustained, that
2 question is hanging out there. Okay. Now, when that
3 happens, and if that were to happen, you should simply put
4 the question aside because the question is not evidence.
5 You surely should not guess on what the answer might have
6 been. That wouldn't be fair to anybody and you shouldn't
7 draw any inferences from the question itself. Just put
8 that aside.

9 Now, during the trial it may be necessary for me
10 to talk with the lawyers from time to time out of your
11 presence regarding issues of law or procedure. I may even
12 need to ask you to step into the jury room. But I want to
13 tell you right up front, we regard your time as a precious
14 commodity, and we are so thankful to each one of you for
15 your willingness to participate in this trial.

16 Now, we've made a commitment among ourselves,
17 every single day when you leave, we are going to stay and
18 we are going to try to look ahead to see what is coming up
19 tomorrow so we don't have the starts and stops, so the
20 trial does move smoothly.

21 But I have to tell you, it has been my experience
22 that despite the best planning and best cooperation, and I
23 want to tell you we have some wonderful lawyers in this
24 case, and they really are working hard so the case can be
25 presented properly to you, sometimes something comes up

1 right out of the blue that nobody has anticipated. I
2 think you understand how important this case is to all of
3 the parties. At the very end of the case you are going to
4 come in with verdicts that will be very significant.

5 Now, today we don't know what those verdicts are
6 going to be because we haven't heard the evidence, but no
7 matter what those verdicts are, I would hope that from
8 today forward we are united in the goal no matter what the
9 verdicts are, that everybody in this room will be able to
10 walk out those doors at the end of the trial knowing that
11 they have been treated fairly.

12 So, if by chance something comes up that we
13 haven't had a chance to plan for, and if I do need to ask
14 you to wait in the jury room for a few moments, I am going
15 to ask you in advance for your patience because I know you
16 know how important this process is and we want it to be a
17 fair and a just process.

18 Now, I want to take a moment and talk about the
19 schedule. We talked about that, and I think I gave you
20 some misinformation.

21 We are going to meet four days a week. We are
22 going to meet Monday, Tuesday, Wednesday, Thursday, we
23 won't hold court on Fridays. The reason for that is I
24 have some matters that have been set in other cases and
25 they have been set long in advance, and people usually

1 make sometimes travel arrangements and they are very hard
2 to rearrange. So we will plan to meet Monday, Tuesday,
3 Wednesday and Thursday. We will try to start right at
4 9:30. If you could be generous with yourselves, give
5 yourselves a few moments to be here on time. We will have
6 coffee ready for you, but we will try to start at 9:30.

7 We will take a break every day in the middle of
8 the morning. I explained that to the lawyers, no matter
9 where we are, we will take that break. It is important
10 for us to do that so we are fresh and able to pay
11 attention.

12 If it is okay, I thought we would go until 12:30,
13 that breaks the day in half. We will stop for lunch, come
14 back at quarter of two. Again we will take a break in the
15 middle of the afternoon, and I promise you we will stop on
16 the dot at five o'clock. Okay.

17 So if you have other obligations, please know we
18 will stop at five.

19 Now, I said that we will sit four days a week.
20 However, we will not meet on Monday, July 1st. That is
21 next Monday.

22 I think during the jury selection process I mixed
23 those dates up, and I was thinking of July 8th. We will
24 meet the 8th, but we will not meet on Monday, July 1st.
25 We plan to meet Monday through Thursday. The exception to

1 that will be Monday, July 1st.

2 As I mentioned to you, for planning purposes, the
3 parties are going to do everything they can so we can
4 present the evidence to you as quickly and as properly as
5 we can. We think the case is going to take -- we are
6 estimating the month of July, that is our estimate, it may
7 be shorter than that. We surely hope it is not going to
8 be longer. We tried to give an outside estimate for your
9 planning purposes.

10 Now, let me take a second and talk about the
11 order of the trial. I suspect most of you know this.

12 In a moment I am going to recognize counsel for
13 the Plaintiff for what is called the opening statement.
14 That's when a party can address you and can tell you what
15 they expect the evidence is going to be, and what the
16 issues in the case are going to be.

17 After that, the Plaintiff will go forward with
18 the calling of witnesses and the presentation of evidence.
19 Now, that is referred to as the Plaintiffs' case in chief.
20 And as you know in our case, we literally have three
21 separate Plaintiffs. It is like having three trials that
22 we have combined simply for purposes of efficiency. But
23 it is important to remember that we have three separate
24 Plaintiffs, each of whom has brought their own case before
25 you, and as you know, we have two separate Defendants.

1 Again, we've combined this all for the purpose of
2 efficiency.

3 Now, when the Plaintiffs have finished their case
4 in chief, and that is usually done by announcing the
5 Plaintiffs are resting, then the Defendants will proceed
6 with witnesses and evidence, after which within certain
7 limitations, the Plaintiffs may be permitted again to call
8 witnesses, or to present evidence in what is called the
9 rebuttal phase of the trial.

10 In other words, the Plaintiff goes first, and the
11 plaintiff May rebut at the end because the law places the
12 burden of proof or what is called the burden of persuasion
13 upon the Plaintiffs. And I am going to explain that to
14 you in much greater detail during my instructions at the
15 end of the case.

16 Now, when all of the evidence has been presented
17 to you, as I mentioned, the lawyers then have another
18 opportunity to address you and to make their summations or
19 their final arguments in the case. After that I will
20 instruct you on the law and, of course, then you will
21 retire back into the jury room to deliberate and to decide
22 your verdicts.

23 Sometimes -- and you listened to the process I
24 described of the party calling the witness getting to ask
25 questions, and the other side cross examining, more

1 questions, and then finally the party that called the
2 witness asking a few more questions, and sometimes jurors
3 have said what about me? If I have a question, can I ask
4 a question? And the answer is yes, you can.

5 Now, I want to tell you that the lawyers on both
6 sides have spent a great deal of time working on the case
7 and trying to get ready to present it to you so that you
8 will understand the positions that are taken by both
9 sides. Another thing you have to mention is evidence
10 usually comes in piece by piece, in other words, witness
11 by witness by witness.

12 Now, what I would like to suggest you do is
13 simply sit back and let the lawyers do the direct
14 examination, the cross examination, and the redirect so
15 that they finish that, but when they are done with a
16 particular witness, if there is something that has not
17 been asked and answered, or if there is something that you
18 didn't understand and you wanted to clarify, if you would
19 like to ask a question, please feel free to do so.

20 Now, here is how you should do it.

21 If you have a question, will you raise your hand
22 and let me know that you do? Again, I will ask you to
23 wait until the lawyers are finished the direct, cross and
24 redirect. Okay. But please let me know that you have a
25 question before the witness leaves. I forgot to tell the

1 jury that one day and we had a heck of a time catching the
2 witness before they got out of the courthouse.

3 Now, if you have a question, what I am going to
4 do is ask you to write it out.

5 Do you remember when I mentioned when a lawyer
6 objects and I sustain the objection, how the question is
7 hanging? And you should sort of put it aside and not
8 guess on its meaning or what the answer might have been
9 and so on. That same rule applies to any question from a
10 juror. If for some reason I do not put your question to
11 the witness, for heavens sakes, don't worry about that.
12 Just put it aside, and again, don't, don't draw any
13 inferences as to why it was not presented and so on.

14 On the other hand, if it is a proper question, I
15 will go ahead and present it to the witness and see if we
16 can clarify or get the information that you are seeking.

17 Okay.

18 Now, counsel have indicated that counsel for the
19 Plaintiff is going to begin with an opening statement.
20 Mr. Klaus has indicated that he may reserve his opening
21 statement until the beginning of the defense case. I want
22 to caution you again that the statements by the lawyers
23 that they will make now, and even if Mr. Klaus reserves
24 his until later, they are not to be considered by you,
25 number one, as evidence. They are not evidence, nor, of

1 course, are they the instruction on the law. That is my
2 responsibility, and I will handle that later.

3 Nevertheless, these statements and the arguments
4 that will be given at the end of the case are intended to
5 help you understand the issues and the evidence as it
6 comes in as well as the positions taken by both sides. So
7 I would ask that you give the lawyers your close attention
8 as they make their opening statements.

9 Let me begin, if I might, by recognizing
10 Mr. Green on behalf of the Plaintiffs who will give the
11 opening statement for the Plaintiffs.

12 Mr. Green.

13 MR. GREEN: Thank you, Your Honor. Good morning,
14 ladies and gentlemen of the jury.

15 This is a case about the duties of military
16 commanders. In late 1979 these generals, General Garcia,
17 and General Vides Casanova, came to power in El Salvador.
18 They unleashed a reign of terror against unarmed
19 civilians. Dr. Juan Romagoza, Neris Gonzalez, and Carlos
20 Mauricio are just three of the thousands of their victims.
21 Most of the others are dead.

22 These three victims were tortured by men under
23 the command of these two generals.

24 We will show that these generals are responsible
25 for these victims torture because they as military

1 commanders had command authority over the men who
2 committed the torture, because they knew their troops were
3 torturing civilians, particularly unarmed civilians, and
4 because they failed to take reasonable measures to punish
5 or prevent the torture by their subordinates.

6 The evidence you will see and you will hear will
7 show them to be legally responsible.

8 Two decades ago in El Salvador a country ruled by
9 military dictatorship for most of the 20th century.
10 General Garcia was the Minister of Defense and General
11 Vides Casanova was director of the National Guard, which
12 was a powerful state security force. These were two of
13 the most powerful men in the military government and
14 indeed the entire country of El Salvador.

15 When they came to power in 1979, October 16th, to
16 be precise, the military ruled in partnership with the
17 country's rich plantation owners. This rule by the
18 military and the plantation owners was being challenged by
19 thousands of people peacefully calling for democracy. At
20 the same time there was an armed opposition beginning also
21 to challenge the military dictatorship.

22 These generals, along with the rest of what is
23 called a high command, launched a reign of terror, a
24 second war against unarmed civilians whom they believed
25 opposed their military dictatorship.

1 These generals' troops fought the armed
2 opposition, but at the same time these generals unleashed
3 their reign of terror against ordinary people, people who
4 are without weapons, people who simply wanted military
5 dictatorship to end.

6 These people, these three victims here wanted
7 democracy.

8 The reign of terror that took place when these
9 two generals were in command included rape, torture,
10 abduction and murders. As a result there were bodies
11 everywhere, some with heads, some without. You will see
12 decapitations.

13 Tens of thousands dead, tortured and disappeared,
14 and they were killed by their own government. This was
15 systematic, state sponsored terror.

16 Let's talk about the military which these two
17 generals led. When we talk about the military, we will be
18 talking about the officers, and the officers core in
19 particular. This was a small group, 106 men, officers, if
20 you count field officers, field commanders. This was a
21 small group of men who trained together in the state
22 military school, they lived together and they knew each
23 other have well.

24 This was not a military of strangers. They were
25 a brotherhood. They protected each other at every step of

1 the way. They protected themselves and they protected the
2 military as an institution which gave them power. They
3 protected the power that they held in the country for most
4 of the 20th century.

5 General Garcia was at the top of the military,
6 and General Vides was at the top of the National Guard.
7 They were devoted to the military above all else, and when
8 their power was challenged, they reacted strongly,
9 aggressively and violently to protect the institution
10 which gave them their power.

11 They as the military felt secure or felt that
12 their secure position of power was being threatened by the
13 opposition, and not just the armed opposition. There was
14 a widespread unarmed opposition calling for democracy and
15 there was also an armed opposition.

16 The military made war on both. It was a
17 deliberate strategy. They made war on unarmed civilians.
18 But these victims, Dr. Romagoza, Ms. Gonzalez, and
19 Professor Mauricio, were not members of the armed
20 opposition, and yet the military did not just stop with
21 opposing the armed opposition. These generals in command
22 waged war against their own population, an unarmed
23 civilian population.

24 These generals practices and policies,
25 kidnappings, murders, and tortures became so widespread

1 that high U.S. Government officials repeatedly blamed the
2 military in their various cable messages for the majority
3 of the violence. You will see cable after cable, these
4 are communications between United States Government,
5 Washington, State Department, CIA, and other U.S. Embassy
6 and other personnel in El Salvador in cables regarding
7 torture.

8 One high U.S. Government official concluded the
9 United States has solid evidence that Government of El
10 Salvador is torturing its citizens. No Government should
11 permit its citizens to be humiliated, tortured, and
12 degraded in the name of achieving victory over any enemy.

13 This is a U.S. Government cable dated June 12,
14 1982. If any of you can't see it, tell me, I will bring
15 it closer.

16 Says the Department of State. Says the
17 Department of State believes that we must use evidence of
18 torture, if not in the name of the victim, to put the
19 issue squarely before the Government of El Salvador.
20 Therefore, as soon as victim safely departs from the
21 country, you should seek appointment with both President
22 Magana and Defense Minister Garcia and put the issue to
23 the Government of El Salvador drawing on the following
24 talking points.

25 The U.S. Government has solid evidence of torture

1 of Government El Salvador citizens. Torture took place
2 while the individuals were in the custody of the National
3 Police. No government should permit subjections of its
4 citizens to this kind of humiliation, pain, and
5 degradation in the name of achieving victory over any
6 enemy.

7 This cable was from United States Secretary of
8 State Alexander Haig who was president Reagan's Secretary
9 of State.

10 Tens of thousands of these generals victims were
11 found murdered, others disappeared. However, some
12 survived, including these three victims.

13 Waging a war of terror against a civilian
14 population was a deliberate strategy. The reign of terror
15 against unarmed civilians was directed against anyone who
16 appeared to question or to challenge the status quo. The
17 military repression functioned through a campaign of
18 terror that struck broadly and indiscriminately but later
19 targeted several main groups.

20 Professor Terry Karl, Stamford university, is a
21 leading expert on El Salvador and she has studied patterns
22 of torture and repression in El Salvador during the years
23 in question. She will show you violence was widespread,
24 certain types of people were targeted for violence,
25 especially people who were working with the poor, the

1 people who were helping the poor, church workers,
2 teachers, physicians, and health care workers. People
3 like Dr. Romagoza, Ms. Gonzalez, and Professor Mauricio.

4 We will explain to you why in a twisted terrible
5 way the military had a policy of intimidating through mass
6 state terror anyone or any group who threatened their hold
7 on power.

8 Eventually these two generals ran away from El
9 Salvador, but we found them here in Florida living
10 comfortably. Now we are asking you to hold them
11 accountable under U.S. and international law as military
12 commanders under the law known as command responsibility
13 for the kidnappings, rapes and torture of these three
14 victims.

15 Why are they being tried here in the United
16 States, in this courtroom? Because U.S. civil law permits
17 claims to be brought against torturers, or as in our case,
18 people who commanded torturers, who live or visit the
19 United States. The men at the top, military commanders
20 can be held legally responsible. This is to prevent the
21 United States for becoming a haven for such people. These
22 men live here and they cannot be tried in El Salvador
23 where the military has legal amnesty for their wrongs.

24 MR. KLAUS: Objection; misstating the law.

25 THE COURT: Well, the jury understands this is

1 not evidence. This is one party's position, and certainly
2 the jury will hear evidence on these issues.

3 So, let's move forward if we can.

4 MR. GREEN: Let me say something. The only
5 recourse left for these three victims is this civil trial.

6 I want to talk now about the three victims in
7 detail.

8 We are not talking about the kidnapping, rape or
9 torture of soldiers who are fighting with weapons, we are
10 talking about the rape, torture and kidnapping of ordinary
11 people unarmed civilians. A doctor, a teacher, and a
12 church worker. They were victimized by men under the
13 command of these two generals.

14 What you will hear about the torture will be so
15 extreme that it is hard to prepare you, the jury, for what
16 you are about to hear, but the atrocities suffered by
17 these victims was unfortunately a common strategy used to
18 inflict terror not only on the tortured, but on the entire
19 country.

20 Dr. Juan Romagoza, a physician, a torture
21 survivor will tell you in late 1979 he was a practicing
22 physician in El Salvador, he was attending medical school
23 and working with the Catholic Church to establish medical
24 clinics in the capital of San Salvador.

25 On or about December 12, 1980 Dr. Romagoza was

1 providing medical care at a church clinic in Santa Anita,
2 Chalatenango. I will show you where that was on a map in
3 a few minutes. While Dr. Romagoza was treating patients,
4 two vehicles arrived with soldiers from the local Army
5 garrison and the National Guard. Perched on top of the
6 trucks, soldiers and guardsmen opened fire on the people
7 administering and receiving medical care at this small
8 church clinic.

9 The soldiers and the guardsmen shot Dr. Romagoza
10 in the right foot and another bullet grazed his forehead.
11 Soldiers and the guardsmen detained Dr. Romagoza because
12 he possessed medical instruments. He received no
13 treatment for the medical injuries. You will see the scar
14 on his right foot.

15 Subsequently Dr. Romagoza was blindfolded and
16 taken to a local hospital by an Army garrison. During the
17 flight, soldiers pushed Dr. Romagoza to the edge of the
18 open door of the helicopter and threatened to throw him
19 out.

20 Upon his arrival at the garrison, Dr. Romagoza
21 was stripped of all of his clothes, bound spread eagle to
22 a table and interrogated and beaten.

23 The next morning, about December 13, 1980,
24 Dr. Romagoza was transferred to the National Guard
25 headquarters in San Salvador.

1 Santa Anita is up here (indicating), up here, and
2 he was transferred down here to San Salvador.

3 This is the country of El Salvador. It is about
4 a thousand miles from Florida. This is a small part of
5 the map of the country of El Salvador.

6 Once inside the National Guard headquarters in
7 San Salvador, guardsmen showed Dr. Romagoza other
8 prisoners who had been tortured and asked if he wanted to
9 have the same thing happen to him. He was put on a table,
10 beaten and interrogated and threatened with additional
11 torture. He was stuck with needles producing intense pain
12 and threatened with death.

13 At the end of his second day of detention at the
14 National Guard headquarters, Dr. Romagoza was chained to
15 an iron rod, naked and wounded, and interrogated again.
16 The guardsmen administered electric shocks to his ears,
17 tongue, testicles, anus, and the edges of his wounds until
18 he lost consciousness.

19 The guardsmen would force him to regain
20 consciousness by kicking him or by burning him with
21 cigarettes. For approximately the next 22 days
22 Dr. Romagoza was interrogated and tortured every day,
23 sometimes three or four times per day. During
24 Dr. Romagoza's detention, General Vides Casanova, who was
25 a colonel with the director of National Guard, the man at

1 the top, was physically present on two occasions.

2 The first occasion was before Christmas, in
3 December, 1980 approximately ten to 15 days prior to
4 Dr. Romagoza's release.

5 At this time General Vides Casanova and other
6 military officers, including Dr. Romagoza's uncle,
7 Lieutenant Colonel Salvador Mejia Arce visited
8 Dr. Romagoza in his torture chamber. On prior occasions
9 Dr. Romagoza informed the guardsmen about his two uncles
10 in the military, Lieutenant Colonel Salvador Mejia Arce
11 and Lieutenant Colonel Manuel Rafael Arce Blandon, hoping
12 mentioning the fact that he had two uncles in the military
13 would save his life.

14 For several days the guardsmen hung Dr. Romagoza
15 by his fingers. Dr. Romagoza was told he would never be a
16 surgeon again. They also shot him in the left-hand
17 severing the muscles and tendons making it impossible for
18 him to perform delicate operations. Additionally the
19 guardsmen anally raped Dr. Romagoza with foreign objects
20 and subjected him to additional electric shocks, water
21 torture and asphyxiation with a hood containing cal, a
22 lime.

23 After this Dr. Romagoza's capturers moved him
24 into another room and kept him in a coffin like box for
25 four or five days. Periodically they would return to

1 threaten, kick, or burn him with cigarettes.

2 His life was saved only because his uncles were
3 colonels in the military. General Vides Casanova was also
4 present at Dr. Romagoza's release on or about January 5,
5 1981. On that day General Vides Casanova saw Dr. Romagoza
6 being carried out of the National Guard headquarters by
7 one of his uncles weighing only 80 pounds while another
8 uncle stood nearby conversing with General Vides Casanova.

9 General Vides Casanova saw a man who had been
10 tortured under his command, he was there. He didn't stop
11 it, he allowed it to continue.

12 After his release Dr. Romagoza fled El Salvador.
13 He arrived in the United States in April, 1983. As a
14 direct of result of the injuries inflicted during his
15 detention, Dr. Romagoza lost his ability to perform
16 surgery and continues to suffer physical and psychological
17 effects of his torture. Today he works at a health clinic
18 in Washington, D.C.

19 Neris Gonzalez, another surviving victim, will
20 tell you she is a Salvadoran woman who worked several
21 years as a churchwomen with the Catholic parishes
22 throughout El Salvador. December 26, 1979, Neris
23 Gonzalez, who was eight months pregnant, was abducted
24 without cause from the central market of San Vincenti by
25 four men, three National Guardsmen under this man's

1 control dressed in uniform and plain clothes. They were
2 all armed with assault rifles. The guardsmen led Neris
3 Gonzalez to the National Guard headquarters where she was
4 detained in a small interrogation room.

5 San Vincente is about 30, 35 miles from San
6 Salvador. It is one of the larger cities in El Salvador
7 off the main highway in the country, the Pan American
8 Highway.

9 Over the course of her detention, Ms. Gonzalez,
10 Neris was repeatedly tortured. The guardsmen pushed pins
11 under her nails telling her cooperating with them would
12 cost her nothing. They repeatedly burned her with lighted
13 cigarettes and poured liquid on the burns to intensify the
14 pain. The guardsmen cut the surface her of fingertips,
15 thighs and breasts with a razor blade and hit her in the
16 chest. On one occasion the guardsmen pulled out her
17 fingernails with a pair of pliers.

18 On three occasions they administered electric
19 shocks while smothering her with a powder filled rubber
20 mask. For about three days Neris was taken out of the
21 interrogation room and despite her advanced pregnancy --

22 THE COURT: Mr. Green, please forgive me. This
23 is something I did not mention, although I thought we
24 discussed it. I will have the lawyers on both sides to
25 use last names for all parties.

1 Thank you.

2 MR. GREEN: After about three days Ms. Gonzalez
3 was taken out of the interrogation room, and despite her
4 advanced pregnancy, was pushed down a flight of stairs by
5 the guardsmen.

6 She was subsequently detained, handcuffed and
7 bound with chains in the basement of the National Guards
8 post for approximately 12 days.

9 During the course of the next 12 days the
10 National Guardsmen repeatedly raped, tortured and withheld
11 food from Ms. Gonzalez. At night they would force her to
12 sit neck deep in a basin of ice water for hours. When she
13 was taken out of the water, her body was completely numb.

14 On at least two occasions Ms. Gonzalez's torture
15 involved injuries to her uterus. She was put under a
16 metal bed frame while guardsmen stomped on top of the
17 frame.

18 The guardsmen also balanced the bed frame over
19 her swollen abdomen, standing on both ends of the bed
20 frame like a seesaw. Ms. Gonzalez was forced to watch
21 guardsmen beat a man. After the beating he was wiped with
22 plastic wipes and kicked in the testicles.

23 Subsequently the guardsmen handcuffed the man's
24 hands behind his back and suspended him from the ceiling
25 by his arms, by his legs. One of the guardsmen sat on top

1 of the man and began riding him like a swing. Guardsmen
2 took the man down from his suspended position, cut open
3 his stomach, and pushed Ms. Gonzalez's face into the
4 wound.

5 In a separate incident Ms. Gonzalez was forced to
6 watch the torture of a boy who appeared to be
7 approximately 14 years. In front of her the guardsmen
8 gouged out the boy's eyes with a tool. Tissue from the
9 eye socket landed on Mrs. Gonzalez's feet, and she fainted
10 from the sight.

11 When she regained consciousness, the guardsmen
12 hit her in the back of the head with the blunt end of the
13 machetes and cut into the forearms of the -- with the
14 machetes, newborn babies cries alerted passersby to
15 investigate. A local villager took Ms. Gonzalez and her
16 baby into her home. Ms. Gonzalez regained recovery.
17 Approximately eight days later she was taken to a clinic
18 where she received medical treatment and in a neighbor
19 convent. Because of the torture, Ms. Gonzalez's son was
20 born with fractures, indentations on his face. He died
21 two months later.

22 Ms. Gonzalez, too, fled El Salvador as a result
23 of her injuries -- as a result of her torture she
24 sustained severe physical and psychological injuries.
25 Since the time of the injuries she received treatment for

1 post-traumatic stress syndrome.

2 Carlos Mauricio was a professor of agriculture.
3 He was abducted without cause in June, 1983 from his
4 classroom by individuals dressed in civilian clothes who
5 forced him into an unmarked van. After his abduction, the
6 university and others launched a campaign to determine his
7 whereabouts and obtain his immediate release. Salvadoran
8 Defense Ministry issued a written statement acknowledging
9 detention of Professor Mauricio at the National Police
10 headquarters, also in San Salvador.

11 Professor Mauricio was detained at the National
12 Police headquarters for approximately one and a half
13 weeks. During his first week in detention he was tortured
14 and interrogated in a secret torture center at the
15 National Police headquarters where they claimed he was a
16 member of the opposition.

17 He was never a member of any opposition group.
18 No charges were ever brought against him, nor were charges
19 ever brought against Dr. Romagoza, nor were they ever
20 brought against Neris Gonzalez. Professor Mauricio's
21 capturers strung him up with his hands behind his back and
22 over his head and repeatedly hit him with the metal bar
23 covered with rubber and inflicting injury to his face and
24 torso.

25 During the first few days of detention Professor

1 Mauricio was given no food to eat. He was denied use of
2 the bathroom throughout his entire confinement at the
3 torture center. He was also forced along with other
4 detainees to stand for hours at a time, failing to do so
5 in resulting to being singled out for additional physical
6 abuse.

7 On or about June 23, 1983, Professor Mauricio was
8 released. Very shortly thereafter he fled El Salvador for
9 the United States where he now resides and now works as a
10 high school science teacher.

11 Professor Mauricio suffered injuries to his ribs,
12 eyes and mouth inflicted during detention. In addition to
13 physical injuries, Professor Mauricio continues to suffer
14 from long-term psychological effects of torture.

15 Dr. Glen Caddy is a psychologist who will tell
16 you about how torture affects people. Severe devastating
17 and continuing effects torture has had upon these three
18 victims.

19 El Salvador is a very small country. This is
20 less than onethird of the entire country of El Salvador
21 on this map.

22 Everything that happened to Neris Gonzalez,
23 Dr. Romagoza and Professor Mauricio occurred in an area
24 smaller than eastern Palm Beach County.

25 MR. KLAUS: Objection, Your Honor.

1 THE COURT: What is legal basis of the objection?

2 MR. KLAUS: Misrepresentation of the evidence.

3 THE COURT: Again, ladies and gentlemen, what the
4 lawyers are saying is not evidence, and ultimately you are
5 going to have to look to the evidence. So, with that, you
6 may proceed.

7 MR. GREEN: These kidnappings and torture
8 suffered by these three victims did not happen in some
9 remote area of El Salvador. These three victims were not
10 held in some hideout, but they were held in official
11 headquarters in the heart of this military organization.

12 Ms. Gonzalez was tortured, raped and kidnapped in
13 the regional headquarters of the National Guards here in
14 San Vincenti. Carlos Mauricio was kidnapped and tortured
15 fewer than five miles from the office of General Vides
16 Casanova who in 1983 succeeded General Garcia as Minister
17 of Defense.

18 Professor Mauricio's claims are against this man,
19 General Vides Casanova, and this man alone. General
20 Garcia was forced to step down as Minister of Defense,
21 Dr. Romagoza was tortured and raped less than 150 feet
22 from the office of then colonel, director of the National
23 Guards Vides Casanova. Less than 150 feet away from his
24 office.

25 These victims were tortured right under these

1 generals' noses. These were not random acts of torture
2 committed by rogue soldiers in a remote outpost hundreds
3 of miles from where the generals worked. These are acts
4 that occurred under their watch, under their command by
5 their troops. These acts were not committed as part of
6 any legitimate war. The military's torture of these three
7 victims was the war.

8 These three victims came to the United States and
9 sought refuge here after they survived their ordeals. We
10 come to you, the jury, because in our country the law says
11 you can bring these charges against these generals in
12 America. International law and U.S. law had been clear
13 since World War II, torture is never allowed, never, not
14 under any circumstances.

15 As U.S. Secretary of State Alexander Haig said,
16 victims of torture can come to federal courts such as this
17 one to seek justice. These are our values, this is our
18 law.

19 The history of this ban on torture comes from a
20 frightening period in world history when World War II
21 ended in the full extent of the atrocities against
22 civilians by the Nazis discovered the world took steps to
23 prevent this from happening again in the future. For the
24 first time in history military and political leaders were
25 tried for their crimes at Nuremberg and in Tokyo. They

1 were held responsible for being commanders who did not
2 stop murders and torture. From these judgments at
3 Nuremberg a large body of international law protecting
4 civilians in time of war developed, even during war
5 civilians cannot be hunted, murdered or tortured.

6 This trial is about abuses that have long been
7 prohibited both by law and by fundamental decency since
8 the defeat of the axis powers of World War II. Because of
9 the atrocities that occurred during that war, we in
10 America and other countries recognize even in times of war
11 there must be rules, must be laws. Based upon this
12 recognition, countries in the world including El Salvador
13 enacted laws prohibiting torture and rapings, kidnapping
14 of persons even in time of war.

15 El Salvador signed the Geneva Treaty, bound it to
16 these international laws. Both of these generals admitted
17 that they were aware of international laws governing human
18 rights that applied to El Salvador and to them as military
19 commanders in particular.

20 Another law central to Nuremberg, military
21 commanders are responsible for atrocities committed by
22 their troops for a legal document known as command
23 responsibility. You will hear instructions from Judge
24 Hurley at the end of the case about that.

25 This doctrine of command responsibility makes

1 commanders such as these generals responsible for failure
2 to control and punish their troops if they knew or should
3 have known that horrible abuses were being committed.
4 These generals were military commanders. Here they are 20
5 years ago in uniform. This is General Vides in uniform.
6 In this picture he is wearing his dress uniform which is
7 taken, normally he would wear a green uniform. This is
8 General Garcia reviewing troops.

9 These generals commanded armed forces with a
10 chain of command and according to their own testimony, no
11 one, no one ever disobeyed their orders. General Vides
12 Casanova has testified under oath that not a single
13 soldier ever disobeyed him during his entire 35 years as a
14 military commander. Not one.

15 These generals were in command of discipline
16 troops, and as you see through the testimony, they both
17 had knowledge and the practical means to insure that their
18 troops did not murder, torture and rape civilians.

19 Let's talk a little bit about the military they
20 commanded in El Salvador. In addition to having Army,
21 Navy, and Air Force like the one we have here in the
22 United States, in El Salvador domestic security forces
23 were also under military command.

24 Here we have the Army, Air Force and Navy. The
25 three security forces in El Salvador were the National

1 Police, National Guard, and Treasury Police.

2 In El Salvador, it is was like having the FBI,
3 CIA, and Secret Service under military command as well.

4 All these forces, military forces and security
5 forces were under the command of Minister of Defense
6 General Garcia, and later in 1983, General Vides Casanova.

7 General Vides Casanova was in charge of the
8 national. General Garcia was Minister of Defense.

9 The victims in court today were all tortured by
10 Salvadoran security forces, National Guards and National
11 Police. As I said, General Vides Casanova was head of the
12 National Guard. El Salvadoran National Guard is not like
13 our National Guard. At the time the National Guard had
14 broad powers like secret police.

15 The National Guard began as sort of a landlord's
16 militia, and its job was to insure that peasants behaved.
17 The National Guard was responsible for internal security
18 within El Salvador, which meant that it was deployed to
19 eliminate troublemakers and terrorize the population
20 through the widespread use of unlawful detention, torture,
21 and execution.

22 A few minutes ago I said these generals commanded
23 a military that ruled El Salvador for most of the 20th
24 century. It was a military dictatorship because there was
25 a real power with the military even though there were

1 civilians in the Government. During the time the
2 Plaintiffs were tortured, power lay with General Garcia as
3 Minister of Defense and General Vides Casanova as National
4 Guard, as head of the security police. They controlled
5 troops and the security police. In that capacity, as
6 Minister of Defense General Garcia exercised command
7 responsibility over all members of the military and
8 security forces.

9 According to a strict military hierarchy and
10 chain of command, General Garcia was responsible for
11 establishing and implementing military policy throughout
12 the country and empowered to issue orders to and
13 discipline subordinate members of the military forces.

14 During this trial you will see a 1980 United
15 States State Department cable acknowledging General
16 Garcia's vast power, calling General Garcia the power
17 behind the throne. General Garcia, you will learn, was a
18 member of a number of Juntas, a number of military
19 Governments, some had military members and some didn't.

20 He survived Junta after Junta after Junta. He
21 was the only common thread, he was the throne. No
22 civilian, not even the presidents in any of these Juntas
23 had the power that these two men had. There was no
24 civilian control over the military, and military bitterly
25 resented any civilian efforts to control it.

1 By their actions or inactions these generals
2 knowingly permitted abuses to continue. They commanded
3 the men who killed civilians, raped them, tortured them
4 and murdered them. They commanded the men who terrorized
5 everywhere in the small country. As military commanders
6 they had the power to discipline, punish and prevent
7 abuses that military commanders everywhere have.

8 They chose never to punish a single officer, not
9 one single officer. Never. Instead experts will testify
10 in this case that these generals actually promoted known
11 human rights abusers. They promoted some and by their own
12 inaction protected others. They actually purged the Army
13 of reformist officers who were trying to complain about
14 the human rights abuses. Instead, General Garcia promoted
15 some of the countries most infamous abusers. Men who
16 operated death squads from the National Guard
17 headquarters, from the National Police headquarters.

18 Dr. Terry Karl saw the terror. She has been
19 researching and visiting El Salvador for 20 years and in
20 the course of her work in El Salvador, she saw dead bodies
21 in parking lots, streets, and countryside. She spoke to
22 torture victims. As an expert in the Salvadoran war, she
23 will explain how and why the military tortured and killed
24 its own people. She will tell you how the reign of terror
25 was intended to terrorize civilians so as to protect the

1 military's power as an institution.

2 She will testify how Government, U.S. Government
3 cables and Salvadoran documents shows the generals knew
4 about the human rights abuses. She will testify how the
5 same documents show a pattern of denial and obstruction on
6 the part of these two generals. She will show you what
7 the generals should have done about human rights abuses,
8 but failed to do.

9 The law says the commanding officers are
10 responsible for abuses if they knew or should have known
11 what their troops were doing. They have a duty to
12 supervise their troops and to know what they are doing.
13 They can't look the other way. They have an affirmative
14 duty.

15 These generals have denied under oath knowing
16 that their troops kidnapped, tortured, raped and murdered
17 unarmed civilians. You will hear their denials. General
18 Vides Casanova called it international propaganda.
19 General Garcia referred to reports of a massacre as a
20 novella, a fix, a mere make believe.

21 THE COURT: Mr. Green, we are at a point where we
22 need to stop for the mid-morning recess. I don't want to
23 rush you. Is this a convenient place to stop? And then
24 when we come back, we will finish the opening statement.

25 MR. GREEN: Yes, Your Honor.

1 THE COURT: Let us take a break. When we come
2 back, we will hear the concluding portion of Mr. Green's
3 opening statement.

4 Let me allow the jury to step into the jury room.
5 (Thereupon, the jury retired from the courtroom.)

6 THE COURT: Court will be in recess for 15
7 minutes.

8 (Thereupon, a short recess was taken.)

9 THE COURT: Mr. Marshal, would you bring in the
10 jury, please?

11 (Thereupon, the jury returned to the courtroom.)

12 THE COURT: Ladies and gentlemen, please be
13 seated. When we stopped, we were in the midst of
14 Plaintiffs' opening statement. I will turn back to
15 Mr. Green so he can continue.

16 MR. GREEN: Thank you, Your Honor.

17 Before the break we were talking about what these
18 generals had denied and what these generals actually knew.
19 General Vides Casanova testified that he was in the
20 National Guard headquarters building every day. General
21 Vides Casanova has denied under oath knowing about
22 prisoners in the National Guard headquarters being
23 tortured.

24 General Garcia has denied any knowledge of any
25 torture taking place in any prison or any National Guard

1 building while he was Minister of Defense.

2 There was evidence of kidnappings, tortures and
3 rapes and murders throughout the country. These generals
4 knew because you could walk through El Salvador and
5 particularly the streets of San Salvador during those days
6 and see bodies in the streets. The bodies were
7 everywhere. You will see these bodies or photographs of
8 them for yourselves.

9 There were newspaper advertisements about
10 disappeared people by families who were trying to find
11 disappeared relatives. These paid ads were called campos
12 pagados. They were in every newspaper every week, every
13 month, every year that we are talking about. These
14 generals' own expert in this case said when he was
15 confronted with the generals denial, "One would have to
16 have been a dunce, blind or deaf not to have known that
17 these kinds of things were occurring. They stacked the
18 bodies up every day." This is their own expert.

19 It got so bad that the Archbishop of El Salvador,
20 a man known for his conservative views, protests abuses in
21 the weekly radio sermons broadcast throughout the country.
22 I beseech you, he cried to the military in the last
23 address, stop the repression. Then he was murdered.
24 Archbishop Romero was murdered in his own church, shot
25 down while he was saying mass.

1 These generals knew. The U.S. Government
2 complained about the torture. The United States told
3 these generals to stop the torture and stop the terror.
4 Dozens of State Department and CIA cables indicate that
5 United States Government indicated that torture was being
6 carried out by the armed forces and security forces and
7 that United States was trying to stop it.

8 Evidence that the U.S. Ambassador met regularly
9 with these generals demanding that they stop repression.
10 Robert White, a United States Ambassador, will testify he
11 saw the violence and terror that gripped El Salvador in
12 1980. He confronted these generals and told them that
13 these troops were torturing and killing civilians, and
14 told the generals to use the power.

15 Salvadoran politicians also told the generals
16 about the repression, international human rights groups
17 told them. General Garcia and General Vides Casanova
18 knew.

19 Another witness will be Michael McClintock, a
20 human rights worker with the world wide organization,
21 Amnesty International, directed networks of Amnesty
22 International to flood evidence about the detentions,
23 disappearance and tortures. In fact, people from around
24 the world sent so many letters to the Salvadoran
25 Government that some officials in Salvador thought it was

1 so funny that they choked that Mr. McClintock was turning
2 them into stamp collectors.

3 Mr. McClintock and Amnesty International put
4 detailed information about human rights abuses squarely
5 before the Salvadoran Government.

6 There is also evidence from the Organization of
7 American States which represents all of Latin America and
8 United States, OAS headquarters are in Washington, D.C.
9 OAS sent down Roberto Alvarez to investigate claims of
10 torture in official military security headquarters. You
11 will hear Mr. Alvarez describe how he found the torture
12 chambers, how he saw them with his own eyes and how he
13 reported them to the Government of El Salvador.

14 General Vides Casanova became director of the
15 National Guard. He admits that he knew that his
16 headquarters in San Salvador had been used in the past for
17 torture. When he became commander, he took no steps
18 whatsoever to investigate who was responsible for these
19 torture cells, and he made no attempt to punish or
20 otherwise send a message to his subordinates under his
21 command that torture would not be permitted under his
22 watch.

23 Instead, by doing nothing, the message General
24 Vides Casanova sent to his men was if you torture someone,
25 if you kill someone, and you were under his command,

1 nothing would happen to you. This was a message of
2 impunity.

3 The eyes of the world were on El Salvador and
4 these generals in particular. These generals claimed they
5 did not know. There is no way they could stand up and say
6 they did not know. This is not credible.

7 They may argue that there was chaos, that there
8 was war, but in the torture chambers there was no chaos,
9 it was orderly, it was controlled, it was prolonged, and
10 it was a system presided over by these men.

11 You may hear them testify that they didn't know
12 what their subordinates were doing, but there is
13 overwhelming evidence to the contrary. These bad things
14 did not just happen. What happened to these three
15 victims, tens of thousands of others, was not the
16 accidental byproduct of war. These abuses were
17 systematically and deliberately carried out by the armed
18 forces against ordinary people, against civilians. These
19 repressive strategies are and were against the law.

20 We are talking about criminal activity on a
21 massive scale. We are talking about skeletons in a
22 closet. As a U.S. Ambassador describes it, we are talking
23 about cover ups on a massive scale. We are not here to
24 talk about how the El Salvadoran armed forces and security
25 forces should have fought the armed conflict against armed

1 insurgence. This trial is not about that war, or whether
2 that war was right or wrong, or whether that is how that
3 war should have been fought. We are here to talk about
4 how they terrorized these men and men under their command
5 terrorized people less able to defend themselves.

6 There is no dispute that each of these three
7 victims were unarmed civilians, no dispute. Instead of
8 attacking the armed people, these chose to terrorize the
9 civilians and church people in order to continue their
10 authority. This was military strategy plain and simple.

11 What did these generals do when they were
12 confronted repeatedly with evidence of mass murder and
13 torture? They did nothing meaningful to stop it. They
14 denied that abuses occurred, they failed to investigate,
15 they obstructed the investigation of others.

16 You will hear about a code of silence, and most
17 importantly, they actually promoted known human rights
18 abusers, known murderers, and in fact they encouraged a
19 culture where their men acted without fear of punishment.

20 Let me talk to you again about impunity, the
21 culture of impunity. You will hear this word a lot in the
22 cables that went back and forth between the Secretary of
23 State and Embassy of El Salvador. Impunity means
24 perpetrators of abuses were never punished for what they
25 did, means never having to answer for your crimes. If

1 someone kills your mother, son and family, nothing will
2 happen to you, nothing.

3 You will hear about their code of silence,
4 military's code of silence, these generals' code of
5 silence, practice of not saying anything in order to
6 protect the members of the officer core.

7 You will see the U.S. Government cable to the
8 Secretary of State that details how this code of silence
9 worked in that military, how it was aimed at hiding
10 corruption, and how it was aimed at protecting violators
11 of human rights. You will hear a lot of testimony from
12 these generals, a lot of denials that can only be
13 explained by explaining the code of silence, their code of
14 silence. It was aimed at protecting what a U.S.
15 Ambassador calls their brotherhood. You will see that
16 cable.

17 There were endless requests and demands to stop
18 the repression. These generals stuck to their code of
19 silence, stuck to their impunity. Take the letters sent
20 to them by the country's leading political civilian party
21 at the time, Christian Democrat party, January 31, 1980,
22 Christian Democratic party signed by 12 key leaders sent a
23 letter to these generals and others.

24 The letter documented 19 specific instances of
25 human rights violations, kidnappers, tortures and strongly

1 suggests that the Government, especially Minister of
2 Defense, then General Garcia, implement 20 specific
3 reforms, reforms like prohibiting beatings in prison,
4 prohibiting torture in prisons, reforms like dismissing
5 known human rights violators, and a number of known human
6 rights violators were listed in that letter, conducting
7 investigations of murder and torture. And this came from
8 the leading civilian political party. Yet no one was
9 dismissed, no reforms implemented, no reforms were even
10 attempted.

11 General Garcia admitted in deposition that if he
12 had attempted to implement these, he would have lost his
13 own power. Nothing at all.

14 No investigations were conducted by the military
15 concerning any of those specific instances in the
16 Christian Democratic letter. Maggie Popkin will testify
17 that the military was legally obligated to investigate
18 crimes committed by its own troops and civilians, and
19 failed to do so. Instead the military prevented the
20 justice system from functioning.

21 We will show these generals did not follow the
22 law or carry out their duty according to the Doctrine of
23 Command Responsibility.

24 The buck stopped with these men. Our military
25 expert will show how the military command was structured

1 in El Salvador, how it worked, and what these generals
2 could and should have done to know what their troops were
3 doing, and what these generals could and should have done
4 to punish and prevent the ongoing abuses.

5 Our military expert is from Argentina. He is one
6 of the world's leading experts on military command
7 structure. He testified and worked as an expert from the
8 Government of Argentina, Italy, Spain, El Salvador and
9 United Nations.

10 He will show you how the Salvadoran military
11 worked. He will show how information flowed up and down
12 the chain of command. He knows what is possible and what
13 is not possible for a military commander to do. He knows
14 how the men in control supervised and controlled their
15 subordinates. He will talk about command structure, why
16 every military has such a structure and how commanders
17 exercise command and control over the destructive --
18 tremendous destructive capabilities that every military
19 force has.

20 He will talk about how society relies upon
21 military commanders to control their subordinates in times
22 of war and in times of peace. How the Doctrine of Command
23 Responsibility makes it clear that when an officer assumes
24 command, he has duties, he is accountable, the buck stops
25 with him.

1 Our experts will testify that these generals as
2 military commanders could and should have taken measures
3 to prohibit abuse, abuse in their military. They could
4 and should have repeatedly denounced human rights abuses,
5 demanded military reports on all civilian deaths and
6 detentions and punish officers who failed to make such
7 reports.

8 Issued precise instructions that officers will be
9 removed if human rights are committed under their command.
10 Inspect sites of alleged human rights abuses, respond to
11 specific requests to stop the violence, cooperated fully
12 with civilian investigations, protected witnesses to human
13 rights abuses.

14 Set up a functioning and independent
15 investigative unit or units for human rights abuses.
16 Requested help of outside investigators to uncover facts
17 of human rights abuses, publicly remove all human rights
18 abusers from the military. Turn over all human rights
19 abusers, especially officers, to civilian courts for
20 punishment, and actively sought and obtain punishment of
21 officers who committed human rights abuses.

22 They did none of these things. Instead by their
23 own admissions, officers and soldiers were not disciplined
24 for these abuses.

25 They did not investigate torture cells in the

1 National Guard headquarters or other locations reported to
2 them. They did not use military tribunals to cleanse the
3 military of its abusers. And although thousands, tens of
4 thousands of Salvadorans were tortured or murdered,
5 perhaps as many as 75,000 people, these generals never
6 punished one single officer, not one single officer for
7 kidnappings, torture and murders of ten of thousands of
8 civilians. Not one.

9 We are going to ask you to keep one thing firmly
10 in mind. These victims, these three victims were not
11 warriors, they were not combatants, they did not carry
12 guns. Dr. Romagoza is a doctor, Ms. Gonzalez was a church
13 worker, and Professor Mauricio was a teacher. This is a
14 case about command responsibility, about generals who knew
15 about atrocities, and who did nothing to prevent or punish
16 the perpetrators.

17 There may have been a civil war, but there was
18 not a suspension of civilization, and there was no license
19 to torture. Torture is against our morals, against all
20 law. We ask you to hold these generals legally
21 responsible.

22 THE COURT: Thank you, Mr. Green.

23 Mr. Klaus, you had indicated that you might
24 prefer to wait on your opening statement. Is that your
25 decision?

1 MR. KLAUS: Yes, Your Honor. We will reserve.

2 THE COURT: All right. You may do so.

3 Let me turn, then, and allow counsel for the
4 Plaintiffs to call your first witness.

5 I will ask for the Marshal's help, if I might, so
6 we can reposition the lectern and we will plug that in to
7 the plug underneath the Plaintiffs' table so we can clear
8 an aisle there.

9 Plaintiffs may call your first witness.

10 MR. GREEN: Dr. Juan Romagoza.

11 THE COURT: Dr. Romagoza, would you come up to
12 the witness stand and make yourself comfortable?

13 Doctor, I need to tell you the microphone has a
14 short pickup range, so if you would pull that chair up to
15 the desk area, I think you will be more comfortable. And
16 also if you need to adjust the chair up and down, feel
17 free to do that.

18 I wonder if you would raise your right hand.

19 JUAN ROMAGOZA, PLAINTIFF SWORN.

20 THE COURT: Doctor, you may lower your hand. And
21 of course the jury has already met you at the very
22 beginning of the case, but for the clarity of the record,
23 would you be good enough to state your full name, and
24 would you spell your last name, please?

25 THE WITNESS: My name is Juan Jos, Romagoza Arce.

1 My last name is Romagoza, R-O-M-A-G-O-Z-A.

2 THE COURT: Thank you, sir.

3 Counsel you may proceed.

4 DIRECT EXAMINATION

5 BY MR. GREEN:

6 Q. Dr. Romagoza, where do you live now?

7 A. I live in Washington, D.C.

8 Q. And what do you do for a living?

9 A. I am working as director of the Clinica Del Pueblo.

10 Q. And where is your clinic?

11 A. It is the Adams Morgan area in Washington, D.C.

12 Q. Is there any other place where you provide health
13 care?

14 A. I have a community in the different churches in
15 Washington, D.C., too.

16 Q. What languages do you speak?

17 A. I speak Spanish and English.

18 Q. What language would you feel more comfortable
19 communicating your thoughts to the jury in?

20 A. I would be more comfortable in Spanish.

21 Q. Would it be okay to examine you in Spanish?

22 A. Yes.

23 Q. Do you need the head phones?

24 A. Yes.

25 (Thereupon, Plaintiff testified through the

1 interpreter.)

2 BY MR. GREEN:

3 Q. Dr. Romagoza, where were you born?

4 A. I was born in Usulután, El Salvador.

5 Q. And where in El Salvador is Usulután?

6 A. In the eastern part of El Salvador.

7 Q. Could you please describe your family?

8 A. As a family, I am a son of a professor and seamstress.

9 It is a family of five brothers and sisters, father and
10 mother, and four persons who were adopted by my mother.

11 Q. Could you please describe your childhood?

12 A. While I was born and I was raised in Usulután, a very
13 agrarian people, I had many relationships with many people.

14 Q. Would you describe the house you grew up in?

15 A. Well, it is a house, it is old, it was old, and it
16 fell down on the Hurricane Mitch recently. It was the
17 house of my maternal grandparents.

18 I went to public schools, but then I received a
19 scholarship to go to a Catholic school being opened up, a
20 new one in Usulután. Then I completed my high school at
21 the National Institute in Usulután, in Usulután.

22 Q. What did you do after you completed secondary school?

23 A. After finishing high school I went to the University
24 of El Salvador to study medicine.

25 Q. And how far was the University of El Salvador to

1 Usulután where you grew up?

2 A. The university is in the capital city, in San
3 Salvador, 110 kilometers, approximately 140 miles away from
4 Usulután.

5 Q. Was your house near a church in Usulután?

6 A. Yes, it was one block away from the central parish
7 church, and it is also a half block away from the house of
8 my grandparents in Usulután --

9 THE INTERPRETER: The interpreter corrects
10 himself, my great grandparents.

11 BY MR. GREEN:

12 Q. Are you a physician?

13 A. Yes.

14 Q. You testified a minute ago that you went to medical
15 school in San Salvador. Why did you study medicine?

16 A. Well, first, I wanted to -- very much wanted to study
17 to become a priest and I had much support from my family to
18 become a priest. And the fact is with the scholarship I
19 received at school, I had access, I could participate over
20 at the seminar that was close to the area -- close to
21 Usulután. Santiago María, which was the seat of the
22 seminary, and which is where the bishop of the area was.

23 I went there for about two years on weekends, to the
24 seminary, because it was the same group of Augustin priests
25 who coordinated at the school in my city.

1 While I was in the seminary, I then decided to desist
2 because I was in disagreement with some of the things at
3 the seminary, and I decided to return to my city. And
4 while I was at my city, I was witness to many family
5 members, friends of mine who would die very early in life
6 especially from parasites, many worms that they would die
7 of and that gave me great motivation to study medicine.

8 Also, when I was eight years old, I was witness to how
9 my grandfather died of a heart attack. He was 52 years old
10 and there was nothing to help, and no doctor. And he died
11 of the infarction, the heart attack after three hours.
12 Because of all of that, I decided to study medicine. I
13 wanted to be a cardiologist so that no one should die like
14 that without medical assistance.

15 Q. Tell me about your medical school training.

16 A. It was difficult to get to the university, especially
17 for someone from a family with a professor and a seamstress
18 and many brothers and sisters. My family could support
19 maybe one person at the university but never two. But I
20 was lucky. I was the first valedictorian, I was in the
21 first in my class at high school when I took the
22 examinations and I received my high school degree. And
23 because of that, and because of my military uncles that I
24 had, I was able to receive a scholarship from the
25 presidential house. And that is how I could go to the

1 university, study medicine through a scholarship from the
2 presidential palace.

3 I spent almost ten years studying medicine.

4 Q. Could we stop for a second?

5 Who were your military uncles? What were their names?

6 A. My mother had two -- has two brothers. They were both
7 lieutenant colonels. One was the lieutenant colonel and
8 also had a degree in economy. Manuel Rafael Arce Blandon.
9 And the other was a lieutenant colonel and doctor in
10 odontology, and his name is Salvador Mejia Arce.

11 Q. Let's get back to your ten years of medical studies.

12 A. As I said, I spent ten years studying medicine. This
13 is a career that is seven years long. But in the '70's
14 there were a lot of closures for the university for
15 different reasons. That is why my studies, my career took
16 ten years. The last closure by result of the invasion by
17 the military forces lasted between six and seven years.

18 Q. Did you work when you were a medical student?

19 A. There were not many work opportunities, but I was
20 lucky, but I was lucky because I had a uncle who was also
21 director of a hospital in Sonsonate.

22 Q. For the jury's benefit, where in relation to San
23 Salvador is Sonsonate?

24 A. At approximately 40 miles away from San Salvador in
25 the western area of El Salvador.

1 While there was a closure of university because of all
2 these problems, he called me because he had a position for
3 a resident, a resident who had not arrived to the position
4 and I could work as a resident. It was a wonderful
5 opportunity to begin to practice medicine since I was not
6 studying, the university was closed.

7 And he was also available to train me. He was a very
8 expert surgeon at that hospital. I worked as an intern, as
9 a resident of that hospital, and I was also trained in
10 surgery. That was the job that I had, and that was my
11 first paycheck.

12 Q. Did there come a time when you decided to switch from
13 specializing in cardiology to surgery?

14 A. Yes. It was always my intention to study cardiology,
15 but I had the opportunity to grow in surgery. And at that
16 age, and at that level, that for me was a magnificent
17 opportunity. And it was a compliment because later on I
18 wanted to be a cardiovascular surgeon.

19 Q. How long did you have that residency with -- at the
20 hospital in, I believe Sonsonate?

21 A. I was there for, close to eight to ten months there.

22 Q. What year, approximately, was that?

23 A. 1976.

24 Q. What did you do after your residency at Sonsonate?

25 A. The university was reopened, and I returned to my

1 studies. But with all of the experience I had gained, and
2 with my intentions of assisting and helping, I got the
3 opportunity to work in community projects. Starting from
4 the university, we started at the university to create a
5 project myself with other medical students. We started to
6 create a project to reopen the clinic we had right inside
7 the university for neighbors of the university, especially
8 people who live in the very poor suburbs, for the family
9 members of students who had no access to external medical
10 consultation, and for the population in general who had no
11 medical assistance so they could come to the university
12 which is an open place to get medical attention. Those
13 were the community projects where I started to give my time
14 freely.

15 Q. Over time, did you work in any clinics outside of San
16 Salvador?

17 A. Well, yes. Whenever I would go to my hometown,
18 Usulután, especially during long holiday periods, I would
19 go to the Usulután Hospital to give my time voluntarily.
20 But it became more and more difficult for me to return to
21 Usulután, so I started to go to other community projects in
22 San Salvador, especially with the Catholic Church. We have
23 the opportunity of Archbishop Romero calling us to see to a
24 lot of peasant people who are coming in, running from the
25 war, to see them come and take care of them -- to see them

1 and treat them at the churches.

2 The Archbishop opened the doors to these people
3 because they were fleeing and he located them at the
4 seminary known as the San Jos, De La Montana at some
5 convents, and at some churches around San Salvador. One
6 was the church of the city of Mejicana (phonetic) which is
7 close to the City of San Salvador, and convent known as
8 Domes Maria, a large convent. Many refuges, many peasants.

9 Q. At what years -- let me withdraw that.

10 Had you ever met Archbishop Romero?

11 A. Yes.

12 Q. Where and when?

13 A. Monsignor Romero was the second bishop of Santiago de
14 Maria which was -- to which my city -- belongs to the
15 Diocese that my city belongs to. And he would visit
16 Usulután, which would be the state seat, and he would visit
17 it very frequently. And when he came to Usulután, he would
18 visit with my family because my great grandmother's family,
19 their house is right next to the convent.

20 My family is very religious, and my mother would bring
21 all of her children, all of us to say hello, to greet the
22 bishop and kiss his ring, and to receive benediction,
23 blessing. And sometimes to eat with the bishop because he
24 would go there and sometimes he would stay to eat. I spent
25 time with him in Usulután maybe only twice.

1 Q. And when you were in San Salvador, did you ever meet
2 with Archbishop Romero?

3 A. Well, the truth is that after my experience at the
4 seminary, my religious practice decreased or almost
5 disappeared. But while working at the community clinic at
6 the university, when the Archbishop called upon us and told
7 us that he wanted us to help him, I was going to see the
8 Bishop with great skepticism. But being close to him, and
9 upon selling the reason why he was calling upon us, I felt
10 great motivation to maintain contact.

11 And we met around two times to plan medical attention
12 for all of these people who were living at the seminaries
13 and convents in San Salvador.

14 Q. What was the significance, if any. To you of
15 Archbishop Romero asking you and other medical personnel
16 for help?

17 A. Well, the truth for me, it was a radical change of my
18 beliefs of faith and practice of faith, because I felt for
19 the first time that it was a church that identified with
20 the people in need in El Salvador. With the poor, with the
21 persecuted and for me that was the faith, the practice of
22 faith that I was searching for. This had a major impact
23 upon my life, and it still does.

24 Q. When you were in these clinics that were practicing in
25 the various churches and convents, what kind of patients

1 did you treat?

2 A. 80 to 90 percent were women and elderly people and
3 children. There were some youths, but almost no men. Men
4 of a young age, I mean, but elderly men and elderly women,
5 yes, there were.

6 Q. You talked about working at the university clinic, and
7 you talked about working in various church and convent
8 clinics?

9 A. Exactly, but where we were most located was at the
10 university. And then from there we would go to the
11 churches and convents depending on the request we would get
12 from the religious people to go and see the people.

13 Q. How many hours a week would you work at the university
14 clinic or in the surrounding church clinics?

15 A. We would do this after university, after the hospital,
16 after our practice, and especially upon Saturdays and
17 Sundays, if we didn't have a shift at the hospital.
18 Approximately 15 to 20 hours a week.

19 Q. Were there other physicians or health care workers who
20 volunteered to work in these medical clinics?

21 A. Yes.

22 Q. Did you ever ask for payment for your medical
23 services?

24 A. No. Everything was completely free, voluntary. These
25 were very poor people, and it was a commitment we had taken

1 upon ourselves to serve this population.

2 Q. Did you ever come in contact, either at the university
3 clinic, the hospital where you served your residency or in
4 any of the church clinics, with torture victims?

5 MR. KLAUS: Objection; beyond the scope of his
6 knowledge.

7 THE COURT: I am sorry, legal objection is what?

8 MR. KLAUS: Lack of personal knowledge, lack of
9 predicate for personal knowledge.

10 THE COURT: I will allow the doctor to testify if
11 by observing the people, he was able to indicate that they
12 bore signs that indicated to him that they had been
13 victims of torture. In other words, he can testify as to
14 what he saw with his own eyes.

15 THE WITNESS: Yes, I saw and I treated tortured
16 people.

17 BY MR. GREEN:

18 Q. On a weekly or monthly basis, how many torture victims
19 would you typically treat, say from 1979 until you were
20 captured in 19-- late 1980?

21 A. During that period I had the opportunity of treating
22 and seeing people who had suffered torture at the
23 university clinic, which is the only place where these
24 people actually felt they were safe. And some of them who
25 actually dared to go to the emergency rooms at the

1 hospital, such as the hospital where I was doing my
2 residency, the hospital of Rosales, and the hospital of
3 Santa Tecla. I would say during that period an average of
4 about six dozen persons.

5 Q. What kind of symptoms of torture did you personally
6 witness as a physician?

7 A. Some arrived in critical condition. A female
8 professor had been, for example, thrown into a dumpster.
9 She had been left for dead in a dumpster. She had been
10 covered with tar all over her body, and the trash, the
11 feathers in the trash had stuck to her body.

12 That is how she arrived at the university clinic. Her
13 hair had been taken out. She had bleeding of the vagina,
14 rectal bleeding, and she had bleeding from the tips of her
15 breasts. They had caused injuries to the tips of her
16 breasts. She had many marks of burns over her body. Burns
17 and lesions and also scars of burns. These were the tracks
18 left behind by the shock instruments.

19 I saw others with many beatings with problems of
20 malnutrition. Psychosomatic problems. Many with much
21 emotional trouble. There was a standard among them all
22 which was a terrible fear of everything.

23 Q. Did you ever see anyone that had damage to their
24 fingers?

25 A. Yes. I saw people who had been cut. I saw people

1 with cuts of the tips of their fingers and upon their
2 genitals.

3 Q. What kind of injuries did you see to their genitals?

4 A. Some who had maybe been burned. We saw a high school
5 student whose parents took him into the hospital. He had
6 been released, and he was completely incapacitated. He had
7 scars or burns on his genitals and upon his anus.

8 Q. Did you see any marks that might have been left by any
9 metallic objects?

10 A. Some had tracks that were kind of like old burns.
11 Those supposedly had been made by metallic instruments that
12 are used to apply electric shock and some told stories of
13 having been raped with metallic instruments.

14 Q. Did there come a time when the university clinic was
15 closed?

16 A. Well, the university was under constant threat of
17 being closed and completely militarized on the outside.
18 There was many times when they set up military barriers
19 outside where they would not allow people to enter or exit.
20 There were military people and other people dressed in
21 civilian clothes who would control the entrance and exit
22 from the university.

23 There was a closure, there was an intervention at mid
24 1980 during which they entered violently into the
25 university, during which they killed students and they

1 destroyed a lot of equipment. The school of medicine, for
2 example, they didn't leave one book intact. The equipment
3 was stolen. There were cases where the microscopes from
4 the university could be obtained down at the marketplace as
5 a result of the looting.

6 Q. Did you see the military come onto the medical school
7 campus?

8 MR. KLAUS: Objection; leading, Your Honor.

9 THE COURT: Overruled. I don't think that
10 suggests an answer. You may answer that question.

11 THE WITNESS: At the university, the school of
12 medicine is within the university campus, and another one,
13 another part of it is located in front of the Rosales
14 Hospital in San Salvador. I was at that second locale
15 belonging to the university across the street from the
16 hospital. And that's where I did see the Army arrive and
17 they took us all out of there.

18 BY MR. GREEN:

19 Q. Were they wearing uniforms?

20 A. Yes.

21 Q. Were they carrying weapons?

22 A. Yes.

23 Q. Did they arrive in marked military vehicles?

24 A. Yes.

25 Q. What color were those vehicles?

1 A. Mainly they were green in color.

2 Q. When they came to shut down the facility where you
3 were working, did they show you any kind of search warrant
4 or court order?

5 A. No, never. They never showed you anything. They came
6 into the university, beating people, throwing people out,
7 and killing people.

8 Q. Did the military or security forces ever come to any
9 of the hospitals or clinics when you were there?

10 A. Yes.

11 Q. Did they ever do anything to any of your patients?

12 A. Yes.

13 Q. Did anything like that happen when you were providing
14 medical care in San Salvador?

15 A. Yes.

16 Q. Can you tell the jury about that?

17 A. I was doing my medical residency at the Rosales
18 Hospital in San Salvador. I was on shift, night shift.
19 During the day a hospital to, a professor came in and he
20 had been hurt. He had been hurt in the street. He had
21 received a gun shot to the abdomen. He had been operated
22 at the hospital during the day and in the evening as an
23 intern at the hospital, he was under my supervision. I had
24 to watch over him.

25 And I was maybe some ten meters away from the

1 intensive care unit where this professor was lying --
2 excuse me, the husband to a professor, and suddenly we
3 heard these noises at the emergency room door. The
4 emergency room -- well, the intensive care unit was down
5 the hall from the emergency room door at this place.

6 And they entered just the way they had done before,
7 and many of us knew that this was something that was
8 frequent, and we would hide, we would go into the rooms,
9 but I stayed in one of the rooms with the door open and
10 pretending to be doing some work.

11 They went by, there were people dressed in civilian
12 clothes, weapons in hand, insulting, wearing military
13 boots. They went straight into the intensive care unit and
14 they pulled out the intravenous devices that the man had.
15 They pulled him out of there and they took him away. This
16 person showed up dead the following day.

17 Q. What year was this?

18 A. This was at the end of 1979, beginning of 1980.

19 Q. Dr. Romagoza, you mentioned military boots. Are you
20 familiar with military boots?

21 A. Yes.

22 Q. How are you familiar with military boots?

23 A. These were the boots that my uncles would give to my
24 mother so she could shoe all of the boys. When we were
25 lucky, we would get those boots because they were very

1 resistant and very sought after.

2 Q. What color are the boots?

3 A. Black.

4 Q. What is the significance of these boots in El

5 Salvador?

6 A. It is a military symbol.

7 Q. Besides the boots, was there any other indication to

8 you that these men who came in and took -- tore the IV's

9 out and took your patient out were military?

10 A. Yes.

11 Q. What?

12 A. The arrogance that they showed upon arrival, the fear

13 that they instilled. The impunity with which they entered

14 the hospitals. This became routine. Everybody knew,

15 everybody talked about these being the security forces

16 dressed in civilian clothes, that is all.

17 Q. Was there another incident when a patient was

18 assaulted?

19 A. Yes.

20 Q. Where was that, and when was that?

21 A. While I was a surgery resident at the hospital of

22 Santa Tecla San Juan De Dios. It was a Friday night. I

23 remember well, because that night I was preparing myself

24 because on the following day I was going to go back to my

25 home town. A young man arrived who had been hurt, he had

1 been hurt during a student march in the street, on the
2 streets of Santa Tecla. And he came in with gunshot wounds
3 as well in his thorax and in his abdomen.

4 There was surgery performed, six to eight hours, it
5 was long. And once again, it was up to me to supervise his
6 vital signs throughout the night. And also his evolution.

7 Q. You mean his progress?

8 A. Progress, yes. His progress.

9 It would be about ten o'clock at night, and I was
10 there with two nurses along with the patient in the
11 intensive care unit and then once again in that dead
12 silence of the hospital at night, all of a sudden the
13 clatter of people coming in running and screaming, and the
14 noise was approaching.

15 And it finally came up to that room where we were at
16 in the intensive care unit with the patient. Once again,
17 people with arms dressed in civilian clothes. They went
18 into the patient's bed and they shot him approximately
19 eight times. We were thrown to the floor, the nurses and
20 myself, and we were threatened that we shouldn't turn to
21 look, and they ran out.

22 Once they ran out, and after a brief period of
23 silence, I ran over to the hospital window, and I saw them
24 climbing into military vehicles.

25 Q. And what color were those vehicles?

1 A. It was a combination. Army, large green trucks and
2 police cars as well.

3 Q. And who did the police cars belong to?

4 A. To the National Police.

5 Q. When you saw these men in civilian clothes run into
6 the hospital, run to where you were and tell you to get to
7 the ground, you said they were wearing civilian clothes?

8 A. Yes.

9 Q. What kind of shoes were they wearing?

10 A. Military boots, once again.

11 Q. And when you saw the trucks and the police vehicles
12 outside, did you see any men in uniforms?

13 A. Yes. I saw the civilians climbing into the trucks.
14 And I saw the policemen and I saw the military people
15 getting into the trucks and cars getting in and leaving all
16 together.

17 Q. What happened to the body of your patient?

18 A. He died immediately.

19 Q. What did you do after that?

20 A. We took out the hydration devices, intravenous devices
21 that he had, and the best I could do was to collect the
22 casings from the ammo that they had shot against this
23 patient.

24 Q. And what did you do with those?

25 A. I took them to the university to ask, to show the

1 evidence of the shooting of this patient. And I would say,
2 what can we do? And the only thing that could be done was
3 to possibly take them to the Archbishop, who was the only
4 one collecting documentation for the violations taking
5 place.

6 So since at that time we had communication with the
7 Archbishop, I went to his office, to the Archbishop, and I
8 left the evidence with one of his assistants. I told him
9 this was the evidence of the people who had come and what
10 they had done to kill him.

11 Q. Who was the Archbishop at that time?

12 A. Monsignor Romero.

13 MR. GREEN: Your Honor, I can continue, but this
14 would be a convenient stopping part.

15 THE COURT: Why don't we stop now. Ladies and
16 gentlemen, why don't we stop for the luncheon recess. Why
17 don't we take a break until quarter of two and we will
18 pick right up at quarter of two. We will be in recess,
19 then, until quarter of two.

20 (Thereupon, the jury retired from the courtroom.)

21 THE COURT: Court will be in recess until quarter
22 of two.

23 MR. GREEN: Your Honor, there is one matter. We
24 have our psychologist, Dr. Caddy, who would like to sit in
25 and listen to the testimony of the Plaintiffs in this

1 case. I think Mr. Stern has some legal authority that
2 would allow that.

3 THE COURT: What is the Defendant's view?

4 MR. KLAUS: He is their expert witness. We have
5 adopted the rule. I don't think he should be allowed, I
6 don't want him to tailor his testimony as to what is said
7 in here.

8 THE COURT: Yes. Why doesn't everybody sit down
9 for a moment.

10 Doctor, you may step down. Thank you very much.

11 MR. STERN: May it please The Court. In light of
12 this issue, we point out two pieces of relevant authority.

13 Under Rule 703, the Rules of Civil Procedure
14 state that an expert may use as facts or data, or basis
15 for an opinion facts made known to the expert at or before
16 the hearing which appears to contemplate the type of
17 presence that we are suggesting here.

18 In addition, with regard to Rule 615, exclusion
19 of witnesses, one of the exceptions to the rule covers
20 persons whose presence is shown by a party could be
21 essential to the presentation of the party's cause. That
22 is Subsection 3 of the rule.

23 And 1973 advisory committee notes on that rule --

24 THE COURT: What rule are you looking at?

25 MR. STERN: Rule 615.

1 THE COURT: Thank you. Go right ahead.

2 MR. STERN: At the tail end of the 1972 advisory
3 committee notes, it states that category subject three
4 which I read contemplates an expert being present during
5 testimony.

6 THE COURT: May I ask you, has Dr. Caddy been
7 deposed --

8 MR. GREEN: No, Your Honor.

9 THE COURT: -- by the defense.

10 MR. STERN: He has not. He submitted an expert
11 report, but he was not deposed.

12 MR. KLAUS: He is not being offered as somebody
13 to advise counsel on the matters in litigation. That is
14 what the note contemplates. He's proffered as an expert
15 on post-traumatic stress syndrome and I don't think he
16 needs to observe these people testify in order to give
17 opinion about their post-traumatic stress syndrome.
18 According to the reports, he has already examined them. I
19 don't see what his presence in the courtroom has to do
20 except to corrupt his testimony.

21 THE COURT: Well, many times, and I am trying to
22 think what we did the last time with Ambassador White and
23 Ambassador Corr, but I think the rules draw a distinction
24 between experts and fact witnesses, the idea being that
25 experts, number one, look at all sorts of things in

1 arriving at their expert conclusions.

2 And I think there is also a view that they are
3 the kind of witness whose testimony really isn't going to
4 be changed by the fact that they heard somebody else. If
5 anything, sometimes their testimony can be more focused
6 because they know what someone else said and they respond
7 to it.

8 When we have done that, we have done it really on
9 both sides, so it is fairly common that experts,
10 particularly someone who is going to talk about a generic
11 subject, might come in and listen to somebody else and go
12 ahead and do it. It happens a lot in patent cases and
13 things like that.

14 Now, I would be concerned if Dr. Caddy's
15 deposition had been taken, and as you point out, if the
16 doctor now would sit and listen to additional testimony
17 and might in a sense have more information, either to
18 bolster or what have you, his views that had not been the
19 subject, you see of pretrial discovery.

20 But if the doctor hasn't been deposed, what
21 prejudice does the Defendant suffer on something like
22 that?

23 MR. KLAUS: I can't tell you what prejudice I am
24 going to suffer ahead of time. I don't think he has a
25 right to listen to their testimony and then testify about

1 their mental condition afterwards. He has done his report
2 and examination, he has to stand on his report and prior
3 examination.

4 THE COURT: Okay, let me take another look at the
5 rule for a minute.

6 I think what I will do is adhere to my prior
7 ruling, and unless there is an agreement to the contrary,
8 the rule has been invoked, and I would like to keep the
9 doctor subject to the rule.

10 I would think you might have a different approach
11 to some of the other experts who are simply experts
12 talking about general fields of study, and whose testimony
13 is not in a sense dependent on the testimony of somebody
14 else. But why don't we reserve that until our meeting
15 this evening.

16 In the meantime, let's adhere to the general rule
17 that anybody who is going to be a witness remain outside
18 until they are called.

19 Anything further we need to talk about?

20 MR. KLAUS: What other witnesses are you going to
21 put on today?

22 MR. GREEN: We anticipate that Dr. Romagoza will
23 last at least another two to four hours.

24 THE COURT: I would imagine the doctor would be
25 on the stand most of the day, wouldn't you?

1 MR. KLAUS: I just wanted to know if they planned
2 on finishing soon.

3 THE COURT: Did you agree you would notify each
4 other of your witnesses? And did you think of anybody
5 else other than Dr. Romagoza would testify today?

6 MR. GREEN: No, we did advise that our next
7 witness is Dr. White.

8 MR. KLAUS: I thought Mr. Alvarez was going to
9 testify next.

10 MR. GREEN: No, he is coming Wednesday. We may
11 need a filler witness tomorrow afternoon, but we haven't
12 made a decision yet.

13 THE COURT: And I think the jury understands you
14 are dealing with scheduling issues. If you need to stop
15 somebody or take somebody out of turn, I think the jury
16 will understand that, and you have to explain we have
17 schedules that we are trying to adhere to and get
18 witnesses to come in and come and go. Let's take a break,
19 and we will pick up, then, quarter of two.

20 The Court is in recess.

21 (Thereupon, a recess was taken at 12:40.)

22 (Court reconvened after recess at 1:45.)

23 THE COURT: Mr. Marshal, would you bring in the
24 jury?

25 (Thereupon, the jury returned to the courtroom.)

1 THE COURT: Mr. Green, when you are ready, you
2 may proceed.

3 BY MR. GREEN:

4 Q. Good afternoon, Dr. Romagoza. Before we broke for
5 lunch, I asked you some questions about your taking the
6 casings from the bullets that had been fired at your
7 patient. This was at the hospital in Santa Tecla?

8 A. Yes.

9 Q. Dr. Romagoza, would you step down?

10 THE COURT: Mr. Green, I don't know where it is.
11 We have a pointer, too, that might help you. Do you have
12 that?

13 MR. GREEN: Yes.

14 THE COURT: Great. And there is a handheld
15 microphone.

16 MR. GREEN: Thank you, Judge.

17 BY MR. GREEN:

18 Q. Dr. Romagoza, would you step down, please? Could you
19 point to the ladies and gentlemen of the jury where Santa
20 Tecla was?

21 A. (Witness complies.)

22 Q. How far is that from San Salvador?

23 A. Ten, 15 kilometers.

24 Q. That is where the hospital was where the patient was
25 shot eight times?

1 A. Yes.

2 Q. You mentioned a couple other places earlier on in your
3 testimony. Where was the place where you grew up?

4 A. I was born in the State of Usulután, not in the map,
5 but about 40 miles this way (indicating).

6 Q. And you mentioned another place called Sonsonate.
7 Where is Sonsonate?

8 A. Santo Anita is in the western part of El Salvador,
9 about 40 miles away, around here.

10 Q. Showing off the map?

11 A. Yes.

12 Q. And there is a place you are going to talk to about in
13 a couple minutes called Santa Anita. Could you point
14 approximately where that is?

15 A. Santa Anita is a ranging region which is in the state
16 of -- well, right around here (indicating).

17 Q. And what is the province or the state?

18 A. The State of Chalatenango.

19 Q. And you are going to be mentioning another place, El
20 Paraiso?

21 A. Yes. It is a military barracks near Chalatenango, and
22 Paraiso is right here, right around here (indicating).

23 Q. Thank you very much. If you could resume the witness
24 stand.

25 Dr. Romagoza, you testified earlier about various

1 times you met with Archbishop Romero. Did you ever attend
2 any masses with Archbishop Romero?

3 A. Yes. As I said before, Monsignor Romero had a huge
4 impact on my life. One, return to my religious practice,
5 and his Sunday masses were very large deal and I did go to
6 his masses on Sundays at the cathedral in San Salvador,
7 especially when I didn't go back to my town Usulután on
8 weekends.

9 Q. When you were not in San Salvador on the weekends, did
10 you ever listen to any of his masses or radio sermons?

11 A. Yes. In fact, his homilies were an expression of life
12 and faith at the same time, and they were broadcast widely
13 by the radio that was run by the church. Unfortunately, we
14 couldn't pick it up in my town, in Usulután, but somebody
15 would tape it or the radio itself would repeat Monsignor
16 Romero's homily.

17 Q. Is homily another word for sermon?

18 A. Exactly, sir.

19 Q. You testified earlier about your patient who got shot
20 eight times in Santa Tecla, and you testified that you took
21 the eight shell casings to the Archbishop's office. Was
22 the Archbishop still alive when you took the eight shell
23 casings to the Archbishop's office?

24 A. It was just a few days before Monsignor Romero's
25 murder, but, yes, I gave them to him, and he mentioned the

1 murder of a -- students in hospitals in his homily.

2 Q. And was that the young student that you took the shell
3 casings to his office about?

4 A. Yes.

5 Q. What month and what year was this? Was this March of
6 1980?

7 A. Yes, it was in March, just a few days before the
8 murder.

9 Q. And what year was that?

10 A. 1980.

11 Q. Did you ever hear Archbishop Romero complain about
12 torture and abuses either in his masses or radio sermons?

13 A. Personally, when we talked about the refugees to whom
14 he had opened the door to the seminars, he would talk about
15 the condition in which these people would arrive, many of
16 these displaced refugees would have scars from the Treasury
17 Police, paramilitary, public order, which had inflicted
18 these tortures on these people.

19 And the homilies, not a Sunday would pass that he
20 wouldn't mention this. People who had left jailed, and
21 gone to him to tell him about the tortures, and the dead.
22 Monsignor Romero's homilies were constant indictment of the
23 abuses of human rights.

24 Q. Did you ever hear him give a homily where he asked the
25 military to stop the repression?

1 A. He would appeal to the Army in almost every homily to
2 stop it. But it was his last homily in which he was clear
3 and strong regarding repression where he was asking them,
4 not only asking, but he was begging them and implored them
5 to stop the repression in the name of God. That was his
6 last homily.

7 Q. What happened to him?

8 A. He was murdered the next day six p.m. in a church for
9 cancer victims where he was living, and he was saying mass.

10 Q. Dr. Romagoza, were you politically involved as a
11 student or medical student?

12 A. No.

13 Q. Were you ever a guerilla?

14 A. Never.

15 Q. Directing your attention to December 12, 1980, what
16 were you doing?

17 A. Well, in December a group of medical students, doctors
18 and nurses wanted to do a health campaign in Christian
19 communities in the north. We wanted to do this before
20 Christmastime and New Year, and we were planning to go to
21 various regions in Chalatenango.

22 We would go to a different region every day, and on
23 that 12th of December, we had three reasons to go to that
24 area. One, they had been told there were sick and wounded
25 in the area, we couldn't leave because the area was

1 militarized. Another, on that date it was opportune to
2 open a clinic and see the peasants on that day.

3 Also, we were taken to the fact that it was festive
4 from a religious point of view in that area, in all those
5 towns because it is the feast day of the virgin of
6 Guadalupe, and a big feast day for our people.

7 We were taking advantage of the fact that peasants
8 were going to be into the area where there was a Zlin, and
9 there was going to be a mass and procession because we have
10 processions with people wearing their full outfits, and we
11 were going to be in the area. We would take advantage of
12 that and offer medical assistance.

13 And also see some patients who supposedly were wounded
14 and credible, and it was a group of us, about six, nurses
15 and doctors, and it was a health campaign.

16 Q. Were you carrying a gun?

17 A. Never.

18 Q. Was anyone with you carrying a gun?

19 A. No.

20 Q. How did you get to Santa Anita?

21 A. We rode a bus, nobody had a car. We went by bus to
22 Chalatenango, and from there we walked.

23 Q. How far was it from Chalatenango to Santa Anita by
24 walk?

25 A. About two, two and a half hours.

1 Q. On your way to Chalatenango or from Chalatenango to
2 Santa Anita, did you pass any Army or military check
3 points?

4 A. Yes.

5 Q. Were you searched?

6 A. Yes.

7 Q. How many times?

8 A. There were two military check points, and they made
9 everybody get out at both points, and they would search for
10 weapons.

11 Q. Was Santa Anita an area where there was conflict with
12 the military?

13 A. Yes, that was an area of conflict.

14 Q. When you were in Santa Anita, what were you doing?

15 A. Well, first of all, we participated in religious
16 celebration. We went to mass, and after mass, they blessed
17 the children, and the procession around the park, in the
18 square in front of the park.

19 THE INTERPRETER: May I ask the gentleman --

20 THE WITNESS: The procession took place in the --
21 around the park, around the square, there is a very large
22 tree, and took place around that. And after the
23 procession we were going to start the health clinic, it
24 was going to be help for everybody. People would stand in
25 line to see a doctor. Mostly they were women and there

1 was a house, a homestead near the Zlin which served as the
2 clinic, and we were setting up the clinic.

3 Q. Was that near the church?

4 A. Next to the church.

5 Q. And what happened then?

6 A. And then two trucks appeared in the road, Army people
7 were driving it. There were also National Guardsmen and
8 people dressed in street clothes, but they were all armed.
9 And people started to get scared and say, well, there come
10 the guards. Some people wanted to leave. And we were
11 trying to calm them down saying, you know, they will be
12 here, but they will leave, and it wasn't that way.

13 When they arrived at the place, the house serving as
14 clinic, they began -- they opened fire against everyone,
15 those of us who were at the clinic door. Most of them ran,
16 and those of us who stayed behind was because they were
17 wounded or they were wounded as I was.

18 Q. What kind of trucks were they in?

19 A. Two large trucks.

20 Q. What color?

21 A. Green.

22 Q. So members of the different armed forces and security
23 forces and people in civilian dress were security in the
24 trucks?

25 A. Yes.

1 Q. How could you tell the difference between the soldiers
2 and National Guardsmen?

3 A. Well, the uniform. It was green, but it was
4 different. The soldiers were not wearing helmets, the
5 guardsmen do wear helmets. They were wearing a shirt,
6 different than the shirt the soldiers wear, although it was
7 also green, and at that time the National Guardsmen were
8 more heavily armed than the soldiers.

9 Q. How were you familiar with the uniforms of the
10 different branches of the armed and security forces?

11 A. Well, at that time, given the situation in El
12 Salvador, it is easy to distinguish between different
13 security forces. But the truth is, when my uncles had
14 taken us to different barracks, when they had different
15 military men, we had that experience, we knew the different
16 uniforms.

17 Q. On that day, December 12, 1980, were you wearing
18 anything that identified you as a doctor?

19 A. Wearing something, no. I did have my credentials as a
20 resident. And my equipment that I had with me was all
21 medical.

22 Q. What kind of medical equipment did you have?

23 A. Well, since my specialty, what I had done more was
24 surgery, I had more surgical equipment. Really for small
25 operations, but also for just operations because it was a

1 possibility that there might be people wounded in the
2 abdomen. There were separators, pinchers, and all kinds of
3 surgical equipment, especially abdominal equipment.

4 Q. You indicated the soldiers and guardsmen arrived with
5 their arms. Did they shoot?

6 A. Yes. They machine gunned a group of us standing there
7 at the house next to the church.

8 Q. Did anyone in the crowd or any of your patients have
9 weapons?

10 A. I didn't see any weapons. And nobody reacted by
11 attacking them, nobody fired anything. They were the only
12 ones doing the attacking. I didn't see any weapons.

13 Q. What happened after the soldiers and National
14 Guardsmen began firing on the crowd?

15 A. Many people ran away. They were crying, they were
16 screaming. After the firing, there was a silence, and
17 there were some dead, and those of the rest of us who were
18 there, who were wounded. I was wounded on my foot and my
19 head, and beginning I kept saying, well, they will leave
20 and we will have a chance to get out of here, but, no.
21 There was a silence and some time lapsed, and then we
22 heard -- suddenly we heard them say to pick everyone up,
23 and they didn't want anybody alive.

24 Q. Dr. Romagoza, you indicated that you were wounded on
25 your foot. Is that from a bullet?

1 A. Yes.

2 Q. Which foot?

3 A. My right ankle.

4 Q. Were you wearing shoes or boots?

5 A. I was wearing boots.

6 Q. Military boots?

7 A. Well, these weren't the military boots. The boots I
8 had were Boy Scout, ranger boots. They looked a little
9 like military boots, but they weren't once the military
10 wore. And the first bullet impact on my foot, ripped the
11 boot off. I wound up with only the boot on my left foot.

12 Q. What happened next?

13 A. When they said they wanted no one left alive, they
14 came up to me. They saw that I was alive and all of a
15 sudden they put the barrel of the gun against my head.
16 When he fired, the safety was on. So nothing came out.
17 When he tried to fire a second time, he noticed that the
18 boot was a special boot. And even -- they didn't use those
19 boots.

20 When he kicked me in my chest, and he realized that I
21 had a bag with me, he started searching the bag, and he
22 said that I had armaments there, and that it was a special
23 weapon, and it was in parts, and it was supposed to be
24 assembled, and he said that I was guerilla commander, and
25 that is why they were going to take me.

1 A group of soldiers and guards gathered there.

2 Q. Doctor, let me stop you.

3 Did you have any weapons parts in your medical bag?

4 A. No. The parts I had were parts for surgical
5 equipment. Just equipment. Perhaps they didn't know. And
6 they kept saying that those parts were for a weapon, and it
7 was just surgery equipment, surgical equipment.

8 Q. Did you tell them it was surgical equipment?

9 A. I told him, I told him this is no weapon, this is
10 equipment. I showed him my credentials as a doctor. But
11 they insisted that I was a guerilla, and I was a commander
12 because the boots were special.

13 Q. These are Boy Scout boots?

14 A. Ranger Scout.

15 Q. What is Ranger Scout?

16 A. A cousin of mine had been a Scout, and it had been
17 like a leader, and I think they have some kind of a
18 category and they are the rangers. But that kind of boot
19 in El Salvador back then, well, it was risky. And at one
20 point I went to the cousin's house, and he wanted to throw
21 the boots away, because he said it was very risky to have
22 those boots at that time in El Salvador. And I said, oh,
23 don't, I'll take them, I go out in the fields and shoes
24 wear out very quickly. So he gave me the boots. They
25 weren't military.

1 Q. After they fired the gun at your head, and the safety
2 was on, what happened next?

3 A. As I said, that is when they decided they were going
4 to take me, and they dragged me to the truck. In the truck
5 they threw a piece of canvass over me. They threw me in
6 the truck and put a piece of canvass over me. And they
7 took the truck over to where there was a helicopter parked.

8 Q. Was there any one else in the truck with you?

9 A. Well, the soldiers, the guards and the people dressed
10 in street clothes were also on the truck.

11 Q. What about the other people who were wounded or
12 killed?

13 A. They remained there.

14 Q. So they drove you to where?

15 A. Took me over to a helicopter and they put me in the
16 helicopter.

17 Q. How far was this from Santa Anita, from where you were
18 shoot?

19 A. That was about five minutes away from Santa Anita.

20 Q. Five minutes drive?

21 A. In the truck, yes.

22 Q. When you were in the truck going from where you were
23 shot to the helicopter, were you covered up?

24 A. Yes. They threw me down in the bed of the truck and
25 they covered me with a green piece of tarpaulin or canvass.

1 Q. Were you saying anything to them?

2 A. No. They were saying that they were taking me in
3 because I was a commander that they had captured. Some of
4 them were kicking out -- some of them kicked at the area
5 where I was. All they said was they were going to take me
6 in and I was about to go through some of the most difficult
7 days of my life.

8 Q. Were you bleeding?

9 A. Yes. Yes, I was bleeding from my head and also from
10 the wound in my foot. The wound in my foot was a large
11 wound.

12 Q. What was going through your mind when you were being
13 transported from where you were shot to the helicopter?

14 A. I thought they were going to kill me.

15 Q. What happened next?

16 A. Well, they took me over to the helicopter, and in the
17 helicopter they placed me in the helicopter door that
18 tied-up inside, or tied to the inside.

19 THE INTERPRETER: The interpreter corrects
20 himself.

21 THE WITNESS: So when we were up in the air, they
22 would open the door and tell me they were going to throw
23 me out.

24 BY MR. GREEN:

25 Q. Did you believe they were going to throw you out?

1 A. Yes.

2 Q. Was this a military helicopter?

3 A. Well, there I can't make the distinction. I know it
4 was a helicopter, I don't know how to distinguish between
5 commercial or military helicopter. I can't make a
6 distinction.

7 Q. Even if you can't make a distinction about the
8 helicopter, who was in the helicopter with you?

9 A. Yes, the one at the wheel was wearing a green military
10 uniform.

11 Q. Where did the helicopter take you?

12 A. The helicopter landed at the garrison at El Paraiso in
13 Chalatenango.

14 Q. Is that this place here that you pointed out earlier?

15 A. It would seem to me that it is right around there,
16 yes.

17 Q. Where did the helicopter land?

18 A. Landed in an open area, an open area which was much
19 like a soccer field they had there.

20 Q. Were there any military buildings nearby?

21 A. Yes.

22 Q. Had you learned where you had been taken, the name of
23 the place?

24 A. No. They just took me out of the helicopter and took
25 me into a very large room. In that room was a cement table

1 and upon that cement table is where they lay me down. They
2 blindfolded me and they stripped me of my clothes.

3 Q. Did you learn while you were there what the name of
4 the place was?

5 A. Yes.

6 Q. What was the name of the place?

7 A. El Paraiso.

8 Q. What does El Paraiso mean in English?

9 A. Heaven, paradise.

10 Q. How were you treated when you were at El Paraiso?

11 A. Suddenly these voices appeared and they started
12 questioning me and each question was accompanied by a blow.
13 They also started to use electric shocks as torture in that
14 place, but different to the way that I suffered them later
15 on at the National Guard in San Salvador. It was like the
16 tip of a metallic instrument, an iron instrument, that upon
17 making contact on my body, it would discharge electrical
18 energy. It was strong, but it wasn't as strong as it was
19 when I was at the National Guard.

20 And then there was also someone who arrived and asked
21 me why I was involved in those things. And when I
22 mentioned that I was a resident doctor, that I was out
23 healing, that I was on a healing campaign, he was the one
24 who told me that I was at El Paraiso garrison and that the
25 only people who could save me from that were my military

1 uncles.

2 Q. How did he know you had military uncles?

3 A. Because I informed him that I had a uncle who was a
4 military man, who at the time was a director at the
5 military hospital. He was a director of the military
6 hospital in San Salvador. And he told me that he knew my
7 uncle and the only people who could save me would be them,
8 my military uncles.

9 Q. You indicated that you received blows to your body and
10 that you received electrical shocks. When you received
11 those blows or shocks, were you being asked any questions?

12 A. Yes. Each below, each shock was right after a
13 question, an interrogation, and when they didn't receive
14 the answers they wanted, that is when the blows came and
15 electrical shocks.

16 Q. Where on your body did you receive blows?

17 A. All over my body. There were punches, sometimes they
18 had something in or on their hand that the blow was
19 stronger or firmer.

20 Q. Where on your body did you receive electrical shocks?

21 A. At that time most especially on my chest, on my hands,
22 and on my legs.

23 Q. Anywhere else?

24 A. At that time, no.

25 Q. During this time when you were being punched and given

1 electric shock, were you on the cement table?

2 A. Yes.

3 Q. Were you blindfolded?

4 A. Yes.

5 Q. Could you see anything at all at that time either,
6 above or below your blindfold?

7 A. Yes.

8 Q. What could you see?

9 A. Everyone dressed in green.

10 Q. And could you see through the top or bottom or where
11 in your blindfold?

12 A. I could see them through the gaps here, right next to
13 my nose.

14 Q. Do you know what color the blindfold was?

15 A. It was of some color, but I don't know exactly. I do
16 know that my blood had stained the blindfold red.

17 Q. Did anything else happen to you while you were on the
18 cement table?

19 A. No.

20 Q. Were you ever injected with anything?

21 A. Well, yes.

22 Q. And what was that?

23 A. There was this young man, this young nurse, it would
24 seem, who said that he knew my uncle who was at the
25 military hospital. He said he was going to apply an

1 injection and he applied an injection. To date I don't
2 know what it was.

3 Q. What happened to you after you received the injection?

4 A. The same, I was lying there, I didn't feel any change,
5 I didn't feel any effects of an injection.

6 Q. It wasn't morphine to treat your wounds?

7 A. No.

8 Q. Did they ask you how you were doing, did you need any
9 medical treatment?

10 A. Never. Every time they came up to me it was to give
11 me blows and questions.

12 Q. How long were you held at El Paraiso?

13 A. I was there for one day.

14 Q. Were you allowed to get up off the cement block to go
15 to the bathroom?

16 A. No. The following day, though, when they took me out,
17 they took me over to the helicopter. As we were going over
18 there, they took me to the bathroom, and that is the only
19 time they did that. And that is when they took me to the
20 helicopter, and that was the following day.

21 Q. Were you given any food when you were at El Paraiso?

22 A. Never.

23 Q. Did they ask you if you ever wanted any food?

24 A. Never.

25 Q. Did you have any children at the time?

1 A. Yes.

2 Q. How old?

3 A. One month old.

4 Q. What were you thinking? What was going through your
5 mind?

6 A. I was thinking of her. I was thinking of my companion
7 and my family.

8 Q. Where were you taken next?

9 A. From there they took me over to the helicopter. They
10 put me in the helicopter and they took me over to the
11 national headquarters of the National Guard in San
12 Salvador.

13 Q. What year, what day was this?

14 A. It was the day after the 12th of December of 1980.

15 Q. So that would have been December 13?

16 A. Exactly.

17 Q. What kind of clothes, if any, were you wearing?

18 A. No. I was only blindfolded and wearing undershorts,
19 naked.

20 Q. When you were in the helicopter, could you see
21 anything?

22 A. No, just the same. The threats, the blows that were
23 in there. And jokes they were making on me, saying they
24 were taking me to a hotel. They were saying it was the
25 best hotel in El Salvador.

1 Q. What happened while you were being transported in the
2 helicopter the second time?

3 A. Nothing, just the blows, threats, and just this thing
4 about the best hotel in El Salvador, and I was lucky
5 because I was going to the best hotel in El Salvador.

6 Q. Do you remember the helicopter landing in San
7 Salvador?

8 A. Yes.

9 Q. What do you recall?

10 A. Well, from the little I could see, I notice this is
11 the big city and we were landing in a football field again,
12 soccer field.

13 Q. How could you see that?

14 A. By the same manner, by the side of my nose, and by
15 then the blindfold loosened a little bit. I could identify
16 the city because I could see it a little bit, and I could
17 also identify the soccer field we landed on.

18 Q. What happened after you landed?

19 A. The football match, soccer match, they stopped. I
20 could see that the players had stopped in their tracks,
21 they stopped. They took me out of the helicopter and took
22 me to a room that was right across the field.

23 Q. Were you familiar with this area, this building?

24 A. No. I had never entered there. I had lived close by
25 in a neighborhood called Atlacat, which is almost across.

1 Q. For the benefit of the court reporter, could you spell
2 that?

3 THE INTERPRETER: A-T-L-A-C-A-T.

4 BY MR. GREEN:

5 Q. Did you subsequently learn this was the National Guard
6 headquarters?

7 A. Exactly.

8 Q. How did you learn that?

9 A. Well, the fact is a couple days later they transfer me
10 to another place, and during that transfer, I was able to
11 realize that we were at the National Guard because of the
12 uniforms that they were wearing. And while I was in that
13 room, two or three kids showed up, not kids, young boys
14 showed up. They were also wearing uniforms and they came
15 in to beat me. They told me I was at the National Guard,
16 and they told me I was never getting out.

17 Q. What were you wearing then?

18 A. I was naked. The only clothes I had were my
19 undershorts and the blindfold.

20 Q. Could you describe the room you were taken to the
21 first day?

22 A. It was the small room, it had kind of like a high
23 gurney and that is where some people would come in to
24 interrogate me.

25 Q. Could you describe what a gurney is?

1 A. It was a high narrow bed.

2 Q. Do you remember -- were you blindfolded at the time?

3 A. Yes.

4 Q. Do you have any sense about the dimensions of the room
5 in terms of feet?

6 A. Four by four, something like that. The fact is I had
7 no ability to measure it. What I could determine, it was
8 narrow, it was small.

9 Q. Did you have a bed in there?

10 A. Yes. It is kind of like a gurney, a stretcher where I
11 was.

12 Q. Was there a bathroom?

13 A. No.

14 Q. Was there a shower?

15 A. No.

16 Q. Any running water?

17 A. No.

18 Q. Were you ever taken to a bathroom facility?

19 A. No. I did my necessities there, and that was motive
20 for them to beat me.

21 Q. Was there a bucket in the room?

22 A. No. Up on the gurney, they had me tied to the gurney.
23 From both of my shoulders, and also from my left foot, my
24 left leg, I was tied to the feet of the bed, the gurney.

25 Q. What were you tied with?

1 THE INTERPRETER: Interpreter wishes to consult
2 with the witness on use of an expression.

3 THE COURT: Sure.

4 THE WITNESS: It was a thick rope such as is used
5 to make hammocks, to hang hammocks.

6 BY MR. GREEN:

7 Q. What happened the first day when you were in that
8 room?

9 A. Once again, the interrogation began, and it was all
10 why was I with those people and who were the other doctors
11 that were helping those people and also the church people,
12 who were these people that were helping there.

13 Q. Were they punching you or doing anything else to you
14 when they were asking these questions?

15 A. Each question and its response was always accompanied
16 by a blow. And also the electric shocks, the same way,
17 such like maybe the point of a metallic instrument which
18 had the power to discharge electrical energy.

19 Q. Where were you receiving these electric shocks, where
20 on your body?

21 A. They increased the areas where they would apply the
22 shocks. They were more generalized these areas, on my
23 genitals as well, on my ears, and even on the edges of the
24 wound on my foot.

25 Q. Had they given you any bandages or antiseptic for the

1 wound on your foot?

2 A. Never.

3 Q. Could you walk on your foot?

4 A. No, I could not.

5 Q. Was there any one else in this cell with you during
6 that first day?

7 A. No, I was by myself.

8 Q. Did you hear anything else from around you in the
9 building?

10 A. Well, it seemed to me there were noises, a very active
11 area, a lot of traffic. I could hear the troops. Also in
12 the morning, I could hear the band, I could hear the band
13 playing and practicing, playing the national and them six
14 o'clock in the morning. There was a lot of movement during
15 the day. There were also some young boys who were also
16 there.

17 Those boys would come in whenever the other military
18 people weren't there torturing me. They wanted to come
19 over and beat me and abuse me, and they wanted to put out
20 there cigarettes on my body. It was always that, the
21 threats.

22 Q. How long were you held in that room?

23 A. Only two days.

24 Q. Was the second day that you were held in that room any
25 different from the first day?

1 A. Second day was worse.

2 Q. What happened the second day?

3 A. These tortures of which I speak was so much worse the
4 second day, it was more blows, more electrical shocks than
5 on the first day. On the first day it was blows and
6 electrical shocks. On the second day they would come in
7 every hour to beat me up.

8 Q. Were you given any food the second day?

9 A. No. Nothing.

10 Q. Did they give you any water?

11 A. No.

12 Q. Did they ever give you food or water?

13 A. Nothing.

14 Q. What happened after the second day that you were in
15 the National Guard headquarters in San Salvador?

16 A. Well, they took me, they dragged me, actually, to a
17 building that was close by. They took me -- well, first we
18 went up these steps and they took me into this room, a
19 large room, spacious, and they put me down on the floor.
20 They put me down on the floor and tied me up on my
21 shoulders and left foot, and they tied me to the four
22 pieces of iron that were in the floor, they were fixed
23 there. And a new series of interrogations started, but
24 harsher interrogations, and harsher torture.

25 Q. Dr. Romagoza, would you please step down from the

1 witness stand and get on the floor and show the ladies and
2 gentlemen of the jury how you were positioned.

3 THE COURT: No. No. Let's go ahead.

4 BY MR. GREEN:

5 Q. Dr. Romagoza, how many other people were there in that
6 second large cell?

7 A. The area where I was, I was by myself, it was kind of
8 like a corner. But you could hear screaming. And at night
9 you could hear people talking. It would seem there were
10 other spaces, and there were other people there that were
11 prisoners, because you could hear screaming from torture,
12 men and women.

13 One day we were taken out of there. Several of us
14 were taken out, several were taken out and they were put in
15 a truck. They dragged us out there any old way, covered us
16 with a tarpaulin, a piece of canvass, and they would take
17 us to a place close by within the military installations
18 because we never left there.

19 About six hours we were brought right back there. The
20 place smelled a little bit different. Somewhat clean,
21 because before that the smell was really horrible. And
22 that is when I realized, yes, there was a lot of people in
23 there.

24 Q. Do you have any idea how many people?

25 A. Well, once, it was the day after, they had me tied up,

1 and they untied me, and they showed me the cells where they
2 had people in them that were being tortured. I saw about
3 four people that were being tortured. And on that day they
4 took us outside, threw us in a truck and covered us with
5 that canvass and they took us to another place that was in
6 the National Guard. In that truck, in that truck there
7 were about 15 of us.

8 Q. Dr. Romagoza, you indicated that you were held
9 initially at El Paraiso, and then National Guard
10 headquarters in San Salvador when you were held in a room
11 for two days. How long a period of time were you held in
12 the larger cell?

13 A. I was there for about 20 days.

14 Q. How many days was it from the time that you went into
15 the larger cell until you went on the truck ride?

16 A. About ten to 12 days.

17 Q. Was the truck ride before Christmas, or after
18 Christmas?

19 A. It was between Christmas and New Years.

20 Q. Do you remember Christmas day 1980?

21 A. Yes.

22 Q. Tell the jury about Christmas day, 1980.

23 A. It was very difficult, it was my first Christmas away
24 from my family. I was thinking about them a lot because
25 they didn't know where I was or how I was. That Christmas

1 I had wanted to take my little girl and present her to my
2 mother. The day was quiet, they almost didn't even show up
3 to interrogate or torture. The night was very different.

4 Q. Dr. Romagoza, how many times per day when you were in
5 the larger cell did they come in to interrogate you?

6 A. It would vary. There were days they would show up
7 every two, hours, every three hours, and there were days
8 they would delay five, six hours. The dangerous times were
9 the weekends and night times. And on Christmas when they
10 were drunk and New Years and when they were drunk, torture
11 was harsher, and it would vary.

12 Q. You've indicated that they placed electric shock on
13 various parts of your body?

14 A. Yes.

15 Q. Over the course of this 20 days, what, if anything,
16 did they do differently in terms of electric shock?

17 A. Yes, it was different. It was different. You see,
18 electric shocks were very different in the past. In the
19 past they used to use instruments that they would call
20 alligators. They would say clamp the alligators on them.
21 The alligators are like the things you use to hang clothes
22 on the line. Those alligators, they would click them here
23 on your ear, they would force me to stick out my tongue and
24 clip them to my tongue, and place them on my testicles, on
25 my breasts, on my anus, and also on the edges of my

1 lesions, my wounds. The shocks were stronger and they
2 would force me into unconsciousness sometimes. They would
3 awake me with blows or water, and it would continue. They
4 would say to me that they were going to continue doing this
5 until, they said until I could shit myself.

6 Q. Meaning defecate?

7 A. Yes.

8 Q. Were you ever hung from ropes or pulleys?

9 A. Yes. Yes, I spent a few days, like I said, and they
10 took me to a room where they hung me up from both hands,
11 and I was tied with material that was very much like wire,
12 from both hands, from my fingers. I was tied by my fingers
13 by wire and hung. One hand they had tied tighter and I was
14 in that condition for about eight days. Sometimes they
15 would lower me, sometimes they would lay me down, but
16 almost always I spent most time hanging.

17 Q. Did they tell you anything about what they were going
18 to do to you?

19 A. No, they said this is the little plane, they were
20 going to apply the little plane to me. Sometimes they
21 would tie me from my feet, more than anything from my
22 knees, and they would hang me up in a horizontal position.

23 Q. What did they do to you when you were in the
24 horizontal position?

25 A. Sometimes they would lower me and try to get up on my

1 chest.

2 Q. Were you facing up or down?

3 A. Both ways they would hang me up.

4 Q. What else did they do besides try to get on top of
5 you?

6 THE COURT: Hold on for a second, if you would.

7 Let me ask our reporter if she would mark
8 Mr. Green's last question. We are at a point where we
9 need to take a break for the afternoon recess. Why don't
10 we do that. When we come back, I will ask Mrs. Stipes to
11 read that question back and get us started again.

12 Ladies and gentlemen, let's take a break for 15
13 minutes and we will continue on with the questioning.

14 (Thereupon, the jury retired from the courtroom.)

15 THE COURT: Court will be in recess for 15
16 minutes.

17 MR. GREEN: Your Honor, one brief matter.

18 THE COURT: Yes.

19 MR. GREEN: I intend to ask Dr. Romagoza to step
20 down from the witness stand and show the jury the scars
21 from his wound.

22 THE COURT: You may do that.

23 Let's take a break for 15 minutes.

24 (Thereupon, a short recess was taken.)

25 (Court reconvened after recess.)

1 MR. GREEN: Your Honor, I don't know how long we
2 are going to go. I expect Dr. Romagoza's direct to
3 continue for at least another hour, which would put us
4 close to 4:30, 4:40. I don't know if defense will do a
5 cross and how long it will be.

6 THE COURT: Do you anticipate cross examination?

7 MR. KLAUS: Yes.

8 MR. GREEN: I was trying to plan the afternoon.

9 THE COURT: Do you have somebody waiting?

10 MR. GREEN: We have Ambassador White.

11 THE COURT: Do you want to excuse him so he is
12 not waiting?

13 MR. GREEN: Yes.

14 THE COURT: Okay.

15 (Thereupon, the jury returned to the courtroom.)

16 THE COURT: Ladies and gentlemen, please be
17 seated. I will turn back to Mr. Green. When we stopped,
18 I believe there was a question pending.

19 (Question read back.)

20 THE COURT: Do you want to rephrase that,
21 Mr. Green? We are talking about how the doctor was
22 suspended, that is what you were asking.

23 BY MR. GREEN:

24 Q. Dr. Romagoza, before the break you were testifying
25 about how you were suspended, and at times the

1 interrogators or guards or torturers would try to get on
2 top of you.

3 What else did they do to you when you were suspended
4 like that?

5 A. Well, it was the blows, of course, the electric shock
6 which was almost like our daily bread, electric shocks.
7 And then also what they used was what they called the drip
8 of water. Being hung like that, hung from my shoulders,
9 and also tied from my shoulders, and my knees, and hanging
10 there like that, they would hang up a container with water,
11 liquid, and they would have a drop from there on my chest.
12 At night they would do this especially.

13 Q. And how would that feel?

14 A. It was horrible. Well, first you really don't feel
15 much, just a continuous dripping of a drop of water. And
16 bit by bit, little by little it begins to feel kind of like
17 a thorn, and after that it feels like it is burning, and
18 there was just this drip of very cold water all night long.

19 Q. What else did they do to you while you were hanging
20 there?

21 A. Well, one of the more difficult things I went through
22 being there like that, hanging there like that naked, I
23 received an impact from a bullet. I was shot with a bullet
24 halfway up my left arm. It came in through here, and came
25 out this side (indicating). And they told me that that was

1 the mark they made for having helped those people. And
2 they said that for the rest of my life I would bear the
3 mark of a leftist, is what they said, and that I would
4 never again do what I had been doing there.

5 And they were right, because they broke my radius.
6 And I have lost feeling of almost three fingers, three and
7 a half fingers.

8 Q. Excuse me, just to help the jury with this, what is a
9 radius, and what is the function of the radius?

10 A. The radius is part of a two bone set that are in the
11 forearm and it is the bone that handles the control or the
12 movement of the hand. It provides the ability, it helps
13 with the movement of the hand. It moves and provides
14 ability of movement to the fingers such as the thumb, the
15 index and the middle finger, which are the three main
16 fingers which you can see. And in those, I have lost all
17 sensibility.

18 The paralysis, having that bone broken and nerve
19 severed is known as preacher's hand or the claw hand and
20 little by little it becomes paralyzed for lack of movement
21 and lack of nervous function through that radius nerve.
22 And hanging like that for such a long time, the wires, you
23 see, having been shot through my left, I had to hang harder
24 or tighter with this arm and that forced the wires to go
25 into my fingers, to bury themselves halfway through my

1 fingers. They tightened them so much they went halfway
2 through my fingers. And once again, it was as if three
3 fingers were cut off at the half. I've lost feeling in
4 three fingers in my right hand.

5 They were quite right, I would never ever practice
6 surgery. I will never again be able to help people in such
7 a way.

8 Q. Dr. Romagoza, when they put the wire on your fingers,
9 did they give a name to that?

10 A. Oh, yes. When they carried me over there to hang me
11 up, they said that they were going to give me Chinese
12 fingers. Apparently the way they would tie the finger up
13 with wire and hanging me up like that that is what they
14 called Chinese fingers.

15 Q. I need to ask you one more question about the torture.
16 Did they ever put anything inside you?

17 A. Yes.

18 Q. And what did they put inside you?

19 A. Hanging there like that, they introduced a stick, a
20 wooden instrument into my rectum. It was an instrument of
21 some sort, it is long, and went as far down to the floor.
22 It would touch on the floor. And they said I have to hold
23 it there. If I dropped it, it would be more electric
24 shocks, it would be more blows. I had to hold it there
25 just above the floor, holding it with my rectum.

1 Q. Were you released from the National Guard
2 headquarters?

3 A. Yes.

4 Q. When were you released?

5 A. A few days after having been there, they took me into
6 another room where they put me inside a coffin. It seems
7 there were several coffins in that room, and they put me in
8 there for two days. In those days they kept saying they
9 were going to release me because I had uncles, relatives,
10 family members who were military people, lieutenant
11 colonels, but once outside, that they were going to hand me
12 down.

13 Others would say you go back and start tending to
14 those people, we are going to catch you again. Two days
15 after I was in that coffin, my uncles arrived, especially
16 my Uncle Rafael. He took me out of the coffin and he took
17 me over to his car which was right outside the room where I
18 had spent that time.

19 Q. Dr. Romagoza, at this time I would like you to step
20 down and show the jury the bullet wound on your right foot.

21 THE COURT: Let me make a suggestion, if I can.
22 I wonder if we could take the chair over here by the table
23 and move that into the well of the court so Dr. Romagoza
24 could be seated and he could remove his shoe, if you would
25 like to do that.

1 Ladies and gentlemen, if you need to stand, feel
2 free to do that. Let me allow the doctor to be seated so
3 he can do that.

4 THE WITNESS: (Witness complies.)

5 BY MR. GREEN:

6 Q. Dr. Romagoza, can you get a little closer to the jury?

7 A. This was the wound that I suffered during the machine
8 gunning outside the clinic. This impact ripped my boot off
9 completely. And it kept me from walking, I could not walk.
10 It was a very wide open wound, exposed, which is the one
11 that caused most difficulty, made it impossible for me to
12 walk. That was the wound that developed parasites, worms
13 while I was at the National Guard.

14 Once when the big boss came in to interrogate me, the
15 Colonel, which is what they called him, they cleaned out
16 the wound for the first time using a brush and the worms
17 that were in there, they would toss them upon my chest.
18 And they told me that is food for you, and that I already
19 had the stench of death. They didn't have to kill me.

20 THE COURT: Mr. Green, allow the doctor to put
21 his sock back on.

22 THE WITNESS: (Witness complies.)

23 THE COURT: Let me let the doctor go back to the
24 witness stand, and let's take a minute now.

25 Mr. Green, when you are ready, you may proceed.

1 BY MR. GREEN:

2 Q. Do you remember the rooms at the National Guard
3 headquarters in San Salvador where you were held?

4 A. Yes.

5 Q. Do you remember the date that you were released on?

6 A. Yes.

7 Q. What was that date?

8 A. The 5th of January of 1981.

9 Q. How many days total were you held in detention and
10 tortured?

11 A. For 24 days.

12 MR. GREEN: Mr. Stern, if we could set up the
13 easel.

14 Your Honor, we have a diagram of the National
15 Guard headquarters compound, I would like Dr. Romagoza to
16 step down.

17 THE COURT: Let me stop you for a moment. Now,
18 is this one of the exhibits that you needed to offer into
19 evidence?

20 MR. GREEN: No, Your Honor, this is a
21 demonstrative exhibit.

22 THE COURT: Just use it as a demonstrative
23 exhibit?

24 MR. GREEN: Yes.

25 THE COURT: Now, we have a handheld microphone.

1 I think it would be easier -- let's see how we
2 can do this. Is there a way you can put this over here so
3 the jury can still see it? That would allow the doctor to
4 stay on the microphone on the witness stand. The
5 microphone is better there.

6 How about the pointer, is that around? Maybe we
7 could give that to the doctor so he will be able to use
8 that.

9 Okay.

10 BY MR. GREEN:

11 Q. Dr. Romagoza --

12 THE COURT: Can all of the members of the jury
13 see that?

14 Can you see it, ma'am?

15 A JUROR: No.

16 THE COURT: Do you want to move up to this end?
17 Would it be easier for you?

18 A JUROR: I don't think I will see any better
19 there.

20 MR. GREEN: There is a reflection off the lights,
21 Judge.

22 THE COURT: Let's do it, and what we will do is
23 bring it back up and show the entire diagram to the jury.
24 Okay, let's proceed.

25 BY MR. GREEN:

1 Q. Dr. Romagoza, could you point to the area where the
2 helicopter landed?

3 A. The helicopter landed in this area over here
4 (indicating). That is an open area that supposedly
5 functions as a soccer field because there were people
6 playing football there when we arrived.

7 Q. Where were you taken? Where were you taken first?

8 A. That day we crossed over kind of like an open area
9 here over to some rooms, there were these rooms across the
10 way from the soccer field, and it was one of those rooms
11 where they took me.

12 Q. How long were you held in that room?

13 A. Almost two days, because the following day they moved
14 me from there to somewhere else.

15 Q. And where did they move you to?

16 A. They took me over here to this area (indicating), this
17 place here. We went up some stairs and I was right here,
18 this area (indicating).

19 Q. How long were you held in that area?

20 A. I was there from six to eight days, ten days.

21 Q. Where were you taken next?

22 A. That is when they took me over to hang me up, and some
23 spaces over here on the other side where I was hanging up
24 for another several days. And they would also lower me to
25 the floor, but most of the time I was hanging.

1 Q. Dr. Romagoza, did you have a measuring tape with you
2 when you were being held in the National Guard
3 headquarters?

4 A. No.

5 Q. But you have a general idea, approximately, where
6 rooms were in relation, and buildings were in relation to
7 other buildings?

8 A. No. I can only identify the rooms where I was, and I
9 can identify this room over here where I was, where I spent
10 the majority the time. And then they returned me over here
11 where I spent the last two days, almost where I was in a
12 coffin.

13 Q. Is that what is called the coffin room?

14 A. I don't know what name they called it, but it was full
15 of coffins.

16 Q. When you were released, were you blindfolded?

17 A. No.

18 Q. Could you see?

19 A. Here they came in and they told me that they wanted me
20 to sign something. That is when they took off the
21 blindfold. I signed something. I don't know what it was.
22 And that is when they turned me over to my uncle.

23 Q. And when you left, were you able to see the soccer
24 field?

25 A. Yes.

1 Q. Were you able to see that main building?

2 A. This building, yes.

3 Q. And where did you leave the National Guard
4 headquarters compound from?

5 A. Well, my uncle had his car parked over here, he
6 brought me over to his vehicle and we exited over here
7 (indicating).

8 Q. And what street is that?

9 A. This is the main street that runs in front of the
10 National Guard which is the north trunk. This is the
11 neighborhood called Atlacat where I lived for a short
12 period while I was a student of medicine.

13 MR. GREEN: Your Honor, if I may show this to the
14 jury.

15 THE COURT: Yes, you may.

16 BY MR. GREEN:

17 Q. When you were released, how did you feel?

18 A. As if I had been born again.

19 Q. Were you able to walk?

20 A. No.

21 Q. How much did you weigh?

22 A. At the time when I left the jail, more or less 70
23 pounds.

24 Q. Did you seek medical attention?

25 A. It was very difficult for me to seek out medical

1 attention with the characteristics that I was showing at
2 that time. I couldn't go to the hospital, because I knew
3 the risk I would be running for seeking medical attention
4 at the hospital. I couldn't go to my family to seek help
5 or find a place to hide.

6 My brother told me, listen, you can stay for one day
7 but tomorrow you have to leave. They were afraid. My
8 parents came into San Salvador to bring me back, to bring
9 me back to Usulután. I couldn't go back to their house
10 because it was under surveillance. They already searched
11 one of my brother's house when I was under arrest in the
12 National Guard. And I had to go and stay with friends.
13 And I cured myself.

14 A doctor friend of mine came to see me to clean out my
15 wounds. The second time around he didn't return because he
16 was afraid. He was killed one year later. So it was very
17 difficult to seek out medical attention. I had to cure
18 myself. I had to do that for two or three months but I
19 finally got to leave the country in order not to lose the
20 foot.

21 Q. Before we get to that, what other aspects of your
22 physical condition can you describe at the time of your
23 release?

24 A. Well, my loss of blood was considerable. Infections
25 in my wounds. There was also the malnutrition I suffered

1 since I lost a lot of weight because there was always the
2 lack of food or nourishment. While you are in jail, it is
3 very rare for them to come around even with maybe two
4 tortillas or beans, and maybe sometimes the leftovers that
5 the guardsmen would bring.

6 Insomnia, I couldn't sleep. I was scared of
7 everything. I lost my entire sleeping rhythm. Profound
8 depression, desire to cry, to die, everything. It was a
9 difficult situation. More than anything moving from house
10 to house, every two days move to another house. Fear of
11 being recaptured because they had told me that they would
12 capture me again. My friends would deny me safe haven
13 because they were afraid for what could happen to them if
14 they help me.

15 Q. How did you leave the country?

16 A. It was very difficult because I was even scared of
17 getting a passport and I did it with -- through a relative
18 of mine who transported or was a merchant with Guatemala.
19 She offered to get me out of the country, to get me out
20 hidden among sacks of onions, hiding among the salt and
21 onions because she transported salt and onions to
22 Guatemala. That is how I got to Guatemala.

23 I spent two months in Guatemala, and from there I was
24 going to go to Mexico, but I was scared going into Mexico,
25 but I got into Mexico the same way. And there I received

1 medical attention.

2 Q. Was the bullet still inside your foot?

3 A. I never had the bullet inside the foot, it was more
4 like a superficial wound. What I do have is bullet
5 shrapnel in my left arm, still.

6 Q. How long were you in Mexico?

7 A. I lived in Mexico for two years.

8 Q. What did you do in Mexico?

9 A. First to heal my wounds.

10 I would go to the churches, and then through a bishop
11 that I met who were helping the Salvadoran and Guatemalan
12 refuges, I managed once again to practice medicine helping
13 the refuges. This is in Guadalajara. And I also worked in
14 a restaurant in Mexico.

15 Q. How did you end up in the United States?

16 A. While I was at that clinic in Cuernavaca, !! which is
17 kind of like a weigh station for refuges from Central
18 America, especially San Salvador, and Guatemala, an elderly
19 couple came through. They were diabetics, and she went
20 into a diabetic seizure at the time while she was there,
21 and she was administered insulin for the first time. And
22 she asked me to accompany them to the border so I could
23 monitor her insulin. And while at the border, I decided to
24 slip into the United States.

25 The sanctuary movement helped me as well as the

1 churches to live and recover.

2 Q. Where did you go in the United States?

3 A. Well, I arrived in Los Angeles. I went to McArthur
4 Park seeking out the Salvadoran community. And there I
5 found a friend and also a family member who started to help
6 me. I lived in Los Angeles for three months and then I
7 moved to San Francisco. I lived there for four years and
8 then I moved to Washington where I have lived for the last
9 12 years.

10 Q. What, again, is the name of the place where you work?

11 A. La Clinica Del Pueblo.

12 Q. And what population does that clinic serve?

13 A. Well, we serve approximately some 5,000 people,
14 immigrants, the majority Latin Americans.

15 Q. What percentage, approximately, are Salvadoran?

16 A. Some 55 percent are Salvadoran.

17 Q. Are any of your patients there torture survivors?

18 A. Many.

19 Q. Dr. Romagoza, do you still have any injuries or
20 problems associated with the torture?

21 A. Well, physical injuries, injuries to my right foot,
22 which gives me great difficulty, difficulty to exercise or
23 do any hard work. In San Francisco and Washington I worked
24 as a janitor. It was difficult to do janitorial work
25 because of my foot, my foot, also, my hand, my ten fingers,

1 I have but three that are functional. I've lost sensation
2 in almost seven fingers. There are emotional, emotional
3 wounds.

4 And in spite of all the time has passed, each time I
5 remember, each time I tell the story, it is another crisis.
6 When I tell the story, I feel I am once again thrown on the
7 floor naked, waiting for the next blow, waiting for the
8 next electrical shock, when is it going to come. This is
9 very difficult, the emotional side is very difficult, it is
10 difficult to live with that.

11 Q. Have you spoken with any therapists or counselors or
12 psychologists?

13 A. Yes, I have spoken to many. I have also searched out
14 many of the new techniques that have been launched in order
15 to resolve war trauma. Not only for me, but also for
16 people in my community, many of the patients who come to
17 the clinic. I have created a mental health program at our
18 clinic with volunteers and staff in order to solve the
19 problems within our community, because this type of trauma
20 is very frequent in the Salvadoran community. And it helps
21 me as well, and it has helped me that these wounds are very
22 difficult to cleanse.

23 MR. GREEN: May I have a moment, Your Honor?

24 THE COURT: Yes, surely.

25 BY MR. GREEN:

1 Q. Dr. Romagoza, what is your immigration status?

2 A. I am a citizen of the United States.

3 Q. Did you ever receive political asylum?

4 A. Yes.

5 Q. When was that?

6 A. In 1988.

7 Q. Dr. Romagoza, while you were detained, were you ever
8 officially charged with any crime?

9 A. Officially, no, never.

10 Q. Were you ever taken, brought before a judge?

11 A. No.

12 Q. When you were detained, did you ever speak to a
13 lawyer?

14 A. Never.

15 Q. Did your family or you ever file any kind of official
16 complaint with the Salvadoran authorities?

17 A. No.

18 Q. Why not?

19 A. Because to go in and present such a thing would be to
20 place my family in greater risk. No one had ever been
21 tried for this type of torture, abuse, and violations that
22 had taken place in the jails and by the Army. Quite the
23 contrary. Anyone who tried to denounce anything like this
24 or collect information about this would suffer the same
25 fate, the same prosecution.

1 After my case, my family, my brothers had to flee. If
2 we had denounced this, the entire family would be in fear.
3 It was impossible to present these cases to court.

4 Q. Dr. Romagoza, let's go back to when you were being
5 detained. At any time was anything put over your head or
6 in your eyes, beside the blindfold?

7 A. No -- oh, yes. At one of the times when I was in one
8 of the rooms when they hung me up, somebody came in during
9 the interrogations. They said they were going to give me
10 something special that would make me talk. And they
11 placed -- it was kind of like a bag, kind of like a plastic
12 bag over my head and there was a solution inside that we
13 call lime, it was very caustic, it was lime or something
14 similar. As you breathed inside the bag, what you felt was
15 a severing of your ability to breath. And that would force
16 you into unconsciousness.

17 When I would awaken, they had already taken it off and
18 the interrogation would continue. And while they didn't
19 hear what they wanted to hear, they would put the bag back
20 on. They call it the hood.

21 Q. Getting back to your 24 days of detention, did there
22 come a time during the torture that the guards began
23 treating you differently?

24 A. You could say there were two days in the middle of the
25 time that I was there that the events of interrogation and

1 torture diminished. They were saying that the big boss,
2 the colonel was going to come in and talk to me, that I had
3 to talk and I had to tell him the truth. And in those
4 days, I do feel there was a -- it was diminished when it
5 comes to the amount of times they came in to interrogate
6 me.

7 Q. Who was the big boss or the colonel at the time?

8 A. Well, they would call him the big boss, they would say
9 the colonel. It was my impression that it would be the
10 director general of the National Guard, the colonel.

11 Q. And who was that?

12 A. Colonel Vides Casanova.

13 Q. Was this before he got promoted to general?

14 A. Yes. I think so. They kept saying my colonel is
15 coming.

16 Q. Did you ever come in contact with the colonel during
17 your torture?

18 A. Well, yes. A group of military men arrived. And at
19 that moment, and that day were completely different to all
20 of the others. Interrogations diminished, as I said, as
21 well as torture.

22 And when the military group arrived, there was
23 complete silence, which was very different to the times
24 when the torturers would arrive. I was on the floor, tied
25 by my shoulders and left foot. And that is when they

1 started -- well, before he arrived, they took off the
2 bandage from my foot. They started to clean out, using a
3 large bristle brush and that is when that group of military
4 men walked in. That is when there was silence and between
5 jokes and questions and interrogation of a person began.
6 Jokes were that I already smelled like a dead man. As I
7 mentioned earlier, that I shouldn't even be there, I should
8 be at the cemetery.

9 They also pulled out the worms and they would throw
10 the maggots, they would throw them on my chest, and they
11 would tell me that was going to be my dinner. And that --
12 at that time an interrogation began which was different to
13 all other interrogations.

14 Q. Did you hear the interrogator's voice?

15 A. Yes.

16 Q. Did you hear the colonel's voice?

17 A. I suppose it's the colonel's voice.

18 Q. Were you still blindfolded?

19 A. I was blindfolded and lying down, thrown on the floor.

20 Q. Could you see anything at all?

21 A. Yes.

22 Q. Could you see anything at all from the person who was
23 interrogating you?

24 A. Yes.

25 Q. What could you see?

1 A. I could see his boots, his trousers, and the buckle to
2 his belt.

3 Q. Were the boots shined?

4 A. Very shined.

5 Q. What significance, if any, did you place on the shine
6 on the boots?

7 A. Well, these were boots that were different to the ones
8 that were used by the guards. The texture of the fabric of
9 the trousers was also different. The quality was a higher
10 quality. The belt was different.

11 Q. Do you remember the voice of the colonel?

12 A. Yes.

13 Q. When the colonel went into the torture chamber where
14 you were, did he ask you how you were doing?

15 A. No.

16 Q. Did he show any concern whatsoever about you?

17 A. No. Quite the contrary, he joined in with the jokes
18 that I was almost dead, that I stank of death.

19 Q. Were your wounds visible?

20 A. Yes.

21 Q. You talked about your foot. What other parts of your
22 body had wounds that were visible?

23 A. Well, I had -- well, my head wound was no longer
24 bleeding. Up to that time, that is all I had.

25 Q. After the colonel visited you, did your treatment

1 change?

2 A. Yes.

3 Q. Did it become better, or worse?

4 A. It was worse. That's when they took it upon
5 themselves to mutilate my hands, and that is when they
6 raped me as well.

7 Q. After the colonel left, how much longer were you
8 tortured? How many days?

9 A. Approximately a week.

10 Q. When you were released, were you able to walk?

11 A. No.

12 Q. How did you get from the coffin to your uncle's car?

13 A. A guardsmen pulled me out of the box and he handed me
14 over to the arms of my uncle who carried me to his car.

15 Q. As you were leaving, did you see anyone else?

16 A. Yes.

17 Q. Who did you see?

18 A. I saw my uncle, Colonel Mejia Arce, next to Colonel
19 Vides Casanova.

20 Q. Do you see Colonel, now general, Vides Casanova in the
21 courtroom today?

22 A. Yes.

23 Q. Could you point him out for the ladies and gentlemen
24 of the jury?

25 A. Yes. (Indicating), that man.

1 Q. Where is he in relation to the other three -- the
2 other two men at the table?

3 A. The one in the middle.

4 MR. GREEN: Could the record reflect that
5 Dr. Romagoza has identified General Vides Casanova?

6 THE COURT: Yes.

7 BY MR. GREEN:

8 Q. After you were released, did you ever hear the voice
9 of the colonel?

10 A. Yes.

11 Q. And was that voice that you heard after you were
12 released the same voice that you heard inside the torture
13 chamber?

14 THE COURT: Would you stop for just a second?

15 Mr. Green, would you go back and rephrase you
16 question one more time? You said to the witness after he
17 was released did he ever hear the voice -- would you
18 identify the person you are referring to?

19 MR. GREEN: Yes, Your Honor.

20 BY MR. GREEN:

21 Q. Dr. Romagoza, after you were released, did you ever
22 hear the voice of General Vides Casanova?

23 A. Yes.

24 Q. When and where?

25 A. I would hear him on television in El Salvador during

1 the three months between January and April, March, April,
2 when I left. And I also heard him again in Mexico on the
3 news where he was giving statements concerning the
4 situation in El Salvador.

5 Q. And have you heard his voice more recently in the last
6 two years?

7 A. Yes.

8 Q. And when and where?

9 A. He made some statements for this trial, and I saw that
10 video.

11 Q. Did you hear his voice on that video?

12 A. Yes.

13 Q. And are you positive that that is the same voice that
14 you heard from the colonel back in the torture chamber in
15 late 1980, early 1981?

16 A. Almost 90 percent sure that, yes.

17 Q. One last question. Dr. Romagoza, when you --

18 THE COURT: Could I stop you for a second?

19 Again, just to clarify, Doctor, when you say that you are
20 almost 90 percent sure, I simply want to make sure that we
21 understand the comparison that you are making. When you
22 say that you are almost 90 percent sure that General
23 Vides' voice was the same voice, you are saying it was the
24 same voice as what?

25 Doctor, let me stop you again, I want to clarify

1 one point so we understand your testimony. When you said
2 you are almost 90 percent sure that the voice of General
3 Vides was the same voice, you are referring to the voice
4 that you heard at what time? Just give us the time and
5 the place. Do you understand the question I am asking?

6 THE WITNESS: The voice that I heard in the jail
7 at the National Guard. This was the times of December of
8 1980 and the voice that I would hear over the television
9 and on the radio once I left the jail in January of '81,
10 February, and March of '81 that I was still in El
11 Salvador.

12 THE COURT: Let me go back to Mr. Green so he may
13 ask the next question.

14 BY MR. GREEN:

15 Q. You subsequently heard that voice again in the video
16 testimony that was given in this case?

17 A. Yes.

18 Q. Lastly, when you were released on January 5, 1981,
19 from the National Guard headquarters, you indicated that
20 you saw this man, Colonel Vides Casanova, standing over
21 speaking with one of your uncles?

22 A. Yes.

23 Q. And what was he wearing on that day?

24 A. He was wearing a military uniform, the same color and
25 the same cut as the one he was wearing when he supposedly

1 went into the room that I was at at the National Guard.

2 MR. GREEN: Just one moment, Your Honor.

3 BY MR. GREEN:

4 Q. And are you positive the man you saw when you were
5 released is this man here (indicating), General Vides
6 Casanova?

7 A. 100 percent sure.

8 MR. GREEN: I have no further questions.

9 THE COURT: All right. Cross examination?

10 Mr. Klaus, when you are ready, you may proceed.

11 MR. KLAUS: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. KLAUS:

14 Q. Doctor, are you licensed as a physician now?

15 A. I do not practice medicine here in the United States.

16 I am executive director of a clinic. I don't practice
17 medicine, I run a clinic.

18 Q. So you are not licensed in the United States?

19 A. To practice medicine, no.

20 Q. Are you licensed in El Salvador?

21 A. Yes.

22 Q. When were you licensed?

23 A. 1995.

24 Q. So you went back to El Salvadoran and got your license
25 in '95?

1 A. Yes, I have been going back, and at that time I was
2 able to become licensed.

3 Q. Now, you applied for and received political asylum
4 here in the United States; is that correct?

5 A. Correct.

6 Q. When was that?

7 A. 1998.

8 Q. 1998, or 1988?

9 A. '88.

10 Q. Now, when you applied for your political asylum, did
11 you tell this story at that time?

12 A. Surely.

13 Q. You described these events the same way you described
14 them here today, correct?

15 A. Yes.

16 Q. Did you describe that you thought it was Colonel Vides
17 who came in to see you when you thought you were being
18 tortured?

19 A. Yes.

20 Q. And you told the -- our Immigration authorities,
21 United States Immigration authorities that you thought
22 Colonel Vides was responsible for your torture at that
23 time?

24 A. I didn't say so directly. I said that I had been
25 tortured at the National Guard, that the director had been

1 there to torture -- to interrogate me, but not that he had
2 been direct torturer.

3 Q. Did you mention Colonel Vides by name?

4 A. Yes.

5 Q. And he had been present when you were tortured?

6 A. No.

7 Q. What exactly did you tell Immigration, then?

8 A. That of all of the time I was held at the National
9 Guard, one particular day a group of military men had been
10 there to interrogate me. And given everything that the
11 torturers had told me previously, and because of the
12 circumstances of the torture -- because when they arrived,
13 I think, I believe it was Colonel Casanova who arrived with
14 a group of military men.

15 And because of the kind of questions he would ask at
16 the time that I was there, the whole thing had to do with
17 the relationship between my uncles who were military men
18 and the guerillas, that my military uncles were passing
19 weapons to the guerrillas and I was the contact between my
20 uncles and the guerrillas.

21 That was the focus of the question this military man
22 was asking me who I believe -- who I think was Colonel
23 Vides Casanova.

24 Q. Okay. Well, you testified that you were 100 percent
25 sure that was his voice that was asking you those questions

1 while you were being tortured; is that correct?

2 MR. GREEN: Objection; mischaracterization.

3 THE COURT: What is the legal objection?

4 MR. GREEN: Mischaracterization.

5 THE COURT: That is not a legal objection. You
6 need to let the witness do the testifying. Let's go back.

7 BY MR. KLAUS:

8 Q. You testified that you were 100 percent sure that was
9 Colonel Vides Casanova answering you the questions in the
10 torture chamber; is that correct?

11 A. Well, the fact is, I didn't say 100 percent, I said
12 almost 90 percent it was Colonel Vides Casanova I heard at
13 that time. I didn't see his face, I saw the attitude, the
14 atmosphere, the uniform he was wearing from his stomach
15 down. The kind of interrogation and the kind of
16 information, the kind of questions he was asking me. He
17 had a lot of information about my family, especially my
18 uncles in the military.

19 And I know the information he had about my uncles,
20 especially Salvador Mejia Arce, and in the interrogation
21 was focused on him, that he was a contact, he was helping
22 the guerrillas.

23 Q. Wouldn't any officer that was prepared to interrogate
24 you have that information about your uncle?

25 A. Well, up until that time the interrogation had focused

1 on other aspects, mostly.

2 Q. What I am asking you is, why do those type
3 questions -- why would they be unique to General Vides?
4 They wouldn't be, would they?

5 A. I don't know the voice and the kind of questions, I
6 think -- I am sorry -- interpreter would like repetition,
7 Your Honor.

8 THE COURT: Yes, of course.

9 THE WITNESS: I don't know who was in charge
10 making which kind of questions, but given the atmosphere,
11 the attitude and voice, I am almost sure it was Colonel
12 Vides Casanova.

13 BY MR. KLAUS:

14 Q. And you told this story to Immigration and
15 Naturalization Services here in the United States back in
16 1988 or when you first applied for political asylum,
17 correct?

18 A. Not just this thing I had about the contact with
19 Colonel Casanova. I told them about all my experience,
20 persecution, torture, of the terror in which we lived.

21 Q. And the fear of going back?

22 A. At that time, when the war was going on, yes, it was
23 going back.

24 Q. When did you apply for political asylum?

25 A. I believe it was 1987.

1 Q. Did you make any effort to locate General Vides in the
2 United States at that time?

3 A. No.

4 Q. Did you know he had immigrated to the United States at
5 that time?

6 A. No.

7 Q. Did you communicate with your uncles while you were
8 here in the United States?

9 A. Only with one of my uncles. We have no communication
10 with the other one.

11 Q. Did you ever ask him if he knew where Colonel Vides
12 was?

13 A. Who?

14 Q. Your uncle. Have you communicated with him in El
15 Salvador?

16 A. Well, communication with them is sporadic. In the
17 '80's '90's some, and now there are family events, and yes,
18 we have been communicating, but we've never discussed this.

19 Q. When did you first go back to El Salvador after --
20 when did you first go back after coming here to the United
21 States?

22 A. After I got my political asylum, I think I waited a
23 couple years. I think the first time I went back was '91,
24 '92, when the war was over.

25 Q. How did you come to bring this lawsuit against Colonel

1 Vides and General Garcia?

2 A. Well, an attorney who helped me in San Francisco to
3 apply for political asylum communicated with another
4 attorney who helped me in Washington to obtain my
5 residency --

6 MR. GREEN: Excuse me. Objection, Your Honor --

7 THE COURT: Legal basis?

8 MR. GREEN: Attorney/client privilege in terms of
9 communication.

10 THE COURT: Sustained.

11 BY MR. KLAUS:

12 Q. You don't have to tell me what your attorney said to
13 you. How did you get involved in this lawsuit?

14 A. Well, the whole time I have been thinking why has no
15 justice been done given all the victims of this war in El
16 Salvador. I who am a survivor of that terror that existed
17 in El Salvador, I am lucky to be alive, not like many
18 friends and fellow doctors who died at that time through
19 the death squads, through the guards, through the Army,
20 many ways. I am one of the few who can tell this story,
21 and it is not fair for me to remain silent.

22 It hurts to be here telling my story and reopening my
23 wounds, but the truth can't be hidden, and it can't be
24 buried. And the scars of the war can't be erased with
25 treaties, and amnesties, and it can't be investigated in El

1 Salvador. This is now my country.

2 It is also the generals' country, since they come to
3 live under this same roof. And it occurs to me that it is
4 not fair, people who violated human rights, coordinated
5 terror, violated dignity should be received here under the
6 same circumstances as though they had done nothing wrong in
7 our countries. I believe in democracy and I believe in
8 justice, that is why I want it to be practiced. And with
9 me it is time to start erasing the wounds.

10 Q. Are these things your lawyer explained to you?

11 MR. GREEN: Objection; attorney/client privilege.

12 THE COURT: Sustained.

13 BY MR. KLAUS:

14 Q. Was your lawyer with you when you were interviewed by
15 Immigration and Naturalization Services back in '86 for
16 your -- or '87 for your political asylum?

17 A. Yes.

18 Q. Is that the same lawyer that put you in touch with the
19 lawyers who are representing you in this case now?

20 A. In a way, yes.

21 MR. KLAUS: If I may have a second, Your Honor.

22 Nothing further, Your Honor.

23 THE COURT: Thank you. Redirect examination?

24 MR. GREEN: No redirect, Your Honor.

25 THE COURT: Thank you very much.

1 Doctor, you may step down.

2 Ladies and gentlemen, I think because of the
3 hour, this probably would be a good time to stop. We
4 thought perhaps it might be a little longer. The next
5 witness will be here first thing in the morning.

6 Now, let me come back for a minute. I know all
7 of you understand this, but I want to make sure that you
8 recall the general instructions. Please don't talk to
9 anybody about the case, don't let anyone talk with you
10 about the case.

11 Now, I remember when this building was first
12 dedicated. Back then I think every federal agency in town
13 had an office in this building, so it really wasn't built
14 to be a courthouse. I say that because despite all the
15 precautions we take, this is sort of configuration of an
16 office building and sometimes you may run into either the
17 lawyers or other folks. And I want to make sure you
18 understand that in order to maintain even the appearance
19 of propriety, it has to be very careful you don't talk to
20 anybody about the case.

21 I know the Marshals have made special
22 arrangements during the breaks to have the jury use
23 another area if you would like to step outside.

24 I would like to urge you, if I can, the jury not
25 use the area at the canopy in the front of the courthouse,

1 especially now with rainy weather that is where everybody
2 congregates, and it does make it difficult. I want to
3 remind the jury of that.

4 Also, you want to avoid the local section of the
5 local papers. And if by chance in any other section of
6 the paper you would see anything that signals that it has
7 something to do with this case, I am going to ask you to
8 be real careful and make sure you avoid that.

9 Okay.

10 Now, we will stop and pick up with the next
11 witness tomorrow morning at 9:30, so have a nice night,
12 and we will see you then.

13 (Thereupon, the jury retired from the courtroom.)

14 THE COURT: Why don't we take a moment and
15 develop an agenda if we need to, if there are matters we
16 need to talk about, and why don't we develop the agenda
17 and we will come back and try to deal with those matters,
18 as many as we can.

19 From the Plaintiffs' point of view, are there any
20 matters you think we need to discuss this evening?

21 MR. STERN: Your Honor, we would like to revisit
22 the sequestration issue.

23 THE COURT: Okay. Anything else other than that?

24 MR. STERN: I am sure Your Honor reviewed the
25 papers we filed this morning on the churchwomen's issues.

1 THE COURT: I have not. I haven't had a chance
2 to do that. I will be happy to hear your argument on
3 them. We ought to put it out and let us think about that.

4 What would be a tag we put on that to identify
5 that issue?

6 MR. STERN: Your Honor, we took the position --

7 THE COURT: What do you refer to it as?

8 MR. STERN: The issue of facts regarding the
9 churchwomen's case.

10 THE COURT: Anything else?

11 MR. STERN: Several small logistical matters.

12 THE COURT: Okay. Anything else other than that?

13 MR. STERN: No, Your Honor.

14 THE COURT: How about from the defense, any
15 matters we need to put on the agenda?

16 MR. KLAUS: No, Your Honor.

17 THE COURT: Okay. Why don't we deal with the
18 simple one first. What are the logistical matters we need
19 to deal with?

20 MR. STERN: We have a graphical setup we will use
21 to demonstrate portions of exhibits that are in evidence
22 beginning tomorrow, and I have a question as to whether
23 The Court would like to have a monitor placed on its desk
24 top.

25 THE COURT: No, I don't need one. It will flash

1 up on the screen.

2 MR. STERN: Is that positioning of the screen --

3 THE COURT: Is that okay? Everybody can see
4 that? How about Mr. Green and yourself, is that going to
5 be in your eyes? That is my only concern.

6 MR. STERN: It is going to be Mr. Sterns'
7 witness.

8 THE COURT: Have you tried it, does it work?

9 MR. STERN: It does, Your Honor.

10 THE COURT: Good. Appreciate the people in the
11 back maintaining this.

12 That is the only logistical matter?

13 MR. STERN: It is. Tomorrow morning we would
14 like the opportunity to move exhibits into evidence.

15 THE COURT: We need to do that. Would it be a
16 good idea now, I made a note myself, just to surface what
17 those exhibits are, and make sure they are acceptable to
18 both sides?

19 MR. STERN: We have consulted with opposing
20 counsel over the weekend, and I believe we are all settled
21 on that, and the exhibits we consulted and exchanged
22 exhibit numbers, they are here ready to be moved in.

23 THE COURT: Is that correct, Mr. Klaus?

24 MR. KLAUS: We waived our objection as to hearsay
25 and authenticity.

1 THE COURT: Good. Could I make this suggestion?
2 Do you suppose you could make me a list on one piece of
3 paper and I will make that -- I will transfer it myself to
4 the exhibit list you have given me. But why don't we
5 agree before you call the next witness, someone from
6 Plaintiffs' counselor table will stand and formally offer
7 them, and we will receive them in evidence so the jury
8 understands they are received into evidence.

9 MR. STERN: Certainly.

10 MR. KLAUS: They are still subject to other
11 objections. If they are redundant, or if there is
12 relevancy objections.

13 THE COURT: Why don't we agree in light of what
14 the agreements you've reached so far that this in no way
15 precludes you from moving to strike an exhibit if at a
16 later time it appears it is not relevant or is redundant
17 or cumulative, what have you. Okay?

18 MR. KLAUS: Fine.

19 THE COURT: May I, while we are on the subject,
20 what agreement, if any, was reached on the jury notebooks?
21 Have you been able to resolve this issue?

22 MR. KLAUS: We talked about it. I want to see
23 basically what they intend to put in. They are talking
24 about a limited notebook and I am talking about trying to
25 get what I would want in it together, too.

1 THE COURT: Would you have those discussions and
2 let's come back to that. I think that would be helpful,
3 and I am hopeful both sides can reach an agreement so we
4 could pass those out.

5 MR. KLAUS: I am trying to get my evidence from
6 the clerk.

7 THE COURT: Have you spoken to Mr. Caldwell about
8 that?

9 MR. KLAUS: Yes. I have spoken to someone in the
10 Clerk's office. They are looking for it.

11 THE COURT: You need to let me know right away if
12 you are having problems. If those exhibits are sent
13 somewhere else, we want to track those down and get them
14 for you, okay?

15 MR. KLAUS: Hopefully. I think the only other
16 place they would be is Miami, oral argument was heard in
17 Miami.

18 THE COURT: Hopefully, let's not let that go.

19 MR. STERN: To close the loop on this, I do
20 anticipate consulting with opposing counsel and distribute
21 jury notebooks after Ambassador White's testimony.
22 Opposing counsel did not want the jury to be rifling
23 through the notebooks during testimony. There are
24 exhibits we would want to have in front of them, but in
25 the main we will try to add documents in the binder after

1 the examination has taken place.

2 THE COURT: Good. Does that take care of all of
3 the logistical issues?

4 MR. STERN: One other small matter. With regard
5 to experts, we will have expert witnesses testifying in
6 the coming days, and I wanted to inquire about The Court's
7 practice regarding the formal tender of an expert.

8 THE COURT: Don't worry about that.

9 MR. STERN: Thank you.

10 THE COURT: Okay. Why don't we turn to the issue
11 we talked about, and we have kind of designated it of
12 facts dealing with the murder of what was referred to as
13 the churchwomen, the nuns in El Salvador.

14 Mr. Stern, did you want to raise that?

15 MR. STERN: Yes. We considered that issue over
16 the weekend, and frankly we don't think we heard a
17 articulation of the Defendants concern on this point such
18 that as a matter of legal authority we see a way in which
19 we open the door to the verdict evidence by virtue of
20 eliciting testimony regarding facts of the churchwomen's
21 murders.

22 We discussed the matter and considered this in
23 the larger context of our case. That set of facts was not
24 going to be a large part of our case. We will leave that
25 to one side if it causes any concerns or poses

1 complications of The Court's view of this issue.

2 So we would propose, and this is what is said in
3 the short paper we filed this morning, to not elicit
4 testimony on that, those background facts, subject, I
5 would say, to an understanding opposing counsel will not
6 elicit testimony regarding any investigation or
7 prosecution of suspects in the case. That seems to be
8 symmetry in the way we could deal with that and we could
9 live with.

10 THE COURT: You are suggesting the Plaintiff is
11 willing to omit the historical fact as well as obviously
12 not seeking to go into anything about the resulting
13 litigation, but you are suggesting that the Defendants
14 should also, then, avoid the historical fact and what was
15 done in El Salvador to try to apprehend the guardsmen who
16 were responsible for that?

17 MR. STERN: That is correct.

18 THE COURT: Okay. Mr. Klaus, what is your view
19 of that?

20 MR. KLAUS: I need to think about this some more.

21 THE COURT: All right. Let me double back on
22 this for a second, because it arose in a sense in two
23 separate ways. In a pretrial motion the Plaintiffs sought
24 and filed a motion in limine which is simply a motion that
25 asks The Court to rule in advance that it would not be

1 appropriate to get into the verdict, the result of the
2 case involving the murder of the American nuns, and I
3 granted that.

4 Now, my thinking was everyone agreed right up
5 front that it was certainly no bar to the Plaintiffs to
6 bring this lawsuit by virtue of the verdict that had been
7 reached in that case. The case was referred to as Ford
8 versus Garcia.

9 And it seemed equally clear to me that the
10 Defendants would not be able to in this case simply
11 introduce a copy of the judgment, or for that matter seek
12 a jury instruction informing the jury that there was no
13 liability because of the verdict reached in the last case.

14 Now, that's where the issue rested until last
15 Thursday, and I think it was Mr. Klaus at the close of our
16 proceedings said he had read some of the expert reports,
17 and I assume it was probably Ambassador White, but it may
18 have been the gentleman from Argentina as well, and he
19 assumed from that that they were prepared to present
20 testimony first, that the murders took place.

21 I think what Mr. Klaus was suggesting and raised
22 his concern was his perception that these two witnesses
23 might be prepared to offer an opinion that given the
24 command structure and the various things that are going to
25 be discussed, that the generals did know what was going on

1 and did bear some responsibility for that.

2 I think what Mr. Klaus was saying was that if
3 that type of testimony came forth, did that somehow open
4 the door, if you will, to either one of two things, if I
5 understood his position.

6 Number one, to cross examine the witness
7 regarding the fact that a jury had effectively disagreed
8 with the witness' view of matters regarding liability, or
9 alternatively to somehow actually offer in the judgment,
10 the verdict that was received, and the resulting judgment.

11 Now, first and foremost, at least my research
12 indicates that under the doctrine of collateral estoppel,
13 res judicata, proclaimed conclusion as those two concepts
14 are known, it seems to me that does not in any way act as
15 a bar to the Plaintiffs discussing the historical fact of
16 the murder of the nuns.

17 Now, I think it is important to distinguish here,
18 too, and I think we saw this in talking to the jurors,
19 there is a difference between the historical fact, that is
20 these women were murdered in El Salvador as opposed to the
21 later litigation that ensued after that between the
22 families of the deceased nuns and General Vides and
23 General Garcia.

24 If I understand the concepts appropriately, had
25 the generals been held liable in that case, and then we

1 had this case, as I understand it, the Plaintiffs would be
2 able to use that finding, in a sense, offensively, because
3 the generals would have had a full opportunity to litigate
4 that issue in court.

5 But -- and I think it is in the Supreme Court
6 case in Allen versus McCurry, 449 U.S. 90 where The Court
7 said it has never allowed collateral estoppel to be used
8 the other way, that is to be used by the Defendants
9 effectively against the Plaintiffs when the Plaintiffs
10 have not had the opportunity to litigate this issue.

11 Now, that is my understanding of the law, and
12 I've followed it through to some recent cases, and I won't
13 bore you with the cites, but they are all consistent on
14 that.

15 Now, if that is true, that is that there is no
16 legal barrier, then the question becomes if an expert were
17 to get up on the stand and get into these matters -- and I
18 am not talking now about the historical fact, but should
19 an expert go beyond that and get into somehow -- and it is
20 hard to -- it is hard to theorize how this could come up,
21 but give an opinion suggesting that the generals were in
22 fact aware of and therefore responsible for what was
23 happening to the nuns, does that somehow open the door to
24 cross examine the general -- excuse me, cross examine the
25 witness about the verdicts or alternatively offer the

1 judgment itself.

2 There is a series of cases kind of taking the
3 last thing first that have talked about whether judgments
4 of acquittals in criminal proceedings are admissible, and
5 the general rule is that they are not. The theory, as I
6 understand it, is first and foremost the judgments are
7 hearsay, and secondly, the judgments really simply stand
8 for the position that in the first case, the party having
9 the burden of proof had not met that burden of proof.

10 And that is the holding of the Third Circuit in a
11 case called United States versus Gricco, G-R-I-C-C-O, 277
12 Fd.3rd, 339. And the Eighth Circuit has a similar holding
13 in U.S. versus Jones, 266 Fd.3rd.

14 Now, one deals with a criminal in the state court
15 proceeding, and then a person is charged around with tax
16 evasion, and the question is should the defendant be able
17 to admit before the jury the fact that he is not found
18 guilty in the state proceeding, and the appellate court
19 said no, that is not admissible.

20 Now, I think it is a tougher or closer question
21 if a witness were to get on the stand and somehow, either
22 by offering an opinion that the generals were responsible
23 for the murder of the nuns under command responsibility,
24 whether someone in cross examining him could deal with the
25 verdict that was received in the first case. I think the

1 answer to that is no, if for no other reason that the
2 prejudicial impact of that far outweighs any probative
3 value.

4 What you are really saying to the witness is,
5 would your view be any different knowing the fact that you
6 expressed it to a jury in another case, and they declined
7 to follow it.

8 I think the safest and more appropriate way to
9 handle this is to let you all think about that, and have a
10 agreement that before anybody raises the verdict in the
11 other case, that you are going to give everyone a heads up
12 so we can talk about this again, because I haven't been
13 able to find any legal basis that would allow it to be
14 raised.

15 So I just think what we ought to agree is go back
16 to, if you will, where we were at the beginning, that is
17 it will not be raised unless somebody contends something
18 has happened in this case to open up that area of inquiry.
19 And I ask before anyone jumps through that door, that you
20 alert everybody so we could talk about it and make that
21 judgment.

22 The Plaintiffs have certainly offered a very
23 flexible compromise that in a sense cuts both ways. It
24 simply removes the historical fact from the case. I think
25 that is a judgment call, and if that is something that

1 both sides want to abide by, that might be one way of
2 handling it. But short of that, it is my view that the
3 Plaintiffs are able to talk about the historical facts and
4 we should simply adhere to the order that was entered
5 earlier.

6 And if someone feels somehow the door to this
7 area of inquiry has been opened, I would ask before you do
8 anything that you give everybody notice so we can all go
9 back and think about it, because it is obviously a crucial
10 area, and I think both sides want to do everything we can
11 to avoid any error if that is possible.

12 That is an acceptable way to approach that, short
13 of the earlier compromise you offered.

14 MR. GREEN: Our concern is on cross defense may
15 try to open the door, and we are stating unequivocally
16 that we do not -- we are not going to open the door on
17 direct through any of our witnesses. We do not intend to
18 open the door on cross examination through any of their
19 witnesses. And it would seem that it might be helpful, I
20 am just going to suggest this, if the Defendant intends to
21 open the door, that we have a discussion about that.

22 THE COURT: Well, I think that is what I just
23 said. I want to be very clear, before we get into
24 anything that discusses the result in the last case, that
25 you will tell me that is what we are getting to, and we do

1 it sidebar or put it off until we have an opportunity to
2 discuss that.

3 It is my view the decision in the last case is
4 not relevant to what we are dealing with here.

5 Now, it is very hard in the abstract to say it
6 will never become relevant, and that has a lot to do with
7 the questions on direct, and I will be listening carefully
8 to the questions that are dealt with on cross. And as I
9 said before, I think the Plaintiffs have put forth a
10 proposal, which if accepted by the defense, totally
11 removes the issue.

12 Obviously that is something that has a little bit
13 of cost on both sides.

14 So why doesn't defense think about that, what has
15 been offered. If it proves to be acceptable, that is the
16 end of the issue. If it is not acceptable, if defense
17 feels they need to go into some of the actions that have
18 been taken following the deaths of the churchwomen, that
19 still does not mean we get into the last trial.

20 MR. GREEN: I understand that, Judge. I
21 understand the distinction you are drawing between
22 historical facts and prior verdict, if our compromise, our
23 suggestion is acceptable.

24 THE COURT: That is the end.

25 MR. GREEN: If it is not acceptable, what we are

1 concerned about is the defense trying to back door by
2 opening the door during cross examination in their case.

3 THE COURT: Well, I hope I have been sufficiently
4 clear about the fact that that would not be appropriate.
5 And I feel confident my ruling will be abided by. And you
6 give me a statement that you do seek to go into that area,
7 and we will put that off and we will be able to discuss it
8 then afresh in light of what has developed, or in light of
9 whatever research you have been able to come up with that
10 you feel might justify that type of an inquiry. But I
11 want to make sure everybody has notice before we do
12 anything like that.

13 MR. GREEN: I don't think I made myself
14 understandable. We understand Your Honor's ruling on the
15 prior verdict, we are not talking about that. We are
16 talking about any historical facts concerning the
17 churchwomen's case as possibly opening the door. What
18 Mr. Klaus is trying to do to get in the prior verdict, we
19 want to avoid any historical facts concerning the
20 churchwomen's case.

21 THE COURT: I want you to think about that. I
22 don't think I could preclude the Plaintiffs from doing
23 that. In other words, one of the issues the Plaintiffs
24 want to establish is the generals had notice. Now, with
25 the last witness, Dr. Romagoza talks about actual notice,

1 but the fall back to that would be these incidents were so
2 pervasive and reported that certainly there was notice,
3 because early on in the investigation dealing with the
4 deaths of the churchwomen, activity immediately focused on
5 the guardsmen at the airport.

6 Now, that is a historical fact. If the
7 Plaintiffs in an effort to show the facts of what were
8 happening, the Plaintiffs have a right to get into some of
9 those matters.

10 I suppose on the defense side it deals with the
11 efforts that were brought about both at the request of the
12 President, at the request of defense minister and others
13 to set up various commissions to look into what was
14 happening, and one of the issues in this case is was there
15 a failure to punish, first, to apprehend and punish people
16 who are involved.

17 So, I don't know that The Court simply can say on
18 either side no one can point to historical facts.
19 Historical facts may be relevant to some of the issues.
20 What I am saying is, I don't think we ought to get into
21 the last trial without really advance notice so we can all
22 take another look. And I am hearing what everybody says.

23 The Plaintiff is consciously trying to avoid that
24 area so there could be no conceivable argument that
25 someone has opened the door to the last trial. And I

1 think -- let's leave it that way.

2 MR. GREEN: Correct.

3 THE COURT: Okay. Why don't we turn to the next
4 issue, sequestration of witnesses and whether there ought
5 to be an exception in whole or part for some of the
6 experts that people are calling.

7 MR. STERN: Very briefly, picking up on some of
8 the sentiments The Court discussed when we discussed this
9 earlier, and leaving aside the medical experts who have
10 examined the Plaintiffs and will be testifying on their
11 injuries. The remaining experts we intend to call are
12 experts in political science, or military command
13 structure, experts testifying on the basis of their
14 particular experience in the foreign service or with legal
15 institutions in El Salvador.

16 Our position is that our experts have been
17 thinking about and writing about and defining their views
18 on El Salvador for a very long time. They are not going
19 to alter their views. First of all, they've stated their
20 views in fully detailed expert reports. The Defendants
21 chose not to depose them, which is their right.

22 But the concern raised about somebody tailoring
23 opinions to testimony that is elicited in court we feel to
24 be not a valid concern in this instance, particularly
25 given the types of academic experts that we intend to be

1 calling. And we have some case authority in support of
2 the proposition that experts need not be sequestered if
3 that would be helpful to The Court.

4 THE COURT: I am aware of the general proposition
5 that The Court has discretion to exempt witnesses or
6 expert witnesses from that. As I pointed out before, it
7 seems to me this is something that cuts both ways.

8 I think that there are some experts, particularly
9 when there is a contrary expert coming from the other
10 side, that it is level to have the experts on both sides
11 listen to each other's testimony because it helps them to
12 focus on those areas in which there is agreement and then
13 on those areas where they may have some disagreement and
14 to be able to explain to the jury why that disagreement
15 exists.

16 And when you think about it, the thing that they
17 are getting is, they are being able to hear the testimony
18 of the opposition expert without having it filtered
19 through the jury. The lawyer, the lawyer going back
20 saying if a witness testifies about this, how is this
21 handled, so on, so forth. It simply cuts out a middleman.

22 It seemed to me that Dr. Caddy who is going to
23 testify regarding psychological injury and damages is
24 probably somebody who ought not be exempted. I am
25 wondering about whether some of the other political

1 experts, foreign affairs experts, and so on, whether they
2 are -- you know what they are going to say, and they are
3 really sort of outside that.

4 MR. KLAUS: I don't have a problem if they want
5 to come in. It brings me back to the first status
6 conference with both cases, talking about they won't have
7 an opportunity -- they could have been in that case, they
8 chose not to be in that case. We could have tried the
9 cases together. And I remember The Court instructing us,
10 I don't want to try the history of El Salvador, and that
11 is what we are doing. I don't have a problem, their
12 experts can sit in here except for Dr. Caddy.

13 THE COURT: Okay. Then why don't we agree
14 experts on either side with the exception of Dr. Caddy are
15 free to sit in. And just to go back for a moment so that
16 we don't get lost in history here, my recollection -- and
17 I may be wrong about this -- but my recollection was that
18 it was the Plaintiffs in the Ford case who were very
19 desirous of moving forward and trying their case
20 separately. My recollection was it was the Defendants at
21 some point, and I think early on, who came forth and
22 suggested that there were very serious financial issues,
23 and it might be beneficial to try both cases together.

24 And I don't recall, frankly, the Plaintiffs in
25 this case having a terribly strong opinion about a double

1 trial. I do recall talking with Mr. Green at one point
2 when discovery was still going on, and discovery in the
3 other case had moved more quickly.

4 For what it is worth, and I said this now two or
5 three times, I really think I made a misjudgment in not
6 bringing both cases together, and I did that without fully
7 appreciating how either case simply because of the nature
8 of the theory under which the Plaintiffs are traveling
9 necessarily reaches beyond the facts of the specific case.
10 In other words, to understand either one of these cases,
11 it is necessary to understand the culture and the
12 unfortunate history of El Salvador in that time period in
13 the late '70's and early '80's.

14 There is no way to understand any of these issues
15 without trying, and it is very difficult without trying to
16 understand what was happening. So the issues can only be
17 evaluated when they are seen in that context. So, in any
18 event, we are where we are. We are dealing with
19 successive trials and the legal issues that they raise and
20 we will do the best we can with that.

21 It is probably too early, but from the
22 Plaintiffs' standpoint now, are we moving forward on
23 schedule?

24 MR. GREEN: Yes, Your Honor.

25 THE COURT: Good. Why don't we stay and check

1 that out from time to time again to let the jury know how
2 we are moving along, adhering to that time table we set
3 up, and let the parties in the case behind us know how
4 they are doing.

5 Anything else to talk about?

6 Do I have the proposed instructions from both
7 sides?

8 MR. STERN: Yes, Your Honor. We submitted a
9 brief and new jury instructions that were revised.

10 THE COURT: When did you submit those?

11 MR. STERN: May 10th of this year.

12 THE COURT: Do I have the Defendants'?

13 MR. KLAUS: We want to stay with the original
14 agreed jury instructions that were submitted last year
15 jointly.

16 THE COURT: You mean that were -- to be given in
17 this case, not the ones from the Ford case?

18 MR. KLAUS: Not the ones from the Ford case, but
19 they are basically the same.

20 THE COURT: Would you give me a copy of those?
21 Do you have them on disk?

22 MR. KLAUS: No, they have them on disk. They
23 have been filed.

24 MR. STERN: We can get them to you on disk.

25 THE COURT: If you have them, I would like to

1 look at them. At some point it would be helpful, it is a
2 little early, but it would helpful for us to get them, get
3 a draft and let's use that and we will break that up and
4 talk about it.

5 MR. STERN: On one point, opposing counsel
6 mentioned agreed jury instructions. While they were able
7 to agree on a number of instructions, they were not able
8 to agree on command jury instructions. We had separate
9 command jury instructions, we have revised ours in light
10 of the Ford decision.

11 THE COURT: I think what we have to do is go back
12 and deal with those issues in light of the decision in the
13 Ford case.

14 Anything else we need to talk about?

15 MR. KLAUS: No, Your Honor. By way of comment, I
16 didn't mean to imply about any shortcomings on The Court's
17 part, these cases have evolved, and I don't think any of
18 us knew, especially in the first case, that it would
19 involve so much in depth history of the history of El
20 Salvador. Toomit the churchwomen is a big chunk of
21 history to omit. I don't know how we are going to deal
22 with it.

23 THE COURT: Well, you made some decision on that,
24 and the Plaintiffs the same. Whether you are inclined to
25 accept their suggestion. If not, both sides have an

1 absolute right to explore the historical record, however
2 that is, and however you believe it supports your
3 positions in your cases.

4 Could I say one other thing before we stop? I
5 want to thank you for the way that you handled what is
6 obviously difficult testimony today. And I think we
7 should try to stay sensitive to that. If we need to take
8 a break, let's do that. If injuries need to be
9 demonstrated to the jury, if you could give me warning,
10 and let's do that, but let's make sure we are doing it
11 carefully and appropriately.

12 I think that all those matters were handled fine
13 today, and I would ask us to try to do the same way as we
14 move along. And if we see we get to a point where it is
15 becoming extremely difficult and understandable, let's
16 stop and try to regroup so we could move forward.

17 All right. We will be in recess. We will
18 reconvene tomorrow morning at 9:30.

19 (Thereupon, trial was recessed at 5:30 p.m.)

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3	MR. GREEN				30
4		WITNESSES FOR THE PLAINTIFFS			
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