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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal, Circuit Court Judge

Appellate Case No: 2018-001290
Lower Court Case No: 2016-CP-40-1444

MARIE ASSA'AD-FALTAS, RESPONDENT,

v.

STATE OF SOUTH CAROLINA PETITIONER.

AMENDED APPENDIX

ALAN WILSON
Attorney General

JOHNNY E. JAMES, JR.
Assistant Attorney General
S.C. Bar No. 101260

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

ROBERT MICHAEL DUDEK
S.C. Commission on Indigent Defense
Post Office Box 11589
Columbia, South Carolina 29211
(803) 734-1330

ATTORNEY FOR RESPONDENT

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2013-CP-40-03522 and
2013-CP-40-03525

City of Columbia,

Plaintiff,

vs.

Marie Assa'ad-Faltas,

Defendant.

TRANSCRIPT OF RECORD

February 21, 2013
Columbia, South Carolina

B E F O R E:

HONORABLE JAMES R. BARBER, III, JUDGE.

A P P E A R A N C E S:
MARIE ASSA'AD-FALTAS, MD, MPH
Defendant

THEODORE N. LUPTON, ESQUIRE
Attorney for the Defendant

Crystal Holmes
Official Court Reporter

E X H I B I T S

NO.	DESCRIPTION	I.D.	EVD.
C-1	E-mail Chain	8	
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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS

(REPORTER'S NOTE: NO WITNESSES TESTIFIED AT THE HEARING.)

Thursday, February 21, 2013:

THE COURT: This is the matter of -- I don't even know what the name of this case is. The State of South Carolina, is that what it is, even though it's City charges? Is that what it is, Mr. Lupton?

MR. LUPTON: Your Honor, I've been -- she's here?

Your Honor, I've just been informed that Ms. Faltas has just shown up and she was asking for an escort to come in the courtroom.

THE COURT: Do you want to escort her?

MR. LUPTON: I will be happy to, Your Honor.

THE COURT: Does that mean she was late?

MR. LUPTON: I believe it does, Your Honor. So with the Court's permissions, I will go get her and be right back.

THE COURT: All right.

(Pause.)

THE COURT: Come down here, please, ma'am. Come down here and have a seat at this table. Do you know what time this hearing was supposed to start?

DR. FALTAS: Yes.

THE COURT: What time?

DR. FALTAS: 9:30 but I had informed Mr. Lupton that I wasn't coming. And then this morning Mr. Briggs'

wife called me and told me that Judge Barber had called and said that he wanted me to come and -- but Mr. Briggs is in the hospital and I have ---

THE COURT: Ma'am, she contacted us. That doesn't have anything do with your being here at 9:30.

DR. FALTAS: Well, actually ---

THE COURT: She contacted us and indicated that he was in the hospital and would not be able to appear but wanted us to go forward with it. Now -- but I feel very uncomfortable about going forward with it without Mr. Briggs being here. So we're -- we certainly won't. But when I schedule something, your best practice is to be here 15 minutes before it's scheduled.

DR. FALTAS: Sir, I had waived my appearance as far as ---

THE COURT: Well, then you came.

DR. FALTAS: I came because of the developments ---

THE COURT: I don't care why you came. You came and we were waiting on you.

DR. FALTAS: Sorry, sir.

THE COURT: All right. We are here this morning for a -- Mr. Lupton has filed a motion to be relieved of counsel in the matter of State versus Marie Faltas. Ms. Faltas has certain warrants pending in the City of

Columbia and Mr. Lupton had been appointed -- how long ago, Mr. Lupton, a month ago or so?

MR. LUPTON: Your Honor, approximately one month ago, I believe it was January 18 of 2013.

THE COURT: All right, that's a little over a month, that's 34 days that he was appointed. He did not volunteer for this matter although I did discuss it with Mr. Lupton, his willingness to -- to do this and he certainly indicated he would not resist whatever the Court ordered him to do. He felt like it was his duty and responsibility, as a member of the Bar, to handle matters that the Court thought that he should handle. He wasn't seeking any work at that time on a appointed (sic) basis.

I had -- I had a number of cases in the past to relieve various counsel for Ms. Faltas as a result of these matters pending in the City, one of which was the Public Defender's office when they indicated they had a conflict and could not represent the Defendant. And there were two attorneys that were appointed by the Clerk. I didn't appoint any of these people other than Mr. Lupton.

When somebody was relieved, it was turned over to the Clerk's office and they were supposed to appoint the next person on the list. The next two individuals

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that were appointed on behalf of the Defendant both asked to be relieved because they had taken positions, I think with the State of South Carolina, which would preclude them from representing people on an appointed basis. And another -- the next person appointed was a young lady in -- what was her name, McCurry, and she asked to be relieved because she said that she was not able to represent Ms. Faltas, that she had harassed her and made life difficult for her and was requesting a number of things that Ms. McCurry did not believe that she could do on behalf of Dr. Faltas.

I granted the request of Ms. McCurry and then appointed Mr. Lupton who I know to be a seasoned experienced attorney in dealings with him over the years when he was both with the Solicitor's office in Richland County and also in his private practice dealings in that he would appear in front of me on a number of matters, and I always believed that he was fully competent to handle whatever he was handling and had the experience to handle what I would consider a difficult client, and now Mr. Lupton has made a motion to be relieved and I'll hear from Mr. Lupton.

MR. LUPTON: Your Honor, may it please the Court.

THE COURT: Yes, sir.

MR. LUPTON: Your Honor, I would submit, although somewhat irrelevant now, the e-mail sequence and also a copy of a letter and ask that they be made Court's exhibits. The e-mail chain was primarily concerning her waiver of her right to be present which is now irrelevant. However, it does contain some matters that I think are relevant to the issue of her pattern of abusive harassing behavior.

(Whereupon, Court's Exhibit Number 1, E-mail Chain, was marked for identification.)

(Whereupon, Court's Exhibit Number 2, Letter, was marked for identification.)

MR. LUPTON: Your Honor, I began this representation January 18th, the Court appointed me. I was told verbally that I was going to be appointed. I received the written Order at the beginning of the next week. That afternoon, I received an e-mail ---

THE COURT: The afternoon that you were ---

MR. LUPTON: Appointed.

THE COURT: --- orally ---

MR. LUPTON: Orally, the 18th.

THE COURT: --- or you were -- the written?

MR. LUPTON: January 18th, Your Honor, ---

THE COURT: All right.

MR. LUPTON: --- is when Ms. Faltas first

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contacted me. The opening e-mail contained statements about that she hoped that I wasn't -- I had not been ordered to aggravate her as others had been, words to that effect.

From the beginning I have tried to work with her. She has been -- you know, I feel that -- that her conduct, starting with that first communication, has been abusive in terms of insults towards myself, insults towards those that are friends of mine, colleagues of mine, towards the Court, towards the judicial system generally.

Your Honor, I've tried to ignore all these. I've tried to explain to her that she's taking positions that are contrary to the law. She has made demands, not requests but demands, that take actions which I have explained to her are contrary to my legal ethics, filing motions that I explained are not legally merited and thus would be frivolous improper motions that I am prohibited from filing under my ethics. She has not accepted that and has attempted to harass me into filing motions.

Your Honor, I have represented her in the past for a period of about a month on a case in which I agreed with her that the arrest was improper. She was similarly abusive and harassing in that case but to a lesser degree because I as agreeing with her was doing more or less

what she wanted. But this pattern has continued over both representations. Your Honor, it's -- it's excessive and extreme. She demands things that are not merited, demands immediate responses even when I've tried to explain that I have other matters I have to deal with.

Your Honor, I have spent hours every single day with very few exceptions since I've been appointed on this case dealing with her. She has accused me of lying when I didn't respond in what she thought was a timely fashion. There was one occasion which I told her that I would get back to her the following evening. It was Sunday that I was talking to her, I told her on Monday evening I would be -- I would get back to her. About 8 or 9:00, she was sending me e-mails saying that evening turns to night and this is another lie, that I haven't gotten back to her because she defined evening differently than I did.

It's just a pattern of abuse and harassive behavior intruding into my personal life doing -- you know, of course, she has a right to research her attorneys but commenting on my personal appearance on my website, my wife's appearance on the website, was saying that our pictures were not very good and that she could take better ones for us, trying to Facebook friend my wife. Just things of that nature that over the course of

just over a month have created a situation where the abuse and harassment is such that I cannot represent her.

And I've represented some very difficult clients, I've represented clients that were verbally abusive to me, I've taken it. I feel that as a member of the Bar, it is my duty to represent my client, even if they don't like me, even if they are abusive towards me. My job is to represent their best interest. I've attempted to my best ability to do that in this case. I've had clients that have been physically threatening towards me. I have not asked to be relieved because, you know, my job is to represent those that I am appointed or retained to represent.

But in this situation, her absolute demands that I take actions, her refusal to accept reality, really, has gotten to the point where I cannot represent her. And this pattern is such that I don't think anybody can. I don't think anybody can represent her unless they do what she demands.

THE COURT: All right. Well, do you think your -- here's the concern I have, Mr. Lupton, and I'm going to need some clarification in my mind and it's probably going to take a little bit of time, is -- and she has to have an attorney. I mean, I don't feel confident that whoever it is is going to change the relationship that

exists between her and that attorney from what has existed between her and previous attorneys.

So, you know, at some point in time the buck has got to stop. I'm not sure where that is. Do you think it's so irretrievably broken that under any circumstances you cannot, in good conscious, be able to represent her, even with some assistance by the Court as to what she may or may not do in terms of contacting your office?

MR. LUPTON: Your Honor, I think that she does not see that she has done anything improper or wrong. I think that she is absolutely firmly convinced in her mind, that because her case ---

THE COURT: Well, I'm not talking about the merits of the case.

MR. LUPTON: Well, I'm not either. I'm talking about the fact that she is so firmly convinced in her mind that her case is special, different and unique, that she is absolutely justified in what she does.

THE COURT: Well, I understand and her case is special, different and unique to her.

MR. LUPTON: And I've explained that.

THE COURT: As everybody's case is.

MR. LUPTON: And I've explained that.

THE COURT: But I can limit the manner in which she can contact your office, it has to be in writing,

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something other than e-mails or telephone. And if she wants to have a conversation with you, she needs to tell you what that conversation is in order -- and you make the decision as to whether you respond to it or not. I mean, I can do things like that. I can keep her away from your office other than by invitation of you.

MR. LUPTON: She has not been to my office, Your Honor. I've met her at her property. That's not a problem. The communication in writing is preferred and I asked her -- I told her that that was my preferred method was e-mail. The problem is that she sends long ---

THE COURT: I can stop the e-mails, it will have to be in writing, I mean, on a piece of paper just like your letter. But, I mean, if you tell me that you can't do it because it is in such a difficult state that you can't do it under any circumstances and provide her the legal representation that you believe she would be entitled to and that you could provide under normal circumstances, then that's a different story.

MR. LUPTON: Your Honor, I -- I don't think that I can -- I don't think I could provide her with any kind of representation that she will be satisfied with.

THE COURT: I'm not worried about whether she's satisfied.

MR. LUPTON: And she has already threatened to

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engage in litigation in Federal Court against me if I attempt to continue to represent her.

THE COURT: Well, she can do it, she certainly has the right to do what she wants to do in that regard. She is subject to any sanctions or repercussions that the Court might take if they believe that it's something that is not proper or it's privileged, something of that nature. We can't -- anybody can sue in this country, you can sue about anything you want to sue about, whether you're successful is a whole different ballgame. And what happens as a result of your doing so, is a whole different ballgame. So I don't know how to stop anything -- anybody from -- shielding them from some lawsuit from Ms. Faltas. But I know how to deal with it if in fact it happens and it is frivolous, that determination.

Dr. Faltas, you want Mr. Lupton relieved?

DR. FALTAS: Yes, Judge.

THE COURT: What is it you want? You want to represent yourself?

DR. FALTAS: Yes, Judge. And I have an absolute constitutional right to do that. And I have done that successfully, as you know. I had two false harassment charges brought against me. I have ---

THE COURT: I -- I don't need a history. I know to some extent what you have done and haven't done.

DR. FALTAS: And in fact ---

THE COURT: I'm just -- I want to know what you want. I mean, my personal opinion is I -- I tend to agree with you, you have a constitutional right to represent yourself in a criminal matter so long as you understand the ramifications of doing so.

DR. FALTAS: Not only do ---

THE COURT: But ---

DR. FALTAS: --- I understand them ---

THE COURT: Dr. Faltas.

DR. FALTAS: Yes -- yes, sir.

THE COURT: But there is an Order from the Supreme Court that has set certain requirements relating to you and I'm going to have to look at that Order as well. But your preference is to represent yourself?

DR. FALTAS: Yes, Judge.

THE COURT: Subject yourself to whatever the consequences are if you do so?

DR. FALTAS: Absolutely.

THE COURT: All right.

DR. FALTAS: And may I just say that in Faretta versus California ---

THE COURT: I'm sorry, say that again?

DR. FALTAS: May I just say that in Faretta versus California, the U.S. Supreme Court said that the

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only tribunal in Anglo-American judicial history that forced a lawyer on somebody is the Star Chamber. This is what I am being subjected to, the Star Chamber ---

THE COURT: Dr. Faltas -- Dr. Faltas, respond to my question.

DR. FALTAS: Yes.

THE COURT: That's all I want to hear from you. If it can be answered in a yes or no, please do so.

DR. FALTAS: Yes, sir.

THE COURT: All right.

DR. FALTAS: And let me just tell you, this is the same Supreme Court ---

THE COURT: Dr. Faltas, don't say another word unless I ask you a question. Do you hear me?

DR. FALTAS: Yes, yes. You asked me the question whether I hear you and I said, yes, and I didn't say any other word.

THE COURT: You haven't stopped talking.

All right, Mr. Lupton, anything else you want to tell me?

MR. LUPTON: No, Your Honor.

THE COURT: Anything else you want to tell me, relating to ---

DR. FALTAS: Yes.

THE COURT: --- the motion. I don't ---

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DR. FALTAS: Yes.

THE COURT: I don't want to hear anything else about you want to represent yourself or who should represent yourself or whatever you want, I don't want to hear that.

DR. FALTAS: All right.

THE COURT: He's made a motion.

DR. FALTAS: Yes.

THE COURT: You have indicated here this morning that you join in this motion, you want him relieved?

DR. FALTAS: I ---

THE COURT: Correct?

DR. FALTAS: Yes. Related to the motion, you asked me I wanted -- if I wanted to say things. He has left a lot of loose ends which under my -- my representation of myself going forward all ---

THE COURT: Dr. Faltas.

DR. FALTAS: --- those loose ends, may I tell you what they are because ---

THE COURT: No, ma'am. No, ma'am, we're not getting into the merits of whatever his defense was or anything like that. First of all, I don't want you putting anything on the record about whatever it is that you may have defenses ---

DR. FALTAS: He's -- he's given you

attorney/client privileged e-mails and he said that I told him -- I wrote to him, it was a lie. My exact words, and I hope he had the honesty of presenting that e-mail. I said that's a promise broken. I did not use the word lie. The person who used the word lie against Mr. Lupton is now -- Justice Beatty. And that was something in the newspaper. Now he says that ---

THE COURT: That doesn't have anything to do with this case. Not one thing to do with this case.

DR. FALTAS: It has to do with that the ---

THE COURT: You don't get -- if an attorney is the appointed, you don't get to approve who it is. You have no say so whatsoever.

DR. FALTAS: I am entitled to effective assistance.

THE COURT: You are not entitled to determine who your lawyer is. You would have a right to file a -- some action after the fact and allege ineffective assistance of counsel if in fact you believe that to be an appropriate thing to do, if you're not successful in whatever it is you're attempting to do. But at this point, you have no rights as to who your lawyer is, unless you want to go pay him.

DR. FALTAS: I cannot pay.

THE COURT: Well, I don't know about that.

DR. FALTAS: No, you do know about that.

THE COURT: I do not know about that, I've never looked at your financial situation. I have never been involved in anything about what you can pay, can't pay, what money you have, don't have. I know nothing.

DR. FALTAS: Well, speaking of that, there has been a request for reimbursement of expenses.

THE COURT: All right. Do you want me to deal with that today?

DR. FALTAS: Yes, please.

THE COURT: All right. It's denied. I read it. I read it yesterday when it was submitted by Mr. Briggs. You don't have -- you're not entitled to be reimbursed. You're not an attorney.

DR. FALTAS: But the Rule 602(g) ---

THE COURT: You're not entitled to be reimbursed.

DR. FALTAS: It's not for my efforts, it's the expenses that ---

THE COURT: Ma'am, you're not entitled for any of that.

DR. FALTAS: Rule 602 -- so, sorry.

THE COURT: All right. You can take it and do with it as you please. We will issue an Order saying that your request for being paid from OID was denied.

DR. FALTAS: Well could you -- could then I ask to please wait until Mr. Briggs is able to ---

THE COURT: You just asked with respect to your portion. I'm going to wait on Mr. Briggs to see what -- he's made a request that he be paid as well.

DR. FALTAS: And may I just clarify?

THE COURT: We're certainly not going to -- when I rule, then you say, hey, now I want to change my mind.

All right. Mr. Lupton, I'll have to take this matter under advisement and I will issue an order in due course, as quickly as I possibly can. I understand Dr. Faltas' position. As I say, I'm going to have to look into that Order that the Supreme Court has issued in this matter. If in fact there is anything I can do to allow her to -- well, let me ask you this. In case -- you indicate you want to represent yourself?

DR. FALTAS: Yes, Judge.

THE COURT: All right. You understand that in some instances a lawyer can be of assistance to you, you understand that?

DR. FALTAS: I do and I do understand that in other instances a lawyer can be very harmful.

THE COURT: All right. And you understand a lawyer is -- has some education in excess of what you have with respect to legal matters in this country?

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DR. FALTAS: Not every lawyer has the education in excess of what I have.

THE COURT: Every lawyer who practices in South Carolina has more legal education that you have, every single lawyer.

DR. FALTAS: I understand that the Judge is saying that but it's not quite true. There are areas of the law that I ---

THE COURT: I'm familiar with your knowledge of the law in the matters that have been in front of me and I'm familiar with the lawyers' knowledge of the law that have been in front of me.

DR. FALTAS: What you are ---

THE COURT: My opinion is, they have more knowledge than you do.

DR. FALTAS: What you are familiar with is that there are areas of the law that lawyers know and some judges, some judges know nothing about that I know a lot about.

THE COURT: All right.

DR. FALTAS: For instance ---

THE COURT: I haven't seen that -- I have not seen that yet, Dr. Faltas.

DR. FALTAS: Well, Judge Anderson, the Federal ---

THE COURT: I have not seen that. I don't know what Judge Anderson the Federal Judge ---

DR. FALTAS: The Federal -- on the record.

THE COURT: I don't know.

DR. FALTAS: He said, I was better than half the lawyers who practice before him and that was on the record.

THE COURT: Well, I know ---

DR. FALTAS: And that was ---

THE COURT: Look, I've just expressed my opinion. I don't know, I've never seen you in Judge Anderson's court. I've seen you in my court and I've seen -- I've reviewed what you've done in other courts. And you understand if you don't have a lawyer, you lose whatever benefit they can bring, you lose that?

DR. FALTAS: Yes.

THE COURT: I know you have a long extensive history of litigation, both in the civil courts and in the criminal courts in South Carolina so I'm not going to question you about that, and I don't know what your education is but I know you have advanced degrees in a number of subjects. So ---

DR. FALTAS: I'm a medical doctor and I hold a masters ---

THE COURT: Ma'am.

DR. FALTAS: --- of public health.

THE COURT: Ma'am, hold on. So based on your knowledge -- I mean, my knowledge that you have advanced degrees, I don't think educational level is an issue in this matter.

But -- so I do find that you understand what you may be giving up if you elect to represent yourself. And that you understand that you would have to comply with all the rules of the -- of the Court and that you would be subject to the same rules that any other person who was practicing in the courts in the State of South Carolina. But I'm going to have to find out what I can do and can't do with respect to your allowing yourself to represent yourself.

DR. FALTAS: In the meanwhile, Judge, may I ask that Mr. Lupton not compromise my case and that he inform me ahead of time? Because, for example -- and let me give you one concrete example, of me telling him that there is discovery that is old, three years ago. He needs to file a new Rule 5 motion in writing ---

THE COURT: Well, you know ---

DR. FALTAS: In paper writing.

THE COURT: Well, he doesn't need to do anything right now until I -- until I make a decision as to what I'm going to do in this case.

DR. FALTAS: Well, he tells me that there is trial on March 18th.

THE COURT: I will rule quickly. You're ready to go to trial, aren't you?

DR. FALTAS: There is discovery.

THE COURT: Are you ready go to trial?

DR. FALTAS: With one proviso, that I need discovery that I had been promised three years ago, in writing, and as soon as Mr. Lupton ---

THE COURT: All right, I will ask you to do this. Contact Mr. Fernandez who's the City Attorney, contact him and if you know that there is discovery that's still outstanding ---

MR. LUPTON: Your Honor, I have filed a Rule 5 motion in this case. I have been in contact with Mr. Fernandez. He has stated to me, in the form of an e-mail which I would consider to be a written communication, that the discovery she is requesting does not exist. She is specifically asking about videos. He says that it does not exist. There is no video of the incident in question.

THE COURT: All right, you got that?

DR. FALTAS: No, sir, I don't because you were just telling me that e-mail is not acceptable, it has to be ---

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THE COURT: I said -- I didn't say it was not acceptable. I never said that. I said what I might do is if he continues to represent you is restrict how you can communicate with him. That your communication with him may not be through e-mail.

DR. FALTAS: Well, I have reason to be believe ---

THE COURT: Ask him to -- ask him to send you a letter saying that that discovery does not exist.

MR. LUPTON: Yes, Your Honor. And additionally, Your Honor, with regards to the Supreme Court's Order, I have discussed that Order with her and discussed the fact that if she was to go forward without counsel, that in the most extreme interpretation, she could be prohibited from even speaking in her own defense at the trial. And she says that was fine with her, that it was better than having me. But ---

THE COURT: Everybody's entitled to their opinion, so. All right, well, if you will follow up with Mr. Fernandez. Is that how you pronounce it?

MR. LUPTON: Fernandez.

DR. FALTAS: Judge.

THE COURT: Then let -- send a copy of that to the Defendant.

MR. LUPTON: Yes, Your Honor.

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THE COURT: And of course if she represents herself, then whatever you have in your file that will be needed by her, you would need to give it to her. If somebody else comes in, then you would need to give it to them.

DR. FALTAS: Also I had asked him to get documentation that we have given Mr. Fernandez reciprocal discovery and he did not give me documentation from Mr. Fernandez that Mr. Fernandez received the reciprocal discovery. He just gave me an Affidavit from himself that he sent it to him.

Your Honor, there is a trial going before the Federal Judge Anderson on March 18th about the City of Columbia having destroyed or concealed videos and pretended they didn't exist. And that ---

THE COURT: All right.

DR. FALTAS: --- was the big Five Points case arrest. I told Mr. Lupton that I do not believe ---

THE COURT: I ---

DR. FALTAS: --- there were three cars, three ---

THE COURT: I don't care whether you believe it or don't believe it.

DR. FALTAS: Well, there is follow up to discovery to be had.

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THE COURT: All right.

DR. FALTAS: And I'm asking that he does it ---

THE COURT: He's not doing anything from this point forward other than confirming that they say that they complied with all the discovery requests submitted by Mr. Lupton.

DR. FALTAS: When can I get the actual discovery?

THE COURT: That's enough.

DR. FALTAS: Okay.

MR. LUPTON: Your Honor ---

THE COURT: I will try and be in touch with you, well today -- Friday, Thursday. We're just going to have to see, so.

MR. LUPTON: Your Honor, I would like to submit as Court's exhibit the Certificate of Service. It is stamped as received by Ms. McCord (phonetic) from the City of Columbia as far as that issue goes.

(Whereupon, Court's Exhibit Number 3, Certificate of Service, was marked for identification.)

THE COURT: What issue? That you served discovery on them?

MR. LUPTON: Yes, Your Honor. I've given her a copy of this, stamped by City Court the day that they

received it.

THE COURT: All right.

DR. FALTAS: The City Court is going to say they had no opportunity to give it to Mr. Fernandez because they have pulled that on me before.

THE COURT: All right, thank y'all.

MR. LUPTON: Thank you, Your Honor.

DR. FALTAS: Judge, I did not authorize him to divulge except for one e-mail that ---

THE COURT: Thank you, ma'am. That's it.

----- END OF TRANSCRIPT OF RECORD -----

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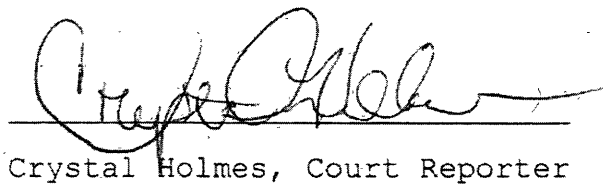
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

I, Crystal Holmes, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and Complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 13th day of February, 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 3, 2013



Crystal Holmes, Court Reporter

Sample

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COLUMBIA MUNICIPAL COURT
CITY OF COLUMBIA, VS. MARIE-THÉRÈSE ASSA'AD-FALTAS, DEFENDANT.	)	TRANSCIRPT OF RECORD Warrant No.: L-066971, et al 2013CP4003522

HEARING HELD BEFORE THE HONORABLE CARL L. SOLOMON, PRESIDING JUDGE, IN THE COLUMBIA MUNICIPAL COURT, COLUMBIA, SOUTH CAROLINA, ON MARCH 12, 2013.

APPEARANCES:

DAVID A. FERNANDEZ, ESQUIRE
APPEARING FOR THE CITY

THEODORE N. LUPTON, ESQUIRE
APPEARING FOR THE DEFENDANT

TRANSCRIBED BY:
NANCY S. AHRENS

THE COURT: WE ARE ON THE RECORD.

DEFENDANT FALTAS: GOOD MORNING, YOUR HONOR.

THE COURT: I'M FINE, DR. FALTAS. HOW ARE YOU TODAY?

DEFENDANT FALTAS: OH, I'M VERY ANXIOUS AND DISTRESSED.

THE COURT: ALL RIGHT. WELL, WE ARE GOING TO DO OUR BEST AT LEAST TO GET US MOVING. WE ARE HERE TODAY IN THE MATTER OF DR. MARIE ASSA'AD-FALTAS AND WE ARE HERE TODAY BECAUSE I HAVE RECEIVED AN ORDER FROM JUSTICE TOAL OF THE SUPREME COURT TO SCHEDULE A HEARING ON ALL CHARGES PENDING BEFORE THIS COURT AND THEN TO BEGIN TO MOVE THE CASES. FIRST THING I'D LIKE TO DO IS I'D LIKE TO MARK A COPY OF THAT ORDER AS EXHIBIT ONE TO THIS HEARING AND THEN I WILL WALK DOWN AND I WILL DO THIS. I WOULD LIKE TO MAKE SURE EVERYONE HAS A COPY ALTHOUGH I HAVE PROVIDED IT ELECTRONICALLY OF THE ORDER. SIR, WOULD YOU ALSO GIVE A COPY TO DR. FALTAS.

MR. LUPTON: ABSOLUTELY, YOUR HONOR.

THE COURT: SHE WAS COPIED ON THE ORDER BUT I WANT TO MAKE SURE EVERYONE HAS ONE.

(ORDER IS RECEIVED AS EXHIBIT #1)

DEFENDANT FALTAS: YOUR HONOR, I NEEDED TO PUT ON THE RECORD THAT I DO NOT RECOGNIZE THIS AS A JUDICIAL ORDER. THIS IS AN ADMNISTRATIVE ORDER. CHIEF JUSTICE JEAN TOAL HAS NO AUTHORITY TO ACT FOR THE SUPREME COURT WITHOUT A QUORUM AND THE LAW IS CLEAR THAT THREE JUSTICES ARE REQUIRED FOR A QUORUM. THIS IS AN ADMINISTRATIVE ORDER. IN ADDITION, ANY ORDER THAT IS ON FILE SIGNED BY JEAN TOAL ALONE IS NOT A JUDICIAL ORDER BUT ONLY ADMINISTRATIVE ORDER AND I

HAVE A FEDERAL LAWSUIT PENDING IN FEDERAL COURT AGAINST JEAN TOAL SAYING THAT IT IS UNCONSTITUTIONAL FOR HER TO EXERCISE BOTH ADMINISTRATIVE AND JUDICIAL AUTHORITY. THAT'S ONE THING.

THE COURT: HAS THAT LAWSUIT BEEN RESOLVED?

DEFENDANT FALTAS: NO.

THE COURT: UNTIL IT'S RESOLVED I HAVE TO FOLLOW HER ORDERS.

DEFENDANT FALTAS: I UNDERSTAND. I UNDERSTAND.

THE COURT: ALL RIGHT.

DEFENDANT FALTAS: I JUST WANT TO PUT IT ON THE RECORD. THE OTHER THING IS THAT I DO NOT RECOGNIZE MR. LUPTON AS MY LAWYER. I DO NOT WANT HIM, I DO NOT TRUST HIM. HE IS FORCED ON ME AND THE LAST TIME I WAS BEFORE JUDGE BARBER I REMINDED HIM THAT THE U.S. SUPREME COURT IN FERETTA V. CALIFORNIA SAID THAT THE ONLY TRIBUNAL IN ANGLO AMERICAN JURISPRUDENCE THAT FORCED A LAWYER ON A DEFENDANT WAS THE (INAUDIBLE) CHAMBER. THE (INAUDIBLE) CHAMBER, YOUR HONOR, (INAUDIBLE).

THE COURT: I HAVE NOTED ALL OF THAT FOR THE RECORD.

DEFENDANT FALTAS: I ALSO WANT – OKAY, SORRY.

THE COURT: DR. FALTAS.

DEFENDANT FALTAS: ALL RIGHT.

THE COURT: LET ME DO THIS. DO YOU HAVE OTHER POINTS YOU WISH TO NOTE FOR THE RECORD?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: DO YOU HAVE THEM IN WRITING?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: WHY DON'T YOU HAND THEM TO ME IN WRITING AND I'LL ATTACH THEM TO THE RECORD AND THAT WAY WE WON'T MISS ANY OF THEM.

DEFENDANT FALTAS: ALL RIGHT. VERY GOOD.

THE COURT: ALL RIGHT.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

THE COURT: YES, MA'AM. WE ARE HERE TODAY UNDER MY ORDER FOR SCHEDULING OF A HEARING TO DETERMINE ALL CASES INVOLVING DR. FASTAS PENDING BEFORE THIS COURT. I HAVE RECEIVED FROM THE CITY ATTORNEY I WOULD ASSUME A SPREAD SHEET THAT INDICATES CASES WITH DR. FALTAS AS A DEFENDANT AND CASES WITH DR. FALTAS AS A VICTIM. THE CASES IN WHICH DR. FALTAS IS A DEFENDANT ARE TICKET NUMBER 201310, UNLAWFUL ACTS, FIRST OFFENSE, OFFICER M. SIMS. TICKET NUMBER 37025FK, TRESPASSING, OFFICER J. ASHMORE. TICKET NUMBER 38803FK, DISORDERLY CONDUCT, OFFICER J. ASHMORE. TICKET L-066954, TRESPASSING, D. STEELE, WHO IS A VICTIM, ALLEGED VICTIM. AND TICKET NUMBER L-066971, SIMPLE ASSAULT, D. STEELE IS THE VICTIM. THE CASES IN WHICH DR. FALTAS IS LISTED AS AN ALLEGED VICTIM ARE LISTED AS TICKET 2012C4021600269, DISORDERLY CONDUCT. DEFENDANT ANTHONY PRESLEY. TICKET NUMBER 2012C4021600270, HARASSMENT IN THE FIRST DEGREE, ANTHONY PRESLEY. TICKET 2012C4021600271, TRESPASSING, ANTHONY PRESLEY. TODAY WHAT I'D LIKE TO DO IS ADMINISTRATIVELY GO THROUGH WHICH CASES, FIRST OF ALL, THAT THE CITY INTENDS TO GO FORWARD ON AND THEN MAKE ANY DETERMINATIONS THAT ARE NECESSARY ON ANY THE CITY IS NOT GOING TO PROSECUTE.

DEFENDANT FALTAS: MAY I SAY, YOUR HONOR –

THE COURT: JUST A MOMENT. LET ME TELL YOU WHAT I'M GOING TO DO AND THEN YOU WILL BE ABLE TO SPEAK, DR. FALTAS.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

THE COURT: SECONDLY, I WOULD LIKE TO THEN AFTER WE HAVE REACHED ANY CONCLUSION, IF POSSIBLE, ON THOSE CHARGES TO THEN GO THROUGH THE CHARGES THAT ARE REMAINING AND SEE WHAT WE CAN DO IN TERMS OF SCHEDULING THEM AND MAKING SURE ALL DISCOVERY IS COMPLIED WITH SO THAT THE CASES WILL BE ABLE TO MOVE IN AN ORDERLY FASHION. NOW, DR. FALTAS, DID YOU HAVE SOMETHING TO SAY ON THAT POINT?

DEFENDANT FALTAS: YES, YOUR HONOR. I APOLOGIZE THAT I SAT BECAUSE I WAS SO OUT OF BREATH I WANTED TO TAKE YOUR HONOR –

THE COURT: NOT A PROBLEM.

DEFENDANT FALTAS: AND MAY I HAVE YOUR HONOR'S PERMISSION THAT ANY TIME I'M OUT (INAUDIBLE) OR MY KNEE THE PAIN GETS TOO –

THE COURT: ABSOLUTELY.

DEFENDANT FALTAS: THANK YOU. ALL RIGHT. THE CASES WHERE I'M THE ALLEGED VICTIM ARE NOT COMPLETE. THERE IS A CASE FOR DISORDERLY CONDUCT WHERE I AM THE ALLEGED VICTIM AND THE DEFENDANT IS THERESA FELICIA INGRAM JACKSON. THERE IS A CASE WHERE I'M THE ALLEGED VICTIM FOR ASSAULT AND THE DEFENDANT IS LARRY WAYNE MASON. THERE IS A CASE WHERE I'M THE ALLEGED VICTIM FOR DISORDERLY CONDUCT AND FRANKLY I THINK IT SHOULD BE TAKEN MORE SERIOUSLY THAN THAT BECAUSE I WAS THREATENED TO BE RAPED AND THE MAN STOOD IN THE

PARKING LOT REALLY MASTURBATING –

THE COURT: WHO IS THE ALLEGED DEFENDANT?

DEFENDANT FALTAS: COREY LAMONT CURRIE.

THE COURT: COREY CURRIE. MR. FERNANDEZ. ANY ADDITIONAL ONES?

DEFENDANT FALTAS: I'M SORRY?

THE COURT: ANY ADDITIONAL CASES YOU ARE THE ALLEGED VICTIM?

DEFENDANT FALTAS: WELL, YOUR HONOR, I THINK IT IS QUITE CLEAR THAT ON JULY 8, 2010, I WAS KIDNAPPED. TOTALLY KIDNAPPED BY LARRY MASON AND DINAH STEELE. THERE IS NO QUESTION THAT I WAS KIDNAPPED –

THE COURT: THAT IS NOT A CASE THAT I CAN HANDLE IN THIS COURT.

DEFENDANT FALTAS: I UNDERSTAND.

THE COURT: ANY KIDNAPPING CASE WOULD BE PROSECUTED BY THE SOLICITOR IN CIRCUIT COURT.

DEFENDANT FALTAS: YES. I'M SAYING THAT I THINK YOUR HONOR SHOULD REFER IT BECAUSE YOU SIT NOT JUST – YOU HAVE HIGHER DUTIES THAN THE (INAUDIBLE) AND I THINK THAT BECAUSE IT IS CLEAR THAT I WAS KIDNAPPED THAT DAY AND, IN FACT, APPARENTLY I WAS KIDNAPPED AT THE DIRECTION OF ONE THEN SOLICITOR. SO I THINK YOUR HONOR SHOULD LOOK TO YOUR MORAL DUTY AS OPPOSED TO YOUR ADMINISTRATIVE DUTY.

THE COURT: I DO NOT HAVE THE LEGAL AUTHORITY TO BRING A KIDNAPPING CHARGE OR TO – I CAN'T PROSECUTE ANYTHING. CAN'T BRING

ANYTHING, I CAN SIT ON CASES AND THAT IS NOT ONE BEFORE US.

DEFENDANT FALTAS: I THINK WHEN YOUR HONOR WAS READING I DON'T KNOW IF IT WAS PROVIDED TO YOU BUT I THINK THIS COURT HAS NO JURISDICTION ON HARASSMENT, FIRST DEGREE. I THINK IT'S HARASSMENT, SECOND DEGREE, WHERE I AM THE ALLEGED VICTIM AND ANTHONY BERNARD PRESLEY WHO IS A THREE TIME CONVICTED SEX OFFENDER AND TWO OF HIS CONVICTIONS FOR SEX OFFENSES INVOLVED VIOLENCE. ONE OF THEM WAS PULLING A KNIFE –

THE COURT: WE ARE NOT TRYING ANY CASES SO I DON'T WANT TO GET PREJUDICED AND DISQUALIFIED BECAUSE YOU PROVIDED INFORMATION BEFORE THE CASE STATED.

DEFENDANT FALTAS: THAT'S PUBLIC RECORD INFORMATION.

THE COURT: WOULD YOU PLEASE HAVE A SEAT AND LET ME FIND SOME INFORMATION OUT. MR. FERNANDEZ, FIRST OF ALL, THE CASES OF THERESA JACKSON, LARRY MASON AND COREY CURRIE, DO YOU HAVE ANY KNOWLEDGE OF THOSE, SIR?

MR. FERNANDEZ: I DON'T. WE PULLED – RESEARCHED THE NEW COMPUTER DATABASE FOR ANYTHING RELATING TO MARIE FALTAS. IT'S POSSIBLE BECAUSE HER NAME – THERE ARE SO MANY VARIATIONS OF HER NAME THAT SOME WERE NOT PICKED UP. I CAN LOOK FOR –

THE COURT: DO YOU HAVE COPIES OF THOSE TICKETS, MA'AM, OR COURTESY SUMMONS OR ANYTHING?

DEFENDANT FALTAS: I HAVE THEM BUT I DO NOT HAVE THEM ON ME, YOUR HONOR. AND PLEASE REMEMBER THAT ON DECEMBER 2ND, 2009, UNDER THE FRUITS OF A POISON TREE I WAS FALSELY ARRESTED, TAKEN OUT

FROM MY APARTMENT WHERE SOME OF THOSE DOCUMENTS WERE AND LARRY MASON AND DINAH STEELE HAD A KEY TO MY APARTMENT AND WERE REGULARLY LOOTING IT. I WAS –

THE COURT: IF YOU HAVE THEM, PLEASE PROVIDE THEM. THAT' S ALL I'M ASKING. IF YOU DON'T, JUST LET US KNOW.

DEFENDANT FALTAS: I THINK I CAN FIND THEM SHORTLY IF IT PLEASES THE COURT AND PROVIDE THEM.

THE COURT: AND WE WILL LOOK AS WELL. THANK YOU, MA'AM.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. ON THE CASES INVOLVING ANTHONY PRESLEY, FIRST OF ALL, SIR, THE HARASSMENT, FIRST DEGREE. IS THAT A CASE THAT YOU FEEL THAT THIS COURT HAS JURISDICTION OF?

MR. FERNANDEZ: IF IT IS FIRST DEGREE, THAT WOULD BE A G.S. CHARGE, YOUR HONOR.

THE COURT: IT'S LISTED ON THIS SHEET AND I DON'T KNOW WHERE THE SHEET CAME FROM.

MR. FERNANDEZ: THIS IS JUST WHAT WAS IN OUR DATABASE. I DON'T THINK – WELL, I DID PROVIDE THE PRINTOUTS IF YOU LOOK, YOUR HONOR, OF ALL THE CASES WE COULD FIND. THIS IS JUST WHAT'S LISTED IN THE DATABASE. I DON'T KNOW. I DON'T HAVE A COPY OF THE ACTUAL I GUESS COURTESY SUMMONS SO I DON'T KNOW WHAT THAT IS LISTED AS.

THE COURT: SO HARASSMENT, FIRST DEGREE, THIS COURT HAS NO JURISDICTION TO HANDLE REGARDLESS.

DEFENDANT FALTAS: BUT IT WAS SECOND, YOUR HONOR.

MR. FERNANDEZ: IT'S LISTED AS FIRST DEGREE ON THE PRINT-

OUT. THAT DOESN'T MEAN IT ACTUALLY IS. IT COULD HAVE BEEN ENTERED INCORRECTLY.

THE COURT: OKAY. SO, DR. FALTAS, ARE YOU STIPULATING THIS IS A SECOND DEGREE WHICH YOU BELIEVE THIS COURT HAS JURISDICTION OF?

DEFENDANT FALTAS: YES, YOUR HONOR. I DO, HOWEVER, STILL MAINTAIN BECAUSE I AM AN INTELLECTUALLY HONEST PERSON THAT THE ENTIRE HARASSMENT STATUTE IS UNCONSTITUTIONAL WHICH PUTS ME IN A POSITION TO SAY THAT MY ALLEGED VICTIMIZER SHOULD NOT BE TRIED AT ALL BUT I AM INTELLECTUALLY HONEST. I THINK THAT THE STATUTE IS UNCONSTITUTIONAL AND, OF COURSE, I'M NOT IN A POSITION TO DEFEND HIM BUT I'M SAYING FIRST OR SECOND OR ANY KIND OF DEGREE THE STATUTE IS UNCONSTITUTIONAL.

THE COURT: OKAY. THANK YOU,MA'AM.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

THE COURT: WHAT IS THE CITY'S POSITION ON THE PROSECUTION OF THE CASES LISTED AGAINST MR. ANTHONY PRESLEY WITH THE UNDERSTANDING THAT THE HARASSMENT IS STIPULATED TO BE SECOND DEGREE SO THE COURT HAS JURISDICTION.

MR. FERNANDEZ: THE CITY'S POSITION ON ANY CASES WHERE MARIE FALTAS IS THE VICTIM, SO THAT EVEN INCLUDES THE THREE THAT MAY OR MAY NOT BE CURRENT – I DON'T KNOW OF THEY'VE BEEN SERVED OR WHATEVER THE STATUS IS INVOLVING THERESA INGRAM, LARRY MASON, AND COREY CURRIE. THE CITY IS NOT GOING TO BE PROSECUTING THOSE CASES. IN THE PAST FOR A PRIOR CASE IN WHICH MS. FALTAS WAS AN ALLEGED VICTIM, WE CONTACTED THE FIFTH CIRCUIT SOLICITOR'S OFFICE AND THE SOUTH

CAROLINA ATTORNEY GENERAL TO SEE IF THEY WOULD PROVIDE A SPECIAL PROSECUTOR IN ORDER TO PROSECUTE THE CASE. THEY ALSO DECLINED.

DEFENDANT FALTAS: YOUR HONOR, I THINK –

THE COURT: WAIT A MINUTE. LET HIM FINISH TALKING. HE LETS YOU TALK. LET HIM FINISH.

DEFENDANT FALTAS: I –

THE COURT: YOU'VE GOT TO LET HIM FINISH TALKING.

DEFENDANT FALTAS: OKAY.

MR. FERNANDEZ: SO THAT IS THE CURRENT STATUS OF THOSE CASES.

THE COURT: THESE THREE CASES THAT ARE LISTED, HAVE THESE BEEN REQUESTED TO THE SOLICITOR'S OFFICE AND THE ATTORNEY GENERAL TO HAVE A SPECIAL PROSECUTOR APPOINTED?

MR. FERNANDEZ: NO.

THE COURT: IS THAT SOMETHING THE CITY INTENDS TO DO?

MR. FERNANDEZ: NOT UNLESS THE COURT ORDERS ME TO. I HAD CONVERSATIONS WITH HEATHER WEISS AND THEN HER SUCCESSOR, DOLLY GARFIELD, INDICATED THAT THEY WOULD NOT BE PROSECUTING MARIE FALTAS CASES AND THE ATTORNEY GENERAL I SPOKE WITH ALSO INDICATED THAT IT DID NOT APPEAR TO BE CASE SPECIFIC BUT IF THE COURT ASKS ME TO I WILL CERTAINLY CONTACT THEM AGAIN BUT I WOULD HAVE NO INTENTION TO DO SO UNLESS ASKED.

THE COURT: DR. FALTAS, DO YOU HAVE SOMETHING TO SAY ON THAT POINT?

DEFENDANT FALTAS: ABSOLUTELY, YOUR HONOR. FIRST OF ALL,

THE U.S. SUPREME COURT WAS COMPLETELY CLEAR THAT SO CALLED PROSECUTORIAL DISCRETION IS NOT ABSOLUTE. THE PROSECUTOR DOES NOT HAVE DISCRETION TO NOT PROSECUTE CASES OR TO SELECTIVELY PROSECUTE CASES BASED ON RACIAL BIAS OR ANTI-IMMIGRANT BIAS. THE OTHER THING I THINK WHEN THE HONORABLE LINCOLN JENKINS WAS SITTING HE ORDERED MR. FERNANDEZ TO REFER TO ME BY MY PROFESSIONAL TITLE. ALSO, PREVIOUSLY WHEN I HAD LITIGATION BEFORE U.S. DISTRICT JUDGE ANDERSON, HE HAD A WRITTEN ORDER THAT I SHOULD BE REFERRED TO BY MY PROFESSIONAL TITLE.

THE COURT: I'VE BEEN CALLING YOU DR. FALTAS, IS THAT CORRECT??

DEFENDANT FALTAS: BUT THIS MAN – YES, YOUR HONOR. THIS MAN –

THE COURT: DON'T POINT.

DEFENDANT FALTAS: OKAY. ALL RIGHT. I WAS A DOCTOR BEFORE HE WAS BORN AND HE DOESN'T REFER TO ME – HE SHOULD AT LEAST RESPECT MY AGE, IF NOT MY EDUCATION, WHICH IS EASILY FOUR TIMES HIS EDUCATION. THE OTHER –

THE COURT: WELL, WE ARE NOT COMPARING EDUCATIONS, DR. FALTAS.

DEFENDANT FALTAS: ALL RIGHT. THANK YOU.

THE COURT: IF YOU THINK HE'S DISRESPECTING YOU, NOW YOU'VE GONE TO DISRESPECTING HIM. WE ARE ALL GOING TO RESPECT EACH OTHER.

DEFENDANT FALTAS: ALL RIGHT. YOUR HONOR, IN ADDITION, I DO NOT RECOGNIZE THE CITY AS HAVING ANY POWER TO PROSECUTE AND I

WAS GOING TO PUT THAT IN THE RECORD BECAUSE I HAVE FEDERAL CASES ARGUING THAT. NOTHING HAS BEEN RESOLVED ON THE MATTER, LET ME PUT IT THIS WAY. AND THAT IS A POSITION THAT I FEEL VERY STRONGLY ABOUT BUT I AM SAYING THAT IF YOUR HONOR ORDERS THE CITY, IT SHOULD ALSO ORDER IT TO GO TO THE U.S. DEPARTMENT OF JUSTICE BECAUSE ALL OF THESE WERE ANTI-IMMIGRANT CRIMES, BASICALLY HATE CRIMES, AND (INAUDIBLE) AS DISTRICT ATTORNEY HAS A CONFLICT OF INTEREST, THEY SHOULD ASK THE JUSTICE DEPARTMENT IN WASHINGTON TO LOOK INTO IT BECAUSE THESE ARE HATE CRIMES –

THE COURT: I UNDERSTAND YOUR POSITION.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

THE COURT: THANK YOU. ALL RIGHT. I'M SORRY, MR. LUPTON, I KNOW SHE DOESN'T WANT YOUR ASSISTANCE BUT DO YOU HAVE ANYTHING TO SAY THAT YOU BELIEVE COULD BE OF ASSISTANCE TO HER INVOLVING – I'M SORRY. LET ME STATE ONE THING BEFORE I GET YOU TO DO THAT. IT IS THE COURT'S OPINION AND SUBJECT TO WHATEVER ARGUMENTS YOU MAKE WILL MOST PROBABLY TURN INTO AN ORDER THAT CASES TO PROCEED IN THIS COURT ENFORCING THE LAWS OF THE STATE OF SOUTH CAROLINA OR THE ORDINANCES OF THE CITY OF COLUMBIA WITH THIS COURT'S AUTHORITY HAVE TO BE PROSECUTED BY SOMEONE WITH THE AUTHORITY TO PROSECUTE WHICH IS GOING TO HAVE TO EITHER BE THE CITY ATTORNEY'S OFFICE, THE SOLICITOR'S OFFICE OR THE ATTORNEY GENERAL'S OFFICE AND THAT IF NEITHER OF THEM WILL PROSECUTE THAT TO ALLOW ANYONE TO GO THAT IS NOT A PROSECUTOR, SPECIFICALLY DR. FALTAS, IS NOT APPROPRIATE AND THEN THE CASES WOULD BE DISMISSED. ON THAT POINT, DO YOU HAVE ANY POSITION

OR ANYTHING TO ARGUE ON BEHALF OF DR. FALTAS?

MR. LUPTON: YOUR HONOR, WITH THE UNDERSTANDING THAT I AM NOT APPOINTED TO REPRESENT HER ON CASES IN WHICH SHE IS A VICTIM, --

THE COURT: THEN YOU DON'T EVEN NEED TO SPEAK. I WON'T GET YOU INTO THAT.

MR. LUPTON: BUT I WILL – TO ASSIST THE COURT, I WILL ALSO MENTION THAT I AM AWARE THAT THE ATTORNEY GENERAL'S OFFICE HAS THE ABILITY IF THEY FEEL THAT THEY HAVE SOME CONFLICT, THEY HAVE THE ABILITY TO ASSIGN A DIFFERENT SOLICITOR'S OFFICE THAT DOES NOT HAVE A CONFLICT TO ASSIGN THEM. FOR EXAMPLE, THEY COULD ASSIGN THE NEWBERRY SOLICITOR'S OFFICE.

THE COURT: IF THERE IS A CONFLICT.

MR. LUPTON: IF THE A.G.'S OFFICE WON'T PROSECUTE IT BECAUSE THEY FEEL THEY HAVE A CONFLICT, THERE IS THAT OPTION AS WELL.

THE COURT: OKAY. UNDERSTOOD AND I'M SURE THEY UNDERSTAND THEIR OPTIONS.

MR. LUPTON: BEYOND THAT I HAVE NO POSITION.

THE COURT: MR. FERNANDEZ, THIS WILL BE THE ORDER OF THE COURT ON THE CASES IN WHICH MS. FALTAS IS A VICTIM. I WOULD INSTRUCT THE CITY ATTORNEY'S OFFICE TO DETERMINE, FIRST OF ALL, THE STATUS OF ANY CASES INVOLVING THERESA JACKSON, LARRY MASON OR COREY CURRIE AS BROUGHT BY DR. FALTAS. AT LEAST A COURTESY SUMMONS SIGNED BY DR. FALTAS – TESTIFIED TO BY DR. FALTAS. I WOULD THEN ASK THAT ALL THE CASES THAT ARE ACTIVE IN WHICH SHE'S AN ALLEGED VICTIM BE REFERRED TO SIMULTANEOUSLY BOTH THE SOLICITOR'S OFFICE FOR THE FIFTH CIRCUIT AND

THE ATTORNEY GENERAL'S OFFICE TO SEE IF THEY WILL PROSECUTE AND/OR ASSIGN SOMEONE TO PROSECUTE. IF THEY – WHATEVER THEIR RESPONSE IS IF YOU'D JUST REPORT BACK TO US. AT THAT TIME, IF THEY CHOOSE TO PROSECUTE WE WILL SCHEDULE THOSE CASES TO BE PROSECUTED. IF THEY REFUSE TO PROSECUTE, I WILL DISMISS THEM AND WE'LL DO A SHORT WRITTEN ORDER PROTECTING DR. FALTAS' RIGHT TO APPEAL THAT DISMISSAL TO WHOMEVER SHE DEEMS APPROPRIATE.

MR. FERNANDEZ: VERY GOOD.

THE COURT: SO THAT'S HOW WE WILL PROCEED ON THOSE CASES. THAT LEAVES US WITH FIVE CASES IN WHICH DR. FALTAS IS A DEFENDANT. MR. FERNANDEZ, WHAT IS YOUR POSITION ON MOVING FORWARD ON THOSE CASES?

MR. FERNANDEZ: I BELIEVE ALL THE CASES ARE ABLE TO BE TRIED. FOR PURPOSES OF INDIVIDUAL TRIALS, THE UNLAWFUL ACTS WOULD BE A STAND-ALONE CHARGE. IT'S NOT RELATED TO ANY OF THE OTHER CHARGES AND INVOLVES A PIECE OF PROPERTY. THE SECOND TWO, TRESPASS AND DISORDERLY CONDUCT, WOULD BE COMPANION CASES, THEY GO TOGETHER. THEY WERE SIMULTANEOUS ARRESTS. THE LAST TWO ARE COURTESY SUMMONS ARE RELATED TO ALTHOUGH NOT IN TIME NECESSARILY. I BELIEVE THAT THE INCIDENTS ACTUALLY OCCURRED ON SEPARATE DATES BUT IT INVOLVES THE SAME VICTIM AND THE SAME LOCATION AND IT STEMS FROM THE SAME GENERAL I GUESS DISAGREEMENT, HOWEVER YOU WANT TO CALL IT.

THE COURT: OKAY.

MR. FERNANDEZ: SO, IF WE WERE TO TRY THE CASES I WOULD RECOMMEND THE COURT SCHEDULE IT FOR THREE TRIALS INVOLVING THE FIVE CHARGES. HOWEVER, IF THE DEFENDANT WANTS TO TRY MULTIPLE CHARGES

AT THE SAME TIME I AM CERTAINLY WILLING TO DO THAT IF SHE WANTS TO COMBINE ANY OF THEM EVEN THOUGH IN TIME THEY MAY NOT JIVE. I'M CERTAINLY WILLING TO DO THAT IF THE DEFENDANT WANTS TO.

THE COURT: YOU SAID THREE TRIALS. UNLAWFUL ACTS IS A TRIAL.

MR. FERNANDEZ: YES.

THE COURT: TRESPASS AND DISORDERLY CONDUCT IS THE SECOND TRIAL.

MR. FERNANDEZ: YES.

THE COURT: THE LAST TRESPASSING AND THE LAST SIMPLE ASSAULT, ARE YOU INDICATING THOSE SHOULD BE SEPARATE TRIALS UNLESS CONSENTED TO?

MR. FERNANDEZ: I THINK THEY CAN BE THE SAME TRIAL. I WOULD RECOMMEND THEM BE THE SAME TRIAL BUT IF THEY WANT SEPARATE TRIALS WE CAN DO SEPARATE TRIALS ON THAT. I THINK THE UNLAWFUL ACTS IS A STAND-ALONE. THE OTHER FOUR CHARGES REALLY INVOLVE THE SAME BEHAVIOR AND CONDUCT. IF THE DEFENDANT PERFERS TO HAVE THEM ALL IN ONE TRIAL, I WOULD BE WILLING TO DO THAT, TOO.

THE COURT: I THINK – WE ARE NOT GOING TO COMBINE THEM ALL JUST FOR EASE OF RECORD AND CLEANNESS OF APPEAL. DR. FALTAS AND MR. LUPTON, AND I'LL TAKE YOU ONE AT THE TIME WHOEVER WANTS TO SPEAK FIRST, WHAT IS YOUR OPINION OR POSITION ON WHETHER L-066954 AND L-066971, A TRESPASSING AND A SIMPLE ASSAULT INVOLVING AN ALLEGED VICTIM, D. STEELE, CAN BE TRIED TOGETHER.

MR. LUPTON: I DO NOT BELIEVE THEY CAN BE TRIED TOGETHER,

YOUR HONOR. THEY WERE TWO SEPARATE INCIDENTS.

THE COURT: ENOUGH ARGUMENT. WE'LL HAVE SEPARATE TRIALS. ALL RIGHT. THE FIRST ONE, JUST BECAUSE IT'S NUMBER ONE ON THE LIST, 201310, UNLAWFUL ACTS, FIRST. HOW MANY WITNESSES DO YOU ANTICIPATE, MR. FERNANDEZ?

MR. FERNANDEZ: JUST ONE.

THE COURT: ALL RIGHT. DR. FALTAS, MR. LUPTON, HOW MANY WITNESSES DO YOU ANTICIPATE?

MR. LUPTON: YOUR HONOR, I WOULD NOT ANTICIPATE ANYONE OTHER THAN DR. FALTAS.

DEFENDANT FALTAS: YOUR HONOR, I HAD PREVIOUSLY WHEN IT WAS CALLED SUBPOENAED JOHN ANSEL FROM THE D.H.E.C. AND I HAD PROVIDED TO MR. LUPTON WHAT MR. ANSEL HAS SEEN AND HIS PERSONAL KNOWLEDGE OF IT AND I THINK THAT'S PART OF THE INCOMPETENT REPRESENTATION THAT'S BEING FORCED ON ME THAT MR. LUPTON IS REFUSING TO CALL WITNESSES THAT ARE HELPFUL TO ME. IN ADDITION, I WOULD LIKE THE COURT TO QUALIFY ME AS AN EXPERT WITNESS.

THE COURT: WE ARE NOT GOING TO DO ANY QUALIFICATIONS TODAY. WE ARE JUST SCHEDULING TODAY. WHAT TYPE OF EXPERT YOU CHOOSE TO BE QUALIFIED AS I'LL BE HAPPY TO TAKE UP AT TRIAL AND MAKE ANY APPROPRIATE DETERMINATIONS AT THAT TIME, BUT WE ARE GOING TO DO THOSE AT THE TIME OF TRIAL.

DEFENDANT FALTAS: I'D JUST LIKE TO TELL YOUR HONOR THAT PREVIOUSLY IN ANOTHER JURY TRIAL IN WHICH I REPRESENTED MYSELF AND GOT A NOT GUILTY VERDICT, THAT WAS A RED LIGHT CHARGE, THE HONORABLE

STEVEN DENNIS QUALIFIED ME AS AN EXPERT WITNESS.

THE COURT: YOU WILL BE ABLE TO MAKE ALL OF THOSE ARGUMENTS AT TRIAL.

DEFENDANT FALTAS: SO JUST TO PUT THE OTHER SIDE ON NOTICE, WE NEED MR. ANSEL, NOT ONLY AS A FACT WITNESS, BUT AS AN EXPERT WITNESS. AND WOULD LIKE ANTHONY PRESLEY TO TESTIFY BECAUSE EVERY TIME I TRY TO GO TO MY OWN LAND –

THE COURT: STOP ONE SECOND. IS THAT MR. PRESLEY?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: WHO IS THE GENTLEMAN – I'M SORRY, NOT YOU, SIR. WHAT'S YOUR NAME, SIR?

UNIDENTIFIED MALE: BYRON SIMS.

MR. FERNANDEZ: HE'S BYRON SIMS.

THE COURT: MR. SIMS IS GOING TO BE CALLED BY THE STATE. YOU'LL GET TO CALL WHO YOU CHOOSE TO CALL.

DEFENDANT FALTAS: OKAY.

THE COURT: LET'S SLOW DOWN. IF YOU NEVER LET ME TALK, WE NEVER GET TO FINISH.

DEFENDANT FALTAS: I LOVE YOU, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH BUT YOU'VE GOT TO LET ME TALK. SO YOU'VE GOT SOMEWHERE BETWEEN ONE AND THREE WITNESSES DEPENDING UPON HOW IT SORTS OUT.

MR. LUPTON: IT WOULD APPEAR, YOUR HONOR.

THE COURT: ALL RIGHT. IT WOULD APPEAR. WHETHER IT'S ONE OR THREE, THAT SOUNDS LIKE A CASE THAT CAN BE DONE IN A MORNING.

MR. LUPTON: YOUR HONOR, I THINK THERE WOULD ALSO BE – I WOULD MOVE TO QUASH THE TICKET ON THAT.

THE COURT: WE'LL TAKE IT ALL UP ON THE SAME DAY. ALL RIGHT. IS THERE ANY ISSUES REGARDING DISCOVERY ON THAT TICKET?

DEFENDANT FALTAS: A WHOLE LOT OF ISSUES, YOUR HONOR. A WHOLE LOT OF ISSUES. I'M SORRY.

THE COURT: I ASKED THE QUESTION. YOU ARE THEN ALLOWED TO RESPOND. WHAT ARE THE ISSUES WITH DISCOVERY?

DEFENDANT FALTAS: THANK YOU, YOUR HONOR. THE ISSUES WITH DISCOVERY IS THAT THE CITY HAS A BIG FILE ON HOW THIS LAND USED TO LOOK BEFORE MOTHER AND I DEVELOPED IT AND BOUGHT IT. IT WAS A JUNGLE. AND NOT ONLY IS THAT SOMETHING THAT'S JUST I AM SAYING, THERE WAS A CITY BOARD OF ZONING AND –

THE COURT: LET'S GO VERY BASIC. DR. FALTAS, YOU'VE GOT TO BE BASIC WITH ME.

DEFENDANT FALTAS: OKAY.

THE COURT: WHAT IS IT THAT YOU THINK YOU HAVE REQUESTED AND ARE ENTITLED TO THAT YOU HAVE NOT RECEIVED?

DEFENDANT FALTAS: YES. FAIR ENOUGH AND EXCELLENT AND THANK YOU FOR FOCUSING ME, YOUR HONOR. SOMETIMES MY BRAIN GOES IN DIFFERENT DIRECTIONS AND THAT'S NOT A MENTAL ILLNESS, THAT'S – BUT, YES. WHAT I HAVE REQUESTED AND THE CITY NEVER PROVIDED IS THE CITY'S RECORDS OF THE BOARD OF ZONING AND APPEALS MEETING OF FEBRUARY 10TH, 2009, WHERE THE CITY'S OWN PERSONNEL ENTERED HOW THAT PIECE OF LAND LOOKED BEFORE AND BOARD OF ZONING AND APPEAL MEMBER, ERNEST

CROMARTIE, III, MADE A MOTION THAT MY APPLICATION FOR A SPECIAL EXCEPTION BE APPROVED BASED ON THE FACT THAT WHAT I PROPOSED TO DO IS AN IMPROVEMENT.

THE COURT: OKAY. SO THAT'S WHAT YOU ARE MISSING YOU BELIEVE.

DEFENDANT FALTAS: AND I'M ALSO MISSING ALL THE SUBSEQUENT INTERFERENCE BY LARRY MASON AND DINAH STEELE IN THAT SPECIAL EXCEPTION.

THE COURT: SLOW DOWN. SLOW DOWN. YOU GOT TO LISTEN. YOU CAN'T RESPOND IF YOU DON'T LISTEN.

DEFENDANT FALTAS: OKAY.

THE COURT: AN EXCEPTION OR ACTION IS NOT SOMETHING THAT YOU PUT A STAMP ON AND YOU PUT IN COURT. IT'S NOT SOMETHING THAT'S DISOVERABLE. ARE YOU SAYING THERE IS A DOCUMENT OR – TELL ME WHAT YOU ARE TALKNG ABOUT.

DEFENDANT FALTAS: AND AGAIN I APOLOGIZE AND I THANK YOUR HONOR FOR KEEPING ME FOCUSED. WHAT I – THE THINGS ARE THE COMPLETE VIDEO OF THAT APPEARANCE.

THE COURT: VIDEO OF WHAT APPEARANCE?

DEFENDANT FALTAS: OF MY APPEARANCE BEFORE THE BOARD OF ZONING AND APPEALS ON FEBRUARY 10TH, 2009. THE ENTIRE SET OF PHOTOGRAPHS THAT WAS PRESENTED. AND THEY CALL IT B.O.Z.A., BOARD OF ZONING AND APPEALS, SO FOR THAT ENTIRE SET OF PHOTOGRAPHS THAT WAS THEN PRESENTED TO B.O.Z.A.

THE COURT: CAN YOU TELL ME WHAT THE RELEVANCY IS OF

THOSE DOCUMENTS?

DEFENDANT FALTAS: ABSOLUTELY, YOUR HONOR. THEY ARE CLAIMING THAT WHAT I'M DOING IS SOME HEALTH HAZARD WHEREAS IN FACT IT IS PROVEN THAT WHAT I HAVE DONE WITH THAT LAND IS A HEALTH AND SAFETY IMPROVEMENT.

THE COURT: YOU WISH TO ENTER THESE DOCUMENTS TO PROVE THAT IT'S AN IMPROVEMENT BASED UPON MR. CROMARTIE'S TESTIMONY? MR. CROMARTIE'S MOTION?

DEFENDANT FALTAS: IT WAS A MOTION THAT WAS UNANIMOUSLY CONSENTED BY THE BOARD AND IT WAS ALSO SIGNED BY THEN CHAIR, B.O.Z.A., CHAIR PERSON, MS. WEBBER (INAUDIBLE).

THE COURT: OKAY. IS THAT THE FULL WORLD OF THINGS THAT YOU ARE REQUESTING ON THIS CHARGE?

DEFENDANT FALTAS: NO, YOUR HONOR.

THE COURT: OKAY. WHAT ELSE?

DEFENDANT FALTAS: WHAT ELSE IS THAT I JUST NEED TO DIGRESS TO GIVE YOUR HONOR A LITTLE BIT OF BACKGROUND –

THE COURT: NO. TELL ME WHAT IT IS FIRST AND WE'LL DECIDE WHETHER WE NEED TO DIGRESS.

DEFENDANT FALTAS: ALL RIGHT. ANYTHING FILED BY DINAH STEELE AND LARRY MASON OR ANY NOTES OF CONTACTS THEY MADE WITH THE CITY ZONING DEPARTMENT FOR THE PURPOSE OF REVOKING THE UNANIMOUS SPECIAL EXCEPTION THAT I RECEIVED.

THE COURT: OKAY.

DEFENDANT FALTAS: IN ADDITION, THEY ALSO FILED APPLICA-

TIONS TO SEE PROPRIEITARY MATERIAL THAT I HAD SUBMITTED, PROPRIETARY MEANING INTELLECTUAL PROPERTY, MY INVENTIONS THAT I HAVE SUBMITTED TO THE CITY FOR THE PURPOSE OF GETTING A BUILDING PERMIT.

THE COURT: ALL RIGHT. IS THAT THE FULL UNIVERSE OF WHAT YOU REQUESTED?

DEFENDANT FALTAS: THERE IS ONE OTHER THING.

THE COURT: ALL RIGHT.

DEFENDANT FALTAS: THAT ON OR ABOUT MARCH -- I WOULD SAY MIDDLE OF MARCH, 2010, LARRY MASON AND DINAH STEELE WERE DOING WORK WITHOUT PERMIT AND I HAD TO REPORT THEM AND THERE WAS A STOP ORDER ISSUED AND THAT ALSO NEEDS TO BE PRODUCED.

THE COURT: ANYTHING FURTHER? IS THAT IT?

DEFENDANT FALTAS: THERE WERE A COUPLE OF LETTERS FROM THE CITY OF COLUMBIA ABOUT DINAH STEELE'S SEWER LINES BEING ILLEGAL ON MY LAND. I HAD THEM BECAUSE THEY WERE INTRODUCED BEFORE THE HONORABLE JUDGE LEE BUT I NEED EVERY FOLLOW-UP, ANYTHING THAT HAPPENED AFTER THAT.

THE COURT: ALL RIGHT. IS THAT THE FULL WORLD OR UNIVERSE WHICH YOU REQUESTED?

DEFENDANT FALTAS: ON THIS CHARGE.

THE COURT: ALL RIGHT. PLEASE HAVE A SEAT.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR. OH, ONE MORE THING. I'M SORRY. ANY AND ALL SIMILAR RECORDS OF VIOLATIONS IN THE VICINITY, ESPECIALLY THE ONES THAT I BROUGHT TO THE ATTENTION OF MR. SIMS AND MR. DAVID HATCHER OR EDDIE HATCHER. DAVID HATCHER, YES.

THE COURT: THANK YOU, MA'AM. IS THAT ALL OF IT?

DEFENDANT FALTAS: YES, YOUR HONOR, FOR THIS TICKET.

THE COURT: FOR THIS TICKET. ALL RIGHT. HAVE A SEAT.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

THE COURT: MR. LUPTON, I'M NOT ASKING YOU TO TAKE ANY POSITION AGAINST YOUR CLIENT. DO YOU HAVE ANY POSITION ON ANY DOCUMENT THAT SHE HAS NOT REQUESTED, ANY DOCUMENT THAT YOU THINK NEEDS TO BE PROVIDED THAT SHE'S NOT REQUESTED?

MR. LUPTON: YOUR HONOR, --

THE COURT: I'M NOT RULING ON WHETHER I'M GOING TO ORDER THEM TO BE PRODUCED. I JUST WANT TO MAKE SURE WE'VE GOT EVERYTHING WE'VE GOT TO TALK ABOUT.

MR. LUPTON: YOUR HONOR, IF I COULD JUST SHOW SOMETHING BRIEFLY TO MR. FERNANDEZ. THIS IS WHAT WAS PROVIDED. (PAUSE)

THE COURT: LET'S DO THIS. MR. SIMS, COME UP.

MR. LUPTON: YOUR HONOR, MY UNDERSTANDING FROM TALKING WITH BOTH MR. FERNANDEZ AND MR. SIMS IS THIS IS THEIR COMPLETE FILE.

THE COURT: MR. SIMS, HAVE YOU REVIEWED THE DOCUMENTS THAT WERE PROVIDED TO MR. LUPTON?

MR. SIMS: YES, SIR.

THE COURT: DO THEY CONTAIN ALL THE DOCUMENTS -- IT MAY CONTAIN MORE -- DO THEY CONTAIN ALL THE DOCUMENTS THAT YOU HAVE IN YOUR COMPLETE FILE?

MR. SIMS: YES, SIR.

THE COURT: OKAY. THANK YOU VERY MUCH. ALL RIGHT. ANY-

THING ELSE, MR. LUPTON?

MR. LUPTON: OTHER THAN MOTIONS.

THE COURT: MOTIONS. THERE WILL BE MOTIONS TO ADDRESS. MR. FERNANDEZ, DR. FALTAS HAS LISTED NINE CATEGORIES OF DOCUMENTS THAT SHE WISHES TO HAVE PRODUCED. I WILL INTERPRET THAT AS A MOTION TO COMPEL DISCOVERY MADE BY HER THROUGH MR. LUPTON ALTHOUGH SHE SAID IT AND WOULD LIKE TO HAVE YOUR POSITION ON THESE SO I CAN RULE WHETHER OR NOT SHE'S ENTITLED TO THESE DOCUMENTS AND THEN SCHEDULE A TRIAL ON THIS MATTER.

MR. FERNANDEZ: I THINK ALL OF THEM ARE THE DEFINITION OF RELEVANT. THE DEFENDANT CONTNUES TO MISUNDERSTAND OR MISINTERPRET WHAT THE EXACT NATURE OF THE CHARGE IS. SHE WANTS TO SAY IT HAS TO DO WITH A HEALTH CODE VIOLATION. IT DOESN'T. SHE WANTS TO SAY IT HAS TO DO WITH THIS UNDERGROUND PIPES. THAT'S A SEPARATE ISSUE, ENTIRELY IRRELEVANT TO THIS COURT. THAT IS BEING HANDLED IN CIRCUIT COURT. IT'S A CIVIL MATTER.

THE COURT: PLEASE STATE SPECIFICALLY WHAT THE CHARGE IS.

MR. FERNANDEZ: THE CHARGE IS UNLAWFUL ACTS AND I'LL HAVE MR. SIMS – UNLAWFUL ACTS IS JUST THE CITY ORDINANCE.

THE COURT: WHAT IS THE UNLAWFUL ACT SHE'S ACCUSED OF?

MR. FERNANDEZ: THE UNDERLYING NATURE OF THE CHARGE RELATES TO SANITARY CONDITION AND THAT INCLUDES BASICALLY GARBAGE, LEAVES, TRASH, DEBRIS, ET CETERA, SCATTERED ABOUT. IT ALSO RELATES TO OUTDOOR PLACEMENT OF ITEMS THAT ARE PROHIBITED AND THERE'S A LIST OF ITEMS THAT ARE PROHIBITED WHICH THE CITY WOULD ALLEGE ARE ON THE

DEFENDANT'S PROPERTY. I THINK THAT'S THE BASIS OF IT, RIGHT? TWO OF THEM. AND THEN THERE'S A COUPLE – WHAT WE PROVIDED THEM WERE A COUPLE OF DEFINITION SECTIONS TO DESCRIBE WHAT EXACTLY QUALIFIES AS GARBAGE OR RUBBISH OR DEBRIS OR WHATEVER. SO THAT'S THE BASIS OF THE CHARGE. IT DOESN'T HAVE ANYTHING TO DO WITH A HEALTH CODE VIOLATION. IT DOESN'T HAVE ANYTHING TO DO WITH UNDERGROUND PIPES OR ANYTHING LIKE THAT SO IT'S IRRELEVANT TO THE CHARGE.

THE COURT: AND AGAIN HAVE ALL DOCUMENTS IN YOUR POSSESSION BEEN PROVIDED?

MR. FERNANDEZ: YES, OUR FILE. THEY HAVE OUR FILE.

THE COURT: THANK YOU. I WILL RULE ON THE MOTION -- WHAT I HAVE INTERPRETED AS A MOTION TO COMPEL DISOVERY. I HAVE HEARD THE CATEGORY OF ALL DOCUMENTS DESCRIBED BY DR. FALTAS. WE HAVE BEEN PROVIDED THE NATURE OF THE ACT AND HAVE BEEN – AND HAVE HAD THE CITY'S OFFICER TO TAKE THE TIME TO REVIEW TO MAKE SURE THAT MR. LUPTON AND ACCORDINGLY DR. FALTAS ARE IN RECEIPT OF ALL THE DOCUMENTS IN THE FILE. HAVING GONE THROUGH THAT PROCESS, HAVING HEARD THE DESCRIPTION OF THE DOCUMENTS AS DESCRIBED BY DR. FALTAS AND COSIDERING THE NATURE OF THE CHARGES, I DO FIND THAT THE MOTION TO COMPEL THOSE DOCUMENTS SHOULD BE DENIED ON THE BASIS THAT THOSE DOCUMENTS ARE IRRELEVANT TO THE CHARGES AS POSED AND ARE NOT IN THE FILE OF AND/OR INTENDED TO BE USED BY THE PROSECUTION IN THIS MATTER AND THAT IS THE RULING ON THAT. UNDERSTANDING THAT THEY HAVE NOW GIVEN ALL THE DOCUMENTS THAT I'M GOING TO REQUIRE THAT THEY GIVE ON THIS CHARGE, WHEN CAN IT BE TRIED? I HAVE A DATE NEXT THURSDAY. CAN

THIS CASE BE TRIED NEXT THURSDAY?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: DR. FALTAS?

DEFENDANT FALTAS: MEANING THE DAY AFTER TOMORROW OR A WEEK FROM THE DAY AFTER TOMORROW?

THE COURT: THURSDAY, THE 21ST.

DEFENDANT FALTAS: BUT I STILL WOULD LIKE TO SUBPOENA MR. ANSEL.

THE COURT: WHETHER YOU DO THAT OR NOT DO THAT, YOU KNOW.

DEFENDANT FALTAS: I MEAN IT WOULD DEPEND ON HIS AVAILABILITY BECAUSE –

THE COURT: IF HE'S GOT A SUBPOENA, IT'S NOT AN INVITATION, IT'S A REQUIREMENT. SO HIS AVAILABILITY UNLESS HE COMES IN AND SHOWS ME SOMETHING THAT OVERRIDES THE SUBPOENA, IF THAT IS SO CHOSEN TO BE DONE. WELL, LET'S GO THROUGH THIS. HOW DO Y'ALL HANDLE SUBPOENAS DOWN HERE?

MR. FERNANDEZ: HOW DO WE HANDLE THEM?

THE COURT: UH-HUH. DO I NEED TO SUMMONS HIM? DO I NEED TO ISSUE A SUBPOENA?

MR. FERNANDEZ: USUALLY THE – EITHER JUDGE TURNER OR HER DESIGNEE WHICH WOULD BE PAM HAWKINS SIGNS SUBPOENAS.

DEFENDANT FALTAS: YOUR HONOR, MAY I ASK THAT YOU ISSUE IT BECAUSE –

THE COURT: I DON'T – SLOW DOWN. I WILL SEE THAT IT GETS

ISSUED BUT LET'S – SO WE NEED ONE SUBPOENA TO – WHAT'S THE GENTLEMAN'S NAME?

DEFENDANT FALTAS: JOHNANSEL. HE'S AT D.H.E.C. AND HE'S ON WEST PARK BOULEVARD. I PREVIOUSLY HAD A SUBPOENA FOR HIM AND THEN THE CASE DIDN'T GO FORWARD.

THE COURT: DO YOU HAVE A COPY OF THAT SUBPOENA?

DEFENDANT FALTAS: I DON'T HAVE IT ON ME BUT I CAN PROVIDE IT, YOUR HONOR.

THE COURT: JOHN ANSEL AT D.H.E.C., WEST PARK BOULEVARD.

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: IS THERE ANYBODY ELSE THAT YOU DESIRE TO BE SUBPOENAED?

DEFENDANT FALTAS: ANTHONY BERNARD PRESLEY WHO IS HERE.

THE COURT: THAT'S THE PERSON THAT YOU CHARGED AS A DEFENDANT ON THREE OTHER CASES?

DEFENDANT FALTAS: YES, SIR. AND, IF POSSIBLE, MR. ERNEST CROMARTIE, III.

THE COURT: NO, MA'AM, I THINK WE ARE FAR AFIELD ON THAT.

DEFENDANT FALTAS: OKAY. BUT I WOULD LIKE TO BRING TO YOUR HONOR'S ATTENTION THAT EVEN WHEN YOU ASKED MR. FERNANDEZ HE SAID THE CHARGES ARE SANITARY, BLAH, BLAH, BLAH. SANITARY VERSUS UNSANITARY? WAS IT THE POLICE POWER OF THIS STATE AND D.H.E.C. MADE THE JUDGMENT THERE WAS NOTHING UNSANITARY AND THAT'S WHY I ALSO WANT TO QUALITY MYSELF –

THE COURT: THERE WILL BE OPPORTUNITY FOR MOTIONS PRIOR

TO TRIAL. YOUR ATTORNEY HAS TOLD ME THAT Y'ALL HAVE MOTIONS THAT YOU WANT TO DISMISS THE CHARGES. IF YOU WANT ME TO HEAR THEM, WE'VE GOT TO SET IT AND THAT'S WHAT WE ARE TRYING TO DO TODAY.

DEFENDANT FALTAS: OKAY. ONE MORE PERSON AND THAT IS MR. KHAN. HIS FIRST NAME IS PAKISTANI SO I DON'T WANT TO MISSPELL IT BUT THEY KNOW WHO HE IS.

THE COURT: WHO IS HE AND WHAT RELEVANCE DOES HE HAVE TO THIS?

DEFENDANT FALTAS: OKAY. HE'S THE F.E.M.A. FLOOD ZONE PERSON FOR THE CITY OF COLUMBIA. THEY HAVE A REGULATION WITH F.E.M.A. AND THERE HAVE BEEN ISSUES WITH THEIR BEING IN VIOLATION OF THE FLOOD ZONE.

THE COURT: WITH WHO BEING IN VIOLATION?

DEFENDANT FALTAS: MY FALSE ACCUSERS.

THE COURT: THEY GOT NAMES?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: OKAY. WHO IN VIOLATION?

DEFENDANT FALTAS: MR. SIMS, MR. HATCHER, MS. STEELE.

THE COURT: AND YOU BELIEVE THOSE THINGS ARE RELEVANT TO THE UNLAWFUL ACTS CHARGED?

DEFENDANT FALTAS: ABSOLUTELY. I TELL YOUR HONOR --

THE COURT: WHAT'S HIS NAME?

DEFENDANT FALTAS: OKAY. HIS NAME IS DAVID HATCHER.

THE COURT: NO, NO, NO, NO. YOU TOLD ME YOU WANTED TO SUBPOENA A MR. KHAN.

DEFENDANT FALTAS: KAHN, YES.

THE COURT: SO WHAT – JUST FOCUS. WHAT'S HIS NAME?

DEFENDANT FALTAS: KHAN, WILEY – I'M BLOCKING ON HIS FIRST NAME BUT HE'S AN ENGINEER WITH THE CITY.

THE COURT: HOW DO YOU SPELL KHAN?

DEFENDANT FALTAS: K-H-A-N (SPELLED).

THE COURT: ALL RIGHT. I WILL ADDRESS THOSE ISSUES. MR. LUPTON IF I GET THOSE SUBPEOANS GENERATED, CAN YOU GET THEM SERVED?

MR. LUPTON: YOUR HONOR, I SUPPOSE I COULD BUT I DON'T INTEND TO CALL THEM AS WITNESSES AND I BELIEVE THE DECISION TO CALL OR NOT CALL -- OTHER THAN THE DEFENDANT HERSELF IT IS HER DECISION SOLELY AS TO WHETHER OR NOT SHE TESTIFIES -- IT IS MY DECISION AS TO WHETHER OR NOT TO CALL THESE OTHER WITNESSES AND I DO NOT BELIEVE THAT THEY ARE RELEVANT TO THIS CASE.

DEFENDANT FALTAS: YOUR HONOR, IT IS POSSIBLE. –

MR. LUPTON: I UNDERSTAND THAT SHE DISAGREES; HOWEVER, I DO NOT BELIEVE THAT THEY ARE RELEVANT.

THE COURT: WELL, I'M NOT GOING TO CALL THEM BUT IF I DON'T SUBPOENA THEM THEN SHE'S GOING TO SAY THAT'S A GOUNDS FOR APPEAL BECAUSE SHE DIDN'T HAVE A CHANCE TO HAVE HER WITNESSES, SO I AM GOING TO SUBPOENA THEM AND THEY ARE GOING TO SIT IN THIS COURTROOM AND THEN YOU ARE GOING TO STAND UP AND TELL ME WHETHER YOU ARE GOING TO CALL THEM.

MR. LUPTON: YES, YOUR HONOR.

THE COURT: AND IF YOU DON'T, I'M GOING TO SEND THEM HOME.

MR. LUPTON: YES, YOUR HONOR.

THE COURT: ALL RIGHT. THAT'S WHAT WE ARE GOING TO DO. ARE YOU GOING TO GET THEM SERVED?

MR. LUPTON: I WILL GET THEM SERVED.

THE COURT: THIS CASE IS SET FOR 8:30 THURSDAY MORNING, THE 21ST. WE WILL DO MOTIONS AT 8:30. BE PREPARED TO START THE TRIAL AT NINE O'CLOCK.

NOW LET'S TALK ABOUT THE TRESPASSING. 37025FK, J. ASHMORE AND THE DISORDERLY CONDUCT THAT ACCOMPANIES.

DEFENDANT FALTAS: YOUR HONOR, MAY I JUST SAY THAT IT'S NOT J. ASHMORE. THAT TICKET WAS SIGNED BY McSWAIN. J. ASHMORE HAD NOTHING TO DO WITH IT.

THE COURT: YOU WILL HAVE THE OPPORTUNITY TO MAKE ANY ARGUMENTS AND/OR MOTIONS YOU SO CHOOSE AT THE TIME OF TRIAL.

DEFENDANT FALTAS: I'M SAYING THIS IS FALSIFICATION OF THE RECORD BY MR. FERNANDEZ.

THE COURT: YES, SIR. HOW MANY WITNESSES DO YOU HAVE?

MR. FERNANDEZ: YOUR HONOR, THERE WILL BE POTENTIALLY TWO WITNESSES FOR THAT CASE. OFFICER ASHMORE IS THE ONLY REMAINNG OFFICER. THERE WERE THREE OFFICERS THAT RESPONDED TO THE SCENE THAT DAY. OFFICER ASHMORE IS THE ONLY REMAINING ONE WITH C.P.D. SHE HAS BEEN SUBSTITUTED FOR PURPOSES OF NOTICATION. SHE WITNESSED EVERYTHING SO SHE CAN CERTIANLY TESTIFY TO THE CHARGE AND ESTABLISH THE GROUNDS AND THE ELEMENTS. BUT IN ANY EVENT, OFFICER McSWAIN WHO IS RETIRED I WILL ATTEMPT TO CONTACT TO SEE IF HE WILL TESITFY. I CAN'T

PROMISE HE WILL BE HERE. YOU KNOW, IT'S GOING TO BE UP TO HIM IF HE WANTS TO SHOW UP OR NOT.

THE COURT: ONE, MAYBE TWO.

MR. FERNANDEZ: THAT'S CORRECT.

THE COURT: ALL RIGHT. HOW ABOUT, MR.LUPTON, HOW MANY WITNESSES TO YOU ANTICIPATE?

MR. LUPTON: YOUR HONOR, WOULD ANTICIPATE THE DEFENDANT.

THE COURT: DR. FALTAS, DO YOU ANTICIPATE ANYBODY BESIDES YOURSELF?

DEFENDANT FALTAS: I DO NOT WANT TO TESTIFY ON THOSE CHARGES AND I DO NOT WANT SOMEONE COMPELLING ME TO TESTIFY ON THOSE PARTICULAR CHARGES.

THE COURT: AND YOU DON'T HAVE TO. THAT'S NOT THE QUESTION. DO YOU ANTICIPATE THERE BEING ANY OTHER WITNESSES?

DEFENDANT FALTAS: YES. YES.

THE COURT: WHAT OTHER WITNESSES DO YOU ANTICIPATE?

DEFENDANT FALTAS: THE MAINTENANCE PEOPLE.

THE COURT: WHO ARE THEY?

DEFENDANT FALTAS: THEY DIDN'T TELL US.

THE COURT: OKAY. I CAN'T SUBPOENA IF I DON'T HAVE A NAME.

DEFENDANT FALTAS: ALL RIGHT. I'LL GIVE YOU A DIRECT NAME.

MR. LUPTON: YOUR HONOR, I MAY BE ABLE TO HELP CLEAR THAT UP. I BELIEVE WHAT SHE'S REFERRING TO IS THE MAINTENANCE PEOPLE FOR THE POLICE CARS THAT WERE INVOLVED. THERE WERE THREE OFFICERS THAT

RESPONDED TO THE SCENE AND THREE CALLERS OBVIOUSLY AND NO VIDEOS WERE PRODUCED BY ANY OF THEM AND THERE'S AN ISSUE AS TO WHETHER OR NOT THEY SIMPLY DID NOT TURN ON THE VIDEO OR WHETHER OR NOT THEY HAD MAINTENANCE PROBLEMS THAT PREVENTED THE VIDEOTAPING. THAT IS ONE OF THE ISSUES THAT WILL BE ADDRESSED IN THE DISCOVERY PORTION. SO PERHAPS WE CAN DEFER THAT ISSUE UNTIL WE GET TO THAT STAGE.

THE COURT: AND IS THAT IT?

DEFENDANT FALTAS: NO, ABSOLUTELY NOT. I'LL GIVE YOU A NAME, A VERY IMPORTANT NAME. MARK FOLDING.

THE COURT: WHO IS MR. – WHAT'S HIS NAME? FOLDING?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: HOW DO YOU SPELL THAT?

DEFENDANT FALTAS: F- IT'S AS IF IN FOLDING LAUNDRY OR FOLDING PAPER.

THE COURT: ALL RIGHT. WHO IS MR. FOLDING?

DEFENDANT FALTAS: HE IS NOW THE INTERNAL AFFAIRS – LAST I SPOKE TO HIM HE WAS A SERGEANT.

THE COURT: WHAT'S HIS RELEVANCY TO THESE CHARGES?

DEFENDANT FALTAS: ABSOLUTELY. HE TOOK PICTURES OF MY WRISTS AND ARMS AND HOW THEY WERE INJURED FROM THAT ARREST.

THE COURT: DO YOU HAVE THE PICTURES?

DEFENDANT FALTAS: YES, YOUR HONOR, BUT, OF COURSE, HE'S THE ONE WHO TOOK THEM SO HE NEEDS TO AUTHENTICATE THEM. IN ADDITION –

THE COURT: NO, HE DOESN'T. YOU CAN TESTIFY THAT THOSE

ARE A TRUTHFUL AND ACCURATE REPRESENTATION OF HOW YOUR ARMS LOOKED AT THE TIME.

DEFENDANT FALTAS: BUT I DON'T INTEND TO TESTIFY.

THE COURT: ALL RIGHT. WELL, LET ME ASK YOU THIS. WILL YOU STIPULATE THE AUTHENTICITY OF THOSE PICTURES, JUST THAT THEY ARE WHAT THEY SHOW?

MR. FERNANDEZ: ARE THEY TIME STAMPED?

DEFENDANT FALTAS: NO.

MR. FERNANDEZ: I WOULD RESERVE THE ARGUMENT AT TRIAL THAT THEY ARE IRRELEVANT AND HAVE NOTHING TO DO WITH THE BASIS OF THE CHARGE BUT WERE THEY TO BE ADMITTED –

THE COURT: THIS IS WHAT I'M ASKING YOU. WILL YOU STIPULATE THAT THEY ARE ELIGIBLE FOR ADMISSION SUBJECT TO A RELEVANCY ARGUMENT?

MR. FERNANDEZ: SURE. BUT I WOULD REQUEST THAT THE DEFENDANT BE PUT UNDER OATH AND CERTIFY TO THE COURT THAT THEY ARE – WHEN THEY WERE TAKEN –

THE COURT: I CAN'T MAKE HER TESTIFY.

MR. FERNANDEZ: NOT TESTIFYING BUT CERTIFYING TO THE COURT. I WON'T ASK ANY CROSS EXAMINATION QUESTIONS WHICH SHE WANTS TO AVOID LIKELY.

MR. LUPTON: WELL, YOUR HONOR, WE CAN DO THAT PRE-TRIAL.

MR. FERNANDEZ: THAT'S CORRECT.

THE COURT: WELL, THIS IS MY DILEMMA. LET'S SAY THAT SHE GETS UNDER OATH AND SHE TESTIFIES AND I DON'T FIND IT'S SUFFICIENT. THEN

SHE'S GOING TO SAY, WELL, YOU DIDN'T SUBPOENA MR. FOLDING WHO COULD HAVE GIVEN YOU SUFFICIENT INFORMATION.

MR. FERNANDEZ: WELL, WE WILL HAVE SERGEANT FOLDING AVAILABLE.

THE COURT: OKAY. SO FOLDING IS AVAILABLE ON STANDBY?

MR. FERNANDEZ: THAT'S CORRECT.

DEFENDANT FALTAS: IN ADDITION, YOUR HONOR, HE HAS A VERY IMPORTANT RELEVANCE BECAUSE WHEN I –

THE COURT: ALL WE ARE DOING NOW IS SCHEDULING WHO IS GOING TO BE AVAILABLE AND HE IS AVAILABLE. SO HE'S OKAY. IS THERE ANYBODY ELSE?

DEFENDANT FALTAS: BUT IF I MAY SAY THAT HE ALSO NEEDS TO BRING THE RECORDS OF MY INTERNAL AFFAIRS COMPLAINT TO HIM BECAUSE I WAS THERE —

THE COURT: INTERNAL AFFAIRS COMPLAINT AGANST WHOM?

DEFENDANT FALTAS: AGAINST RUSHER, ASHMORE AND McSWAIN AND – I WAS IN THE POLICE CAR INCORRECTLY HANDCUFFED AND SUBJECTED TO ONE HUNDRED AND TEN DEGREE HEAT ON A JULY DAY AND I WAS TELLING MS. ASHMORE PLEASE BE CAREFUL, I MIGHT DIE FROM HEAT EXHAUSTION AND INSTEAD RUSHER CAME --

THE COURT: OKAY. MA'AM, MA'AM. YOU ARE DOING A WHOLE LOT OF TALKING ABOUT WHAT HAPPENED TO BE SOMEBODY WHO DOESN'T WANT TO TESTIFY. YOU DON'T GET THE BENEFIT OF TELLING ME NOW ALL THE STUFF THAT YOU WANT ME TO KNOW IN THE TRIAL AND THEN SAY YOU ARE NOT GOING TO TESTIFY IN THE TRIAL. SO YOU'VE INDICATED YOU WANTED MR.

FOLDING AND YOU WANT HIM FOR TWO THINGS YOU THINK ARE RELEVANT, PICTURES AND AN INTERNAL INVESTIGATION.

DEFENDANT FALTAS: BECAUSE ALSO HE GOT THE VIDEOS BECAUSE VERY SHORTLY THEN —

THE COURT: DON'T GIVE ME ANY MORE FACTS ABOUT THE CASE.

DEFENDANT FALTAS: OKAY. BECAUSE I TOLD HIM UNDER AFFIRMATION THAT I SAT THERE AND HEARD RUSHER TELL ASHMORE WE CAN'T MAKE TRESPASS AGAINST HER –

THE COURT: DR. FALTAS, YOU DON'T WANT TO TESTIFY, YOU DON'T WANT TO PROVIDE INFORMATION. I'M TRYING TO HELP YOU DO WHAT YOU WANT TO DO AND YOU ARE TRYING NOT TO. SO IF YOU DON'T WANT TO TESTIFY, STOP IT.

DEFENDANT FALTAS: OKAY.

THE COURT: OKAY. SO ANYBODY OTHER THAN MARK FOLDING? THAT'S THE WHOLE UNIVERSE? WE ARE GOOD?

DEFENDANT FALTAS: NO. AS I SAID I WANT RUSHER WHEREVER HE IS –

THE COURT: WANT WHO?

DEFENDANT FALTAS: RUSHER.

MR. FERNANDEZ: OFFICER RUSHER. FORMER OFFICER RUSHER.

DEFENDANT FALTAS: THEY NEED TO FIND WHERE HE IS AND I NEED McSWAIN SUBPOEANED BECAUSE I HEARD THEM – AND THEY NEED TO BE QUESTIONED ABOUT WHETHER THEY SAID THAT AND WHETHER IN THE INTERNAL AFFAIRS INVESTIGATION THEY ADMITTED.

THE COURT: WELL, HERE'S WHERE WE ARE. I'M GOING TO

CONSIDER THAT A MOTION TO COMPEL THE INTERNAL AFFAIRS COMPLAINT AND SUPPORTING DOCUMENTS FROM THE CITY. I AM GOING TO DENY THAT MOTION AS I DON'T THINK NO MORE THAN I WOULD ADMIT THAT TO PROVE THAT THE OFFICERS DID WHAT THEY SHOULD HAVE DONE, AM I GOING TO ADMIT THAT TO PROVE THAT THEY DIDN'T DO SOMETHING THEY SHOULD HAVE DONE. SO MR. FOLDING WILL BE AVAILABLE. HE WILL BE HERE TO TESTIFY IF Y'ALL DECIDE TO CALL HIM. I AM NOT GOING TO MAKE HIM BRING HIS INTERNAL AFFAIRS COMPLAINT. I WANTED TO MAKE THAT AN OFFICIAL RULING TO PRESERVE IT FOR ANY APPEAL TO FOLLOW. AS TO SUBPOENAS ON THE OTHER – ONE IS NOT AN OFFICER ANY MORE. WHO IS THE THIRD PERSON'S NAME I DIDN'T RECOGNIZE. ARE THEY TWO FORMER OFFICERS?

MR. FERNANDEZ: YES, YOUR HONOR. DAVID RUSHER, McSWAIN - I DON'T KNOW HIS FIRST NAME OFF THE TOP OF MY HEAD – AND THEN JULIE ASHMORE. THOSE ARE THE THREE OFFICERS INVOLVED IN THIS ARREST. ONLY ASHMORE REMAINS WITH C.P.D.

THE COURT: WHERE ARE THE OTHER TWO?

MR. FERNANDEZ: McSWAIN RETIRED. I BELIEVE HE STILL LIVES I COLUMBIA BUT I DON'T KNOW THAT FOR SURE. RUSHER, I HAVE NO IDEA.

THE COURT: OKAY. DR. FALTAS, IF YOU GET ME A NAME AND ADDRESS, I'LL BE HAPPY TO SUBPOENA THEM. ABSENT THAT I DON'T HAVE THE ABILITY TO.

DEFENDANT FALTAS: ALL RIGHT. I'LL DO SUCH. YOUR HONOR, I ALSO WOULD LIKE TO SUBPOENA DINAH STEELE AND LARRY MASON WHO KIDNAPPED ME THAT DAY BECAUSE THIS IS VERY RELEVANT TO THE ISSUE OF TRESPASS. WHAT THEY'VE DONE IS THE VERY OPPOSITE OF TRESPASS. THEY

PUT ME AGAINST MY WILL IN A PLACE AND THEN I GOT CHARGED FOR REFUSING TO LEAVE THAT SPACE – THAT PLACE. THEY STOOD THERE, THEY HELD THE DOOR TO WHERE I COULDN'T –

MR. FERNANDEZ: YOUR HONOR, I CAN SAVE US SOME TIME. I'LL JUST HAVE DINAH STEELE AND LARRY MASON HERE. WE CAN USE THEM AS WITNESSES, TOO.

THE COURT: OKAY.

DEFENDANT FALTAS: AND ALSO –

THE COURT: NOW WHETHER YOU CALL THEM OR NOT IS UP TO YOU.

DEFENDANT FALTAS: YES, SIR.

THE COURT: WE ARE GOING TO HAVE THEM IN THE COURTROOM. IT'S UP TO YOU AND YOUR ATTORNEY RATHER.

DEFENDANT FALTAS: AND THE DISPATCHER WHO TOOK THE CALLS WHERE I WAS SAYING PLEASE COME –

THE COURT: ARE THERE ANY 9-1-1 TAPES OR DISPATCHER CALLS?

MR. FERNANDEZ: YOU KNOW, I DON'T KNOW OFF THE TOP OF MY HEAD, YOUR HONOR. I DON'T KNOW WHAT'S IN THIS FILE.

THE COURT: ALL RIGHT. I DON'T KNOW WHO THE DISPATCHER IS. DO YOU KNOW WHO THE DISPATCHER IS?

DEFENDANT FALTAS: YES. YES.

THE COURT: WHO IS THE DISPATCHER?

DEFENDANT FALTAS: ONE WAS BRUNER.

THE COURT: ALL RIGHT.

DEFENDANT FALTAS: ONE WAS BLARR, B-L-A-R-R (SPELLED) AND,

OF COURSE, KIMBERLY (INAUDIBLE) IS THE DISPATCH PERSON.

THE COURT: WERE THOSE THE PEOPLE – WHO DID YOU TALK TO ON THE PHONE? WHO ARE YOU SAYING HAS KNOWLEDGE OF YOU TALKNG TO THEM ON THE PHONE?

DEFENDANT FALTAS: YES, YOUR HONOR, AND THOSE –

THE COURT: WHO DID YOU TALK TO ON THE PHONE?

DEFENDANT FALTAS: BLARR, BRUNER AND (INAUDIBLE).

THE COURT: ARE THOSE THE ONES YOU SAY YOU TALKED TO ON THE PHONE. ALL RIGHT.

DEFENDANT FALTAS: AND THERE ARE RECORDINGS THAT WERE PRODUCED TO ME –

THE COURT: SO YOU'VE ALREADY GOT THEM?

DEFENDANT FALTAS: NOT BY MR. –

THE COURT: NO, NO. YOU SEE, THIS IS WHERE WE GET INTO IT, DR. FALTAS. YOU SAY THAT HE STANDS HERE FOR THE WHOLE CITY SO YOU WANT HIM TO PRODUCE STUFF THAT'S FROM ALL OVER THE CITY AND THEN WHEN YOU GET SOMETHING FROM SOMEWHERE ELSE YOU SAY, WELL, WAIT A MINUTE, HE DIDN'T GIVE IT TO ME. ONE QUESTION, ONE ANSWER. DID YOU RECEIVE A COPY OF THE AUDIO RECORDINGS?

DEFENDANT FALTAS: YES, BUT I NEED THE CITY TO AUTHENTICATE THEM BECAUSE THEY CAN SAY THIS ARE NOT IT, THIS IS SOMETHING SHE RECORDED WITH HER FRIEND.

THE COURT: YOU BELIEVE YOU HAVE THE RECORDINGS?

DEFENDANT FALTAS: I WAS GIVEN THEM BY HEATHER WEISS IN THE COURSE OF THE GENERAL SESSIONS HARASSMENT CHARGES ON WHICH I

DEFENDED MYSELF PRO SE AND, THANK GOD, I EXONERATED MYSELF. SO IF THE CITY –

THE COURT: WE ARE GOING TO GET ON TO SOME DISDOVERY STUFF, TOO. IF YOU'LL GIVE ME ONE SECOND.

DEFENDANT FALTAS: ALL RIGHT. THANK YOU.

THE COURT: ALL RIGHT. NOW LET'S GO THROUGH VICTIMS AND SCHEDULING FIRST. I MEAN WITNESSES AND SCHEDULING FIRST. WE ARE GOING TO SCHEDULE THIS TRIAL FOR 1:30 NEXT THURSDAY ON THE 21ST AS WELL. AND THAT'S GOING TO BE ON BOTH THE TRESPASSING AND THE DISORDERLY CONDUCT. THE CITY HAS AGREED TO BRING, ASHMORE, STEELE AND WHAT'S THE OTHER PERSON'S NAME?

MR. FERNANDEZ: LARRY MASON.

THE COURT: AND MASON. THAT LEAVES – WHAT DO YOU NEED BRUNER, BLARR AND GASSER FOR? JUST FOR THE AUDIO RECORDING TO SAY WHAT WAS SAID?

DEFENDANT FALTAS: TO AUTHENTICATE THEM BUT IF FERNANDEZ –

THE COURT: I UNDERSTAND HOW TO DO IT. YOU NEED THEM FOR AUTHENTICATION.

DEFENDANT FALTAS: YES, SIR.

THE COURT: PLEASE HAVE A SEAT.

MR. FERNANDEZ: I DON'T THINK SHE NEEDS ALL THREE, PROBABLY JUST –

THE COURT: WELL, LET'S SLOW DOWN.

MR. FERNANDEZ: JUST THE RECORDS CUSTODIAN.

THE COURT: LET'S JUST SLOW DOWN.

DEFENDANT FALTAS: OR MAYBE –

THE COURT: STOP. STOP. IF I DON'T TALK, WE NEVER FINISH.

DEFENDANT FALTAS: I'M SORRY.

THE COURT: ALL RIGHT. NOW DO Y'ALL HAVE THE RECORDINGS?

MR. FERNANDEZ: I HAVE A FILE THAT HEATHER WEISS USED FOR THE GENERAL SESSIONS TRIAL SO I ASSUME I HAVE IT.

THE COURT: OKAY. AND IF YOU HAVE THEM, CAN BOTH SIDES STIPULATE TO WHAT IS IN THE FILE GOING IN IN TERMS OF RECORDINGS WITHOUT BRINGING OTHER WITNESSESS TO SIMPLY AUTHENTICATE THAT? SHE WANTS THEM IN, HE'S GOT THEM.

MR. FERNANDEZ: YEAH, I THINK SO.

THE COURT: ALL RIGHT. SO WE ARE NOT GOING TO SUBPOENA THOSE THREE BECAUSE THAT SHOULD BE A COPY OF WHAT MS. WEISS GAVE YOU AND THEY WILL STIPULATE TO IT GOING IN.

DEFENDANT FALTAS: YOUR HONOR, I ALSO WOULD LIKE TO SUBPOENA HEATHER WEISS HERSELF BECAUSE SHE IS THE ONE WHO ISSUED THE WARRANT TO ARREST ME.

THE COURT: I AM NOT GOING TO BRING THE PROSECUTOR, SOLICITOR OR ASSISTANT SOLICITOR DOWN HERE UNDER SUBPOENA INVOLVING THESE FACTS AND THAT WILL BE THE RULING AND THAT WILL BE SOMETHING YOU CAN PRESERVE FOR APPEAL. I'M NOT GOING TO SUBPOENA HER.

DEFENDANT FALTAS: MAY I JUST PUT ON THE RECORD THAT THAT WAS A WARRANTLESS ARREST AND THEY SAID THE WARRANT CAME

RECROSS EXAMINATION BY

MR. LUPTON:

Q. IN THAT REPORT THAT YOU SAY HE ACCURATELTY REFLECTED WHAT YOU TOLD HIM, YOU TOLD HIM THAT SHE APPROACHED YOU IN THE REAR OF THE BUILDING, NOT ON THE SIDE. IS THAT NOT CORRECT?

A. (PAUSE)

Q. THE VERY FIRST THING THAT'S IN –

A. APPROACHED HER IN THE REAR RESIDENCE. I MEAN SHE ORIGINALLY -- IT WAS ON THE SIDE AND THEN ENDED UP IN THE REAR OF THE RESIDENCE.

Q. WHAT YOU TOLD THE OFFICER WAS APPROACHED IN THE REAR?

A. UH-HUH.

Q. SO ON THIS REPORT THAT YOU SAY IS ACCURATE YOU TOLD HIM REAR AND NOW YOU'RE SAYING THAT IT WAS ON THE SIDE AND THAT SHE CHASED YOU?

A. THE INCIDENT HAPPENED IN THE REAR. THE ACTUAL ASSAULT HAPPENED IN THE REAR OF THE BUILDING.

Q. WHAT YOU SAID HERE IS SHE APPROACHED IN THE REAR?

A. IT WAS ACTUALLY ON THE SIDE OF THE BUILDING, THE FIRST CONTACT.

MR. LUPTON: NOTHING FURTHER.

THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

(WITNESS TO THE SIDE)

THE COURT: COURT OFFICER, CAN YOU GET MS. CROUCH, PLEASE.

MR. FERNANDEZ: THE CITY WOULD CALL CHARLENE CROUCH.

THE COURT: THANK YOU, SIR. IT WILL TAKE US A MOMENT TO GET HER FROM THE HALLWAY. ANY POSITION ON WHETHER OR NOT MS. STEELE

NEEDS TO BE EXCUSED FROM THE COURTROOM IN CASE SHE IS CALLED AS A REPLY WITNESS?

MR. LUPTON: YOUR HONOR, UNDER SEQUESTER STANDARD RULES IF THEY ARE GOING TO RECALL HER THEY WOULD HAVE TO EXCUSE HER. IF THEY ARE NOT THEN I'M FINE WITH HER STAYING.

MR. FERNANDEZ: YEAH, JUST TO BE SAFE, LET'S JUST KEEP ALL OPTIONS OPEN.

THE COURT: THANK YOU VERY MUCH. PLEASE GO OUT MS. STEELE.

MR. FERNANDEZ: THANK YOU, YOUR HONOR.

CHARLENE CROUCH, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

THE COURT: PLEASE HAVE A SEAT AND ANSWER ANY QUESTIONS MR. FERNANDEZ MAY ASK YOU.

DIRECT EXAMINATION BY

MR. FERNANDEZ:

Q. MS. CROUCH, YOUR NAME FOR THE RECORD, PLEASE?

A. CHARLENE CROUCH.

Q. AND, MS. CROUCH, YOU WERE A RESIDENT OF [redacted] BYRON ROAD, CORRECT?

A. YES, SIR.

Q. DO YOU REMEMBER THE DATES YOU WERE A RESIDENT AT THAT LOCATION?

A. I THINK I MOVED IN, WHAT, 2007? AND I STAYED LIKE MAYBE FOUR YEARS.

VIOLATION SO IT DOESN'T HAVE TO BE A WRITTEN DOCUMENT. IF THERE IS ONE, HOWEVER, I BELIEVE YOU ARE ENTITLED TO IT. ARE THERE ANY WRITTEN DOCUMENTS?

MR. FERNANDEZ: THE BASIS OF THE TRESPASS WILL BE ESTABLISHED BY LARRY MASON AND/OR DINAH STEELE. I BELIEVE IT WAS VERBAL. MY UNDERSTANDING AT LEAST.

MR. LUPTON: AND, YOUR HONOR, I THINK WE ARE ENTITLED TO BEFORE THE TRIAL STARTS KNOWING SPECIFICALLY WHAT TIME, DATE, PLACE THE NOTICE THAT THEY ARE ALLEGING. I MEAN I THINK OBVIOUSLY IT IS UNFAIR TO GET INTO THE MIDDLE OF THE TRIAL AND THEN PRESENT THE EVIDENCE THAT ESTABLISHES ONE OF THE ELEMENTS OF THE OFFENSE THAT HAS NEVER BEEN PROVIDED PRIOR TO THAT TIME.

THE COURT: SO WE ARE CLEAR, THERE IS NO WRITTEN DOCUMENT FOR HIM TO GIVE YOU SO I'M NOT COMPELLING HIM TO GIVE YOU WRITTEN NOTICE. THERE'S NOT ONE SO HE CAN'T GIVE IT TO YOU.

MR. LUPTON: ALL RIGHT.

THE COURT: NOW YOU ARE ASKING THAT THE COURT COMPEL THE PROSECUTOR TO TELL YOU WHAT ONE OF HIS WITNESSES IS GOING TO SAY REGARDING WHERE THEY WERE, WHAT THEY SAID AND WHEN THEY SAID IT REGARDING TRESPASS NOTICE?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: WHAT IS YOUR POSITION ON THAT, MR. FERNANDEZ?

MR. FERNANDEZ: WELL, YOUR HONOR, GOING BACK TO THE TRESPASS NOTICE, THERE ARE TWO FORMS OF NOTICE. ONE WOULD BE ESTABLISHED THROUGH THE TESTIMONY OF THE TWO WITNESSES. THE OTHER

COMES IN THE FORM OF A COURT ORDER AND IT WAS ORDERED BY JUDGE JAMES – I DON'T RECALL THE DATE. IT RELATES TO THE DEFENDANT MOVED TO AMEND HER BOND. THERE WAS A BOND RESTRICTION PREVENTING HER FROM GOING TO THIS PROPERTY. JUDGE JAMES DENIED THE BOND THAT IMPOSED – AND REASSERTED THE PROVISION THAT SHE COULD NOT GO TO THIS PROPERTY. THIS ORDER OCCURRED WELL BEFORE THIS INCIDENT SO –

THE COURT: LET ME MAKE SURE I UNDERSTAND THAT. WAS THAT A NO-CONTACT ORDER THAT WOULD HAVE GONE AWAY WHEN BOND WENT AWAY AND A CONDITION OF THE BOND OR WAS IT AN ACTUAL TRESPASS ORDER? WHAT WAS IT?

MR. FERNANDEZ: IT WAS AN ORDER RELATING TO THE CONDITIONS OF HER BOND,.

THE COURT: OKAY.

MR. FERNANDEZ: I DON'T KNOW IF IT INCLUDED THESE CHARGES BUT FOR CHARGES THAT WERE AT LEAST PENDING DURING THIS TIME TO NOT GO TO THE PROPERTY.

MR. LUPTON: YOUR HONOR, I AM AWARE THAT THERE WAS A BOND RESTRICTION AND IF THAT'S ALL THEY ARE RELYING ON I UNDERSTAND, THAT'S FINE, BUT WE ARE GOING TO ESTABLISH TESTIMONY IS INSUFFICIENT. OBVIOUSLY THE DEFENDANT HAS A RIGHT TO KNOW THE EVIDENCE THE STATE INTENDS TO PRODUCE TO ESTABLISH ONE OF THE CRITICAL ELEMENTS OF THE OFFENSE AND –

THE COURT: I THINK THEY ARE TWOFOLD. ONE IS THEY SAY SHE WAS TOLD WHEN SHE WAS AT A BOND HEARING.

MR. LUPTON: SHE'S GOT A COURT ORDER AND I HAVE NOTICE OF

THAT. I'M NOT ARGUING ABOUT THAT IF THAT'S ALL THEY ARE GOING TO GO FORWARD ON.

THE COURT: MR. FERNANDEZ, WHAT IS YOUR POSITION ON LETTING HIM KNOW WHEN THE FOLK INDICATE THEY TOLD HER NOT TO COME BACK?

MR. FERNANDEZ: I DON'T -- I MEAN I DON'T THINK I HAVE A REQUIREMENT TO DO THAT BUT I DON'T HAVE ANY PROBLEM DOING IT EITHER.

THE COURT: FAIR ENOUGH. TO PROTECT YOU, I'M GOING TO ORDER THAT YOU DO THAT, IF YOU WILL CONSULT WITH THEM AND THEN TELL HIM WHEN THEY TOLD HER. LET'S TAKE A TWO-MINUTE BREAK. TALK TO THE GENTLEMAN. NOBODY LEAVE THE COURTROOM THAT'S INVOLVING THIS WITNESS. YOU CAN REMAIN SEATED.

MR. LUPTON: THANK YOU, YOUR HONOR.

(RECESS)

(COURT RESUMES)

THE COURT: ALL RIGHT. MR. FERNANDEZ, YOU WERE GOING TO TALK TO THE GENTLEMAN ABOUT PROVIDING NOTICE TO THE DEFENDANT OF WHEN SHE WAS PLACED ON TRESPASS NOTICE.

MR. FERNANDEZ: HE DOESN'T HAVE THE DATES ON THE TOP OF HIS HEAD BUT HE DOES HAVE THEM WRITTEN DOWN AND HE SAID HE WAS GETTING THEM TO ME TOMORROW. AS SOON AS I RECEIVE THEM, I WILL FAX THEM OR E-MAIL THEM TO MR. LUPTON.

THE COURT: CAN WE AGREE TO HAVE THEM E-MAILED TO MR. LUPTON BY FIVE O'CLOCK TOMORROW AFTERNOON?

MR. FERNANDEZ: YES.

THE COURT: MR. LUPTON, AS LONG AS THEY ARE DONE AT THAT TIME, DOES THAT SATISFY YOUR MOTION?

MR. LUPTON: PENDING SEEING WHAT IT IS, YES, YOUR HONOR. I MEAN ASSUMING IT IS COMPLETE.

THE COURT: I WILL ORDER THAT THEY ARE COMPELLED TO PROVIDE THAT INFORMATION BY FIVE O'CLOCK TOMORROWN.

MR. LUPTON: THANK YOU, YOUR HONOR.

THE COURT: IF THEY DO SO, THAT WILL RESOLVE THIS MOTION. IF YOU BELIEVE IT IS INCOMPLETE OR IN SOME OTHER WAY IT IS IN ERROR SO THAT ANOTHER MOTION IS APPROPRIATE WE WILL TAKE THAT UP AT 1:30 ON NEXT THURSDAY.

MR. LUPTON: THANK YOU, YOUR HONOR. NEXT WITH REGARDS TO –

DEFENDANT FALTAS: YOUR HONOR, MAY I SAY SOMETHING AS TO THAT?

THE COURT: IS IT RELATED TO THOSE ISSUES?

DEFENDANT FALTAS: ABSOLUTELY.

THE COURT: ARE YOU GOING TO TESTIFY OR DO YOU WANT TO MAKE A MOTION OR WHAT DO YOU WANT TO DO ON THOSE ISSUES?

DEFENDANT FALTAS: I WANT TO SAY THAT THE RECORDS OF THIS COURT ON TRANSCRIPTS AND THE RECORD OF FEDERAL COURT SHOW THAT THIS ALLEGED TRESPASS IS AN APARTMENT I WAS RENTING AND FOR WHICH I WAS PAYING RENT THROUGH THE COURT SYSTEM.

THE COURT: YOU HAVE THE ABILITY TO PROVIDE WHATEVER DEFENSE TO THE TRESPASS THAT YOU SO CHOOSE AT THE TIME.

DEFENDANT FALTAS: I AM SAYING THAT I HAD THREE YEARS AGO, THREE YEARS AGO, STOOD HERE BUT IT WAS AN OLD TABLE. THIS LOOKS VERY NICE. I WANT TO COMPLIMENT THE COURT FOR IT'S SPACE.

THE COURT: THANK YOU. MA'AM.

DEFENDANT FALTAS: (INAUDIBLE) THEN WAS SITTING MARION ONEIDA HANNA THAT YOU CANNOT TRESPASS WHERE YOU LIVE. YOU CANNOT TRESPASS WHERE YOU RENT.

THE COURT: THOSE ARE ALL ARGUMENTS THAT CAN BE MADE BY YOU AND/OR YOUR ATTORNEY AND WE ARE GOING TO HEAR ARGUMENT ON THE VALIDITY OF THE CHARGES, WHETHER OR NOT THEY SHOULD BE DISMISSED AT 1:30 ON NEXT THURSDAY.

DEFENDANT FALTAS: I AM SAYING THEY NEED TO MAKE CLEAR WHETHER THAT SUPPOSED FABRICATION OF AN ORAL NOTICE APPLIES TO LAND OR LOCATION TO WHICH I HAD NO RIGHT. LIKE, FOR INSTANCE, IF THEY HAVE A (INAUDIBLE) --

THE COURT: THIS IS WHAT WE ARE GOING TO REQUIRE THEM TO DO. PROVIDE INFORMATION REGARDING WHEN THE ALLEGED NOTICE TOOK PLACE BY FIVE O'CLOCK ON TOMORROW.

DEFENDANT FALTAS: AND –

THE COURT: THE VALIDITY THEREOF, WHETHER OR NOT IT WAS APPROPRIATE OR NOT, IS –

(OFF THE RECORD INTERRUPTION WITH REGARD TO ANOTHER CASE)

THE COURT: ALL RIGHT, DR. FALTAS.

DEFENDANT FALTAS: I'M SAYING THE STATEMENT NEEDS TO SAY

WHICH ADDRESS AND WHICH LOCATION HE PRETENDS HE SAID I AM NOT TO TRESPASS ON.

THE COURT: DR. FALTAS.

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: I WILL HAVE THEM SAY WHEN THEY GAVE YOU NOTICE AND WHAT THE LOCATION IS. ANYTHING FURTHER?

DEFENDANT FALTAS: ABSOLUTELY. BECAUSE – YES, YOUR HONOR, I'M SORRY. I ALSO WANTED TO BRING TO THE COURT'S ATTENTION THAT THERE IS AN ENTIRE TRANSCRIPT OF THE HEARING BEFORE LYKLESLAND MAGISTRATE DAVIS AND THAT PRECEDED THE CHARGE WHERE THEY WENT AND SAID, JUDGE, WE DON'T WANT HER TO PARK IN FRONT OF THE APARTMENT –

THE COURT: DR. FALTAS, LET ME STOP YOU. YOU'RE BEING VERY (INAUDIBLE) SPECIFIC AGAIN AND THIS IS ABOUT WHETHER OR NOT YOU ARE ENTITLED TO ADDITIONAL DISCOVERY WHICH I HAVE ALREADY GRANTED YOU. NOW YOU ARE GOING INTO SOMETHING ABOUT A HEARING IN LEXINGTON COUNTY AND WHAT WAS SAID.

DEFENDANT FALTAS: NOT LEXINGTON. LYKESLAND. RICHLAND. THE LYKESLAND MAGISTRATE.

THE COURT: OKAY. THE MAGISTRATE IN THE COUNTY.

DEFENDANT FALTAS: YES.

THE COURT: IF YOU WISH TO PRESENT ANY EVIDENCE OF THAT AT THE TRIAL YOU ARE ABSOLUTELY ENTITLED TO SEEK TO PRESENT IT AND WE'LL ADDRESS WHETHER OR NOT IT'S APPROPRIATE, RELEVANT, ET CETERA. IF YOU HAVE MOTIONS THAT YOU BELIEVE THAT SOMEHOW JUDICIALLY ESTOPS

THIS COURT FROM GOING FORWARD ON SOMETHING THAT'S BEEN DETERMINED I'M HAPPY TO HEAR ARGUMENT ON ALL THAT AS WELL. THAT IS JUST NOT TODAY.

DEFENDANT FALTAS: OKAY. ALL RIGHT.

THE COURT: SO ARE THERE ANY OTHER DISCOVERY ISSUES FROM THE CITY THAT YOU WISH TO RAISE TODAY?

DEFENDANT FALTAS: YES.

THE COURT: OKAY. WHAT IS THAT?

DEFENDANT FALTAS: ON THOSE TWO CHARGES, THE ALLEGED TRESPASS ON JULY 10TH OR 8TH, 2010, AND THE ALLEGED DISORDERLY CONDUCT ON JULY 8TH, 2010. RIGHT? THIS IS WHAT WE ARE TALKING ABOUT FOR THURSDAY AFTERNOON.

THE COURT: ARE THOSE THE CORRECT DATES, MR. FERNANDEZ? JULY 8TH, 2010.

MR. FERNANDEZ: I BELIEVE IT WAS JULY.

MR. LUPTON: THAT'S CORRECT. AND I WAS GETITNG READY TO GO INTO THE DISORDERLY CONDUCT DISCOVERY, YOUR HONOR.

THE COURT: OKAY. LET DR. FALTAS. ANY OTHER DISCOVERY YOU NEED?

DEFENDANT FALTAS: ON THAT? YES, YOUR HONOR. THE RECORDS OF CITY OF COLUMBIA POLICE OFFICERS WHO INVITED AFTER THE TRIAL ENDED I WOULD SAY IN MY FAVOR BECAUSE I RETAINED THE PRESUMPTION OF INNOCENCE, INVITED ME TO GO TO MY APARTMENT AND WERE THERE. AND ALSO THE – AND I KNOW WHOSE NAMES THEY ARE.

THE COURT: TELL ME WHAT YOU ARE ASKING FOR.

DEFENDANT FALTAS: OKAY. I'M ASKING FOR SERGEANT – MAYBE NOW HE'S LIEUTENANT, MAYBE HE'S NOW (INAUDIBLE) AND FOR OFFICER –

THE COURT: YOU ARE ASKING FOR PEOPLE TO BE SUBPOENAED OR ARE YOU ASKING – WE ARE GOING TO ADDRESS THAT. RIGHT NOW WE'RE ASKING FOR ANY DOCUMENTS OR THINGS THAT YOU THINK THE CITY HAS THAT YOU BELIEVE YOU ARE ENTITLED TO FOR THIS TRIAL. DO YOU HAVE ANY DOCUMENTS OR VIDEO OR –

DEFENDANT FALTAS: YES.

THE COURT: TELL ME WHAT THAT IS. WE'VE NOT GOTTEN TO ANY OF THAT.

DEFENDANT FALTAS: OF COURSE, WE TALKING THE VIDEO MR. LUPTON SAID HE'D TALK ABOUT IT BUT THE DOCUMENTS ARE THAT THE O'CONNOR AND WHITE GOT WRITTEN PERMISSION FOR ME TO GO TO MY APARTMENT AFTER THE TRIAL BECAUSE THE BOND WAS ONLY UNTIL THE FIRST APPEARANCE WHICH WAS JANUARY 25, 2010.

THE COURT: DON'T EXPLAIN IT TO ME.

DEFENDANT FALTAS: OKAY.

THE COURT: TELL ME WHAT YOU WANT. YOU SAID AN ORDER, A WRITTEN PERMISSION YOU THINK YOU NEED – YOU'RE REQUESTING?

DEFENDANT FALTAS: YES.

THE COURT: OKAY. IS THERE ANY OTHER THING THAT YOU ARE REQUESTING?

DEFENDANT FALTAS: FROM O'CONNOR AND OFFICER ALEX WHITE, NO. BUT I NEED THEM BECAUSE THEY –

THE COURT: I UNDERSTAND. YOU BELIEVE THERE IS A WRITTEN PERMISSION SLIP YOU NEED AND YOU WANT TO SUBPOENA THOSE TWO PEOPLE?

DEFENDANT FALTAS: YES, SIR.

THE COURT: ANYTHING ELSE? THAT'S IT, RIGHT?

DEFENDANT FALTAS: FOR THE TRESPASS. I THINK I'LL LET MR. LUPTON SPEAK ABOUT THE ALLEGED DISORDERLY.

THE COURT: THANK YOU, MA'AM. YES, SIR, MR. LUPTON.

MR. LUPTON: YOUR HONOR, WITH REGARDS TO THE DISORDERLY CONDUCT WE HAVE STILL NOT BEEN PROVIDED WITH THE STATEMENTS THAT SHE IS ALLEGED TO HAVE MADE THAT WERE OF A THREATENING NATURE, SPECIFICALLY THE SPECIFICITY ON THE STATEMENTS AS WELL AS THE TIME AND CIRCUMSTANCES WHEN THOSE STATEMENTS WERE MADE.

THE COURT: OKAY. ANYTHING ELSE?

MR. LUPTON: YOUR HONOR, THE VIDEOS OR IN LIEW OF VIDEOS THE REASON WHY THAT NO VIDEO IS BEING PRODUCED. WHETHER OR NOT IT WAS THAT THE OFFICER SIMPLY FAILED TO TURN ON THEIR VIDEO EQUIPMENT, WHETHER OR NOT THE VIDEOS HAVE EXISTED AT SOME POINT BUT NO LONGER EXIST OR WHETHER OR NOT THE OFFICERS ARE CLAIMING THAT ALL THREE CARS HAD DEFECTIVE VIDEO EQUIPMENT AT THE TIME.

THE COURT: MR. FERNANDEZ, LET'S START WITH ONE THING AT A TIME. STATEMENTS. WERE THERE ANY INCIDENT REPORTS, ANY DOCUMENTS DOCUMENTING WHAT STATEMENTS ARE ALLEGED TO HAVE BEEN MADE?

MR. FERNANDEZ: THERE'S AN INCIDENT REPORT FOR THIS CHARGE.

THE COURT: DOES THAT INCIDENT REPORT CONTAIN THE

STATEMENTS THAT SHE ALLEGEDLY MADE?

MR. FERNANDEZ: I DON'T KNOW. I DON'T HAVE IT IN FRONT OF ME.

MR. LUPTON: YOUR HONOR, IT DOES NOT. IT SAYS SIMPLY THAT SHE WAS ABUSIVE AND THREATENNG. IT DOES NOT SPECIFY ANY KIND OF STATEMENTS SPECIFICALLY. I APOLOGIZE. SHE WAS VERY LOUD AND BOISTEROUS CAUSING A SCENE AND WERE MAKING THREATS TOWARDS THE R.O. AND OFFICER ASHMORE.

THE COURT: SO YOU ARE NOT REQUESTING ADDITIONAL SPECIFICITY ON LOUD AND BOISTEROUS, ARE YOU?

MR. LUPTON: NO, YOUR HONOR

THE COURT: YOU ARE JUST DOWN TO THE THREATS? IS YOUR ARGUMENT YOU ARE ENTITLED TO KNOW SPECIFIC WORDS THAT SHE'S ALLEGED TO HAVE USED?

MR. LUPTON: YES, YOUR HONOR. BASED ON PERKINS.

THE COURT: MR. FERNANDEZ, WHAT IS YOUR ARGUMENT ON THAT OR WHAT'S YOUR POSITION ON THAT?

MR. FERNANDEZ: I'M NOT FAMILIAR WITH PERKINS. I THINK THE STATUTE ITSELF – I MEAN THE INCIDENT REPORT SPECIFICIES THREATS. IF THEY WANT TO KNOW THE SPECIFICS THEY CAN CERTAINLY TALK WITH OFFICER ASHMORE. I CAN HAVE OFFICER ASHMORE BE MADE AVAILABLE TO SAY PRIOR TO HER TESTIMONY WHAT SHE'S GOING TO TESTIFY TO. I DON'T CARE. I'LL DO IT.

THE COURT: ALL RIGHT.

MR. LUPTON: YOUR HONOR, UNDER PERKINS WHICH COUNSEL

MAY NOT BE AWARE OF THE SPECIFIC NAME OF THE CASE BUT HE IS AWARE OF THE GENERAL CONCEPT THAT UNDER THE STATE SUPREME COURT PRECEDENT THAT CONDUCT, INCLUDING LOUD AND BOISTROUS, EVEN VULGAR COMMENTS, TOWARDS AN OFFICER PROTESTING POLICE ACTIONS ARE NOT – CANNOT BE A VIOLATION OF THE DISORDERLY STATUTE. SO THE ONLY WAY THEY CAN MAKE A DISORDERLY CONDUCT IS BY GIVING SPECIFICS OF A THREAT. AND THREATS –

THE COURT: PERKINS SAYS THAT THEY'VE GOT TO TELL YOU MORE THAN THEY WERE THREATENED BEFORE TRIAL, THEY'VE GOT TO TELL YOU WHAT THE WORDS WERE?

MR. LUPTON: IT DOESN'T SAY THAT BECAUSE THE THREATS WERE NOT AN ISSUE IN THAT CASE. HOWEVER –

THE COURT: SO WHAT'S THE AUTHORITY FOR THAT JUST SO WE ARE CLEAR.

MR. LUPTON: YOUR HONOR, IT'S AN ESSENTIAL ELEMENT OF THE CASE. THEY'VE GOT TO ALLEGE THAT IT WAS PHYSICAL THREATS, THREATS OF PHYSICAL VIOLENCE WHICH WOULD, OF COURSE, CONSTITUTE A THREAT ON A PUBLIC OFFICIAL WHICH WAS NOT CHARGED. THREATS OF LEGAL ACTION, THREATS OF --

THE COURT: OKAY. I'M VERY BASIC. THIS IS MY QUESTION. WHAT LEGAL AUTHORITY DO I HAVE TO COMPEL HIM TO TELL THE OFFICER TO TELL YOU WHAT WORDS SHE USED THAT LED TO THAT INCIDENT REPORT AND THAT ARREST. THAT'S ALL I'M ASKING.

MR. LUPTON: RULE 5, SOUTH CAROLINA RULES OF CRIMINAL PROCEDURE REQUIRES THAT IN STATEMENTS THAT THEY INTEND TO USE AT TRIAL ARE ALLEGEDLY MADE BY THE DEFENDANT HAVE TO BE PROVIDED. IF

THE STATEMENTS ARE NOT PROVIDED THEY ARE NOT PERMITTED TO USE THEM AT TRIAL.

THE COURT: IS THAT A WRITTEN OR ORAL STATEMENT?

MR. LUPTON:. THAT WOULD BE EITHER.

THE COURT: SO IF SOMEBODY ALLEGEDLY MADE AN ORAL STATEMENT THEN THEY ARE SUPPOSED TO WRITE IT DOWN AND GIVE IT TO YOU?

MR. LUPTON: THEY HAVE TO TELL US WHAT IT IS BEFORE THEY CAN USE IT. AND WE ARE ENTITLED TO A JACKSON V. DENNO HEARING TO ESTABLISH WHETHER IT WAS FREE AND VOLUNTARY OR WHETHER OR NOT MIRANDA EVEN APPLIED, BUT WE WOULD BE ENTITLED TO A HEARING AHEAD OF TIME AT THE TRIAL.

THE COURT: OKAY. ARE YOU REQUESTING A JACKSON HEARING NEXT THURSDAY?

MR. LUPTON: DEPENDING ON WHAT THEY PROVIDE AS FAR AS A STATEMENT THEN WE WOULD TAKE THAT UP AT THAT TIME. BUT FIRST WE HAVE TO FIND OUT WHAT THEY ARE ALLEGING SHE SAID BECAUSE AT THIS POINT THERE IS INSUFFICIENT EVIDENCE FOR ME TO KNOW WHETHER OR NOT –

THE COURT: I FULLY UNDERSTAND YOUR ARGUMENT NOW. MR. FERNANDEZ.

MR. FERNANDEZ: YES, YOUR HONOR. SORRY. EXCUSE ME. STATEMENTS THAT THE DEFENDANT MADE I CAN CONTACT OFFICER ASHMORE AND GET SOME SPECIFICS. I CAN E-MAIL THEM TO MR. LUPTON IF THAT WORKS.

MR. LUPTON: THAT WOULD BE FINE, YOUR HONOR. AS WELL AS THE TIMING OF THOSE, AT WHAT POINT THOSE STATEMENTS WERE MADE.

MR. FERNANDEZ: WELL, THE TIMING WOULD BE SOMETIME PRIOR TO HER ARREST.

THE COURT: ON THE SAME DAY – HOW SPECIFIC ARE YOU ASKING HIM TO BE, MR. LUPTON?

MR. LUPTON: MY UNDERSTANDING IS THAT SHE WAS ALREADY TAKEN INTO CUSTODY AND ARRESTED FOR ANOTHER CHARGE AT THE POINT WHERE THE STATEMENTS –

THE COURT: SO YOU WANT TO KNOW WHETHER OR NOT THE STATEMENTS WERE MADE BEFORE OR AFTER ARREST?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: DO WE NEED TO GET INTO DEFINING ARREST OR JUST THAT'S SUFFICIENT?

MR. LUPTON: WHETHER IT WAS AFTER SHE WAS PLACED IN THE CRUISER, WHETHER OR NOT IT WAS WHEN THEY – BEFORE THEY PUT HANDCUFFS ON HER. AS BEST THEY CAN SOME LEVEL OF SPECIFICITY. IT IS IMPORTANT AS TO WHEN IT HAPPENED.

THE COURT: OKAY. WHEN CAN YOU HAVE THAT TO HIM?

MR. FERNANDEZ: I'LL CALL HER TODAY. I TALKED TO HER THIS MORNING AND SHE SAID HER SCHEDULE IS JUST UP IN THE AIR BECAUSE SHE'S ON THE P.A.C.E. TEAM SO SHE'S KIND OF – IT FLUCTUATES. I'LL CALL HER TODAY AND LEAVE A MESSAGE. HOPEFULLY BY TOMORROW AS SOON AS SHE COMES BACK. I'LL SAY IT'S IMPORTANT THAT I SPEAK TO HER TODAY OR TOMORROW.

THE COURT: WHAT I WILL DO IS ORDER TOMORROW AT FIVE. I WILL ALSO INDICATE THAT IF FOR SOME REASON YOU HAVE DIFFICULTY

GETTING IN TOUCH WITH HER YOU JUST TELL US THAT BY TOMORROW AT FIVE AND THEN I'LL EXTEND IT TO A REASONABLE PERIOD OF TIME TO HAVE IT DONE.

MR. FERNANDEZ: VERY GOOD.

DEFENDANT FALTAS: YOUR HONOR, MAY I AT THIS POINT PROVIDE THE COURT WITH THE HONORABLE JUDGE ANDERSON'S FORTY-TWO PAGE RULING IN McCOY VS. CITY OF COLUMBIA. YOUR HONOR SAID THAT I COULD. I ONLY HAVE ONE COPY OF IT AND, OF COURSE, THE CITY HAS IT BECAUSE –

THE COURT: AT THIS TIME YOU ARE OFFERING THAT FOR THE PURPOSE OF?

DEFENDANT FALTAS: OF EDUCATING MR. FERNANDEZ ABOUT THE RULES AS FAR AS WORDS SAID TO POLICE OFFICERS.

THE COURT: OKAY. THOSE ARE LEGAL ISSUES THAT I WILL CONCLUDE OR MAKE CONCLUSIONS AND RULINGS ON. IT'S NOT YOUR JOB AND I DON'T THINK YOU HAVE THE – I DON'T THINK IT'S PROPER FOR YOU TO BE SEEKING TO EDUCATE HIM ON THE RULES INVOLVING POLICE OFFICERS. I THINK YOU ARE SUPPOSED TO MAKE ARGUMENTS TO ME AND IF I DON'T THINK THAT THEY ADHERED BY WHAT IS THE APPLICABLE LAW THEN I WILL MAKE THE APPROPRIATE RULING.

DEFENDANT FALTAS: ALL RIGHT. THE OTHER THING ON THE FACE OF THE TICKETS I WAS ALREADY HANDCUFFED –

THE COURT: ARE YOU MAKING ARGUMENT ON DISMISSAL AND THE REAONS WHY THE TICKET SHOULDN'T BE VALID?

DEFENDANT FALTAS: I'M JUST BRINGING TO YOUR ATTENTION THE TIMES THAT ARE ON THE TICKETS.

THE COURT: LET'S GO HERE. NOW LET'S GO HERE. I THINK YOU NEED TO DO THAT NEXT THURSDAY AT 1:30. THAT'S NOT APPROPRIATE TO HEAR RIGHT NOW.

MR. FERNANDEZ: I'LL ALSO STATE THE OBVIOUS, YOUR HONOR. THERE IS NOTHING IN THE RECORD AT THIS POINT. THESE ARE ALL ARGUMENTS THAT ARE FOR THE DIRECTED VERDICT STAGE.

DEFENDANT FALTAS: ACTUALLY WHAT IS ON THE RECORD –

THE COURT: STOP, EVERYBODY. ANY ARGUMENT ON ANY OF THIS WILL TAKE PLACE AT 1:30 THURSDAY AFTERNOON, THE 21ST. WE ARE NOT DOING ARGUMENT ON THIS. WE ARE NOT MAKING ME AWARE OF THIS BECAUSE WHATEVER I HEAR IN THIS HEARING IS NOT GOING TO BE TRANSPORTED OVER TO THE 21ST. YOU'LL HAVE TO MAKE ARGUMENTS IN FULL AT THAT TIME SO THAT IS WHEN WE ARE GOING TO MAKE THEM.

DEFENDANT FALTAS: OKAY.

THE COURT: IF YOU'D LIKE TO GIVE ME A COPY OF THAT ORDER, I'LL BE HAPPY TO MAKE A COPY SO THAT I'M AWARE OF IT. IF IT IS JUDGE ANDERSON'S ORDER, IT MAY OR MAY NOT HAVING BINDING AUTHORITY. IT DEPENDS ON WHAT IT SAYS AND HOW IT WORKS.

DEFENDANT FALTAS: IT'S FEDERAL LAW.

THE COURT: YEAH, BUT FEDERAL LAW ALSO HAS TO BE RELEVANT TO THE ISSUE POSED SO I WILL READ IT.

MR. FERNANDEZ: DIFFERENT CHARGE, YOUR HONOR.

THE COURT: THAT'S FINE. I'LL SORT THAT OUT. THAT'S WHY I LET HER KNOW IT MAY OR MAY NOT BE BINDING. ALL RIGHT. SO WE'VE GOT TWO CASES SET. ONE FOR ARGUMENT AT 8:30 ON THURSDAY MORNING TO

BEGIN AT 9:00, ONE FOR ARGUMENT AT 1:30. I'M GOING TO TELL THE JURY TO BE PREPARED TO BE HERE AT 2:00 AND WE'LL PUT THOSE CASES UP. THE LAST THING TO BE SET ON THOSE ISSUES IS, MR. LUPTON, ARE YOU REQUESTING ANY SUBPOENAS OR ANYBODY ON THE TRESPASSING OR DISORDERLY CONDUCT?

MR. LUPTON: NO, YOUR HONOR, BUT YOU HAVE TWO OTHER DISCOVERY ISSUES.

THE COURT: OKAY. WHAT ARE THEY? I'M SORRY, I THOUGHT WE EXHAUSTED THEM.

MR. LUPTON: I MENTIONED THE VIDEO ISSUE.

THE COURT: OKAY. YOU DID.

MR. LUPTON: AND THEN THE FINAL ONE IS BRADY MATERIAL ON ASHMORE.

THE COURT: LET'S DO THEM ONE AT A TIME. IN THE VIDEO I'M VERY WELL AWARE IN D.U.I. CASES THAT THE STATUTE REQUIRES THAT CERTAIN THINGS BE DONE ON VIDEO AND FAILURE TO DO SO MAY RESULT IN DISMISSAL OF THE CASES. ALL RIGHT. AND JUST TO STATE THE OBVIOUS, THIS IS NOT GOING TO BE UNDER THAT STATUTE.

MR. LUPTON: IT IS NOT AN ARGUMENT THAT IT IS UNDER THAT STATUTE.

THE COURT: ALL RIGHT. SO IN TERMS OF – FIRST OF ALL, LET ME BACK UP A STEP. IS THERE ANY VIDEO?

MR. FERNANDEZ: NO.

THE COURT: SO WHAT IS YOUR POSITION?

MR. LUPTON: MY POSITION IS THAT THERE IS STILL NO ACKNOWLEGMENT FROM THE CITY AS TO WHY THERE'S NO VIDEO OR WHETHER

OR NOT THERE WAS VIDEO WHICH HAS BEEN DESTROYED BETWEEN THE TIME IT WAS MADE AND NOW.

THE COURT: IF NO VIDEO WAS MADE, THEN I THINK THAT ISSUE MAY OR MAY NOT BE RELEVANT DEPENDING ON CONTEXT OF THE FACTS.

MR. LUPTON: AND IF –

THE COURT: LET ME FINISH, PLEASE, MR. LUPTON. IF VIDEO WAS MADE AND SUBSEQUENTLY ERASED THEN THERE MAY BE ISSUES RELATED TO THAT.

MR. LUPTON: YES.

THE COURT: DO YOU KNOW WHETHER OR NOT THERE WAS EVER ANY VIDEO, MR. FERNANDEZ

MR. FERNANDEZ: I DON'T, YOUR HONOR, BECAUSE TWO OF THE OFFICERS ARE NO LONGER WITH THE CITY SO I HAVE NOT – ALL I WAS TOLD WAS THAT THERE IS NO VIDEO. I DON'T KNOW IF IT'S BECAUSE THE VIDEOS WEREN'T RECORDING, BECAUSE THEY WERE DESTROYED. I HAVE NO IDEA. THE ONLY PERSON THAT MIGHT BE ABLE TO SHED LIGHT ON THAT ANY MORE THAT I WOULD BE ABLE TO CONTACT IS OFFICER ASHMORE. WHEN I SPEAK WITH HER I WILL ASK HER IF SHE KNOWS WHY THERE'S NO VIDEO AND I WILL RELAY THAT INFORMATION.

THE COURT: HE WILL PROVIDE THAT INFORMATION IN THE E-MAIL BY FIVE O'CLOCK TOMORROW IF HE'S ABLE TO REACH OFFICER ASHMORE. IF THERE IS NO VIDEO, IT WAS NEVER RECORDED THEN I THINK WE ARE AT THE END OF OUR QUERY ON THAT. IF THERE WAS VIDEO AND IT WENT AWAY DEPENDING UPON UNDER WHAT CIRCUMSTANCES AND WHY THERE MAY BE OTHER ISSUES THAT YOU CAN RAISE.

MR. LUPTON: PRECISELY.

THE COURT: ALL RIGHT. AND THE LAST ONE WAS BRADY ISSUES. WHAT BRADY MATERIAL ARE YOU SPEAKING OF?

MR. LUPTON: IT HAS NEVER BEEN ACKNOWLEDGED BUT IT IS MY UNDERSTANDING THAT ASHMORE WAS INVOLVED IN WHAT HAS COMMONLY BEEN REFERRED TO AS THE CITY OF COLUMBIA POLICE DEPARTMENT CHEATING SCANDAL WHICH SHE WAS IN FACT ALLEGEDLY ONE OF THE MAIN FIGURES IN THAT, THAT SHE FALSIFIED LOGIN NAMES AND DID OTHER ACTIONS THAT WOULD I THINK BE IMPEACHABLE INFORMATION.

THE COURT: AND WHAT ARE YOU SPECIFICALLY ASKING TO BE PRODUCED UNDER THE BRADY DOCTRINE?

MR. LUPTON: WHETHER OR NOT SHE IS IN FACT THAT OFFICER AND ANY IMPEACHMENT MATERIAL RELATED TO THAT THAT IS IN POSSESSION OF THE CITY. INTERNAL AFFAIRS INVESTIGATION RELATED TO THAT, ANY DISCIPLINARY ACTION THAT WAS TAKEN RELATED TO THAT, ANYTHING OF THAT NATURE.

THE COURT: MR. FERNANDEZ, YOUR POSITION?

MR. FERNANDEZ: I DISAGREE WITH MR. LUPTON'S CHARACTERIZATOIN OF OFFICER ASHMORE'S INVOLVEMENT IN THE, QUOTE, A CHEATING SCANDAL. IT WOULD OBVIOUSLY BE AN INTERNAL AFFAIRS ON IT. I OBJECT. I DON'T THINK IT'S RELEVANT. I THINK IT OCCURRED LONG BEFORE THIS INCIDENT DID OCCUR. SHE WAS OBVIOUSLY DETERMINED TO BE FIT FOR DUTY BY THE POLICE DEPARTMENT. CERTAINLY IF YOUR HONOR STILL PREFERS THAT IT BE TURNED OVER, I WOULD OBJECT TO TURNING IT OVER TO THE DEFENDANT. I WOULD ASK THAT YOUR HONOR REVEW IT IN-CAMERA PRIOR TO

RELEASING INFORMATION AND DETERMINE WHAT, IF ANYTHING, WOULD BE RELEVANT.

THE COURT: OKAY.

MR. LUPTON: AND, YOUR HONOR, I CERTAINLY UNDERSTAND HIS CONCERNS ABOUT RELEASING IT INTO THE PUBLIC. WE WOULD NOT OBJECT TO AN ORDER RESTRICTING ITS USE TO COUNSEL, THAT IT NOT BE TURNED OVER SPECIFICALLY TO ANY NON-ATTORNEY PERSON BUT I DO VERY MUCH BELIEVE IT IS RELEVANT AS IMPEACHMENT. THE ACTS THAT SHE IS ALLEGED TO HAVE DONE ARE CERTAINLY RELEVANT TO HER BELIEVABILITY.

THE COURT: I WOULD LIKE TO HAVE AND SO ORDERED BY NEXT WEDNESDAY THAT YOU BOTH E-MAIL TO ME WRITTEN ARGUMENT REGARDING THE RELEVANCY OF THE ADMISSION OF ANY DOCUMENTS RELATING TO MS. ASHMORE'S ALLEGED INVOLVMENT IN THE, QUOTE, UNQUOTE, CHEATING SCANDAL. I KNOW YOU DON'T KNOW THE FACTS OF WHAT THEY ARE. ASSUMING SOMETHING EXISTS I WANT TO KNOW WHAT LAW SAYS AND WHAT YOUR ARGUMENTS ARE THAT IT'S RELEVANT OR NOT RELEVANT.

MR. FERNANDEZ: IN THE FORM OF A PROPOSED ORDER OR A BRIEF?

THE COURT: I SAY GO ON AND MAKE IT A PROPOSED ORDER SO THAT – I'M GOING TO MAKE A RULING ON IT. THEN I WOULD ASK THAT ON THE 21ST THAT THE INVESTIGATATIVE FILE BE BROUGHT FOR AN IN-CAMERA REVIEW. AT SUCH TIME I WILL MAKE DETERMINATIONS AND SIGN AN APPROPRIATE ORDER IF ONE OF THOSE ARE APPROPRIATE OR IF IT WOULD HAVE TO BE MODIFIED. PLEASE SEND IT IN BOTH P.D.F. AND WORD FORM IN CASE I NEED TO MAKE SOME CHANGES BASED ON WHAT WE REVIEW. I DO UNDERSTAND THAT

YOU BOTH – AT LEAST YOU, MR. LUPTON, ARE MAKING THIS ARGUMENT WITHOUT KNOWING EXACTLY WHAT IT IS. FOR THAT REASON THE ORDERS MAY NEED TO BE MODIFIED DEPENDING UPON WHAT WE FIND IN THE FILE.

MR. LUPTON: CERTAINLY, YOUR HONOR.

THE COURT: ANYTHING FURTHER?

DEFENDANT FALTAS: MAY I –

THE COURT: HOLD ON. LET ME FINISH WITH MR. LUPTON AND MR. FERNANDEZ.

MR. LUPTON: JUST TO BE CLEAR, I'M NOT NECESSARILY ARGUING THAT THE FILE ITSELF IS ADMISSIBLE AS A DOCUMENT. I UNDERSTAND THAT THE CONDUCT CONTAINED IN THE FILE IS CERTAINLY I BELIEVE ADMISSIBLE FOR IMPEACHMENT.

THE COURT: AND WHAT I WOULD ALLOW IS THAT IF WE FIND – IF I RULE THERE ARE THINGS THAT ARE ALLOWED TO BE USED FOR IMPEACHMENT MATERIAL, THAT DEFENSE COUNSEL BE GIVEN A COPY OF THOSE SPECIFIC DOCUMENTS, THAT DEFENSE COUNSEL BE ALLOWED TO USE THEM FOR IMPEACHMENT – THIS IS ASSUMING I FIND FIRST THIS IS PROPER – AND THAT THEY BE RETURNED TO THE COURT TO BE SEALED IN A FILE IMMEDIATELY FOLLOWING TRIAL.

MR. LUPTON: CERTAINLY, YOUR HONOR.

MR. FERNANDEZ: THE DOCUMENTS NOT BE DISTRIBUTED BEYOND ATTORNEY.

THE COURT: ABSOLUTELY. IT'S GOING TO BE WHILE WE ARE TRYING THIS CASE. MR. LUPTON IS GOING TO GET TO USE THEM, NO COPIES OF THEM ARE GOING TO BE MADE, YOU'RE GOING TO GET FULL AND FREE ACCESS

IF I DETERMINE THAT TO BE APPROPRIATE. BUT WE ARE NOT GOING TO HAVE THEM FLOATING AROUND THEREAFTER.

DEFENDANT FALTAS: YOUR HONOR, MAY I REGISTER MY OBJECTION BECAUSE THAT TOTALLY IMPEACHES MY RIGHT TO CONFRONT MY ACCUSER.

THE COURT: HOW IS THAT?

DEFENDANT FALTAS: THE RIGHT TO CONFRONT MY ACCUSER IS SPECIFICIC TO THE DEFENDANT, NOT TO DEFENSE COUNSEL. IN ADDITION, U.S. SUPREME COURT LAW IS QUITE CLEAR –

THE COURT: I'M SORRY. ARE YOU ARGUING YOU WANT A COPY OF THE DOCUMENTS TO KEEP?

DEFENDANT FALTAS: I'M SAYING THAT I CAN BE BOUND TO NOT DECIMINATE THEM. I CAN ACCEPT THAT BUT FOR ME TO NOT REVIEW THEM, THAT VIOLATES MY RIGHT –

THE COURT: I WILL RESERVE THE RIGHT ON THAT. THERE ARE GOING TO BE NO COPIES MADE, THEY ARE NOT GOING TO LEAVE THIS COURTROOM. I'M NOT EVEN DECIDING THAT YOU GET THEM BUT I WILL RESERVE MY RIGHT ON WHETHER OR NOT YOU CAN REVIEW THEM AT THE TIME THAT I MAKE THE RULING.

DEFENDANT FALTAS: AND I'M SAYING THAT – I'M PUTTING THIS, MY RIGHT TO CONFRONT MY ACCUSER AND, REMEMBER, ANYONE WHO LOOKS FALTAS UP ON THE PUBLIC INDEX GETS MY NAME, AGE AND SAYS CRIMINAL CHARGE. CRIMINAL.

THE COURT: YOU DO UNDERSTAND, DR. FALTAS, THAT WHEN MR. LUPTON STANDS UP AND CROSS EXAMINES SOMEBODY ON YOUR BEHALF THAT

YOU ARE CONFRONTING YOUR ACCUSER, RIGHT? YOU DO UNDERSTAND THAT YOUR ACCUSER IS IN COURT AND THE ACCUSER IS GETTING CROSS EXAMINATION AND THAT SATISFIES THE 6TH AMENDMENT – LET ME CHANGE THAT. THAT SATISFIES THE RIGHT TO CONFRONT ACCUSER.

DEFENDANT FALTAS: BUT IT DOESN'T SATISFY MY RIGHT TO CONTROL MY OWN DEFENSE WHICH IS ALSO –

THE COURT: YOU ARE GOING TO BE SITTING AT THAT TABLE AND Y'ALL ARE GOING TO HAVE INTERACTION.

DEFENDANT FALTAS: I'M SAYING TO THE EXTENT THAT MR. FERNANDEZ ARGUED THAT I DON'T EVEN GET TO LOOK AT IT.

THE COURT: I HAVE SAID THAT I RESERVE IT BUT I DON'T WANT THERE TO BE ANY MISREPRESENTATION THAT I HAVE RULED THAT I'M DENYING YOU THE RIGHT TO CONFRONT THIS PERSON BASED ON THOSE DOCUMENTS. WHAT WE HAVE SET IN PLACE IS AN ABILITY FOR ME TO LOOK AT IT AND RULE WHAT HAPPENS TO THEM IF I GRANT THEM. WHETHER I GRANT THEM OR NOT WE WILL SEE AND, IF I DO GRANT THE RIGHT TO USE THEM, THEY ARE GOING TO GET USED. OKAY?

DEFENDANT FALTAS: RIGHT. BUT I GET TO SEE THEM, TOO, BECAUSE I –

THE COURT: I SAID I WILL DECIDE THAT ON NEXT THURSDAY.

DEFENDANT FALTAS: OKAY. THANK YOU.

THE COURT: YES, MA'AM. ANYTHING FURTHER, MR. LUPTON?

MR. LUPTON: NOT ON THAT SET OF CHARGES, NO, YOUR HONOR.

THE COURT: ALL RIGHT. AND I WILL TELL YOU IF I RULE THAT IT IS APPROPRIATE I MAY OR MAY NOT ISSUE OTHER ORDERS REGARDING

WHETHER OR NOT I DEEM IT TO BE CONFIDENTIAL AND ORDERS RELATED TO THAT AND THAT WILL JUST BE SOMETHING ELSE THAT CAN BE TAKEN UP ON APPEAL BUT I MAY LIMIT WHAT YOU CAN DO WITH THE INFORMATION YOU GLEAN IF I GIVE YOU A RIGHT TO SEE IT.

DEFENDANT FALTAS: YOUR HONOR, REMEMBER, I'M A PHYSICIAN. THE PHYSICIAN'S PROFESSION INVENTED CONFIDENTIALITY. IT'S IN THE HIPPOCRATIC OATH.

THE COURT: IT INVENTED IT AND WE ENFORCE IT SO WE ARE GOING TO DO THINGS THAT ARE APPROPRIATE.

DEFENDANT FALTAS: SO NO ONE NEEDS TO TELL ME HOW TO RESPECT PEOPLE'S CONFIDENTIALITY. IT'S IN THE HIPPOCRATIC OATH.

THE COURT: IT IS BUT THIS PERSON IS NOT GOING TO BE YOUR PATIENT. SO HAVE A SEAT AND IT'S NOT ABOUT THE HIPPOCRATIC OATH.

DEFENDANT FALTAS: OKAY.

THE COURT: YES, SIR.

MR. FERNANDEZ: THE I.A. FILE JUST FOR CLARIFICATION, DOES YOUR HONOR – ON THE 21ST WHEN I ACTUALLY BRING IT, DOES YOUR HONOR WANT THE ENTIRE I.A. FILE WHICH I DON'T KNOW HOW BIG IT IS OR SMALL IT IS BUT DO YOU WANT THE ENTIRE I.A. FILE OR THE I.A. FILE AS IT ONLY RELATES TO THE CHEATING SCANDAL?

THE COURT: I HAVE NO IDEA. I DON'T KNOW WHAT'S IN IT.

MR. LUPTON: YOUR HONOR, I WOULD ASK THAT IT ALL BE BROUGHT FOR THE COURT TO REVIEW.

THE COURT: I THINK THE PORTIONS THAT – LET ME CHANGE THAT. I THINK THE PORTIONS THAT RELATE TO OFFICER ASHMORE IS WHAT'S

RELEVANT. DO YOU AGREE WITH THAT, MR.LUPTON?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: IF THERE ARE FIVE PEOPLE OR NO OTHER PEOPLE OR FIVE HUNDRED OTHER PEOPLE, I DON'T THINK YOU OUGHT TO LUG ALL THAT OVER HERE. I THINK WHAT'S RELATED –

MR. FERNANDEZ: IT WOULD BE RELATED TO HER. THERE'S JUST – SORRY TO GET SPECIFIC, YOUR HONOR, BUT WHEN –

THE COURT: LET'S DO IT THIS WAY. BRING THE FULL I.A. FILE BECAUSE I DON'T HAVE ENOUGH INFORMATION TO UNDERSTAND WHAT ALL IS CONTAINED IN IT AND YOU DON'T HAVE THE ABILITY TO ARGUE THAT WITHOUT GIVING THE SPECIFICS.

MR. FERNANDEZ: THAT'S FINE.

THE COURT: SO BRING WHAT'S RELATED TO HER AND I'LL GO THROUGH IT. MR. LUPTON, ARE YOU – I'LL GO THROUGH IT. HE'S ASKING FOR ANYTHING THAT WOULD BE QUALIFIED AS IMPEACHMENT MATERIAL AND I WILL REVIEW IT FOR THAT PURPOSE.

MR. LUPTON: THANK YOU, YOUR HONOR. YOUR HONOR, THE LAST TWO I BELIEVE ARE THE TRESPASS – THE EARLIER TRESPASS AND THEN ALSO A SEPARATE SIMPLE ASSAULT.

THE COURT: WE DO NOT HAVE THE ABILITY TO HANDLE THOSE ON NEXT THURSDAY. ARE THERE THINGS THAT WE CAN DO TO MOVE THOSE CASES TO A POINT OF BEING PREPARED FOR TRIAL AT SOME FUTURE DATE?

MR. LUPTON: THE ONLY THING I WOULD ASK IS ON THE TRESPASS, SAME AS ON THE TRESPASS THAT WE DO HAVE SET FOR THURSDAY, IF THE CITY

CAN PROVIDE ANY DOCUMENTS OR ORAL STATEMENTS THAT IT INTENDS TO RELY UPON TO ESTABLISH NOTICE AS FAR AS THE TRESPASS.

MR. FERNANDEZ: AND I THINK THAT'S FINE. MY UNDERSTANDING IS THAT WHATEVER DATES THEY HAVE WOULD COVER THE WHOLE RANGE OF DATES INCLUDING BOTH THE TRESPASS CHARGES.

THE COURT: SO HE WILL PROVIDE THAT INFORMATION.

MR. LUPTON: AND THAT MAY WELL BE. I JUST WANT IT CLARIFIED BECAUSE OBVIOUSLY –

THE COURT: HE WILL PROVIDE THAT INFORMATION AS WELL. WHAT I WILL ASK YOU, MR. LUPTON – FIRST, I'LL ASK YOU, MR. FERNANDEZ. WHEN YOU PROVIDE THE INFORMATION ON THE FIRST TRESPASS IF IT ALSO INCLUDES THE NOTICE FOR THE SECOND TRESPASS TO INDICATE SO AND THEN, MR. LUPTON, I WANT YOU TO ADVISE ME IF YOU BELIEVE THERE ARE ANY ISSUES WITH THAT.

MR. LUPTON: CERTAINLY.

THE COURT: ANYTHING ELSE RELATED TO THE SECOND TRESPASS?

MR. LUPTON: ACTUALLY I BELIEVE THAT THAT ONE IS THE EARLIER OF THE TWO TRESPASSES.

THE COURT: SECOND IN TERMS OF OUR LIST.

MR. LUPTON: RIGHT. I THINK AT THIS POINT RESERVING RIGHT ON MOTIONS THAT'S THE ONLY DISCOVERY ISSUE.

THE COURT: ALL RIGHT. SIMPLE ASSAULT. ANY DISCOVERY ISSUES?

MR. LUPTON: I'M ASSUMING THAT THE CITY HAS TURNED OVER

EVERYTHING IN ITS POSSESSION. I THINK THAT ONE IS A STRAIGHTFORWARD –

THE COURT: HERE'S MY QUESTION. DO WE HAVE ANY ISSUES WHETHER OR NOT – I DON'T KNOW WHEN THE WARRANTS OR TICKETS WERE WRITTEN. DO WE HAVE ANY ISSUES AS TO WHETHER OR NOT INFORMATION RELATED TO THE FIRST TRESPASS IS NOTICE FOR THE SECOND TRESPASS? THE REASON I ASK THAT IS I'VE SCHEDULED JUST BECAUSE OF THE WAY THEY WERE LISTED, THE SECOND TRESPASS FIRST. IS THERE A REASON TO SWITCH THAT AND TAKE THE SECOND – THE FIRST TRESPASS IN TIME AND TRY IT FIRST. ARE THERE ANY ISSUES RELATED TO THAT?

MR. FERNANDEZ: WELL, YOUR HONOR, THE BASIS FOR THE TRESPASS WILL BE A NUMBER OF OCCASIONS WHERE MR. MASON AND/OR MS STEELE DID PLACE THE DEFENDANT ON TRESPASS NOTICE BUT YOU ARE CORRECT IN A SENSE THAT THE ONE TRESPASS CHARGE DID START BEFORE THE TICKET CHARGE. I'M NOT SURE IT'S NECESSARY TO DO THEM IN TIME.

THE COURT: ARE YOU GOING TO BE PRESENTNG INFORMATION RELATED TO THE FIRST TRESPASS FOR THE PURPOSES OF ANY PROOF IN THE SECOND TRESPASS CASE?

MR. FERNANDEZ: WELL, SHE HAS NOT BEEN CONVICTED OF THE FIRST TRESPASS YET.

THE COURT: THAT'S WHY I'M ASKING ARE YOU GOING TO BE ENTERING ANY OF THAT?

MR. FERNANDEZ: I SUPPOSE IF YOUR HONOR WANTS TO DO THE REVERSE WE CAN.

THE COURT: I'M TRYING TO DECIDE RIGHT NOW IF WE NEED TO. SHE'S ALREADY LAID OUT ALL OF HER WITNESSES AND I'D HATE TO HAVE TO

REDO THAT BUT –

MR. FERNANDEZ: WE CAN DO THE COURTESY SUMMONS CASE FIRST.

THE COURT: THIS IS WHAT I'M TRYING TO FIGURE OUT. ONE OF THE ARGUMENTS IS GOING TO BE – OR LEAST I ANTICIPATE. I HAVE NO IDEA WHAT IT'S GOING TO BE – WAS SHE GIVEN TRESPASS NOTICE. WAS SHE ON NOTICE THAT SHE COULDN'T COME BACK. AND IF THERE WAS A COURTESY SUMMONS TAKEN OUT, AND I DON'T KNOW WHAT THE DATES ARE ON ANY OF THIS, AND SHE GOT IT BEFORE THE SECOND ONE THAT MAY OR MAY NOT BE SOMETHING THAT IS SOUGHT TO BE BROUGHT IN. AND I DON'T KNOW WHETHER THE DATES LINE UP LIKE THAT, I KNOW NOTHING ABOUT THIS CASE.

MR. FERNANDEZ: WELL, I TAKE IT – I MEAN IT PUTS HER ON A CERTAIN AMOUNT OF NOTICE. I MEAN ASIDE FROM ANY VERBAL NOTICE THAT WAS GIVEN, RECEIVING A COURTESY SUMMONS.

THE COURT: SO WHEN YOU TOLD ME THAT ONE HAPPENED TO BE FIRST, IT JUST RAISES THE QUESTION WITH ME ARE THERE GOING TO BE ISSUES INVOLVING THE CASES NOT BEING TRIED FOR THE PURPOSES OF NOTICE OR OTHER EVIDENCE ON THE SECOND CASE. AND IF MR. LUPTON IS GOING TO OBJECT TO THAT BECAUSE IT HADNT BEEN TRIED THEN MAYBE WE OUGHT TO FLIP IT OVER.

MR. LUPTON: YOUR HONOR, AS FAR AS – THERE ARE TWO SEPARATE ADDRESSES. THEY ARE SIDE BY SIDE PHYSICALLY BUT THEY ARE SEPRATE ADDRESSES SO I DON'T THINK THAT ANY NOTICE AS TO ONE ADDRESS WOULD –

THE COURT: I DON'T KNOW WHAT'S GOING TO PLAY OUT BUT

LET'S ASSUME THAT THIS HAPPENS. A GUY GETS ON THE STAND. DR. FALTAS, I'M GOING TO COME BACK TO YOU LIKE I ALWAYS HAVE, YES, MA'AM – AND HE SAYS I TOLD THEM TODAY DON'T COME BACK TO EITHER ONE OF THESE HOUSES, I OWN THEM BOTH. AND I DON'T KNOW IF THOSE ARE THE FACTS. I HAVE THE AUTHORITY TO TELL THEM AND I SAID DON'T COME BACK OVER HERE TO EITHER ONE OF THESE HOUSES.

MR. LUPTON: YOUR HONOR, I THINK THERE WOULD BE NO DIFFICULTY IN SEVERING THAT TO SAY I TOLD HER NOT TO COME BACK TO THIS PLACE.

THE COURT: WELL, LET'S SLOW DOWN. LET'S TAKE IT A STEP FURTHER. I TOLD HER NOT TO COME BACK TO BOTH. REALLY? YOU ARE SURE YOU DID? ABSOLUTELY I DID AND, IN FACT, AFTER I TOLD HER SHE CAME BACK TO THIS ONE AND I PUT HER ON NOTICE OF BOTH SO I TOOK OUT A WARRANT AGAINST HER. DOES THE COURTESY SUMMMONS GO IN THAT SHE HAD SOME NOTICE REGARDING NOT COMING BACK? IS THAT A PART OF – YOU KNOW, I WOULD ASSUME YOU ARE GOING TO ARGUE IT SHOULDN 'T. I DON'T KNOW IF HE'S GOING TO ARGUE IT SHOULD. IF THAT'S SOMEWHERE WE ARE HEADED AND WE CAN SORT IT OUT BY SWITCHING OUT THE ORDER OF THE CASES MAYBE WE OUGHT TO DO THAT.

MR. LUPTON: WELL, YOUR HONOR, TWO THINGS ON THAT. ONE, EVEN ASSUMING NOT SAYING THAT I BELIEVE IT –

THE COURT: AND I'M PULLING ALL OF THIS OUT OF THE AIR. I DON'T KNOW ANY OF THE FACTS.

MR. LUPTON: I UNDERSTAND. AND I'M NOT SAYING THAT I THINK THERE SHOULD BE A CONVICTION BUT EVEN ASSUMING THERE WAS A

CONVICTION ON THE FIRST – THE COURTESY SUMMONS, THE FIRST TRESPASS AS TO ONE PIECE OF PROPERTY – I DO NOT BELIEVE THAT THAT WOULD BE RELEVANT OR ADMISSIBLE IN THE SECOND PIECE OF PROPERTY, SEPARATE PROPERTY, I DON'T SEE HOW IT WOULD BE ADMISSIBLE UNDER ANY –

THE COURT: I DON'T THINK IT'S DISPOSITIVE. THE QUESTION IS IF NOTICE WAS GIVEN TO BOTH AROUND THE SAME TIME OR AT THE SAME TIME, DOES THAT SHOW THAT SHE KNEW THAT SHE HAD BEEN TALKED TO. AND I'M JUST RAISING IT AND MAYBE Y'ALL SAY, HEY, WE KNOW THE FACTS AND IT'S NOT AN ISSUE AND, IF NOT, I'LL SHUT UP AND WE'LL JUST TRY THE ONE WE SET BUT IF IT IS A POTENTIAL ISSUE I DON'T WANT TO GET THREE WITNESSES IN AND THEN HAVE THE ISSUE AND WE CREATE A PROBLEM WE COULD HAVE JUST PREVENTED TODAY.

MR. LUPTON: I DON'T THINK THAT IT'S GOING TO BE ADMISSIBLE ONE WAY OR THE OTHER SO I DON'T THINK THAT PROBLEM GOES AWAY REGARDLESS.

THE COURT: ASSUME FOR A MINUTE THAT I MIGHT MAKE A MISTAKE AND ADMIT IT, MR. LUPTON. IS IT SOMETHING THAT COULD POTENTIALLY COME UP?

MR. LUPTON: WELL, OBVIOUSLY THAT'S UP TO THE PROSECUTOR BUT I THINK THAT IF YOU MADE A FINDING THAT IT WAS ADMISSIBLE THEN IT WOULD BE ADMISSIBLE ONE WAY OR THE OTHER. I DON'T BELIEVE IT'S ADMISSIBLE REGARDLESS OF WHETHER THERE'S A CONVICTION.

THE COURT: SO YOU DON'T BELIEVE THERE'S ANY ISSUE CREATED BY TRYING THE SECOND ONE FIRST EVEN IF HE SEEKS TO ADMIT IT AND I ADMIT IT.

MR. LUPTON: I DON'T BELIEVE THERE'S ANY ISSUE THAT IS CREATED BY THAT FACT THAT ISN'T GOING TO EXIST EVEN IF THERE WAS A CONVICTION IN THE PRIOR CASE. I THINK THE ARGUMENTS WOULD BE THE SAME AS FAR AS THE DEFENSE.

MR. FERNANDEZ: MAYBE IF I LET THE COURT KNOW AND TED KNOW WHAT MY INTENTIONS ARE IT MIGHT CLARIFY ONE WAY OR ANOTHER. AS FAR AS THE ACTUAL CHARGING DOCUMENT IS CONCERNED FOR THE TRESPASS, WE WOULD NOT SEEK TO PUT THAT INTO EVIDENCE. I DON'T BELIEVE IT'S APPROPRIATE. UNLESS THE DEFENDANT TOOK THE STAND AND THEN CREATED SOME SORT OF IMPEACHMENT ISSUE WHERE IT BECAME NECESSARY BUT THAT'S A WHOLE SEPARATE DIFFERENT RULE. AS FAR AS MY CASE IN CHIEF, NOT GOING TO PUT THE CHARGING DOCUMENT IN. HOWEVER, BECAUSE NOTICE WILL BE AN ISSUE AT SOME LEVEL, WHEN MR.MASON AND MS. STEELE TESTIFY CERTAINLY I THINK THEY MIGHT WANT TO STATE THAT NOT ONLY DID THEY PLACE HER ON NOTICE ON SUCH AND SUCH DATES, BUT THAT THEY DID IN FACT TAKE STEPS TO ADDRESS THAT.

THE COURT: AND THAT'S WHERE HE OBJECTS SAYING THAT'S IRRELEVANT.

MR. FERNANDEZ: CORRECT. SO IT WOULD COME IN THE FORM OF TESTIMONY RATHER THAN AN ACTUAL DOCUMENT.

MR. LUPTON: AND I WOULD OBJECT TO THAT EVENIF THERE HAD BEEN A PRIOR CONVICTION BECAUSE WHETHER OR NOT SHE WAS CHARGED WITH TRESPASS ON SOME OTHER PIECE OF PROPERTY I DON'T BELIEVE IS RELEVANT TO THE ISSUES ON THIS PIECE OF PROPERTY.

THE COURT: AND I BELIEVE THAT RELEVANCE DEPENDS UPON

THE FACTS AS THEY ARE DEVELOPED AND I DON'T KNOW WHAT THEY ARE YET BUT I CAN SEE HOW IT COULD AT LEAST POTENTIALLY BE AN ISSUE.

MR. LUPTON: THE OTHER ISSUE, OF COURSE, IS I THINK THAT AS WE'VE GOT IT NOW WE'VE ALREADY PUT A LOT OF WORK INTO THE ORDER THAT WE'VE GOT AND IT RESOLVES THE TWO CHARGES AT ONE TRIAL AS OPPOSED TO JUST ONE CHARGE FOR JUDICIAL ECONOMY.

THE COURT: I'M ALL ABOUT IT. I JUST KNOW THAT THESE CASES AREN'T GOING TO STOP RIGHT HERE AND THE CLEANER WE CAN MAKE THE RECORD, THE CLEANER I'D LIKE FOR IT TO BE FOR EVERYBODY'S SAKE.

MR. LUPTON: I UNDERSTAND THAT. AND I THINK WE ARE GOING TO END UP WITH ISSUES, POTENTIAL ISSUES, WITH REGARDS TO THE WITNESSES WANTNG TO TESTIFY ABOUT EVENTS THAT ARE NOT ON THE DATE CHARGED REGARDLESS OF THESE.

THE COURT: I WILL PUT YOU ON NOTICE, MR. LUPTON, IF WE ARE TALKING ABOUT ISSUES NOT ON THE DATE CHARGED BUT THEY GO TO THE ISSUE OF NOTICE OR OTHER THINGS THEY MAY HAVE SOME RELEVANCE. I DON'T KNOW WHAT THEY ARE GOING TO TALK ABOUT JUST BECAUSE IT'S NOT ON THE SAME DAY.

MR. FERNANDEZ: WELL, THE NATURE OF THE NOTICE. IT WOULD BE WHY WAS NOTICE APPROPRIATE BECAUSE THE DEFENDANT AS YOUR HONOR'S ALREADY HEARD IS GOING TO ARGUE, YOU KNOW, I HAVE A RIGHT TO BE WHERE I LIVE OR I HAVE A RIGHT TO GO WHERE I LIVE. WELL, THAT'S NOT EXACTLY TRUE AND CERTAINLY THE WITNESSES WILL BE ABLE TO DISCUSS WHY NOTICE WAS NOT ONLY APPROPRIATE IN THIS CASE, BUT NECESSARY. AND THAT DOES GO DIRECTLY TO THE NATURE OF THE CHARGE, WHY THERE'S A

TRESPASS.

THE COURT: I DON'T KNOW HOW IT'S GOING TO DEVELOP. WE'LL HAVE ANY PRE-TRIAL HEARINGS WE NEED TO HAVE. I WOULD ASK FOR MOTIONS IN LIMINE SO WE ALL KNOW THIS IS COMING. THERE'S NO NEED TO MAKE THEM GET IN THE CHAIR AND THEN CREATE AN ISSUE FOR APPEAL THAT WE COULD ADDRESS BEFORE WE START. SO IF YOU DISAGREE WITH THAT YOU NEED TO FILE A MOTION IN LIMINE. YOU ARE NOT REQUIRED TO BUT I WOULD ENCOURAGE YOU TO BEFORE WE START AND THEN WE'LL ADDRESS IT. I WILL ALSO SAY THAT SOME OF THIS – YOU KNOW, WHY NOTICE WAS NECESSARY MAY OR MAY NOT BE VERY RELEVANT. CLEARLY IF NOTICE WAS GIVEN AND IT WAS LAWFULLY GIVEN REGARDLESS OF THE REASON THAT CAN BE A TRESPASS.

MR. LUPTON: ABSOLUTELY.

THE COURT: AND SO WE'VE GOT TO GET INTO I GUESS A 403 ANALYSIS OR WHATEVER THE DEAL MAY BE. WE'LL ADDRESS ALL THAT. PUT IT IN YOUR MOTION IN LIMINE. I WILL TELL YOU, HOWEVER, THAT RELEVANCE CHANGES DURING THE COURSE OF A TRIAL. AND IF DR. FALTAS OR SOMEBODY ON HER BEHALF OR DOCUMENTS ON HER BEHALF START SAYING IT'S NOT A TRESPASS BECAUSE OF THE FOLLOWING FACTS THEN THAT MAY MAKE THINGS RELEVANT AND ADMISSIBLE THAT WERE NOT IF THAT WAS NOT RAISED AS A DEFENSE.

MR. LUPTON: I WOULD CERTAINLY BE VERY CAREFUL IN TAILORING MY DEFENSE NOT TO OPEN DOORS BUT I THINK THAT HER PRIMARY OBJECTION IS WHETHER OR NOT A PERSON CAN BE LAWFULLY PLACED ON TRESPASS NOTICE IN A COMMON AREA OF PROPERTY THEY RENT. AND I DON'T SEE HOW THAT WOULD OPEN UP ANY DOORS.

THE COURT: IT MAY OR MAY NOT.

MR. LUPTON: WE COULD CERTAINLY ADDRESS THAT AT THE TIME.

THE COURT: IT MAY OR MAY NOT BUT I'M JUST TELLING YOU THAT DR. FALTAS WHO SAYS SHE'S NOT GOING TO TESTIFY ON SOME CHARGES HAS AT LEAST PROVIDED SOME ARGUMENT TODAY THAT MAY OR MAY NOT JUSTIFY THINGS BEYOND THE DATE OF THE NOTICE COMING IN. AND I DON'T KNOW WHETHER THAT WILL HAPPEN AT TRIAL OR NOT. THIS IS NOT THE TRIAL, IT'S NOT EVIDENCE, I'M NOT TAKING IT AS, I'M JUST TRYING TO ADDRESS ISSUES THAT HAVE BEEN FORESHADOWED IN THE ARGUMENTS TODAY.

DEFENDANT FALTAS: IS IT MY TURN TO BE HEARD, YOUR HONOR?

THE COURT: IN A MOMENT.

DEFENDANT FALTAS: ALL RIGHT.

THE COURT: SO WE'VE GOT TWO TRIALS SCHEDULED FOR NEXT THURSDAY. WE'VE GOT DISCOVERY ISSUES WORKED OUT FROM THOSE AS FAR AS MR. LUPTON IS CONCERNED AND MR. FERNANDEZ IS CONCERNED. AND I HAVE BEEN ASKED FOR SUPOENAS FOR MR. ANSEL, MR. ANTHONY PRESLEY AND A MR. KHAN, FIRST NAME UNKNOWN. AND MR. FERNANDEZ HAS AGREED TO BRING SEVERAL PEOPLE. IS THAT THE – AS WE STAND HERE AT THIS MOMENT AND I'M ABOUT TO TURN TO DR. FALTAS, IS THAT THE WHOLE UNIVERSE OF WHAT WE HAVE TO RESOLVE PRIOR TO TRIAL ON THURSDAY?

MR. FERNANDEZ: I DON'T HAVE ANYTHING ELSE.

THE COURT: OKAY. DR. FALTAS.

DEFENDANT FALTAS: ABSOLUTELY. THE FIRST TWO CHARGES NEED TO BE TRIED FIRST. ABSOLUTELY. THERE IS NO QUESTION ABOUT IT. IT'S

ALMOST LEGAL MALPRACTICE FOR MR. LUPTON TO ARGUE WITH YOUR HONOR WHEN YOUR HONOR MADE THE VERY COGENT, VERY, VERY LOGICAL REMARK. FIRST OF ALL, JUST STRAIGHT 6TH AMENDMENT, SPEEDY TRIAL. THE FIRST ALLEGED TRESPASS IS PENDING SINCE SEPTEMBER 5, 2009. NINE. AND AT THAT TIME THERE WAS NO EVICTION TRIAL, NO HARASSMENT CHARGE, NO ANYTHING. I WAS LIVING THERE, PAYING RENT. AND I WOULD BE WILLNG TO TESTIFY IN THAT TRIAL. SO –

THE COURT: I'LL TELL YOU WHAT. WHY DON'T WE DO THIS. MR. LUPTON, COME BACK. SHE HAS PERSUADED ME TO DO THE FOLLOWING. WE ARE NOT GOING TO TRY THE UNLAWFUL ACTS CASE ON THURSDAY. OKAY

MR. LUPTON: I UNDERSTAND.

THE COURT: THEREFORE, WE DON'T NEED ALL THOSE WITNESSES SUBPOENAED. WHAT WE ARE GOING TO DO ON THURSDAY IS THE FIRST TRIAL WE ARE GOING TO TRY IS THE FIRST TRESPASSING CHARGE, L-066954, 8:30 IN THE MORNING. WHAT WITNESSES HAVE YOU GOT FOR THAT?

MR. FERNANDEZ: DINAH STEELE, LARRY MASON, CHARLENE CROUCH.

THE COURT: HOW MANY WITNESSES YOU GOT, MR. LUPTON?

MR. LUPTON: YOUR HONOR, IF THE DEFENDANT WISHES TO TESTIFY, I BELIEVE SHE WOULD BE THE ONLY WITNESS.

THE COURT: ALL RIGHT. AND WE DID NOT HAVE ANY DISCOVERY ISSUES OUTSTANDING REGARDING THAT ONE WITH THE EXCEPTION OF GETTING NOTICE AS TO WHEN THE NOTICE WAS PROVIDED, CORRECT?

MR. LUPTON: CORRECT. THE EXACT NATURE OF THE NOTICE, YES, YOUR HONOR.

THE COURT: ALL RIGHT. IS THAT CORRECT, DR. FALTAS?

DEFENDANT FALTAS: WELL, LET ME BACK UP. THEY MENTIONED CHARLENE CROUCH. I WANT CHARLENE CROUCH AS MY WITNESS AND I WANT HER CRIMINAL RECORD.

THE COURT: ANYTHING ELSE?

DEFENDANT FALTAS: YES. YES, DEFINITELY. I THINK WE SHOULD – SUGGESTING – JUST BECAUSE I NEED TO CONTINUE TO ASSERT MY 6TH AMENDMENT, SPEEDY TRIAL RIGHT AT EVERY POINT IF THAT'S OKAY WITH YOUR HONOR. I WOULD WANT ALSO THAT FABRICATION OF SIMPLE ASSAULT ALSO TRIED THAT MORNING.

THE COURT: MA'AM, THIS IS WHAT WE ARE GOING TO DO.

DEFENDANT FALTAS: OKAY.

THE COURT: WE ARE GOING TO DO BOTH OF THE TRESPASSES THAT DAY. I'M SORRY. ARE YOU CONSENTING AND REQUESTING THAT THE SIMPLE ASSAULT BE TRIED AT THE SAME TIME AS THAT TRESPASS?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: FAIR ENOUGH. WE ARE GOING TO TRY THEM BOTH AT THE SAME TIME.

MR. LUPTON: YOUR HONOR –

THE COURT: OH, I'M SORRY. YOU GET TO ARGUE BUT YOUR CLIENTS WANTS IT AND I'M GOING TO PROBABLY LISTEN TO YOUR CLIENT BUT GO AHEAD.

MR. LUPTON: I WOULD HAVE TO OBJECT BASED ON – I MEAN I CERTAINLY –

THE COURT: WELL, HOLD ON. HOLD ON. DO YOU HAVE THE

ABILITY TO OBJECT TO YOUR CLIENT'S MOTION? JUST A QUESTION.

MR. LUPTON: I BELIEVE I DO, YOUR HONOR.

THE COURT: OKAY. WELL, I DON'T KNOW IF I'VE EVER SEEN THAT. YOU ARE OBJECTING TO SOMETHING YOUR SIDE IS DOING.

MR. LUPTON: YOUR HONOR I BELIEVE THE LEGAL STRATEGY IS THE ATTORNEY'S PURVIEW.

THE COURT: WHAT IS YOUR PURPOSE OF NOT TRYING THE TWO TOGETHER?

MR. LUPTON: I BELIEVE THE TWO TOGETHER ARE PREJUDICIAL. I THINK THE FACTS OF EACH ARE INADMISSIBLE IN THE TRIAL OF THE OTHER. I THINK THAT HAVING A JURY EXPOSED TO TWO SEPARATE ACCUSATIONS OF WRONGDOING IN ONE TRIAL WOULD BE UNDULY PREJUDICIAL TO DR. FALTAS.

THE COURT: DOCKET SO NOTED. THE OBJECTION IS PRESERVED. ANY OTHER GROUNDS FOR THE OBJECTION?

MR. LUPTON: YOUR HONOR, THAT WOULD BE MY GROUNDS.

THE COURT: DR. FALTAS, DO YOU WANT TO DO BOTH OF THEM OR NOT?

DEFENDANT FALTAS: LET'S DO THE FIRST TRESPASS IN THE MORNING AND THE ALLEGED ASSAULT –

THE COURT: I'M NOT GOING TO DO THAT. IF YOU WANT TO TRY THEM BOTH I'LL SET THEM BOTH AT THE SAME TIME. IF YOU DON'T WANT TO TRY –

DEFENDANT FALTAS: DIFFERENT JURIES?

THE COURT: NO, MA'AM. SO YOU DON'T WANT TO DO THEM BOTH AT THE SAME TIME?

DEFENDANT FALTAS: NO, WE SAID ONE IN THE MORNING AND ONE IN THE AFTERNOON.

THE COURT: THAT'S NOT WHAT WE WERE DISCUSSING AT THAT MOMENT. ALL RIGHT. WE WILL DO THE FIRST TRESPASS AT 8:30 IN THE MORNING. WE WILL DO THE SECOND TRESPASS AND DISORDERLY CONDUCT IN THE AFTERNOON.

DEFENDANT FALTAS: AND I'M STILL NOT CLEAR WHETHER IT WILL BE DIFFERENT JURIES?

THE COURT: IT WILL ABSOLUTELY BE TWO DIFFERENT TRIALS, TWO DIFFERENT JURIES.

DEFENDANT FALTAS: OKAY. THAT'S FINE. SO I HAVE NO PROBLEM WITH IN THE AFTERNOON DOING THE ASSAULT –

THE COURT: WE ARE NOT GOING TO DO THE ASSAULT. WE ARE GOING TO GO ON AND DO THE TRESPASSES AND DISORDERLY CONDUCT AND THEN THE OTHER TRESPASS. WE ARE GOING TO DO THE FIRST TRESPASS, L-066954 IN THE A.M., SECOND TRESPASS, 37025FK AND 38803FK IN THE AFTERNOON.

DEFENDANT FALTAS: SO LONG AS IT'S DIFFERENT JURIES.

THE COURT: DIFFERENT JURIES, DIFFERENT TRIALS.

DEFENDANT FALTAS: AND I GET TO TESTIFY IN THE FIRST ONE THAT DOESN'T WAIVE MY RIGHT TO –

THE COURT: DIFFERENT JURIES, DIFFERENT TRIALS. YOU CAN MAKE ONE DECISION IN ONE, ONE DECISION IN THE NEXT ONE.

DEFENDANT FALTAS: AND BY SO CONSENTNG I'M NOT WAIVING MY SPEEDY TRIAL ARGUMENT ON THE ALLEGED ASSUALT.

THE COURT: WE ARE GOING TO GET YOU A SPEEDY TRIAL. WE

ARE GOING TO GET YOU TRIED WITHIN A WEEK OR SO. IT'S NOT GOING TO BE A LONG PERIOD OF TIME FROM TODAY. ALL RIGHT. WE'VE JUST DROPPED THE UNLAWFUL ACTS WHICH I THINK SIMPLIFIES OUR LIFE.

DEFENDANT FALTAS: YOUR HONOR, THERE HAS BEEN ONE MOTION STANDING SINCE FOREVER AND THAT IS I WOULD LIKE YOUR HONOR FOR THE PURPOSE OF RULING ON MOTIONS TO DISMISS TO ACTUALLY VIEW THE SITE OR FOR THE JURY AT LEAST IN THE FIRST CASE TO ACTUALLY VIEW THE SITE.

THE COURT: WHAT SITE ARE YOU TALKING ABOUT? THE UNLAWFUL ACTS FOR THE SANITATION?

DEFENDANT FALTAS: NO, NO, NO. FOR THE FIRST TRESPASS.

THE COURT: OKAY. I WILL FIND THAT PICTURES WILL BE SUFFICIENT. I AM NOT GOING TO ORDER THAT THE JURY GO OUT TO THE SITE. I AM NOT GOING TO ORDER A VIEWING.

DEFENDANT FALTAS: SO ARE MY PICTURES GOING TO BE ADMISSBILE THAT THESE ARE NOT SEPARATE PROPERTIES. THIS IS THE COMMON AREA –

THE COURT: I CAN'T TELL YOU WHAT YOUR PICTURES ARE GOING TO BE ADMISSIBLE TO PROVE BECAUSE I HAVEN'T SEEN THEM, NOR IS IT APPROPRIATE FOR ME TO DO THAT IN THE ABSTRACT AT THIS TIME. BUT THE RULING I AM MAKING IS THAT PICTURES WOULD BE SUFFICIENT TO GIVE A JURY THE ABILITY TO MAKE A PROPER RULING IN THE CASE AND I AM NOT GOING TO ORDER THAT THEY GO TO THE SITE.

DEFENDANT FALTAS: ALL RIGHT. JUST TO MAKE SURE THAT NOT ONLY IS THERE NO ORAL NOTICE OF TRESPASS, THERE IS A WRITTEN LETTER

BECAUSE –

THE COURT: DR. FALTAS, ARE YOU GOING INTO FACTS AGAIN?

DEFENDANT FALTAS: I'M GOING INTO DISCOVERY SO THAT THEY DON'T PRETEND THEY DIDN'T GET THEIR DISCOVERY.

THE COURT: ARE YOU TRYING TO PROVIDE THEM DISCOVERY OR ARE YOU ASKING THEM FOR DISCOVERY?

DEFENDANT FALTAS: I AM ASKING THEM TO ACKNOWLEDGE THAT THEY RECEIVED A LETTER FROM – A COPY OF A LETTER.

THE COURT: LET ME STOP YOU. DO YOU HAVE ANY ISSUES WITH RECIPROCAL DISCOVERY THAT YOU ARE RAISING?

MR. FERNANDEZ: I DON'T KNOW WHAT SHE INTENDS TO PRODUCE SO I CAN'T TELL YOU IF I'VE RECEIVED IT.

THE COURT: MR. LUPTON, HAVE YOU PROVIDED DOCUMENTS IN RECIPROCAL DISCOVERY TO MR. FERNANDEZ? WAS IT A REQUEST AND, IF IT WAS, HAVE YOU PROVIDED IT?

MR. FERNANDEZ: YES, WE ALWAYS DO A RECIPROCAL RULE 5.

THE COURT: ALL RIGHT. HAVE YOU PROVIDED THEM?

MR. LUPTON: YOUR HONOR, I'VE PROVIDED EVERYTHING THAT I AM –

THE COURT: HAVE YOU PROVIDED THE LETTER THAT SHE'S TALKING ABOUT?

DEFENDANT FALTAS: CAN I TELL HIM? REMIND HIM?

THE COURT: I THINK Y'ALL NEED TO TALK ABOUT IT. I DON'T KNOW THAT IT NEEDS TO BE SAID IN OPEN COURT UNTIL – IT MAY NOT EVEN BE DISCOVERABLE.

MR. LUPTON: I'VE PROVIDED ABOUT A GIGABYTE OF DISCOVERY.

THE COURT: OKAY. PLEASE TALK TO DR. FALTAS. DR. FALTAS, PLEASE TELL HIM QUIETLY WHAT LETTER YOU ARE TALKING ABOUT AND THEN LET'S DECIDE WHETHER IT'S BEEN PROVIDED.

(PAUSE)

MR. LUPTON: YOUR HONOR, IT WAS PROVIDED.

THE COURT: THANK YOU.

(PAUSE)

DEFENDANT FALTAS: I THINK THAT IF WE ARE TRYING THE SECOND TRESPASS I HAD MENTIONED AND YOUR HONOR HAD AGREED THAT SERGEANT O'CONNELL OR O'CONNOR AND OFFICIER ALEX WHITE ARE TO BE SUBPOENAED.

THE COURT: I DID NOT. I DO NOT RECALL AGREEING TO THAT. WE WILL GO BACK AND – WE ARE GOING TO ACTUALLY TAKE A STEP BACK AND MAKE SURE EVERYBODY'S ON THE SAME PAGE. AND THE REASON I DON'T RECALL AGREEING TO THAT IS I THINK THAT THE CITY'S OFFICE WAS AGREEING TO PRODUCE OFFICERS AS OPPOSED TO SUBPOENA AND I KNOW THAT'S A SLIGHT DIFFERENCE BUT LET'S MAKE SURE THAT WE ARE CLEAR ON WHERE WE ARE AND MAKE SURE WE ARE CLEAR ON EVERYTHING THAT HAS TO BE DONE SO THERE'S NO ISSUE FOR NEXT THURSDAY. NUMBER ONE, CASE FOR TRIAL FIRST IS L-066954 WHICH HAS BEEN LOOSELY REFERRED TO AS THE FIRST TRESPASS. IN THAT REGARD THERE WAS A DISCOVERY ISSUE AND IT IS TO BE COMPLIED WITH PURSUANT TO THE PRIOR RULING BY FIVE O'CLOCK ON TOMORROW RELATING TO THE NOTICE ISSUE AND INFORMATION SPECIFIC TO IT. IN ADDITION TO THAT, IN THE FIRST CASE, L-066954, THERE WAS AN ISSUE AS TO WHETHER OR NOT A

LETTER HAD BEEN PRODUCED. MR. LUPTON INDICATED WHEN HE CAME BACK FROM SPEAKING WITH DR. FALTAS THAT HE PROVIDED ALL INFORMATION ON THE DISC AND INCLUDED WITH THAT IS THE LETTER THAT SHE REFERENCED SO THE RECIPROCAL DISCOVERY THAT SHE WAS RAISING TO MAKE SURE IT WAS COMPLIED WITH WAS COMPLIED WITH. SO THAT'S WHERE WE ARE ON THAT ISSUE.

THE CITY HAS INDICATED WHAT WITNESSES IT INTENDS TO CALL. OBVIOUSLY, YOU ARE NOT BOUND BY IT. THIS IS TERMS OF SCHEDULING AND WE BELIEVE THAT WE HAVE THREE WITNESSES THAT WILL GO FORWARD.

MR. FERNANDEZ: FOR THE –

THE COURT: FIRST TRESPASSING CASE.

MR. FERNANDEZ: FIRST BEING THE FIRST LISTED OR FIRST IN TIME?

THE COURT: FIRST IN TIME.

MR. FERNANDEZ: FIRST IN TIME WILL BE THREE WITNESSES.

THE COURT: ALL RIGHT. AND THAT'S L-066954. MR. LUPTON INDICATED THAT HE BELIEVED THAT FOR THAT TRESPASSING CASE IF HIS CLIENT CHOSE TO TESITFY SHE WOULD BE A WITNESS. DR. FALTAS HAS JUST SAID AS Y'ALL WERE AWAY FROM THE BENCH THAT SHE FELT OFFICERS SHOULD BE SUBPOENAED FOR THAT. THE FIRST TRESPASSING CASE, WERE OFFICERS INVOLVED?

MR. FERNANDEZ: AS FAR AS I KNOW. I MEAN OBVIOUSLY AN INCIDENT REPORT HAS TO BE TAKEN IN ORDER FOR SOMEONE TO OBTAIN A COURTESY SUMMONS.

THE COURT: WHAT OFFICERS ARE YOU –

MR. FERNANDEZ: BUT AS FAR AS ACTUAL WITNESSES.

THE COURT: -- INDICATING YOU BELIEVE ARE RELEVANT?

DEFENDANT FALTAS: THE OFFICERS THAT ARE ON THE INCIDENT REPORT AND THERE WERE THREE OFFICERS AND I PHOTOGRAPHED THEM FROM MY WINDOW AND THE PHOTOS HAVE BEEN TURNED THROUGH MR. LUPTON TO MR. FERNANDEZ.

THE COURT: AND WHETHER OR NOT YOUR COUNSEL DECIDES TO CALL THOSE OFFICERS OR NOT YOU'RE ASKING THAT THEY BE AVAILABLE?

DEFENDANT FALTAS: YES.

THE COURT: WHAT ARE THEIR NAMES?

DEFENDANT FALTAS: OKAY. THEY ARE ON THE INCIDENT REPORT. I'M SORRY, YOUR HONOR, I HAVEN'T MEMORIZED –

THE COURT: DOES SOMEBODY HAVE A COPY OF THE INCIDENT REPORT FOR THE FIRST TRESPASS? WHO ARE THE OFFICERS, MR. LUPTON?

MR. LUPTON: YOUR HONOR, AS BEST I CAN TELL YOU'VE GOT KENNETH GLEATON.

DEFENDANT FALTAS: GLEATON ALSO HAS THE CHEATING SCANDAL.

THE COURT: GO AHEAD.

MR. LUPTON: AND I ALSO HAVE JAMES AULD.

DEFENDANT FALTAS: OH, AULD, DEFINITELY.

THE COURT: SPELL IT.

MR. LUPTON: A-U-L-D (SPELLED).

THE COURT: OKAY.

MR. LUPTON: AND THAT APPEARS TO BE ALL ON THE REPORT

CONCERING THE TRESPASS. THERE'S A RELATED REPORT – NOT RELATED. THERE'S A REPORT ALSO ON THE ASSAULT COURTESY SUMMONS WHICH HAPPENED –

THE COURT: LET'S STICK TO THE TRESPASS. ARE YOU REQUESTING ANY OFFICERS BE AVAILABLE OTHER THAN THOSE TWO?

DEFENDANT FALTAS: BUT I DO – IF GLEATON IS THE ONE, HE WAS ALSO INVOLVED IN THE CHEATING SCANDAL.

THE COURT: WE'VE GOT TO ANSWER ONE QUESTION AT A TIME OR WE'LL NEVER GET DONE. WE ARE ALREADY RUNNING INTO LUNCH. ARE YOU ASKING THAT GLEATON AND AULD BE AVAILABLE FOR YOUR TRESPASS CHARGE 8:30 THURSDAY MORNING?

DEFENDANT FALTAS: ABSOLUTELY. ABSOLUTELY.

THE COURT: MR. FERNANDEZ, ARE THEY STILL EMPLOYED WITH THE CITY?

MR. FERNANDEZ: AS FAR AS I KNOW. IS OFFICER HAMPE IN HERE? NO? I KNOW JIMMY AULD IS. I DON'T KNOW ABOUT GLEATON.

MR. LUPTON: I KNOW AULD.

THE COURT: DO WE NEED TO GO THROUGH THE PROCESS OF A SUBPOENA OR CAN YOU MAKE THEM AVAILABLE IF THEY ARE EMPLOYED?

MR. FERNANDEZ: I DON'T INTEND TO CALL THEM AS WITNESSES.

THE COURT: I KNOW YOU DON'T. WOULD YOU LIKE FOR ME TO DO A SUBPOENA?

MR. FERNANDEZ: I DON'T KNOW THEIR SCHEDULE, YOUR HONOR. AND YOU KNOW THE COURT'S POLICY ON BRINGING OFFICERS IN OFF DUTY FOR NOT TO. A SUBPOEA MAY BE NECESSARY.

THE COURT: I WILL ISSUE A SUBPOENA FOR THOSE TWO. NOW, DR. FALTAS, IT IS YOU AND YOUR COUNSEL'S RESPONSIBILITY PURSUANT TO WHAT I'M ORDERING RIGHT NOW TO ADVISE ME BY NINE O'CLOCK IN THE MORNING WHETHER OR NOT YOU INTEND TO CALL THEM IN ANY DEFENSE CASE. NOW WITH THAT UNDERSTANDING OBVIOUSLY THINGS CAN CHANGE AND YOU CAN CHANGE YOUR MIND. IF YOU CHANGE YOUR MND, WE'LL GO GET THEM BACK BUT I DON'T WANT TO MAKE THEM SIT OVER HERE FOR A COUPLE OF HOURS IF YOU KNOW YOU'RE NOT GOING TO CALL THEM.

DEFENDANT FALTAS: NO, I KNOW I WANT TO CALL THEM.

THE COURT: WELL, THAT'S NOT JUST YOUR DECISION TO MAKE. THAT'S YOU AND YOUR COUNSEL AND I'M NOT GOING TO ASK YOU TO TALK RIGHT NOW AND CONFER. I'M NOT GOING TO ASK YOUR COUNSEL TO MAKE THAT DECISION RIGHT NOW AND ALL I'M GOING TO ASK HIM TO TELL ME AT NINE IN THE MORNING IS WE DON'T THINK WE ARE GOING TO CALL THEM OR WE DO THINK WE'RE GOING TO CALL THEM. IF YOU THINK YOU'RE GOING TO CALL THEM, I'LL MAKE THEM SIT AND LISTEN. IF YOU DON'T THINK YOU'VE GOING TO CALL THEM, I'LL GET THE CELL PHONE NUMBER AND LET THEM GO. IF YOU CHANGE YOUR MIND WE'LL BRING THEM BACK BUT I DON'T WANT TO MAKE THEM SIT HERE IF YOU KNOW YOU'RE NOT GOING TO CALL THEM.

DEFENDANT FALTAS: A HUNDRED PERCENT WANT THEM. THE OTHER THING IS GLEATON IS ALSO IN THE CHEATING SCANDAL SO BRADY NEEDS – HIS I.A. FILE AND –

THE COURT: STOP, DR. FALTAS.

DEFENDANT FALTAS: OKAY.

THE COURT: MR.LUPTON, HAVE YOU GOT ANY MOTION ON MR.

GLEATON?

MR. LUPTON: YOUR HONOR, I WOULD ASK FOR THE SAME THING WITH OFFICER ASHMORE.

THE COURT: DO ANOTHER PROPOSED ORDER.

MR. LUPTON: YOUR HONOR, SHE WANTS TO CALL A WITNESS WHO DIDN'T WITNESS ANYTHING.

THE COURT: WELL, HERE'S THE QUESTION. CAN YOU CALL A WITNESS TO IMPEACH HIM.

MR. FERNANDEZ: TO TRY TO IMPEACH HIM WITH SOMETHING THAT MAY OR MAY NOT EXIST.

THE COURT: SO THAT'S THE QUESTION. CAN YOU CALL A WITNESS AND THEN IMPEACH HIM. IF THEY ARE NOT CALLING HIM, DO YOU HAVE THE SAME RIGHT?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: YOU CAN CALL HIM TO IMPEACH HIM?

MR. LUPTON: UNDER THE RULES OF EVIDENCE AS ADOPTED BY THE STATE OF SOUTH CAROLINA IN 1995 A PARTY IS ALLOWED TO IMPEACH ANY WITNESS, INCLUDING ONE THEY CALL. PRIOR TO '95 THERE WAS A RULE –

THE COURT: WHAT IS THE RELEVANCE OF THEIR TESTIMONY?

MR. LUPTON: YOUR HONOR, I DON'T EXPECT THAT I'LL BE CALLING HIM.

THE COURT: DIFFERENT QUESTION. WHAT'S THE RELEVANCE OF WHAT THEY CAN PROVIDE? WHAT WOULD THEY BE CALLED FOR?

DEFENDANT FALTAS: RESPECTFULLY, YOUR HONOR –

THE COURT: HOLD ON. I'M TALKING TO HIM FIRST.

DEFENDANT FALTAS: ALL RIGHT.

THE COURT: THEN I'LL TALK TO YOU.

DEFENDANT FALTAS: OKAY.

THE COURT: I'M NOT ASKING TRIAL STRATEGY, I'M JUST ASKING DO YOU KNOW OF ANY RELEVANT, ADMISSIBLE EVIDENCE, TESTIMONY THEY COULD PROVIDE?

MR. LUPTON: I DO NOT KNOW OF ANY, YOUR HONOR. I DO NOT INTEND TO CALL THEM.

THE COURT: DR. FALTAS, DO YOU KNOW OF ANY RELEVANT, ADMISSIBLE -- JUST VERY SUSCINCTLY WHAT RELEVANT INFORMATION DO THEY HAVE?

DEFENDANT FALTAS: I AM NOT GOING TO REVEAL THE DEFENSE STRATEGY. I WOULD LIKE TO CONVINCE MR. LUPTON OF IT AND TO KEEP IT AS OUR DEFENSE STRATEGY BUT I HOPE THE COURT HAS ENOUGH –

THE COURT: HERE'S MY QUESTION. BEFORE I GO SUBPOENA A WITNESS, MAKE THEM SIT THROUGH A TRIAL AND GO GET A COPY OF AN INTERNAL INVESTIGATION FILE, I DON'T WANT TO ASK YOU ANYTHING OTHER THAN DO YOU BELIEVE THERE TO BE ANY RELEVANT TESTIMONY THEY CAN PROVIDE AND NOT THE SPECFIFICS BUT WHAT IS THE NATURE OF IT?

DEFENDANT FALTAS: WELL, VERY RELEVANT. I CAN TELL YOUR HONOR THE NATURE IN-CAMERA.

MR. FERNANDEZ: YOUR HONOR –

DEFENDANT FALTAS: WE ARE NOT TRYING TO GIVE THE DEFENSE STRATEGY.

THE COURT: DR. FALTAS, LET ME TELL YOU WHAT I'M GOING TO

DO. IS THERE ANYTHING ELSE RELATED TO THAT TRIAL? THAT'S A SEPARATE ISSUE. ANY OTHER ISSUES RELATED TO THAT TRIAL?

MR. LUPTON: NONE THAT I'M AWARE OF, YOUR HONOR.

THE COURT: FINE. L-066954, TRESPASSING CASE IS SET. I WILL IN A MOMENT MAKE A DECISION ON WHETHER I'M GOING TO SUBPOENA THOSE OFFICERS. ALL THE OTHER ISSUES RELATED TO DISCOVERY ARE DONE. SECOND TRESPASS CASE IS SET AT 1:30, INCLUDING THE DISORDERLY CONDUCT PURSUANT TO THE SAME ISSUES. MAKE THE PEOPLE AVAILABLE YOU SAID YOU'D DO, MR. FERNANDEZ. THERE ARE NO SUBPOENAS TO BE ISSUED IN THAT CASE.

NOW LAST QUESTION REMAINING IS WILL I SUBPOENA OFFICERS GLEATON AND AULD AND WILL I SUBPOENA THEIR I.A. FILE TO THEN HAVE THEM PETITIONED – TO HAVE THEM POTENTIALLY IMPEACHED ON SOMETHING THAT MAY OR MAY NOT EXIST.

MR. LUPTON: WELL, I'M NOT ASKING ANYTHING ABOUT AULD.

THE COURT: ARE YOU ASKING ANYTHING ABOUT GLEATON?

MR. LUPTON: MY UNDERSTANDING FROM WHAT DR. FALTAS HAS SAID IS THAT HE WAS INVOLVED IN THE CHEATING SCANDAL AS WELL.

THE COURT: DO YOU HAVE ANY FURTHER STATEMENT THAN THAT?

MR. LUPTON: YOUR HONOR, IT WAS IN THE NEWS.

DEFENDANT FALTAS: YES, AND I HAVE IT ACTUALLY.

MR. LUPTON: SO I MEAN IT IS –

DEFENDANT FALTAS: AND HE WAS ONE OF THOSE WHO WAS RECEIVED A HIGHER PENALTY SO I THINK –

THE COURT: YOU KNOW, THE DEFENDANT HAS REFUSED IN OPEN COURT TO GIVE ANY RELEVANCE STATEMENT – I SAID IN OPEN COURT, DR. FALTAS. YOU SAID IN-CAMERA. IN-CAMERA IS NOT IN OPEN COURT. YOU DO UNDERSTAND THAT, CORRECT?

DEFENDANT FALTAS: YES.

THE COURT: ALL RIGHT. IN OPEN COURT TO PROVIDE ANY STATEMENT OF RELEVANCE FOR THEIR TESTIMONY. HER ATTORNEY DOES NOT KNOW OF A REASON WHY IT'S RELEVANT AND DOES NOT INTEND TO CALL THEM. THEN DR. FALTAS AFTER THAT WISHES TO HAVE THE I.A. FILE ON MR. GLEATON. I AM GOING TO DENY THAT REQUEST AND IT IS PRESERVED FOR APPEAL. I WILL ISSUE –

DEFENDANT FALTAS: WELL, IF YOUR HONOR WOULD –

THE COURT: LET ME FINISH MY RULING AND THEN YOU MAY MAKE ANY EXCEPTION YOU WANT. I WILL ISSUE A SUBPOENA FOR MR. GLEATON – OFFICERS GLEATON AND AULD. YES, MA'AM.

DEFENDANT FALTAS: OH, SO YOU WILL ISSUE A SUBPEOA?

THE COURT: I WILL ISSUE A SUBPOENA. I'M NOT GETTING THE I.A. FILE BECAUSE YOU'VE GOT GIVEN A REASON FOR WHY THEY ARE RELEVANT, OR ANY FURTHER INFORMATION.

DEFENDANT FALTAS: THAT'S WHAT I WAS ABOUT TO SAY. I CAN GIVE IT TO YOU IN OPEN COURT BUT I WILL PRESERVE THE FACT THAT UNDERMINES THE DEFENSE STRATEGY.

THE COURT: I AM NOT GOING TO MAKE YOU UNDERMND YOUR STRATEGY AND YOU ARE NOT GOING TO PROFFER SOMETHING THAT IS UNDERMINING YOUR STRATEGY AND THEN BATE ME INTO MAKING YOU DO IT.

I'M GOING TO STAND ON THAT RULING.

DEFENDANT FALTAS: BUT SO LONG AS THEY ARE SUBPOENAED THAT'S FINE.

THE COURT: THEY ARE. WE ARE READY TO GO. ANYTHING FURTHER, MR. FERNANDEZ?

MR. FERNANDEZ: YOUR HONOR DID SAY ABOUT THE TRESPASS AND DISORDEERLY CHARGES THAT THERE WAS NO ONE TO SUBPOENA. JUST TO BE CLEAR I THINK THE DEFENDANT PERFERS TO HAVE OFFICERS McSWAIN AND RUSHER AT TRIAL SO SHE INDICATED EARLIER. I DO NOT INTEND TO SUBPOENA THEM. IF I CAN GET IN TOUCH WITH McSWAIN I'LL ATTEMPT TO HAVE HIM HERE BUT I CANNOT INSURE THAT.

THE COURT: IF YOU PROVIDE THE ADDRESSES FOR McSWAIN AND LAST NAME OF THE OTHER ONE?

MR. FERNANDEZ: DAVID RUSHER.

THE COURT: RUSHER BY TOMORROW. I'M LITERALLY NOT GOING TO BE IN TOWN AFTER FRIDAY TO SIGN ANY SUBPOENAS. YOU GET ME THEIR NAMES AND ADDRESSES, I WILL ISSUE THOSE TWO SUBPOENAS. Y'ALL GOT TO GET THEM SERVED.

DEFENDANT FALTAS: AND FOR THE FIRST TRESPASS I THINK THEY SAID THEY WILL CALL CHARLENE CROUCH AND SO WE'D LIKE TO SUBPOENA HER.

THE COURT: IF SHES GOING TO BE HERE AND THEY ARE CALLING HER, SHE'LL BE HERE.

DEFENDANT FALTAS: WHAT IF THE CITY CHANGES ITS MIND?

THE COURT: MR. FERNANDEZ, ARE YOU CALLING HER?

MR. FERNANDEZ: MS. CROUCH IS IN THE COURTROOM – SHE WAS.

THE COURT: SHE WAS. SHE JUST WENT OUT.

MR. FERNANDEZ: SHE INDICATED THAT SHE'LL BE HERE. I AM GOING TO CALL HER AS A WITNESS.

THE COURT: ALL RIGHT. I WILL TELL HER SHE CAN'T LEAVE UNTIL THE DEFENSE CASE FINISHES. YOU GET TO CROSS HER. I'M NOT SURE YOU ARE GOING TO WANT TO CALL HER IN YOUR CASE AFTER CROSSING HER BUT I'LL HAVE HER STAY IN CASE YOU DO. NOW I THINK THAT'S ABOUT ALL WE CAN DO, FOLKS.

DEFENDANT FALTAS: YOUR HONOR, YOU HAVE SAID THAT I MAY GIVE YOU A COPY OF OTHER THINGS THAT I HAD SIGNED IN FEDERAL COURT.

THE COURT: NO, MA'AM. I SAID YOU COULD GIVE ME A COPY OF JUDGE ANDERSON'S ORDER. THINGS THAT YOU FILED THAT ARE NOT ORDERS I DON'T THINK ARE APPROPRIATE FOR ME TO CONSIDER UNLESS THEY ARE ADMITTED INTO EVIDENCE.

DEFENDANT FALTAS: I JUST WAS – AND I THANK YOUR HONOR FOR READING OR AGREEING TO AT LEAST ACCEPT A COPY OF JUDGE ANDERSON. I WAS JUST WANTING TO SPECIFICALLY DIRECT YOUR HONOR'S ATTENTION THAT HE FOUND THE CITY ORDINANCE VOID FOR VAGUENESS. IT'S NOT THE SAME ORDINANCE.

THE COURT: IF SOMETHING IS THE LAW AND IT'S AN ORDER I'M HAPPY TO CONSIDER THAT. THIS HEARING IS CONCLUDED. I WILL SEE Y'ALL NEXT THURSDAY MORNING.

MR. FERNANDEZ: MR. PRESLEY, HE HAS THREE OF THE CHARGES. HE'S JUST CONCERNED ABOUT WHAT THE STATUS OF HIS CASES ARE. I'M

RELAYING TO HIM THAT PER THE COURT'S ORDER –

THE COURT: I HAVE RULED THAT SHE IS NOT ALLOWED TO GO FORWARD ON THE CASES WITHOUT A PROSEUTING AUTHORITY. HE HAS MADE THE AFFIRMATION THAT THE CITY WILL NOT PROSECUTE. HE'S GOING TO WRITE A LETTER TO SEE IF THE OTHER PEOPLE THAT HAVE THE ABILITY AND AUTHORITY TO PROSECUTE WILL DO SO. IF THEY WILL NOT THEN THEY WILL COME BACK AND I'LL MAKE A RULING ON WHETHER OR NOT TO DISMISS THE CHARGES.

MR. FERNANDEZ: SO IT WILL BASICALLY BE CONTINUED.

(ADJOURNED)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE MUNICIPAL COURT FOR THE CITY OF COLUMBIA
CITY OF COLUMBIA, VS. MARIE-THÉRÈSE ASSA'AD-FALTAS, DEFENDANT.	)	CERTIFICATE

THIS IS TO CERTIFY THAT THE WITHIN HEARING, CONSISTING OF NINETY-ONE (91) PAGES, IS A TRUE AND CORRECT TRANSCRIPT OF RECORD FOR THE MOTIONS ON MARCH 12, 2013, SAID TRANSCRIPT BEING PREPARED TO THE BEST OF MY ABILITY FROM A RECORDED DISC PROVIDED TO ME WITHOUT THE BENEFIT OF MY BEING PRESENT AT THE PROCEEDING.

I FURTHER CERTIFY THAT I AM NOT RELATED TO ANY OF THE PARTIES IN THIS MATTER OR THEIR COUNSEL, NOR DO I HAVE ANY INTEREST, FINANCIAL OR OTHERWISE, IN THE OUTCOME OF THE SAME.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL ON THE 18TH DAY OF DECEMBER, 2013.

Nancy S. Ahrens

NANCY S. AHRENS
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 03-29-19

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COLUMBIA MUNICIPAL COURT
CITY OF COLUMBIA, VS. MARIE-THÉRÈSE ASSA'AD-FALTAS, DEFENDANT.	)	TRANSCIRPT OF RECORD Warrant No.: L-066971, et al

HEARING HELD BEFORE THE HONORABLE CARL L. SOLOMON, PRESIDING JUDGE, IN THE COLUMBIA MUNICIPAL COURT, COLUMBIA, SOUTH CAROLINA, ON APRIL 10, 2013.

APPEARANCES:

DAVID A. FERNANDEZ, ESQUIRE
APPEARING FOR THE CITY

THEODORE N. LUPTON, ESQUIRE
ORIN BRIGGS, ESQUIRE
APPEARING FOR THE DEFENDANT

TRANSCRIBED BY:
NANCY S. AHRENS

THE COURT: IF YOU'LL HAVE A SEAT, WE'LL GET STARTED.

DEFENDANT FALTAS: I HAVE TO GET SOME MORE THINGS FROM THE CAR.

THE COURT: WELL, I DON'T KNOW WHAT WE ARE GOING TO NEED THEM. WE ARE NOT HAVING THE TRIAL TODAY. I DON'T KNOW IF IT'S INVOLVED IN ANY MOTIONS TO BE HEARD BUT IF IT IS, YOUR LAWYERS WILL BE HAPPY TO ASSIST YOU.

DEFENDANT FALTAS: WHY DOES EVRYONE MAKE DECISIONS FOR ME? I'M SIXTY YEARS OLD. I HAVE TWO GRADUATE DEGREES, I SPEAK FOUR LANGUAGES.

THE COURT: I DID NOT MAKE A DECISION FOR YOU. I'M TRYING TO GET THE HEARING STARTED, DR. FALTAS.

DEFENDANT FALTAS: WELL, YOUR HONOR, SAID THAT FOR THE HEARINGS THE EXHIBITS NEED TO BE MARKED. THESE ARE EXHIBITS THAT I NEED TO BE MARKED.

THE COURT: DR. FALTAS, WE NEED TO START. COULD YOU PLEASE HAVE A SEAT. IF THERE ARE EXHIBITS THAT NEED TO BE MARKED WE'LL ALLOW YOU AN OPPORTUNITY TO GO GET THEM.

DEFENDANT FALTAS: ALL RIGHT. THANK YOU.

THE COURT: THANK YOU. THANK Y'ALL FOR JOINING US HERE TODAY. WE ARE HERE TO DO KIND OF A CONFERENCE ON THE CASES THAT REMAIN AND TO THE EXTENT THERE ARE ANY MOTIONS THAT ARE RIPE TO BE HEARD WE WILL HEAR THOSE AND THE GOAL IS TO BE ABLE TO HAVE ORDERLY TRIALS IN A WAY THAT ALLOWS THEM TO TAKE PLACE AS SOON AS POSSIBLE WHICH I THINK IS IN THE BEST INTEREST OF THE PARTIES INVOVLED IN THE

LITIGATION. WE HAVE CURRENTLY SCHEDULED – WELL, LET'S STEP BACK ONE STEP. I PROVIDED A STATUS UPDATE TO THE ATTORNEYS HERE. IF Y'ALL WOULD MAKE SURE MS. FALTAS – DR. FALTAS GETS TO SEE ONE.

DEFENDANT FALTAS: WELL, NO ONE (INAUDIBLE).

THE COURT: I JUST ASKED THEM TO. YOU JUST GOT HERE, DR. FALTAS. ALL RIGHT. NOW WHAT I HAVE LISTED ARE FIVE DIFFERENT THINGS TO TAKE PLACR OR HAVE TAKEN PLACE. ONE WAS A STATUS CONFERENCE WHICH WE HELD ON MARCH 12, 2013. SECOND WAS TRESPASSING TRIAL WHICH WE HAD HERE ON THE 21ST. WE HAVE THREE TRIALS CURRENTLY PENDING, AN UNLAWFUL ACTS, FIRST OFFENSE ON THE 11TH WHICH IS TOMORROW. TRESPASS AND DISORDERLY CONDUCT ON THE 24TH AND SIMPLE ASSAULT ON THE 25TH. FIRST OF ALL, ARE THERE ANY ISSUES RELATED TO THAT SCHEDULE?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: I NEED YOU TO WORK THROUGH MR. BRIGGS OR MR. LUPTON DEPENDING UPON WHICH CASE YOU ARE ADDRESSING, DR. FALTAS.

DEFENDANT FALTAS: OKAY. (INAUDIBLE)

MR. BRIGGS: YOUR HONOR, WE'VE GOT A COUPLE OF OTHER LITTLE MOTIONS. IT'S MY OPINION THAT THEY OUGHT TO BE ARGUED AT TRIAL. THE ONLY REASON I DID A MEMO IS ONE OF THEM IS FAILURE TO GET A SPEEDY TRIAL, YOUR HONOR, BUT I THINK THESE OTHERS ARE MORE APPROPRIATE TO DO THAT BUT I'LL JUST MENTION ONE OF THEM SO THE COURT CAN TELL ME WHAT THE COURT THINKS. WHEN THE JURY WAS QUALIFIED ON MONDAY DR. FALTAS AND JUDGE BOGAN HAD A CONVERSATION ABOUT WHETHER OR NOT SHE WAS ENTITLED TO A JURY LIST AND I AGREE WITH HER THAT JUDGE BOGAN WAS A LITTLE TOO HARD ON HER IN FRONT OF THE JURY, YOUR HONOR. SO I'D

HAVE TO MAKE THAT MOTION THAT THIS JURY SHOULD BE STRUCK AND THERE SHOULD BE ANOTHER JURY PICKED FOR DR. FALTAS. NOW WE CAN ARGUE THAT TODAY BUT I THOUGHT IT WAS MORE APPROPRIATE AT TRIAL.

THE COURT: WELL, ARE YOU GOING TO HAVE ANY MORE FACTUAL BACKGROUND FOR ME TO GO ON OR IS THAT GOING TO BE THE FULL FACTUAL BACKGROUND YOU'RE GOING TO PROVIDE?

MR. BRIGGS: LET ME ASK DR. FALTAS. DID YOU GET A COPY OF THAT TRANSCRIPT YET?

DEFENDANT FALTAS: YES, I HAVE IT.

MR. BRIGGS: YOU HAVE THE TRANSRCRIPT.

DEFENDANT FALTAS: MR. LUPTON HAS IT. THERE IS THE C.D. THAT SHOULD BE THE RECORD AND IN MY CAR I HAVE UNITED STATES V. GOMEZ, U. S. SUPREME COURT CASE –

MR. BRIGGS: THAT'S ALL WE NEED. THAT'S ALL WE NEED.

DEFENDANT FALTAS: AND THERE IS NO REASON TO BRING THE JURY IN TOMORROW ONLY TO SEND THEM HOME. THIS IS SOMETHING THAT WE CAN WORK TODAY. BESIDES I HAD NEVER CONSENTED TO HAVE THE UNLAWFUL ACTS ON 4-11 BEFORE THE OTHERS. AGAIN, EVERYBODY IS BUYING AND SELLING ME AND I'M SORRY, YOUR HONOR, MY KNEE GOT WORSE SINCE THE LAST TIME I WAS BEFORE YOU. EVERYBODY IS BUYING AND SELLING ME AS IF I WERE INCOMPETENT AND I RESENT THAT. AND IF THE CHIEF JUSTICE WANTS TO HOLD A HEARING FOR ME TO BE IN CONTEMPT OF COURT SHE NEEDS TO BE MY GUEST. I'VE HAD IT. I'M NOT AN INCOMPETENT PERSON.

THE COURT: YOU ARE NOT BUT YOU ARE REPRESENTED BY COUNSEL AND COUNSEL GETS TO DO THEIR JOB.

DEFENDANT FALTAS: FORCIBLY. FORCIBLY.

MR. BRIGGS: BY COURT ORDER.

THE COURT: MR. BRIGGS –

DEFENDANT FALTAS: BY INVALID COURT ORDER.

THE COURT: MR. BRIGGS, ARE WE GOING TO HEAR THAT TODAY OR NOT? THE MOTION REGARDING THE JURY POOL, ARE WE GOING TO HEAR THAT TODAY OR NOT? YOU WANT TO HEAR IT TODAY OR IN THE MORNING?

MR. BRIGGS: I THINK I SHOULD JUST NOTE THE MOTION FOR THE SPEEDY TRIAL AND NOTE MY REASONS FOR A CONTINUANCE AND THEN YOU DECIDE WHETHER YOU WANT TO CONTNUE ON WITH ANY MOTIONS I HAVE, YOUR HONOR. I'M JUST TRYING TO HELP.

THE COURT: OKAY. LET'S START WITH THOSE.

MR. BRIGGS: OKAY. CAN I SIT DOWN, TOO, YOUR HONOR. I AM HAVING A LITTLE TROUBLE WITH MY HIP.

DEFENDANT FALTAS: YOUR HONOR, MAY I GO TO MY CAR AND GET THE CASE.

THE COURT: LET'S PLEASE WAIT. I WANT YOU TO BE ABLE TO HEAR –

MR. BRIGGS: YOU DON'T WANT US TALKING WHEN YOU ARE NOT HERE. SOMEBODY MAY SAY SOMETHING WRONG.

THE COURT: I WANT YOU TO HEAR. ALL RIGHT, LET'S GO FOR IT, MR. BRIGGS.

MR. BRIGGS: OKAY. YOUR HONOR, I HAVE TWO QUESTIONS FIRST. THERE SEEMS TO BE A DEBATE AMONG THE ATTORNEYS AND MY CLIENT AND I ALWAYS SAY IF IT HAS TEN ATTORNEYS WHO HAVE ANOPINION, YOU'LL GET

TWELVE OPINIONS, YOUR HONOR. BUT THE QUESTION IS DOES THIS PARTICULAR ORDINANCE IN HER, QUOTE, TRASH CASE, THAT I'M SUPPOSED TO TRY TOMORROW –

DEFENDANT FALTAS: DON'T CALL IT TRASH. IT'S NOT TRASH. THERE WAS NEVER ANY TRASH.

THE COURT: DR. FALTAS. DR. FALTAS.

MR. BRIGGS: YOUR HONOR, IF SHE DOES THAT ONE MORE TIME, I'M GOING TO LEAVE.

THE COURT: I'M GOING TO ADDRESS IT. DR. FALTAS, LOOK AT ME, PLEASE.

DEFENDANT FALTAS: I AM, YOUR HONOR.

THE COURT: WE ALL HAVE TO BE CORDIAL. IF YOU ARE NOT CORDIAL AND ALLOW PEOPLE TO SPEAK THEN I'M GOING TO HAVE TO ADDRESS IT. PLEASE ALLOW YOUR ATTORNEYS TO MAKE THEIR ARGUMENTS. PLEASE, MR. BRIGGS.

MR. BRIGGS: YOUR HONOR, I WILL JUST IGNORE THAT. I KNOW WHAT SHE'S TALKNG ABOUT BUT IN THAT CASE I DIDN'T CALL IT TRASH. I WAS USING THEIR TERM. BUT ANYWAY, YOUR HONOR, SO MY QUESTION IS DOES THAT ORDINANCE AS YOU READ IT, YOUR HONOR, AUTHORIZE JAIL TIME OR DOES IT READ JUST THAT IT IS A CIVIL FINE?

THE COURT: GIVE ME THE SPECIFIC ORDINANCE.

MR. BRIGGS: I WILL DEFER TO MR. FERNANDEZ. I'M SURE HE KNOWS WHICH ONE IT IS.

MR. FERNANDEZ: YOUR HONOR, THE CODE CASES ARE LISTED UNDER OUR CODE OF ORDINANCES THAT WE ADOPT –

THE COURT: INTERNATIONAL PROPERTY MAINTENANCE CODE.

MR. FERNANDEZ: I.P.M.C.

THE COURT: CORRECT. GIVE ME THE CODE SECTION WE ADOPTED.

MR. FERNANDEZ: THE CODE SECTION WHERE WE ADOPT I BELIEVE IS 8-41 AND 8-32. AT LEAST THAT'S WHAT WE NOTICED FOR. THEN THERE ARE SPECIFIC PROVISIONS WITHIN THE I..P.M.C. THAT GO INTO MORE DETAIL ABOUT WHAT THE ACTUAL VIOLATION IS. IT LOOKS LIKE THE SENTENCING PROVISIONS ARE UNDER 1-5, YOUR HONOR.

THE COURT: CORRECT. 8-32 IS NOT THE ONE, THE ADOPTION. IT'S ACTUALLY PREMISES TO BE KEPT IN SANITARY CONDITION. KIND OF A FREE STANDING IF I'M READING THE CORRECT VERSION. FREE STANDING. PREMISES TO BE KEPT IN SANITARY CONDITIONS, CITY ORDINANCE. AND THAT INDICATES IT IS TO BE PUNISHED IN ACCORDANCE WITH 1-5.

MR. BRIGGS: AND WHAT DOES 1-5 AUTHORIZE?

THE COURT: ANY MUNICIPAL ORDINANCE FINES AND/OR IMPRISONMENT.

MR. BRIGGS: SO YOU SAY WHEN I LOOK –

THE COURT: 1-5, SUBSECTION SEVEN. EXCUSE ME, 1-5, SUBSECTION"C" READS ANY PERSON OR ENTITY WHO VIOLATES ANY PROVISION OF THE CODE OR ANY CODE ADOPTED PURSUANT TO THIS CODE, SO IT'S ANY CODE THAT'S AUTHORIZED BY THE CITY OR ANY CODE THAT IS ADOPTED BY THE CITY LIKE THE INTERNATIONAL FIRE CODE AND INTERNATIONAL PROPERTY MAINTENANCE CODE GOES TO WHAT CAN BE DONE AND IT ENDS WITH UNIFORM ORDINANCE SUMMONS SHALL CONTAIN NOTICE AND IT TALKS ABOUT THE

PUNISHMENT, FIVE HUNDRED DOLLARS OR IMPRISONMENT UP TO THIRTY DAYS OR BOTH.

DEFENDANT FALTAS: AM I ALLOWED TO SPEAK NOW?

MR. BRIGGS: YOUR HONOR, LET ME MAKE MY VERY BRIEF ARGUMENT AND I WOULD ASK IN THIS CASE IF THE COURT WOULD ALLOW HER, DR. FALTAS, TO JUST BE ABLE TO ADD TO WHATEVER I SAY.

THE COURT: OKAY.

MR. BRIGGS: VERY BRIEFLY, YOUR HONOR.

THE COURT: SURE. AND 1-5, SUBSECTION "A" ADDRSSES THE PENALTY AS WELL. I APOLOGIZE. ONE ADDRESSES THE NOTICE, ONE ADDRESSES THE PENALTIES. ALL RIGHT. MR. BRIGGS.

MR. BRIGGS: ALL RIGHT. YOUR HONOR, I REALLY WASN'T RETAINED IN THIS CASE UNTIL YESTERDAY WHEN JUDGE BARBER SIGNED THE SUBSTITUTION OF COUNSEL ALTHOUGH MR. LUPTON AND I E-MAILED ON THAT MATTER TWO DAYS BEFORE THAT I BELIEVE AND THE DAY HE FIRST SENT IT TO ME MY PRINTER WAS OUT SO I COULDN'T EVEN GET BACK TO HIM UNTIL THE NEXT DAY. THAT IS, TO SIGN AND SEND IT BACK TO HIM. AND THEN YOU CAN SEE FROM THE THING IT REALLY WASN'T SIGNED UNTIL YESTERDAY AND THEN FILED WITH THIS COURT TODAY.

YOUR HONOR, I PROBABLY IN FORTY YEARS OF PRACTICE HAVE ASKED FOR A CONTINUANCE IN LESS THAN A DOZEN CASES. I HAVE NEVER BEEN INCLINED TO PUT THINGS OFF JUST FOR THE PURPOSE OF PUTTING THINGS OFF, YOUR HONOR. THIS IS A MATTER OF PREPARATION AND THE PRIMARY REASON NOW IS BECAUSE OF SCHEDULE, BECAUSE OF DR. FALTAS BEING IN THE HOSPITAL I THINK TWICE IN THE LAST WEEK AND A HALF, BECAUSE OF ME STILL

RECOVERING FROM MY HIP INJURY. AND I HAVEN'T EVEN MENTIONED THIS TO ANYBODY IN THIS ROOM I DON'T THINK EXCEPT DR. FALTAS. I WAS IN THE HOSPITAL ABOUT THREE WEEKS AGO WITH BLOOD CLOTS THAT WERE SERIOUS ENOUGH TO WHERE I HAD TWO OF THEM IN MY LUNGS. AND I STILL HAVE A SIGNIFICANT SWELLING OF THE RIGHT LEG WHICH DOES NOT SEEM TO HAVE ANYTHING TO DO WITH MY RIGHT HIP OPERATION BUT AT THE AGE OF SEVENTY-FIVE I DON'T MOVE AND FUNCTION AS FAST AS I USED TO. THE POINT OF ALL THAT IS THIS, YOUR HONOR. WHEN DR. FALTAS AND I FINALLY HAD SOME TIME ON THE PHONE LAST EVENNG AND THEN I GUESS FOR AN HOUR AND A HALF OR SO THIS MORNING WHERE I COULD GET – I HAD THE FACTS BEFORE BUT WHERE I COULD GET HER THOUGHTS ON THE SUBJECT. I HAD THREE MAJOR DEFENSES, SHE ADDED TO THAT SIX MORE THAT SHE FEELS COMPELLED TO ARGUE, FOR ME TO ARGUE AND, OF COURSE, THIS COURT KNOWS THE LAW AS ALL LAWYERS DO. LAWYERS ULTIMATELY HAVE TO MAKE AN INDEPENDENT JUDGMENT ON THINGS LIKE THAT BUT I NORMALLY TRY TO DO WHAT MY CLIENTS WANT ME TO DO BECAUSE I ALWAYS SAY ORIN BRIGGS DOESN'T HAVE AN OPINION, IT DIDN'T MATTER TO ME, AND I'VE NEVER BEEN – IN FACT, YOUR HONOR, I CAN SAY THAT I'VE NEVER HAD A CLIENT THAT EMBARRASSED ME BECAUSE I DON'T TAKE THOSE THINGS PERSONALLY. I'M AN ADVOCATE AND THAT'S THE WAY I PRACTICE LAW AND I'VE HAD SOME DOOZERS, YOUR HONOR. YOU MIGHT EVEN KNOW ONE OF THEM. I HAVE REPRESENTED THE STREET PREACHERS AND I REPRESENTED ANNIE MAE TIMMONS. YOU REMEMBER THAT NAME, JUDGE?

THE COURT: I DO.

MR. BRIGGS: SHE'S THE WORST I EVER HAD BUT I'M NOT SO SURE

SURE SHE WASN'T CERTIFIED BUT JUST SO THE LAWYERS WILL UNDERSTAND THE ARGUMENT SHE'S A LADY WHO OWED ABOUT SIX OR SEVEN PIECES OF PROPERTY IN THE CITY OF COLUMBIA AND SHE WOULD NOT PAY TAXES ON ANY OF IT. AND I TOLD HER ONE DAY IN MY OFFICE, JUDGE, I SAID, MS. TIMMONS, I SAID ALL YOU GOT TO DO IS SELL ONE PIECE OF PROPERTY AND YOU CAN PAY THE TAXES ON ALL THE PROPERTY. AND AS THIS COURT KNOWS THE CITY OF COLUMBIA EVENTUALLY CONFISCATED EVERY ONE OF THOSE AS FAR AS I KNOW AND SOME OF THEM HAD FENCES AROUND THEM FOR A WHILE. SO I'M NOT WORRIED ABOUT APPEARANCES. JUDGE, I'M JUST A COUNTRY BOY WHO WENT TO SCHOOL A LITTLE LONGER THAN SOME OTHER PEOPLE DID. BUT MY POINT IS THIS. I'VE GOT AT LEAST NINE LEGITIMATE DEFENSES. I'M NOT TALKING ABOUT ANY FRIVOLOUS ONES. AND NOW I FIND OUT ACCORDING TO THE COURT THAT THERE'S A POSSIBILITY OF JAIL TIME. AND I CAN TELL YOU HAVING SPENT SOME TIME WITH DR. FALTAS FOR ALMOST TWENTY YEARS, YOUR HONOR, THIS LADY COULD HAVE A HEART ATTACK IF SHE WENT BACK IN JAIL. THAT'S A SERIOUS MATTER AND I WOULD PREFER TO HAVE AT LEAST ANOTHER WEEK TO PREPARE BASED UPON HER POSITION ON DEFENSES AND I'M NOT EXAGERATING BECAUSE I NEVER EXAGERATE, I THINK THAT'S A LINE. SHE STILL HAS SOME OTHERS THAT WE DIDN'T DISCUSS BECAUSE OF A RULE I HAVE. BUT ANYWAY SO MY FIRST POSITION WOULD, YOUR HONOR, I'D LIKE TO HAVE A CONTINUANCE AND I WOULD ADD TO THAT IF MR. LUMPKIN IS SUCCESSFUL IN DOING SOMETHING AND I KNOW A GREAT DEAL ABOUT DISORDERLY CONDUCT AND OBSCENE WORDS AND ALL THAT, YOUR HONOR, AND I'M NOT A BETTING MAN BUT I'D BET MONEY HE'LL WIN THAT CASE.

THE COURT: WELL, LET'S NOT TAKE ANY WAGERS IN OPEN COURT

ON THE CASES. LET ME ASK YOU THIS, MR. BRIGGS.

MR. BRIGGS: ALL RIGHT.

THE COURT: A COUPLE OF THINGS. ONE, I CANNOT REMEMBER WHAT DAY – DAYS SEEM LIKE WEEKS TO ME SO IT'S PROBABLY NOT AS LONG AS I THINK BUT PROBABLY LAST WEEK I THINK Y'ALL MADE AN APPEARANCE BEFORE ME WHEN I WAS HOLDING COURT IN ANOTHER COURTROOM AND ADVISED ME THAT YOU WERE MAKING AN APPEARANCE, IS THAT CORRECT?

MR. BRIGGS: I HAD BEEN ASKED TO AT THAT TIME, YES, YOUR HONOR.

THE COURT: I APOLOGIZE. I THOUGHT YOU WERE NOTING YOUR APPEARANCE ON THE RECORD AT THAT TIME.

MR. BRIGGS: WELL, I WAS TECHNICALLY BUT AGAIN WE FOUND OUT I HAD TO HAVE PERMISSION TO DO THAT.

THE COURT: WELL, I HEAR YOU BUT I ASSUMED THAT YOU WERE AT LEAST TALKING TO THE CLIENT AND THAT SOME ARRANGEMENT HAD BEEN MADE IN ORDER FOR YOU TO BE IN A POSITION TO NOTE AN APPEARANCE.

MR. BRIGGS: THAT WOULD BE ACCURATE, YOUR HONOR. BUT – AND I DON'T KNOW WHY I DID IT, I'D HAVE TO BLAME MYSELF FOR DOING THIS. I DIDN'T START WORKING ON THE CASE UNTIL AFTER I TALKED WITH MR. LUMPKIN AND I WAS SURE THAT I WAS NOT STEPPING ON HIS TOES OR ANYTHING LIKE THAT.

THE COURT: WAS THAT YESTERDAY OR WHEN WAS THAT?

MR. BRIGGS: YOU TELL ME WHEN YOU FIRST E-MAILED ME, TED.

MR. LUPTON: IT WOULD HAVE BEEN LAST WEDNESDAY OR THURSDAY, YOUR HONOR. I THINK THURSDAY.

MR. BRIGGS: I THINK IT WAS THURSDAY.

THE COURT: ALL RIGHT. SECONDLY, DID YOU ADVISE JUDGE BARBER OF ANY OF THE PHYSICAL CONSTRAINTS THAT MIGHT PREVENT OR POSTPONE THIS CASE WHEN YOU SOUGHT SUBSTITUTION?

MR. BRIGGS: I HAD NO CONVERSATION WITH JUDGE BARBER BECAUSE UNTIL I WAS TOLD THAT HE WAS THE ONLY ONE THAT HAD AUTHORITY TO DO THIS, I THINK MR. LUMPKIN'S OFFICE INFORMED ME OF THAT, I HAD REASON TO TALK TO HIM

THE COURT: MR. LUPTON, DID YOU CORRSPOND WITH JUDGE BARBER?

MR. LUPTON: IT IS ACTUALLY ATTACHED TO THE ORDER, WAS MADE PART OF THE ORDER.

THE COURT: WHAT'S MADE PART OF THE ORDER?

MR. LUPTON: I APOLIGIZE. YOUR COPY WAS ACTUALLY FILED WITH THE COURT.

THE COURT: OKAY. SO I HAVE NOT SEEN IT. IF ANYBODY'S GOT A COPY – WAS JUDGE BARBER MADE AWARE OF THE CONCERNS REGARDING TIME THAT WE'D MAYBE NEED?

MR. LUPTON: I'LL HAND UP MY COPY. I'VE PROVIDED COPIES TO THE CITY ATTORNEY, TO MR. BRIGGS AND DR. FALTAS. THEY WERE PROVIDED BECAUSE THEY WERE ONLY FILED THIS AFTERNOON. THEY WERE ONLY PROVIDED AT THE TIME WHEN EVERYBODY SHOWED UP FOR COURT.

THE COURT: ALL RIGHT. LET ME READ THE E-MAIL THAT WAS ATTACHED TO THE ORDER THAT JUDGE BARGER SIGNED. DR. FALTAS HAS RETAINED ORIN BRIGGS AS PRIVATE COUNSEL FOR THE CODE VIOLATION TRIAL

ONLY. MY UNDERSTANDING IS HE IS AGREEING TO REPRESENT HER FOR A NOMINAL FEE, BASICALLY PRO BONO, SO I DO NOT BELIEVE THIS WOULD IMPACT ANY CALCULATION OF ABILITY TO PAY ON HER REMAINING CASES. HE HAS AGREED TO TAKE THIS ONE CASE TO TRIAL. IT IS SET FOR THURSDAY. HE IS PREPARED TO GO FORWARD THEN; THUS, SUBSTITUTION WILL NOT DELAY ANYTHING. AND THEN IT CONTINUES.

MR. BRIGGS: THOSE LAST TWO SENTENCES ARE MR. LUMPKIN'S OPINION. I NEVER SAID THAT TO HIM BECAUSE WE DIDN'T ACTUALLY EVER TALK IN PERSON AND THAT'S ALL I CAN SAY ABOUT THAT, YOUR HONOR.

MR. LUPTON: YOUR HONOR I WILL CONCEDE THAT THAT WAS MY BELIEF BASED ON CONVERSATIONS. IT WAS NEVER EXPLICITLY STATED. I WAS – AT THE TIME WE SPOKE, I GAVE THE DATE AND WAS UNDER THE IMPRESSION FROM CONVERSATIONS THAT ALL PARTIES INVOLVED WERE AWARE OF THAT AND UNDERSTOOD THAT.

THE COURT: AS A MATTER OF INFORMATION, NOT AS A RULING, IF THERE WAS A NEED TO SWITCH A TRIAL FROM THE 24TH OR 25TH TO TOMORROW AND MOVE THE TRIAL FOR TOMORROW TO ONE OF THOSE DATES, IS THAT A POSSIBILITY AND IS THERE CONSENT TO DO SO? NOW, ALL PARTIES NEED TO SPEAK TO THAT, INCLUDING THE CITY OF COLUMBIA.

MR. LUPTON: YOUR HONOR, MY UNDERSTANDING IS CITY OF COLUMBIA CANNOT MOVE THE TRIAL FROM THE 24TH TO TOMORROW BECAUSE THE OFFICER IS UNAVAILABLE WHICH IS WHY THAT TRIAL WAS SET FOR THE 24TH. AS FAR AS THE 25TH, THAT'S THE SIMPLE ASSAULT. I CERTAINLY – I CAN BE READY TO TRY THAT TOMORROW.

THE COURT: THE CITY MAY HAVE WITNESSES. CITY, WOULD YOU

BE READY? I'M NOT SAYING WE ARE GOING TO DO THAT, I'M ASKING TO GAIN INFORMATION.

MR. FERNANDEZ: YEAH. SIMPLE ASSAULT INVOLVES TWO WITNESSES, TWO OR THREE WITNESSES, I CAN'T REMEMBER EXACTLY WHICH BUT I THINK IT WOULD PLACE A BURDEN ON THEM. THEY SCHEDULED IT THE 25TH. YOU ARE ASKING ME TO CALL THEM AT FOUR O'CLOCK –

THE COURT: I'M NOT ASKING YOU TO DO THAT RIGHT NOW. I'M ASKING YOU IS IT POSSIBLE FOR IT TO BE DONE AND IF YOU CAN'T –

MR. FERNANDEZ: WELL, I MEAN THEORETICALLY ANYTHING'S POSSIBLE, YOUR HONOR, BUT I CAN'T GUARANTEE THEY WOULD BE AVAILABLE.

THE COURT: LET ME ASK A BETTER QUESTION, MR. FERNANDEZ. I UNDERSTAND WHEN WE HAVE THESE HEARINGS SOMETIMES BEFORE YOU STAND UP YOU GET A LITTLE FEELING SO LET ME ASK THIS QUESTION AND LET'S GET A GOOD ANSWER.

MR. FERNANDEZ: SURE.

THE COURT: I'M GATHERING INFORMATION SO THAT I CAN MAKE A DECISION. IF IT'S YOUR BELIEF THAT THAT IS NOT A GOOD THING TO DO IN MOVING THEM FOR VARIOUS REASONS, TELL ME THAT BUT LET'S NOT GO INTO ALL THE POSSIBILITIES.

MR. FERNANDEZ: I HAVE NO PROBLEM TRYING THE CASE. IT'S FACTUALLY A VERY SIMPLE CASE. I AM SPEAKING FOR PEOPLE WHO ARE NOT PRESENT. THAT WOULD BE THE ALLEGED VICTIMS AND WITNESSES WHO I HAVE NOT SPOKEN TO ABOUT THIS 'CAUSE THIS IS THE FIRST WE'VE HEARD ABOUT IT. SO I'M SPEAKING ON THEIR BEHALF NOT KNOWING THEIR SCHEDULES OR ANYTHING LIKE THAT. I THINK – I DON'T THINK I CAN GUARANTEE THE COURT

THAT I WOULD BE ABLE TO TRY IT. I THINK PERSONALLY I COULD. I CAN'T GUARANTEE THEIR AVAILABAILITY.

THE COURT: FAIR ENOUGH. THAT'S THE INFORMATION I NEEDED.

DEFENDANT FALTAS: MAY I SAY SOMETHING ABOUT THE SCHEDULING BECAUSE I HAVE GREAT MEMORY AND WHEN I WAS BEING BOUGHT AND SOLD WITHOUT -- THERE ISN'T ANYTHING FOR THE 25TH IN THE MORNNG IS THAT MR. LUPTON, NOT MR. LUMPKIN AS MR. BRIGGS KEEPS (INAUDIBLE)HIM, HAD SOMETHING ELSE IN GENERAL SESSIONS ON THE 25TH IN THE MORNING. I AM JUST MAKING THIS SUGGESTION. WE CAN MOVE THIS SUPPOSED CODE VIOLATION TO THE 25TH IN THE MORNING. IT SHOULDN'T TAKE LONG.

THE COURT: I'M NOT CONFIDENT THAT WE CAN TRY TWO CASES IN ONE DAY. WE TRIED THAT. I DON'T KNOW IF WE CAN DO THAT.

DEFENDANT FALTAS: WHAT ARE WE DOING WITH THE SUPPOSED TRESPASSING AND THE SUPPOSED DISORDERLY? THESE ARE TWO SEPARATE CASES –

THE COURT: THOSE ARE TWO SEPARATE TRIALS THAT INVOLVE MANY OF THE SAME WITNESSES. WE'VE BEEN THROUGH THAT. WE TRIED TO SCHEDULE TWO CASES PREVIOUSLY AND THEY TAKE AS LONG AS THEY TAKE AND THAT'S FINE, BUT I'M NOT COMFORTABLE WITH SETTING TWO CASES ARISING OUT OF DIFFERENT SETS OF FACTS AND HAVING DIFFERENT WITNESSES AND DIFFERENT JURIES ON THE SAME DAY.

DEFENDANT FALTAS: ALL RIGHT. BUT IN ANY EVENT THE IDEA OF DOING ANYTHING TOMORROW RUNS RIGHT SMACK INTO THE FACT THAT BOGAN (INAUDIBLE).

THE COURT: WE ARE GOING TO TAKE UP ONE MOTION AT A TIME AND YOU'VE NOTED THAT AND MR. BRIGGS CAN ARGUE THAT, BUT LET'S TALK ABOUT IF IT'S POSSIBLE TO DO SOMETHING AND THEN WE'LL GET TO THE JURY.

DEFENDANT FALTAS: MAY I ALSO SAY NOW MAY I GO TO MY CAR AND GET MAGISTRATE JUDGE MICHAEL McCRORY'S REPORT AND RECOMMENDATION THAT SAID THAT UNDER CITY ORDINANCE – AND THIS WAS A CASE I HAD AGAINST THE CITY OF COLUMBIA AND THE CITY OF COLUMBIA APPEARED AND DEFENDED IT AND TOOK THAT POSITION THAT ONLY CASES WHERE THERE IS NO SET FINE CARRY JAIL TIME UNDER SECTION SO THEY ARE VERY MUCH PRECLUDED. THEY CAN'T TAKE ONE POSITION IN FEDERAL COURT AND COME HERE AND TAKE DIFFERENT POSITION. THERE IS COMPLETE IDENTITY OF THE PARTIES THAT RULING HAS PRECLUDED EFFECT. SO MAY I GO TO MY CAR –

THE COURT: DR. FALTAS, THIS IS THE PROBLEM WE ARE GOING TO HAVE. WE JUST STARTED IN HERE A LITTLE BIT LATE AND THERE ARE MOTIONS BEING MADE AND THEY ARE ABOUT RULINGS TO BE MADE AND IF YOU LEAVE AND DON'T HEAR THEM THEN YOU MAY FEEL LIKE SOMETHING HAPPENED BEHIND YOUR BACK SO MY ANSWER IS I DO NOT WISH YOU TO LEAVE THE COURTROOM UNTIL WE TAKE A BREAK SO THERE IS NOT OPEN COURT GOING FORWARD OUT OF YOUR PRESENCE.

DEFENDANT FALTAS: I THOUGHT YOUR HONOR WAS GOING TO ALLOW ME TO SAY SOMETHING ABOUT WHETHER THIS TOTALLY FRIVOLOUS AND MALICIOUS CHARGE CARRIES JAIL TIME. BESIDES NOW THEY ARE SAYING IT'S A CITY COURT ORDINANCE BUT ON THE RECORD IT SAYS PROPERTY MAINTENANCE, INTERNATIONAL PROPERTY MAINTENANCE, AND THIS IS WHY

I'M SAYING IT HAS BEEN GOING BACK AND FORTH AND EVERYBODY'S WORRIED ABOUT THE CONVENIENCE OF MY FALSE ACCUSERS, ABOUT THE CONVENIENCE OF THE JURORS, ABOUT –

MR. BRIGGS: YOUR HONOR --

DEFENDANT FALTAS: SHUT UP. ABOUT –

THE COURT: DR. FALTAS. DR. FALTAS, YOU TELL ONE OTHER PERSON TO SHUT UP IN OPEN COURT IN THIS COURT IN MY PRESENCE AND WE ARE GOING TO HAVE A MUCH DIFFERENT CONVERSATION.

DEFENDANT FALTAS: I'M SORRY.

MR. BRIGGS: YOUR HONOR --

THE COURT: PLEASE ALLOW MR. BRIGGS TO SPEAK.

MR. BRIGGS: I DON'T WANT TO USE A STRONG WORD BUT I APPRECIATE THE PROBLEMS THAT DR. FALTAS HAS. AS I SAID, I HAVE OFF AND ON BEEN REPRESENTING HER FOR TWENTY YEARS SO THAT MEANS ONE OF US HAS A LOT OF PATIENCE, YOUR HONOR. MAYBE BOTH OF US. BUT ONE OF THE THINGS SHE HAS A TENDENCY TO DO IS GO OFF IN ANOTHER DIRECTION. I AM SUGGESTING THAT WE OUGHT TO DECIDE THE QUESTION OF CONTINUANCE FIRST, YOUR HONOR, THAT'S WHAT'S BEFORE THE COURT AND I WANT TO MAKE SOMETHING CLEAR OR ASK A QUESTION. IS IT MY UNDERSTANDING THAT WE ARE TALKING ABOUT THE 24TH. IF THE 24TH TRIAL ENDED UP BEING SHORT, WE COULD DO THE ONE THAT'S SCHEDULED FOR TOMORROW ON THAT DAY OR –

THE COURT: WE ARE TALKING ABOUT THE MORNING OF THE 25TH; HOWEVER, I AM NOT GOING TO SET TWO TRIALS WITH TWO JURIES BECAUSE OF PRIOR EXPERIENCE IN A JURY TRIAL WITH THE PARTIES THAT ARE GOING TO BE

INVOLVED. I JUST DON'T THINK WE CAN DO THAT IN ONE DAY. I DON'T THINK IT'S REALISTIC TO DO SO.

MR. BRIGGS: COULD WE HAVE A DATE THE NEXT WEEK?

THE COURT: NO, SIR. THIS IS WHAT WE ARE GOING TO DO.

MR. BRIGGS: OKAY.

THE COURT: AT THIS MOMENT, I AM GOING TO DENY THE MOTION FOR THE CONTINUANCE. THE SCHEDULE IS GOING TO STAY AS IS. IF THERE ARE OTHER MOTIONS TO HEAR, IF SOMETHING CHANGES, THAT MAY GIVE US THE ABILITY TO MOVE THINGS, BUT FOR THE PURPOSE OF THIS MOTION AT THIS TIME IT IS DENIED. THE PARTIES WERE PUT ON NOTICE AS TO WHAT THE SCHEDULE WOULD BE WELL BEFORE TODAY AND WELL BEFORE THIS WEEK AND IT WAS DETERMINED IN THE COURTROOM WITH EVERYONE PRESENT. IT WAS SET WITH THAT ONE BEING FIRST FOR REASONS INCLUDING A FEW DIFFERENT PEOPLE'S SCHEDULES AND WE ARE GOING TO MAINTAIN THAT. SO THAT'S THE FIRST MOTION. WHAT'S THE SECOND?

MR. BRIGGS: OKAY. YOUR HONOR, I AM GOING TO GIVE YOU MY MEMO ON – MOTION FOR SPEEDY TRIAL. AND I DON'T MIND TELLING THE COURT BRIEFLY AND I'LL ARGUE IT IF YOU WANT ME TO BUT I THINK YOU HAVE TIME UNTIL TOMORROW TO READ IT AND DECIDE THE QUESTION TOMORROW. I WAS SUCCESSFUL WITH THIS BRIEF IN DISMISSING A VERY SERIOUS SECOND DEGREE CRIMINAL SEXUAL ASSAULT CASE IN THE CIRCUIT COURT OVER IN THE ELEVENTH CIRCUIT HERE WITHIN ABOUT SIX MONTHS AGO, YOUR HONOR. YOU PROBABLY KNOW THE LAW AND IN THIS CASE IT'S SEVENTEEN MONTHS SINCE SHE WAS ARRESTED AND I CANNOT VERIFY THIS, YOUR HONOR, AND I'LL DEFER TO MR. FERNANDEZ, AND I THINK MR. FERNANDEZ KNOWS THAT I USUALLY TRY

TO CHECK UP ON WHAT ANY CLIENT TELLS ME BUT IT'S MY UNDERSTANDING BECAUSE NOT HAVING A JURY OR NOT HAVING ENOUGH BUSINESS OR WHATEVER THAT THE CITY HAS IN FACT – I DON'T KNOW WHETHER YOU'D CALL IT CONTINUED BUT POSTPONED AT LEAST THIS CASE SIX TIMES AND THIS IS THE FIRST TIME THAT WE'VE ASK FOR A CONTINUANCE. AND I'M NOT TRYING TO GET BACK ON THAT SUBJECT, I'M JUST GIVING YOU THE, IF YOU WILL, THE LOGISTICS OF IT ALL. SO I'M MAKING THE MOTION NOW BASED ON JUST – I'LL BE SATISFIED WITH JUST LEAVING THE MEMO WITH THE COURT AND MAKING A MOTION THAT THERE IS A DENIAL OF A SPEEDY TRIAL IN THE CASE THAT'S SUPPOSED TO BE SCHEDULED TO BE TRIED TOMORROW, YOUR HONOR.

THE COURT: I'VE DONE A VERY SHORT REVIEW OF YOUR MEMO, I'M GOING TO HAVE TO READ IT AND I WILL. HOWEVER, I DO SEE THAT THERE ARE FOUR POINTS ENUMERATED UNDER THE LAW AND ANALYZING FACTORS FOR DEPRIVATION OF RIGHT TO A SPEEDY TRIAL, ONE OF WHICH IS THE LENGTH OF DELAY WHICH YOU HAVE ARGUED BOTH IN YOUR MEMORANDUM AND WHICH YOU SPOKE TO ON YOUR FEET A MOMENT AGO AND THE REASONS FOR THE DELAY. THE THIRD IS THE DEFENDANT'S ASSERTION OF THE RIGHT. DO YOU HAVE ANYTHING IN THIS BRIEF THAT INDICATES WHEN THE ASSERTION OF THE RIGHT TO A SPEEDY TRIAL WAS MADE PRIOR TO THIS MOTION BEING MADE?

MR. BRIGGS: I WOULD ASK HER JUST A SIMPLE QUESTION, YOUR HONOR. IT'S MY UNDERSTANDING THAT SHE HAS FILED A MOTION TO DISMISS FOR LACK OF A SPEEDY TRIAL IN EACH OF THE CASES PENDING SO I'LL ASK HER THE QUESTION. ESSENTIALLY A YES OR NO ANSWER. WAS SUCH A MEMO FILED IN THIS CASE, DR. FALTAS?

DEFENDANT FALTAS: EVERY SINGLE TIME IT WAS CALLED.

THE COURT: HE ASKED YOU ABOUT A MEMO FIRST. LET'S TALK ABOUT A MEMO BECAUSE THAT'S GOING TO HAVE A TIME STAMP AND THEN I'LL LET YOU TELL US IF YOU DID IT VERBALLY. DID YOU FILE A MEMO IN THIS CASE?

DEFENDANT FALTAS: BY THE TIME IT WAS CALLED AND THE CITY FAILED TO HAVE ENOUGH (INAUDIBLE) I WAS NOT ALLOWED TO FILE A WRITTEN MOTION BUT I ORALLY SAID THAT. IN ADDITION, I HAVE FILED IN FEDERAL COURT A HABEAS ABOUT THAT INCLUDING – AND, YOUR HONOR, JUST FOR THE RECORD. WHAT JUST HAPPENED IS WHEN I WAS SPEAKING MR. BRIGGS INTERRUPTED ME. FRANKLY, HE HAS MADE TWO CONTRADICTORY ARGUMENTS, ONE SEEKING THE CONTINUANCE, THE OTHER IS (INAUDIBLE) I WAS NOT – I CANNOT AND THAT'S THE SAME THING. MR. LUPTON HAS GONE AS FAR AS THREATENING ME TO HAVE ME HELD IN CONTEMPT OF COURT IF I CALLED HIM. I DID NOT KNOW THAT THAT WAS SET FOR THE 11TH AND I WAS BEGINNING TO THINK EVERYBODY IS CONCERNED ABOUT THE CONVENIENCE OF MY FALSE ACCUSERS, ABOUT THE CONVENIENCE OF POLICE OFFICERS AND JURORS, OF JUDGES, OF THE CITY ATTORNEY, OF THE FIRST LAWYER. NO ONE CARES. I WAS FALSELY ACCUSED WHO HAS BEEN IN JAIL MANY TIMES, WHOSE WRISTS HAVE BEEN BRUISED, WHOSE KNEE HAS BEEN BROKEN. NO ONE CARES ABOUT ME OR MY RIGHTS. NOBODY CARES ABOUT THE FACT THAT I COULD HAVE (INAUDIBLE) AND I CAN'T EVEN GO TO GET THE RIGHT DIASNOSTIC TESTS BECAUSE I'M AFRAID THAT THESE LAWYERS WILL TRY ME IN MY ABSENCE AND SELL ME DOWN THE RIVER. NO ONE CARES ABOUT ME.

THE COURT: MAY I ASK YOU A QUESTION?

DEFENDANT FALTAS: YES, PLEASE.

THE COURT: ALL RIGHT. YOU INDICATED HE MADE TWO CONTRADICTORY STATEMENTS, ONE ASKING FOR A CONTINUANCE AND ONE MAKING A MOTION FOR A SPEEDY TRIAL.

DEFENDANT FALTAS: YES.

THE COURT: OKAY. I JUST WANTED TO MAKE SURE THAT'S YOUR POSITION. YES, SIR, MR. BRIGGS.

MR. BRIGGS: IT'S MY UNDERSTANDING THOUGH THE COURT DENIED MY MOTION FOR CONTINUANCE.

THE COURT: IT DID. I JUST WANTED TO MAKE SURE HER POSITION WAS CLEAR ON THE RECORD.

MR. BRIGGS: YOUR HONOR, I WANT TO MAKE SURE THAT SOMETHING IS CLEAR. I DON'T KNOW ANYTHING ABOUT WHETHER OR NOT SHE KNEW FOR A FACT THAT WE WERE SCHEDULED TO HAVE A TRIAL ON THE 11TH BUT MR. FERNANDEZ WOULD TESTIFY IF HE WAS ASKED THAT HE AND I DISCUSSED THAT SUBJECT ON MONDAY AND HE SAID SOMETHING ABOUT I'LL SEE YOU LATER THIS WEEK. SO IT WAS NEVER ANY QUESTION IN MY MIND.

THE COURT: WELL, I CAN TELL YOU THAT IN OPEN COURT WE SET THE DATE FOR EACH TRIAL AND INDICATED WHAT CHARGE OR CHARGES WOULD BE ON EACH DATE AND THAT WE SET A STATUS CONFERENCE FOR THE DAY BEFORE THE FIRST TRIAL SO THAT WE COULD ADDRESS THESE ISSUES AND NOT HAVE THE JURY WAIT. SO THAT WAS ALL DONE WITH YOU BEING PRESENT, DR. FALTAS.

DEFENDANT FALTAS: YES, YOUR HONOR, BUT REMEMBER I WAS TRYING TO MARK EXHIBITS BEFORE I TESTIFIED WHICH MR. LUPTON WAS WANTING TO ADVISE ME AGAINST TESTIFYING AND I WAS NOT CONSULTED. IT

HAS ALWAYS BEEN MY POSITION THAT THE OLDER CASES SHOULD BE SET FIRST AND THE REASON I HAD TO NOT HAVE MR. LUPTON – AND I THANK MR. BRIGGS FOR HAVING AGREED TO TAKE THIS PRO BONO – IS THAT MR. LUPTON SAID THAT HE THINKS I'M GUILTY AND THERE IS NO WAY HE WOULD –

THE COURT: DR. FALTAS, IT IS ABSOLUTELY INAPPROPRIATE FOR US TO GO INTO CONVERSATIONS BETWEEN YOU AND YOUR ATTORNEY. LET ME ASK YOU THIS. ARE YOU SAYING THAT IT IS YOUR POSITION THAT THE UNLAWFUL ACTS, FIRST, SHOULD NOT BE TRIED TOMORROW AND OTHER CASES SHOULD BE TRIED FIRST

DEFENDANT FALTAS: ABSOLUTELY.

THE COURT: OKAY. WELL, IF THAT'S THE DEFENDANT'S POSITION, I DON'T THINK THE MOTION FOR A SPEEDY TRIAL IS APPROPRIATE BECAUSE SHE'S EVEN ASKING TO HAVE IT PUT OFF. AND I WILL ALSO INDICATE TO YOU THAT PART OF THE REASON WE SET THE SCHEDULE IS BECAUSE SHE INDICATED SHE WANTED TO GET THESE CASES TRIED IN A PROMPT MANNER AND MADE A MOTION FOR A SPEEDY TRIAL WHEN WE WERE IN COURT SO I WENT AHEAD AND SET AN AGGRESSIVE SCHEDULE TO ACCOMMODATE THAT AND TO ALEVIATE HER CONCERNS AND ANY POTENTIAL DUE PROCESS ISSUES FROM THE POINT THAT I GOT THE CASES TO THE TRIALS BEING HELD. SO ALL THAT BEING SAID, I AM GOING TO DENY THE MOTION TO DISMISS FOR A SPEEDY TRIAL. ANY OTHER MOTIONS, MR. BRIGGS?

MR. BRIGGS: YOUR HONOR, IF THERE'S ANY QUESTION ABOUT THE SCHEDULING OF THIS THING BASED UPON WHAT YOU'VE SAID AND HER WISH TO TAKE THE MORE SERIOUS OR THE OLDER CASES FIRST, I DON'T THINK I HAVE A COURT APPEARANCE FOR ABOUT TEN DAYS OR SO SO I HAVE OTHER

TIMES THAT I WOULD BE AVAILABLE. AND I'M NOT TRYING TO RE-ARGUE THE CONTINUANCE, I'M JUST TRYING TO GIVE THE COURT THE INFORMATION I THINK IT MIGHT NEED IF IT DECIDES TO CHANGE ANY SCHEDULE.

THE COURT: NOW I'M UNDER THE IMPRESSION THERE ARE ADDITIONAL MOTOINS RELATED TO TOMORROW, INCLUDING ISSUES REGARDING THE JURY VENIRE AND ANY TAINTING OF IT. IS THAT SOMETHING THAT YOU WISH TO ADDRESS TODAY?

MR. BRIGGS: YES, YOUR HONOR. AND I THINK WE SHOULD DISCUSS THAT AND THE PROBLEM IS THAT I HAVE NOT DISCUSSED THAT IN ANY DETAIL WITH MY CLIENT AND THAT WAS ONE OF THE REASONS WHY – AND I'D BE GLAD TO TAKE THE BLAME, YOUR HONOR, FOR NOT HAVING HAD A CONFERENCE WITH HER OVER THE WEEKEND OR SOMETHING LIKE THAT BUT HERE'S THE GIST OF IT, AND THEN I WOULD ASK THE COURT TO ALLOW HER TO GET THE TAPE AND WHATEVER OTHER EVIDENCE SHE HAS AND LET THE COURT SEE IT TODAY. AND I DON'T KNOW THAT WE HAVE TO BE IN OPEN SESSION FOR YOU TO LISTEN TO A TAPE, YOUR HONOR, BUT I'LL DEFER TO THE COURT ON THAT ISSUE. AS I RECALL THE DISCUSSION AND WE WERE THERE JUST TO WATCH --

THE COURT: YOU WERE PRESENT AS WELL, SIR?

MR. BRIGGS: I WAS PRESENT.

THE COURT: YES, SIR. GO AHEAD.

MR. BRIGGS: FOR THE, QUOTE, QUALIFICATION OF THE JURY, YOUR HONOR.

THE COURT: OKAY.

MR. BRIGGS: AND, IN FACT, THEY PICKED A JURY FOR MR.

FERNANDEZ'S CASE. I DON'T REMEMBER WHAT IT WAS ABOUT. MR. FERNANDEZ, WHAT WAS THE CASE YOU TRIED ON MONDAY OR TUESDAY?

MR. FERNANDEZ: IT WAS A D.U.I.

MR. BRIGGS: IT WAS WHAT?

MR. FERNANDEZ: D.U.I.

MR. BRIGGS: D.U.I. SO THEY PICKED ONE JURY, YOUR HONOR, AND, IN FACT, I ASKED JUDGE BOGAN BECAUSE SOME COURTS ARE DIFFERENT. I SAID, YOUR HONOR, WILL THESE JURORS BE PUT BACK IN THE POOL AFTER THIS CASE AND HE SAID YES.

THE COURT: LET'S MAKE SURE I UNDERSTAND WHERE WE ARE. A JURY IS PICKED. ARE THE REMAINING MEMBERS OF THE PANEL STILL IN THE COURTROOM?

MR. BRIGGS: STILL IN THE COURTROOM.

THE COURT: ALL RIGHT. PLEASE GO FORWARD.

MR. BRIGGS: BECAUSE IT WAS DURING THE PICKING I THINK THAT THE THING CAME UP. I DON'T REMEMBER THE EXACT TIME BUT ALL OF THEM WERE IN HERE, YOUR HONOR, BECAUSE IT'S FAIRLY EARLY. WHEN WE GOT HERE – I DON'T EVEN KNOW HOW THE QUESTION CAME UP BUT JUDGE BOGAN INFORMED ME THAT SOMEBODY – I ASSUME THE CHIEF JUDGE OR I DON'T KNOW HOW ELSE THE CITY CAN MAKE SOMEBODY IN THE CITY COURT SYSTEM – HAD MADE A DECISION THAT DR. FALTAS COULD NOT HAVE A JURY LIST -- AND SHE DISAGREES WITH THIS NOW AND WHATEVER THE COURT WANTS TO DO – AND THE REASON WAS GIVEN THAT SHE WOULD NOT RETURN THE JURY LIST WHEN SHE GOT THROUGH WITH IT. SO, OF COURSE, THEY DID GIVE ME A JURY LIST AND I STILL HAVE MINE IN THE FILE. AND I MARKED IT AND WE ALL HAVE

WAYS OF DOING IT BUT I END UP PUTTING PLUSES AND MINUSES ON MINE, YOUR HONOR. BUT THE ONLY PEOPLE I GOT ANY INFORMATION FROM WAS THE SIX JURORS THAT WERE PICKED AND THE ONES WHO WERE DISMISSED, THAT IS, THAT WERE STRUCK, YOUR HONOR. SO I DIDN'T GET MUCH INFORMATION. WE DIDN'T GET ANY INFORMATION ON THE DETAILS OF THE REST OF THE PANEL. BUT THAT CONVERSATION OCCURRED WHILE THE WHOLE PANEL WAS HERE. DR. FALTAS WAS ACTUALLY SITTING IN THAT SEAT RIGHT OVER THERE NEXT TO THE BAR, IF YOU WILL, AND I DON'T THINK I WOULD SAY IT WAS HEATED, YOUR HONOR, BECAUSE I DON'T THINK DR. FALTAS EVEN ARGUED A GREAT DEAL. IT WAS A FAIRLY QUICK CONVERSATION. I WOULD SAY IT WAS NO MORE THAN FIVE MINUTES. BUT JUDGE BOGAN WAS, AS I SAID, HARD ON HER AND HE WAS HARD ON HER IN THE SENSE THAT --

THE COURT: I UNDERSTAND THAT YOU ARE NOW CHARACTERIZING HIS WORDS. MY QUESTION IS THE WORDS THAT YOU RELAYED FROM HIM A FEW MOMENTS AGO, IS THAT WHAT HE SAID?

DEFENDANT FALTAS: MAY I ANSWER?

THE COURT: NO, MA'AM. LET'S LET MR BRIGGS TALK FIRST.

MR. BRIGGS: I'M STILL CHARACTERIZING, YOUR HONOR. AS I REMEMBER IT –NOW I HAVE A PRETTY GOOD MEMORY, TOO – BUT SHE SAID SHE'S GOT A TAPE OF IT. I WOULD PREFER THE COURT LISTEN TO THE TAPE. HIS WORDING WAS IN EFFECT – HAD THE EFFECT OF CALLING HER A LIAR. HE DIDN'T SAY THAT WORD, HE JUST DISAGREED WITH HER.

THE COURT: MR. BRIGGS, THE QUESTION WAS DIFFERENT. WERE THE WORDS THAT YOU RELATED TO THE COURT THAT YOU HEARD JUDGE BOGAN SAY, DID YOU RELAY EVERYTHING THAT HE SAID A FEW MOMENTS AGO

WHEN YOU TALKED ABOUT WHAT HE SAID?

MR. BRIGGS: NO, I DIDN'T DO IT BEFORE.

THE COURT: OKAY.

MR. BRIGGS: I WASN'T TRYING TO ARGUE IT AT THAT TIME.

THE COURT: LET'S MAKE SURE WE UNDERSTAND EACH OTHER. YOU INDICATED JUDGE BOGAN SAID, PARAPHRASING YOUR WORDS, THAT A DECISION HAD TO BE MADE AND SHE WOULDN'T BE GIVEN A LIST BECAUSE SHE WOULDN'T RETURN IT.

MR. BRIGGS: THAT'S CLEAR.

THE COURT: IS THAT THE SUBSTANCE OF HIS CONVERSATION BEFORE THE JURY?

MR. BRIGGS: NO, THAT'S NOT ALL OF IT BECAUSE THEN THEY GOT INTO A DEBATE AND AT THAT TIME HIS RESPOSNE – AND I CANNOT REMEMBER THE WORDS, YOUR HONOR, I WOULDN'T TRY TO ATTEMPT IT, BUT THE WORDS WERE STRONG AND THE WORDS WERE CRITICAL.

THE COURT: I WILL DRAW THE INFERENCES FROM THE WORDS IF YOU CAN TELL ME WHAT THEY ARE.

MR. BRIGGS: I WOULD NOT REMEMBER EXACTLY WHAT HE SAID.

THE COURT: I'M GOING TO LET YOU TALK, DR. FALTAS. ANYTHING ELSE THAT YOU'D LIKE TO SAY, MR. BRIGGS, ON THIS MOTION?

MR. BRIGGS: I DON'T HAVE ANYTHING ELSE ON THAT.

THE COURT: DR. FALTAS, CAN YOU TELL ME WHAT JUDGE BOGAN SAID?

DEFENDANT FALTAS: HE SAID I WAS PREVIOUSLY HELD IN CONTEMPT OF COURT FOR REFUSING TO RETURN THE JURY LIST AND HE SAID I

SHOULD NOT BE GIVEN THE JURY LIST BECAUSE THE JURORS DO NOT WANT TO BE BOTHERED.

THE COURT: DID HE SAY CONTEMPT OF COURT, MR. BRIGGS?

MR. BRIGGS: SHE WAS BUT I WAS NOT INVOLVED IN THAT CASE.

THE COURT: NO, NO, NO, NO. DID JUDGE BOGAN SAY CONTEMPT OF COURT?

MR. BRIGGS: YES.

THE COURT: OKAY. DID YOU HEAR THAT, MR. FERNANDEZ?

MR. FERNANDEZ: I HEARD NONE OF THIS. I WAS OVER HERE AT THIS COUNSEL – IT OCCURRED OVER THERE IN THE CORNER.

THE COURT: WERE YOU ABLE TO HEAR WHAT THEY WERE TALKING ABOUT?

MR. FERNANDEZ: NO, I COULDN'T HEAR ANYTHING.

THE COURT: WAS HE SITTING ON THE BENCH OR DID HE COME OFF?

DEFENDANT FALTAS: HE WAS SITTING – I'M SORRY. I THOUGHT THE QUESTION WAS TO ME.

THE COURT: ALL RIGHT, DR. FALTAS, YOU CAN ANSWER. WHERE WAS JUDGE BOGAN?

DEFENDANT FALTAS: HE WAS SITTING FROM THE BENCH AND OFFICER HAMPE – FIRST THEY WERE, YOU KNOW, EXCUSING AND I SAID I NEED A JURY LIST AND THEY SAID SOMEONE – HE SAID SOMEONE GIVE DR. FALTAS A JURY LIST AND THEN OFFICER HAMPE CAME AND WHISPERED IN BOGAN'S EAR SOMETHING AND THEN BOGAN SAID – THERE IS A TAPE. I MEAN DON'T TAKE MY WORD –

THE COURT: MAYBE THE BEST THING TO DO IS FOR ME TO LISTEN TO THE TAPE AND I'M GOING TO LISTEN TO IT. AND PENDING LISTENING TO THE TAPE, I WILL MAKE A DECISION ON WHETHER OR NOT I BELIEVE THERE IS A SUFFICIENT TAINTING OF THE JURY PANEL TO CONTINUE THE CASE PAST TOMORROW.

DEFENDANT FALTAS: NOW MAY I – AND I BRING THE CASE. IT'S U.S. SUPREME COURT CASE. IT IS GOMEZ VS. UNITED STATES AND I HAVE IT IN THE CAR AND IT'S JUST A MATTER OF MY NOT BEING ABLE TO TELL EVERYTHING. AND I ALSO STILL WAS PROMISED TO TALK ABOUT WHETHER IT CARRIES JAIL TIME AND (INAUDIBLE) JUDGE U.S. MAGISTRATE JUDGE McCRORY, I WAS PROMISED THAT I WOULD BE ABLE TO –

THE COURT: DR. FALTAS, I'M NOT GOING TO QUOTE MR. BRIGGS BUT DOING ONE THING AT A TIME ALLOWS US TO FINISH STUFF. IF WE JUMP FROM THING TO THING TODAY –

MR. BRIGGS: YOUR HONOR –

THE COURT: SECONDLY, I WANT TO MAKE SURE WE ARE CLEAR. I HAVE NOT MADE AN INTERPRETATION OF OUR ORDINANCES. I HAVE READ THEM TO YOU AND I THINK THEY SPEAK FOR THEMSELVES, THAT BEING SAID. SO WHO HAS THE RECORDING OF THE HEARING OR THE PICKING OF THE JURY VENIRE?

DEFENDANT FALTAS: THE COURT DOES.

THE COURT: NO, NO, NO. Y'ALL TOLD ME THAT –

DEFENDANT FALTAS: I DIDN'T. HE DID.

THE COURT: HE ASKED YOU HAD YOU GOTTEN THE RECORIDNG. YOU SAID YOU GOT IT ON C.D. AND YOU GAVE IT TO MR. LUPTON.

DEFENDANT FALTAS: NO. THAT'S NOT WHAT I SAID ABOUT THIS ONE. I SAID –

THE COURT: Y'ALL AREN'T COMMUNICATING THEN.

DEFENDANT FALTAS: THAT'S RIGHT. THAT'S WHY I WANT TO REPRESENT MYSELF –

THE COURT: SO FIRST QUESTION. NOW THAT WE ALL KNOW WHAT WE ARE TALKING ABOUT, DO YOU HAVE A COPY OF THE – HAVE YOU GOTTEN A COPY OF THE HEARING DURING JURY SELECTION? YES OR NO.

DEFENDANT FALTAS: I HAVE ASKED MR. LUPTON TO TRY TO GET THE C.D. HE WOULDN'T GET ANYTHING.

THE COURT: SO YOU DON'T HAVE ONE. JUST YES OR NO, DO YOU HAVE ONE OR NOT?

DEFENDANT FALTAS: DO I HAVE ONE?

THE COURT: YES.

DEFENDANT FALTAS: NO. DOES THE COURT HAVE ACCESS TO IT? YES, BECAUSE IT WAS BEING RECORDED.

THE COURT: DR FALTAS, WE CAN CLEARLY GET THROUGH THIS A LITTLE FASTER. I'M NOT DONE WITH THE INQUIRY.

DEFENDANT FALTAS: OKAY.

THE COURT: FIRST QUESTION WAS DO YOU HAVE ONE. MR. LUPTON, DO YOU HAVE ONE?

MR. LUPTON: NO, YOUR HONOR

THE COURT: OKAY. SO NOW WE KNOW NEITHER ONE OF YOU GOT ONE WHICH CLEARS UP SOME MISUNDERSTANDNGS FROM THE COURT. I DON'T THINK IT WAS MY MISUNDERSTANDING.

MR. BRIGGS: I WAS MISUNDERSTANDING, TOO.

THE COURT: MISUNDERSTANDING FROM THE COURT. THAT'S ALL I WAS DOING, DR. FALTAS. NOW THAT'S DONE. NOW I UNDERSTAND WHAT I'VE GOT TO DO TO LISTEN TO IT. WE CAN MOVE TO THE NEXT ISSUE. OKAY. I WILL LISTEN TO IT AND WE WILL – AND I WILL MAKE A RULING REGARDING THAT. EVERYBODY STILL PLAN TO BE HERE TOMORROW MORNING.

DEFENDANT FALTAS: COULD YOU PLEASE HOLD OFF THE RULING UNTIL I GET YOU THE U.S. SUPREME COURT OPINION?

THE COURT: WE ARE GOING TO LET YOU GO TO THE CAR AND GET YOUR STUFF. WE JUST DON'T WANT YOU TO MISS NOTHING. THAT'S WHY I'VE GOT YOU SITTING AT THE TABLE.

DEFENDANT FALTAS: THANK YOU.

THE COURT: ALL RIGHT. SO THAT'S ONE ISSUE UNDER ADVISEMENT PENDING LISTENING AND GETTING ARGUMENT FROM MR. FERNANDEZ. SECOND ISSUE. YOU WANT TO ARGUE ABOUT WHETHER OR NOT THE CASE CARRIES JAIL TIME. I DON'T THINK THAT IS APPROPRIATE AT THIS TIME BECAUSE I'M NOT ABOUT TO MAKE ANY RULING. ALL RIGHT. SO YOU CAN ARGUE BUT IT HAS NO EFFECT. IF YOU ARE FOUND GUILTY AND IF IT BECOMES AN ISSUE AS TO WHETHER OR NOT YOU ARE TO BE SENTENCED THEN I THINK WHAT THE APPROPRIATE PENALTIES ARE AT THAT POINT – I THINK WE'VE GOT THE CART IN FRONT OF THE HORSE. OKAY? LAST TIME YOU HAD A TRIAL, CORRECT?

DEFENDANT FALTAS: YES.

THE COURT: JURY FOUND YOU NOT GUILTY, CORRECT?

DEFENDANT FALTAS: YES.

THE COURT: DID WE ADDRESS ANYTHING IN SENTENCING? NO. SO IN THIS CASE IF YOU ARE NOT FOUND GUILTY THERE'S NO SENTENCING TO ADDRESS. I WILL TELL YOU THAT I WILL HEAR ARGUMENT ON WHAT IS AND WHAT IS NOT AN APPROPRIATE SENTENCE IF IT BECOMES RIPE. IF YOU ARE FOUND NOT GUILTY WE NEVER HAVE TO HEAR IT.

DEFENDANT FALTAS: IT'S MORE PROFOUND THAN THAT, YOUR HONOR. THE REASON I WAS ABLE TO ASK THAT MR. BRIGGS BE SUBSTITUTED FOR MR LUPTON IS THAT I KNEW THAT MR. LUPTON WOULD NOT GIVE ME EFFECTIVE ASSISTANCE ON THIS PARTICULAR CHARGE.

THE COURT: THAT IS ALSO NOT RIPE BECAUSE HE'S BEEN SUBSTITUTED.

DEFENDANT FALTAS: THE DIFFERENCE IS I AM – IT'S A TWO PRONG TEST FOR GETTING COURT APPOINTED LAWYER IN THE (INAUDIBLE) AND THE POSSIBILITY OF JAIL TIME BECAUSE I BELIEVE THERE WAS NO POSSIBILITY OF JAIL TIME. ON THIS ONE I WAS IN GOOD CONSCIENCE ABLE TO ASK MR. LUPTON TO QUIT BECAUSE I DON'T WANT TO FIGHT FOR HIM. IF THERE IS POSSIBILITY OF JAIL TIME, FRANKLY, I WANT SOMEONE MORE EFFECTIVE THAN EITHER MR. LUPTON OR MR. BRIGGS.

THE COURT: NO, YOU HAVE MADE A DECISION. MR. BRIGGS IS NOW APPOINTED. HE'S SUBSTITUTED BECAUSE YOU'VE RETAINED HIM. YOU'VE MADE A CHOICE OF COUNSEL. NOW I READ THE STATUTE. IT SAYS WHAT IT SAYS. I BELIEVE AN APPOINTMENT OF AN ATTORNEY IS APPROPRIATE. HOWEVER, YOU'VE CHOSEN TO RETAIN AN ATTORNEY AS OPPOSED TO GOING FORWARD WITH YOUR APPOINTED COUNSEL. THAT ISSUE IS NOT ONE WE'RE GOING TO ADDRESS. ARE THERE ANY OTHER MOTIONS FOR TODAY BEFORE WE

TAKE A BREAK FOR DR. FALTAS TO RETRIEVE WHAT SHE WANTS FROM THE CAR?

MR. BRIGGS: YOUR HONOR, I AGREE WITH WHAT YOU SAID ABOUT THE OTHER POSSIBILITY OF MOTIONS AND I THINK THE OTHERS FALL INTO THAT CATEGORY. FOR INSTANCE, I THINK THERE'S A SERIOUS DUE PROCESS ARGUMENT, VAGUENESS ARGUMENT AND THOSE KIND OF THINGS UNDER THE DUE PROCESS CLAUSE BUT I THINK IT'S MORE APPROPRIATE THAT WHEN THAT TESTIMONY SHOWS UP IN COURT THAT I MAKE THAT MOTION AT THAT TIME.

THE COURT: AND YOU'RE GOING TO SEEK TO REQUEST THAT I FIND THE STATUTE UNCONSTITUTIONAL AND VAGUE?

MR. BRIGGS: YES, YOUR HONOR, BECAUSE – YOU KNOW THE RULES.

THE COURT: I ASK THAT SINCE YOU ARE GOING TO DO THAT YOU PROVIDE SOMETHING IN WRITING OR WHATEVER YOU HAVE TO SUPPORT –

MR. BRIGGS: I CAN DO THAT. I'VE GOT THE CASE CITED, ONE OF THE CASES CITED RIGHT HERE.

THE COURT: FAIR ENOUGH.

MR. BRIGGS: AND I CAN DO THAT IN TWO OR THREE PAGES PROBABLY.

THE COURT: SO WE WILL ADDRESS THAT IF WE GO FORWARD ON TOMORROW WHEN THE TESTIMONY COMES FORWARD. WHAT ELSE DO YOU HAVE, MR. BRIGGS, ABOUT TOMORROW?

DEFENDANT FALTAS: COULD I TELL HIM THAT YOUR HONOR WANTS THE EXHIBITS PREMARKED AND I BROUGHT THEM AND EVERY TIME I

CARRY THEM AND PEOPLE SEEING THIS CRAZY LADY –

THE COURT: DR. FALTAS, LET'S STAY ON POINT. WHEN WE FINISH WITH THE MOTIONS WE ARE GOING TO TAKE A BREAK SO YOU CAN GO TO THE CAR AND GET ALL OF THE THINGS THAT YOU DIDN'T BRING THE FIRST TIME. ONCE WE HAVE EVERYTHING IN THE COURTROOM WE'LL PRE-MARK EXHIBITS. NOW YOU AND YOUR COUNSEL HAVE GOT TO TALK ABOUT WHAT YOU ARE GOING TO PUT IN. THAT'S NOT UP TO ME, BUT WE ARE GOING TO GIVE YOU A CHANCE TO GO DO THAT. ARE THERE ANY OTHER LEGAL MOTIONS RELATED TO THE CASE TOMORROW?

DEFENDANT FALTAS: THE OTHER NINE DEFENSES OTHER THAN (INAUDIBLE).

(OFF THE RECORD DISCUSSIOIN BETWEEN BRIGGS & FALTAS)

THE COURT: SO IF THERE ARE NO FURTHER MOTIONS AT THS TIME ON THIS CASE ON TOMORROW, DR. FALTAS, CAN YOU RETURN IN TEN MINUTES?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: PLEASE BE BACK IN TEN MINUTES SO THAT WE CAN DEAL WITH EXHIBITS. WHILE THEY ARE DISCUSSING WHAT THEY ARE GOING TO MARK BUT AFTER SHE'S BACK IN THE COURTROOM, MR. LUPTON, I'M GOING TO TURN TO YOU FOR ANY MOTIONS THAT YOU HAVE ON THE CASES FOR THE 24TH AND 25TH.

MR. LUPTON: THANK YOU, YOUR HONOR,.

THE COURT: THANK Y'ALL VERY MUCH. LET'S TAKE A BREAK AND LET YOU DO THAT, DR. FALTAS.

(RECESS)

(CASE RESUMES)

THE COURT: LET'S GO BACK ON THE RECORD. WE ARE BACK ON THE RECORD. THE COURT TOOK AN EXTENSIVE BREAK. PART OF IT WAS FOR DR. FALTAS TO RETRIEVE A FEW THINGS FROM HER CAR, THE MAJORITY OF IT WAS FOR THE COURT TO LISTEN TO PORTIONS AND EXCERPTS OF THE TRANSCRIPT OF THE JURY SELECTION AND QUALIFICATIONS FROM MONDAY. THE COURT DID HEAR THE PORTION OF THE JURY SELECTION IN WHICH DR. FALTAS ASKED FOR A COPY OF THE JURY LIST AND HEARD THE COURT'S RESPONSE WHICH IT INITIALLY WAS GOING TO GIVE IT TO DR. FALTAS. THEREAFTER THE COURT APPEARED TO HAVE A FAIRLY QUIET CONVERSATION WITH MR. BRIGGS IN WHICH THE COURT ADVISED MR. BRIGGS THEY WERE GOING TO GIVE HIM ONE AND NOT DR. FALTAS. MR. BRIGGS INDICATED HE WOULD SIT NEXT TO HER AND SHARE IT WITH HER IN THE CONVERSATION. THE COURT THEN LISTENED IN THIRTY SECOND INTERVALS TO QUITE A BIT MORE OF THE QUALIFICATION, INTRODUCTIONS OF COUNSEL, BEGINNING OF PICKING OF THE JURY THROUGH THE FIRST FOUR JURORS. DURING THAT TIME ALTHOUGH THE COURT HAS BEEN ADVISED IS THAT IS WHEN THE CONVERSATION TOOK PLACE WHICH ONE OF THE CONVERSATIONS TOOK PLACE WHICH THE DEFENDANT INDICATES THE COURT TREATED HER IN A MANNER THAT WOULD NECESSITATE THE FINDING THAT THE JURY PANEL WAS TAINTED AND, THEREFORE, THE CASE SHOULD BE CONTINUED AND HEARD NO SUCH CONVERSATION. THE COURT WILL DO THE FOLLOWING. THE COURT WILL DENY THE MOTION TO CONTINUE THE CASE BASED ON ANY STATEMENTS MADE BY JUDGE BOGAN BASED ON WHAT THE COURT HAS HEARD. THE COURT WILL ALSO ASK AN OFFICER OF THE COURT AT THE CONCLUSION OF THIS HEARING TODAY TO PROVIDE A COPY OF THE C.D. OF THE ENTIRE HEARING, TO PROVIDE THE

DEFENSE COUNSEL AND THE DEFENDANT AND IF THEY HAVE SPECIFIC PARTS OF THE TAPE THEY WISH THE COURT TO REVIEW THE COURT WILL DO SO AT 8:30 A.M.AND REHEAR THE MOTION ONLY IF THERE'S ADDITIONAL EVIDENCE TO BE CONSIDERED. NOW, MR. LUPTON.

MR. BRIGGS: YOUR HONOR, BEFORE THAT, COULD I GIVE YOU THE GOMEZ CASE?

THE COURT: YOU MAY GIVE IT TO THE CLERK.

MR. BRIGGS: IF IT'S NEEDED, YOUR HONOR, LATER.

THE COURT: YOU MAY GIVE IT TO THE CLERK. MR. LUPTON, DO YOU HAVE MOTIONS THAT YOU WISH TO RAISE REGARDING THE CASE ON THE 24TH. THAT'S TICKETS NUMBER 37025FK AND 38803FK AND THE CASE ON THE 25TH WHICH IS COURTESY SUMMONS NUMBER L,AS IN LUCKY, 066971.

MR. LUPTON: YES, YOUR HONOR. MAY IT PLEASE THE COURT.

THE COURT: HOLD ON. DR. FALTAS, YOU ARE TALKING LOUD ENOUGH THAT IT IS PROHIBITING ME FROM HEARING THE ARGUMENTS. AS I HAVE SAID ABOUT FOUR TIMES TODAY, WE ARE GOING TO TAKE ONE THING AT A TIME.

DEFENDANT FALTAS: OKAY.

THE COURT: I'M NOT AWARE THAT YOU'VE FINISHED MARKING EXHIBITS. I'M NOT AWARE THAT YOU AND MR. BRIGGS HAVE MADE A DETERMINATION OF WHAT EXHIBITS YOU WANT TO PUT IN. I'M GOING TO HEAR THESE OTHER LEGAL MOTIONS BECAUSE THEY ARE READY AND I WILL COME BACK TO YOU ON THE EXHIBITS.

DEFENDANT FALTAS: HE WANTS TO LEAVE.

THE COURT: WELL, UNFORTUNATELY, MR. BRIGGS, I'M SORRY,

YOU'VE GOT TO WAIT BECAUSE YOUR CLIENT HAS GOT A LOT GOING ON. MR. LUPTON.

MR. LUPTON: YOUR HONOR, I THINK TO EXPEDITE AT LEAST PART OF THIS I WOULD MOVE TO INCOROPRATE THE PRE-TRIAL MOTIONS FROM MARCH 12 AND THE PRE-TRIAL MOTIONS FROM MARCH 21ST RELATED TO THIS CASE. YOUR HONOR, MARCH 12 WAS A GLOBAL PRE-TRIAL SORT OF LIKE TODAY. MARCH 21ST ORIGINALLY – AND THESE WERE BOTH 2013. ORIGINALLY WE WERE SCHEDULED FOR TRIAL ON BOTH THE TRESPASS THAT DID GET TRIED AS WELL AS THE TRESPASS, PUBLIC DISORDERLY THAT WAS SUPPOSED TO GO THAT AFTERNOON. CERTAIN MOTIONS WERE HEARD RELATING TO THESE CASES. THE COURT MADE CERTAIN RULINGS. I AM AWARE OF NO EVIDENCE THAT HAS COME UP IN THE MEANTIME. I BELIEVE THOSE WOULD STILL BE VALID. I WOULD MOVE TO INCORPORATE THOSE AS PART OF THE TRIALS UPCOMING.

THE COURT: TO THE EXTENT THAT WE ALLOW THAT WHICH I'M NOT AGAINST DOING SO BUT I'LL LET MR. FERNANDEZ SPEAK TO IT, BUT TO THE EXTENT THAT WE ALLOW THAT THE COURT IS ALSO GOING TO IMPOSE THE SAME RULINGS THAT IT MADE AT THAT TIME.

MR. LUPTON: AND I UNDERSTAND THAT. WE HAVE OUR RULINGS.

THE COURT: MR. FERNANDEZ, ANY POSITION ON THAT?

MR. FERNANDEZ: WELL, WHAT SPECIFICALLY ARE WE TALKING ABOUT IS GOING TO BE EXCLUDED? LIKE WHAT – I MEAN WE ARE JUST INCORPORATING EVERY SINGLE RULING THAT OCCURRED BEFORE?

THE COURT: ARTICULATE THE RULINGS THAT YOU ARE SEEKING TO HAVE INCORPORATED.

MR. LUPTON: YOUR HONOR, WE MADE EXTENSIVE ARGUMENTS CONCERNING, FOR EXAMPLE, IMPEACHMENT WITH REGARDS TO –

THE COURT: YOU KNOW WHAT, MR. LUPTON? AGAINST MY STRONG DESIRE TO MOVE THIS ALONG, THESE THINGS ARE GOING TO GET SCRUTINIZED ENOUGH. PLEASE MAKE YOUR INDIVIDUAL MOTIONS.

MR. LUPTON: YOUR HONOR, I MOVE TO COMPEL THE CITY TO PRODUCE ALL RECORDS RELATED TO OFFICER ASHMORE'S DISCIPLINARY THAT I BELIEVE ARE IMPEACHMENT MATERIAL. THE OFFICER WAS INVOLVED IN A CHEATING SCANDAL.

THE COURT: I'M FAMILIAR WITH THE FACTS. IS THAT THE MOTION YOU ARE MAKING?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: ALL RIGHT. DO YOU WISH TO RESPOND TO THAT MOTION SPECIFICALLY?

MR. FERNANDEZ: I WILL RELY ON MY ORIGINAL ARGUMENT FROM THE PRIOR.

THE COURT: THE COURT ISSUED A WRITTEN ORDER AND ATTACHED IT TO THE RECORD. THAT WRITTEN ORDER WILL REMAIN IN EFFECT.

MR. LUPTON: ALL RIGHT. AND I WILL, OF COURSE, ASK THAT MY ARGUMENTS BE PRESERVED AS WELL RATHER THAN HAVING TO RE-ARGUE EVERYTHING.

THE COURT: THEY WILL BUT YOU'VE GOT TO AT LEAST SAY – WHEN YOU SAY YOU ARE INCORPORATING SOMETHING, WE'VE GOT TO AT LEAST IDENTIFY WHAT IT IS BECAUSE SOMEBODY MAY WELL SCRUTINIZE THESE RULINGS IN THE FUTURE AND I DON'T WANT THERE TO BE A

MISUNDERSANDING AS TO WHAT YOU ATTEMPTED TO RE-ARGUE AND WHAT YOU DIDN'T. CLEARLY YOU ARGUED THAT YOU WANTED OFFICER ASHMORE'S RECORDS. I DID AN IN-CAMERA REVIEW. I MADE A RULING. ALL OF THOSE ARGUMENTS AND THE ORDER AND RULINGS RELATED THERETO I WILL HOLD ARE PRESERVED FOR THE RECORD. ARE THERE ANY OTHER MOTIONS YOU WISH TO RENEW?

MR. LUPTON: YOUR HONOR, THERE WERE ARGUMENTS REGARDING THE DISCOVERY AND A DISCOVERY ORDER WAS ISSUED FROM THE BENCH AND I WILL INCORPORATE – LET ME GO THROUGH THE WRITTEN MOTIONS AND THEN WE CAN GO BACK AND CLEAN UP ANYTHING ELSE.

THE COURT: SO THE ONE MOTION THAT YOU'VE MADE IS ABOUT OFFICER ASHMORE AND WE'VE INCORPORATED THAT FOR THE RECORD. NOW, JUST MAKE SURE I'M NOT TELLING YOU WHICH WAY TO GO BUT I'M TELLING YOU TO MAKE SURE YOU DO EVERYTHING YOU WANT TO DO.

MR. LUPTON: I WILL MAKE SURE I DO EVERYTHING I WANT TO DO.

THE COURT: ALL RIGHT.

MR. LUPTON: YOUR HONOR, I WILL START OUT WITH THE WRITTEN MOTIONS AND THEN GO BACK TO PRIOR ISSUES.

THE COURT: WHICH ONE WOULD YOU LIKE TO START WITH?

MR. LUPTON: THE MOTION TO DISMISS THE TRESPASS BASED ON THE OFFICER IS NO LONGER EMPLOYED AND NOT PRESENT. YOUR HONOR, THAT WRITTEN MOTION – THIS WAS OFFICER McSWAIN WAS THE ARRESTING OFFICER FOR THE TRESPASS CHARGE ON THE JULY, 2010, TRESPASS; JULY 8, 2010. HE WROTE A UNIFORM TRAFFIC TICKET. IT DOES NOT CONTAIN ANY STATEMENTS OF FACT UPON WHICH THE CHARGE WAS BASED. THE FACE OF THE DOCUMENT

DOESN'T PROVIDE AN ADEQUATE STATEMENT. WITHOUT HIS PRESENCE, WITHOUT THE REVIEW OF A NEUTRAL AND DETACHED JUDICIAL OFFICER, IT'S IMPOSSIBLE TO DETERMINE THE FACTS UPON WHICH HIS PROBABLE CAUSE WAS BASED. SUBSTITUTING IN OFFICER ASHMORE AS THE CITY HAS DONE AS THE ARRESTING OFFICER AND THEY'VE CHANGED THEIR CITY DOCUMENTS TO REFLECT HER AS THE ARRESTING OFFICER ON THAT TICKET. I BELIEVE THAT'S BOTH IMPROPER AND IMPERMISSIBLE AND WOULD MOVE TO DISMISS BECAUSE THE OFFICER IS NOT HERE TO PROSECUTE THAT CASE.

THE COURT: SO ON THE CHARGING DOCUMENT THAT THIS CASE IS PROCEEDING UNDER, AND LET'S MAKE SURE WE ARE SPECIFIC. THAT IS TICKET NUMBER 38803FK AND 37025FK. WHO IS THE OFFICER LISTED ON THOSE TWO TICKETS?

MR. LUPTON: McSWAIN IS LISTED AS THE OFFICER ON THE TRESPASS TICKET. ASHMORE IS LISTED AS THE OFFICER ON THE DISORDERLY CONDUCT TICKET.

THE COURT: ALL RIGHT YOU INDICATED THAT ASHMORE WAS NOT THE ORIGINAL OFFICER ON THE DISORDERLY CONDUCT.

MR. LUPTON: SHE WAS ON THE DISORDERLY CONDUCT. SHE WAS NOT ON THE TRESPASS.

THE COURT: ARE YOU MAKING – YOU'VE GOT BOTH WARRANTS LISTED A THE TOP. ARE YOU MAKING THIS MOTION TO BOTH WARRANTS OR JUST THE TRESPASS?

MR. LUPTON: JUST THE TRESPASS AS TO THAT PARTICULAR MOTION.

THE COURT: I WANTED TO MAKE SURE WE UNDERSTOOD WHAT

WE ARE TALKNG ABOUT. YES, SIR, MR. FERNANDEZ.

MR. FERNANDEZ: YES, YOUR HONOR. BOTH OFFICERS WERE ON THE SCENE AT THE SAME EXACT TIME, WITNESSED THE SAME EXACT CONDUCT. THE FACT THAT OFFICER McSWAIN MAY OR MAY NOT BE PRESENT AT TRIAL DOESN'T PREVENT THE CITY FROM GOING FORWARD. THE TICKET IS MERELY A CHARGING DOCUMENT. WHAT IS IMPORTANT IS THAT THE CITY IN ORDER TO CONVICT BE ABLE TO ESTABLISH THE ELEMENTS OF THE CRIME WHICH WE WILL CERTIANLY BE ABLE TO DO, AT LEAST IN ORDER TO SATISFY A DIRECTED VERDICT. BUT IN ANY EVENT IT DOESN'T MATTER WHO THE OFFICER IS ON THE TICKET. IT'S NOT NECESSARY TO HAVE A WARRANT IN THIS CASE BECAUSE THE CONDUCT WAS WITNESSED FIRSTHAND BY A LAW ENFORCEMENT OFFICER.

MR. LUPTON: AND WE'LL GET INTO THAT IN JUST A SECOND, YOUR HONOR.

THE COURT: ANYTHING FURTHER ON THIS PARTICULAR MOTION?

MR. FERNANDEZ: NO, YOUR HONOR.

MR. LUPTON: YOUR HONOR, ONE OFFICER IS NOT PERMITTED TO PROSECUTE THE TICKET OF ANOTHER OFFICER EVEN IF THEY HAPPEN TO BE PRESENT AND HAD SEEN SOME OF THE CONDUCT. OFFICER McSWAIN WROTE THE TICKET, HE WAS THE ARRESTING OFFICER, HE WAS THE CHARGING OFFICER ON THAT TICKET. HE IS NOT PRESENT. WE DO NOT KNOW WHAT WAS IN HIS MIND WHEN HE WROTE THE TICKET, WHETHER OR NOT HE HAD PROBABLE CAUSE TO MAKE AN ARREST. THAT'S ESPECIALLY RELEVANT HERE BECAUSE THE ONLY EVIDENCE OF HIS KNOWLEDGE IS HIS HEARSAY INCIDENT REPORT WHICH INDICATES A LACK OF PROBABLE CAUSE WHICH IS SOMETHING I GO INTO IN ANOTHER MOTION.

THE COURT: OKAY. ANYTHING ELSE ON THIS MOTION?

MR. LUPTON: NOT ON THAT MOTION, YOUR HONOR.

THE COURT: THIS MOTION IS DENIED. THE COURT WILL, OF COURSE, ADDRESS MOTIONS RELATED TO THE SUFFICIENCY OF EVIDENCE AT THE TIME EVIDENCE IS PRESENTED OR, YOU KNOW, IF IT'S NOT PRESENTED AND THE CITY RESTS WE'LL ADDRESS THOSE ISSUES AT THAT TIME. IT IS DENIED AT THIS STAGE OF THE LITIGATION. NEXT MOTION, PLEASE, SIR.

MR. LUPTON: YOUR HONOR, WE MOVE TO DISMISS UNDER RAMSEY. OFFICER McSWAIN –

THE COURT: WHICH MOTION ARE YOU ON?

MR. LUPTON: IT'S A MOTION TO DISMISS, OFFENSE DID NOT OCCUR IN OFFICER'S PRESENCE.

THE COURT: THANK YOU, SIR. GO AHEAD.

MR. LUPTON: OFFICER McSWAIN WHO IS NOT PROSECUTING THE TICKET, ANOTHER OFFICER IS, BUT EVEN IF WE CONSIDER HIS HEARSAY STATEMENTS MADE IN HIS INCIDENT REPORT, THE STATEMENTS OF THE OFFICER PRESENTED THAT HE – THAT OFFICER PRESENTED IN HIS INCIDENT REPORT THAT THE ENTRY INTO BUILDING 304 OCCURRED OUTSIDE OF HIS PRESENCE, OUTSIDE THE PRESENCE OF ANY LAW ENFORCEMENT OFFICER, WAS NOT OBSERVED. OFFICER McSWAIN INDICATES THAT ALL HE OBSERVED WAS HER AWAY FROM THE BUILDING IN THE SIDEWALK AREA, NOT INSIDE THE BUILDING. THEREFORE, A CHARGE OF TRESPASS IN THE BUILDING DID NOT OCCUR IN HIS PRESENCE AND WHILE IT WAS COMMON PRACTICE TO WRITE UNIFORM TRAFFIC TICKETS FOR OFFENSES OCCURRING OUTSIDE THE PRESENCE OF THE OFFICER, WHERE THE OFFICER RESPONDED AND A SUSPECT WAS STILL AT OR NEAR THE SCENE. IT

HAS SINCE BEEN HELD IN STATE V. RAMSEY, 398 S.C. 275, COURT OF APPEALS OPINION FROM 2012 THAT THE OFFICER CANNOT LAWFULLY CHARGE ON A UNIFORM TRAFFIC TICKET WHERE THE OFFICER DOES NOT PERSONALLY, PHYSICALLY SEE THE VIOLATION, IT DOES NOT OCCUR IN HIS ACTUAL PRESENCE.

THE COURT: IS THAT RULING BROAD ENOUGH TO COVER ALL TYPES OF CHARGES?

MR. LUPTON: ANY CHARGE THAT CAN BE BROUGHT UPON A UNIFORM TRAFFIC TICKET. THE SPECIFIC CASE THAT WAS INVOLVED IN RAMSEY WAS A CRIMINAL DOMESTIC VIOLENCE AND THE OFFICER SHOWED UP AFTERWARDS, SAW EVIDENCE THAT INDICATED A FRESHLY COMMITTED C.D.V. AD MADE AN ARREST ON THE TICKET BASED ON THE FRESHLY COMMITTED –

THE COURT: AND I'M ASKING A SIMPLE QUESTION. WAS RAMSEY LIMITED TO THE FRESHLY COMMITTED C.D.V. EXCEPTION OR DID IT APPLY TO ALL TYPES OF –

MR. LUPTON: TO ALL TYPES, YOUR HONOR.

THE COURT: THE HOLDING IS THAT BROAD?

MR. LUPTON: YES, YOUR HONOR. I'LL BE HAPPY TO HAND UP A COPY IF THE COURT WOULD LIKE.

THE COURT: PLEASE DO. ANYTHING FURTHER ON THAT, MR. LUPTON?

MR. LUPTON: NOT AT THIS POINT, YOUR HONOR. WE MAY HAVE --

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: YES, YOUR HONOR. I DON'T WANT TO CONCEDE DEFENSE'S ARGUMENT ABOUT STATE V. RAMSEY. I DO GENERALLY AGREE

WITH THIS PROPOSITION THAT IT MEANS IF IT'S NOT COMMITTED WITHIN THE PRESENCE OF THE OFFICER IT NEEDS TO BE ON A WARRANT. I THINK THERE ARE STILL – THERE'S CIRCUMSTANCES WHERE IT DOESN'T APPLY, LIKE D.U.I.'S, FOR EXAMPLE. THE CLASSIC TURTLE ON A STUMP SITUATION WHERE IT MUST HAVE GOTTEN THERE SOMEHOW. THOSE STILL ARE PERMISSIBLE ON A BLUE TICKET BUT IN ANY EVENT IT'S IRRELEVANT TO THIS CASE BECAUSE THE OFFICERS DID WITNESS THE DEFENDANT ON THE PROPERTY. AND AS YOU RECALL FROM THE LAST TRIAL THERE WAS A DISAGREEMENT OVER WHAT EXACTLY CONSTITUTES THE LOCATION. IF YOU RECALL, THERE'S THE PROPERTY ITSELF VERSUS THE BUILDINGS. THERE IS NO FUNCTIONAL DIFFERENCE BETWEEN THE TWO EVEN THOUGH THE DEFENDANT WOULD LIKE TO ARGUE THAT. SHE WAS CERTAINLY WITNESSED ON PROPERTY EVEN I THINK AS CLOSE AS THE FRONT DOOR OF THE BUILDING 304 AT THIS CASE EXITING – I DON'T KNOW IF SHE WAS WITNESSED EXITING. I DON'T KNOW EXACTLY WHAT THE OFFICER WILL TESTIFY TO ABOUT WHAT SHE SAW BUT SHE WAS ON PROPERTY SO THE BLUE TICKET IS PROPER EVEN DESPITE RAMSEY.

THE COURT: ANYTHING FURTHER? DR. FALTAS, I DO WANT YOU TO GET YOUR TICKETS BUT I HAVE TO BE ABLE TO HEAR THESE ATTORNEYS AS WELL. YES, SIR.

MR. LUPTON: YOUR HONOR, I WANT TO GIVE YOU A CHANCE TO READ IF YOU --

THE COURT: I READ THE CONCLUSION. I'VE READ THE CASE BEFORE. I WANTED TO REFRESH MYSELF AS TO WHAT THE CONCLUSION SAID. IT READ AS I BELIEVED. GO AHEAD.

MR. LUPTON: I BELIEVE IT IS BROAD ENOUGH TO COVER A

TRESPASS, YOUR HONOR. AND, YOUR HONOR, IT IS AN IMPORTANT DISTINCTION. SHE HAS BEEN CHARGED WITH TRESPASSING IN A BUILDING. THEY DIDN'T WRITE A SEPARATE CHARGE FOR TRESPASSING IN A BUILDING, TRESPASSING ON THE PREMISES. AN ELEMENT OF THEIR CHARGE AGAINST HER IS THAT SHE WAS UNLAWFULLY IN THAT BUILDING. TO ALLOW AN OFFICER TO BASE HIS CHARGE ON SOMETHING THAT HE DID NOT OBSERVE REQUIRES A WARRANT.

THE COURT: I THINK YOU GUYS HAVE A FUNDAMENTAL DISAGREEMENT AS TO WHAT IS SUFFICIENT TO BE OBSERVED UNDER THESE FACTS TO CONSTITUTE A TRESPASS. YOUR ARGUMENT IS SHE'S GOT TO BE IN 304 SO IF HE DIDN'T SEE 304, WHATEVER -- THE OTHER BUILDING, 304. IF YOU DON'T SEE 'EM IN 304 THEN YOU DIDN'T SEE A CRIME IN YOUR PRESENCE. HIS ARGUMENT IS THERE'S POTENTIAL TO TRESPASS BASED ON THE NOTICE IN PLACES THAT ARE NOT JUST INSIDE 304. THIS WAS PART OF THE ISSUES THAT WERE RAISED IN THE -- LAST TIME. I DON'T KNOW WHETHER THE JURY AGREED WITH YOU ON THAT POINT OR SOME OTHER POINT. THERE WAS NO SPECIAL INTERROGATORY, THEY JUST CAME BACK NOT GUILTY. AND I'M NOT – I HAVE NOT MADE A RULING AND WOULD NOT BE INCLINED TO LIMIT THE NOTICE TO THE POINT OF – AS A MATTER OF LAW TO THE POINT OF SHE'S GOT TO BE IN THE BUILDING.

MR. LUPTON: I UNDERSTAND THAT. AND THAT'S PART OF MY ARGUMENT IS THAT THE CITY ISN'T SPECIFICALLY GOING FORWARD ON THE CHARGE OF CRIMINAL TRESPASS ON THE PROPERTY ITSELF.

DEFENDANT FALTAS: MAY I CONSULT WITH HIM, YOUR HONOR, FOR A SECOND?

MR. LUPTON: YOUR HONOR, --

THE COURT: THAT'S BETWEEN Y'ALL TWO.

MR. LUPTON: I NEED TO MAKE AN ARGUMENT, YOUR HONOR.

THE COURT: HE WANTS TO MAKE AN ARGUMENT. WE'LL LET HIM MAKE IT.

MR. LUPTON: YOUR HONOR, THE TRESPASS CHARGE ISN'T BASED AS I UNDERSTAND IT UPON ALLEGATIONS THAT SHE WAS UNLAWFULLY IN THE PARKING AREA OR ON THE SIDEWALK. IF THAT IS THEIR SOLE ALLEGATION, IF THEY CONCEDE THAT THAT TICKET DOES NOT COVER CONDUCT OCCURRING INSIDE THE BUILDING, THAT THEY ARE NOT ALLEGING CRIMINAL MISCONDUCT FOR HER ENTERING INTO THE BUILDING OR BEING PRESENT IN THE BUILDING, THEN WE HAVE A DIFFERENT ARGUMENT. BUT AS I UNDERSTAND IT THE CITY INTENDS TO ARGUE THAT SHE IS CRIMINALLY CULPABLE FOR BEING INSIDE THAT BUILDING AND IF THAT'S THE CASE THEN AN ELEMENT OF THE OFFENSE THEY ARE TRYING TO PROVE IS THAT SHE WAS IN THE BUILDING AND THEY ARE TRYING TO PROVE THAT BASED ON A CHARGING DOCUMENT THAT UNDER RAMSEY –

THE COURT: WELL, LET'S SLOW DOWN. I DON'T USUALLY GIVE CHARGING DOCUMENTS TO THE JURY. YOU ARE GOING TO PUT IT IN?

MR. LUPTON: I'M NOT GOING TO PUT IT IN, YOUR HONOR.

THE COURT: ARE YOU GOING TO PUT IT IN, MR. FERNANDEZ?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: THE CHARGING DOCUMENT IS NOT GOING BACK. SO WHEN YOU SAY BASED ON A CHARGING DOCUMENT, THE CHARGING DOCUMENT ITSELF IS NOT GOING TO BE EVIDENCE. CAN WE ALL AGREE ON THAT?

DEFENDANT FALTAS: YOUR HONOR, MAY I JUST –

THE COURT: HOLD ON, DR. FALTAS. LET ME DEAL WITH THIS ISSUE.

MR. LUPTON: YOUR HONOR, THE CHARGING DOCUMENT WILL NOT BE EVIDENCE BUT THE CHARGE THAT'S BEFORE THE COURT BY VIRTUE OF THAT CHARGING DOCUMENT AND IF THE CHARGING DOCUMENT DOES NOT – IS NOT SUFFICIENT TO CONFER AUTHORITY ON THE COURT TO TRY THAT CASE THEN I DON'T BELIEVE –

THE COURT: YEAH, BUT YOU'VE GOT FROM WHAT THE CHARGING DOCUMENT SAYS TO WHAT YOU ARE ANTICIPATING THE SPECIFIC EVIDENCE IS GOING TO BE.

MR. LUPTON: WELL, YOUR HONOR, KNOWING FROM THE FACT THAT SHE WAS CHARGED ON A BLUE TICKET AND THE CITY HAS ALLEGED THAT PART OF THEIR CASE IS HER BEING PRESENT INSIDE THE BUILDING WHICH NO OFFICER SAW.

THE COURT: WELL, I THINK THAT WHETHER AN OFFICER SAW THAT – I DON'T KNOW SITTING HERE BECAUSE I HAVEN'T HEARD THE EVIDENCE – YOU MAY BE A HUNDRED PERCENT RIGHT. I THINK THAT IF YOU ARE RIGHT AND IF THAT IS THE ISSUE THEN YOU MAKE THE MOTION AT THE TIME WHEN THE EVIDENCE DEVELOPS SO WE ACTUALLY KNOW WHAT IT IS AND AT THAT TIME WE ADDRESS IT.

MR. LUPTON: YOUR HONOR, I BELIEVE BECAUSE OF THE FACT THAT IT IS A SUFFICIENCY –

THE COURT: THIS IS MY PROBLEM. THIS IS MY PROBLEM. YOU SAY, HEY, IF YOU DIDN'T SEE "X" THEN THIS ISN'T A SUFFICIENT DOCUMENT, YOU GOT TO PUT IT ON ANOTHER ONE. I DON'T KNOW WHAT THEY SAW AND

WHAT THEY DIDN'T SEE AND WHAT THEY ARE GOING TO TESTIFY TO.

MR. LUPTON: YOUR HONOR, AS A FOLLOW-UP MOTION ON THAT, I WOULD MOVE TO EXCLUDE THE CITY FROM – IF THE COURT DOES NOT QUASH THE TICKET, I WOULD MOVE TO EXCLUDE THE CITY FROM MAKING THE PRESENCE OR ENTRY INTO THE BUILDING AS A PART OF THEIR CRIMINAL CASE. WHETHER OR NOT THERE'S TESTIMONY –

DEFENDANT FALTAS: ONE WAS 304, ONE 300.

MR. LUPTON: MA'AM, PLEASE SIT DOWN. PLEASE DO NOT INTERRUPT.

THE COURT: ALL RIGHT.

MR. LUPTON: YOUR HONOR, IF I MAY, FOR THE CITY TO PROSECUTE A CRIMINAL CASE FOR THE ENTRY INTO THE BUILDING OR THE PRESENCE IN THE BUILDING BASED ON A BLUE TICKET WHICH THE OFFICERS DIDN'T SEE I BELIEVE IS IMPROPER. IF THEY ARE LIMITING IT CRIMINALLY TO THE PREMISES OUTSIDE THEN I CONCEDE THAT OFFICERS SAW HER OUTSIDE THE BUILDING AND THAT'S A SEPARATE MATTER WHICH WOULD BE ADDRESSED UNDER SEPARATE THINGS.

THE COURT: MR. LUPTON, HERE'S THE PROBLEM I'VE GOT. YOU KNOW A LOT MORE THAN I DO. I HAVEN'T HEARD ANY EVIDENCE. I DON'T KNOW WHETHER THEY ARE GOING TO HAVE DIRECT EVIDENCE – I DON'T KNOW, ONE, IF THEY ARE EVEN TRYING TO PLACE HER IN THE BUILDING. I DON'T KNOW, TWO, IF THEY TRY TO PLACE HER WHETHER THEY ARE GOING TO HAVE DIRECT EVIDENCE OF THAT. I DON'T KNOW, THREE, IF THEY TRY TO PLACE HER IF THEY'VE GOING TO HAVE CIRCUMSTANTIAL. I JUST DON'T THINK AT THIS POINT I CAN MAKE THE DECISION THAT IT'S AN INVALID DOCUMENT WHEN THE

BASIS OF IT BEING INVALID FALLS UPON THE TESTIMONY WHICH HAS NOT YET BEEN TAKEN.

MR. LUPTON: ALL RIGHT. YOUR HONOR, I'LL ASK THEN THAT THE CITY PRESENT THAT EVIDENCE PRIOR TO THE JURY BEING GIVEN THE INFORMATION.

THE COURT: WELL, THAT AIN'T GONNA HAPPEN TODAY.

MR. LUPTON: I UNDERSTAND THAT.

THE COURT: BECAUSE THERE'S NO OFFICER HERE. SO WHAT WE ARE GOING TO DO IS WE'RE GOING TO DENY THIS MOTION. IF YOU HAVE MOTIONS REGARDING HOW THE TRIAL WORKS PLEASE MAKE THOSE THE MORNING OF THE TRIAL.

MR. LUPTON: YOUR HONOR, I'D ALSO LIKE TO NOTE THAT IT'S MY UNDERSTANDING OF THE LAW THAT BECAUSE THIS IS A SUFFICIENCY OF THE CHARGING DOCUMENT THAT THE ARGUMENT HAS TO BE MADE PRIOR TO THE START OF THE TRIAL. IF THE COURT IS RULING THAT YOU WILL NOT HEAR IT UNTIL AFTER THE EVIDENCE HAS COME IN, I WOULD ASK TO PRESERVE MY OBJECTION.

THE COURT: MR. LUPTON, THAT'S NOT WHAT I SAID. I SAID THE DAY OF THE TRIAL. YOU SAID YOU DIDN'T WANT THE JURY TO HEAR IT AND I SAID MAKE THAT MOTION THE DAY OF TRIAL. WE ARE GOING TO HAVE SOME TIME THE DAY OF THE TRIAL. WE ARE PROBABLY GOING TO START STARTING THESE CASES ABOUT SEVEN O'CLOCK IN THE MORNING. WE ARE GOING TO HAVE SOME TIME THE DAY OF THE TRIAL THAT YOU CAN MAKE ANY MOTIONS, PROFFERS OR WHATEVER YOU WANT, BUT BEFORE I ADDRESS THAT I WOULD SURE LIKE TO KNOW WHO THE PEOPLE ARE GOING TO BE PROFFERED, THAT

THEY ARE HERE TO MAKE A PROFFER AND THAT WE CAN DO WHAT'S APPROPRIATE. IT'S JUST RIGHT NOW YOU ARE ASKING ME TO THEORETICALLY MAKE A DECISION AND HE MAY OR MAY NOT BRING SOMEBODY TO TESTIFY TO THAT. LET'S JUST GET TO THAT.

MR. LUPTON: ALL RIGHT. I APOLOGIZE. THE COURT'S ORDER WAS THAT WE WERE GOING TO DO ALL THESE MOTIONS, INCLUDING THE MOTIONS TO DISMISS, TODAY. I ASSUMED THE CITY WOULD HAVE THEIR WITNESSES BASED UPON THAT ORDER.

THE COURT: MR. LUPTON, LET'S NOT GET SNIPPY. WE'LL DO THAT ON THE MORNING OF THE TRIAL.

MR. LUPTON: MY NEXT IS A MOTON TO DISMISS FOR LACK OF PROBABLE CAUSE. EVEN LOOKING AT THE HEARSAY STATEMENTS, THE STATEMENTS OF THE OFFICER SHOWED THAT HE WAS BASING HIS ARREST BASED ON A BELIEF THAT SHE WAS TRESPASSING ON THE PROPERTY PER COURT ORDER AND – THAT'S A QUOTE, TRESPASSING ON PROPERTY PER COURT ORDER – AND THE DEFENDANT WAS, QUOTE, ON THE PROPERTY AFTER BEING SERVED WITH A COURT ORDER NOT TO RETURN TO THE PROPERTY UNTIL FURTHER NOTICE BY THE COURT, END QUOTE. YOUR HONOR, BASED ON THAT THE OFFICER ARRESTED WITHOUT PROBABLE CAUSE. THE OFFICER ARRESTED FOR TRESPASS AFTER NOTICE WHEN WHAT IS ARTICULATED IS, IF ANYTHING, A VIOLATION OF A COURT ORDER WHICH WOULD BE A RULE TO SHOW CAUSE. BECAUSE THE OFFICER – THE INFORMATION THERE WITH THE OFFICER AT THE TIME AS INDICATED BY HIS REPORT AND AS INDICATED BY THE ONLY INFORMATION WE HAVE SINCE THE OFFICER ISN'T PRESENT IS THAT THE ARREST WAS FOR SOMETHING OTHER THAN PROBABLE CAUSE OF TRESPASS.

THE COURT: LET'S DO THIS. I THINK WE ARE GOING TO KEEP COMING BACK TO WHAT THE OFFICERS ARE GOING TO SAY. I TRIED TO DO THESE BEFORE. OFFICERS AREN'T HERE. IT'S (INAUDIBLE) FACT SPECIFIC, 7:30 A.M., MORNING OF THE 24TH WE'LL HEAR THESE MOTIONS. PLEASE HAVE THE OFFICERS PRESENT, 7:30 A.M. SO WE'LL HAVE PLENTY OF TIME TO ADDRESS THIS AND THEN I CAN ACTUALLY MAKE A DECISION ON THOSE.

DO YOU HAVE ANY THAT ARE NOT BASED ON WHAT THE OFFICER MAY OR MAY NOT SAY?

MR. LUPTON: YOUR HONOR, I WOULD MOVE TO SUPPRESS EVIDENCE ON BOTH TRIALS – IT WOULD BE 404-F, PRIOR BAD ACTS EVIDENCE, CONCERNING ESSENTIALLY WHAT I WILL CHARACTERIZE AS HARASSMENT EVIDENCE. THE CITY IN THE PAST TRIAL AND EVERY INDICATION THAT THEY INTEND TO IN THE NEXT TRIAL PRESENT EVIDENCE SHOWING A PATTERN OF HARASSMENT BY THE DEFENDANT TOWARDS THE MANAGEMENT OF THE PROPERTY. I THINK, AS I ARGUED BEFORE WITH REGARDS TO THE TRESPASS, SHOWING THAT THE PROPERTY MANAGEMENT, PROPERTY OWNER HAD GOOD CAUSE OR GOOD REASON TO PUT THE DEFENDANT ON TRESPASS NOTICE IS NOT AN ELEMENT OF THE OFFENSE. IT IS UNDER 404, PRIOR BAD ACT, UNDER 403 IS SUBSTANTIALLY MORE PREJUDICIAL THAN PROBATIVE. IT INVITES THE JURY ADDITIONALLY TO CONFUSE THE ISSUES AND BASE THEIR DECISION ON THE INCIDENT IN THE CONTEXT OF THE GREATER CONFLICT BETWEEN THE TWO PARTIES. IT INVITES THEM TO CONSIDER IT IN LIGHT OF THIS CONFLICT. ESSENTIALLY IT INVITES THEM TO CONSIDER THAT SHE'S BEEN HARASSING THEM BEFORE AND THEN SHE'S DOING IT AGAIN ON THE DATE IN QUESTION. I BELIEVE THAT IS THE VERY DEFINITION OF EXCLUDABLE 404 EVIDENCE. AND I

THINK THAT UNDER 404 AND 403 IT IS IMPROPER TO ADMIT BOTH IN TERMS OF THE TRESPASS AND THEN WITH REGARDS TO THE TRIAL ON THE 25TH, THE ASSAULT TRIAL, I THINK IT UNAVOIDABLY INVITES THE JURY TO PLACE THIS IN THE CONTEXT OF A GREATER CONFLICT RATHER THAN DECIDE THE CASE BASED ON THE FACTS THAT OCCURRED ON THE SPECIFIC DATE OF OFFENSE.

THE COURT: ON THE TRESPASS CHARGE WE'VE BEEN DOWN THIS ROAD IN THE LAST TRIAL.

DEFENDANT FALTAS: YOUR HONOR, THIS IS A DIFFERENT BUILDING. THIS IS THE BUILDING WHERE MY APARTMENT WAS. THERE WAS NEVER ANY NOTICE ABOUT THIS. INEFFECTIVE ASSISTANCE HAS GONE BEYOND ALL – I WANT THE HARASSMENT EVIDENCE TO COME IN BECAUSE I WANT THE EVIDENCE TO COME IN THAT THEY FALSELY ARRESTED ME. THEY HAD THE TRIAL, IT WAS RESOLVED IN MY FAVOR. THEY CAN'T KEEP TELLING THE SAME LIE OVER AND OVER AGAIN AND NOW IS SITTING BACK BECAUSE MY SUPPOSED LAWYER DOESN'T WANT TO BELIEVE THAT I WAS INNOCENT.

MR. LUPTON: YOUR HONOR, I –

THE COURT: DR. FALTAS, PLEASE HAVE A SEAT.

MR. LUPTON: YOUR HONOR, I WOULD NOTE THAT IN SOUTH CAROLINA THERE IS NO HYBRID REPRESENTATION. WHILE I UNDERSTAND –

THE COURT: I WILL RULE ON YOUR MOTION. ALTHOUGH THIS IS NOT THE SAME SET OF FACTS, WE'VE BEEN DOWN THIS ROAD IN TERMS OF WHETHER OR NOT IT IS THE PREJUDICIAL VALUE OUTWEIGHS THE PROBATIVE EFFECT. I BELIEVE MY LAST RULING WAS THAT -- I BELIEVE FOR THE POINT OF CONTEXT, HOW DO YOU GET TO ISSUE IN A TRESPASS NOTICE – THAT THE CONTEXT IS IMPORTANT FOR THE JURY TO UNDERSTAND THE NOTICE ITSELF

AND I WILL ALLOW THAT TO COME IN FOR THE TRESPASS. ON THE SIMPLE ASSAULT, MR. FERNANDEZ, LET ME HEAR YOU ON THAT.

DEFENDANT FALTAS: YOUR HONOR –

THE COURT: PLEASE ALLOW THEM TO ARGUE.

DEFENDANT FALTAS: IT'S NOT THE SAME BUILDING. THIS IS –

THE COURT: DR. FALTAS, I HEARD YOU WHEN YOU SAID IT EARLIER. PLEASE ALLOW THE ATTORNEYS TO ARGUE. YES, SIR.

MR. FERNANDEZ: I WOULD – THE SIMPLE ASSAULT, I AM FINE WITH LIMITING, IF COUNSEL WANTS TO AGREE, LIMITING IT AS TO WHETHER OR NOT IT HAPPENED, WHERE THE ASSAULT HAPPENED. I WOULD AGREE THAT THE HISTORY BETWEEN THE DEFENDANT AND THE ALLEGED VICTIM IS IRRELEVANT TO THE ASSAULT. I THINK IT IS, LIKE YOUR HONOR SAID, RELEVANT FOR CONTEXT FOR THE TRESPASS BUT FOR THE ASSAULT I WOULD CERTAINLY CONSENT TO TRYING A CLEAN CASE WHERE WE ARE JUST TALKING ABOUT WHAT HAPPENED THAT DAY AND WHETHER IT HAPPENED OR NOT.

THE COURT: EVERYBODY LISTEN TO THIS RULING. FOR THE TRESPASS CASE ON THE 24TH THE CONTEXTUAL EVIDENCE AS I'VE DESCRIBED IT COMES IN. ON THE SIMPLE ASSAULT, IT'S NOT BY AGREEMENT, IT IS BY MY RULING, BACKGROUND INFORMATION IS NOT APPROPRIATE FOR THAT TRIAL. THAT GOES FOR THE STATE AND THE DEFENDANT. SO ON THE SIMPLE ASSAULT IF ANYBODY GOES INTO BACKGROUND INFORMATION THAT'S GOING TO BE A DIRECT VIOLATION OF THE COURT'S ORDER. SO DENIED AS TO THE TRESPASS, GRANTED AS TO SIMPLE ASSAULT.

DEFENDANT FALTAS: YOUR HONOR, MAY I SAY THAT I SPECIFICALLY ASKED MR. LUPTON TO MAKE A PRE-EMPTON ARGUMENT ON THE

CITY ASSAULT ORDINANCE. IT IS PRE-EMPTED BY STATE LAW. IT IS VOID FOR VAGUENESS. IT HAS ABSOLUTELY NO DEFINITION. IT IS OVERBROAD. IT IS NOT CORRECT THAT THERE IS NO HYBRID REPRESENTATION IN SOUTH CAROLINA. UNDER ANDERS V. CALIFORNIA THE STATE SUPREME COURT IS REQUIRED TO ACCEPT AN ANDERS BRIEF FROM EVEN THE WORSE SERIAL MURDERER. AND UNDER McCASKILL V. WIGGINS WHICH THE STATE SUPREME COURT RECENTLY FINALLY ACKNOWLEDGED IN STATE V. RIVERA WHERE THEY REVERSED A MURDER CONVICTION, THE DEFENDANT'S VOICE NEEDS TO BE HEARD.

THE COURT: DR. FALTAS, IF YOU WISH TO SUPPLY A BRIEF BEFORE THE 24TH OF APRIL, WE WILL MARK IT AS AN EXHIBIT. IT WILL NOT GO TO THE JURY BUT WILL BE MARKED FOR THE PURPOSES OF ANY APPEAL AND I WILL REVIEW IT. YOU CAN FILE A BRIEF.

DEFENDANT FALTAS: THANK YOU.

THE COURT: NOW YOU NEED TO BE SEATED BECAUSE THIS GENTLEMAN'S NOT FINISHED MAKING MOTIONS. SO YOU CAN FILE A BRIEF. YOU DON'T HAVE TO TELL ME 'CAUSE YOU'RE GOING TO FILE A BRIEF ON THIS.

DEFENDANT FALTAS: MAY I ALSO FILE A BRIEF ABOUT THIS TRESPASSING BECAUSE IT'S A DIFFERENT BUILDING. THEY NEVER HAD A NO TRESPASSING NOTICE.

THE COURT: IF YOU WANT TO WRITE SOMETHING DOWN, YOU CAN WRITE IT DOWN. WE'RE DONE. WE'RE DONE ON THAT PONT.

DEFENDANT FALTAS: THANK YOU.

THE COURT: MR. LUPTON, YES, SIR.

MR. LUPTON: YOUR HONOR, I RESPECT THE COURT'S ORDER. I THINK THE ONLY OTHER THING THAT I WOULD TAKE UP NOW IS THE MOTION TO

SUPPRESS STATEMENTS NOT TIMELY PROVIDED.

THE COURT: YES, SIR, I'M HAPPY TO HEAR FROM YOU ON THAT.

MR. LUPTON: YOUR HONOR, PURSUANT TO YOUR PRE-TRIAL HEARING ON THIS AND OTHER MATTERS ON MARCH 12, 2013, THE COURT ORDERED FROM THE BENCH, SPECIFICALLY ORDERED THE PRODUCTION OF ALL STATEMENTS OR NOTICES THE CITY INTENDED TO RELY UPON THROUGH EITHER TRESPASS NOTICE TO THE DEFENDANT OR THE DEFENDANT'S STATEMENTS SUPPORTING A CONVICTION FOR DISORDERLY CONDUCT. THE COURT ORDERED THAT THAT BE PROVIDED BY FIVE P.M. WEDNESDAY, MARCH 13TH OF 2013. YOUR HONOR, THE CITY DID TIMELY PROVIDE CERTAIN DOCUMENTS. THOSE ARE NOT IN DISPUTE. SOME OF THOSE DOCUMENTS RELATED JUST TO THE FIRST TRIAL, SOME RELATED TO PRESUMABLY BOTH SINCE I ASSUME THAT THEY INTEND TO USE ALL OF IT FOR THE SECOND. AND I MAY HAVE – I THINK THAT'S THREE, IT MAY BE ACTUALLY FOUR WRITTEN NOTICES. BUT REGARDLESS I CONCEDE THAT THERE WERE CERTAIN WRITTEN NOTICES THAT WERE PROVIDED AS WELL AS STATEMENTS THAT WERE GIVEN SETTING FORTH THE – WHAT WITNESS MASON AND WITNESS STEELE WOULD SAY. YOUR HONOR, THAT WAS ALL THAT WAS PROVIDED BY THE DEADLINE SET BY THE COURT. A WEEK LATER THE CITY DID PROVIDE AN E-MAIL CONTAINING EIGHT SPECIFIC BASICALLY COMMENTS OR LINES OF COMMENTS REGARDING – FROM ASHMORE REGARDING WHAT DR. FALTAS SAID THAT WOULD GO TO THE DISORDERLY CONDUCT. THAT WAS DONE WITH A CERTAIN AMOUNT OF SPECIFICITY, CERTAINLY ENOUGH THAT I'M SATISFIED THAT I UNDERSTAND THE CONTEXT. I DO NOT DISPUTE THE NON-SPECIFICITY OF THAT. HOWEVER, IT WAS PROVIDED ALMOST A WEEK AFTER THE DEADLINE. BUT MORE TROUBLING

IS AFTER THE 21ST TRESPASS NOT GUILTY TRIAL THE CITY THEN ON MARCH 26TH SENT AN E-MAIL STATING THAT THEY NOW HAD UNSPECIFIED MULTIPLE INSTANCES OF VERBAL NOTICE. THERE'S BEEN NO DOCUMENTATION OF WHEN THESE VERBAL NOTICES WERE GIVEN, WHAT THE CONTEXT OF IT WAS, WHAT EXACT STATEMENTS (INAUDIBLE), ANYTHING. SO BASICALLY AFTER THE WITNESSES – AND IT'S IMPORTANT TO NOTE THAT THE WITNESSES WHO GAVE THOSE STATEMENTS -- ARE PURPORTED TO MAKE THESE STATEMENTS, THIS TESTIMONY -- WERE PRESENT IN THE COURTROOM THROUGHOUT ALL OF THAT PRE-TRIAL MOTION ON THE 12TH AND HEARD THE COURT'S ORDER PROVIDING CERTAIN DOCUMENTS IN A TIMELY FASHION THAT WERE TURNED OVER AND THEN AFTER LOSING THE FIRST TRIAL FIVE DAYS LATER THEN SAY, OH, WAIT, WE'VE GOT MORE. BUT THEY HAVEN'T SPECIFIED WHAT THAT MORE IS. AND I BELIEVE THAT THAT WOULD BE HIGHLY PREJUDICIAL AND HIGHLY UNTRUSTWORTHY AND A DIRECT VIOLATION OF THE COURT'S DISCOVERY ORDER AND SHOULD BE SUPPRESSED. I'VE FLUSHED IT OUT A LITTLE BIT MORE FULLY IN THE BRIEF. I DON'T WANT TO SIT HERE AND READ THE BRIEF BUT BASICALLY, YOUR HONOR, I THINK THAT COMING BACK AFTER YOU'VE LOST AND THEN SAYING, OH, WAIT, I FORGOT THERE'S MORE IS INAPPROPRIATE AND SHOULD BE SUPPRESSED.

THE COURT: ALL RIGHT. MR. FERNANDEZ.

MR. FERNANDEZ: YES, YOUR HONOR. I SEE TWO PARTS TO THIS. FIRST IS OFFICER ASHMORE'S STATEMENTS WHICH CAME AFTER YOUR HONOR'S DATE. THAT WAS THE FIRST TIME I WAS ABLE TO SPEAK WITH HER. SHE WAS OFF DUTY FOR THE FEW DAYS I HAD AND THE FIRST TIME SHE CALLED ME BACK WAS ON THE 20TH AND I SENT AN E-MAIL TO TED.

THE COURT: WAS SHE PRESENT FOR THE TRIAL BECAUSE PART OF HIS ARGUMENT WAS ABOUT WHO WAS PRESENT AND (INAUDIBLE).

MR. FERNANDEZ: WAS SHE PRESENT FOR THE TRIAL? NO. NO, SHE WASN'T AT THAT TRIAL.

MR. LUPTON: SHE WAS PRESENT AT THE PRE-TRIAL ON THE 12TH.

MR. FERNANDEZ: RIGHT. PRE-TRIAL.

THE COURT: OKAY. BUT PART OF YOUR ARGUMENT TALKED ABOUT PEOPLE WERE PRESENT AT THE PRE-TRIAL, THEN THEY WENT TO TRIAL AND LOST AND THEN THEY CHANGED AND I WANTED TO MAKE SURE THAT SHE WASN'T ONE OF THE PEOPLE THAT WAS AT TRIAL. I'M JUST GETTING CLEAR.

MR. LUPTON: JUST TO CLEAR IT UP. THERE ARE TWO SEPARATE THINGS. ASHMORE RELATES ONLY TO THE PUBLIC DISORDERLY AS FAR AS STATEMENTS THAT SHE'S TURNED OVER.

THE COURT: SO IS THIS RELATED TO ASHMORE? YOU ARE SEEKING TO SUPPRESS ASKMORE AS WELL, CORRECT?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: OKAY.

MR. LUPTON: AND I JUST WANT TO CLEAR UP THAT IT WAS TWO SEPARATE DOCUMENTS.

MR. FERNANDEZ: AS SOON AS I FOUND OUT WHAT – MY E-MAIL IS ESSENTIALLY JUST THE GIST OF WHAT SHE'S GOING TO SAY. I THINK I TRIED TO GET IT AS SPECIFIC AS POSSIBLE WITHOUT QUOTING HER.

THE COURT: ON ASHMORE, HER STATEMENTS ARE GOING TO BE ALLOWED TO COME IN.

DEFENDANT FALTAS: YOUR HONOR, MAY I JUST SAY THIS CASE IS

THREE YEARS OLD. THE MAN WANTED TO TRY IT IN AUGUST, 2010, AND ONLY NOW IN 2013 HE WRITES HE WAS JUST ABLE TO SIT DOWN WITH ASHMORE? THIS IS PROSECUTORIAL MISCONDUCT AND I'M PUTTING IT AT YOUR HONOR'S –

THE COURT: DR. FALTAS, PLEASE HAVE A SEAT. YES, SIR. LET'S TALK ABOUT THE OTHER WITNESSES.

MR. FERNANDEZ: THANK YOU, YOUR HONOR. THE OTHER WITNESSES WOULD BE LARRY MASON AND DINAH STEELE. THE E-MAIL THAT MR. LUPTON REFERS TO IS ABOUT NOTICE FOR THE SECOND TRESPASS CASE AND THAT WILL BE ESTABLISHED THROUGH – AND THERE IS SOME CONVERSATION ABOUT A COURT ORDER, ABOUT – YOU KNOW. WE CAN GET INTO THAT THE DAY OF TRIAL. YES, THEY DID TELL ME THEY TOLD THE DEFENDANT MULTIPLE TIMES THAT SHE CAN'T BE THERE. THE FACT THAT I DIDN'T TURN IT OVER BEFOREHAND I DON'T THINK IS REASON TO SUPPRESS. THE DEFENDANT CERTIANLY KNEW SHE WAS THERE AND THE MASONS ARE STILL – THAT'S WHAT THEY ARE GOING TO TESTIFY TO, THAT IN ADDITION TO ANY DOCUMENTATION THEY HAVE THERE'S THE VERBAL NOTICE THAT THEY SENT TO HER ON MULTIPLE OCCASIONS. I DIDN'T ASK THEM HOW MANY. THEY TOLD ME MULTIPLE, I RELAYED MULTIPLE.

THE COURT: ANYTHING ELSE, MR. LUPTON?

MR. LUPTON: YOUR HONOR, EVEN AT THIS STAGE THAT'S PART OF MY CONCERN IS THAT EVEN AT THIS STAGE THERE'S NO DISCLOSURE AS TO WHAT THE CONTENT OF THOSE NOTICES WAS. ONE OF THE ISSUES IS WHETHER OR NOT – AND I GUESS WE'VE ALREADY TIPPED THE HAND ON THIS – IS THAT THE – LARRY MASON, ONE OF THE PROPERTY OWNERS, --

DEFENDANT FALTAS: HE'S NOT A PROPERTY OWNER.

MR. LUPTON: YOUR HONOR, I APOLOGIZE. BUT LARRY MASON HAD CALLED THE POLICE TALKING ABOUT THE ALLEGED TRESPASS PROVISION OF THE BOND WHICH, YOU KNOW, THAT'S A SUFFICIENCY OF NOTICE ARGUMENT. WHAT I'M CONCERNED ABOUT IS YOU'VE GOT THIS SORT OF VAGUE MULTIPLE INSTANCES OF VERBAL NOTICE. WE DON'T KNOW WHAT HE'S GOING TO SAY ON THE STAND AFTER HE'S SEEN HOW THE TRIAL IS GOING. NOW THAT HE'S SEEN THE DEFENSE'S HAND BY – YOU KNOW, WE ARE SUPPOSED TO COME IN AND MAKE OUR MOTIONS TODAY, WE MAKE OUR MOTIONS, WE REVEAL OUR DEFENSE AND THEN NOW HE'S GOING TO HAVE THE OPPORTUNITY TO GO BACK AND CREATE WHAT HE SAID IN THESE VERBAL NOTICES.

THE COURT: LET'S SLOW DOWN. NUMBER ONE, YOU ALREADY MADE MOTIONS THAT YOU NEEDED THE SUFFICIENCY OF THE STATEMENTS LONG BEFORE THE FIRST TRIAL, CORRECT?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: AND THAT WASN'T PREJUDICIAL TO THE DEFENDANT, WAS IT? TO MAKE A MOTION THAT THEY HAD TO GIVE YOU SUFFICIENCY, SUFFICIENT NOTICE, CORRECT? THAT WASN'T PREJUDICIAL TO YOU, WAS IT?

MR. LUPTON: NO, YOUR HONOR.

THE COURT: AND, IN FACT, I RULED NOT ONLY THAT THEY HAD TO DO IT AT A CERTAIN TIME, BUT I STOPPED PEOPLE AT THE TRIAL OF THE CASE FROM SAYING CERTAIN THINGS BECAUSE THEY HADN'T, CORRECT?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: ALL RIGHT. WHAT ARE YOU TALKING – YOU SEEM TO HAVE SAID IN A QUICK WAY THAT I'VE MADE YOU TIP YOUR HAND BY

MAKING MOTIONS. WHAT IS NEW – HAVE I CAUSED YOU TO TIP YOUR HAND AS TO SOMETHING YOU HAVE NOT DONE PREVIOUSLY BEFORE?

MR. LUPTON: YOUR HONOR, I AM NOT IN ANY WAY TRYING TO IMPLY THAT THE COURT HAS DONE ANYTHING IMPROPER. IF YOU TOOK IT THAT WAY, I APOLOGIZE.

THE COURT: YEAH, WHEN YOU SAY THAT NOW THE DEFENSE HAS HAD TO COME IN AND MAKE MOTIONS TODAY AND WE'VE TIPPED OUR HAND THAT MAKES IT SOUND LIKE I MADE YOU MAKE THESE MOTIONS AND GIVE UP DEFENSE WHEN ALL I'M TRYING TO DO ARE THE SAME THINGS THAT I DID BEFORE THE LAST TRIAL, SOME OF WHICH BENEFITED THE DEFENSE. SO ARE YOU INDICATING THAT THESE MOTIONS ARE IMPROPER AND SHOULD WE STOP THEM NOW?

MR. LUPTON: NO, YOUR HONOR. IF YOU TOOK THAT – I APOLOGIZE. THAT WAS NOT THE INTENT. THE INTENT OF THAT WAS NOT THAT THE COURT HAD DONE ANYTHING IMPROPER.

THE COURT: NOT JUST THE COURT. DO YOU BELIEVE THAT DEALING WITH THESE ISSUES BEFORE TRIAL IS IMPROPER AND, IF SO, WE'LL STOP IT.

MR. LUPTON: NO, YOUR HONOR. I THINK DEALING WITH THESE ISSUES IS PROPER. BUT WHAT MY CONCERN IS IS THAT WHEN THE COMPLAINING WITNESSES ARE ABLE TO HOLD BACK THEIR EVIDENCE UNTIL AFTER THEY SEE WHAT THE DEFENSE ARGUMENTS ARE, BASICALLY SEE THE PROBLEMS WITH THEIR CASE AND THEN THEY ARE ALLOWED TO FILL IN THE DETAILS FROM THE DISCOVERY THEY'VE –

THE COURT: I DON'T KNOW HOW WHEN YOU HAVE MULTIPLE CHARGES THAT ALWAYS ISN'T SOMEWHAT OF AN ISSUE IF YOU DON'T TRY THEM ALL AT THE SAME TIME.

MR. LUPTON: AND, YOUR HONOR, IN THIS CASE I BELIEVE THAT YOU VERY PROPERLY SOLVED THAT WITH A DISCOVERY ORDER ISSUED ON THE 12TH THAT SAID THEY HAVE TO BE – ALL THIS STUFF HAS TO BE PROVIDED.

THE COURT: FAIR ENOUGH. I'VE HEARD THE ARGUMENTS. LET ME TELL YOU WHERE I AM. I DO BELIEVE IT'S ABSOLUTELY PROPER FOR THE DEFENSE, AS I DID BEFORE, TO HAVE SUFFICIENT STATEMENTS WITH ENOUGH NOTICE IN TIME TO BE ABLE TO HAVE A PROPER DEFENSE AT TRIAL. WHEN WE DID IT LAST TIME, I ORDERED A DEADLINE THAT WAS EIGHT DAYS PRIOR TO THE TRIAL FOR SUFFICIENT NOTICES TO BE SENT. AND I UPHELD THAT RULING AND EXCLUDED EVIDENCE AT TRIAL. I WILL DO THE SAME. ALL NOTICES SHOULD BE PROVIDED AS TO ANY OF THE BASIC ELEMENTS WHICH I THINK WE ARE DOWN TO NOTICE ON THE TRESPASSING CASE BY APRIL 16TH AT FIVE O'CLOCK. IF THEY ARE NOT PROVIDED AT THAT TIME OR IF THEY ARE INSUFFICIENT IN THEIR NOTICE, THEN I WILL ADDRESS THAT IN EVIDENTIARY RULINGS AND TO THE EXTENT THEY DON'T COMPLY I WILL EXCLUDE THEM AS I DID IN THE LAST TRIAL. AND I UNDERSTAND THAT YOU DON'T WANT THAT AND I WILL NOTE YOUR OBJECTION AND WE'LL MOVE FORWARD. ANYTHING FURTHER ON TODAY THAT'S NOT RELATED TO WHAT THE OFFICERS ARE GOING TO SAY OR THE WITNESSES ARE GOING TO SAY?

MR. LUPTON: YOUR HONOR, I BELIEVE THAT PRETTY MUCH EVERYTHING ELSE IS GOING TO RELATE TO –

THE COURT: THERE ARE THREE MOTIONS THAT I DON'T BELIEVE

I'VE RULED ON. ONE IS A MOTION TO DISMISS TRESPASS FOR LACK OF PROBABLE CAUSE TO ARREST. MOTION TO DISMISS DISORDERLY CONDUCT BASED ON PROTECTED SPEECH AND EVIDENCE OF PRIOR BAD ACTS. OBVIOUSLY THOSE THINGS ARE – I'M SORRY, DID WE ADDRESS THE EVIDENCE OF PRIOR BAD ACTS?

MR. LUPTON: YOU ADDRESSED PRIOR BAD ACTS. THERE'S TWO SEPARATE ONES.

THE COURT: WERE THERE TWO OF THOSE MOTIONS? I COULD HAVE SWORN I WROTE ON THE ONE I RULED ON.

MR. LUPTON: THERE WERE TWO. ONE WAS RELATED TO THE TRESPASS AND YOU DENIED MY MOTION ON THAT. THE SECOND WAS RELATED TO THE ASSAULT AND YOU MADE THAT AN ORDER OF THE COURT.

THE COURT: I WROTE THE RULING ON THE FIRST MOTION FOR BOTH OF THEM BUT IT APPLIES TO THE APPROPRIATE ONES. ALL RIGHT. THESE OTHER TWO MOTIONS WILL BE ADDRESSED AT THE TIME THAT TESTIMONY, OR EITHER BEFORE, BUT THEY'LL BE ADDRESSED ON THE DAY OF TRIAL BASED ON HOW DEFENSE RAISES THEM SO THAT WE HAVE THE PEOPLE HERE TO ADDRESS THEM.

DEFENDANT FALTAS: YOUR HONOR, CAN WE HAVE THE SAME RULING ABOUT THE DISORDERLY FOR APRIL 16TH, THAT BY APRIL 16TH THEY NEED TO COME UP WITH ALL THE STATEMENTS THAT THEY CLAIM I SAID THAT CONSTITUTE DISORDERLY. THEY CAN'T SAY THREE YEARS AFTER –

THE COURT: I HAVE RULED ON THE MOTIONS AS MADE. IF COUNSEL WANTS TO MODIFY HIS MOTION, I'LL ADDRESS IT BUT I'VE RULED ON THE MOTIONS AS MADE.

DEFENDANT FALTAS: MR. LUPTON, WOULD YOU PLEASE –

MR. LUPTON: I BEG THE COURT'S INDULGENCE.

THE COURT: SURE.

(PAUSE)

MR. LUPTON: YOUR HONOR, IF I MAY, IT'S MY UNDERSTANDING FROM THE CITY IS THEY HAVE TURNED OVER ALL OF THE STATEMENTS FROM ASHMORE WITH REGARDS TO THE DISORDERLY CONDUCT.

THE COURT: LET'S MAKE IT ALL 16TH BY FIVE. ALL RIGHT. NOW DO YOU HAVE ANY EXHIBITS THAT YOU WISH TO – THIS IS MR. LUPTON ON THE APRIL 24TH AND 25TH TRIALS – THAT YOU ARE GOING TO SEEK TO HAVE INTRODUCED?

MR. LUPTON: YOUR HONOR, I'VE SHOWED MR. FERNANDEZ WHAT I WOULD SEEK TO HAVE INTRODUCED.

DEFENDANT FALTAS: BUT HE HASN'T SHOWN IT TO ME. HE HASN'T SHOWN IT TO ME. I'M ENTITLED TO PARTICIPATE IN MY OWN DEFENSE.

MR. LUPTON: YOUR HONOR, I ACTUALLY SHOWED IT TO HER LAST TIME.

DEFENDANT FALTAS: NO, YOU DIDN'T. THAT'S NOT TRUE. THAT'S TOTALLY NOT TRUE.

THE COURT: DR. FALTAS. DR. FALTAS. DR. FALTAS, PLEASE LOOK AT ME. YOU CANNOT HAVE OUTBURSTS LIKE THAT. I'VE BEEN VERY LENIENT WITH YOU BUT YOU CAN'T. IT'S DISRUPTIVE. IT IS DISRUPTIVE TO YOUR DEFENSE, IT'S DISRUPTIVE TO THIS COURT AND IT REALLY KIND OF MAKES IT CLEAR TO ME LIKE YOU DON'T REALLY CARE WHEN I TELL YOU NOT TO DO IT BECAUSE YOU KEEP DOING IT. NOW IF I CAN'T ASK YOU NICELY NOT TO DO IT

THEN I'M GOING TO HAVE TO MAKE YOU NOT DO IT. SO IF YOU'D LIKE TO SPEAK TO YOUR ATTORNEY I'VE NOT DENIED YOU THE OPPORTUNITY TO DO THAT. YOU DO IT BUT DO NOT MAKE ANOTHER VERBAL OUTBURST REGARDING YOUR ATTORNEYS AND YOUR TRIAL STRATEGY AGAIN. IT'S NOT APPROPRIATE. WOULD YOU LIKE A MOMENT TO SPEAK TO MR. LUPTON?

DEFENDANT FALTAS: OF COURSE, I WOULD. AS BEFORE, HE DOESN'T SPEAK TO ME.

THE COURT: AS SOON AS I FINISH TELLING YOU NOT TO DO IT, YOU DO IT AGAIN. NOW, DR. FALTAS, ARE WE GOING TO CONTINUE TO HAVE THIS PROBLEM? IT'S YOUR DETERMINATION, NOT MINE. ARE WE GOING TO CONTINUE TO HAVE THIS PROBLEM?

DEFENDANT FALTAS: I DON'T KNOW WHAT THE PROBLEM IS, YOUR HONOR.

THE COURT: THE PROBLEM IS YOU MAKING OUTBURSTS REGARDING YOUR ATTORNEYS AND YOUR CASE. OR WILL YOU STOP DOING THAT?

DEFENDANT FALTAS: OVER OBJECTION I WILL STOP BUT I –

THE COURT: YOU UNDERSTAND IT'S THE COURT'S RULING THAT YOU SHOULD NOT DO THAT AGAIN?

DEFENDANT FALTAS: I TAKE ISSUE WITH THE COURT'S RULING.

THE COURT: DO YOU UNDERSTAND THAT THAT IS THE RULING?

DEFENDANT FALTAS: YES, I DO UNDERSTAND BUT I DO NOT ACCEPT IT AS A VALID RULING.

THE COURT: DO YOU UNDERSTAND THAT I MADE THAT ORDER?

DEFENDANT FALTAS: I DO UNDERSTAND IT.

THE COURT: DO YOU UNDERSTAND THAT I HAVE ABILITY TO ENFORCE MY ORDERS?

DEFENDANT FALTAS: UNFORTUNATELY, I HAVE ISSUE WITH THAT BECAUSE I THINK THIS COURT –

THE COURT: DO YOU UNDERSTAND THAT I HAVE THE ABILITY TO ENFORCE MY ORDERS?

DEFENDANT FALTAS: CONSTITUTIONALLY, NO.

THE COURT: ALL RIGHT.

DEFENDANT FALTAS: BUT THAT'S WHAT I'M SAYING.

THE COURT: WE MAY HAVE THE ABILITY. YOU CAN TEST THAT CONSTITUTIONAL ARGUMENT. ALL I'M ASKING YOU TO DO – THIS IS NOT A BIG REQUEST, DR. FALTAS. DO NOT STAND UP AND BERATE YOUR ATTORNEYS WHEN THEY ARE TRYING TO MAKE ARGUMENTS IN A WAY THAT IS DISRUPTIVE TO THIS COURT. THAT'S ALL I'VE ASKED YOU TO DO. I'M NOT ASKING YOU NOT TO PARTICIPATE IN YOUR DEFENSE, I'VE NOT ASKED YOU NOT TO TALK TO YOUR ATTORNEYS, DON'T SCREAM OUT ON THE RECORD THINGS ABOUT YOUR ATTORNEYS WHILE WE ARE PROCEEDING. IF YOU WANT TO GO OUTSIDE AND TALK ABOUT THEM, HAVE AT IT. NOT IN THIS COURTROOM.

DEFENDANT FALTAS: MAY –

THE COURT: NO, YOU MAY NOT ADDERESS THAT. PLEASE TALK TO MR. LUPTON AND THEN I'LL GET BACK TO THE EXHIBITS.

DEFENDANT FALTAS: THAT'S WHAT I WAS ASKING. MAY WE STEP OUTSIDE AND TALK? MAY I STEP OUTSIDE –

THE COURT: NO, MA'AM. Y'ALL CAN TALK RIGHT HERE.

(PAUSE)

THE COURT: MR. FERNANDEZ MAY HAVE TO LEAVE IN FIFTEEN MINUTES. IF WE ARE NOT DONE WITH THE EXHIBITS, WE WILL CONTINUE TO GO FORWARD. THIS IS ABOUT MARKING AND RESOLVING WHAT MAY BE ISSUES BETWEEN WHO HAS THE RIGHT TO PUT IN EXHIBITS SO ANY RULINGS I NEED TO MAKE ON THAT I'LL MAKE TODAY. ANY RULINGS ON THE VALIDITY OF THE ENTRY OF THE EXHIBTS WILL TAKE PLACE ON THE DAY OF TRIAL. YES, SIR, WHAT HAVE YOU GOT?

MR. LUPTON: YOUR HONOR, I BEG THE COURT'S INDULGENCE. (PAUSE) YOUR HONOR, SOME PICTURES OF THE PROPERTY SHOWING THE PROPERTY.

THE COURT: AND THEY ARE EXHIBITS?

MR. LUPTON: ACTUALLY TWO OF THEM WERE MARKED LAST TIME BUT IT'S A HALF A DOZEN PICTURES.

THE COURT: ARE THEY ONE GROUP EXHIBIT?

MR. LUPTON: I'LL DO THEM INDIVIDUALLY FOR EASE OF IDENTIFICATION.

THE COURT: ALL RIGHT. DO YOU HAVE ANY OBJECTION TO THOSE?

MR. FERNANDEZ: NO.

THE COURT: THOSE HAVE NO OBJECTION.

MR. LUPTON: YOUR HONOR, DEPENDING ON THE SITUATION, I MAY END UP HAVING TO PRINT OUT NEW COPIES FOR THE 25TH TRIAL BECAUSE I WOULD USE SOME OF THE SAME PICTURES IN BOTH.

THE COURT: SO UNDERSTOOD.

MR. LUPTON: AND THEN I'VE GOT THE C.D. OF THE 9-1-1- CALLS

FROM THE JULY 8.

THE COURT: ANY OBJECTION?

MR. FERNANDEZ: WITH PROPER AUTHENTICATION AND CUSTODIAN, NO.

MR. LUPTON: YOUR HONOR, MR. FERNANDEZ AND THE DEFENSE STIPULATED TO THAT AT THE –

THE COURT: YOU ARE FREE TO STIPULATE, YOU'RE NOT REQUIRED TO STIPULATE.

MR. LUPTON: YOUR HONOR, WE ENTERED INTO A STIPULATION ON THE RECORD AT THE MARCH 12TH.

THE COURT: WITH THE 9-1-1 TAPE?

MR. LUPTON: WITH THE 9-1-1 TAPES –

THE COURT: THE ONE IN YOUR HAND. THIS ONE?

MR. LUPTON: YES. WE DID NOT HAVE THIS PHYSICAL C.D. BUT WE AGREED.

THE COURT: IS IT THIS 9-1-1 RECORDING?

MR. LUPTON: YES.

THE COURT: DID YOU PREVIOUSLY STIPULATE THE ADMISSIBILITY –

MR. FERNANDEZ: I DON'T REMEMBER DOING IT BUT IF I DID I'M FINE WITH IT.

THE COURT: FAIR ENOUGH. IS THE OTHER ONE DIFFERENT?

MR. LUPTON: THE OTHER ONE IS THE SAME. IT'S A DIFFERENT DATE BUT IT WAS ALSO AT THE SAME TIME WE DISCUSSED THAT.

THE COURT: WAS IT STIUPULATED TO OR NOT?

MR. LUPTON: YES. THESE WERE PROVIDED BY THE CITY.

MR. FERNANDEZ: THEY WERE OBVIOUSLY PROVIDED BY US, THE 9-1-1 CALLS.

THE COURT: SO YOUR ONLY OBJECTION WOULD BE FOUNDATION?

MR. FERNANDEZ: AND IF WE DID DISCUSS THAT THEN I'M FINE WITH WAIVING IT FOR EASE OF TRIAL.

THE COURT: THANK YOU VERY MUCH FOR Y'ALL AGREEING. WE ALL AGREED ON SOMETHING. WHAT'S NEXT?

MR. LUPTON: AND I'VE GOT TRANSCRIPTS WHICH I AGREED WITH MR. FERNANDEZ ARE NOT ADMISSIBLE BUT WOULD BE APPROPRIATE FOR USE FOR IMPEACHMENT QUESTIONING PEOPLE OFF OF AND IF YOU HAVE QUESTIONS I'M HAPPY TO MAKE COPIES. I THINK YOU'VE GOT COPIES THOUGH.

MR. FERNANDEZ: OKAY.

THE COURT: PLEASE MAKE HIM A COPY SO WE'RE ARE ALL ON THE SAME PAGE. I UNDERSTAND YOU'RE NOT SEEKING TO INTRODUCE THOSE BUT THAT YOU MAY USE THOSE FOR IMPEACHMENT.

MR. LUPTON: AND AS DR. FALTAS CORRECTLY POINTED OUT, I WAS CONFUSED WHEN I PRINTED OUT RENT RECEIPTS. I HAVE DONE SEPTEMBER AND OCTOBER. IT ACTUALLY SHOULD HAVE BEEN JULY AND AUGUST. MR. FERNANDEZ, AS I UNDERSTAND IT, DOES NOT OBJECT TO ME SUBSTITUTING JULY AND AUGUST FOR THE DATES I HAVE SHOWN.

THE COURT: SO THOSE ARE WHAT YOU'VE GOT FOR THE 24TH AND THE 25TH?

MR. LUPTON: YES, YOUR HONOR.

THE COURT: IS THERE ANY DISPUTE BETWEEN YOU AND THE

DEFENDANT AS TO WHAT TO ENTER ON THE 24TH, 25TH AND DO I NEED TO MAKE ANY RULING AS TO WHO GETS THE OPPORTUNITY TO DECIDE WHAT TO PUT IN?

MR. LUPTON: YOUR HONOR, MY UNDERSTANDING IS THAT SHE WILL WANT TO MARK A SUBSTANTIAL NUMBER OF ITEMS.

THE COURT: LET'S HEAR ARGUMENT ON WHETHER OR NOT – THIS IS YOUR ARGUMENT -- THE COURT SOULD ALLOW DR. FALTAS TO BE ABLE TO PUT IN ADDITIONAL DOCUMENTS BEYOND THE ONES THAT YOU'VE IDENTIFIED THAT YOU WISH TO PUT IN.

MR. LUPTON: YOUR HONOR, MY POSITION IS THAT SOUTH CAROLINA DOES NOT RECOGNIZ HYBRID REPRESENTATION, THAT FOR BETTR OR WORSE I'M THE LAWYER AND THAT IT'S MY DECISION. SHE DOES HAVE A RIGHT TO TAKE THE STAND. I CAN COUNSEL HER ON THAT BUT THAT IS HER DECISION. MY DECISION IS AS TO WHAT TO PUT INTO EVIDENCE.

THE COURT: I UNDERSTAND YOUR ARGUMENT. YES, MA'AM, DR. FALTAS.

DEFENDANT FALTAS: FINALLY. THANK YOU, YOUR HONOR : FIRST OF ALL, BEFORE WE GET ON OTHER THINGS AND I HOPE THIS TIME NO ONE WILL INTERRUPT ME BUT I HAVE SEVERAL POINTS AND BELIEVE IT OR NOT I'M A VERY MENTALLY ORGANIZED PERSON.

THE COURT: YOUR ARGUMENT RIGHT NOW IS ON THE ISSUE OF ADDITIONAL EXHIBITS BEYOND WHAT MR. LUPTON SEEKS TO PUT IN.

DEFENDANT FALTAS: HE STILL HASN'T SHOWN ME WHAT HE'S SEEKING TO PUT IN. HE SHOWED ME THE FIRST TWO PICTURES –

THE COURT: FOR THE RECORD, I LET HIM COME OVER AND GAVE YOU OPPORTUNITY. FOR THE RECORD, I HEARD YOU SAY JUST DO IT.

DEFENDANT FALTAS: NO.

THE COURT: I HEARD YOU. PLEASE GO FORWARD AND MAKE ANY ARGUMENT THAT YOU HAVE ON MR. LUPTON.

DEFENDANT FALTAS: WHAT YOUR HONOR THOUGHT YOU HEARD IS MY SAYING IT'S JULY, NOT SEPTEMBER. SO YOU THOUGHT I SAID JUST DO IT AND THAT'S NOT WHAT I SAID. I SAID –

THE COURT: DR. FALTAS. DR. FALTAS, LET'S BE CLEAR. THE GENTLEMAN HAD ALREADY GOTTEN THE TWO EARLIER RECEIPTS. HE HAD ALREADY SHOWN THEM TO MR. FERNANDEZ BEFORE HE CAME OVER TO YOU AND THERE WAS NO DISPUTE AT THAT TIME ABOUT JULY AND SEPTEMBER. YOU HAD ALREADY CORRECTLY POINTED THAT OUT.

DEFENDANT FALTAS: I AM SAYING THAT WHEN YOU THOUGHT YOU HEARD ME SAY JUST DO IT I WAS SAYING IT WAS JULY, NOT RELEVANT.

THE COURT: OKAY. DO YOU HAVE ANY ARGUMENT AS TO WHETHER OR NOT THE LAWYER CONTROLS WHAT GOES INTO EVIDENCE?

DEFENDANT FALTAS: YES.

THE COURT: OKAY. LET ME HEAR FROM YOU ON THAT POINT.

DEFENDANT FALTAS: THE ARGUMENT IS ANDERS VS. CALIFORNIA WHICH IS BINDING ON SOUTH CAROLINA AND WHICH THE STATE SUPREME COURT OF SOUTH CAROLINA APPLIES TO EVERY DEFENDANT. EVERY DEFENDANT GETS TO SUPPLEMENT THE LAWYERS BRIEF WITH AN ANDERS BRIEF. IN THIS CASE I AM ACCUSED OF HAVING BEEN DISORDERLY FOR HAVING TOLD THE OFFICER THAT THE HANDCUFFS ARE TOO TIGHT AND I HAVE PROVIDED MY COUNSEL WITH PICTURES OF SEVERE INJURY TO MY WRITSTS FROM –

THE COURT: DR. FALTAS, I WANT YOU TO GET YOURSELF TOGETHER BUT I ALSO WANT TO MAKE SURE WE ARE CLEAR. YOU ASKED ME A LITTLE WHILE AGO COULD YOU SUPPLY A BRIEF AND I GRANTED YOU THAT OPPORTUNITY AND ASKED THAT YOU DO THAT IF YOU SO CHOOSE. THE SPECIFIC QUESTION NOW IS NOT WHETHER YOU CAN WRITE A BRIEF, BUT CAN YOU PUT IN EVIDENCE THAT YOUR LAWYER DOESN'T OFFER.

DEFENDANT FALTAS: YES.

THE COURT: AND LET ME TELL YOU WHAT I THINK MAY BE BEST FOR THAT POINT. CAN I GET AN ORDER FROM YOU, PROPOSED ORDER FROM YOU, THAT YOU BELIEVE SUPPORTS THAT.

DEFENDANT FALTAS: ABSOLUTELY.

THE COURT: MR. LUPTON, CAN I GET A PROPOSED ORDER FROM YOU THAT YOU BELIEVE SUPPORTS YOUR POSITION? I WILL MAKE A DETERMINATION AND SIGN ONE BEFORE THE TRIAL STARTS.

DEFENDANT FALTAS: AND LET ME JUST SAY THAT –

THE COURT: LET ME FINISH. I'M NOT QUITE DONE. AND IF I TAKE MR. LUPTON'S POSITION AND DO NOT ALLOW YOU TO PUT OTHER THINGS INTO EVIDENCE, I WILL HAVE EACH ONE OF THEM – THAT'S WHY I WANTED YOU TO PRE-MARK THEM – ATTACHED TO THE RECORD FOR IDENTIFICATION SO THAT IF ANOTHER COURT NEEDS TO REVIEW THIS THEY CAN UNDERSTAND WHAT WAS EXCLUDED. NOW IF I LET IT IN, IT WILL BE A PART OF THE RECORD AS EVIDENCE. IF I DON'T, WE'LL MARK IT AS IDENTIFICATION. WITH THAT UNDERSTANDING, DO YOU HAVE ANYTHING ELSE ON THIS SPECIFIC POINT?

DEFENDANT FALTAS: YES.

THE COURT: OKAY.

DEFENDANT FALTAS: IT IS THE PICTURES ARE PART AND PARCEL OF MY TESTIMONY. THE PICTURES ARE PART AND PARCEL OF MY TESTIMONY. IF I HAVE THE RIGHT TO TESTIFY OVER MY LAWYER'S ADVICE THEN I HAVE THE RIGHT TO INTRODUCE THE PICTURES THAT ARE PART AND PARCEL OF MY TESTIMONY.

THE COURT: PLEASE PLACE THAT INTO YOUR PROPOSED ORDER WITH APPROPRIATE CASE CITES AND I WILL CONSIDER THEM BOTH. I'VE NOT MADE A RULING.

DEFENDANT FALTAS: THANK YOU. NOW THE OTHER TWO THINGS I WANT TO SAY WHILE – MR. BRIGGS REMINDED ME AND WE DIDN'T GET THE SUBPOERNA ISSUED UNTIL MONDAY. AND THE OTHER THING, ON THE OTHER CASES, THIS IS THE SECOND TIME THAT WHILE MR. LUPTON WAS COUNSEL HE DID NOT ATTEND JURY QUALIFICATION AND THIS IS THE SECOND TIME THAT A PERSON WHO IS NOT RECUSED PRESIDED OVER THE JURY QUALIFICATION. SO THAT WEEK OF THE 21ST OR WHATEVER IS GOING TO BE, PLEASE, YOUR HONOR, DO PRESIDE OVER THE JURY QUALIFICATION AND I'VE HANDED U.S. VS. GOMEZ BECAUSE I DON'T WANT ANY MORE ISSUES ABOUT THE JURY BEING CHOSEN. THERE IS NO REASON FOR ANYONE WHO IS RFEFUSED TO INJECT THEMSELVES IN THE MATTER. SO I DON'T KNOW – OKAY. IF YOU WANT TO RECUSE YOURSELF, THAT'S FINE. I DON'T THINK THE CITY SHOULD HAVE COURT AT ALL AND I PREVIOUSLY ASKED YOUR HONOR TO NOT TAKE THIS PERSONALLY. IT'S MY CONSTITUTIONAL BELIEF THAT THE UNITED STATES – IT'S THE UNITED STATES, NOT THE UNITED COUNTY, IT'S NOT THE UNITED CITY, IT'S NOT THE UNITED PEOPLE OF AMERICA. THERE ARE ONLY TWO SOVERIGNS, FEDERAL AND STATE.

AND ACCORDING TO MY BELIEF IN THE CONSTITUTION AND, REMEMBER, AND I THINK MR. BRIGGS WOULD TELL YOU THAT HE WAS THERE WHEN U.S. MAGISTRATE JUDGE McCRORY TOLD ME THAT MY BRIEFING WAS BETTER THAN LAWYERS ON THE 11TH AMENDMENT AND JUDGE ANDERSON TOLD ME THAT I'M BETTER THAN THE LAWYERS –

THE COURT: NOW HOW GOOD YOU ARE DOESN'T HAVE ANYTHING TO DO WITH THE MERIT OF THIS LEGAL ARGUMENT SO PLEASE STICK TO THE ARGUMENT. IT'S 5:26. WE WANT TO GIVE YOU GOOD TIME BUT WE DON'T HAVE TIME FOR THE STORIES.

DEFENDANT FALTAS: ALL RIGHT. FINE. I'M SAYING THAT SINCE YOU ARE THE ONLY ONE WHO IS NOT RECUSED AND SINCE THIS IS GOING TO BE A TRIAL, I SPECIFICALLY REQUEST THAT FOR THE WEEK OF THE 24TH YOU TAKE THE TIME TO QUALIFY THE JURY. CHANCES ARE THERE AREN'T GOING TO BE OTHER JURY TRIALS THAT WEEK. IN ADDITION, THE THING I'M WORRIED ABOUT IS THAT WE DID – DELIVERED THE SUBPOERNA (INAUDIBLE) TO THE SHERIFF ON MONDAY BY NOON AND WE ASKED THE PERSON – AND THIS IS THE SPECIFIC PERSON FROM D.H.E.C. – TO BE AT THREE O'CLOCK FOR THIS HEARING. HE'S NOT HERE. I DO NOT KNOW IF HE WASN'T SERVED. I DO NOT KNOW WHAT THE PROBLEM IS BUT HE IS A KEY WITNESS.

THE COURT: OKAY. LET ME ASK YOU A QUESTION.

THE COURT: YES.

THE COURT: WHEN DID YOU TAKE – YOU SAID YOU DIDN'T GET THE SUBPOENAS UNTIL MONDAY. WHEN DID YOU TAKE THE SUBPOENAS TO BE SIGNED?

DEFENDANT FALTAS: OKAY. I TRIED TO ASK MR. LUPTON TO

HAVE THEM.

MR. BRIGGS: ANSWER THE QUESTION, MARIE.

THE COURT: WHEN DID YOU TAKE THE SUBPOENAS TO BE SIGNED?

MR. BRIGGS: TOOK THEM THE SAME DAY, YOUR HONOR.

THE COURT: ALL RIGHT.

DEFENDANT FALTAS: BUT I HAVE ATTEMPTED BEFORE AND THAT'S WHAT THE PROBLEM IS WHEN I HAVE LAWYERS WHO DON'T TALK TO ME AND I'M NOT ALLOWED TO DO THINGS FOR MYSELF.

THE COURT: ALL RIGHT. ANY OTHER ISSUES YOU WISH TO ARGUE?

DEFENDANT FALTAS: WELL, YES, A WHOLE LOT OF ISSUES.

THE COURT: WELL, NOT ALL THE ISSUES. FOR THE TRIAL, RELATED TO THIS PRE-TRIAL ON THE ISSUES THAT WE'VE DISCUSSED TODAY. BEFORE YOU ARGUE THEM, SAY WHAT THEY ARE AND I'LL TELL YOU WHETHER THEY ARE APPROPRIATE TO BE ARGUED AT THIS TIME.

DEFENDANT FALTAS: OKAY. WHEN I WAS PRO SE AND WAS ALLOWED TO BE PRO SE, MR. FERNANDEZ TOLD ME THAT THERE IS A VIDEO AND HE SAID THAT IN AUGUST, 2010. THAT'S ALMOST THREE YEARS AGO. IN ADDITION, WHEN WE WERE HERE –

THE COURT: WHICH CASE ARE YOU REFERRING TO NOW?

DEFENDANT FALTAS: WELL, FIRST OF ALL, I DON'T WANT THE SAME JURY TO TRY THE TRESPASS –

THE COURT: I APOLOGIZE, DR. FALTAS. I'M JUST NOT AS GIFTED AS YOU. IF I DON'T RESOLVE ONE THING AT A TIME, I LOSE TRACK. WHICH CASE

ARE YOU TALKNG ABOUT?

DEFENDANT FALTAS: WELL, YOUR HONOR, VERY FEW PEOPLE ARE AS GIFTED AS I AM.

THE COURT: THANK YOU VERY MUCH. WHICH CASE ARE YOU TALKING ABOUT?

DEFENDANT FALTAS: THE ALLEGED TRESPASS AND THE ALLEGED DISORDER.

THE COURT: OKAY. SO ONE IS ON THE 24TH?

DEFENDANT FALTAS: YES.

THE COURT: THAT MR. LUPTON IS YOUR ATTORNEY FOR THAT? YOU GOT ANY MOTIONS TO MAKE? TALK TO MR LUPTON. IF HE CHOOSES, HE'LL MAKE A MOTION.

DEFENDANT FALTAS: HERE WE GO. YOU TOLD ME TO WRITE MY OWN BRIEF ON THAT, MY ANDERS BRIEF.

THE COURT: NO, I TOLD YOU TO WRITE YOUR OWN BRIEF ON WHETHER OR NOT YOU CAN PUT IN EVIDENCE OR WHETHER MR. LUPTON CAN PUT IN EVIDENCE. YOU KNOW WHAT? I DID TELL YOU. ON ANDERS YOU CAN WRITE ANY BRIEF YOU WANT. OKAY. BUT IF YOU'VE GOT A MOTION, I WOULD SUGGEST YOU TALK TO MR. LUPTON.

MR. BRIGGS: YOUR HONOR, THIS PANEL WOULDN'T COME BACK NEXT WEEK, WOULD IT?

THE COURT: NO, SIR.

DEFENDANT FALTAS: WHAT I WAS TALKING ABOUT IS THE PANEL THAT WOULD TRY THE CASES ON THE 24TH AND THE 25TH.

THE COURT: SHE WANTS ME TO QUALIFY THEM. I DON'T KNOW IF

I HAVE THE ABILITY TO NOW BUT I UNDERSTAND WHAT SHE SAID. ALL RIGHT. NOW FOR THE 11TH, TOMORROW, DO YOU HAVE EXHIBITS AND IS THERE ANY DISPUTE BETWEEN COUNSEL AND DEFENDANT AS TO WHAT EXHIBITS?

MR. BRIGGS: NO, THERE ISN'T, YOUR HONOR. I'VE ALWAYS BEEN ABLE TO GO ALONG WITH EXHIBITS THAT DR. FALTAS FEELS LIKE IS PART OF HER TESTIMONY BUT THIS COURT KNOWS, AND I WILL REMIND HER IF I HAVE TO, THAT IN TRYING A CASE THE LAWYER MAKES ALL THOSE DECISIONS BECAUSE WE HAVE TO MAKE AN INDEPENDENT JUDGMENT ON WHAT IS GOOD, BAD AND INDIFFERENT. SO THAT'S A DIFFERENT QUESTION AND USUALLY I'M ABLE TO WORK THAT OUT WITH DR. FALTAS.

THE COURT: ARE THERE ANY EXHIBITS CURRENTLY ON THE BAR THAT YOU DO NOT WISH TO GO IN, MR. BRIGGS?

MR. BRIGGS: NO.

THE COURT: OKAY.

MR. BRIGGS: BUT WE HAVE A FEW MORE AND I DON'T KNOW HOW LONG WE ARE GONG TO BE.

THE COURT: WE CAN'T GO MUCH LONGER. MR. FERNANDEZ HAS GOT TO GO.

MR. BRIGGS: BUT I'D BE GLAD FOR MR. FERNANDEZ TO LOOK AT THEM.

DEFENDANT FALTAS: WE NEED TO – MR. BRIGGS AND I NEED TO LISTEN TO THE C.D. TO WRITE YOUR HONOR A BRIEF AND THERE IS A WHOLE LOT WE NEED TO DO TONIGHT BEFORE TOMORROW.

THE COURT: AND WE'LL LET YOU GO RIGHT NOW. HOLD ON A SECOND. MR. HARMON, WOULD YOU BE KIND ENOUGH TO BURN THEM A C.D.

SORRY IF I'M GETTING INTO YOUR OVERTIME.

MR. BRIGGS: I'LL BE GLAD FOR HIM TO DO HIS OBJECTIONS IF HE WANTS TO.

THE COURT: HE HAS THE RIGHT TO OBJECT TO THAT. OKAY.

MR. BRIGGS: BUT WE WILL FINISH THEM, YOUR HONOR.

THE COURT: I ENCOURAGE YOU TO BE HERE BEFORE TIME IF YOU'VE GOT A LOT OF THINGS YOU WANT TO PUT IN SO YOU CAN PRE-MARK THEM AND GET THEM ADDRESSED. WE ARE NOT GOING TO SPEND A LOT OF TIME MAKING THE JURY SIT WITHOUT THINGS TO BE DONE.

MR. FERNANDEZ: WHAT TIME DO YOU HAVE THE JURY COMING IN, YOUR HONOR? DO WE KNOW?

DEFENDANT FALTAS: CAN WE MAKE THAT TEN O'CLOCK SO THAT WE --

THE COURT: NO, MA'AM, CAN'T MAKE IT TEN. LET'S HAVE THEM REPORT AT 9:15 SO HOPEFULLY THEY'LL BE HERE BY 9:30.

DEFENDANT FALTAS: MAY I ASK ON EXHIBIT 7 IT'S AN ORIGINAL (INAUDIBLE) IT SAYS IT'S A TRUE COPY AND THAT'S WHAT THE WITENSS WAS SUBPOENAED SO THEY CAN THEY MAKE A COPY OF IT SO I CAN KEEP THE ORIGINAL?

THE COURT: YOU ARE NOT GIVING ME ANYTHING RIGHT NOW. SO IF YOU WANT TO TAKE IT WITH YOU, YOU CAN. IF YOU WANT TO LEAVE IT, YOU CAN.

MR. BRIGGS: I THINK WE'LL LEAVE IT, YOUR HONOR.

THE COURT: IF YOU WANT TO SUBSTITUTE A COPY TOMORROW YOU CAN.

MR. BRIGGS: LET'S LEAVE IT AND YOU FINISH THE OTHERS, MARIE.

DEFENDANT FALTAS: NO, LET'S JUST LEAVE THE BUCKETS --

THE COURT: WE ARE ADJOURNED. WE ARE ADJOURNED. DR. FALTAS, SO WE ARE CLEAR – I'M SORRY, ARE WE STILL ON? YOU ARE PICKING UP ALL OF YOUR EXHIBITS EXCEPT FOR THE BUCKETS.

DEFENDANT FALTAS: EXCEPT FOR THE BUCKETS AND THE MAPS.

THE COURT: ALL RIGHT. THANK YOU VERY MUCH. LET ME GET THE EXHIBIT NUMBERS AND SAY THEM ON THE RECORD SO THERE'S NO DISPUTE TOMORROW. THE ONLY EXHIBIT BEING LEFT IS EXHIBIT NUMBER ONE, BUCKETS.

DEFENDANT FALTAS: NO, IT'S ONE, TWO, THREE. I MARKED THEM SEPARATELY.

THE COURT: EXHIBIT NUMBER TWO, A BUCKET. EXHIBIT NUMBER THREE, A BUCKET. EXHIBIT NUMBER FOUR, A BUCKET AND EXHIBIT NUMBER FIVE, A MAP.

THE COURT: I'M SORRY. EXHIBIT NUMBER FOUR A MAP AND EXHIBIT NUMBER FIVE A MAP. THAT'S IT. SEE Y'ALL IN THE MORNING.

(ADJOURNED)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE MUNICIPAL COURT FOR THE CITY OF COLUMBIA
CITY OF COLUMBIA, VS. MARIE-THÉRÈSE ASSA'AD-FALTAS, DEFENDANT.	CERTIFICATE

THIS IS TO CERTIFY THÁT THE WITHIN HEARING, CONSISTING OF SEVENTY-SIX (76) PAGES, IS A TRUE AND CORRECT TRANSCRIPT OF RECORD FOR THE MOTIONS ON APRIL 10, 2013, SAID TRANSCRIPT BEING PREPARED TO THE BEST OF MY ABILITY FROM A RECORDED DISC PROVIDED TO ME WITHOUT THE BENEFIT OF MY BEING PRESENT AT THE PROCEEDING.

I FURTHER CERTIFY THAT I AM NOT RELATED TO ANY OF THE PARTIES IN THIS MATTER OR THEIR COUNSEL, NOR DO I HAVE ANY INTEREST, FINANCIAL OR OTHERWISE, IN THE OUTCOME OF THE SAME.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL ON THE 20TH DAY OF DECEMBER, 2013.

NANCY S. AHRENS
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 03-29-19

STATE OF SOUTH CAROLINA	)	IN THE COLUMBIA MUNICIPAL COURT
	)	
COUNTY OF RICHLAND	)	
CITY OF COLUMBIA,	)	
	)	
VS.	)	TRANSCIRPT OF RECORD
	)	Summons No.: 201310
MARIE-THÉRÈSE ASSA'AD-FALTAS,	)	
	)	
DEFENDANT.	)	
	)	

JURY TRIAL HELD BEFORE THE HONORABLE CARL L. SOLOMON, PRESIDING JUDGE, AND JURY, IN THE COLUMBIA MUNICIPAL COURT, COLUMBIA, SOUTH CAROLINA, ON APRIL 11, 2013.

RICHLAND COUNTY
2013 JUN 17 AM 11:30
JEANETTE W. WALKER
C.C.P. & G.S.

APPEARANCES:

DAVID A. FERNANDEZ, ESQUIRE
APPEARING FOR THE CITY

ORIN G. BRIGGS, ESQUIRE
APPEARING FOR THE DEFENDANT

TRANSCRIBED BY:
NANCY S. AHRENS

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THE COURT: GOOD MORNING. WE ARE ON THE RECORD. IT IS 8:47 A.M. DR. FALTAS HAS JUST COME IN THE COURTROOM. WE'VE GONE ON THE RECORD. SHE HAS A STATEMENT THAT SHE WISHES TO MAKE OR A QUESTION SHE WISHES TO ASK. YES, MA'AM.

DEFENDANT FALTAS: GOOD MORNING, YOUR HONOR.

THE COURT: GOOD MORNING.

DEFENDANT FALTAS: FIRST, I'D LIKE MR.MASON AND MS. STEELE TO BE SEQUESTERED.

THE COURT: FIRST OF ALL, ANY MOTIONS TO BE MADE, WE NEED TO WAIT FOR YOUR ATTORNEY TO GET HERE.

DEFENDANT FALTAS: ALL RIGHT. FINE. FINE.

THE COURT: MR. BRIGGS HAS NOT ARRIVED YET SO THAT NEEDS TO TAKE PLACE, FIRST.

DEFENDANT FALTAS: YOU TOLD ME YESTERDAY THAT AND – AND I SAID NOT EVERYONE IS AS GIFTED AS I AM. I WANT YOUR HONOR TO BE SURE THAT THIS WASN'T MEANT AS ARROGANCE, IT WAS MEANT AS A SENSE OF RESPONSIBILITY.

THE COURT: I TOOK IT AS NO DISRESPECT AND IT'S NOT A PROBLEM.

DEFENDANT FALTAS: TO WHOM MUCH IS GIVE, MUCH IS REQUESTED.

THE COURT: FAIR ENOUGH.

DEFENDANT FALTAS: AND THAT APPLIES TO YOUR HONOR, TOO. YOU HAVE BEEN GIVEN MUCH POWER AND WITH THAT COMES RESPONSIBILITY. YOU GAVE ME A DIFFICULT HOMEWORK YESTERDAY BUT I DID IT. BUT BASED

ON IT THERE ARE VERY SERIOUS ISSUES. WHEN A POLICE OFFICER –

THE COURT: LET'S SLOW DOWN, DR. FALTAS. ARE YOU GOING TO MAKE MOTIONS? I THOUGHT YOU JUST WANTED TO GIVE ME SOMETHING. ARE YOU GOING TO MAKE MOTIONS OR WHAT IS YOUR INTENT AT THIS POINT?

DEFENDANT FALTAS: I AM TELLING YOU THAT I COMPLIED WITH THE HOMEWORK YOU GAVE ME BUT BASED ON IT I NEED TO EXPLAIN SOME THINGS.

THE COURT: NO, LET'S SLOW DOWN. LET'S DO TWO THINGS. NUMBER ONE, THE HOMEWORK I GAVE YOU. I DON'T KNOW IF THAT'S A CORRECT WORD, I UNDERSTAND WHAT YOU ARE SAYING. BUT YOU REQUESTED TO BE ABLE TO WRITE A BRIEF AND I TOLD YOU YOU COULD. I DIDN'T GIVE YOU THAT, I ALLOWED YOU TO DO WHAT YOU WANTED TO DO.

DEFENDANT FALTAS: THAT'S NOT WHAT I'M TALKING ABOUT.

THE COURT: WHAT ARE YOU SPEAKING OF?

DEFENDANT FALTAS: I'M TALKING ABOUT YOU SPECIFICALLY ASKED FOR THE COURT OFFICER TO MAKE A C.D.

THE COURT: CORRECT.

DEFENDANT FALTAS: FROM THE JURY AND FOR MR. BRIGGS AND I SEPARATELY TO REVIEW IT.

THE COURT: NO, NO, NO. I DIDN'T REQUIRE YOU TO DO THAT. I WAS MAKING THAT AVAILABLE TO YOU BECAUSE Y'ALL WERE MAKING ACCUSATIONS. I REVIEWED IT, COULD NOT FIND WHAT YOU WANTED AND I WANTED TO AFFORD YOU THE OPPORTUNITY SO I AM HAPPY TO HEAR WHAT YOU HAVE. YOU NEED TO LET MR. BRIGGS HERE TO DO THAT, BUT THAT WAS NOT A REQUIREMENT. THOSE ARE THINGS Y'ALL WERE RAISING AND THE

COURT WAS RESPONDING TO THINGS THAT Y'ALL WANTED TO ADDRESS.

DEFENDANT FALTAS: AND I THINK IT'S NO LONGER OPTIONAL. I THINK YOUR HONOR – AND I'M SORRY –

THE COURT: WELL, IF YOU ARE GETTING TO THE POINT OF MAKING A MOTION, ONCE AGAIN PLEASE WAIT ON MR. BRIGGS.

DEFENDANT FALTAS: ALL RIGHT. FINE. THIS IS THE C.D. I HAVE TRANSCRIBED.

THE COURT: OKAY.

DEFENDANT FALTAS: BUT THE RELEVANT PARTS –

THE COURT: OKAY.

DEFENDANT FALTAS: AND YOU KNOW, YOUR HONOR – AND THIS IS NOT A MOTION, THIS IS PART OF HISTORY. YOU KNOW I TOLD YOU I SPEAK FOUR LANGUAGES, ARABIC, FRENCH, ENGLISH AND GERMAN. AND I AM ALSO VERY HIGHLY EDUCATED AT LEAST IN THE LITERATURE OF ARBIAC, FRENCH AND ENGLISH AND I KNOW SOME GERMAN POETRY. SO IN THE HISTORY OF FRANCE AND THIS SHOULD BE A WORD THAT IS FAMILIAR TO ALL PEOPLE WHO ARE IN THE JUDICIAL SYSTEM, J'ACCUSE, AND THAT GAINED HISTORIC PROMINENCE WHEN EMILE ZOLA AFTER ELEVEN YEARS OF A FRENCH LIEUTENANT WHO WAS JEWISH CALLED DREYFUS HAD BEEN IMPROPERLY CONVICTED AND STRIPPED OF HIS MILITARY RANK. AND IT WAS EMILE ZOLA WHO LOOKED INTO IT AND AFTER ELEVEN YEARS WROTE AN ARTICLE ENTITLED J'ACCUSE MEANS I ACCUSE. AND I'M TELLING YOU J'ACCUSE, NOT YOUR HONOR BUT IF YOU FAIL TO DO SOMETHING ABOUT IT JE VOUS ACCUSE (INAUDIBLE), BUT HERE IS –

THE COURT: THIS IS WHAT WE ARE GOING TO DO. WE ARE GOING

TO WAIT FOR MR. BRIGGS TO ARRIVE. PLEASE HAVE A SEAT OR DO ANYTHING THAT YOU NEED BUT WE ARE GOING TO WAIT ON MR. BRIGGS TO ARRIVE TO ADDRESS ANY MATTERS RELATED TO YOUR CASE.

DEFENDANT FALTAS: MAY I HAND THE TRANSCRIPT –

THE COURT: NO, MA'AM. WE ARE GOING TO WAIT FOR MR. BRIGGS TO ARRIVE BEFORE WE ADDRESS ANY ISSUES RELATED TO YOUR CASE.

DEFENDANT FALTAS: ALL RIGHT . THANK YOU.

THE COURT: THANK YOU, MA'AM. STAY ON THE RECORD, PLEASE.

DEFENDANT FALTAS: BUT AS TO THE OTHER HOMEWORK, YOUR HONOR, --

THE COURT: I DID NOT GIVE YOU ANY HOMEWORK SO IF YOU WANT TO ADDRESS WHAT IT IS, PLEASE ADDRESS EXACTLY WHAT IT IS.

DEFENDANT FALTAS: I DIDN'T THINK IT WAS DUE TODAY, THE ANDERS OR THE BRIEF ON –

THE COURT: LISTEN, I DID NOT SET –

DEFENDANT FALTAS: NO, NO –

THE COURT: LET'S HOLD ON, DR. FALTAS. WE CAN'T BOTH TALK AT THE SAME TIME. I DID NOT SET A REQUIREMENT FOR AN ANDERS BRIEF, I DID NOT SET A DATE FOR AN ANDERS BRIEF. YOU ARGUED THAT DEFENDANTS HAVE A RIGHT TO FILE ONE. I TOLD YOU IF YOU WANTED TO FILE ONE, FILE ONE. NOW IF A RULING COMES UP THAT I'VE GOT TO MAKE, IF A BRIEF IS HERE I WILL CONSIDER IT. IF IT'S NOT, I CAN'T. SO THAT'S THE PARAMETERS BUT I DID NOT REQUIRE YOU TO WRITE AN ANDERS BRIEF, YOU REQUESTED IT. I HAVE NOT PUT ANY REQUIREMENT ON YOU, I'VE NOT PUT ANY DEADLINE ON YOU BUT I

CAN ONLY RULE ON THE THINGS THAT I HAVE THE OPPORTUNITY TO REVIEW AT THE TIME OF THE RULING.

DEFENDANT FALTAS: WELL, MAY I –

THE COURT: I WOULD LIKE TO WAIT FOR MR. BRIGGS TO GET HERE TO ADDRESS ANY OTHER ISSUES. PLEASE WAIT ON MR. BRIGGS.

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: THANK YOU.

DEFENDANT FALTAS: I WAS JUST HOPING –

THE COURT: NO, MA'AM. PLEASE WAIT ON MR. BRIGGS.

DEFENDANT FALTAS: OKAY.

(PAUSE)

THE COURT: WE ARE ON THE RECORD ON THE FALTAS CASE. IT'S 9:00 A.M. AND MR. BRIGGS HAS NOT APPEARED. WE ARE GOING TO TAKE A MOMENT AND TO ADDRESS ANOTHER MATTER.

(PAUSE)

THE COURT: DR. FALTAS, DO YOU HAVE THE ABILITY TO CALL MR. BRIGGS?

DEFENDANT FALTAS: YOUR HONOR, I CAN GIVE YOU HIS NUMBER. I HAVE NO IDEA WHETHER HE WILL ANSWER OR NOT.

THE COURT: DO YOU HAVE A PHONE, CAN YOU CALL HIM?

DEFENDANT FALTAS: PARDON?

THE COURT: DO YOU HAVE A PHONE AND CAN YOU CALL HIM?

DEFENDANT FALTAS: TO GIVE YOUR HONOR A COMPLETE AND TRUTHFUL ANSWER I HAVE A CELL PHONE THAT THE BATTERY RUNS OUT VERY QUICKLY. IF YOU'LL ALLOW ME TO STEP OUT –

THE COURT: PLEASE DO.

DEFENDANT FALTAS: ALL RIGHT. THANK YOU.

THE COURT: THANK YOU VERY MUCH.

(PAUSE)

DEFENDANT FALTAS: YOUR HONOR, I CALLED HIS OFFICE. THERE IS NO ANSWER. I CALLED HIS HOME, THERE IS NO ANSWER. I CALLED HIS CELL PHONE, IT'S APPARENTLY TURNED OFF. I CALLED HIS WIFE AT HER WORK AND SHE SAID THAT HIS CELL PHONE IS BROKEN AND SHE DOES NOT KNOW WHERE HE IS.

THE COURT: THANK YOU VERY MUCH. WE WILL CONTINUE TO WAIT.

DEFENDANT FALTAS: I WAS WANTING TO OFFER, YOUR HONOR, JUST A U.S. SUPREME COURT OPINION HOT OFF THE PRESSES.

THE COURT: I WOULD LIKE TO WAIT BEFORE YOU GIVE ME ANYTHING UNTIL YOUR ATTORNEY IS HERE.

DEFENDANT FALTAS: ALL RIGHT. THANK YOU, YOUR HONOR.

(PAUSE)

DEFENDANT FALTAS: I'M SORRY. DID I HEAR YOUR HONOR ASK THE OFFICER WHETHER THE JURY HAS COME IN AND HE SAID ELEVEN OF THEM ARE ALREADY HERE?

THE COURT: CORRECT.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

(PAUSE)

THE COURT: MA'AM, MR. BRIGGS' OFFICE NUMBER, PLEASE?

DEFENDANT FALTAS: AREA CODE 803, 957-4383.

THE COURT: THANK YOU.

(PAUSE)

THE COURT: MR. FERNANDEZ, MR. BRIGGS HAS NOT ARRIVED, ISN'T AT HIS OFFICE. IF WE GET A JURY AND DO NOT GET MR. BRIGGS, WHAT IS YOUR POSITION? IS HE HERE?

(INAUDIBLE)

THE COURT: I'VE BEEN ADVISED HE'S IN THE PARKING LOT. WE DON'T HAVE TO ADDRESS THAT ISSUE.

DEFENDANT FALTAS: YOUR HONOR, I HAVE A PROBLEM WITH MR. MASON GOING LOOKING FOR MR. BRIGGS.

THE COURT: NO, MA'AM. WELL, YOU CAN HAVE A PROBLEM WITH HIM BUT I'M NOT GOING TO ADDRESS THAT OR ANYTHING ELSE UNTIL MR. BRIGGS COMES IN THIS COURTROOM.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR.

(PAUSE)

THE COURT: GOOD MORNING, MR. BRIGGS.

MR. BRIGGS: YES, YOUR HONOR. HOW YOU DOING THIS MORNING?

THE COURT: I'M FAIRLY WELL, MR. BRIGGS. WE ARE STARTING TO HAVE JURORS ARRIVE. HOW MANY JURORS DO WE HAVE UPSTAIRS, SIR?

UNIDENTIFIED: SEVENTEEN, YOUR HONOR.

THE COURT: WE HAVE SEVENTEEN UPSTAIRS. WE'LL TAKE A FEW MOMENTS TO ADDRESS ISSUES. WE ARE NOT GOING TO HAVE A FULL HOUR TO ADDRESS ANY ADDITIONAL PRE-TRIAL MOTIONS BECAUSE IT'S APPROXIMATELY 9:28 AT THE MOMENT. WE WILL GO TO 9:45 AND THEN WE ARE GOING TO BRING

THE JURY DOWN. STARTING WITH YOU, MR. BRIGGS, DO YOU HAVE ANYTHING WE NEED TO ADDRESS THIS MORNING?

MR. BRIGGS: YOUR HONOR, I DID DO A MEMO AND I WANT TO FILE IT WITH REGARD TO DUE PROCESS BUT I REALLY THINK IT WOULD BE APPROPRIATE AFTER THE CLOSE OF THE STATE'S CASE OR THE CITY'S CASE BECAUSE, OF COURSE, IT DEPENDS ON SOME FACTUAL ISSUES AND – BUT I'LL DEFER TO THE COURT'S WISHES.

THE COURT: SIMPLE QUESTION. DO YOU HAVE ANYTHING YOU NEED TO ADDRESS BEFORE WE START?

MR. BRIGGS: I WANT TO RENEW MY REQUEST FOR A CONTINUANCE, YOUR HONOR. MAY I BRIEFLY – AND I DON'T THINK MY CLIENT WILL HAVE ANY PROBLEM WITH THIS. SHE KNOWS ME BUT AS A VERY RELIGIOUS PERSON, YOUR HONOR, I DEPEND ON WHAT CONSERVATIVE CHRISTIANS CALL THE STILL SMALL VOICE. AND I HAVE HAD A LOT OF COMMUNICATIONWITH THE STILL SMALL VOICE IN THE LAST TWO DAYS. I WON'T GET INTO ALL OF IT BUT IT HAS BEEN A VERY DISCONCERTING TIME FOR ME. YESTERDAY MY WIFE'S LAPTOP WENT DOWN COMPLETELY. IN FACT, SHE CALLED A REPAIRMAN AND THOUGHT SHE HAD A, QUOTE, BATTERY PROBLEM. HE SAID, NO, YOU'VE GOT A HARD DRIVE – YOU'VE GOT A SERIOUS PROBLEM. YESTERDAY MORNING ON THE WAY HERE I WAS GREETED WITH A FUNERAL PROCESSION DOWN AT HUGER AND HAMPTON THAT MADE ME A FEW MNUTES LATE. IT DIDN'T MAKE ANY DIFFERENCE BUT IT STILL IS FRUSTRATING WHEN YOU GET THOSE THINGS WHEN YOU ARE TRYING TO GET SOMEWHERE. THIS MORNING WHEN I TRIED TO FINISH THIS MEMO, I COULD NOT GET ON CASEMAKER. I DON'T KNOW WHY BUT I'VE HAD TROUBLE WITH THEM BEFORE

BUT I KNOW I PUT THE RIGHT CODES IN AND I JUST COULD NOT GET ON CASEMAKER SO I COULDN'T CITE ANY STATE CASES. THEN WHEN I GOT TO THE GAS STATION THIS MORNING THE PUMP WOULD NOT TAKE MY CARD SO I HAD TO TAKE THE EXTRA TIME TO WALK INTO THE GAS STATION AND DO THAT. NOW FOR SOME PEOPLE THAT WOULD SEEM SMALL STUFF BUT FOR ME THE WORSE THING YOU CAN DO TO ME IS FRUSTRATE ME. AND I JUST HAVE A VERY STRONG FEELING THAT THIS TRIAL WOULD TAKE ABOUT HALF AS MUCH TIME IF I HAD ANOTHER WEEK TO PREPARE AND CONSULT WITH MY CLIENT SOME MORE AND SO I JUST RENEW THE MOTION FOR A CONTINUANCE, YOUR HONOR, WITHOUT ANY FURTHER ARGUMENT ABOUT IT.

THE COURT: THE MOTION IS NOTED FOR THE RECORD. THE MOTION IS DENIED. ANYTHING FURTHER BEFORE –

MR. BRIGGS: NOTHING EXCEPT THAT OTHER ONE I WANTED TO DO.

DEFENDANT FALTAS: YOUR HONOR, NOW I NEED TO ADDRESS THE JURY MATTER THAT – I'M SORRY, I NICKNAMED IT (INAUDIBLE) AND I WANTED TO ADDRESS IT AND YOUR HONOR SAID TO WAIT UNTIL MR. BRIGGS.

THE COURT: THAT'S CORRECT. MR. BRIGGS, WILL YOU BE RAISING THE ISSUE?

MR. BRIGGS: YOUR HONOR, SHE IS THE ONE THAT REVIEWED THE TAPE AND I DON'T MIND DEFERRING TO HER.

THE COURT: FAIR ENOUGH.

MR. BRIGGS: I DON'T CONSIDER THIS A PART OF THE REPRESENTATION AS SUCH. IT'S ALMOST LIKE SHE'S BEING A WITNESS, YOUR HONOR.

THE COURT: SHE WANTS TO MAKE A MOTION AS WELL SO ...

MR. BRIGGS: YOUR HONOR, I HAVE NO PROBLEM WITH THAT. DR. FALTAS AND I HAVE – WE HAVE DEBATED A LOT OF THINGS BUT WE ALMOST ALWAYS END UP AGREEING, YOUR HONOR.

THE COURT: MR. BRIGGS, I'M ONLY BEING SHORT BECAUSE WE'VE GOT A SHORT OF TIME THIS MORNING. WE WILL LET YOU DO IT. DR. FALTAS, PLEASE TAKE THE NEXT FIVE MINUTES OR LESS TO MAKE YOUR MOTION.

DEFENDANT FALTAS: YOUR HONOR, IT IS CLEAR THAT I WAS NEVER HELD IN CONTEMPT OF COURT FOR NOT RETURNING THE JURY LIST. IN FACT, THIS IS THE TRANSCRIPT OF THE HEARING BEFORE JUDGE STEEDLEY BOGAN WHEN HE SAID THAT I HAVE THE RIGHT TO THE JURY LIST.

THE COURT: WHAT DATE IS THIS HEARING SO WE CAN HAVE PROSPECTIVE?

DEFENDANT FALTAS: THE HEARING WAS ON FEBRUARY 4TH, 2011, AND MR. FERNANDEZ WAS THERE.

THE COURT: PLEASE PROVIDE MR. FERNANDEZ A COPY OF ANYTHING YOU WISH TO GIVE ME.

DEFENDANT FALTAS: THANK YOU, YOUR HONOR AND IT DOES HAVE –

THE COURT: PLEASE PROVIDE IT TO THE CLERK. IT'S A LONG STRETCH TO THE JUDGE'S BENCH.

DEFENDANT FALTAS: THANK YOU. AND IT DOES HAVE A DEFAULT LINK TO THE ACTUAL AUDIO.

THE COURT: OKAY.

DEFENDANT FALTAS: SO THEN YESTERDAY – AND I DIDN'T

TRANSCRIBE THE ENTIRE TAPE. I TRANSCRIBED – THE ENTIRE C.D. I ONLY LOCATED THE (INAUDIBLE) PART AND THEN --

THE COURT: PLEASE HAND A COPY TO MR. FERNANDEZ. PLEASE HAND A COPY TO THE CLERK. THANK YOU, MA'AM. I HAVE RECEIVED FROM DR. FALTAS TWO SEPARATE TRANSCRIPTIONS, ONE DESCRIBED AS PART OF FEBRUARY 4TH, 2011, PROCEEDING AND ONE DESCRIBED AS EXCERPTS OF – I THINK YOU SAID YESTERDAY BUT I THINK THIS WAS ON MONDAY WHEN JURY SELECTION TOOK PLACE.

DEFENDANT FALTAS: I MISSPOKE, YOUR HONOR.

THE COURT: NOT A PROBLEM. I JUST WANTED TO MAKE SURE THE RECORD IS CLEAR. YES, MA'AM, PLEASE CONTINUE.

DEFENDANT FALTAS: YES. OKAY. SO IT IS CLEAR THAT WHAT BOGAN SAID IN THE PRESENCE OF JURORS AND IN THE COURTROOM AND THAT IS AT 3317, I'M SAYING, JUDGE, WE'VE BEEN THROUGH THIS. I'M ENTITLED TO A COPY OF THE JURY LIST. THERE WAS A COURT OFFICER WHO CAME AND WHISPERED IN YOUR EARS. AND THEN BOGAN INTERPOSES HE TOLD ME YOU WERE FOUND IN CONTEMPT AND I THINK I REMEMBER THAT FOR NOT TURNING BACK. THEN I INTERPOSE I WAS NOT IN CONTEMPT. THERE IS NO QUESTION THAT I WAS NEVER FOUND IN CONTEMPT FOR NOT RETURNING THE JURY LIST AND, AS I SAID, THIS IS THE ACTUAL TRANSCRIPT WHERE BOGAN HIMSELF HAD ADDRESSED THE ISSUE. WHEN A POLICE OFFICER COMES AND WHISPERS SOMETHING IN A JUDGE'S EAR AND THEN A JUDGE, SUPPOSED JUDGE, SAYS SOMETHING THAT IS NOT TRUE –

THE COURT: I APOLOGIZE. WHO IS THE SUPPOSED JUDGE?

DEFENDANT FALTAS: BOGAN.

THE COURT: HE'S NOT A JUDGE?

DEFENDANT FALTAS: YES, YOUR HONOR, HE'S NOT A JUDGE.

THE COURT: OKAY.

DEFENDANT FALTAS: AND I TOLD YOU I AM A VERY HONEST PERSON. REMEMBER WHEN --

THE COURT: PLEASE CONTINUE THE ARGUMENT ON THIS POINT. WE HAVE LIMITED TIME.

DEFENDANT FALTAS: YES. YES. SO EITHER THE POLICE OFFICER LIED TO THE SUPPOSED JUDGE OR THE SUPPOSED JUDGE LIED TO ME ABOUT THE POLICE, WHAT THE POLICE OFFICER SAID.

THE COURT: WHAT IS THE MOTION?

DEFENDANT FALTAS: THE MOTION IS FOR YOUR HONOR TO CALL HAMPE AND ASK HIM WHETHER HE WHISPERED IN THE JUDGE'S EARS, IN BOGAN'S EARS, THAT I HAD BEEN FOUND IN CONTEMPT OF COURT BEFORE FOR NOT TURNING THE JURY LIST AND TO ASK HAMPE – AND HAMPE IS HERE, OFFICER HAMPE, BECAUSE I SAW HIM COME EARLIER – THAT WHO TOLD HIM TO DO THAT. AND IF IT TURNS OUT THAT IT IS DANA TURNER I THINK IT IS INCUMBENT ON YOUR JUDICIAL DUTIES TO REPORT MISCONDUCT BECAUSE A JUDGE IS REQUIRED TO REPORT MISCONDUCT BY ANOTHER JUDGE. IN ADDITION, THERE IS NO QUESTION IN MY MIND WHEN YOUR HONOR ASKED ASSISTANT CITY ATTORNEY FERNANDEZ HE SAID HE WAS NOT THERE. THERE IS NO DOUBT IN MY MIND AFTER HEARING –

THE COURT: HE SAID HE WAS WHAT?

DEFENDANT FALTAS: HE WAS NOT HERE.

THE COURT: I DON'T THINK HE SAID THAT BUT CONTINUE WITH

YOUR MOTION.

DEFENDANT FALTAS: FORTUNATELY THERE IS A RECORDING. HE SAID HE WAS NOT HERE, HE DIDN'T SEE ANY OF IT.

THE COURT: THAT'S NOT WHAT HE SAID BUT PLEASE CONTINUE YOUR MOTION.

DEFENDANT FALTAS: ALL RIGHT, FINE. HE WAS HERE, HE WAS IN FACT STANDING RIGHT THERE WHEN THE JURORS CAME TO SPEAK TO BOGAN ABOUT THEIR EXCUSES AND I WENT CLOSER AND BOGAN (INAUDIBLE) TOLD ME TO STEP AWAY. AND IT IS CLEAR THAT BOGAN SAID WE DECIDED WE DON'T WANT YOU TO HAVE THE COPY OF THE JURY LIST BECAUSE THE JURORS DON'T WANT TO BE BOTHERED OR SOMETHING LIKE THAT. IT WAS --

THE COURT: IS THAT CONTAINED IN YOUR TRANSCRIPT?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: WHAT PAGE?

DEFENDANT FALTAS: IT'S ON THE FIRST PAGE.

THE COURT: OKAY. WHERE ARE THOSE WORDS ON YOUR TRANSCRIPT?

DEFENDANT FALTAS: IT'S THE LAST LINE.AND IT'S AT 13344 AND AS YOU SEE I HAVE SOME ASTERISKS THERE.

THE COURT: YES,MA'AM.

DEFENDANT FALTAS: BECAUSE I DIDN'T – BY THE TIME I GOT THERE IT WAS LIKE TWELVE O'CLOCK AND I WAS MORE CONCERNED IN LOCATING –

THE COURT: ANY FURTHER POINTS TO YOUR MOTION?

DEFENDANT FALTAS: YES, YOUR HONOR. I SIMPLY THINK THAT IF

AN OFFICER WITH A GUN AT HIS SIDE EITHER ON HIS OWN OR BASED ON SOMEONE, SOME SUPPOSED JUDICIAL OFFICER TOLD HIM TO DO, TO COME AND WHISPER TO SOMEBODY ON THE BENCH SOMETHING THAT IS FALSE AND SOMETHING THAT IS CALCULATED TO DENY ME MY CONSTITUTIONAL RIGHT. EVEN IF I WEREN'T A DEFENDANT, JUST A MEMBER OF THE PUBLIC, I THINK THERE IS JURY TAMPERING GOING ON. OTHER THAN JURY TAMPERING, I'VE HAD A WHOLE LOT OF PROBLEM WITH GETTING THE RECORD STRAIGHT. AND IF IT PLEASES YOUR HONOR I WOULD LIKE YOUR HONOR TO ADDRESS IT BUT I WOULD ALSO LIKE TO TAKE THIS UP WITH THE OFFICE OF COURT ADMINISTRATION AND THE STATE SUPREME COURT BECAUSE THIS IS SOMETHING THAT SHOULD NOT BE TOLERATED. THERE IS NO QUESTION –

THE COURT: MA'AM, I'VE HEARD YOUR MOTION, I UNDERSTAND IT. MR. FERNANDEZ, ANY RESPONSE?

MR. FERNANDEZ: WELL, I DON'T WANT MY LACK OF RESPONSE TO MEAN THAT I AGREE WITH ANYTHING THAT SHE JUST REPRESENTED SO I'LL JUST BLANKET STATEMENT THAT I DISAGREE. I THINK HER CHARACTERIZATION OF WHAT I SAID I THINK IS OFF, I THINK YOUR HONOR RECALLS THAT BUT THE – I DID NOT HEAR THE CONVERSATION. THIS IS NOT AN OFFICIAL TRANSCRIPT. I KNOW YOUR HONOR KNOWS THAT. IF WE WANT TO HAVE NANCY PREPARE ONE I SUPPOSE WE CAN. REGARDING THE CONTEMPT AND I DON'T KNOW IF THAT EVEN CAME OUT ON THE RECORD OR NOT OR IF THAT WAS JUST WHAT WAS DISCUSSED BETWEEN THE ATTORNEYS. I DIDN'T RECALL HEARING ANYTHING BUT ALSO I WASN'T PAYING ATTENTION. THE CONTEMPT – IF YOUR HONOR REALLY WANTS TO KNOW ABOUT THE CONTEMPT I WAS THERE FOR THE INCIDENT.

THE COURT: I DO NOT.

MR. FERNANDEZ: OKAY. THEN I DON'T HAVE ANYTHING TO ADD.

THE COURT: FOR THE PURPOSE OF THIS MOTION WE DON'T HAVE TO GO INTO THE FRIDAY.

MR. FERNANDEZ: I DON'T HAVE ANYTHING REALLY TO ADD, YOUR HONOR.

THE COURT: FAIR ENOUGH. THIS IS MY RULING ON THE MATTER. IN TERMS OF ANY TYPE OF ETHICAL INVESTIGATION OR ANY TYPE OF INQUIRIES AS TO WHETHER OR NOT SOMEONE SHOULD BE REPORTED, I DO NOT BELIEVE THAT THOSE THINGS DIRECTLY EFFECT THE TRIAL OF THIS MATTER AT THIS TIME AND I WILL RESERVE ANY DECISION ON THAT UNTIL A LATER TIME. I WILL NOT EVEN ADDRESS THAT RIGHT NOW. AS TO THE TAINTING OF THE JURY, ACCEPTING EVERYTHING THAT YOU'VE SAID TO BE A HUNDRED PERCENT ACCURATE, DR. FALTAS, NOT AGREEING THAT IT IS BECAUSE I DON'T KNOW, I WAS NOT THERE, BUT JUST TAKING IT THAT WAY FOR THE PURPOSES OF THE MOTION, I FIND THAT THAT IS NOT SUFFICIENT TO SEND THIS ENTIRE PANEL OUT. I WILL CONSIDER IF COUNSEL WISHES TO PROPOSE A CURATIVE INSTRUCTION TO GIVE IT BUT I WILL NOT SEND THE PANEL OUT. I'M NOT REQUIRING A CURATIVE INSTRUCTION BUT IF YOU WISH TO REQUEST ONE I'LL BE HAPPY TO CONSIDER IT.

MR. BRIGGS: YOUR HONOR, LET ME JUST ADD. –

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: YOU CAN'T UNRING THE BELL.

MR. BRIGGS: WHAT?

DEFENDANT FALTAS: YOU CAN'T UNRING THE BELL.

MR. BRIGGS: I UNDERSTAND THAT.

DEFENDANT FALTAS: (INAUDIBLE).)

MR. BRIGGS: JUST LET ME ...YOUR HONOR, JUST FOR THE RECORD SO IT'S CLEAR AND COMPLETE, I INTERPRETED THE COLLOQUY BETWEEN DR. FALTAS AND JUDGE BOGAN AS BEING SOMEWHAT TESTY AND THAT WAS ONE OF THE REASONS THAT I HAD THE CONCERN. AND I WILL JUST ADD FOR THE RECORD SO IT'S CLEAR THAT MR. FERNANDEZ HAD TESTIFIED BEFORE, AND I'M NOT TRYING TO DISAGREE WITH ANYTHING HE SAID, BUT HE HAD SAID THAT HE DIDN'T HEAR ANY OF THAT BECAUSE HE WAS BUSY WITH ANOTHER MATTER BUT IT'S NO QUESTION THAT HE WAS HERE.

THE COURT: CORRECT. I DON'T THINK HE EVER SAID HE WASN'T HERE. DR. FALTAS SAID HE WASN'T.

MR. BRIGGS: I'M NOT DISAGREEING, I'M JUST TRYING TO CLARIFY.

THE COURT: FAIR ENOUGH. YOUR RECOLLECTION IS SIMILAR TO MINE AND THE TAPE WILL REFLECT. ALL RIGHT. AS TO THE SPECIFIC QUESTION, I'VE MADE THE RULING. YOUR OBJECTION IS PRESERVED. DO YOU WISH TO HAVE A CURATIVE INSTRUCTION?

MR. BRIGGS: YES, YOUR HONOR, WE WILL PREPARE ONE.

THE COURT: ALL RIGHT. PLEASE DO AND PLEASE PREPARE IT PRIOR TO THE SITTING OF THE JURY SO THAT I CAN DO IT IN MY INITIAL INSTRUCTIONS.

DEFENDANT FALTAS: YOUR HONOR, I HAVE ALSO BEEN TRYING TO OFFER A VERY DETERMINATIVE CASE FROM THE U.S. SUPREME COURT WHICH IS FLORIDA VS. –

THE COURT: YES, MA'AM, I HAD ASKED YOU TO WAIT FOR THE

ATTORNEY TO GET HERE. PLEASE HAND THAT TO YOUR ATTORNEY TO MAKE SURE IT'S SOMETHING HE WANTS ME TO HAVE AND IF HE DOES WE'LL TAKE A COPY OF IT.

MR. BRIGGS: YOUR HONOR, THE CASE SO MR. FERNANDEZ WOULD KNOW IS FLORIDA VS. JARDINES I GUESS IT IS, J-A-R-D-I-N-E-S- (SPELLED) AND IT'S, OF COURSE, FROM FLORIDA.

DEFENDANT FALTAS: NO, IT'S FROM THE U.S. SUPREME COURT.

MR. BRIGGS: IT'S U.S. SUPREME COURT BUT I'M LOOKING FOR THE CITATION AND I DON'T SEE IT ON THIS PARTICULAR COPY.

DEFENDANT FALTAS: BECAUSE IT IS VERY NEW. IT WAS DECIDED MARCH 26TH.

THE COURT: AND THE POINT OF LAW THAT YOU ARE PROVIDING THIS TO SHOW AND IS IT RELATED TO ANY PENDING MOTION AT THIS TIME?

MR. BRIGGS: IT ADDRESSES THE ISSUE, YOUR HONOR, OF WHETHER OR NOT IN CERTAIN SITUATIONS A POLICEMAN CAN ENTER INTO A PERSON'S PROPERTY JUST FOR THE PURPOSE OF GIVING THEM A SUMMONS. THAT'S WHAT THE CASE IS ABOUT.

THE COURT: AND IS THERE A PENDING MOTION AT THIS TIME THAT THIS IS PROVIDED TO SUPPORT?

DEFENDANT FALTAS: MAKE THE MOTION. MAKE THE MOTION.

MR. BRIGGS: YOUR HONOR, THE MOTION WOULD BE – AND THERE WILL BE SOME TESTIMONY ON THIS, BUT THE MOTION WILL BE THAT THE WHOLE PROCESS, THAT IS, THE SUMMONS, THE ACCUSATION THAT THE BOUNDARY SHE HAD THERE BEFORE WAS INCORRECT, THEN SHE CORRECTED IT. THEY CAME BACK, THEY DIDN'T ISSUE A NEW SUMMONS. THE NOTICE IS NOT

APPROPRIATE SO IT'S REALLY A PART OF THE DUE PROCESS ARGUMENT THAT I WILL FILE LATER BUT IT HAS TO DO WITH WHETHER OR NOT A PROPER PROCEDURE WAS FOLLOWED BY THE CITY IN CHARGING HER WITH SOMETHING.

THE COURT: SO THAT I AM CLEAR, MR. BRIGGS –

MR. BRIGGS: THAT WOULD BE THE 5TH, THE 4TH AND THE 14TH AMENDMENTS.

THE COURT: AND SO THAT I AM CLEAR THAT IS A MOTION THAT YOU WISH TO MAKE AT THE CLOSE OF THE STATE'S CASE.

DEFENDANT FALTAS: NO, NO. NO.

THE COURT: AND THIS CASE IS IN SUPPORT OF THAT MOTION?

MR. BRIGGS: I WILL MAKE THAT MOTION NOW BUT I WILL MAKE –

DEFENDANT FALTAS: (INAUDIBLE).

THE COURT: DR. FALTAS YOU ARE NOT GOING TO BE ABLE TO DO THAT. AND FOR THE RECORD BECAUSE IT CAN'T BE SEEN, DR. FALTAS HAS GONE OVER TO MR. BRIGGS AND SHE'S SPEAKING TO HIM FOR BETTER, FOR WORSE –

MR. BRIGGS: AND INTERRUPTING ME.

THE COURT: THE SPEAKING AND INTERRUPTING IS LOUD ENOUGH THAT WE ALL CAN HEAR IT. I DON'T DEEM THAT TO BE APPROPRIATE. IF YOU HAVE SOMETHING YOU NEED TO SAY TO HIM, YOU WAIT FOR HIM TO SIT DOWN AND YOU WHISPER IT TO HIM.

DEFENDANT FALTAS: ALL RIGHT. THANK YOU.

MR. BRIGGS: YOUR HONOR, THERE'S REALLY TWO PARTS TO THE DUE PROCESS ARGUMENT. IT'S THIS ONE AND AS THIS COURT WELL KNOWS WHEN THE TESTIMONY IS GIVEN I AM CONFIDENT THAT I CAN MAKE A DUE

PROCESS ARGUMENT, PROCEDURAL DUE PROCESS ARGUMENT, ON, IF YOU WILL, THE VALIDITY OF THE CHARGE WITH REGARD TO THE SUBSTANCE OF IT AND THE TEST FOR ANY REGULATION OF A, QUOTE, PROPERTY RIGHT, YOUR HONOR. THAT WOULD BE THE FORMAL SECOND PART OF MY MOTION.

THE COURT: SO TO MAKE SURE I UNDERSTAND, BE VERY BASIC WITH IT. THE FIRST PART OF YOUR MOTION THAT YOU WISH ME TO DECIDE NOW IS?

MR. BRIGGS: I DON'T MIND THE COURT WAITING UNTIL YOU HEAR HIS TESTIMONY.

THE COURT: AND I'M NOT ASKING TO DO IT. I ASKED YOU WERE YOU GOING TO MAKE IT AT THE CLOSE OF THE TESTIMONY AND YOU DECIDED YOU WERE GOING TO MAKE IT NOW. YOU JUST TELL ME WHEN YOU WANT TO MAKE IT AND THEN TELL ME WHAT YOU WANT ME TO DECIDE ON AND I'LL DO IT.

MR. BRIGGS: I WANT TO RENEW IT WHEN I MAKE THE OTHER ARGUMENT, YOUR HONOR, AND THAT YOU RULE ON BOTH OF THEM AT THE SAME TIME.

THE COURT: THANK YOU VERY MUCH, SIR. I WON'T ASK FOR ANY RESPONSE FROM MR. FERNANDEZ UNTIL THAT TIME. YES, SIR, COURT OFFICER.

UNIDENTIFIED: I HAVE A TOTAL OF TWENTY-FOUR SO FAR.

THE COURT: ALL RIGHT. WE HAVE TWENTY-FOUR JURORS HERE. WE ARE GOING TO BRING THEM DOWN AND WE ARE GOING TO SELECT THEM FOR THIS CASE. PRIOR TO DOING SO, IS THERE ANY PROPOSED VOID DIRE QUESTIONS FOR THE JURORS? ANY FROM THE STATE?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: ANY FROM MR. BRIGGS?

MR. BRIGGS: ONE MINUTE, YOUR HONOR.

MR. FERNANDEZ: YOUR HONOR, I DO HAVE A MOTION IN LIMINE. I CAN HANDLE IT NOW OR AFTER THE JURY IS IMPANELED.

DEFENDANT FALTAS: YOUR HONOR, I'M TALKING TO MY LAWYER. I CAN'T DO BOTH AT THE SAME TIME.

THE COURT: DR. FALTAS, LISTEN TO MR. FERNANDEZ FIRST. YES, SIR.

MR. FERNANDEZ: I HAVE A MOTION IN LIMINE. WE CAN HANDLE IT NOW OR AFTER THE JURY IS SELECTED, I DON'T CARE.

THE COURT: I'D LIKE TO HANDLE IT AFTER THE JURY IS SELECTED. WE'LL GET THE ONES THAT ARE NOT SELECTED BACK TO THEIR LIVES AND THEN WE'LL HANDLE THAT MOTION.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: (INAUDIBLE) THE VOIR DIRE YOU GAVE IN THE LAST TRIAL, BIAS AGAINST IMMIGRANTS, AGAINST COPTIC ORTHODOX CHRISTIANS AND AGAINST PHYSICIANS.

MR. BRIGGS: OKAY.)

MR. BRIGGS: YOUR HONOR, I THINK IT'S A FAIRLY SIMPLE REQUEST THAT YOU ADD TO THE VOIR DIRE QUESTIONS, ABOUT THREE OR FOUR I THINK THERE WERE, THAT WE DID IN THE LAST TRIAL, NAMELY, DOES ANYBODY HAVE ANY PREJUDICE AGAINST ALIENS OR FOREIGNERS –

THE COURT: YOU'VE GOT TO SLOW DOWN. I'VE GOT TO WRITE IT.

MR. BRIGGS: IMMIGRANTS.

THE COURT: ANY PREJUDICE.

MR. BRIGGS: AGAINST IMMIGRANTS.

DEFENDANT FALTAS: OR BIAS. BIAS IS THE BETTER WORD. AGAINST IMMIGRANTS, AGAINST COPTIC OR –

MR. BRIGGS: HE'S WRITING.

THE COURT: I HAVE SO FAR ANY PREJUDICE AGAINST IMMIGRANTS.

DEFENDANT FALTAS: COPTIC ORTHODOX CHRISTIANS.

MR. BRIGGS: ORTHODOX CHRISTIANS, YOUR HONOR.

DEFENDANT FALTAS: EGYPTIANS.

MR. BRIGGS: EGYPTIANS.

DEFENDANT FALTAS: PHYSICIANS.

MR. BRIGGS: AND PHYSICIANS.

THE COURT: ANY OBJECTION, MR. FERNANDEZ.

MR. FERNANDEZ: THEY ARE ABSURD BUT I WILL LEAVE IT YOUR HONOR IF YOU WANT TO ASK THEM.

DEFENDANT FALTAS: YOUR HONOR, I OBJECT TO MR. FERNANDEZ –

THE COURT: HE GETS TO CHARACTERIZE, I GET TO DECIDE. THANK YOU.

DEFENDANT FALTAS: BUT THE USE OF THE WORD ABSURD –

MR. BRIGGS: YOU CAN'T DO THAT, MARIE.

THE COURT: NO, THANK YOU. THERE'S NO JURY HERE TO POISON. I HAVE THE ABILITY TO MAKE THE DECISION. WE'VE GOT TO GET STARTED. MR. BRIGGS, DO YOU HAVE ANY OTHERS?

MR. BRIGGS: I HAVE NOTHING FURTHER, YOUR HONOR, EXCEPT

THAT I AM WRITING THE CHARGE IF YOU WILL.

THE COURT: THANK YOU VERY MUCH. WOULD YOU GET THE JURY TO COME DOWN, PLEASE, SIR.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: THE STATUTE REQUIRES FORTY JURORS, NOT TWENTY-FOUR. FORTY.

MR. BRIGGS: (INAUDIBLE) JURORS?

DEFENDANT FALTAS: YES.

MR. BRIGGS: I'M NOT GOING TO ARGUE. YOU SHOW THAT TO ME IN WRITING.

DEFENDANT FALTAS: I HAVE ALREADY (INAUDIBLE).)

THE COURT: SO THAT WE ARE CLEAR WHEN THE JURORS COME DOWN AND EVERYONE IS SEATED I AM GOING TO TELL THEM THE NAME OF THE CASE, HAVE THE DEFENSE AND STATE INTRODUCE THEMSELVES AND ANY POTENTIAL WITNESSES. I AM GOING TO ASK IF ANY OF THEM HAE ANY --

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: WHAT HAPPENED TO THE SUBPOENAS?)

THE COURT: – DR. FALTAS, YOU DIDN'T WANT HIM TO BE TALKING WHILE MR. FERNANDEZ WAS TALKING 'CAUSE YOU COULDN'T LISTEN TO BOTH. PLEASE DON'T TALK WHILE I'M TALKING BECAUSE I WANT TO MAKE SURE YOU CAN HEAR ME.

DEFENDANT FALTAS: I'M SORRY, YOUR HONOR.

THE COURT: NO PROBLEM.

DEFENDANT FALTAS: BUT I REMEMBERED SOMETHING.

THE COURT: LISTEN, I'M GOING TO HAVE BOTH SIDES INTRO-

DUCED. I AM GOING TO ASK THEM IF THEY HAVE ANY KNOWLEDGE ABOUT THIS MATTER OR IF THEY'RE RELATED OR DO ANY BUSJNESS WITH ANYONE ON BOTH SIDES. I AM GOING TO ASK THE QUESTIONS REQUESTED BY THE DEFENDANT. AFTER THAT TIME, AND I WILL EXPLAIN TO THEM WHEN THE PROCESS STARTS, THEY'LL COME UP AND TURN AROUND, PROVIDE THEIR NAME AND THEIR EMPLOYER AND THEN THE STRIKING PROCESS WILL TAKE PLACE. AFTER THAT I'M GOING TO INSTRUCT THE CLERK TO BEGIN THE PULLING OF THE JURY.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: DO WE HAVE A JURY LIST?

MR. BRIGGS: I'VE GOT IT.

DEFENDANT FALTAS: WHERE IS IT?)

MR. BRIGGS: YOUR HONOR, COULD I JUST ASK ONE PROCEDURAL QUESTION?

THE COURT: YES, SIR.

MR. BRIGGS: WE HAVE NOT STOPPED LONG ENOUGH 'CAUSE – WELL, WE HAVEN'T HAD ANY TIME DURING WORKING HOURS BUT IS IT POSSIBLE THAT THE COURT WOULD GO BEYOND THE CALL OF DUTY IF YOU WILL AND ASK SOME OFFICER TO CALL THE CIVIL PROCESS FOLKS THAT ARE IN THE MAIN COURTHOUSE AND ASK THEM IF IN FACT THEY SERVED OUR SUBPOENAS?

THE COURT: I WILL NOT BUT I WILL GIVE YOU THE OPPORTUNITY TO DO IT RIGHT NOW IF YOU SO CHOOSE.

(DISCUSSION AT DEFENSE COUNSEL TABL:

MR. BRIGGS: DO YOU KNOW THAT NUMBER?

DEFENDANT FALTAS: YES. DO YOU WANT TO DO IT?

DEFENDANT FALTAS: NO.)

DEFENDANT FALTAS: WHAT'S THE COURT'S PREFERENCE? ME?

THE COURT: MY INSTRUCTION IS IF YOU WISH TIME TO CALL THEM I WILL ALLOW YOU DO TO SO. SERVICE OF THE SUBPOENAS IS THE RESPONSIBILITY THE DEFENDANT'S.

MR. BRIGGS: TELL THEM YOUR LAWYER ASKED YOU TO CALL.

DEFENDANT FALTAS: MAY I STEP OUTSIDE?

THE COURT: YES, MA'AM, YOU MAY.

DEFENDANT FALTAS: THANK YOU.

(PAUSE)

DEFENDANT FALTAS: YOUR HONOR, I COULD NOT GET AN ANSWER AND I KNOW THAT DINAH STEELE IS OUT THERE WITH THE JURY POOL. I VISUALLY SAW HER.

THE COURT: NUMBER ONE, I NOTE IT FOR THE RECORD YOU DIDN'T GET AN ANSWER. IS MS. STEELE A WITNESS IN THE CASE?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: MS. STEELE IS NOT A WITNESS IN THE CASE. OFFICER HAMPE IF YOU WILL INSTRUCT THE OFFIDCERS TO KEEP ANYONE FROM BEING WITH THE JURY POOL, NO ONE SPECIFICALLY. PLEASE INSTRUCT THE OFFICERS TO KEEP PEOPLE FROM BEING CLOSE TO THE JURY POOL.

OFFICER HAMPE: THE OFFICERS?

THE COURT: YEAH, THE COURT OFFICER BRINGING THE JURORS DOWN. JUST MAKE SURE HE KEEPS THEM SEPARATE FROM ANYONE ELSE.

DEFENDANT FALTAS: YOUR HONOR, IT MAY BE TOO LATE NOW. SHE MAY HAVE SPOKEN TO THE JURORS.

THE COURT: I HAVE NO EVIDENCE THAT SHE DID AND SHE'S NOT A WITNESS IN THE CASE. IF YOU'D PLEASE BE KIND ENOUGH TO DO THAT.

DEFENDANT FALTAS: YOUR HONOR, THEY ARE THE INSTIGATORS –

THE COURT: COURT OFFICER, WOULD YOU BE KIND ENOUGH TO MAKE SURE NO NON-JURY MEMBERS ARE IN CLOSE PROXIMITY TO THE JURY MEMBERS.

DEFENDANT FALTAS: YOUR HONOR, I ALSO WANT TO PUT ON THE RECORD –

THE COURT: HOLD ON A MOMENT. I'M TALKNG TO THE COURT OFFICER. COURT OFFICER, WOULD YOU BE KIND ENOUGH TO MAKE SURE NO NON-JURY MEMBERS ARE CLOSE TO THE JURY MEMBERS.

UNIDENTIFIED: I GOT THAT, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

DEFENDANT FALTAS: MAY I ALSO PUT ON THE –

THE COURT: I PREFER THAT YOU WORK THROUGH MR. BRIGGS. IF HE YIELDS TO YOU, THAT'S FINE BUT WE'VE HAD DISCUSSIONS AS TO WHETHER OR NOT THE LAWYERS FEEL THERE ARE CERTAIN THINGS THEY SHOULD BE ABLE TO DO OR NOT AND I DON'T WANT YOU TO VIOLATE ANY OF YOUR CONFIDENCES. PLEASE TALK TO YOUR ATTORNEY FIRST.

DEFENDANT FALTAS: OKAY. THIS IS TESTIMONY FROM –

THE COURT: PLEASE TALK TO YOUR ATTORNEY FIRST.

(DISCUSSION AT DEENSE COUNSEL TABLE:

DEFENDANT FALTAS: WHEN JUDGE JENKINS WAS SITTING MASON AND STEELE BROUGHT (INAUDIBLE) WHEELER TO MINGLE WITH THE JURORS

AND IT WAS NOTED BEFORE JUDGE JENKINSAND JUDGE JENKINS NOTED IT ON THE RECORD, SO THIS IS NOT THE FIRST TIME THEY'VE DONE THIS.

MR. BRIGGS: WELL, IT'S ON THE RECORD NOW.

DEFENDANT FALTAS: BUT JUDGE SOLOMON DOESN'T KNOW IT.

MR. BRIGGS: OKAY.

DEFENDANT FALTAS: MAY I –

MR. BRIGGS: JUST MAKE OUR OBJECTION SO IT'S PRESERVED.

DEFENDANT FALTAS: ALL RIGHT.)

DEFENDANT FALTAS: HE ALLOWED ME TO REPORT TO YOUR HONOR –

MR. BRIGGS: JUST NOTE THE OBJECTION. DON'T ARGUE.

DEFENDANT FALTAS: THAT PREVIOUSLY –

THE COURT: FIRST, MAKE A CONCISE STATEMENT OF WHAT THE OBJECTION IS.

DEFENDANT FALTAS: THE OBJECTION IS IN FACT SHE WAS THERE AND PREVIOUSLY I AM MAKING TESTIMONY THAT WHEN THERE WAS A CASE BEFORE JUDGE JENKINS LARRY MASON AND DINAH STEELE, BROUGHT THEIR ACCOMPLICE, (INAUDIBLE) WHEELER, AND HE MINGLED WITH THE JURORS AND SAT WITH THE JURORS AND I BROUGHT IT TO JUDGE JENKINS' ATTENTION.

THE COURT: LET'S MAKE SURE WE ARE CLEAR. ARE YOU ALLEGING THAT IS TAKING PLACE WITH THESE JURORS, THAT THAT GENTLEMAN HAS SAT WITH THEM?

DEFENDANT FALTAS: I'M ALLEGING THAT THEY HAVE A PREVIOUS PATTERN OF ATTEMPTING TO TAMPER WITH JURY.

THE COURT: I HAVE HEARD YOUR OBJECTION. IT IS NOTED FOR

THE RECORD. THANK YOU VERY MUCH. I'VE MADE THE RULING. I DON'T FIND THE JURY HAS BEEN TAMPERED WITH. THERE'S NO EVIDENCE OF THAT. I'VE INSTRUCTED THE COURT OFFICER TO MAKE SURE EVERYONE IS CLEAR.

DEFENDANT FALTAS: MAY WE ASK THE JURORS IF THIS WOMAN HAS SPOKEN TO THEM?

THE COURT: NO.

DEFENDANT FALTAS: WELL, OBJECTION TO THAT.

THE COURT: THANK YOU.

DEFENDANT FALTAS: THANK YOU.

(PAUSE)

THE COURT: DO YOU HAVE A COPY OF THE PROPOSED –

MR. BRIGGS: YES, YOUR HONOR. AND MR. FERNANDEZ READ IT.

THE COURT: -- INSTRUCTION.

MR. FERNANDEZ: NO OBJECTION.

(OFF THE RECORD DISCUSSION)

DEFENDANT FALTAS: AM I ENTITLED TO LISTEN?

THE COURT: I THINK THAT YOUR COUNSEL – IF COUNSEL ASKS TO COME OVER, THAT'S UP TO YOUR COUNSEL WHETHER YOU CAN BE A PART OR NOT.

MR. BRIGGS: YOU CAN'T HELP, MARIE.

THE COURT: YOUR COUNSEL WOULD LIKE FOR YOU TO GO BACK TO COUNSEL TABLE.

DEFENDANT FALTAS: I –

THE COURT: YOUR COUNSEL WOULD LIKE FOR YOU TO GO BACK TO COUNSEL TABLE.

(OFF THE RECORD DISCUSSION)

MR. BRIGGS: YOUR HONOR, I HAVE ONE OTHER MATTER.

THE COURT: OKAY.

MR. BRIGGS: I DON'T KNOW HOW WE CAN DO IT UNDER THE RESTRAINTS WE'VE HAD.

(OUTBURST)

DEFENDANT FALTAS: I'M SORRY. I'M SORRY. HE WAS ALMOST –

MR. BRIGGS: SHUT UP.

DEFENDANT FALTAS: WHEN HE LEANED ON MY CHAIR --

THE COURT: SORRY IS APPROPRIATE.

MR. BRIGGS: ONE INCH, YOUR HONOR, BUT ANYWAY MY CLIENT FEELS LIKE THE CASE THAT I GAVE YOU, THE LAST ONE, THE ULTIMATE ISSUE IS WHETHER OR NOT SOME EVIDENCE SHOULD BE SUPPRESSED. IN LIGHT OF THE TIME CONSTRAINTS AND ALL THE OTHER STUFF THAT'S GONE ON, UNLESS I HAD THIRTY OR FORTY MINUTES TO READ THAT CASE I WOULD NOT BE PREPARED TO ARGUE THAT IN DETAIL, BUT I WANT TO PUT IT ON THE RECORD KNOWING THAT NORMALLY A MOTION TO SUPPRESS MUST BE DONE BEFORE THE EVIDENCE IS SUBMITTED. SO I MAKE MY MOTION THAT THE EVIDENCE THAT WE TALKED ABOUT BEFORE ON DUE PROCESS THAT WITH REGARD TO ENTERING THE PROPERTY, SERVING THE PAPERS, ET CETERA, AND THEIR EVIDENCE, THAT PART OF IT SHOULD BE SUPPRESSED.

THE COURT: SO YOU ARE MOVING THAT EVERYTHING THAT THEY THEY SAW ONCE THEY GOT – ANY EVIDENCE ACQUIRED, EVERYTHING THEY SAW, ANYTHING THEY CAN TESTIFY ABOUT ONCE THEY WENT ON THE PROPERTY SHOULD NOT BE ALLOWED.

MR. BRIGGS: WITH REGARD TO THE PROPERTY, YOUR HONOR. THERE WERE SOME -- THEY DID SOME OTHER THINGS. THEY MAY HAVE COME BACK ANOTHER TIME. AND I'LL LET THE COURT DECIDE WHEN YOU WANT TO RULE ON THAT, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. I AM GOING TO NEED – AND I'LL WAIT UNTIL THE JURY GOES OUT – YOU ARE TO TELL ME WHAT A COUPLE OF THESE WORDS ARE. BUT WE ARE GOING TO GET THE JURY IN. PLEASE BRING THE JURY IN.

(JURY VENIRE ENTERS THE COURTROOM)

THE COURT: GOOD MORNING. PLEASE GO DOWN. GOOD MORNING. I KNOW Y'ALL ARE DELIGHTED TO BE BACK. WE ARE DELIGHTED TO HAVE YOU. WE ARE HERE TODAY FOR A TRIAL AND YOU HAVE BEEN THROUGH THE QUALIFICATION PROCESS ALREADY SO THIS MORNING WILL NOT TAKE AS MUCH TIME AS MONDAY MORNING DID. YOU HAVE ALSO SEEN THE SELECTION PROCESS AND SOME OF YOU MAY HAVE SERVED ON THAT JURY. I DON'T KNOW WHETHER THEY WERE BROUGHT BACK OR NOT BUT I ASSUME YOU ARE. THE PROCESS THAT WE ARE GOING TO GO THROUGH THIS MORNING IS SIMILAR TO THE LAST PART OF WHAT YOU DID ON MONDAY. IT WILL BE ACTUAL JURY SELECTION AND WE WILL SELECT A JURY FOR A CASE. BEFORE WE DO SO, THERE ARE SEVERAL THINGS THAT I WANT TO MAKE SURE WE GET YOU ADVISED OF AND QUESTIONED ABOUT SO THAT WE CAN MAKE SURE THAT THE PARTIES HAVE THE INFORMATION THEY NEED SO THAT THEY CAN DO A PROPER SELECTION OF THE JURY.

WE ARE HERE TODAY ON A CASE ENTITLED CITY OF COLUMBIA VERSUS DR. MARIE ASSA'AD-FALTAS. THIS IS A CHARGE OF UNLAWFUL ACTS,

FIRST OFFENSE. AS WE GO THROUGH THE TRIAL AS WE GET TOWARD THE END THERE WILL BE A TIME WHEN I CHARGE THE JURORS AS TO EXACTLY WHAT THAT MEANS AND WHAT THE LAW STATES BUT THAT'S THE NAME OF THE CHARGE JUST SO YOU HAVE SOME INFORMATION AT THE OUTSET.

WE'D LIKE TO FIRST GET INTRODUCED ALL THE PEOPLE THAT WILL BE INVOLVED IN THE TRIAL SO I MAY ASK YOU SOME BASIC QUESTIONS ABOUT THEM. MR. FERNANDEZ, IF YOU WOULD INTRODUCE YOURSELF, SIR, AND ANY WITNESSES THAT YOU ANTICIPATE ON CALLING.

MR. FERNANDEZ: YES, SIR. THANK YOU, YOUR HONOR. GOOD MORNING, LADIES AND GENTLEMEN. MY NAME IS AGAIN DAVID FERNANDEZ, ASSISTANT CITY ATTORNEY FOR THE CITY OF COLUMBIA. I'LL BE PROSECUTING THE CASE TODAY. I KNOW FOR SURE I'LL CALL MYRON SIMS, CITY OFFICIAL, CITY OF COLUMBIA AND I MAY IN FACT CALL DAVID HATCHER, ALSO.

THE COURT: ADDITIONALLY, MR. FERNANDEZ, ALTHOUGH THEY ARE NOT GOING TO BE CALLED AS WITNESSES, BECAUSE WE HAVE TWO OTHER PEOPLE IN THE ROOM, WILL YOU PLEASE INTRODUCE THEM?

MR. FERNANDEZ: ALL RIGHT. THESE WILL NOT BE WITNESSES BUT THE GENTLEMAN AND LADY HERE IS LARRY MASON AND DINAH STEELE. THEY ARE JUST RESIDENTS OF THE AREA.

THE COURT: THANK YOU.

DEFENDANT FALTAS: YOUR HONOR, THEY ARE NOT RESIDENTS OF THE –

THE COURT: MR. BRIGGS, WILL YOU PLEASE INTRODUCE YOURSELF, SIR, AND WILL YOU PLEASE INTRODUCE ANYONE THAT YOU MAY BE CALLING AS A WITNESS AND THE DEFENDANT.

MR. BRIGGS: MY NAME IS ORIN BRIGGS. I'M FROM COLUMBIA, BEEN AN ATTORNEY FOR MORE THAN FORTY YEARS. AND MY CLEINT IS DR. MARIE ASSA'AD-FALTAS. YOU'LL FIND OUT THIS LATER BUT SHE IS ORIGINALLY AN EGYPTIAN CITIZEN. SHE IS A MEDICAL DOCTOR, LICENSED TO PRACTICE IN THE STATE OF VIRGINIA AND LIVES HERE NOW. THE OTHER THING IS THAT SHE IS A – SHE HAS LEGAL STATUS IN AMERICA ON WHAT WE CALL A PERMANENT RESIDENT. THAT MEANS SHE'S DONE EVERYTHING EXCEPT TAKE THE EXAM TO BECOME A CITIZEN. SO THAT'S HER LEGAL STATUS.

THE COURT: ANYONE ELSE, MR. BRIGGS?

DEFENDANT FALTAS: I'M WRITING FOR HIM, YOUR HONOR.

THE COURT: ARE THERE ANY ADDITIONAL PERSONS?

MR. BRIGGS: I WANT THE ONES YOU SUBPOENAED.

DEFENDANT FALTAS: I AM WRITING THEM.

MR. BRIGGS: YOUR HONOR, I WAS JUST GOING TO MENTION THE WITNESSES, ONE OF THEM IS AN EMPLOYEE OF D.H.E.C., A JOHN ANSEL. THEY ARE NOT PRESENT YET BUT HE WAS SUBPOENAED. A CHARLES WHITE AND AN ANTHONY PRIESTLY, AND IF WE FELT LIKE WE NEEDED TO CALL AGAIN SOME OF THE PEOPLE MENTIONED BY MR. FERNANDEZ, WE WOULD LISTEN TO THEM AND THERE IS ANOTHER WITNESS, I DON'T THINK SHE WILL BE HERE, BUT DR. FALTAS HAS HAD SOME COMMUNICATION WITH MY WIFE, CAMELIA BRIGGS, ABOUT THIS MATTER.

THE COURT: JUST INTRODUCE THE PERSON AND WE'LL LEAVE IT AT THAT.

MR. BRIGGS: I DON'T HAVE ANY IDEA WHAT THAT WOULD BE ABOUT BUT I'LL TELL YOU MY WIFE IS NOT COMING.

THE COURT: MR. BRIGGS, JUST INTRODUCE THE PEOPLE AND LEAVE IT AT THAT.

MR. BRIGGS: OKAY. IF THEY KNOW ANY OF THOSE, YOU WOULD WANT TO KNOW ABOUT IT, YOUR HONOR.

THE COURT: I WILL ASK QUESTIONS. I WAS WAITING FOR YOU TO FINISH. LADIES AND GENTLEMEN OF THE JURY PANEL, ARE ANY OF YOU RELATED TO, AFFILIATED WITH, FRIENDS OR KNOW ANY OF THE PEOPLE THAT HAVE BEEN INTRODUCED? PLEASE STAND.

JUROR: THIS MAY BE PERSONAL BUT MR. HATCHER WORKS WITH THE CITY AND I DO A LOT OF NEIGHBORHOOD ASSOCIATION WORK AND ACTUALLY I WASN'T EVEN SURE WHO YOU WERE UNTIL YOU INTRODUCED YOURSELF. I'M FAMILIAR WITH HIM.

THE COURT: PLEASE STATE YOUR NAME?

JUROR: JENNA STEPHENS.

THE COURT: THANK YOU, MS. STEPHENS. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS MATTER?

MS. SEPHENS: I DO NOT BELIEVE SO.

THE COURT: THANK YOU. YES, SIR.

JUROR: MY NAME IS JIM SWAN. I DO KNOW A CHARLES WHITE. I DON'T KNOW IF IT'S THE SAME CHARLES WHITE THAT WOULD BE BROUGHT IN THIS CASE.

THE COURT: THANK YOU VERY MUCH. SAY YOUR NAME AGAIN, PLEASE, ONE TIME, SIR.

JUROR: JIM SWAN, S-W-A-N (SPELLED).

THE COURT: THANK YOU, MR. SWAN. IS ANYONE FRIENDS OR RE-

LATED TO ANYONE THAT IS EMPLOYED IN THIS COURTHOUSE OR THAT YOU HAVE SEEN ON THE PREMISES TODAY? YES, MA'AM, PLEASE STAND AND SAY YOUR NAME.

JUROR: CORINE MOORER.

THE COURT: YES.

MS. MOORER: OFFICER HAMPE.

THE COURT: OKAY. AND HOW DO YOU KNOW OFFICER HAMPE?

MS. MOORER: HE'S A NEIGHBOR OF ONE OF MY FORMER FRIENDS.

THE COURT: FAIR ENOUGH. WOULD THAT AFFECT YOUR ABILITY TO BE IMPARTIAL AND FAIR IN THE TRIAL OF THIS MATTER?

MS. MOORER: ABSOLUTELY NOT.

THE COURT: THANK YOU. MR. SWAN, I NEGLECTED TO ASK YOU THE QUESTION. ASSUMING THAT THE GENTLEMAN THAT THEY CALLED IS THE PERSON YOU KNOW, WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS MATTER?

MR. SWAN: NO, SIR.

THE COURT: THANK YOU VERY MUCH. DOES ANY MEMBER OF THE JURY PANEL HAVE ANY PREJUDICE AGAINST IMMIGRANTS, ORTHODOX CHRISTIANS, EGYPTIANS OR PHYSICIANS?

(NO RESPONSE)

THE COURT: PLEASE LET THE RECORD THAT NO ONE HAS RISEN IN RESPONSE TO THAT QUESTION. MR. FERNANDEZ, ANY FURTHER VOIR DIRE?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: MR. BRIGGS, ANY FURTHER VOIR DIRE?

MR. BRIGGS: YOUR HONOR –

THE COURT: PLEASE YES OR NO. AND IF THE ANSWER IS NOT NO WE'LL STEP TO THE SIDE.

MR. BRIGGS: THE ANSWER IS YES.

THE COURT: LET'S STEP ON THE SIDE AND DO IT WITHOUT THEM HEARING IT.

(OFF THE RECORD DISCUSSION)

THE COURT: THERE WAS A MOTION MADE OUT OF THE PRESENCE OF THE JURY. THAT MOTION HAS BEEN DENIED. MR. BRIGGS, WHEN WE HAVE AN OPPORTUNITY OUTSIDE THE PRESENCE OF THE JURY WE'LL PLACE IT FORMALLY ON THE RECORD SO THAT CAN BE PRESERVED.

MR. BRIGGS: YES, YOUR HONOR.

THE COURT: WE ARE NOW GOING TO PROCEED WITH THE DRAWING OF A JURY. A NAME WILL BE CALLED. WHEN IT IS CALLED, IF YOU'D PLEASE COME UP FRONT IN FRONT OF THE BAR AND TURN AROUND SO THAT BOTH TABLES CAN SEE YOU AND PLEASE INDICATE YOUR NAME AND WHERE YOU WORK. IF YOU WORK SOMEWHERE THAT MAY NOT BE COMMON PLEASE – WE'LL JUST HAVE EVERYBODY DO IT – PLEASE ALSO SAY WHAT YOU DO AT YOUR PLACE OF EMPLOYMENT. IF YOU ARE NOT EMPLOYED, JUST SAY THAT. I WILL TELL ANYBODY IF YOU ARE A STAY-AT-HOME DAD OR MOM THAT IS EMPLOYMENT, IS WORK, SO PLEASE MAKE SURE YOU SAY THAT SO THAT WE ALL UNDERSTAND WHAT YOU DO. YES, MA'AM, MADAM CLERK.

COURT CLERK: PATRICIA BROOKS.

THE COURT: MS. BROOKS APPEARS NOT TO BE HERE. PLEASE GO TO THE NEXT NAME.

COURT CLERK: CORNELIUS BURGESS. PAUL DAVIES.

THE COURT: WE MAY HAVE AN ISSUE. LET US STOP. WE NEED TO COMPARE THIS WITH THE SIGN-IN LIST.

MR. FERNANDEZ: THEY WERE ALL PEOPLE THAT WERE EXCUSED, THE THREE NAMES THAT WERE CALLED.

COURT CLERK: JONATHAN FOMBY.

JUROR: MY NAME IS JONATHAN FOMBY. I AM A COMPUTER DEVELOPER AT COMPUGROUP MEDICAL.

THE COURT: MR. FERNANDEZ?

MR. FERNANDEZ: PLEASE SEAT THE JUROR, YOUR HONOR.

THE COURT: MR BRIGGS.

MR. BRIGGS: WHAT WAS THE NAME OF HIS EMPLOYER?

THE COURT: PLEASE REPEAT IT.

MR. FOMBY: COMPUGROUP MEDICAL. IT'S A SOFTWARE, MEDICAL SOFTWARE COMPANY.

MR. BRIGGS: YOU WORK FOR THE HOSPITALS AND DOCTORS?

MR. FOMBY: YES.

DEFENDANT FALTAS: YOUR HONOR, I NEED TO ASK IF HE WAS ON THE JURY –

THE COURT: NO, MA'AM. NO, MA'AM. NO, MA'AM. FIRST OF ALL, IF YOU HAVE QUESTIONS WE NEED TO GO OFF TO THE SIDE BECAUSE YOUR QUESTION MAY NOT BE APPROPRIATE FOR THEM TO HEAR. THAT'S NUMBER ONE. MR. BRIGGS, WOULD YOU LIKE TO HAVE A CONVERSATION REGARDING A REQUEST? WOULD YOU LIKE TO REQUEST THAT, MR. FERNANDEZ? LET'S GO OFF TO THE SIDE, PLEASE. IF YOU DON'T WISH TO REQUEST IT, YOU DON'T HAVE TO.

(OFF THE RECORD DISCUSSION)

THE COURT: MR. BRIGGS, WHAT IS YOUR POSITION ON THIS JUROR?

MR. BRIGGS: SEAT HIM, YOUR HONOR.

THE COURT: ALL RIGHT. IF YOU COME AROUND, SIR. IF YOU HAVE A CELL PHONE, IF YOU'D BE KIND ENOUGH TO PLACE IT RIGHT WHERE YOU ARE THERE. THE COURT OFFICER WILL TAKE VERY GOOD CARE OF IT.

MR. FOMBY: CAN I SEND SOMEONE A MESSAGE TO LET THEM KNOW THAT I'M GOING TO BE HERE?

THE COURT: PLEASE DO. YOU CAN HAVE A SEAT AND DO THAT AND THEN PLACE IT BACK. PLEASE GO TO THE NEXT PERSON.

COURT CLERK: LAURA OWEN.

JUROR: MY NAME IS LAURA OWEN. I AM A STAY-AT-HOME MOM.

MR. FERNANDEZ: WE'D LIKE TO SEAT MS. OWEN, YOUR HONOR.

THE COURT: OKAY.

MR. BRIGGS: WHAT KIND OF WORK DOES HER HUSBAND DO, YOUR HONOR?

THE COURT: PLEASE INFORM THEM YOUR SPOUSE'S OCCUPATION.

MS. OWEN: HE IS IN COMMERCIAL REAL ESTATE DEVELOPMENT.

THE COURT: THANK YOU, MA'AM. YOUR POSITION, MR. BRIGGS?

MR. BRIGGS: SEAT HER, YOUR HONOR.

THE COURT: THANK YOU, MA'AM. IF YOU WOULD COME AROUND, PLEASE. IF YOU HAVE A CELL PHONE -- PLEASE GATHER YOUR THINGS. IF YOU HAVE A CELL PHONE, PLEASE PLACE IT ON THE BENCH. THEY WILL RETURN THEM TO YOU. THANK YOU, MA'AM.

COURT CLERK: RUTH SHAWHAN.

JUROR: I'M RUTH SHAWHAN. I'M SINGLE AND I TEACH SOME CLASSES, COURSES ON LINE.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: WE'D LIKE TO SEAT MS. SHAWHAN, YOUR HONOR.

MR. BRIGGS: PREVIOUS MARITAL STATUS, YOUR HONOR, WITHOUT GETTING INTO ANY DETAILS?

(DISCUSSIONAT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: THE SPOUSE'S OCCUPATION.

MR. BRIGGS: SHE'S SINGLE.

DEFENDANT FALTAS: DID SHE SAY SINGLE?

MR. BRIGGS: YEAH.)

MS. SHAWHAN: SINGLE.

DEFENDANT FALTAS: OH, I'M SORRY.

THE COURT: PLEASE DON'T HAVE CONVERSATION WITH THE JURORS DIRECTLY.

DEFENDANT FALTAS: I'M SORRY.

THE COURT: MR. BRIGGS.

MR. BRIGGS: EXCUSE HER, YOUR HONOR.

THE COURT: YOU HAVE BEEN EXCUSED. PLEASE SIT IN THE BACK IN CASE THERE'S SOME REASON FOR US TO RE-ADDRESS AN ISSUE.

MR. BRIGGS: I MISSED HER NAME, YOUR HONOR.

THE COURT: MS. SHAWHAN. YES, MA'AM, MADAM CLERK.

COURT CLERK: VALERIE MOULTRIE.

JUROR: I'M VALERIE MOULTRIE. I'M A HOMEMAKER AND MY HUSBAND IS ON DISABILITY.

MR. BRIGGS: WHAT KIND OF WORK DID HE DO BEFORE –

THE COURT: STOP, MR. BRIGGS. MR. FERNANDEZ.

MR. FERNANDEZ: WE'D LIKE TO SEAT MS. MOULTRIE, YOUR HONOR.

THE COURT: THANK YOU. MR. BRIGGS, WILL YOU NOT HAVE DIRECT VOIR DIRE. IF YOU HAVE A QUESTION THAT YOU WISH TO HAVE ASKED, PLEASE ADDRESS IT TO THE COURT. WHAT'S YOUR POSITION, MR. BRIGGS?

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: SEAT HER.

MR. BRIGGS: SEAT HER?)

MR. BRIGGS: SEAT HER, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. PLEASE HAVE A SEAT, MA'AM.

COURT CLERK: BRADFORD STEELE.

JUROR: IT'S BRAD STEELE. I'M A FUNERAL DIRECTOR FOR GREENLAWN FUNERAL HOME AND MY WIFE IS A PRE-SCHOOL TEACHER.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: PLEASE SEAT MR. STEELE, YOUR HONOR.

THE COURT: MR. BRIGGS?

MR. BRIGGS: COULD THE COURT ASK ABOUT THE COMMON NAME?

THE COURT: I'LL TRY TO. I DON'T UNDERSTAND THE QUESTION.

MR. BRIGGS: SAME NAME AS ONE OF THE PEOPLE IN THE COURT-

ROOM, YOUR HONOR.

THE COURT: WHAT'S YOUR LAST NAME?

MR. STEELE: STEELE. THERE'S NO RELATION.

THE COURT: OKAY. ARE YOU RELATED TO ANYBODY IN THIS COURTROOM?

MR. STEELE: NO, SIR.

THE COURT: THANK YOU VERY MUCH.

MR. BRIGGS: EXCUSE HIM, YOUR HONOR.

THE COURT: THANK YOU. PLEASE HAVE A SEAT IN THE BACK OF THE COURTROOM, MR. STEELE.

COURT CLERK: JOHN LONG.

JUROR: MY NAME IS JOHN LONG AND I TEACH MATHEMATICS AT MIDLANDS TECHNICAL COLLEGE. MY WIFE IS RETIRED.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: WE'D LIKE TO SEAT MR. LONG, YOUR HONOR.

THE COURT: MR. BRIGGS?

MR. BRIGGS: SEAT HIM, YOUR HONOR.

THE COURT: THANK YOU.

COURT CLERK: WHITNEY HILLER.

JUROR: MY NAME IS WHITNEY HILLER. I WORK AT PALMETTO CITIZENS FEDERAL CREDIT UNION AND I AM NOT MARRIED.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: PLEASE SEAT MS. HILLER, YOUR HONOR.

THE COURT: MR. BRIGGS?

MR. BRIGGS: SEAT HER, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH.

COURT CLERK: ABIJAHSENE FOOTMAN.

JUROR: MY NAME IS ABIJAHSENE FOOTMAN. I WORK AT COLUMBIA UROLOGICAL ASSOCIATES AND I'M A SURGICAL COORDINATOR AND I'M NOT MARRIED.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: WE'D LIKE TO SEAT MS. FOOTMAN, YOUR HONOR.

THE COURT: ALL RIGHT.

MR. BRIGGS: EXCUSE HER, YOUR HONOR.

THE COURT: MS. FOOTMAN, PLEASE HAVE A SEAT IN THE BACK OF THE COURTROOM.

COURT CLERK: KEITH McLEMORE.

JUROR: MY NAME IS KEITH McLEMORE. I'M NOT MARRIED AND I'M A IN-HOME CAREGIVER.

MR. FERNANDEZ: WE'D LIKE TO SEAT MR. McLEMORE, YOUR HONOR.

THE COURT: THANK YOU, MR. FERNANDEZ. MR. BRIGGS?

MR. BRIGGS: SEAT HIM, YOUR HONOR.

THE COURT: THANK YOU, SIR. WE HAVE SIX JURORS. WE NEED TO SELECT AN ALTERNATE.

COURT CLERK: THOMAS GREEN. CHARLOET SWANN.

JUROR: MY NAME IS CHARLOET SWANN. I'M IN COSMETOLOGY AND I WORK AT STERLING HOUSE AND I'M DIVORCED.

THE COURT: YES, SIR.

MR. FERNANDEZ: PLEASE SEAT MS. SWANN.

THE COURT: YES, SIR.

MR. BRIGGS: SEAT HER, YOUR HONOR.

THE COURT: THANK YOU. YOU WILL BE OUR ALTERNATE. MS. SWANN, AS YOU CAN SEE FROM THE JURY BOX WE DON'T HAVE ROOM FOR SEVEN THERE SO WE ARE GOING TO SIT YOU HERE AND YOU WILL BE ALLOWED TO GO BACK IN THE DELIBERATION ROOM (INAUDIBLE). ANY MOTIONS TO BE TAKEN UP REGARDING THE SELECTION OF THE JURY? ANY FROM THE STATE?

MR. FERNANDEZ: NO, YOUR HONOR.

MR. BRIGGS: YOUR HONOR, I'M SORRY.

THE COURT: PLEASE STEP OVER TO THE SIDE.

MR. BRIGGS: NO, I JUST WANT TO ASK HER NAME, YOUR HONOR.

THE COURT: MS. SWANN. ANY ISSUES TO BE TAKEN UP RAISED BY THE DEFENSE?

MR. BRIGGS: NOTHING WITH REGARD TO THE JURY, YOUR HONOR.

THE COURT: ALL RIGHT. WE HAVE A JURY FOR THIS MATTER.

(BALANCE OF VENIRE IS DISMISSED)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE HAVE SEVERAL THINGS THAT WE NEED TO ADDRESS NOW THAT WE HAVE YOU SEATED THAT COULD NOT BE ADDRESSED BEFORE YOU WERE. ACCORDINGLY, WE ARE GOING TO ASK THAT YOU GO INTO THE DELIBERATION ROOM AND WAIT ON US TO BRING YOU OUT FOR THE CASE TO START. LET ME TELL YOU TWO THINGS BEFORE YOU DO SO. NUMBER ONE, PLEASE DON'T TALK ABOUT THIS CASE. I KNOW YOU DON'T HAVE ANYTHING TO TALK ABOUT AT THIS POINT BUT THAT IS JUST THE SAME INSTRUCTION I MUST GIVE YOU AT EVERY POINT AND

SO IT WILL BE CONTINUING THROUGHOUT THE DAY UNTIL SUCH POINT AS THE CASE IS PLACED IN YOUR HANDS FOR YOU TO MAKE A DECISION. NUMBER TWO, I KNOW A LOT OF TIMES WHEN YOU GET A JURY SUMMONS IT MAY NOT BE THE MOST WELCOMED SIGHT IN YOUR MAILBOX BUT I WILL TELL YOU THAT SEVERAL YEARS AGO I HAD A FELLOW JUDGE LOOK AT A JURY AND TELL THEM THAT THE REASON THE UNITED STATES OF AMERICA HAS STOOD THE WAY IT HAS FOR SO MANY YEARS IS BECAUSE OF JURY SERVICE. IF YOU LOOK AROUND AT EVERY OTHER COUNTRY THAT HAS AN ELECTED PRESIDENT AND A CONSTITUTION, ON PAPER THEY ARE VERY SIMILAR TO US YET MANY OF THOSE COUNTRIES DO NOT STAND THE TEST OF TIME, AND A GREAT PART OF THAT IS THE ABILITY TO HAVE PEOPLE BE INCONVENIENCED AND COME IN AND PROVIDE SERVICE SO THAT PEERS OF PEOPLE THAT ARE ACCUSED OF CRIMES OR PEOPLE THAT HAVE DISPUTES CAN RESOLVE THEM. AND SO THIS IS NO SMALL MATTER ALTHOUGH THIS IS MUNICIPAL COURT. THIS IS A BIG DEAL TO EVERYONE INVOLVED AND I MEANS A LOT TO HAVE YOU HERE SO WE THANK YOU FOR YOUR SERVICE.

IF YOU'LL BE KIND ENOUGH TO GO INTO THE JURY ROOM AND THERE'S A RESTROOM IN THERE AS WELL. WE WILL CALL YOU OUT WHEN WE ARE READY TO BEGIN.

(JURY LEAVES THE JURY BOX)

THE COURT: WHAT MATTERS OTHER THAN THE CURATIVE CHARGE THAT WILL BE DONE AS A PART OF MY INITIAL CHARGE DO WE HAVE TO ADDRESS PRIOR TO STARTING WITH OPENING ARGUMENTS? ANY FROM YOU, MR. FERNANDEZ?

MR. FERNANDEZ: YES, YOUR HONOR, I HAVE A MOTION IN LIMINE.

THE COURT: ALL RIGHT. PLEASE MAKE IT.

MR. FERNANDEZ: YOUR HONOR, I WOULD MOVE IN LIMINE SHOULD THE DEFENSE DECIDE TO TAKE THE STAND OR EVEN THROUGH ARGUMENT ANY REFERENCES TO THE CONSEQUENCES OF A CONVICTION. THAT'S JUST IMPROPER. ANYTHING THAT GENERALLY GOES TOWARDS JURY NULLIFICATION. I THINK THAT IS ONE OF THEM, BUT ALSO SPECIFICALLY ANY DEFENSE BASED ON SELECTIVE PROSECUTION. THAT WOULD BE IMPROPER. AND ANY DISCUSSION OF PLEA NEGOTIATIONS AND I WOULD – ANY PERSONALIZING WITH THE JURY, THINGS OF THAT NATURE. THINGS THAT ARE VERY COMMONLY NOT PERMITTED IN TRIAL BUT I THINK WE HAVE TO REMIND THIS DEFENDANT OF THAT.

THE COURT: MR. BRIGGS.

MR. BRIGGS: YOUR HONOR, JUST THE ONE POINT IS MY UNDERSTANDING THAT SELECTIVE PROSECUTION IS STILL A LEGAL DOCTRINE IN THIS STATE. WE DON'T HAVE A GREAT DEAL OF THOSE CASES BUT IF THERE WAS A CASE AND I WOULD JUST – WITHOUT GETTING INTO EVIDENCE, THERE WAS SOME DISCUSSION BETWEEN THE PARTIES AS TO WHETHER OR NOT THERE WERE ANY OTHER LOCATIONS IN THAT AREA THAT WERE – HAD AS MUCH, QUOTE, STUFF IN THE YARD AS DID DR. FALTAS. AND SO I THINK THE SELECTIVE PROSECUTION IS A VERY VALID DEFENSE AND I WOULD CLEARLY INTEND TO ASK SOME QUESTIONS IN THAT AREA, YOUR HONOR.

THE COURT: HE ADDRESSED SEVERAL ISSUES. IN IT, HE ADDRESSED --

MR. BRIGGS: THAT'S THE ONLY ONE I'M CONCERNED ABOUT.

THE COURT: OKAY. SO THE MOTION IS GRANTED AS TO ALL

AREAS EXCEPT AS TO ANY ARGUMENTS OR QUESTIONS REGARDING SELECTIVE PROSECUTION. MR. FERNANDEZ, LET'S ADDRESS THAT.

MR. FERNANDEZ: THE SELECTIVE PROSECUTION, IT IS POTENTIALLY VALID. THERE IS CASE LAW ON IT. IT'S AN EXTRAORDINARILY HIGH BAR FOR A DEFENDANT TO ACTUALLY PROVE OR TO ACTUALLTY BRING A SELECTIVE PROSECUTION DEFENSE. I WOULD BE IMPOSSIBLE FOR THIS DEFENDANT TO PROVE THAT. IF THEY CAN, I WELCOME IT IN THEIR PART OF THEIR DEFENSE BUT TO ASK QUESTIONS AT THE ONSET WITHOUT PROVIDING A BASIS FOR IT WOULD BE IMPROPER. THE MERE FACT THAT THERE MAY EXIST OTHER PROPERTIES IN THE ENTIRE CITY THAT HAVE GARBAGE AND DEBRIS STREWN ABOUT DOES NOT PRECLUDE THE CITY FROM PROSECUTING THIS ONE DEFENDANT. THE QUESTION BEFORE THE JURY IS NOT WHETHER OR NOT THAT EXISTS. THE ONLY QUESTION THE JURY HAS TO DECIDE IS WHETHER OR NOT IT EXISTED ON THIS PROPERTY ON THIS DATE AND TIME.

THE COURT: MR. BRIGGS, WHAT DO YOU INTEND TO DO REGARDING SELECTIVE PROSECUTION?

DEFENDANT FALTAS: I'M SORRY. I DIDN'T HEAR.

THE COURT: I ASKED MR. BRIGGS A DIRECT QUESTION.

MR. BRIGGS: I HAD PROBLEMS WITH FIGURING OUT WHAT HE WAS TRYING TO MAKE A DISTINCTION ON.

THE COURT: MY QUESTION IS A LITTLE DIFFERENT. YOU RAISED THAT YOU MIGHT WANT TO RAISE THE ISSUE OF SELECTIVE PROSECUTION.

MR. BRIGGS: I WOULD DO IT WITH EVIDENCE, YOUR HONOR, NOT JUST ASKING THE QUESTION. I WOULD SHOW EVIDENCE THAT –

THE COURT: LET'S BACK UP ONE STEP. DO YOU INTEND TO DO IT

IN CROSS EXAMINING ANY OF THE PEOPLE PUT ON THE STAND BY THE STATE?

MR. BRIGGS: YES, HIS PRIMARY WITNESS AND ALSO WHEN MY WITNESS TESTIFIES.

THE COURT: OKAY. SO HIS PRIMARY WITNESS AND WHAT DO YOU INTEND TO DO WITH HIS PRIMARY WITNESS ON THAT POINT?

MR. BRIGGS: IT'S MY UNDERSTANDING THAT THEY WERE SHOWN PROPERTIES, THAT PICTURES WERE TAKEN AND MY QUESTION WOULD BE HAS THERE BEEN ANY INVESTIGATION OF THOSE SITUATIONS.

THE COURT: IS THAT THE EXTENT?

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: NO, THAT'S NOT THE EXTENT.)

MR. BRIGGS: YOUR HONOR, OF COURSE, OBVIOUSLY I WOULD WANT TO FOLLOW UP AND ASK WHAT THEY SEE – WHAT'S THE DIFFERENCE BETWEEN THAT ONE AND THE ONE THEY ARE PROSECUTING.

THE COURT: OKAY.

MR. BRIGGS: VERY COMMON. YOUR HONOR, I DON'T BERATE PEOPLE AND I DON'T, YOU KNOW, GET INTO ALL THAT KIND OF STUFF.

THE COURT: OKAY. MR. FERNANDEZ.

MR. FERNANDEZ: YOUR HONOR, EXACTLY WHAT COUNSEL DESCRIBED IS EXACTLY WHAT THE CASE LAW SAYS IS NOT PERMISSIBLE. THE REASON THAT YOU DON'T DO SELECTIVE – THE DEFENDANT'S NOT ALLOWED TO ARGUE SELECTIVE PROSECUTION BECAUSE EVERY CASE, EVERY CHARGE IN THE UNITED STATES THAT COULD BE ARGUED. ANY DRUG CASE, ANY CRIMINAL CASE YOU COULD ALWAYS ARGUE THOSE OTHER PEOPLE ARE DOING THE SAME THING. EVEN A SPEEDING CASE. IT'S NOT ALLOWED BECAUSE IT'S WHAT'S

CONSIDERED JURY NULLIFICATION. YOU ARE NOT ASKING THE JURY TO DECIDE THE CASE ON THE MERITS, YOU'RE TRYING TO ASK THEM TO CONSIDER WHAT IF'S AND THINGS THAT HAVE NOTHING TO DO WITH THE CASE AT HAND. SELECTIVE PROSECUTION, AND THIS IS MY UNDERSTANDING OF THE CASE LAW THAT I'VE READ -- I CAN CERTIANLY GO PRINT IT FOR YOU IF YOUR HONOR WOULD PREFER TO SEE THE CASE LAW, BUT IT REQUIRES A SHOWING THAT NOT ONLY DID THAT SITUATION EXISTS, THAT THERE ARE OTHER PEOPLE. THAT DOESN'T EVEN ENTER THE EQUASION. WHAT IS IMPORTANT IS THAT THEY SOMEHOW TARGETED THAT PERSON BASED ON SPECIFIC EVIDENCE, I.E., E-MAILS, ANY KIND OF – ANYTHING SPECIFICALLY THAT THEY WERE TARGETING. THE DEFENDANT IN THIS CASE, THERE'S NOTHING THAT SUGGESTS THAT BECAUSE THERE'S NOTHING THAT EXISTS. SO THAT'S WHY SELECTIVE PROSECUTION IS NOT ALLOWED.

THE COURT: SO, MR. BRIGGS, DO YOU DISAGREE WITH HIS ANALYSIS OF THE CASE LAW?

MR. BRIGGS: I VERY MUCH DISAGREE, YOUR HONOR.

THE COURT: DOES ANYBODY HAVE THE CASE LAW?

DEFENDANT FALTAS: YES, I DO.

MR. BRIGGS: FIND IT FOR HIM WHILE I'M TALKING.

THE COURT: I'LL NEED TO LOOK AT IT. YOU KNOW, IF YOU CAN'T AGREE ON WHAT THE LAW SAYS YOU NEED TO SHOW IT TO ME.

MR. BRIGGS: YOUR HONOR, LET ME GIVE YOU JUST A LITTLE BIT OF HISTORY WITHOUT USING ANY NAMES SO YOU KNOW WHAT MY CONCERN IS. THESE KIND OF CASES STARTED FIVE OR SIX YEARS AGO (INAUDIBLE). THE FIRST CASE?

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: WHAT FIRST CASE?

MR. BRIGGS: INVOLVING YOUR ENEMIES.

DEFENDANT FALTAS: THEY STARTED WITH MYMOTHER AND I BOUGHT THE LAND ON MARCH 3RD, 2009, WHEN THEY FOUND OUT THAT I BOUGHT THE LAND.)

MR. BRIGGS: THERE'S BEEN CONTROVERSY BETWEEN SOME WITNESSES IN OTHER CASES AND DR. FALTAS SINCE 2009, YOUR HONOR. AND THE CITY OF COLUMBIA KNOWS THAT SOME OF THE WITNESSES THEY'VE USED HAVE LIED AND BEEN GUILTY OF PERJURY, YOUR HONOR. BUT WE STILL GET THESE NEW CASES COMING UP AND I'M SPECULATING NOW BUT I SUSPECT THAT ONE OF THOSE WITNESSES IS THE ONE THAT CALLED THE CITY ABOUT THIS PROBLEM.

THE COURT: SO YOU WOULD LIKE TO QUESTION AS TO WHY THEY TARGETED –

MR. BRIGGS: WHAT MOTIVATION.

THE COURT: ON DR. FALTAS?

MR. BRIGGS: YES, YOUR HONOR.

THE COURT: MR. FERNANDEZ, WHAT IS YOUR POSITION ON THAT?

MR. FERNANDEZ: IF THE QUESTION IS SIMPLY WHY DID YOU DECIDE TO ISSUE A SUMMONS FOR THIS PROPERTY, THAT'S – THEY'LL TESTIFY ABOUT THAT ON DIRECT. THE QUESTION IS –

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: NO. WHY DID HE EVEN GO THERE? WHY DID HE EVER GO THERE?

MR. BRIGGS: I CAN'T LISTEN TO TWO...)

THE COURT: DR. FALTAS, I HAVE TO LISTEN TO THE ARGUMENTS MADE. PLEASE BE QUIET OR AT LEAST QUIET ENOUGH THAT I'M ABLE TO HEAR COUNSEL WHEN THEY SPEAK.

MR. BRIGGS: AND, YOUR HONOR, I CAN'T LISTEN TO TWO PEOPLE AT ONE TIME.

THE COURT: I'M GOING TO LET YOU AND DR. FALTAS WORK THAT ONE OUT, I CAN'T CONTROL HOW Y'ALL INTERACT. DON'T SPEAK LOUD ENOUGH FOR ME TO HEAR YOU, DR. FALTAS.

MR. BRIGGS: THE POINT IS THIS. IF IN FACT –

THE COURT: I CUT HIM OFF. I CUT HIM OFF. DR. FALTAS STARTED TALKING AND I CUT HIM OFF.

MR. BRIGGS: OH, I'M SORRY. I DON'T LIKE TO CUT PEOPLE OFF. I APOLOGIZE.

MR. FERNANDEZ: IF THAT'S THE QUESTION THEN I HAVE NO OBJECTION BECAUSE I'LL ASK THE SAM QUESTION BUT I DON'T SUSPECT THAT'S WHAT THEY ARE GOING TO ASK. WHAT THEY ARE GOING TO ASK IS SOME SORT OF CONSPIRACY AND WE SEE IT IN EVERY CASE THAT SHE HAS. IT'S THIS WHOLE GRAND CONSPIRACY AND IT DOESN'T EXIST. ALL EXIST IS – THE PICTURES SPEAK FOR THEMSELVES. THAT'S ALL THIS CASE IS ABOUT.

THE COURT: WHAT'S YOUR LINE OF QUESTIONIING – OKAY, THERE ARE TWO THINGS THAT HAVE BEEN RAISED. ONE IS ARE THERE OTHER PROPERTIES THAT YOU DIDN'T INVESTIGATE AND I'LL MAKE A RULING ON THAT. AND THE SECOND ONE IS WHAT IS YOUR MOTIVATION ON PROSECUTING DR. FALTAS.

MR. BRIGGS: YOUR HONOR, THERE ARE A COUPLE OF OTHER THINGS IN BETWEEN THAT, YOUR HONOR, AND IT WOULD BE VERY SIMPLE. IF I HAD THE TIME I WOULD – IF WE'D TAKE A BREAK – I'D WRITE THE QUESTIONS OUT FOR THE COURT.

THE COURT: JUST TELL ME THE GENERAL LINE OF QUESTIONS ON THE MOTIVATION.

MR. BRIGGS: YOUR HONOR, THERE ARE PICTURES OF OTHER PROPERTIES THAT WERE SHOWN TO THE CITY'S KEY WITNESS. I HAVE NOT STUDIED ALL THOSE PICTURES. IT'S MY UNDERSTANDING THOUGH THAT THEY WERE AS BAD OR WORSE THAT WHAT HERS ARE. SO THE QUESTION IS OBVIOUS. HAVE YOU DONE ANYTHING TO CLEAN UP THOSE YARDS AND HAVE YOU PROSECUTED ANY OF THOSE PEOPLE.

THE COURT: I UNDERSTAND THAT PART YOU ARE ASKING AND I'M GOING TO RULE ON THAT. WE HAD TRANSITIONED TO QUESTIONS REGARDING MOTIVATION AND THAT IS WHAT I'M ASKING YOU WHAT YOUR LINE OF QUESTIONING IS ON.

MR. BRIGGS: YOUR HONOR, COULD I TELL A VERY SHORT STORY?

THE COURT: NO, SIR, BECAUSE THE JURY IS WAITING. IF YOU COULD JUST TELL ME WHAT YOU WANT THE LINE OF QUESTIONING –

MR. BRIGGS: ONE OF MY FAVORITE U.S. SENATORS –

THE COURT: ARE YOU GOING TO TELL THE STORY ANYWAY, MR. BRIGGS?

MR. BRIGGS: NO. YOU REALLY CAN'T TELL WHAT SOMEBODY'S MOTIVATION IS BECAUSE YOU CAN'T READ THEIR MIND,YOUR HONOR. NO, I WOULD NOT GET INTO THAT BUT, YOU KNOW, IT'S LIKE –

THE COURT: NOW, MR. BRIGGS, I'M NOT TRYING TO MAKE THIS UP. MY QUESTION – I THOUGHT YOU WERE – IF YOU ARE TELLING ME YOU ARE NOT GOING INTO HOW IT GOT STARTED, THEN THAT'S SIMPLE. I'LL JUST SAY WE CAN'T GO INTO THAT. IF YOU WANT TO GO INTO THAT, YOU NEED TO TELL ME SO I CAN MAKE A RULING ON IT. I'M NOT TRYING TO ADD THINGS TO YOUR PLATE. I THOUGHT THAT'S WHAT YOU TOLD ME.

MR. BRIGGS: YOUR HONOR, I WOULDN'T BE INCLINED TO GO INTO MOTIVATION ALTHOUGH I MIGHT ARGUE THAT AND WE'D HAVE A PROBLEM AT THAT POINT BUT I THINK THE COURT NEEDS TO KNOW – LET'S SPECULATE. LET'S SAY THERE'S A HUNDRED OTHER YARDS WITHIN A MILE OF HER PLACE THAT ARE WORSE THAN HERS, YOUR HONOR.

THE COURT: LET'S DO THIS.

MR. BRIGGS: THE QUESTION IS WHY DIDN'T YOU DO SOMETHING ABOUT THOSE.

THE COURT: THE FIRST PART IS THE SIMPLE PART. HE DOESN'T THINK MOTIVATION LINE OF QUESTIONS SHOULD BE ASKED. YOU SAY YOU ARE NOT GOING TO ASK IT. THE RULING OF THE COURT IS YOU ARE NOT ALLOWED TO GO INTO WHY THEY BROUGHT THE CHARGE AGAINST HER. THAT'S NUMBER ONE. SO THE SECOND QUESTION IS – AND THAT'S PRETTY MUCH BY AGREEMENT BUT I'M MAKING IT AN ORDER OF THE COURT SO THERE'S NO MISUNDERSTANDING AS TO WHAT WE AGREED UPON. SECOND QUESTION IS CAN YOU GO INTO OTHER PROPERTIES. MR. FERNANDEZ SAYS THE CASE LAW DOES NOT ALLOW THAT, YOU SAY IT DOES. NOBODY'S HANDED ME A PIECE OF PAPER SO WHAT WE ARE GOING TO DO IS THE FOLLOWING. THERE WILL BE NO ARGUMENT IN OPENING REGARDING THAT TYPE OF EVIDENCE, WHAT ELSE IS

OUT THERE. WE WILL GIVE THE JURY ITS INITIAL CHARGE, WE WILL HAVE OPENING STATEMENTS, THEN WE WILL HAVE THEM TAKE A MORNING BREAK AND WE WILL ADDRESS THIS ISSUE AND THEN WE'LL CALL THE FIRST WITNESS. PRIOR TO DOING THAT, I NEED TO HAND YOU THIS PIECE OF PAPER, MR. BRIGGS. I NEED YOU TO TELL ME WHAT A COUPLE OF WORDS SAY SO THAT I CAN HAVE MY CHARGE ACCURATE TO WHAT YOU AND MR. FERNANDEZ AGREED TO.

(OFF THE RECORD DISCUSSION)

DEFENDANT FALTAS: YOUR HONOR, THERE IS SOMETHING THAT RISK ME BEING IN CONTEMPT AND –

THE COURT: PLEASE SPEAK TO YOUR ATTORNEY ABOUT IT.

(DISCUSSION AT DEFENSE TABLE:

DEFENDANT FALTAS: I WANT HIM TO MAKE (INAUDIBLE) IN THIS CASE. I WANT OTHERS IF THERE ARE OTHERS (INAUDIBLE) SO I'M CLEAR AND I DON'T RISK CONTEMPT.)

THE COURT: ANY MOTION, MR. BRIGGS?

(DISCUSSION AT DEFENSE TABLE:

MR. BRIGGS: WELL, OF COURSE, I'M GOING TO ASK YOU CERTAIN QUESTIONS BUT I'M GOING TO GIVE YOU SOME LEEWAY.

DEFENDANT FALTAS: ASK HIM TO MAKE A RULING IN WRITING.)

THE COURT: DR. FALTAS, WHEN YOU SPEAK TO YOUR ATTORNEY PLEASE DO NOT DO IT LOUD ENOUGH FOR ALL OF US TO HEAR.

MR. BRIGGS: YOUR HONOR, WHAT SHE'S ASKING ME TO DO IS ASK THE COURT FOR A BROADER –

THE COURT: LET'S STOP FOR A SECOND. I DON'T WANT TO KNOW WHAT SHE'S ASKING YOU TO DO. I WANT TO KNOW WHAT YOU ARE ASKING THE

THE COURT TO DO, IF ANYTHING.

MR. BRIGGS: YOUR HONOR, IT'S A QUESTION OF WHETHER WE NEED A BROADER IN LIMINE MOTION AND I DON'T THINK SO. I THINK THE RESTRICTIONS THAT MR. –

(DISCUSSION AT DEFENSE TABLE:

DEFENDANT FALTAS: THAT'S NOT THE QUESTION. THE QUESTION IS I DO NOT --)

THE COURT: DR. FALTAS, TALK TO YOUR LAWYER. YOU ARE TRYING TO TALK TO ME.

(DISCUSSION AT DEFENSE TABLE:

DEFENDANT FALTAS: I DO NOT UNDERSTAND IF THERE ARE ANY RESTRICTIONS ON MY TESTIMONY. I DO NOT UNDERSTAND –

MR. BRIGGS: RESTRICTIONS IS WHAT HE PUT ON IT AND WHAT THE JUDGE DOES.

DEFENDANT FALTAS: I DO NOT –

MR. BRIGGS: YOU CAN'T TAINT IT.)

MR. BRIGGS: YOUR HONOR, I APOLIGIZE BUT SHE WANTS YOU TO TELL HER ALL THE THINGS SHE CAN'T SAY BEFORE SHE GETS UP HERE AND TESTIFIES.

THE COURT: WE WILL –

MR. BRIGGS: WHICH I THINK IS IMPOSSIBLE.

THE COURT: IT IS. WE WILL GO OVER THE MOTION IN LIMINE REQUIREMENTS, RESTRICTIONS PRIOR TO THE START OF THE DEFENSE CASE SO THAT IT CAN BE REFRESHED IF SHE SO CHOOSES TO TESTIFY. THAT IS NOT GOING TO HAPPEN AT THIS MOMENT. WE ARE GOING TO BRING THE JURY IN

AND WE ARE GOING TO DO OPENING CHARGE AND OPENING STATEMENTS.

(DISCUSSION AT DEFENSE TABLE:

DEFENDANT FALTAS: DO YOU HAVE AN OPENING STATEMENT?

MR. BRIGGS: YEAH, SURE.

DEFENDANT FALTAS: DON'T USE THE WORD GARBAGE, DON'T USE THE WORD –

MR. BRIGGS: I'M NOT GOING TO.

DEFENDANT FALTAS: ONLY POINT TO THOSE AND POINT TO THE MAP.

MR. BRIGGS: OKAY.

DEFENDANT FALTAS: AND DON'T TALK ABOUT YOURSELF. THE CASE IS NOT ABOUT YOU. AND DON'T TOUCH ME.

MR. BRIGGS: IT'S ABOUT CREDIBILITY OF BOTH OF US HERE.

DEFENDANT FALTAS: NO, IT'S NOT.

MR. BRIGGS: YES, IT IS.)

(JURY RETUIRNS TO THE JURY BOX)

THE COURT: WE ARE ABOUT TO BEGIN. I AM GOING TO GIVE YOU A VERY BRIEF OPENING INSTRUCTION AND THEN WE WILL HAVE OPENING STATEMENTS BY BOTH SIDES. YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS SWORN TO IMPARTIALLY TRY AND DETERMINE THE FACTS OF THE CASE AND WHEN YOU HAVE COMPLIED WITH YOUR OATH TO DO SO THEN NO ONE WILL HAVE THE RIGHT TO CRITICIZE YOUR VERDICT. YOU WILL HAVE FULLY DISCHARGED YOUR DUTY AS JURORS. YOU ARE TO DECIDE THIS CASE ACCORDING TO THE TESTIMONY THAT YOU WILL HEAR FROM THE LIPS OF THE WITNESSES ALONG WITH ANY OTHER EVIDENCE INTRODUCED AT TRIAL.

ARGUMENT IS NOT CONSIDERED AS EVIDENCE. ANYTHING THAT YOU HEARD PRIOR TO THE START OF THIS TRIAL IS, OF COURSE, NOT EVIDENCE.

ON MONDAY ONE OF THE PARTIES – I MEAN -- EXCUSE ME. ONE OF THE PARTIES HAS EXPRESSED CONCERN THAT THE DEBATE ON MONDAY BETWEEN JUDGE BOGAN AND DR. FALTAS COULD HAVE BEEN VIEWED BY SOME PEOPLE AS CRITICISMS OF DR. FALTAS. I INSTRUCT YOU THAT SUCH INQUIRIES AND DISCUSSIONS ARE A NECESSARY PART OF THE TRIAL PROCESS. YOU SHOULD NOT CONCLUDE THAT EITHER PARTY INTENDED ANY NEGATIVE EVIDENCE AGAINST EITHER PARTY BECAUSE OF THIS DISCUSSION. WE WILL NOW START WITH OPENING STATEMENTS. MR. FERNANDEZ.

MR. FERNANDEZ: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT.

THE COURT: YES, SIR.

MR. FERNANDEZ: GOOD MORNING, LADIES AND GENTLEMEN –

MR. BRIGGS: YOUR HONOR, DID WE SWEAR THE JURY?

THE COURT: I APOLOGIZE. WE DID NOT. THANK YOU VERY MUCH.

(WHEREUPON THE JURY IS DULY SWORN BY THE COURT)

THE COURT: THANK YOU VERY MUCH. MR. FERNANDEZ, YOU MAY NOW BEGIN.

MR. FERNANDEZ: THANK YOU, YOUR HONOR. THAT WAS IMPORTANT. I WANT TO THANK YOU AND REITERATE KIND OF WHAT THE JUDGE WAS SAYING EARLIER. I WANT TO THANK Y'ALL FOR BEING HERE. I THINK EVERYTHING HE SAID IS ABSOLUTELY TRUE. IT'S A GREAT COUNTRY. WE ARE RUN BY THE RULE OF LAW AND WHAT THAT MEANS IS ESSENTIALLY WHEN IT

BOILS DOWN TO IT THE COURT SYSTEM IS THE ULTIMATE ARBITOR OF DISAGREEMENTS. SO THAT'S WHAT YOU CAN KIND OF CONSIDER YOURSELVES AND YOU ARE THE MOST IMPORTANT PART OF THE EQUASION. YOU ARE THE DECIDERS OF THE FACTS IN THESE CASES. WHAT A TRIAL IS IS ESSENTIALLY A DISAGREEMENT. THAT'S WHAT IT BOILS DOWN TO – IT'S A DISAGREEMENT. THE CITY THINKS THAT MS. FALTAS DID SOMETHING AND SHE DISAGREES. AND WHAT MY ROLE IS HERE TODAY IS TO PRESENT YOU EVIDENCE AND WHAT WE ARE TALKING ABOUT IS UNLAWFUL ACTS. THAT MIGHT SOUND A LITTLE VAGUE. IT'S PROPERTY CODES VIOLATIONS. I'LL PUT INTO EVIDENCE – YOU'LL HEAR FROM MY WITNESS, MYRON SIMS. HE'S A HOME INSPECTOR WITH THE PLANNING AND DEVELOPMENT DEPARTMENT. WHAT HE'LL TELL YOU ABOUT IS THIS LITTLE PIECE OF PROPERTY THAT HAS A BUNCH OF BASICALLY GARBAGE AND DEBRIS STREWN ABOUT IT. AND THIS TRIAL IS THE RESULT OF OUR UNABLE TO CORRECT THE SITUATION. ULTIMATELY, THIS IS THE ONLY WAY – METHOD WE HAVE LEFT TO ENFORCE THE LAWS OF THE CITY. I'LL PRESENT EVIDENCE TO YOU THAT SHOWS PICTURES OF THE AREA. MYRON WILL DESCRIBE TO YOU WHAT HE SAW WHEN HE WENT OUT THERE NUMEROUS TIMES AND HIS ENCOUNTERS WITH THE DEFENDANT. AND ULTIMATELY THE JUDGE WILL READ YOU THE LAW ABOUT WHAT IS PROHIBITED, WHAT CANNOT BE IN SOMEONE'S YARD. THE AREA WE ARE TALKING ABOUT I THINK IS AROUND BYRON ROAD. FOR THOSE OF YOU WHO ARE FAMILIAR, BYRON ROAD, VETERANS ROAD AREA. AND AT THE END OF THE DAY WE'LL TALK A LITTLE BIT ABOUT REASONABLE DOUBT AND WHAT'S NECESSARY TO CONVICT. I'LL SAVE THAT FOR THE END OF THE TRIAL SO IT MAKES A LITTLE MORE SENSE SO YOU KNOW WHAT WE ARE TALKING ABOUT.

FOR MY PART I WILL KEEP THE TRIAL MOVING AS FAST AS POSSIBLE AND HOPE TO BE OUT OF HERE WITHIN NOT TOO LONG. BUT I AGAIN THANK YOU FOR YOUR SERVICE. MAKE NO MISTAKE ABOUT IT, I AM PRESENTING A CASE BECAUSE I AM ASKING FOR A GUILTY VERDICT ON BEHALF OF THE CITY AND AGAIN I'LL SEE YOU AT THE CONCLUSION OF TRIAL. THANK YOU.

THE COURT: MR. BRIGGS.

MR. BRIGGS: LADIES AND GENTLEMEN OF THE JURY, MY NAME AGAIN IS ORIN BRIGGS. I WAS BORN IN COLUMBIA AND LIVED HERE MOST OF MY LIFE BUT I HAD THE PRIVILEGE OF SERVING IN THE NAVY AND I HAD THE PRIVILEGE OR HONOR STARTING MY LEGAL CAREER ON THE STAFF OF SENATOR STROM THURMOND. I THINK I'D LIKE TO START WHERE THE JUDGE STARTED AND TELL YOU HOW IMPORTANT JURORS ARE, NOT EXAGERATING AND I'M SURE MR. FERNANDEZ WOULD SAY THE SAME THING IF HE HAD THOUGHT ABOUT IT BUT I ALWAYS LIKE TO ACKNOWLEGE YOUR SERVICE. WE COULD HAVE WHAT WE LAWYERS CALL A BENCH TRIAL AND NO JURY AND LET THE JUDGE DECIDE THE LAW AND THE FACTS, BUT WE CANNOT HAVE A JURY TRIAL UNLESS WE HAVE CITIZENS LIKE YOURSELVES WHO ARE WILLING TO COME IN AND SERVE AS JURORS. AND THE JUDGE WILL MAKE THIS CLEAR LATER ON. HE CAN'T TELL YOU ANYTHING ABOUT THE FACTS. THAT'S YOUR SOLE PROVINCE. YOU ARE KING OF THE FACTS. HE'S KING OF THE LAW. HE'LL EXPLAIN ALL THAT TO YOU BUT LET ME BEGIN WITH THE BASIC FUNDAMNTAL PRINCIPLE THAT WE ARE ALL AWARE OF AND WE'VE HEARD OF BUT I LIKE TO EMPHASIZ IT. DR. FALTAS STANDS BEFORE YOU INNOCENT OF WHAT SHE'S BEEN ACCUSED OF. SHE'S JUST AS INNOCENT AS I AM AND I HAVEN'T BEEN ACCUSED OF IT. SHE'S JUST AS

INNOCENT AS MR. FERNANDEZ AND SHE'S JUST AS INNOCENT AS THE JUDGE IS, UNLESS THE STATE PROVES BEYOND A REASONABLE DOUBT THAT SHE WAS GUILTY OF VIOLATING THE LAW. NOW THE JUDGE WILL TELL YOU WHAT THE LAW IS LATER ON AND ACTUALLY IT IS A CITE, THREE SECTIONS OF WHAT WE CALL ORDINANCES OR REGULATIONS. NOT A STATE LAW, BUT A LOCAL LAW. BUT I WANT TO MAKE IT SMPLE FOR YOU. I'M A COUNTRY BOY AND I ALWAYS TAKE A SECTION LIKE THIS. THE MAIN SECTION IS 8-32. THE JUDGE MAY EVEN GIVE YOU A COPY OF IT BUT HE'LL CERTAINLY TELL YOU WHAT IT SAYS AND MEANS. BUT IF YOU BREAK IT DOWN IT SAYS IT'S ILLEGAL FOR YOU TO HAVE TRASH IN YOUR YARD OR IF YOU HAVE CONTAINERS, QUOTE, THAT MAY HOLD WATER. THOSE SHALL BE DEEMED UNSANITARY. SO YOU ARE TALKING ABOUT THREE KEY WORDS. TRASH, CONTAINERS THAT HOLD WATER AND AN UNSANITARY CONDITION. NOW THERE ARE TWO OTHER SECTIONS BUT THEY ESSENTIALLY SAY THE SAME THING. THEY JUST LIST DIFFERENT THINGS THAT YOU SHOULDN'T HAVE IN YOUR YARD IN AN OPEN SPACE UNLESS THEY ARE STORED IN A STORAGE BIN. OKAY?

SO THAT'S WHAT THIS CASE IS ABOUT. DID WHAT DR. FALTAS HAD IN HER YARD CONSTITUTE A VIOLATION OF THESE ORDINANCES OR IS IT, LET'S SAY, AN EXAGGERATION ON THE PART OF THE CITY THAT THEY THINK WHAT SHE HAD IN HER YARD WAS, IF YOU WILL, UNSANITARY. AND ONE OF THE PROVISIONS IS THAT IT MAY HOLD WATER, SO WE'VE GOT TO GET INTO THAT QUESTION. OKAY? IT ISN'T AN OPEN BOOK, ET CETERA.

I'M NOT GOING TO GET INTO THE FACTS BECAUSE IN OPENING STATEMENT WE DON'T USUALLY DISCUSS THE EVIDENCE AS SUCH. WE'LL HAVE PLENTY OF TIME TO DO THAT, BUT AGAIN I WANT TO THANK YOU FOR SERVING.

IT'S ABSOLUTELY AN ESSENTIAL PART OF THE PROCESS. IN THIS STATE EVERY CITIZEN HAS THE RIGHT. IT'S JUST AS AN IMPORTANT RIGHT AS FREE SPEECH AND ALL THE OTHERS OF HAVING A JURY TRIAL IN A MATTER IF THEY REQUEST IT. I DON'T BELIEVE THERE'S ANOTHER COUNTRY IN THE WORLD THAT DOES THAT, YOUR HONOR, BUT YOU CAN CORRECT ME IF YOU WANT TO. YOU ARE A BETTER HISTORY BUFF THAN I AM. BUT IT'S MY OBLIGATION AND MY PRIVILEGE IN THIS CASE TO DEFEND DR. FALTAS AND TRY TO SHOW YOU THAT – FOR INSTANCE, THE BUCKETS WHICH ARE OVER HERE SHE USED TO MARK THE OUTLINE OF THE BOUNDARY OF HER PROPERTY BECAUSE SHE HAD PROBLEMS WITH NEIGHBORS. WE WON'T GET INTO THAT. SO IT'S MY JOB TO SHOW THE EVIDENCE IN A LIGHT MOST FAVORABLE TO DR. FALTAS AND AGAIN I THANK YOU FOR YOUR ATTENTION AND YOUR TIME.

THE COURT: THANK YOU. WE OBVIOUSLY HAVE ONE LEGAL ISSUE TO ADDRESS BEFORE CROSS EXAMINATION BUT I THINK WE'LL GO AHEAD AND DO DIRECT EXAMINATION OF THE FIRST WITNESS SO THE JURY CAN HEAR THAT AND THEN WE'LL ADDRESS THE LEGAL ISSUE. MR. FERNANDEZ, PLEASE CALL YOUR FIRST WITNESS.

MR. FERNANDEZ: THANK YOU, YOUR HONOR. THE CITY WILL CALL MYRON SIMS.

MYRON SIMS, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

THE COURT: THANK YOU VERY MUCH. PLEASE HAVE A SEAT AND ANSWER ANY QUESTIONS MR. FERNANDEZ MAY HAVE FOR YOU.

DIRECT EXAMINATION BY

MR. FERNANDEZ:

Q. GOOD MORNING, MYRON, HOW ARE YOU?

A. FINE.

Q. PLEASE STATE YOUR NAME FOR THE RECORD, PLEASE.

A. MYRON SIMS, HOUSING INSPECTOR FOR THE CITY OF COLUMBIA.

Q. THANK YOU. YOU ARE EMPLOYED WITH THE CITY?

A. YES.

Q. TELL US A LITTLE BIT ABOUT YOUR PAST. WHAT DID YOU DO BEFORE BECOMING A HOUSING INSPECTOR FOR THE CITY?

A. BEFORE I WAS HOUSING INSPECTOR, ACTUALLY I WAS A CODE ENFORCEMENT INSPECTOR. I WAS (INAUDIBLE) CONTROLLOR FOR THE CITY AND BEFORE THAT I WAS IN THE MARINE CORPS. I WAS A NUCLEAR BOMB (INAUDIBLE) CHEMICAL DEFENSE SPECIALIST.

Q. HOW LONG WERE YOU IN THE MARINE CORPS?

A. TWENTY YEARS.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE CITY?

A. IT WILL BE NINE YEARS AUGUST 4TH.

Q. TELL US A LITTLE BIT ABOUT WHAT BEING A CODE INSPECTOR, HOUSING INSPECTOR IS. WHAT IS YOUR DAY-TO-DAY JOB AND DUTIES AND WHAT DO YOU TYPICALLY DO ASIDE FROM THIS CASE?

A. WELL, TYPICALLY WE INVESTIGATE COMPLAINTS AND I TOUR MY AREA. IF I SEE ANY VIOLATIONS OR POSSIBLE VIOLATIONS I SEND INDIVIDUAL NOTICES TO CORRECT THOSE VIOLATIONS. SOMETIMES PEOPLE SEND IN COMPLAINTS AND WE HAVE TO INTERPRET THE CODE A LITTLE BIT BECAUSE A LOT OF THINGS THAT PEOPLE THINK ARE A VIOLATION ARE NOT VIA THE CODE.

Q. AND WE'LL HEAR A LOT ABOUT THE CODE AND I KNOW YOU ARE

FAMILIAR WITH THE CODE. WHAT'S YOUR AREA? YOU SAID YOU HAVE AN AREA OF THE CITY THAT YOU ARE SORT OF RESPONSIBLE FOR?

A. YES. IT'S MOSTLY THE SOUTHERN PART OF COLUMBIA BASICALLY FROM DREHER HIGH SCHOOL, GOING DOWN GARNERS FERRY, OUT TO PERCIVAL ROAD, GOING DOWN SHOP ROAD.

Q. OKAY.

A. AND ALL AREAS IN BETWEEN.

Q. WHAT'S THE PROPERTY LOCATION THAT WE ARE HERE ON TODAY?

A. THE PROPERTY IS AT 324 BYRON ROAD.

Q. AND IS THAT WITHIN THE CITY LIMITS OF COLUMBIA?

A. YES, SIR, IT IS.

Q. AND COULD YOU DESCRIBE – NOT WHY WE ARE HERE, BUT DESCRIBE THE PROPERTY. WHAT ARE WE LOOKING AT?

A. IT'S A VACANT LOT.

Q. APPROXIMATELY HOW BIG?

A. I DON'T KNOW.

Q. DESCRIBE THE AREA AROUND THE LOT? IS IT A NEIGHBORHOOD, ARE THERE HOUSES, ARE THERE APARTMENTS, ARE THERE BOTH?

A. WELL, ON THE LEFT SIDE OF THE PROPERTY THERE'S AN APARTMENT BUILDING. TO THE RIGHT OF IT THERE'S A VACANT LOT AND TO THE RIGHT OF THAT VACANT LOT IS ANOTHER APARTMENT BUILDING. AND APARTMENTS ACROSS THE STREET.

Q. THIS IS A RESIDENTIAL AREA?

A. YES, SIR.

Q. THE OWNER OF THE PROPERTY IS WHO?

A. DR. FALTAS.

Q. IS SHE HERE TODAY?

A. YES, SIR.

Q. COULD YOU IDENTIFY HER FOR US?

A. THAT WOULD BE DR. FALTAS.

Q. SITTING AT THE DEFENSE COUNSEL TABLE?

A. (INAUDIBLE).

Q. THANK YOU. NOW WHAT FIRST BROUGHT YOUR ATTENTION TO – WHEN AND WHAT FIRST BROUGHT YOUR ATTENITON TO THIS PROPERTY AND DR. FALTAS?

A. OKAY. RIGHT AROUND ABOUT THE 4TH OF OCTOBER, 2011, I RECEIVED SOME COMPLAINTS THAT THERE WERE SOME HAZARDOUS – SOME POSSIBLE HAZARDOUS MATERIAL AT THIS PROPERTY.

Q. WHO WERE THE COMPLAINTS FROM?

A. WELL, MS. STEELE CALLED ME ONCE BUT THERE WERE COMPLAINTS FROM A LOT OF PEOPLE. I HAD SEVERAL PEOPLE CALL. MS. STEELE TOLD ME WHO SHE WAS. BUT THE OTHER PEOPLE SOME OF THEM WANTED TO REMAIN ANONYMOUS. AND WHEN I WENT OUT THERE ON THE 4TH – I WENT OUT ON THE 5TH – AND WHEN I LOOKED AT THE PROPERTY THERE WERE THOSE BUCKETS AND THEY WERE –

Q. IF YOU CAN –

A. AND THEY WERE STACKED UP, NEAT STACKS IN THE BACK OF THE LOT AND THEY WERE COVERED. I TOOK SOME PICTURES OF THEM. I DIDN'T SEE ANY HAZARDOUS MATERIAL MARKINGS ON THEM AND THERE WERE TWO TRASH CANS OUT THERE AND THEY HAD TWO LIDS ON THEM. AND I REALLY WASN'T

SURE THAT WAS A VIOLATION. YES, THEY WERE CONTAINERS BUT THEY WERE TURNED UPSIDE DOWN, THEY WERE STACKED AND THERE WERE TWO TRASH CANS WITH LIDS ON THEM. SO I DIDN'T REALLY TAKE ANY ACTION EXCEPT DO SOME MORE INVESTIGATION. ON THE 7TH – LET ME CHECK MY NOTES, EXCUSE ME. YEAH, ON THE 7TH OF OCTOBER I GOT SOME MORE CALLS AND PEOPLE WERE SAYING SHE'S OUT THERE, SHE'S PUTTING STUFF ALL OVER THE PLACE. SO I WENT BACK OUT THERE ON THE 7TH AND THERE WAS A TRUCK THERE BUT I DIDN'T SEE DR. FALTAS. AND THERE WAS SOME MATERIALS, DEBRIS, THAT WAS ON THE PROPERTY. AND SOME METALS AND DIFFERENT THINGS.

MR. BRIGGS: YOUR HONOR, I DON'T WANT TO OBJECT OVER AND OVER BUT I WOULD PREFER THAT MR. SIMMONS USE THE WORDS THAT ARE IN THE ORDINANCE AS OPPOSED TO DEBRIS OR GARBAGE OR HAZARDOUS WASTE.

THE COURT: OVERRULED.

A. SO I TOOK SOME PICTURES OF WHAT I DEEMED – I TOOK SOME PICTURES OF THE DIFFERENT ARTICLES THAT WERE OUT THERE. AND I WENT BACK AND I CHECKED WITH PROPERTY MAINTENANCE CODE AND I SENT DR. FALTAS A NOTICE OF VIOLATION AND THAT NOTICE OF VIOLATION IS BASICALLY THREE DIFFERENT THINGS – THREE DIFFERENT VIOLATIONS OF ORDINANCES THAT I WAS LOOKING AT. ONE OF THEM IS 8-32 WHICH IS SANTIATION BECAUSE SOME OF THE BUCKETS WERE TURNED UPSIDE DOWN BUT THEM SOME OF THEM WERE TURNED UP RIGHT. AND THAT ORDINANCE SAYS THAT YOU CAN'T – AS HER ATTORNEY MENTIONED EARLIER, YOU CAN'T HAVE ANY ARTICLES THAT HOLD WATER FOR A PERIOD OF TIME. THEN SECTION 8-41 OF THE CITY CODE STATES THAT YOU CAN'T HAVE ANY – WELL, IT'S A BUNCH OF MATERIALS BUT ONE THING THAT'S LISTED ON THERE IS SCRAP METAL AND THERE WAS A BUNCH OF

METAL THAT WAS LAYING OUT THERE. AND THERE WERE OTHER PIECES OF DIFFERENT THINGS THAT I DETERMINED TO BE RUBBISH. AND THAT WAS GOING WITH THE DEFINTION FROM SECTION 307.1 OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

Q. (BY MR. FERNANDEZ) NOW LET ME STOP YOU HERE BEFORE WE CONTINUE. WHEN YOU ISSUED THE WRITTEN NOTICE, YOU DID ISSUE THE WRITTEN NOTICE OF VIOLATION, CORRECT?

A. YES, SIR.

Q. I'M GOING TO HAND YOU A PIECE OF PAPER. JUST TAKE A LOOK AT THAT. ARE YOU FAMILIAR WITH THAT PIECE OF PAPER?

A. YES, SIR. THIS IS THE NOTICE OF VIOLATION. A COPY ESSENTIALLY.

Q. CORRECT, A COPY. IF THAT THE ONE THAT YOU DID DELIVER TO THE DEFENDANT?

A. I SENT THE NOTICE.

Q. HOW DID YOU SEND IT TO HER?

A. I SENT IT IN FIRST CLASS MAIL.

Q. AND WHAT DOES THAT WRITTEN NOTICE – WHAT'S THE PURPOSE OF IT AND WHAT DOES IT LIST?

A. WELL, IT SAYS YOUR ATTENTION IS CALLED TO UNAUTHORIZED ITEMS, DEBRIS, STORED OUTSIDE AT THE ABOVE-REFERENCED PROPERTY.

Q. AND DO YOU PROVIDE THE INDIVIDUAL WITH SOME SORT OF NOTICE OF WHAT CODE – THE CODES THAT YOU JUST TALKED ABOUT, ARE THEY LISTED ALSO?

A. YES. IT SAYS SECTION 8-41, 8-32 AND 307.1 OF THE CITY CODE OF ORDINANCE AND THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

MR. FERNANDEZ: I MOVE TO MARK THIS AS CITY EXHIBIT ONE AND PLACE INTO EVIDENCE.

THE COURT: PLEASE SHOW IT TO THE DEFENDANT AND SEE IF THERE'S ANY OBJECTION. ANY OBJECTION, MR. BRIGGS?

MR. BRIGGS: THE SAME AS THE OTHERS.

THE COURT: ANY OBJECTION, MR. BRIGGS?

MR. BRIGGS: YOUR HONOR, JUST FOR THE RECORD, I OBJECT. IN THE SENSE THAT IT'S SIMILAR TO AN INCIDENT REPORT AND –

THE COURT: STOP, STOP. LET'S GO OVER TO THE SIDE.

(OFF THE RECORD DISCUSSION)

THE COURT: THE OBJECTION IS OVERRULED. I WILL ALLOW THE DOCUMENT TO BE MARKED AS CITY NUMBER ONE ENTERED INTO EVIDENCE. YOU MAY USE IT AS SUCH.

MR. FERNANDEZ: THANK YOU, YOUR HONOR.

(NOTICE OF VIOLATION IS RECEIVED INTO EVIDENCE AS CITY'S EXHIBIT #1)

Q. (BY MR. FERNANDEZ) SO AFTER YOU DELIVER THAT NOTICE TO AN INDIVIDUAL, WHAT'S THE NEXT STEP IN THE PROCESS.

THE COURT: I APOLOGIZE. BEFORE YOU GO FURTHER, DID WE GET IT MARKED?

MR. FERNANDEZ: IT WAS MARKED.

THE COURT: IT WAS MARKED. OKAY. PLEASE REPEAT THE QUESTION.

Q. (BY MR. FERNANDEZ) AFTER YOU DELIVER A NOTICE TO AN INDIVIDUAL THAT SAYS WHAT IT SAYS ABOUT WHAT CODES THEY ARE IN VIOLATION OF,

WHAT'S THE NEXT STEP IN YOUR PROCESS, YOUR JOB?

A. WELL, MY NEXT STEP IS TO FOLLOW UP. IT'S WRITTEN ON HERE THAT THERE'S AN EXPIRATION DATE. IN THIS CASE IT WAS OCTOBER THE 17TH. AND IT SAYS YOU ARE GIVEN TEN DAYS TO REMOVE THE UNAUTHORIZED ITEMS, SLASH, DEBRIS AND THE PREMISES WILL REINSPECTED ON 17TH OCTOBER, 2011.

Q. AND WHEN 17 OCTOBER, 2011, CAME AND WENT, WAS THE – FOR THE VIOLATIONS, WAS THE DEBRIS REMOVED?

A. NO.

Q. WHAT DID YOU NOTICE UPON REINSPECTION?

A. WELL, --

Q. AND WHEN DID YOU REINSPECT?

A. WELL, LET ME SEE. ACTUALLY BEFORE THAT ON OCTOBER 10TH DR. FALTAS CALLED ME AND I MET HER OUT THERE 'CAUSE SHE WANTED A COPY OF THE ORDINANCES AND I MAILED THE ORDINANCE OUT TO HER AND I HAD – I JUST ASK HER WHAT WAS SHE PUTTING ALL THAT STUFF OUT THERE FOR. AND AT THAT TIME SHE HAD MENTIONED SOMETHING ABOUT BUILDING A SOLAR HOME OR SOMETHING LIKE THAT AND I THOUGHT, WELL, THAT'S PRETTY INTERESTING, SHE'S A DOCTOR, SHE'S A ENVIRONMENTALIST AND I IRONICALLY MIDLANDS TECH IN WINNSBORO WAS BUILDING SOMETHING SIMILAR TO THAT. SO I SAID OKAY, BUT THEN I WENT AND CHECKED WITH ZONING AND THERE WAS NO PERMIT TO BUILD ANYTHING. SO ONCE AGAIN THAT WAS A VIOLATION OF CODE 8-41.

Q. 'CAUSE 8-41 SAYS WHAT?

A. IT SAYS THAT YOU CAN'T HAVE ANY BUILDING MATERIALS STORED OUTSIDE UNLESS YOU HAVE A CURRENT PERMIT FOR WHAT YOU ARE BUILDING.

Q. SO EVEN IF THIS WERE CLASSIFIED AS BUILDING MATERIALS, GIVING THE BENEFIT OF THE DOUBT THIS WAS BUILDING MATERIALS, THERE STILL WAS NO PERMIT, CORRECT?

MR. BRIGGS: LEADING QUESTION, YOUR HONOR.

THE COURT: OBJECTION SUSTAINED. PLEASE RESTATE YOUR QUESTION.

Q. (BY MR. FERNANDEZ) WOULD YOU CLASSIFY – WELL, I GET TO THAT POINT. LET ME GO FIRST, I'M GOING TO SHOW YOU A BUNCH OF PICTURES AND WHO TOOK THOSE PICTURES?

A. I TOOK THESE PICTURES, SIR.

Q. AND I KNOW YOU ARE FAMILIAR WITH THEM BUT RUN THROUGH THEM REAL QUICK FOR ME JUST SO YOU FAMILIARIZE YOURSELF WITH THEM AND THEN I HAVE A COUPLE OF QUESTIONS FOR YOU ABOUT THAT OCCASION.

(PAUSE)

Q. THANK YOU. NOW THESE PICTURES, YOU TOOK ALL THESE PICTURES, CORRECT?

A. YES, SIR.

Q. AND THEY ARE DATE STAMPED, CORRECT?

A. YES, SIR.

Q. AND WHAT DO THEY PURPORT TO SHOW IN GENERAL?

A. WELL, IN GENERAL IT SHOWS DEBRIS, DIFFERENT TYPES OF ARTICLES THAT ARE STORED OUT ON THE VACANT LOT.

Q. ARE THEY AN ACCURATE REFLECTION OF THE WAY THE PROPERTY WAS?

MR. BRIGGS: YOUR HONOR, I'M GOING TO OBJECT TO DEBRIS AGAIN. HE CAN DESCRIBE WHAT'S IN THE PICTURE.

THE COURT: YOUR OBJECTION HAS BEEN NOTED. I AM GOING TO OVERRULE IT. HE'S ALLOWED TO DESCRIBE WHAT HE THINKS IS HELPFUL. THE JURY MAY OR MAY NOT FIND HELP FROM THAT BUT HE'S ALLOWED TO DESCRIBE IT.

Q. (BY MR. FERNANDEZ) THE RUBBISH OR WHATEVER YOU WANT TO CATEGORIZE IT AS, DO THESE PICTURES ACCURATELY REFLECT WHAT WAS GOING ON ON THOSE DAYS IN YOUR OPINION?

A. YES, SIR.

MR. FERNANDEZ: THAT'S ALL I THINK. I AM GOING TO MAKE THESE COLLECTIVELY AS CITY EXHIBIT TWO. THEY ARE TWENTY-NINE PICTURES SPREAD OVER SIXTEEN PAGES.

THE COURT: ANY OBJECTION, MR. BRIGGS?

MR. BRIGGS: YOUR HONOR, COULD WE DO THEM "A," "B" AND WHATEVER JUST SO WE CAN IDENTIFY IT?

MR. FERNANDEZ: I DON'T MIND DIVIDING THEM UP.

MR. BRIGGS: I'M NOT ASKING FOR ONE, TWO AND THREE. I'M JUST ASKING –

THE COURT: I UNDERSTAND YOUR REQUEST. THEY'LL BE MARKED COLLECTIVELY AS EXHIBIT TWO. PLEASE PUT ON EACH PAGE, NOT ON EACH PICTURE, BUT EACH PAGE "A" THROUGH WHATEVER LETTER IT RUNS TO SO IF THERE NEEDS TO BE A SPECIFIC REFERENCE TO A SPECIFIC PAGE IT CAN EASILY BE DONE.

MR. BRIGGS: OTHERWISE, NO OBJECTION.

THE COURT: THANK YOU VERY MUCH. SO ADMITTED.

(TWENTY-NINE PHOTOGRAPHS ARE RECEIVED INTO EVIDENCE AS CITY'S EXHIBIT #2)

MR. FERNANDEZ: I'M GOING TO ASK TO PUBLISH THE PICTURES TO THE JURY IN A MINUTE. I WROTE PAGE NUMBERS ON THEM. YOUR HONOR, I WROTE PAGES NUMBERS ON THEM. WILL THAT SATISFY OR DO YOU WANT TO DO THE LETTR SYSTEM?

THE COURT: LET ME TAKE A LOOK FIRST. MR. BRIGGS, THEY ARE COLLECTIVELY TWO. THEY ARE MARKED PAGE ONE THROUGH SIXTEEN THEREAFTER. IS THAT SUFFICIENT?

MR. BRIGGS: I DON'T HAVE ANY PROBLEM WITH 2-1, YOUR HONOR.

THE COURT: ALL RIGHT. IT'S COLLECTIVE NUMBER TWO AND THEN THE PAGES OF THAT COLLECTIVE IS MARKED BY NUMBERS. THEY WILL BE ADMITTED IN THAT MANNER.

MR. FERNANDEZ: THANK YOU, YOUR HONOR.

Q. (BY MR. FERNANDEZ) NOW GOING IN TIME, THE FIRST PICTURES, WILL YOU WALK ME THROUGH WHAT THE PICTURES SHOW AND YOU CAN – IF YOU WANT TO, YOU CAN ALSO HOLD THEM UP AND SHOW THE JURY AND THEN WE'LL PASS THEM AROUND AFTERWARDS.

Q. WELL, THE FIRST PAGE IS – THE FIRST PICTURE, IT'S SOME SPOOLS. THEY ARE LIKE PLASTIC SPOOLS ON THE LEFT SIDE OF THE PROPERTY. I'M ASSUMING THAT IT MARKS THE BOUNDARY TO THE LEFT SIDE. THEN THE SECOND PICTURE ON THE FIRST PAGE, THERE WERE SOME CARDBOARD LIKE DIFFERENT TYPES OF SPOOLS. THE THIRD AND FOURTH PICTURE ARE THE SAME THING AT DIFFERENT ANGLES. THE SIXTH PICTURE WILL SHOW THE BUCKETS. AS I WAS SAYING, THEY

WERE STACKED BACK ON THE LOT.

Q. NOW REGARDING THE OCTOBER 5TH PICTURES, ARE THERE ANY ITEMS THERE THAT WOULD TEND TO HOLD WATER?

A. WELL, YES, THERE WERE THESE BUCKETS BUT I BELIEVE THESE BUCKETS HAD LIDS ON THEM AT THAT TIME.

Q. AND ARE THERE ANY BUILDING SUPPLY MATERIALS NOT RELATED TO AN ACTIVE PERMIT IN THOSE PICTURES?

A. I DON'T THINK SO. I DON'T THINK YOU WOULD CALL IT THAT.

Q. IS THERE ANYTHING THAT WOULD QUALIFY FOR THE DEFINITION OF RUBBISH? IS THERE ANYTHING THERE THAT WOULD QUALIFY AS RUBBISH, BOXES, WOOD, METALS, COMBUSTIBLE MATERIALS?

A. WELL, THAT CARDBOARD WOULD BE CLASSIFIED AS RUBBISH.

Q. NOW MOVING TO THE OCTOBER 20TH PICTURES.

A. WE SUPPOSED TO SHOW THIS TO THE JURY.

Q. YOU CAN SHOW THEM. THEY ARE IN EVIDENCE.

A. OCTOBER 20TH PICTURE, THERE WAS SOME METAL THERE. NOW THESE BUCKETS HERE, AS YOU CAN SEE THEY DON'T HAVE ANY LIDS ON THEM AND THEY ARE FILLED WITH METAL PARTS AND DIFFERENT OTHER THINGS. AS A MATTER OF FACT, I BELIEVE THEY ARE HOLDING WATER AT THAT TIME.

MR. BRIGGS: YOUR HONOR, WE DON'T NEED THIS SPECULATION. IF HE SAW WATER, HE SAW IT.

THE COURT: IF YOU ARE GOING TO OBJECT, SAY OBJECTION AND THE BASIS. ANYTHING FURTHER THAN THAT WE'LL GO ON THE SIDE.

MR. BRIGGS: I OBJECT TO SPECULATION, YOUR HONOR, UNLESS HE SAW WATER.

THE COURT: THANK YOU VERY MUCH. SIR, PLEASE TESTIFY AS TO WHAT YOU HAVE KNOWLEDGE OF.

A. OKAY, SIR.

Q. (BY MR. FERNANDEZ) DO YOU RECALL SEEING WATER OR NOT?

A. I DON'T RECALL, SIR.

Q. IN THE STATE THEY ARE, WERE IT TO RAIN, WOULD THEY COLLECT WATER?

A. YES, SIR, IF IT WAS RAINING, THEY WOULD DEFINITELY COLLECT WATER.

Q. NOW THE METALS, WHAT KIND OF CONDITION IS THE METAL IN?

A. WELL, THERE'S DIFFERENT -- THERE'S LIKE SHELVING RIGHT HERE THAT YOU CAN SEE IT'S PRETTY BEAT UP. I'M NOT EXACTLY SURE BUT SOME KIND OF – I DON'T KNOW WHAT THEY ARE. THEY ARE PIECES OF METAL THAT USED TO BE A PART OF SOMETHING BECAUSE SOME OF THEM ARE BENT AND TORN OFF. THERE'S METAL ENGINEER STAKES AND THERE'S CRATES AND THESE CRATES, THEY HAD PAPER AND DIFFERENT OTHER TYPE OF DEBRIS IN IT. THERE WERE – NOW THAT'S A BETTER PICTURE OF WHATEVER THAT –

Q. WHAT WOULD YOU CONSIDER THAT KIND OF METAL IS?

A. I WOULD CONSIDER IT SCRAP METAL BECAUSE IT'S – IT WAS ORIGINALLY – IT LOOKS LIKE IT WAS A PART OF SOMETHING ELSE AND THEN IT WAS TORN OFF AND IT BECAME SCRAP.

Q. AND ARE ALL THESE – WHAT KIND OF CONDITIONS ARE ALL THESE MATERIALS OR DEBRIS OR RUBBISH? WHAT ARE THEY EXPOSED TO? IS THERE ANY COVERINGS ON ANY OF THEM?

A. NO, SIR. WELL, THERE IS SOMETHING INSIDE OF SOME OF THE ROLL CARTS BUT I DON'T KNOW WHAT IT IS. SOME OF THE ROLL CARTS THE LID WAS

CLOSED, SOME OF THE ROLL CARS THE LIDS WERE OPEN.

Q. AND WHAT HAPPENS IF A ROLL CART HAS AN OPEN LID?

A. WELL, IT FILLS WITH WATER WHENEVER IT RAINS.

Q. AND IS THERE ITEMS IN THERE, TOO? DEBRIS, RUBBISH, WHATEVER?

A. THERE WAS SOME ITEMS INSIDE THERE.

Q. AND WHY IS IT IMPORTANT THAT THESE MATERIALS DO NOT COLLECT WATER? WHY IS THAT IMPORTANT?

A. WELL, MOSQUITOES. THAT'S A BIG THING.

Q. NOW ARE YOU FAMILIAR WITH THE MOSQUITO PROBLEM OR WHAT THE ISSUES ARE RELATING TO THAT?

A. YES. WE HAVE A – ANYTHING THAT HOLDS WATER, HOLDS STAGNANT WATER FOR MORE THAN FIVE DAYS HAS A TENDENCY TO ATTRACT MOSQUITOES. THAT'S A PROBLEM ESPECIALLY BECAUSE SOME MOSQUITOES, MOSQUITOES THAT LIKE TO LAY EGGS IN STAGNANT WATER USUALLY CARRY MORE VIRUSES OR BACTERIA OR WHATEVER. TRANSMIT DISEASES MORE BECAUSE OF THE STAGNANT WATER. THAT WOULD BE MOSQUITOES THAT LAY EGGS IN BANKS OF RIVERS.

Q. SO WOULD THAT BE THE PRIMARY PURPOSE OF SANITARY – WHEN YOU DESCRIBE THE SANITARY CONDITIONS?

A. YES, SIR.

Q. AND THE OTHER PICTURES THERE, WHAT DO THEY SHOW?

A. THESE ARE SOME PICTURES THAT WERE TAKEN JULY OF 2012 BEFORE WE WERE GOING TO COURT AND IT'S –

DEFENDANT FALTAS: YOUR HONOR – NO, NO. OBJECTION. THIS HAS NOTHING TO DO –

THE COURT: PLEASE DO NOT SPEAK LOUD ENOUGH FOR THE JURY TO HEAR YOU UNLESS YOU MAKE AN OBJECTION, MR. BRIGGS.

MR. BRIGGS: YOUR HONOR, I DON'T KNOW WHAT JULY THE 12TH WOULD HAVE TO DO WHEN THIS –

THE COURT: IF IT'S AN OBJECTION, PLEASE STATE OBJECTION AND THE BASIS.

MR. BRIGGS: OBJECTION TO THE TESTIMONY THAT'S IRRELEVANT BECAUSE IT'S PRIOR TO THE DATE OF NOTIFICATION.

THE COURT: STOP. STOP. ALL RIGHT.

A. NOW THIS –

THE COURT: STOP. YOU DO AS WELL. MR. FERNANDEZ, ANY POSITION ON THAT?

MR. FERNANDEZ: WELL, THEY ARE ALREADY IN EVIDENCE. THE PICTURES ARE IN EVIDENCE WITHOUT OBJECTION.

THE COURT: IF HE'S JUST DESCRIBING THE PICTURES AND THE DATES THEY WERE TAKEN, THEY ARE IN EVIDENCE WITHOUT OBJECTION, YOU CAN DO THAT. OBJECTION OVERRULED.

MR. BRIGGS: WELL, THE PICTURES STAND FOR THEMSELVES. I AM OBJECTING TO HIS EXPLAINING WHAT THEY MEAN.

THE COURT: YOU OBJECTED TO THE DATE.

MR. BRIGGS: I'M OBJECTING TO HIM EXPLAINING WHAT THOSE PICTURES MEAN WHEN THOSE DATES HAVE A PREVIOUS DATE ON THEM.

THE COURT: OBJECTION IS OVERRULED. THE PICTURES WERE ADMITTED WITHOUT OBJECTION.

Q. (BY MR. FERNANDEZ) WHAT DO THOSE PICTURES SHOW?

A. THEY SHOW SOME BUCKETS THAT ARE FILLED WITH WATER AS YOU CAN SEE BECAUSE THEY ARE TURNED OVER. THERE WAS A STORM, I GUESS IT WAS WINDY. THE BUCKETS TURNED OVER, THEY GOT FILLED WITH WATER. HERE THERE IS ANOTHER TRASH CAN HERE WITH SOME MORE METAL. IT WAS FILLED WITH WATER. SAME THING HERE IN THESE PICTURES. THOSE METAL RODS ARE STILL LAYING OUT THERE.

Q. WAS RUST DEVELOPING ON THE METAL?

A. IT WAS ON SOME OF THEM. SOME OF THE METAL WAS COATED WITH SOME TYPE OF PAINT BUT A LOT OF IT WAS RUSTED.

MR. FERNANDEZ: PERMISSION TO PUBLISH TO THE JURY, YOUR HONOR.

THE COURT: PERMISSION GRANTED.

Q. (BY MR. FERNANDEZ) NOW I THINK WE LEFT OFF ON OCTOBER 10TH WHEN YOU RECEIVED THAT PHONE CALL. YOU E-MAILED THE ORDINANCES TO MS. FALTAS. WHAT THEN HAPPENED AFTER OCTOBER 10TH? WHAT IS THE PROCESS?

MR. BRIGGS: YOUR HONOR, I DON'T LIKE TO HELP COUNSEL BUT I THINK IT WOULD BE BETTER IF THE JURY SAW THE PICTURES AND NOT HAD TO LISTEN TO TESTIMONY AT THE SAME TIME, YOUR HONOR.

THE COURT: I'LL LET HIM DO THAT AT HIS PERIL. THANK YOU FOR YOUR INPUT. PLEASE CONTINUE, MR. FERNANDEZ.

MR. FERNANDEZ: I THINK THEY ARE JUST PICTURES, YOUR HONOR, BUT THAT'S FINE.

Q. (BY MR. FERNANDEZ) WHAT WAS THE NEXT STEP OF THE PROCESS?

A. THE NEXT STEP WAS – WELL, NOTHING WAS BEING DONE AND THERE WAS – IT SEEMED TO ME THAT THERE MAY HAVE BEEN MORE STUFF OUT THERE

THAN IT WAS BEFORE. ON THE 20TH OF OCTOBER WE MET WITH DR. FALTAS AND WE ISSUED HER A SUMMONS.

Q. AND HOW DID YOU ISSUE THE SUMMONS?

A. WE WENT OUT THERE TO HER PROPERTY AND SHE WAS OUT THERE AND SHE WAS VERY NICE AND CORDIAL. AND I HANDED HER SOME PAPERWORK SHE HAD REQUESTED. I THINK SHE REQUESTED A COPY OF THE ORDINANCES AND I HAD ALREADY SENT HER A COPY OF THE ORDINANCES BUT I THINK SHE WANTED ANOTHER ONE SO I GAVE IT TO HER AND I GAVE HER THE SUMMONS AT THE SAME TIME.

Q. AND WHAT WERE THE VIOLATIONS THAT THE SUMMONS LISTED? WERE THEY SAME AS THE NOTICE?

A. WELL, ON THE SUMMONS THE DESCRIPTION OF THE ORDINANCE FOR THE SUMMONS WAS UNLAWFUL ACT, FIRST OFFENSE, BECAUSE THE VIOLATION HAD NOT BEEN CORRECTED.

A. DID YOU HAVE ANY OTHER CONTACT WITH HER AFTER THIS OR WAS THAT JUST THE END OF IT AND NOW WE'RE HERE AT TRIAL?

A. NO, SIR. WE'VE HAD CONTACT WITH HER ON SEVERAL OCCASIONS. WE'VE BEEN TO COURT. DAVID HATCHER WHO IS THE HOUSING OFFICIAL, WE MET HERE ONE DAY AND WE WERE TRYING TO GET THIS SETTLED WITHOUT GOING TO COURT –

Q. I'M GOING TO CATCH UP. WE DON'T NEED TO TALK ABOUT THAT.

A. OKAY.

Q. WHO WAS WITH YOU THE DAY YOU ISSUED THE SUMMONS?

A. THE HOUSING OFFICIAL.

Q. AND THAT'S MR. HATCHER?

A. MR. HATCHER.

Q. NOW IN YOUR OPINION, JUST TO RECAP BECAUSE WE'RE ALMOST DONE, YOU LISTED 8-32, 8-41 AND THEN 307.1. DO YOU REGARD ALL THE ITEMS LISTED IN THAT – IN WHAT WAY DO YOU REGARD THOSE ITEMS LISTED AND ALL THE PICTURES AGAIN JUST SO WE ARE CLEAR.

MR. BRIGGS: LEADING QUESTION. YOUR HONOR.

MR. FERNANDEZ: IN WHAT WAY?

THE COURT: I WILL ALLOW IT TO SPEED US ALONG.

Q. (BY MR. FERNANDEZ) IN WHAT WAY DO YOU REGARD THE ITEMS LISTED IN THESE PICTURES AS HAVING VIOLATED THE ORDINANCES LISTED?

A. WELL, ANYTHING THAT HOLDS WATER IS A VIOLATION OF 8-302. 8-41 IS IN THE SCRAP METAL AND OTHER ITEMS AND 307.1 LISTS –307.1 ACTUALLY LISTS – IT TALKS ABOUT – IT SAYS GARBAGE BUT IT'S RUBBISH AND GARBAGE. AND IF YOU LOOK UP THE DEFINITION ACCORDING TO THE PROPERTY MAINTENANCE CODE OF RUBBISH THAT'S NOT GARBAGE THEN IT APPLIES TO A LOT OF THAT MATERIAL.

MR. FERNANDEZ: ALL RIGHT. THANK YOU. THAT'S ALL THE QUESTIONS I HAVE. PLEASE ANSWER DEEFENSE COUNSEL'S QUESTION, MYRON.

THE COURT: AT THIS TIME, WE ARE GOING TO TAKE A BRIEF BREAK SO WE CAN ADDRESS A LEGAL ISSUE. IF YOU WOULD BE KIND ENOUGH TO LEAVE ANY EVIDENCE THAT YOU RECEIVED RIGHT THERE. YOU'LL HAVE THE OPPORTUNITY TO LOOK AT IT WHEN YOU COME BACK. PLEASE DO NOT DISCUSS ANYTHING THAT YOU'VE HEARD OR ANYTHING ABOUT THIS CASE AT THIS TIME. I WILL ASK YOU TO GO AHEAD AND MAKE YOUR FIRST COLLECTIVE DECISION THOUGH. IF Y'ALL COULD TALK ABOUT – WELL, ACTUALLY WE'LL

WAIT. I APOLOGIZE. WE'LL WAIT. LET'S HAVE YOU GO ON BACK AND WE'LL BRING YOU BACK IN A FEW MOMENTS. THANK YOU.

(JURY LEAVES THE JURY BOX)

THE COURT: ALL RIGHT. I GUESS WE'LL PAUSE FOR MR. BRIGGS TO COME BACK.

DEFENDANT FALTAS: YOUR HONOR –

THE COURT: NO, MA'AM, NOT UNTIL MR. BRIGGS COMES BACK. I DON'T WANT HIM TO DO SOMETHING OUT OF YOUR PRESENCE UNLESS WE ARE IN OPEN COURT AND IT'S A SIDEBAR AND I DON'T WANT YOU TO DO THINGS OUT OF HIS.

(PAUSE)

THE COURT: WE ARE NOW AT ABOUT THE POINT OF CROSS. MR. BRIGGS HAS COME BACK IN THE ROOM. THERE WERE TWO POINTS RAISED ON ISSUES REGARDING THE MOTION IN LIMINE THAT WOULD BE SPECIFIC TO THIS WITNESS. ONE WAS RELATED TO MOTIVE. IT WAS AGREED BY THE PARTIES AND THEN ORDERED BY THE COURT THAT WOULD NOT BE SOMETHING THAT WOULD BE ALLOWED TO BE ENTERED INTO. THE SECOND WAS THE ISSUE OF SELECTIVE PROSECUTION FOR THE LACK OF A BETTER WORD WHERE THE DEFENDANT'S COUNSEL WOULD LIKE TO ASK QUESTIONS REGARDING OTHER PROPERTIES AND WHY THOSE WERE NOT – IF THOSE HAD BEEN PROSECUTED AND WHY THEY WERE NOT. AND, MR. BRIGGS, IF YOU CAN GIVE ME AN OVERVIEW OF HOW FAR YOU PROPOSE TO GO DOWN THAT ROAD I WILL AGAIN HEAR FROM MR. FERNANDEZ. IF WE NEED TO PROFFER ANY TESTIMONY, WE WILL AND THEN WE'LL GET THE JURY BACK IN HERE AFTER MY RULING. MR. BRIGGS.

MR. BRIGGS: OKAY. YOUR HONOR, I HAVE ABOUT TEN OR SO

QUESTIONS AND I WILL CONSULT WITH MY CLIENT AFTER I DO THAT ON WHAT, QUOTE, HIS TESTIMONY. BUT THE OTHER WOULD BE I COULD SHOW HIM PICTURES WHERE THE DEFENDANT AND HE OR MR. HATCHER, I DON'T REMEMBER WHO ACTUALLY WENT TO SEE THESE PLACES, SAW SEVERAL OTHER LOCATIONS AND PICTURES WERE TAKEN ABOUT THEM SO JUST BRIEFLY THE THREE OR FOUR QUESTIONS WE TALKED ABOUT BEFORE ABOUT WHETHER OR NOT THOSE PLACES WOULD BE IN VIOLATION AND WHETHER OR NOT HE HAD INITIATED NOTICE TO THEM OR PROSECUTION, WHATEVER WORD YOU WANT TO SAY, OF ENFORCING THE ORDINANCES AGANST THOSE OTHER LOCATIONS. THAT'S ESSENTIALLY WHAT – NOT EVEN GOING TO GET TO THE QUESTION OF MOTIVATION, YOUR HONOR.

THE COURT: FIRST QUESTION IS A THRESHOLD QUESTION IS WHETHER OR NOT THOSE QUESTIONS ARE PROPER FOR THIS WITNESS. DO WE KNOW WHETHER THOSE PICTURES WERE SHOWN TO HIM OR MR. HATCHER? I WANT THEM TO BE ADDRESSED TO THE PROPER WITNESS.

MR. BRIGGS: WHO WENT WITH YOU TO SEE THE PROPERTIES? ANSWER THE QUESTION.

DEFENDANT FALTAS: COULD YOU PLEASE TAKE YOUR HAND OFF MY SHOULDER? AND, YOUR HONOR, COULD YOU PLEASE INSTRUCT COUNSEL TO NOT TOUCH ME.

THE COURT: I'M NOT GETTING INTO THAT, DR. FALTAS.

DEFENDANT FALTAS: HE IS DANGEROUS TO MY PHYSICAL SAFETY.

THE COURT: I'M NOT GETTING INTO THAT, DR. FALTAS. DR. FALTAS – MR. BRIGGS, THE QUESTION IS WERE THE PICTURES SHOWN TO MR.

HATCHER – I'M SORRY. SIMS?

A. YES, SIR.

THE COURT: THANK YOU VERY MUCH.

MR. BRIGGS: SEVERAL QUESTIONS, DR. FALTAS.

DEFENDANT FALTAS: NOT ONLY WERE THEY SHOWN TO THEM, THEY WERE THERE AND IN FACT –

THE COURT: LET ME ASK A MORE BASIC QUESTION BECAUSE THIS IS DRAWING A LONGER RESPONSE. DID MR. SIMS SEE THE PHOTOS?

DEFENDANT FALTAS: ARE YOU ASKING ME TO TESTIFY?

THE COURT: I'M ASKING YOUR COUNSEL. IF HE DOESN'T KNOW, I'M ASKING HIM TO TELL YOU –

MR. BRIGGS: THE JURY IS NOT HERE.

THE COURT: MR. BRIGGS, WILL YOU CONSULT WITH YOUR CLIENT AND THEN INFORM THE COURT WHETHER OR NOT MR. SIMS SAW THE PICTURES. THAT IS IMPORTANT AS TO WHETHER OR NOT THERE'S A FOUNDATION FOR HIM TO BE ABLE TO RESPOND TO THOSE QUESTIONS AND A GOOD FAITH BASIS TO ANSWER.

(DEFENSE COUNSEL AND DEFENDANT CONFER OFF THE RECORD)

DEFENDANT FALTAS: THERE ARE THREE – HE ASKED ME THREE QUESTIONS.

THE COURT: I'M ASKING MR. BRIGGS ONE QUESTION. I WANT YOU TO TELL MR. BRIGGS THE ANSWER AND LET HIM RESPOND TO ME. IT'S NOT TIME FOR TESTIMONY NOW. SO, MR. BRIGGS, WAS MR. SIMS SHOWN THESE PHOTOS?

DEFENDANT FALTAS: I BELIEVE I E-MAILED THEM TO HIM. THE SECOND QUESTION –

MR. BRIGGS: NO, NO, ONE AT A TIME. SHE SAYS SHE E-MAILED THE PICTURES SHE TOOK TO –

DEFENDANT FALTAS: SIMS OR HATCHER.

MR. BRIGGS: TO SIMS OR HATCHER, YOUR HONOR.

THE COURT: ONE OR THE OTHER, DOESN'T KNOW?

MR. BRIGGS: YES, SIR.

THE COURT: MR. SIMS, HAVE YOU EVER SEEN THE PHOTOS?

A. I'M NOT SURE IF I SAW THE PHOTOS. I KNOW THE PROPERTY SHE'S TALKING ABOUT.

THE COURT: OKAY. IF HE HASN'T SEEN THE PHOTOS, YOU CAN'T QUESTION HIM ON THE PHOTOS.

MR. BRIGGS: WELL, WHAT IF HE'S SEEN THE PROPERTY?

DEFENDANT FALTAS: YES, HE HAS SEEN THE PROPERTY.

THE COURT: ONE QUESTION AT A TIME.

MR. BRIGGS: OKAY.

THE COURT: ALL RIGHT. SO –

DEFENDANT FALTAS: AND HE TOOK PICTURES OF THEM.

THE COURT: LET'S GET SOME GROUND RULES SO WE KNOW WHERE WE ARE. ALL RIGHT. SO YOU CAN ASK HIM IF HE SAW A PHOTO. WHY DON'T I RULE ON THAT. YOU CAN'T – IF HE HADN'T SEEN THE PHOTOS, THAT ENDS ANY INQUIRY ON PHOTOS. MR. SIMS, HAVE YOU SEEN ANY OF THE PROPERTIES THAT ARE BEING REFERENCED?

A. YES, SIR, I BELIEVE SO. IF SHE'S TALKING ABOUT 304 AND 436 BYRON ROAD.

THE COURT: WHAT SPECIFIC PROPERTIES ARE YOU INQUIRING

ABOUT, MR. BRIGGS?

MR. BRIGGS: THOSE TWO ARE THE NUMBERS?

DEFENDANT FALTAS: YES.

THE COURT: ARE THERE ANY OTHERS, MR. BRIGGS?

MR. BRIGGS: HOW MANY?

DEFENDANT FALTAS: FOUR OR FIVE.

MR. BRIGGS: FOUR OR FIVE OTHERS –

THE COURT: PLEASE PROVIDE THE ADDRESSES.

MR. BRIGGS: YES, WE WILL.

THE COURT: PLEASE DO IT RIGHT NOW. YOU ARE GOING TO CROSS HIM NEXT AND --

MR. BRIGGS: I KNOW. I UNDERSTAND, YOUR HONOR.

DEFENDANT FALTAS: 300 BYRON ROAD. THE BYRON ROAD PROPERTY – THE BYRON ROAD APARTMENTS ACROSS THE STREET.

MR. BRIGGS: THAT WOULD BE ACROSS THE STREET FROM THE PROPERTY NEXT TO HER PROPERTY, YOUR HONOR.

DEFENDANT FALTAS: AND THE OTHER FIELDS THAT – THE OTHER PROPERTY WHICH DOESN'T HAVE A STREET ADDRESS BUT THE PROPERTY SOUTH OF MOTHER'S PROPERTY. IT DOESN'T HAVE A STREET ADDRESS AND I POINTED OUT TO HIM THAT THE GRASS –

THE COURT: WE DON'T NEED A FULL TESTIMONY. I'M LOOKING FOR ADDRESSES SO WE CAN DETERMINE IF HE HAS KNOWLEDGE OF THIS PROPERTY.

MR. BRIGGS: NEXT DOOR TO THE PROPERTY WE ARE TALKING ABOUT.

THE COURT: ALL RIGHT. SO WE'VE GOT 300, WE'VE GOT PROPERTY ACROSS THE STREET, WE'VE GOT PROPERTY SOUTH OF MOTHER'S PROPERTY FOR LACK OF A BETTER DESCRIPTION AND WE'VE GOT 304.

DEFENDANT FALTAS: AND WE'VE GOT CYPRESS –

THE COURT: OKAY. CYPRESS.

DEFENDANT FALTAS: CYPRESS WHATEVER. CYPRESS COVE APARTMENTS.

THE COURT: OKAY.

DEFENDANT FALTAS: WE'VE GOT 46 BYRON ROAD. WE'VE GOT BYRON ROAD APARTMENTS WHICH ARE ACROSS THE STREET.

THE COURT: ALL RIGHT. LET'S STOP RIGHT THERE. MR. SIMS, HAVE YOU SEEN THESE PROPERTIES?

A. I THINK – THE PROPERTY THAT SHE'S TALKING ABOUT, THE ONE THAT'S BESIDES HER IS A VACANT LOT, YES, SIR, I HAVE SEEN IT.

THE COURT: ALL RIGHT. ANY OF THESE OTHER PROPERTIES HAVE YOU SEEN?

A. THE ONE NEXT DOOR TO HER WHICH I THINK IS 304 I HAVE SEEN.

THE COURT: ALL RIGHT. ANY OTHERS?

A. THE ONE ACROSS THE STREET, CYPRESS COVE, I DON'T RECALL THAT ONE.

THE COURT: OKAY. 46 BYRON, BYRON ROAD APARTMENTS, 300.

DEFENDANT FALTAS: 436.

THE COURT: 436.

A. 436 BYRON ROAD. YES, I'VE SEEN IT.

THE COURT: MR. FERNANDEZ, WHAT IS YOUR POSITION ON HIM

BEING QUESTIONED ON THE PLACES HE HAS SEEN?

MR. FERNANDEZ: YOUR HONOR, NOT ONLY DOES THE LAW SUPPORT MY POSITION ON SELECTIVE PROSECUTION, BUT THIS IS THE VERY DEFINITION OF IRRELEVANCE BECAUSE WHAT – THE THRESHOLD QUESTION IS WHAT POSSIBLE – WHAT DOES THIS PROVIDE THE JURY. WHAT POSSIBLE RELEVANT EVIDENCE IS THIS – THESE KIND OF QUESTIONS PROVIDE THE JURY AS FAR AS WHETHER OR NOT HER PROPERTY HAD THOSE ITEMS ON IT AND WHETHER OR NOT THOSE ITEMS CONSTITUTE A VIOLATION OF OUR ORDINANCES. THE BASIC THRESHOLD RELEVANCE QUESTION IS THE WHOLE REASON WHY SELECTIVE PROSECUTION IS NOT ALLOWED GENERALLLY. IT'S SO RARE, THE FEDERAL CASES ON IT ARE SO RARE THAT IT'S ALMOST ONE OF THOSE LEGAL AREAS THAT IS NEVER EXPLORED BECAUSE YOU CAN ALWAYS SAY – JUST LIKE A DRUNK IN FIVE POINTS CAN ALWAYS SAY, HEY, THE OTHER GUY IS DRUNK, TOO. THERE'S ALWAYS GONNA BE CASES OUT THERE THAT SOMEONE'S DOING THE SAME THING YOU ARE BUT DIDN'T GET CAUGHT FOR IT, JUST LIKE A SPEEDER. THE GUY NEXT TO ME WAS SPEEDING. THAT'S NOT A VALID DEFENSE.

THE COURT: OKAY. I UNDERSTAND YOUR POSITION.

DEFENDANT FALTAS: MAY I TELL HIM SOME FACTS, PLEASE?

MR. BRIGGS: YOUR HONOR, FIRST I'D NOTE THESE PEOPLE DID GET CAUGHT THOUGH.

THE COURT: LET ME TELL YOU WHAT I THINK WE ARE GOING TO DO. MR. BRIGGS, WE ARE GOING TO GET YOU ON YOUR FEET ON THE RECORD. WE ARE GOING TO LET YOU ASK MR. SIMS THESE QUESTIONS OUTSIDE THE PRESENCE OF THE JURY. WE ARE GOING TO GET HIM TO ANSWER SO IT'S

PROFFERED. I'M NOT GOING TO ALLOW IT TO BE ASKED IN FRONT OF THE JURY. TESTIMONY WILL BE PRESERVED. LET'S PROFFER THE TESTIMONY.

MR. BRIGGS: I UNDERSTAND.

DEFENDANT FALTAS: THE RELEVANCE – MAY I ASK HIM WHAT TO ASK?

(DISCUSSION AT DEFENSE CUNSEL TABLE:

DEFENDANT FALTAS: THE POTHOLES ACTUALLY HAD STAGNANT WATER THAT HE SAW, NOT THEORETICAL, NOT –

MR. BRIGGS: OKAY. OKAY.)

THE COURT: DR. FALTAS, WE'VE BEEN THROUGH THIS FOUR OR FIVE TIMES. PLEASE DO NOT SPEAK TO YOUR ATTORNEY IN YOUR ATTORNEY-CLIENT CONVERSATIONS LOUD ENOUGH FOR THE REST OF THE COURT TO HEAR YOU.

DEFENDANT FALTAS: YOUR –

THE COURT: STOP. I'M NOT ASKING FOR A RESPONSE. YOU ARE NOT TESTIFYING AT THIS TIME SO IT IS INAPPROPRIATE TO PUT ALL THAT INFORMATION INTO THE RECORD. MR. BRIGGS, PLEASE PROFFER THE INFORMATION. IT WILL NOT BE ALLOWED TO GO TO THE JURY.

DEFENDANT FALTAS: YOUR HONOR, MAY I SAY THAT I DO NOT CONSIDER MR. BRIGGS MY LAWYER.

THE COURT: NO, MA'AM, YOU MAY NOT. PLEASE HAVE A SEAT.

DEFENDANT FALTAS: THANK YOU.

CROSS EXAMINATION (WITHOUT JURY PRESENT) BY MR. BRIGGS:

Q. MR. SIMS, WE'LL JUST ADDRESS THE QUESTIONS THAT THE JUDGE

TALKED ABOUT. WE WON'T BE CROSS EXAMINING YOU BECAUSE THE JURY IS NOT HERE YET.

A. YES, SIR.

Q. I HAVE SOME QUESTIONS ABOUT THE OTHER AND IT WOULD HAVE GONE BETTER FIRST BUT WE ARE NOT GONNA DO THAT. WE ARE GOING TO STICK TO WHAT THE JUDGE SAID. OKAY.

THE COURT: SO WE ARE CLEAR. ANYTHING THAT YOU THINK NEEDS TO BE PROFFERED TO BE PRESERVED FOR THE RECORD PLEASE DO SO.

DEFENDANT FALTAS: COULD I HELP HIM WITH EXHIBITS?

THE COURT: DR. FALTAS, YOU AND YOUR ATTORNEY CAN WORK ANY WAY YOU WANT. PLEASE DON'T KEEP ASKING THE COURT QUESTIONS.

MR. BRIGGS: DON'T TALK BUT GIVE ME ANY EVIDENCE, PICTURES.

Q. (BY MR. BRIGGS) MR. SIMS, YOU PICK ONE OF THE PIECES OF PROPERTY THAT YOU SAW AND THAT DR. FALTAS BELIEVES WOULD BE A VIOLATION OF THE ORDINANCE. YOU JUST SHOW IT TO ME AND TELL ME WHAT IT IS, OKAY?

A. OKAY, SIR. SHE BROUGHT THIS ONE TO MY ATTENTION THAT THIS DRAINAGE HOLE RIGHT HERE DIDN'T HAVE A COVER. THAT WAS JANUARY 31ST, 2012. I SENT – THAT WAS ON MS. STEELE'S PROPERTY. I SENT HER A NOTICE AND – WELL, I TOOK THIS PICTURE LAST YEAR JUST TO MAKE SURE. I HAD FOLLOWED UP IN TEN DAYS BUT IT HAD BEEN TAKEN CARE OF. THERE'S A CAP ON IT.

Q. SO YOUR TESTIMONY IS THEY RESPONDED WITHIN THE TEN-DAY NOTICE PERIOD THAT YOU CITED BEFORE?

A. YES, SIR. AND THIS IS A FENCE AT 436 BYRON ROAD. IT WAS IN ILL REPAIR AND THEY HAD REPAIRED IT RIGHT HERE. THIS IS THE – EXCUSE ME,

BEFORE AND AFTER PICTURE. THIS ONE IS THE PEOPLE NEXT DOOR AND I TOOK THIS FROM HER PROPERTY WITH HER PERMISSION. THEY HAD UNAUTHORIZED ITEMS THAT'S INDOOR FURNITURE OUTSIDE. THAT WAS JANUARY 31ST AND I DID A FOLLOWUP IN FEBRUARY AND IT HAD BEEN REMOVED.

Q. AND THOSE ARE APARTMENTS THAT ARE PART OF 304?

A. YES, SIR. AND THEN I DIDN'T TAKE PICTURES OF THE VACANT LOT NEXT DOOR BUT THE GRASS WAS OVERGROWN AND I ISSUED THE GENTLEMAN THAT OWNS THAT PROPERTY A NOTICE TO CUT THE GRASS. HE CUTS IT EVERY TIME I SEND HIM A NOTICE WHICH IS USUALLY ABOUT THREE TIMES A YEAR.

Q. NOW, IN FACT, IT MAY NOT BE AS SERIOUS AS SOME OF THE OTHER PROBLEMS IN THE ORDINANCE BUT TOO MUCH GRASS IS A VIOLATION OF THAT ORDINANCE, IS THAT CORRECT?

A. YES, SIR. IF THE GRASS IS MORE THAN TWELVE INCHES TALL.

Q. OKAY.

(DEFENDANT FALTAS: INAUDIBLE. 2009.)

A. 2009?

DEFENDANT FALTAS: YES, WEREN'T YOU WORKING ---

THE COURT: STOP TALKING TO THE WITNESS DIRECTLY.

Q. (BY MR. BRIGGS) THE QUESTION IS THIS PARTICULAR PICTGURE HERE IS A PICTURE OF DR. FALTAS' PROPERTY DOWN THERE.

MR. BRIGGS: FOR THE RECORD, YOUR HONOR, HER MOTHER OWNS THE PROPERTY. THAT'S WHAT WAS THE MISUNDERSTANDING BEFORE.

THE COURT: LET'S SLOW DOWN FOR A SECOND. ARE WE STILL ASKING QUESTIONS RELATING TO SELECTIVE PROSECUTION?

MR. BRIGGS: YES.

THE COURT: AS IT RELATES TO OTHER PROPERTIES?

MR. BRIGGS: YES. WE ARE ASKING HIM ABOUT THE PROPERTY THAT SHE IS BEING PROSECUTED ON.

Q. (BY MR. BRIGGS) HERE IT HAD, WHAT, THREE FOOT GRASS, MR. SIMS?

DEFENDANT FALTAS: BEFORE WE BOUGHT IT.

THE COURT: OKAY. YOU BOTH CANNOT DO THAT. DR. FALTAS, THE GENTLEMAN HAS TO BE ABLE TO RESPOND TO THE QUESTION. WE HAVE TO HAVE A CLEAR RECORD.

A. OKAY. SIR, I DIDN'T – I – I WASN'T AN INSPECTOR IN THIS AREA IN 2009.

MR. BRIGGS: OKAY.

THE COURT: ANYTHING FURTHER, MR. BRIGGS?

DEFENDANT FALTAS: YES.

THE COURT: MR. BRIGGS, YOU HAVE TO RESPOND TO THE QUESTION. ANYTHING FURTHER?

MR. BRIGGS: JUST ONE MORE, YOUR HONOR.

DEFENDANT FALTAS: NO, SEVERAL MORE.

MR. BRIGGS: MARIE, WE CAN'T WAIT ON YOU. YOU'VE GOT TO BE READY TO DO SOMETHING.

DEFENDANT FALTAS: AND YOU GOT TO KNOW THE LAW BEFORE –

THE COURT: DR. FALTAS, MR. BRIGGS, PLEASE STOP. MR. BRIGGS, PLEASE PROFFER.

DEFENDANT FALTAS: THIS POTHOLES HOLD MORE WATER THAN ANYTHING AND THEY WERE ON 304 AND THEY NEVER HAVE BEEN CORRECTED.

THE COURT: DR. FALTAS, YOU ARE NOT ALLOWED TO TESTIFY.

MR. BRIGGS: YOUR HONOR, I'M GOING TO STOP WITH THIS ONE.

DEFENDANT FALTAS: NO, I WANT TO (INAUDIBLE) THE METER MAIDS.

THE COURT: MR. BRIGGS, JUST DETERMINE YOUR STRATEGY.

MR. BRIGGS: YES, SIR.

Q. (BY MR. BRIGGS) ARE THERE POTHOLES IN ANY OF THOSE PICTURES AND I THINK YOU RECOGNIZE THAT AS THE PARKING LOT OF 304.

A. I BELIEVE SO. YES, SIR.

Q. AND HAVE YOU DONE ANY NOTICE ABOUT THOSE POTHOLES?

A. NO, SIR. WHAT I DID DO WHEN SHE BROUGHT IT UP WAS I CALLED THE FIRE MARSHALL AND THE CITY OF – IT WAS THE FIRE MARSHALL. I CALLED SOMEBODY ELSE (INAUDIBLE) STREET DIVISION ABOUT IT.

Q. DO YOU KNOW WHETHER THEY FOLLOWED UP ON IT?

A. I'M NOT SURE IF THEY DID OR NOT.

Q. I MEAN THE JUDGE CAN TAKE JUDICIAL NOTICE BUT YOU WOULD ADMIT THAT POTHOLES WILL HOLD WATER?

A. THEY WILL HOLD WATER. I DON'T KNOW IF THEY –

THE COURT: I'M NOT TAKING ANY JUDICIAL NOTICE OF ANY FACTUAL QUESTIONS YOU'VE GOT FOR THIS WITNESS.

DEFENDANT FALTAS: WELL, THEN ASK HIS EXPERT OPINION, DO THEY HOLD WATER (INAUDIBLE). I NEED TO HAVE THE METER MAID THAT'S (INAUDIBLE) SCRAP METAL.

THE COURT: ARE WE DONE, MR. BRIGGS? YOU INDICATED ONE MORE.

DEFENDANT FALTAS: IN FRONT OF THE BUILDING WHERE HE WORKS AT. IN FRONT OF WASHINGTON SQUARE. IT'S A PROFFER, MR. BRIGGS.

IT'S A PROFFER.

MR. BRIGGS: IT WILL BE HARMFUL TO THE JURY.

DEFENDANT FALTAS: NO, IT'S NOT. JUST PROFFER IT.

Q. (BY MR. BRIGGS) MR. SIMS, DO YOU RECOGNIZE THAT PICTURE OF A, QUOTE, AN OBJECT THAT IS MADE OUT OF METAL NEXT TO A PARKING METER?

A. YES, SIR.

Q. AND WHERE IS THAT?

A. IT'S IN FRONT OF 1136 WASHINGTON STREET.

Q. IS THAT THE BUILDING YOU WORK IN?

A. YES, SIR.

Q. OKAY. DO YOU CONSIDER THAT SCRAP METAL OR NOT?

A. NO, SIR, I CAN'T BECAUSE TO ME IT'S A STATUE. I MEAN THAT'S WHAT THE MAYOR CALLS IT.

THE COURT: THIS IS WHAT WE ARE GOING TO DO. ALL OF THOSE PICTURES Y'ALL JUST DID ARE GOING TO BE MARKED AND MADE A PART OF THIS PROFFER. I HAVE HEARD THE PROFFERED TESTIMONY. I HAVE HEARD THE ARGUMENTS REGARDING SELECTIVE PROSECUTION. I FIND PUTTING ANY OF THIS IN FRONT OF THE JURY IS NOT PROPER UNDER THE CURRENT CASE LAW AND IT WILL NOT BE DONE. SO I ALSO FIND THAT I'VE GIVEN YOU AN OPPORTUNITY TO PRESERVE THE TESTIMONY. YOU ARE INSTRUCTED YOU CANNOT ASK ANY QUESTIONS ALONG THIS LINE OF QUESTIONING TO THIS WITNESS OR ANY OTHER WITNESSES IN THIS MATTER.

MR. BRIGGS: I UNDERSTAND THAT, YOUR HONOR, BUT I WOULD LIKE TO FORMALLY PROFFER IT. I DIDN'T MAKE A MOTION BUT I'D LIKE TO. YOU'VE GIVE IT TO ME.

THE COURT: FORMALLY MAKE IT.

MR. BRIGGS: I MAKE THE PROFFER THAT THIS EVIDENCE IS RELEVANT, THAT IT SHOULD BE ADMITTED INTO EVIDENCE AND THAT'S MY PROFFER, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. WE'VE ALLOWED YOU THE OPPORTUNITY TO DO SO, WE ARE GOING TO MARK ALL THE THINGS AS IDENTIFICATION THAT YOU HAD THE WITNESS TESTIFY REGARDING SO THAT THE RECORD IS COMPLETE WITH BOTH HIS TESTIMONY AND WHAT HE LOOKED AT IT. WITH THAT BEING SAID, WE ARE GOING TO GO BACK TO CROSS EXAMINATION WITH THAT UNDERSTANDING. PLEASE TAKE THOSE PICTURES AND MAKE SURE THEY ARE MARKED. IT'S YOUR RESPONSIBILITY TO MARK THEM FOR IDENTIFICATION PURPOSES.

DEFENDANT FALTAS: YOUR HONOR, I WANT A BENCH TRIAL IF (INAUDIBLE) IS TAKEN OUT OF CONSDIERATION.

THE COURT: I AM NOT – IF YOU WISH TO TALK TO YOUR ATTORNEY. I'M NOT IN A POSITION TO MAKE ANY DEALS. I'M NOT ATTEMPTING TO MAKE ANY DEALS. IF YOU WANT TO TALK TO YOUR ATTORNEY ABOUT SPEAKING TO THE PROSECUTOR ABOUT ANY PLEA AGREEMENT, THAT IS BETWEEN YOUR ATTORNEY AND THE PROSECUTOR. I WILL ADDRESS ANYTHING THAT IS BROUGHT TO ME BUT IT IS NOT FOR ME TO MAKE THAT DETERMINATION. MR. BRIGGS, PLEASE DISCUSS THAT WITH YOUR CLIENT. I THINK IT'S INAPPROPRIATE FOR ME TO DO SO.

MR. BRIGGS: I WILL IMMEDIATELY DO THAT, YOUR HONOR. WE DON'T HAVE A STAMP ON THIS ONE.

DEFENDANT FALTAS: THEN GET ONE FROM HER.

MR. BRIGGS: I'M GONNA JUST WRITE IT ON THERE. 42-B.

THE COURT: HOW MANY WITNESSES DO YOU HAVE AFTER THIS AS IT IS FOR SCHEDULING PURPOSES ABOUT 12:36. AFTER CROSS OF THIS WITNESS, WE WILL TAKE A LUNCH BREAK. ASSUMING THE STATE OR THE CITY WOULD LOOK TO CLOSE ITS CASE AND THEN AFTER THE LUNCH BREAK WE'LL BEGIN WITH THE DEFENDANT'S CASE.

(DISCUSSION AT DEFENSE CONSEL TABLE:

DEFENDANT FALTAS: I WANT A BENCH TRIAL.

MR. BRIGGS: I UNDERSTAND.)

THE COURT: HAVE ALL OF THE DOCUMENTS BEEN MARKED THAT WERE REFERENCED? IN ADDITION TO THESE, I BELIEVE THERE WERE SOME THAT WERE CONTAINED IN MR. SIMS' FILE. IS IT NOT YOUR INTENTION TO MARK THOSE –

MR. BRIGGS: I WAS GOING TO NOTE THAT, TOO, YOUR HONOR. MAYBE WE OUGHT TO HAVE AN EXTRA COPY OF THOSE AND DO THAT AT A LATER TIME OR WE CAN STOP AND DO IT NOW. HE REFERRED TO TWO OR THREE PICTURES OF HIS OWN.

THE COURT: ALL I AM SAYING IS THAT I AM GIVING YOU THE OPPORTUNITY TO ATTACH THEM.

MR. BRIGGS: I WANT THEM IN MY PROFFER.

THE COURT: ALL RIGHT. MR. SIMS, DO YOU HAVE EXTRA COPIES OF THOSE SO THOSE CAN BE ATTACHED OR DO COPIES NEED TO BE MADE?

A. NO, SIR, I DON'T HAVE EXTRA.

THE COURT: OKAY. WE WILL GIVE THOSE TO MR. BRIGGS AT THE BREAK AND SEE IF COPIES CAN BE MADE. THANK YOU VERY MUCH. MAY WE

JUST HOLD ON TO THEM SO WE DON'T GET THEM CONFUSED?

MR. FERNANDEZ: YOUR HONOR, I CAN MAKE COPIES OF THAT.

THE COURT: FAIR ENOUGH. WE'LL GET THEM MADE. I JUST DON'T WANT THEM TO GET CONFUSED WITH SOMETHING THAT HE DIDN'T SEE FOR LATER PURPOSES. PLEASE BRING THE JURY BACK.

MR. BRIGGS: YOUR HONOR, ONE OTHER THING.

THE COURT: HOLD ON. BEFORE THE JURY COMES BACK?

MR. BRIGGS: I'M SORRY. I APOLOGIZE.

THE COURT: ALL RIGHT. YES, SIR.

MR. BRIGGS: I'LL BE VERY BRIEF BUT AS YOU KNOW DR. FALTAS WOULD PREFER TO REPRESENT HERSELF AND THAT ISSUE HAS BEEN DECIDED BY SOMEONE ELSE AND JUST FOR THE RECORD WE HAVE THAT WHOLE MATTER ON APPEAL WITH THE FOURTH CIRCUIT COURT OF APPEALS. AND IT'S MY UNDERSTANDING THEY ARE GOING TO DO SOMETHING BUT I DON'T KNOW WHAT THEY ARE GOING TO DO. BUT BESIDE THAT SHE HAS INSISTED THAT I ASK THE COURT TO CHANGE THIS FROM A JURY TRIAL TO A BENCH TRIAL AT THIS POINT IN THE TRIAL WITH US NOT – WITH US WAIVING ANY RIGHT TO CLAIM BASED UPON THAT SOLE FACT THAT THERE WAS A MISTRIAL, YOUR HONOR.

DEFENDANT FALTAS: WITH THE – IF THEY TAKE THE JURY OUT OF CONSIDERATION –

THE COURT: THIS IS WHAT WE NEED TO DO, MR. BRIGGS. WHAT WE ARE GOING TO DO, MR. BRIGGS. WE ARE GOING TO GET THE JURY BACK.. AS THEY WILL BE LISTENING, I WILL BE LISTENING SO WHATEVER WE DO ON THAT ISSUE HAVING THE GENTLEMAN BE CROSSED WON'T AFFECT WHATEVER WE ARE GOING TO DETERMINE. I DON'T THINK IT'S APPROPRIATE FOR ME TO MAKE

A RULINGON ON THAT AT THIS TIME IF SHE HAS ADDITIONAL CONDITIONS THAT I BELIEVE ARE MORE AKIN TO SOME TYPE OF PLEA NEGOTIATION AS THEY ARE TO ANYTHING ELSE. SO I'M NOT GOING TO RULE ON THAT. WE ARE GOING TO BRING THE JURY BACK AND HAVE MR. SIMS BE CROSSED. WE WILL ADDRESS THAT AFTER WE SEND THE JURY TO LUNCH. PLEASE BRING THE JURY BACK.

MR. BRIGGS: YOUR HONOR, JUST ON THAT POINT. I WANT THE COURT TO KNOW THAT I APPROACHED MR. FERNANDEZ ABOUT ONE POSSIBILITY SOLUTION TO THE PROBLEM. WE DID NOT TALK ABOUT ANY SUBSTANCE BECAUSE HE SAID HIS CLIENT WOULD HAVE TO BE INVOLVED IN THAT. IF THE COURT FEELS IT'S APPROPRIATE FOR US TO HAVE THAT DISCUSSION DURING THE LUNCH PERIOD I'M PREPARED TO DO THAT. I JUST WANTED YOU TO KNOW THAT.

THE COURT: FAIR ENOUGH. THANK YOU, SIR. PLEASE BRING THE JURY BACK.

(JURY RETURNS TO THE JURY BOX)

THE COURT: WE'LL NOW BEGIN WITH THE CROSS EXAMINATION OF MR. SIMS. MR. BRIGGS.

MR. BRIGGS: I APOLOGIZE, YOUR HONOR, BUT I THOUGHT I HAD THE ORDINANCES IN MY HAND AND I DON'T.

THE COURT: TAKE YOUR TIME.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: (INAUDIBLE.)

MR. BRIGGS: I UNDERSTAND.

DEFENDANT FALTAS: WE DON'T HAVE THEM HERE. THE CLERK HAS THEM.

MR. BRIGGS: IF YOU'LL SHUT UP I CAN DO WHAT I NEED TO DO. OKAY?)

MR. BRIGGS: THIS WHOLE SET OF ORDINANCES KEEPS GETTING LOST, YOUR HONOR. I APOLOGIZE FOR THE DELAY.

THE COURT: YOUR WITNESS WHEN YOU ARE READY, SIR.

CROSS EXAMINATION BY

MR. BRIGGS:

Q. MR. SIMS, I GAVE YOU THE NOTICE THAT YOU TALKED ABOUT BEFORE AND I ALSO GAVE YOU A COPY OF THE ORIGINAL SUMMONS.

MR. BRIGGS: WE DIDN'T PUT THE SUMMONS IN, DID WE?

MR. FERNANDEZ: NO.

Q. (BY MR. BRIGGS) NOW HERE'S MY QUESTION AND I'LL TRY TO BE BRIEF AND FOLLOW THE RULES THAT LAWYERS ARE SUPPOSED TO KNOW, ASK ONE QUESTION AT A TIME, OKAY?

A. YES, SIR.

Q. DOES THE SUMMONS IN ANY WAY TELL DR. FALTAS WHAT KIND OF MATERIAL SHE'S GOT IN HER YARD THAT YOU CONSIDER ILLEGAL?

A. DOES THE SUMMONS SAY THAT?

Q. YES.

A. NO, SIR.

Q. LET'S LOOK AT THE WRITTEN NOTICE. DOES THE WRITTEN NOTICE IN ANY WAY IDENTIFY SPECIFIC ITEMS OF MATERIAL THAT YOU ALL THINK SHOULD NOT BE ON HER PROPERTY?

A. NO, SIR.

Q. IT JUST CITES THE ORDINANCES, IS THAT CORRECT?

A. YES, SIR.

Q. YOU CAN HAND THOSE BACK TO ME. IS THE WORD -- TRASH SEEMS TO BE ONE OF THE ITEMS I THINK WE'RE TALKING ABOUT THAT IS IN 8-32. IS IT DEFINED ANYWHERE IN THE ORDINANCE?

A. NO, SIR.

Q. IS THE WORD RUBBISH THAT IS IN 307.1 DEFINED IN THE ORDINANCE?

A. IT'S DEFINED IN THE GLOSSARY OF THE PROPERTY MAINTENANCE CODE.

Q. GLOSSARY OF THE PROPERTY MAINTERNANCE CODE?

A. YES, SIR. IN DEFINITIONS.

Q. WELL, YOU DON'T NEED TO GIVE IT TO ME BUT THERE IS SOMEWHERE IN YOUR LITERATURE THAT SOMEBODY CAN FIND THE DEFINITION OF RUBBISH?

A. YES, SIR.

Q. MY QUESTION, MR. SIMS, WITHOUT TRYING TO BE ARGUMENTATIVE IS WITH THESE NOTICES HOW DID DR. FALTAS – HOW WAS SHE SUPPOSED TO KNOW WHAT STUFF SHE HAD ON HER PROPERTY THAT WAS AGAINST THE LAW?

A. WELL, SHE CALLED –

Q. WITH THE DOCUMENTS NOW. LET'S DEAL WITH THE DOCUMENTS FIRST.

THE COURT: HE GETS TO ANSWER, MR. BRIGGS. YOU'VE ASKED A QUESTION, HE GETS TO ANSWER.

A. OKAY. WELL, WHEN I SENT THE NOTICE OUT ON THE 7TH SHE CALLED ME ON THE 10TH, THE 10TH OF OCTOBER AND ASKED ME FOR A COPY OF THE ORDINANCES. AND I SENT HER A COPY OF THE ORDINANCES AND THEN –

Q (BY MR. BRIGGS) WHAT DATE?

A. I SENT IT TO HER ON THE 10TH.

Q. NOW BETWEEN THE 5TH AND THE 20TH WERE SOME MATERIALS MOVED

FROM HER PROPERTY?

A. BETWEEN –

Q. THE 5TH OF OCTOBER AND THE 20TH.

A. I BELIEVE SO, SIR, BECAUSE I DIDN'T SEE THE CARDBOARD SWIRLS.

Q. LET'S GO BACK SO THE JURY UNDERSTANDS. THERE WERE MARKINGS USED BY CARDBOARD CONES OR WHATEVER YOU WANT TO CALL THEM –

A. YES, SIR.

Q. -- OUT THERE FIRST?

A. YES, SIR.

Q. AND YOU ALL INSISTED THEY BE REMOVED, IS THAT CORRECT?

A. YES, SIR.

Q. AND WERE THEY REMOVED?

A. THE CARDBOARD CONES WERE REMOVED.

Q. AND WERE THEY REPLACED WITH ANYTHING?

A. YES, SIR. REPLACED WITH THE BUCKETS.

Q. WELL, I'LL GET TO THAT IN A MINUTE. MR. SIMS, DID YOU TALK PERSONALLY TO ANY OF THE WITNESSES THAT COMPLAINED TO YOU ABOUT –

MR. FERNANDEZ: YOUR HONOR –

THE COURT: DR. FALTAS, PLEASE BE SEATED WHILE MR. BRIGGS ASKS QUESTIONS.

Q. (BY MR. BRIGGS) -- THIS YARD?

A. I'M NOT SURE WHO THE WITNESSES ARE.

Q. THE PEOPLE WHO CALLED YOU ON THE TELEPHONE.

A. OH, YES, SIR, SEVERAL PEOPLE CALLED ME ON THE PHONE.

Q. NO, BUT DID YOU TALK TO THEM PERSONALLY EYEBALL TO EYEBALL?

A. AT ONE POINT, YES, I DID BUT I'M NOT SURE WHAT THAT DATE WAS.

Q. DID YOU IDENTIFY THE NAMES OF ANY OF THESE WITNESSES?

A. I TALKED TO MS. STEELE.

Q. OKAY. SO IF YOU GOT THEIR NAME, YOU WROTE IT DOWN SOMEWHERE? I'M ASKING A QUESTION.

A. YES, SIR.

Q. IS THE WORD SCRAP OR SCRAP METAL, IS IT DEFINED IN THE ORDINANCE?

A. NO, SIR, IT'S NOT DEFINED IN THE ORDINANCE. I LOOKED IT UP ON WIKIPEDIA AND SEE WHAT THE DEFINITION –

Q. IN AN ENCYCLOPEDIA?

A. YES, SIR.

Q. AND I THINK WE TALKED ABOUT IT BUT I'M GOING TO ASK IT AGAIN, THE WORD RUBBISH, IS THAT THE ONE YOU SAID WAS DEFINED IN THE OTHER LITERATURE?

A. YES, SIR, IN THE PROPERTY MAINTENANCE CODE.

Q. AND WHAT PROPERTY?

A. YES, SIR.

Q. WHAT DO YOU CALL IT?

A. YOU WANT THE DEFINITION OF –

Q. NO, I WANT YOU TO TELL ME WHAT THE DOCUMENT IS THAT YOU SAID IT'S FOUND IN.

A. IT'S THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

Q. DID DR. FALTAS GET A COPY OF THAT?

A. I BELIEVE SO SHE DID, SIR, BECAUSE I GAVE HER A COPY OF ALL THE ORDINANCS, ALL THESE FOUR SHEETS OF PAPER RIGHT HERE. TWICE.

Q. I'M STILL CONFUSED AND I DON'T WANT TO GO OVER EVERYTHING TWICE BUT WHEN DID YOU IDENTIFY TO DR. FALTAS WHAT ITEMS NEEDED TO BE REMOVED AND WHAT ITEMS COULD STAY ON HER PROPERTY?

A. THAT WOULD BE THE 10TH.

Q. THE 10TH. AND HOW DID YOU DO THAT?

A. WELL, I MET WITH HER ON THE 10TH. I MET HER AT THE PROPERTY. AND THAT'S – WE DISCUSSED WHAT SHE WAS DOING WITH THOSE ITEMS. AND THEN SHE ASKED ME FOR A COPY OF THE ORDINANCES. I DIDN'T HAVE ONE WITH ME SO WHEN WE GOT DONE I WENT BACK AND I PUT IT IN THE MAIL.

Q. AND THE 10TH IS THE DAY THAT YOU GAVE HER THE WRITTEN NOTICE THAT GIVES HER TEN DAYS TO CORRECT THE PROBLEM?

A. NO. I SENT HER THE NOTICE ON THE 7TH.

Q. 7TH.

A. THAT'S THE DAY I SENT IT OUT.

Q. BUT YOU WENT TO SEE HER ON THE 10TH?

A. YES, SIR.

Q. WHY GO EARLY IF SHE HAD TEN DAYS TO CORRECT THE PROBLEM?

A. SHE CALLED ME.

Q. OH, OKAY.

MR. BRIGGS: YOUR HONOR, LET ME CONSULT WITH MY CLEINT JUST ONE MINUTE AND THEN I'VE GOT TWO OR THREE OTHER QUESTIONS.

THE COURT: YES, SIR.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: DON'T TOUCH ME.

MR. BRIGGS: I'VE GOT A QUESTION.

DEFENDANT FALTAS: DON'T TOUCH ME.

MR. BRIGGS: WELL, IF YOU EVER TOUCH ME, I'M GOING TO SLAP YOU UP SIDE THE HEAD. OKAY. YOU CAN HEAR THE REST OF THE QUESTIONS AND THEN I'LL ASK YOU IF YOU'VE GOT ANY MORE, OKAY?

DEFENDANT FALTAS: YOU WERE GOING TO ASK ME A QUESTION.

MR. BRIGGS: I HAVEN'T FINISHED MINE.)

Q. (BY MR. BRIGGS) MR. SIMS, CORRECT ME IF I'M WRONG. AS I RECALL YOUR TESTIMONY THE BUCKETS THAT WERE LINED TO DENOTE HER PROPERTY LINE FURTHEREST AWAY FROM THE APARTMENTS WHICH WE REFER TO AS 304, YOU TESTIFIED THAT YOU DIDN'T FIND ANY WATER IN THOSE, IS THAT CORRECT?

A. INITIALLY WHEN I FIRST WENT OUT THERE ON THE 5TH I DIDN'T. THEY WERE STACKED UP.

Q. OKAY. WHEN THEY WERE IN LINE, DID YOU FIND ANY WATER ON TOP OF THE BUKETS?

A. WELL, WHEN I WENT BACK OUT THERE, SOME OF THEM HAD BEEN MOVED AND THERE WERE SOME THAT WERE SITTING UPRIGHT AND I DO BELIEVE THAT THOSE HAD WATER IN THEM. THEY ALL WEREN'T UPSIDE DOWN.

Q. YOU DON'T HAVE ANY EVIDENCE OF WHO MOVED THEM, DO YOU?

A. WELL, NO, SIR, NOT AT THAT TIME.

Q. ON THE OTHER BORDER, DIDN'T SHE HAVE SOME ANGLE IRON OR METAL STAKES STAKED OUT ON HER PROPERTY LINE ON THAT SIDE?

A. YES, WHEN I WENT BACK THERE WAS – BECAUSE INITIALLY IT WAS SOME SPOOLS OUT THERE AND THERE WAS SOME ..

Q. WE'VE ALREADY TALKED ABOUT HER REMOVING THE SPOOLS.

A. YES, SIR.

Q. DO YOU KNOW WHETHER THOSE STAKES WERE MOVED LATER ON, TAKEN AWAY FROM THE PROPERTY?

A. I THINK THEY ARE STILL ON THE PROPERTY. THEY ARE BENT OVER BUT I THINK THEY'RE STILL THERE.

Q. BENT OVER?

A. YES, SIR.

Q. NOW SOME OF THIS METAL THAT YOU TALKED ABOUT AS BEING A CERTAIN KIND OF METAL, AREN'T THEY ANGLE IRONS THAT PEOPLE USE TO BUILD THINGS WITH?

A. YES, SIR.

Q. THEY ARE REGULAR PRODUCTION ANGLE IRONS THAT YOU'D GO DOWN TO A HARDWARE STORE AND BUY, IS THAT CORRECT?

A. YES, SIR, SOME OF THEM ARE.

Q. AND AS I RECALL -- NOW YOU CAN CORRECT ME IF I'M WRONG – AS I RECALL THE ONLY WATER YOU SAW THAT WAS IN A CONTAINER WAS – CORRECT ME NOW – TWO OR THREE BUCKETS OR CONTAINERS THAT HAD SORT OF BEEN TURNED OVER AND WAS IN A CERTAIN AREA. WOULD YOU MAKE THAT CLEAR FOR ME?

A. WELL, THERE WERE SOME BUCKETS THAT WERE TURNED UP. THERE WAS SOME ADDITIONAL GARBAGE CONTAINERS THAT WERE TURNED UP.

Q. LET'S CALL THEM STORAGE CONTAINERS. CAN WE CALL –

MR. FERNANDEZ: YOUR HONOR –

(INAUDIBLE)

THE COURT: DR. FALTAS -- HOLD ON A MOMENT. PLEASE DO NOT

MAKE NOISES LIKE THAT.

Q. (BY MR. BRIGGS) CAN WE CALL THEM STORAGE CONTAINERS.

A. YES.

Q. BECAUSE NONE OF THEM HAD GARBAGE IN THEM, DID IT?

A. NO, SIR. I MEAN THEY HAD SOMETHING IN IT BUT I WOULDN'T CALL IT GARBAGE. THERE WERE SOME STORAGE CONTAINERS THAT WERE TURNED UP AND THEY DIDN'T HAVE LIDS ON THEM AND THERE WERE – THERE'S POSSIBLY WATER IN IT. I DIDN'T LOOK DOWN IN THE BOTTOM OF IT.

Q. DID THEY HAVE LIDS ATTACHED TO THEM BUT THEY WEREN'T FOLDED OVER?

A. THERE WERE TWO ROLL CARTS THAT HAD LIDS ATTACHED. THE OTHER TWO I DIDN'T SEE ANY LIDS.

Q. NOW AGAIN IT DOESN'T MAKE MUCH DIFFERENCE BUT YOU KNOW WHEN THE GARBAGE PEOPLE COME AND COLLECT OUR GARBAGE THEY SOMETIMES LEAVE THOSE LIDS OPEN, DON'T THEY? ALONG THE STREETS OF THE CITY?

A. YES, SIR.

Q. BUT HOMEOWNERS CORRECT THAT IN A HURRY AND SO THEY ARE NOT SITTING THERE FOR THREE OR FOUR DAYS COLLECTING WATER?

A. YES, SIR, THAT IS A VIOLATION.

Q. NOW ALTHOUGH YOU TESTIFIED THAT YOU SAW SOME WATER IN – YOU GIVE ME A NUMBER IF YOU WANT – BUT A FEW CONTAINERS –

A. YES, SIR.

Q. YOU DID NOT TESTIFY THAT YOU SAW ANY MOSQUITOES OR ANY EGGS OR ANY LARVAE, DID YOU?

A. NO, SIR, NOT AT THAT TIME.

Q. AND YOU SAID THAT AS GENERAL RULE THAT IT WOULD TAKE FIVE DAYS OF STANDING WATER AT A MINIMUM, IT MIGHT BE MORE THAN THAT, FOR MOSQUITOES TO SHOW UP IN THAT WATER, IS THAT CORRECT?

A. THAT'S WHAT D.H.E.C.'S.

Q. NOW WITH REGARD TO D.H.E.C. – AND I WON'T ASK HIM TO QUOTE THE GUY BECAUSE WE HOPE WE STILL GET HIM AS A WITNESS, YOUR HONOR – YOU ALL DID ASK A D.H.E.C. OFFICIAL TO COME OUT THERE AND INSPECT THAT PROPERTY, DIDN'T YOU?

A. NO, SIR.

Q. AND JUST SO IT'S CLEAR YOU ALL DID GO ONTO THAT PROPERTY, AND AGAIN I DON'T THINK WE DISCUSSED WHEN THE JURY IS THERE, TECHNICALLY WE DECIDED THAT THAT PROPERTY IS OWNED BY DR. FALTAS' MOTHER –

A. YES.

Q. -- WHOM I'VE MET A NUMBER OF TIMES BUT THAT'S NEITHER THERE – SHE HAS A RIGHT AND SHE HAS SOME POWERS OF ATTORNEY AND SO SHE CAN LIVE ON THAT.

THE COURT: I'M NOT SURE THAT'S A QUESTION.

MR. BRIGGS: IT ISN'T YET, YOUR HONOR, BUT IT'S GOING TO BE A QUESTION.

THE COURT: ALL RIGHT. PLEASE ASK HIM A QUESTION.

Q. (BY MR. BRIGGS) YOU DID GO ON THAT PROPERTY WE ARE TALKING ABOUT THAT YOU THOUGHT SHE OWNED TO DELIVER THE SUMMONS, IS THAT CORRECT?

A. YES, SIR.

Q. DID YOU GO ON THE PROPERTY TO DELIVER THE NOTICE OR WAS IT

MAILED?

A. IT WAS MAILED.

MR. BRIGGS: YOUR HONOR, IF I COULD JUST HAVE LIKE TWO MINUTES TO CONSULT WITH MY CLIENT AND SEE IF THERE ARE ANY MORE QUESTIONS, BUT I'M THROUGH WITH MR. SIMMONS. WE'LL GET INTO SOME OF THAT WITH HER BUT ...

THE COURT: PLEASE DO SO.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

MR. BRIGGS: YOU WANT ME TO (INAUDIBLE)?

DEFENDANT FALTAS: YES, SIR. (INAUDIBLE).)

MR. BRIGGS: YOUR HONOR, I WAS WAITING – I TRY TO BE PATIENT AND CONSIDERATE BUT I THINK THE JURY IS THROUGH WITH THE PICTURES, HIS PICTURES. I'D LIKE TO GET THEM BACK.

(INAUDIBLE)

MR. BRIGGS: CAN WE TAKE THAT LONG FOR HER TO SEE THEM, YOUR HONOR?

THE COURT: OF COURSE, WE WILL, MR. BRIGGS. MR. BRIGGS, IF YOU CAN DO THIS, TAKE THIS TIME TO TALK TO DR. FALTAS TO SEE IF SHE HAS ANY ADDITIONAL QUESTIONS.

MR. BRIGGS: SHE WANTS TO SHOW ME THE PICTURES. I WON'T TAKE TWO MINUTES.

(PAUSE)

THE COURT: DR. FALTAS, PLEASE SIT AT DEFENSE COUNSEL AND MR. BRIGGS WILL COME BACK TO YOU.

DEFENDANT FALTAS: WELL, CAN HE COME BACK TO ME, PLEASE?

THE COURT: I CAN'T CONTROL THAT. PLEASE STAY AT DEFENSE COUNSEL TABLE.

MR. BRIGGS: YES.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: (INAUDIBLE) DEFINITION. HE HAS IT. COULD YOU (INAUDIBLE)?

MR. BRIGGS: HE SAID HE SENT YOU THAT.)

Q. (BY MR. BRIGGS) MR. SIMS, COULD I BORROW YOUR DEFINITION OF RUBBISH?

A. IT'S ON THE BACK PAGE.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

MR. BRIGGS: THAT'S THE SAME THING THAT'S IN THEIR ORDINANCE I THINK.

DEFENDANT FALTAS: ASK HIM EACH (INAUDIBLE) BECAUSE IT'S WASTE SAID MATERIAL (INAUDIBLE).)

THE COURT: PLEASE DO NOT SPEAK LOUD ENOUGH FOR THE REST OF US TO HEAR YOU, PLEASE.

DEFENDANT FALTAS: WELL, COULD WE STEP OUTSIDE?

THE COURT: NO, MA'AM. WE NEED TO MOVE THIS ALONG, PLEASE.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: (INAUDIBLE).

MR. BRIGGS: I UNDERSTAND. (INAUDIBLE).

DEFENDANT FALTAS: IT DOES MAKE A DIFFERENCE.

MR. BRIGGS: THE JUDGE SAID WE COULDN'T GET INTO THOSE

THINGS. TELL ME WHAT I ASKED YOU BEFORE.

DEFENDANT FALTAS: (INAUDIBLE) YOU LISTEN. (INAUDIBLE).

MR. BRIGGS: YOU CAN TESTIFY TO THAT.

DEFENDANT FALTAS: WELL, HE SAID (INAUDIBLE).)

THE COURT: MR. BRIGGS, ARE YOU READY, SIR?

(DISCUSSION AT DEFENSE TABLE:

MR. BRIGGS: WAS THIS MOVED EVENTUALLY?

DEFENDANT FALTAS: (INAUDIBLE).

MR. BRIGGS: WHEN YOU FINISHED DOING THE (INAUDIBLE).

DEFENDANT FALTAS: WOULD YOU PLEASE (INAUDIBLE). THIS SHOWS THAT I WAS THERE (INAUDIBLE).

MR. BRIGGS: I ASKED THAT QUESTION. WE CAN ARGUE THAT. YOU CAN TESTIFY ABOUT IT, MARIE.

DEFENDANT FALTAS: PLEASE ASK HIM IF HE KNOWS.

MR. BRIGGS: HE DOESN'T KNOW.)

THE COURT: MR. BRIGGS, YOUR WITNESS.

MR. BRIGGS: YES, YOUR HONOR, I'LL BE VERY BRIEF.

Q. (BY MR. BRIGGS) I THINK TWO AREAS GENERALLY, MR. SIMS. HERE IS ONE OF YOUR PICTURES THAT SHOWS THE BUCKETS ALIGNING HER PROPERTY FURTHEREST AWAY FROM, QUOTE, THE APARTMENTS.

A. YES, SIR.

Q. AND DO YOU NOTE THAT HER CAR IS THERE AND WAS SHE THERE WHEN YOU WERE THERE THAT DAY?

A. YES, SIR.

Q. DID SHE INVITE YOU ONTO HER PROPERTY OR NOT?

A. ON THE DAY THAT WE ISSUED THE SUMMONS, I'M NOT SURE IF SHE DID OR NOT. I KNOW THAT WE WALKED UP TO HER PROPERTY AND SHE WALKED TOWARDS US. WE WERE RIGHT THERE AT THE EDGE OF THE PROPERTY.

Q. DO YOU HAVE A PIECE OF PAPER MARKED YELLOW? MISPLACED IT AGAIN. MR. SIMS, WOULD YOU TAKE YOUR PIECE OF PAPER THAT YOU SAID WAS IN THE DEFINITION SECTIONS OF THAT DOCUMENT AND LET ME READ WHAT THE ORDINANCE SAYS ON 307.1 AND YOU CHECK AND SEE HOW CLOSE THEY ARE. OKAY?

A. OKAY.

Q. CAN YOU DO THAT?

MR. FERNANDEZ: YOUR HONOR, I AM GOING TO OBJECT TO THE READING OF THE ORDINANCE 'CAUSE THAT'S WHAT YOUR HONOR DOES.

THE COURT: YES, SIR. ALSO, MR. BRIGGS, THE DOCUMENT HE HAS IN HIS HAND I DO NOT BELIEVE IS IN EVIDENCE

MR. BRIGGS: IT HAS NOT BEEN IN EVIDENCE YET, YOUR HONOR. HE CAN LOOK AT THEM AND TELL ME –

THE COURT: IF YOU HAVE A DIRECT QUESTION, ASK HIM THE QUESTION.

MR. BRIGGS: I DO.

Q. (BY MR. BRIGGS) I'M GOING TO ASK CAN YOU READ BOTH OF THEM AND THEN I HAVE ONE QUESTION.

THE COURT: ALL RIGHT. TAKE A MOMENT AND READ THEM, MR. SIMS.

A. YOU WANT THE DEFINITIONS?

Q. (BY MR. BRIGGS) READ THEM TO YOURSELF. (PAUSE) ARE THEY

ESSENTIALLY THE SAME, MR. SIMS?

A. YES, SIR.

Q. SO MY QUESTION IS – YOU DON'T HAVE TO AGREE WITH ME BUT I'M GOING TO ASK THE QUESTION. THAT DEFINITION THERE DOESN'T REALLY GIVE A PERSON WHO HAS BEEN ACCUSED OF VIOLATING 307.1 ANY MORE INFORMATION ABOUT WHAT RUBBISH IS, DOES IT? MORE THAN WHAT THE ORDINANCE SAYS?

A. I'M NOT SURE I UNDERSTAND THAT QUESTION.

Q. WHAT MORE INFORMATION DOES THE ACCUSED GET FROM THAT DEFINITION THAN HE WOULD GET FROM THE WORDING OF THE ORDINANCE?

A. IT'S THE SAME THING.

Q. THAT'S FINE.

A. IT'S JUST I DON'T –

Q. YOU'VE ANSWERED THE QUESTION.

THE COURT: HE CAN EXPLAIN.

MR. BRIGGS: OKAY.

A. OKAY. IT'S JUST IN THE BOOK THE DEFINITIONS ARE LISTED SEPARATELY. TWO SEPARATE SHEETS OF PAPER.

Q. (BY MR. BRIGGS) AND THAT'S YOURS SO YOU KEEP THAT.

A. YES, SIR.

THE COURT: ANY REDIRECT, MR. FERNANDEZ?

MR. FERNANDEZ: JUST ONE QUICK QUESTION.

THE COURT: I'M SORRY. MR. BRIGGS, YOU INDICATED YOU WERE FINISHED.

MR. BRIGGS: I AM THROUGH.

THE COURT: THANK YOU VERY MUCH. WE NEED TO HAVE YOU SIT DOWN SO MR. FERNANDEZ CAN QUESTION THE WITNESS.

REDIRECT EXAMINATION BY

MR. FERNANDEZ:

Q. MYRON, YOU DID DELIVER ALL THAT PAPERWORK WITH DEFINITIONS INCLUDED TO THE DEFENDANT MULTIPLE TIMES, CORRECT?

A. YES, SIR.

MR. FERNANDEZ: THAT'S ALL I HAVE.

THE COURT: ALL RIGHT. THANK YOU VERY MUCH. MR. SIMS YOU MAY STEP DOWN.

(WITNESS TO THE SIDE)

THE COURT: DOES THE STATE HAVE ANY ADDITIONAL WITNESSES?

MR. FERNANDEZ: THE STATE WILL RESTS, YOUR HONOR.

THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE'VE REACHED A POINT WHERE THE CITY HAS CONCLUDED ITS CASE. WE'VE ALSO REACHED THE POINT WHERE IT'S 12:06 AND A GOOD NATURAL BREAKING POINT FOR LUNCH. I THINK WHAT I'D LIKE FOR US TO DO IS TO LEAVE AND TO COME BACK HERE AT 1:15. IF YOU WOULD, REMEMBER NOT TO DISCUSS ANYTHING THAT YOU'VE HEARD WITH ANYONE OR DISCUSS THE CASE IN ANY WAY. IF YOU'D LIKE TO EAT WITH EACH AND BE CORDIAL YOU CAN, BUT PLEASE DO NOT DELIBERATE OR DISCUSS THIS MATTER IN ANY WAY. I WILL ALSO ADVISE YOU AT THIS POINT THAT ANY STATEMENTS MADE BY COUNSEL OR ANY STATEMENTS MADE BY ANYONE WHO IS UNSWORN IS NOT EVIDENCE. SO Y'ALL NEED TO CONSIDER THE ELEMENTS FROM THE TESTIMONY AND OTHER THINGS

THAT ARE PLACED INTO EVIDENCE. ALL RIGHT. IF YOU'LL PLEASE GATHER YOUR THINGS, WE'LL GIVE YOU THE OPPORTUNITY TO BE ABLE TO LEAVE FOR LUNCH. SEE YOU BACK HERE AT 1:15.

(JURY LEAVES THE JURY BOX)

THE COURT: ANY MOTIONS AT THIS TIME?

MR. BRIGGS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO HAND UP MY MEMO ON THE DUE PROCESS THING AND MAKE A VERY BRIEF ARGUMENT TO SUPPLEMENT IT.

THE COURT: PLEASE DO. PLEASE GIVE MR. FERNANDEZ A COPY.

(DISCUSSION AT DEFENSE COUNSEL TABLED:

DEFENDANT FALTAS: YOU NEED TO DO DIRECTED VERDICT AND YOU NEED TO DO THE MOTION TO SUPPRESS. SUPPRESS.

MR. BRIGGS: I WILL DO THAT, TOO.

DEFENDANT FALTAS: SUPPRESS. SUPPRESS. PLEASE (INAUDIBLE).)

MR. BRIGGS: YOUR HONOR, WILL YOU PREFER MAKE ME MY STANDARD – LET ME MAKE THIS FIRST BUT I WILL REMEMBER TO DO MY DIRECTED VERDICT ONE, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. MADAM CLERK, IF YOU WOULD HAND ME THAT, PLEASE. YES, SIR.

MR. BRIGGS: YOUR HONOR, I'VE DONE A BRIEF MEMO AND I TOLD YOU THAT I COULD NOT USE MY COMPUTER THIS MORNING TO GET ANY SOUTH CAROLINA CASES BUT I'VE CITED THREE U.S. SUPREME COURT CASES THAT ARE VERY FAMILIAR TO MOST PEOPLE ON DUE PROCESS. THE FIRST ONE I THINK HAD TO DO WITH SOME MONEY OR SOMETHING. (INAUDIBLE) VS. GOMEZ IS AN

EDUCATIONAL TEST ABOUT HOW LONG YOU CAN SUSPEND A STUDENT AND ALL. AND THE CLEVELAND BOARD OF EDUCATION WAS ABOUT A RETIREMENT THING, YOUR HONOR, BUT THEY ARE ALL PROPERTY CASES. YOUR HONOR, I WOULD MAKE THREE POINTS THAT ARE CRITICAL IN ANY DUE PROCESS ANALYSIS. FIRST OF ALL, THE STATE MUST HAVE A COMPELLING STATE INTEREST. IT'S A HIGH STANDARD OF REVIEW. COMPELLING STATE INTEREST IN THE ORDINANCE THAT THEY ARE TRYING TO ENFORCE. SECOND, ANY STATE LAW, ANY ORDINANCE, ANY REGULATION THAT IS EITHER TOO VAGUE – THAT IS,THEY DON'T PUT THE DEFENDANT ON NOTICE OF WHAT BEHAVIOR WOULD BE AN OFFENSE – AND THEY CANNOT GIVE TOO MUCH DISCRECTION TO THE ENFORCING OFFICER. I'VE CITED THOSE ON THE BOTTOM OF ONE AND TWO, YOUR HONOR. AND I CONTEND AS I DO IN THE BACK, BOTTOM, NEXT TO THE LAST PARAGRAPH, THAT TRASH IS NOT DEFINED. I REALLY DON'T THINK RUBBISH IS DEFINED ENOUGH TO WHERE A LAYMAN WOULD UNDERSTAND IT. AND WITH REGARD TO THE HOLDING OF WATER, THE TESTIMONY WAS VERY CLEAR THAT WHILE THERE MIGHT HAVE BEEN A SMALL AMOUNT OF WATER IN ONE OR TWO OR THREE BUCKETS HE SAW NO EVIDENCE OF ANY MOSQUITOES SO NO HEALTH HAZARD, NO SANITARY HAZARD, YOUR HONOR. SO THAT'S MY ARGUMENT ON DUE PROCESS.

THE COURT: CAN I GET MR. FERNANDEZ TO RESPOND TO THAT?

MR. BRIGGS: YES, YOUR HONOR.

THE COURT: OKAY. PLEASE DO.

MR. FERNANDEZ: IT'S KIND OF (INAUDIBLE), YOUR HONOR. WE ARE TALKING ABOUT THE CONSTITUTIONALITY OF THE ORDINANCE. FIRST OF ALL, THE PRESUMPTION IS ALWAYS THAT AN ORDINANCE IS -- A LEGISLATIVE

ENACTMENT IS PRESUMED CONSTITUTIONAL. SO WE START FROM THAT BASIS. IF WE ARE GOING TO LOOK AT THE VAGUENESS, YOUR HONOR CAN READ 8-32, 8-41 AND THEN 307.1 ADOPTED BY CITY COUNCIL OF THE I.P.M.C. THEY ALL ARE SPECIFICALLY VAGUE AS TO PUT CERTAINLY A LAYMAN ON NOTICE, LET ALONE A MEDICAL DOCTOR. BUT THE 8-32 TALKS ABOUT THINGS THAT MAY HOLD WATER. WE HAD TESTIMONY THAT CERTAINLY THEIR PICTURES SHOWED THAT THINGS WERE HOLDING WATER BUT THE TESTIMONY ALSO SUBSTANTIATES THAT THERE WERE ITEMS LIKE A BIG GARBAGE CAN THAT COULD OBVIOUSLY FILL UP WITH WATER. SO 8-32 – IT TELLS EXACTLY WHAT'S NOT TO BE ALLOWED. 8-41 SAYS VERY SPECIFICALLY WHAT KIND OF THINGS ARE NOT TO BE ALLOWED WITHOUT A PERMIT. WE ALREADY ESTABLISHED THAT THERE WAS NO PERMIT. AND THEN 307.1 HAS A DEFINITION SECTION WHICH WAS PROVIDED TO THE DEFENDANT MULTIPLE TIMES THAT DESCRIBES WHAT RUBBISH IS. IT'S VERY SPECIFIC. THERE IS NO ROOM FOR VAGUENESS. IT LISTS EXACTLY WHAT IS PROHIBITED. SO I REALLY THINK ON ITS FACE THEY ARE SUFFICIENT.

THE COURT: HAVE YOU MADE YOUR ARGUMENT ON THAT POINT, MR. BRIGGS?

MR. BRIGGS: JUST ONE SENTENCE, YOUR HONOR.

THE COURT: OKAY.

MR. BRIGGS: YOU'LL RECALL THE TESTIMONY OF MR. SIMS WAS THAT NEITHER THE SUMMONS NOR THE NOTICE OF THE THING GAVE ANY DEFINITION OF ANY OF THESE THINGS AND WITH THOSE DOCUMENTS DR. FALTAS WAS NOT PUT ON NOTICE WHAT WAS ILLEGAL. NOW THERE MIGHT HAVE BEEN SOME CONVERSATION LATER ON. HE SAYS HE SENT THAT OTHER

DEFINITION WHICH WE ESTABLISHED WAS THE SAME AS 307.1 SO I STILL BELIEVE THAT THIS KIND OF ORDINANCE, YOUR HONOR, ARE THE KINDS THAT ARE VAGUE AND IT'S SIMILAR, YOUR HONOR, TO THE CASES THAT WE HAVE IN SOUTH CAROLINA THAT THE LAW ENFORCEMENT VIOLATE ALL THE TIME, NAMELY, ON OBSCENE LANGUAGE AND, QUOTE, VERBALLY INTERFERING WITH THE POLICE OFFICER DOING HIS DUTY AND STATE V. PERKINS IS THE CASE AND YOU CAN'T HAVE BROADLY WORDED STATUTES IN THESE AREAS, PERIOD.

THE COURT: THANK YOU VERY MUCH. I'M FAMILIAR WITH ALL OF THE STATUTES. I CONSIDERED THE DOCUMENT PROVIDED BY COUNSEL, I'M FAMILIAR WITH THIS AREA OF CASE LAW. I WILL DENY THE MOTION. THANK YOU.

MR. BRIGGS: YOUR HONOR, SECOND, JUST SO I PRESERVE IT, THE GOMEZ CASE AND WHAT I SAID EARLIER ESSENTIALLY RAISED THE POINT OF THE EXCLUSION OF EVIDENCE BUT I REALLY THOUGHT THE COURT – I KNOW WHAT THE RULE IS BUT I THOUGHT THIS COURT OUGHT TO AT LEAST HEAR THE TESTIMONY AND SO I RENEW MY MOTION THAT ALL THE TESTIMONY THAT THEY GATHERED FROM THEIR ILLEGAL ENTRY INTO HER PROPERTY WITHOUT A SEARCH WARRANT SHOULD HAVE BEEN SUPPRESSED AND SHOULD BE SUPPRESSED AT THIS TIME, YOUR HONOR, PERIOD.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: I DON'T BELIEVE MR. SIMS EVER SAID THAT HE ENTERED HER PROPERTY. I THINK HE'S TESTIFIED THAT HE WAS ON THE OUTSKIRTS OF THE PROPERTY WHEN THE PICTURES WERE TAKEN. THE ONLY TIME HE SAID HE ENTERED IT WAS DURING THE PROFFER WHEN HE WAS INVITED ONTO THE PROPERTY –

DEFENDANT FALTAS: NO.

MR. FERNANDEZ: AND THEN WHEN HE DELIVERED THE – THE ONLY QUESTION THAT CAME UP IS WHEN HE DELIVERED THE ACTUAL SUMMONS AND I DON'T THINK HE RECALLED EVER STEPPING FOOT ON THE PROPERTY. I BELIEVE THE SPECIFIC TESTIMONY WAS THAT SHE MET HIM AT THE EDGE OF THE PROPERTY. SO I DON'T KNOW THAT THERE'S – I THINK IF COUNSEL IS DESCRIBING THE ACTIONS AS ILLEGAL ENTRY THE CITY DOES NOT CONCEDE THAT POINT AND I DON'T THINK THE TESTIMONY SUPPORTS IT.

THE COURT: ANYTHING FURTHER, MR. BRIGGS.

MR. BRIGGS: NOTHING FURTHER ON THAT, YOUR HONOR.

DEFENDANT FALTAS: YOUR HONOR, MAY I CONSULT –

THE COURT: I DENY THE MOTION TO SUPPRESS.

DEFENDANT FALTAS: MAY I CONSULT WITH HIM, PLEASE?

THE COURT: YOU MAY CONSULT WITH HIM IF HE SO CHOOSES TO CONSULT.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: (INAUDIBLE) WITHIN THE PROPERTY. AND I HAVE NOT (INAUDIBLE).

THE COURT: YOU CAN DO THAT. I CAN'T TESTIFY.)

MR. BRIGGS: YOUR HONOR, WE ARE THROUGH.

THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

MR. BRIGGS: I'M SORRY, I'M THROUGH WITH THAT POINT. YOUR HONOR, OF COURSE, I SHOULD MAKE MY STANDARD DIRECTED VERDICT MOTION. I REALLY DON'T THINK THAT ANY OF THE TESTIMONY GOT TO A LEVEL OF BEYOND A REASONABLE DOUBT TESTIMONY, YOUR HONOR. THIS IS A

CRIMINAL MATTER AND SO I THINK BASED UPON THAT SHALLOWNESS OF THE TESTIMONY AND SOME OF THE CROSS EXAMINATION THAT SHOWED THAT THERE WAS SOME REAL QUESTION AS TO WHETHER MY CLIENT KNEW BY NOTICE WHAT KIND OF MATERIAL SHE HAD ON HER PROPERTY THAT WAS ILLEGAL. SO I MAKE A MOTION FOR A DIRECTED VERDICT AFTER THE END OF THE PROSECUTION'S CASE, YOUR HONOR.

THE COURT: YES, SIR. MR. FERNANDEZ, DO YOU WISH TO RESPOND?

MR. FERNANDEZ: I DON'T THINK I NEED TO, YOUR HONOR. I THINK THE FACTS CLEARLY ESTABLISH ENOUGH AT LEAST FOR DIRECTED VERDICT THAT THERE WAS ENOUGH TO SUPPORT WHAT THE ORDINANCES PROHIBIT.

THE COURT: I FIND SPECIFICALLY IT'S ENOUGH FACTS THERE FOR THE JURY TO – I DON'T KNOW WHAT THEIR DETERMINATION IS BUT TO MAKE THE DETERMINATION. THEREFORE, I WILL DENY THE MOTION FOR DIRECTED VERDICT.

MR. BRIGGS: I UNDERSTAND. YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. WHAT ELSE DO WE HAVE TO DO TO BE IN A POSITION TO START BACK AT 1:15? ANYTHING FROM THE STATE?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: ANYTHING FROM THE DEFNDANT?

DEFENDANT FALTAS: YES, WE NEED TO –

MR. BRIGGS: ONLY, YOUR HONOR, WE HAVEN'T MARKED ALL OF OUR EXHIBITS. I WILL ASK DR. FALTAS, I THINK SHE'S PREPARED TO STAY HERE

AND DO THAT BUT I'M ASKING A QUESTION.

DEFENDANT FALTAS: BEFORE THAT THERE IS AN IMPORTANT OTHER QUESTION WHICH IS HAS ANY COURT PERSONNEL CONTACTED THE PEOPLE WHO WERE SUBPOENAED AND TOLD THEM NOT TO COME.

MR. BRIGGS: WE WILL DO THAT BUT I THINK YOU CAN DO THAT, TOO.

DEFENDANT FALTAS: NO, NO, NO.

MR. BRIGGS: THE QUESTION IS WHETHER OR NOT THE COURT HAS HEARD ABOUT THE STATUS OF OUR THREE SUBPOENAS, YOUR HONOR.

THE COURT: AGAIN, I CAN TELL YOU DEFINITIVELY WE HAVE NOT HEARD BECAUSE WHEN I WAS ASKED THIS MORNING TO HAVE A COURT OFFICER CALL, I DECLINED TO DO SO BECAUSE THE SERVICE OF THE SUBPOENAS IS THE RESPONSIBILITY OF THE DEFENDANT. I THEN AFFORDED THE DEFENDANT THE OPPORTUNITY TO GO USE THE TELEPHONE TO CALL RICHLAND COUNTY WHO THE DEFENSE OR DEFENSE COUNSEL CHOSE TO SERVE THE SUBPOENAS TO CHECK ON THE STATUS. SO WE HAVE NO KNOWLEDGE REGARDING THE STATUS OF THE SERVICE OF THE SUBPOENAS.

MR. BRIGGS: I WILL ADVISE HER THAT DURING THE LUNCH BEEAK SHE SHOULD MAKE THAT CALL AGAIN.

DEFENDANT FALTAS: THAT'S A DIFFERENT QUESTION. WHAT I'M ASKING IS WHETHER SOMEBODY CALLED THE WITNESSES AND TOLD THEM NOT TO COME.

THE COURT: HE SAID HE DIDN'T KNOW ANYTHING ABOUT THE WITNESSES AND THE SUBPOENAS.

DEFENDANT FALTAS: I'M ASKING HIM TO INVESTIGATE.

THE COURT: I AM NOT GOING TO INVESTIGATE YOUR SERVICE OF YOUR SUBPOENAS.

DEFENDANT FALTAS: IT'S NOT MY SERVICE. IT'S WHETHER SOMEONE TAMPERED WITH THE WITNESSES BY CALLING THEM AND TELLING –

THE COURT: I AM NOT GOING TO INVESTIGATE. YOUR SPECIFIC QUESTION EARLIER TODAY WAS HAD RICHLAND COUNTY SERVED THEM. YOU WENT AND CALLED TO ASK. I AM NOT GOING TO DO ANY INVESTIGATION OF THAT UNLESS THERE ARE SOME FACTS TO SUBSTANTIATE SOMETHING THAT WARRANTS AN INVESTIGATION. ALSO Y'ALL ASKED COULD Y'ALL HAVE TIME TO TALK TO EACH OTHER. YOU ABSOLUTELY MAY HAVE TIME TO TALK TO EACH OTHER ABOUT ANYTHING YOU WANT TO DISCUSS REGARDING THE PROCEEDING OF THIS CASE. ABSENT THERE BEING SOME AGREEMENT OR SOME RECOMMENDATION OR AGREEMENT BROUGHT TO THE COURT, WE WILL PROCEED WITH THE JURY TRIAL.

DEFENDANT FALTAS: YOUR HONOR, MAY I PROVIDE TESTIMONY ON THIS PART. ONE OF THE PERSONS WHO WAS –

THE COURT: NO, MA'AM, YOU MAY NOT PROVIDE TESTIMONY AT THIS TIME.

DEFENDANT FALTAS: I'M NOT TALKING ABOUT THE SUBSTANCE OF THE CASE, ABOUT WITNESS TAMPERING.

THE COURT: NO, MA'AM. IF YOU HAVE SOME INFORMATION AND A MOTION THAT NEEDS TO BE MADE REGARDING WITNESS TAMPRING, Y'ALL MAKE IT WHEN WE COME BACK AND I'LL ADDRESS IT. NO, MA'AM, YOU MAY NOT PROVIDE TESTIMONY. THANK YOU VERY MUCH. WE ARE ADJOURNED UNTIL 1:15.

(LUNCHEON RECESS)

(COURT RESUMES AT 1:15 P.M.)

COURT CLERK: WE ARE BACK ON THE RECORD.

THE COURT: THANK YOU VERY MUCH. MR. FERNANDEZ, I FORGOT TO GIVE YOU THESE TO MAKE COPIES OF. THESE ARE FROM MR. SIMS' FILE.

MR. BRIGGS: I WROTE PROFFERED ON THEM BEFORE IF YOU WANT TO DO THAT SO THEY'LL KNOW THAT'S WHAT THEY ARE.

THE COURT: WHEN YOU BRING THE COPIES BACK, WE'LL PROPERLY DENOTE THEM. ANYTHING –

DEFENDANT FALTAS: YOUR HONOR –

THE COURT: YES, MA'AM.

DEFENDANT FALTAS: MAY I GIVE YOU AN UPDATE AS FAR AS THE SUBPOENAS?

THE COURT: SURE, IF YOU WISH.

DEFENDANT FALTAS: OKAY. I CALLED THE SHERIFF'S SERVICE AND I ONLY REACHED ANSWERING MACHINES BUT I LEFT MESSAGES THAT IF THEY DID SERVE THEM TO FAX THE SERVICE OR TO CALL YOUR HONOR'S OFFICE SO THAT TO FIND OUT WHY THE WITNESSES WHO WERE PROPERLY SERVED DID NOT SHOW UP. SO I'M JUST -- I DIDN'T KNOW WHAT NUMBER TO LEAVE SO I LEFT 545-3128. ACCORDING TO MY MEMORY, THAT'S YOUR HONOR'S SECRETARY – THE JUDGES' SECRETARY.

THE COURT: THAT IS THE SECRETARY'S PHONE NUMBER, NOT A FAX NUMBER BUT THAT IS THE PHONE NUMBER, YES.

DEFENDANT FALTAS: OKAY. WELL, SHE WOULD BE ABLE TO –

THE COURT: SHE WOULD.

DEFENDANT FALTAS: SO I WOULD ASK THAT IF THE SHERIFF DOES CALL BACK AND CONFIRM THAT THE WITNESSES HAVE BEEN SERVED THAT YOUR HONOR BE APPRISED OF THAT AND MAYBE EXTEND THE TRIAL TO TOMORROW TO GET THE WITNESSES.

THE COURT: WELL, NUMBER ONE, ON A BREAK I WILL ASK THE SECRETARY HAS SHE HEARD ANYTHING FROM THE SHERIFF'S DEPARTMENT. DEPENDING UPON WHAT THAT SAYS THEN I'LL MAKE A DETERMINATION IF NECESSARY.

DEFENDANT FALTAS: THANK YOU.

THE COURT: ALL RIGHT. MR. BRIGGS, ANYTHING WE NEED TO ADDRESS BEFORE WE BEGIN YOUR CASE?

MR. BRIGGS: NO, YOUR HONOR, BUT I'M GOING TO CALL ONE OR TWO OTHER WITNESSES BEFORE I CALL DR. FALTAS.

THE COURT: OKAY.

MR. BRIGGS: AND IF THE COURT DOESN'T OBJECT, WHEN I CALL HER I'D LIKE TO TAKE MY CHAIR OVER THERE. MY HIP IS BOTHERING ME AND I'VE GOT A BIG DOSE OF ARTHRITIS IN MY BACK AND AT SEVENTY-FIVE YEARS OLD I GET TIRED AFTER A WHILE.

THE COURT: FAIR ENOUGH. IS THE JURY HERE?

UNIDENTIFIED: YES.

THE COURT: BRING THEM IN.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: YOU'LL QUALIFY ME AS AN EXPERT.

MR. BRIGGS: (INAUDIBLE). NO, WHEN WE GET TO THAT PART OF THE TESTIMONY.

DEFENDANT FALTAS: HE WANTS EVERYTHING NOW.)

(JURY RETURNS TO THE JURY BOX)

THE COURT: GOOD AFTRNOON. WE ARE BACK AND AS YOU WILL RECALL RIGHT BEFORE WE LEFT THE CITY RESTED. WE'VE ADDRESSED SOME ISSUES AND NOW WE'RE READY FOR THE DEFENSE TO BEGIN ITS CASE. MR. BRIGGS, PLEASE CALL YOUR FIRST WITNESS.

MR. BRIGGS: I'D LIKE TO CALL MR. DAVID HATCHER, YOUR HONOR, JUST FOR A COULE OF QUESTIONS.

DAVID HATCHER, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

THE COURT: THANK YOU VERY MUCH. PLEASE HAVE A SEAT AND ANSWER ANY QUESTIONS MR. BRIGS MAY HAVE.

DIRECT EXAMINATION BY

MR. BRIGGS:

Q. MR. HATCHER, DID YOU EVER HAVE A CONVERSATION WITH DR. FALTAS ABOUT THE PROHIBITION WE'VE BEEN TALKING ABOUT ACTUALLY HAS TO DO WITH MATERIALS THAT REMAINED ON THE PROPERTY FOR LONGER THAN FORTY-EIGHT HOURS?

A. I WAS THERE WHEN THE SUMMONS WAS ISSUED. I BELIEVE WE TALKED ABOUT IT AT THAT TIME.

Q. SO THAT IS ONE OF THE RULES AS PART OF THIS PROCESS. NOW I KNOW YOU GIVE THEM TEN DAYS TO CLEAN UP –

THE COURT: I'M SORRY. DID HE ANSWER THE FIRST QUESTION YOU ASKED JUST NOW?

MR. BRIGGS: I DON'T THINK HE DID.

THE COURT: OKAY. WELL, PLEASE GIVE HIM THE OPPORTUNITY TO DO SO.

Q. (BY MR. BRIGGS) THE QUESTION IS CAN THERE BE AN ENFORCEMENT IF THE MATERIAL DOESN'T REMAIN THERE FOR MORE THAN FORTY-EIGHT HOURS?

A. IT DEPENDS ON WHAT THE MATERIAL IS. IF YOU ARE LOOKING UNDER THE CITY CODE 8-41 IT LISTS SEVERAL THINGS THAT CAN'T BE THERE AFTER FORTY-EIGHT HOURS.

Q. SO THAT'S WHERE THE FORTY-EIGHT HOURS COMES IN?

A. UNDER SECTION 8-41.

Q. WHEN YOU WERE OUT THERE ON THE PROPERTY BACK IN JANUARY OF 2012, DID YOU HEAR ANYONE THREATEN DR. FALTAS FROM THE BALCONY OF WHAT WE CALL THE APARTMENTS NEXT DOOR AT 304?

A. WE WITNESSED A NEIGHBOR COME OUT BUT I WOULDN'T CONSIDER THAT A THREAT. HE DID COME OUT.

Q. YOU HEARD HIM SPEAK TO HER?

A. I HEARD HIM SPEAK TO HER. WE DIDN'T FEEL THREATENED.

Q. ONE MORE, MR. HATCHER. WAS THERE EVER A CONVERSATION BETWEEN YOU AND DR. FALTAS WHERE YOU SAID ULTIMATELY TRASH IS WHATEVER I SAY IT IS?

A. NO, I DO NOT. I DID NOT.

Q. WOULD YOU TELL ME HOW YOU DEFINE TRASH?

A. I WOULD DEFINE IT THE WAY THE ORDINANCE READS. I DON'T HAVE IT IN FRONT OF ME

Q. BUT YOU HEARD MY DISCUSSION WITH MR. SIMMONS AND WE FOUND OUT THERE WASN'T A DEFINITION OF TRASH IN THE ORDINANCE.

A. I THINK THE ORDINANCE SAYS IF SHE HAS RUBBISH AND THE DEFINITION OF RUBBISH WAS GIVEN TO HER.

Q. SO YOU WOULD CONSIDER TRASH AND RUBBISH SORT OF SYNONYMOUS?

A. I WOULD THINK THEY ARE DIFFERENT THINGS.

Q. OKAY.

MR. BRIGGS: NOTHING FURTHER FOR THIS WITNESS, YOUR HONOR.

THE COURT: THANK YOU. MR. FERNANDEZ, ANY QUESTIONS?

MR. FERNANDEZ: YEAH, I THINK WE SKIPPED A STEP.

CROSS EXAMINATION BY

MR. FERNANDEZ:

Q. DAVID, WHY DON'T YOU INTRODUCE YOURSELF. WHAT'S YOUR NAME AND WHAT DO YOU CURRENTLY DO FOR THE CITY?

A. MY NAME IS DAVID HATCHER. I'M THE HOUSING OFFICIAL FOR THE CITY OF COLUMBIA, BEEN IN THAT POSITION FOR ABOUT TWO AND A HALF YEARS.

Q. AND AS HOUSING OFFICIAL YOU ARE THE SUPERVISOR OF MYRON ACUTALLY, IS THAT CORRECT?

A. CORRECT.

Q. AND YOU DID PARTICIPATE A LITTLE BIT AT LEAST IN THIS CASE THAT WE ARE HERE FOR TODAY?

A. CORRECT.

Q. HAVE YOU SEEN THE PREMISES BEFORE?

A. I'VE BEEN TO THE SITE, YES.

Q. DO YOU AGREE WITH EVERYTHING THAT MYRON DID IN THIS CASE?

A. YES, SIR.

Q. DO YOU AGREE THAT WHATEVER YOU WANT TO CALL IT – TRASH,

RUBBISH, DEBRIS, ET CETERA – DO YOU BELIEVE IT QUALIFIES UNDER 8-41, 8-32 OR 307.1?

A. I DO.

Q. I CAN GIVE THEM YOU IF YOU WANT.

A. I'VE SEEN THEM ALL. I AGREE THAT EVERYTHING THAT MYRON HAS SENT HER IS CORRECT.

Q. IN YOUR OPINION, THIS IS JUST YOUR OPINION, DO YOU SEE THE RUBBISH THAT IS OUT THERE –

MR. BRIGGS: HE'S NOT AN EXPERT. HE CAN'T EXPRESS AN OPINION, YOUR HONOR.

THE COURT: LAY WITNESSES CAN EXPRESS AN OPINION. IT DEPENDS ON WHAT HE'S GOING TO BE ASKED TO DO.

MR. BRIGGS: OKAY.

Q. (BY MR. FERNANDEZ) IN YOUR OPINION, DID THE MATERIALS OUT THERE SERVE ANY LEGITIMATE BUILDING PURPOSE?

A. NO, SIR.

Q. WHY WOULD YOU SAY THAT?

A. GENERALLY WHEN YOU BUILD SOMETHING, YOU KNOW, YOU HAVE I GUESS BRICKS AND TWO BY FOURS AND THAT KIND OF THING. THESE ARE PLASTIC BUCKETS –

MR. BRIGGS: NO FOUNDATION LAID, YOUR HONOR.

THE COURT: I'M GOING TO OVERRULE THE OBJECTION. LET HIM FINISH HIS ANSWER.

A. IT DID NOT LOOK LIKE BUILDING MATERIALS TO ME.

Q. (BY MR. FERNANDEZ) AND WERE THEY EXPOSED TO THE ELEMENTS?

A. YES, SIR.

Q. AND DID THEY SHOW THEIR WEAR FOR BEING EXPOSED TO THE ELEMENTS?

A. YES, SIR. MANY OF THEM WERE RUSTED.

Q. AND YOU WOULD SAY IT WAS CERTAINLY BEYOND FORTY-EIGHT HOURS WITH THE EXPOSURE, IS THAT CORRECT?

A. I'M PRETTY SURE BECAUSE WE INITIATED THE INSPECTION ON OCTOBER 5TH AND IT WAS STILL THERE ON OCTOBER 10TH.

Q. AND DID YOU RECEIVE ANY NEIGHBORHOOD COMPLAINTS OR IS THAT JUST MYRON?

A. I'VE GOTTEN SOME AFTER ALL THIS EVOLVED BUT MYRON RECEIVED ALL THE INITIAL ONES.

MR. FERNANDEZ:. OKAY. THANK YOU. NO FURTHER QUESTIONS. THANKS, DAVID.

THE COURT: ANY REDIRECT?

MR. BRIGGS: NOTHING. NO REDIRECT, YOUR HONOR.

THE COURT: THANK YOU. THANK YOU, SIR, YOU ARE EXCUSED.

(WITNESS TO THE SIDE)

THE COURT: LADIES AND GENTLEMEN, OF THE JURY, MR. BRIGGS IS HAVING A LITTLE DIFFICULTY TODAY SO WE ARE GOING TO ALLOW HIM TO SIT. THAT IS AN ACCOMMODATION TO HIM. PLEASE DON'T READ ANYTHING INTO THAT.

MR. BRIGGS: I HAD A HIP REPLACED, YOUR HONOR, AND, AS I SAID, MY OCTOR ALSO SAYS I'VE GOT A GOOD DOSE OF ARTHRITIS RIGHT IN MY BACK.

THE COURT: NOT A PROBLEM. WE ARE GOING TO ACCOMMODATE YOU.

MR. BRIGGS: AND AT AGE SEVENTY-FIVE –

THE COURT: ALL RIGHT, MR. BRIGGS.

MR. BRIGGS: I KNOW I DON'T –

THE COURT: MR. BRIGGS, I LOVE YOUR STORY BUT IT'S NOT APPROPRIATE IN FRONT OF THE JURY. DO YOU HAVE ANOTHER WITNESS TO CALL?

MR. BRIGGS: WE'LL HAVE TO HAVE LUNCH SOMETIME.

THE COURT: DO YOU HAVE ANOTHER WITNESS TO CALL.

MR. BRIGGS: DINAH STEELE, PLEASE, YOUR HONOR. AND I WILL ASK HER THOSE IDENTIFICATION QUESTIONS. I APOLOGIZE FOR NOT DOING IT.

DINAH STEELE, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

DIRECT EXAMINATION BY

MR. BRIGGS:

Q. MS. STEELE, YOU DON'T HAVE TO TURN AROUND AND LOOK AT ME IF YOU DON'T WANT TO. ONE OF THE THINGS I TELL WITNESSES THAT DON'T REALLY KNOW THE PROCESS I TELL THEM, I SAY, LISTEN –

THE COURT: MR. BRIGGS, PLEASE ASK A QUESTION. PLEASE ASK A QUESTION.

MR. BRIGGS: THAT WAS A GOOD ONE, TOO.

THE COURT: PLEASE ASK A QUESTION.

Q. (BY MR. BRIGGS) YOU ARE DIANE STEELE, RIGHT?

A. I AM DINAH.

Q. DINAH. AND I'M NOT GOING TO EVEN GUESS. TELL ME WHAT YOUR RELATIONSHIP IS BUINESSWISE WITH MR. MASON?

A. BUSINESSWISE?

Q. BUSINESSWISE.

A. RIGHT NOW I DON'T HAVE ANY BUSINESS WITH HIM. HE'S MY HUSBAND.

Q. SO YOU DON'T HAVE ANY OWNERSHIP IN THE – DIRECT OWNERSHIP – IN THE APARTMENT THAT WE REFERRED TO AS 304, IS THAT RIGHT?

A. WE BOTH HAVE OWNERSHIP IN IT.

Q. OKAY. THAT WAS WHAT I WAS GETTING AT. SO YOU HAVE SOME OWNERSHIP OF THAT APARTMENT COMPLEX?

A. I DO.

Q. HOW MANY UNITS ARE THERE?

A. THERE'S TWO BUILDINGS, TWO QUADPLEXES. EIGHT APARTMENTS.

Q. DID AT ANY TIME BEFORE WE GOT INTO THIS THING IN A BIG WAY, DID MR. SIMS TELL YOU HE DIDN'T THINK IT WAS A VIOLATION AT FIRST?

A. MR. SIMS?

Q. YES.

A. I DID NOT TALK TO HIM.

Q. AND THERE WAS SOME TESTIMONY SO YOU DID CALL AT LEAST ONE TIME REPORTING THAT YOU THOUGHT THERE WAS SOME MATERIAL OVER ON THE FALTAS PROPERTY THAT SHOULD NOT BE THERE?

A. I REFER TO IT AS TRASH. I DID.

Q. DID YOU ASK ANY OTHERS TO CALL?

A. NO, SIR.

Q. SOMEBODY CALLED D.H.E.C. DID YOU CALL D.H.E.C. AND MAKE THE

SAME SIMILAR COMPLAINT THAT THERE WAS MAYBE SOME INFECTIOUS MATERIAL OVER THERE?

A. I DON'T RECALL DOING THAT.

Q. YOU DON'T RECALL?

A. NO.

Q. CALLING D.H.E.C.?

A. NO, I DON'T RECALL DOING THAT.

MR. BRIGGS: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: THANK YOU. ANY QUESTIONS, MR. FERNANDEZ?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: MS. STEELE, YOU MAY STEP DOWN.

(WITNESS TO THE SIDE)

THE COURT: MR. BRIGGS, NEXT WITNESS.

MR. BRIGGS: I CALL MR. LARRY MASON JUST FOR A COUPLE, YOUR HONOR.

LARRY MASON, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

THE COURT: THANK YOU VERY MUCH. PLEASE HAVE A SEAT AND ANSWER ANY QUESTIONS ASKED.

DIRECT EXAMINATION BY MR. BRIGGS:

Q. MR. MASON, YOUR WIFE'S TESTIFIED. YOU ARE MARRIED TO DINAH I THINK SHE SAID?

A. YES, SIR, I AM.

Q. AND I DON'T EVEN KNOW BUT JUST – YOU CAN CONFIRM THAT SHE IS

PART OWNER OF THE APARTMENT COMPLEX WE REFER TO AS 304?

A. YES.

Q. WERE THERE ANY TIMES DURING THIS PERIOD OF TIME OF OCTOBER OF '12 WHEN YOU HAD A FOR RENT SIGN OVER ON OUR PROPERTY, THAT IS, ON THE APARTMENTS?

A. I HAD A FOR RENT SIGN AT THE PROPERTY?

Q. YES.

Q. WE HAVE FOR RENT SIGNS THERE OCCASIONALLY. I CAN'T TELL YOU EXACTLY WHAT DAY BUT WHEN SOMEBODY MOVES OUT WE PUT A FOR RENT SIGN UP.

Q. DID YOU HAVE ANY OCCASION TO TALK TO ANY OF YOUR TENANTS AND SUGGEST TO THEM THAT THEY TAKE THEIR DOGS OVER ON THE FALTAS PROPERTY AND RELIEF THEMSELVES?

A. NO, NEVER.

MR. BRIGGS: NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT. MR. FERNANDEZ, ANY QUESTIONS?

CROSS EXAMINATION BY

MR. FERNANDEZ:

Q. LARRY, YOU HAVE SEEN THE PROPERTY WE ARE HERE ABOUT TODAY, CORRECT?

A. YES.

Q. HOW WOULD YOU CATEGORIZE THE MATERIALS THAT ARE ON THE PROPERTY?

A. NOTHING BUT TRASH.

MR. FERNANDEZ: THANK YOU. THAT'S ALL, YOUR HONOR.

THE COURT: ANY REDIRECT, MR. BRIGGS?

MR. BRIGGS:. NOTHING.

THE COURT: MR. MASON, YOU MAY STEP DOWN.

(WITNESS TO THE SIDE)

THE COURT: NEXT WITNESS, MR. BRIGGS.

MR. BRIGGS: IS THE DEFENDANT, YOUR HONOR, DR. FALTAS.

THE COURT: DR. FALTAS.

MR. BRIGGS: NOW I'VE GOT ALL THE EVIDENCE. DO WE NEED SOME TIME?

(DISFUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: (INAUDIBLE).

MR. BRIGGS: WHAT?

DEFENDANT FALTAS: QUALIFY ME AS AN EXPRT NOW.

MR. BRIGGS: OH, OKAY.)

THE COURT: DO WE HAVE A MOTION WE NEED TO TAKE UP OUTSIDE THE PRESENCE OF THE JURY?

MR. BRIGGS: NO, IT'S NOT A MOTION. IT'S NOT A MOTION THAT WOULD INFLUENCE THE JURY IN ANY WAY, YOUR HONOR.

THE COURT: ALL RIGHT. DR. FALTAS, IF YOU ARE COMING TO THE STAND, PLEASE COME AROUND.

DEFENDANT FALTAS: I THOUGHT HE WAS GONG TO –

MR. BRIGGS: I KNOW BUT HE WANTS YOU UP HERE FIRST.

THE COURT: DR. FALTAS, IF YOU ARE COMING TO THE STAND, PLEASE COME AROUND.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

DEFENDANT FALTAS: THESE AREN'T ALL THE PICTURES. I NEED ALL THE PICTURES.

MR. BRIGGS: YOU (INAUDIBLE) FOR LUNCH TO DO THAT. I DON'T THINK –

DEFENDANT FALTAS: THE PICTURES THAT THE JURORS HAD.

MR. BRIGGS: WELL, WE CAN GET THOSE. THE CLERK HAS GOT THEM.

DEFENDANT FALTAS: WELL, CAN SHE GIVE THEM BACK TO ME, PLEASE. I DON'T WANT (INAUDIBLE.)

THE COURT: DR. FALTAS, PLEASE COME AROUND. IF YOU NEED HELP GETTING THINGS, I'LL HAVE A COURT OFFICER HELP YOU. JUST TELL US WHAT YOU NEED TO DO. WE NEED TO GET YOU IN THE SEAT.

MR. BRIGGS: WE NEED THE PICTURES THAT THE OTHER SIDE INTRODUCED. NOT THE ONES I PUT IN.

DEFENDANT FALTAS: YES, (INAUDIBLE) THE OTHER SIDE AND THIS. YES, YES, YES.

THE COURT: NO, NO. THOSE ARE THE ONES THAT WERE PUT IN THROUGH THE PROFFER.

MR. BRIGGS: THAT'S A DUPLICATE. OKAY, WE ARE WAITING, DR. FALTAS.

DEFENDANT FALTAS: WE'VE WAITED LONG ENOUGH FOR WHO?

THE COURT: DR. FALTAS, TO A MINIMUM, PLEASE.

MR. FERNANDEZ: YOUR HONOR, I AM GOING TO OBJECT TO THE DISPLAY OF THESE. WE (INAUDIBLE).

THE COURT: WHEN YOU MOVE THEM IN, PLEASE DON'T SHOW

THEM TO THE JURY UNTIL THEY ARE IN. PLEASE DON'T PLACE THINGS IN THE SIGHT OF THE JURY THAT ARE NOT IN EVIDENCE.

MARIE-THÉRÈSE ASSA'AD-FALTAS, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

THE COURT: THANK YOU. PLEASE HAVE A SEAT AND ANSWER ANY QUESTIONS MR. BRIGGS MAY HAVE FOR YOU.

DEFENDANT FALTAS: YOUR HONOR, HE DIDN'T QUALIFY ME AS AN EXPERT.

THE COURT: DR. FALTAS, --

MR. BRIGGS: THAT'S THE FIRST THING I'M GONNA DO.

THE COURT: PLEASE LET MR. BRIGGS ASK YOU QUESTIONS.

DIRECT EXAMINATION BY

MR. BRIGGS:

Q. LET'S GET YOUR NAME STRAIGHT FIRST, OKAY? GIVE US YOUR NAME.

A. GOOD AFTERNOON. MY NAME IS MARIE-THÉRÈSE (INAUDIBLE) ASSA'AD-FALTAS. THAT'S A MOUTH FULL BUT WHERE I WAS BORN IN EGYPT –

THE COURT: DR. FALTAS, PLEASE BE RESPONSIVE TO THE QUESTION ASKED.

MR. BRIGGS: YOUR HONOR, COULD YOU CHECK WITH THE JURORS ON THE LAST ROW AND SEE IF THEY COULD HEAR HER.

THE COURT: ARE Y'ALL ABLE TO HEAR HER.

(INAUDIBLE)

THE COURT: THEY ARE. PLEASE CONTINUE.

Q. AND WHAT DEGREES DO YOU HAVE BEYOND A COLLEGE DEGREE, DR. FALTAS?

A. ACTUALLY, SIR, I NEVER WENT TO COLLEGE. I WENT STRAIGHT FROM HIGH SCHOOL TO MEDICAL SCHOOL. THE REASON I DID THAT IS THAT IN THE EGYPTIAN SYSTEM WHICH IS LIKE THE BRITISH SYSTEM IS THE PEOPLE WHO HAVE VERY, VERY, VERY HIGH SCORES IN THE HIGH SCHOOL EXAM AND PRETTY MUCH THE HIGH SCHOOL EXAM IN EGYPT IS LIKE A COMBINATION OF THE GRADUATE RECORD EXAM IN AMERICA, EVEN ALMOST LIKE Ph.D. EXAM IN AMERICA. IT WAS A FOURTEEN-DAY EXAM VERY HEAVY ON MATH –

MR. FERNANDEZ: YOUR HONOR, I THINK WE'VE ESTABLISHED --

MR. BRIGGS: YOUR HONOR, LET ME TRY FIRST AND THEN YOU TRY, YOUR HONOR.

Q. (BY MR. BRIGGS) MARIE, THE BEST THING FOR A WITNESS TO DO IS ANSWER THE QUESTION, OKAY? IF YOU FEEL LIKE AFTER YOU'VE ANSWERED THE QUESTION YOU NEED TO EXPLAIN SOMETHING, AND I SEE THE BEWILDERED LOOK ON YOUR FACE, I WILL ASK YOU DO YOU HAVE ANYTHING ELSE TO SAY, DR. FALTAS.

A. YOU ASKED ME ABOUT MY DEGREES.

Q. NO, I ASKED YOU WHAT DEGREES YOU HAD.

THE COURT: ALL RIGHT. WHAT WE ARE GOING TO DO IS TAKE A BREAK.

DEFENDANT FALTAS: I –

THE COURT: STOP. PLEASE GO IN THE BACK ROOM SO I CAN ADDRESS THIS ISSUE.

(JURY LEAVES THE JURY BOX)

THE COURT: HAVE YOU EVER HEARD OF COURTROOM DECORUM. WE ARE GOING TO HAVE SOME. YOU START ARGUING WITH MR. BRIGGS AGAIN

AND I'M GOING TO ADDRESS IT VERY FORCIFULLY BECAUSE I ASKED YOU SEVERAL TIMES ON YESTERDAY NOT TO DO SO, I'VE ASKED YOU TODAY NOT TO SPEAK LOUDLY WHEN YOU ARE OVER THERE AND NOT TO ARGUE WITH MR. BRIGGS. Y'ALL ARGUE ABOUT EVERYTHING FROM WHO IS TOUCHING ME TO WHAT WE ARE GOING TO SAY. IF YOU CONTINUE TO DO THAT AND MY WORDS ARE NOT ENOUGH TO ADDRESS IT THEN WE'LL HAVE TO DO SOMETHING ELSE. MR. BRIGGS GETS TO ASK YOU QUESTIONS, YOU GET TO ANSWER. WE ARE NOT SEEKING TO LIMIT RESPONSIVE ANSWERS BUT YOU DON'T JUST GET TO GO INTO A SOLILOQUY. THE ANSWERS HAVE TO BE AT LEAST REMOTELY RESPONSIVE TO WHAT HE'S SAYING AND EVEN HE DOESN'T THINK AT THIS POINT THAT YOU ARE RESPONDING TO THE QUESTIONS. WE ARE GOING TO BRING THEM BACK, WE ARE GOING TO LET YOU ANSWER QUESTIONS. DO NOT ARGUE WITH MR. BRIGGS IN FRONT OF THE JURY.

DEFENDANT FALTAS: MAY I JUST EXPLAIN THAT HE ASKED ME ONE THING (INAUDIBLE) COLLEGE AND I NEEDED TO BE TRUTHFUL TO SAY THAT I NEVER WENT TO COLLEGE PROPER, I WENT STRAIGHT FROM –

THE COURT: DR. FALTAS, YOU ARE DOING IT AGAIN. THERE ARE WAYS TO SAY WHAT HAPPENED WITHOUT COMPARING THE HIGH SCHOOL EXAMS AND Ph.D EXAM TO THE GRADUATE EXAM. I KNOW YOU ARE PROUD OF WHAT YOU HAVE DONE AND IF HE WANTS TO ASK YOU THOSE QUESTIONS YOU CAN DEAL WITH THEM BUT YOU HAVE TO RESPOND TO THE QUESTION THAT YOUR LAWYER ASKS AND YOU CANNOT START CHASTISING HIM IN FRONT OF THE JURY IF YOU DON'T BELIEVE HE'S DONE WHAT YOU SO CHOOSE. WITH THAT BEING SAID, PLEASE BRING THE JURY IN AND LET'S RETURN TO QUESTIONING.

DEFENDANT FALTAS: COULD I NOW ANSWER WHAT DEGREES I

HAVE BECAUSE –

THE COURT: I DON'T KNOW WHAT QUESTIONS HE'S GOING TO ASK. MR. BRIGGS, YES, SIR.

MR. BRIGGS: YOUR HONOR, I WILL ATTEMPT TO TRY TO EXPLAIN IN VERY BRIEF FASHION THE HISTORY DR. FALTAS HAS HAD WITH THE CITY OF COLUMBIA IN MY CLOSING ARGUMENT AND I WON'T NAME ANY NAMES OR ANYTHING LIKE THAT BUT I REALLY THINK THE JURY NEEDS TO KNOW THAT THIS IS JUST ONE – WHAT WOULD YOU CALL IT? ONE EVENT IN A LONG SERIES OF EVENTS –

THE COURT: WE WILL ADDRESS WHAT'S GOING TO HAPPEN ON CLOSING AFTER WE FINISH YOUR CASE. LET ME ASK YOU THIS. DO YOU INTEND ON ASKING HER QUESTIONS – I DON'T CARE.

MR. BRIGGS: YOUR HONOR, --

THE COURT: NO, LET ME TELL YOU WHAT I MEAN BY THAT. IF YOU ASK A QUESTION THAT MR. FERNANDEZ BELIEVES IS OBJECTIONABLE, MR. FERNANDEZ, YOU OBJECT AND I'M GOING TO ADDRESS IT. IT'S ONE THING IF IT DOES NOT VIOLATE A PRIOR ORDER THAT I'VE ALREADY ENTERED ON A MOTION IN LIMINE. IF IT DOES, I'M GOING TO CONSIDER IT A LITTLE DIFFERENTLY. PLEASE BRING THE JURY BACK IN. YOU ARE GOING TO DIRECT THE WITNESS. PLEASE BRING THE JURY BACK IN.

(JURY RETURNS TO THE JURY BOX)

THE COURT: YOUR WITNESS, MR. BRIGGS.

DIRECT EXAMINATION CONTINUED BY

MR. BRIGGS:

Q. DR. FALTAS, I AM GOING TO REPHRASE THE QUESTION. WOULD YOU

TELL US WHAT – AND YOU DON'T HAVE TO LOOK AT ME, YOU CAN LOOK WHEREVER YOU WANT TO. TELL US WHAT DEGREES YOU HAVE BEYOND THE LEVEL OF COLLEGE, EVEN IF YOU DIDN'T GO TO COLLEGE.

A. I HOLD AN M.D.DEGREE AND I HOLD AN M.P.H. WHICH IS A MASTER'S OF PUBLIC HEALTH. I ALSO HOLD AN UNRESTRICTED LICENSE TO PRACTICE MEDIINE AND SURGERY IN VIRGINIA. I HOLD AN UNRESTRICTED D.E.A. NUMBER TO PRESCRIBE CONTROL SUBSTANCES WHICH IS FEDERAL. I HAVE TAKEN AND PASSED THE FEDERAL LICENSING EXAMINATIONS FOR MEDICAL DOCTORS. I HAVE TAKEN AND PASSED THE EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES EXAM. I HAVE AND TAKEN AND PASSED THE (INAUDIBLE) QUALIFYING EXAM FOR MEDICAL DOCTORS. I ALSO HOLD A MASTER'S OF PUBLIC HEATH IN EPIDEMIOLOGY AND VITAL STATISTICS FROM WHAT I SAY IS THE OTHER CAROLINA, CHAPEL HILL. AND I EARNED THAT DEGREE AFTER I EARNED MY MEDICAL DEGREE. I GRADUATED IN 1977 WITH HONORS FROM MEDICAL SCHOOL. I WAS AT THAT TIME TWENTY-FOUR. I WAS THE YOUNGEST IN MY (INAUDIBLE) SCHOOL CLASS AND I WAS INVITED AND SELECTED BY A COMMISSION –

THE COURT: DR. FALTAS, I THINK YOU'VE ANSWERED –

Q. (BY MR. BRIGGS) I THINK YOU'VE ANSWERED MY QUESTION.

A. YES, SIR.

Q. DR. FALTAS –

MR. BRIGGS: I'LL BE VERY CAREFUL ABOUT THIS, YOUR HONOR, AND LET YOU STEP IN IF YOU WANT TO.

Q. (BY MR. BRIGGS) IN THE PAST HAVE YOU BEEN QUALIFIED AS AN EXPERT WITNESS IN THE CAPACITY OF BEING A DOCTOR IN CASES WHERE I'VE CALLED

YOU AS A WITNESS OR OTHER PEOPLE HAVE CALLED YOU AS A WITNESS?

A SEVERAL TIMES IN NORTH CAROLINA AND IN SOUTH CAROLINA I HAVE BEEN QUALIFIED BY THE COURT AS AN EXPERT WITNESS IN MEDICAL MATTERS. I HAVE ALSO OFFERED MY EXPERTISE IN EPIDEMIOLOGY AND BIOSTATISTICS.

Q. OKAY.

MR. BRIGGS: YOUR HONOR, I WOULD SUBMIT THAT SHE IS AN EXPERT WITNESS IN A LIMITED AREA WHERE I WOULD ASK HER SOME QUESTIONS ABOUT THE SANITARY PART OF THIS TRIAL AND BASED ON THE FACT THAT SHE IS AN M.D. AND SHE KNOWS WHAT A MOSQUITO CAN DO AND CANNOT DO AND STUFF LIKE, YOUR HONOR. IT WILL BE VERY BRIEF.

THE COURT: WHAT ARE YOU MOVING HER AS AN EXPERT WITNESS IN THE FIELD OF?

MR. BRIGGS: AS A MEDICAL DOCTOR AND BECAUSE SHE HAS AN M.D. – I MEAN A MASTER'S DEGREE IN PUBLIC HEALTH.

THE COURT: SO WHAT FIELD ARE YOU MOVING – WHAT ARE YOU MOVING HER --

MR. BRIGGS: ESSENTIALLY PUBLIC HEALTH AND SANITATION, YOUR HONOR.

THE COURT: MR. FERNANDEZ?

MR. FERNANDEZ: I OBJECT. THERE'S NO BASIS. IT DOESN'T CORRELATE MOSQUITOES AND PUBLIC HEALTH AND SANITATION.

THE COURT: LAST QUESTION I HAVE IS ARE YOU GOING – BASED ON (INAUDIBLE) WHAT ARE YOU GOING TO ASK? BASED ON THE RECORD AS IT'S DEVELOPED I DON'T KNOW THAT SHE'S – SHE IS NOT – I AM NOT QUALIFYING HER AS AN EXPERT IN SANITATION.

MR. BRIGGS: I RESERVE MY OBJECTION TO THAT, YOUR HONOR.

THE COURT: THANK YOU, SIR. SO NOTED.

Q. (BY MR. BRIGGS) DR. FALTAS, TELL ME THE FIRST DAY YOU HAD SOME CONTACT WITH MR. SIMS OR MR. HATCHER ABOUT THE PROBLEM THAT WE ARE DEALING WITH IN TODAY'S TRIAL.

A. MAY I –

Q. ONE STEP AT A TIME NOW. DATE.

A. TO EXPLAIN THAT CONTACT MEANS I VISUALLY SAW THEM, I THINK I VISUALLY SAW THEM GOING TO THE LAND THAT MOTHER OWNS AND I CO-OWN WITH HER. I'M THE SECOND, THE CO-OWNER. WITHOUT MY PERMISSION OR INVITATION. IT SEEMS. IT SEEMS THAT THEY WERE SITITNG THERE WAITING FOR ME TO LEAVE AND THEN GOING AND TAKING PICTURES.

Q. WOULD THIS HAVE BEEN BEFORE YOU GOT THE SUMMONS?

A. BEFORE, YES.

Q. OKAY.

A. THEN IT SEEMS THAT ON – MAY I USE THE PICTURES TO REFRESH MY MEMORY?

Q. IF YOU'LL BRIEFLY TELL ME – LET ME ASK YOU ANOTHER QUESTION. TELL US ALL WHAT WAS ON YOUR PROPERTY THE FIRST DAY THEY CAME THERE. LET'S START WITH THAT, THAT WILL MAKE IT SMPLE.

A. OKAY. I DON'T KNOW THE FIRST DAY THEY CAME BECAUSE AS I SAID THEY WENT –

Q. THE FIRST DAY YOU KNOW THEY CAME.

A. OKAY. TO THE EXTENT THAT THOSE PICTURES – MAY I STAND (INAUDIBLE)?

Q. YES, YOU CAN.

A. THANK YOU.

Q. ARE WE DEALING WITH THE PICTURES THAT MR. SIMS PUT IN?

A. YES. YES.

Q. THE JURY HAS SEEN THOSE BUT WE CAN PASS THEM AROUND AGAIN IF WE NEED TO.

A. OKAY.

Q. IN OTHER WORDS, YOU CAN SHOW US THE PICTURES THAT APPLY TO THAT DAY AND YOU CAN SEPARATE THE ONES THAT APPLY TO A LATER DATE IF YOU WANT TO.

A. IN EXLAINING MY ANSWER MAY I USE THOSE TWO PLATS?

Q. OH, YES.

THE COURT: MAKE SURE YOU DO NOT SHOW THOSE TO THE JURY UNTIL SUCH TIME THEY'VE BEEN MOVED INTO EVIDENCE IF YOU ARE GOING TO SEEK TO INTRODUCE THEM.

Q. (BY MR. BRIGGS) DR. FALTAS, LET ME HELP US WITH SOMETHING. IT MAY SET THE STAGE. ALL RIGHT. YOU ARE DEALING WITH A PLAT THERE. THERE WAS A QUESTION THAT CAME UP WHEN THE OTHER SIDE WAS TESTIFYING THAT THERE WAS NO EVIDENCE OF ANY KIND OF BUILDING GOING ON IN YOUR PROPERTY. DO YOU HAVE A SET OF PLANS FOR A BUILDING THAT COULD BE BUILT ON THAT PLOT OF LAND?

A. NOT ONLY DID I HAVE A SET OF PLANS, I HAD SUBMITTED THEM FOR A PATENT APPLICATION BECAUSE THEY WERE MY INVENTIONS AND I HAD THE FIRST FOUR OR FIVE STEPS SUCCESSFULLY IN THE PATENT WITHOUT A LAWYER AND I HAD ALSO SUBMITTED THEM TO THE CITY OF COLUMBIA FOR A BUILDING

PERMIT AND THEIR RESPONSE WAS THAT THEY DON'T HAVE AN ENGINEER TO ASSESS IT SO I SHOULD HIRE –

MR. FERNANDEZ: OBJECTION, YOUR HONOR. HEARSAY.

THE COURT: SUSTAINED.

Q. (BY MR. BRIGGS) LET'S ANSWER ANOTHER QUESTION THAT'S OBVIOUS, DR. FALTAS. DOES ANYONE IN YOUR FAMILY HAVE AN EXPERTISE OR EXPERIENCE IN THE FIELD OF ARCHITECTURE AND ENGINEERING AND THOSE KIND OF THINGS?

A. MY LATE FATHER, GOD REST HIS SOUL, WAS AN ENGINEER.

Q. SO YOU SORT OF INHERITED – I'LL ASK DID YOU INHERIT SOME OF THAT ABILITY?

A. NOT ONLY DID I INHERIT HIS ABILITY, I HAVE STUDIED HIS BOOKS.

MR. BRIGGS: YOUR HONOR, I THINK THIS IS LEGITIMATE AND APPROPRIATE.

Q. (BY MR. BRIGGS) YOU AND I HAVE TALKED A COUPLE OF TIMES ABOUT A LITTLE DEVICE YOU MADE THAT AMOUNTS TO A COMPUTER STAND. WOULD YOU TELL – IF YOU'VE GOT A PICTURE, FINE BUT WOULD YOU TELL THE JURY WHAT THAT'S ABOUT?

A. YES, I DO HAVE THE PICTURE.

Q. NOW YOU HAVE TO IDENTIFY IT FIRST IF WE ARE GOING TO TALK ABOUT A PICTURE.

A. YES, I AM GOING TO DO THAT.

MR. FERNANDEZ: YOUR HONOR, CAN I ASK THE RELEVANCE?

THE COURT: AND I THINK WE SHOULD WALK OVER HERE AND DISCUSS IT SO THE JURY DOESN'T HEAR.

(COUNSEL APPROACH THE BENCH OFF THE RECORD)

THE COURT: OUTSIDE.

(THE COURT AND COUNSL EXIT THE COURTROOM)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, PLEASE GO IN THE BACK.

(JURY LEAVES THE JURY BOX)

THE COURT: MR. BRIGGS, IT'S THE COURT'S OPINION THAT SEVERAL TIMES ON TODAY, INTENTIONALLY OR NOT, YOUR STATEMENTS AWAY FROM THE JURY HAVE BEEN LOUD ENOUGH FOR THE JURY TO HEAR. THAT SAME HAS GONE WITH YOUR CLIENT. I HAVE ASKED YOU BOTH NOT TO DO THAT AND I'M ASKING YOU AGAIN. IF YOU DO THAT AGAIN AND THE JURY IS ABLE TO HEAR IT, I AM GOING TO FIND THAT TO BE DIRECTLY IN VIOLATION OF THIS ORDER THAT I'M ISSUING AT THIS MOMENT AND – PLEASE DO NOT DO IT. NOW OUTSIDE OFF THE RECORD WE DISCUSSED THE RELEVANCY OBJECTION MADE BY MR. FERNANDEZ. I WILL LET YOU PUT YOUR ARGUMENT ON THE RECORD AS TO THE RELEVANCY OF HER BUILDING A COMPUTER STAND.

MR. BRIGGS: YOUR HONOR, I UNDERSTAND WHAT YOU SAID AND I DON'T HAVE ANY FURTHER COMMENT.

DEFENDANT FALTAS: YOUR HONOR –

THE COURT: YOU HAVE TO HAVE COMMENT ON HIS OBJECTION OR I'M GOING TO GRANT IT. DO YOU HAVE ANY ARGUMENT ABOUT WHY SHE SHOULD BE ABLE TO TESTIFY ABOUT HER BUILDING A COMPUTER STAND.

MR. BRIGGS: OH, I THOUGHT YOU WERE GOING TO LET ME ASK HER A COUPLE MORE QUESTIONS SO YOU KNEW WHAT THE RELEVANCY WAS.

THE COURT: WE JUST HAD A CONVERSATION AND I WANTED TO

MAKE SURE THAT YOUR ARGUMENTS ARE PRESERVED FOR THE RECORD, SO PLEASE INDICATE WHAT YOU BELIEVE THE RELEVANCY OF HER BUILDING A COMPUTER STAND IS.

MR. BRIGGS: YOUR HONOR, I COULD GO GET MY NOTES BUT I CAN QUOTE IT. THE DEFINITION OF RELEVANCY IS ANY EVIDENCE THAT WILL TEND TO PROVE OR DISPROVE AN ISSUE IN THE CASE. AND IN THIS CASE HER INTENTIONS, IF YOU WILL, OF BUILDING SOMETHING ON THE PROPERTY WAS QUESTIONED BY THE PROSECUTION. AND I THINK THIS IS A NATURAL SHOW OF AN ABILITY SHE HAS THAT WILL PROVE NOT ONLY THAT SHE INTENDED TO BUILD A HOUSE, BUT SHE HAS THE ABILITY TO SUPERVISE THE BUILDING OF THE HOUSE. THAT'S MY ISSUE. THAT'S MY ARGUMENT.

THE COURT: I'M GOING TO PARAPHRASE IT AND YOU TELL ME IF I'M CORRECT BECAUSE I DO NOT WANT TO MISSTATE YOU. IS IT YOUR INTENTION TO SHOW THAT BECAUSE SHE BUILT THE COMPUTER STAND THAT SHE THEN HAS THE EXPERTISE TO BUILD AND/OR SUPERVISE THE BUILDING OF A HOUSE?

MR. BRIGGS: NO, IT IS NOT, YOUR HONOR. BUT IT SHOWS A SPECIAL ABILITY THAT AN ORIN BRIGGS OR A LOT OF OTHER PEOPLE I KNOW WOULD NOT HAVE, YOUR HONOR. AND SO SHE HAS SOME ABILITY TO DESIGN AND PUT INTO – HAVE BUILT ALMOST ANYTHING SHE WOULD DESIRE. IT'S JUST SO RELEVANT IT AIN'T EVEN FUNNY.

THE COURT: YOU JUST LOST ME. HERE'S MY QUESTION. I ASKED YOU WERE YOU TRYING TO – DID YOU BELIEVE IT WAS RELEVANT BECAUSE SHE BUILT THE COMPUTER STAND THEN SHE WOULD ABILITIES TO BUILD OR SUPERVISE BUILDING A HOUSE AND YOU SAID NO.

MR. BRIGGS: THAT'S NOT THE ONLY QUESTION, YOUR HONOR.

THE COURT: IS THAT ONE OF THE THINGS YOU ARE TRYING TO SHOW?

MR. BRIGGS: NO.

THE COURT: WHAT ARE YOU TRYING TO SHOW?

MR. BRIGGS: I'M TRYING TO SHOW THAT SHE HAS SOME SPECIAL ABILTIIES IN – NOT ONLY HAS SHE DRAWN THE PLANS FOR A HOUSE WHICH WE'VE ALREADY GOTTEN INTO EVIDENCE, BUT THAT SHE HAS THE ABILITY TO CONSTRUCT SOME THINGS THAT SHE HAS DESIGNED AND THEY ARE USEFUL THINGS AND SO, THEREFORE, SHE WOULD PROBABLY WITHOUT ANY QUESTION HAVE THE ABILITY TO SUPERVISE THE BUILDING OF A HOUSE IF SHE GOT TO THE TIME AND THE MONEY AND DECIDED TO DO IT. AND THE OTHER SIDE ESSENTIALLY SAID SHE AIN'T BUILDING A HOUSE OVER THERE.

DEFENDANT FALTAS: YOUR HONOR –

THE COURT: NO, MA'AM. NO, MA'AM.

MR. BRIGGS: I'VE ARGUED AS MUCH AS I WANT, YOUR HONOR, BUT I CAN READ THE DEFINITION OF RELEVANCY IF WE NEEDED TO.

THE COURT: YOU DON'T NEED TO. THANK YOU VERY MUCH, MR. BRIGGS. DR. FALTAS, PLEASE ALLOW ME TO RULE ON THIS MATTER OF EVIDENCE. IT HAS BEEN – I THINK WHEN WE LEFT SHE WAS QUESTIONED AS TO WEHTHER SHE BUILT A COMPUTER STAND. SHE WAS LOOKING FOR PICTURES. I DON'T BELIEVE THAT ANY PICTURES RELATED TO THAT SHOULD BE ALLOWED AND I AM GOING TO EXCLUDE THOSE BASED ON RELEVANCY. I'LL LET YOU ASK VERY BASIC QUESTIONS, VERY SHORT AND TIGHT BASIC QUESTIONS AND THEN MOVE ON TO THE FACTS THAT ARE IN THE CASE.

DEFENDANT FALTAS: YOUR HONOR, MAY I ASK PERMISSION TO WHISPER TO HIM ANOTHER ASPECT OF THE RELEVANCE?

THE COURT: I DON'T KNOW THAT WE COULD ALLOW YOU TO DO THAT WHEN YOU ARE ON THE WITNESS STAND, MA'AM. YOU ARE NOT SUPPOSED TO HAVE PRIVATE CONVERSATIONS WHEN YOU ARE DOING SO.

DEFENDANT FALTAS: ALL RIGHT. MAY I PROFFER TO YOUR HONOR –

THE COURT: NO, MA'AM.

DEFENDANT FALTAS: WELL –

THE COURT: NO, MA'AM.

DEFENDANT FALTAS: OKAY, I'M SORRY.

MR. BRIGGS: I'LL DO THAT. YOUR HONOR, JUST FOR THE RECORD AND I KNOW THE COURT HAS ALREADY RULED AND I'M NOT ARGUING ANYTHING BUT I WANT TO SHOW THAT I READ INTO THE RECORD, IF YOU WILL, STANDARD TEXTBOOK DEFNITION FOR RELEVANCE. EVIDENCE IS RELEVANT--

THE COURT: WHY DON'T WE DO THIS? WHY DON'T YOU MAKE A COPY AND ATTACH IT? THEN WE WON'T HAVE TO LISTEN TO YOU READ IT BUT IT WILL BE A PART OF THE RECORD.

MR. BRIGGS: JUST THIS TOP PART, YOUR HONOR.

THE COURT: YOU ARE GOING TO INSIST ON READING WHEN I'M GOING TO LET YOU ATTACH A COPY?

MR. BRIGGS: OKAY.

THE COURT: THANK YOU VERY MUCH. LET'S GET THE JURY BACK OUT HERE AND DIRECT DR. FALTAS.

MR. BRIGGS: JUST THAT MUCH ON TOP HERE.

(JURY RETURNS TO THE JURY BOX)

DIRECT EXAMINATION CONTINUED BY

MR. BRIGGS:

Q. DR. FALTAS, LET'S GO ON TO ANOTHER SUBJECT WITHOUT ANY DELAY OR PROLONGING OR ANYTHING LIKE THAT. WOULD YOU LOOK AT THE PICTURES THAT MR. SIMS INTRODUCED AND THEN TELL US WHICH ONE OF THEM SHOW THE PROPERTY THE FIRST DAY YOU HAD CONTACT WITH THEM? WHAT DID THEY SAY WAS THE FIRST PROBLEM OUT ON YOUR PROPERTY? YOU CAN SEPARATE THE OTHER PICTURES.

A. ON THE 5TH OF OCTOBER, 2011, I WAS NOT THERE WHEN THEY OBVIOUSLY FROM THE PICTURES ENTERED INTO THAT LAND THAT HAD A NO TRESPASS SIGN IN MY ABSENCE AND WITHOUT MY PERMISSION. AND I WAS NOT GIVEN THOSE PICTURES.

Q. WOULD YOU JUST SEPARATE THOSE PICTURES THAT HAVE TO DO WITH – WHAT WAS THE DATE YOU SAID?

A. IT WAS OCTOBER 5TH 2 –

Q. AND THAT DATE IS ON THE PICTURES?

A. YES, IT IS.

Q. GET ALL THOSE PICTURES TOGETHER AND YOU CAN TURN AROUND AND SHOW THEM TO THE JURY IF YOU WANT TO AND A VERY BRIEF EXPLANATION OF WHAT THEY SHOW.

A. BECAUSE I WAS SETTING THINGS UP SO I WAS LEAVING AND COMING BACK AND LEAVING AND COMING BACK. SO OBVIOUSLY AT THAT TIME I WAS NOT THERE. THEY WERE OBVIOUSLY WATCHING OUT AND THEN THEY WENT IN –

MR. FERNANDEZ: OBJECTION, YOUR HONOR. CALLS FOR COMPLETE SPECULATION.

THE COURT: SUSTAINED.

A. ALL RIGHT.

Q. (BY MR. BRIGGS) DR. FALTAS, TELL US WHEN'S THE FIRST DAY YOU SAW THEM ON THE PROPERTY.

A. ALL RIGHT. THE FIRST DAY I SAW THEM ON THE PROPERTY WOULD HAVE BEEN – I REALLY AM NOT SURE THAT I MET MR. SIMS ON THE 10TH AND IF THAT IS THE CASE WHAT HAD HAPPENED IS THAT HE DIDN'T GIVE ME ANYTHING THEN WHICH HE COULD HAVE BUT WAITED AND MAILED IT AFTER THAT. SO I DIDN'T RECEIVE ANYTHING UNTIL THE 10TH OF OCTOBER.

Q. ALL RIGHT. LET'S GET BACK TO THE PICTURES. DID YOU TAKE THOSE PICTURES YOU HAVE IN YOUR HAND, DR. FALTAS?

A. NO, IT'S OBVIOUS THAT SOMEONE WENT ALL THE WAY INTO –

Q. AND HE TESTIFIED THAT HE TOOK THE PICTURES, DIDN'T HE?

A. AND I REMEMBER HE ALSO TESTIFIED THAT HE GOT A CALL FROM DINAH STEELE ON THE 3RD OF OCTOBER.

Q. SHOW THE JURY THOSE PICTURES AND TELL THEM IN ONE SENTENCE WHAT EACH ONE OF THEM SHOWS.

A. OKAY.

Q. JUST TURN AROUND. THEY'VE SEEN THEM BEFORE. NO, ONE AT A TIME.

A. BECAUSE THE PEOPLE ON BOTH SIDES WERE THREATENING ME AND SOMETIMES PHYSICALY ATTACKING ME BUT THEY WERE ALSO VERBALLY ATTACKING ME AND BECAUSE THIS OTHER SIDE HAD VERY HIGH GRASS AS YOU CAN SEE IN THIS VERY PICTURE ON OCTOBER 5TH, 2011.

Q. YOU DID WHAT?

A. I TRIED TO PUT SOME NATURAL MATERIAL THAT DOESN'T REQUIRE A FENCE PERMIT SO THAT PEOPLE WOULD KNOW AND DON'T PLAY DUMB ABOUT IT THAT THIS IS THE PROPERTY LINE. AND I ALSO HAD NO TRESPASS SIGNS ON ALL FOUR CORNERS AND NO ONE RESPECTED IT. AND THEN I DIDN'T HAVE ENOUGH OF THOSE CARDBOARD CYLINDERS TO MAKE A COMPLETE LINE SO THAT THE SEED WEEDS FROM THE OTHER PROPERTY OWNER WHO DOESN'T CUT HIS GRASS AND NO ONE DOES ANYTHING ABOUT IT, DOESN'T BLOW OVER TO THE LITTLE LOT THAT MOTHER AND I OWN AND THAT WE MAINTAIN VERY CONSCIENTIOUSLY AND SCRUPULOUSLY.

Q. ALL RIGHT. GO TO THE NEXT PICTURE.

A. AND ALSO I HAD THOSE (INAUDIBLE) SPOOLS THAT I WAS TRYING – THIS IS WELL INSIDE THE PROPERTY. THIS IS NOT TRASH, THIS IS NOT RUBBISH. THIS IS REELS. IT IS BETTER THAN RECYCLING. RECYCLING IS WHEN YOU TAKE STUFF AND MELT IT BUT WHEN YOU REPURPOSE OR REUSE SOMETHING THAT IS BETTER BECAUSE NO ENERGY, NO CARBON FOOTPRINT IS USED AND BECAUSE SOME OF THESE ARE EXACTLY EQUAL AND IDENTICAL THEY WOULD ALSO BE GOOD MEASURING.

Q. OKAY. GO TO THE NEXT PICTURE.

A. SO I HAD THEM LAID OUT JUST TRYING TO FIGURE OUT HOW I WAS GOING TO LAY THAT STUFF IN A WAY THAT, NUMBER ONE, PROTECTS THIS LAND FROM THE SEED WEEDS BLOWING –

Q. PUT IT ON THE TABLE.

A. -- BLOWING OVER. AND THIS HERE IS NOT A VEHICLE THAT BELONGS TO MOTHER OR ME. IT BELONGS TO A GENTLEMAN WHO WAS HELPING ME. SO AT

THE TIME THESE PICTURES WERE TAKEN I WAS NOT THERE TO GIVE PERMISSION FOR ANYONE TO ENTER AND WE WERE ALSO SETTING UP THE NO TRESPASS SIGNS BUT ALSO THIS TREE HAS A PINK RIBBON THAT MARKS THE PROPERTY BOUNDARY. AND THEN I HAD THOSE BUCKETS WHICH DO NOT HOLD WATER AND ABSOLUTELY NO MOSQUITO HAZARDS SO THAT I WAS TRYING TO FIGURE OUT WHETHER I WAS GOING TO SPREAD THE BUCKETS ON ONE SIDE AND THE CARDBOARD ON THE OTHER OR WHAT WILL BE ENOUGH OR WHAT WILL NOT BE ENOUGH.

Q. (INAUDIBLE).DID THE – DID MR. SIMS OR MR. HATCHER ASK YOU TO REMOVE THOSE CARDBOARD CYLINDERS?

A. THEY SAID THAT WHAT CONSISTS THE VIOLOATION – FIRST OF ALL –

Q. THE QUESTION IS VERY SIMPLE. DID THEY ASK YOU TO REMOVE THEM?

A. NOT IN SO MANY WORDS, NO. BUT --

Q. DID THEY SAY THEY WERE ILLEGAL?

A. AND I DON'T THINK THEY ARE BUT –

Q. NO. WHAT DID THEY SAY?

A. THEY SAID – MR. HATCHER SAID TRASH IS WHATEVER HE SAYS TRASH IS. THERE IS NO DOUBT IN MY MIND ABOUT THAT AND HE WAS VERY ARROGANT AND RUDE ABOUT IT. WHEN I TRIED TO EXPLAIN TO HIM THAT THIS IS NOT TRASH. FIRST OF ALL –

Q. ALL RIGHT. DID YOU REMOVE THOSE CARDBOARD CYLINDERS?

A. I DID WITHIN THE TEN DAYS AND IT IS OBVIOUS THAT ON THE PICTURES ... OCTOBER 20TH, 2011, THE DAY THEY GIVE ME THE SUMMONS THERE ARE ABSOLUTELY NO CARDBOARD HERE. THERE ARE THE BUCKETS ALL INVERTED, ALL IN A PERFECT LINE AND I THINK I TOLD PEOPLE THAT THEY ARE

REMINISCENT IF YOU LOOK AT THEM FROM THE OTHER SIDE, YOU SEE THEY ARE – MAY I INTRODUCE THEM NOW, PLEASE?

Q. YOU MAY IDENTIFY IT FIRST. THE QUESTION IS IS THIS A SAMPLE OF THE BUKCETS THAT WE SEE IN THE PICTURE?

A. IT IS IDENTICAL EXCEPT FOR ONE THING. MOST OF THE BUKETS IN THE PICTURE HAVE COMPLETE PLASTIC WHITE HANDLES. THESE BUCKETS HAVE METAL HANDLE WITH THE LITTLE PLASTIC HOLDER. AND THE DIFFERENCE IS INTENTIONAL. I HAD – AND THAT WAS, YOU KNOW, I USED TO GO TO –

THE COURT: DR. FALTAS, IF WE COULD STOP RIGHT THERE ONE MOMENT.

MR. BRIGGS: THAT'S ALL RIGHT. JUST HOLD ON TO THE BUCKET.

Q. (BY MR. BRIGGS) NOW YOU ARE TELLING ME THIS IS AN IDENTICAL BUCKET – I'M ASKING – IS THIS AN IDENTICAL BUCKET AS WHAT WE SEE IN THE PICTURES THAT HAVE ALREADY BEEN INTRODUCED INTO EVIDENCE?

A. WITH THE EXCEPTION THAT I EXPLAINED.

Q. OF THE HANDLE?

A. THAT THE HANDLES ARE COMPLETELY PLASTIC.

MR. BRIGGS: YOUR HONOR, I ASK THAT THAT BUCKET BE INTRODUCED INTO EVIDENCE AS AN EXAMPLE OF THE KINDS THAT ARE IN THE PICTURES, YOUR HONOR, AND USED –

THE COURT: I DON'T KNOW THAT WE NEED MULTIPLES.

MR. BRIGGS: I DON'T THINK WE DO EITHER, YOUR HONOR.

THE COURT: OKAY. ANY OBJECTION – BEFORE YOU SAY ANY-THING, ANY OBJECTION, MR. FERNANDEZ?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: ALL RIGHT. NUMBER ONE THEN. THAT WILL BE ENOUGH, WE DON'T NEED ALL OF THEM.

MR. BRIGGS: ALL RIGHT.

Q. (BY MR. BRIGGS) ONE OTHER QUICK SIMPLE QUESTION, DR. FALTAS.

A. OKAY. YOUR HONOR, THE ONE THAT HE HANDED ME IS MARKED NUMBER THREE. DID YOU WANT TO SUBSTITUTE IT?

THE COURT: YES, LET'S SUBSTITUTE NUMBER ONE SO THAT THE RECORD IS CLEAR.

(BUCKET IS RECEIVED INTO EVIDENCE AS DEFENDANT'S EXHIBIT #1)

Q. (BY MR. BRIGGS) DO YOU KNOW HOW MANY BUCKETS THERE ARE IN THE PICTURE OR IN THE LINE THAT WE'VE SEEN IN THE PICTURE? DO YOU KNOW WHAT THE TOTAL NUMBER ARE?

A. ABOUT FORTY OR FIFTY.

Q. OKAY. THAT'S FINE. THAT'S GOOD ENOUGH.

A. AND MAY I SAY SOMETHING? THESE BUCKETS WERE ONE THE HARDWARE STORE HAS CHAINS IN THEM AND ONE DAY THEY SOLD ALL THE CHAIN. I WOULD GO AND ASK IF THEY WERE THROWN AWAY, THE BUCKETS, IF I MAY HAVE THEM. AND THAT IS ALSO PART OF MY ENVIRONMENTAL CONSCIOUSNESS.

THE COURT: PLEASE ANSWER THE QUESTIONS THAT MR. BRIGGS ASKS YOU.

Q. (BY MR. BRIGGS) NOW DO WE NEED – GIVE ME ALL BUT ONE BACK. GIVE ME THREE BACK.

A. OH, NUMBER THREE ON HERE. OKAY.

Q. I'M GOING TO ASK YOU ANOTHER QUESTION.

A. OKAY. THE HANDLES HAVE A SIGNIFICANCE.

Q. WE UNDERSTAND THAT BUT WE DON'T NEED THAT RIGHT NOW. WE'LL GET TO IT. NOW ARE THERE ANY OTHER PICTURES THAT MR. SIMS INTRODUCED THAT YOU WANT TO TALK ABOUT AS TO HOW THE PROPERTY CHANGED OR DIDN'T CHANGE OR ET CETERA.

A. ABSOLUTELY.

Q. OKAY.

A. FIRST OF ALL, THE PICTURES WHEN HE HAS ON 7-11-2012 WHICH IS WAY OUTSIDE WHAT WE'RE TALKING ABOUT, THESE WERE NOT TURNED OVER BY WIND OR RAIN. THESE WERE TURNED OVER BY PEOPLE. AND I SAW THEM WITH MY OWN EYES. THE PEOPLE WHO HELPED FROM DINAH STEELE AND LARRY MASON WOULD TAKE THEIR DOGS TO POLLUTE THE LAND THAT MOTHER AND I OWN AND IN THE PROCESS THEY WOULD KICK THOSE BUCKETS. SO I WAS TRYING THE HANDLES AND THAT'S WHY I WAS TRYING TO BRING TWO OR THREE IS THAT WHEN YOU PUT THEM LIKE THIS SIDE BY SIDE I WAS TRYING TO ALSO HAVE METAL THAT IS (INAUDIBLE) ONE TO THE NEXT, ONE TO THE NEXT, ONE TO THE NEXT SO THEY WON'T TURN OVER. BUT THOSE PEOPLE WERE CONSTANTLY –

THE COURT: MR. BRIGGS, PLEASE DIRECT THE WITNESS.

Q. (BY MR. BRIGGS) YOU'VE ANSWERED THE QUESTION. AND MY LAST QUESTION WAS ARE THERE ANY OTHER PICTURES THAT WE INTRODUCED –

A. OH –

Q. WELL, TAKE THEN ONE AT A TIME.

A. YES. ABSOLUTELY.

Q. I DON'T THINK THE JUDGE IS GOING TO LET US SLEEP HERE TONIGHT, ARE YOU, YOUR HONOR?

THE COURT: NO, SIR.

A. FOR EXAMPLE, AGAIN ON THIS ONE WHICH IS DATED 11 JULY, 2012, FIRST OF ALL, THEY NEVER GAVE ME ANY NOTICE OF 11 JULY, 2012, THAT I NEED TO DO ANYTHING.

Q. AND IS THAT BEFORE YOU WERE SUMMONED?

A. NO, NO. THAT'S WAY AFTER.

Q. OKAY.

A. THAT'S WAY AFTER. AND I WOULD SEE VISUALLLY, VISUALLY SEE THE PEOPLE WHO (INAUDIBLE) LARRY MASON AND DINAH STEELE –

Q. ALL RIGHT. WE DON'T NEED ANY MORE OF THAT.

A. LET ME FINISH. THEY WOULD GO AND –

THE COURT: DR. FALTAS, HE IS ENTITLED TO DIRECT THE QUESTIONS AND YOU PLEASE ANSWER RESPONSIVELY.

A. ALL RIGHT. HE'S ASKING ABOUT OTHER PICTURES SO MAY I GO TO OTHER PICTURES?

THE COURT: YOU ABSOLUTELY MAY.

A. ALL RIGHT. THANK YOU. SO THEY WOULD TAKE THE LIDS OFF AND OBVIOUSLY I WASN'T THERE WHEN THEY DID THAT. FOR EXAMPLE, ON THE OTHER SIDE I HAD THOSE METAL STAKES TO MARK ON THE OTHER SIDE.

Q. WHEN YOU SAY METAL STAKES, ARE WE TALKING ABOUT ANGLE IRONS ESSENTIALLY?

A. FOR A NINETY DEGREE ANGLE AND THEY WOULD IN MY PRESENCE GO AND BEND THEM OR UPROOT THEM AND THEY DID THAT WITH THIS NO

TRESPASS SIGN. THEY UPROOTED IT AND THREW IT IN THE DITCH THAT'S BEHIND THE PROPERTY. AND I CALLED THE POLICE AND WE FOUND IT. AND THOSE AGAIN ARE NOT TRASH, ARE NOT WASTE. THESE ARE REPURPOSED AND AGAIN THEY CAME FROM THE HARDWARE STORE WHERE THEY HAD CHAIN AND ROPE AROUND THEM AND WHEN THEY FINISHED USING THEM I WOULD PEEL THE LABEL AS YOU CAN SEE HERE SO THERE WON'T BE PAPER. IT'S ENTIRELY PLASTIC AND BECAUSE THEY ARE USEFUL IN MEASURING AND ALSO IN – THE OTHER METAL AND HE SAID IT'S SCRAP. IT WASN'T SCRAP AT ALL. IT WAS PART OF THE SHELVING THAT I BUILT AND PRESENTED AND THAT FOR IT TO BE VERY, VERY LIGHT BUT VERY, VERY STABLE. ACTUALLY THE FOUR-CORNER DESIGN IS NOT THE MOST EFFICIENT.

MR. FERNANDEZ: YOUR HONOR.

Q. OKAY.

MR. FERNANDEZ: OBJECTION.

THE COURT: OBJECTION SUSTAINED BASED ON A PRIOR RULING.

Q. (BY MR. BRIGGS) MARIE, LET ME JUST ASK THIS QUESTION. IS THAT ANGLE IRON THAT YOU USED OUT THERE, IS IT USEFUL FOR OTHER PURPOSES, SUCH AS BUILDING ANYTHING THAT YOU WANT TO HAVE SOME STANDING?

A. YEAH. BUILDING MY SHELVES.

Q. OKAY, THAT'S ENOUGH.

A. BUILDING MY SHELVES.

Q. GO ON TO THE NEXT PICTURE.

A. OKAY. SO I SPECIFICALLY HAD – AS YOU SEE, FOR EXAMPLE, THESE ARE NOT TRASH CONTAINERS. THESE ARE STORAGE. I MEAN THE STORE SENDS IT TO YOU, YOU CAN USE IT FOR STORAGE, YOU CAN USE IT FOR TRASH OR YOU CAN

USE IT – IT'S ALSO STURDY ENOUGH TO BE USED TO MIX CONCRETE. SO I AM STORING (INAUDIBLE) IN THEM AND HAVE THEM CHAINED TO THE TREE AND ALSO SECURELY FASHION THE CHAIN GOING AROUND TO WHERE IT DOESN'T GET BLOWN AND HOPEFULLY PEOPLE DON'T GET IN AND STEAL FROM ME. BUT ALL OF THIS WAS DONE IN THE PROCESS AND I HAD THE DISCUSSION WITH THEM THAT WHATEVER IT IS IT'S FORTY-EIGHT HOURS BECAUSE, FOR HEAVEN'S SAKE, IF IT'S JUST ANYTHING THAT COLLECTS WATER THEN IF YOU GO TO YOUR LAWN AND HAVE A CUP IN YOUR HAND THEN YOU ARE A CRIMINAL.

MR. FERNANDEZ: OBJECTION, YOUR HONOR.

THE COURT: SUSTAINED. PLEASE –

MR. BRIGGS: OBJECTION TO WHAT? WHAT'S THE GROUNDS?

THE COURT: WHAT'S THE BASIS?

MR. FERNANDEZ: RELEVANCE, SPECULATION, YOU NAME IT. I MEAN SHE'S TELLING STORIES.

THE COURT: SHE'S GOTTEN BEYOND THE QUESTION YOU ASKED.

MR. BRIGGS: ALL RIGHT.

Q. (BY MR. BRIGGS) DR. FALTAS, LET ME TRY TO DIRECT YOU IN ANOTHER AREA. MR. SIMON INTRODUCED SOME PICTURES THAT SHOWED SOME MATERIAL THERE THAT DID NOT LOOK LIKE IT WAS ORGANIZED. WOULD YOU FIND ONE OF THOSE PICTURES AND TELL US WHETHER YOU ARE THE PROCESS OF DOING SOMETHING THERE, IT WAS ONLY THERE ONE DAY, IT WAS BOUGHT ONE DAY OR WHATEVER. I DON'T KNOW WHAT THE ANSWER IS BUT TELL US WHAT THOSE PICTURES ARE ABOUT.

A. IT WAS IN THE PROCESS AND I DETERMINED WITH THEM THAT THE ORDINANCE SAYS YOU CANNOT KEEP SOMETHING THAT HOLDS WATER MORE

THAN FORTY-EIGHT HOURS. AND SO THAT WAS IN THE PROCESS BUT IN ALL THE PICTURES FROM '11–

Q. SHOW US ONE OF THE PICTURES THAT LOOKS LIKE THERE'S AN UNORGANIZED STACK OF MATERIAL. HOW ABOUT THAT TOP ONE THERE?

A. I AM GETTING ALL OF THEM.

Q. OKAY.

A. AND THIS IS WHAT THE NEIGHBORS DID TO – ON THE ONE THAT'S DENTED. LET'S DO THIS ONE BECAUSE I ALSO HAD THE ROPE AND NOW THEY HAVE CUT THE ROPE INTENTIALLY BECAUSE I'M NOT IMAGINING THIS.

MR. FERNANDEZ: SPECULATION.

A. NO, I SAW IT. I SAW IT.

THE COURT: MR. BRIGGS, IS THAT RESPONSIVE TO YOUR QUESTION?

MR. BRIGGS: I THINK SO, YOUR HONOR. SHE IS DESCRIBING A PICTURE.

THE COURT: YOU ASKED HER TO DESCRIBE A PICTURE WITH AN UNORGANIZED GROUP OF THINGS.

MR. BRIGGS: YES.

Q. (BY MR. BRIGGS) LET'S LEAVE THOSE TWO PICTURES ALONE FOR RIGHT NOW, DR. FALTAS. FIND US ONE THAT HAS SOME MATERIAL THAT IS, QUOTE, NOT ORGANIZED AND TELL US WHAT IT IS AND THEN I'LL ASK ANOTHER QUESTION ALONG THAT LINE.

A. THE CITY'S EXHIBIT ONE, NUMBER NINE, AND THE CITY'S EXHIBIT ONE, NUMBER ELEVEN.

Q. OKAY. LET'S DO TWO AT A TIME. THAT'S ENOUGH. SHOW THE JURY

THOSE PICTURES. NO, TURN THEM AROUND. THEY CAN SEE THEM. THEY'VE SEEN THEM BEFORE. ALL RIGHT. NOW TELL US WHAT THAT MATERIAL IS ON THE LEFT, LEFT HAND. THE ONE YOU DON'T WRITE WITH.

A. THIS IS THE LEFT?

Q. YES.

A. OKAY. SOME OF THIS IS THE ACTUAL SHELVING THAT I INVENTED THAT'S UNUSUAL. IT'S –

Q. ALL RIGHT. DESCRIBE IT ALL FIRST. THEN I'M GOING TO ASK YOU HOW LONG IT WAS THERE.

A. OKAY. IT PROBABLY WAS THERE LESS THAN A DAY BECAUSE AT THAT TIME I WAS GOING EVERY DAY AND TRYING TO RESET WHAT I WAS SEEING THE NEIGHBORS MESSED UP ON MY –

Q. LET'S DON'T TALK ABOUT THAT.

A. SOMETIMES WHEN I AM IN THE MIDDLE OF RESETTING THINGS, I WOULD NEED TO GO WASH MY HANDS. SINCE I DON'T LIVE THERE I HAD TO GO TO A NEARBY RESTAURANT TO WASH MY HANDS BECAUSE I DON'T –

MR. BRIGGS: YOUR HONOR, SHE'S GOING TO HAVE TO BE RESPONSIVE TO ME OR WE ARE GOING TO BE HERE UNTIL EIGHT O'CLOCK.

THE COURT: PLEASE ALLOW HIM TO ASK QUESTIONS, PLEASE ANSWER THE QUESTIONS.

Q. (BY MR. BRIGGS) DR. FALTAS, WE WANT TO KNOW WHETHER THOSE PICTURES SHOW YOU SETTING THEM APART TO WHERE YOU CAN PUT THEM IN A BIG CONTAINER OR WHETHER YOU WERE GOING TO STACK THEM OVER HERE TO THE LEFT OR WHETHER YOU ARE GOING TO MOVE THEM BACK TO YOUR HOUSE OR WHATEVER. WE NEED TO KNOW WHAT THAT MATERIAL IS AND WHAT YOU

INTENDED TO DO WITH IT.

A. OKAY. THOSE BUCKETS THAT ARE TURNED OVER, I WAS TRYING TO RESET THEM. ON THE LOWER PICTURE YOU CAN SEE WHERE THE POLES I WAS ALSO TRYING TO STRAIGHTEN THE POLES THAT HAVE BEEN INTENTIONALLY BENT OVER AND TO RESET THE ROW. SO I WAS DEBATING AND I WAS THINKING WHETHER I HAVE ENOUGH OF THOSE METAL POLIES TO MAKE A COMPLETE LINE AS OPPOSED TO THE LINES.

Q. FINE ANOTHER PICTURE THAT HAS SOME, IF YOU WILL, UNORGANIZED MATERIAL THAT COULD HAVE BEEN MOVED OR SHOULD HAVE BEEN MOVED OR WHATEVER. SHOW US ANOTHER PICTURE OF SOME OF THAT MATERIAL.

A. ALL THE ONES FROM THE JULY 11TH WHEN EACH ONE WERE TAKEN FIRST FROM VERY CLOSE RANGE OBVIOUSLY. SECOND, WHEN I HAD GONE TO WASH MY HANDS OR TO DECIDE, YOU KNOW, WHAT TO DO, DO I NEED TO GET MORE ROPES (INAUDIBLE) THE ROPE.

Q. STOP. SHOW THE JURY THE ONE THAT YOU COVERED UP. SHOW THE JURY THE PICTURE THAT YOU JUST COVERED UP IN YOUR LEFT HAND. NO, JUST TAKE THE TOP ONE OFF. NO. SHOW THEM THAT ONE, THE ONE IN YOUR LEFT. EXPLAIN TO US – THE JUDGE, THE JURY, MR. FERNANDEZ – TELL US WHAT THAT MATERIAL IS AND WHAT YOU DID WITH IT A WEEK LATER, A MONTH LAYER OR WHATEVER. THE ONE IN YOUR LEFT HAND.

A. THAT MATERIAL –

Q. NO. THE ONE ON THE BOTTOM.

A. THIS?

Q. THE ONE ON THE -- THAT'S ALL RIGHT. THAT ONE IS ALL RGHT. THE ONE YOU JUST PULLED OUT.

A. THIS ONE?

Q. NO. LET ME HAVE THEM. ALL OF THESE PICTURES, MARIE, AND I'M GOING TO ASK A QUESTION, SEEM TO SHOW SOME UNORGANIZED MATERIAL. YOU SHOW THEM TO THE JURY AND YOU EXPLAIN TO ME WHY THEY WERE UNORGANIZED. WAS IT ONE DAY, TWO DAYS, THREE DAYS? WAS IT WHILE YOU WERE TRANSFERRING STUFF? EXPLAIN TO THE JURY WHY THAT UNORGANIZED STUFF WAS ON YOUR PROPERTY.

A. THAT IS AN OPTICAL ILLUSION OF DISORGANIZATION BECAUSE THE TWO –

Q. YOU ARE NOT SHOWING A PICTURE TO THE JURY.

A. THOSE TWO BIG CONTAINERS THAT I HAD HEAVY (INAUDIBLE) BALLS IN THEM AND I ALSO HAD THEM CHAINED TO THE TREE SO THEY DON'T FALL OVER AND I ALSO HAD THEM BALANCED SO THEY DON'T (INAUDIBLE), ONE ON ONE SIDE AND ONE ON THE OTHER. I WAS ALSO WANTING TO BUTTRESS THEM SO THEY DON'T KEEL OVER. SO IN THE PROCESS OF DOING THIS, WHILE I'M IN THE MIDDLE OF THIS AND ALSO THE NEIGHBORS WOULD COME AND AFTER I HAD ORGANIZED THINGS, THEY WOULD THROW THEM OVER. SO IN THE PROCESS OF ORGANIZING THINGS IF I GET OUT OF BREATH OR MY HANDS BECOME DIRTY AND I NEED TO GO AND WASH MY HANDS OR SOMETHING, THESE PEOPLE WOULD COME AT CLOSE RANGE AND TAKE --

MR. FERNANDEZ: OBJECTION. SHE JUST ADMITTED SHE WASN'T THERE TO WITNESS IT.

MR. BRIGGS: OKAY.

THE COURT: SUSTAINED.

Q. (BY MR. BRIGGS) DR. FALTAS, ANSWER THIS QUESTION, WE ARE GOING TO

GO BACK TO PICTURES. IF WE WENT OUT THERE TODAY, WOULD WE SEE ANY PILES OF UNORGANIZED MATERIAL THAT HAS NOT BEEN PUT IN THOSE LARGE CONTAINERS?

A. MY HONEST ANSWER IS THAT WHILE WE ARE HERE. I'M SURE IN FACT DINAH STEELE WENT OUT, SHE PROBABLY –

Q. LET'S TALK ABOUT THE LAST TIME YOU WERE THERE.

A. THE LAST TIME I WAS THERE THERE WAS A MAN WHO DAVID HATCHER –

Q. I WANT TO KNOW WHAT THE MATERIAL LOOKED LIKE?

A. I HAVE NO IDEA BECAUSE THOSE PEOPLE ARE COMING ALL THE TIME.

Q. NO, I WANT TO KNOW WHAT THEY LOOKED LIKE WHEN YOU WERE ON THE PROPERTY.

A. WHEN I –

MR. BRIGGS: YOUR HONOR, THAT'S EMPHASIS AGAIN AND I APOLOGIZE BUT THAT'S ORIN BRIGGS.

A. THE LAST TIME I WAS ON THE PROPERTY THE BUCKETS PRETY MUCH LOOKED LIKE THIS. THE ROPE ON THIS SIDE WAS INTACT BUT THE ROPE ON THE OTHER SIDE WAS COMPLETELY TORN AND CUT AT SEVERAL PLACES AND THE POLES HAD BEEN BENT AND (INAUDIBLE).

Q. (BY MR. BRIGGS) THAT'S ENOUGH. LET ME ASK YOU A SPECIFIC QUESTION. OTHER THAN SOME OF THIS ANGLE IRON MATERIAL, THE LAST TIME YOU WERE OUT THERE, WAS THERE ANY MATERIAL LYING ON THE GROUND OR STACKED UP OR SOMEWHERE OTHER THAN IN ONE OF THOSE LARGE CONTAINERS?

A. THERE WAS MATERIAL THAT WAS ORGANIZED INTERDIGITATING WITH THE SHRUBS SO THAT NO CHILD EVEN THOUGH THERE IS NO TRESPASS ON ALL

FOUR CORNERS AND PARENTS SHOULDN'T LET THE CHILDREN --

MR. FERNANDEZ: OBJECTION, YOUR HONOR. SPECULATION.

MR. BRIGGS: THAT'S RESPONSIVE, YOUR HONOR.

THE COURT: I AM GOING TO ALLOW IT BUT BE VERY BRIEF WITH IT, DR. FALTAS.

Q. (BY MR. BRIGGS) LET ME GO ON AND ASK THE NEXT QUESTION SO YOU CAN GET TO IT.

A. WELL, CAN I FINISH THE FIRST ONE FIRST?

Q. YES.

A. OKAY. THERE IS MATERIAL WHICH IS NOT TRASH, WHICH IS NOT HAZARDOUS BUT IT IS INTERDIGITATING WITH THE WEST – I'M SORRY, WITH THE EAST SIDE OF THE PROPERTY BECAUSE IT OVERLOOKS A DITCH WHICH DOESN'T BELONG TO ME.

Q. IS THAT THE BACK SIDE FROM THE ROAD?

A. THE BACK SIDE. BUT THIS IS DONE SO THAT ON THE OUTSIDE CHANCE THAT THE CHILD VENTURES INTO THIS, THE CHILD WON'T FALL INTO THE DITCH.

THE COURT: THAT'S THE RESPONSE. PLEASE ASK THE NEXT QUESTION.

Q. (BY MR. BRIGGS) THAT'S THE RESPONSE. ALL RIGHT. NOW QUICKLY ANY OTHER OF HIS PICTURES THAT YOU WANT TO EXPLAIN TO THE JURY?

A. YES.

Q. LET ME ASK ONE OTHER QUESTION BEFORE THAT. ISN'T THERE A PICTURE SOMEWHERE THERE WERE ONE OF THE LARGE CONTAINERS IS TURNED OVER?

A. THE LARGE CONTAINER? I DON'T KNOW WHAT YOU MEAN BY THE LARGE

CONTAINERS BUT I WANT TO EXPLAIN THIS PICTURE WHICH IS ON THE 20TH – OCTOBER 20TH, 2011. THOSE PEOPLE -- AS YOU CAN SEE I'M WAY IN THE BACK HERE, WAY IN THE BACK HERE WITH THE TRUNK OF THE CAR OPEN BECAUSE I WAS PUTTING STUFF IN IT. AND I SEE THOSE PEOPLE COMING TOWARDS ME AND THEY HAD CROSSED THE NO TRESPASS SIGN. I DIDN'T INVITE THEM, I AM POLITE. I'M ALWAYS POLITE. WHAT WAS I GOING TO DO? BUT I TOOK PICTURES OF THEM COMING IN WITHOUT PERMISSION AND AS YOU CAN SEE THEY CAME WHILE I WAS THERE WORKING ON THE STUFF. THEY SAW ME WORKING ON THE STUFF AND THEY WALKED IN WITHOUT PERMISSION.

THE COURT: MR. BRIGGS, I THINK THAT SHE'S EXCEEDED THE SCOPE OF YOUR QUESTION AND HER TESTIMONY HAS BECOME REPETITIVE.

MR. BRIGGS:. NOW I THINK WE ARE THROUGH WITH THE PICTURES FROM MR. SIMS UNLESS YOU THINK OF SOMETHING LATER ON WE CAN COME BACK.

Q. (BY MR. BRIGGS) NOW DO YOU HAVE ANY PICTURES THAT YOU WANT TO TALK ABOUT AND LET'S ATTEMPT TO GET THEM INTRODUCED AT THIS TIME?

DEFENDANT FALTAS: I'M ASKING HIS HONOR. IS IT SAFER THAT I OFFER THEM OUTSIDE THE PRESENCE OF THE JURY SO HIS HONOR DOESN'T THINK –

MR. BRIGGS: NO, YOU ARE NOT GOING TO SHOW THEM TO THE JURY.

THE COURT: YOU ARE NOT GOING TO SHOW THEM TO THE JURY. YOU NEED TO RESPOND TO MR. BRIGGS' QUESTION. YOU ADDRESS MR. BRIGGS.

Q. (BY MR. BRIGGS) LET'S SAY GRAB TEN PICTURES. TEN PICTURES.

A. OKAY. THE FIRST –

Q. AND THE FIRST THING YOU DO IS IDENTIFY THEM, DR. FALTAS.

MR. BRIGGS: WE'LL FOLLOW THE MAGIC FORMULA, YOUR HONOR.

A. OKAY. THESE ARE EIGHT PICTURES AND THEY SHOW THE KINDS OF SHELVES I BUILT WITH BY BENDING – BY BENDING THE METAL –

MR. BRIGGS: YOUR HONOR, I THINK YOU HAVE RULED THAT WOULD BE INADMIBBISLE.

THE COURT: I HAVE RULED ON THOSE. PLEASE PUT THOSE ASIDE.

MR. BRIGGS: PUT THAT ASIDE.

Q. (BY MR. BRIGGS) DR. FALTAS, I DON'T THINK WE NEED TO TALK ABOUT THE APARTMENT BUILDING UNLESS WE ARE JUST SHOWING THE PROIXITY TO YOUR PROPERTY.

A. ABSOLUTELY . ABSOLUTELY.

Q. PROBABLY ONE OR TWO PICTURES WILL DO THAT.

A. WELL, IF I MAY – OKAY. SO THESE TEN PICTURES SHOW THE PARKING LOT WHICH IS IMMEDIATELY ADJACENT OT THE LAND THAT MOTHER AND I OWN.

Q. AND ADJACENT TO THE ROAD, OF COURSE?

A. THE NORTH BOUNDARY OF THE LOT THAT MOTHER AND I CO-OWN IS THE SOUTH BOUNDARY OF THE TWO RENTAL QUADRIPLEXES THAT DINAH STEELE –

Q. AND THOSE BOUNDARIES ARE ADJACENT TO THE ROAD?

THE COURT: HOLD ON. DON'T TURN THEM TOWARD THE JURY.

A. OH, I APOLOGIZE. IT WAS SO UNINTENTIONAL.

Q. (BY MR. BRIGGS) BOTH YOUR NORTHBOUND AND THE PARKING LOT IS ADJACENT TO THE MAIN ROAD WHICH IS WHAT?

A. WHICH IS BYRON ROAD.

Q. OKAY.

A. THEIR ADDRESS IS 304 BYRON ROAD. MOTHER AND MY ADDRESS IS 324 BYRON ROAD. THE LAND SOUTH OF US DOESN'T HAVE A STREET ADDRESS.

THE COURT: SHE'S IDENTIFIED THEM. WOULD YOU SEEK TO –

A. THE PARKING – I'M SORRY. THE PARKING LOT HAS –

MR. BRIGGS: I'M TRYING TO DECIDE HOW MANY WE NEED, YOUR HONOR. HOW ABOUT JUST GIVING US JUST THREE OF THOSE PICTURES THAT SHOW THE PROXIMITY OF THE APARTMENTS TO YOUR PROPERTY.

Q. (BY MR. BRIGGS) FIRST OF ALL, I NEED TO ASK TWO OTHER QUESTIONS. DID YOU TAKE THOSE PICTURES?

A. YES.

Q. ARE THOSE PICTURES A FAIR REPRESENTATION OF WHAT THE APARTMENTS LOOK LIKE FROM YOUR PROPERTY?

A. THIS ONE SHOWS –

Q. ANSWER MY QUESTION.

A. YES.

Q. OKAY. THEN HOW MANY PICTURES HAVE YOU GOT?

A. WELL, YOU TOLD ME TO –

Q. THREE OR FOUR?

A. FOUR.

Q. ALL RIGHT. LET ME HAVE THEM.

A. THEY SHOW THE POTHOLES –

MR. BRIGGS: DON'T NEED THAT. I NEED TO GET THEM INTRODUCED.

THE COURT: PLEASE GIVE THEM TO MR. BRIGGS. PLEASE SHOW

THEM TO MR. FERNANDEZ. ANY OBJECTION?

MR. FERNANDEZ: THEY DON'T SHOW ANYTHING THAT WE ARE HERE FOR TODAY.

THE COURT: OVER OBJECTION I'M GOING TO ALLOW THEM IN. I AM NOT GOING TO ALLOW ALL THESE PICTURES IN.

MR. BRIGGS: OKAY.

THE COURT: THAT WILL BE NUMBER TWO. PLEASE MARK THEM "A" THROUGH "D."

(FOUR PHOTOGRAPHS ARE RECEIVED INTO EVIDENCE AS DEFENDANT'S EXHIBIT #1)

MR. BRIGGS: I'LL TAKE THEM TO THE CLERK, YOUR HONOR.

Q. (BY MR. BRIGGS) ALL RIGHT, DR. FALTAS, NOW THE QUESTION IS ARE THERE ANY OTHER PICTURES OF YOURS ON ANOTHER SUBJECT THAT YOU WANT TO TALK ABOUT?

A. YES.

Q. GET FOUR OR FIVE OF THEM AND DO THE SAME THING WE DID BEFORE. IDENTIFY THEM, THEN I'LL MAKE A MOTION THAT THEY BE INTRODUCED AND THEN YOU CAN TALK ABOUT THEM AND YOU CAN SHOW THEM TO THE JURY IF YOU WANT TO AFTER THEY ARE INTRODUCED.

A. FIRST, MAY I ASK IF HIS HONOR WANTS THIS TO BE PROFFERED?

THE COURT: DR. FALTAS, DON'T WORRY ABOUT THE LEGAL ISSUE.

MR. BRIGGS: WE'VE MADE THAT ARGUMENT, MARIE. WE DON'T NEED TO PROFFER ANYTHING.

THE COURT: PLEASE RESPOND TO MR. BRIGGS' QUESTION.

A. FOR EXAMPLE, DEFENDANT'S EXHIBITS THIRTY-TWO AND THIRTY-THREE, THEY --

Q. (BY MR. BRIGGS) FIRST, GIVE US A TIME FRAME SO WE KNOW WHAT WE ARE LOOKING AT.

A. OKAY. THEY ARE FEBRUARY – I'M SORRY. BECAUSE I HAVE THE DATES STAMPED DIFFERENT FROM THOSE –

Q. YOU CAN GIVE US MONTH AND YEAR.

A. OKAY. THEY HAVE MONTH, DATE AND YEAR AND WHAT I HAVE IS YEAR, MONTH AND DATE. SO 2011, OCTOBER THE 11TH WHICH IS THE NEXT DAY AFTER MR. SIMS SAYS HE MET WITH ME. IT'S SOMEBODY WENT AND –

Q. WAIT, WAIT. DON'T DO THAT. FIRST OF ALL, DID YOU TAKE THOSE PICTURES?

A. YES.

Q. ARE THEY FAIR REPRESENTATIONS OF WHAT YOU SAW THAT DAY WHEN YOU TOOK THEM?

A. YES.

Q. NOW BRIEFLY IN ONE SENTENCE OR ONE AND A HALF SENTENCES, TELL US WHAT EACH OF THOSE PAGES SHOW US.

A. OKAY. THE PAGES THAT I IDENTIFIED AS DEFENDANT'S EXHIBIT THIRTY-THREE AND THIRTY-TWO, THEY SHOW THE INCIDENT WHERE SOMEBODY TOOK –

MR. FERNANDEZ: OBJECTION. SPECULATION.

THE COURT: SUSTAINED.

Q. (BY MR. BRIGGS) LET'S REPHRASE THE QUESTION. TELL US WHAT YOU SAW THAT HAD BEEN DONE BY SOMEBODY OTHER THAN YOU, DR. FALTAS.

A. THE ADDRESS AND DO NOT TREPASS SIGN WERE NO LONGER THERE.

WHAT I DID IS CALL THE POLICE AND BY THE TIME THE POLICE ARRIVED I HAD REALIZED THAT THOSE ADDRESS SIGNS WERE THROWN IN THE DITCH BEHIND THE PROPERTY.

Q. THAT'S ENOUGH.

A. AND THIS IS THE POLICE –

MR. BRIGGS: YOUR HONOR, I MOVE THEY BE INTRODUCED INTO EVIDENCE BUT I'M NOT GOING TO ASK ANY MORE QUESTIONS ABOUT THOSE PICTURES. I'LL JUST LET THE JURY SEE THEM. THAT'S MY POSITION IN IT.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: I HAVEN'T SEEN THEM.

A. MAY I SAY THAT THE CITY OF COLUMBIA POLICE DEPARTMENT –

THE COURT: NO, MA'AM, DON'T SAY ANYTHING ELSE UNTIL WE FINISH THIS RULING. ONE THING AT A TIME. MAY I SEE THEM?

MR. FERNANDEZ: SAME AS BEFORE, YOUR HONOR, BUT –

THE COURT: ALL RIGHT, HE'S GOT AN OBJECTION. LET ME SEE THE PHOTOGRAPHS SO I CAN RULE ON THEM. JUST HAND THEM (INAUDIBLE), DR. FALTAS AND SHE CAN GIVE THEM TO ME.

MR. BRIGGS: HERE YOU GO.

THE COURT: DR. FALTAS, PLEASE,IF YOU CAN, HAND ME THOSE PICTURES.

MR. BRIGGS: YOUR HONOR, SHE'S JUST TRYING TO SHOW THAT THINGS ARE HAPPENING THAT SHE'S NOT DOING.

THE COURT: I UNDERSTAND YOUR ARGUMENT. (PAUSE) I AM GOING TO LET THEM IN OVER OBJECTION. (INAUDIBLE).

MR. BRIGGS: I APPRECIATE THAT, YOUR HONOR.

A. SO MAY I PUBLISH THEM TO THE JURY?

THE COURT: YOUR ATTORNEY DECIDES WHEN TO DO THINGS LIKE THAT, DR. FALTAS. PLEASE GIVE THEM TO YOUR ATTORNEY AND LET HIM DECIDE WHAT HE'S GOING TO DO WITH THEM.

MR. BRIGGS: MADAM CLERK, THEY ARE THIRTY-TWO AND THIRTY-THREE IF YOU WANT TO LOG THEM IN SOME WAY. YOUR HONOR, I WOULD LET THE JURY JUST LOOK AT THEM BUT I'M NOT EVEN GOING TO ASK ANOTHER QUESTION ABOUT THEM. THEY ARE JUST GOING TO SPEAK FOR THEMSELVES.

(PHOTOGRAPHS ARE RECEIVED INTO EVIDENCE AS DEFENDANT'S EXHIBIT #3)

THE COURT: COURT OFFICER, WOULD YOU BE KIND ENOUGH TO HAND THEM TO THE JURY.

MR. BRIGGS: WHAT'S THAT, YOUR HONOR?

THE COURT: I ASKED THE COURT OFFICER TO HAND THEM TO THE JURY.

MR. BRIGGS: OH, OKAY.

Q. (BY MR. BRIGGS) DR. FALTAS, LET'S LEAVE THE PICTURES FOR A MINUTE. AT ONE TIME YOU WERE LOOKING AT – I THINK WHAT IT AMOUNTS TO A PLAT THAT SHOWS YOUR PROPERTY. DOES IT SHOW ANYBODY ELSE'S PROPERTY THAT SHOWED 304 ON IT?

A. UH-HUH.

Q. WHY DON'T YOU GET THAT AND AGAIN LET'S GO THROUGH THIS IDENTIFIDATION PROCESS, OKAY?

A. DEFENDANT'S NUMBER FIVE –

Q. IT'S A PLAT AND IT WAS PREPARED FOR WHOM?

A. IT SAYS PREPARED FOR MARIE ASSA'AD-FALTAS BECAUSE I WAS THE ONE –

Q. YOU PAID THE MONEY?

A. ACTUALLY MOTHER'S CHECK PAID THE MONEY BUT –

Q. TELL IN ONE SENTENCE WHAT IT SHOWS. DOES IT SHOW YOUR PROPERTY?

A. NO, AT THAT TIME IT WASN'T MY PROPERTY. AT THAT TIME IT WAS STILL THE PROPERTY OF THE MAN WHO OWNED THIS ENTIRE THING AND THAT I WAS TRYING TO GET SUBDIVIDED. AND THE REASON IT HAS MY NAME IS THAT TO GIVE ME A LETTER OF AGENCY SO I CAN PURSUE WITH THE CITY –

THE COURT: I THINK THAT'S BEYOND WHAT THE DOCUMENT IS.

MR. BRIGGS: OKAY.

Q. (BY MR. BRIGGS) CAN YOU DRAW A LINE AND SHOW US WHERE YOUR PROPERTY IS SO WE KNOW OR DO YOU HAVE ANOTHER ONE THAT DOES THAT?

A. OKAY. WHAT BECAME MOTHER'S AND MY PROPERTY IS WHAT IS IDENTIFID AS PARCEL "B" ON BOTH DEFENDANT'S FOUR AND DEFENDANT'S FIVE. THE DIFFERENCE BETWEEN DEFENDANT'S FOUR AND DEFENDANT'S FIVE IS THAT DEFENDANT FIVE SHOWS THE ELEVATION ABOVE SEA LEVEL AND THIS HAS –

Q. WE DON'T NEED THAT. LET'S DO THE ONE YOU'VE GOT IN YOUR LEFT HAND. OKAY, NUMBER FOUR. THAT IS A PLAT THAT YOU HAD DONE FOR YOU, RIGHT?

A. I HAD DONE FOR MOTHER AND ME AND FOR THE PROPERTY OWNER TO GIVE ME A LETTER OF AGENCY, HIS NAME WAS DICK WINN AND HE IS NOW DE-

CEASED.

THE COURT: DO YOU A MOTION REGARDING THAT PLAT, SIR?

MR. BRIGGS: I'M LOOKING AT ONE THING, FIRST.

Q. (BY MR. BRIGGS) WOULD YOU PUT AN "X" ON YOUR PROPERTY, PLEASE? YOU CAN ERASE IT LATER.

A. I DON'T WANT TO CHANGE THE EXHIBIT BUT IT IS WHAT IS MARKED AS PARCEL "B" AND IT SAYS THREE THOUSAND FIVE HUNDRED SIXTY-FIVE SQUARE FEET EQUALS ZERO POINT ZERO EIGHT (0.08) ACRES IN FLOOD PLAIN (INAUDIBLE) AND THAT –

Q. THE PROBLEM IS, MARIE, SOME PEOPLE DON'T KNOW A PLAT FROM ADAMS HOUSE CAT. YOU'VE GOT TO MARK YOUR PROPERTY SOME WAY. YOU SAY IT'S PARCEL "B" RIGHT THERE WITH YOUR FINGER IS. TURN IT AROUND.

A. I CAN SHOW IT TO THE JURY?

THE COURT: NO, YOU CAN'T SHOW THE JURY YET.

MR. BRIGGS: FIRST OF ALL, I MOVE THAT IT BE INTRODUCED INTO EVIDENCE.

THE COURT: IS THERE ANY OBJECTION?

MR. FERNANDEZ: OBJECTION BASED ON NOT A PROPER FOUNDATION. THERE'S NO ONE FROM RICHLAND COUNTY HERE.

THE COURT: I'M GOING TO LET IT IN. ONLY NUMBER FOUR, NOT NUMBER FIVE.

(PLAT IS RECEIVED INTO EVIDENCE AS DEFENDANT'S EXHIBIT #4)

MR. BRIGGS: OKAY. PARCEL "B," TURN IT AROUND AND POINT TO IT FOR THE JURY AND THEN LET THE OFFICER HOLD IT OVER TO THE JURY.

A. THIS IS PARCEL "B" AND THESE ARE THE TWO QUADRIPLEXES OF DINAH

STEELE AND AS YOU AN SEE IT IS NOT SET BACK ENOUGH FROM THE PROPERTY LINE.

Q. (BY MR. BRIGGS) OKAY, THAT'S ENOUGH. WHAT EXHIBIT IS THAT?

A. DEFENDANT'S FOUR.

Q. DEFENDANT'S FOUR. I'LL GIVE IT TO HIM.

A. HIS HONOR SAID –

Q. LET THE OFFICER --

MR. BRIGGS: YOU DID RULE?

A YES, HIS HONOR ADMITTED.

MR. BRIGGS: YOUR HONOR, I AM GOING TO MAKE THAT PREFATORY STATEMENT TO MY QUESTION.

Q. (BY MR. BRIGGS) REMEMBER, DR. FALTAS, WE DON'T WANT TO GO OVER THINGS TWO OR THREE TIMES SO LET'S FIND THE NEXT AREA OF THINGS THAT HAVE BEEN OF CONCERN. FOR INSTANCE, MAYBE YOU OUGHT TO TELL US – YOU CAN DO ANYTHING YOU WANT TO BUT I'M NOT SURE WE'VE BEEN TOLD WHAT THE CONDITION OF THE PROPERTY WAS ON THE – WHAT, THE SECOND DAY THEY CAME OUT THERE, THE 20TH?

A. THAT'S EXACTLY RIGHT.

Q. LET'S DO THAT.

A. THIS NEXT PICTURE IS THE (INAUDIBLE).

Q. YOU'RE GOT TO IDENTIFY IT NOW.

A. IT IS DEFNDANT'S EXHIBIT TWENTY-NINE AND AS YOU CAN SEE THE BUKCETS ARE PERFECTLY LINED.

Q. NO, JUST TELL ME WHAT THE PICTURES ARE AND WHAT DATE IS IT?

A. THE DATE IS OCTOBER 20TH, 2011, AND AGAIN MY DATE STAMP IS YEAR,

MONTH AND DAY AND, IN FACT, IN THAT IS MR. SIMS THAT I –

Q. OKAY. THAT'S ENOUGH. NOW --

A. AND MR. HATCHER AND THEY ARE TALKING TO SOMEBODY ELSE AND THEY BOTH HELP THEMSELVES –

Q. THAT'S ENOUGH. NOW THE QUESTION IS FOCUS IN ON THE 20TH. IS THAT THE DAY YOU WERE SERVED WITH THE SUMMONS, THE FIRST TIME, THE SECOND TIME OR WHATEVER? PUT IT IN THE CONTEXT OF THE ENFORCEMENT ACTION.

A. I WAS SERVED WITH ONLY ONE SUMMONS.

Q. AND WHEN WERE YOU SERVED THAT SUMMONS?

A. AND THAT WAS ON OCTOBER 20TH, 2011. AND THAT DAY I WAS IN THE BACK DOING THINGS AND THEY CAME AND SOME MAN WAS TALKING TO THEM AND I TOOK THE PICTURES. IN FACT, THEY HAVE – THEIR PICTURES SHOW ME – BUT AS YOU CAN SEE THE BUCKETS ARE ALL UPSIDE DOWN. THEY DON'T HOLD WATER. THE REASON THAT DROP OF WATER –

Q. LET ME HAVE THE PICTURE.

A. THEY ALL HAVE THE –

Q. YOU CAN TESTIFY LATER.

THE COURT: (INAUDIBLE) ABOUT THE PICTURE. WHAT'S THE NUMBER ON THAT ONE FOR I.D PURPOSES?

MR. FERNANDEZ: TWENTY-NINE.

MR. BRIGGS: ON THE DAY THEY SERVED THE SUMMONS.

THE COURT: ANY OBJECTION, MR. FERNANDEZ?

MR. FERNANDEZ: NO POINT.

THE COURT: I'M SORRY?

MR. FERNANDEZ: NO.

THE COURT: TWENTY-NINE IN.

(PHOTOGRAPH IS RECEIVED INTO EVIDENCE AS DEFENDANT'S EXHIBIT #5)

MR. BRIGGS: OKAY, YOUR HONOR. ARE YOU READY TO TALK TO THE JURY ABOUT IT NOW?

A. YES.

Q. (BY MR. BRIGGS) DO YOU NEED TO HOLD IT OR DO YOU WANTTO TURN IT AROUND?

A. YES.

Q. YOU DO THAT FIRST AND THEN WE'LL PASS IT TO THEM. BRIEFLY. I DON'T WANT MORE THAN ONE AND A HALF SENTENCES ON EACH ONE OF THOSE PICTURES IF WE EVEN DO THAT, OKAY?

A. OKAY. SO THESE ARE NINE PICTURES WHEN MR. SIMS AND MR. HATCHER (INAUDIBLE) THEMSELVES ON THE LAND AND AS YOU CAN SEE HERE THEY ARE PERFECTLY LINED, THE BUCKETS, ALL UPSIDE DOWN, ALL THE HANDLES ARE ON THE ONE SIDE AND I EVEN JOKED WITH THEM. I SAID THEY LOOK NICE, THEY LOOK LIKE THE PERVERBIAL (INAUDIBLE) LITTLE BLACK DRESS WITH THE WHITE HANDLES LOOKING LIKE A STRING OF PEARLS. IT WAS A JOKE BUT IT WAS MY WAY OF SHOWING THAT I AM DOING SOMETHING THAT'S NOT I BELIEVE THAT'S NOT TRASH, THAT IS VERY (INAUDIBLE).

Q. MARIE, ANY PARTICULAR PICURE YOU WANT TO POINT OUT TO THE JURY?

A. YES.

Q. ALL RIGHT. DO IT.

A. OKAY. THIS IS MR. SIMS AND THIS IS MR. SIMS AND MR. HATCHER AND THIS IS MR. SIMS AND MR. HATCHER TALKING TO A MAN AND THEN THIS IS MR.

SIMS, MR. HATCHER – MR. SIMS, SORRY – TAKING A PICTURE OF A COUCH WHICH IS REALLY RUBBISH SITTING THERE FOR TWO WEEKS IN FRONT OF THE DINAH STEELE PROPERTY AND I ALSO POINTED THEM –

MR. FERNANDEZ: OBJECTION, YOUR HONOR. RELEVANCE

THE COURT: I THINK THIS MAY GET INTO SOMETHING WE RULED ON EARLIER, MR. BRIGGS.

MR. BRIGGS: WELL, IT'S IN THE PICTURE, YOUR HONOR. I DON'T KNOW THAT – I'M NOT GOING TO ASK ANY QUESTIONS ABOUT IT.

THE COURT: BUT JUST BECAUSE YOU DON'T ASK A QUESTION ABOUT IT DOESN'T MEAN SHE CAN THEN GIVE A NARRATIVE ABOUT IT EITHER. SO IF SHE WANTS TO – SHE'S IDENTIFIED --

MR. BRIGGS: IF WE GET A BLACK MARKER, WE CAN DO OVER THAT PICTURE.

A. THAT'S OKAY. IF THE JURY WANTS TO SEE IT --

THE COURT: SLOW DOWN, DR. FALTAS. WHEN THE LAWYER AND I ARE TALKING ABOUT WHETHER WE NEED TO REDACT SOMETHING FROM THE PICTURE YOU DON'T GIVE IT TO THE JURY.

A. I'M SORRY.

MR. BRIGGS: IF WE HAD A BLOCK MARKER, WE COULD MARK IT OUT RIGHT NOW.

THE COURT: LET ME TAKE A LOOK AT, PLEASE.

MR. FERNANDEZ: I'M NOT ASKING TO REDACT, I'M JUST ASKING HIM TO MOVE ON.

MR. BRIGGS: YEAH, I THINK IT'S IMMATERIAL.

THE COURT: THE PICTURE WILL SPEAK FOR ITSELF BUT LET'S

STOP THE NARRATIVE REGARDING IT.

MR. BRIGGS: ALL RIGHT. NO MORE COMMENT ABOUT THE COUCH, DR. FALTAS, OKAY?

Q. (BY MR. BRIGGS) ANY OTHER PARTICULAR PICTURE YOU WANT TO POINT OUT TO THEM? JUST SAY WHICH ONE AND TELL THEM WHERE IT IS SO WHEN THEY LOOK AT IT THEY CAN LOOK AT IT.

A. RIGHT IN THE MIDDLE HERE. THAT'S IN THE LANd THAT MOTHER AND I OWN AND OBVIOUSLY SOMEONE CONNECTED SOMETHING TO DRAIN THE EXCESS WATER ON OUR LAND BECAUSE THIS IS NOT SOMETHING THAT WAS THERE WHEN WE BOUGHT IT AND IT'S NOT SOMETHING THAT I INSTALLED. SO IT IS PARAMOUT, PARAMOUNT FOR ME TO DELINEATE THE PROPERTY TO WHERE PEOPLE CAN'T HAVE ANY DOUBT THAT THEY CANNOT COME THERE AND THEY CANNOT DO THINGS.

Q. OKAY. LET'S LET – LET ME DO IT.

MR. BRIGGS: YOU ARE GOING TO DO IT, YOUR HONOR?

THE COURT: YES, SIR

MR. BRIGGS: YOU PROBABLY NEED TO STRETCH ANYWAY. THANK YOU.

Q. (BY MR. BRIGGS) DR. FALTAS, ON THE 20TH, THE DAY YOU WERE SERVED WITH THE SUMMONS FOR, QUOTE, ALLEDGINGLY VIOLATING THESE ORDINANCES WE'VE ALREADY TALKED ABOUT, ACCORDING TO THOSE PICTURES WAS THAT PROPERTY IN GOOD APPEARANCE, DECENT SHAPE, ET CETERA?

A. THERE WAS NOTHING THAT WAS UNSANITARY. I THINK THE BUCKETS, THE INVERTED BUCKETS, BLACK WITH THE WHITE HANDLES, ONLY ONE LINE

LOOK RATHER NICE AND THEY HAVE A VERY FUNCTION AND NATURALY INSTEAD OF USING CHEMICAL WEED KILLERS I'M PUTTING A NATURAL BARRIER BETWEEN THE NEIGHBOR WHO HAD TALL GRASS AND WEEDS BLOWING OVER MY LAND. I'M PUTTING A NATURAL BARRIER INSTEAD AND THEY NEVER TOLD ME THAT THERE IS ANYTHING WRONG WITH THOSE BUCKETS. THEY NEVER TOLD ME THAT THOSE BUCKETS ARE TRASH OR THEY VIOLATE. THERE WAS NOTHING THAT DAY THEY TOLD ME VIOLATES ANYTHING.

Q. YEAH, BUT LET ME ASK A QUESTION NOW. WE ALL WANT TO ALWAYS BE HONEST.

MR. BRIGGS: I'M SORRY, YOUR HONOR, BUT THAT'S ANOTHER THING THAT I'M KNOWN FOR.

THE COURT: PLEASE ASK HER A QUESTION.

Q. (BY MR. BRIGGS) YOU GOT THE WRITTEN NOTICE AFTER THE 20TH, DIDN'T YOU?

A. NO. I GOT –

Q. NOT THE SUMMONS. THE NOTICE.

A. NO, NO. NO. HE SAID HE MAILED IT ON THE 7TH. I GOT IT ON THE 10TH BECAUSE IT –

Q. AND DID YOU GET SERVED ANYTHING ON THE 20TH?

A. THE SUMMONS.

Q. OKAY.

A. BUT THAT SUMMONS WAS IMPROPER BECAUSE WHATEVR THEY SAID WAS WRONG ON THE 10TH WAS ONLY THE CARDBOARD CYLINDERS AND THEY WERE ALL GONE BY THE 10TH.

MR. FERNANDEZ: OBJECTION. THAT CALLS FOR LEGAL SPECULA-

TION.

THE COURT: SUSTAINED.

Q. (BY MR. BRIGGS) THAT'S FINE. NOW LET ME ASK YOU THIS QUESTION. DID EITHER THE SUMMONS OR THE NOTICE TELL YOU THAT THESE PLASTIC BUCKETS WERE IN VIOLATION OF THAT ORDINANCE?

A. AND THEY AREN'T IN VIOLATION. THERE IS NO WAY THEY CAN BE IN VIOLATION.

Q. ANSWER MY QUESTION FIRST. DID THOSE DOCUMENTS TELL YOU THAT YOU WERE IN VIOLATION OF THE LAW?

A. NOTHING HAD TO DO WITH THOSE BUCKETS. THE ONLY THING THAT HAD TO DO WAS WITH THE CARDBOARD CYLINDERS WHICH HAVE BEEN REMOVED AFTER THAT.

Q. ALL RIGHT.

A. THEY TRIED -- LET ME GIVE YOU THE COMPLETE ANSWER.

Q. NO, I DON'T WANT A RAMBLING ANSWER. IF I WANT MORE, I'LL ASK.

THE COURT: DR. FALTAS, PLEASE ALLOW MR. BRIGGS (INAUDIBLE).

Q. (BY MR. BRIGGS) NOW SINCE THE 20TH, HAS ANYBODY, EITHER MR. SIMMONS OR MR. HATCHER, VERBALLY TOLD YOU THAT THEY THOUGHT THE PLASTIC BUCKETS WERE NOT PERMITTED LET'S SAY?

A. MR. HATCHER SAID THE PLASTIC – INVERTED PLASTIC BUCKETS EVEN THOUGH THEY DON'T HOLD WATER AND I WAS VERY CONSCIENTIOUS ABOUT WHENEVER THE NEIGHBORS WOULD TURN THEM OVER ON PURPOSE, I WOULD GO AND STRAIGHTEN THEM AGAIN. HE WAS INSISTING THAT THEY WERE TRASH AND I TOLD HIM LET'S SUBMIT THE DEFINITION OF TRASH. AND WE READ THE

DEFINITION OF TRASH AND IT SAYS WASTE. WASTE MEANS SOMETHING YOU DO NOT WANT AND I TOLD HIM THIS IS NOT ONLY SOMETHING THAT I WANT, THIS IS SOMETHING NECESSARY SO IT CANNOT BE WASTE. IT DOES NOT FIT THE DEFINITION THAT HE SHOWED ME AND HE SAID THE DEFINITION DOESN'T MATTER AND THESE WERE THE EXACT WORDS. HE SAID, THE WRITTEN DEFINITION DOESN'T MATTER, TRASH IS WHATEVER I SAY TRASH IS. AND THAT IS SOMETHING VERY OFFENSIVE TO ME. VERY OFFENSIVE TO ME

Q. ALL RIGHT. SO I BETTER ASK THIS QUESTION AGAIN. ON THE 20TH, DID EITHER MR. SIMS OR MR. HATCHER TELL YOU AT THAT TIME WHEN THEY GAVE YOU THE SUMMONS THAT THEY – THEY DIDN'T HAVE TO IDENTIFY ANYTHING. DID THEY TELL YOU THEY THOUGHT YOU WERE STILL IN VIOLATION –

MR. FERNANDEZ: OBJECTION. ASKED AND ANSWERED. I THINK THIS IS LIKE THE FOURTH TIME YOU'VE ASKED THE SAME QUESTION.

THE COURT: IT HAS BEEN ASKED AND ANSWERED.

MR. BRIGGS: NOT ON THE 20TH, YOUR HONOR.

THE COURT: THAT'S WHAT WE'VE BEEN TALKING ABOUT.

MR. BRIGGS: SIR?

THE COURT: THAT'S WHAT WE'VE BEEN TALKING ABOUT ON THE 20TH. THERE WAS SOME CONFUSION EARLIER AS TO WHETHER SHE GOT OTHER NOTICES, ET CETERA. SHE CLARIFIED IT.

MR. BRIGGS: BUT I HAD NOT ASKED HER YET WHETHER THEY VERBALLY TOLD HER SHE WAS INVIOLATION.

THE COURT: THIS IS WHAT WE ARE GOING TO DO. I BELIEVE YOU HAVE BUT WE ARE GOING TO LET YOU DO IT ONE MORE TIME TO BE SURE. PLEASE DO IT ONE MORE TIME.

MR. BRIGGS: I'D LOVE TO HAVE THAT READ BACK BECAUSE I REMEMBER IT REAL GOOD.

Q. (BY MR. BRIGGS) DR. FALTAS, THE QUESTION IS ON THE 20TH WHEN YOU WERE SERVED THE SUMMONS DID MR. HATCHER OR MR. SIMMONS TELL YOU VERBALLY, TALKED TO YOU, AND TELL YOU YOU ARE IN VIOLATION OF THOSE THREE ORDINANCES?

A. THE SUMMONS WAS FOR THE ALLEGED NOTICE FROM WHICH HE SAYS HE (INAUDIBLE) ON THE 7TH OF OCTOBER, 2011, BUT WHICH I RECEIVED ONLY THE 20TH OR THE 10TH OF OCTOBER.

Q. OKAY.

A. 2011 AND CONCERNED ONLY THE CARDBOARD CYLINDERS.

Q. I UNDERSTAND THAT.

A. WHICH WERE GONE WITHIN THE TEN DAYS.

Q. ALL RIGHT. YOU'VE STILL GOT TO ANSWER THE QUESTION I ASKED.

A. ALL PICTURES DO NOT SHOW ANY CARDBOARD CYLINDERS –

THE COURT: DR. FALTAS, MR. BRIGGS IS ASKING YOU TO PLEASE ANSWER THE QUESTION.

MR. BRIGGS: STOP. YOU'VE GOT TO ANSWER THE QUESTION I ASKED YOU.

Q. (BY MR. BRIGGS) ON THE 20TH IN ADDITION TO GIVING YOU A SUMMONS, DID EITHER MR. SIMS OR MR. HATCHER SAY, DR. FALTAS, YOU ARE IN STILL VIOLATION OF THESE THREE ORDINANCES?

A. NO. I THINK WHAT THEY WERE TRYING TO TELL ME –

MR. FERNANDEZ: OBJECTION. SPECULATION.

Q. (BY MR. BRIGGS) NO IS ENOUGH.

MR. BRIGGS: SHE ANSWERED THE QUESTION, YOUR HONOR. ASKED AND ANSWERED. IF THE COURT HAS A QUESTION, YOUR HONOR, YOU ASK IT, OKAY?

THE COURT: WELL, LET'S SLOW DOWN. WHAT WAS THE OBJECTION?

MR. FERNANDEZ: IF SHE'S SAYING WHAT I THINK – I DON'T KNOW WHAT SHE'S GOING TO SAY BUT –

THE COURT: BOTH OF Y'ALL WANT HER TO STOP. I WILL SUSTAIN THE OBJECTION AND RULE THAT SHE'S ANSWERED THE QUESTION. PLEASE MOVE ON.

Q. (BY MR. BRIGGS) NOW, DR. FALTAS, YOU KNOW THAT WE HAVE OTHER THINGS THAT WE ARE GOING TO TALK TO THE JUDGE ABOUT. YOU KNOW THAT WE ARE GOING TO HAVE A CLOSING ARGUMENT, OKAY? I DON'T WANT TO CUT OFF ANYTHING THAT YOU WANT TO DO. YOU KNOW, WE'VE BEEN THROUGH THIS BEFORE AND I'M NOT SURE—

THE COURT: PLEASE FORM A QUESTION.

MR. BRIGGS: I WILL, YOUR HONOR.

Q. (BY MR. BRIGGS) THE QUESTION IS NOW ARE THERE ANY OTHER PICTURES THAT YOU TOOK THAT WILL ADDRESS THE PRIMARY ISSUES IN THIS CASE ABOUT WHETHER OR NOT YOU HAD ON THE 20TH IS REALLY WHAT WE ARE WONDERING ABOUT, WHETHER YOU HAD ANY UNORGANIZED MATERIAL, YOU HAD ANY RUBBISH, YOU HAD ANY OF THIS OR YOU HAD ANY OF THAT, ON THE PROPERTY OR WAS IT IN FACT CLEAN ON THE 20TH?

A. ON THE 20TH DURING SOME PART OF THE DAY SOME THINGS MAY HAVE LOOKED UNORGANIZED BUT THEY DID NOT STAY UNORGANIZED FOR FORTY-

EIGHT HOURS. OKAY?

Q. STOP RIGHT THERE. THEN WHAT TIME DID YOU GET TO THE PROPERTY ON THE 20TH. DO YOU REMEMBER?

A. NO.

Q. DAYLIGHT?

A. YES. OF COURSE.

Q. JUST TO CLEAR IT UP, YOU DON'T LIVE OUT THAT WAY RIGHT NOW, RIGHT, DR. FALTAS? YOU ACTUALLY LIVE IN THE DOWNTOWN AREA, IS THAT CORRECT? ANSWER THE QUESTION.

A. I'M STAYING IN THE DOWNTWN AREA.

Q. BUT YOU CAN EASILY DRIVE OUT TO THAT PLACE EVERY DAY IF YOU WANTED TO.

A. NO, NO, NO. IT'S NOT EASILY. IT TAKES A LOT OF –

Q. EFFORT?

A. YES.

Q. BUT IT'S WHAT, TWENTY MINUTES AWAY FROM WHERE YOU LIVE?

A. BETWEEN TWENTY AND THIRTY.

Q. NOW AGAIN TRYING TO CONFINE OUR QUESTIONS AND ANSWERS TO THE THINGS THAT PERTAIN TO WHETHER OR NOT YOU BELIEVE YOU WERE IN VIOLATION OF THE ORDINANCE OR YOU WERE TOLD YOU WERE IN VIOLATION OF THE ORDINANCE, ET CETERA, IDENTIFY ANY OTHER PICTURES WE NEED TO TALK ABOUT AND LET'S DO THEM EVEN QUICKER THAN WE DID THE LAST ONES, OKAY?

MR. BRIGGS: YOUR HONOR, I THINK WE MIGHT ACCOMPLISH SOMETHING IF SHE ENDS UP SORT OF SUMMARIZING WHAT HER TESTIMONY IS

AT THE END.

THE COURT: LET'S HOLD THAT FOR A MOMENT. ONE THING AT A TIME. LET'S HOLD THAT AND LET HER ANSWER WHAT YOU POSED.

A. DEFENDANT'S EXHIBIT –

Q. (BY MR. BRIGGS) WE DON'T WANT TO REPEAT NOW.

A. DEFENDANT'S EXHIBITS TWENTY-EIGHT AND THIRTY, THEY DO SHOW SOME THINGS THAT ARE RESPONSIVE TO YOUR QUESTION AND ALSO MAY BE IN PART OF WHAT HIS HONOR SAID NOT TO TALK ABOUT SO I'M NOT SURE. BUT ON ONE OF THEM IT ALSO SHOWS THE RED PLASTIC CIRCLES WHICH DON'T HOLD WATER BECAUSE THEY ARE FLAT AND ALSO BECAUSE THEY HAVE A HOLE IN THE MIDDLE. THEY ARE IN A STRAIGHT LINE (INAUDIBLE) BUT –

Q. LET ME SHOW THOSE TO MR. FERNANDEZ AND THEN I'M GOING TO ASK YOU ANOTHER QUESTION WHILE WE ARE LOOKING AT THEM. OKAY? LET ME HAVE THEM.

A. AND THIRTY-ONE.

Q. OKAY, LET ME HAVE THEM.

MR. BRIGGS: YOU CAN TAKE YOUR TIME, DAVID. I'M GOING TO ASK ANOTHER QUESTION.

Q. (BY MR. BRIGGS) DR. FALTAS, THERE WAS SOME TESTIMONY BY MR. SIMS THAT THERE WERE – I DON'T THINK WE PUT A NUMBER OF IT AND I TRIED TO ASK HIM. I THINK THE TESTIMONY WILL SHOW TWO OR THREE BUCKETS ONE DAY WHEN HE WAS OUT THERE THAT, QUOTE, HAD A LITTLE BIT OF WATER IN THEM. DO YOU HAVE ANY IDEA ABOUT HOW THOSE BUCKETS GOT TURNED UPSIDE DOWN OR DID YOU SEE THEM OR DID YOU DO SOMETHING ABOUT IT WHEN YOU SAW THEM?

A. I HAVE SEEN THE NEIGHBORS INTENTIONALLY KNOCKING DOWN THE BUCKETS AND KNOCKING DOWN THE POLES AND ALSO TAKING SOME OF THE METAL POLES FOR THEMSELVES AND EVERY TIME I SEE THAT I TRY TO STRAIGHTEN IT WITHOUT WHEN I'M NOT BEING ATTACKED (INAUDIBLE) AND SOMETIMES WHEN THE STRAIGHTENING OUT REQUIRES ME TO GO WASH MY HANDS, I WOULD GO WASH MY HANDS AT THE NEAREST PLACE AND COME BACK AND WORK ON IT SOME MORE. SO I HAVE BEEN VERY CAREFUL NOT EVER TO LET ANYTHING THERE THAT EVEN HOLDS WATER MORE THAN FORTY-EIGHT HOURS EVEN THOUGH IT'S THE NEIGHBORS WHO ARE DOING THIS AND I HAVE SEEN THEM.

Q. NOW AS I RECALL, MR. SIMS TESTIFIED, TOO, THAT AT ONE TIME HE HAD SEEN ONE OF THE LARGE CONTAINERS THAT WAS TURNED OVER AND HE WAS NOT SURE WHETHER IT HAD A LID TO IT. DO YOU HAVE ANY OF THOSE LARGE CONTAINERS THAT DON'T HAVE LIDS THAT CAN BE LEFT OPEN?

A. NOT ONE OF THEM DOESN'T HAVE A LID.

Q. NOW –

A. EVERY ONE HAS A LID BUT PEOPLE HAVE ALSO BEEN TAKING THEM –

THE COURT: DR. FALTAS, HE'S ASKED YOU A QUESTION. TRY AND ANSWER HIS QUESTION.

Q. (BY MR. BRIGGS) HAVE YOU BEEN OUT THERE WHERE YOU HAVE SEEN THOSE CONTAINERS SITTING UPRIGHT TO WHERE WATER COULD HAVE GOTTEN IN THEM IF THEY WERE LEFT THAT WAY FOR A PERIOD OF THREE OR FOUR DAYS?

A. FIRST, THEY WERE NEVER LEFT FOR THREE OR FOUR DAYS. I GO AT LEAST TWICE A WEEK. PREVIOUSLY I USED TO GO EVERY DAY EXCEPT SUNDAY

AND THEN I CHANGED IT TO EVERY OTHER DAY SO THERE HAS NEVER BEEN (INAUDIBLE) AND MANY TIMES I WOULD BE – BECAUSE I WAS ALSO ASKING PEOPLE LIKE SOMETIMES IN THE SUMMER YOU SEE PEOPLE THAT HOOK A TRAILER WITH A TRACTOR TO THE (INAUDBLE) AND I WOULD ASK THEM TO MOW THE LAND AND I WOULD ASK THEM TO STRAIGHTEN; IF IT'S LIGHT ENOUGH FOR ME TO STRAIGHTEN, I WILL DO IT. IF IT'S HEAVY, I WOULD ASK SOMEBODY, A NEIGHBOR, OR A TEENAGER TO STRAIGHTEN IT AND GIVE THEM A COUPLE OF DOLLARS. SO I HAVE NEVER LEFT ANYTHING TO WHERE IT WOULD BE STAGNANT WATER FOR MORE THAN FORTY-EIGHT HOURS. NEVER. NEVER

Q. AND YOU HEARD MR. SIMS' TESTIMONY TO SAY THAT WHILE HE SAW A LITTLE BIT OF WATER IN SOME CANS OR SOME CONTAINERS HE HAD NEVER SEEN ANY EVIDENCE OF MOSQUITOES. DID YOU HEAR THAT TESTIMONY?

A. YES, I DID.

Q. AND I GUESS I'LL ASK YOU. DID YOU EVER SEE ANY EVIDENCE OF ANY MOSQUITOES OUT THERE?

A. THE MOSQUITOES WOULD COME FROM THE OTHER SIDE THAT KEPT THE GRASS THAT TALL AND ALSO WHEN I WAS LIVING THERE IN THE APARTMENT, ONE OF THE APARTMENTS OWNED BY DINAH STEELE, I WAS BITTEN BY A LOT OF MOSQUITOES BEFORE --

Q. THAT'S ENOUGH

A. -- BEFORE I BOUGHT THAT LAND.

THE COURT: HE'S ASKED YOU TO STOP.

MR. BRIGGS: YOUR HONOR, I NEED TO ASK HER ABOUT THESE OTHER THREE PICTURES.

Q. (BY MR. BRIGGS) DR. FALTAS, I DON'T SEE ANYTHING ON HERE. I SEE THE

APARTMENT AND I SEE SOME OTHER THINGS. I SEE PART OF YOUR LAND BUT I DON'T SEE ANYTHING ON HERE THAT WE HAVEN'T TOUCHED ON BEFORE, AND AGAIN IN ONE SENTENCE I WANT YOU TO TELL ME WHY YOU THINK THAT THESE THREE OUGHT TO BE INTRODUCED. I WANT YOU TO DESCRIBE THEM, I WANT YOU TO TESTIFY, I WANT YOU TO TELL ME WHY YOU THINK THEY ARE DIFFERENT FROM WHATEVER ELSE WE'VE DONE.

A. THEY SHOW THE POTHOLES OUTSIDE MY PROPERTY AND MOTHER'S PROPERTY THAT HAVE STAGNANT WATER AFTER IT HAD RAINED AND –

MR. FERNANDEZ: OBJECTION. WE COVERED THIS.

MR. BRIGGS: OKAY. IT'S BEEN COVERED I THINK, YOUR HONOR.

THE COURT: WE ARE NOT GOING TO LET THESE EXHIBITS IN. THAT'S TWENTY-EIGHT, THIRTY, THIRTY-ONE.

MR. BRIGGS: ALL RIGHT. YOUR HONOR, COULD WE TAKE JUST A LITTLE LIKE TWO MINUTE BREAK SO SHE CAN LOOK THROUGH HER OTHER PICTURES AND I CAN TALK TO HER ABOUT WHATEVER ELSE WE NEED TO HAVE.

THE COURT: WE WILL TAKE A BREAK AND WE'LL ADDRESS WHAT CAN BE DONE DURING THE BREAK. WE ARE GOING TO TAKE A FEW MINUTES' BREAK IF Y'ALL WILL PLEASE GO TO THE JURY ROOM.

(JURY LEAVES THE JURY BOX)

MR. FERNANDEZ: CAN I BE EXCUSED, YOUR HONOR?

THE COURT: YES, SIR.

(RECESS)

(CONCLUSION OF RECESS)

MR. BRIGGS: SHE WENT TO CALL ABOUT THE SUBPOENAS. I THINK SHE'LL BE RIGHT BACK. WHAT I WOULD LIKE TO DO, YOUR HONOR, AND I WILL

ASK THE QUESTION IN FRONT OF THE JUDGE, I'D LIKE TO MAKE SURE THAT MY DIRECT DOESN'T GO ANY FURTHER THAN FOUR O'CLOCK BUT I TRIED TO DO IT BY QUARTER 'TIL AND, OF COURSE, I'LL LET ME FRENANDEZ ADDRESS HOW MUCH TIME HE NEEDS SO I'M GONNA AGAIN ENCOURAGE HER TO LIMIT WHATEVER WE GIVE IN THE FUTURE TO WHERE IT DOES NOT TOUCH ANYTHING THAT WE'VE ALREADY COVERED, YOUR HONOR. THAT'S THE BEST I CAN DO.

MR. FERNANDEZ: YOUR HONOR, CAN I ASK WHY FORTY-FIVE MINUTES WOULD BE NECESSARY? I MEAN WHAT IS THERE MORE TO COVER? I KNOW THEY DON'T HAVE TO TELL ME THEIR STRATEGY BUT SHE'S ALREADY SHE DOESN'T REGARD IT AS JUNK. SHE'S ALREADY SAID THEY – YOU KNOW, WE'VE HEARD SO MUCH ALREADY. WHAT COULD THERE POSSIBLY BE FOR FORTY-FIVE MORE MINUTES? THIS IS SUCH A SIMPLE CASE. AND I DON'T KNOW IF YOUR HONOR IS INCLINED TO PROBE AND SEE WHERE WE ARE GOING WITH THIS, WHAT THERE IS LEFT TO DO BUT –

THE COURT: WELL, I'M NOT GOING TO LIMIT HIM IF THEY HAVE NEW AREAS. WHAT NEW AREAS DO WE HAVE, MR. BRIGGS?

MR. BRIGGS: YOUR HONOR, I THINK THE ONLY NEW AREA WE WOULD COVER IS WHAT HAS ACTUALLY HAPPENED SINCE THE 20TH AS TO WHETHER OR NOT SOME OF THAT STUFF WAS TURNED OVER AND SHE ESSENTIALLY IMPLIED HOW LONG SHE WOULD LET IT SIT THERE SO I WOULD THINK I COULD GET DONE IN TEN MINUTES BUT, YOU KNOW, MR. FERNANDEZ KNOWS DR. FALTAS ALMOST AS WELL AS I DO EXCEPT I'VE – I WON'T SAY PUT UP WITH HER, I'VE ASSOCIATED WITH HER FOR A LONGER PERIOD OF TIME THAN HE HAS BUT I'M SURE HE WOULD SAY HIS FOUR OR FIVE YEARS IS MORE THAN HE WANTED.

THE COURT: WELL, IF YOU HAVE THAT NEW AREA OF QUESTIONING PLEASE DO SO AND WE'LL TRY TO GET HER TO BE RESPONSIVE TO THE QUESTIONS, TRY BEING THE OPERATIVE WORD. WE HAVE NOT RECEIVED ANY MESSAGES FROM RICHLAND COUNTY.

MR. BRIGGS: SHE WON'T EITHER I'M GUESSIING, YOUR HONOR. JUDGE, IT'S NEITHR HERE NOR THERE BUT WE ALL KNOW THE RULE THAT YOU ARE IN A HURRY TO GET THINGS STARTED SOONER. WE DIDN'T GET THOSE SIGNED UNTIL MONDAY SO I CAN'T SAY THAT IT WAS THE COURT'S FAULT. I THINK THAT'S THE FIRST TIME I SAW THE SUBPOENAS.

THE COURT: FAIR ENOUGH.

MR. BRIGGS: JUDGE, I'M GOING TO MENTION SOMETHING TO YOU BUT I THINK I OUGHT TO PUT IT ON THE RECORD.

THE COURT: SURE DO. LET'S GO ON.

MR. BRIGGS: IT'S FOR – SHE NEEDS TO HEAR IT THOUGH BUT I'M GOING TO TELL YOU SO YOU'LL BE PREPARED.

THE COURT: YES, SIR.

MR. BRIGGS: I HAD OCCASION TO HAVE A VERY BRIEF CONVERSATION WITH JUDGE BOGAN TUESDAY NIGHT AT THE BASEBALL GAME. COULDN'T HAVE POSSIBLY HAD ANY EFFECT ON WHAT WE ARE DOING HERE OR ANYTHING ELSE 'CAUSE HE DIDN'T KNOW WHAT WE WERE GONNA DO. ALL HE DID WAS PICK A JURY. BUT SOME FOLKS IF THEY HEARD THAT AFTER THE FACT WOULD SEE A CONSPIRACY OR WHATEVER, WHATEVER. IN FACT, I SAW FOUR OTHER JUDGES THAT NIGHT, YOUR HONOR. BUT I THINK I OUGHT TO PUT THAT ON THE RECORD.

THE COURT: NOT A PROBLEM. I'LL LET YOU DO SO WHEN SHE

COMES BACK.

MR. BRIGGS: SO IT'S CLEAR.

THE COURT: FAIR ENOUGH.

MR. BRIGGS: AND YOU'RE WELCOME TO ASK HIM IF WE TALKED ABOUT ANYTHING BUT BASEBALL, MR. FERNANDEZ.

MR. FERNANDEZ: I COULD CARE LESS.

MR. BRIGGS: ACTUALLY HE WAS A FRIEND OF A FRIEND OF MINE SO THAT FRIEND KNEW THE JUDGE BETTER THAN I DID.

MR. FERNANDEZ: DID THEY WIN?

MR. BRIGGS: YEAH, AND HE HAPPENED TO BE SITTING RIGHT IN FRONT OF ME. THAT'S WHY WE SAW EACH OTHER. I SAW PLEICONES, I SAW – I ALWAYS FORGET HIS NAME, HOW YOU PRONOUNCE IT, THE OTHER JUDGE IN LEXINGTON COUNTY THAT REALLY LIVES IN SALUDA. KEISLER? YEAH.

THE COURT: DR. FALTAS, PLEASE COME BACK ON THE STAND.

MR. BRIGGS: AND CUMMERFORD, TOO, JUDGE. HE WAS THREE SEATS FROM ME.

THE COURT: BASEBALL GAMES IS A HAPPENING PLACE/

MR. BRIGGS: AND I'VE SEEN JUSTICE TOAL THERE BEFORE, TOO. SHE GOES.

THE COURT: FAIR ENOUGH. ALL RIGHT. DR. FALTAS, WE ARE GOING TO LET YOU TAKE THE STAND. MAMAM CLERK, ARE WE ON THE RECORD?

COURT CLERK: WE BEEN ON.

THE COURT: WE ARE.

COURT CLERK: ON THE RECORD.

THE COURT: ALL RIGHT. MR. BRIGGS, WOULD YOU LIKE TO PUT SOMETHING ON THE RECORD, SIR.

MR. BRIGGS: I WOULD, YOUR HONOR, BUT I DON'T THINK I GAVE THE CLERK THIS LAST SET OF PICTURES, YOUR HONOR.

THE COURT: WHAT NUMBERS ARE THOSE?

MR. BRIGGS: YOU'VE GOT THEM BEFORE. TWENTY-EIGHT, THIRTY AND THIRTY-ONE.

THE COURT: THOSE THE ONES WE DID NOT LET IN. THOSE ARE FOR IDENTIFCATION PURPOSES SO THEY DON'T GO BACK TO THE JURY.

MR. BRIGGS: FIRST OFF, I WANTED TO PUT ON THE RECORD, YOUR HONOR, SOMETHING THAT I RAISED WITHOUT EXPLAINING TO THE COURT THAT I HAD OCCASION TO HAVE A VERY BRIEF – I'D SAY ONE AND A HALF MINUTE CONVERSATION WITH JUDGE BOGAN ON TUESDAY NIGHT OF THIS WEEK WHEN CAROLINA WAS PLAYING THE CITADEL BASEBALL. HE HAPPENED TO BE SITTING IN THE ROW RIGHT IN FRONT OF ME. JUDGE CUMMERFORD WAS SITTING ABOUT THREE SEATS FROM ME AND JUDGE KEISLER, HE DIDN'T SEE ME BUT I SAW HIM DOWN THE ROAD AND I SAW JUSTICE PLEICONES DRIVING BY AND HE WAVED AT ME. HE AND I HAD A REAL TOUGH CASE BEFORE HE EVER GOT TO THE COURT SO WE ARE SORT OF BUDDIES. I JUST WANTED THAT TO BE ON THE RECORD. THE CONVERSATION HAD NOTHING TO DO WITH COURT, NOTHING TO DO WITH THE FACT THAT WE HAD SEEN EACH OTHER ON MONDAY. IT WAS STRICTLY ABOUT BASEBALL.

THE COURT: FAIR ENOUGH.

MR. BRIGGS: BUT I WANTED THAT TO BE ON THE RECORD, YOUR HONOR.

THE COURT: IT IS ON THE RECORD. THANK YOU, SIR. ALL RIGHT, MR. BRIGGS, WE –

MR. BRIGGS: TWO OTHER THINGS, YOUR HONOR, THAT WILL BE SIMPLE. MR. FERNANDEZ HAS AGREED TO CONSENT THAT THE RECORD SHOW THAT THERE IS A REAL ESTATE TITLE TO THAT PROPERTY IN THE NAME OF –AND I'M SORRY, MARIE, I STILL FORGET THE FIRST NAME BUT –

DEFENDANT FALTAS: SOURAYA.

MR. BRIGGS: FARID FARES, DR. FALTAS' MOTHER, AND MARIE-THÉRÈSE H. ASSA'AD-FALTAS.

THE COURT: SO STIPULATED FOR THE RECORD.

MR. BRIGGS: OKAY. YOUR HONOR, I HAVE ANOTHER ONE AND I SUSPECT I KNOW HOW THE COURT WILL RULE BUT I NEED TO DO IT. JUDGE, DID THAT SUGGESTS YOU WOULD DO IT POSITIVE OR NEGATIVE? DID MY COMMENT SUGGEST THAT?

THE COURT: I DON'T THINK IT WENT EITHER WAY. IT DIDN'T AFFECT ME.

MR. BRIGGS: I DIDN'T THINK IT DID EITHER. SO ANYWAY ... YOUR HONOR, I HAVE A REPORT IN MY HAND AND I'LL GIVE IT TO MR. FERNANDEZ IF HE HAS NOT SEEN IT BEFORE YOU RULE. IT IS AN ENVIRONMENTAL QUALITY CONTROL INCIDENT REPORT. IT HAS A NUMBER ON IT AND IT TALKS ABOUT A JOHN ANSEL COMING OVER TO THAT PROPERTY IN RESPONSE TO A COMPLAINT AND HE WRITES A VERY BRIEF SUMMARY OF WHAT HE SAID AND THE BOTTOM LINE – I'M NOT GOING TO READ THE THING, I JUST WANT TO – IT SAYS NO FURTHER ACTION REQUIRED. THAT'S HIS CONCLUSION. HIS SIGNATURE IS NOT ON IT BUT IT IS WRITTEN DOWN AT THE BOTTOM TRUE COPY. THERE IS INITIALS

OR SOME TITLE AND A HARRY MATHIS WHO IS MY UNDERSTANDING IS THE BOSS OF THIS ANSEL GUY. HE WAS THE ONE WE SUBPOENAED, YOUR HONOR. I OFFER IT INTO EVIDENCE. HE'S NOT HERE TO IDENTIFY IT AND IF THE COURT DENIES THAT THEN I PROFFER IT FOR EVIDENCE UNDER THE PROFFER RULE.

THE COURT: MR. FERNANDEZ.

MR. FERNANDEZ: I DO OBJECT, YOUR HONOR. I THINK THEY NEED SOMEONE FROM D.H.E.C. TO AUTHENTICATE IT. I DON'T THINK IT QUALIFIES UNDER ANY –

MR. BRIGGS: IF YOU DON'T SHUT UP I'M GOING TO ASK THE JUDGE TO TAKE YOU OUTSIDE.

THE COURT: GO AHEAD, MR. FERNANDEZ.

MR. FERNANDEZ: (INAUDIBLE). AND FURTHER IT DOESN'T REALLY REGARD – I THINK WHAT THEY WERE TALKING ABOUT IS WHETHER THERE WAS HAZARDOUS WASTE, INFECTIOUS OR HAZARDOUS WASTE. WE DON'T ALLEGE THAT THERE WAS SO WE ARE ARGUING APPLES AND ORANGES WITH THAT DOCUMENT ANYWAY.

THE COURT: ALL RIGHT. I HAVE REVIEWED THE DOCUMENT MARKED AS DEFENDANT'S EXHIBIT SEVEN. IT IS AS DESCRIBED BY BOTH ATTORNEYS. I WILL NOT ALLOW IT TO GO IN. I WILL MARK IT FOR IDENTIFICATION PURPOSES AND MAKE IT A PART OF THE RECORD.

MR. BRIGGS: AND THAT IT WAS PROFFERED BY THE DEFENDANT, YOUR HONOR.

THE COURT: AND PROFFERED BY THE DEFENDANT. I'M PUTTING IT AS I.D. FOR THE RECORD BECAUSE IT'S BEEN PROFFERED. YES, SIR.

MR. BRIGGS: YOUR HONOR, WE ARE READY FOR TESTIMONY NOW.

I CAN ASK DR. FALTAS A GENERAL QUESTION ABOUT THE TIME WE NEED IF YOU WANT ME TO BEFORE THEY COME BACK OR I CAN DO IT WHEN THE JURY GETS BACK.

THE COURT: PLEASE ASK HER NOW.

MR. BRIGGS: OKAY.

Q. (BY MR. BRIGGS) DR. FALTAS, I HAVE GIVEN SOME THOUGHT TO IT MYSELF. IN FACT, MR. FERNANDEZ GAVE A COMMENT SOMEWHERE ALONG THE WAY WHICH I THOUGHT WAS ALL RIGHT, THAT HE FELT LIKE WE HAD COVERED ALL OF THE ISSUES IN REBUTTAL TO HIS TESTIMONY. BUT NEITHER I NOR THE JUDGE IS GOING TO CUT YOU OFF AND SAY YOU CAN'T SHOW ANY MORE PICTURES OR ET CETERA, SO WHAT I'D LIKE TO DO IS I WOULD LIKE FOR YOU TO LOOK AT THE CLOCK AND TELL ME HOW MUCH MORE TIME YOU THINK YOU NEED TO SHOW ME SOME MORE PICTURES AND TESTIFY THE REST OF WHAT YOU WANT TO TESTIFY TO. YOU CAN TAKE A MINUTE OR TWO IF YOU WANT TO, TO SAVE US TIME. BECAUSE, DR. FALTAS, WE STILL HAVE TO GIVE THEM ENOUGH TIME FOR CROSS EXAMINATION AND THEN CLOSING ARGUMENTS, THEN INSTRUCTION AND JURY CONSIDERATION.

THE COURT: ALSO, MADAM CLERK, HERE'S DEFENDANT'S NUMBER FOURTEEN FOR I.D. PURPOSES ALSO TO BE ATTACHED TO THE RECORD.

MR. FERNANDEZ: YOUR HONOR, IF YOU WANT TO SPEED THINGS UP WHILE THE DEFENDANT IS DOING THAT, AS FAR AS JURY CHARGES ARE CONCERNED I'M JUST GOING TO REQUEST THE THREE ORDINANCES BE READ.

THE COURT: OKAY.

MR. FERNANDEZ: PLUS DEFINITION OF RUBBISH.

THE COURT: ANY OBJECTION TO THAT, MR. BRIGGS?

MR. BRIGGS: I DON'T HAVE ANY OBJECTION TO THAT, YOUR HONOR, AND THE ONLY TWO I WOULD WANT IS I'LL GIVE YOU MY ORIN G. BRIGGS SHORT VERSION OF THAT 32, YOUR HONOR, THAT I SORT OF READ TO THE JURY. AND MY SECOND ONE WOULD BE TO REPEAT THE INSTRUCTION YOU GAVE TO THE JURY ABOUT THE DISCUSSION BETWEEN JUDGE BOGAN AND DR. FALTAS. I JUST THINK IT OUGHT TO BE REPEATED AGAIN, YOUR HONOR.

THE COURT: ANY OBJECTION TO THAT, MR. FERNANDEZ.

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: ALL RIGHT. I AM GOING TO READ THE BASIC CHARGE FROM ERVIN, PRESUMPTION OF INNOCENCE, REASONABLE DOUBT. I'M GONNA READ THE THREE ORDINANCES, THE DEFINITION OF RUBBISH, PRIOR HAND WRITTEN CHARGE PREVIOUSLY AGREED ON BY THE PARTIES REGARDING JUDGE BOGAN AND THEN I WANT TO CONSIDER WHAT MR. BRIGGS IS HANDING. COULD YOU GRAB THAT?

MR. BRIGGS: IT'S THE SECOND ONE, YOUR HONOR. I DON'T EVEN THINK – YOU HAVE ALREADY GIVEN THAT ORDINANCE BUT THAT'S WHAT I THINK IS THE SUBSTANCE OF THAT 32, YOUR HONOR, THE SECOND PART.

DEFENDANT FALTAS: YOUR HONOR, I WAS TOLD I'M NOT ALLOWED TO CONSULT WITH HIM WHILE I'M ON THE WITNESS STAND. WILL I BE ALLOWED TO CONSULT WITH HIM ABOUT SOME THINGS THAT NEED TO BE ADDED TO THE JURY CHARGE AFTER I FINISH TESTIFYING?

THE COURT: YOU CAN TALK TO HIM ABOUT THE JURY CHARGE. THE SECOND PART OF THIS – AFTER YOU FINISH TESTIFYING. THE SECOND PART OF THIS TRASH OR CONTAINERS THAT MAY HOLD WATER SHALL -- I'M SORRY.

MR. BRIGGS: YOUR HONOR, I INTERPRET THAT ORDINANCE AS

SAYING THERE'S TWO OFFENSES. TRASH AND THE OTHER THINGS ARE LISTED THERE BUT THAT'S THE ONLY ONE THAT THEY USE FOR THIS CASE. AND THAT'S WHY THE THREE DOTS ARE THERE AND THEN I PUT IN THERE A CONTAINER. IT DOESN'T SAY CONTAINER BUT IT IMPLIES IT THAT WILL HOLD WATER, ET CETERA, THAT'S UNSANITARY. I BELIEVE THERE'S TWO DIFFERENT CRIMES IN THAT SECTION AND THAT'S WHY I WROTE IT THAT WAY.

DEFENDANT FALTAS: BUT THE –

THE COURT: HOLD IT, DR. FALTAS. YOU ARE NOT OFF THE STAND YET.

MR. BRIGGS: YOU ARE NOT GOING TO CHANGE ME ON THAT, MARIE. JUST DON'T EVEN TRY.

THE COURT: CAN I SEE A COPY OF 8-32? WHAT I WILL DO IS I WILL READ THESE WHILE WE ARE DOING THE CROSS AND THEN WE'LL HAVE A BRIEF CONVERSATION AFTER CLOSE. WHEN THE DEFENSE IS OVER, IF THERE IS ANY REBUTTAL WE'LL TAKE THAT IMMEDIATELY AND THEN WE'LL GO INTO CLOSING ARGUMENTS, BUT I WILL SEND THE JURY OUT SO WE CAN HAVE A BRIEF CHARGE CONFERENCE AFTER CLOSING IN CASE SOMETHING NEW COMES UP.

MR. BRIGGS: AND, YOUR HONOR, IF YOU DECIDE NOT TO DO THAT WHAT I'D DO IS JUST PUT IT IN MY CLOSING ARGUMENT AGAIN. I'M NOT TRYING TO TELL THEM THE LAW, I'M TRYING TO TELL THEM THIS IS THE WAY I UNDERSTAND IT. THAT'S ALL I'M DOING.

MR. FERNANDEZ: AND I'M GOING TO WAIVE OPENING ON CLOSING, YOUR HONOR.

THE COURT: OKAY. THANK YOU. PLEASE BRING THE JURY BACK.

(JURY RETURNS TO THE JURY BOX)

THE COURT: WE ARE GOING TO RESUME WITH THE DIRECT EXAMINATION OF DR. FALTAS. MR. BRIGGS.

MR. BRIGGS: AND, YOUR HONOR, I DIDN'T SAY THIS BUT WE DO NOT HAVE ANOTHER WITNESS SO WE'LL –

THE COURT: YES, SIR.

MR. BRIGGS: -- STOP WHEN WE GET DONE.

THE COURT: YES, SIR.

DIRECT EXAMINATION CONTINUED BY

MR. BRIGGS:

Q. DR. FALTAS, WE ARE AT THE POINT NOW WHERE WE NEED TO LOOK AT ANY OTHER PICTURES OR TESTIMONY FROM YOU THAT ADDRESSES ISSUES THAT WE HAVE NOT COVERED ALREADY, SUCH AS, WHAT HAPPENED AFTER THE 20TH OF OCTOBER OF – THE YEAR WAS '11, RIGHT? THE ORIGINAL? WHEN YOU GOT THE SUMMONS, WAS IT '11?

A. IS THAT THE QUESTION?

Q. YES.

A. I GOT THE ONE SUMMONS IN THE SINGULAR, EVER, ON OCTOBER 20TH, 2011. IT ONLY HAD TO DO WITH THE NOTICE THAT WAS SERVED ON ME HE CLAMS BY MAIL ON THE 7TH. I DIDN'T GET IT UNTIL THE 10TH AND IT ONLY HAD TO DO WITH THE CARDBOARD. NOW DO WE HAVE OTHER THINGS THAT I WANT TO SAY? YES, I DO.

Q. OKAY.

MR. BRIGGS: YOUR HONOR, LET ME STOP HER. I'M GOING TO SECOND-GUESS MYSELF. I DO THINK THE NOTICE DOES NEED TO BE ENTERED

INTO EVIDENCE. HE DID NOT DO IT –

THE COURT: LET'S HOLD A MOMENT.

MR. BRIGGS: AND I WANT TO DO THAT, YOUR HONOR.

THE COURT: LET'S HOLD A MOMENT.

MR. FERNANDEZ: NO, THIS IS IN EVIDENCE.

MR. BRIGGS: DID YOU PUT IT IN, THE NOTICE?

THE COURT: YES.

MR. BRIGGS: OKAY. AS LONG AS IT'S IN AND THE JURY GETS TO SEE IT.

THE COURT: PLEASE QUESTION THE WITNESS.

MR. BRIGGS: ALL RIGHT.

Q. (BY MR. BRIGGS) DR. MARIE, WHY DON'T YOU TELL ME WHAT THE NEXT SUBJECT IS YOU THINK WE OUGHT TO TALK ABOUT? THAT SHOULD BE A THREE OR FOUR WORD ANSWER

A. THE NEXT SUBJECT IS HOW THIS LAND LOOKED BEFORE MOTHER AND I BOUGHT IT AND IT WAS A JUNGLE AND IT HAD ON IT –

MR. FERNANDEZ: OBJECTION, YOUR HONOR. SHE'S SHOWING PICTURES TO THE JURY AND IRRELEVANT.

A. OOPS, OOPS, OOPS, I'M SORRY.

MR. FERNANDEZ: EVERYTHING IS I'M SORRY, YOUR HONOR.

THE COURT: DR. FALTAS, PLEASE DO NOT DO THAT. WE'VE BEEN OVER THAT A COUPLE OF TIMES.

A. I'M SORRY. I'M SO SORRY.

THE COURT: IN FACT, IT MAY BE BEST BECAUSE IT KEEPS OCCURRING TO TAKE THOSE AND GIVE THEM TO YOUR ATTORNEY SO THAT YOU

DON'T MISTAKENLY SHOW ANYTHING TO THE JURY AGAIN THAT'S NOT IN EVIDENCE. COULD YOU PLEASE HAND THEM TO YOUR ATTORNEY? BASED UPON HIS FOLLOWING QUESTIONS, IF THERE ARE ANY OTHER OBJECTIONS WE'LL ADDRESS THEM.

MR. FERNANDEZ: I OBJECT TO THIS LINE OF QUESTIONING BECAUSE IT'S AGAIN IRRELEVANT.

THE COURT: OKAY. I UNDERSTAND YOU BUT I DON'T KNOW THAT HE DEVELOPED IT ENOUGH FOR ME TO KNOW SO WE'LL SEE.

MR. BRIGGS: YOUR HONOR, I THINK THREE OF THESE PICTURES ARE RELEVANT AND I THINK THEY ARE RELEVANT BECAUSE –

THE COURT: LET'S NOT MAKE THE RELEVANCY ARGUMENT. I AM NOT RULING ON THE OBJECTION AT THIS TIME. SHE DIDN'T GET TO THE POINT –

MR. BRIGGS: LET HER FINISH IDENTIFYING THEM?

THE COURT: SHE DIDN'T GET TO POINT OF IDENTIFYING THE PICTURES BECAUSE WE STOPPED HER FROM SHOWING THEM TO THE JURY.

Q. (BY MR. BRIGGS) WOULD YOU IDENTIFY THOSE THREE PICTURES FOR US, DR. FALTAS? AND THIS ONE, TOO. I'M SORRY.

A. THE FIRST ONE AND THEY AREN'T NUMBERED, IT SHOWS THAT BEFORE MOTHER AND I BOUGHT THAT LAND IT LOOKED LIKE A JUNGLE.

Q. LET'S DON'T BE TOO DESCRIPTIVE. JUST TELL US WHAT THE PICTURE IS, OKAY?

A. IT IS OF THAT LAND –

Q. BEFORE YOU MOVED ONTO IT? BEFORE YOU BOUGHT IT?

A. BEFORE MOTHER AND I –

Q. ALL RIGHT. WHAT'S THE SECOND ONE?

A. -- BOUGHT IT AND IT'S TAKEN FROM 304 BYRON ROAD WHERE I WAS RENTING THE APARTMENT FROM DINAH STEELE.

THE COURT: YOU HAVE SUFFICIENTLY IDENTIFIED THAT ONE. PLEASE GO TO THE NEXT PICTURE.

A. THANK YOU. THE NEXT ONE SHOWS THE BACK OF THAT LAND AGAIN BEFORE MOTHER AND I BOUGHT IT AND CLEANED IT AND IT DID HAVE SCRAP METAL ON IT.

Q. (BY MR. BRIGGS) OKAY. THAT'S IDENTIFYING THE PICTURE.

A. AND THAT WAS TAKEN FROM MY BALCONY.

Q. AND YOU TOOK THOSE PICTURES?

A. YES. THE FOURTH PICTURE ALSO SHOWS THE BACK OF THAT LAND AND AGAIN WITH SCRAP METAL ON IT AND ALSO THE SHRUBS THAT WERE UNHYGENIC BEFORE WE CLEANED THE LAND. THE FOURTH PICTURE SHOWS THE DITCH THAT'S FURTHER TO THE SOUTH OF THE LAND THAT EMPTIES INTO THE BIGGER DITCH WHICH IS ON THE EAST SIDE OF THE LAND AND WHICH I EXPLAINED IN AN ANSWER THAT –

Q. ABOUT THE CHILDREN NOT GETTING IN THE DITCH. OKAY.

A. THAT I HAVE PULLED SOMETHING –

THE COURT: YOU HAVE SUFFICIENTLY IDENTIFIED THE PICTURE. MR. BRIGGS, WOULD YOU LIKE TO MOVE THOSE?

MR. BRIGGS: I WOULD LIKE THOSE INTRODUCED, YOUR HONOR, BUT LET ME SHOW THEM TO MR. FERNANDEZ.

THE COURT: PLEASE DO AND LET'S SEE IF HE HAS AN OBJECTION.

MR. FERNANDEZ: I'LL OBJECT TO THEM BASED ON THE DESCRIPTION ALONE, YOUR HONOR. IT'S ENTIRELY IRRELEVANT.

MR. BRIGGS: DOES THE COURT NEED TO SEE THEM?

THE COURT: I WAS ABLE TO SEE THEM AS THE WITNESS WAS GOING THROUGH THEM.

MR. BRIGGS: OKAY.

THE COURT: BASED ON THE DESCRIPTION THAT THEY WERE BEFORE SHE PURCHASED THE LAND AND NOT AT ANY TIME CLOSE IN TIME TO THIS I DO DEEM THAT THEY ARE IRRELEVANT. I WILL ALLOW THEM TO BE MARKED FOR IDENTIFICATION AND MADE A PART OF THE RECORD.

MR. BRIGGS: OKAY, YOUR HONOR. AGAIN TRYING TO AVOID NOT ARGUING THE DECISION THAT'S BEEN MADE. JUST FOR THE RECORD, I WANT TO SAY THAT PART OF THIS IS WHAT THE INTENT OF THE DEFENDANT IS AND I THINK THESE PICTURES ARE VERY RELEVANT, PERIOD.

THE COURT: THANK YOU FOR YOUR RESPONSE AND BEING BRIEF WITH IT. PLEASE GET THEM MARKED SO THEY CAN BE MADE A PART OF THE RECORD.

MR. BRIGGS: AND I PROFFER THEM IN EVIDENCE (INAUDIBLE).

THE COURT: THANK YOU.

Q. (BY MR. BRIGGS) OKAY, DR. MARIE, I WILL AGAIN TRY TO –

A. THE OTHER PICTURE.

Q. LET ME TRY TO DIRECT YOU ON SOMETHING. I WOULD LIKE TO FINISH OUR DIRECT TESTIMONY IN ABOUT TEN MINUTES OR SO, TWELVE MINUTES.

MR. BRIGGS: AND I'M NOT TRYING TO TESTIFY, YOUR HONOR, I'M TRYING TO ASK A QUESTION.

THE COURT: PLEASE DO.

Q. (BY MR. BRIGGS) IT SEEMS LIKE TO ME THAT WE'VE COVERED MOST OF

WHAT THEY HAVE TALKED ABOUT BUT IF THERE'S A NEED FOR YOU TO EXPAND, SAY, TWO OR THREE MINUTES ON AN ANSWER RATHER THAN A HALF A MINUTE YOU CAN DO THAT BUT I'D JUST LIKE FOR YOU TO DECIDE WHAT IS REALLY ESSENTIAL FOR US TO DO IN THE REST OF OUR DIRECT TESTIMONY. OKAY? SO THAT'S A QUESTION.

THE COURT: LET HER RESPOND.

Q. (BY MR. BRIGGS) DO YOU HAVE AN ANSWER TO THAT QUESTION?

A. I HAVE AN ANSWER. THE FIRST THING IS DEFENDANT'S EXHIBIT EIGHT AND IT SHOWS THAT WHEN I WAS RENTING AN APARTMENT FROM DINAH STEELE SOMETIMES DINAH STEELE AND LARRY MASON –

MR. FERNANDEZ: OBJECTION.

THE COURT: I THINK WE ARE GETTING PRETTY FAR AFIELD.

MR. BRIGGS: I THINK SO, TOO, YOUR HONOR. I THINK THAT'S IN YOUR RULING.

THE COURT: YES, SIR.

A. ALL RIGHT. THE OTHER THING ABOUT WHEN THEY TOLD ME THAT THIS IS SCRAP METAL, I TALKED TO THEM, I TOLD THEM –

Q. (BY MR. BRIGGS) WE ARE TALKING ABOUT MR. SIMS AND MR HATCHER NOW?

A. YES.

Q. OKAY.

A. AND MR. SIMS SAT THERE AND KEPT ON SAYING SCRAP METAL. I HAVE EXPLAINED TO HIM AND TO MR. HATCHER SEVERAL TIMES THAT THIS IS NOT SCRAP METAL. THIS IS METAL THAT IS VERY USEFUL. THE REASON IT IS BENT IS THAT I WANT IT THAT WAY. IT IS BENT FOR PARTICULAR MEASUREMENTS FOR

PARTICULAR PURPOSE. I EXPLAINED TO HIM IN VERY CLEAR AND ILLUSTRATIVE WAYS THAT THIS – YOU CAN'T BEND METAL THE WAY THIS IS BENT JUST BY CHANCE. THIS WAS SPECIFICALLY BENT A CERTAIN WAY AND I THINK I GAVE HIM THE ANALOGY OF – AND I'M TALKING ABOUT CONVERSATION I ACTUALLY HAD WITH MR. SIMS AND WITH MR. HATCHER. THAT, FOR EXAMPLE, WHETHER I WAS RIGHT OR WRONG THIS IS WHAT I TOLD HIM AND EXPLAINED TO HIM. THAT, FOR EXAMPLE, IN THE CAR AND IN THE (INAUDIBLE) AS OPPOSED TO A TABLE YOU DON'T GET ANGLES. YOU GET, FOR EXAMPLE, THE CRANK SHAFT THAT'S BENT UP AND DOWN LIKE THAT. ALL PIECES IN A CAR (INAUDIBLE) THEY AREN'T STRAIGHT LINE SO I EXPLAIN TO HIM AGAIN AND AGAIN THAT ALL THIS METAL WAS NOT SCRAP, IT WAS CUT, IT WAS BENT, IT WAS SHAPED IN A SPECIFIC WAY AND I THINK I SPOKE TO HIM ABOUT WHAT THEY CALL (INAUDIBLE) THE METER MAID WHICH IS A STATUTE –

MR. FERNANDEZ: YOUR HONOR, WE HAVE ALREADY COVERED THIS.

THE COURT: WE'VE ADDRESSED THAT AS WELL.

MR. BRIGGS: YEAH, I THINK SO.

MR. FERNANDEZ: AGAIN, (INAUDIBLE) BROKEN RECORD. SORRY.

MR. BRIGGS: THAT'S FINE.

A. THE OTHER THING IS THAT IN MEDICAL SCHOOL I TOOK A COURSE –

Q. (BY MR. BRIGGS) NO, I DON'T WANT TO HEAR THAT. I DIDN'T ASK YOU A QUESTION. I WANT TO KNOW – TWO THINGS AND I'M ONLY GOING TO ASK ONE OF THEM FIRST, BUT I WANT TO KNOW IF YOU'VE GOT A PICTURE OF THOSE METAL STAKES THAT WERE USED TO MARK ONE OF YOUR BOUNDARIES THAT IS CLOSE UP ENOUGH TO WHERE THE JURY COULD ACTUALLY SEE WHAT IT LOOKS

LIKE? I'M SURE THEY KNOW WHAT AN ANGLE IRON IS BUT I WISH WE HAD BROUGHT ONE WITH US.

MR. FERNANDEZ: I THINK WE CAN CLEAR THE RECORD. I THINK THERE'S ONE IN THE CITY'S EVIDENCE. I BELIEVE THERE IS ONE.

Q. (BY MR. BRIGGS) LET ME ASK THE OTHER QUESTION. YOU LOOK FOR THAT PICTURE, OKAY? THE OTHER QUESTION IS WHAT EVENT HAPPENED AFTER OCTOBER 20TH OF '11 THAT YOU CONSIDER TO BE RELEVANT TO THE ISSUES IN THIS CASE? NOW YOU DON'T HAVE TO ANSWER ALL OF THEM RIGHT NOW BUT I WOULD LIKE TO HAVE AN ANSWER TO THIS TWO OR THREE OR FOUR OR SOMETHING LIKE THAT.

A. OKAY. OKAY. THE EVENTS ARE THAT MR. SIMS AND MR. HATCHER TOLD ME -- THEY TOLD ME – IT'S NOT THE CONSEQUENCES OF ANYTHING. THEY TOLD ME THAT THEY WANT ME TO BE CONVICTED SO I CAN GO TO PRISON –

MR. FERNANDEZ: YOUR HONOR, OBJECTION. OUTSIDE THE JURY, PLEASE.

THE COURT: EVERYBODY, PLEASE GO IN THE BACK.

(JURY LEAVES THE JURY BOX)

MR. FERNANDEZ: YOUR HONOR --

THE COURT: YOU DON'T HAVE TO SPEAK TO IT. WE WENT THROUGH IT. I MADE A SPECIFIC RULING WHICH YOU DIRECTLY VIOLATED WHICH PUTS THIS TRIAL IN JEOPARDY. YOU ARE IN CONTEMPT, DR. FALTAS. WE'LL HAVE A HEARING AS WE CONCLUDE. NOW I WAS VERY SPECIFIC ON SEVERAL THINGS. DO NOT GO INTO PUNISHMENTS, DO NOT GO INTO PRISONS. WE WENT THROUGH THIS VERY SPECIFICALLY AND WE DID IT FOR QUITE A PERIOD OF TIME. DO NOT DO IT AGAIN.

MR. BRIGGS: YOUR HONOR, I DIDN'T DO THAT.

THE COURT: DR. FALTAS DID IT.

MR. FERNANDEZ: YOUR HONOR, HERE'S MY PROBLEM. THE QUESTIONS ARE WHAT DO YOU FEEL IS RELEVANT. THEN EVERY TIME IS HERE'S A PICTURE. WHOOPS, I FORGOT, I'M SORRY.

THE COURT: THIS IS WHERE WE ARE, MR. BRIGGS. YOU HAVE TO ASK SPECIFIC, DIRECT QUESTIONS. NO MORE OPEN-ENDED NARRATIVE RESPONSES.

MR. BRIGGS: I'M NOT GOING TO ADDRESS HIM BUT HE KNOWS THIS LADY HAS FOUR DEGREES.

THE COURT: SHE CAN HAVE –

MR. BRIGGS: AND SPEAKS FOUR LANGUAGES.

THE COURT: SHE'S VERY SMART –

MR. BRIGGS: SHE IS VERY SMART.

THE COURT: AND I'M HAPPY BUT, MR. BRIGGS –

MR. BRIGGS: AND THERE'S WAY OF CONTROLLING HER MORE THAN I'VE TRIED.

THE COURT: MR. BRIGGS, YOU DID TRY. NOW YOU'VE GOTTEN TO THE POINT OF SAYING I'M NOT TRYING, I'M GONNA LET HER DO WHATEVER ELSE SHE WANTS IN.

MR. BRIGGS: I DON'T DO THAT.

THE COURT: SO THIS IS WHAT WE ARE GOING TO DO. IF YOU HAVE A SPECIFIC QUESTION, YOU ASK HER. NO QUESTIONS ASKING FOR NARRATIVES. DR. FALTAS, WE'LL ADDRESS YOU VIOLATING THE ORDER WHEN WE CONCLUDE. PLEASE BRING THE JURY BACK IN.

DEFENDANT FALTAS: YOUR HONOR, MAY I SAY SOMETHING?

THE COURT: WHEN WE CONCLUDE, YOU MAY.

MR. BRIGGS: YOU SAID NO NARRATIVES, YOUR HONOR.

MR. FERNANDEZ: I WOULD ASK FOR A CURATIVE INSTRUCTION, YOUR HONOR.

MR. BRIGGS: AND I HAVE NO OBJECTION TO THAT, YOUR HONOR, HOWEVER YOU WANT TO HANDLE THAT PART OF IT. DR. FALTAS, WE NEED TO BE VERY SPECIFIC ABOUT QUESTIONS THAT DEAL WITH ISSUES BEFORE THE COURT, NOT WHETHER MR. SIMS STUCK HIS TONGUE OUT AT YOU OR MR. – THE OTHER TWO WITNESSES BACK HERE SAID TO YOU OR ANYTHING LIKE THAT. WE DON'T WANT TO KNOW ANY OF THAT. WE'VE ALREADY HEARD ALL THAT. WE WANT YOU TO TELL US ESSENTIALLY WHAT ELSE HAPPENED AFTER OCTOBER 20TH OF '11, RIGHT, INITIALLY – THAT AFFECTS THE ISSUES IN THIS CASE, PERIOD. PERIOD.

THE COURT: THAT'S WHERE WE ARE. PLEASE LET'S BRING THE JURY IN AND FINISH THE DIRECT.

(JURY RETURNS TO THE JURY BOX)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, PRIOR TO YOU GOING OUT THERE WAS A STATEMENT -- PLEASE HAVE A SEAT, DR. FALTAS. THERE WAS A STATEMENT MADE BY DR. FALTAS WHICH I AM GOING TO INSTRUCT YOU TO IGNORE. PENALTIES OR ANYTHING INVOLVING ANYTHING THAT HAPPENS IF THERE IS A CONVICTION ARE NOT APPROPRIATE FOR YOU TO BE CONSIDERING. YOU ARE GOING TO BE ASKED TO CONSIDER WHETHER OR NOT THERE IS INNOCENCE OR GUILT BASED ON THE TESTIMONY PROVIDED AND THE EVIDENCE THAT HAS BEEN PLACED IN WHETHER THAT BE BY THE

DEFENDANT OR BY THE STATE. IF THERE ARE ANY ISSUES THAT ARE NECESSARY TO BE DECIDED ABOUT WHAT HAPPENS AFTER THAT, THAT IS SOLELY FOR THE COURT TO DECIDE AND NOT FOR YOU TO CONSIDER NOR TALK ABOUT IN YOUR DELIBERATIONS. THANK YOU VERY MUCH. PLEASE CONTINUE TO DIRECT THE WITNESS.

MR. BRIGGS: AND I WILL BE ASKING DIRECT QUESTIONS, YOUR HONOR.

THE COURT: THANK YOU, SIR.

Q. (BY MR. BRIGGS) DR. FALTAS, I GUESS THE FIRST QUESTION IS DID YOU HAVE ANY CONVERSATIONS WITH MR. SIMS OR MR. HATCHER AFTER YOU WERE SERVED THE SUMMONS ON OCTOBER 20TH OF 2011?

A. I BELIEVE MR. SIMS TESTIFIED THAT HE TALKED TO ME WHEN WE CAME TO COURT ONE DAY. AM I ALLOWED TO SAY THAT?

Q. DON'T TELL WHAT THE COURT WAS BUT Y'ALL WERE IN COURT ABOUT SOMETHING ELSE?

A. NO. NO, NO, NO, NO, NO. IT WASN'T ABOUT SOMETHING ELSE. IT WAS ABOUT THIS.

Q. IN OTHER WORDS, Y'ALL THOUGHT MAYBE THIS CASE WOULD BE TRIED THEN?

A. SIX TIMES.

Q. I DON'T NEED THE SUBSTANCE OF THE CONVERSATION, I DIDN'T ASK YOU THAT. I WANTED TO KNOW WHETHER YOU'VE TALKED TO HIM ONE TIME OR SIX TIMES SINCE THE 20TH. THAT'S THE QUESTION.

A. WELL, ONE TIME WE WERE WAITING OUTSIDE AND WE TALKED ABOUT LIKE SOCIAL STUFF.

Q. OKAY.

A. HE AND I.

Q. SO YOU'VE TALKED TO HIM MAYBE THREE OR FOUR TIMES SINCE THE 20TH?

A. MAYBE MORE.

Q. I'M GOING TO BE VERY CAREFUL ABOUT THIS QUESTION NOW. DID YOU EVER TALK ABOUT – HELP ME OUT, MR. FERNANDEZ. I DON'T WANT TO SAY – DID YOU EVER TALK TO HIM ABOUT WHAT YOU NEEDED TO DO TO CLEAR UP YOUR YARD, PERIOD?

A. FIRST, I DON'T THINK THE LAND IS UNCLEAN. HOWEVER –

Q. OKAY.

MR. FERNANDEZ: I OBJECT TO THIS, YOUR HONOR. WE ARE TALKING ABOUT SOMETHING THAT GOES OUTSIDE OF THE SCOPE OF WHAT WE ARE HERE FOR. I MEAN –

THE COURT: I UNDERSTAND YOUR OBJECTION. I'M GOING TO ALLOW THIS LINE OF QUESTIONING. MAY BE GETTING CLOSE TO THE END BUT I'M GOING TO ALLOW THIS LINE OF QUESTIONING.

Q. (BY MR. BRIGGS) DON'T NEED THE SUBSTANCE. DID YOU TALK ABOUT ...

A. I WANTED TO -- I'LL TELL YOU WHAT WE TALKED ABOUT. IN FACT, ONE DAY WHICH WAS JANUARY 31ST, 2012, MR. HATCHER, MR. SIMS AND I WENT THERE FOR ME TO SHOW THEM THAT THE BUCKETS ARE SET IN SUCH A WAY THAT THEY DO NOT ON THEIR OWN TURN OVER. BUT IF THEY WANTED TO MAKE THEM MORE SECURE SO THEY DON'T TURN OVER, THEY CAN TELL ME THAT. AND WHILE WE WERE THERE AND I THINK MR. HATCHER WAS HERE AND SAID THERE WAS A MAN WHOSE BALCONY OVERLOOKS THE LAND. HE CAME OUT –

Q. NOW DON'T QUOTE ANYBODY ELSE EXCEPT MR.-- SIMONS IS A PARTY SO THAT'S WHY YOU CAN QUOTE HIM. OKAY?

A. MR. SIMS AND MR. HATCHER TALKED TO THE MAN BECAUSE THE MAN WAS –

MR. FERNANDEZ: OBJECTION. HEARSAY.

THE COURT: DON'T SAY WHAT HE SAID.

Q. (BY MR. BRIGGS) MARIE, IF YOU ARE GOING TO COMPLAIN –

THE COURT: DON'T SAY WHAT HE SAID.

Q. -- ABOUT WHAT SOMEBODY THAT'S NOT A PARTY TO THIS ACTION DID, THE JUDGE IS NOT GOING TO LET YOU SAY THAT.

A. I WAS TRYING TO SHOW THEM THE OBSTACLES TO MY BEING THERE LONG ENOUGH SAFELY FOR MY OWN SAFETY –

Q. OKAY. IN OTHER WORDS, YOU THOUGHT YOU WOULD BE BOTHERED IF YOU WERE THERE?

A. THEY SAW THEM FOR THEMSELVES.

Q. OKAY. OKAY. THAT'S FINE.

A. THEY SAW THEM FOR THEMSELVES AND I SUGGESTED THAT IF THEY THINK THERE IS SOME WAY I CAN MAKE THE BUCKETS MORE SECURE, THAT THEY PROVIDE ME PROTECTION FROM THE CITY OF COLUMBIA POLICE DEPARTMENT.

THE COURT: WE ARE GOING TO GO AHEAD AND STOP THAT RESPONSE. PLEASE ANSWER ANY QUESTIONS MR. BRIGGS HAS.

MR. BRIGGS: I AM GOING TO TRY TO ASK TWO OR THREE OTHER QUESTIONS, YOUR HONOR. I'M GOING TO TRY TO SEE IF THAT WILL GET TO THE END.

Q. (BY MR. BRIGGS) DR. FALTAS, WE'VE HAD A GOOD BIT OF TESTIMONY ABOUT THE THREE ORDINANCES WHICH THE JURY WILL BE ABLE TO LOOK AT, THE JUDGE WILL INSTRUCT THEM ON AND ALL AND THE TWO NOTICES YOU GOT.

A. I GOT ONE NOTICE, NOT TWO.

Q. YOU GOT A SUMMONS?

A. I GOT A NOTICE AND THE SUMMONS BASED ON THAT NOTICE.

Q. A SUMMONS IS A NOTICE.

A. NO, IT'S NOT. A SUMMONS –

THE COURT: PLEASE ASK HER A QUESTION.

MR. BRIGGS: ALL RIGHT.

A. IN OTHER WORDS –

Q. (BY MR. BRIGGS) NO, LET ME ASK THE QUESTION. MR. SIMS SAID HE ALSO SENT YOU THAT, QUOTE, DEFINITION OF RUBBISH THAT WAS IN ANOTHER BOOK. YOU'VE SEEN IT, IT'S MARKED IN YELLOW. IN FACT, I ASKED HIM THE QUESTION AND HE SAID THEY WERE ESSENTIALLY THE SAME THING. FIRST OF ALL, DID YOU SEE THE DEFINITION OF RUBBISH IN THAT SECOND DOCUMENT?

A. I SAW IT AND DISCUSSED IT WITH HIM BECAUSE THE KEY WORD IN IT IS WASTE AND COMBUSTIBLE. AND I EXPLAINED TO THEM THAT NONE OF THIS IS WASTE MEANING NONE OF THIS IS SOMETHING I WANT TO THROW AWAY AND NONE OF IT IS COMBUSTIBLE.

Q. ALL RIGHT.

A. NONE OF IT IS GOING TO BE BURNED. THE METAL DOESN'T BURN. IF ANY IT'S LIKE A FIRE (INAUDIBLE). THE SECOND THING IS IT DOESN'T ALLOW FOR VERMIN. RATS DON'T EAT METAL. RATS DON'T EAT PLASTIC. THIS RUBBISH MEANS FOOD THAT YOU THROW AWAY, STUFF THAT YOU ARE THROWING

AWAY. NONE OF THIS IS STUFF THAT I WAS THROWING AWAY AND THAT IS THE KEY IN THE DEFINITION. WASTE. WASTE.

THE COURT: LET'S STOP RIGHT THERE. LET'S STOP RIGHT THERE.

Q. (BY MR. BRIGGS) I'LL ASK YOU –

THE COURT: LET'S STOP, MR. BRIGGS. SO THE JURY IS CLEAR, THE JUDGE – I WILL INSTRUCT YOU FROM THE COURT AND THE BENCH AS TO WHAT THE LAW IS. ALL RIGHT. PLEASE CONTINUE, MR. BRIGGS.

Q. (BY MR. BRIGGS) I'M GOING TO ASK YOU A FOLLOW-UP QUESTION. HAVING THE SUMMONS, HAVING THE NOTICE, HAVING SOME CONVERSATION WITH MR. SIMS, HAVING THIS DEFINITION OF RUBBISH, AFTER SEEING ALL OF THOSE ITEMS, DID YOU KNOW WHAT YOU WERE BEING ACCUSED OF AS BEING ILLEGAL? DID YOU KNOW WHAT YOU HAD TO DO TO GET THROUGH THE ILLEGAL?

A. MR. HATCHER MADE IT CLEAR TO ME THAT IT'S A MOVING TARGET, THAT WHATEVER TRASH IS -- HE SAYS TRASH IS IS GOING TO BE TRASH. THE SUMMONS DIDN'T TELL ME TO DO ANYTHING EXCEPT TO COME TO COURT.

Q. AND THE NOTICE ONLY CITED THE THREE SECTIONS OF THE ORDINANCES, RIGHT?

A. NO, NO, NO, NO. THE NOTICE SPEAKS FOR ITSELF. IT HAD (INAUDIBLE) IN IT AND WHEN I ASKED HIM THEY SPOKE ABOUT THE CARDBOARD CYLINDERS AND –

MR. FERNANDEZ: YOUR HONOR, WE'VE COVERED ALL OF THIS.

A. AND THOSE CYLINDERS WERE DONE SO I DON'T KNOW WHAT –

THE COURT: I'M GOING TO ALLOW HER TO FINISH THE ANSWER BUT WE – I'LL ALLOW HER TO FINISH THE ANSWER.

MR. FERNANDEZ: WE ARE GOING AROUND IN CIRCLES.

Q. (BY MR. BRIGGS) SHE DIDN'T ANSWER MY QUESTION. YOU DID SAY YOU DIDN'T KNOW WHAT YOU HAD TO DO TO GET IN COMPLIANCE WITH THE LAW. IS THAT WHAT YOUR ANSWER WAS?

A. IT'S NOT A LAW.

Q. ALL RIGHT. WE CAN ARGUE ABOUT THAT LATER WHEN -- WE'LL ARGUE ABOUT THAT LATER.

A. WHAT MR. HATCHER –

THE COURT: STOP AND LET HIM ASK A QUESTION.

Q. (BY MR. BRIGGS) DR. FALTAS, THIS IS GOING TO BE A USUAL QUESTION BUT I THINK WE OUGHT TO GO INTO IT THIS WAY. IT SEEMS LIKE TO ME IF WE ARE AT THE POINT NOW WHERE IF YOU AND I HAD A FIVE MINUTE CONFERENCE WE COULD FIGURE OUT THAT THE OTHER THINGS WE WANT TO IMPART TO THE JURY COULD BE DONE IN A CLOSING STATEMENT.

THE COURT: IF YOU HAVE ANY ADDITIONAL QUESTIONS FOR HER, PLEASE ASK THEM. IF YOU DON'T, YOU DON'T HAVE TO.

MR. BRIGGS: YEAH, I KNOW. BUT I NEED TO EXPLAIN THAT THING, TOO, YOUR HONOR –

THE COURT: NO, NO, NO. YOU DON'T GET TO EXPLAIN TO HER IN FRONT OF THE JURY. IF YOU HAVE A QUESTION, YOU ASK IT.

Q. (BY MR. BRIGGS) DR. FALTAS, DO YOU REALIZE THAT THERE'S A GENERAL PRINCIPLE THAT LAWYERS FOLLOW THAT SAY WE DON'T ASK THE FINAL QUESTION, WE LEAVE IT FOR ARGUMENT? YOU KNOW THAT RULE?

A. NO.

THE COURT: THAT'S A BIT IRRELEVANT. DO YOU HAVE ANY

DIRECT QUESTIONS RELATED TO THE CHARGES HERE TODAY?

MR. BRIGGS: I HAVE NOTHING ELSE, YOUR HONOR, UNLESS SHE WOULD IDENTIFY ONE OR TWO PICTURES THAT WE HAVE NOT TALKED ABOUT.

THE COURT: NO, SIR. NO, SIR, WE ARE NOT GOING TO GET ANY MORE OF THOSE OPEN-ENDED QUESTIONS. THANK YOU VERY MUCH. WE'LL ALLOW HER TO BE CROSS EXAMINED.

MR. FERNANDEZ: THANK YOU, YOUR HONOR. WHICH ARE THE CITY'S PHOTOGRAPHS? IF YOU COULD HAND THEM TO ME, I WOULD APPRECIATE IT. ARE THERE SOME OVER THERE, TOO? I'M SORRY, YOUR HONOR, (INAUDIBLE).

THE COURT: TAKE A MOMENT AND PUT THEM TOGETHER.

MR. BRIGGS: YOUR HONOR, CAN HE WAIT LONG ENOUGH FOR ME TO RUN TO THE RESTROOM? I HAVE TO GO QUICKLY.

THE COURT: MR. BRIGGS, PLEASE DO IT QUICKLY.

MR. BRIGGS: AT MY AGE, YOUR HONOR IT'S –

THE COURT: WE'LL ALL WAIT ON YOU SO PLEASE GO.

(PAUSE)

MR. BRIGGS: THANK YOU, YOUR HONOR.

THE COURT: YOU ARE WELCOME, SIR. MR. FERNANDEZ, YOUR WITNESS.

MR. FERNANDEZ: THANK YOU.

CROSS EXAMINATION BY

MR. FERNANDEZ:

Q. DR. FALTAS, KNOW WHAT A FENCE IS, CORRECT?

A. WHAT?

Q. A FENCE. DO YOU KNOW WHAT A FENCE IS?
A. THERE ARE MANY DEFINITIONS OF FENCE.
Q. DO YOU KNOW WHAT A FENCE IS?
A. SOMETHING MAY BE FENCE, SOMETHING MAY NOT.
Q. DO YOU KNOW WHAT A FENCE IS?
A. I CAN'T SAY THAT I HAVE –

MR. FERNANDEZ: YOUR HONOR, IT'S A YES OR NO QUESTION.

THE COURT: PLEASE RESPOND YES OR NO AND THEN IF YOU HAVE TO ELABORATE YOU WILL GET AN OPPORTUNITY.

A. I'VE KNOWN SOME FENCES, I'VE SEEN SOME FENCES.
Q. (BY MR. FERNANDEZ) WHAT'S PREVENTING YOU FROM BUILDING A FENCE (INAUDIBLE)?
A. WHAT'S PREVENTING ME IS THAT THE CITY IS REFUSING TO GIVE ME A PRMIT FOR ANYTHING AND I BELIEVE THAT IS DONE MALICIOUSLY AND DISCRIMINATORILY.
Q. LET ME ASK YOU THIS. HAVE YOU APPLIED FOR A PERMIT IN ORDER TO INSTALL A FENCE?
A. I HAVE APPLIED FOR A BUILDING PERMIT AND THE CITY REFUSED TO –
Q. TO INSTALL A FENCE?

THE COURT: DR. FALTAS. DR. FALTAS, THIS WILL GO A LITTLE BETTER IF YOU CAN SAY YES OR NO AND THEN EXPLAIN IF YOU NEED TO.

A. AS PART OF THE BUILDING PERMIT, YES.
Q. (BY MR. FERNANDEZ) IN YOUR APPLICATION THERE WAS A FENCE? YOU DID APPLY TO INSTALL A FENCE AT THIS PROPERTY?
A. NOT SEPARATELY. IT WAS PART AND PARCEL OF THE – AND THEN MAY I

EXPLAIN? HATCHER TOLD ME THAT THEY WILL NOT GIVE ME A PERMIT FOR A FENCE WITHOUT THE BUILDING ITSELF IN ADDITION. IN ADDITION. THERE IS NOTHING WRONG WITH THE INVERTED BUCKETS. THEY DO NOT HOLD WATER AND EVEN IF PEOPLE INTENTIONALLY DO THEM OVER, THEY – I GO AND STRAIGHTEN THEM OUT.

THE COURT: THANK YOU, DR. FALTAS.

Q. (BY MR. FERNANDEZ) HAVE YOU WITNESSED PEOPLE KICKING THE BUCKETS OVER?

A. ABSOLUTELY. AND I WITNESSED PEOPLE WHO ARE TENANTS AT DINAH STEELE'S APARTMENT TAKING THEIR DOGS TO RELIEVE THEMSELVES ON THIS LAND AND I HAVE TAKEN PICTURES OF THEM AND, IN FACT, I GAVE YOU A LINK –

Q. WHERE IS THE PICTURE? I WOULD LIKE TO SEE A PICTURE OF SOMEONE KICKING A BUCKET OVER. YOU HAVE THOUSANDS OF PICTURES.

A. I DID – NO. FIRST OF ALL, I DON'T HAVE THOUSANDS OF PICTURES. I DIDN'T SAY I TOOK PICTURES OF SOMEBODY KICKING A BUCKET. I TOLD YOU I SAW BUT I GAVE YOU A LINK TO PICTURES OF PEOPLE'S DOGS ON THIS LAND RELIEVING THEMSELVES.

Q. BUT NO PICTURES OF ANYONE KICKING ANY BUCKETS OVER?

A. I TOLD YOU I SAW –

Q. I'M GOING TO SHOW YOU CITY EXHIBIT NUMBER 2-5. IT'S A PILE OF –I DON'T EVEN KNOW WHAT. IN THE BOTTOM LEFT-HANE CORNER THERE'S A BUCKET, AN OPEN BUCKET WITH – CALL IT WHAT YOU WANT – STUFF, RUBBISH, MATERIALS. IT'S AN OPEN BUCKET, IS THAT CORRECT? IS THAT CORRECT? AN OPEN BUCKET WITH STUFF IN IT?

A. NO.

Q. IT'S NOT OPEN?

A. NO. IT HAS SOMETHING COVERING IT. THAT'S ONE THING.

Q. SO WATER CAN'T GET INTO THAT BUCKET? THAT'S YOUR TESTIMONY?

A. THAT DID NOT STAY THERE FOR FORTY-EIGHT HOURS. THAT DAY IT WAS NOT RAINING.

Q. OKAY.

A. NO, NO, NO. LET ME GIVE A COMPLETE ANSWER. IF THE RULE WERE THAT YOU CANNOT HAVE ANYTHING TO HOLD WATER, THEN YOU CANNOT GO OUT TO YOUR OWN YARD WITH A CUP TO DRINK FROM. THE RULE THAT WAS EXPLAINED TO ME IS –

Q. CITY NUMBER 2-10 –

A. LET ME FINISH MY ANSWER.

THE COURT: DR. FALTAS, YOU ARE REPEATING SOME THINGS YOU SAID BEFORE. PLEASE BE RESPONSIVE TO HIS QUESTIONS.

Q. (BY MR. FERNANDEZ) 2-6 I'M SHOWING YOU THE PICTURE BELOW. WOOD CRATES RIGHT THERE. IS THAT CORRECT? WOULD YOU DESCRIBE THOSE MATERIALS AS CRATES IN THE PILE OF STUFF, THAT WOOD? IT'S ALSO IN ANOTHER PICTURE HERE, 2-7.

THE COURT: PLEASE ALLOW HER TO RESPOND TO THE FIRST PICTURE FIRST.

A. YES, YOUR HONOR, HE'S GIVING ME –

THE COURT: PLEASE RESPOND. DON'T GIVE NARRATIVES ON WHAT HE'S DOING. PLEASE RESPOND.

A. THIS IS OBVIOUSLY AT THE CLOSE RANGE WHEN THEY WERE NOT IN-

VITED OR ALLOWED.

THE COURT: DR. FALTAS, PLEASE GIVE A RESPONSIVE ANSTO HIS QUESTION. THE QUESTION WAS ARE THOSE WOOD CRATES?

A. NO, THEY ARE NOT WOOD CRATES.

Q. (BY MR. FERNANDEZ) WHAT MATERIAL IS THAT?

A. IT'S WOOD AND METAL.

Q. SO IT IS WOOD CRATES?

A. AND THEY AREN'T CRATES.

Q. WHAT ARE THEY?

A. THEY ARE OPEN-ENDED BOXES AND NONE OF THIS STAYED THAT WAY FOR LONGER –

Q. IS WOOD COMBUSTIBLE?

A. LISTEN, IF IT WERE ILLEGAL TO HAVE ANYTHING WOOD –

MR. FERNANDEZ: THAT'S NOT AN ANSWER, YOUR HONOR.

THE COURT: LET'S SLOW DOWN. DR. FALTAS, FIRST ANSWER THE QUESTION IS WOOD COMBUSTIBLE?

A. SOMETIMES IF IT'S TREATED BUT HOUSES ARE – MANY HOUSES ARE BUILT OF WOOD. BOATS ARE BUILT – SOME BOATS ARE BUILT OF WOOD SO IF IT'S ILLEGAL TO HAVE ANYTHING THAT'S BUILT OUT OF WOOD BECAUSE IT'S COMBUSTIBLE THEN EVERYBODY IS A CRIMINAL ACCORDING TO YOU.

Q. I'M SHOWING YOU --

THE COURT: DR. FALTAS, YOU'VE ANSWERED THE QUESTION. GO ON AND ASK ANOTHER QUESTION.

Q. (BY MR. FERNANDEZ) I'M SHOWING YOU CITY NUMBER 2-10. BOTH PICTURES – FIRST PICTURE ON THE BOTTOM LOOKS TO BE SOME – I DON'T KNOW,

SHELVING UNITS OR SOMETHING STASHED IN THERE BUT THERE'S ALSO SOME OTHER THINGS THAT APPEAR TO BE WOOD. DO YOU AGREE THAT THAT'S WOOD?

A. THERE IS NOTHING THAT SAYS YOU CANNOT STORE WOOD. THAT WAS TAKEN AT THE MOMENT.

Q. IS THAT CONTAINER OPEN OR DOES IT HAVE A LID ON IT?

A. AT THE MOMENT, I WAS AWAY IT WAS OPEN BUT AFTER THAT A LID WAS PUT ON IT. NONE OF THIS STAYED THAT WAY FOR FORTY-EIGHT HOURS. AND YOU DO NOT HAVE ANY –

Q. THE TOP PICTURES HAVE BUCKETS THAT ARE ON THEIR SIDE WITH WHAT APPEARS TO BE WATER IN THEM. WOULD YOU AGREE?

A. WHAT I AGREE I TOLD YOU I SAW PEOPLE KICKING THEM OVER AND I WENT AND STRAIGHTENED THEM AFTERWARDS. NONE OF THIS – AS HE SAID THERE WASN'T MOSQUITO – YOU DON'T HAVE ANY PICTURES THAT SHOW THE SAME THING WITHIN FORTY-EIGHT HOURS STAYING THE SAME.

Q. OKAY.

A. NONE OF THIS STAYED THE SAME WAY FORTY-EIGHT HOURS.

Q. YOU ALSO TESTIFIED THAT YOU – THAT THESE WERE IN A – I THINK YOU SAID THESE WERE AN OPTICAL ILLUSION OR SOMETHING, THAT'S REALLY NOT DISORGANIZED, IT'S JUST THE WAY THE PICTURES WERE TAKEN?

A. YES.

Q. THE – AND THEY WERE IN THE PROCESS OF BEING ORGANIZED?

A. WELL, SOME OF THE CHAINS I (INAUDIBLE) BUT IN SOME INSTANCES THE CHAIN WEREN'T – LISTEN, IT'S NOT –

Q. I'M JUST ASKING QUESTIONS. I'M LISTENING TO YOU BUT I WOULD LIKE

TO KNOW IF THEY WERE IN THE PROCESS OF BEING ORGANIZED SUGGESTING THAT YOU ORGANIZED THEM.

A. BEING DISORGANIZED IS NOT AGAINST THE – ANY ORDINANCE.

Q. I DIDN'T JUST TESTIFY THAT I WAS IN THE PROCESS OF ORGANIZING IT, YOU DID SO I'M JUST CLARIFYING THAT YOU DID IN FACT COMPLETE THE ORGANIZATION.

A. NO, I DIDN'T COMPLETE THE ORGANIZATION. WHEN PEOPLE ASK ME WHEN DID YOU COMPLETE YOUR EDUCATION, I TELL THEM NO ONE'S EDUCATION IS EVER COMPLETE.

Q. IT'S A WORK IN PROGRESS. I'M GOING TO HAND YOU SOME PICTURES –

A. IT'S NOT AGAINST –

Q. TELL ME THE DATE ON THAT PICTURE, WOULD YOU?

A. IT'S NOT AGAINST THE LAW TO BE DISORGANIZED.

THE COURT: DR. FALTAS, YOU ANSWERED THE LAST QUESTION. PLEASE ANSWER THIS ONE.

A. I DIDN'T TAKE THIS PICTURE.

Q. (BY MR. FERNANDEZ) I DIDN'T SAY YOU DID. I'M ASKING YOU TO TELLME WHAT THE DATE SAYS.

A. I HAVE NO – YOUR HONOR, I'M NOT GOING TO ANSWER THIS. I DON'T KNOW WHO TOOK THE PICTURES, I DON'T KNOW –

THE COURT: DR. FALTAS, HE ASKED YOU WHAT THE DATE WAS ON THE PICTURE. ARE YOU ABLE TO ANSWER THAT QUESTION?

A. NO, BECAUSE I DON'T – BECAUSE -- I MEAN I CAN READ WHAT'S ON THERE BUT I DON'T KNOW THAT THAT'S (INAUDIBLE).

Q. (BY MR. FERNANDEZ) OKAY, SO LET'S READ WHAT'S ON THERE. WHAT

DOES THE DATE SAY?

MR. BRIGGS: HAS THE PICTURE EVEN BEEN IDENTIFIED, YOUR HONOR?

MR. FERNANDEZ: I'M TRYING TO.

MR. BRIGGS: AND OFFERED FOR EVIDENCE?

THE COURT: HE'S ASKING HER ABOUT THE PICTURE –

A. I –

THE COURT: STOP, DR. FALTAS. MR. BRIGGS IS TRYING TO INTERVENE ON YOUR BEHALF. HE'S ASKED ABOUT THE PICTURE. HE HAS A RIGHT TO ASK ABOUT THE PICTURE. IF HE TRIES TO PUT IT INTO EVIDENCE OR OTHER THINGS, WE'LL ADDRESS IT. HE'S NOT ASKED HER TO SHOW IT TO THE JURY.

A. I CANNOT IDENTIFY THIS PICTURE –

MR. FERNANDEZ: I'M NOT ASKING YOU TO IDENTIFY THE PICTURE.

MR. BRIGGS: I OBJECT TO THE PICTURE BEING IRRELEVANT, YOUR HONOR.

THE COURT: WHAT'S IN THE PICTURE, MR. BRIGGS? I MEAN IF YOU ARE GOING TO OBJECT TO RELEVANCE, YOU'VE GOT TO AT LEAST LOOK AT IT.

MR. BRIGGS: NO, YOUR HONOR.

THE COURT: THANK YOU, SIR. THANK YOU, SIR.

MR. BRIGGS: ALL I'VE GOT TO DO IS OBJECT AND HE'S GOT TO EXPLAIN IT, YOUR HONOR.

THE COURT: GO AHEAD, DR. FALTAS.

A. GO AHEAD AND DO WHAT, YOUR HONOR?

THE COURT: RESPOND TO THE QUESTION.

A. WHICH IS WHAT?

THE COURT: THE QUESTION IS CAN YOU READ THE DATE.

A. I CAN READ A DATE BUT I CANNOT IDENTIFY THE PICTURE.

THE COURT: OKAY. NEXT QUESTION.

Q. (BY MR. FERNANDEZ) WHAT IS THE DATE?

A. IT SAYS 04, DOT, 10, DOT, 2013, SPACE, (INAUDIBLE) 13.

Q. SO APRIL 10TH, 2013?

A. I HAVE NO IDEA.

Q. OKAY.

A. ARE YOU ASKING –

Q. TAKE A MOMENT TO FLIP- THROUGH THE PICTURES IF YOU WOULD AND TELL ME IF YOU RECOGNIZE ANY OF THE LOCATIONS THERE.

A. FOR EXAMPLE, THE LAST PICTURE IS SO OUT OF FOCUS IT'S NOT POSSIBLE TO –

MR. BRIGGS: LET ME LOOK AT IT.

Q. (BY MR. FERNANDEZ) DO YOU RECOGNIZE ANY OF THE PICTURES?

THE COURT: LET'S SLOW DOWN. HE'S LAYING FOUNDATIONAL QUESTIONS. THE QUESTION IS, MR. BRIGGS AND DR. FALTAS, CAN YOU IDENTIFY THE THINGS THAT ARE IN ANY OF THOSE PICTURES?

MR. BRIGGS: YOUR HONOR, AGAIN I OBJECT TO THE PICTURES AS BEING IRRELEVANT. THERE'S A STANDARD, HARD FAST RULE THAT WE DON'T TALK ABOUT THINGS THAT HAPPENED AFTER THE DATE –

THE COURT: LET'S DO THIS. STOP. IF WE ARE GOING TO HAVE A SPEAKING OBJECTION WE DO IT OUTSIDE THE PRESENCE OF THE JURY.

MR. BRIGGS: OKAY.

THE COURT: THAT'S THE RULE IN HERE TODAY.

MR. BRIGGS: ARE WE GOING TO GO OUT OR ARE THEY GOING TO GO OUT, YOUR HONOR?

THE COURT: YOU WANT IT ON THE RECORD?

MR. BRIGGS: NO.

THE COURT: LET'S JUST HAVE A QUIET CONVERSATION OVER HERE.

MR. BRIGGS: THAT WILL BE FINE.

(COUNSEL APPROACH THE BENCH OFF THE RECORD)

THE COURT: THANK YOU, SIR. YOU CAN STILL ANSWER THE QUESTION, DR. FALTAS. DO YOU RECOGNIZE THINGS IN THOSE PICTURES? WHAT'S THE QUESTION THAT WAS BEING QUESTIONED.

A. I'M SORRY. AM I ANSWERING THE COURT OR AM I ANSWERING –

THE COURT: YOU ARE ANSWERING MR. FERNANDEZ. I'M JUST TRYING TO ASSIST US IN STAYING ON TASK.

MR. BRIGGS: YOUR HONOR, I'M NOT SURE I GOT MY FULL OBJECTION ON THE RECORD.

THE COURT: WE WILL PRESERVE IT FOR YOU TO LAY IT ALL OUT AS YOU SO CHOOSE.

MR. BRIGGS: THAT WILL BE FINE.

THE COURT: AND WE'RE GOING TO DO THAT OUTSIDE THE PRESENCE OF THE JURY. AND, DR. FALTAS, THE QUESTION IS DO YOU – CAN YOU

IDENTIFY THE THINGS THAT ARE PRESENT IN THOSE PICTURES?

A. I HAVE NO SEEN THOSE PICTURES BEFORE. I HAVE NOT TAKEN THOSE PICTURES. SO THERE ARE SOME BUCKETS IN THE PICTURES THAT RESEMBLE MY BUCKETS. MY BUCKETS AREN'T UNIQUE SO WHETHER THESE ARE MY BUCKETS OR NOT BECAUSE I HAVE NOT TAKEN THOSE PICTURES.

THE COURT: LET'S DO THIS. IS THE ANSWER – CAN WE START WITH JUST YES OR NO?

A. BUT THAT'S PRECISELY THE POINT, YOUR HONOR. I CANNOT GIVE A YES OR NO ANSWER. I NEVER SAW –

Q. (BY MR. FERNANDEZ) YOU OWN THE PROPERTY AT 324 BYRON ROAD, CORRECT?

A. NO, I CO-OWN IT WITH MY MOTHER.

Q. SO YOU ARE QUITE FAMILIAR WITH IT, CORRECT? YOU SAID IT YOURSELF, YOU TESTIFIED YOU'VE BEEN THERE EVERY DAY ALMOST?

A. NO, IT'S LAND. IT'S LAND. THERE IS –

Q. DO YOU RECOGNIZE THIS LAND OR NOT? THAT'S THE QUESTION AND IT'S VERY SIMPLE. AND, IF YOU WOULD, JUST SAY YES OR NO, I WOULD APPRECIATE IT.

A. IS THERE A STREET THAT GIVES THE –

Q. IS THAT A NO OR IS THAT A YES?

A. I HAVE NOT SEEN THESE PICTURES BEFORE.

MR. BRIGGS: WE GET THAT.

THE COURT: LET'S STOP. THESE ARE FOUNDATIONAL QUESTIONS. IF YOU CAN'T RECOGNIZE IT, YOU CAN'T RECOGNIZE IT. IF YOU CAN, YOU CAN. BUT FOR US TO MOVE FORWARD JUST DO YOU RECOGNIZE THOSE PICTURES OR

NOT?

A. I – NO, THE PICTURES THEMSELVES I HAVE NOT SEEN BEFORE EVER.

THE COURT: DO YOU RECOGNIZE WHAT'S CONTAINED IN THE PICTURES?

A. I CANNOT FOR CERTAIN.

THE COURT: THAT IS AN ANSWER. THANK YOU VERY MUCH.

Q. (BY MR. FERNANDEZ) YOU DON'T RECOGNIZE IT.

A. NO, I DIDN'T SAY THAT. I SAID NOT FOR CERTAIN.

Q. I NEED AN ANSWER. AND YOU SAID YOU DON'T RECOGNIZE IT FOR CERTAIN. THAT'S FINE, WE'LL ACCEPT THAT.

A. NO, I SAID NOT FOR CERTAIN.

THE COURT: NOT FOR CERTAIN HAS BEEN SAID, IT'S IN THE RECORD. EVERYBODY HAS HEARD IT. WE'LL MOVE ON.

Q. (BY MR. FERNANDEZ) YOU ARE THE CO-PROPERTY OWNER OF THE PROPERTY SO YOU DO AGREE THAT YOU ARE RESPONSIBLE FOR THE PROPERTY AND ITS UPKEEP, CORRECT, AS THE CO-OWNER?

A. I AM NOT RESPONSIBLE FOR SATISFYING MR. HATCHER'S WHIMS.

Q. YOU ARE – I DIDN'T ASK THAT. I ASKED IF YOU ARE RESPONSIBLE FOR THE PROPERTY.

A. THE GRASS ON THIS PIECE OF LAND SINCE MOTHER AND I BOUGHT IT HAS BEEN MOWED RELIGIOUSLY. BEFORE WE BOUGHT IT, IT WAS A JUNGLE.

THE COURT: WE ARE GOING TO LET YOU EXPLAIN IT. IF YOU CAN START WITH THE QUESTION IF IT CAN BE ANSWERED YES OR NO, YES OR NO AND THE EXPLAIN, IT WILL KEEP HIM FROM ASKING YOU OVER AND OVER AGAIN. SO THE QUESTION WAS AS A CO-PROPERTY OWNER ARE YOU RESPONSIBLE FOR THE

PROPERTY MAINTENANCE AND UPKEEP OF THE PROPERTY?

A. I AM RESPONSIBLRE FOR DOING WHAT IS REASONABLE AND NECESSARY. I AM NOT RESPONSIBLE FOR SATISFYING THE WHIMS OF PEOPLE WITH AN ULTERIOR MOTIVE AND BIGOTED AGENDA.

Q. (BY MR. FERNANDEZ) AND YOU'VE – THIS PICTURE 15 – CITY 2-15, A BUNCH OF STAKES, RUSTY STAKES LAYING ON THE GROUND, I THINK YOU SAID SOMETHING ABOUT –

A. NO.

Q. -- BEING SAFE FOR CHILDREN. DO YOU REGARD THAT AS SAFE FOR KIDS, RUSTY STAKES LAYING ON THE GROUND?

A. THE CHILDREN SHOULD NOT BE THERE.

Q. WELL, KIDS ARE KIDS, THEY RUN AROUND, RIGHT?

A. NO. THE THING IS THESE WERE NOT THIS WAY WHEN I HAD THM.

Q. I'M GLAD YOU SAID THAT. SO THAT PICTURE IS DATED WHAT DATE?

A. THAT PICTURE IS DATED AFTER YOUR PEOPLE WHOM YOU ARE WORKING WITH SABOTAGED MY LAND –

Q. MS. FALTAS, PLEASE JUST ANSWER THE QUESTION.

A. I'M NOT MS. FALTAS, I'M DR. FALTAS.

THE COURT: DR. FALTAS. DR. FALTAS, PLEASE ANSWER THE QUESTION AND THEN YOU HAVE AN OPPORTUNITY TO EXPLAIN.

Q. (BY MR. FERNANDEZ) PLEASE ANSWER. WHAT DATE IS THAT PICTURE?

A. I DON'T KNOW WHAT DATE THAT PICTURE IS. IT HAS – I DID NOT TAKE IT. I'M ONLY RESPONSIBLE FOR WHAT I TAKE.

Q. WHAT DATE DOES IT SAY ON THE PICTURE?

A. OKAY. FIRST OF ALL, THERE IS NOTHING IN ANY CODE THAT SAYS STUFF

THAT IS RUSTY IS ILLEGAL.

THE COURT: DR. FALTAS, PLEASE START WITH ANSWERING THE QUESTION.

MR. FERNANDEZ: I'M TRYING TO JUST GET DONE HERE.

Q. (BY MR. FERNANDEZ) WHAT IS THE DATE ON THE PICTURE?

A. IT SAYS 07, DOT, 11, DOT, 2012, SPACE, 13, COLON, 39. BOTH OF THEM.

Q. ALL RIGHT. THANK YOU. THAT'S ALL I NEED JUST IDENTIFYING THEM.

A. NO, YOU ASKED ME IF IT'S SAFE FOR CHILDREN AND I'M ASKING THERE IS NOTHING THERE THAT WOULD CAUSE A CHILD TO DROWN. THERE IS NOTHING IN THE RUST THAT IS A HAZARD FOR A CHILD.

THE COURT: THAT QUESTION HAS BEEN ASKED AND ANSWERED. PLEASE ASK ANOTHER QUESTION.

A. NO, I HAVEN'T FINISHED. EVEN IF A CHILD PUT SOME RUST IN HIS OR HER MOUTH, IT WOULD BE A SOURCE OF NUTRITIONAL ITEM.

THE COURT: LET'S STOP. ONE THING AT A TIME.

A. HE ASKED ME IF IT'S SAFE FOR CHILDREN.

THE COURT: I'M SORRY. THE WORD STOP MEANS DO NOT CONTINUE.

A. I'M SORRY.

THE COURT: AND SO WHEN I SAY STOP THAT IS WHAT I MEAN.

A. THANK YOU.

THE COURT: MR. FERNANDEZ, ONE QUESTION. DR. FALTAS, ONE ANSWER.

MR. FERNANDEZ: THANK YOU.

Q. (BY MR. FERNANDEZ) YOU ARE A MEDICAL DOCTOR, CORRECT? AT LEAST

IN VIRGINIA?

A. NO, NO. I'M A MEDICAL DOCTOR EVERYWHERE.

Q. LICENSED TO PRACTICE IN VIRGINIA?

A. YES, AND VERY FEW PEOPLE ARE LICENSED ALL OVER THE WORLD. EVERYBODY IS --

Q. ARE YOU FAMILIAR WITH TETANUS?

A. OF COURSE.

Q. AND HOW DO YOU GET THAT? IS ONE OF THE WAY YOU CAN GET TETANUS THOUGH RUSTED METAL?

A. NO. YOU HAVE – IT HAS TO HAVE THE CLOSTRIDIUM TETANI ON IT. THE RUST ITSELF DOESN'T CAUSE TETANUS.

Q. BUT IS THAT POSSIBLE?

A. EVEN WITHOUT RUST TETANUS IS POSSIBLE.

Q. I UNDERSTAND THAT BUT IS IT POSSIBLE TO GET IT FROM THIS SITUATION?

A. YOU CAN GET TETANUS IF YOU ARE NOT IMMUNIZED AND YOU ARE PLAYING BALL AND YOU FALL AND YOU SKIN YOUR KNEE ON A PERFECTLY –

Q. I AGREE WITH EVERYTHING.

A. -- PERFECTLY SAFE –

Q. BUT IS IT POSSIBLE? IS IT JUST POSSIBLE THAT ANY OF THIS STUFF COULD GIVE SOMEONE TETANUS?

A. FROM THIS –

Q. THIS BUILDING MATERIAL, THIS RUBBISH, THIS TRASH?

A. -- PARTICULAR ONES – FIRST, IT'S NOT TRASH.

Q. IS THERE ANY WAY?

THE COURT: MR. FERNANDEZ, PLEASE LET HER ANSWER THE QUESTION. DR. FALTAS, PLEASE ANSWER THE QUESTION.

Q. (BY MR. FERNANDEZ) IS IT POSSIBLE?

THE COURT: PLEASE ANSWER THE QUESTION.

A. IT IS EXTREMELY UNLIKELY BECAUSE THEY HAVE ROUNDED EDGES, ALL OF THEM, SO THEY ARE EXTREMELY UNLIKELY TO STAB SOMEBODY AND THE POLIES THAT ARE RUSTED THEY WOULD BE --

Q. (BY MR. FERNANDEZ) THAT'S A ROUNDED EDGE?

A. THIS ONE DID NOT STAY THAT WAY. THERE ISN'T A SINGLE PICTURE OF THIS ONE BESIDES – CAN YOU LET ME FINISH THE ANSWER?

Q. I DIDN'T SAY ANYTHING.

A. ALL RIGHT, LET ME FINISH. DON'T BE HANDING ME SOMETHING –

THE COURT: DR. FALTAS, PLEASE DON'T CHASTISE HIM. JUST PLEASE ANSWER THE QUESTION.

A. OKAY. THIS IS FACING TO MY LAND WHERE CHILDREN – NOBODY – THERE IS DO NOT TRESPASS. PEOPLE SHOULD NOT COME IN THERE. NOW CAN SOMEONE GO TO MY LAND, VIOLATE THAT TRESPASS SIGN AND SHOOT THEMSELVES? YES, THEY CAN.

Q. ABSOLUTELY.

A. BUT IS THAT MY RESPONSIBILITY? NO.

MR. FERNANDEZ: THANK YOU.

THE COURT: ANY ADDITIONAL QUESTIONS, MR. FERNANDEZ?

A. HAVE –

THE COURT: YOU'VE ANSWERED THE QUESTION, DR. FALTAS. GIVE HIM THE OPPORTUNITY TO ASK YOU ANOTHER ONE.

A. BESIDES –

THE COURT: PLEASE GIVE HIM THE OPPORTUNITY TO ASK YOU ANOTHER QUESTION.

Q. (BY MR. FERNANDEZ) WHEN WAS THE LAST TIME YOU VISITED THE PROPERTY, WHAT DAY?

A. ACTUALLY IT WAS I THINK YESTERDAY AND I HAVE STRAIGHTNED OUT SOME INVERTED BUCKETS.

Q. WHAT TIME YESTERDAY?

A. WHAT, YESTERDAY WAS WEDNESDAY? NO, IT WASN'T YESTERDAY. IT WAS THE DAY BEFORE, TUESDAY. NO. IT WAS EITHER TUESDAY OR WEDNESDAY.

MR. BRIGGS: TUESDAY OR WEDNESDAY IS AN ANSWER, YOUR HONOR.

MR. FERNANDEZ: THAT'S FINE.

Q. (BY MR. FERNANDEZ) SO HOW MUCH TIME DOES IT TAKE EVERY WEEK TO CONSTANTLY STRAIGHTEN UP THESE BUCKETS, ASSUMING THAT'S WHAT YOU ARE DOING? YOU MUST BE VISITING THERE ALMOST ON A DAILY BASIS. IS THAT ACCURATE?

A. EVERY OTHER DAY AND WHEN I STRAIGHTEN THEM OUT, I STRAIGHTEN THEM OUT. I ALSO – I MEAN BY VIRTUE OF NECESSITY AND AS PART OF BEING OUT IN THE SUN THERE IS NOTHING – WHAT IS YOUR ISSUE? I STRAIGHTEN THEM. THEY DON'T STAY.

THE COURT: IT'S NOT AN ISSUE, DR. FALTAS. IT'S A QUESTION. PLEASE ANSWER THE QUESTION.

MR. FERNANDEZ: YOUR HONOR, I DON'T HAVE TO HAVE AN

ANSWER. I'LL TAKE THE PICTURES BACK. THANK YOU. I THINK I'M DONE.

THE COURT: ALL RIGHT. YOU HAVE FINISHED YOUR CROSS EXAMINATION, MR. FERNANDEZ?

MR. FERNANDEZ: I HAVE. I'M JUST GOING TO REORGANIZE THE PICTURES.

THE COURT: ANY REDIRECT, MR. BRIGGS?

MR. BRIGGS: JUST ONE, YOUR HONOR.

REDIRECT EXAMINATION BY

MR. BRIGGS:

Q. DR. FALTAS, WE ASKED YOU THIS QUESTION BEFORE BUT SINCE HE'S TALKING ABOUT SOMETHING I HAVE TO – YOU WERE SUMMONED AND NOTICED. HAVE YOU HAD ANY SUBSTANTIVE CONVERSATIONS WITH MR. SIMS OR MR. HATCHER SUBSEQUENT TO THE TIME YOU WERE SERVED WITH THE SUMMONS? AND YOU'VE ALREADY TESTIFIED THAT THERE WAS SOME CASUAL CONVERSATIONS WHEN Y'ALL WERE IN COURT FOR OTHER MATTERS OR THIS MATTER OR WHATEVER.

A. NO, I DIDN'T TESTIFY WE WERE FOR OTHER MATTERS. I SAID WE WERE IN COURT FOR THIS SINGLE MATTER SIX TIMES THAT THEY NEVER –

Q. JUST FOR WHAT WE CALL A ROLL CALL?

A. NO, IT WASN'T A ROLL CALL.

THE COURT: STOP. PLEASE ASK YOUR QUESTION AGAIN, MR. BRIGGS.

Q. (BY MR. BRIGGS) THE QUESTION IS DID YOU HAVE ANY CONVERSATIONS SUBSEQUENTLY, THAT IS, DID YOU TALK ABOUT THE ORDINANCES, DID YOU TALK ABOUT WHAT YOU NEEDED TO DO TO GET IN COMPLIANCE, DID YOU DO

ANY OF THOSE THINGS WITH MR. HATCHER OR MR. SIMS AFTER YOU WERE SERVED WITH THE SUMMONS?

A. AGAIN –

Q. AND IF IT'S JUST ONE OR TWO, SAY THAT. THAT'S A SIMPLE QUESTION AND IT JUST NEEDS A SIMPLE ANSWER.

A. AGAIN, MR. HATCHER – IN FACT, WE MAY HAVE DISCUSSED THE RUST.

Q. THE WHAT?

A. RUST. R-U-S-T (SPELLED).

Q. ALL RIGHT.

A. AND I MAY HAVE TOLD HIM THAT IT'S NOT IN MY INTEREST TO HAVE THIS METAL WHICH IS NOT SCRAP TO BE RUSTY BUT I NEED PROTECTION TO WALK AND GIVE IT MORE COVER AND BASICALLY HE SAID IT DOESN'T MATTER BECAUSE WHATEVER HE SAYS TRASH IS IS AND THEN HE EVEN DIDN'T WANT ME TO –

MR. BRIGGS: I THINK YOU'VE ANSWERED MY QUESTION.

THE COURT: I THINK YOU'VE RESPONDED.

MR. BRIGGS: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. YOU MAY STEP DOWN.

A. YOUR HONOR, I DON'T WANT (INAUDIBLE). THEY'VE BEEN ADMITTED –

THE COURT: IF YOU'LL JUST STEP DOWN, WE'LL SORT THAT OUT.

A. AND I DON'T WANT TO BE ....

THE COURT: JUST STEP DOWN AND LEAVE EVERYTHING WHERE IT IS. WE'LL GO THROUGH THEM.

(WITNESS TO THE SIDE)

THE COURT: ANYTHING ELSE FOR THE DEFENSE?

MR. BRIGGS: NO, YOUR HONOR. WE DON'T HAVE ANY OTHER WITNESS TO CALL. WE REST.

THE COURT: ANYTHING FROM THE STATE IN REPLY?

MR. FERNANDEZ: YES, YOUR HONOR. WE RECALL MYRON SIMS TO REBUT HER BRIEFLY.

THE COURT: MR. SIMS, IF YOU WILL HOLD ONE MOMENT BEFORE YOU TAKE THE STAND, SIR. MR. SIMS, YOU ARE STILL UNDER OATH. PLEASE ANSWER ANY QUESTIONS THAT MR. FERNANDEZ MAY HAVE FOR YOU.

MYRON SIMS, HAVING BEEN PREVIOUSLY SWORN BY THE COURT, TESTIFIES AS FOLLOWS:

DIRECT EXAMINATION BY

MR. FERNANDEZ:

Q. MYRON, DID YOU EVER THREATEN MS. FALTAS?

A. NO, SIR.

Q. YOU HEARD HER TESTIFY ABOUT A COUPLE OF THINGS. HAS ANY OF IT BEEN ACCURATE?

MR. BRIGGS: NOW, YOUR HONOR, THAT'S TOO BROAD OF A QUESTION.

Q. (BY MR. FERNANDEZ) SHE SAID Y'ALL THREATENED HER. DID YOU EVER DO THAT?

A. BE MORE SPECIFIC. I HAVE NEVER THREATENED ANYBODY.

Q. YOU WERE WITH MR. HATCHER THE WHOLE TIME. DID YOU EVER HEAR HIM THREATEN HER?

A. NO, SIR. THE DAY MR. HATCHER WENT OUT TO DR. FALTAS' PROPERTY WITH ME, I BELIEVE – I KNOW IT WAS TWICE. THE LAST TIME WE WENT OUT

THERE HE AND HER TALKED AND THE REASON HE WENT OUT THERE HE SAID, DOCTOR, I WANT TO RESOLVE THIS WITHOUT US HAVING TO GO TO COURT AND I REMEMBER HIM SAYING THAT OVER AND OVER.

THE COURT: DR. FALTAS, IF ANYTHING HAS FALLEN JUST PLEASE LEAVE IT UNTIL WE GET FINISHED. JUST LEAVE IT HOW IT IS.

DEFENDANT FALTAS: I DON'T WANT ANYONE TO TRIP (INAUDIBLE).

THE COURT: IT'S OKAY. PLEASE LEAVE IT.

A. SO FOR HIM TO SAY WHAT SHE SAID ABOUT I JUST WANT YOU TO GO TO – NOBODY WANTS HER TO GO TO JAIL.

Q. (BY MR. FERNANDEZ) LET ME ASK YOU THIS. THE PICTURES IN FRONT OF YOU – TRY NOT TO SHOW THEM TO THE JURY RIGHT NOW. DO YOU RECOGNIZE THOSE PICTURES?

A. YES, SIR.

Q. DID YOU TAKE THOSE PICTURES?

A. YES, SIR, I TOOK THEM YESTERDAY AFTERNOON.

Q. THAT WOULD BE THE 10TH OF APRIL?

A. 10TH OF APRIL AT APPROXIMATELY 1630.

Q. AND WHAT DO THEY PURPORT TO SHOW?

MR. BRIGGS: YOUR HONOR –

THE COURT: IF HE SEEKS TO MOVE THEM, WE WILL OBJECT. WE WILL CLEAR THE JURY AND WE WILL HAVE FULL ARGUMENT AND WE'LL BRING THEM BACK.

MR. FERNANDEZ: THE CITY IS GOING TO MARK THEM AS CITY EXHIBIT I THINK AT THIS POINT NUMBER THREE COLLECTIVELY.

THE COURT: MARKED FOR IDENTIFICATION PURPOSES ONLY.

MR. FERNANDEZ: AND I WILL ALSO INDICATE ON THERE AS I DID THE LAST TIME PAGE NUMBERS.

Q. (BY MR. FERNANDEZ) MYRON, WHAT DO THESE PICTURES – WHAT DO THEY SHOW?

A. I TOOK THOSE PICTURES OF THE VACANT LOT AT 325 BYRON ROAD.

Q. IS IT THE SAME EXACT LOT AS THE PICTURES THAT WE ENTERED PREVIOUSLY?

A. YES, SIR.

MR. FERNANDEZ: THE CITY SEEKS TO MOVE THESE INTO EVIDENCE, YOUR HONOR.

THE COURT: ALL RIGHT. THERE'S AN OBJECTION. LADIES AND GENTLEMEN OF THE JURY, WE ARE GOING TO ASK YOU TO GO OUT SO WE CAN PLACE THE OBJECTION ON THE RECORD AS I THINK IT WILL BE MORE OF A LENGTHY DISCUSSION. WE'LL ASK YOU TO COME BACK IN A MOMENT.

(JURY LEAVES THE JURY BOX)

THE COURT: YES, SIR, MR. BRIGGS.

MR. BRIGGS: YOUR HONOR, MY OBJECTION IS THAT, FIRST OF ALL, IT'S IRRELEVANT TO THE POINT OF WHETHER OR NOT ON OCTOBER 20TH OF 2011 DR. FALTAS WAS GUILTY OF VIOLATING THOSE ORDINANCES. THAT'S MY FIRST POINT. SECOND POINT, YOUR HONOR, IS I FORGET THE NUMBER, 404 OF THE RULES OR SOMETHING LIKE THAT. I THINK MR. LUPTON MENTIONED IT THE OTHER DAY.

THE COURT: PROBATIVE VALUE AND PREJUDICE.

MR. BRIGGS: RIGHT. IT'S NOT ONLY GOT TO BE RELEVANT, YOUR

HONOR, IT HAS TO BE SUCH THAT THE PROBATIVE VALUE OF IT IS OF LESS VALUE THAN THE POSSIBLE HARM TO THE PERSON IT'S BEING ENTERED INTO AGAINST. I THINK THAT'S A CLEAR VIOLATION OF THAT PROVISION. IN FACT, I WISH I HAD BROUGHT MY TWELVE PAGE MEMO ON THOSE TWO SECTIONS BUT YOU KNOW IT HAS TO BE RELEVANT AND COMPETENT, YOUR HONOR. AND IT'S NOT COMPETENT WHEN THE DAMAGE COULD BE DONE. THE THIRD POINT IS – AND I THINK IT'S OVERLAPPING BUT IN FORTY-THREE YEARS OF PRACTICE I'VE ALWAYS KNOWN THE RULE TO BE THERE AIN'T TEN PERCENT OF THE CASES WHERE YOU CAN ENTER STUFF IN THAT'S AFTER THE DATE THAT WE ARE TALKING ABOUT BECAUSE SHE WAS EITHER GUILTY ON THAT DATE OR SHE WASN'T, YOUR HONOR. AND THIS IS ESSENTIALLY CHARACTER ASSASSINATION. AND I OBJECT TO IT STRONGLY AND STRENUOUSLY AND I'M DISAPPOINTED THAT MR. FERNANDEZ TRIED TO DO THAT.

THE COURT: MR. BRIGGS, YOU ARE SAYING THE PICTURES ARE CHARACTER ASSISSINATION?

MR. BRIGGS: YES.

THE COURT: I JUST WANTED TO MAKE SURE I DIDN'T MISS SOMETHING. OKAY. ANYTHING IN REPLY, MR. FERNANDEZ?

MR. FERNANDEZ: YOUR HONOR, I THINK THE REASON I DIDN'T MOVE TO PLACE THEM INTO EVIDENCE IN THE CASE IN CHIEF IS EXACTLY WHY MR. BRIGGS IS SAYING. I DID NOT THINK IT WAS RELEVANT IN THE CASE IN CHIEF. I TOOK SPECIFIC NOTES THAT THE DEFENDANT DID TESTIFY TO AND QUESTIONS WAS ASKED. IT WASN'T THAT SHE WAS JUST GOING OFF ON A TANGENT. QUESTIONS WERE ASKED ABOUT AFTER THE FACT STUFF INCLUDING SPECIFICALLY CLEANING UP THE PROPERTY, ORGANIZING IT AND WHAT SHE

WAS ATTEMPTING TO DO AND HOW THAT IS NO LONGER AN ISSUE, HOW THEY ARE NO LONGER WITHIN FORTY-EIGHT HOUR INCREMENTS. WE'VE HEARD A LOT ABOUT THAT. THESE PICTURES PROVE -- IT GOES STRAIGHT TO HER CREDIBILITY FIRST OF ALL AND, SECOND OF ALL, THEY PROVE THE EXACT OPPOSITE OF WHAT SHE JUST TESTIFIED TO. SHE MADE IT RELEVANT.

DEFENDANT FALTAS: YOUR HONOR –

MR. BRIGGS: JUST ONE OTHER SENTENCE, YOUR HONOR. NINETY PERCENT OF THOSE QUESTIONS I ASKED WERE ABOUT HER CONVERSATIONS WITH THE PROSECUTING WITNESSES, NOT OTHER STUFF THAT HAPPENED BUT I WANTED TO KNOW IF SHE EVER REALLY UNDERSTOOD WHAT SHE WAS BEING ACCUSED OF VIOLATING, YOUR HONOR.

THE COURT: WELL, WHETHER THAT'S PROPER OR NOT, I DON'T HAVE TO RULE ON IT. I DO BELIEVE THAT MR. BRIGGS IS RIGHT AND MR. FERNANDEZ AGREES THAT HAD MR. FERNANDEZ WALKED IN HERE AND TRIED TO ENTER THOSE PICTURES IN IN THE CASE IN CHIEF THAT WOULD BE ABSOLUTELY PROHIBITED AND I WOULD NOT HAVE ALLOWED IT. IN THE DIRECT OF MS. FALTAS, SOME OF WHICH ON THE QUESTIONING OF MR. BRIGGS, SOME OF WHICH IN MS. FALTAS' STATEMENTS, THERE WAS CLEARLY EVIDENCE THAT THINGS HAD BEEN ORGANIZED, THAT THINGS DID NOT LAST OVER FORTY-EIGHT HOURS AND THERE WERE SPECIFIC CHALLENGES BY DR. FALTAS THAT THEY DIDN'T HAVE ANOTHER PICTURE TO SHOW SOMETHING AFTER FORTY-EIGHT HOURS. NOW THAT'S PRETTY SPECIFIC, PRETTY STRONG AND UNSOLICITED. I ALSO BELIEVE THAT OPENS THE DOOR FOR THIS. I DON'T THINK IT WOULD HAVE BEEN PROPER OTHERWISE. I THINK IN DOING SO SHE OPENED THE DOOR. I WILL ALLOW THEM IN. THE RECORD IS PRESERVED FOR YOUR

OBJECTION SO YOU HAVE YOUR RIGHTS ON APPEAL.

MR. BRIGGS: I HAVE NOTHING FURTHER BUT I RESERVE THE OBJECTION, YOUR HONOR.

THE COURT: ABSOLUTELY.

DEFENDANT FALTAS: YOUR HONOR, MAY I SAY SOMETHING, PLEASE. THIS HAS TO DO WITH YOUR –

MR. BRIGGS: YOU'VE HURT YOURSELF A GREAT DEAL ALREADY, LADY. SIT DOWN.

DEFENDANT FALTAS: YOU ARE THINKING THAT I'M IN CONTEMPT.

THE COURT: NO, NO. WE WILL ADDRESS THAT AFTER THIS IS OVER. RIGHT NOW WE'RE ONLY GOING TO DEAL WITH THESE ISSUES. WE HAVE TO GET THIS CASE CONCLUDED.

DEFENDANT FALTAS: WELL, I'M SORRY. HE JUST TESTIFIED –

THE COURT: WE WILL ADDRESS THOSE ISSUES. IF YOU'VE GOT ANY MOTIONS YOU WANT YOUR ATTORNEY TO MAKE, THAT IS FINE. PLEASE HAVE A SEAT.

DEFENDANT FALTAS: I WANT TO CALL MYSELF IN REPLY SINCE IT'S –

THE COURT: WELL, RIGHT NOW HE'S ON THE STAND. WE ARE GOING TO FINISH HIM AS A WITNESS. PLEASE HAVE A SEAT.

DEFENDANT FALTAS: BUT I'M JUST SAYING OKAY –

THE COURT: PLEASE HAVE A SEAT.

DEFENDANT FALTAS: THAT I CAN GET MYSELF EVEN IF HE DOESN'T (INAUDIBLE).

THE COURT: PLEASE HAVE A SEAT. WE'LL ADDRESS ANYTHING

THAT HAPPENS AFTER THIS WITNESS.

DEFENDANT FALTAS: ALL RIGHT, SIR.

THE COURT: PLEASE BRING THE JURY BACK IN.

(JURY RETURNS TO THE JURY BOX)

THE COURT: MR. FERNANDEZ, PLEASE – WHEN YOU WENT OUT THERE WAS A MOTION TO ADMIT PICTURES AND THERE WAS AN OBJECTION. THE OBJECTION HAS NOW BEEN PRESERVED FOR THE RECORD BUT THE RULING OF THE COURT IS THAT THE PICTURES ARE ADMITTED INTO EVIDENCE. PLEASE CONTINUE.

(PHOTOGRAPHS ARE RECEIVED INTO EVIDENCE AS CITY'S EXHIBIT #3)

Q. (BY MR. FERNANDEZ) MYRON, WHAT DO THOSE PICTURES SHOW FOR YESTERDAY'S DATE?

A. THE DATE IS APRIL 10TH, 2013.

Q. WHAT DO THEY SHOW?

A. THEY SHOW THE VACANT LOT AT 324 BYRON ROAD. THEY SHOW THE MATERIALS THAT ARE STORED ON THAT VACANT LOT. THE FIRST PICTURE SHOWS SOME METAL MATERIAL ON TOP OF EACH OTHER.

Q. IN WHAT CONDITION ARE THE BUCKETS?

A. WELL, MOST OF THE BUCKETS ARE TURNED UPSIDE DOWN. SOME OF THEM ARE LAYING ON THEIR SIDE. SOME OF THEM TURNED UP LIKE THIS ONE WHICH MAKES IT A SOURCE FOR STAGNANT WATER. THERE'S MORE BUCKETS BACK HERE STANDING UP.

Q. WHAT IS THAT PICTURE, PAGE 3? WHAT DOES THAT SHOW?

A. IT'S SOME MATERIAL BACK AT THE BACK OF THE LOT. BY THE WAY, I DIDN'T GO ON HER PROPERTY. I TOOK THE PICTURES FROM THE ADJACENT

PROPERTY. IT'S BASICALLY A LOT – SOME OF THE MATERIAL HAD BEEN MOVED AROUND BUT A LOT OF IT IS STILL THERE.

Q. OKAY.

A. THIS PICTURE, THAT WOULD BE THE FOURTH PICTURE, IS ANOTHER OPEN CONTAINER THAT I BELIEVE IS THE SAME CONTAINER THAT WAS IN ONE OF THE PREVIOUS PICTURES.

Q. I'M GOING TO SHOW YOU THAT ONE IN A MINUTE. WHAT DATE IS THIS PICTURE, THE BOTTOM PICTURE ON PAGE – CITY 2-10, PAGE 10.

A. THAT WOULD BE JULY 11TH, 2012.

Q. AND WHAT DOES IT SHOW?

A. IT SHOWS THAT CONTAINER IS OPEN, THAT IT CAN HOLD WATER.

Q. THAT OTHER PICTURE, WHAT DATE IS THAT?

A. APRIL THE 10TH, 2013.

Q. IS THAT THE SAME EXACT BUCKET?

A. YES, SIR, IT IS.

Q. HOW MANY YEARS LATER IS THAT?

A. IT'S ALMOST A YEAR.

Q. THE LAST PAGE IS A LITTLE BLURRY. WHAT IS THAT – EXPLAIN TO US WHAT THAT SHOWS. I KNOW IT DIDN'T TURN OUT GREAT FOR YOU.

A. NO. WHAT IT IS IS THE ENGINEER STAKES OR METAL POLES THAT DR. FALTAS PUT IN TO MARK HER BOUNARIES. THEY ARE BENT OVER AND SORT OF LAYING IN THE GRASS.

Q. I SHOW YOU THIS PICTURE. TELL ME THE DATE ON THE TOP PICTURE AND WHAT IT SHOWS.

A. JULY 11TH, 2012. IT SHOWS THE SAME THINGS JUST MUCH CLEARER.

MR. FERNANDEZ:. THANK YOU. PERMISSION TO PUBLISH TO THE JURY, YOUR HONOR. NO FURTHER QUESTIONS.

THE COURT: THANK YOU. ANY CROSS?

MR. BRIGGS: NO CROSS, YOUR HONOR.

THE COURT: THANK YOU. YOU CAN BE EXCUSED, MR. SIMS.

(WITNESS TO THE SIDE)

THE COURT: ANYTHING FURTHER FROM THE STATE?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: ALL RIGHT. MR. BRIGGS, ANYTHING BEFORE WE GET INTO CLOSING ARGUMENTS?

DEFENDANT FALTAS: YOUR HONOR, I NEED TO TESTIFY.

THE COURT: HOLD ON. TALK TO MR. BRIGGS FIRST, PLEASE.

(DISCUSSION AT DEFENSE COUNSEL TABLE:

MR. BRIGGS: WHAT DO YOU WANT TO TESTIFY? YOU KILLED YOURSELF WITH THE JURY WITH THE OTHER TESTIMONY.

DEFENDANT FALTAS: I WANT TO TESTIFY THAT WHAT I MEANT WAS FORTY-EIGHT HOURS FROM EACH OTHER, NOT FORTY-EIGHT HOURS FROM –

MR. BRIGGS: NO, I THOUGHT THAT WAS CLEAR.

DEFENDANT FALTAS: NO, I WANT TO MAKE IT CLEAR. BESIDES –

MR. BRIGGS: WHY DON'T I AGUE –

DEFENDANT FALTAS: NO, I NEED TO TESTIFY.)

MR. BRIGGS: YOUR HONOR, IT'S ONE QUESTION. I THINK IT'S SUFFICFIENT AND I THINK WE OUGHT TO CALL HER.

THE COURT: ANY OBJECTION, MR. FERNANDEZ?

MR. FERNANDEZ: I OBJECT UNLESS IT'S NEW – SOMEHOW NEW.

THE COURT: IS IT SOMETHING THAT WAS RAISED ON –

MR. BRIGGS: IT'S NOT YOU, IT'S WITH REGARD –

THE COURT: WAIT A MOMENT. MR. BRIGGS, IS IT NEW?

MR. BRIGGS: IT'S NOT A SUBJECT HE TALKED ABOUT, YOUR HONOR, BUT IT IS RELEVANT IN THE SENSE THAT SHE FEELS LIKE THERE'S A MISUNDERSTANDING.

THE COURT: I MAY HAVE ASKED A BAD QUESTION. IS IT NEW?

DEFENDANT FALTAS: YES.

MR. BRIGGS: IT IS NOT ANYTHING THAT HE TESTIFIED ABOUT.

DEFENDANT FALTAS: YES, IT IS.

THE COURT: I WILL – DR. FALTAS. I WILL NOT GRANT THE ADDITIONAL TESTIMONY. WE ARE NOW AT THE POINT OF CLOSING ARGUMENTS. DO YOU WAIVE OPENING?

MR. FERNANDEZ: YES, YOUR HONOR.

THE COURT: ALL RIGHT. MR. BRIGGS, YOUR CLOSING.

MR. BRIGGS: THE EXTRA ONE WILL STILL BE HERE, YOUR HONOR?

THE COURT: WELL, NOW ASSUMING EVERYBODY MAKES IT THE LAST FEW MINUTES, WE ARE NOT GOING TO LET HER DELIBERATE BUT WE WILL ALLOW HER TO HEAR CLOSINGS.

(JURY RETURNS TO THE JURY BOX)

MR. BRIGGS: LADIES AND GENTLEMEN, AGAIN MY NAME IS ORIN BRIGGS AND I, OF COURSE, REPRESENT DR. FALTAS. I AM GOING TO BE BRIEF BECAUSE MR. FERNANDEZ IS NOT GOING TO DO MUCH EITHER I GUESS BUT, FIRST OF ALL, THE JUDGE IS GOING TO TELL YOU THAT YOU HAVE TO BELIEVE BEYOND A REASONABLE DOUBT. I'M NOT GOING TO DEFINE THAT FOR YOU

BECAUSE HE CAN DEFINE IT BETTER THAN I CAN. AND ALL SIX OF YOU HAVE TO AGREE ON A VERDICT. AND YOU HAVE TO DECIDE WHETHER OR NOT DR. FALTAS VIOLATED ANY OF THOSE ORDINANCES THAT HAVE BEEN CITED, AND YOU'LL GET A COPY OF IT. 8-32, 8-41 AND 307.1. AND I STARTED MY OPENING STATEMENT WITH, IF YOU WILL, THE BRIGGS VERSION OF 32 AND I'M GOING TO GIVE IT TO YOU AGAIN. ESSENTIALLY YOU ARE TALKING ABOUT TWO THINGS BEING A VIOLATION – TRASH WHICH WE DON'T HAVE A DEFINITION OF OR SOME KIND OF CONTAINER THAT MAY HOLD WATER SHALL BE DEEMED UNSANITARY. NOW I DON'T KNOW WHY AND I WILL ARGUE TO THE JUDGE ABOUT HOW JUST HAVING A CONTAINER OUT THERE THAT MAY HOLD WATER BUT THAT DOESN'T HOLD WATER OR DOESN'T PRESENT A HEALTH HAZARD CAN BE A VIOLATION OF LAW BUT THAT'S MY PROBLEM. SO ESSENTIALLY AND I AM REPEATING MYSELF, I UNDERSTAND THAT, YOU HAVE GOT TO DECIDE BY BEYOND A REASONABLE DOUBT THAT DR. FALTAS VIOLATED A PROHIBITION IN 8-32 OR A PROHIBITION IN 8-41 OR A PROHIBITION IN 307.1. IF SHE DID NOT THEN YOU ARE REQUIRED TO RETURN A NOT GUILTY VERDICT. IF YOU AS A GROUP JUST THINK THAT SHE HAD VIOLATED THE LAW WITH HAVING SOME THINGS THAT WERE IN DISARRAY, IF YOU WILL, THEN I'M NOT SURE WHY SOME METAL SITITNG OUT THERE UNCOVERED HAS ANYTHING TO WITH HEALTH BUT THAT'S YOUR QUESTION. AS I TOLD YOU, THE JURY DECIDES THE ISSUES, THE FACTS.

YOUR HONOR, I AM GOING TO SAY ONE OTHER THING AND I'M GOING TO BE VERY CAREFUL AND I DON'T THINK I NEED TO BE STOPPED BUT I'M TELLING YOU AHEAD OF TIME. THE JURY NEEDS TO KNOW THAT DR. FALTAS HAS HAD ARGUMENTS, DISAGREEMENTS, LEGAL BATTLES WITH SOME OF THE WITNESSES IN THIS CASE FOR MORE THAN NINE YEARS.

MR. FERNANDEZ: YOUR HONOR, OBJECTION. THIS GOES WAY BEYOND THE RECORD.

THE COURT: SUSTAINED.

MR. BRIGGS: YOUR HONOR, THIS IS JUST NOT AN ISOLATED CASE.

THE COURT: OUTSIDE, PLEASE. DO NOT DO IT IN FRONT OF THE JURY.

(JURY LEAVES THE JURY BOX)

THE COURT: THE FIRST QUESTION. YOU ARE TALKING ABOUT MR. STEELE AND MR. MASON?

DEFENDANT FALTAS: HE CALLED THEM AS WTNESSES.

THE COURT: STOP. YOU ARE TALKING ABOUT MR. STEELE AND MR. MASON?

MR. BRIGGS: YES, AND THE CITY, TOO, YOUR HONOR.

THE COURT: DID SHE EVER HAVE A DISAGREEMENT WITH MR. SIMS OVER HERE?

MR. BRIGGS: NO.

THE COURT: SO YOU ARE TALKING ABOUT MR. MASON AND MR. STEELE?

MR. BRIGGS: YEAH.

THE COURT: YOU CALLED THEM. YOU ARE NOT GOING TO CALL THEM AND THEN ARGUE THAT SHE'S IN A LEGAL BATTLE WITH PEOPLE THAT YOU CHOSE TO CALL.

MR. BRIGGS: I CALLED THEM AS A HOSTILE WITNESS, YOUR HONOR.

THE COURT: I'M SORRY? THAT'S THE FIRST WORDS I HEARD

THAT. YOU DIDN'T SAY THOSE WORDS EARLIER TODAY. YOU DIDN'T SAY THOSE WORDS NOT ONE TIME TODAY SO I'M NOT GOING TO LET YOU GET INTO THAT. THERE'S NO EVIDENCE OF THAT IN THE CASE. YOU CALLED THE TWO WITNESSES.

MR. BRIGGS: I UNDERSTAND AND, YOUR HONOR, I WILL APOLOGIZE TO THE JURY IF YOU WANT ME TO.

THE COURT: I DON'T WANT YOU TO APOLOGIZE.

MR. BRIGGS: BUT I APOLOGIZE TO THE COURT NOW BUT I THINK – THIS IS NOT AN ISOLATED CASE AND IT'S CAUSED ME TO LOSE A LOT OF SLEEP BECAUSE I THINK THE CITY IS MISTREATING THIS LADY AND I WANT THE RECORD TO SHOW THAT.

THE COURT: THERE ARE VENUES TO ADDRESS THAT. THIS CASE ABOUT THIS CHARGE AS YOU'VE REMINDED US SEVERAL TIMES IS ABOUT THIS CHARGE ON THIS DATE AND THIS IS NOT THE ONE. I WILL ALLOW YOU TO FINISH YOUR CLOSING BUT IT CANNOT CONTAIN ANY OF THAT. PLEASE BRING THE JURY BACK.

DEFENDANT FALTAS: YOUR HONOR, AM I ALLOWED TELL HIM SOMETHING BEFORE THE JURY COMES IN?

THE COURT: VERY QUICKLY IF YOU WANT TO WALK OVER TO HIM BUT YOU NEED TO BE VERY QUIET SO THEY DON'T HEAR YOU.

(JURY RETURNS TO THE JURY BOX)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, WHILE HE'S PREPARING TO CONCLUDE HIS CLOSING, THERE WAS AN OBJECTION MADE TO SOME THINGS THAT HE REFERENCED. I HAVE SUSTAINED THE OBJECTION AND YOU ARE NOT TO CONSIDER THAT IN YOUR DELIBERATIONS. PLEASE HAVE A

SEAT, DR. FALTAS. MR. BRIGGS, YOU MAY FINISH.

MR. BRIGGS: LADIES AND GENTLEMEN, I'M ESSENTIALLY THROUGH. THE JUDGE AND I DECIDED THAT WHAT I WANTED TO SAY EARLIER WAS NOT APPROPRIATE, BUT THERE STILL SEEMS TO BE SOME QUESTION ABOUT HOW THE ORDINANCE WOULD BE APPLIED. DR. FALTAS AND I HAVE ARGUED VIGOROUSLY THAT THERE IS A – I DON'T KNOW WHAT YOU WOULD CALL IT -- A GRACE PERIOD MAYBE YOU WOULD CALL IT OF FORTY-EIGHT HOURS ANY TIME THERE HAS BEEN A VIOLATION. THAT IS, IF YOU'VE GOT AN OPEN CONTAINER WITH WATER IN IT AND IF IT DIDN'T STAY THERE FORTY-EIGHT HOURS YOU COULDN'T BE CHARGED. AND IF THAT HAPPENED THE NEXT WEEK YOU ARE STILL ENTITLED TO FORTY-EIGHT HOURS. SO I ARGUE THAT FOR YOU. THE JUDGE WILL MAYBE ADDRESS THAT OR NOT. AND AGAIN I THANK YOU FOR YOUR TIME AND YOUR SERVICE TODAY.

THE COURT: THANK YOU, MR. BRIGGS. MR. FERNANDEZ.

MR. FERNANDEZ: YES, YOUR HONOR. MAY IT PLEASE THE COURT.

THE COURT: YES, SIR.

MR. FERNANDEZ: LADIES AND GENTLEMEN, I APPRECIATE YOUR TIME WHETHER OR NOT I TRIED TO SPEED IT UP AS MUCH AS POSSIBLE KNOWING FULL WELL THAT IT MAY END UP – THIS KIND OF CASE MAY END UP GOING LONG. MR. BRIGGS IS CORRECT. THE JUDGE WILL TELL YOU ABOUT REASONABLE DOUBT. THAT'S THE STANDARD. THAT'S THE STANDARD THAT EVERY CIRMINAL CASE HAS TO BE MET IN ORDER TO CONVICT. WHAT THE JUDGE WILL TELL YOU IS REASONABLE DOUBT IS A DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT. THERE ARE PICTURES THAT SHOW EXACTLY WHAT MR. SIMS TESTIFIED TO. THERE'S LITTLE ROOM FOR

ERROR HERE. THE CITY'S PICTURES ARE SIXTEEN PAGES OF THEM. WE'VE CITED HER FOR THREE THINGS. IT'S ONE CITATION. YOU ONLY NEED TO CONSIDER ONE CITATION BUT THERE'S THREE POSSIBLE AVENUES THAT YOU CAN REACH A GUILTY VERDICT ON. ONE POSSIBLE AVENUE IS THAT THERE ARE MATERIALS HERE THAT TEND TO HOLD WATER. THAT'S EVIDENT FROM THE PICTURES. THERE'S MATERIALS THERE THAT ARE HOLDING WATER BUT THEN THERE'S ALSO A LOT OF OPEN CONTAINERS CONTAINING A LOT OF TRASH AND STUFF THAT WILL COLLECT WATER WHEN IT RAINS. SO THAT'S ONE WAY YOU CAN REACH A GUILTY VERDICT. THE SECOND WAY IS THAT THERE ARE MATERIALS OUT THERE THAT ARE – AND IT'S LISTED. YOU'LL HEAR FROM THE JUDGE 8-41. CERTAIN ITEMS PROHIBITED, CARBOARD IN THE PICTURES, BUILDING SUPPLY MATERIALS NOT RELATED TO AN ACTIVE PERMIT. ESTABLISHED SHE DOESN'T HAVE A PERMIT. NOT NEATLY STACKED ESTABLISHED BY THE PICTURES. PAPER ESTABLISHED IN THE PICTURES AND SCRAP METAL ESTABLISHED. THAT'S NUMBER TWO, THAT'S THE SECOND ONE YOU CAN CONVICT ON THIS ONE CHARGE. THE THIRD WAY YOU CAN CONVICT IS ACCUMULATION OF RUBBISH OR GARBAGE. THAT IS 307.1. THE DEFINITION IS JUST SAYING THAT THERE SHOULD NOT BE AN ACCUMLIATON OF RUBBISH OR GARBAGE ON THE PREMISES. THE JUDGE WILL TELL YOU THE DEFINITION OF RUBBISH. IT'S JUST LISTING THINGS, COMBUSTIBLE MATERIALS, PAPER, BOXES, WOOD, METALS, ALL MISCELLANEOUS ITEMS THAT ARE JUST STREWN ABOUT ESTABLISHED BY THE PICTURES. SO IN ORDER TO CONVICT ON JUST THE ONE CHARGE WE HAVE ALL YOU NEED IS TO AGREE WITH ONE OF THE THINGS I LISTED. JUST ONE. IF YOU AGREE WITH JUST ONE OF THOSE, LET ALONE ALL THREE, THEN THE VERDICT SHOULD BE GUILTY. THE REASON I PUT IN THE NEW PICTURES IS TO SHOW NOT

ONLY THE BEFORE AND AFTER, THAT'S REALLY NOT THE POINT, THE POINT IS THE DEFENDANT TESTIFIED HERSELF THAT SHE WAS FIXING THESE THINGS. SHE WAS GOING OUT THERE EVERY DAY FIXING THESE BUCKETS AND MOVING THE TOP ON – PUTTING LIDS ON TOP AND DOING ALL THIS FUN STUFF AND THE PICTURES DISPROVE THAT. THESE PICTURES WERE TAKEN OVER A YEAR APART AND YOU'LL SEE THERE ARE IDENTICAL SHOTS. THE BOXES, THE TRASHES REMAIN EXACTLY THE SAME, IF NOT ACCUMULATED MORE. THE BOXES – TWO OF THE SHOTS ARE EXACTLY THE SAME. THEY HAVE NOT EVEN BEEN TOUCHED. I THINK EVEN THE INTERIOR OF THE BOX IS THE SAME. AND THEN THE STEEL PEGS THAT ARE RUSTED AND ALL BENT OVER, THEY HAVEN'T BEEN MOVED. THEY ARE IN THE EXACT POSITION. SO TWO THINGS HAPPENED. EITHER MIRACULOSULY ON THE SAME TWO DAYS THAT MYRON WENT OUT THERE THEY WERE JUST LIKE THAT OR IT'S JUST NOT TRUE. THE DEFENDANT WASN'T DOING ANYTHING. SHE WASN'T FIXIING IT.

NOW SHE, I REMIND YOU, REFUSED TO IDENTIFY THESE PICTURES SO WHEN SHE HAD THE OPPORTUNITY TO TESTIFY SHE SWORE AN OATH TO TELL THE TRUTH, SHE SAID I DON'T KNOW WHAT THIS IS. THIS IS THE PROPERTY SHE OWNS SHE VISITS EVERY DAY. AND THERE'S A REASON SHE DIDN'T WANT TO TELL YOU THAT. IT'S NOT BECAUSE SHE DIDN'T KNOW WHAT IT WAS. THE REASON IS BECAUSE SHE KNEW WHAT IT MEANS. SHE KNOWS IT'S PRETTY STRONG STUFF SO SHE WAS PLAYING GAMES ON THE STAND. AS YOU COULD SEE, SHE WAS BEING VERY EVASIVE WITH MY QUESTIONS. SHE DIDN'T WANT TO ANSWER ANYTHING BECAUSE SHE KNEW WHERE THEY LED. THEY LED TO A NATURAL RESULT WHICH IS GUILTY.

IF ANYONE HAS EVER HEARD SOMEONE SAY, OH, HOW COME THE

CITY DOESN'T DO SOMETHING ABOUT THIS OR HOW COME THE CITY DOESN'T DO SOMETHING ABOUT THAT WHEN YOU SEE A MESSY HOUSE OR A TRASH SHREWN AREA JUST LIKE THIS. THIS IS THE PROCESS. THIS IS WHAT HAPPENS WHEN PEOPLE SAY I WANT YOU TO DO SOMETHING ABOUT IT. MYRON AND DAVID HATCHER GET COMPLAINTS, THEY GO OUT THERE, THEY INITIATE THE PROCESS AND IN MOST SITUATIONS ARE ABLE TO RESOLVE IT WIHTOUT THIS TRIAL BUT IN SITUATIONS LIKE THIS THE ONLY WAY TO RESOLVE IT IS TO GO TO TRIAL AND CONVICT. THAT'S WHY IT'S SO IMPORTANT TO THE CITY. THAT'S WHY IT'S SO IMPORTANT TO THESE NEIGHBORS WHO HAVE TO LIVE WITH THIS. SO WHEN I ASK YOU FOR A GUILTY VERDICT I'M NOT ASKING YOU BECAUSE I BELIEVE – NOT ONLY BECAUSE I BELIEVE I'VE PROVED IT BEYOND A REASONABLE DOUBT WHICH I HAVE, BEYOND ANY DOUBT, BUT BECAUSE THE CITIZENS OF THE CITY OF COLUMBIA DEMAND IT. THEY ARE EXPECTING THAT CERTAIN PROPERTIES LIVE UP TO THEIR BASIC SANITARY CONDITIONS AND BASIC TRASH CONDITION. THESE ARE NEIGHBORHOODS WITH KIDS AND THERE'S A REMEDY FOR IT AND IT'S CALLED THESE CHARGES – ONE CHARGE THAT WE ROLLED – THAT MYRON DIDN'T STACK CHARGES, HE JUST DID ONE. I'M ASKING FOR A GUILTY VERDICT. THANK YOU VERY MUCH FOR YOUR TIME.

THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE ARE ABOUT TO BE VERY CLOSE TO Y'ALL RECEIVING THE CASE FOR DELIBERATIONS. MADAM ALTERNATE, YOU ARE BEEN VERY DUTIFUL ALL DAY AND WE THANK YOU VERY MUCH BUT I THINK WE ARE CLOSE ENOUGH TO THE END NOW THAT WE CAN SAFELY LET YOU GO AND JUST ADDRSS THE FOLK THAT WE HAVE REMAINING. SO IF THERE IS NO OBJECTION WE'LL EXCUSE HER AT THIS TIME. SNY OBJECTION FROM THE STATE?

MR. FERNANDEZ: NONE.

THE COURT: ANY OBJECTION FROM THE DEFENSE?

MR. BRIGGS: NO OBJECTION, YOUR HONOR.

THE COURT: WE'LL LET YOU GO. THANK YOU, MA'AM.

(ALTERNATE JUROR IS DISMISSED)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE ARE GOING TO ASK YOU TO GO IN THE JURY ROOM AND TO MAKE YOUR FIRST DECISION. THERE HAS TO BE A FOREPERSON, IT CAN BE A MAN, CAN BE A LADY, CAN BE ANY ONE OF YOU. I'D LIKE FOR YOU TO MAKE YOUR FIRST GROUP DECISION AND TO ELECT A FOREPERSON WHO WILL BE IN CHARGE OF COMPLETING THE VERDICT FORM AND GIVING THAT INFORMATION TO THE COURT ONCE A VERDICT IS REACHED. IF YOU WILL GO BACK INTO YOUR JURY ROOM AND MAKE THAT DECISION, WE'LL BE BACK WITH YOU SHORTLY.

(JURY LEAVES THE JURY BOX)

THE COURT: I HAVE SECTION 8-32. I WOULD LIKE 8-41 AND 307.1 IF YOU HAVE THEM, MR. FERNANDEZ.

MR. FERNANDEZ: I'LL GIVE YOU MY COPIES, YOUR HONOR.

THE COURT: THANK YOU, SIR.

MR. FERNANDEZ: 8-41, ONLY SECTION "A" NEEDS TO BE READ UNLESS – IT'S NOT APPLICABLE.

THE COURT: ANY OBJECTION TO THAT, MR. BRIGGS? ONLY 8-41(A).

MR. BRIGGS: THAT'S FINE.

THE COURT: 307.1 AND THE DEFINITION OF RUBBISH. NOW ARE THERE ANY ADDITIONAL REQUESTS TO CHARGE? MR. BRIGGS?

MR. BRIGGS: I'VE GOT ONE, YOUR HONOR.

THE COURT: ALL RIGHT. PLEASE TELL US WHAT IT IS. PLEASE TELL US WHAT IT IS.

MR. BRIGGS: YOUR HONOR, I DON'T REMEMBER THE LAST TIME I USED THIS ONE BUT THE CLIENT INSIST ON IT, THE RULE OF LENITY – THAT'S L-E-N-I-T-Y (SPELLED) -- AND AS I UNDERSTAND THE RULE IT'S WHEN THERE IS AN AMBUGUITY IN A CRIMNAL LAW CASE THAT AMBUGUITY MUST BE RESOLVED AGAINST THE PROSECUTION. MAYBE THE COURT KNOWS A BETTER WAY OF SAYING THAT OR HOWEVER YOU USE IT, YOUR HONOR. I WILL DEFER TO YOUR USE OF IT IF YOU DECIDE TO GIVE THE CHARGE.

THE COURT: AND YOU – YOU KNOW, WE ARE ALREADY SAYING A REASONABLE DOUBT. PRETTY HIGH STANDARD.

DEFENDANT FALTAS: YOUR HONOR, THE RULE OF LENITY IS ABOUT HOW THE LAW IS WRITTEN. IT'S NOT ABOUT THE FACT, BUT ABOUT THE INTERPRETATION OF THE LAW. WHEN THE LAW IS AMBIGUOUS WHETHER IT'S FORTY-EIGHT HOURS FOREVER OR FORTY-EIGHT HOURS FROM EACH OTHER.

MR. BRIGGS: THAT'S ENOUGH, MARIE. YOUR HONOR —

THE COURT: WELL, I AM GOING TO ACTUALLY READ THE STATUTES THEMSELVES AND I THINK I'M GONNA LEAVE IT AT THAT.

MR. BRIGGS: YOUR HONOR, I'LL JUST RAISE THIS POINT AGAIN WHEN WE HAVE A LITTLE BIT MORE DISCUSSION ON MY MOTION ABOUT DUE PROCESS, YOUR HONOR.

THE COURT: YES, SIR. ALSO ON SECTION 8-32, I'M GOING TO STOP AT THE WORD GUILTY AND NOT STATE THE WORDS OF A MISDEMEANOR PUNISHABLE UPON CONVICTION INACCORDANCE WITH SECTION 1-5. ANY

OBJECTION TO THAT?

MR. BRIGGS: I DON'T OBJECT TO THAT, YOUR HONOR.

MR. FERNANDEZ: NO OBJECTION, YOUR HONOR.

THE COURT: DO WE NEED TO READ 106.1 OF THE PROPERTY MAINTENANCE CODE?

MR. FERNANDEZ: YOU'LL HAVE TO TELL ME WHAT THAT IS, YOUR HONOR.

THE COURT: UNLAWFUL ACTS, FIRST OFFENSE.

MR. FERNANDEZ: I THINK WE SHOULD JUST BECAUSE THAT'S –

THE COURT: DO YOU HAVE A COPY OF IT?

DEFENDANT FALTAS: THAT'S PREFCISELY THE POINT, YOUR HONOR. I WASN'T NOTICED UNDER THAT AND THERE IS A DISCREPANCY BETWEEN THE NOTICE AND THE SUMMONS.

THE COURT: WE WILL ALLOW – I FIND THAT 106.1 IS PROPER TO ENFORCE THE OTHER SECTIONS THAT HAVE BEEN PUT FORWARD SO WE WILL ALLOW IT TO GO TO THE JURY. THANK YOU.

MR. BRIGGS: AND, OF COURSE, 32 SAYS SECTION 1.5, YOUR HONOR, IS THE ONE WHERE YOU DETERMINE THAT –

THE COURT: I DIDN'T DETERMINE. I READ IT. I DIDN'T SAY THAT'S WHAT IT MEANT, I JUST READ WHAT IT SAID.

MR. BRIGGS: YOU JUST PROVED IT AGAIN, YOUR HONOR, IF I ASK TEN LAWYERS A QUESTION I'M GOING TO GET TWELVE ANSWERS.

DEFENDANT FALTAS: WELL, YOUR HONOR, CAN WE HAVE –

MR. BRIGGS: NO. PLEASE SIT DOWN.

DEFENDANT FALTAS: -- INSTRUCTIONS THAT THIS ONLY ON THE

DATE OF OCTOBER 20H, 2011, THAT THEY ARE NOT TO LOOK AT ANYTHING THAT HAPPENED AFTER THAT?

THE COURT: NO, MA'AM.

MR. BRIGGS: HE'S ALREADY RULED ON THAT, MARIE. I ARGUED THAT AND HE RULED AGAINST IT. PLEASE, LET'S FINISH. SOME OF US WANT TO GET SOME SLEEP TONIGHT.

THE COURT: ALL RIGHT. ANYTHING FURTHER REQUESTED?

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: BRING THE JURY IN AND LET'S GET THEM CHARGED.

DEFENDANT FALTAS:. YOUR HONOR, I WAS WANTING TO PROFFER MY TESTIMONY.

THE COURT: WE'LL HAVE AN OPPORTUNITY AFTER THIS TO CONSIDER WHATEVER YOU WANT TO PROFFER.

(JURY RETURNS TO THE JURY BOX)

THE COURT: HI, AGAIN. I AM NOW GOING TO CHARGE YOU AS TO THE LAW AND AT THE CONCLUSION OF THAT WE'LL HAVE YOU GO IN THE BACK. WE'LL ASK YOU TO HOLD DELIBERATIONS JUST LONG ENOUGH FOR US TO ASK ARE THERE ANY OBJECTIONS TO MY CHARGE AND SAYING NO YOU'LL THEN BEGIN DELIBERATING. FOREPERSON AND MEMBERS OF THE JURY, YOU HAVE NOW HEARD THE TESTIMONY AND EVIDENCE AND ARGUMENTS OF BOTH SIDES. I WILL NOW EXPLAIN TO YOU THE LAW THAT APPLIES TO THIS CASE. FIRST OF ALL, WHO IS OUR FOREPERSON?

(INAUDIBLE)

THE COURT: THANK YOU, MA'AM. UNDER OUR CONSTITUTION AND LAWS YOU AND I HAVE SEPARATE AND DISTINCT DUTIES. ONLY YOU, THE

JURY, CAN MAKE THE FINDING OF FACT IN THE CASE. I AM NOT PERMITTED TO INDICATE TO YOU HOW I MAY FEEL ABOUT THE TESTIMONY AND EVIDENCE PRESENTED. THROUGHOUT THE TRIAL I HAVE ATTEMPTED TO BE FAIR AND IMPARTIAL TOWARD EACH OF THE PARTIES INVOLVED. TO DETERMINE THE FACTS IN THIS CASE, YOU WILL HAVE TO EVALUATE CREDIBILITY WHICH MEANS BELIEVABILITY OF EACH WITNESS. SOME OF THE THINGS YOU MAY CONSIDER AS YOU DECIDE WHETHER OR NOT TO BELIEVE A WITNESS' TESTIMONY ABOUT A PARTICULAR MATTER INCLUDE WHAT WAS THE MANNER AND APPEARANCE OF THE WITNESS WHO TESTIFIED, WAS HE OR SHE STRAIGHTFORWARD OR HESITANT IN ANSWERING, WAS THE TESTIMONY OF A WITNESS CONSISTENT OR INCONSISTENT, HOW DID THE WITNESS COME TO KNOW THE FACTS THAT HE OR SHE TESTIFIED TO OR WHAT WAS HIS OR HER ABILITY TO KNOW THESE FACTS, IS THERE SOME REASON A WITNESS WOULD WANT TO GIVE TESTIMONY, IS A WITNESS POTENTIALLY BIASED OR PREJUDICED TOWARD ONE SIDE OR ANOTHER.

YOU WILL RECALL THAT PRIOR TO YOU HEARING THE TESTIMONY I GAVE YOU A FEW SHORT CHARGES. I WILL REITERATE ONE OF THOSE CHARGES. ONE OF THE PARTIES EXPRESSED CONCERN THAT THE DEBATE ON MONDAY BETWEEN JUDGE BOGAN AND DR. FALTAS COULD HAVE BEEN VIEWED BY SOME PEOPLE AS CRITICISMS OF DR. FALTAS. I INSTRUCT YOU THAT SUCH INQUIRIES AND DISCUSSIONS ARE A NECESSARY PART OF THE TRIAL PROCESS. YOU SHOULD NOT CONCLUDE THAT EITHER PARTY INTENDED ANY NEGATIVE EVIDENCE AGAINST EITHER PARTY IN THIS DISCUSSION.

PRESUMPTION OF INNOCENCE. THE LAW DOES NOT REQUIRE ANY DEFENDANT TO PROVE HIS OR HER INNOCENCE OF A CRIME. ON THE CONTRARY,

THE LAW REQUIRES THE STATE TO ESTABLISH A DEFENDANT'S GUILT BY LEGAL EVIDENCE BEYOND A REASONABLE DOUBT. THE LAW PRSEUMES A DEFENDANT TO BE INNOCENT OF THE CHARGE MADE AGAINST HIM OR HER UNTIL HIS OR HER GUILT HAS BEEN PROVED BEYOND A REASONABLE DOUBT. THE BURDEN OF OVERCOMING THIS PRESUMPTION OF INNOCENCE IS PLACED UPON THE CITY AND RESTS UPON THE CITY THROUGHOUT THE TRIAL UNTIL THE CITY HAS SATISFIED YOU BY EVIDENCE OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

REASONABLE DOUBT. THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT EACH AND EVERY ESSENTIAL ELEMENT OF THE OFFENSES FOR WHICH THE DEFENDANT IS CHARGED. A REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT.

THE CITY OF COLUMBIA HAS ADOPTED THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND IT PROVIDES IN PART: IT SHALL BE UNLAWFUL FOR A PERSON, FIRM OR CORPORATION TO BE IN CONFLICT WITH ONE VIOLATION OF ANY OF THE PROVISIONS OF THIS CODE.

SECTIONS ON RUBBISH AND GARBAGE READS AS FOLLOWS. ALL EXTERIOR PROPERTY AND PREMISES AND THE INTERIOR OF ANY STRUCTURE SHALL BE FREE FROM ANY ACCUMULATION OF RUBBISH OR GARBAGE. RUBBISH IS DEFINED AS FOLLOWS: COMBUSTIBLE AND NON-COMBUSTIBLE WASTE MATERIAL, EXCEPT GARBAGE. THE TERM SHALL INCLUDE THE RESIDUE FROM THE BURNING OF WOOD, COAL, COKE, OR ANY COMBUSTIBLE MATERIALS, PAPER, RAGS, CARTONS, BOXES, WOOD, EXCELSIOR, RUBBER, LEATHER, TREE BRANCHES, YARD TRIMMINGS, TIN CANS, METALS, MINERAL MATERIAL, GLASS,

CROCKERY AND DUST AND OTHER SIMILAR MATERIALS. IT SHALL BE UNLAWFUL FOR THE OCCUPANT OR OWNER OF ANY PROPERTY WITHIN THE CITY TO ALLOW ANY OF THE FOLLOWING ITEMS TO REMAIN ON THE PROPERTY OUTSIDE A DWELLING OR OTHER ENCLOSED STRUCTURE FOR LONGER THAN FORTY-EIGHT HOURS IN ANY LOCATION VISIBLE FROM STREETS OR SIDEWALKS ADJACENT TO THE PROPERTY. APPLIANCES, BEDDINGS, BOTTLES, GLASS, CANS, CARBOARD, UPHOLSTERED FURNITURE MANUFACTURED FOR INDOOR USE ONLY, HOUSEHOLD APPLIANCES, JARS, LUMBER AND BUILDING SUPPLY MATERIALS NOT RELATED TO AN ACTIVE PERMIT AND NOT NEATLY STACKED, MACHINE PARTS, MOTOR VEHICLE PARTS, PALETS, PAPER, PLUMBING FIXTURES, RAGS, SCRAP METAL.

ALL PREMISES SHALL BE KEPT AT ALL TIMES IN A SANITARY CONDITION AND ALL GARBAGE, LEAVES, TRASH, DAMP OR LOW PLACES, CANS, VESSELS, BROKEN BOTTLES OR PIECES OF CHINA OR GLASS THAT MAY HOLD WATER SHALL BE DEEMED UNSANITARY. THE OCCUPANTS OF ANY PREMISES AND THE OWNER OF ANY VACANT PREMISES WITHIN THE CITY WHO SHALL PERMIT OR TOLERATE THE EXISTENCE OF ANY OF THE CONDITIONS CONTAINED IN THIS SECTION SHALL BE GUILTY.

LADIES AND GENTLEMEN, WHEN YOU GO BACK, AFTER WE HAVE A BRIEF DISCUSSION BETWEEN THE PARTIES, THE COURT OFFICER WILL COME IN, PROVIDE YOU WITH A VERDICT FORM AND THE EVIDENCE THAT HAS BEEN ADMITTED IN THIS MATTER. YOU WILL THEN BE ALLOWED TO DELIBERATE. ONCE YOU REACH A DETERMINATION AS TO INNOCENCE OR GUILT YOU WILL USE A JURY VERDICT FORM THAT WILL BE PROVIDED. IT READS STATE OF SOUTH CAROLINA, COUNTY OF RICHLAND, CITY OF COLUMBIA, PLAINTIFF,

VERSUS DR. MARIE FALTAS. JURY VERDICT FORM, TICKET NUMBER 201310. THERE ARE ONLY TWO OPTIONS SO ONE OF THEM HAD TO GO FIRST. YOU ARE NOT TO READ ANYTHING INTO THE PLACEMENT. WE, THE JURY, FIND THE DEFENDANT NOT GUILTY OF UNLAWFUL ACTS, FIRST OFFENSE. IF YOU BELIEVE THAT TO BE TRUE, YOU PUT AN "X" OR A CHECK ON THAT LINE. SECOND OPTION, WE, THE JURY FIND THE DEFENDANT GUILTY. IF YOU BELIEVE THAT TO BE TRUE, YOU PUT A CHECK OR AN "X ON THAT LINE. IT NEEDS TO BE DATED AND SIGNED BY THE FOREPERSON OF THE JURY. IF AT ANY TIME DURING YOUR DELIBERATIONS THAT YOU HAVE ANY QUESTIONS IF YOU'LL KNOCK ON THE DOOR AND THE COURT OFFICER WILL COME GET YOU AND WE'LL BRING YOU BACK INTO OPEN COURT TO ADDRESS ANY QUESTIONS YOU MAY HAVE.

IF YOU WILL PLEASE GO BACK IN YOUR ROOM BUT PLEASE DO NOT DELIBERATE FOR THE NEXT FEW MOMENTS AND WE WILL SEND THE INFORMATION SHORTLY. THANK YOU.

(JURY LEAVES THE JURY BOX)

THE COURT: ANY OBJECTIONS OR EXCEPTIONS TO THE CHARGE?

MR. FERNANDEZ: NONE, YOUR HONOR.

THE COURT: NONE FOR THE STATE. MR. BRIGGS?

MR. BRIGGS: I WOULDN'T CALL EITHER ONE OF THEM THAT BUT I THINK ONE THING OUGHT TO BE ADDED, YOUR HONOR, AND I ALWAYS FIND THAT EVERY JUDGE IS A LITTLE DIFFERENT. I DON'T THINK THE AVERAGE JUROR KNOWS THAT THEY SHOULD HAVE AN INDIVIDUAL VOTE AND I DON'T WANT TO MENTION A HUNG JURY, OF COURSE, BUT I THINK THEY OUGHT TO BE REMINDED THAT THEY EACH HAVE TO MAKE THEIR OWN DECISION AND THEN THEY DEBATE IT IF THERE'S NEED TO OR WHATEVER. I JUST THINK THEY NEED

TO BE REMINDED THAT THERE ARE SIX DECISIONS TO BE MADE, YOUR HONOR. (PAUSE) SOME OF THOSE RIGHT THERE WAS THE STUFF THAT WAS A DUPLICATE AND SOME OF THEM NEVER DID GET TO IT SO YOU'VE GOT THEM STACKED RIGHT I THINK.

MR. FERNANDEZ: OKAY.

THE COURT: I WILL PROVIDE – I WILL CHARGE A PARAGRAPH –

DEFENDANT FALTAS: I THINK –

MR. BRIGGS: WAIT. WAIT.

THE COURT: -- OUT OF AN ALLEN CHARGE THAT ALLOWS – THAT INDICATES THAT THE JURORS – ALL RIGHT. THIS IS WHAT I'M GOING TO CHARGE. IT IS YOUR DUTY AS JURORS TO CONSULT WITH ONE ANOTHER AND DELIBERATE WITH A VIEW TOWARD REACHING AN AGREEMENT IF YOU CAN DO SO WITHOUT VIOLENCE TO YOUR INDIVIDUAL JUDGMENT. EACH OF YOU MUST DECIDE THE CASE FOR HIMSELF OR HERSELF BUT ONLY DO SO AFTER AN IMPARTIAL CONSIDERATION OF THE EVIDENCE IN THE CASE WITH YOUR FELLOW JURORS. IN THE COURSE OF YOUR DELIBERATIONS, DO NOT HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE YOUR OPINION IF CONVINCED THAT YOUR FORMER OPINION IS ERRONEOUS. NO JUROR IS EXPECTED TO GIVE UP HIS OR HER OWN OPINION BASED ON REASONING SATISFACTORY TO HIMSELF MERELY FOR THE PURPOSE OF BEING IN AGREEMENT AND I WANT YOU TO UNDERSTAND THAT AND DO NOT SURRENDER YOUR HONEST CONVICTION AS TO THE WEIGHT OR EFFECT OF THE EVIDENCE SOLELY BECAUSE THE OPINION OF YOUR FELLOW JURORS IS CONTRARY TO YOUR OPINION OR FOR THE MERE PURPOSE OF RETURNING A VERDICT.

MR. BRIGGS: NO OBJECTION, YOUR HONOR. I THINK THAT'S FINE.

THE COURT: ANY OBJECTIONS?

MR. FERNANDEZ: NO, YOUR HONOR.

DEFENDANT FALTAS: YOUR HONOR, THESE THREE WERE ADMITTED. I'M SURE OF IT.

THE COURT: WE ARE GOING TO ADDRESS THAT IN A MOMENT. LET ME GET THIS CHARGE STRAIGHT AND WE ARE GOING TO SEND ALL OF IT BACK BUT GIVE ME A MINUTE. PLEASE BRING THEM BACK. LET'S GET THEM BACK AND THEN WE ARE GOING TO GO OVER THE EVIDENCE.

(JURY RETURNS TO THE JURY BOX)

THE COURT: VERY SHORTLY YOU ARE GOING TO BE ASKED TO DELIVER A VERDICT AND VERDICT COMES FROM THE LATIN WORD – AND I'M GOING TO SCREW IT UP WHEN I SAY IT – VEREDICTO WHICH LITERALLY MEANS TO SPEAK THE TRUTH. IT MUST BE UNANIMOUS. HOWEVER, IT IS YOUR DUTY AS JURORS TO CONSULT WITH ONE ANOTHER AND DELIBERATE WITH A VIEW TOWARD REACHING AN AGREEMENT IF YOU CAN DO SO WITHOUT VIOLENCE TO YOUR INDIVIDUAL JUDGMENT. EACH OF YOU MUST DECIDE THE CASE FOR HIMSELF OR HERSELF BUT DO SO ONLY AFTER AN IMPARTIAL CONSIDERATION OF THE EVIDENCE IN THE CASE WITH YOUR FELLOW JURORS. IN THE COURSE OF YOUR DELIBERATIONS, DO NOT HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE YOUR OPINION IF CONVINCED THAT YOUR FORMER OPINION IS ERRONEOUS. NO JUROR IS EXPECTED TO GIVE UP IS OR HER OWN OPINION BASED ON REASONING SATISFACTORY TO HIMSELF MERELY FOR THE PURPOSE OF BEING IN AGREEMENT AND I WANT YOU TO UNDERSTAND THAT AND DO NOT SURRENDER YOUR HONEST CONVICTION AS TO THE WEIGHT OR EFFECT OF THE EVIDENCE SOLELY BECAUSE THE OPINION OF YOUR FELLOW JURORS IS

CONTRARY TO YOUR OPINION OR FOR THE MERE PURPOSE OF RETURNING A VERDICT.

THAT IS IT. IF YOU'LL PLEASE GO BACK AND WE'LL GET YOU THE INFORMATION IN A MOMENT.

(JURY LEAVES THE JURY BOX)

THE COURT: ANY ADDITIONS, EXCEPTIONS OR OBJECTIONS?

MR. BRIGGS: NOT TO THE CHARGES, YOUR HONOR.

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: ALL RIGHT. NEXT THING WE NEED TO DO IS GET THE EVIDENCE CORRECT. WE'VE GOT STATE'S ONE, THE WRITTEN NOTICE OF VIOLATION. STATE TWO, ONE THROUGH SIXTEEN, ARE THE PICTURES. STATE THREE ARE THE LAST PICTURES. AS TO THE DEFENDANT'S, NUMBER ONE IS THE BUCKET.

MR. FERNANDEZ: YOU MAY WANT TO RENUMBER THEM OR SHOULD WE STICK WITH THE NUMBERS THAT WERE ON THE RECORD?

THE COURT: THE NUMBERS THAT ARE ON THE RECORD.

MR. BRIGGS: I DON'T THINK THEY HAVE TO BE CONSECUTIVELY NUMBERED.

THE COURT: I HAD – MADAM CLERK, IF YOU'VE GOT SOMETHING ELSE, LET ME KNOW – I HAVE THE DEFENDANT'S ENTERING ONE, THIRTY-TWO, NUMBER THIRTY-THREE WHICH ARE NOT LISTED UP HERE, THEY ARE TWO. PICTURES. NUMBER FOUR WHICH IS A PLAT. TWENTY-NINE WAS IN, TWENTY-EIGHT, THIRTY AND THIRTY-ONE WERE NOT.

DEFENDANT FALTAS: THIS IS TWENTY-NINE, THIS IS THIRTY-TWO AND THIS IS THIRTY-THREE.

THE COURT: THIRTY-TWO, THIRTY-THREE, TWENTY-NINE ARE IN. OKAY. I THINK THAT IS IT. ANY ADDITIONAL – YOU'VE GOT THEM, THEY ARE OVER HERE. ALL RIGHT WE ARE GOING TO GET ALL THIS BACK AND TELL THEM THEY MAY BEGIN DELIBERATIONS.

(JURY DELIBERATING)

THE COURT: ALL RIGHT. WE'VE GOT A DUE PROCESS ARGUMENT TO TAKE UP AND THEN WE'LL SEE ABOUT ANYTHING ELSE. MR. BRIGGS.

MR. BRIGGS: YOUR HONOR, JUST FOR THE RECORD, I RENEW MY MOTION FOR A DIRECTED VERDICT NOW THAT WE ARE THROUGH WITH THE WHOLE TRIAL.

THE COURT: YES, SIR.

MR. BRIGGS: AND I WON'T EVEN MAKE ANY ARGUMENT, I'LL JUST MAKE IT FOR THE RECORD.

THE COURT: THANK YOU VERY MUCH.

MR. BRIGGS: AND WHEN HE GETS AROUND TO IT, I'LL MAKE THE ONE ABOUT NOTWITHSTANDING THE VERDICT.

THE COURT: ALL RIGHT. YOU ARE REINCORPORATING YOUR PRIOR ARGUMENT?

MR. FERNANDEZ: YES, YOUR HONOR.

THE COURT: FAIR ENOUGH. IT IS DENIED AND THEN THERE WAS A SPECIFIC ON DUE PROCESS, DID YOU WANT TO RAISE THAT AGAIN?

MR. BRIGGS: JUST BRIEFLY, YOUR HONOR. YOUR HONOR, I HAVE HAD A LOT OF EXPERIENCE IN FIRST AMENDMENT LAW AND I'M ALWAYS CHALLENGED AND, IF YOU WILL, ALMOST THRILLED WHEN I CAN DO SOME CONSTITUTIONAL STUFF. IN FACT, I WROTE TWELVE PAGES TO JUDGE TRAXLER

HERE LAST WEEK OR TWO, TWO WEEKS AGO I GUESS IT WAS NOW, ABOUT THIS WHOLE SITUATION ABOUT THE NEED FOR HER TO REGAIN HER RIGHT TO REPRESENT HERSELF. I THINK YOU PROBABLY KNOW THOSE CASES BUT I DON'T NEED TO GET INTO THAT NOW. BUT I SORT OF ENJOY THIS. AND THE DUE PROCESS CONSTITUTIONAL RIGHT IS JUST AS FIRM AND JUST AS VALID AS THE FIRST AMENDMENT OR ANY OF THE OTHERS OR THE RULE AGAINST UNREASONABLE SEARCH AND SEIZURE AND ALL THE OTHER 5TH AMENDMENT AND 6TH AMENDMENT RULES THAT WE HAVE TO LIVE WITH NOW. YOUR HONOR, I THINK THE FACT THAT – I'M NOT GONNA BE LONG – I THINK THE FACT THAT TRASH IS NOT DEFINED, THE FACT THAT RUBBISH IS JUST WHAT I WOULD CALL A PREGNANT DEFINITION BEING THE SAME AS IT WAS THE OTHER ONE AND THE FACT THAT IN THIS CASE WHETHER THEY SAID IT OR NOT, YOUR HONOR, THAT ORDINANCE GIVES THE ENFORCERS THE RIGHT TO DEFINE WHAT IS AGAINST THE LAW. AND THAT'S GIVING TOO MUCH DISCRETION TO THE ENFORCER. AND THOSE TWO POINTS ARE JUST ABSOLUTELY CRITICAL ALONG WITH THE FACT THAT THERE HAS TO BE A COMPELLING STATE INTEREST AND ACTUALLY THERE WAS NO TESTIMONY ABOUT WHAT THE STATE'S INTEREST WAS HERE. THERE WAS SOME ILLUSION TO HEALTH BUT IT WASN'T AN EXPERT THAT SAID, YOU KNOW, THIS ORDINANCE IS ABSOLUTELY NECESSARY. AND, YOUR HONOR, I COULD TELL A FECETIOUS STORY BUT I WON'T DO THAT NOW. I JUST THINK THAT THIS IS A SERIOUS, SERIOUS DUE PROCESS ISSUE AND I WISH WE HAD ANOTHER DAY FOR YOU TO STUDY OR LET ME GIVE YOU A FULL MEMO SINCE I COULDN'T GET ANY SOUTH CAROLINA CASES, BUT I IMPLORE THE COURT TO SERIOUSLY CONSIDER THE FACT THAT IT WAS VAGUE, THE ORDINANCE IS. MY CLIENT STILL DOESN'T KNOW WHY SHE'S BEEN BROUGHT TO COURT. I

UNDERSTAND AND I HEARD THE TESTIMONY THAT THERE'S STILL SOME METAL PIECES OUT THERE BUT I DON'T SEE ANY HEALTH HAZARD TO METAL PIECES SITTING IN YOUR YARD, YOUR HONOR, PERIOD.

THE COURT: THANK YOU, SIR. MR. FERNANDEZ.

MR. FERNANDEZ: THE STANDARD FOR WHETHER OR NOT THE ORDINANCES ARE UNCONSTITUTIONAL, WHETHER THEY ARE VAGUE ON THEIR FACE OR WHETHER THEY ARE – IT'S EITHER HAS APPLIED. WE DON'T HAVE THAT HERE BECAUSE THERE'S TESTIMONY TO SATISFY THAT THE CARTONS OR WHATEVER COLLECTED WATER. THEY ACTUALLY REMAINED UNCHANGED FOR AT LEAST A YEAR IF NOT MORE. REGARDING THE TRASH, THAT IS NOT DEFINED BUT WORDS ARE GIVEN THEIR COMMON MEANING. I THINK IT'S REASONABLE TO EXPECT PEOPLE TO UNDERSTAND WHAT TRASH IS, KIND OF LIKE THE CLASSIC CASE WHERE YOU KNOW IT WHERE YOU SEE IT. IT IS WHAT IT IS. WHETHER OR NOT – THE DEFENDANT OBVIOUSLY DISAGREED THAT IT WAS TRASH BUT THE CITY'S ARGUMENT IS THAT IT WAS TRASH, NOT THAT IT'S TRASH AS PROHIBITED, IT WAS TRASH THAT WOULD COLLECT WATER. SO IT'S SPECIFIC ENOUGH. THEN THE OTHER ONE HAS TO DO WITH SANITARY CONDITIOINS. THAT RELATES – I DON'T HAVE THEM IN FRONT OF ME, YOUR HONOR. I'M SORRY.

THE COURT: NOT A PROBLEM. I'VE GOT THEM, I UNDERSTAND. I'VE GOT YOURS ACTUALLY.

MR. FERNANDEZ: AND THE LAST ONE IS 307 POINT WHATEVER.

THE COURT: 307, ONE.

MR. FERNANDEZ: RUBBISH THERE IS DEFINED AND IT'S DEFINED WITH SUCH SPECIFICITY THAT ANYONE CAN UNDERSTAND IT. THE FACT THAT

THE DEFENDANT KEEPS CLAIMING SHE DOESN'T KNOW WHAT SHE'S CHARGED WITH ISN'T REALLY A VALID DEFENSE OR A REASON TO UPHOLD – I MEAN TO DECLARE ORDINANCES UNCONSTITUTONAL. INDIVIDUALS ARE PRESUMED TO KNOW THE LAW AND MYRON EVEN WENT BEYOND WHAT HE WAS REQUIRED TO DO AND PROVIDED HER WITH COPIES OF THE LAW. I DON'T – WE DIDN'T HAVE TO DO THAT, THIS IS A PUBLIC RECORD, BUT HE DID TO BE NICE. SO FOR THOSE REASONS THERE IS NO DUE PROCESS VIOLATION, YOUR HONOR.

THE COURT: THANK YOU. MY RULING WILL BE THAT I WILL DENY THE MOTION TO STRIKE OR THE MOTION TO DISMISS BASED ON DUE PROCESS OR THE MOTION TO FIND THE ORDINANCE, IF THAT IS WHAT IS BEING MADE, UNCONSTITUTIONALLY VAGUE AND VOIDNESS. I AM FAMILIAR WITH THE CASES IN SOUTH CAROLINA ON THAT POINT. HOWEVER, MR. BRIGGS, BECAUSE YOU HAD COMPUTER ISSUES IF YOU'D LIKE TO ADD ADDITIONAL MEMORANDUM OR ANYTHING TO THE RECORD THAT YOU THINK MAY BE HELPFUL IN THE EVENT THERE IS AN APPEAL ON THIS ISSUE, I WILL DEFINITELY GRANT YOU UNTIL FRIDAY OF NEXT WEEK TO DO SO.

MR. BRIGGS: I APPRECIATE THAT, YOUR HONOR, AND I THINK I WILL DO IT BECAUSE FRANKLY I ENJOY DOING THE RESEARCH AND, AS I SAID, I WROTE A TWELVE PAGE THING. AND I HAVE A TENDENCY TO QUOTE A GOOD BIT FROM THE CASES. I KNOW A LOT OF PEOPLE DON'T DO THAT BUT I'D RATHER A JUDGE READ THE COURT'S WORDS THAN MINE.

THE COURT: MOST JUDGES DON'T LISTEN TO MY WORDS SO I STICK TO THE (INAUDIBLE). FAIR ENOUGH WE'LL DO THAT. ALL RIGHT. ANY OTHER ISSUES REMAINING, MR. FERNANDEZ?

MR. FERNANDEZ: NO, YOUR HONOR. COULD I BOTHER YOU FOR

THOSE CODES?

THE COURT: ABSOLUTELY. NOT A PROBLEM. MR. BRIGGS, DO YOU HAVE ANYTHING ELSE YOU NEED TO ADDRESS. I THINK WE'VE GOT ONE FINAL MATTER. IS THERE ANYTHING ELSE YOU NEED TO RAISE

MR. BRIGGS: I'M SORRY, YOUR HONOR?

THE COURT: IS THERE ANYTHING ELSE YOU NEED TO RAISE AT THIS TIME?

MR. BRIGGS: YES, YOUR HONOR, I DO NEED TO MAKE – WELL, WE HAVEN'T GOTTEN A VERDICT, HAVE WE? I DON'T NEED TO MAKE THAT YET.

THE COURT: ALL RIGHT. FAIR ENOUGH. COURT IS IN RECESS.

DEFENDANT FALTAS: MAY I TAKE MY STUFF TO THE CAR?

THE COURT: YES, MA'AM.

DEFENDANT FALTAS: THANK YOU. OF COURSE, I DON'T WANT MR. BRIGGS TO REPRESENT ME ON ANY ALLEGATION OF CONTEMPT BUT I WOULD LIKE SOMEONE TO REPRESENT ME ON THAT UNLESS THE COURT WOULD LET ME SPEAK FOR MYSELF.

THE COURT: I'LL TELL YOU WHAT. BECAUSE OF THAT REQUEST, WE WON'T HEAR THAT TODAY. WE WILL SET A TIME. YOU'VE GOT TWO LAWYERS. YOU'VE GOT MR. LUPTON AND MR. BRIGGS HERE. I'LL BE HAPPY TO HAVE EITHER ONE OF THEM REPRESENT YOU OR IF YOU WANT TO GET SOMEBODY ELSE SUBSTITUTED IN I'M HAPPY FOR YOU TO DO THAT. AND WE'LL SET A DATE AT A LATER TIME. I WILL DO IT AFTER THE 25TH SO THAT WE CAN CONCENTRATE ON THE MATTERS THAT ARE BEFORE US AND THEN WE'LL ADDRESS IT WHEN YOU GET SOME OTHER REPRESENTATION.

DEFENDANT FALTAS: IN THE MEANWHILE SO I CAN PREPARE MY

DEFENSE, IF IT PLEASES THE COURT, WILL THE COURT ORDER – OFFICER HARMON WAS WONDERFUL ABOUT THIS – WOULD THE COURT ORDER A TRANSCRIPT AND A C.D.

THE COURT: I WON'T DO A TRANSCRIPT. I WILL DO A C.D.

DEFENDANT FALTAS: YOUR HONOR, UNDER MYERS VS. CHICAGO I AM ENTITLED TO A FREE TRANSRIPT.

THE COURT: FOR THE PURPOSES OF AN APPEAL?

DEFENDANT FALTAS: ABSOLUTELY.

THE COURT: OKAY. YOU ARE NOT GETTING AN APPEAL YET.

DEFENDANT FALTAS: AND IN THIS CASE FOR THE PURPOSE OF THE DEFENSE AGAINST ANY CONTEMPT CHAGED.

THE COURT: AND THAT'S WHAT MYERS SAYS?

DEFENDANT FALTAS: YES, YOUR HONOR.

THE COURT: IT SAYS APPEAL OR IT SAYS CONTEMPT?

DEFENDANT FALTAS: MYERS SAYS APPEAL BUT OTHER CASES SAY IN CONTEMPT YOU GET THE FULL (INAUDIBLE) –

THE COURT: THIS IS WHAT I'D LIKE FOR YOU TO DO. I WAS FAMILIAR WITH MYERS, I KNEW IT SAID APPEAL AND THAT'S WHY WHEN YOU SAID IT I SAID AN APPEAL AND THIS IS NOT AN APPEAL. IF YOU'VE GOT ANOTHER CASE THAT YOU – I'M GOING TO GIVE YOU A COPY OF THE C.D. REGARDLESS. IF YOU'VE GOT ANOTHER CASE THAT YOU'D LIKE TO PRVIDE ME THAT SAYS IN SOUTH CAROLINA YOU GET US TO DO YOUR TRANSCRIPT ON A CONTEMPT HEARING I'LL BE HAPPY TO DO SO BUT I NEED YOU TO PROVIDE SOMETHING OR HAVE YOUR LAWYER PROVIDE SOMETHING TO ME THAT SAYS THAT.

DEFENDANT FALTAS: YOUR HONOR, ON – I REALLY CALLED THE SOUTH CAROLINA SUPREME COURT, THE BABY SUPREME COURT AND I CALLED THE REAL SUPREME COURT, THE U.S. SUPREME COURT –

THE COURT: THIS IS WHAT WE ARE GOING TO DO RIGHT NOW.

DEFENDANT FALTAS: SO I AM FAMILIAR WITH U. S. SUPREME COURT –

THE COURT: THIS IS WHAT WE ARE GOING TO DO RIGHT NOW.

DEFENDANT FALTAS: OKAY.

THE COURT: WE ARE GOING TO LET YOU TAKE YOUR STUFF OUT SO WE DON'T GET TOO FAR AFIELD AND I'M GOING TO GO IN THE BACK UNTIL THERE IS SOMETHING FROM THE JURY. THANK YOU, MA'AM.

DEFENDANT FALTAS: SO I MAY PROVIDE YOU WITH U.S. SUPREME COURT CASES?

THE COURT: HAVE YOUR ATTORNEY DO IT AND FILE SOMETHING AND THEN I WILL CONSDIER IT.

MR. BRIGGS: I'LL JUST PUT A COVER LETTER ON IT. YOU GET ME THE DECISIONS, WE'LL PUT A COVER LETTER AND SEND IT TO THE JUDGE.

THE COURT: WE ARE GOING TO GIVE YOU A C.D. REGARDLESS AND WE ARE GOING TO DO THAT BEFORE YOU DO THAT BUT IF YOU WANT A TRANSCRIPT AS WELL THEN YOU SEND THAT.

DEFENDANT FALTAS: THANK YOU.

(RECESS)

(CONCLUSION OF RECESS)

THE COURT: IT'S MY UNDERSTANDING THEY HAVE A VERDICT. DO YOU KNOW WHERE DR. FALTAS IS?

MR. BRIGGS: SHE WENT TO TAKE SOME OF HER STUFF. SHE'LL BE BACK IN ABOUT TWO MINUTES, YOUR HONOR.

THE COURT: ALL RIGHT.

MR. FERNANDEZ: MYRON ACTUALLY LET HER KNOW OUTSIDE.

THE COURT: OKAY.

(PAUSE)

THE COURT: DR. FALTAS, WE HAVE A VERDICT. IF YOU WOULD, BRING THE JURY IN, PLEASE. TELL THEM TO BRING THEIR THINGS WITH THEM.

(JURY RETURNS TO THE JURY BOX)

THE COURT: MADAM FOREPERSON, HAVE Y'ALL REACHED A VERDICT?

FOREPERSON: WE HAVE, YOUR HONOR.

THE COURT: WAS IT UNANIMOUS?

FOREPERSON: IT WAS.

THE COURT: WOULD YOU PLEASE HAND IT TO THE COURT OFFICER? VERDICT FORM READS AS FOLLOWS: WE, THE JURY, FIND THE DEFENDANT GUILTY, SIGNED BY THE FOREPERSON, DATED APRIL 11, 2013. MADAM FOREPERSON, WAS THIS YOUR VERDICT?

FOREPERSON: YES, IT WAS.

(JURY IS POLLED AND ALL ASSENT)

THE COURT: ANY OTHER MOTIONS TO BE MADE AT THIS TIME IN RELATION TO THE JURY?

MR. BRIGGS: NOT THE JURY, YOUR HONOR.

MR. FERNANDEZ: NO, YOUR HONOR.

THE COURT: THANK Y'ALL VERY MUCH FOR YOUR SERVICE. YOU

WILL BE EXCUSED AT THIS TIME AND YOU GET A ONE YEAR PASS FROM COMING BACK TO THE CITY. Y'ALL TAKE CARE. THANK YOU FOR BEING VERY ATTENTIVE.

(JURY IS DISMISSED)

MR. BRIGGS: YEAH, THANKS AGAIN.

THE COURT: WHAT'S THE PARTIES POSITIONS ON WHETHER WE OUGHT TO GO STRAIGHT TO SENTENCING?

MR. FERNANDEZ: I'M FINE IF YOUR HONOR IS.

MR. BRIGGS: YOUR HONOR, JUST FOR THE RECORD, I MAKE A MOTION NOTWITHSTANDING THE VERDICT THE JUDGE OUGHT TO DECIDE THAT SHE WAS NOT GUILTY BECAUSE OF THE ARGUMENTS I MADE INCLUDING THE DUE PROCESS ARGUMENT.

THE COURT: UNDERSTOOD, SIR. MR. FERNANDEZ, DO YOU WANT ANY RESPONSE ON THAT?

MR. FERNANDEZ: I DON'T THINK IT'S NECESSARY. I THINK WE ESTABLISHED THE ELEMENTS OF THE CHARGES.

THE COURT: I WILL DENY THAT MOTION AS WELL. AS TO SENTENCING, MR. BRIGGS, DO Y'ALL WANT – I'M PREPARED TO DO IT RIGHT NOW. IF Y'ALL WANT AN OPPORTUNITY TO MAYBE HAVE SOME DISCUSSIONS, I'LL BE HAPPY TO GRANT SOME TIME. I'M NOT SUGGESTING YOU DO BUT WHAT'S YOUR POSITION ON SENTENCING?

MR. BRIGGS: YOUR HONOR, MY POSITION IS ONLY THIS. I THINK WE OUGHT TO GO ON AND DO IT AND I WOULD NEVER HOLD MR. FERNANDEZ TO SAYING ANYTHING. I ALWAYS AVOID QUOTING PEOPLE BECAUSE YOU MAY NOT HAVE HEARD WHAT YOU THOUGHT YOU HEARD BUT ANYWAY I DON'T SEE THAT

THERE'S ANY ADVANTAGE TO THE CITY TO GIVE JAIL TIME FOR THIS KIND OF, QUOTE, AN OFFENSE. AND, OF COURSE, I WILL FILE AN IMMEDIATE APPEAL BUT I'LL MAKE MY ORAL WHEN WE GET THROUGH. I DON'T HAVE ANY RECOMMENDATION TO THE COURT AS TO A CIVIL FINE IF THE COURT DECIDES TO DO THAT.

DEFENDANT FALTAS: I ALREADY (INAUDIBLE).

MR. FERNANDEZ: I DO HAVE A RECOMMENDATION, YOUR HONOR.

THE COURT: YES, SIR.

MR. FERNANDEZ: I AM NOT ASKING -- I HAVE NO INTEREST IN PUTTING DR. FALTAS IN JAIL FOR THIS CHARGE AT THIS TIME. HAIYAN LIN FOUND OUT – SHE'S ANOTHER PERSONWHO HAD PROPERTY VIOLATIONS – SHE FOUND THAT AFTER TIME THESE KIND OF THINGS MEAN YOU GO TO JAIL FOR A LONG TIME. SHE'S THERE FOR ALMOST TWO HUNDRED DAYS IN PRISON BECAUSE OF PROPERTY CODE VIOLATIONS SO IT IS SERIOUS BUSINESS EVENTUALLY. BUT THE DEFENDANT HAS THUMBED HER NOSE AT THIS COURT, AT THE PROCESS, AT EVERYONE, EVERY PUBLIC OFFICIAL EVERY SINGLE TIME WITHOUT ANY KIND OF REMORSE. SHE'S DISRESPECTED THE TRIAL, SHE'S DISRESPECTED THE COURT ORDERS. I KNOW THAT GOES SOME TOWARDS THE CONTEMPT. ALL THE CITY WANTS AND ALL THAT WE'VE ASKED FOR IS THIS TO BE CLEANED UP AND BY CLEAN UP MEANS GRASS AND DIRT. GRASS AND DIRT. THAT'S CLEAN. AND I KNOW YOUR HONOR HAS THE UNENVIABLE TASK OF BEING SO SPECIFIC BECAUSE YOUR HONOR HAS TO BE AWARE THAT WHATEVER YOUR ORER IS TO CLEAN UP SHE'S GOING TO FIND SOME LOOPHOLE OR TRY TO ABUSE THE PROCESS SO THAT WE'LL HAVE TO END UP BACK HERE AGAIN IN A YEAR OR HOWEVER LONG IT TAKES. THE CITY'S RECOMMENDATION WOULD BE

THIS. THIRTY DAYS IN JAIL, SUSPENDED ON FULL PAYMENT OF THE FINE, PLUS CLEANING UP WITHIN FIFTEEN DAYS. AND CLEANING UP MEANS EVERYTHING.

MR. BRIGGS: MAY I RESPOND TO THAT, YOUR HONOR?

THE COURT: YES, SIR.

MR. BRIGGS: YOUR HONOR, I THINK THERE OUGHT TO BE EITHER THIRTY DAY OR FORTY-FIVE DAY CLEANUP. IT IS A SIMPLE PROCESS, THERE'S NO QUESTION ABOUT THAT AND I'VE HAD ONE OF THESE CASES OVER IN LEXINGTON COUNTY AND THE GUY REALLY HAD A LOT OF JUNK IN HIS YARD. ALL MY CLIENT NEEDS TO DO IS BUY A STORAGE HOUSE AND PUT EVERYTHING THAT DOESN'T BELONG ON THE GROUND IN THE STORAGE HOUSE.

DEFENDANT FALTAS: YOUR HONOR –

MR. BRIGGS: AND THEN FIND ANOTHER WAY TO MARK HER BOUNDARY, YOUR HONOR. BUT I DON'T HAVE ANY PARTICULAR WAY TO MAKE HER DO THAT BUT WHILE WE ARE ON IT, YOUR HONOR, AND MR. FERNANDEZ CAN PROBABLY GIVE YOU THE CITATION, I DO NOT BELIEVE THAT THE BOND – THE APPEAL BOND SETTING ORDINANCE – AUTHORIZES ANY CONDITIONS ON THE BOND. NOW YOU CAN PUT CONDITIONS ON THE SENTENCE BUT WE HAD THAT PROBLEM ONE OTHER TIME AND I THINK IT JUST SAYS SET AN AMOUNT OF THE BOND, YOUR HONOR, AND I WON'T ARGUE THAT ANY MORE. I JUST GIVE YOU MY TWO CENTS WORTH ON THAT ISSUE. BUT I'D GO BACK TO SAY THAT I DON'T LIKE HIS RECOMMENDATION BUT I CAN'T FAULT IT IF THERE IS SUFFICIENT TIME FOR THE CLIENT AS A SINGLE WOMAN WHO STILL HAS MEDICAL PROBLEMS CAN GET THE TIME AND EFFORT TO GET IT CLEANED UP.

YOUR HONOR, I WILL ADD TWO OTHER THINGS TO THAT. DR. FALAS HAPPENS TO BE IN THE SAME CONDITION I DO RIGHT NOW OF BEING A –

LET'S SAY LACKING IN FUNDS BUT I'M INTERESTED ENOUGH IN HER AND I DON'T THINK I'VE TOLD YOU THIS BECAUSE IT DIDN'T NEED TO BE ON THE RECORD BUT DR. FALTAS AND I HAVE BEEN WORKING TOGETHER – AND I WON'T SAY WHAT WE STARTED WITH BUT FOR NEARLY TWENTY YEARS, SO IT ISN'T JUST A SHORT TIME WITH ME AND SO ONE OF US HAS – ONE OR TWO OF US HAS SOME PATIENCE I GUESS, YOUR HONOR. BUT I AM PREPARED IF SHE WANTS SOME HELP TO SEEK SOME HELP FROM MY SUNDAY SCHOOL CLASS BECAUSE I HAPPEN TO BE IN ONE OF THOSE CHURCHES THAT GOES DOWN TO SALVATION ARMY AND SERVES MEALS TWO MONDAYS A MONTH AND THEY ARE VERY INTO THIS HELPING OTHER PEOPLE AND SO I COULD GET HER A TRUCK AND SOME HELP AND PROBABLY SOME HELP ON PUTTING TOGETHER A STORAGE FACILITY IF IN FACT THAT'S WHAT SHE DECIDES TO DO, YOUR HONOR. SO I DON'T STOP HELPING PEOPLE BECAUSE THE TRIAL IS OVER, YOUR HONOR.

THE COURT: ALL RIGHT. LET ME TELL YOU WHERE I STAND AND I THINK WHAT I'M GOING TO DO IS NOT IMPOSE SENTENCE TODAY BUT I WANT Y'ALL TO HEAR VERY CLEARLY WHAT I AM INCLINED TO DO. FIRST OF ALL, I AM NOT INCLINED TO GIVE ANY KIND OF SUSPENDED SENTENCE AND I'M NOT INCLINED TO GIVE ANY KIND OF CONDITIONAL SENTENCE BECAUSE I HAVE SEEN THE DEFENDANT TAKE WORDS TO MEAN THINGS OTHER THAN WHAT THEIR LITERAL AND ORDINARY MEANING ARE AND I DON'T THINK I'M SMART ENOUGH TO CRAFT SOMETHING THAT MAY NOT COME BACK EITHER ON APPEAL, A MOTION TO RECONSIDER OR, JUDGE, THAT'S NOT WHAT YOU SAID. SO I'M GOING TO GIVE A FLAT SENTENCE WHEN I GIVE A SENTENCE. CONSIDERING THE FACT THAT I'VE JUST BEEN TOLD THAT SHE PROBABLY DOESN'T HAVE THE ABILITY TO PAY A FINE, THAT SENTENCE IS PROBABLY GOING TO BE JAIL TIME

ONLY.

MR. BRIGGS: WELL, SHE'S ALREADY PAID THE INITIAL ESTIMATED FINE, YOUR HONOR. SHE POSTED BOND.

THE COURT: I'M TELLING YOU I'M THINKING THAT'S WHERE I'M AT. ALL RIGHT. NOW WHAT I'M GOING TO DO IS POSTPONE THIS SENTENCE UNTIL APRIL 25TH SO THAT WE CAN HAVE -- FOR LESS ON THE SENTENCING BUT FOR MORE ON APPEAL ISSUES. BY THAT TIME, WE SHOULD HAVE ALL THESE CASES TRIED. I KNOW THAT THEY'LL HAVE DIFFERENT ISSUES BUT THEY MAY WELL GET CONSOLIDATED AS SOME OF THE ARGUMENTS WILL BE SIMILAR. AND SO I WILL IMPOSE SENTENCE, IF THERE IS ANY SENTENCE TO IMPOSE ON ANYTHING ELSE, ALONG WITH THIS SENTENCE ON APRIL 25TH SO THAT ALL THE APPEALS CAN GO AT THE SAME TIME AND TO THE EXTENT THAT IT'S APPROPRIATE FOR A HIGHER COURT TO CONSOLIDATE SOME OF THE DUPLICATIVE ARGUMENTS THEY'LL HAVE THE ABILITY TO DO IT. I WILL ALSO TAKE ARGUMENT AT THAT TIME AS TO WHAT AN APPROPRIATE SENTENCE IS. I'VE NOT MADE A DETERMINATION BUT I AM TELLING YOU WHERE I'M LEANING.

MR. BRIGGS: AND WOULD YOU BE PREPARED WITHIN A DAY OR TWO TO SET BOND ON WHATEVER APPEALS THERE ARE, YOUR HONOR?

THE COURT: IF WE – AS WE KNOW THAT'S WHEN I'M GOING TO DO SENTENCING, I WILL BE INCLINED IF IT IS POSSIBLE AND HAPPY TO TAKE ARGUMENT ON WHETHER PEOPLE THINK IT IS NOT APPROPRIATE TO SET AN APPELLATE BOND AT THAT TIME.

MR. BRIGGS: I UNDERSTAND. I UNDERSTAND.

THE COURT: SO WE'LL TRY TO DO IT AT A TIME WHERE YOU CAN FILE SOME WITH THE CITY AND WE CAN START SENDING IT OVER BUT I'LL BE

HAPPY TO GO AHEAD AND SET WHAT AN APPELLATE BOND WOULD BE.

MR. FERNANDEZ: WILL YOUR HONOR ALSO TAKE UP ON THE 25TH THE MATTER OF THE CONTEMPT?

THE COURT: I WAS GOING TO DO THAT AT A DIFFERENT TIME. I THINK I WILL DO THAT ON THE 25TH AS WELL. AND THEN WE CAN HAVE FULL ARGUMENT ON ANY OF THOSE ISSUES THAT NEED TO BE – BUT I AM VERY HESITANT TO DO ANYTHING THAT REQUIRES INTERPRETATION.

MR. BRIGGS: OKAY. THEN, YOUR HONOR, I GUESS – AND I HAVE ONE QUESTION JUST FOR CLARIFICATION BECAUSE YOU MADE IT REALLY CLEAR. IF THERE WAS JAIL TIME IN THIS PARTICULAR CASE WHICH IS THE ONE I'M INTERESTED IN, IS THE COURT PREPARED TO NOT IMPOSE THAT SENTENCE AS LONG AS A PETITION FOR APPEAL HAS BEEN FILED THAT DAY?

THE COURT: IF I IMPOSE JAIL TIME AND WE ARE GOING TO BE FILING A PEITITON FOR APPEAL, I WILL GIVE AN APPELLATE BOND IMMEDIATELY SO SHE DOES NOT HAVE TO GO TO JAIL.

MR. BRIGGS: OKAY.

THE COURT: BUT THAT WILL BE THE SENTENCE FOLLOWING WHATEVER HAPPENS ON THE 25TH.

MR. BRIGGS: I UNDERSTAND. BUT THERE WILL BE A SENTENCE SOMEHOW?

THE COURT: CORRECT.

DEFENDANT FALTAS: YOUR HONOR, I THINK YOUR HONOR HAD LEFT OPEN WHETHER THAT CARRIES EVEN – AND I HAD PROVIDED OR OFFERED THE RULING OF U.S. MAGISTRATE, JUDGE (INAUDIBLE), IN THE CASE –

THE COURT: YOU DID SAY YOU HAD IT IN THE CAR. YOU NEVER

BROUGHT IT IN.

DEFENDANT FALTAS: NO, ACTUALLY I BROUGHT IT. I WAS INSTRUCTED TO GIVE IT TO MR. –

THE COURT: THIS IS THE DEAL. APRIL 25TH IS WHEN WE ARE GOING TO HEAR IT. IF YOU'VE GOT ARGUMENTS ON IT, THAT'S WHEN THEY'LL BE MADE.

MR. BRIGGS: WHY DON'T I FILE ANOTHER ONE? I'LL WORK WITH YOU ON IT.

DEFENDANT FALTAS: JUST FOR THE RECORD,I GAVE IT TO MR. BRIGGS. MR. BRIGGS DIDN'T HAND IT. I WAS INSTRUCTED TO GIVE IT TO MY LAWYER AND THAT'S BEEN MY ISSUE.

THE COURT: FAIR ENOUGH. WE ARE NOT GOING TO DETERMINE SENTENCE TODAY. YOU'VE GOT UNTIL THE 25TH UNTIL I DO THAT.

DEFENDANT FALTAS: NOW THE APPEAL DOESN'T – THIS TOWARDS THE APPEAL. THERE IS NO --

THE COURT: UNTIL I IMPOSE SENTENCE, I WILL RULE THE APPEAL TIME IS NOT RUNNING UNTIL SENTENCE IS IMPOSED. WE ARE GOING TO DO IT ALL ON THE 25TH SO THEY'LL HAPPEN AT THE SAME TIME.

DEFENDANT FALTAS: OKAY.

MR. BRIGGS: AND YOU SAID IF I FILE A PEITITON FOR APPEAL THAT DAY THE SENTENCE WILL NOT BE IMPOSED, IT WILL BE STAYED.

THE COURT: IT WILL BE IMPOSED BUT STAYED, CORRECT.

DEFENDANT FALTAS: YOUR HONOR, I THINK YOUR HONOR – AND I'M HOPING THAT I REMEMBER CORRECTLY. I REMEMBER THE ONES THAT WERE ADMITTED AS FAR AS EXHIBITS. NUMBER ONE, I WANT TO WAIT UNTIL I GET

THE C.D. IF POSSIBLE.

THE COURT: I DON'T KNOW THAT THAT CAN BE TODAY BECAUSE I DON'T KNOW IF THE GENTLEMAN WHO BURNS THEM IS HERE TODAY.

DEFENDANT FALTAS: ALL RIGHT.

THE COURT: HE'S AREADY LEFT TODAY BECAUSE OF THE HOUR.

DEFENDANT FALTAS: THEN PLEASE, PLEASE DO ENTER AN ORDER THAT I MAY CONTACT HIM DIRECTLY –

THE COURT: NO, MA'AM. THIS IS WHAT I WILL DO. I WILL ASK HIM TO BURN IT AND HAVE IT TO MR. BRIGGS' OFFICE BY WEDNESDAY.

DEFENDANT FALTAS: HOW DOES HE GET –

MR. BRIGGS: WE'VE GOT PLENTY OF TIME BECAUSE YOU'VE GOT TO THE 25TH, MARIE.

DEFENDANT FALTAS: HOW DOES HE GET IT TO MR BRIGGS' OFFICE? CAN HE AT LEAST CALL AND LET ME KNOW TO PICK IT –

THE COURT: I'LL DO BETTER. I'LL HAVE HIM BURN IT AND CALL MR. BRIGGS' OFFICE TO TELL HIM WHEN IT'S AVAILABLE FOR PICK-UP.

DEFENDANT FALTAS: AND MAY I PICK IT UP?

THE COURT: I WOULD LIKE FOR MR. BRIGGS TO PICK IT UP.

DEFENDANT FALTAS: YOUR HONOR HAS NO IDEA HOW MUCH TROUBLE MR. BRIGGS GIVES ME TO DO ANYTHING OUTSIDE OF COURT.

THE COURT: I APOLOGIZE THAT I DON'T KNOW THAT BUT HE'S YOUR ATTORNEY –

MR. BRIGGS: YOUR HONOR, YOU KNOW THAT'S NOT EVEN CLOSE TO BEING TRUE. THAT'S ONE OF HER IMAGINATIONS.

DEFENDANT FALTAS: THERE IS ONE OTHER THING, YOUR HONOR.

I STILL HAVE AN ISSUE WITH OFFICER HAMPE.

THE COURT: I'M NOT ADDRESSING THAT TODAY. OFFICER HAMPE IS NOT HERE, NONE OF THE PEOPLE ARE HERE. WE ARE NOT GOING TO ADDRESS THAT TODAY. WE'VE GOT TWO MORE DAYS SET ASIDE. WE ARE GOING TO GET TO SEE EACH OTHER SOME MORE AND ADDRESS SOME ISSUES. WRITE THEM UP AND I'LL ADDRESS THEN, I'LL HEAR THEM.

DEFENDANT FALTAS: ALL RIGHT. THEN PLEASE THE OTHER THING IS PLEASE DO THE JURY QUALIFICATION FOR THAT WEEK, PLEASE.

THE COURT: I WILL DO MY BEST. I DO NOT KNOW WHAT I HAVE ON THE --- I'LL TELL YOU WHAT WE CAN DO. WHY DON'T WE JUST REQUALIFY THE JURY THE MORNING OF THE 24TH. THAT WAY Y'ALL DON'T HAVE TO COME ON THE 22ND TO SEE ANY OTHER JUDGE.

DEFENDANT FALTAS: BUT THAT'S PRECISELY THE PROBLEM. THRE IS A WHOLE LOT THAT CAN HAPPEN DURING JURY QUALIFICATION AND THAT'S WHAT YOUR HONOR HAD SET FOR (INAUDIBLE).

THE COURT: CAN YOU SLOW DOWN? I DIDN'T SAY THIS TIME WE'D QUALIFY THE JURY ON TODAY, I SAID WE'D PICK IT. THIS TIME I'M SAYING WE'LL JUST QUALITY IT ON THE 24TH SO YOU DON'T HAVE TO COME ON THE 22ND.

DEFENDANT FALTAS: ACTUALLY THIS TIME YOU HAD SAID THAT WE ARE GOING TO RE-QUALIFY IT AND I WAS FRANTIC BECAUSE THERE ARE THINGS THAT CAN BE –

THE COURT: DR. FALTAS, I'M SORRY BUT I THINK I'VE DONE ALL I CAN DO TODAY.

DEFENDANT FALTAS: THE OTHER THING –

THE COURT: NO, MA'AM, YOU SAID ONE THING THREE THINGS

AGO. I AM HAPPY TO TAKE ANY WRITTEN MOTIONS. I'M PROVIDING YOU ADEQUATE TIME SO YOU CAN SUBMIT ANYTHING YOU WANT. YOU MIGHT NOT BE THINKING ABOUT SOMETHING RIGHT NOW THAT YOU MIGHT WANT TO SUBMIT IN TWO DAYS. YOU'VE GOT PLENTY OF TIME TO DO IT. SUBMIT IT IN WRITING SO THERE'S NO MISTAKE SO THAT WE HAVE IT ON THE RECORD AND WILL ADDRESS IT BUT I AM NOT GOING TO MAKE ANY MORE RULINGS ON TODAY. IT IS 6:43. WE'VE HAD A LONG DAY AND I THINK IT'S BEST FOR ALL PARTIES THAT WE VACATE AND THAT WE RECONVENE AT ANOTHER TIME.

DEFENDANT FALTAS: SUBMIT IT IN WRITING DIECTLY TO YOU? THE ISSUE IS --

THE COURT: NO, MA'AM. YOU SUBMIT IT TO THE COURT THROUGH YOUR ATTORNEY.

DEFENDANT FALTAS: MR. LUPTON SAID THAT THERE WAS – I DON'T NEED TO BE HERE ON THE 16TH BUT I HAVE NOTICES TO BE HERE ON THE 16TH.

THE COURT: YOU DON'T NEED TO BE HERE ON THE 16TH.

DEFENDANT FALTAS: HE SAID HE WAS GOING TO –

THE COURT: YOU DON'T NEED TO BE HERE ON THE 16TH. THANK YOU, MA'AM.

MR. BRIGGS: YOUR HONOR, LET ME ASK YOU A TOTALLY ISOLATED QUESTION.

THE COURT: YES, SIR.

(END OF RECORDING)

(ADJOURNED)

STATE OF SOUTH CAROLINA	)	IN THE COLUMBIA MUNICIPAL COURT
	)	
COUNTY OF RICHLAND	)	
CITY OF COLUMBIA,	)	
	)	
VS.	)	TRANSCIRPT OF RECORD
	)	Warrant No.: L-06697
MARIE-THÉRÈSE ASSA'AD-FALTAS,	)	
	)	
DEFENDANT.	)	

2013 JUN 17 AM 11:25
JEANETTE [illegible]
C.C.P. & G.S.
RICHLAND COUNTY

BENCH TRIAL HELD BEFORE THE HONORABLE CARL L. SOLOMON, PRESIDING JUDGE, IN THE COLUMBIA MUNICIPAL COURT, COLUMBIA, SOUTH CAROLINA, ON APRIL 25, 2013.

APPEARANCES:

DAVID A. FERNANDEZ, ESQUIRE
APPEARING FOR THE CITY

THEODORE N. LUPTON, ESQUIRE
APPEARING FOR THE DEFENDANT

TRANSCRIBED BY:
NANCY S. AHRENS

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MR. FERNANDEZ: YOUR HONOR, THE ONLY ISSUE I HAVE –

THE COURT: WE'VE GOT THE JURY COMING IN. LET'S AT LEAST GET THEM SWORN AND IN THE BACK. DO YOU HAVE AN ISSUE THAT HAS TO BE ADDRESSED BEFORE THE SWEARING?

MR. FERNANDEZ: NO, NOT REALLY. JUST WHATEVER THE COURT PREFERS.

THE COURT: OKAY. YES, SIR.

MR. FERNANDEZ: THE CHARGE IS SIMPLE ASSAULT WHICH EXISTED AT THE TIME OF THE ASSAULT. IT'S A CITY ORDINANCE. SINCE THEN THE LEGISLATURE HAS ENACTED IN THEIR OMNIBUS BILL A COUPLE OF YEARS AGO ASSAULT AND BATTERY, THIRD. I DON'T KNOW HOW YOUR HONOR, OR IF MR. LUPTON HAS AN OPINION, WANTS TO PROCEED. I DON'T KNOW IF YOUR HONOR HAS A PREFERENCE ON WHETHER WE PROCEED UNDER THE CITY ORDINANCE SIMPLE ASSAULT OF IF WE JUST PROCEED UNDER THE ASSAULT AND BATTERY, THIRD. I KNOW A LOT OF JUDGES HAVE BEEN OF THE OPINION THAT THE CITY ORDINANCE IS ESSENTIALLY RENDERED MOOT OR IRRELEVANT AT THIS POINT BECAUSE THE LEGISLATURE HAS SPOKEN TO WHAT SHOULD BE ASSAULT AND BATTERY, THIRD. THEY ARE VERY SIMILAR. I THINK THE STANDARD IS ACTUALLY HIGHER FOR ASSAULT AND BATTERY, THIRD, BUT HOWEVER YOU WANT TO PROCEED. IF WE DO ASSAULT AND BATTERY, THIRD, IT WOULD REQUIRE AMENDING THE CHARGE BUT IT'S UP TO THE COURT. I JUST WANT TO MAKE THIS AS CLEAN A TRIAL AS POSSIBLE.

THE COURT: YES, SIR. MR. LUPTON.

MR. LUPTON: YOUR HONOR, THE CHARGE WAS UNDER THE ORDINANCE 14-31. MY UNDERSTANDING IS THAT ORDINANCE IS STILL IN PLACE,

IT HAS NOT BEEN –

MR. FERNANDEZ: IT'S STILL IN PLACE AND IN MY EXPERIENCE WITH THE COURT EVEN IF THEY WRITE FOR – IF THE MINISTERIAL RECORDERS WRITE FOR CITY ORDINANCE SIMPLE ASSAULT THAT THE PRACTICE HAS BEEN TO CONVERT IT TO ASSAULT AND BATTERY, THIRD, JUST AS A MATTER OF BEING PRE-EMPTED BY STATE LAW. THANK YOU.

MR. LUPTON: YOUR HONOR, I'M CERTAINLY HAPPY FOR THE CITY TO CONCEDE THAT IT'S PRE-EMPTED BY STATE LAW BUT – AND DR. FALTAS AGREES AND URGES THAT THE CITY ORDINANCE IS PRE-EMPTED BY STATE LAW. HOWEVER, THE ASSAULT, THIRD, WAS NOT ENACTED UNTIL AFTER THIS, CANNOT COVER CONDUCT THAT OCCURRED BEFORE THE ENACTMENT OF THE STATUTE SO THIS CANNOT BE TRIED AS AN ASSAULT, THIRD. YOU CANNOT HAVE –

THE COURT: UNDER YOUR ANALYSIS YOU CAN'T DO IT UNDER THE CITY BECAUSE IT'S PRE-EMPTED AND YOU CAN'T AMEND TO AN ASSAULT, THIRD, SO IT'S OVER.

MR. LUPTON: WELL, I LIKE THAT ARGUMENT.

THE COURT: IT SOUNDS LIKE THAT'S WHERE YOU WERE HEADED.

MR. LUPTON: I LIKE THAT ARGUMENT BUT I CAN ONLY ARGUE THOSE THINGS THAT I FEEL ARE – THOSE LEGAL ISSUES THAT I FEEL ARE COLORABLE UNDER THE LAW.

THE COURT: OKAY.

MR. LUPTON: AND DR. FALTAS BELIEVES THAT THE SIMPLE ASSAULT IS PRE-EMPTED BY STATE LAW. HOWEVER, THERE WAS NO STATUTE AT THE TIME. ENACTMENT OF A STATUTE LATER WITH A SAVINGS CLAUSE DOES

NOT EXTINGUISH ANYTHING THAT WAS BEFORE AND I DO NOT BELIEVE THAT THE EXISTENCE OF A STATE LAW PRECLUDES THE CITY FROM HAVING A SEPARATE ODINANCE AND GOING FORWARD UNDER THAT. I THINK THAT THE CITY IS – I THINK THAT 14-31 IS WHAT WE'VE GOT OR NOTHING. IT'S 14-31 OR IT'S NOTHING.

MR. FERNANDEZ: I'M FINE WITH THAT. I JUST WANT US TO BE ON THE SAME PAGE. THAT'S ALL.

THE COURT: WE WILL PROCEED UNDER 14-31. DR. FALTAS, PLEASE COME IN AND HAVE A SEAT.

DEFENDANT FALTAS: WELL, THAT'S WHAT I WANTED TO TELL YOUR HONOR. ANY MOVEMENT BECAUSE I THINK MY KNEE IS FRACTURED (INAUDIBLE) WITH PAIN SO PLEASE DON'T HOLD ME IN CONTEMPT FOR THAT.

THE COURT: DON'T SCREAM IN PAIN, JUST SIT DOWN IN THE CHAIR AND STAY IN THE CHAIR.

DEFENDANT FALTAS: WELL, I CAN'T HELP IT. I'M SORRY.

THE COURT: YOU CAN HELP IT BY NOT MOVING SO SIT IN THE CHAIR AND YOU DON'T HAVE TO GET UP.

DEFENDANT FALTAS: WELL – BUT THE MOVEMENT BY SITTING FROM A STANDING POSITION OR TURNING OR ANYTHING MAKES ME SCREAM IN PAIN.

THE COURT: YOU ARE RELIEVED OF HAVING TO STAND WHEN PEOPLE COME IN AND LEAVE THE COURTROOM SO ONCE YOU SIT DOWN YOU MAY REMAN SEATED.

DEFENDANT FALTAS: COULD I HAVE THIS CHAIR TO STRETCH MY LEG?

THE COURT: YOU CAN TALK TO YOUR ATTORNEY OR THE COURT OFFICER ABOUT MOVING IT OVER. YOU WANT TO PUT YOUR LEG UP?

DEFENDANT FALTAS: YES.

THE COURT: NO, MA'AM. WE ARE NOT GOING TO PUT YOUR LEG UP. YOU ARE FREE TO SIT DOWN AND YOU ARE RELIEVED FROM STANDING BUT WE ARE NOT GOING TO PUT YOUR LEG UP.

MR. FERNANDEZ: YOUR HONOR, TO THAT EFFECT, IF IT BECOMES A DISTRACTION DURING TRIAL I WILL REQUEST THAT THE DEFENDANT BE REMOVED FROM THE COURTROOM.

THE COURT: WE WILL ADDRESS ANYTHING THAT HAPPENS WHEN THEY HAPPEN. PLEASE HAVE A SEAT. ARE THERE ANY – WE ARE PROCEEDING UNDER 14-31. ARE THERE ANY OTHER ISSUES BEFORE WE BRING IN THE JURY?

DEFENDANT FALTAS: YES.

MR. LUPTON: YOUR HONOR, WHILE WE HAVE THIS OPPORTUNITY, I'D LIKE TO GO AHEAD AND COVER A FEW THINGS. THE COURT INSTRUCTED MYSELF TO SEAL CERTAN DOCUMENTS. THESE ARE THE E-MAILS AND MEDICAL RECORDS AND OTHER ATTACHMENTS THAT WERE SENT TO THE COURT EARLIR THIS WEEK CONCERNING A MEDICAL REQUEST FOR A CONTINUANCE. YOU INSTRUCTED THAT SO THEY WOULD BE PART OF THE RECORD THAT THEY BE PRINTED AND SEALED. I'VE DONE THAT. THEY WERE SEALED WITH TAPE AND I'M TURING THOSE OVER TO THE CLERK AT THIS TIME.

THE COURT: OKAY. THANK YOU FOR COMPLYING WITH THAT.

MR. LUPTON: YOUR HONOR, ADDITIONALLY, I HAVE PROVIDED DR. FALTAS WITH A COPY OF YOUR ORDER PER YOUR INSTRUCTIONS CONCERNING SENTENCING. I WOULD ALSO LIKE TO COVER ON THE RECORD

WITH EVERYONE PRESENT IN THE COURTROOM THE COURT'S INSTRUCTIONS THAT WERE MADE AT THE PRE-TRIAL HEARING. I CAN'T RECALL THE DATE BUT EARLIER. I THINK APRIL 12TH AS WELL AS WE WERE REORDERED YESTERDAY CONCERNING BOTH SIDES ARE PROHIBITED FROM GOING INTO PAST PROBLEMS IN THE SIMPLE ASSAULT WITH REGARDS TO THE HARRASSMENT AND RELATED ISSUES. I WANT TO MAKE SURE THAT THAT IS COVERED AGAIN ON THE RECORD WITH ALL --

DEFENDANT FALTAS: MAY I SPEAK TO HIM, PLEASE.

MR. LUPTON: -- POTENTIAL WITNESSES PRSENT.

THE COURT: LET HIM FINISH SPEAKING AND THEN YOU MAY SPEAK TO HIM. GO AHEAD.

MR. LUPTON: YOUR HONOR, THERE IS THE POTENTIAL THAT WITNESSES ON EITHER OR BOTH SIDES COULD BE POTENTIALLY IMPEACHED WITH PRIOR TESTIMONY. I WOULD ASK THAT ANY PRIOR TESTIMONY IMPEACHMENT THAT ALL SIDES REFER TO ANY PRIOR TRIALS OR HEARINGS IS SIMPLY GENERIC AT A PRIOR HEARING AND POSSIBLY THE WAY THEY TESTIFIED UNDER OATH IF APPLICABLE.

THE COURT: ANY STATEMENT OR RESPONSE OR OBJECTION TO THAT, MR. FERNANDEZ.

MR. FERNANDEZ: I WAS PRESENT DURING ALL THE DISCUSSIONS SO I THINK WE ARE ALL ON THE SAME PAGE WITH WHAT IS GOING TO BE COVERED, AT LEAST IN MY CASE IN CHIEF. I EXPECT THE SAME RULES APPLY TO THE DEFENDANT IF SHE DECIDES TO TESTIFY AND, ASSUMING THAT'S THE CASE, I THINK WE CAN KEEP THIS LIMITED TO THE FACTS ON THIS DATE AND I WOULD BE HAPPY TO DO THAT.

THE COURT: ANYTHING FURTHER, MR. LUPTON?

MR. LUPTON: YOUR HONOR, WE HAD THE – I THINK THAT THE RECORD IS FROM THE SELECTION AND MY OBJECTION TO TWO JURIES FROM THE SAME POOL IS COVERED BUT I JUST WANT TO MAKE SURE THAT THAT'S COVERED. I UNDERSTAND YOUR RULING AND WE ARE GOING FORWARD. AND THEN IN CASE THERE'S NO BREAK BETWEEN WITNESSES, I WANTED TO SETTLE MS. CROUCH'S TESTIMONY. MY UNDERSTANDING IS THAT IT'S JUST GOING TO BE MS. STEELE AND MS. CROUCH. AND MS. CROUCH'S RECORD FROM PREVIOUSLY SHE HAS A GRAND LARCENY CONVICTION THAT IS IMPEACHABLE. SHE HAS A C.D.V. CONVICTION THAT WOULD NOT BE. THERE WAS A 2006 ARREST FOR DRUGS WITH NO DISPOSITION. I CAN'T RECALL WHAT HAPPENED WITH THAT BUT WE'VE GOT HER HERE.

THE COURT: ALL RIGHT. DO YOU HAVE A COPY OF HER RECORD?

MR. LUPTON: MR. FERNANDEZ HAD THAT LAST TIME AND SHOWED IT TO ME BUT I DID NOT HAVE ...

THE COURT: WAS SHE FOUND GUILTY ON –

MR. FERNANDEZ: NO, SHE JUST RELAYED THAT IT WAS DISMISSED.

THE COURT: HOW OLD IS THE GRAND LARCENY?

MR. LUPTON: 2007, YOUR HONOR.

THE COURT: ALL RIGHT. I WILL ALLOW TESTIMONY OF IMPEACHMENT REGARDING THE GRAND LARCENY. I WILL NOT ALLOW ANY REFERENCE TO THE C.D.V. OR THE DRUGS.

MR. LUPTON: ADDITIONALLY, YOUR HONOR, THERE WAS A – APRIL OF 2012, SOME CITY CHARGES THAT AT THE TIME OF THE LAST TRIAL

WERE NOT DISPOSED OF. I DO NOT KNOW. I THINK THAT THEY HAVE BEEN DISPOSED OF SINCE.

MR. FERNANDEZ: I DON'T KNOW. WE HAVE ACCESS TO THE DATABASE. CERTAINLY WE CAN PULL IT UP.

(INAUDIBLE)

MR. FERNANDEZ: THEY HAVE NOT BEEN DISPOSED OF YET.

MR. LUPTON: STILL PENDING?

THE COURT: ALL RIGHT. NO REFERENCE TO ANY CITY CHARGES STILL PENDING.

MR. LUPTON: AND THEN AN ASSAULT, SECOND, FROM JUNE OF 2012. THAT WAS SHOWING ON THE RAP SHEET, AN ARREST FROM JUNE 19, 2012, RICHLAND COUNTY.

MR. FERNANDEZ: SHE DOESN'T SEEM TO BE AWARE OF IT, YOUR HONOR, OR AT LEAST HASN'T BEEN TO COURT FOR IT.

DEFENDANT FALTAS: SHE DOESN'T SEEM TO BE AWARE OF IT? SHE'S –

THE COURT: NO REFERENCE TO THE ASSAULT, SECOND.

MR. LUPTON: ALL RIGHT. THE CITY CHARGES, YOUR HONOR, I WOULD MOVE TO BE ALLOWED TO IMPEACH BASED ON POTENTIAL OF SEEKING LENIENCY ON THOSE CHARGES FOR HER TESTIMONY IN THIS CASE.

THE COURT: NO, SIR, I'M NOT GOING TO ALLOW IT.

MR. LUPTON: ALL RIGHT.

THE COURT: I'M GOING TO RULE ON THESE OTHER FEW ISSUES AND GIVE YOU AN OPPORTUNITY TO SPEAK TO DR. FALTAS. ON THE – WE PREVIOUSLY HAD MOTION IN LIMINES AND TO SOME EXTENT AGREEMENT THAT

THIS CASE WOULD BE ABOUT WHAT THIS CASE IS ABOUT TODAY AND NOT ABOUT PAST INFORMATION. ACCORDINGLY, IT IS THE ORDER OF THE COURT THAT WE ARE TO HAVE TESTIMONY ONLY ABOUT WHAT IS GOING ON REGARDING THE DATE IN QUESTION, NOT ABOUT PAST ISSUES BETWEEN THE PARTIES WHICH INCLUDES ANY BELIEF THAT ANYBODY WAS HARRASSING ANYBODY, ANY BELIEF THAT ANYBODY WAS ON TRESPASS NOTICE, ANY BELIEF THAT SOMEBODY WAS TRYING TO GET RID OF SOMEBODY BECAUSE THEY BOUGHT LAND, ANY ISSUES ABOUT WATER PIPES AND DRAINS. ANY OF THAT PRIOR STUFF IS OUT. THIS IS ABOUT THE DATE IN QUESTION AND WHETHER OR NOT THERE WAS A SIMPLE ASSAULT. IS THAT UNDERSTOOD BY ALL PARTIES.

DEFENDANT FALTAS: NO, YOUR HONOR, IT'S NOT UNDERSTOOD BY ME.

THE COURT: I DIDN'T SAY THAT YOU AGREE. DO YOU UNDERSTAND IT?

DEFENDANT FALTAS: NO.

THE COURT: WHAT DON'T YOU UNDERSTAND?

DEFENDANT FALTAS: WHAT I DO NOT UNDERSTAND IS HOW I COULD POSSIBLY AFFIRM TO TELL THE WHOLE TRUTH IF I'M NOT ALLOWED TO DO THAT. BESIDES THIS IS CLASSICAL WHEN YOU INSTRUCT THE JURORS YOU TELL THEM MOTIVES, BIAS. AND THEN THE C.D. OF HER HAVING CALLED –

THE COURT: OKAY. I UNDERSTAND YOUR ARGUMENT. THE RULING REMAINS THE SAME. IF YOU GO INTO ANY OF THOSE ISSUES THAT WILL BE CONTRARY TO THIS ARGUMENT. YOU ARE FORBIDDEN FROM DOING SO AND TO DO SO WOULD BE TO VIOLATE THE COURT'S ORDER.

DEFENDANT FALTAS: WELL, THEN I CAN'T HAVE A JURY TRIAL.

THE COURT: THE PRIOR TRIALS, WE ARE GOING TO REFER TO THOSE AS PREVIOUSLY UNDER OATH OR PRIOR HEARINGS. WE ARE NOT GOING TO TALK ABOUT TRIALS OR IN ANY WAY INSINUATE WHAT THEY ARE. I UNDERSTAND THAT YOU HAVE REITERATED TO YOUR OPPOSITION TO TWO JURIES FROM THE SAME POOL. I HAVE OVERRULED THAT. AGAIN, I HAVE ADVISED YOU PREVIOUSLY AND WILL INQUIRE NOW DO YOU HAVE ANY TYPE OF CURATIVE CHARGE THAT YOU WISH TO HAVE READ?

DEFENDANT FALTAS: I DON'T WANT A JURY TRIAL.

MR. LUPTON: YOUR HONOR, I DON'T BELIEVE IT CAN BE CURED. I DON'T THINK YOU CAN UNRING THE BELL. HOWEVER, MY CLIENT HAS INFORMED ME THAT SHE DOES NOT WANT TO BE TRIED BY A JURY, THAT SHE WANTS TO GO FORWARD AS A BENCH TRIAL.

DEFENDANT FALTAS: NOW IS IT POSSIBLE IF WE GO FORWARD TO A BENCH –

THE COURT: MR. FERNANDEZ?

MR. FERNANDEZ: COULD I HAVE A MOMENT.

MR. LUPTON: I BEG THE COURT'S INDULGENCE.

MR. FERNANDEZ: CAN I HAVE A MOMENT TO DISCUSS –

THE COURT: PLEASE.

(PAUSE)

THE COURT: YES, SIR, MR. FERNANDEZ.

MR. FERNANDEZ: AFTER HAVING DISCUSSED THE MATTER WITH THE VICTIM, I THINK SHE DOES HAVE SOME INPUT IN HOW THE CASE PROCEEDS. WE WILL BE FINE WITH PROCEEDING WITH A BENCH TRIAL.

THE COURT: ALL RIGHT.

MR. LUPTON: YOUR HONOR, MY CLIENT HAS ASKED – AND I UNDERSTAND THE COURT IS ALREADY AWARE OF MOST OF – OF ALL OF THE BACKGROUND THROUGH PRIOR TRIALS, NOT THROUGH EX PARTE OR OTHER COMMUNICATIONS BUT THROUGH PRIOR TRIALS. AND WHILE I UNDERSTAND THAT THE COURT WILL DECIDE THE CASE ON THE FACTS OF THIS CASE THAT ARE PRESENTED IN THIS COURTROOM TODAY, NOT BASED ON KNOWLEDGE YOU HAVE OUTSIDE, MY CLIENT HAS ASKED THAT SINCE IT IS GOING TO BE TRIED BY THE COURT WITH THE DISCRETION AND UNDERSTANDING AND ABILITY TO SORT THROUGH WHAT IS RELEVANT AND NOT RELEVANT IF SHE WOULD BE PERMITTED IN A BENCH TRIAL TO GO INTO THINGS THAT SHE BELIEVES IS RELEVANT AS TO MOTIVE AND BIAS.

THE COURT: I WILL ALLOW GREATER LATITUDE IN TESTIFYING IF IT IS A BENCH TRIAL AS OPPOSED TO A JURY TRIAL. HOWEVER, I WILL LIMIT ANY OF MY FINDINGS TO WHAT I BELIEVE TO BE RELEVANT INFORMATION. SO JUST BECAUSE IT'S SAID HERE DOESN'T MEAN THAT THAT'S WHAT I'M GOING TO RELY UPON, BUT I WILL ALLOW MORE THINGS TO BE SAID, CORRECT.

MR. LUPTON: ALL RIGHT. AND I UNDERSTAND THAT THAT IS NOT IN ANY WAY COERCIVE OF TRYING TO GET HER TO WAIVE HER RIGHT TO A JURY TRIAL BUT JUST IN TERMS OF THE COURT HAS MORE DISCRETION.

THE COURT: THAT IS HOW WE WILL PROCEED BECAUSE THE COURT DOES HAVE MORE DISCRETION AND IN A BENCH TRIAL I'M NOT AS STRICT ON THE EVIDENTIARY RULES BECAUSE I CAN SORT THROUGH WHAT IS ADMISSIBLE AND WHAT IS NOT. NOW WITH THAT BEING SAID, WE'VE GOT A JURY RIGHT HERE AND WE ARE HAPPY TO HAVE HER EXERCISE HER RIGHT TO A JURY TRIAL AND ARE READY TO BEGIN.

MR. LUPTON: YOUR HONOR. I APOLOGIZE.

THE COURT: NO PROBLEM. SO DOES SHE WANT THE JURY TRIAL OR NOT?

DEFENDANT FALTAS: WELL, I CAN'T HAVE A JURY TRIAL UNDER THIS LIMINE THING AND BE, YOU KNOW, IN CONTEMPT. YOU SAID SOMETHING ABOUT CAN'T UNRING THE BELL. I AGREE WITH THAT. BESIDES IT WILL TAKE MORE TIME AND THE ISSUE OF MY SCREAMING (INAUDIBLE) KNEES I DON'T WANT TO BE REMOVED.

MR. LUPTON: IT'S YOUR DECISION. I'VE GIVEN YOU MY ADVICE.

DEFENDANT FALTAS: IT'S MY DECISION UNDER DURESS BUT THAT'S THE LESSER OF THE TWO EVILS. IN ADDITION I (INAUDIBLE) MY ANDERS BRIEF AND I WANT YOU TO PLEASE PUT IT ON THE RECORD THAT THE (INAUDIBLE). COULD I GIVE IT TO YOU?

MR. FERNANDEZ: I BEG THE COURT'S INDULGENCE.

MR. LUPTON: YOUR HONOR, MY UNDERSTANDING FROM MY CONVERSATION WITH MY CLIENT RIGHT NOW IS THAT AT THIS TIME SHE WOULD LIKE TO WAIVE JURY TRIAL, PROCEED WITH A BENCH TRIAL. SHE HAS ASKED ME ALSO TO SUBMIT TO THE COURT THE ANDERS BRIEF WHICH I BELIEVE YOU HAVE ALREADY HAD E-MAILED TO YOU BUT –

DEFENDANT FALTAS: NO, NO.

MR. LUPTON: IT WAS NOT. PERHAPS IT'S A SEPARATE ONE. IN ANY EVENT –

DEFENDANT FALTAS: I WANTED TO SAY –

THE COURT: LET HIM FINISH HIS STATEMENT.

DEFENDANT FALTAS: OKAY.

MR. LUPTON: AND PURSUANT TO YOUR ORDER FROM YESTERDAY I BELIEVE THAT THAT WOULD BE APPROPRIATE FOR HER TO SUBMIT WHAT SHE THINKS IS RELEVANT AND ALLOW THE COURT TO DECIDE.

THE COURT: ALL RIGHT. I WILL ACCEPT WHATEVER SHE HAS TO SUBMIT SO LONG AS A COPY IS ALSO PROVIDED TO MR. FERNANEDEZ. I DID RECEIVE AN E-MAIL WITH A CORRESPONDENCE. I RESPONDED TO IT. I COPIED MR. FERNANDEZ ON THE RESPONSE BECAUSE HE WAS NOT COPIED IN THE ORIGINAL E-MAIL. AND IN THAT I HAVE MADE IT CLEAR THAT IT IS THE ORDER OF THIS COURT IN ADDITION TO ANY OTHER ORDER THAT IS CURRENTLY STANDING THAT THERE BE NO E-MAIL COMMUNICATIONS DIRECTLY WITH THE COURT. AND HERE IS A COPY OF THAT E-MAIL RESPONSE WITH THE ATTACHMENTS TO BE PLACED INTO THE RECORD AND BECAUSE I DON'T KNOW THAT EVERYBODY GOT IT, HERE'S A COPY FOR IT TO BE SPREAD AROUND.

MR. FERNANDEZ: AND, YOUR HONOR, JUST TO THE DEFENDANT'S – IN THE DEFENDANT'S DEFENSE I WAS NOT PROVIDED WITH A COPY OF THE E-MAIL LIKELY BECAUSE SHE'S PROHIBITED FROM CONTACTING ME THROUGH ANY MEANS BUT U.S. MAIL. IT WOULD HAVE BEEN A VIOLATION OF THE COURT ORDER –

THE COURT: I WOULD NORMALLY SAY THAT YOU MAY HAVE BEEN CORRECT BUT YOU WERE COPIED ON SOME E-MAIL EARLIER THIS WEEK SO I DON'T KNOW THAT THAT STOPPED IT.

MR. FERNANDEZ: I WAS TOLD I WAS BUT –

THE COURT: YOU WERE.

MR. FERNANDEZ: BUT I ACTUALLY DID NOT RECEIVE THAT E-MAIL.

THE COURT: YOU WERE ATTEMPTED TO BE. YOUR NAME WAS ON IT.

MR. FERNANDEZ: OKAY. OKAY. ALL RIGHT. NOW –

DEFENDANT FALTAS: NO, NO. LET ME TELL YOUR HONOR WHAT HAPPENED ON THIS, PLEASE, IF I MAY.

THE COURT: LOOK, DR. FALTAS, I'VE NOT MADE ANY FINDINGS AGAINST YOU. I'VE NOT DONE ANYTHING TO PROHIBIT ANY FURTHER – EXCUSE ME, THAT IS NOT TRUE. I'VE ONLY INHIBITED FURTHER ACTIVITY SO AT THIS POINT IT DOESN'T NEED EXPLANATION BECAUSE I'M NOT TAKING ACTION. WHAT WE ARE GOING TO DO IS WE ARE GOING TO GET THIS JURY OUT OF HERE SO THEY CAN LEAVE BECAUSE THEY ARE HERE FOR FIVE DOLLARS A DAY AND YOU'VE DECIDED THAT WE ARE NOT GOING TO USE THEM AND THEN WE ARE GOING TO START THIS TRIAL. PLEASE BRING THE JURY IN.

THE COURT: DOES YOUR HONOR REALIZE HOW MUCH I CARE WHAT YOU THINK OF ME?

THE COURT: IT'S NOT RELEVANT AT THIS TIME.

DEFENDANT FALTAS: OKAY.

(JURY VENIRE ENTERS THE COURTROOM AND IS DISMISSED)

THE COURT: ALL RIGHT, MR. FERNANDEZ, WE ARE READY FOR OPENINGS.

MR. FERNANDEZ: I'M GOING TO WAIVE OPENING. I DON'T KNOW IF MR. LUPTON WANTS TO ALSO.

THE COURT: THANK YOU VERY MUCH. MR. LUPTON, MR. FERNANDEZ HAS WAIVED OPENING.

MR. LUPTON: YOUR HONOR, IF I CAN JUST HAVE A MINUTE. WHAT

I WOULD SUGGEST PERHAPS IS THAT LET DR. FALTAS ORGANIZE ALL OF THESE AS TO WHETHER THEY ARE – SHE'S GIVEN ME A LOT OF THESE BRIEFS. I DON'T KNOW IF THEY ARE ALL THE SAME.

DEFENDANT FALTAS: THAT'S THE SAME ONE I'M GIVING YOU FOR ORIGINALLY (INAUDIBLE).

THE COURT: AND WE WILL ACCEPT THOSE. I, OF COURSE, AM NOT GOING TO READ THEM WHILE I'M LISTENING TO TESTIMONY SO IF YOU WILL HAND THEM UP WE'LL HAVE THEM. PLEASE MARK THEM. WE ARE GOING TO MAKE THEM A PART OF THE RECORD. MARK THEM FOR IDENTIFICATION.

(BRIEF(S) RECEIVED AS COURT'S EXHIBIT #1)

MR. LUPTON: YOUR HONOR, WITH REGARDS TO OPENING, I WILL JUST NOTE THAT THIS CASE IS ABOUT WHETHER OR NOT THE SERVING OF PAPERS INVOLVED IN THE DISPUTE THAT WAS – YOU KNOW, THAT OCCURRED THAT DAY, WHETHER IT AMOUNTS TO A CRIMINAL, CRIMINAL ACT, BEYOND A REASONABLE DOUBT AND OTHER THAN THAT WE'LL PROCEED TO TESTIMONY.

THE COURT: ALL RIGHT. LET'S STOP FOR ONE MOMENT IF WE COULD. DID YOU GIVE MR. FERNANDEZ A COPY OF THOSE?

MR. LUPTON: GAVE HIM A COPY, PROVIDED A COPY TO THE COURT.

THE COURT: ALL RIGHT. IT IS TWO PAGES AND IT APPEARS TO MAKE A MOTION IN ADDITION TO JUST HAVING POINTS OF LAW SO WE ARE ALL GOING TO TAKE A MOMENT AND READ IT.

(PAUSE)

THE COURT: ALL RIGHT. I HAVE READ THE MOTION IN FULL. I WILL FIND THAT THE LAST PARAGRAPH, NEXT TO THE LAST PARAGRAPH

REFERENCING HISTORY BETWEEN THE DEFENDANT AND THE ACCUSED IS MOOT AS I HAVE AGREED TO ALLOW HER TO PROVIDE ADDITIONAL TESTIMONY IN THE BENCH TRIAL. AS TO FINDING THAT THE CITY ORDINANCE IS PRE-EMPTED BY STATE LAW FOR VOID, FOR VAGUENESS, TO HOLD A MECHANICAL AND POSSIBILITY HEARING, I SPECIFICALLY FIND THAT I WILL NOT DISMISS THE CHAGES FOR VOID, FOR VAGUENESS AND AS THE COURT IS HEARING THIS CASE AND WILL BE ABLE TO WEIGH ALL THE ISSUES I FIND A PRE-TRIAL HEARING IS ALSO NOT APPROPRIATE. MR. FERNANDEZ, PLEASE CALL YOUR FIRST WITNESS.

MR. FERNANDEZ: THANK YOU. YOUR HONOR, THE CITY WOULD CALL DINAH STEELE MASON.

MR. LUPTON: YOUR HONOR?

THE COURT: YES, SIR.

MR. LUPTON: MOVE TO SEQUESTER THE WITNESSES.

THE COURT: GRANTED. WOULD YOU BE KIND ENOUGH TO HAVE THE FOLKS SIT OUTSIDE.

MR. FERNANDEZ: THE ONLY OTHER WITNESS WOULD BE MS. CROUCH SO I DON'T THINK IT'S NECESSARY FOR MR. MASON. JUST SIT IN THE LOBBY. WE'LL COME AND GET YOU IN A MINUTE.

THE COURT: ALL RIGHT.

DINAH STEELE MASON, AFTER BEING DULY SWORN BY THE COURT, TESTIFIES AS FOLLOWS;

THE COURT: PLEASE HAVE A SEAT AND PLEASE ANSWER ANY QUESTIONS THE CITY MAY HAVE.

DIRECT EXAMINATION BY

MR. LUPTON:

Q. ALL RIGHT. YOUR NAME FOR THE RECORD, PLEASE.

A. DINAH STEELE MASON.

Q. AND I'M GOING TO MOVE THINGS ALONG FOR A BENCH TRIAL BUT WOULD YOU TELL THE COURT ABOUT YOUR OCCUPATION AND WHAT PROPERTIES YOU OWN?

A. I OWN THE 300 AND 304 BUILDING ON BYRON ROAD.

Q. AND IS THAT HOW YOU FIRST BECAME –

A. ACQUAINTED WITH?

Q. ACQUAINTED WITH THE DEFENDANT HERE TODAY?

A. ABSOLUTELY.

Q. AND WHAT WAS HER ROLE THERE AT THE 300 OR 304 BYRON ROAD APARTMENTS?

A. SHE RENTED AN APARTMENT, APARTMENT NUMBER THREE, AT THE 304 BUILDING.

Q. AND WHAT DATE DID THAT BEGIN? APPROXIMATELY.

A. SEPTEMBER OF 2009? IS THAT RIGHT? '09. I'M NOT ABSOLUTELY SURE OF THE DATE.

Q. THE BYRON ROAD APARTMENTS, 300 AND 304, ARE THEY WITHIN THE CITY LIMITS OF COLUMBIA?

A. THAT WOULD HAVE BEEN 2008. I APOLOGIZE. 2008.

Q. AND IS THAT LOCATION WITHIN THE CITY LIMITS OF COLUMBIA?

A. IT IS.

Q. THE PERSON YOU BROUGHT A COURTESY SUMMONS OUT FOR SIMPLE ASSAULT, THE REASON WE ARE HERE, MS. MARIE FALTAS, IS SHE PRESENT TODAY?

A. SHE IS.

Q. AND IS SHE THE LADY SEATED AT DEFENSE TABLE?

A. SHE IS.

Q. I'M GOING TO – I'M JUST GOING TO JUMP RIGHT TO IT, DINAH, AND DIRECT YOUR ATTENTION TO THE DATE OF SEPTEMBER 11TH, 2009. ARE YOU FAMILIAR WITH THAT DATE?

A. YEAH, THAT WAS THE DAY OF THE ASSAULT.

Q. DO YOU REMEMBER THAT DATE CLEARLY?

A. ABSOLUTELY.

Q. IF YOU WOULD, TELL ME WHAT YOU WERE DOING THAT DAY, WHAT BRUOGHT YOU TO THE BYRON ROAD APARTMENTS AND THEN WALK US THROUGH THE INCIDENT AND WHAT HAPPENED.

A. OKAY. I WAS THERE. IT WAS AROUND SEVEN O'CLOCK AT NIGHT. IT WAS STILL LIGHT OUT AND I WAS DOING MAINTENANCE. I WAS DOING SOME PAINTING ON THE 300 BUILDING. NOW THESE TWO BUILDINGS ARE EXTREMELY CLOSE TO EACH OTHER, ALL RIGHT? SO I WAS IN BETWEEN THEM. OUT OF THE CORNER OF MY EYE I SAW MARIE COMING AROUND TO MY SIDE THERE AND SHE HAD A PAPER IN HER HAND. AND --

Q. HOW FAR AWAY WAS SHE WHEN YOU FIRST NOTICED HER COMING, WHEN YOU SAY COMING AROUND THE SIDE? LIKE WHAT WOULD BE THE DISTANCE?

A. FOR THE WAY THAT THE BUILDING WAS SET UP, IN ORDER FOR ME TO SEE HER I WOULD SAY PROBABLY ABOUT FIVE FEET FROM ME.

Q. ALL RIGHT. SO YOU NOTICED HER COMING AROUND THE CORNER TO YOU?

A. YES.

Q. AND WHAT WAS HER GENERAL DEMEANOR AT THAT POINT? WHAT DID YOU NOTICE ABOUT HER?

A. WELL, SHE HAD A PAPER IN HER HAND AND I JUST THREW MY HANDS UP AND I SAID, MARIE, YOU NEED TO TAKE THAT TO THE ATTORNEY. AND I SAID JUST, YOU KNOW, LEAVE ME ALONE.

Q. WHAT ATTORNEY? WHAT ARE YOU TALKING ABOUT?

A. WELL, WE HAD ALREADY HAD SOME LEGAL DISPUTES WITH HER AND THE ATTORNEY HAD ADVISED ME, YOU KNOW, NOT TO HAVE ANY CONTACT WITH HER, DON'T ACCEPT ANY PAPERWORK, JUST STAY AWAY FROM HER.

Q. AND YOU RELAYED THAT TO HER? YOU SAID, PLEASE, GIVE ME –

A. YES, ABSOLUTELY. JUST LEAVE ME ALONE, TAKE IT TO THE ATTORNEY,

Q. OKAY.

A. AND SO THEN I STARTED BACKING UP AND SHE STARTED CHARGING ME AND I'M IN GOOD SHAPE. I COULD NOT GET AWAY FROM THIS WOMAN. SHE WAS CHARGING ME AND I RETREATED THROUGH THE BUILDING. I COULDN'T GO PAST HER BECAUSE THE BUILDINGS ARE SO CLOSE TOGETHER. I WOULD HAVE TOUCHED HER IF I HAD MOVED FORWARD. I HAD NO CHOICE BUT TO RETREAT. I HAD MY HANDS OUT LIKE THIS, GET AWAY FROM ME, GET AWAY FROM ME. AND SHE CONTINUED TO CHARGE ME TO THE BACK SIDE OF THE 300 BUILDING WHERE I WAS ASSAULTED. SHE SLAMMED ME IN THE CHEST THREE TIMES I MEAN LIKE BAM, BAM, BAM. LIKE THAT. SPUN ME AROUND AND THE WHOLE TIME I'M HOLDING MY HANDS OUT BECAUSE I DON'T WANT HER TOUCHING ME.

Q. RIGHT.

A. I DON'T WANT HER AROUND ME.

Q. DID YOU EVER ENGAGE IN ANY – DID YOU EVER ASSAULT HER IN DE-

FENSE OR DID YOU CONTINUE –

A. NO, ABSOLUTELY. I KNEW THAT'S WHAT SHE WANTED. THAT'S WHAT SHE WANTED SO I TRIED TO STAY AWAY FROM HER. THE WHOLE TIME I WAS BACKING UP, GET AWAY FROM ME, GET AWAY FROM ME. I WAS TRYING TO RETREAT. AND I WAS RUNNING BACKWARDS AS FAST AS I COULD. I WOULDN'T HAVE DARED OF GIVING HER MY BACK BECAUSE – I MEAN I WAS TOO AFRAID.

Q. IS THAT TRUE, THAT YOU HAVE – WAS THE TOUCHING OR THE ASSAULT UNWANTED BY YOU?

A. ABSOLUTELY.

Q. AND WERE YOU FEARFUL AND – YOU KNOW, IN ANY SENSE?

A. YES. I ENDED UP HAVING A NERVOUS BREAKDOWN OVER THIS.

Q. AND WHAT WAS THE DEFENDANT YELLING AT YOU? WHAT WAS THE VOLUME OF HER TONE?

A. SHE WAS YELLING AT ME. YOU KNOW, AFTER SHE SLAMMED ME THREE TIMES IN THE CHEST, SHE POINTED AT ME AND SHE SAID, YOU GOT IT, YOU GOT IT, YOU GOT IT. AND I'M LIKE ...

Q. AND HOW LOUD WAS SHE YELLING WOULD YOU SAY?

A. SHE WAS – IT WAS LOUD. IT WAS LOUD BECAUSE THERE WERE OTHER TENANTS OUT AND ABOUT. THEY ALL CAME AROUND, ARE YOU ALL RIGHT, ARE YOU ALL RIGHT. I MEAN I WAS JUST STUNNED. I CANNOT BELIEVE THIS WOMAN ASSAULTED ME. I MEAN I AM THE MANAGER AND THE OWNER OF THE APARTMENT COMPLEX. I MEAN THAT'S NOT AN INTELLIGENT MOVE.

Q. DO YOU HAVE ANY IDEA WHAT THIS WAS ABOUT?

A. AT THE TIME, I DIDN'T EVEN LOOK AT THE PAPER. I HAD NO IDEA WHAT IT WAS.

Q. SO YOU DIDN'T KNOW (INAUDIBLE).

A. YEAH, I DIDN'T EVEN ACKNOWLEDGE THAT THERE WAS ANYTHING. I JUST TOLD HER TAKE IT TO THE ATTORNEY.

Q. YOU KNOW WHAT IT WAS ABOUT AFTER THE FACT. IT'S ACCURATE TO SAY YOU HAD NO IDEA WHAT SHE WAS –

A. AT THE TIME SHE ASSAULTED ME, I HAD NO IDEA WHAT THE PAPERWORK WAS.

Q. AND YOU KNOW THIS WAS WITNESSED BY AT LEAST ONE PERSON, CORRECT?

A. YEAH, ACTUALLY BY TWO.

Q. AND IS ONE OF THE PEOPLE HERE TODAY?

A. ONE.

Q. AND WHO WOULD THAT BE?

A. CHARLENE CROUCH. SHE WAS SITTING ON THE UPPER BALCONY. SHE RENTS FROM THE 300 BUILDING UPSTAIRS. THERE'S AN OPEN BALCONY BACK THERE AND, YOU KNOW, I WAS JUST LOOKING AT MARIE. I STILL HAD MY HANDS OUT LIKE THIS AND I HEARD CHARLENE SAY, DINAH, ARE YOU ALL RIGHT, ARE YOU ALL RIGHT. AND I WAS JUST STUNNED. AND THEN MITCH CAME AROUND THE SIDE OF THE BUILDING LOOKING AT ME AND HE SAID, DINAH, ARE YOU ALL RIGHT. AND THEN I CALLED THE POLICE.

Q. AND THE – WAS MS. CROUCH'S VIEW OBSTRUCTED? WOULD SHE HAVE BEEN ABLE TO SEE?

A. SHE SAW – YEAH. THE ASSAULT HAPPENED DIRECTLY BEHIND THE BUILDING. BUT I MEAN SHE HEARD ME SCREAMING ON MY WAY BACK THERE.

Q. AND DID YOU HAVE ANY MARKS OR ANYTHING AS A RESULT OF THE --

A. NO, I DID NOT. MENTALLY BECAUSE, LIKE I SAID, I ENDED UP HAVING A NERVOUS BREAKEOWN OVER THIS. I'M STILL ON MEDICATION TODAY.

(INAUDIBLE)

THE COURT: DR. FALTAS, PLEASE DO NOT MAKE ANY OUTBURST. WAS THAT YOU? HOLD ON FOR A SECOND. I'M SORRY. LET ME ASK FIRST, I COULDN'T SEE. WAS THAT YOU THAT MADE THE NOISE JUST NOW? DR. FALTAS, WAS THAT YOU THAT MADE IT?

DEFENDANT FALTAS: YES.

THE COURT: PLEASE DO NOT DO THAT.

Q. (BY MR. FERNANDEZ) JUST TO BE CLEAR BEFORE WE END 'CAUSE I THINK WE ARE ALMOST DONE, THE BASIS FOR YOUR TAKING THE COURTESY SUMMONS FOR THE ASSAULT IS THE THREE STRIKES ON YOUR CHEST?

A. ABSOLUTELY.

Q. AND HER AGGRESSIVE DEMEANOR LEADING UP TO THAT AND AFTER?

A. YES.

MR. FERNANDEZ: THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

THE COURT: THANK YOU VERY MUCH. PLEASE ANSWER ANY QUESTIONS MR. LUPTON MAY HAVE. MR. LUPTON, SO WE ARE CLEAR, I KNOW THAT IT MAY NOT APPLY TO THIS WITNESS BUT THE RULINGS I MADE LIMITING CROSS EXAMINATION I WILL ALLOW YOU TO CROSS EXAMINE IN FULL ON ALL THE WITNESSES. THOSE RULINGS ARE WITHDRAWN.

MR. LUPTON: THANK YOU, YOUR HONOR.

CROSS EXAMINATION BY

MR. LUPTON:

Q. NOW YOU'VE TESTIFIED – FIRST OF ALL, YOU STARTED OUT WITH A 911 CALL, CORRECT? WITH THIS CASE, REPORTING IT? STARTED OUT WITH A 911 CALL?

A. I REPORTED IT, YES. I DON'T QUITE UNDERSTAND YOU SAYING YOU STARTED OUT WITH THAT.

Q. THE FIRST TIME YOU TOLD ANYONE OFFICIAL ABOUT THIS INCIDENT WAS A 911 CALL?

A. YES.

Q. CORRECT?

A. YES.

MR. LUPTON: YOUR HONOR, AT THIS POINT –

Q. (BY MR. LUPTON) WELL, FIRST OF ALL – AND IN THAT 911 CALL ISN'T IT TRUE THAT WHAT YOU REPORTED WAS SHE CAME OVER HERE AND HARRASSED ME AND PUSHED ON ME?

A. YES.

THE COURT: EXCUSE ME ONE MOMENT. WILL YOU HELP THAT GENTLEMAN? (INAUDIBLE) PLEASE CONTINUE.

Q. (BY MR. LUPTON) SO SHE CAME OVER HERE AND HARRASSED ME AND PUSHED ON ME?

A. YES.

Q. THAT WAS THE REPORT?

A. YES.

Q. YOU DIDN'T SAY ANYTHING ABOUT HER BEING VIOLENT OR HER STRIKING YOU OR SLAMMING YOU OR ANYTHING OF THAT NATURE, IT WAS JUST SHE PUSHED ON ME?

A. I DON'T KNOW EXACTLY – I DON'T REMEMBER EXACTLY WHAT I SAID ON THE 911. I'M SURE WE ARE GETTING READY TO HEAR IT BUT I DESCRIBED IT TO THE POLICE OFFICER WHO COLLECTED THE POLICE REPORT AND I WAS ASSAULTED ON IT.

Q. IF IT WOULD HELP YOU REFRESH YOUR RECOLLECTION, I'LL SHOW YOU A TRANSCRIPT OF IT.

A. OKAY.

MR. FERNANDEZ: MAY I ASK WHO THAT TRANSCRIPT WAS PREPARED BY?

MR. LUPTON: IRRELEVANT, YOUR HONOR, AS FAR AS WHETHER OR NOT IT HELPS HER REFRESH.

THE COURT: I'M SORRY. I THINK IT DOES MATTER IN TERMS OF – THIS IS A BENCH TRIAL. WHO MADE THE TRANSCRIPT?

MR. LUPTON: IF IT HELPS HER REFRESH HER RECOLLECTION IT DOESN'T MATTER WHAT IT IS, YOUR HONOR.

THE COURT: OKAY. WELL, I'M CURIOUS. CAN YOU TELL ME?

MR. LUPTON: I HAVE NO IDEA, YOUR HONOR.

THE COURT: WELL, THAT'S THE ACCURATE AND TRUTHFUL ANSWER YOU COULD COME FORWARD WITH THAT, MR. LUPTON. LET'S DO THIS. TAKE A LOOK AT IT. I DON'T KNOW IF IT HELPS YOU OR NOT. LET US KNOW DOES IT HELP YOU OR NOT.

A. BUT I'D SEEN MARIE FALTAS' –

THE COURT: JUST TAKE A LOOK AT IT AND TELL ME IF IT HELPS YOU OR NOT.

A. OKAY. LET'S SEE HERE. (READS TO HERSELF)

Q. (BY MR. LUPTON) AND I'M ONLY ASKING ABOUT THE PART WHERE YOU SAID THAT SHE PUSHED ON YOU.

A. YEAH.

Q. IS THAT WHAT YOU SAID?

A. YEAH. I WOULD SAY THAT'S PRETTY CLOSE. I DON'T KNOW THAT THAT'S WORD FOR WORD BECAUSE MARIE DID THIS. SHE LIKES TO DELETE A LOT OF LETTERS BECAUSE I'VE SEEN HER TRANSCRIPTS BEFORE.

MR. LUPTON: AT THIS TIME, I'D ASK TO ADMIT THE 911 CALL.

THE COURT: ALL RIGHT. DO YOU HAVE THE ABILITY TO PLAY IT ON YOUR COMPUTER HERE?

MR. LUPTON: JUST THE FIRST PORTION. IT'S THE INITIAL PARAGRAPH IS THE REPORT.

THE COURT: CAN I PLAY IT UP HERE? PLEASE TAKE A MOMENT.

DEFENDANT FALTAS: MR. LUPTON, MAY I SAY SOMETHING, PLEASE?

MR. FERNANDEZ: YOUR HONOR, I THINK WHAT MR. LUPTON IS GETTING TO IS THAT PER AGREEMENT OR – PER AGREEMENT WE AGREED WE WOULD RELAX THE RULES OF ADMISSIBILITY FOR A 911 CALL AS NOT REQUIRING A CUSTODIAN. I WILL CONSENT TO IT BEING PUBLISHED FOR YOUR HONOR ON THE WORD OF A FELLOW OFFICER OF THE COURT THAT THAT IS IN FACT THE 911 CALL THAT WAS PROVIDED THROUGH DISCOVERY.

THE COURT: OKAY. CORRECT. IT WILL BE PUBLISHED AND ADMITTED. DO WE HAVE AN AGREEMENT ON ADMISSION?

MR. LUPTON: YES, YOUR HONOR. THAT WAS AT THE PRIOR HEARING WE AGREED ON THAT.