

1 THE COURT: Good morning, everybody. Are we all
2 set and ready to proceed?

3 Mr. Caldwell, would you bring in the jury?

4 Who will be our witnesses this morning?

5 MR. GREEN: Just one witness, Professor Mauricio.

6 THE COURT: All right. I will explain to the
7 jury we interrupted a witness, and we may do that in other
8 parts of the trial. The jury will understand.

9 MR. GREEN: Thank you.

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

11 THE COURT: Please be seated. Ladies and
12 gentlemen, as you understand lawyers on both sides
13 occasionally need to work to accommodate each other and
14 accommodate witness' schedules, and what we thought we
15 would do -- remember when we stopped last night, we were
16 in cross examination of Professor Gilbert. What we
17 decided to do is stop, and Professor Gilbert is going to
18 come back this afternoon to go back to the cross
19 examination.

20 We will turn to the Plaintiffs, and the
21 Plaintiffs will call Professor Mauricio as I understand as
22 the next witness for the Plaintiffs.

23 Let me turn to counsel and allow you to do that.

24 MR. STERN: Thank you, Your Honor. We call
25 Professor Carlos Mauricio to the stand.

1 THE COURT: Professor Mauricio, would you come up
2 to the witness stand?

3 Sir, if you pull that chair up you will be more
4 comfortable.

5 CARLOS MAURICIO, PLAINTIFFS' WITNESS SWORN.

6 THE COURT: Sir, of course the jury met you at
7 the very beginning of the case, but I wonder if you would
8 restate your full name for the record simply for its
9 clarity and spell your last name.

10 THE WITNESS: Sure. My name is Carlos Mauricio,
11 M-A-U-R-I-C-I-O.

12 THE COURT: Thank you, sir.

13 Now, let me suggest if you sit back in that chair
14 but pull it closer, you will be much more comfortable.

15 Let me turn to Mr. Stern and allow him to
16 proceed.

17 DIRECT EXAMINATION

18 BY MR. STERN:

19 Q. Good morning, Professor Mauricio.

20 A. Good morning.

21 Q. Where do you live?

22 A. I live in San Francisco.

23 Q. What do you do for a living?

24 A. I am a teacher.

25 Q. Where do you teach?

1 A. I teach in an inner city high school, African American
2 students and Latino students.

3 Q. Is that in San Francisco?

4 A. Yes.

5 Q. What do you teach there?

6 A. I am a science teacher, mathematics, and biology.

7 Q. Do you enjoy that work?

8 A. I love it.

9 Q. I would like to go back to your earlier days in El
10 Salvador. Could you please tell the jury where you were
11 born in El Salvador?

12 A. I was born in a village west side of El, the name is
13 Ahuachapan. Mayan named. I am the third of family of
14 four. My older sister, Gloria Elida, Jose Roberto and me,
15 and my younger sister, Maria Elena.

16 MR. STERN: If I could ask Mr. Green to put on
17 the easel the small map we brought today. If I could also
18 ask Mr. Green to hand Professor Mauricio the pointer.

19 BY MR. STERN:

20 Q. Could you show us on the map where your hometown of
21 Ahuachapan is located?

22 A. On the west side of El Salvador, around here. This is
23 not exactly the map, but after Sonsonate, the west side.

24 Q. How far is that from the City of San Salvador?

25 A. 40 miles.

1 Q. What kind of a town is Ahuachapan?

2 A. Now grow up to not a big city, but still a small town
3 and basically the inhabitants of Ahuachapan, we have a
4 Mayan inheritance, basically majority, we are Mayan people.

5 Q. You mentioned your other siblings. Did you grow up in
6 a family with your mother and father?

7 A. No. My mother was a single mother. I have no father,
8 we have no father. Basically she raise us, she provide
9 food and clothe us, and location for us, although I am the
10 first kid who was able to go to college.

11 Q. Economically how well off was your family?

12 A. Well, I may say among the poverty of the Salvadoran
13 people, we were privileged because she was a kind of
14 business woman, she sold goods in the market. She come to
15 the market to carry out her business.

16 Q. What were the circumstances of your -- where you grew
17 up, can you tell us about the house where you grew up,
18 please?

19 A. Well, as I say among the poverty we have in El
20 Salvador, I was kind of privileged kid in a way because my
21 mother was a business woman, and she was able to provide
22 for us. And I remember we have a fairly big house in which
23 we have electricity, which was a luxury item in El
24 Salvador, not everybody have electricity. I remember
25 everybody came to my mother's home, and she was a woman who

1 usually took people from the street and feed them at my
2 home.

3 Q. Was your family religious?

4 A. My mother was very, very religious woman. She
5 attended mass at least every Sunday. She took us, all the
6 kids with her, although because she work a lot by herself,
7 and we were four kids, so, Saturday and Sunday we went to
8 mass.

9 Q. As a young child, did you go to school?

10 A. Yes, I went to school in Ahuachapan. I did to six
11 grade in Ahuachapan.

12 Q. How long did you stay in your town?

13 A. It happened my mother died when I was 11 years old,
14 and after that I had to basically, not to take care of
15 myself because I was 11 years old. After my mother died, I
16 stay with my older sister, Gloria Elida. As soon as I
17 finished elementary, I moved to El Salvador looking for a
18 job. At the age of 14 I went to San Salvador to find a
19 job.

20 Q. And what kind of job did you get?

21 A. I was lucky enough to find a job in the University of
22 San Salvador in a construction site.

23 Q. What kind of construction did you do?

24 A. I was a worker construction. Although I was only 14
25 years old, I was performing the same job that every man

1 did. And I do remember I was trying to lift cement bag, it
2 was heavier than me. Hundred pound cement bag was too much
3 for me because I was probably 80, 80 pounds.

4 Q. During the time that you were working on the
5 construction site, were you able to continue your
6 education?

7 A. Yes. That is one of the situations that I always have
8 in my mind. I work every day eight hours, every day, but I
9 manage to go to night school.

10 Q. What schools did you attend?

11 A. My first year in San Salvador for night school I did
12 go to a Jesuit college.

13 Q. Jesuit college?

14 A. Not college, high school, during the night.

15 It is Academia de Mar during the day for rich kids,
16 and during the night, Academia Loyola for the working
17 people.

18 Q. What kind of subjects did you study at this school?

19 A. In general, we have sciences, humanities, and normal
20 subjects that I am teaching now in high school.

21 Q. Was that school free of charge?

22 A. No. What happened is that I didn't have enough money
23 to pay the tuition fees for my school, but what I did is, I
24 went to talk to the director of the school and he agrees to
25 give me a half payment, so I did pay only the half of it

1 because otherwise I wouldn't pay because my salary was a
2 meager salary.

3 Q. How long did you stay at the Jesuit school?

4 A. Well, for -- let me see. Four years. Four years.

5 Q. At that point did you graduate, or did you go to
6 another school?

7 A. No. I continue with the other education because what
8 I have finish in San Salvador called secundaria, but I move
9 to another school which is Liceo Salvadoreno for the rich
10 kids again. It is a Marist school. And I take lessons in
11 the night, Academia la Mar, working people that take
12 classes during the night, because I was working during the
13 day. I take classes during the night, and I got my high
14 school degree there, and I was able to enter the
15 university, the school.

16 Q. You mention the Marist school. Is there some
17 connection?

18 A. Yes, they are the brothers, Maristas.

19 Q. At this time when you were in high school growing up,
20 did you have a sense what you wanted to be when you became
21 an adult?

22 A. Indeed. I always kept in the back of my mind that I
23 want to go to college, and also, I like to teach for some
24 reason, I like to teach. And as a kid, I also taught other
25 kids how to read because for some reason when I was in

1 first grade and second grade, I was doing very well in
2 classes and my teacher ask me to help her to teach the
3 other kids. And I remember that I enjoyed teaching the
4 other kids.

5 Q. Now, you mentioned during this period you went to
6 school at night and worked during the day. How long did
7 you continue working on construction for your day job?

8 A. Well, I work and study during the night for six years.
9 Although I did work at the construction site doing the
10 construction jobs for about a year only, I was too young to
11 carry out all of the hard job that is made by the
12 construction workers, and because I was a little -- I was
13 very innocent, a guy, he was the foreman, and because he
14 carry a hard hat, I call him engineer every day. I say
15 good morning, engineer. He liked that because he was not
16 an engineer, he was kind of foreman. And he moved me to
17 the office, he move me to the office, and I was the kind of
18 the paper boy in the office. I clean the office, I run the
19 errands. But eventually being in the office, I learn how
20 to type, and later on I was assigned some tasks, office
21 tasks.

22 And I remember that I was given more and more tasks as
23 an office, and one day my two bosses, they, for some
24 reason, it is not clear for me, they gave up their jobs and
25 I was left in the office. And the administrator, he was

1 very, very worried because we have to present a paperwork
2 for a payroll of probably 800 men, and he was very worried
3 because the guy who was able to do it already left. I was
4 the only person left in the office. I was 16 years old.
5 And then administer came to me to complain, and I said I
6 will do it. He didn't believe me. I said I could do it,
7 and I did. I put paper and everything together for 100
8 payroll people.

9 Q. Did you have a chance to go to college after you
10 graduated from high school?

11 A. Well, yes. I graduate from high school in 1972, but
12 while I was working in the university in 1972, the Army
13 came to the university and I was taken to the police, such
14 a day, not only me, students, workers, and professors were
15 taken to the different headquarters of the security forces
16 in El Salvador.

17 That particular day, 19 July 1972, the Army came to
18 the university and university was closed. I finished my
19 degree that allows me to enter the university in December,
20 1972, so when the university was open on September, 1973, I
21 get in as a student.

22 Q. Which university is this?

23 A. This is University of San Salvador, people call it the
24 national university.

25 Q. And when you began to attend the national university,

1 what classes did you study?

2 A. The University of San Salvador has two levels, general
3 education in which students are asked to take subjects as a
4 general biology, general chemistry, mathematics, I say
5 biology already, science classes in one side, but also we
6 have to take a lot of humanities, psychology, philosophy,
7 et cetera, et cetera.

8 Q. Were you on a track for a particular profession at
9 that point?

10 A. Yes. It came to my mind that I really wanted -- I
11 love medicine, and I wanted to be a doctor, but in my
12 situation, in the situation in which I have to help myself
13 and I have to help my family, I decided to go for a short,
14 a short career in El Salvador, and one of them was
15 agricultural engineer. That is a five years career,
16 medicine is almost nine years. So I gave up my elusion of
17 becoming a doctor, and I prefer to go for something more
18 practical, something that would allow me to make a salary
19 as soon as possible.

20 Q. Why do you think that practical work appealed to you?

21 A. I think I made a good decision, because when I grow
22 up, I went to the forest, I went to the rivers, I went to
23 the countryside, and I am very close to nature. I like
24 nature.

25 Q. You mentioned you had a chance to take classes outside

1 of the sciences. Could you tell us about some of the other
2 classes you took, please?

3 A. The other subject I really love is literature. I took
4 poetry classes, and I also write, and I nurture and develop
5 my skills for writing. I write poetry and short stories.

6 Q. In what year did you obtain your degree in your major
7 field of study?

8 A. I got my degree as an agricultural engineer in
9 December, 1979.

10 Q. And what did you do then?

11 A. Before 1979, I got a position as a teaching assistant
12 in the University of El Salvador. Before that in order to
13 make a living, I also teach mathematics in high school. So
14 when I got the position of teaching assistant, I gave up my
15 other position as a teacher, and I work as a teaching
16 assistant in university. And then I graduate in December,
17 1979 and I began to work as a teacher, assistant in the
18 university.

19 Q. Specifically what kinds of things were you teaching as
20 an agricultural engineer?

21 A. Animal nutrition, basically. In the kind of
22 biochemistry area. In order to understand the way that
23 energies produce in the body, you have to know how
24 biochemistry work, and I explain animal nutrition by
25 chemistry means.

1 Q. Did you attempt to continue your education at that
2 point?

3 A. Yes, yes, I did. My idea of continuing my education
4 was very, very strong in me, and after I got my degree from
5 the University of El Salvador, I apply for Master of
6 Applied Sciences from the University in Yucatan in Mexico.

7 Q. And did you continue that course?

8 A. I continued that course and I went to Mexico in
9 October, 1980, although in August of 1980, August, 1980
10 while I was teaching, while I was in the classroom, the
11 Army came to the university, August, 1980, the Army came to
12 the university and they occupied the university for seven
13 years.

14 Q. I want to ask you more about your education, but at
15 this time, did you also begin a family in the '70's, and
16 during your student days?

17 A. Yes, yes. After 1979, I already have two kids.

18 Q. How long were you in Mexico studying for your Master's
19 Degree?

20 A. From October, 1980 to July, 1982.

21 Q. And did you then return to El Salvador?

22 A. In several locations because part of my contract with
23 the university, it was that they gave me support, and they
24 gave me a scholarship but I have to come back to teach to
25 the university for two years before being released of my

1 contract.

2 But in the meantime while I was starting in Yucatan, I
3 have to come back. In kind of giving advances of my
4 education at the other colleagues in the university, I
5 remember that when I came back from Mexico to give Master's
6 talk, we call them Master's talk, I remember at that
7 particular time the university was working out of the
8 campos. We call that university in exile because we have
9 no main campus. We rent buildings in order to be able to
10 teach.

11 And I came to teach or to give my speeches to my
12 colleagues in buildings out of the main campus, and we were
13 able to graduate students, although we didn't have the
14 normal facilities that we had before.

15 Q. During the time that you were a student, and then
16 during the period when the university -- you had the
17 university in exile as you described it, were you a member
18 of any student groups?

19 A. Yes, yes, several of them. For example, I work hard
20 for the association of student having a scholarship in the
21 university, and in order to maintain your scholarship, you,
22 as a scholarship student, you have to have very good
23 grades. And I am a person who believe that we were in a
24 disadvantage, because we were poor people, and sometimes
25 the economic situation was very, very hard. I went several

1 days without food. And asking us for the best grades in
2 the school, I believe it would be unfair because we were in
3 a situation that we have no the best environment in a way.
4 So, for example, one of my goals was trying to got to lower
5 the grades to an acceptable level. That is one of the
6 fights we had.

7 Q. Was that so more students could obtain scholarship
8 moneys? Was that the purpose of that?

9 A. Yes, in a way. That is another situation. For
10 example, I remember a year that the university was closed,
11 the government decided not to pay our allowances, and we,
12 the students, myself as a student leader, we went to the
13 newspaper and asked the government through the newspaper to
14 please pay us allowances.

15 Q. In terms of your involvement in student groups, were
16 there any other groups other than the one you told us
17 about, the group that supported students with scholarships?

18 A. Well, also I belong to the association for students
19 for agricultural sciences. I work hard for academic goals.

20 Q. What did that organization do?

21 A. We ask authorities for better condition, for better
22 teachers, for better curriculum and basically for better
23 teaching environment.

24 Q. In the period of the late '70's and early '80's that
25 you told us about, did you support efforts to reform the

1 government of El Salvador?

2 A. Indeed, indeed. I am a man who believes that there
3 are needs of change when there is a lot of unfairness and
4 injustice. I believe that through peaceful means you can
5 achieve a change in society that is basically unfair.

6 Q. Can you give us some examples of how you supported
7 reform?

8 A. I remember, for example, I supported the workers when
9 they were asking for better wages. I supported the people
10 when they were asking for health system. And in general I
11 support people who were asking for education.

12 Q. During this period, did you write any letters or
13 publish any articles that were critical of the government?

14 A. No.

15 Q. Were you ever a member of any guerilla group?

16 A. No.

17 Q. Did you know people in the university who were
18 sympathetic to guerilla groups?

19 A. I guess I did. I guess some of the people. But you
20 have to realize that in El Salvador when I was captured,
21 being identified as a member or having sympathy for the
22 guerilla movement, it was real, real dangerous.

23 Q. Why was it that you personally chose not to go along
24 the path toward a violent reform as opposed to a peaceful
25 reform?

1 A. I believe that we had in El Salvador still some path
2 of nonviolent ways. I remember that we had in El Salvador
3 some organizations, either political parties or union
4 worker organizations that were asking for peaceful solution
5 to the problems in El Salvador and I really, really liked
6 them.

7 Q. Can you tell us a little more about how the university
8 in exile was able to function even though the university
9 itself was formally closed?

10 A. Yes. We look for places, we look for buildings and we
11 rent them, although we didn't pay for it, the students pay
12 for it. The Government still paid our salary, so what we
13 did is, we tried to -- got new ideas how to teach in a
14 situation in which we lacked the basic equipment to teach,
15 but we did it. We were able to find places to teach and
16 also we got students who really want to learn, and that was
17 important. As I say, we were able to have several
18 graduations although we lack a lot of resources.

19 Q. Was it difficult financially to support the university
20 in exile?

21 A. It was a huge, huge task. It was almost impossible,
22 but we did it.

23 Q. How did you keep the university in exile going?

24 A. Looking back, I really don't know how we did it. It
25 was almost impossible.

1 Q. Okay. Let me take you forward to the period after you
2 returned from Mexico. Can you remind us again when you
3 returned from Mexico?

4 A. As I say, I came several time back to San Salvador.
5 Probably October, 1980, I came back to San Salvador the
6 first time to spend the holiday with my family, December,
7 1980, Christmas holiday with my family. Then I went to
8 Mexico again, and I think I came back at least three or
9 four times during the two year period that I spent in
10 Mexico.

11 Q. Okay. And when you returned, what was your formal
12 status at the university?

13 A. Well, after I return, I was very satisfied with my
14 accomplishment. I got a Master Degree in sciences, it was
15 a brand new Master's and very few faculty member had a
16 Master Degree in the agricultural sciences. And that allow
17 me to become immediately one of the, not most important,
18 but one of the person who gave important roles for the
19 school.

20 Q. Did you have any administrative responsibilities at
21 that time?

22 A. Indeed. Being back from Mexico was, as I say with
23 Master Degree, the authorities decided to give me
24 administrative tasks, responsibility. That was good, it
25 was a reward for me. They ask me to set up the post

1 graduate program. We didn't have that kind of program in
2 El Salvador, that is why I went to Mexico. After my
3 return, authorities ask me to set up the post grad
4 department, so I was in that task after I return.

5 Q. And was that graduate program in agricultural
6 engineering?

7 A. Yes, yes, indeed.

8 Q. Professor Mauricio, I want you to focus on a specific
9 day now, Sunday, June 12, 1983. Can you remember what you
10 did on that day?

11 A. I do remember clearly, because the next day, Monday,
12 the 13th, I was kidnapped, so I do remember.

13 Sunday I took my family to the beach, Sunday, June 12,
14 1983, I took my family to the beach, everybody, and I met
15 my family, my brother on the beach. It is a trip of about
16 30 minutes from San Salvador to Puerto Libertad. You learn
17 from other witness, La Libertad port is basically 30, 40
18 minutes by car, San Salvador to the port. I took my family
19 to the beach to meet all of the families there because
20 being so close to San Salvador, a lot of people like to go
21 to the beach on Sundays.

22 Q. How did you travel from San Salvador to the beach?

23 A. By car. I did it by car. And I do remember that in
24 order to leave San Salvador in 1983, on that particular
25 day, I remember that I have to -- anybody have to go

1 through several military check points. You want to leave
2 the city, you have to go to military check points in the
3 entrance of the city. And when you come back also, you
4 have to go through military check points.

5 I drove out San Salvador, went through the military
6 check points, I was checked. All the people out of the
7 car, soldiers come and search your car. You are asked for
8 I.D. and everything. And then you can go. And I went to
9 the beach the whole day. A lot of family came. It was a
10 Sunday, so everybody was there, you know.

11 Although the situation was tense, the situation was
12 kind of tense, is a good word. We enjoy the people, we try
13 to do normal thing. We went to the beach, we went to the
14 restaurants. On my way to the beach I stop at a restaurant
15 full of people. You know, I believe we learn how to live
16 in a situation in which we knew a lot of problems in San
17 Salvador were there. So I went there for the holiday with
18 friends and then I came back maybe around five or six, and
19 before entering San Salvador again, I have to go through
20 several military check points.

21 Q. I would like to turn to the next day, then, Monday,
22 June 13, 1983. How did you begin that day?

23 A. Well, although I am a teacher, in a way I wanted to
24 improve my skills. I wanted to get better skills as a
25 teacher. And it happened that in order to be better

1 teacher, I also was taking classes for getting better
2 skills, as I said, for agricultural classes at another
3 university in San Salvador. The university I was taking
4 classes during the evenings was around two, I believe, two
5 p.m., I took classes from two to three or two to four, I
6 don't remember now.

7 Monday I went to classes, classes, as I say, and when
8 I left the other university in which I was taking classes,
9 I drove toward the building where the school of
10 agricultural sciences were functioning. Before I reach the
11 school, I went through several check points, several
12 military check points.

13 Q. What was the name of the university where you took
14 your pedagogy classes?

15 A. Jos, Matias Delgado.

16 Q. How far is that from the university in San Salvador?

17 A. By car, in light traffic, 50 minutes, 30 minutes.

18 Q. So you finished your class in pedagogy and went to the
19 national university. What did you do at the national
20 university then?

21 A. I was a professor there. Since I had the Master
22 Degree, I was given new roles and new tasks, and one of
23 them, one of my responsibilities was precisely to teach.

24 Q. Did you have a class that day?

25 A. I have a class that day, yes, at five p.m.

1 Q. When you returned from pedagogy class, did you go to
2 the national university to teach your class there?

3 A. Yes indeed. Yes, indeed.

4 Q. Please tell us how you approached the national
5 university, and what you did when you got there.

6 A. I drove from -- I drove there, I park my car on the
7 street, and I get in the building. And because already I
8 have administrative tasks and responsibilities, I went to
9 finish some of the paper that I was working on. And my
10 office, I already have an office close to the dean office,
11 and it was in the second floor. So before five I get ready
12 for classes, and I just walk myself to the classroom.

13 Q. What was the building that you are referring to where
14 the office was and the classroom was?

15 A. I think three stories building. For San Salvador not
16 a big building, but we have an entrance from the street, an
17 entrance from the street to the building and anybody can
18 enter the building, just from the walk side, you can enter.

19 Q. Was it an actual building of the national university?

20 A. I am sorry, I didn't get it.

21 Q. Was it a building that was part of the national
22 university itself?

23 A. Yes, yes, yes. I mean, every school, school of
24 medicine, school of lawyer, all the schools were working
25 outside the university. It was part of the university, of

1 course, because it belongs to us, but the main campus, it
2 was closed.

3 Q. It was part of the university in exile?

4 A. University in exile, that is right.

5 Q. What was the class you had to teach that day?

6 A. I had to teach a class of biochemistry again.

7 Q. So did you go to your classroom?

8 A. I did. I approach the classroom before five, I say,
9 because classes started at five, and I approach it before
10 five and already the students were coming in, so I was
11 there about to enter the building, the classroom, I mean.

12 Q. And what happened then?

13 A. It happened that just about to begin my class, about
14 to start my class, a guy came, a person that I didn't know,
15 a man came and he asked me, are you Mr. Mauricio. And I
16 say, yes, I am. And he say, do me a favor, he say, and I
17 say, what is it. Could you please move your car, your car
18 is blocking my car, and I cannot go. And I say yes, of
19 course, because I have two or three minutes before class,
20 and I say, no problem.

21 As I move out of the building, you know, in the middle
22 of the street, I realized that my car was not blocking any
23 other car, and that the guy who ask me to move his car was
24 behind me, so in that moment I realize that something wrong
25 was going on. And when I turn my back to look at the guy,

1 he was about to grab my neck. He was about to grab me from
2 behind, and I push him, and he fall to the ground.

3 Other guy came with already a gun in his hand. He has
4 a gun in his hand, and --

5 Q. Professor Mauricio, let me ask you more about the
6 first individual who asked you to come out of the
7 classroom. I believe you said you didn't recognize him; is
8 that correct?

9 A. Yes, that is correct.

10 Q. How was he dressed?

11 A. He wear civilian clothes, he wear civilian clothes,
12 although I didn't pay attention to anything at that
13 particular moment. I mean, several moments ago I was
14 thinking that we live in a kind of safe, safe place. The
15 Army has basically control over the city and the war has
16 been driven to the countryside. And San Salvador was a
17 kind of normal city.

18 We work, everybody went to the movies, I went to work,
19 I went to classes, kids went to school, and was normal
20 situation in away. You know, the Army had been able to,
21 to chase the war away from the cities, and we live in a
22 normal situation. So I felt safe in a way. In a way I
23 felt safe that the Army was able to keep this situation of
24 safety for everybody.

25 So, when this guy came to ask me to move my car, I

1 never thought, I never gave a second thought where he was
2 asking me, besides I trust him.

3 Q. Did he say anything to you after he asked you to move
4 your car?

5 A. Not that I remember.

6 Q. So after you pushed this first individual, I believe
7 you mentioned that you then saw another man or men. Can
8 you describe them for us, please?

9 A. Yes. What happened is that in the middle of the
10 street when I realized that something wrong was with this
11 guy, and I try to enter the building, because for me, my
12 safe place was the building, going back to the building.
13 So when I try -- the guy fall on the street, you see, and I
14 try to get in the building back.

15 And another guy came with another gun in his hand, so,
16 when I try to go back to the building, other, other men
17 show up. It was not only two. I saw at least eight men
18 that came from cars and they were wearing civilian clothes,
19 and heavily, heavily armed. They carry machineguns. So in
20 a moment I try to run away from them, but my idea was going
21 back to the building where everybody was there.

22 And I remember, I remember one of my student who came
23 late, and I remember clearly that he say, leave him alone.
24 And then more men came and point him with the machineguns.
25 So he back off, he say, okay, okay, he back off. But when

1 I tried to enter the building, and I saw this man, when
2 then what I did is I began to scream for help. I was
3 saying, por favor, please, please help me. And I remember
4 that I was Volkswagen car.

5 Q. Volkswagen?

6 A. Yes. And I grab the bumper to the point where I think
7 I welded my hands in the bumper and the guys came and began
8 to beat me. They beat my hands first, and somebody hit my
9 eyes and began to bled from my eyes, and somebody hit my
10 mouth, and I fall to the ground. And they hit me with the
11 butt of the rifles, they beat me and I was completely
12 subdued.

13 When I was there immediately, they took me to a car.
14 It was a kind of van there, and they took me there to the
15 car. And this is light day, this is daylight, there is
16 no -- there is many witness, this is not during the night,
17 this is during the day, five p.m.

18 And they took me -- I was bleeding already, I have
19 something in my head, and I was bleeding from my head, and
20 bleeding from my eye. And they put me in the car, and they
21 throw me to the floor of the car and I was handcuffed
22 there. And when I was there, I was handcuffed and I was
23 blindfold. They put the blindfold on me.

24 Q. Professor Mauricio, focusing for a moment on the men
25 who put you in the car, did you recognize any of these men?

1 A. The faces, I cannot remember. What I do remember,
2 what I do remember is how they were wearing civilian
3 clothes, heavily, heavily armed. How they got military
4 boots, and I saw them before in other circumstances.

5 Q. Can you tell us about -- referring to that type of man
6 with the heavily armed -- strike that.

7 You discussed the armaments that they had, the
8 weapons, these men who put you into the car. Had you ever
9 seen men with weapons like that before?

10 A. Yes, in several occasions. Usually I saw them riding
11 in a car with no license plates. I saw them in San
12 Salvador on the streets. But I was one day with my former
13 father-in-law who was in military, he had been wounded, and
14 he was in the military hospital and I was with him. I was
15 with him, in his bed, and former mother-in-law and the rest
16 of the family, I was there.

17 And suddenly the big thing happened because somebody
18 was coming, somebody was coming to visit my former
19 father-in-law. He was military, and a lot of those men
20 show up giving security. They were bodyguards of General
21 Garcia. He visit my father-in-law Jos, Ferman, and I
22 remember the kind of bodyguards that he had at that
23 particular time.

24 Q. Did you see General Garcia on that day when you were
25 with your father-in-law?

1 A. Yes. It was December, 1980, my father-in-law was a
2 captain, Jos, Ferman.

3 Q. Returning to the scene of your capture, what kind of a
4 car was it that the men put you in?

5 A. It was a van, a van with a sliding doors, I believe.
6 I am not sure about it, I am not clearly sure about it.
7 The situation of being already beaten, bleeding, and the
8 extent of violence, the kind of raping that happened at
9 that particular moment, it is impossible to remember little
10 details, little things, you know, the kind of car I was put
11 in. I do remember it was a van, but not exactly what kind
12 of car it was.

13 Q. How did the men put you in the van?

14 A. They took me, they push me in the floor of the van and
15 as I say, they handcuff me, they put the blindfold on me.
16 One of the guy put his military boot in my face.

17 Q. At that moment when you were put in the van, what
18 thoughts were going through your mind?

19 A. A, you know, it is an irony that I was captured around
20 this time, this month, 1983, and my son's birthday is in
21 July. And when I was captured, I thought that my son was
22 going to celebrate his birthday as an orphan. I say, well,
23 he is going to be an orphan.

24 Q. What happened after you were put in the van?

25 A. I was driven away for several hours, although I got

1 the idea that I was driven in the city, not away from the
2 city, because although I was blindfolded, I was able to
3 look a little bit through the space left between my
4 cheekbone and the eye. I was able to look through the
5 window. So as I was driven away, I was able to see the
6 canopies of the trees, and I was able to see the upper
7 windows of the buildings.

8 Q. Did any of those things, the trees or buildings, have
9 any significance for you?

10 A. They was in the city. I was in the city. However,
11 however, I thought that I was going to be killed, so my
12 idea was, as soon as I can see only trees, I am going to be
13 killed because, you know, usually a lot of bodies were
14 dumped in the countryside. So I thought, well, as I begin
15 to see only trees, then, they will kill me then.

16 Q. Did you say anything to the men who captured you?

17 A. You know in a, in a desperation thing, out of
18 desperation, yes, you know, before, just before being
19 entered into the car, I asked, who are you guys, and his
20 answer, it was, you know who we are. That is all.

21 Q. Were you able to tell where the van was driving you?

22 A. No. I was completely lost. I was blindfold,
23 handcuffed and wounded.

24 Q. And approximately how long were you driven around in
25 the van?

1 A. For about two hours.

2 Q. What happened then?

3 A. What happened, sometimes they stop somewhere and like
4 waiting, they were waiting. They never talk to me, at
5 least, maybe they talk after they left the van. But they
6 come back again and they move -- they drove away, they
7 move, they stop, like waiting.

8 And after, after about two hours and a half, I was
9 captured around five p.m., around two and a half, three
10 hours, I was taken to a place in which I was pulled, I was
11 pulled out of the car and I was blindfold. I was
12 completely blindfold, I didn't know where I was, and
13 somebody came and took me from the van, out of the van.

14 Q. Were there any other people in the van who appeared to
15 you to have been captured like yourself?

16 A. No. Only myself.

17 Q. So what happened when you were taken out of the van?

18 A. Somebody came and took my watch, somebody came and
19 took my watch, my ring and also my wallet, and in the way I
20 was led, I am pushed through stairs, and when I -- I
21 finished walking up the stairs up, I reach the level of the
22 building.

23 MR. STERN: If I ask Mr. Green to put on the
24 first chart.

25

1 BY MR. STERN:

2 Q. Can you see that all right, Professor Mauricio?

3 A. Yes, yes, I can see it.

4 Q. Using this chart, are you able to identify for us
5 where you were led after you were taken out of the van?

6 A. Yes, as I say --

7 MR. KLAUS: Objection, Your Honor. The chart
8 contains matters that aren't in evidence and hasn't been a
9 proper predicate.

10 THE COURT: I sustain the objection.

11 MR. KLAUS: Especially the title on the top,
12 needs to be removed or covered.

13 THE COURT: Let's go back for a minute. The
14 first question we need to deal with is whether the
15 professor knows where he was taken, the location, so on,
16 and then we can move on.

17 MR. STERN: Let me establish that first, Your
18 Honor.

19 BY MR. STERN:

20 Q. At some point during the period of your captivity,
21 Professor Mauricio, were you able to determine the location
22 at which you were being held?

23 A. Well, at the very beginning, no. I was completely
24 lost. Being blindfold and handcuffed, gave the sensation
25 of being lost. You do not know where you are, you don't

1 know anything around. So I was completely, completely
2 lost. However, from the beginning I was asking myself
3 where am I, where am I. I know I am in a place like
4 stairs, with light, because I saw -- I was able to perceive
5 fluorescent lights, I say where am I. I was handcuffed.

6 And I was able to rightly guess where I was because
7 next morning when it was silence in the building, I heard
8 cars making a big effort, like putting in first gear, and
9 then I concluded, hum, this is an uphill, they are going
10 uphill, so I am close to someplace that is close to an
11 uphill. And later I heard the sound of a church bell.
12 Say, yes, I am in the National Police headquarters because
13 there is uphill which is name Cuesta de la Vega.

14 And now there is a church, and I was guessing right, I
15 was there, I was in the National Police headquarters.
16 Besides, since I was a boy, and when I was captured, I
17 lived a block from the National Police headquarters, so I
18 rightly guessed where I was. I was able to guess
19 correctly. I was held in the National Police headquarters.

20 Q. Later on upon leaving detention, were you able to
21 confirm without a blindfold that the building you had been
22 in was the National Police headquarters in San Salvador?

23 A. Indeed. Indeed.

24 MR. STERN: Your Honor, at this time I request to
25 publish the chart to the jury.

1 THE COURT: You may.

2 MR. KLAUS: Objection. He needs further
3 predicate as to the chart itself.

4 THE COURT: When you say further predicate, what
5 do you mean by that? That is too broad an objection. It
6 has to be more specific.

7 MR. KLAUS: Foundation that he can identify the
8 chart and describe it being an exhibit.

9 THE COURT: I'll sustain that.

10 BY MR. STERN:

11 Q. Professor Mauricio, in preparation for your testimony
12 today, did you assist and supervise preparation of a chart
13 in order to help with your testimony?

14 A. Yes, I try to figure out exactly what happened and
15 where I was.

16 Q. And have you reviewed that chart for accuracy?

17 A. Yes, I did.

18 Q. And does it reflect your most accurate memory of the
19 events?

20 A. From my best recall, yes.

21 MR. STERN: Your Honor, I would offer that
22 testimony as foundation. I am not entirely clear what
23 additional foundation opposing counsel would wish. The
24 chart itself is not being offered into evidence, it is
25 simply to assist Professor Mauricio in describing the

1 events.

2 MR. KLAUS: If that accurately represents what he
3 remembers, I don't have a problem.

4 THE COURT: Fine. You may proceed.

5 MR. STERN: Thank you, Your Honor.

6 Would you put the chart on the easel, Mr. Green?

7 Thank you.

8 BY MR. STERN:

9 Q. Do you still have the pointer?

10 A. Yes, indeed, I do have it.

11 Q. Using the pointer, can you identify for us how you
12 entered the area that you described?

13 A. Well, as I say, I was led and pushed by a guy through
14 the stairs right here in the upper corner, and I remember
15 that this was a narrow alley, a very narrow alley I went
16 through. And as I entered there, I was blindfolded. As I
17 entered there, the first thing that struck me was a very,
18 very -- I cannot say bad smell, but a smell of fear, maybe,
19 something that is impossible to describe. I may say the
20 smell of death.

21 And as I entered there, I step over other bodies. I
22 didn't know whether they were dead or alive, I step over
23 other bodies. I was completely blindfolded and handcuff,
24 and they push me there and I was kept here. The first
25 night that I was there, I was kept in this place. I was

1 handcuffed there to -- they put my -- one hand -- they
2 handcuff one hand to a kind of pipe there, and I have free
3 this hand, because my position standing up, I was able to
4 look at the other people there, their heads, because other
5 people sat in the floor. Although I wasn't able to look
6 freely, I was able to look through the spaces left here
7 through the blindfold.

8 Q. And apart from the smell which you testified about,
9 what did your other senses tell you about the area in which
10 you were being held?

11 A. It was horrible, because as I settled there, as I
12 began to realize that I was there kidnapped in a sense to
13 look for a hope, to find a hope to live, to hang on
14 something that would allow me to think I was going to be
15 alive. I began to hear people being tortured, I heard
16 people being tortured, I heard the muffled sounds, the
17 sounds of people being tortured. And also I heard the
18 screams of people being tortured, I heard the sounds of
19 somebody being beaten. And I was there for maybe three
20 hours.

21 Q. Were you able to hear any distinct words from the
22 people in the room?

23 A. It happened that -- it happened that in my profession
24 we sometimes do, I believe that it is cruel, we used to
25 probe animals with electric thing to move them, pigs and

1 cows. I remember when I was there, I heard the sounds, the
2 guttural sounds of the people given electric shocks.

3 Q. You heard the sounds --

4 MR. KLAUS: Objection; no personal knowledge.

5 THE COURT: To the conclusion?

6 MR. KLAUS: To the conclusion.

7 THE COURT: Right, I sustain the objection.

8 MR. KLAUS: Move to strike.

9 THE COURT: Right. The jury is certainly free to
10 consider the Professor's testimony that he heard sounds.
11 The objection is what was being done to those people that
12 would have caused those sounds. So I sustain that.

13 Let's go back to Mr. Stern.

14 BY MR. STERN:

15 Q. Professor Mauricio, can you describe the electrical
16 sound you heard?

17 MR. KLAUS: Objection; leading.

18 THE COURT: Sustained.

19 BY MR. STERN:

20 Q. Professor --

21 THE COURT: The objection was to the word. You
22 need to get at what it was the professor heard.

23 BY MR. STERN:

24 Q. What sound did you hear, Professor Mauricio?

25 A. I heard the same sound of the electric prod we use.

1 The same sound, si, si, and after you listen si, it come
2 the guttural sound. And after that I hear the people
3 kicking, kicking after the electrical shock.

4 Q. Did you hear any sentences or words that you
5 associated in your mind with that sound?

6 A. Yes, as I say the guttural sound like ohh, ohh, ohh, I
7 heard the sound of the prodding.

8 Q. You indicated that you were handcuffed in the area at
9 the top of the chart?

10 A. Yes.

11 Q. At that time handcuffed there, were you -- did anybody
12 do anything physical to you? Were you subjected to
13 anything?

14 A. In that area?

15 Q. Yes.

16 A. Well, you know, I believe -- I am not sure, because I
17 was handcuffed, I was unable to see the faces on the people
18 that inflicted me the torture. I believe that the guy that
19 I push to the ground, he came and beat me very hardly
20 because he wanted to get even with me.

21 And I cannot say it more, but I was beaten at the
22 beginning because I was beaten later again with a, I
23 believe a metal thing wrapped up in rubber, because I
24 remember that the guy came and hit me in my chest first and
25 then hit me in my sternum here, and hit me in my legs. And

1 I remember he really enjoy hitting me in the face. I was
2 slapped in the face, I was handcuff, I was handcuff, and
3 this guy slap me in the face and give me a blow here in my
4 ear.

5 Q. I believe you testified that you were handcuffed in
6 that spot for a period of time. What happened then?

7 A. After three hour, more or less three hours of being
8 there, I was taken to another room. I was handcuffed again
9 to my back, and I was blindfold, always, always I was
10 blindfold, I was handcuff again and taken to this photo
11 room here. In this photo room, I was fingerprinted there,
12 they took my fingerprinting there. And after taking my
13 fingerprinting, the guy say he was going to take a picture
14 of me. So what happened, he say close your eyes, I am
15 going to take away the blindfold from you, close your eyes.
16 And when I order you to open your eyes, then do it.

17 So he took the blindfold from me, I close my eyes, and
18 I saw a man behind a camera, he had a camera, but what
19 happened, the camera run out of film. So the guy says
20 close your eyes again. I close my eyes. He put the
21 blindfold again and he ran for more film. He came back and
22 then he instruct me again, close your eyes, because I am
23 going to take away your blindfold, and then I am going to
24 take a picture of you, so I did it.

25 That moment was when I was able to look at the

1 surroundings, and where I was that particular moment. I
2 open my eyes, and I took the picture, and I saw where I was
3 in that particular area. He put the blindfold again, and
4 he led me from here. After taking a picture of me and
5 taking my fingerprinting, he led me from here to a room
6 which had mirrors on it. The whole walls were covered with
7 mirrors. So before, before he push me inside, he took the
8 blindfold away, he push me there, and I was standing up
9 there, no chairs, no nothing, just the room, and it was
10 surrounded by mirrors.

11 After awhile, after five, ten minutes, maybe, he say
12 come over, and then I left, left the place. He order me to
13 give me my back and he blindfold me again, because I was
14 handcuff, and I was blindfolded again, from that mirror
15 room I was taken again to the same place where I was
16 before.

17 Q. When you were in the photo room, did you have any
18 conversation with the man who was taking your picture?

19 A. No, not that I remember.

20 Q. Did anybody during this time say anything to give you
21 a reason to suspect why you were being detained?

22 A. No yet, no yet. They took me there, began to beat me
23 there, no reason, no yet. No yet. They didn't ask me
24 anything yet.

25 Q. The first night that you were in detention, did

1 anything further happen after you were returned to the area
2 at the top of the chart?

3 A. Yes. What happened is that from here, after being in
4 the mirror room, I was taken here, and from here, I was
5 taken to this place. I am able to say that this is the
6 kind of cubicles, because I saw the walls when I was
7 momentarily able to sit. So I was taken here (indicating)
8 to a guy who began my interrogation.

9 Q. And what was your interrogation?

10 A. It start to ask me my general whereabouts. My name,
11 the name of my brother, the name of my relatives, what I
12 did for a living and general questions about myself.

13 In a given moment he ask me for -- if I knew Juan
14 Ulloa, Juan Ulloa was chancellor of the university, and
15 later he was killed -- sorry, I am sorry, he was killed
16 before. He ask me for -- I am sorry, he ask me for Ricardo
17 Calderon, who was the general secretary of the university.
18 He ask me if I knew him, and I say yes, I know him, yes, I
19 know him, I know Ricardo Calderon, I know him. And he say
20 is he a guerilla, isn't he. And I say no, not to my
21 knowledge. I know him as a secretary of the university.
22 If he is a guerilla or not, that I don't know.

23 So, when I didn't ask him what he did, he order me to
24 get in a position that I put my hands in the ground and I
25 extended my feet and he say stay there. My feet in the

1 ground, and also my foot in the sand like a horse in a way.

2 And I was there and then after several minutes I said,
3 I cannot stand it any longer. And he said come here. And
4 he ask me about people I know, of course. For example, he
5 asked me about Ricardo Keas, Ricardo Keas, the former dean
6 of the school. I say yes, of course I know him, of course
7 I know him. And he said but he is a guerilla, and I say I
8 don't know.

9 That is the problem. And he became kind of angry that
10 I didn't ask -- I didn't answer what he was asking me. He
11 became kind of angry when I didn't give the answer he was
12 looking for. So he began to accompany every question that
13 he gave me with a blow to my stomach. Every time he ask me
14 and I say I don't know, he hit my stomach. So I got my
15 stomach, and he say answer me, answer me, and I say well,
16 you have to ask me what I know. If I don't know, how can I
17 answer you.

18 Then he move to other, other people, and I remember he
19 asked me about Derby, and I say who is Derby, you know him,
20 he is a guerilla member. And I say I don't know a guerilla
21 member, I don't know nobody. And he said well, you are
22 going to answer it.

23 And he move to make me to confess that I was a
24 guerilla member, but I say I am not a guerilla member, I
25 never belong to a guerilla movement. And then I don't know

1 from where, because at the beginning I sat in a, in a
2 chair, I believe, I don't know from where, because I was
3 handcuffed, then, I don't know what kind of device or
4 apparatus it was, but from my handcuffed hands a kind of
5 rope came to my back and it was pulled. And I remember
6 that I was pulled, and I have to stand up because I was
7 sitting, and then I stand up, and then the guy pulled maybe
8 the rope, I don't know what kind of it was, and he began to
9 push my arms through my back, and he began to question me
10 again when I was hanging from my arms.

11 Q. As the rope was pulled, what was the effect on your
12 arms?

13 A. It was excruciating pain. I thought for a moment I
14 was going to lose my arms.

15 Q. Was he accusing you of being a guerilla member
16 yourself?

17 A. Yes. He was saying that I must confess that I was a
18 guerilla member, that they already knew that I was a
19 guerilla member.

20 Q. Did they say how they knew you were a guerilla member?

21 A. Never.

22 Q. And how did you respond to his accusation of being a
23 guerilla member?

24 A. I told him I never belong, told him never belong to
25 any guerilla organizations. I don't know I really wanted

1 to answer him, I wanted to say yes, I am, yes, I am in
2 order to stop the torturing. But I am not, that is the
3 problem, I am not.

4 So I was there and I was in a painful, painful
5 situation, and I remember that in one moment, I don't know
6 if he left, but I got the idea that he left me there
7 hanging because I never heard him again. So I was there
8 hanging, and in order to alleviate my pain, I step on my
9 tiptoes, in order to alleviate the pressure of my body on
10 my arms.

11 THE COURT: Mr. Stern, we need to stop for the
12 mid-morning recess.

13 Let's take the mid-morning recess, and we will
14 come back and continue on with the testimony of Professor
15 Mauricio.

16 We will take a 15 minute break.

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

18 (Thereupon, a recess was taken.)

19 (Thereupon, trial reconvened after recess.)

20 THE COURT: Ladies and gentlemen, please be
21 seated. When we stopped for the mid-morning break, we
22 were in direct examination. Let me turn to Mr. Stern so
23 he can proceed.

24 MR. STERN: Thank you, Your Honor.

25

1 BY MR. STERN:

2 Q. Professor, I want to return to the first evening of
3 your capture. I believe you testified you were at the top
4 of the chart where you were handcuffed; is that correct?

5 A. (Shakes yes.)

6 Q. Could you answer audibly, please?

7 A. Yes, yes.

8 Q. And were you once again handcuffed at that location?

9 A. Yes. After -- I was asked to confess that I was a
10 guerilla member, and as this guy become very, very angry
11 because I didn't answer, and he left me there for several
12 minutes. I thought that he left forever, but as I was
13 saying, I wanted to confess and say yes, yes, I am, stop
14 torturing me. But I never belong to any movement in El
15 Salvador, so I couldn't.

16 When I was there hanging, the guy return and from
17 there he move me again to the same place where I was left
18 hand cuffed again. It was probably, I am not sure, one or
19 two in the morning.

20 Q. And were you taken to any other place that evening?

21 A. Well, I was in a, in a surviving gear in my mind,
22 everything in me was, you know, thinking what is going to
23 happen to me, what are they going to do to me, and I never
24 felt the need of sleeping. I never felt the need of
25 eating, nor at that particular moment of going to the

1 bathroom, because everything was so, so tense in me, so
2 hard, that I was there handcuffed and left there.

3 And probably in the morning, I am saying probably,
4 because I am never sure about time after several hours
5 there, I am not sure what happened because I was completely
6 disoriented. They came, may I say in the morning they came
7 to me again handcuffed and blindfold, again, and took me to
8 another place.

9 Q. Can you describe where you were taken?

10 A. It is outside of this area, because I was pushed and
11 led to another area in which I believed it was the boss
12 area, very clean, very well lighted, and through the space
13 left in my blindfold I was able to see chairs and a desk.

14 Q. And were you able to -- what other details about the
15 room or about the -- strike that.

16 What specific area -- what can you tell us about the
17 area in which you were taken outside of the first area that
18 you described?

19 A. I believe an office. I believe an office area.

20 Q. What makes you say that?

21 A. As I say, first, because was very clean, very clean
22 environment, a different environment. As I say, I saw a
23 desk, you have to know that I didn't see the whole desk,
24 but I saw the foot of the desk, the support of the desk.
25 And I saw chairs. And also I believe it was the boss

1 because the behavior of my torturers, it change to a kind
2 of trying to please the guy that they were -- they took me
3 there.

4 Q. Were you asked questions in that office?

5 A. Yes, by the guys, by the torturers, but no the person
6 that was there, only by the torturer, they were telling me,
7 kind of telling him, you are going to confess, right, and I
8 say yes, whatever you want to know, yes, as far as I know,
9 if I know it.

10 Q. What were you able to see or identify about this other
11 man in the office besides the torturers?

12 A. I was able to see the end of his pants and I saw
13 his -- the end of his green pants, military pants, and also
14 I saw his military boots, military boots I saw completely
15 but the end of the green pants.

16 Q. How about the other men, the torturers, were you able
17 to see anything of what they were wearing?

18 A. Civilian clothes and military boots.

19 Q. Did the man with the military pants say anything to
20 you?

21 A. Nothing.

22 Q. And were there any other details about the
23 interrogation at that location that you haven't told us
24 about? Any other questions that you were asked, specific
25 questions in that office?

1 A. In that office in the morning?

2 Q. Yes.

3 A. No that I remember.

4 Q. Okay. After you were interrogated in that office,
5 what happened then?

6 A. After I was with them, I was led away from the office
7 again. As I say, I was led because I couldn't, I couldn't
8 see, so I was led to the same place that I was before.

9 Q. And how long did you stay there?

10 A. I stayed there the whole day, I believe. I say there,
11 I don't know. I stayed there, what I believe it was until
12 ten p.m., probably, but it was completely silence there, it
13 was quiet. You know, it seemed that the people who worked
14 there have left, and it was completely silence. Because of
15 the silence, I guessed rightly where I was, I was in the
16 National Police headquarters. I confirm it later.

17 But at that particular moment I began to guess, where
18 am I, at that time I was left alone, I began to search
19 around the place and I remember that no less, no less than
20 20 persons were there with me, maybe more, no less than 20
21 person were there with me. And I began to try to make
22 contact with other people, to ask them, you know,
23 information. In that situation that you are reduced to
24 nothing, and you want to be human again. In a situation
25 which you are looking for something.

1 And I was able to, to talk to other guys there and I
2 haven't say yet, I forgot to say the first time I was
3 there, another agricultural engineer was captured, he was
4 captured after me, and I was able to talk to him. His name
5 is Moris Ticas Zanabria. He worked with me in the same
6 area. I talk to him the first night. The other days I
7 couldn't because I never saw him again there. I saw him
8 the night and also I saw another worker from the
9 university, so that night I was able to identify from the
10 university myself, Moris Ticas Zanabria, and Acosta, he was
11 a worker from the university.

12 So the next morning, as I say, I was there trying to
13 make contact with these other people, and as I was trying
14 to search there, I saw people badly, badly wounded and some
15 bleeding, other people with broken bones, and just laying
16 in the floor. And I remember that as I began to look in
17 the surrounding, and I believed that I was left alone,
18 moving my eyebrows and also because of the time my
19 blindfold was loosen, I learn to move my eyebrows in a way
20 to make it loose. And I got more space here, and I began
21 kind of searching around.

22 But as I was trying to look around, somebody came and
23 hit my face with his fist. He said, you are looking. And
24 he tight my blindfold, because what happened is, the guy
25 fist, the guy fist made it because I was looking. I knew

1 he was going to hit me and when he did like that, I put my
2 hands on my face. And he said, you are looking, you are
3 looking. So he pulled me tight, the blindfold again, and I
4 stopped trying to look because I knew somebody was there, I
5 wasn't alone, somebody was there.

6 However, in the coming days, what I did is, I again
7 tried to look, because I was in need for me trying to find
8 other people there. What I did is, I move my eyebrows and
9 loose the blindfold, and when the guy arrive, I go like
10 that, that I haven't seen him, and he believe I wasn't
11 looking. I didn't move. I knew he was going to hit me, in
12 a way I may be able to look at the surroundings.

13 Q. Professor Mauricio, what was the lighting like in the
14 room?

15 A. Darker than here, it was a flourescent light, but
16 darker here.

17 Q. At some point in the second day were you taken to
18 another location in the general area? Can you tell us
19 about that, please?

20 A. The torturing is carried out before midnight. It
21 seems to me that for reason that I don't know, prisoner
22 left alone in the morning, and then during the night they
23 come to torture them.

24 I was taken from that place. When I was handcuffed
25 here, the second night, my second night I was taken from

1 here to this area (indicating), and the guy who took me
2 there, he started to again ask me my activities as a
3 guerilla member. And I repeat again that I never belong to
4 any Army movement in El Salvador. But every time he ask me
5 something, he punch me, every question. Every question was
6 accompanied by a punch in my stomach or a slap in my face.
7 And as I said, I was handcuffed there and blindfold.

8 And he say, well, you have to confess now because
9 right now Radio Venceremos, the radio in El Salvador, Radio
10 Venceremos is asking for you. I don't belong to any Army
11 movement nor being a commander. He said Radio Venceremos
12 asking for you, you have been captured and they ask for
13 you. And I say how, how. And he said, see, you are a
14 commander. Now from being a member, they say I am a
15 commander. And I say no, I am no guerilla, no guerilla
16 commander.

17 So he began to kick me, he began to kick me in my
18 legs. I was handcuffed and he was kicking me. And a given
19 moment when I lie on the floor handcuffed and blindfold, he
20 kick me in my ribs because I believe he already discovered
21 I have a broken rib from the day before when I was hit with
22 the metal thing. I think he already knew I have a broken
23 bone here in my right side. So when I was on the floor, he
24 began to kick me, and he kick me in my stomach, and where I
25 have already a broken bone.

1 Q. Was he continuing to insist that you confess in being
2 a member of the guerillas?

3 A. Yes, he insisted. He insisted that I was a guerilla
4 member, and he -- before he began to kick me, he look at
5 the color of my shirt, and it happened in Merida. When I
6 was there, I give my clothes for a lady to wash them,
7 because she did for other people, also. She made the color
8 of my shirt with my initials, CM, stand for Carlos
9 Mauricio, but the guy was so obsessed, he said CM stand for
10 Comite de la Madres, which is a mother, a mother looking
11 for the kid that had been disappeared by the Army. And he
12 said you belong to Comite de la Madres, you have CM here.
13 And I said, no, that is my name, Carlos Mauricio. And he
14 said no, no, he began to push me again, and kick me again.

15 Q. What was the organization with the initials CM? Can
16 you tell us a bit more about that, please?

17 A. It is an organization basically made of mothers,
18 mothers looking for the disappeared kids. They are, I
19 believe, a peaceful organization also, but subjected also
20 to harassment by the Army.

21 Q. During the interrogation, did you get any other idea
22 why the interrogators believed you were a guerilla member?

23 A. Well, with me they became frustrated in a way because
24 they insisted I confess to something I didn't do it. They
25 became frustrated as they tortured me. Later that night I

1 was taken away to the same place, after they were asking me
2 for two, three hours, they were asking me about my
3 participation with the guerilla commander, and after they
4 took me back there, he took me back there, but later, when
5 I was in the other -- the other night, the other night,
6 this is the third night that I was there, he took me again
7 here, and they change their approach.

8 They began to beat me without any question, they began
9 to beat me and then the question came, and they say we know
10 now, we know you have been in Cuba, you went to Cuba, and
11 you have to confess that you have been in Cuba.

12 Q. Did they say why they believed you had been to Cuba?

13 A. Because I was not in El Salvador from 19 -- October,
14 1980 to July, 1982, that I was in Mexico.

15 Q. Had you ever been to Cuba?

16 A. Never, never.

17 Q. How did you respond when you were accused of having
18 been to Cuba?

19 A. Because this guy was more cruel than the other guys,
20 this guy really beat me very hard, he hit me very hard, in
21 a given moment I confessed. I say, yeah, yeah, please,
22 please, do not beat me any more, please, please, it's
23 enough. I say, yes, yes, I have been in Cuba. Because I
24 was bleeding, he hit my mouth, and he broke a tooth from my
25 mouth, and I was bleeding, so I said, yeah, yeah, that is

1 right, I have been in Cuba.

2 Q. And how did the interrogation proceed then?

3 A. Then he say, you see, you have been in Cuba. And I
4 say, yes, yes, do not beat me anymore. And he say, okay,
5 now you have to tell me who went with you, who gave you the
6 money, where did you get your passport, in which area of
7 Cuba you were military trained. And I say, I am sorry, but
8 I have never been in Cuba, so I cannot answer those
9 questions, and he began to beat me again.

10 He began to beat me, he was furious because I don't
11 know what obsession they have to make me to confess
12 something I never did.

13 Q. During the periods when you were not being
14 interrogated in the area at the bottom of the chart, did
15 you stay in the upper area where you were brought the first
16 night?

17 A. Yes. That was always -- after I been taken here, they
18 took me away and put me here again.

19 Q. When you were there, did you hear any other sounds of
20 the torture in the room around you?

21 A. Well, you know what happened, I saw a woman, I saw a
22 woman, she was crawling.

23 Q. Crawling?

24 A. Crawling, yeah. She was very, very bad wounded, and
25 she was crawling. She came close to me. I was hanging

1 up -- I mean standing up in this area, I was standing up in
2 this area. She came somewhere from here (indicating)
3 crawling, and she was very bad wounded. And she wanted to
4 be away from somewhere, probably from here, and she came
5 close to me. And the guy who came to take her back to
6 somewhere, because I was blindfold, I didn't know, was
7 telling her now I am going to apply you electric shocks,
8 and you will urinate and defecate in your underwear.

9 And at that moment, at that moment, you know, I began
10 to look at my surroundings, and I was able to see that the
11 badly, badly tortured were women, right there I realized
12 that women are treated worse than men, for a reason that I
13 don't know.

14 Q. Approximately how many women did you see?

15 A. No less than five. And I saw kids -- I didn't see
16 kids, I heard the voices of the kids.

17 Q. Approximately how many days in total were you kept in
18 this area?

19 A. I believe that in this area I was kept for eight,
20 eight days and eight nights.

21 Q. And during that period were you subjected to other
22 beatings in the evening as you described on the initial
23 days?

24 A. Every day, every day. As I say, the torturers became
25 very angry and because what I say from the beginning I kept

1 it, I kept the same words, I kept saying what I say the
2 first night, I kept the whole, the whole period I was kept
3 there. And I remember one of the guys accused me being a
4 very well trained guerilla because I never confessed.

5 Q. During the time you were kept in this area, were you
6 offered any food?

7 A. No. What I was given is -- well, the first, the first
8 day I never felt the need of eating. The first day I was
9 completely, completely in shock in a way that I never
10 felt -- my body was in another situation, and although when
11 I was offered food, I was offered a little tortilla with a
12 couple of beans in that, but, you know, that is another
13 world. I just bite a little bit of the tortilla, and that
14 is what I kept for my body.

15 Q. Were you offered any water during that period?

16 A. Yes, I was offered water, and what they did is that
17 they gave me water and when I drank it, it felt a little
18 bit bitter and I was unable to see what color or what the
19 water had, but I know it tasted bitter. And after drinking
20 the water, my mind began to work faster and I got a lot of
21 images, thousands of images came to my mind after drinking
22 the water.

23 Q. How long did having the images last?

24 A. For an hour, two hours.

25 Q. During this period were you allowed to go to the

1 bathroom?

2 A. Yes, but they waited. I asked them to go to the
3 bathroom, and they wait at least three hours after I ask
4 it.

5 Q. Did there come a time when you were taken to another
6 area outside of the area that you have been describing?

7 A. Yes. Finally probably after eight days, finally
8 before being taken to another area, one of the torturers in
9 a hint that I was going to be moved to another area, he
10 told me, he told me, you are in big trouble. He say, you
11 are in big trouble. And I say, really. Yeah, he said, we
12 cannot release you, that is not possible to release you.
13 You are a witness that what happened here. You are a
14 witness what is going on here and by no means we can
15 release you. And I told him, I am not going to say
16 anything. I will close my mouth and I am not going to say
17 anything.

18 So that particular day I was left here, here, the
19 whole day (indicating) and then during the night I was
20 taken to another area.

21 Q. Have you prepared for your testimony today another
22 chart to show the area where you were led to after this
23 area?

24 A. Yes.

25 Q. And have you looked that over to make sure it is

1 accurate as best you can recollect?

2 A. Yes.

3 MR. STERN: With permission of The Court I would
4 like to publish the second chart to the jury, please.

5 BY MR. STERN:

6 Q. Professor Mauricio, can you identify on this chart the
7 additional area to which you were taken?

8 A. Yeah, umm, the vehicle that took me here (indicating),
9 it entered through the back gate of the National Police
10 headquarters. It happens that I live here when I was
11 captured, and this is my neighborhood. I live in Barrio le
12 Vega y Candelaria for most of my adolescence and childhood.

13 When I was taken out of the chamber of torture, I was
14 taken to what international police call the common cells.
15 When I left the chamber of torture, I was able to see,
16 because they took away the blindfold that cover me the
17 whole time there. When they took away the blindfold, I
18 realized that I rightly guessed that I was in the National
19 Police headquarters.

20 Q. When you say -- I believe you described these as
21 common cells. What exactly does that mean?

22 A. The National Police, I have been there before, when I
23 say that, in 1972, the Army invaded university, I was
24 there, and I was taken to here precisely. I was taken to
25 the cells in the National Police headquarters, not only me,

1 but other university workers, July 19, 1972. So, when I
2 was taken to that area and put in one of the cells, I
3 already been there. So it is cells where usually the
4 criminals are kept there but now it was full of political
5 prisoners.

6 Q. How did you feel when you were taken to the public
7 cells?

8 A. Well, in a way I felt released, in a way. I felt that
9 now being able to see, probably, I will be released, or at
10 least I will not be suffering anymore, because now the
11 torture chamber is a real hell.

12 Q. Were there other individuals in the cell area together
13 with you?

14 A. Yeah. My cell, we were there in my cell about 12
15 people, 12, around that, and there in the cell was Moris
16 Ticas Zanabria with me, I never saw again.

17 Q. Moris Ticas?

18 A. Yes, Moris Ticas. He was there, he was my colleague.
19 We were 12, 10, something like that person there, and he
20 was a professor from the economy, school of economy, and
21 other guys saw us, other people.

22 Q. Did you recognize other people besides Moris Ticas?

23 A. No. No.

24 Q. How long were you kept in the public cells?

25 A. My main fear, it was they take me back to the chamber

1 of torture, that was my main fear. So what I did, I stayed
2 there and trying to talk with the other guys, many were
3 wounded, many were -- they need medical attention, and I
4 was trying to in a way to console them. And there was a
5 guy crying and crying, and I told him, hey, don't cry
6 anymore because he made me cry. So I was there and, you
7 know, telling them, hey, we are going to be released, we
8 are here in this, in this cell, so they cannot kill us
9 anymore, we are here, we know each other. So I was kept
10 there for about four days.

11 Q. During that period did you speak with anyone who came
12 from outside the prison area?

13 A. One morning, one morning somebody came, and the person
14 who came, he was a Red Cross international officer, and he
15 came and took my name and ask my whereabouts, and he ask
16 information about me. It was around 11 in the morning
17 probably and he ask me, why you have been detained. And I
18 say I don't know. I have never say why I have been
19 detained. They never say. I have been tortured for eight
20 days. But I told him, you know, you know, my concern is no
21 me any more, because you saw me, and you saw me, maybe I am
22 safe. You know, my concern is the people still being
23 tortured there, because that place, still people being
24 tortured, right now they are torturing, that is my concern.
25 What are you going to do about them. And he say, we are

1 not allowed to go there. They don't allow us to go there.

2 So he took my information that I gave, and he said I
3 am going to phone your family.

4 MR. KLAUS: Objection; hearsay, and move to
5 strike.

6 THE COURT: I sustain the objection and grant the
7 motion to strike.

8 BY MR. STERN:

9 Q. During the time you had been kept in the torture area,
10 had you seen or heard any representative of the Red Cross?

11 A. Never.

12 Q. After you were released, did you try to get
13 confirmation from the Red Cross that you had been visited
14 by a Red Cross official on that date?

15 A. I did.

16 Q. And what did you do?

17 A. I sent the letter to the National Red Cross company to
18 allow me to see my file.

19 Q. Did you get a response?

20 A. I did.

21 MR. STERN: If I could approach the witness, Your
22 Honor.

23 THE COURT: Yes.

24 BY MR. STERN:

25 Q. Professor Mauricio, I hand you Plaintiffs' 222, which

1 is in evidence, and I would like you to look in particular
2 at the second page of this document.

3 Is this the response you received from the Red Cross
4 in response to your inquiry?

5 A. Hold on a second, please.

6 Yes, it is.

7 MR. STERN: I would ask Mr. Green to publish this
8 page from Exhibit 222 to the jury.

9 BY MR. STERN:

10 Q. Is this one of the pages of the Red Cross response
11 that you received, Professor Mauricio?

12 A. Indeed.

13 Q. It states at the top, To Whom It May Concern, the
14 International Committee of the Red Cross, ICRC, confirms
15 that according to its records, Mister -- and then there are
16 a series of records with information. In the column
17 corresponding to full name, Mauricio Zepeda Carlos Ren,.
18 Is that your name?

19 A. That is my name.

20 Q. Under date and place of birth, the date of
21 February 14, 1952 is indicated. Is that your date of
22 birth?

23 A. Yes, indeed.

24 Q. Could you read the name for father corresponding to
25 father's name?

1 A. My father's name is misspelled. My father's name is
2 Zepeda, like the second last name. However, instead of an
3 E, they place an A. It is a misspelling, but you could see
4 it correctly written in my name.

5 Q. And how about in the space for mother, is that your
6 mother's name?

7 A. That is the name of my mother, but my mother doesn't
8 carry an H, so it is misspelled.

9 Q. The date of arrest, June 13, 1983 indicated; is that
10 accurate?

11 A. Yes, that is right.

12 Q. And then continuing at the bottom of the document, it
13 states has been visited by the ICRC delegates on the 21st
14 of June, 1983 at the National Police in San Salvador and
15 released on the 22nd of June, 1983, according to the
16 concerned authorities.

17 To the best of your knowledge is June 21, 1983 the
18 date on which you were visited by the Red Cross?

19 A. Yes.

20 Q. Is the next date, June 22, 1983, the date on which you
21 were released?

22 A. No.

23 Q. What is the correct date of your release?

24 A. I think three days later.

25 Q. I would like to ask you questions about your release,

1 Professor Mauricio. When did you get an indication that
2 you might be released from the public cell area of the
3 National Guard?

4 A. National Police.

5 Q. Excuse me, National Police.

6 A. Umm, you know, in what we deal, the prisoners, we try
7 to keep our clothes clean, you know, because the cells are
8 a filthy place. I was in a place that was so dirty, a
9 filthy place, so what we do is that we stay in the cell
10 with underwear, everybody wearing underwear. We try to
11 keep the clothes clean, and not contaminated by insects.
12 So I was there and one day a guy came and say,
13 Mr. Mauricio, and I say, that's me. Get ready, you be
14 released. And then the other guys began to say okay, go to
15 see my family, go to tell them that I am here, get my name,
16 and this is the address of my family, go to tell them. And
17 I say yeah, yeah, of course, I am released, I can do that,
18 but of course.

19 What I did is, I put the names of them and their
20 addresses and name of the relatives on a piece of paper and
21 I try to put it somewhere in my pant, but the guy who told
22 me that I was going to be released, he didn't come back.
23 So afternoon I say, well, that is part of the way that they
24 are, so I undressed again. I was in underwear there in the
25 cell, and around five, maybe, five or six, he came back and

1 he say, what, aren't you ready. I say, well, you came five
2 hours ago, so I undress. Quickly get dressed. You are
3 going to be released. But I didn't believe him. I didn't
4 believe him because he was, it was already dark. And I say
5 probably they were waiting for darkness to arrive and then
6 they would kill me.

7 So the guy came and he opened the door, I dressed, and
8 the guy opened the door, and I was precisely in the area of
9 the public cells in the National Police headquarters. And
10 when I came down to the gate, the back gate where I was
11 taken in, I saw my former wife.

12 Q. When you were getting ready to leave or leaving the
13 cell area, did the guards tell you anything about why you
14 were being released?

15 A. No. What happened is that in a series of very lucky
16 factors in a combination of very lucky factors, I am
17 allowed to stay alive, for several reason, not only one of
18 them. My former father-in-law, he is a military, he is a
19 captain.

20 Q. Did the prison person say anything to you as you were
21 leaving the prison?

22 A. As I say, when I saw my former wife and his brother, I
23 believe them, I say, so I believed them, but I was in a
24 stage of mind, and I was in a way that, when I saw them, I
25 felt that I was rebirth again. And she saw me, and she was

1 surprised my body was bad shape, bad, bad shape, my
2 condition because I lost a lot of weight there, and I have
3 cake, cake blood in my hair, and I was swollen from my
4 broken tooth, and I was in very bad shape.

5 And then when she saw me, she began to cry, and I was
6 crying with her. So the guy who was this there, in the --
7 now I was seeing people with uniform, all of them were
8 uniformed people, uniformed men, and so I was kind of
9 trying to know why it did happen to me, because so far I
10 haven't found the reason, why they torture me, why they
11 took me here.

12 And then the guy in the main gate, the back gate, he
13 say, you are a lucky man, you are a lucky man, better you
14 leave the country, otherwise, next time you won't be so
15 lucky. We are going to kill you immediately. So I told
16 him, well, I never participated in anything. And he say,
17 you have a lot of information. The problem with us is that
18 we treat you like an old clock, or old watch, either
19 farther to backward. But you have a lot of information.
20 And I told him, no, I never participated in anything.

21 So I left the National Police headquarters with my
22 former wife and my former brother-in-law.

23 Q. You discussed your physical condition at that time.
24 What was your mental state of mind when you left the
25 prison?

1 A. I don't think I have recovered yet from what happened
2 to me. From the mental situation that I left, after being
3 tortured. My former father-in-law took me to his house and
4 he harbor me there. He offered me a safe place to stay.
5 And he told me nobody is going to touch you if you are in
6 my home. And I told him, yeah, that is right, if I am
7 here, but eventually I have to leave. I have to go do some
8 things and I know that the police can capture me again.

9 So one day I wanted to buy a soda or to do something
10 out of the streets and I left my former father-in-law
11 house. I left it for a couple blocks and I saw a truck
12 with soldiers, and I couldn't look at them. I have seen
13 this only in the cartoons or on the T.V., but my whole
14 hair, my whole hair went like this, and I couldn't look at
15 them. I never believed that it is possible, but it is
16 possible, my whole hair went shu, like this, and I run back
17 to my father-in-law house.

18 Q. After you left the prison, did you ever get your car
19 back?

20 A. I retrieve it. I got my car back from the National
21 Police parking lot. I went there the second day. The
22 second day I went to retrieve my car. It was in the
23 parking lot, National Police parking lot.

24 Q. After you were released, did you learn about
25 activities that your friends and colleagues had taken on

1 your behalf when you were in detention?

2 A. You know, being captured in daylight, during the day,
3 being captured with a lot of witnesses, that in a way
4 allowed me to stay alive, because immediately that I was
5 captured, concerned people began to ask the Government
6 about my whereabouts, ask about me, so, yeah, friends and
7 organization paid ads in the newspaper.

8 Q. Are those paid ads compose pagados?

9 A. Yes. Campos pagados.

10 Q. Were any campos pagados published in the newspaper
11 while you were in detention?

12 A. Yes, several of them.

13 MR. STERN: If I may have permission to approach,
14 Your Honor.

15 BY MR. STERN:

16 Q. Professor Mauricio, I have handed you several pages
17 from Plaintiffs' Exhibit 223. Are these compose pagados of
18 the type you described?

19 A. Yes, they are.

20 Q. Three separate documents in Spanish and English that I
21 have handed you?

22 A. Yes.

23 MR. STERN: If I may, Your Honor -- Exhibit 223
24 is in evidence. I would like to put up some boards
25 showing these paid ads.

1 MR. KLAUS: Is this all one exhibit?

2 MR. STERN: They are all part of 223.

3 BY MR. STERN:

4 Q. There are two pages here, Professor Mauricio. One
5 closer to you is the Spanish original, and we prepared a
6 English translation.

7 Can you identify the lower bottom right-hand portion
8 of a page that has bates number R1261 as a compose pagados
9 relating to your detention?

10 A. Yes.

11 Q. If you look on the left-hand side, very left-hand side
12 of the Spanish document, there is a reference to El Mundo.
13 What is El Mundo?

14 A. Newspaper in El Salvador, one of the biggest paper in
15 El Salvador.

16 Q. What is the date that appears next to El Mundo?

17 A. This ad appear in El Mundo Tuesday, June 14, 1983.

18 Q. And where does that date fall in relation to the day
19 you were captured?

20 A. It is the day after I was captured.

21 Q. In the English translation the first -- top line of
22 the paid ad states that it is from the department of
23 agronomical sciences from the University of El Salvador.
24 Was that your department?

25 A. That is the department in which I worked.

1 Q. And the document states in English denouncing the
2 capture of the zoo technical agronomist Carlos Ren,
3 Mauricio Zepeda. Is that you?

4 A. That is me.

5 Q. The ad continues, staff of this department on Monday
6 the 13th at 1700 hours in front of the building of class
7 rooms located on 11th Avenue North between First West
8 Street and Arce Avenue. Does that accurately reflect the
9 time and location of your capture?

10 A. Indeed.

11 Q. The document continues, "We ask for the respect of his
12 moral and physical integrity and we demand his prompt
13 freedom or send him to the corresponding tribunal if he has
14 something pending with the law.

15 In the bottom it says managing board. What is that?

16 A. Managing board is kind of executive board of the
17 school, they deal with everything in the school.

18 Q. Thank you.

19 MR. STERN: If I could have the next two boards,
20 please.

21 If we could just have a moment, Your Honor.

22 Thank you.

23 BY MR. STERN:

24 Q. The next document I would like to ask you about,
25 Professor Mauricio, is another paid ad. Can you tell us

1 the organization that placed this paid ad which in English
2 is Society of the Agronomists of El Salvador?

3 A. In El Salvador every profession has an organization.
4 The doctors are organized in a doctor's organization, of
5 course, or the architects or engineers, so, likewise,
6 agricultural engineers are also in this organization, which
7 is the society of agricultural engineers. I belong to that
8 association.

9 Q. And do you know who from that organization was
10 responsible for putting this ad in the newspaper?

11 A. The president, the board of the -- the president of
12 the board, we were very good friends, Hector Marroquin
13 Arevalo. He was president of the association of engineers,
14 so he was responsible for putting this ad in the newspaper.

15 Q. Does this ad, like the previous ad, accurately reflect
16 the date and time and location of your capture?

17 A. Yes. Monday, the 13th of June, it says in front of
18 the building where the rooms of the -- the classroom of the
19 agricultural science, yes, that is correct.

20 Q. And what is the date of this paid ad?

21 A. The date is June 14.

22 Q. Thank you.

23 MR. STERN: If I could have the next two, please.

24 BY MR. STERN:

25 Q. Professor Mauricio, this document at the top in

1 English states, "The general association of Salvadoran
2 university students, AGEUS denounces".

3 What is this organization?

4 A. This is a student, university student organization.

5 Q. Were you a member of this student organization?

6 A. By the fact that I was -- at that moment, no, I was a
7 professional already, at that moment, but as a student in
8 the university by the fact that I was a student, I belong
9 to it.

10 Q. And what is the date on this advertisement?

11 A. June 21.

12 Q. What year?

13 A. 1983.

14 Q. The first paragraph of the document reads, "Before the
15 Salvadoran people and other people of the world, the
16 arbitrary action of which the university community is being
17 a victim, the increase of disrespect for the most sacred
18 rights and freedoms of the union person contradicts all the
19 arguments declared by the Government of the Republic with
20 regards to the democratization of the country in the search
21 for peace, therefore we denounce and condemn the kidnapping
22 of the following members of the university community."

23 Professor Mauricio, does your name appear on this
24 advertisement?

25 A. Yes, it is the -- here (indicating).

1 Q. What is the date of capture indicated?

2 A. It indicates I was captured June 13, 1983.

3 Q. And directly above the entry for your name it states
4 that a person named Moris Francisco Ticas Zanabria was
5 kidnapped 2200 hours in his house by four subjects dressed
6 as civilians and heavily armed.

7 Is that the Moris Ticas you testified about earlier?

8 A. Yes, he was my colleague.

9 Q. And that is the person you encountered when you were
10 in jail?

11 A. Yes, I encountered when he was in jail with me.

12 Q. When you were detained, did you know whether your
13 friends and colleagues contacted the military of El
14 Salvador to try to determine where you were being held?

15 A. Yes, yes, indeed.

16 Q. And what can you tell us about that inquiry? Tell us
17 about that.

18 A. The Society of Agricultural Engineers was a well
19 respected organization in society, as well as other
20 professional organizations, and immediately after my
21 capture, the president of the board of the Association of
22 Agricultural Engineers, he sent a letter, probably to the
23 Minister of Defense, asking for my release besides of the
24 paid ad in the newspaper.

25 Q. Do you know whether this person ever got any kind of

1 response from the military?

2 A. Yes, military responded to him.

3 Q. I would like to hand you another exhibit, Professor
4 Mauricio.

5 I've handed you two pages from Exhibit 223, Professor
6 Mauricio, one a Spanish original, and English translation.
7 Is this a document your friend received in response to the
8 inquiry of the Salvadoran military?

9 A. Yes, indeed.

10 Q. Up at the top left-hand corner of this document,
11 Professor Mauricio, there are words printed in letterhead.
12 Can you tell us what that says?

13 A. The Ministry of Defense and Public Security Republic
14 of El Salvador in Central America.

15 Q. And what is the date on the document?

16 A. June 23, 1983.

17 Q. Was that a date when you were still in detention?

18 A. Yes. I was in detention.

19 Q. And who is the addressee of this letter?

20 A. The addressee is Engineer Hector Marroquin Arevalo who
21 was the director of the board of the organization of
22 agricultural association, Association of Agricultural
23 Engineers. He was the president.

24 Q. Is this the person who asked the military for
25 information about your whereabouts?

1 A. Yes, he is.

2 Q. The document states in English, "In relation to your
3 official letter dated the 14th of the current month and
4 year, allow me to attentatively tell you that in actuality
5 the Doctors Carlos Ren, Mauricio Zepeda and Moris Francisco
6 Ticas Zanabria find themselves detained in the National
7 Police in the process of investigation."

8 There appears to be an official stamp underneath this
9 paragraph.

10 Can you tell me the name of the person who signed the
11 letter?

12 A. The person who signed the letter is Colonel Rafael
13 Flores Lima. Subsecretary of defense and public security.
14 You are talking about the top level of the hierarchy of the
15 Army.

16 Q. Professor Mauricio, after your release, did you do
17 anything to try to get medical attention?

18 A. Yes, yes, I did.

19 Q. And what did you do?

20 A. I went to see a doctor that work for the university,
21 and I explain him what happened to me. I explain him I
22 have a pain in my chest due to, probably to a broken rib
23 and I explain him I have a wounded eye, and I explain him
24 that I have a broken tooth, that I have contusions and I
25 have -- I was hit in the head, and everywhere in my body.

1 questions, but this might be an appropriate stopping
2 point.

3 THE COURT: Yes. Why don't we stop now for the
4 luncheon break. Why don't we stick to the schedule we
5 have been following and why don't we plan to take a break
6 until quarter of two. We will come back and either
7 continue on with Professor Mauricio's testimony or revert
8 to Professor Gilbert's testimony. I leave that up to
9 counsel.

10 Let's take a break for the luncheon recess.

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

12 THE COURT: Court will be in recess until quarter
13 of two.

14 (Thereupon, a recess was taken at 12:30 p.m.)

15 (Trial reconvened after recess at 1:45 p.m.)

16 THE COURT: We are missing some of the folks on
17 that side. We are concerned because some of the benches
18 on that side has split. We have put supports under it.
19 If we need to, we will replace it with chairs. If you
20 could pass it on to other people. We won't pass out
21 waiver of liability forms, but be careful.

22 All right. Are you all set and ready to proceed?

23 Mr. Marshal, would you bring in the jury, please.

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

25 THE COURT: Mr. Stern, to get a sense of what the

1 Plaintiffs are planning, Professor Gilbert, how do you
2 want to handle that testimony? Do you want to break when
3 she arrives?

4 MR. STERN: I have perhaps 20 minutes more, Your
5 Honor, so it is a question of the cross.

6 THE COURT: Okay.

7 Will the professor let us know when she is here?

8 MR. GREEN: I haven't been able to speak with
9 her.

10 THE COURT: Okay. She will probably come to the
11 courtroom, good.

12 Ladies and gentlemen, please be seated.

13 We are going to continue on with Professor
14 Mauricio's testimony. We expected Professor Gilbert to be
15 here 2:30 or so. We will make whatever judgment how to
16 proceed at that point.

17 Okay. Let me turn to Mr. Stern and allow him to
18 continue.

19 MR. STERN: Thank you, Your Honor.

20 BY MR. STERN:

21 Q. Professor Mauricio, before moving on to other topics,
22 I want to ask you about the period of your detention. You
23 testified this morning at one point one of the men in the
24 area where you were being held made a gesture as if to
25 strike you, and you made an effort to defend yourself. How

1 did you make that gesture to protect yourself?

2 A. Remember that I was handcuffed to the pipe one hand,
3 and the other cover me, I couldn't with this, but I tried
4 to cover in a instant, cover me. I push also the other
5 part of the handcuff, I cover with this, but I was not
6 allowed by this hand, but I cover with my other hand.

7 Q. Thank you.

8 Another question I have relates to the period when you
9 were held in the public cells. During the time you were
10 held in that area, were you ever transferred to another
11 area for any period of time?

12 A. Yes, indeed.

13 Q. Where were you taken?

14 A. I don't know for what reason, when I was in the public
15 cell, I don't know for what reason the cell in which I was
16 held, and other cell, also, all of us, we were taken to
17 another area which is the underground of the National
18 Police headquarters. I don't know why we were taken away,
19 it was during the night. I am sure somebody was coming to
20 look at us, it wouldn't be in the night.

21 But happen during the night we were taken out of the
22 cell and led, without blindfold, I was able to see, to an
23 area, we came down, we came down and then we enter the area
24 in which they have in the cells. They have a lot of goods,
25 they have refrigerators, stoves, close, furniture in the

1 cells, that area, but down there, in the underground area
2 of the building, it was a very small entrance to the
3 underground.

4 And we were led there and placed in little, little
5 cells, no more than -- no more than four person standing up
6 fit inside the little cells. And I do remember that
7 because you have to know that we haven't eaten for days
8 and, and a whole family was kept as a prisoner like me,
9 father, mother, and one kid. He was maybe 14, 14 years
10 old. And what I do remember is that I was passing by her
11 cell, she was alone in this tiny cell. I was passing by
12 there --

13 MR. KLAUS: Objection; non-responsive.

14 THE COURT: Tell me the question again.

15 BY MR. STERN:

16 Q. My question is, Professor Mauricio, when you went to
17 the underground area having left the public cell area, what
18 did you see?

19 A. I saw a woman who was in the little tiny cell by
20 herself, this is an underground area, and what is
21 incredible that she saw her boy, and when she saw him, I
22 don't know from where, she took a piece of cheese, I don't
23 know how she got a piece of cheese, and maybe she was
24 hungrier than us, she took her son's hand and she gave him
25 a piece of cheese, and I couldn't stand it, I began to cry

1 there.

2 Q. Was she a woman who was held in the underground area
3 that you were led to?

4 A. Yes, in the underground cell. I saw her the first
5 time there, and I realized that her boy was her son.

6 Q. How long did you stay in that underground area?

7 A. For about five hours. And they are tiny cells, very
8 tiny, tiny cells with a water container made of cement. We
9 call bellas. And I remember it was full of water, running
10 water, they have running water, and also I remember a lot
11 of water was running all over the walls, and it was full of
12 cockroaches.

13 Q. You referred to cells. Were you locked into some kind
14 of a cell area?

15 A. Yes. It had a door. In order to make us get in, the
16 guy came, closed the door and locked from the outside, he
17 locked the door, so we were left there for about, as I say,
18 five hours.

19 Q. Were there other people in the cell with you?

20 A. Yes, other people came.

21 Q. Approximately how many?

22 A. I think six. It was full, we were packed, tiny, tiny,
23 everybody standing up. I never understood why we were
24 taken there, maybe because other prisoners were taken, I
25 don't know.

1 Q. Okay. Again, with regard to the time when you were in
2 the public cell area, I believe you testified that other
3 prisoners gave you their names and asked you to contact
4 family members on their behalf. How were you able to
5 record the information that they gave you?

6 A. From somewhere, I don't know from where, a tiny piece
7 of pencil show up, and a tiny piece of paper also show up
8 and I was amazed the way the prisoners get some things.
9 For example, once in awhile we were offered coffee from
10 somewhere, little containers appeared, and we drank coffee
11 from little containers. I don't know from where they got
12 them.

13 Q. You also mentioned after you were released you went
14 back to retrieve your car from the National Police
15 headquarters. Were you concerned about being captured once
16 again when you went back to get your car?

17 A. I never walk outside of my former father-in-law alone.
18 Always, always, always I kept my former wife and my former
19 brother-in-law or anybody else with me so I can do that.

20 Q. Did you do that when you went to retrieve your car?

21 A. Yeah.

22 Q. At what point after your release did you determine
23 that you were going to leave El Salvador?

24 A. Well, it happened that I felt very bad. I decided to,
25 in a way, to save myself from becoming a crazy person, and

1 a group of people supported me and they, in order to save
2 me, they offer me support and the kind of scholarship for
3 going to Europe to continue my education. I was going to
4 continue there, my Ph.D. I got my Master, then the next I
5 should be getting my Ph.D.

6 Q. Where did you have in mind to go in Europe?

7 A. Belgium. There is a Jesuit university in Belgium, and
8 the Jesuit priests that were later killed, they offer me
9 help.

10 Q. Did you go to Belgium to continue education?

11 A. No. I went to Merida. I left El Salvador, and went
12 to Merida, and in Merida I spent probably two weeks waiting
13 for -- put everything in my mind, and before going to
14 Belgium I call my sister who lived in San Francisco and I
15 told her I want to come visit her.

16 Q. Do you remember the approximate date when you left El
17 Salvador to go to Merida, Mexico?

18 A. Probably left San Salvador three weeks after I was
19 released. I left San Salvador probably in the middle of
20 July.

21 Q. And where did you go from Mexico?

22 A. I flew, from Merida I flew to Miami and in Miami I got
23 a bus and I rode from Miami to San Francisco by bus.

24 Q. And what did you do when you got to San Francisco?

25 A. You know, one of my main problems when I was released,

1 it was that for every night I have nightmares. I got bad
2 dreams and I dreamed of being captured again, not being
3 tortured again, but captured again. It is just curious
4 that I was afraid in my dreams, and it happen every night.
5 But when I came to San Francisco and I saw part of my
6 family here, I decided to stay because when I saw them, I
7 found a kind of healing with my family. I felt better, and
8 my mind work better when I came to see them.

9 Q. Did you get a job in San Francisco?

10 A. Eventually, yes. Eventually I did get a job.

11 Q. And what did you do?

12 A. I came to San Francisco August, August, 1983, and I
13 remember that in November I got a job in a restaurant as a
14 dishwasher.

15 Q. And how long did you stay in the dishwashing job?

16 A. Three months.

17 Q. And what did you do after that in terms of your work?

18 A. After working as a dishwasher, I work in menial jobs.
19 I did back yard cleaning, I did construction worker, I did
20 painting houses, I did whatever, whatever came to me
21 because I need to make some money to send to my kids in El
22 Salvador.

23 Q. At that time, in the initial period when you were in
24 San Francisco, did you still have in mind -- did you still
25 have it in mind to return to El Salvador?

1 A. Yes, yes. It was, for me, I always wanted to work for
2 the University of San Salvador. I want it. And when I was
3 captured, I was in a situation which due to my
4 administration expediciencies, and also due to the fact I was
5 a Master Degree and given important tasks, I was in a path
6 to deanship. I really wanted to be dean of the school of
7 agronomy.

8 Q. Was that your goal when you are living in San
9 Francisco, to return to San Salvador to be a dean?

10 A. Yes, I wanted to go back and work again in San
11 Salvador.

12 Q. After the menial jobs you described, what other jobs
13 did you have in the United States?

14 A. After I managed to learn some English and through a
15 friend I got a job in the University of California, in
16 Berkeley, I got a job as a lab technician.

17 Q. When you came to the United States at the beginning,
18 did you speak English?

19 A. No, not at all.

20 Q. How did you learn English?

21 A. I went to school during the night.

22 Q. And how long did you continue working as a lab
23 technician at the University of California?

24 A. I work there for about five years. I always kept in
25 the back of my mind of becoming teaching again. I wanted

1 to be a teacher again. So what I did is, because I wanted
2 to be a teacher, I did enroll myself in biology classes in
3 order to update my knowledge in biology. During the '90's,
4 after I left the job in University of Berkeley, I enroll
5 myself in the classes of molecular genetics in the
6 university.

7 Q. Did you get a degree in molecular genetics?

8 A. I got one as an engineer while I pursued my studies in
9 molecular genetics.

10 Q. Was this from San Francisco State?

11 A. Yes.

12 Q. What degree did you get?

13 A. I got a degree as a genetic engineer as a part of my
14 education in the Master of molecular genetics.

15 Q. When did you get that degree?

16 A. 1997.

17 Q. In the '90's after you left your employment at UC
18 Berkeley, did you continue to work?

19 A. Yes. Happen that I was paying myself all of my
20 education and eventually I drain all of my savings and
21 temporary I gave up my education as a -- my education in
22 the Master Degree program. So what I did, I look for a
23 job, and I work as a biologist as San Mateo County.

24 Q. Where is San Mateo county?

25 A. San Mateo a county that cover several cities in San

1 Francisco.

2 Q. You mentioned you wanted to be a dean at San Salvador
3 University. Why didn't you return?

4 A. At that time I was afraid. I wanted to go back, but I
5 realized I was afraid of going back to San Salvador. But
6 also the situation is that unwillingly I was developing
7 roots in the United States, so in a given moment although I
8 wanted to go back, I knew, understood that I live here in
9 the United States, and this is now the country where I
10 live.

11 Q. You mentioned at the very beginning this morning you
12 now work as a high school science teacher. How did you end
13 up in that job?

14 A. What happened is always, always, my dreams, when I --
15 I began to take classes in San Francisco State University,
16 was going back to the classroom, so what I did after
17 getting enough science knowledge, you know, I got several
18 courses in economy, DNA, or biology of nuclear classes or
19 that kind of science, and I understood that I got enough
20 knowledge to be able to teach again. I moved from the
21 science area, I move to the education area in San Francisco
22 State University.

23 What I did is I enrolled myself for my teaching
24 credentials. Being able to get my teaching credentials, it
25 would enable me to teach in San Francisco. So in December,

1 2000, I got from the San Francisco University, I got my
2 teaching credentials.

3 Q. And when did you become a high school teacher?

4 A. I didn't start immediately, because I finish my Master
5 Degree in education. After my teaching credentials, I was
6 working both. Teaching credentials and Master in
7 education. So in December, 2001 I got my Master Degree in
8 education and I began to look for a job in the beginning of
9 this year. So I got my teaching position a short time ago,
10 basically.

11 Q. Did you have to write a thesis in order to get your
12 Master's in education?

13 A. I did indeed. That was very difficult for me,
14 difficult write a thesis for my Master's.

15 Q. What was the subject of your thesis?

16 A. I want -- the issue is dropping out of high school,
17 Latinos, and Latino students.

18 Q. And what were some of the themes you were dealing with
19 in your thesis?

20 A. One of them is why we, or how we should help the
21 students in order to keep them in school, in order to make
22 them finish high school, and then enter in college. That
23 is one of the questions, the basic question of my thesis,
24 how we can help them.

25 Q. Is that thesis, and the research you did for your

1 thesis relevant for the job you have now?

2 A. Indeed. I am working for a school in San Francisco,
3 Balboa High School, which is a school for disadvantaged
4 kids. Basically the composition is 40 percent African
5 Americans, and 40 percent Latinos, and the rest Asians.

6 Q. Do you have any physical -- currently have any
7 physical health problems associated with your detention in
8 1983?

9 A. From the wound that I got in my right eye, I still
10 have -- I see a shadow, I focus on something that is a
11 shadow in the vision, in the picture there is a shadow in
12 my eye.

13 MR. KLAUS: Objection. Goes beyond the scope of
14 his knowledge.

15 THE COURT: Overruled -- well, let me stop you
16 for a minute.

17 The objection is to the cause of the problem?

18 MR. KLAUS: Yes.

19 THE COURT: All right. Let me allow counsel to
20 establish when these problems first developed.

21 BY MR. STERN:

22 Q. Professor Mauricio, before your detention and capture,
23 did you experience the eye problem you described?

24 A. No, not at all.

25 Q. Based on the symptoms you have experienced, do you

1 attribute that problem with your eye to things that
2 happened to you in detention?

3 A. Indeed. It came from that, when I was kicking my eye,
4 and wounded, and I had problem with my arms, the way I was
5 hanged probably has damaged some things inside of the
6 junction of the bones, and also I still have the --
7 sometime the pain of having a broken ribs.

8 Q. What about psychologically speaking, has the detention
9 had -- does the detention continue off to have an impact on
10 you?

11 A. You know, for two years, for two years in a row, every
12 single night I was dreaming of being captured again, every
13 single night. I was afraid of falling asleep because I
14 knew I was going to have these bad dreams of being captured
15 again.

16 For two years in a row I was so afraid of many things,
17 but dreaming of being captured again was really making me
18 crazy. However, however, one day I dreamed of San
19 Francisco, and I concluded that somehow I was healing from
20 that when I was -- after two years being able to dream by
21 the first time that I was living in San Francisco.

22 Q. What about today, do you feel you have had a
23 psychological impact on your life from that experience?

24 A. I am affected in many ways. When I have problems,
25 domestic problems, for example, I have flashbacks of being

1 captured. When I am having problems in my job, I have
2 flashbacks of being captured. When there is a situation of
3 a lot of stress in my life, I have a situation -- I have
4 flashbacks and I cannot sleep. I have problems sleeping
5 or, or the fear, the fear of many things. I am afraid of
6 something but I don't know why. I am afraid of something,
7 but I don't know what I am afraid of, so, or, or sometimes
8 comes for no reason comes a need of crying. I need to cry,
9 I don't know why, but I need to cry sometimes. Sometimes I
10 am reading, sometimes I am myself, and sometimes I am with
11 other people, but I have this overflow of feeling that want
12 me to cry.

13 Q. Have you tried to get treatment for the issues that
14 you are talking about?

15 A. Yeah. I be in treatment with a therapist now and I
16 made a mistake for a reason that I am going to explain
17 later, I didn't go to the therapist immediately after I
18 came here, but now that I am in treatment, now that I am
19 visiting my therapist, now I can understand that the only
20 way to heal is coming to treatment, but torture is so bad,
21 nobody wants to talk about it, and I didn't want to talk
22 about it. I felt shame. But when I understood that
23 talking about may heal in a way the wound that I have, then
24 I visit the therapist, and I am in treatment now.

25 Q. Overall, how do you believe that the experience of

1 detention has affected your life?

2 A. Well, when I was in San Salvador I was very, very
3 satisfied with the fact that I was in a way to get what I
4 wanted. I wanted to be a teacher and I wanted to
5 eventually become a dean in the university, the
6 agricultural sciences school. I was uprooted from San
7 Salvador, and I came to the United States and what I was
8 doing in San Salvador no longer was real.

9 I came to the United States after being a professor in
10 the university. I came to start again from scratch. It
11 took basically 19 years of my life to be in the same
12 position that I was in San Salvador with a Master Degree.

13 What I am saying is, whatever effort I did in San
14 Salvador it was meaningless because I came to the United
15 States and start again to scratch, and took me 19 years to
16 get another Master's Degree.

17 Q. Are you currently married?

18 A. Yes, I am.

19 Q. And live in San Francisco?

20 A. I do live in San Francisco.

21 Q. What is your immigration status?

22 A. I am a legal alien.

23 Q. Do you intend to try to become a United States
24 citizen?

25 A. Yes, as soon as I fulfill the requirements.

1 MR. STERN: No further questions.

2 THE COURT: Is Professor Gilbert here, do we
3 know?

4 Would it make sense to move into the cross
5 examination, Mr. Klaus?

6 MR. KLAUS: That is fine with me. I don't mind
7 being interrupted.

8 THE COURT: Let's go ahead so you may conduct
9 cross examination.

10 MR. KLAUS: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. KLAUS:

13 Q. Professor Mauricio, when were you born?

14 A. February, 1952. February 15, 1952.

15 Q. When were you married the first time?

16 A. What I am calling my former wife, she was my common
17 law wife, I never married her, but I live with her for 14
18 years. I call her my wife because we live together for so
19 many years, although my very first time I get married was
20 here in the United States.

21 Q. Okay. When did you have your first child with your
22 common law wife?

23 A. I didn't have a kid with her. I have it with other
24 women.

25 Q. How many children do you have in El Salvador?

1 A. I have two kids.

2 Q. You have two kids total, altogether?

3 A. Yes.

4 Q. And are either one of them with your common law wife?

5 A. No.

6 Q. How old are your children, and where do they live?

7 A. Carlos is 29, and Gabriela is 22. They live in El

8 Salvador.

9 Q. Do they have the same mother, or do they live with the
10 mother?

11 A. Different mother.

12 Q. When Mr. Stern asked you your immigration status, you
13 said you were a legal alien. You are a permanent resident
14 now?

15 A. I am a permanent resident now.

16 Q. Okay. Did you apply for political asylum?

17 A. I did.

18 Q. And when did you apply for political asylum?

19 A. I did apply for political asylum in, around January,
20 February, 1984.

21 Q. Were you granted political asylum?

22 A. No. I was never taken to court for a hearing. I
23 applied, I was given authorization for working and a form
24 to apply for my Social Security number, but I was never
25 given a hearing in the Immigration offices.

1 Q. So you were -- you made your application for political
2 asylum, and you received your legal -- received the right
3 to work visa, and Social Security application?

4 A. Yes, indeed.

5 Q. You never had a formal or final hearing on your
6 petition for political asylum?

7 A. No. Never.

8 Q. Later on did you apply for permanent residence?

9 A. What I did is apply for the ABC Program in which
10 allowed people like me who were not granted political
11 asylum, we were given the second opportunity of second
12 opportunity to apply for the ABC Program, and got my
13 application for working.

14 Q. And you got your permanent residency?

15 A. Yes, later I got my permanent residency.

16 Q. Did you have a political issue in applying?

17 A. Yes.

18 Q. Did you relate what happened to you in El Salvador?

19 A. Yes.

20 Q. The same story?

21 A. The very same story.

22 Q. Did you have a lawyer then?

23 A. Yes.

24 Q. Did you ever attempt to bring what happened to you to
25 the attention of any legal authorities in El Salvador?

1 A. No, I didn't, because it was clear for me that it was
2 too dangerous. And also I remember when I left National
3 Police headquarters, the guy who was there warned me better
4 to leave the country.

5 Q. Have you been back to El Salvador since '84?

6 A. Three times, '88, '89, and 2000.

7 Q. Were you aware prior to that about Commissions for
8 Humans Rights being established in El Salvador?

9 A. Not that I remember.

10 Q. Have you been in contact with people in El Salvador
11 your whole time that you --

12 A. My relatives.

13 Q. And your children?

14 A. Yes. My children, also.

15 Q. Did anyone there make you aware that there were Human
16 Rights Commissions set up to receive complaints?

17 A. No.

18 Q. Did you -- were you contacted by the Truth Commission
19 of the U.N.?

20 A. No.

21 Q. What made you decide to sue General Vides and General
22 Garcia?

23 A. I am suing General Vides, Garcia, he was already out
24 of office, General Garcia was the Minister of Defense.
25 There is a need of seeking justice in me. There is a need

1 of being able to have a court day. I was wanting that. I
2 was needing to have my court day.

3 Q. Your day in court?

4 A. My day in court. I went through this for 19 years,
5 and I really wanted this. Human beings, I believe they
6 pursue justice and fairness, and what I was looking to have
7 justice in my case. I believe that I was not only
8 illegally kidnapped and tortured, but I believe that coming
9 to court is also part of my healing, the suffering that I
10 have. I need an answer.

11 I need an answer from General Garcia -- I mean Vides
12 Casanova, why I was detained and tortured for no reason,
13 and he did nothing to stop it or to prevent it.

14 Q. Why did you wait 16 years to bring the lawsuit?

15 A. I didn't know that General Casanova was here in
16 California. A friend of mine told me the Center for
17 Justice and Accountability was having a case against them,
18 that another survivor of torture was suing them, and they
19 ask me if I want to join. And after, after looking at -- I
20 did join because, I have to think very carefully because I
21 have my family in Salvador, and I was kind of afraid
22 something might happen to them, so after thinking
23 carefully, I decided to join the case.

24 Q. So who was the friend who told you that there was a
25 lawsuit that the Center for Justice and Accountability was

1 bringing a lawsuit on behalf of a survivor of torture?

2 A. This is a friend from San Francisco State University,
3 we were classmates there.

4 Q. And who contacted you from the Center for Justice and
5 Accountability, or did you contact them?

6 A. No. I came with my friend, and he introduced me to
7 the lawyers for the Center of Justice and Accountability.

8 Q. Is that who is paying your costs for the lawsuit?

9 MR. STERN: Objection; irrelevant.

10 THE COURT: Sustained.

11 BY MR. KLAUS:

12 Q. You are still teaching in the high school?

13 A. Yes, I do.

14 Q. Were you able to -- ever able to identify the man who
15 actually kidnapped you?

16 A. No, I don't think so.

17 Q. Were you ever able to identify the men who tortured
18 you?

19 A. I don't think so.

20 Q. Did you make inquiry to the authorities in El Salvador
21 about who those people may have been, who was working at
22 that time?

23 A. Maybe the authority that I should inquire could be
24 their bosses, so it could be dangerous.

25 THE COURT: Dangerous.

1 BY MR. KLAUS:

2 Q. You never went to the Truth Commissions or Human
3 Rights Commissions in El Salvador, correct?

4 A. No.

5 Q. And you never inquired through any authorities in El
6 Salvador about who may have kidnapped you and who may have
7 tortured you; is that correct?

8 A. This is correct.

9 Q. And you waited 16 years to bring this lawsuit. Again,
10 why?

11 A. Well, I wanted to bring a lawsuit against Colonel
12 Vides Casanova from the very movement I left the prison,
13 but it was not possible in El Salvador. So until I learned
14 that here in the United States somebody was suing him, I
15 joined, I joined the suit.

16 Q. Did you ever make an effort to locate him after you
17 left El Salvador?

18 A. There is no reason to locate him.

19 Q. You just said you wanted to bring a lawsuit against
20 him from the day you were released from prison?

21 A. I didn't try to locate him.

22 Q. Did you ever contact an attorney in the United States
23 to bring a lawsuit to pursue what you wanted to do, to sue
24 General Vides?

25 A. No, no, I never did it.

1 Q. Why not?

2 A. In order to know how to proceed in this case, I should
3 know some laws, but I don't know laws. I don't know that
4 it is possible to do that. And when I learned that it was
5 possible, I did it.

6 Q. Well, you never even asked a lawyer about it, even
7 though you just testified you wanted to sue him from the
8 day you were released from prison, you never went to a
9 lawyer until somebody told you about the case being filled,
10 right?

11 A. That is right.

12 Q. Why not?

13 A. Because I never knew it was possible to sue him. I
14 never knew it was possible. You are talking about a person
15 who is very powerful in El Salvador. You have to know the
16 Army was responsible for carry out the genocide against the
17 Salvadoran people.

18 Q. You were living in the United States.

19 A. I am sorry.

20 Q. You were living in the United States since 1984.

21 A. 1983.

22 Q. Since 1983?

23 A. Yes.

24 Q. That is 16 years before the lawsuit was filed. During
25 that time you never sought the advice of a lawyer about

1 whether you could sue Mr. Vides; is that correct?

2 MR. STERN: Objection; asked and answered.

3 THE COURT: Sustained.

4 MR. KLAUS: Nothing further, Your Honor.

5 THE COURT: Thank you, Mr. Klaus.

6 Redirect examination?

7 MR. STERN: Nothing further, Your Honor.

8 THE COURT: Professor, you may step down.

9 (Witness excused.)

10 THE COURT: The Plaintiffs may call your next
11 witness.

12 MR. GREEN: We have Ms. Gilbert who is outside.

13 MR. KLAUS: Actually, I think --

14 THE COURT: You were in cross examination, yes.

15 Would it make sense to move that easel to get it
16 out of the way?

17 (Lauren Gilbert retook the stand being previously
18 duly sworn.)

19 THE COURT: Professor, if you would be good
20 enough to come back up on the stand, and please sit down
21 there. Take your time to put your papers and whatever you
22 need.

23 After you are seated, for the clarity of the
24 record if you would restate your name.

25 The pointer is on the witness stand if counsel

1 wants to take care of that.

2 MR. GREEN: The other thing, during redirect I
3 anticipate using the screen, if I may turn on the
4 projector.

5 THE COURT: Sure.

6 THE WITNESS: Lauren Gilbert.

7 THE COURT: Thank you very much.

8 Mr. Klaus.

9 MR. KLAUS: Thank you.

10 CROSS EXAMINATION

11 BY MR. KLAUS:

12 Q. Good afternoon, Ms. Gilbert.

13 A. Good afternoon.

14 Q. I want to the start with how did you come to be a
15 member of the Truth Commission?

16 A. Well, I was a staff attorney for the Truth Commission,
17 I, at the time I was hired, I was working for Roberto
18 Cuellar at the Inter-American Institute for Human Rights in
19 Costa Rica. He is a Salvadoran who had been a legal
20 adviser to Archbishop Romero and was involved in advising
21 the commissioners on the implementation of the Truth
22 Commission mandate.

23 Q. They have all the staff members listed in one of the
24 annexes, I think, right? And I see -- is the information
25 about you correct? This is on page 198 of the report.

1 Truth Commission Report. Bachelor of Arts and Magnum cum
2 laude from Harvard, 1983, magnum cum laude, 1988?

3 A. Correct.

4 Q. You were a Fulbright Scholar?

5 A. Correct.

6 Q. And you studied in Costa Rica on the Fulbright
7 Scholar?

8 A. I taught in Costa Rica on the Fulbright scholarship.

9 Q. That is at the School of International Relations?

10 A. That is where I ended up teaching. I ended up moving
11 over to the School of International Relations so I could
12 teach my international trade course.

13 Q. And then you worked with the deputy director?

14 A. That is Roberto Cuellar.

15 Q. Roberto Cuellar.

16 You had other things in between. If you want to say
17 what they were, that is fine.

18 A. I was a private attorney at Arnold and Porter, which
19 is a major corporate law firm in Washington, D.C. And
20 while I was an attorney at Arnold and Porter I also had
21 been involved with monitoring the elections in Chile in
22 1989.

23 Q. Do you speak Spanish?

24 A. Yes, I do.

25 Q. And when you went to Chile, you went as part of what

1 organization?

2 A. International Human Rights Law Group. I was part of
3 the delegation.

4 Q. Now, you were hired by the Truth Commission when --
5 when you worked for them from when to when?

6 A. From the very beginning of September, the first -- it
7 was like the first days of September, I don't remember
8 exact days, but literally within the first few days until
9 the Commission mandate ended March 15, 1993. From
10 September, '92 to March, 1993.

11 Q. Since that time, what have you done?

12 A. Since that time, let's see. After the Commission for
13 about six months I was hired as the director of a project
14 at the Center for International Policy. Following that I
15 was --

16 Q. Where is that?

17 A. Center for International Policy is in Washington, D.C.
18 It is a think tank. Following that I was a director of the
19 Women in International Law Program, Washington University
20 College of Law from '94 until July of 1998, I believe.
21 From July, '98, beginning of August, '98 to May, 2000, I
22 was managing attorney for the Advocacy Center in Miami,
23 Florida, and I became southeast field office attorney for
24 the Catholic Immigration Network in Miami, and was recently
25 hired as a professor at St. Thomas.

1 Q. Do you still work for the Catholic Legal Services?

2 A. Literally -- we are collaborating on some conferences
3 we are going to be offering at St. Thomas Law School. I am
4 no longer employed by them.

5 Q. At what area do you teach?

6 A. I run the immigration clinic and will be teaching
7 first year torts class starting in August. It is a full
8 year course. Both semesters.

9 Q. Now, we talked, and I know Mr. Green emphasized this,
10 that there were three standards of findings or evidence
11 that you applied before someone would be named in the Truth
12 Commission Report by name?

13 A. That's correct.

14 Q. Can you refresh our memory?

15 A. Sure. The three standards are overwhelming evidence
16 standard, highest standard, which basically means proof
17 beyond a reasonable doubt. The second standard is
18 substantial evidence standard, which is basically
19 comparable to clear and convincing standard, so more than
20 50 percent, but substantially more than 50 percent to give
21 a guarantee, a real sureness that the statements are true.

22 And the final standard is basically the preponderance
23 standard. It is basically more likely than not that the
24 act was committed. And that is comparable to the
25 preponderance standard.

1 Q. Now, the report refers to this -- the report covered
2 the time period between 1980 and 1981?

3 A. 1991.

4 Q. 1991, correct. And the report refers to this as the
5 dirty war. Why?

6 A. I think because it was a war to -- with, I think the
7 declared goal of fighting communism, stopping the rebels
8 that the government found that it did not distinguish
9 between members of the FMLN, members of the rebels, and
10 civilians. And I think it was referred to as the dirty war
11 because the goal was to -- they felt it was necessary to
12 attack the civilian population in order to identify people
13 who were cooperating with the guerillas.

14 Q. You don't think it was called the dirty war because it
15 was a war that had no rules, like a dirty fight?

16 A. I think that could have been part of it. I have
17 never -- I haven't thought a lot about that, but there are
18 issues regarding the lack of standard, the failure to apply
19 humanitarian law to the conflict. Humanitarian law is
20 applied in conflicts between parties from different
21 countries, but there are rules that apply to internal
22 conflicts, and part of the concerns were those rules of war
23 were not being applied to the internal conflict.

24 Q. I want to focus on one of your -- you had two basic
25 investigations that appear in the report, correct, two

1 things that you researched?

2 A. A --

3 Q. I notice they refer to you as a researcher, not
4 investigator.

5 A. I think I was listed as an investigator. Where are
6 you referring to?

7 Q. Where it has a list of the members of the Commission.

8 A. He were collectively referred to as consultant
9 investigator. I have the Spanish report. I think my role
10 was attorney investigator, since I was specifically
11 involved in investigation of specific cases. I am sorry,
12 the Spanish version of the report, which was the original
13 language, refers to it as consultants and investigators.

14 Q. I am looking at 193.

15 A. Right. That is the English version. Those staff
16 members were all of the investigators of the specific
17 cases.

18 Q. Let me ask you about that, then.

19 A. Okay.

20 Q. I am looking at your qualifications. Have you ever
21 had any training in forensics?

22 A. No, I haven't.

23 Q. Have you ever been a police officer?

24 A. No, I haven't.

25 Q. Have you ever been a detective?

1 A. No, I haven't.

2 Q. Have you ever been an investigator?

3 A. As an investigator -- I mean, I think of an
4 investigator as someone involved in looking into specific
5 events. When I was in Argentina in 1992, where I
6 investigated certain conditions in the country at the time.
7 I think -- I think when they refer to investigators, all
8 the people listed as investigators generally had some
9 experience doing human rights work, but not necessarily
10 people who are involved in police activities.

11 These were mainly, you know, people who had some
12 background in human rights work, or in working with
13 individuals whose rights had been violated, social workers,
14 or other capacities. And there were forensic investigators
15 as well. Most of the people who are listed here under
16 investigators were all the people who had some background
17 doing human rights work.

18 Q. Isn't investigation a search for the truth?

19 A. Certainly.

20 Q. Okay. Now I want to go back to your investigation
21 regarding -- I am looking at page 101 of the report.

22 A. Okay.

23 Q. We talked about the focus of your investigation.
24 Maybe we can cut this short.

25 Was the focus of your investigation finding witnesses

1 to corroborate -- let me ask you first, how many witnesses
2 did you interview regarding the -- what is titled here
3 enforced disappearances of Ventura and Mejia?

4 A. I can't remember the exact number. I would say it was
5 probably somewhere around, sort of between seven and ten
6 individuals.

7 Q. And we talked yesterday about your focus not being
8 trying to identify who the members of the National Guard or
9 the men wearing National Guard uniforms were that actually
10 handed these two students over to what is referred to as
11 some men in civilian clothing who drove off with them in a
12 private car. That wasn't the focus of your investigation,
13 correct?

14 A. The focus was corroborating that the testimony we
15 received from family members and from other witnesses was,
16 was -- that that testimony was valid. That we wanted to
17 not just focus on the specific testimony that we received
18 from people who may have considered themselves interested
19 parties in the investigation, but from independent sources
20 who could verify what they had testified to had actually
21 happened.

22 So that was really the focus. It was clear beyond a
23 reasonable doubt that the National Guard were the ones who
24 were involved in taking the boys and bringing them into the
25 Embassy grounds. The issue was to be able to corroborate

1 what the witnesses told us was in fact the truth, that
2 there were National Guardsmen who took those actions.

3 Q. You wanted to find more witnesses who said or saw the
4 same thing that the initial witnesses said?

5 A. We wanted to find people who were clearly unbiased who
6 could testify what happened so we could confirm that was
7 true.

8 Q. Without trying to find out who the National Guardsmen
9 were again?

10 A. As I said, if we had more time, we would have gone
11 that step further and tried to identify specific members of
12 the National Guard. The way the Commission was set up, we
13 did intakes and testimony, and halfway into the mandate we
14 specifically decided on the cases that we were going
15 investigate. Although there are some cases we investigated
16 from the very beginning because there are specific cases,
17 Jesuits massacre and Romero case, there were cases we
18 decided we would focus on once we were well into our
19 mandate.

20 If we had additional time, we would have taken actions
21 to attempt to identify members of the National Guard, but
22 we simply ran out of time and we needed to leave the
23 country by the middle of January, and there were some
24 concerns that our lives were in danger, too.

25 Q. What were the conditions in El Salvador January 22,

1 1980; if you know?

2 A. I think it was one of the most violent periods in
3 Salvadoran history. There were a number of -- this -- for
4 example, it has been awhile since I have gone back and sort
5 of reread the case.

6 Q. Well, what did the witnesses tell you was --

7 MR. GREEN: Excuse me, she didn't finish her
8 answer.

9 MR. KLAUS: Sorry.

10 THE WITNESS: I have had to refresh my
11 recollection about this case. It was a very difficult
12 time, and for example, one of the things, you know as you
13 go through the evidence, it is important to point out is
14 that Mario Zamora who was the state prosecutor became
15 personally involved in this case, and was murdered
16 literally the day after the event. Now --

17 Q. Yes?

18 A. Now, it is not clear whether it is any connection to
19 the case, but it is a coincidence that he was murdered at
20 the same time. Some of the most publicized killings took
21 place during this particular period, so it was a very
22 difficult time in the context of the civil war.

23 It was within a couple months of that Archbishop
24 Romero was killed, so it was a very violent period in
25 Salvadoran history.

1 Q. Was this during the first FMLN offensive?

2 A. Yes, I believe it was.

3 Q. The first final offensive?

4 A. There were a number of final offenses.

5 Q. That is what I mean. This was an expressly violent
6 time when there was open warfare occurring in this state in
7 El Salvador?

8 A. It is a period marked by a lot of disappearances,
9 extrajudicial killings by the police, disappearances by
10 death squads. It was a very --

11 Q. This is a period of actual open warfare between FMLN
12 forces and government forces?

13 A. I don't think there was open warfare in San Salvador.
14 I think there was open warfare in other parts of the
15 country, but not open warfare as we think of it in San
16 Salvador. This is a political protest that had been
17 violently broken up.

18 Q. Were you aware National Guardsmen were being paid by
19 wealthy landowners to do what they wanted them to do?

20 A. Our research did indicate that the National Guard
21 historically had a relationship to landowners.

22 Q. And also by exiled El Salvadorans who are living in
23 Florida --

24 A. In Miami.

25 Q. In Miami, yes. Key Biscayne?

1 A. I thought about it driving home last night. Yes.
2 Yes, there were death squads that were beginning to finance
3 a lot of these operations.

4 Q. But, members -- actual members of the National Guard
5 were being paid by wealthy people to do what they wanted,
6 even though they were wearing National Guard uniform?

7 A. Well, it was the time where the death squads were
8 being formed, D'Abuisson, Major D'Abuisson had become more
9 and more powerful, it was something going on. There were
10 concerns there were not sufficient attempts by the leaders
11 of the National Guards to control those activities. They
12 were members of the National Guard.

13 Q. So, it may not have been -- when you had the
14 opportunity to interview General Vides about this, when was
15 that, in 1992?

16 A. It would have been in probably January, 1992 -- no, I
17 am sorry, January, '93, right near the end of the
18 Commission, before we went back.

19 Q. How did that interview come to take place?

20 A. All of the -- basically the staff interviewed lower
21 level government officials and were able to call members of
22 the military, but when it came to people of a certain
23 stature in society, it was decided commissioners would be
24 the ones who would do the actual interviewing and meeting
25 with these individuals.

1 And so because they were people who were specifically
2 under investigation and were likely to be named in the
3 final report, they were invited to meet with the
4 commissioners to discuss these various cases.

5 Q. And where was Mister -- where was General Vides
6 residing at that time?

7 A. I don't recall. I thought he was in El Salvador, but
8 I am not positive. I know we met with him in San Salvador.

9 Q. Do you know how he was contacted?

10 A. I really don't. I was not involved with arranging his
11 appointment.

12 Q. But this was your case?

13 A. It was the commissioners involved scheduling higher
14 level members of the armed forces for the meeting. That
15 would have been the administrative matter, administrative
16 staff would have handled.

17 Q. He was retired from the military at that time, right?

18 A. I believe so.

19 Q. Were you present during the interview?

20 A. Yes, I was there.

21 Q. Did anyone ask him where he lived?

22 A. They may have. It was almost ten years ago, I really
23 don't recall.

24 Q. Okay. And he denied any knowledge of Mr. Ventura or
25 Mr. Mejia being kidnapped by the National Guard, correct?

1 A. What I remember is that he generally denied all of the
2 allegations against him. I don't specifically remember him
3 denying that particular case. I think -- I really don't
4 remember. What I do remember is --

5 Q. You want a minute to refresh your memory?

6 A. It won't be necessary. Unfortunately all of the
7 documentation from the Commission is basically sort of in
8 the U.N. I don't have any way of doing that. I don't have
9 any notes, I don't have any reports beyond the report that
10 is in the Truth Commission Report.

11 Q. If this would have been a kidnapping or abduction
12 arranged by right-wing or private individuals who paid
13 National Guardsmen to hold these two men, both age 25, and
14 hand them over to these three plain clothes people, General
15 Vides wouldn't have any knowledge of that happening; is
16 that correct?

17 A. If it had been purely a death squad operation, he
18 would not have had -- he might not have had any information
19 at the time they were seized, but at the time -- what
20 happened was, subsequent to their being kidnapped and
21 disappeared, almost immediately thereafter there was an
22 effort to go to the National Guard and meet with him. And
23 that is the point where he basically denied -- and he also
24 denied the State Department version of what had happened.

25 The State Department, Embassy specifically provided

1 information that they had witnessed the National Guard
2 bringing the men on the premises and putting them into this
3 unmarked vehicle. He denied that as well, he denied
4 everything.

5 Q. Not only -- not only -- there were lawyers hired right
6 away --

7 A. Correct.

8 Q. -- that pursued this?

9 A. Right.

10 Q. And also, like you said, the chief state counsel,
11 Mario Zamora, filed a complaint right away, filed a habeas
12 corpus and pursued this right away, especially for the two
13 college kids?

14 A. Right. There was immediate attempts to locate them in
15 the hope -- I think there was a concern they may have
16 actually been at the National Guard and that there was a
17 concern if they could be reached immediately, their lives
18 could be saved.

19 Q. Again, when asked about it, General Vides denied
20 what -- any knowledge of what had happened, correct?

21 A. At our interview he generally denied any specific
22 involvement in any of the events that he had been accused
23 of participating in.

24 Q. Did he offer to take a polygraph?

25 MR. GREEN: Objection; irrelevant.

1 THE WITNESS: I don't remember.

2 THE COURT: Just a minute, please.

3 MR. GREEN: Objection; irrelevant. Move to
4 strike.

5 THE COURT: I will overrule that.

6 THE WITNESS: I really don't remember whether he
7 offered to take a polygraph or not. Frankly the one thing
8 I remember, he presented all of his awards and trophies
9 that he received from the U.S. Government in his efforts
10 to fight communism, and that is what stayed with me most
11 clearly in that interview.

12 BY MR. KLAUS:

13 Q. Now, look at page 103. The first full paragraph. We
14 are still under the heading of Mr. Ventura and Mr. Mejia?

15 A. Three months later?

16 Q. "Three months later the death squad known as --" can
17 you help me?

18 A. Ejercito Secreto -- Secret Anti Communist Army.

19 Q. "-- published a list of names which included people
20 who had already been murdered or disappeared, such as
21 Monsignor Romero, Father Rutilio Grande, and Chief State
22 counsel --" who we just talked about "-- Mario Zamora."

23 And also there is another report in the Truth
24 Commission regarding his murder?

25 A. That is correct.

1 Q. "The names of Francisco Arnulfo Ventura and Jos,
2 Humberto Mejia were on the list. At the end of the list
3 was an exhortation that said help us get -- at the end of
4 the list was an exhortation which read", in quotes, three
5 dots, "help us get rid of all these traitors and criminal
6 Communists. The country will thank you for it."

7 Did this indicate that there was a right ring
8 paramilitary group involved in this, or can you tell me?

9 A. It certainly is a strong indicator that the death
10 squads were involved in this disappearance, but the
11 National Guard was also directly involved, and that is the
12 issue, there was an integral relationship between death
13 squads and members of the Salvadoran police.

14 Q. Okay. This is where the distinction needs to be made.
15 There were two members of the National Guard, two members
16 is the only evidence you have that there were two members,
17 the two men who held Mr. Mejia and Mr. Ventura are the two
18 National Guardsmen involved, correct?

19 A. I am not sure where you are getting the two members.

20 Q. It says that in your report.

21 A. I am sorry, could you tell me what page you are on?

22 MR. GREEN: I ask she not be interrupted.

23 THE COURT: Overruled.

24 BY MR. KLAUS:

25 Q. I stand corrected. It says National Guard. Do you

1 know how many National Guardsmen were there?

2 A. I don't know the specific number. There were a number
3 of members of the National Guard who brought them into the
4 Embassy grounds, and other members who stayed with them
5 until the private car arrived. I don't, I don't recall how
6 many were actually involved in the operation, and our
7 understanding was that there were a number of National
8 Guard outside the Embassy, brought inside, and several
9 members stayed until the car arrived, because they needed
10 several members to be able to detain them. I don't know a
11 specific number involved, if I ever did. I don't remember.

12 Q. It says on page 102, according to a number of
13 witnesses, members of the National Guard arrested them,
14 meaning Mr. Mejia and Mr. Ventura at the Embassy gate and
15 took them into the parking lot.

16 The only members of the National Guard you know were
17 involved were the people present at the scene, correct?

18 MR. GREEN: Objection. Which scene?

19 THE WITNESS: The only ones involved --

20 THE COURT: Wait a minute. Please, stop. Legal
21 objection?

22 MR. GREEN: Predicate, foundation, scene.

23 THE COURT: Predicate, foundation is not legal.
24 Too broad.

25 MR. GREEN: Not clear whether it is the arrest at

1 the Embassy.

2 THE COURT: Overruled.

3 BY MR. KLAUS:

4 Q. The only National Guardsmen you have evidence were
5 involved in the unlawful detention of the two college
6 students were those present at the scene, at the Embassy?

7 A. That were actually involved in detaining them outside
8 of the Embassy, taking them into the Embassy grounds,
9 waiting for the car to show up, and turning them over,
10 those are the people that we have specific witnesses to
11 testify to their involvement.

12 THE COURT: Mr. Klaus, if I might, we need to
13 stop for the mid-afternoon recess. Why don't we do this,
14 let's take a 15 minute break, we will come back and
15 continue on.

16 We will take a recess for 15 minutes.

17 Let me allow the jury to step out.

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

19 THE COURT: Professor, if you would, you speak
20 very quickly. I tell you what the problem is, the problem
21 is, we've -- we are trying to interpret, and I think the
22 interpreter speaks more loudly when you are moving along
23 because he is rushing to catch up with you. The reporter
24 is trying to get everything, and we are having a
25 difficult, we are having a difficult time when we get into

1 Spanish names. We want to make sure the record is
2 accurate.

3 I will ask Mr. Klaus to have you slow down, and
4 you need to let the Professor finish her answer, and,
5 Professor if you wait until Mr. Klaus finishes his
6 question, sometimes the last two or three words may affect
7 the question, and we won't be talking with each other.

8 Let's take a break for 15 minutes. Some other
9 folks came into the courtroom after we started. I want
10 you to know we are concerned about the front bench. There
11 is a weakness in it. We added support, but I think it is
12 safe. We want you to be on guard about that.

13 THE WITNESS: Sequestration still applies?

14 THE COURT: Right, if you would not talk about
15 your testimony. You can talk about anything else.

16 (Thereupon, a short recess was taken.)

17 (Thereupon, trial reconvened after recess.)

18 THE COURT: I have had a chance, Professor, to
19 talk to some of the folks. If you would consciously slow
20 down, that would be good.

21 Let me go back to one of the objections. There
22 was an objection posed whether General Vides offered to
23 take a polygraph. We all know polygraph examinations are
24 not admissible, but one of the issues is whether someone
25 knew or should have known about something. Seems to me a

1 polygraph is admissible or statement when someone is
2 confronted with a situation and said I never heard of that
3 before. Clearly that is admissible, clearly I think
4 someone if they did say they wanted to take a polygraph is
5 admissible. Where you go from there is more cloudy. That
6 is why I overruled that objection.

7 We want to be sure we stop to answer and so on.
8 I know the interpreters are having a real difficulty in
9 keeping up with everybody.

10 I think it would be helpful if we happen to have
11 a spare copy of the Truth Commission Report.

12 Remember we talked about one that may not have
13 been redacted. If by chance you had one of those and
14 could allow Mrs. Stipes to borrow it for awhile, because
15 she is sending some of the record to a scopist who is
16 preparing it. To the extent that the questions are
17 focused on specific pages or questions, that would be very
18 helpful, and we will get it back to you.

19 MR. GREEN: This is not redacted, a brown cover,
20 United States Truth Commission Report.

21 THE COURT: We will get that back to you. Thank
22 you very much.

23 Mr. Marshal, bring in the jury, please.

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

25 THE COURT: Ladies and gentlemen, please be

1 seated. We are in cross examination. I will turn back to
2 Mr. Klaus and allow him to proceed.

3 MR. KLAUS: Thank you, Your Honor.

4 BY MR. KLAUS:

5 Q. Again, Professor Gilbert, we will try to go slower.

6 When General Vides was interviewed, he appeared
7 voluntarily, correct?

8 A. Yes, he did.

9 Q. Was he placed under oath?

10 A. No, he wasn't. It wasn't a judicial proceeding.

11 Q. And none of the witnesses interviewed by the Truth
12 Commission were placed under oath, correct?

13 A. Not that I remember.

14 Q. And that's because this wasn't a judicial proceeding?

15 A. That's correct. And, you know, I would like to
16 comment, you asked yesterday about the due process issue,
17 and at the time I wasn't comfortable answering your
18 question because I hadn't really thought about it since the
19 time I was a member of the -- on the staff of the Truth
20 Commission.

21 But I think it is important to keep in mind this was
22 an agreement by the parties between the government and FMLN
23 how the Truth Commission would proceed in doing its
24 investigation and doing its work, and --

25 Q. And this was a brand new animal --

1 MR. GREEN: Judge, she hasn't finished her
2 answer.

3 THE COURT: Have you concluded?

4 THE WITNESS: No. Yes, it was a brand new
5 animal, and I would like to point to page 22 of the
6 Commission report where it talks about methodology of the
7 Truth Commission. And I was looking at that yesterday
8 evening, and thinking about your question.

9 I think it was due process based on the agreement
10 of the parties. Due process has one meaning in the
11 context of a criminal trial, and has a different meaning
12 in other processes. Due process has a different meaning
13 in other areas of the law. If you look on page 22, under
14 methodology, the third paragraph down, if I could just
15 read that.

16 BY MR. KLAUS:

17 Q. Please.

18 A. "In establishing the procedure that the Commission was
19 to follow in performing its functions, paragraph seven of
20 the mandate provided that the Commission would conduct its
21 activities on a confidential basis. Paragraph five
22 established that the Commission shall not function in the
23 manner of a judicial body. Paragraph 8(a) stipulated that
24 the Commission shall be completely free to use whatever
25 sources of information it deems useful and reliable, while

1 paragraph 8(b) gave the Commission the power to interview,
2 freely and in private, any individuals, groups or members
3 of organizations or institutions. Lastly in the fourth
4 preambular paragraph of the mandate the parties agreed that
5 the task entrusted to the Commission should be fulfilled
6 through a procedure which is both reliable and expeditious
7 and may yield results in the short term, without prejudice
8 to the obligations incumbent on the Salvadoran courts to
9 solve such cases and impose appropriate penalties on the
10 culprits."

11 Q. If you could read the final paragraph.

12 A. "In analyzing these provisions of the mandate, the
13 Commission thought it important that the parties had
14 emphasized that the Commission shall not function in the
15 manner of a judicial body. In other words, not only did
16 the parties not establish a court or tribunal, but they
17 made it very clear that the Commission should not function
18 as if it were a judicial body. They wanted to make sure
19 the Commission was able to act on a confidential basis and
20 receive information from any sources, public or private,
21 that it deemed useful and reliable. It was given these
22 powers so that it could conduct an investigation procedure
23 that was both expeditious and, in its view, reliable in
24 order to clear up without delay those exceptionally
25 important acts of violence whose characteristics and

1 impacts urgently require that the complete truth be made
2 known."

3 Q. This Commission was formed as parts of the peace
4 agreement between the war infractions of this war?

5 A. Correct. It was an agreement between the parties.

6 Q. And the main purpose being reconciliation and
7 reformation of the nation -- as a nation?

8 A. It was finding the truth in order that the nation
9 could achieve some kind of national reconciliation.

10 Q. With the notion that any prosecution or any legal
11 punishment or compensation would be determined by the
12 courts of El Salvador, correct?

13 A. Right. The idea was it was the court's responsibility
14 to determine criminal liability.

15 Q. Or civil liability?

16 A. And civil liability.

17 Q. And compensation for any victims of unauthorized
18 crimes against humanity or unauthorized acts of violence,
19 torts, even?

20 A. That was the purpose of the Commission.

21 Q. Okay.

22 A. And also to make recommendations for structural
23 changes in society so this kind of thing would never happen
24 again.

25 Q. And these kind of problems could be dealt with

1 effectively. The Commission made recommendations as to
2 judiciary and how the judiciary should -- of El Salvador
3 should be independent, that it should be able to function
4 free from influence from either the executive branch or
5 military branch, correct?

6 A. That's correct. I would add that there was a real
7 concern on the part of the commissioners that the judicial
8 system was so bankrupt that it couldn't count on the
9 judicial system to be able to do the right thing in some of
10 these cases, so it was a real dilemma for the
11 commissioners.

12 Q. That is why they made specific recommendations how to
13 improve and strengthen the judicial system and justice
14 system of El Salvador?

15 A. That is correct.

16 Q. Okay. Now, I notice in various parts of the Truth
17 Commission if there was obstruction perceived by those
18 interviewed or -- I mean obstruction perceived by those
19 investigators or researchers, that it was mentioned in the
20 report -- and I am going to refer specifically on page 160,
21 page 121, and page 69.

22 A. What is your question?

23 Q. If obstruction was perceived by the researcher or
24 interviewer, it was put in his report, correct? If someone
25 wasn't cooperating, if one of the members of the peace

1 agreement, one of the participants didn't cooperate as per
2 the mandate that they agreed to, in other words, weren't
3 forthcoming with information, obstructed the investigation
4 of the researchers, it was mentioned in the report,
5 correct?

6 MR. GREEN: Objection; compound question.

7 THE COURT: Sustained. Let me ask you to break
8 that up, if you would.

9 BY MR. KLAUS:

10 Q. Okay. Let's look at page 160. I am referring to
11 under the title ERP, the fourth paragraph where it says,
12 "To the Commission, Miranda continued to deny his
13 involvement. He even claimed that he had made up
14 everything he had said about the murder and its planning.
15 Nevertheless, he gave details of the murder and the way in
16 which it was apparently planned that tally with other facts
17 and that according to our investigation he had not given
18 before. He provided information on the time of the meeting
19 held the night before the murder, where the pick-up truck
20 came from, who obtained it, and how he got to Anaya's
21 parking lot in order to be able to act as look-out before
22 the murder."

23 If he had obstructed -- he continued to deny his
24 involvement, but he didn't -- that is not -- that is the
25 wrong page, sorry.

1 Page 69.

2 MR. GREEN: I move to strike.

3 THE COURT: Well, let's go ahead, if we can.

4 BY MR. KLAUS:

5 Q. Paragraph number five.

6 "The Minister of Defense and Public Safety General
7 Ren, Emilio Ponce is responsible for failing to provide
8 this Commission with information on the military operation
9 carried out in the area of El Junquillo canton, thereby
10 failing to honor the obligation to cooperate with the
11 Commission on the Truth entered into by the government."

12 If someone failed to cooperate, it was entered into
13 the report, correct?

14 A. It was true in this case, but I don't think it was
15 necessarily true in every case. Each person did their own
16 separate report which was then revised by the commissioners
17 and advisers. I can't say there was a general rule every
18 time someone refused to cooperate, it was specifically
19 included in the report.

20 Q. So that wasn't a rule that you all filed -- followed
21 in your research and investigation?

22 A. No. Everyone did their own -- who had been involved
23 with particular investigations did their own particular
24 reports and then the commissioners took those reports.
25 They may have been involved in interviewing high level

1 witnesses, but they basically based their final reports on
2 the original report. So if the original report had not
3 indicated that, then it might not -- wouldn't necessarily
4 have made it into the final report.

5 I don't think there was any clear standard always
6 referred to cases where someone had denied involvement and
7 refused to cooperate.

8 THE COURT: Professor, could I ask you, you told
9 us and explained to us how the decision on whether to name
10 someone was ultimately made by the Commission itself.
11 That was regarded as a very significant decision.

12 Would the same be true, in other words, if it
13 were concluded that there was a significant event and you
14 felt that someone was stonewalling on it? Was that also a
15 decision left to the Commission as to whether there would
16 be a public statement in the report that so and so would
17 not cooperate with us? In other words, was that a
18 decision made at the commissioners' level, do you think?

19 THE WITNESS: I am not sure I understand the last
20 part of your question.

21 THE COURT: When there is a statement in the
22 report, for instance, indicating that a particular person
23 declined to assist the Commission or maybe even went
24 further and the Commission felt they wouldn't cooperate,
25 and so that person is named as having declined to

1 cooperate, do you know whether the decision to name that
2 person was also at the commissioners' level?

3 THE WITNESS: It was definitely at the level of
4 the commissioners to decide whether to name someone who
5 refused to cooperate. I know that -- I don't know
6 specifically what happened in this particular case
7 involving the Dutch journalist. I know obviously Ren,
8 Emilio Ponce was a major target -- was a major focus of
9 the investigation because of his involvement in the Jesuit
10 case, and some of the issues that they were confronting in
11 this case were to a certain extent influenced by the
12 investigation of the Jesuits murder.

13 THE COURT: Thank you very much. Let me go back
14 to Mr. Klaus.

15 BY MR. KLAUS:

16 Q. Minister of Defense Ponce was Minister of Defense at
17 the time the Truth Commission Report was done, correct?

18 A. That's correct.

19 Q. And he resigned the day it came out, right?

20 A. That's correct.

21 Q. He was the Minister of Defense. They are talking
22 about his cooperation with the Truth Commission in its
23 interview, not cooperation regarding investigation of any
24 particular act of violence?

25 A. I am really -- I don't feel competent to answer that

1 definitively. Let me review that paragraph.

2 I think in this particular report they are referring
3 to his failure to cooperate in the investigation of this
4 particular incident. This conclusion directly relates to
5 his failure to cooperate with this particular incident.

6 But obviously he was also under investigation because
7 of his involvement in a number of other crimes that the
8 Truth Commission was investigating.

9 Q. He wasn't Minister of Defense when the Dutch
10 journalists were killed? That was in '82?

11 A. Correct.

12 Q. It had to be regarding the inquiry -- the general
13 investigation being done by the Commission at that time.

14 A. In that case, I think -- I really don't know, I am
15 really speculating. I don't feel competent to answer the
16 question, but I think because he was Minister of Defense,
17 he was obviously a specific concern to the commissioners
18 because he did have some authority over the implementation
19 of the mandate of the commissioners and whether they were
20 able to go about and do their work, because he had that
21 decision making authority. I don't say that from direct
22 knowledge, but just from my experience during that period
23 of time.

24 Q. Now, the three levels of proof that we discussed, that
25 have been discussed a few times, was that the accepted

1 standard of everyone who participated in the Truth
2 Commission?

3 A. It was really a standard that evolved over time when
4 the commissioners, when the process of putting together the
5 final report. I think when we were doing our
6 investigations, there was no clear standard of proof that
7 we were operating under at the time. We were really just
8 following basic principles of human rights and humanitarian
9 law. When they developed the standard, it was in the
10 context of determining whether they had evidence of making
11 conclusions for purposes of including it in the final
12 report.

13 Q. Well, would the Commission in reports of particular
14 cases, particular acts of violence, the Commission would
15 make findings, correct?

16 A. That is correct.

17 Q. And they would say whether the evidence that they
18 found was overwhelming, substantial, or sufficient?

19 A. Yes.

20 Q. Were they the three words of art agreed upon by the
21 commissioners to be used to describe the level of evidence
22 found by the Commission -- by the investigator of those
23 particular acts of violence?

24 A. Right. Assessing the evidence the investigator
25 gathered, those are the standards that they applied in

1 producing the report. The one standard that did exist was
2 obviously that we needed to be able to corroborate. We
3 could not make any conclusions based on the testimony of
4 one witness alone or one piece of evidence. That is one
5 standard that obviously governed all of us in our work, the
6 duty of the need to cooperate.

7 That legal standard was developed later on when the
8 commissioners were working with their advisers to put the
9 final report together.

10 Q. I see places in the report where those words of art
11 aren't used, the word overwhelming, substantial or
12 sufficient. I see many instances where the word full
13 evidence is used. What did that mean? In particular, page
14 53. And I have like 20 instances of evidence being
15 described as full. Where does that fit in between
16 overwhelming, substantial, and -- the three levels you
17 described before, overwhelming, substantial and sufficient?

18 A. Right. Can I check the Spanish version of the report?

19 Q. Sure, I will give you pages.

20 A. Let me check the Spanish version because -- pleno,
21 which means full.

22 Q. Because on page 53 I see evidence referred to as
23 substantial, and then I see there is evidence without any
24 adjective, and then there is full evidence, and then I see
25 again substantial.

1 What is the difference?

2 A. I am really not sure.

3 Q. Okay. Now, on page 178 of the report they mention
4 penalties.

5 A. 178?

6 Q. Yes. That is under recommendations.

7 A. Okay. All right.

8 Q. And again the Commission refers to, "It is not within
9 the Commission's powers --" looking at the first full
10 paragraph. Is this correct, "It is not within the
11 Commission's powers to directly impose penalties on those
12 responsible. It does not have judicial functions and
13 cannot therefore decide to impose a particular penalty on a
14 person. That is the function which by its nature properly
15 belongs to the courts, a question which raises serious
16 problems for the Commission."

17 This is what you referred to before.

18 "Accordingly, the problem and possible solutions to it
19 cannot be discussed in isolation from the current situation
20 in the country."

21 Again, they are referring to penalties are up to the
22 courts of El Salvador and that their concerns are how bad
23 the judicial system was after 12 years of conflict?

24 A. That's correct, yes.

25 MR. KLAUS: If I could have a minute, Your Honor.

1 THE COURT: Surely.

2 BY MR. KLAUS:

3 Q. The only other thing I wanted the jury to be aware of
4 is the epilogue, which is page 187, and that is entitled
5 The Seekers After Peace. Did you participate in that?

6 A. No.

7 Q. It refers to a Mayan poem. El Salvador was a country,
8 originally Mayan country, originally inhabited by Mayan
9 Indians?

10 A. I believe so, although there is not much of an
11 indigenous culture left in El Salvador, pretty much wiped
12 out.

13 Q. Says here, "All these things happened among us." Why
14 do you think that phrase was chosen?

15 MR. GREEN: Objection; calls for speculation.

16 THE COURT: You may answer if you know. We don't
17 want you to guess. If you were involved in the selection
18 or discussion, you can answer that.

19 THE WITNESS: I really can't even begin to
20 speculate.

21 BY MR. KLAUS:

22 Q. Now, bottom of that page and next page the Commission
23 goes on to say, and correct me if I am wrong, that this is
24 a matter that hopefully El Salvador looking to its sole,
25 meaning the people of El Salvador, and they will be able to

1 reconcile with each other and put aside all of their
2 differences. And that is one of the purpose that the
3 report helped the -- the Commission's report wanted to
4 promote, correct, reconciliation?

5 A. I think that was their hope, but they certainly were
6 disappointed subsequently by the way the government
7 responded.

8 Q. Okay. But it also mentioned in the next to the last
9 paragraph, "Salvadoran society must decide about
10 accountability of past actions and new statutes of
11 limitations."

12 That again is a reference that these problems need to
13 be resolved ultimately by Salvadorans?

14 A. It was the hope that the Salvadoran government and
15 persons who had been involved in some of these crimes would
16 take responsibility for their actions, and by taking
17 responsibility, the country could proceed on a path to
18 reconciliation.

19 Q. Or that the institutions would be put in place in El
20 Salvador to punish those who deserve to be punished, and
21 compensate those who deserve to be compensated, correct?

22 A. I think that was the hope.

23 Q. Now, after this were there Truth Commissions and Human
24 Rights Commissions established in El Salvador by El
25 Salvadorans that you know of?

1 A. Not that I know of. I think there was a group of --
2 well, there was a group of the Junta, but that was to
3 investigate death squad activity, but that was sponsored by
4 the United Nations. I have not been involved in transition
5 to peace, not that I know of. It is certainly possible.

6 Q. Have you been involved in anything regarding El
7 Salvador since the Commission?

8 A. The only thing I was involved in was production of a
9 report for the Grupo Conjunto that was investigating
10 activity right around the time U.S. Government declassified
11 its documents, and so I was involved in reviewing those
12 documents and putting them in the report for the Grupo
13 Conjunto.

14 Q. What does that translate into?

15 A. It was a joint group, Zayan, who had been head of the
16 Human Rights Commission, was appointed to investigate death
17 squad activity, and so it was right around the time they
18 released declassified documents. So there was a group of
19 people who reviewed the documents and compiled them and
20 organized them in a way it would be helpful in their
21 investigation. That was the last thing I had to do with El
22 Salvador.

23 Q. And when was that?

24 A. That would have been in 1993, maybe early 1994. Late
25 '93, early '94.

1 Q. To your -- you don't know if there has been an
2 apparatus put in place in El Salvador that would compensate
3 victims of the violence in El Salvador?

4 A. I really -- I don't know.

5 Q. Okay.

6 MR. KLAUS: Nothing further, Your Honor. Thank
7 you.

8 THE COURT: Thank you, Mr. Klaus.

9 Let me go back to the other side and then I will
10 get that. Thank you very much.

11 Mr. Green?

12 REDIRECT EXAMINATION

13 BY MR. GREEN:

14 Q. Ms. Gilbert, Mr. Klaus asked you a lot of questions
15 about the Truth Commission's concerns about the
16 functionality of the Salvadoran judicial system.

17 Could you discuss that a little bit?

18 A. Well, I think that the principal concern of the
19 commissioners was that the judicial system had really been
20 responsible for a lot of the human rights violations that
21 took place because it failed to prosecute individuals who
22 had been accused of violations. It failed to effectively
23 investigate specific crimes, such as the disappearance of
24 Ventura and Mejia. In a sense because the judicial system
25 had failed in its duty, had been complicit in the human

1 rights violations that had taken place, and so as a result,
2 given the history of the judicial system, which I think the
3 commissioners were very troubled by, because of that they
4 felt they could not specifically make recommendations that
5 individuals who had been named in their report be
6 prosecuted and brought to justice because there was a
7 concern that it would never happen, given the judicial
8 system's track record.

9 Q. In fact, a few days or shortly after the release of
10 the Truth Commission Report and recommendations in this
11 case, Salvadoran Congress and Government responded by
12 giving human rights abusers amnesty; is that correct?

13 A. Yes, that is correct.

14 Q. There is no way people could get criminal or civil
15 accountability for people who abused them in the past for
16 human rights violations?

17 A. That is right --

18 MR. KLAUS: Objection.

19 THE COURT: Legal objection?

20 MR. KLAUS: Beyond the scope of her knowledge.

21 THE COURT: You can answer the question if you
22 know of your own knowledge, okay?

23 THE WITNESS: Because there was an amnesty that
24 applied to virtually all of the individuals that had been
25 named in the Truth Commission report, it was impossible to

1 bring those individuals to justice through the Salvadoran
2 judicial system.

3 BY MR. GREEN:

4 Q. This man General Garcia, and this man General Vides
5 Casanova were named as perpetrators in this report,
6 correct?

7 A. That's correct.

8 MR. KLAUS: Objection; misstates --

9 THE COURT: What is the legal objection?

10 MR. KLAUS: Leading --

11 THE COURT: Sustained as to the form of the
12 question. That was a leading question.

13 BY MR. GREEN:

14 Q. Did the Truth Commission Report name this man General
15 Garcia as a perpetrator?

16 A. Yes, it named -- yes, it named him as having been
17 involved in sort of cover-up of a number of specific events
18 in El Salvador and is responsible because of his failure to
19 control his forces.

20 THE COURT: If I could for just a second, though.
21 Does the Truth Commission use the term perpetrator, and is
22 that a specific term of art that the Truth Commission
23 developed?

24 THE WITNESS: No. I mean, I don't think it
25 specifically names him as a perpetrator, but it holds him

1 accountable for some of the specific crimes that were
2 investigated. Doesn't specifically use that word.

3 THE COURT: All right. Back to Mr. Green.

4 BY MR. GREEN:

5 Q. Did the Truth Commission Report hold this man here,
6 General Vides Casanova, accountable for any of the human
7 rights violations reported in the Truth Commission?

8 A. Yes, it did.

9 Q. Mr. Klaus asked you yesterday, and some today, why the
10 Truth Commission named General Vides Casanova as either a
11 perpetrator or as being accountable in the Ventura/Mejia
12 kidnapping, and why you didn't go after the names of the
13 actual kidnappers.

14 Let me ask you a few questions about the Truth
15 Commission. Directing your attention to Plaintiff's 32,
16 page 11. This is the Truth Commission Report. The English
17 version, please.

18 A. Okay.

19 Q. Page 11. There are two page numbers.

20 A. Page 11. Mandate.

21 Q. Yes. Upper right-hand corner. Please read the second
22 paragraph from the bottom.

23 A. From the bottom?

24 Q. Yes.

25 A. "The peace agreements were unambiguous when in article

1 two they defined the mandate and scope of the Commission as
2 follows: The Commission shall have the task of
3 investigating serious acts of violence that have occurred
4 since 1980 and whose impact on society urgently demands
5 that the public should know the truth. Article Five of the
6 Chapultepec Peace Agreement gives the Commission the task
7 of clarifying and putting an end to any indication of
8 impunity on the part of the officers of the armed forces
9 and gives this explanation: Acts of this nature,
10 regardless of the sector to which their perpetrators
11 belong, must be the object of exemplary action by the law
12 courts so that the punishment prescribed by law is meted
13 out to those found responsible."

14 Q. That paragraph ending impunity by the officers of the
15 Salvadoran armed forces?

16 A. Correct.

17 Q. Was General Vides an officer of the El Salvadoran
18 armed forces during the time in question?

19 A. Yes.

20 Q. Was there any indication that the actual kidnapers
21 were National Guardsmen officers?

22 A. Yes. The persons who seized them outside of the
23 Embassy and brought them into the grounds of the U.S.
24 Embassy.

25 Q. Between officers and enlisted men, was there any

1 indication there was any officer core involvement on the
2 part of the actual kidnapers in the Ventura/Mejia
3 incident?

4 MR. KLAUS: Objection; asked and answered.

5 THE COURT: No. I will permit it if you know.

6 THE WITNESS: I am not sure. You are referring
7 when they were specifically seized?

8 BY MR. GREEN:

9 Q. Specifically seized. Was there any indication any
10 National Guardsmen, lieutenants, captains, major, colonels
11 who were involved in the actual direct seizure of Ventura
12 or Mejia?

13 A. I don't believe so.

14 Q. Regarding General Vides' role as a perpetrator, did
15 General Vides take any positive actions that could have
16 saved these two students' lives?

17 A. No, he did not. That was our findings.

18 Q. Did General Vides open the door to National Guard
19 headquarters or records back in 1980 to allow either the
20 students' lawyers or anyone else to determine whether those
21 young men were being detained by the National Guard.

22 MR. KLAUS: Objection; lack of personal knowledge
23 and beyond the scope of her knowledge.

24 THE COURT: If you know, you may answer the
25 question.

1 THE WITNESS: Not that I know of.

2 BY MR. GREEN:

3 Q. Directing your attention to page 19 of the Truth
4 Commission Report. Please look again at the second
5 paragraph from the bottom. Could you please read that to
6 the jury?

7 A. "In investigating these acts, the Commission took into
8 account three additional factors which have a bearing on
9 the fulfillment of its mandate. The first was that it must
10 investigate serious or flagrant acts committed by both
11 sides in the Salvadoran conflict and not just by one of the
12 parties. Secondly, in referring the issue of impunity of
13 officers of the armed forces, particularly in cases where
14 respect for human rights is jeopardized to the Commission,
15 the Chapultepec Agreement urged the Commission to pay
16 particular attention to this area and to acts of violence
17 committed by officers of the armed forces which were never
18 investigated or punished. Thirdly, the Commission was
19 given six months in which to perform its mandate.

20 Q. Regarding the 7,000 complaints that you testified that
21 the Truth Commission had received, you had six months to
22 investigate the ones you reported on. How long would it
23 have taken the Truth Commission to investigate all 7,000
24 complaints?

25 MR. KLAUS: Objection; beyond the scope of her

1 knowledge.

2 THE COURT: Well, to the extent that you are able
3 to estimate for us. In other words, knowing what you know
4 about what you were able to accomplish in six months, what
5 would be your estimate as to the time that it would have
6 taken had you done an investigation of all of those
7 complaints, all 7,000?

8 THE WITNESS: We still would be investigating if
9 we really wanted to get to the bottom of all of those
10 cases. It would take ten, 20 years.

11 BY MR. GREEN:

12 Q. Let's get back to your triaging, prioritizing
13 according to the mandate of who you were going to look at.
14 Again you testified about paragraph -- second paragraph on
15 the bottom, page 19. Was part of your mandate under the
16 Chapultepec Agreement to pay particular attention to acts
17 of violence committed by officers of the armed forces which
18 were never investigated or never punished? Is that
19 correct?

20 A. That's correct.

21 Q. Is that one of the reasons why you focused on this man
22 and this man here and former Minister of Defense Ponce and
23 some members of the officer core that you identified in the
24 Truth Commission Report?

25 A. Yes, it was.

1 Q. Because they were responsible?

2 A. That's correct.

3 Q. When you went back to investigate the Ventura/Mejia
4 incident that occurred in 1980, did the National Guard
5 provide you with a roster of National Guardsmen on duty in
6 San Salvador on January 22, 1980, the date that these two
7 young men were kidnapped, abducted and disappeared?

8 A. No. We didn't have that information.

9 Q. Were you facing obstruction of access to records of
10 members from the El Salvadoran government and in particular
11 El Salvadoran armed forces when you went back there to
12 obtain records to assist you in the investigation?

13 MR. KLAUS: Objection to the form of the
14 question.

15 THE COURT: What is the legal objection?

16 MR. KLAUS: Leading.

17 THE COURT: No. I don't think that suggests the
18 answer. You may answer the question.

19 THE WITNESS: I think we faced it in a number of
20 cases. We felt that it would be futile to try to obtain
21 that information based on our previous experience.

22 BY MR. GREEN:

23 Q. When you met General Vides in 1993, did he accept
24 responsibility for Ventura/Mejia, or did he deny
25 responsibility just as he denied knowledge and

1 responsibility in 1980?

2 A. He --

3 MR. KLAUS: Objection to the form of the
4 question. It is a compound question.

5 THE COURT: Well, it refers back to other things.
6 I think you can answer it if you are able to. I think it
7 is focusing on what happened in 1993. If you recall, what
8 was the General's statement at that time?

9 THE WITNESS: The General did not accept
10 responsibility for any of the offenses for which he had
11 been accused, for which he was being investigated.

12 BY MR. GREEN:

13 Q. Mr. Klaus asked you about a dirty war.

14 A. Yes.

15 Q. You talked about how El Salvadoran armed forces waged
16 battle against rebels, one war, and unarmed civilians as a
17 second war, correct?

18 A. That is --

19 MR. KLAUS: Objection; misstating the testimony.

20 THE COURT: Give me the legal basis.

21 MR. KLAUS: Misleading, confusing to the jury.

22 THE COURT: Overruled on those grounds.

23 THE WITNESS: My understanding was it is not just
24 a war against armed insurgence but civilian population.
25 That is my understanding what they meant by a dirty war.

1 BY MR. GREEN:

2 Q. So there were two wars?

3 A. There were wars being waged simultaneously against the
4 armed rebels and civilians that they considered to be
5 somehow enemies of the state.

6 Q. Mr. Klaus asked you questions about wealthy landowners
7 paying National Guardsmen for some of the violent
8 activities.

9 A. Yes.

10 Q. Did the Truth Commission find that there were death
11 squads acting inside the National Police headquarters and
12 National Guard headquarters in San Salvador?

13 A. Yes, it did. That was the concern, that the death
14 squads were actually operating within the various arms of
15 the police in El Salvador with impunity.

16 MR. GREEN: May I see slide 159?

17 BY MR. GREEN:

18 Q. Could you read this to the ladies and gentlemen of the
19 jury?

20 MR. KLAUS: Objection. Could it be identified?

21 THE COURT: I assume this is an excerpt from the
22 Truth Commission Report?

23 MR. GREEN: Yes, Your Honor.

24 THE COURT: Okay. Do we have identification
25 where in the report this might be found?

1 MR. GREEN: Your Honor, I am having trouble
2 reading the small print right now.

3 THE COURT: Okay. Let me see if we could find
4 it.

5 MR. GREEN: I believe it is at the end of the
6 report.

7 THE COURT: Okay. Let me allow you to proceed.

8 THE WITNESS: "The death squads in which members
9 of the state structures were actively involved or to which
10 they turned a blind eye gained such control that they
11 ceased to be an isolated or marginal phenomenon and became
12 an instrument of terror used in systematically for
13 physical elimination of political opponents. Many of the
14 civilian military authorities in power during the 1980's
15 participated and encouraged and tolerated the activities
16 of these groups."

17 MR. GREEN: Could I ask you to bring up slide
18 number 162, please?

19 BY MR. GREEN:

20 Q. Again, this is United States Truth Commission Report.
21 Professor Gilbert, could you please --

22 MR. KLAUS: I object and ask for a page number.

23 THE COURT: Yes, you are entitled to that,
24 certainly. Take a minute. Take a second. We will find
25 it. I think this is citing from the deposition, courtesy

1 of line and page.

2 MR. GREEN: I apologize.

3 THE COURT: Take a second and see if we could
4 find the cite to it.

5 MR. KLAUS: Page 173.

6 THE COURT: Go right ahead.

7 THE WITNESS: The wide network of illegal armed
8 groups known as death squads which operated both within
9 and outside the institutional framework with complete
10 impunity, spread terror throughout Salvadoran society.
11 They originated basically as a civilian operation
12 designed, financed and controlled by civilians. The core
13 of the serving officers, whose role was originally limited
14 to that of mere executants and executioners, gradually
15 seized control of the death squads for personal gain or to
16 promote certain ideological or political objectives. Thus
17 within the military establishment and in contradiction
18 with its real purpose and mandate, impunity vis-a-vis the
19 civilian authorities became the rule."

20 BY MR. GREEN:

21 Q. Professor Gilbert, when this excerpt refers to the
22 core of serving officers, is it referring to members of the
23 Salvadoran armed forces?

24 A. Yes, it is.

25 Q. Is that referring to members of the officer core of

1 the El Salvadoran armed forces during the periods of 1980
2 and '83.

3 Between 1980 and '83, as well as subsequent years.

4 A. I think it includes the entire period from 1980
5 through 1991, including periods from 1980 and '83 where
6 they really begin to develop.

7 Q. Including the time when this man, General Vides
8 Casanova, was director of the El Salvadoran National
9 Guards, and later Minister of Defense?

10 A. Yes, they were operating at that time.

11 Q. Including the time when this man, General Garcia, was
12 Minister of Defense from 1979 until early 1983?

13 A. Yes, they had already begun to operate.

14 Q. Now, you mentioned earlier that many of these death
15 squads -- excuse me, strike that.

16 You indicated earlier that there was evidence that
17 wealthy landowners were paying members of the National
18 Guard for some of these violent activities, correct?

19 A. There was a very close relationship between the
20 landowners -- among landowners, National Guard, armed
21 forces. There is evidence that the landowners would have
22 concerns with individuals on their land causing problems,
23 and basically that would oftentimes be one of the reasons
24 why armed forces would come into a particular area and
25 commit massacres or other extrajudicial executions.

1 Q. In fact, when General Vides was commander of the
2 National Guard, and later when he was Minister of Defense,
3 he was in fact a member of one of the wealthy families?

4 A. I don't have any personal knowledge of that.

5 MR. GREEN: I have no further questions.

6 THE COURT: I wonder if I could see counsel at
7 sidebar for just a moment.

8 (Sidebar discussion on the record.)

9 THE COURT: We have a couple of questions from
10 one of the jurors. We may have touched on some of this.

11 Here is the first question. This is to professor
12 Gilbert. "You stated yesterday that you reviewed a report
13 prepared by the Salvadoran Government, report prepared by
14 the Salvadoran Government concerning massacre at El --" I
15 think -- the other one, Las Hojas. Hojas, H-O-J-A-S.

16 It said, "You also stated that no one was
17 punished for any actions concerning this massacre, whether
18 they were directly or indirectly involved. Can you tell
19 me what conclusions were drawn by the government in this
20 matter and what actions, if any, were taken as a result of
21 these conclusions?"

22 I think it is not the government that did the
23 report, it is the Truth Commission. I think what he is
24 asking is, did the Truth Commission draw any conclusions.
25 Does anyone object to that question put to the witness?

1 MR. KLAUS: It is in the report.

2 MR. GREEN: No.

3 THE COURT: Second question. "You stated that
4 General Vides Casanova was named in the Commission report
5 on this incident as having responsibility in this action.
6 You also --" I am not sure that is true "-- you also
7 stated that if they were, that they were given the
8 opportunity to respond to these charges and did not.
9 Please tell me how they were notified -- how the
10 allegations -- please tell me how they were notified of
11 the allegations made against them. Please tell me if
12 their non-response was an affirmative one such as no
13 comment or were the charges just ignored."

14 Does anyone have an objection to putting the
15 questions?

16 MR. KLAUS: No, except there is a misperception.

17 THE COURT: I think there is, too, but the
18 witness can qualify it.

19 MR. KLAUS: Also, the report mentions what the
20 Truth Commission wants to do about it, and also mentioned
21 what the Government wanted to do about it. There were
22 guys tried and verdicts handed down, but amnesty --

23 THE COURT: I will turn to you folks for any
24 follow-up on these issues.

25 MR. KLAUS: She can read from the report.

1 MR. GREEN: She was referring to the Las Hojas
2 report.

3 MR. KLAUS: I have a question.

4 THE COURT: Yes.

5 MR. KLAUS: He mentioned, and she mentioned that
6 General Garcia is named in the report as perpetrator or
7 responsible. I read the report last night, he is not
8 named. If we could ask her for a page, I read it, maybe I
9 missed it.

10 MR. STERN: Named anywhere?

11 MR. KLAUS: In the report.

12 THE COURT: I will permit you to ask that
13 question.

14 (After sidebar.)

15 THE COURT: Professor, one of our jurors has a
16 couple questions that we would like to put to you, and I
17 think I am going to have to ask you first to help me out
18 with the pronunciation, because the question deals with
19 something you described as a massacre at -- can you help
20 me out, the one you discussed yesterday.

21 THE WITNESS: That would be Las Hojas.

22 THE COURT: How do you pronounce that.

23 THE WITNESS: Hojas. The J is silent.

24 THE COURT: Okay. Now, dealing with that
25 particular incident, was the report that dealt with that a

1 report by the Government of El Salvador, or was that the
2 Truth Commission Report which is, if you will the U.N.
3 Commission?

4 THE WITNESS: This is the report that the Truth
5 Commission did.

6 THE COURT: Okay. Understanding, and I think
7 that is the report that is being referred to.

8 Okay. Was there any Government report you looked
9 at regarding that particular incident? That is a report
10 by the Salvadoran Government or by people who were
11 investigating that incident. You did indicate I think
12 there was some local prosecutorial records you looked at.

13 THE WITNESS: Right. Mainly what we looked at
14 were the criminal records.

15 THE COURT: Okay. Let me stop for a second so we
16 understand.

17 In the United States when a crime has been
18 committed, obviously somebody investigates, and then
19 conceivably someone can be arrested, and there might be a
20 trial. The records that you looked at, that you refer to
21 in terms of the investigation, was it a civilian
22 investigation or military investigation; if you know?

23 THE WITNESS: It was a civilian investigation
24 that started with a member of the Justice of the Peace who
25 are the ones who start the investigations, going out and

1 investigate the case and interviewing witnesses.

2 THE COURT: Let me go on and read the remainder
3 of the question. It said, "You also stated that no one
4 was punished for any actions concerning this massacre
5 whether they were directly or indirectly involved. The
6 question asked is, can you tell -- can you tell the jury
7 what conclusions were drawn by the government in this
8 matter and what actions, if any, were taken as a result of
9 those conclusions?

10 THE WITNESS: I would have to reflect -- I would
11 have to refresh my recollection. I know it has been
12 awhile since I read the case, and I didn't get around to
13 carefully reviewing it before my testimony today.

14 THE COURT: Do you know if anyone was even
15 arrested for that as a preparation for trial as a
16 preparatory act?

17 THE WITNESS: If you give me a minute to look at
18 our investigation.

19 THE COURT: Surely, yes.

20 THE WITNESS: There was an investigation in March
21 of 1994 which resulted in the detention of several members
22 of the civilian defense. These were the non military, non
23 official police who were the informants to the military
24 and police. They were detained as part of the
25 investigation, but the judge in the Sonsonate first

1 criminal court ordered that a stay of proceedings and case
2 be dismissed because they could not apply the law in
3 complicity without any proof as to the main perpetrators.
4 And the people that had been responsible for the execution
5 were actually members of the armed forces.

6 THE COURT: Let me turn to the second question --

7 MR. GREEN: May I ask for one clarification?

8 THE COURT: Let me come back to you. I will let
9 both sides if you want to on this.

10 Let me turn to the second question if I can. I
11 will break it up and again ask you to help us out if you
12 can.

13 You mentioned that it is your recollection that
14 the Truth Commission Report did, indeed, name General
15 Vides in the report; is that correct?

16 THE WITNESS: Yes, it did.

17 THE COURT: Are you aware of whether the report
18 named General Garcia as having any responsibility?

19 THE WITNESS: Yes, I believe it did. I am trying
20 to remember what some of the specific cases were, but --

21 THE COURT: Okay. The question goes on. You
22 also stated that they were given the opportunity to
23 respond to these charges and did not.

24 Now, here is the question. Are you able to tell
25 the jury how the generals were notified of the allegations

1 that had been made against them, and are you able to tell
2 the jury whether their non-response was an affirmative
3 one, for example, someone saying thank you, but I don't
4 care to make a comment, or were the invitations simply
5 declined or ignored; if you know?

6 THE WITNESS: No. The invitations were accepted,
7 and the commissioners did meet with both General Vides
8 Casanova and General Garcia, but they both provided
9 general denials for any of the specific offenses that they
10 were accused of having committed.

11 THE COURT: All right. Thank you.

12 Any follow-up questions?

13 MR. GREEN: Yes, Your Honor.

14 THE COURT: Okay.

15 BY MR. GREEN:

16 Q. Just to clarify things, you just testified about
17 the -- at the very beginning of Judge Hurley's questions
18 about Las Hojas.

19 A. Yes.

20 Q. Would you spell Hojas for the jury?

21 A. Sure, H-O-J-A-S.

22 Q. Okay. I believe you --

23 A. Las --

24 Q. Excuse me. I believe you testified yesterday there
25 was a Colonel Araujo.

1 A. Yes.

2 Q. Spell Colonel Araujo's name.

3 A. A-R-A-U-J-O.

4 Q. And with respect to Colonel -- excuse me, General
5 Garcia, the former Minister of Defense being named --

6 MR. GREEN: Could we bring up slide number 158,
7 please?

8 MR. KLAUS: Objection. May I have the page
9 number?

10 MR. GREEN: Excuse me, that is page, I believe,
11 one -- excuse me, one second, Judge. I believe on page
12 114 -- excuse me, it may be in the findings, let me double
13 check.

14 May I proceed?

15 THE COURT: Yes.

16 BY MR. GREEN:

17 Q. Could you please read this excerpt from the Truth
18 Commission Report concerning the El Mozote massacre?

19 A. "Findings. There is full proof that on 11 December,
20 1981 in village of El Mozote units of the Atlacatl
21 Battalion deliberately and systematically killed a group of
22 more than 200 men, women and children. Although it
23 received news of the massacre which would have been easy to
24 corroborate because of the profusion of unburied bodies,
25 the armed forces high command did not conduct or did not

1 give any word of an investigation and repeatedly denied
2 that the massacre had occurred. There is full evidence
3 that General Jos, Guillermo Garcia, then Minister of
4 Defense, initiated no investigations that might have
5 enabled the facts to be established."

6 MR. GREEN: For the record, that is page 121 of
7 the report. The second paragraph.

8 BY MR. GREEN:

9 Q. Directing your attention to page 125 of United Nations
10 Truth Commission Report. Referring to El Calabozo,
11 C-A-L-A-B-O-Z-O --

12 THE COURT: Let me stop you for a moment. We are
13 getting into areas now that have not been discussed by
14 either direct or cross. I am concerned about that.

15 MR. GREEN: I am trying to identify the two areas
16 where the report named General Garcia.

17 THE COURT: All right. You may do that. I am
18 concerned we are going beyond what the parties on either
19 side would have an opportunity to explore, although the
20 words El Mozote had been discussed, we have not discussed
21 date time and circumstances. I am concerned about this.

22 MR. GREEN: We can reserve on this and present
23 this through Professor Karl.

24 THE COURT: All right. That might be a more
25 appropriate way so the jury can understand those issues

1 and it can be covered in cross.

2 Any follow-up questions on the other side?

3 RE CROSS EXAMINATION

4 BY MR. KLAUS:

5 Q. The only violations that both General Vides and
6 General Garcia have been accused of in the report are
7 failure to investigate and failure to follow-up on
8 investigations regarding allegations of massacres or human
9 rights abuses; is that correct?

10 A. The ones that we have discussed. There may be others
11 that I am not aware of, but the ones we've talked about.

12 Q. Are you aware of any other allegations in the Truth
13 Commission Report that charge them with any other offenses
14 other than failure to investigate?

15 A. At this point, I can't recall any.

16 MR. KLAUS: Thank you. Nothing further, Your
17 Honor.

18 THE COURT: May the professor be excused from her
19 subpoena?

20 MR. GREEN: Yes, Your Honor.

21 THE COURT: Professor, you may step down and be
22 excused from your subpoena.

23 (Witness excused.)

24 THE COURT: Where are we with witnesses today?

25 MR. GREEN: I am afraid Professor Garcia will not

1 be arriving until Saturday.

2 THE COURT: Okay, what we will do is stop.

3 Let me take a moment, though, before we do that,
4 and I wanted to tell the jury that in meeting with counsel
5 last night, the general feeling was that the case has
6 moved much more quickly than I think anyone had
7 anticipated.

8 Now, you remember I mentioned we are not going to
9 meet on Monday, and next week happens to be the week of
10 the 4th of July, so next week we are going to meet
11 effectively for two days, on Tuesday and Wednesday. In
12 other words the 2nd and the 3rd. We will not meet on
13 Thursday or Friday, and we will come back on the 8th.

14 Now, with that as the background, let me turn to
15 counsel for the Plaintiff if I can for a minute, and this
16 is a ballpark estimate, I know the jury understands we
17 cannot do these things with precision, based on where we
18 are today, and the evidence that has been covered so far,
19 what is the Plaintiffs' best estimate of where we are in
20 terms of the number of additional days that we would need
21 for the presentation of the remainder of the Plaintiffs'
22 case?

23 MR. GREEN: Based on what we have, we feel is a
24 more streamlined case, four days, perhaps five days on the
25 outside.

1 THE COURT: Again, looking at the calendar, and I
2 think everybody understands this is an estimate, and I
3 wanted to say again what I have said privately to the
4 lawyers, how thankful we are to the lawyers on both sides.
5 They have been working so hard so that exhibits have been
6 marked and received as we moved along, and the case really
7 has gone much faster, but let's take a look at the
8 calendar and see how that translates.

9 We have the 2nd and the 3rd, the 8th and 9th, so
10 is it within the ballpark to suggest the Plaintiff's may
11 be -- estimate, may be concluding their case either on
12 Tuesday the 9th or perhaps Wednesday the 10th of July?

13 MR. GREEN: Most likely Tuesday the 9th.

14 THE COURT: All right. Most likely Tuesday the
15 9th.

16 Mr. Klaus, you haven't had an opportunity to do
17 your estimating. Do you have a sense of the length of the
18 defense case? Is it too early to tell at this time?

19 MR. KLAUS: No, Your Honor. Three or four days,
20 I want the Plaintiffs to know I intend to recall
21 Dr. Romagoza.

22 THE COURT: Okay. That is fine. Other than
23 that?

24 MR. KLAUS: Other than that my three witnesses
25 remain the same, a full day for each one of them and less

1 than half a day for Dr. Romagoza.

2 THE COURT: This is an estimate, and this may
3 change. We are talking about how long do you think for
4 the entire defense case.

5 MR. KLAUS: If they finish on the 9th, 10th,
6 11th, 15th, and morning of the 16th.

7 THE COURT: Well, I think that would be helpful
8 to the jury, because when we were talking about, during
9 selection process remember we talked about the entire
10 month of July. So if things continue on, and we have to
11 wait and see, that means that we would probably have final
12 argument perhaps sometime during the week of the 15th, and
13 puts the case in your hands sometime that week.

14 So we are making progress.

15 Again I want to thank the lawyers for how
16 tremendously helpful and cooperative they have been on
17 both sides.

18 A JUROR: If deliberations go beyond Thursday,
19 are we off for the weekend or do we have to continue into
20 the weekend?

21 THE COURT: You can deliberate on Friday, there
22 is no problem. And the reason we are not holding court on
23 Friday is because I have matters in criminal cases that
24 have been set usually months in advance, and people make
25 travel plans. It is so hard to set that off, but there is

1 no impediment to the jury deliberating.

2 What juries normally do, and we don't place
3 limitations, but we realize you have limitations as well,
4 what the jury normally does is adhere to normal schedule,
5 stop five o'clock on Friday and come back Monday and
6 continue your deliberations. If there is a particular
7 problem, we can work around that, I think, but we wanted
8 the jury to take as much time as you need, we don't want
9 to hurry you in any way.

10 The jury really sets its own schedule for
11 deliberations. The critical thing about deliberations,
12 everybody needs to be present. So if you broke for lunch
13 and went somewhere, you need to stop talking about the
14 case when you leave the jury room, and you need to wait
15 until all of the jury is reassembled before you continue
16 on with your deliberations.

17 I will go into that in much greater detail.
18 Bottom line is, weekends are usually off. Okay.

19 Now, I know you know how tremendously important
20 this case is to all sides, and I wanted to remind you what
21 I said at the very beginning.

22 To be a fair juror, you must consciously say to
23 yourself, I have begun to hear evidence, but to be fair to
24 all sides, I must suspend judgment until I heard all of
25 the evidence. You know from what the lawyers have just

1 said we made a kind of dent on some of the evidence, but
2 there is a great deal more to come, and you need to
3 suspend judgment until you had the opportunity of
4 listening to the lawyers' final arguments, and also
5 hearing the jury instructions, the law that applies in
6 this case.

7 I want to ask you, please, to be so careful.
8 Don't let anyone talk with you about the case, please be
9 sure you don't talk with anyone. I want to ask you to
10 please avoid the newspapers. If you happen to see a story
11 that is on the case, please put it aside. The whole
12 reason for that is so when you begin your discussions,
13 when you go into your deliberations, whatever you've
14 looked at is something presented here in the courtroom in
15 front of all of you where the parties have had an
16 opportunity to examine, cross examine, and probe that
17 evidence, and that is so tremendously important.

18 So, have a nice weekend. We will see you all
19 Tuesday, Tuesday at 9:30.

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

21 THE COURT: Ladies and gentlemen, please be
22 seated.

23 From the Plaintiffs' perspective, any matters to
24 put on the evening agenda?

25 MR. STERN: I don't believe so.

1 THE COURT: Okay. How about from the Defendants'
2 perspective?

3 MR. KLAUS: One evidentiary matter -- no, I can
4 deal with it when it comes up.

5 THE COURT: Okay, all right. Fine.

6 I would like to ask you to think about this for a
7 minute. We have been talking about two young men who were
8 apprehended outside the American Embassy in San Salvador,
9 Mr. Ventura and Mr. Mejia, and there was a reference to
10 the massacre at Las Hojas, and El Mozote was mentioned as
11 well.

12 Has either side requested an other acts
13 instruction, and is that appropriate in your view? In
14 other words, when you think about it, some of the evidence
15 is probably coming in for notice purposes, that is, that
16 there were allegations at a minimum of these events taking
17 place.

18 Let me back up for a minute.

19 Ultimately what we have are three Plaintiffs who
20 are seeking damages and so on for their own cases, and so,
21 of course, the issue is going to be whether, first,
22 whether the acts that they suffered, were they done at the
23 hands of the military and so on, and was there an
24 obligation on behalf of the Defendants to have taken
25 action to stop this and so on.

1 Now, so, some of the information comes in with
2 respect to allegations of prior activity that would have
3 put a military commander on notice, but I wasn't sure if
4 that is the only reason the testimony is being offered. I
5 wanted to ask you if you would to take a look on both
6 sides at the other acts jury instruction to see whether
7 that comes into play and whether that needs to be given,
8 the evidence of similar acts jury instruction.

9 We can talk about that later when we talk about
10 the draft. I hoped to have it for you. I am not sure I
11 do. If we do we will pass it out. I will have it for you
12 on Tuesday, and what I would like to do is start on
13 Tuesday with the beginning discussion of the jury
14 instructions and see if we can narrow down some of the
15 issues, especially if we are moving at the pace we seem to
16 be.

17 MS. VanSCHAACK: Your Honor, in that regard I
18 have the disk.

19 THE COURT: All right. I appreciate that. Thank
20 you so much.

21 See you Tuesday, and we will move forward, then.
22 Thank you.

23 (Thereupon, trial was recessed at 4:40 p.m.)
24
25

	I N D E X			
	WITNESSES FOR THE PLAINTIFFS			
	Direct	Cross	Redirect	Recross
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3				
4	CARLOS MAURICIO	557	646	
5	LAUREN GILBERT		655	692
6				714
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