

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL
CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

BRADLEY J. EDWARDS and PAUL G.
CASSELL,

Plaintiffs,
vs.
ALAN M. DERSHOWITZ,
Defendant.

/

VIDEOTAPE CONTINUED DEPOSITION OF

ALAN M. DERSHOWITZ

VOLUME 6
Pages 782 through 909

Wednesday, January 13, 2016
1:05 p.m. - 3:06 p.m.

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16 ALSO PRESENT:

17 Edward J. Pozzuoli, Special Master
18 Sean D. Reyes, Utah Attorney General Office
19 Marcy Martinez, Videographer

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1 INDEX

2	Examination	Page
3		
4	VOLUME 6 (Pages 782 - 909)	
5		
6	Certificate of Oath	906
	Certificate of Reporter	907
7	Read and Sign Letter to Witness	908
	Errata Sheet (forwarded upon execution)	909

9 PLAINTIFF EXHIBITS

10	No.	Page
11	26 Business card of Jeffrey B. Levy, Esquire	792
12	27 2002 Article on Child Pornography	810
13	28 Miami Beach Police Case Report Detail	822
14	29 Document reflecting entry for Dershowitz, Alan	877
15	30 Santa Monica Police Report	885
16		
17		

1 Thereupon, the proceedings continued at 1:04 p.m.

2 VIDEOGRAPHER: Going back on the record.

3 The time is 1:04 p.m.

4 BY MR. EDWARDS:

5 **Q. Sir, before we move on to the next topic,**
6 **I want to make sure that we have finished the**
7 **previous topic.**

8 **Is there anyone else who gave you**
9 **information about Paul Cassell who you can identify**
10 **at this time and did not otherwise this morning**
11 **identify?**

12 A. Yes. So, immediately upon hearing of the
13 false accusation against me, I recall now that I
14 Googled Paul Cassell and discovered that he was
15 called a zealot at least three times on easily
16 accessible published materials.

17 So, the term "zealot" in addition to
18 coming from individuals -- and you can get them on
19 Google as easily as I can --

20 MR. SCAROLA: The question was, was there
21 anyone else.

22 BY MR. EDWARDS:

23 **Q. I'm asking is there a person's name?**

24 A. These people wrote articles. They have
25 names.

1 **Q. What are their names?**

2 A. I don't recall them. You can get them.

3 You can just Google "Paul Cassell" and you will find
4 names of people who call him a zealot.

5 **Q. I think maybe my question wasn't clear, so**
6 **I'm going to make it crystal clear.**

7 A. Yes.

8 **Q. Have you remembered the name of any**
9 **individual who you did not identify by name or**
10 **description this morning that provided you**
11 **personally with information about Paul Cassell?**

12 A. A man named Hobbs, H-O-B-B-S.

13 **Q. Is that a first or last name?**

14 A. That's a last name. And he -- my
15 recollection is -- I don't know if he testified
16 against Paul Cassell or he just wrote an article,
17 but he wrote an article calling him a dangerous
18 zealot.

19 **Q. Did you speak with Hobbs?**

20 A. I don't recall if I spoke to him, but I do
21 recall reading his article or reading excerpts at
22 least from the article.

23 And then I remember reading another
24 article, may have been on Slate or -- there are a
25 number of articles calling Paul Cassell a zealot.

1 So the name just didn't pop into my head. It was
2 something, as I said earlier, that was part of his
3 reputation.

4 Q. Okay. I will break this into two
5 questions. One, what information did you have other
6 than human interaction that may have included
7 articles or other things that you read?

8 But before I get to that question, my
9 question is, have you recalled the identity of any
10 person that you did not tell us about or describe
11 earlier this morning that provided you information
12 about Paul Cassell?

13 A. I want to wait for the --

14 MR. INDYKE: Outside the privilege.

15 SPECIAL MASTER POZZUOLI: Excuse me?

16 A. Not that I can recall at this time.

17 BY MR. EDWARDS:

18 Q. Okay. Are there other materials that you
19 have not yet disclosed during this deposition that
20 you read, that provided you additional bases for
21 your opinions about Mr. Cassell?

22 A. Yes.

23 MR. INDYKE: Objection.

24 BY MR. EDWARDS:

25 Q. And are these materials that --

1 SPECIAL MASTER POZZUOLI: Hang on one
2 second.

3 MR. EDWARDS: Outside of the privilege.

4 MR. INDYKE: Okay. Sorry.

5 BY MR. EDWARDS:

6 Q. Are these materials that have been
7 provided already in discovery in this case?

8 A. I don't know the answer to that. I don't
9 know what has been provided and what hasn't. I can
10 just tell you that in the course of my career, I had
11 read -- I had never met Mr. Cassell, but I had read
12 his articles, and they are aptly described as
13 zealous. He once -- he was once described as
14 somebody who misused -- I think misused or uses
15 family values to hide his zealotry. But I was
16 familiar with his what are regarded as very extreme
17 writings. And that formed part of my opinion about
18 his zealotry, yes.

19 Q. What was the timing of your reading these
20 articles that helped to form a part of your opinion
21 about Mr. Cassell?

22 A. Very soon after the allegation was made.
23 Not only did I independently read, but people called
24 me and alerted me to read this, read that. People
25 sent me briefs and asked me to read them.

1 Q. So one of the things that you took into
2 consideration in assessing the reputation or
3 credibility of Paul Cassell were various things that
4 he had written or that had been written about him?

5 A. Yes, and what people had said about him.

6 Q. Okay.

7 A. I mean, just to give you an example, if
8 you don't mind me just elaborating one second, as I
9 was getting lunch today downstairs, three people
10 came over to me. One of them said, I can't believe
11 those, and then he used the F word, scrupulous --
12 unscrupulous, unethical lawyers who have done this
13 to you, this is horrible, get them, they have to pay
14 a price, they ought to be disciplined.

15 And I said, do you know me?

16 No, but I've been following this story.

17 This is just unbelievable.

18 And then two other people, one of whom
19 overheard it, said, I just want to join in on that.
20 I don't know you, but I just want you to know that
21 the lawyers who did this are beyond -- they're just
22 horrible. No decent lawyer would ever do this.

23 This happens to me all the time. People
24 come over to me all the time and tell me what they
25 think of you and Paul Cassell.

1 **Q. Okay. Where were you eating lunch today?**

2 A. In a Wrap [sic] around restaurant.

3 **Q. Where is it located geographically?**

4 A. Right in the building. In the building.

5 **Q. And are these individuals that spoke to**
6 **you individuals who told you that they know either**
7 **myself or Paul Cassell?**

8 A. I didn't ask that question. It was just
9 -- it was quick conversation and one of them said,
10 I'll do anything to help.

11 **Q. Okay. What is the identity of the person**
12 **who will do anything to help you?**

13 A. His name is Jeffrey Levy. He is an
14 attorney here.

15 SPECIAL MASTER POZZUOLI: "Here" meaning
16 where?

17 A. In Fort Lauderdale. He's a family lawyer.
18 Just out of the blue, I don't know him from Adam.
19 But this happens to me all the time. When I go to
20 Miami tomorrow, I'll be walking down Lincoln Road,
21 people will come over to me and tell me about you.

22 BY MR. EDWARDS:

23 **Q. Okay. Can you give me the cards of the**
24 **other people that have given you these cards all the**
25 **time so that we can --**

1 A. No. The only reason I asked for this card
2 today, I asked him for the card because I said, I
3 want to be able to mention this if I'm asked about
4 it in the deposition. Would you mind giving me the
5 card?

6 He said, "I'm thrilled." He went to his
7 car, he got the card, and he said --

8 MR. EDWARDS: I would like to attach the
9 card of Jeffrey Levy to the deposition as the
10 next consecutive exhibit, which I believe is
11 26.

12 (Thereupon, marked as Plaintiff
13 Exhibit 26.)

14 MR. EDWARDS: Can I see the exhibit?

15 SPECIAL MASTER POZZUOLI: Sure.

16 MR. SCOTT: Can I see the exhibit, too,
17 when you're done?

18 MR. EDWARDS: Yes.

19 BY MR. EDWARDS:

20 Q. **On the back of this card, there is some**
21 **writing. Whose writing is that?**

22 A. Mine.

23 Q. **The writing, I think, says "Scarola**
24 **unethical e-mail"?**

25 A. That's right.

1 Q. And does that scribbling of "Scarola
2 unethical e-mail" relate at all to this card?

3 A. Not directly, no. Not directly.

4 Q. Did this lawyer, Jeffrey Levy, discuss
5 with you Jack Scarola at all?

6 A. No. He just discussed just the lawyers
7 generically and their unethical conduct.

8 Q. And the lawyers generically, he's talking
9 about the lawyers who believe [REDACTED]?

10 A. No. The lawyers who pretend to believe
11 [REDACTED]. None of us think you believe her.
12 Nobody I know thinks you believe her.

13 Q. Nobody you know thinks --

14 A. That's right.

15 Q. Any of the people you described yesterday,
16 which is now inclusive of Brad Edwards, Paul
17 Cassell, Jack Scarola, Sigrid McCawley and David
18 Boise, believe [REDACTED]; that's your
19 testimony?

20 A. That's right, and Sigrid McCawley told me
21 that.

22 MS. McCAWLEY: I'm sorry, I'm going to
23 object. This again -- so I have no idea what
24 context, or if you're referring to a context
25 where we were having settlement discussions,

1 that violates the seal order that's already in
2 place. There's a motion for sanctions pending.
3 We will be supplementing with this.

4 You know, how many times do we have to go
5 over this, Alan? It's not appropriate. First
6 of all, you're misrepresenting things. And
7 I'll state for the record, I did not say that.
8 But secondly --

9 THE WITNESS: She's waiving privilege.

10 MS. McCAWLEY: No, I'm not waiving the
11 privilege.

12 THE WITNESS: Yes, you are.

13 MS. McCAWLEY: I'm denying the allegation
14 that you just made on the record. I'm making
15 my record that you are not entitled to discuss
16 anything that deals with confidential
17 settlement discussions. Misrepresenting those
18 is a violation of that, and I'll go back to the
19 judge and get another order if I need to.

20 THE WITNESS: I was asked a question --

21 MR. SIMPSON: Don't --

22 SPECIAL MASTER POZZUOLI: Hang on.

23 MR. SCAROLA: Could we have --

24 SPECIAL MASTER POZZUOLI: Is there
25 anything else, Ms. McCawley?

1 MS. McCAWLEY: No, not right now.

2 MR. SCAROLA: Could we have the question
3 and the answer read back, please.

4 SPECIAL MASTER POZZUOLI: Let's go ahead
5 and do that, just for purposes of --

6 COURT REPORTER: "Any of the people you
7 described yesterday, which is now inclusive of
8 Brad Edwards, Paul Cassell, Jack Scarola,
9 Sigrid McCawley and David Boise, believe
10 [REDACTED]; that's your testimony?

11 "That's right, and Sigrid McCawley told me
12 that."

13 A. That's absolutely responsive.

14 MR. SCAROLA: We move to strike the "and
15 Sigrid McCawley told me that" comment as
16 unresponsive to the question that was asked.
17 And we agree that it is clearly violative of
18 the Court order that has been entered with
19 respect to this matter.

20 MR. SIMPSON: The question on its face
21 asked about Ms. McCawley. It was Mr. Edwards
22 that injected her views into the question. It
23 was not the witness.

24 SPECIAL MASTERPOZZUOLI: Go back up to the
25 question.

1 THE WITNESS: I'm happy to have it sealed
2 if you want.

3 SPECIAL MASTER POZZUOLI: Hold on a
4 second. Go back up to the question.

5 COURT REPORTER: "QUESTION: Any of the
6 people you described yesterday, which is now
7 inclusive of Brad Edwards, Paul Cassell, Jack
8 Scarola, Sigrid McCawley and David Boise,
9 believe [REDACTED]; that's your
10 testimony?

11 "ANSWER: That's right, and Sigrid
12 McCawley told me that."

13 MR. SCAROLA: The responsive answer ends
14 with "and that's right." Excuse me. "That's
15 right," period.

16 SPECIAL MASTER POZZUOLI: Give me a
17 second. I'll grant the Motion to Strike from
18 "and" all the way to the end.

19 A. I'm also happy to have it sealed, if they
20 choose to.

21 SPECIAL MASTER POZZUOLI: Well, I don't
22 know what is going to come up, but it will be
23 dealt with one way or another.

24 MR. SIMPSON: The witness said we would be
25 happy to have it sealed, given that ruling.

1 BY MR. EDWARDS:

2 Q. This attorney, Jeffrey Levy, did he
3 elaborate upon the basis for his offer to help you
4 against the generically described unscrupulous
5 lawyers, question mark?

6 A. Yes, he basically said these are lawyers
7 who are willing to make these outrageous charges,
8 and lawyers shouldn't be making these kinds of
9 outrageous charges against other lawyers, especially
10 when they're irrelevant. And basically he seemed to
11 know a little bit about -- not much, but a little
12 bit about the case.

13 But I use it as an illustration of people
14 coming to me all the time making these statements to
15 help amplify my answer. It's why I can't remember
16 names. Normally I wouldn't have asked him his name.
17 I only asked him his name because of your questions
18 of me today. But every -- virtually every week --
19 in the beginning, it was every day, people would
20 come over to me with these kinds of statements.

21 SPECIAL MASTER POZZUOLI: Okay.

22 BY MR. EDWARDS:

23 Q. But is this lawyer's opinion, am I
24 understanding that that -- that's something you
25 weigh in to support your public statements that you

1 **have made?**

2 A. I look at the totality of circumstances.
3 I look at my professional opinion, I look at what
4 I've read, I look at what I've told, I try to
5 calibrate, weigh everything for what it's worth and
6 then I come to an opinion.

7 And my opinion that I arrived at was based
8 at the totality of the circumstances that I was
9 aware of at the time I made this statement. And the
10 statement turns out to be true.

11 **Q. And Jeffrey Levy, whatever his opinion is,**
12 **is one of the things that you're factoring in at**
13 **this point?**

14 A. No, of course not. Of course not.

15 **Q. Okay.**

16 A. Not now, I don't have to factor anything
17 in. I now know the truth. I now know from other
18 people that this was all part of an extortion plot
19 and that the object of the extortion was Leslie
20 Wexner. But I'm aware of that now, so I don't have
21 to base the opinion on anything else.

22 MR. EDWARDS: Objection. Move to strike.

23 SPECIAL MASTER POZZUOLI: I'm going to go
24 ahead and move -- grant the Motion to Strike.

25 Go back up. Let me just see where -- because I

1 wanted to find -- so from "I now know from
2 other people this is all part of an extortion
3 plot," from there down, we'll strike.

4 So what will remain is "not now, I don't
5 have to factor anything in. I now know the
6 truth." That will remain.

7 BY MR. EDWARDS:

8 **Q. Okay. What are the identities of the**
9 **other two individuals that you encountered during**
10 **your lunch break?**

11 A. One of them is a woman, a lawyer and --

12 MR. SCAROLA: He asked for a name.

13 A. I don't know the names. I didn't ask the
14 names from anybody.

15 BY MR. EDWARDS:

16 **Q. Is there a description that would help me**
17 **learn the identity of this person?**

18 A. She was in her 40s, probably. She had
19 short, cropped hair.

20 **Q. Is this somebody who knew the lawyers who**
21 **had accused you by reputation?**

22 A. I don't know. I don't know. I'm just
23 giving you an illustration of what people tell me
24 all the time.

25 **Q. Okay. During the lunch break, did you**

1 have a chance to consider whether you were willing
2 to waive the attorney-client privilege with respect
3 to the identities of the individuals with whom you
4 share a privilege in the circumstance where you are
5 the client, that provided you information that
6 helped form the basis of your opinions about Paul
7 Cassell and Brad Edwards?

8 MR. SCOTT: We've instructed my client not
9 to waive the privilege.

10 MR. SCAROLA: Both privileges?

11 MR. SCOTT: Yes.

12 MR. SCAROLA: And by "both," I mean both
13 attorney-client and work product.

14 MR. SCOTT: Yes, sir.

15 MR. SCAROLA: Thank you.

16 BY MR. EDWARDS:

17 Q. Isn't another reason that you have given
18 publicly that you could not have -- that anybody who
19 knows you would know that you could not have and
20 would not have committed such an offense, you're not
21 that kind of person?

22 A. That's right.

23 Q. And similar to what you did with respect
24 to Paul Cassell and reading about what is public out
25 there about him to form the basis of your belief in

1 his credibility and reputation, you would agree that
2 it's also fair to have done the same thing with
3 respect to you, correct?

4 A. Yes.

5 Q. Okay. Is it -- do you or have you in the
6 past enjoyed getting naked at clothing-optional
7 beaches in Martha's Vineyard?

8 A. When I was --

9 MR. SCOTT: Objection, relevancy to that.
10 Invasion of privacy. Has no relevancy
11 whatsoever. I would like a ruling.

12 MR. EDWARDS: It is reasonably calculated
13 to lead to the discovery of admissible
14 evidence.

15 SPECIAL MASTER POZZUOLI: I'm going to
16 deny the objection, but give you -- latitude is
17 not unlimited.

18 MR. EDWARDS: I understand.

19 A. Would you give me a time frame?

20 BY MR. EDWARDS:

21 Q. Sure. At around October 15, 2001, which
22 is a time period we have agreed falls within the
23 relevant time period of this case.

24 A. So I have to give a lengthy answer to
25 this. There is a beach on Martha's Vineyard which

1 has traditionally been a clothing-optional beach.
2 Rumors are that Eleanor Roosevelt use to skinny dip
3 there. Many prominent people have skinny dipped on
4 that beach, and my wife and I have occasionally
5 skinny dipped on that beach. Yes. Not in recent
6 years.

7 **Q. Were you asked at some point to represent**
8 **a woman by the name of Nikki Craft?**

9 A. Yes.

10 **Q. And with respect to that representation or**
11 **attempted representation, have you read the**
12 **statement that she has put out publicly regarding**
13 **you?**

14 A. I don't recall, but I can tell you what
15 the facts of the case were and why I turned down
16 representation, if you would like to hear it.

17 SPECIAL MASTER POZZUOLI: Let him ask his
18 question.

19 MR. EDWARDS: Sure.

20 SPECIAL MASTER POZZUOLI: Sure?

21 MR. EDWARDS: No, no.

22 SPECIAL MASTER POZZUOLI: Oh, okay. Go
23 ahead.

24 BY MR. EDWARDS:

25 **Q. Have you -- do you know that she has said**

1 **that she has written "Does there exist for**
2 **Dershowitz an overpowering thrill of seeing the**
3 **female nude such as to prevent him from seeing the**
4 **issues from a woman's viewpoint?"**

5 A. I think she also called me Mengele in the
6 article. She compared me to Mengele, the nazi
7 killer. She was furious that I wouldn't take her
8 case because she wanted to walk topless down the
9 middle of the city in the middle of the street, and
10 I don't believe in that.

11 I had represented the nude beach in Truro,
12 Massachusetts, where people want to go skinny
13 dipping in private areas, but I do not believe that
14 anybody has the right to be nude or topless in
15 public. I turned down her case. I never met her.
16 She wrote to me, and I wrote back turning down her
17 case.

18 And she just went on a rampage against me.
19 As far as I know, she's never met me. She's never
20 seen me. And she has just written, I remember, and
21 attacked me. She went on the radio and attacked me
22 all because I refused to represent her walking
23 topless through the city.

24 Q. **Okay. And part of that rampage was her**
25 **understanding of your "eager response to naked women**

1 **could be compared with that of a little boy let**
2 **loose in a candy store"?**

3 A. She doesn't know me. That was something
4 she just made up.

5 MR. SCOTT: I need a ruling on relevancy.
6 But, I mean, reading statements from people
7 from articles and asking him about them is
8 totally irrelevant. Goes to nothing in this
9 case.

10 SPECIAL MASTER POZZUOLI: Ask your -- I'm
11 hoping that you're going to tie this up to
12 something.

13 MR. EDWARDS: Sure.

14 BY MR. EDWARDS:

15 Q. **Can you -- well, let's go back first.**
16 **Can you provide me the articles -- all of**
17 **the articles on Paul Cassell that you have testified**
18 **about today?**

19 A. I'm sure I can.

20 Q. **Can you provide them to me now?**

21 A. No. I told you I looked at them a year
22 ago.

23 Q. **But it's fair for you to review those**
24 **articles and tell me what is in them, correct?**

25 A. At some point, but I'm not going to do it

1 right -- I can't do it now. I don't have it in
2 front of me.

3 Q. On your Harvard website, is there a
4 compilation of articles which you've written in the
5 past?

6 A. I haven't looked at my website, but I've
7 written, I think, over a thousand articles.

8 Q. At some point in time, did you write for
9 Hustler magazine?

10 A. No.

11 Q. Did you publish in Hustler magazine?

12 A. No.

13 Q. None of your articles were published in
14 Hustler magazine?

15 A. No. I was once called the "asshole of the
16 month" by Hustler magazine because I refused to
17 represent Mr. Flint, and he had a picture of my face
18 coming out of the rectum of a donkey, calling me
19 "asshole of the month." But I didn't publish that,
20 I assure you.

21 SPECIAL MASTER POZZUOLI: Tell me that
22 we're going to get somewhere with this, because
23 this is -- you know, see if we can tie this up
24 in some form.

25 MR. EDWARDS: Okay. Let me just put on

1 the record why this is reasonably calculated is
2 the statement was made by Mr. Dershowitz that
3 he's not the kind of person to have done this.

4 THE WITNESS: To have raped a 16-year-old.

5 MR. EDWARDS: Our client -- our client has
6 described certain things about Mr. Dershowitz,
7 and if those certain things that she has
8 described are consistent with things that he
9 does believe in or has done in the past, then
10 that would add credibility to our client.

11 THE WITNESS: Would you tell me what your
12 client --

13 SPECIAL MASTER POZZUOLI: Hang on a
14 second.

15 MR. EDWARDS: I don't have to do that. I
16 can just discover on this subject matter.

17 SPECIAL MASTER POZZUOLI: I'm going to let
18 you. But the idea that he might have skinny
19 dipped with his wife is slightly different. So
20 I would -- I mean, I don't see that as
21 relevant, but I'm going to let you continue. I
22 mean, because it's not my role here to decide
23 that.

24 But I'm just saying to you that I get
25 where you're going. So, proceed through this,

1 but let's get to -- this is going to be
2 forever. I mean, because he's got a thousand
3 articles published, you can go through each of
4 them and pick out whatever or whatever it is.
5 So let's --

6 MR. EDWARDS: There are two other things
7 at issue here. One is at the time that these
8 pleadings were placed, what was our -- what was
9 Paul Cassell and Brad Edwards' mind state. The
10 other thing is Mr. Dershowitz has a claim for
11 damages to his sterling reputation. So to the
12 degree that there is some damage to reputation
13 caused by some other source, then that is
14 something else that should be -- we should have
15 discovery into.

16 SPECIAL MASTER POZZUOLI: That's why I'm
17 allowing the latitude.

18 MR. EDWARDS: Thank you.

19 MR. SCOTT: There is certain relevance to
20 some of that. I mean, going into a lot of
21 these different things is -- you know, it's
22 years ago into the past and things like that.
23 It's just ridiculous. It's irrelevant.

24 And I think you get -- we're going to ask
25 you to make a decision on these things as they

1 come up if this is going on to go on for hour
2 after hour asking things over a man's life of
3 70-some years.

4 THE WITNESS: Seventy-seven.

5 SPECIAL MASTER POZZUOLI: Ask your next
6 question.

7 BY MR. EDWARDS:

8 **Q. Sure. Did you write articles on behalf of**
9 **Penthouse magazine?**

10 A. I was Robert Guccione's lawyer on First
11 Amendment issues, and he asked me to do a column
12 every month on First Amendment and justice issues,
13 and I did that for 25 years, virtually every month
14 writing an article on justice and the First
15 Amendment.

16 **Q. Have you ever written an article about the**
17 **idea that viewing child pornography should not be a**
18 **crime?**

19 A. I can tell you my position. My position
20 is that creating child pornography should be a
21 crime, but that viewing -- I think I wrote about
22 viewing virtual child pornography; that is,
23 contrived images that are not real. And the Supreme
24 Court supported me on that position.

25 Supreme Court has ruled consistent with my

1 position that when you have computer-generated
2 pictures of children that the focus should be on
3 making of the pornography, which is a crime, but not
4 on the viewing of the pornography.

5 And I have a view, a scientific view that
6 I've published about, written many articles about,
7 that there is no relationship between the viewing of
8 pornography and commission of violent crimes. And I
9 have the data to support that. And I think I'm one
10 of the leading authorities on that issue. It's an
11 academic issue of some considerable interest me.

12 **Q. You're one of the leading authorities on**
13 **the issue that --**

14 A. Of the causation -- the relationship
15 between viewing pornography and crimes of violence.

16 **Q. Viewing child pornography?**

17 A. I would say in general. I don't know that
18 I distinguish between that in the scientific
19 research that I've done.

20 **Q. I'm going to go ahead and show you what's**
21 **been marked as Exhibit 27. I'll show it to your**
22 **lawyer first. Ask if you recognize it.**

23 MR. SIMPSON: Do you have a copy for us?

24 MR. EDWARDS: That's my only copy. We'll
25 use it --

1 MR. SCOTT: You know, I asked -- I'm going
2 to put this on. I asked yesterday to have
3 copies of exhibits.

4 MR. SCAROLA: I think we do have a copy,
5 before you get all exorcized over this.

6 MR. SCOTT: By the way --

7 MR. SCAROLA: I think we do have a copy.

8 MR. SCOTT: Okay. And by the way, the
9 thing you published from the Bench & Bar,
10 it's -- you said it was in the exhibits. It's
11 not.

12 MR. SCAROLA: I told you if it's not
13 there, we'll get it for you.

14 MR. SCOTT: Yeah. I'd like it today, if
15 you could get it, because that's what you said
16 yesterday.

17 (Thereupon, marked as Plaintiff
18 Exhibit 27.)

19 MR. SCAROLA: I said tell us what else you
20 need, and we'll get it for you.

21 THE WITNESS: So not only is my --

22 MR. SIMPSON: Wait a minute. Hang on.
23 That's the witness's.

24 MR. SCOTT: Is this the witness's copy?

25 MR. SIMPSON: You can have this one, Tom.

1 MR. SCOTT: There's some notes on there.

2 I don't know if you want them, but --

3 MR. EDWARDS: I'll take it.

4 MR. SCOTT: I think they're your
5 questions. I could be wrong. I could have
6 handed it to him, it would have probably
7 expedited it.

8 MR. EDWARDS: I doubt it.

9 A. Okay. I remember writing this article.
10 It grew out of a pro bono case that I did
11 representing a student.

12 BY MR. EDWARDS:

13 **Q. Does that article limit the opinion of**
14 **that viewing child pornography or children**
15 **fornicating should not be criminal to virtual child**
16 **pornography?**

17 A. I think I say in the article -- I asked
18 the question: But should it be a crime for someone
19 who has never and would never molest a child to view
20 child pornography?

21 I think I raised that question. And I
22 talk about the dangers to the values of the
23 democracy. I say there is a potential here for a
24 real witch hunt. Child molestation is a serious
25 problem. The creation of child pornography is also

1 a serious problem. We don't know whether the
2 viewing of child pornography is or is not a serious
3 problem, but many people think it is.

4 So, I don't think I take a definitive
5 view. I am an academic. You're trying not only to
6 put my ideas on trial here today, what I've written
7 about on trial; you're trying to put my advocacy on
8 behalf of defendants on trial, you're putting the
9 Sixth Amendment on trial, you're putting the First
10 Amendment on trial. You're inviting the American
11 Civil Liberties Union, the National Association of
12 Criminal Defense Lawyers to intervene in this case,
13 because they will not stand by and tolerate an
14 academic having his ideas put on trial or an
15 advocate -- I was going to say a zealous advocate,
16 and I claim that, I am a zealous advocate, putting
17 his representation on trial. That is unAmerican.
18 That is McCarthyite and is beneath contempt.

19 MR. EDWARDS: Object and move to strike.

20 SPECIAL MASTER POZZUOLI: Denied. Denied.

21 Move forward.

22 BY MR. EDWARDS:

23 **Q. Is Paul Cassell also an academic?**

24 A. Paul Cassell teaches and uses the
25 stationery of law school as part of his --

1 SPECIAL MASTER POZZUOLI: Answer the
2 question.

3 A. He is an academic.

4 BY MR. EDWARDS:

5 Q. When was that article that has now been
6 marked as 27 written?

7 A. Copyrighted 2002.

8 Q. Is 2002 within the relevant time period
9 that we've defined in this case?

10 A. Yes, but I've written articles like this
11 as far back as probably as 1967, and I've written
12 them probably as recently as the last couple of
13 years. I have a book which deals with the subject.
14 I have a long Law Review article called "Why
15 Pornography?"

25 But just because I think something is

1 immoral and horrible doesn't mean I necessarily
2 think it should be criminal. Unlike some people, I
3 don't necessarily associate my personal views of
4 conduct with what I think should be illegal or who I
5 would represent.

6 **Q. Have you ever had any of your articles**
7 **that you have written removed from your Harvard**
8 **website?**

9 A. Not that I know of. That would be a
10 violation of academic freedom.

11 **Q. Is there any reason why the article that**
12 **is now number 27 is, as of February of 2015, no**
13 **longer on your website?**

14 A. I doubt that that's true. I doubt that it
15 was removed. I don't think every article -- let me
16 tell you, unequivocally, I did not remove it, order
17 it to be removed or know it was removed. I doubt it
18 was removed. I can't imagine why anybody would ever
19 remove any article. I'm very proud of this article.

20 **Q. Is there any explanation for that**
21 **particular article being within the articles on your**
22 **website at some point and later no longer appearing**
23 **on your website?**

24 A. I don't think that's true. And if it is,
25 I have no idea how it happened or why it happened.

1 It's not something I would ever tolerate being done.
2 There isn't a single article I would remove from my
3 website. I'm proud of every article I've written.
4 And I'm sure you will find many other articles.

5 I don't know what my website includes.
6 But there is a book that's been written that honors
7 me by University of Albany Law School and contains
8 in the back all of my articles. I don't know that
9 my website does more than have a selection of my
10 articles. So I would have to look. But I'm not
11 aware of it. I don't handle my website.

12 **Q. Who decides which articles are placed on
the website and which are taken off of the website?**

14 A. My assistant, Sarah Neely.

15 **Q. Is Sarah Neely somebody who has been
involved in any aspect of the defense of this
particular case?**

18 A. She's just my assistant, she's my
19 secretary. She does all of my typing and does
20 everything that I do. So she's been involved in
21 every aspect of my life since she worked for me
22 about eight years ago.

23 **Q. Is there anyone other than Sarah Neely who
would put an article up on the website or remove the
article from the website?**

1 A. Not that I know of.

2 **Q. And is she permitted to remove any**
3 **articles from the website without your permission?**

4 A. I have no idea. I've never ever read my
5 website. I am not a web person. I don't know
6 what's on my website. And she also does tweeter or
7 Twitter. I have no idea. She circulates some
8 articles, she doesn't do anything, I have no control
9 over that. And I had nothing to do, nothing, zero,
10 with either placing the article or if it was
11 removed, removing the article. Zero percent.

12 **Q. Okay. Have you ever called for a complete**
13 **overhaul of rape laws in Massachusetts?**

14 A. One of my academic subjects that I've been
15 interested in for many, many years has been the
16 definition of rape and the idea of consent.

17 And I recently wrote an article calling
18 for affirmative consent to be required in all rape
19 cases, making the point that it's far better than
20 ten consented-to rapes don't -- that ten
21 consented-to acts of sexuality do not occur rather
22 than even one unconsented-to act of sexuality occur.

23 So in other words, I've flipped the
24 Blackstonian notion and say it's far, far better
25 that voluntary sex not occur in questionable

1 situations than even one act of unconsented-to sex.
2 I'm very much a hawk on the issue of consent and
3 want to make sure that no sexual encounter ever
4 occurs. And I teach that to my students. And I
5 lecture my students about that. I think the laws of
6 Massachusetts and the laws of many, many other
7 states are in a complete state of messiness, and I
8 would be thrilled to have an -- overall rape laws
9 all over the country.

10 **Q. Have you included within your request for**
11 **a complete overhaul lowering the age of consent**
12 **considerably?**

13 A. I know I argued in Florida -- we produced
14 some data in Florida that the age of consent is 18.
15 And, by the way, this all happened way, way after
16 the events at issue. But that the average age of
17 commencing sex in the state of Florida is well below
18 that. And, therefore, there is a substantial
19 disparity in California, which has 18, and Florida,
20 which has 18, between the actual activities that
21 occur -- many, many acts of sexual conduct occur
22 between the ages of 17 and 18, but the acts are
23 illegal.

24 I have for years, basically since the
25 Vietnam War when I argued this, said that when you

1 have tremendous disparity between the law in action
2 and the law on the books, that creates disrespect
3 for the law. And so what I want to see is a change
4 that reflects the actual pattern of sexuality
5 community by community, state by state. That's been
6 my academic position.

7 **Q. Have you, as far back as 1997, advocated**
8 **for lowering the age of consent to 15, as something**
9 **that would seem like an appropriate compromise,**
10 **given that reasonable people might disagree on**
11 **whether it should be as low as 14?**

12 A. I don't recall that. If you could show me
13 what you claim I said, I would be happy to look at
14 it. I don't recall that. I do not believe the age
15 of consent should be 15.

16 **Q. Okay. Have you ever believed that age of**
17 **consent should be 15?**

18 A. I have no recollection of that. But if
19 you could show me what you claim I said, I will be
20 happy to look at it and read it in context.

21 **Q. That's not a belief that you have today?**

22 A. That's not a belief that I have today,
23 no.

24 **Q. Do you currently have a place at 1500**
25 **Ocean Drive, Miami Beach?**

1 A. I do.

2 Q. **And is that near a clothing-optional**
3 **beach?**

4 A. No. Not that I know of. I'm not aware of
5 any.

6 Q. **Is there instances where you have seen**
7 **women lying out nude on the beach near your condo?**

8 MR. SCOTT: You know, really the relevancy
9 of this is so strained.

10 SPECIAL MASTER POZZUOLI: You really are
11 straining the relevancy. But go ahead. It's
12 your time. Go ahead. I'm not going to --

13 A. Any human being who is not blind who has
14 walked on any part of South Beach has seen a vast,
15 vast, vast, vast majority of men and women are
16 dressed in totally appropriate bathing suits, and
17 occasionally there are some who are not.

18 BY MR. EDWARDS:

19 Q. **Have you, at your condominium complex,**
20 **earned the reputation as somebody who goes out onto**
21 **the beach anytime there is a nude girl?**

22 A. No. What you're talking about is last
23 year my wife ran for the condo board, and she ran
24 against another group of people, and they were
25 exchanging insults. And one of the women whose

1 husband was running against or -- Caroline made an
2 absurd allegation that everybody -- everybody in the
3 condo building not only booed her but virtually
4 threw her out of the building. It was a totally,
5 totally made-up lie.

6 And the fact that you are relying on that
7 kind of nonsense really confirms everything I
8 thought about you. It really confirms everything I
9 thought about you.

10 SPECIAL MASTER POZZUOLI: Let's move on.

11 MR. SCAROLA: Not before we move to strike
12 that last comment.

13 SPECIAL MASTER POZZUOLI: You know, I
14 would normally agree, but I'm going to let it
15 stand. Go ahead and move forward.

16 BY MR. EDWARDS:

17 Q. **Okay. Was there a circumstance, then,**
18 **that this individual named Wendy Dawson confronted**
19 **your wife and specifically told your wife that**
20 **you're a pervert -- is that something that you**
21 **know --**

22 A. Yes.

23 Q. **-- to have happened?**

24 A. Let me finish. That happened, and my wife
25 told her what she thought of that, and everybody in

1 the condo, and she is now a completely ostracized
2 person. She also claims that I called her a slut.
3 And her husband threatened to beat me up. And this
4 caused a lot of tension in the building. But I
5 think if you ask -- there are 104 tenants in the
6 building. I think 103 of them would tell you she's
7 a complete nutcase.

8 **Q. Well, did she in response to -- well, did**
9 **you confront her and specifically say, "I'm going to**
10 **ruin your life. You don't know what I'm capable of.**
11 **You're going to be sorry that you said that to my**
12 **wife"?**

13 A. No.

14 MR. SCOTT: Can I ask what you are reading
15 from?

16 MR. EDWARDS: Sure. It's a Miami-Dade
17 police report that was made in 2014 by somebody
18 at the condominium against Alan Dershowitz.

19 A. Not somebody at the condominium. This
20 woman.

21 MR. SCOTT: Can we mark this as an
22 exhibit, please.

23 A. And it was totally ignored, and the police
24 said they didn't believe her.

25 MR. EDWARDS: Sure.

1 (Thereupon, marked as Plaintiff
2 Exhibit 28.)

3 BY MR. EDWARDS:

4 Q. Did you know that this police report was
5 made against you?

6 A. I think I was told that it was, yeah. You
7 know, I also had a report made --

10 A. Okay. But I want to illustrate how many
11 reports were made against me. I was charged with
12 harassing students at Johns Hopkins University
13 because I refused to acknowledge that Israel commits
14 war crimes. And as a result of my silence on
15 whether Israel commits war crimes, I was charged
16 with harassing students. Do you want to ask me
17 about that as well or other kinds of allegations?

18 BY MR. EDWARDS:

19 Q. When did that happen?

20 A. This happened about three months ago.

21 Another Arab group accused -- filed a Bar
22 complaint against me at one point because I support
23 Israel, I am therefore a war criminal.

24 A professor at Ohio University named --

25 oh, God, I can't remember his name now -- Boyle, I

1 think, accused me of being a war criminal.

2 Do you want to go down the list of things
3 that I've been accused of? I acknowledge I am a
4 very controversial person. I'm a lightening rod for
5 controversy and criticism. That bears nothing on my
6 personal conduct and integrity.

7 SPECIAL MASTER POZZUOLI: Go ahead and
8 move forward.

9 MR. SCOTT: Did we mark that as an
10 exhibit?

11 MR. EDWARDS: Twenty-eight.

12 MR. SCOTT: Thank you, ma'am.

13 BY MR. EDWARDS:

14 Q. **Are you also familiar with somebody named**
15 **Noam Chomsky?**

16 A. Yes. He was my counselor at Camp Massad
17 in 19- -- or counselor in my division at Camp Massad
18 in 1948, so I've known him for 67 years.

19 Q. **This is somebody who was voted the world's**
20 **leading public intellectual, whatever that title --**

21 A. He wasn't voted. He was named that.
22 Nobody voted on it.

23 Q. **And is this somebody who has repeatedly**
24 **and publicly labeled you as a dedicated liar?**

25 A. He and I have had an enormous and public

1 controversy that's gone on for -- since 1970 when I
2 first debated him. And the controversy is well
3 known. I've debated him on many occasions, and I
4 think beaten him on every such occasion.

5 He is a radical anti-American, hard left,
6 American hater. Virtual anti-Semite. And we have
7 very little respect for each other's views. That's
8 in the form of public controversy, yes. But he has
9 never pinpointed -- in fact, in a recent debate, I
10 gave the students list of ten -- a bunch of things
11 that he said, and I challenged the students to
12 Google him for accuracy, and I got back dozens and
13 dozens of responses saying that clearly he had
14 misstated all the facts, and they had checked my
15 facts, and my facts were accurately stated.

16 **Q. Can you tell me each of the days during --**
17 **between the period of 1999 and 2002 when you were in**
18 **the presence of Jeffrey Epstein?**

19 MR. SCOTT: Objection. Overly broad,
20 asking him to comment about every time he's
21 been with someone in three years.

22 MR. INDYKE: Objection.

23 SPECIAL MASTER POZZUOLI: Darren, go ahead
24 and make your objection for the record so the
25 court reporter can get it.

1 MR. INDYKE: Objection based upon
2 attorney-client, work product, and instruct not
3 to answer.

4 SPECIAL MASTER POZZUOLI: Can you answer
5 outside the privilege?

6 A. I can describe to my memory the times that
7 I was in his presence without describing the
8 reason --

9 SPECIAL MASTER POZZUOLI: The nature --

10 A. -- I was in his presence.

11 SPECIAL MASTER POZZUOLI: That's fine. Go
12 ahead. You can, because the question was --
13 and go back and read the question so we can get
14 your question answered.

15 COURT REPORTER: "Can you tell me each of
16 the days during -- between the period of 1999
17 and 2002 when you were in the presence of
18 Jeffrey Epstein?"

19 A. And that will require a lengthy answer.

20 SPECIAL MASTER POZZUOLI: Well, he's asked
21 the question, and if you can answer it outside
22 the privilege, because really all we're talking
23 about now is can you tell me the days.

24 BY MR. EDWARDS:

25 Q. **Just the days.**

1 MR. SCOTT: If you can remember. Can you
2 remember specific days?

3 A. I can remember some, yeah. So let me
4 first say that I was never with Jeffrey Epstein
5 during that relevant time period on his island.

6 BY MR. EDWARDS:

7 **Q. I'm not asking that question.**

8 SPECIAL MASTER POZZUOLI: No, no, no.

9 Listen, the question is, "Can you tell me each
10 of the days during -- between the period of
11 1999 and 2002 when you were in the presence of
12 Jeffrey Epstein?"

13 MR. SCOTT: He wants specific dates for
14 three years.

15 SPECIAL MASTER POZZUOLI: That is the
16 question verbatim, because I'm reading it from
17 the transcript.

18 A. Okay. During that period of time, we had
19 lunch at Joe's Stone Crab. We have an entry in the
20 calendar, which they have. That was during that
21 period of time. It was in Miami Beach.

22 My recollection is each summer during that
23 period of time, he flew up to Martha's Vineyard and
24 spent a part of the day with us at my home on
25 Martha's Vineyard with me and my wife and my

1 children, who were there, with -- at least on one of
2 those occasions with Ghislaine, maybe more.

3 I think during that period of time, we
4 attended a birthday party for Lord Evelyn Rothschild
5 at which Prince Andrew was in attendance and Lady
6 Rothschild was in attendance. Those are the ones
7 that I can think of right now.

8 BY MR. EDWARDS:

9 **Q. Between 1999 and 2002, did you ever visit**
10 **Jeffrey Epstein's home in Manhattan?**

11 MR. INDYKE: Same objection, same
12 instruction.

13 A. It's possible. I know I visited his
14 office. He had an office at -- on Fifth -- Madison
15 Avenue, I think, and he would call me periodically
16 to come over to the office to discuss a matter and I
17 would go to his office.

18 I'm trying to remember if I was at his
19 home during that period of time. It's very
20 possible. But I have no distinct recollection of
21 whether I was at his home during that period of time
22 or when it might have been.

23 BY MR. EDWARDS:

24 **Q. How many times have you been to Jeffrey**
25 **Epstein's home in Manhattan?**

4 BY MR. EDWARDS:

5 Q. Well, to the extent you can tell me,
6 between 1999 and 2002, which I think you just told
7 me, I'm not sure whether I was there or not, right?

8 A. I don't -- I'm not sure whether I was
9 there or not.

10 Q. So let's just broaden it, then. How many
11 times have you been to Jeffrey Epstein's home in
12 Manhattan ever?

13 MR. SCOTT: Objection. I think that's
14 overly broad.

15 MR. INDYKE: Same objection, same
16 instruction.

17 A. I'm remembering a time. I think I was at
18 a party at his house with Vera Wang and another
19 famous designer, and probably a hundred people. I
20 think that may have been during that period.

21 I would say I've been at his home less
22 than a dozen times throughout. Could be a few more
23 than that, a few less. But it's in that range. It
24 would be, you know, once a year, maybe twice a year.

25 It stopped once I finished representing

1 him. Once I finished representing him, our nature
2 of our relationship changed, and I was there only in
3 specific connection with particular legal questions
4 that he had for me.

5 BY MR. EDWARDS:

6 **Q. When did you stop representing him?**

7 A. Well, I wouldn't say stop representing
8 him. I'm still representing him, but when the case
9 was actively over was when he -- we made the plea
10 bargain and he went to jail.

11 **Q. Let me make it clear. When is the date**
12 **that you just described as the date when you stopped**
13 **representing him but that was the date when your**
14 **relationship changed and you no longer went to**
15 **Jeffrey Epstein's home?**

16 A. On a social basis.

17 MR. INDYKE: Same objection, same
18 instruction.

19 MR. SCOTT: Well, I didn't understand the
20 question, to be honest with you. If the
21 witness did, fine.

22 SPECIAL MASTER POZZUOLI: You mixed the
23 timeframe.

24 Did you understand the question about the
25 timeframe he was asking about?

1 A. I think I do, yeah. There came a time
2 when we made the deal --

3 BY MR. EDWARDS:

4 **Q. "The deal" being the nonprosecution
5 agreement?**

6 A. The nonprosecution agreement. At that
7 point, my relationship with Jeffrey Epstein changed.
8 It was no longer primarily a social -- my
9 relationship with Jeffrey Epstein fit into three
10 categories. I was an acquaintance, an academic
11 acquaintance, somebody who I met with him on
12 academic matters. On occasion, he would ask my
13 advice about legal matters. And that was between
14 the time I first met him in the summer of Leslie
15 Wexner's 59th birthday, whatever that year is, and
16 the time that he told me that he had a legal -- that
17 he was being investigated by the Palm Beach police.

18 So that's phase one.

19 Phase two, I'm then primarily involved as
20 his lawyer between the time the investigation begins
21 and the time the deal is struck.

22 Once the deal is struck, we get into phase
23 three, and during that phase, I rarely see him.
24 It's only when he calls me and asks me for advice
25 about the case, something about -- I can't get into

1 what it is. But just general advice about the case.
2 I think that's a fair assessment of the three phases
3 of my relationship with him.

4 **Q. Just so that I understand when phase two**
5 **ended, is it when the nonprosecution agreement was**
6 **signed in late 2007 or when Jeffrey Epstein pled**
7 **guilty in -- June 30, 2008?**

8 A. I think once the non- --

9 MR. INDYKE: Objection. Same instruction.

10 A. I think once the nonprosecution agreement
11 was reached in theory, once we had a handshake with
12 Sloman and with U.S. Attorney, and recall that the
13 deal was not only struck with Sloman and the U.S.
14 Attorney, but my recollection is it went all the way
15 up to Maine Justice in Washington that had
16 involvement in the case as well, once this deal was
17 struck in principle, my role changed dramatically.

18 I did not have a major role in drafting
19 the agreement, in implementing the agreement, in the
20 civil aspects of the agreement. At that point, my
21 relationship changed.

22 BY MR. EDWARDS:

23 **Q. Were you one of the attorneys that was**
24 **communicating directly with Maine Justice?**

25 A. I think I had.

1 MR. INDYKE: Same objection, same
2 instruction. Adding in any settlement
3 conversations objection from yesterday as well.

4 BY MR. EDWARDS:

5 Q. **Okay. So the degree to which -- haven't**
6 **you publicly made statements about what your role**
7 **was on behalf of Jeffrey Epstein with regard to the**
8 **nonprosecution agreement?**

9 A. I don't have any current recollection that
10 I made any such statements. I said I thought we
11 got -- we negotiated very hard, that it was a very
12 tough negotiation. There was a series of
13 negotiations first with the State Attorney, then
14 with the Assistant U.S. Attorney, and then with the
15 head of criminal division and then with the U.S.
16 Attorney himself, Maine Justice, and ultimately a
17 deal was struck. And I may have described my role.

18 Q. **A deal that you categorized as an arm's**
19 **length --**

20 A. Definitely arm's length.

21 Q. **-- negotiation?**

22 A. Yeah, very tough negotiation.

23 Q. **Are you unable to tell me, then, what role**
24 **that you particularly played with respect to that**
25 **deal?**

1 A. Yes, I can tell you.

2 Q. **You can or cannot? I can't hear you**
3 **because your hand is in front of your mouth.**

4 A. Well, I need to know whether I'm entitled
5 to, but I can --

6 MR. SIMPSON: Darren? Are you instructing
7 him not to answer?

8 MR. INDYKE: Yes. Yes.

9 MR. SCAROLA: What is the basis of the
10 instruction not to answer about communications
11 with an adversary?

12 MR. INDYKE: Settlement conversations,
13 settlement discussions.

14 MR. SCAROLA: So the privilege that you
15 are asserting is a confidential settlement
16 discussion privilege that precludes discovery
17 of the conversations, correct?

18 MR. INDYKE: Correct.

19 MR. SCAROLA: And you are instructing
20 Mr. Dershowitz not to answer on the basis of
21 that assertion?

22 MR. INDYKE: Yes, as well as
23 attorney-client --

24 MR. SCAROLA: And as Mr. Dershowitz's
25 counsel --

1 SPECIAL MASTER POZZUOLI: Could you speak
2 up, Darren, again.

3 MR. INDYKE: Yes. And as well as
4 attorney-client privilege and work product to
5 the extent it requires -- a response requires
6 him to invade any of those.

7 MR. SCAROLA: Well, our position clearly
8 is that communications with an adversary cannot
9 be attorney-client privileged communications.
10 Communications with an adversary cannot be work
11 product communications. And we don't
12 believe -- we don't believe any valid privilege
13 can be asserted to preclude Mr. Dershowitz from
14 answering the question about communications
15 with an adversary.

16 So, I want to know whether in addition to
17 the objection that is being asserted on behalf
18 of Mr. Epstein, Mr. Dershowitz's counsel is
19 instructing Mr. Epstein [sic] not to answer
20 those questions.

21 MR. SCOTT: Say that again.

22 MR. SCAROLA: Yes. We know --

23 MR. SCOTT: I'm sorry, I was reading an
24 exhibit.

25 MR. SCAROLA: We know what Mr. Epstein's

1 position is. I don't believe it to be well
2 founded.

3 I want to know whether you are instructing
4 Mr. Dershowitz that he is not to answer the
5 questions; and, if so, the basis of your
6 instruction.

7 MR. SCOTT: I'm not. He's following the
8 instructions of Mr. Epstein's counsel.

9 MR. SCAROLA: Well, he's not obliged to
10 follow the instructions of Mr. Epstein's
11 counsel.

12 MR. SCOTT: Well, I think he --

13 MR. SCAROLA: Those instructions have no
14 basis in the law, and our position is they have
15 no basis in the law. You are not obliged to
16 instruct him not to answer if you believe they
17 have no basis in the law.

18 MR. SCOTT: I'm taking no position on
19 this.

20 MR. SCAROLA: Okay. So is he going to
21 answer the questions or not?

22 MR. SCOTT: He's not going to answer --

23 SPECIAL MASTER POZZUOLI: Hang on, hang
24 on, hang on a second.

25 So I would say the following: We can put

1 this in the category of the issues that have to
2 be dealt with subsequent, and I will overrule
3 the objection.

4 However, I will share that I have had an
5 opportunity to read the 11th Circuit opinion,
6 and I would suggest that the -- particularly
7 the negotiation and the settlement privilege as
8 asserted runs contrary to that opinion as I've
9 read it.

10 So, at least to preserve the privilege for
11 now, I'll overrule the objection and place it
12 in those -- that set of issues that you will
13 have to address later and will reserve. But I
14 would suggest to the lawyers --

15 MR. EDWARDS: Overrule or sustain?

16 SPECIAL MASTER POZZUOLI: I'm going to
17 overrule the objection.

18 MR. INDYKE: Your Honor, if I may respond.

19 SPECIAL MASTER POZZUOLI: Go ahead.

20 MR. INDYKE: That 11th Circuit decision is
21 a decision regarding -- I believe regarding
22 federal rules, not Florida rules.

23 SPECIAL MASTER POZZUOLI: Yeah, I'm aware
24 of the distinction. And that's why I'm going
25 to allow you not -- I'm going to allow the

1 witness not to answer and allow that to be
2 reserved for later on for the decision around
3 the set of privilege issues that have been
4 raised in the last day and a half.

5 THE WITNESS: Including the privilege
6 issue raised by Sigrid McCawley.

15 THE WITNESS: Your Honor, can we add to
16 that the McCawley privilege?

17 MR. INDYKE: Your Honor, just one other
18 thing for the record.

19 SPECIAL MASTER POZZUOLI: Hang on one
20 second. Darren, hang on one second.

21 MR. INDYKE: Yes, sir.

1 Darren, go ahead. You were going to say
2 something.

3 MR. INDYKE: The only point I wanted to
4 raise in response to Mr. Scarola's point that
5 disclosure to an adversary would never be
6 privileged is that in any settlement
7 communication, the settlement is with an
8 adversary.

9 SPECIAL MASTER POZZUOLI: I understand the
10 distinction and I understand Mr. Scarola's
11 point. And so since I am going to basically
12 move forward with the deposition without having
13 the witness provide an answer to the question
14 right now, pending a future decision on these
15 set of issues, so we can move forward with the
16 deposition.

17 MS. McCAWLEY: And I just want to state on
18 the record that the sanction motions that we
19 have relating to the seal that's already been
20 granted is set for February 2, so the Court
21 will be hearing this issue on that date.

22 SPECIAL MASTER POZZUOLI: And that -- I'll
23 await Judge Lynch's direction if it impacts
24 anything within my role.

25 MS. McCAWLEY: Thank you.

1 BY MR. EDWARDS:

2 Q. I may be able to shortcut a portion of
3 this, then, because given that this litigation
4 arises out of a pleading filed in the Crime Victims
5 Rights Act case and relating to any role that
6 Mr. Dershowitz played in the negotiation of the
7 nonprosecution agreement, I have a long series of
8 questions regarding what exactly he did, what
9 exactly he did not do, who exactly he communicated
10 with at Maine Justice, the U.S. Attorney's Office,
11 meetings that he attended, the positions that he
12 took, all of those things, and rather than waste our
13 time going through every one of those questions to
14 be met this objection, if that's what the objection
15 is going to be, I'll skip to another portion.

16 Is that what I'm hearing? In terms of are
17 we taking that whole section of questions that is
18 going to lead to a privilege objection and putting
19 it in this basket to take up with the judge and see
20 if that's an issue to comment on later?

21 SPECIAL MASTER POZZUOLI: I would say it
22 this way, I can only rule on the question that
23 is pending, first of all.

24 Second of all, as practical matter, the
25 answer is probably yes, considering that the

1 deposition is not going to conclude today and
2 so you're going to have to reset Mr. Dershowitz
3 for a time in the future that is likely to be
4 after you've received some other guidance on
5 these issues. Fair enough?

6 MR. EDWARDS: Yes, fair enough. Thank
7 you.

8 SPECIAL MASTER POZZUOLI: As a
9 practical -- you know.

10 MR. EDWARDS: Okay. I'll test out a
11 couple and see where we are and move on.

12 SPECIAL MASTER POZZUOLI: There you go.

13 BY MR. EDWARDS:

14 **Q. Who were the people at Maine Justice that**
15 **you communicated with on behalf of Jeffrey Epstein**
16 **at any stage during the negotiations?**

17 MR. INDYKE: Same objection, same
18 instruction.

19 BY MR. EDWARDS:

20 **Q. Who were the targets of the**
21 **U.S. Attorney's investigation, as you understood,**
22 **during the negotiation that you participated in on**
23 **behalf of Jeffrey Epstein?**

24 A. Not me. I was not one of them.

25 MR. INDYKE: Same objection, same

1 instruction.

2 A. I can tell you one who was -- it's not me.

3 MR. SCOTT: He's making an objection.

4 MR. EDWARDS: To the extent that he's
5 answering that question by excluding anyone, I
6 am making the argument right now that he has
7 waived any privilege objection whatsoever to
8 that question, and I'm asking him now to
9 disclose the names of all of the individuals
10 who were -- not were not -- were targets of the
11 investigation.

12 MR. INDYKE: I said Mr. Epstein has not
13 waived any objection --

14 COURT REPORTER: Mr. Indyke, I can't hear
15 you.

16 MR. INDYKE: I said, I'm sorry, but
17 Mr. Epstein has not waived his objection
18 despite any statements Mr. Dershowitz may have
19 made.

20 MR. SCAROLA: And can we assume that on
21 all occasions when the instruction is coming
22 from Mr. Epstein's counsel that Mr. Epstein
23 [sic] is not to answer, that you are joining in
24 those objections?

25 MR. SCOTT: You know, you've characterized

1 me twice incorrectly, Mr. Scarola. All I'm
2 doing is this: He represents this gentleman.
3 This gentleman's lawyer is telling him not to
4 answer. Okay? I'm telling him follow that
5 lawyer's advice until there is a ruling.

6 You put me in a Catch-22. What am I
7 supposed to do? Rule on it and say you can
8 answer it and overrule this man telling him
9 this?

10 MR. SCAROLA: Well, there may be
11 occasion --

12 MR. SCOTT: I'm not joining in their
13 position. I'm merely saying follow the
14 lawyer's instructions until there's a legal
15 ruling on February 2nd, and then we'll be glad
16 to come back and answer them, depending on what
17 Judge Lynch says. That's all I'm saying to
18 you.

19 SPECIAL MASTER POZZUOLI: Hang on one
20 second. Before we go back to --

21 MR. SCOTT: I've said it twice.

22 SPECIAL MASTER POZZUOLI: And there has
23 been -- there have been times when I found the
24 objection to be -- I overruled the objection,
25 and the witness answered regardless. And so we

1 need to take them one question at a time. You
2 can either deal this in the subsequent sitting
3 of Mr. Dershowitz or we could do it now. It's
4 up to you.

5 MR. SCAROLA: Well, let me explain the
6 concern that I have and the reason why I want
7 the record to be clear in this regard.

8 There are -- there is a party that is
9 Professor Cassell and there is an attorney,
10 General Reyes, who are here from Utah today at
11 some considerable expense. And there may very
12 well be a motion for sanctions that will
13 include a request that expenses associated with
14 the retaking of Mr. Dershowitz's deposition be
15 assessed against those responsible for having
16 raised improper objections requiring the
17 continuation of the deposition.

18 If you are not joining in what I consider
19 to be spurious objections that have no
20 reasonable basis, then it would not be
21 appropriate to seek sanctions against you. But
22 if you are joining in those objections, then it
23 would be appropriate to seek sanctions in the
24 form of costs.

25 I'm only trying to make sure that the

1 record is clear as to whether you are joining
2 in the objections or you are aren't joining in
3 the objections.

4 MR. SCOTT: I thought I had made that
5 clear before, and I've now made it clear a
6 second time.

7 MR. SCAROLA: That is that you are not
8 joining in the objections?

9 SPECIAL MASTER POZZUOLI: Let me stop you.
10 The way people make objections, Mr. Scarola, as
11 you understand it, and I understand it, and
12 everybody in the room, is when any lawyer
13 objects, they put it on the record. If there
14 is not an objection made by a particular
15 lawyer, then we -- I don't think there's an
16 assumption that could be made one way or
17 another that they're joining or not.

18 MR. SCAROLA: Well, the problem is that
19 the witness is not responding to the question.

20 THE WITNESS: That's a lie. I'm
21 responding to every question that the special
22 master has asked me to respond to.

23 SPECIAL MASTER POZZUOLI: Guys, guys, let
24 me stop you. I understand the Catch-22. I
25 understand that this issue should be flushed

1 out at a hearing, likely in front of Judge
2 Lynch, and then we'll get clarity on this
3 issue.

4 I will also suggest to the parties that
5 from where I sit, you've asked me to come in as
6 special master. I appreciate the delicacies of
7 the issue of the privileged communication,
8 however it is asserted, whatever privilege
9 particularly is being asserted, and I want to
10 be careful and as considerate as I can.

11 And so -- but unlike you, I have not lived
12 with this case. And so I'm trying to make the
13 best calls I can and also preserve the record
14 for you to take up at a later hearing where
15 these issues can get flushed out either by
16 brief and argument in a more fuller fashion.

17 MR. SCAROLA: And I apologize if anything
18 that I have said suggests that you have done
19 anything except properly fulfill your
20 responsibilities.

21 SPECIAL MASTER POZZUOLI: No, no, no.

22 MR. SCAROLA: So I want to be clear that
23 my purpose is to be sure we have as clear a
24 record as possible as to who is asserting which
25 objections.

1 And it's my position that if Mr. Epstein's
2 counsel raises an objection that Mr. Scott or
3 Mr. Simmons considers to be baseless, then they
4 have an obligation to tell their client, this
5 is a question that you should answer.

6 If they're not telling their client, this
7 is a question you should answer, I think it's
8 reasonable to assume that they are recognizing
9 at least the colorable validity of the
10 objection. That's the only point I'm trying to
11 make. I made my statement, and we can move on
12 from here.

13 MR. SCOTT: And I will repeat my position.
14 My client has been instructed by the lawyer
15 representing a man he continues to represent
16 that he should not answer these questions, and
17 I believe that he should not answer them until
18 the Court gets a ruling.

19 And the special master himself has
20 indicated that we need to get this resolved and
21 it's delicate issues. That's all I'm saying,
22 Jack.

23 This is going to be done on the
24 2nd anyway. You're coming back for another
25 depo. We all know that, so let's get it

1 flushed out, let's get it ruled on, and then we
2 can come back and finish it off if the judge
3 says that. That's all I'm saying.

4 SPECIAL MASTER POZZUOLI: You're going to
5 need extra time with him anyway.

6 MR. SCOTT: You're putting me in a
7 Catch-22. You actually need a rule as a judge.
8 I can't do that.

9 SPECIAL MASTER POZZUOLI: Let's understand
10 the practicality of it that I'm not so sure
11 that you're going to get done today. In fact,
12 I'm fairly certain now that you're not.

13 Notwithstanding these open issues around
14 privilege.

15 So, to that extent, let's see if we can
16 continue to plow through as best we can.

17 MR. SCAROLA: Thank you.

18 MR. EDWARDS: Okay. Thank you.

19 BY MR. EDWARDS:

20 Q. You have defined your relationship with
21 Jeffrey Epstein using three categories that I wrote
22 down as, No. 1, academic; No. 2, lawyer; and No. 3,
23 subsequent to nonprosecution agreement, rarely see
24 him.

25 A. Sure.

1 Q. Is it fair -- is a reasonable presumption
2 that in the category No. 3, subsequent to Jeffrey
3 Epstein pleading guilty and that case resolving, the
4 criminal case resolving, that you have not been to
5 his New York, Manhattan mansion since then?

6 A. No, that's not the case. I have been,
7 yeah. Yeah.

8 Q. How many times in category 3, then, have
9 you been to Jeffrey Epstein's Manhattan mansion?

10 A. I would say maybe twice, maybe -- maybe
11 twice. Maybe three, in that range. It's been how
12 many years now? It's been nine years or eight
13 years. Could be a little bit more than that.
14 Certainly no more than once a year. Certainly no
15 more than that. Probably less than that.

16 Q. And when you were at Mr. Epstein's
17 New York home subsequent to his guilty plea, were
18 you there in the capacity as his lawyer discussing
19 attorney-client information or were you there in a
20 nonlawyer capacity?

21 A. As a lawyer.

22 Q. Okay. Was any of your communications with
23 Jeffrey Epstein during that period of time we just
24 defined non-privileged communications?

25 A. Yes.

1 **Q. Can you share with me the nonprivileged**
2 **communications that you have had with Jeffrey**
3 **Epstein since his guilty plea in June 2008?**

4 A. We discussed the Middle East. There was a
5 map on his blackboard that had been drawn in chalk
6 by Ehud Barak, who had visited his home, and we
7 discussed the potential for how the Middle East
8 conflict could be settled.

9 **Q. When was that discussion?**

10 A. Probably six or seven -- six, seven, eight
11 years ago, something like that.

12 **Q. So are we talking about 2009, 2010 is this**
13 **discussion?**

14 A. No, I don't remember exactly what year it
15 would be. It could be around there. Ehud Barak was
16 no longer in office. So we'd have to figure out
17 when he was not in office.

18 **Q. Does it help if I can tell you that**
19 **Jeffrey Epstein pled guilty June 30, 2008, was**
20 **confined for a year and then was placed on**
21 **probation? Was it during the time that he was**
22 **supposed to be confined? Was it during the time of**
23 **his probation? Or is it sometime after all of that**
24 **was over?**

25 A. I don't remember. I do remember that he

1 called me to come over for a legal reason. We had a
2 legal discussion, and then he showed me the
3 blackboard and we had a discussion that was not
4 privileged. Had nothing to do with this case.

5 **Q. Was Ehud Barak at his house as well during**
6 **this discussion that you were having with Jeffrey**
7 **Epstein?**

8 A. He had been at his house. I don't recall
9 specifically if he was there at the time. We may
10 have said hello in passing. I don't recall.

11 I think -- I can tell you this. Part of
12 the discussion occurred when he was not there
13 because we were referring to his map and discussing
14 what this meant and what that meant. But I think we
15 may have crossed paths, him going out and me coming
16 in.

17 MR. SCOTT: At some point, we'd like to
18 take a break.

19 MR. EDWARDS: I'm just going wrap up on
20 this particular meeting, and then we'll take a
21 break.

22 MR. SCOTT: Okay.

23 BY MR. EDWARDS:

24 **Q. The time when that you're discussing where**
25 **you and Jeffrey Epstein were reviewing a map, is**

1 **this a map that was drawn by Ehud Barak?**

2 A. Yes.

3 **Q. And is this on a blackboard --**

4 A. Yes.

5 **Q. -- that is Jeffrey Epstein's blackboard?**

6 A. That's right.

7 **Q. Where in the home is this blockboard
8 located?**

9 A. Okay. As you walk into his house, there's
10 a little office on the left side. And generally
11 I've been called by his secretary, I go and I sit in
12 the office, and then she tells me that Jeffrey's
13 ready to see me and I walk in through the hallway
14 into a dining room. And he's usually sitting at the
15 desk in the dining room and there's a waiter person
16 sitting there, hovering around. And that was the
17 room where this blackboard was.

18 And that's where he used to have his
19 academic seminars where he would invite Nobel
20 Prize-winning scientists and professors and other
21 people to have sessions. I didn't attend any of
22 those once the -- once the deal been made, once I
23 terminated my role as his lawyer.

24 **Q. This visit to Jeffrey Epstein's house
25 where you discussed the drawing on the blackboard,**

1 **do you know whether Ehud Barak was staying at**
2 **Jeffrey Epstein's house?**

3 A. I don't. I don't.

4 **Q. Do you know whether Ehud Barak, in the**
5 **days just preceding that, had been staying at**
6 **Jeffrey Epstein's house?**

7 A. I don't. I have no idea.

8 **Q. Do you know how long Ehud Barak had been**
9 **at Jeffrey Epstein's house?**

10 A. I don't know that he had been. All I know
11 that he had been there for enough time to draw the
12 map, and I may have -- I've known him for a long
13 time. I may have said hello to him on the way in
14 and out. I don't remember that specifically. I
15 just remember that he had been there and I had asked
16 about the map and we had the conversation.

17 MR. EDWARDS: You want to take a break?

18 VIDEOGRAPHER: Going off the record. The
19 time is 2:22 p.m.

20 (Recess was held from 2:22 p.m. until 2:36 p.m.)

21 VIDEOGRAPHER: We are back on the record.

22 The time is 2:36 p.m.

23 MR. EDWARDS: I'm going to go ahead and
24 put this on the record that I'm turning over
25 the video transcript from the Miami Bench

1 & Bar.

2 MR. SCOTT: Thank you, Mr. Edwards.

3 MR. SIMPSON: Thank you.

4 A. Can I correct one of my answers on the
5 record? You asked me if I was aware of a police
6 report, and I had no chance to read it. I've now
7 had a chance to read it, and it is noncriminal, and
8 it says she simply wanted to document the incident.

9 BY MR. EDWARDS:

10 Q. **Were you aware of that?**

11 A. I was not aware of that.

12 Q. **Okay.**

13 A. And I am now aware of that. It's a
14 noncriminal report and she wants it for the record.

15 SPECIAL MASTER POZZUOLI: Are you
16 referring to Exhibit 28?

17 MR. EDWARDS: Exhibit 28, which is Miami
18 Beach Police Case Report Detail.

19 A. But not a criminal report.

20 BY MR. EDWARDS:

21 Q. **Okay. Either way, you were not aware of**
22 **that report having been made?**

23 A. No, no, no, I was aware that there was a
24 police report being made. I never saw the police
25 report. I looked at it now for the first time --

1 **Q. Understood.**

2 A. -- during the recess.

3 **Q. Okay. Going back to the meeting we were**
4 **just discussing between yourself and Jeffrey Epstein**
5 **in Jeffrey Epstein's home, what year -- what's your**
6 **best approximation for the year that that happened?**

7 A. It would just be a guess. I would --

8 **Q. Okay. You don't know?**

9 A. I don't think I know. I could probably
10 find out.

11 **Q. Okay. How long you were at Jeffrey**
12 **Epstein's home during that meeting?**

13 A. My general meetings with Jeffrey Epstein
14 in the post deal period were about half an hour.

15 **Q. And --**

16 A. They were business; in, out, done.

17 **Q. Was there anyone else in the room with you**
18 **and Jeffrey Epstein during this meeting?**

19 A. Yes.

20 **Q. And who was that?**

21 A. There was a wait person who would bring
22 coffee and refill my coffee and ask if there was
23 anything I needed, and then periodically a secretary
24 would come in and hand Jeffrey a note and he would
25 look at the note and scribble a note or decide to

1 make a phone call back.

2 **Q. Do you know the name of the waiter or the**
3 **secretary?**

4 A. Waiter, I never knew the name. The
5 secretary, I would know the name if it were given to
6 me, but I don't know it offhand. I can describe her
7 to you.

8 **Q. Okay. What's the description?**

9 A. She's a very attractive 45-year-old.
10 She's been his secretary for quite some time. And
11 I'm guessing the age, but it's in that range. Thin,
12 blondish hair.

13 **Q. Is it Lesley Groff?**

14 A. It could be. It could be, yes. Probably
15 was, yeah.

16 **Q. And did you speak with Lesley Groff while**
17 **you were there?**

18 A. I would usually go in, I would say hi, and
19 she'd say Jeffrey's busy, wait. And I would wait in
20 the little office. There would be books. I would
21 peruse a book. And then she would say, Jeffrey's
22 ready to see you, and I would go into his -- he used
23 it kind of as an office, an office-dining room area.

24 **Q. Was Lesley Groff also a target of the**
25 **federal criminal investigation?**

1 A. Not to my knowledge.

2 MR. INDYKE: Objection.

3 MR. SIMPSON: Darren?

4 MR. INDYKE: Yes.

5 MR. SIMPSON: Are you instructing on that
6 question?

7 MR. INDYKE: I am, on the same basis.

8 BY MR. EDWARDS:

9 **Q. And --**

10 MR. SCOTT: If you have a hard time
11 hearing, please speak and let us know, will
12 you? Because you got to tell my client what
13 your position is so he can understand it before
14 he responds.

15 MR. INDYKE: I understand.

16 MR. EDWARDS: Just so I am clear on what
17 privilege is --

18 MR. INDYKE: I would be objecting on
19 several projects, including attorney-client,
20 work product, I think probably those two, yes.
21 On those two. And I would instruct not to
22 answer.

23 MR. EDWARDS: As to the question of was
24 Lesley Groff also a target of the criminal --
25 federal investigation, the objection is

1 attorney-client privilege and the witness is
2 being instructed not to answer?

3 MR. INDYKE: And work product, because
4 Mr. Dershowitz would not have discovered any
5 such information unless it was in connection
6 with his representation of Jeffrey.

7 A. And I'm also not sure --

8 MR. SCOTT: Just --

9 BY MR. EDWARDS:

10 Q. **Is Lesley Groff one of the named
11 coconspirators in the nonprosecution agreement that
12 is now a public document?**

13 A. I don't remember. I remember only [REDACTED]
14 [REDACTED]. I don't remember the other names. I
15 remember there were four of them and, of course, I
16 was not one of them.

17 Q. **Was there anyone else at the home for this
18 meeting you are describing other than yourself,
19 Jeffrey Epstein, the waiter whose name you do not
20 know, and the secretary who we believe is Lesley
21 Groff?**

22 A. There was also a guy, a big guy who I
23 think may have been a security guy, because I
24 remember he came to the door once and greeted me and
25 he looked to me like a security guy. And he was

1 kind of on the opposite side of where the office
2 was, and I would see him from time to time.

3 VIDEOGRAPHER: Let me interrupt for one
4 second. Professor, could you put your mic on.

5 THE WITNESS: Oh, I am so sorry. I
6 apologize.

7 VIDEOGRAPHER: No problem.

8 BY MR. EDWARDS:

9 Q. Okay. Do you know the name of this person
10 you are describing as security?

11 A. I don't.

12 Q. Would you know it if I said it?

13 A. Try me.

14 Q. Igor Zinoviev?

15 A. No.

16 Q. It's not Igor?

17 A. No, no. And there was also a driver,
18 whose name if you give me, I will remember. I think
19 it has -- I think it's a Latino name.

20 Q. Jojo Fontenelle?

21 A. That's it. I have the ethnicity wrong,
22 but it was Jojo, yes. I never knew his last name.

23 Q. Is Jojo Fontenelle someone that you
24 understand worked for Jeffrey Epstein for a very
25 long time?

1 A. I don't know for a very long time. I know
2 that on occasion when it was raining or something,
3 Jeffrey would ask Jojo to drive me back to my house
4 or something like that. So I was driven on maybe
5 one or two occasions by Jojo somewhere. That's
6 really all I know about.

7 **Q. Have you ever talked with Jojo about**
8 **[REDACTED]?**

9 A. Of course not. I've never talked to
10 anybody about [REDACTED] until --

11 MR. INDYKE: Objection.

12 A. -- until these false accusations.

13 MR. SCOTT: Is there an objection?

14 MR. INDYKE: There is an objection. To
15 the extent that response to that question would
16 require Alan to disclose anything in connection
17 with his representation of Jeffrey Epstein,
18 then I would instruct Alan not to answer the
19 question.

20 MR. SCOTT: So if it's a nonprivileged
21 area, please answer it.

22 SPECIAL MASTER POZZUOLI: How would a
23 conversation with Jojo be privileged?

24 MR. INDYKE: It might be privileged if
25 Alan is investigating, for example, what Jojo

1 recalls about [REDACTED] or something
2 like that. I don't know.

3 A. I had no privileged conversations.

4 SPECIAL MASTER POZZUOLI: Okay.

5 BY MR. EDWARDS:

6 **Q. After these allegations were made, haven't**
7 **you already testified as recently as yesterday that**
8 **you did call Jeffrey Epstein?**

9 A. Yes, but I had no contact with Jojo. I
10 have no idea whether Jojo still works for him or
11 anything. I've not been to his -- I've not had any
12 contact with him, no.

13 **Q. When is the first time you met Jojo?**

14 A. I have no idea.

15 **Q. Do you remember if Jojo was working for**
16 **Jeffrey Epstein the first time that you met Jeffrey**
17 **Epstein?**

18 A. I have no idea. I may have seen him three
19 times in my life, Jojo.

20 **Q. Okay. We're right now still in what**
21 **you've placed as category No. 3, which would place**
22 **time period of June 2008 through present.**

23 A. I would put it a little back further than
24 2008. Probably at the time the handshake deal was
25 struck with the U.S. Attorney's Office is when the

1 nature of my relationship changed.

2 Q. I'm going to describe some events for you
3 just from what I know.

4 A. Okay.

5 Q. And only so that you can help me to
6 understand when the date actually is.

7 A. Okay.

8 Q. Here are the things that I know. In late
9 September -- September 27, 2007, the nonprosecution
10 agreement is signed.

11 A. Okay.

12 Q. In December there's an addendum to it that
13 was signed but later not attached. In January
14 there's an appeal to CEOS in Washington. So I'm
15 wondering --

16 A. In January?

17 Q. Right. So I'm wondering if it is that
18 January 2008 period --

19 A. That's probably pretty close, yeah.
20 That's probably pretty close. I would have been
21 involved in any appeal.

22 Q. Okay. Okay. So at least to the last
23 point of an appeal -- I call it appeal, for lack of
24 a better word, but taking it up to Washington,
25 you're involved through whatever that point is?

1 A. Yeah. I mean, my role is primarily to
2 provide legal work. I did the legal part of
3 everything. I wrote the law part of all the briefs.
4 I was not in charge of the factual investigation.
5 That's not my expertise. My expertise is on
6 statutory construction, constitutional law and
7 precedence, and I wrote all the parts of all the
8 pleadings pretty much that dealt with any of those
9 issues.

10 Q. **Don't you agree, though, that you made**
11 **presentations to the State Attorney's Office and**
12 **perhaps others about some of the underlying facts**
13 **for the victims and their credibility?**

14 A. At the first phase when it was just me and
15 local lawyers, and it was regarded as --

16 MR. INDYKE: Objection. Sorry, guys, I
17 just got back to my desk. Are we talking about
18 discussion with the U.S. Attorney's Office,
19 with the U.S. Attorney?

20 MR. SCOTT: No. I don't know if we are or
21 not.

22 MR. INDYKE: Can you repeat the question,
23 please.

24 MR. EDWARDS: Sure. The statement was
25 made that he was only involved -- at least my

1 understanding of the comment was that he was
2 only involved in the legal aspects of it, and
3 so --

4 THE WITNESS: I said primarily involved.

5 MR. EDWARDS: So my question was, wouldn't
6 you agree that at some point in time, you met
7 with the State Attorney's Office and discussed
8 with them the factual background of some of the
9 victims?

10 MR. INDYKE: Same objection regarding work
11 product and also regarding settlement
12 communications. And instruct not to answer.

13 BY MR. EDWARDS:

14 Q. **Okay. And I assume at this point in time,**
15 **we're going along with that instruction?**

16 SPECIAL MASTER POZZUOLI: I don't -- I
17 don't -- based on the question, I'm not so sure
18 he could answer the question outside of the
19 privileged information that's being claimed, so
20 yeah.

21 BY MR. EDWARDS:

22 Q. **Okay. In addition to the one occasion**
23 **that you've already described for us, in phase**
24 **three, which we've described as sometime in 2008**
25 **through present, what is the other -- what is the**

1 **next time that you were at Jeffrey Epstein's home in**
2 **Manhattan?**

3 A. There were just a couple of times when I
4 would get a phone call and be asked to come over to
5 discuss a legal issue, and I did. But I can't give
6 you times and dates. I might be able to check them.
7 I might have kept time records, although I don't
8 think I was billing him at that time. But I might
9 have time records.

10 Q. **Within -- after January of 2015 when you**
11 **contacted Jeffrey Epstein, that was in response to**
12 **the allegations that were made against you, right?**

13 A. He contacted -- to my recollection, he
14 contacted me. What happened is I first got a phone
15 call from one of his lawyers. And then I got a
16 phone call from him.

17 Q. **And your discussions, so that I'm**
18 **understanding, with Jeffrey Epstein at that time,**
19 **the purpose of those discussions was for you to**
20 **gather information from him to assist you in the**
21 **defense of the allegations against you?**

22 A. In part.

23 MR. INDYKE: Objection. Common interest.

24 And instruct not to answer.

25

1 BY MR. EDWARDS:

2 Q. I'm -- just so that I'm clear, the
3 objection may stand, but just so that I'm clear, I'm
4 talking about a circumstance where you are the
5 client, not you were the lawyer. And I want to know
6 what the communications are between you and Jeffrey
7 Epstein where you are the client asking him
8 information for the purposes of defending yourself
9 against the allegation.

10 A. I was always both the lawyer and the
11 client. I think I already said that.

12 MR. INDYKE: The objection stands.

13 A. I was always both the lawyer and the
14 client.

15 MR. INDYKE: Objection. Common interest,
16 attorney-client and work product.

17 BY MR. EDWARDS:

18 Q. Can you tell me any other times in phase 3
19 of your relationship with Jeffrey Epstein, as
20 previously defined, when you had -- when you met
21 with Jeffrey Epstein at his New York home and
22 discussed any other nonprivileged information?

23 A. I can't think of any other nonprivileged
24 discussion.

25 Q. Are there any other people who were

1 **present at Jeffrey Epstein's home when you were**
2 **having any of your privileged discussions?**

3 A. Waiter, secretary, security, staff.

4 Q. **Where was the staff at the times when you**
5 **were having these privileged discussions with**
6 **Jeffrey Epstein?**

7 A. In their various places. The security
8 person in his place, the secretary in her place, and
9 a waiter walking in and out. We generally stopped
10 any substantive discussion when the waiter or the
11 waitress, the waitperson was pouring my coffee.

12 Q. **Was [REDACTED] or [REDACTED] or**
13 **Ghislaine Maxwell in the home at any of these times**
14 **during phase 3 of your relationship with Jeffrey**
15 **Epstein?**

16 A. Not that I recall.

17 Q. **Were any of Jeffrey Epstein's girlfriends**
18 **in the home during that time?**

19 A. Not that I recall.

20 Q. **What would we describe as the -- or what**
21 **would we define as the time period of phase 1 of**
22 **your relationship with Jeffrey Epstein?**

23 A. From August of the year that Leslie Wexner
24 turned 59 -- let's see, he's a year older than I am,
25 and I would have turned 59 in 2007 -- so this is

1 probably the summer of 2006.

2 **Q. Ninety-six?**

3 A. Ninety-six.

4 **Q. I'm with you. I'm keeping track of the**
5 **math.**

6 A. Put back a decade. Ninety-six, so it was
7 probably the summer of '96, and he came to the
8 Vineyard at the suggestion -- to visit a number of
9 people, but visited with me at the suggestion of
10 Lady Rothschild, whose name was then Lynn Forester.

11 **Q. Is Lynn Forester still a friend of Jeffrey**
12 **Epstein?**

13 A. No.

14 **Q. Was Lynn Forester then in 1996 a friend of**
15 **Jeffrey Epstein?**

16 A. Yes.

17 **Q. Do you have insight into the reason why**
18 **Lynn Forester is no longer a friend of Jeffrey**
19 **Epstein?**

20 MR. SIMPSON: Darren.

21 A. I'm waiting for an objection. If none
22 comes --

23 MR. INDYKE: I'm sorry. Can you repeat
24 the question? Restate the question, please.

25 MR. EDWARDS: I'm asking the witness for

1 the reason why Lynn Forester and Jeffrey
2 Epstein are no longer friends.

3 MR. INDYKE: Oh. Objection on the basis
4 of attorney-client, work product. And I
5 instruct him not to answer.

6 BY MR. EDWARDS:

7 **Q. Have you talked to Lynn Forester or anyone**
8 **other than Jeffrey Epstein about the reason why Lynn**
9 **Forester and Jeffrey Epstein are no longer friends?**

10 MR. SCOTT: If it's nonprivileged, please
11 answer.

12 A. Yeah, I have spoken to Lynn Forester about
13 a number of subjects. I don't recall speaking to
14 her about that subject.

15 BY MR. EDWARDS:

16 **Q. Do you have the ability to answer the**
17 **question as to why Lynn Forester and Jeffrey Epstein**
18 **are no longer friends outside of privileged**
19 **information?**

20 A. No, I do not, no.

21 **Q. And you've told me --**

22 MR. INDYKE: Hello?

23 MR. EDWARDS: There's no question pending
24 yet.

25 MR. INDYKE: Sorry.

1 BY MR. EDWARDS:

2 Q. And you've told me of some nonprivileged
3 communication that you've had with Jeffrey Epstein
4 and, obviously, you can't tell me of privileged
5 communication you've had with Jeffrey Epstein
6 because it relates to your acting as Jeffrey
7 Epstein's attorney when that communication was had.

8 So am I correct in understanding that the
9 information that would give you the ability to
10 answer the question why Lynn Forester is no longer
11 friendly with Jeffrey Epstein is privileged
12 communication?

13 A. Yes.

14 Q. The first time that you met Jeffrey
15 Epstein, was that in Martha's Vineyard?

16 A. Yes.

17 Q. Was that at your place at Martha's
18 Vineyard?

19 A. Yes. He came to my house on Martha's
20 Vineyard.

21 Q. And who did he come with the first time?

22 A. Ghislaine Maxwell.

23 Q. What did you understand at that point in
24 time for Ghislaine Maxwell's role to be in Jeffrey
25 Epstein's life?

1 A. I thought she was his girlfriend. That
2 was my assumption at the time.

3 **Q. Was your assumption wrong?**

4 A. I don't know.

5 **Q. Okay. The way that you said it, I thought**
6 **maybe --**

7 A. No. I don't -- I never -- they didn't
8 hold hands.

9 **Q. There is nothing since that date that's**
10 **changed the assumption that you had at that time,**
11 **which is that she was his girlfriend in 1996?**

12 MR. INDYKE: Objection --

13 A. Nothing on privilege.

14 MR. INDYKE: -- based upon
15 attorney-client, work product, common interest.

16 BY MR. EDWARDS:

17 **Q. Was anybody else with Jeffrey Epstein and**
18 **Ghislaine Maxwell on this first visit to Martha's**
19 **Vineyard?**

20 A. His pilots.

21 **Q. Who were they?**

22 A. I don't know.

23 **Q. Do you know Larry Visosky?**

24 A. I remember meeting a pilot named Larry.

25 **Q. Other than his pilots, anybody else?**

1 A. No. None that I know of. He came to my
2 house. They had a car at the airport. They took
3 the car back to the airport, my recollection, maybe
4 took a cab, I don't remember, but I know he was
5 visiting other people. So I don't know whether he
6 did or didn't have anybody else with him. But when
7 they came to my house, it was just him and
8 Ghislaine.

9 Q. **Okay. I'm going to go back to this, but I**
10 **wanted to get something before we finished today,**
11 **which is can you provide me all the telephone**
12 **numbers that you used to call -- not on your end --**
13 **that you called to reach Jeffrey Epstein in phase 1;**
14 **that is, prior to your representation of Jeffrey**
15 **Epstein in the 2005 investigation?**

16 A. I will check to see.

17 MR. INDYKE: Objection to the extent that
18 information is privileged, attorney-client
19 communication or those times where Alan has
20 testified where Jeffrey has asked him for
21 specific instances of legal advice.

22 A. I can tell you this, that early on, like
23 the first six months of my relationship with Jeffrey
24 Epstein, there was no privilege. That is, probably
25 took at least six months before he asked me any

1 questions that would be legal in nature.

2 The first six months, we talked about
3 science, we talked about academia, we talked about
4 Harvard, we talked about Leslie Wexner, we talked
5 about various subjects.

6 It was only later on in time that, in
7 retrospect, I think back, and I say these are
8 questions that were legal in nature and he was
9 asking me them as a lawyer friend of his.

10 BY MR. EDWARDS:

11 **Q. Okay.**

12 MR. INDYKE: Then my objection -- to be
13 clear, my objection is to the extent that you
14 got that information in communications with him
15 during the time where he was seeking legal
16 representation on particular questions for you,
17 I would object to that information.

18 A. I understand. That's why I wanted to
19 clarify there was a period of time that that wasn't
20 true.

21 BY MR. EDWARDS:

22 **Q. And I'm just asking for his actual**
23 **telephone numbers.**

24 A. I'll check. I don't have them --

25 **Q. Just so that my record is clear -- my**

1 **question is clear for the record, I'm only asking**
2 **for you to provide Jeffrey Epstein's telephone**
3 **numbers that you would call him on during the period**
4 **of time prior to your representation in 2005.**

5 A. Okay. I would say 99 percent of the time,
6 he called me. So it was mostly a one-way phone
7 situation, but I'm sure I have some numbers that I
8 called or called back, yeah.

9 **Q. Did you have his telephone number --**

10 A. I had some numbers, yeah, and I can
11 provide those if I can find them.

12 **Q. In fact, I think I've seen a piece of your**
13 **journal --**

14 A. Probably has the numbers, yeah.

15 **Q. It has all of them blacked out, so is**
16 **there --**

17 A. Okay. That's no secret. I can give them
18 to you.

19 MR. SIMPSON: Just for the record,
20 Counsel, anything withheld as privilege would
21 be on our privilege log, and counsel will
22 address that.

23 MR. EDWARDS: Okay. Yeah, I'm not asking
24 about anything on the privilege log.

25

1 BY MR. EDWARDS:

2 Q. All phone numbers with -- what would you
3 have to do to get me all the phone numbers that you
4 had for Jeffrey Epstein?

5 A. Almost certainly just have my lawyers
6 unblank out the pages.

7 Q. Okay.

8 A. I don't keep old phone books.

9 Q. Did you have --

10 MR. INDYKE: Would you be using those
11 phone numbers for the purpose of publishing
12 them? Because I would have an objection to
13 that.

14 MR. EDWARDS: No.

15 MR. INDYKE: Confidential information.

16 MR. EDWARDS: I will agree not to publish
17 his phone numbers, especially his old phone
18 numbers from 1997.

19 MR. INDYKE: Thank you.

20 BY MR. EDWARDS:

21 Q. Did you have telephone numbers for
22 Ghislaine Maxwell?

23 A. No.

24 Q. Did you have a telephone number for [REDACTED]
25 [REDACTED]?

1 A. No.

2 Q. **Did you have a direct telephone number for**
3 **[REDACTED]**?

4 A. Of course not.

5 MR. INDYKE: Objection. Objection as to
6 actually all three to the extent that Alan has
7 that information based upon privileged
8 information.

9 A. I don't have the information, so it can't
10 be privileged.

11 BY MR. EDWARDS:

12 Q. **Did you have a telephone number for**
13 **Jeffrey Epstein in Albuquerque?**

14 A. No. There came a point in time -- no, I
15 never did, no. No, I don't think I ever did.

16 Q. **Did you have a telephone number for**
17 **Jeffrey Epstein at his residence in the island?**

18 MR. INDYKE: Same objection and same
19 request as to confidentiality, if you do.

20 A. I don't think so. Generally, I recall one
21 number, I would call his secretary. I did not --
22 for example, did not have a cell phone number for
23 him. I would call his secretary if I needed him.
24 It was very rare that I called. And the secretary
25 would then call back. So I did not have numbers for

1 his various places that I can remember.

2 BY MR. EDWARDS:

3 Q. Did you have a phone number for Jeffrey
4 Epstein's cell phone?

5 A. I don't think so, no, I don't. Certainly
6 during that period, I did not.

7 Q. When you would call Jeffrey Epstein's
8 secretary, what is the name of the secretary or
9 secretaries that you would speak to?

10 A. Don't remember. The Groff person perhaps,
11 but I'm not positive. I just don't remember.

12 Q. Other than Lesley Groff --

13 A. I had a general number and I would call
14 that number. It was his business number, and she
15 would then arrange to have him call. Jeffrey is not
16 available, he'll call back. And then would call
17 back. That was the general way in which I got in
18 touch with him.

19 Q. Is Jeffrey Epstein somebody who,
20 throughout your relationship, has traveled
21 frequently?

22 A. Yes.

23 Q. And so did you have a telephone number for
24 his airplanes?

25 A. No, of course not. I didn't have that

1 kind of a relationship with Jeffrey Epstein. I had
2 a one-number generally business number and would I
3 call that and then I would get a call back.

4 **Q. Have you seen your -- the entry that**
5 **Jeffrey Epstein had for you in his journal?**

6 MR. INDYKE: Objection.

7 A. I looked at all the entries he had --
8 usually had 25 numbers for everybody. I don't know
9 where he would have gotten those or how he used
10 them, but he apparently had numbers for everybody.

11 **Q. That's what I was going to ask you --**

12 MR. INDYKE: Objection. Alan, are you
13 basing this upon information that you got from
14 Jeffrey or from information published by --

15 A. No, information that I got through the
16 discovery.

17 MR. INDYKE: Okay. Thank you.

18 BY MR. EDWARDS:

19 **Q. Have you looked at the entry for yourself,**
20 **Alan Dershowitz?**

21 A. Do you have it here? I would like to look
22 at it. But I was always amazed by how many numbers
23 he had for everybody.

24 (Thereupon, marked as Plaintiff
25 Exhibit 29.)

1 BY MR. EDWARDS:

2 Q. **I'll show you what's 29.**

3 A. I have to look at that.

4 MR. INDYKE: If you're going to ask Alan
5 to pinpoint specific numbers, I would ask that
6 you not publish them in the deposition, if we
7 can figure out a way to do that. A telephone
8 number, not a public record or something --

9 MR. EDWARDS: I'll tell you this, I've
10 isolated the page so as not to publish any more
11 numbers than necessary. And I would agree, if
12 that's something that Mr. Dershowitz wants,
13 that this entire page be sealed or protected so
14 as not to unnecessarily disclose private
15 information of others.

16 A. There are some of these numbers that are
17 still valid. I notice he has my number, he has my
18 wife's number, my wife's car number. I mean -- as
19 to everybody, he has just dozen of numbers. He's
20 obviously obsessed with keeping everybody's possible
21 numbers. But it was a one-way street. I think I
22 only had -- I think I only had one of his numbers.
23 I used one of his numbers when I wanted to call him.

24 BY MR. EDWARDS:

25 Q. **And that one number that you had, can you**

1 tell me, was that a New York number, a Florida
2 number, a Virgin Islands number?

3 A. New York number.

4 Q. New York number?

5 A. Yes, to his office on Madison Avenue.

6 Q. The only number that you had for Jeffrey
7 Epstein that you remember?

8 A. That's my recollection. I may have had
9 others.

10 Q. That you remember was a New York telephone
11 number?

12 A. New York telephone number, yeah.

13 Q. Okay. And looking at the exhibit -- have
14 you had a chance to review it so I can look at it?

15 A. Yeah, you can have it.

16 Q. I think that you made a statement, I just
17 want to clarify for the record that he had all
18 these numbers for everybody?

19 A. Apparently, yeah.

20 Q. But if we look at this page, let's just be
21 fair and accurate, he doesn't have a lot of numbers
22 for everybody, does he?

23 A. He has a lot of numbers for Jimmy Kane, I
24 notice. He has --

25 Q. For instance, let's say for [REDACTED]

1 [REDACTED] [phonetic]?

2 MR. SCAROLA: Do you want another copy?

3 A. I have no idea who she is.

4 BY MR. EDWARDS:

5 Q. I'm not asking you to identify who any of
6 these people are. I just want the characterization
7 of the number of numbers that Mr. Epstein has for
8 people just to be correct.

9 A. I imagine it would depend on how many
10 numbers people have. I have an office, I have three
11 homes, I have -- you know, so he would have more
12 numbers for me. If he has somebody who he buys eggs
13 from, they might have just a home number and another
14 number.

15 So my feeling is that Jeffrey had
16 everybody's number that he possibly could get,
17 that -- reviewing the whole thing, that's the
18 impression I certainly got.

19 Q. Well, am I correct in presuming you would
20 have no idea, at least outside of privilege, how
21 Jeffrey Epstein obtained the telephone numbers of
22 anyone else in the book other than perhaps yourself?

23 A. Well, I know that he called -- at some
24 point, called my secretary -- his secretary called
25 my secretary and said, I want all of his numbers, so

1 we got -- he probably did that to everybody. He
2 called assistants and secretaries and got
3 everybody's numbers. I mean, I don't do that. He
4 did that.

5 **Q. When did Jeffrey Epstein have his**
6 **secretary call your secretary to get all of your**
7 **numbers?**

8 A. I have no idea.

9 **Q. Did he do it multiple times?**

10 A. I have no idea.

11 **Q. Do you know how he got the number for your**
12 **car?**

13 A. He asked for it from my office, and I'm
14 sure they gave it to him.

15 **Q. Do you see the entry --**

16 MR. SIMPSON: Object on relevance. And
17 we're into our fourth day. This is one reason
18 we're into our fourth day, so I just object.

19 SPECIAL MASTER POZZUOLI: Overruled.

20 A. Go ahead. What's --

21 BY MR. EDWARDS:

22 **Q. Do you see that one of your numbers is**
23 **listed as all zeros? Do you know what that means?**

24 A. The bottom one?

25 **Q. Second to last.**

1 A. Second to last, all zeros. I doubt that
2 that's a number.

3 **Q. When Jeffrey Epstein calls, does his
4 number ever come up all zeros?**

5 A. I have no idea. I have no idea. I think
6 I do recall that when he calls, at least sometimes,
7 the number is blocked, so I can't call back.

8 **Q. Sometimes doesn't it show on the screen as
9 all zeros?**

10 A. I don't know. That's not familiar to me,
11 but maybe.

12 **Q. Okay. But either way, for him slating an
13 entry for you of all zeros, that is meaningless to
14 you?**

15 A. For him what?

16 **Q. Him putting an entry for you as all zeros,
17 that's meaningless to you?**

18 A. Probably means he doesn't want me to have
19 his numbers to return. Probably means he's not a
20 close enough friend that he's willing to have me
21 have his number in return that he wants me to call
22 him back, but that's just a surmise.

23 **Q. Okay. After the Martha's Vineyard
24 meeting, when is the next encounter that you had
25 with Jeffrey Epstein?**

1 A. When he asked me to fly with him to New
2 Albany outside of Columbus to celebrate Leslie
3 Wexner's 59th birthday with President Shimon Peres
4 of Israel, Senator John Glenn, Mr. Taubman of
5 Sotheby's, Leslie Wexner, Jeffrey Epstein, and maybe
6 one or two other men. And we sat around his table
7 and had a very intellectual dinner, he showed us his
8 art collection. And then we flew home.

9 **Q. Where was that?**

10 A. I said New Albany, Ohio, right outside of
11 Columbus.

12 **Q. This was at Les Wexner's place?**

13 A. That's right.

14 **Q. What did you understand the relationship
15 of Les Wexner and Jeffrey Epstein at that time?**

16 A. My understanding was that Jeffrey Epstein
17 was Leslie Wexner's financial advisor. He also had
18 a home -- Jeffrey Epstein had a home on the property
19 that at least he used. I assumed it was his, but
20 I'm not positive.

21 **Q. Did Jeffrey Epstein ever recruit girls for
22 Victoria's Secret?**

23 A. I have no idea.

24 MR. INDYKE: Objection. To the extent to
25 the response to that information might require

1 Alan to invade the attorney-client privilege,
2 work product privilege, common interest
3 privilege, I instruct him not to answer.

4 A. I have no idea. I don't know.

5 MR. SCOTT: His answer is he doesn't know.

6 BY MR. EDWARDS:

7 Q. **How is Les Wexner associated with**
8 **Victoria's Secret?**

9 A. I think he's the CEO. Certainly the
10 owner -- the general -- I don't know if it's a
11 public company or private company, but he is the
12 guy, he's the guy who runs it.

13 Q. **Were you ever aware of any allegation**
14 **against Jeffrey Epstein of using -- of holding**
15 **himself out as a recruiter for Victoria's Secret to**
16 **sexually assault women?**

17 A. Absolutely not.

18 MR. INDYKE: Same objection, same
19 instruction.

20 BY MR. EDWARDS:

21 Q. **Have you seen a police report to that**
22 **effect?**

23 A. No. This is the first -- literally right
24 now is the first I've heard of it.

25 MR. INDYKE: Same objection, same

1 instruction.

2 BY MR. EDWARDS:

3 Q. Okay. So, you never represented him in
4 connection with any such claim; is that right?

5 MR. INDYKE: Same objection, same
6 instruction.

7 A. I have no recollection. It's possible,
8 but I have no recollection.

9 BY MR. EDWARDS:

10 Q. Just so you know, I'm not saying that you
11 did. I'm just making sure it's not privileged.

12 A. I have no recollection, yeah.

13 (Thereupon, marked as Plaintiff
14 Exhibit 30.)

15 MR. EDWARDS: I'll go ahead and mark this
16 as Exhibit 30.

17 MR. SCOTT: What are we looking at? Do
18 you have a copy? No, you don't.

19 MR. EDWARDS: You don't want a copy?

20 MR. SCOTT: Do you have a copy?

21 MR. EDWARDS: Yeah, I have a copy.

22 MR. SCOTT: Thank you.

23 MR. SIMPSON: Can we have it?

24 MR. EDWARDS: You can have it.

25 MR. SCOTT: Oh, I'm not that --

1 MR. EDWARDS: Cheer up.

2 MR. SCOTT: I'm just -- I'm in a great
3 mood.

4 MR. SCAROLA: Closer we get to 3:30.

5 MR. SCOTT: Mr. Scarola, we finally agree
6 on something.

7 MR. SCAROLA: I knew we would.

8 A. Can we have a date on this?

9 BY MR. EDWARDS:

10 Q. **There is a date on it. It's, I believe,**
11 **May of 1997.**

12 A. May of 1997, before any of these things.
13 I've never ever heard of any such allegation being
14 made against Jeffrey Epstein. He certainly never
15 discussed it with me or mentioned it to me.

16 Q. **Okay. So you did not represent him in**
17 **connection with that allegation, correct?**

18 A. I don't think so.

19 Q. **Okay. When is the next encounter that you**
20 **had after the meeting in Georgia with Jeffrey**
21 **Epstein?**

22 A. It wasn't Georgia; it was New Albany,
23 Ohio.

24 Q. **Oh, sorry. I thought you said Georgia.**

25 A. I did. I then corrected it to Ohio.

1 I think the next one was when he invited
2 me and my nephew, Adam Dershowitz, who was then an
3 applicant for the space program, he was trying to be
4 an astronaut, graduated MIT in robotics and
5 aeronautics, and Jeffrey invited me and him to go to
6 the launch of one of the space shuttles. And he
7 flew us on his airplane along with an art dealer, a
8 woman who was the art dealer's significant other, a
9 number of other people, and we flew to -- I think we
10 flew into one of the airports, maybe the Palm Beach
11 airport, in the big plane.

12 And then -- maybe -- I'm not sure. We may
13 have flown directly to Cape Canaveral airport or
14 something like that. We spent two nights at that
15 point -- we spent one night and then part of another
16 night, because we had to get up very early in the
17 morning. The launch was 4:00 a.m. in the morning.
18 So I think we spent two nights, one and-a-half
19 nights, my nephew and I, I think we shared a
20 bedroom, at Jeffrey's house. We went to the launch
21 and then we left. We flew back commercially.

22 **Q. And when was that?**

23 A. You can check out when the launch was.
24 But it was, my recollection, around 19, I don't
25 know, '97, '98, '99. Early in my relationship with

1 Jeffrey Epstein.

2 Q. **And who else was at Jeffrey Epstein's home**
3 **when you stayed the night on this occasion?**

4 A. I think the art dealer was there.

5 Q. **Who is that?**

6 A. I don't remember his name.

7 Q. **Okay.**

8 A. I don't remember anybody else. We met
9 with Mr. Golden, who is the director of the space
10 program. And --

11 Q. **Was Ghislaine Maxwell there?**

12 A. I don't remember her being there.

13 Q. **Okay. When is the next time that you were**
14 **in the presence of Jeffrey Epstein?**

15 A. You're talking generally?

16 Q. **Yes, going to go through the chronology.**

17 A. I don't specifically remember, but I can
18 tell you that the next time I do remember was when
19 he lent his house to us, and my grandson, my
20 granddaughter, my wife, my daughter, my son, my
21 daughter-in-law, spent five, six days in Jeffrey
22 Epstein's house in Palm Beach. But now I think
23 about it, Jeffrey Epstein was not there, but his
24 staff was there.

25 Q. **Do you know what year that was?**

1 A. I think it was Christmas of 1995 -- 2005,
2 sorry, 2005. Christmas 2005. Over the Christmas
3 vacation or thereabouts, maybe earlier. It was
4 probably earlier.

5 Q. You told me about what I've written down
6 as the third time that you met with Jeffrey Epstein,
7 which was '97, '98 for the space shuttle. And then
8 the next time that you believe you were in Jeffrey
9 Epstein's presence was 2005?

10 A. Oh, I thought you asked about his house.
11 I'm sorry. I misunderstood.

12 Presence? Oh, I mean, probably a dozen
13 times at Harvard during that period of time. He had
14 an office in Brattle Square in which he would hold
15 seminars. And I would get a call from his
16 secretaries saying Jeffrey would like you to come to
17 the seminar, it's at 12 to 2 at 1 Brattle Square.

18 And I would go to offer critiques to
19 papers. Once I presented a paper. People who would
20 be there included Larry Summers, the president of
21 Harvard; and Henry Rosovsky, the provost of Harvard;
22 Steve Kosslyn, the chairman of the psychology
23 department; a man named Church who decoded the
24 genome; and Stephen J. Gould, the well-known
25 paleontologist.

1 And so we would have those seminars, so I
2 met with him periodically at Harvard.

3 **Q. Okay. Have you looked at the flight logs**
4 **for the flight that you mentioned with your wife and**
5 **whoever else went with you to the -- to Cape**
6 **Canaveral?**

7 A. My wife was not with me in Cape Canaveral.

8 **Q. Okay. Your nephew.**

9 A. My nephew was with me, yeah.

10 **Q. Have you looked for that flight on the**
11 **flight log?**

12 A. I have not. It's not within the relevant
13 time period, so I haven't looked at it.

14 **Q. Okay. And that's not really my point.**
15 **Have you looked for some of these other flights that**
16 **you've taken on his airplane and not been able to**
17 **find it?**

18 A. No. Absolutely not. That's not the case.
19 I've never seen any evidence of any missing logs
20 myself, any missing flight logs.

21 **Q. Have you looked for that particular flight**
22 **that you just discussed?**

23 A. No, no because it was outside the
24 timeframe. Well outside the timeframe, yeah.

25 **Q. Okay. But only on the topic of whether or**

1 **not there are missing logs, have you --**

2 A. That's not been something I've focused on.
3 I was only looking at whether or not, within the
4 timeframe, who was with who on what flights, and I
5 saw that [REDACTED] was on some flights with
6 other prominent academics, but never on a flight
7 with me.

8 Q. **Do you know who [REDACTED] was lent**
9 **out to for sex by Jeffrey Epstein?**

10 MR. INDYKE: Objection based upon
11 attorney-client privilege, work product.

12 A. No, I can tell you outside of the
13 privileged information. I can tell you outside of
14 the privilege. I can tell you outside of the
15 privilege that she has claimed to have had sex on
16 numerous occasions with Leslie Wexner, and was told
17 by -- by Sigrid McCawley that --

18 MS. McCAWLEY: I'm going to object to the
19 line of questioning.

20 MR. SCOTT: Time out.

21 A. That is from a statement made to me --

22 MS. McCAWLEY: No, I just want to be clear
23 because if we're going to violate the privilege
24 again, the order of seal.

25 A. We are not.

1 MS. McCAWLEY: I'm going to stop that
2 right now because the only conversations I've
3 had with you are in the context of settlement
4 discussion in this case.

5 A. It was not a conversation with Sigrid
6 McCawley. And please let me answer the question. I
7 had a conversation --

8 BY MR. EDWARDS:

9 Q. **Just so we know what the question is, my**
10 **question is --**

11 A. The question is do I know whether she had
12 sex --

13 Q. **No, it's not.**

14 MR. SCOTT: Let's just ask the question.

15 SPECIAL MASTER POZZUOLI: Hang on. And,
16 court reporter, please reread the question so
17 we understand.

18 COURT REPORTER: "Do you know who [REDACTED]
19 [REDACTED] was lent out to for sex by Jeffrey
20 Epstein?"

21 A. And the answer --

22 MR. SIMPSON: Darren had an objection for
23 you.

24 A. Okay. I understand the instruction, and I
25 can answer the question.

1 BY MR. EDWARDS:

2 Q. **I just want the names of the individuals.**

3 A. I can't just give you that. I can tell
4 you that --

5 Q. **That's what I'm asking for.**

6 SPECIAL MASTER POZZUOLI: Hang on one
7 second. The question is: Do you know who
8 [REDACTED] was lent out to for sex by
9 Jeffrey Epstein?

10 MR. EDWARDS: Right. The names of the
11 individuals is all I'm looking for.

12 SPECIAL MASTER POZZUOLI: There's an
13 objection. Okay. Go ahead.

14 A. I was told by John Zeiger, who was Leslie
15 Wexner's lawyer, that Sigrid McCawley claims that
16 her client, [REDACTED], alleges that she had
17 sex with [REDACTED] [REDACTED]

[REDACTED] [REDACTED] -- and she said this, according to
19 Mr. Zeiger, very aggressively --

20 MS. McCAWLEY: This is revealing
21 confidential settlement discussions.

22 A. Between who?

23 MS. McCAWLEY: Between -- I'm not going to
24 reveal what confidential settlement discussions
25 because that breaches a privilege.

1 So what I'm going to say is that we are
2 not entitled here to be revealing any
3 settlement discussions that have happened on
4 behalf of my client. I'm not going to allow
5 there to be testimony as to that. To the
6 extent this involves Mr. Wexner's attorneys,
7 they are not present at this deposition at this
8 moment who you are mentioning, John Zeiger,
9 who's not able to object to this line of
10 questioning. You've had your client Jeffrey
11 Epstein's lawyers on the phone the entire time,
12 he should be entitled to a right to object to
13 this before there's a revelation of any
14 settlement discussions.

15 MR. SCAROLA: I want to know for the
16 record that Mr. Dershowitz has chosen to
17 disregard the instruction that came from
18 Mr. Epstein's counsel. And that --

19 A. No, I haven't. I have said this comes
20 outside the privilege.

21 SPECIAL MASTER POZZUOLI: Stop. Let him
22 put his -- on the record. Go ahead.

23 MR. SCAROLA: Which is inconsistent with
24 the position that Mr. Dershowitz's counsel says
25 they were taking, and that is that they were

1 going to respect those objections without
2 evaluating whether those objections were or
3 were not well founded. Only noting it for the
4 record. Doesn't call for any argument or
5 discussion.

6 MR. SCOTT: I don't agree with you.

7 SPECIAL MASTER POZZUOLI: Hang on one
8 second. Go ahead, Mr. Scott.

13 MR. SCAROLA: Right. What you said is
14 you're going to honor the objections that have
15 been raised by Epstein's counsel and allow the
16 Court to rule on those --

17 MR. SCOTT: I have said that.

18 MR. SCAROLA: -- without independently
19 evaluating the validity of those objections.

20 MR. SCOTT: Exactly.

21 MR. SCAROLA: But now Mr. Epstein [sic] is
22 independently evaluating the validity of the
23 objection and the instruction and attempting to
24 insert information in the record that he knows
25 is the subject of an order of the Court.

1 MR. SCOTT: And my observation is that the
2 witness began to answer the question, the
3 special master and I both instructed the
4 witness not to respond until the question is on
5 the record and we can find out what was
6 happening. That's all I'm doing. I'm trying
7 to preserve --

8 MR. SCAROLA: And he continued to answer
9 anyway.

10 MR. SCOTT: Well, I told him twice, and he
11 thought -- he believes he has the right to
12 answer. I've asked him not to answer until we
13 get a position from the special master on this.

14 A. I'm answering it outside the privilege.

15 MR. SCOTT: He's trying to say that it's
16 outside that, and he wants to express his
17 viewpoint. And I'm saying before he even does
18 that, Mr. Scarola, let the special master hear
19 what he wants to do. That's all.

20 MS. McCAWLEY: I want to add to the
21 record.

22 MR. SCOTT: Ad I'm trying to preserve --

23 SPECIAL MASTER POZZUOLI: Hang on one
24 second. Hang on. Go ahead, Ms. McCawley.

25 MS. McCAWLEY: I just wanted to add to the

1 record that to the extent this is pulling in a
2 conversation with Mr. Zeiger, who represents
3 Mr. Wexner, that he should be entitled to be
4 present for any objections to revelation of
5 disclosures of those conversations, the same
6 way that Mr. Epstein, who has not appeared in
7 this case, has counsel on the phone objecting
8 to every single question in this deposition.

9 A. How does she have standing to raise that?

10 SPECIAL MASTER POZZUOLI: Please. So
11 let's cut through this. First let me deal with
12 what Mr. Scarola had to say.

13 My understanding of the objection and
14 the -- to the degree that Mr. Epstein's counsel
15 objected, it could only be to the privileged
16 information that he asserts under whatever
17 privilege.

18 My understanding of what the witness began
19 to answer would be outside of that privilege,
20 or nonprivileged information.

21 However, Ms. McCawley raises an issue
22 based upon a previous order of the Court. Am I
23 correct?

24 MS. McCAWLEY: Yes.

25 THE COURT: And the scope of that order

1 was? Please share with me.

2 MS. McCAWLEY: Right. The scope of the
3 order was to seal settlement -- confidential
4 settlement discussions. And that's the scope
5 of the order. There's still pending a motion
6 for sanctions with respect to that, which will
7 now be --

8 THE COURT: Hang on. And, Ms. McCawley,
9 you believe that the nature of the answer would
10 fall under those settlement discussions and,
11 therefore, are subject to the Court's order?

12 MS. McCAWLEY: I do. I believe that's a
13 possibility, and that Mr. Zeiger should be
14 present to the extent that there's going to be
15 communication of confidential nature to be able
16 to make his objection, if he has one.

17 SPECIAL MASTER POZZUOLI: Well, I'm not as
18 concerned with that.

19 Do you want to say anything else?

20 MR. SCOTT: No. I am here to abide by
21 what you say. I mean, I don't think that the
22 order by the Court at this point applies to
23 this conversation, but with that said, if
24 Mr. Wexler [sic], the attorney, feels like he
25 wants to make an objection or something, I'm

1 not -- you know. I don't know.

2 SPECIAL MASTER POZZUOLI: There could be
3 85 lawyers on the phone making all kinds of
4 objections. I get that point. But I'm more
5 concerned with the scope of the order, which I
6 have not seen, and I certainly don't want to
7 run the witness into an issue that will
8 ultimately be settled up. And I'm -- here is
9 where I'm tending to go.

10 Since we have open issues with respect to
11 the privilege issues that have been raised
12 here, and Ms. McCawley in good faith has raised
13 this as a potential issue that would be in
14 direct contradiction to what she believes is
15 already a Court order by Judge Lynch, whether
16 the witness agrees or not, that is subject to
17 some level of discussion and argument that's
18 going to be before Judge Lynch, then I will ask
19 the witness to step down on the answer and let
20 Ms. McCawley deal with that, if she wishes, in
21 front of the Court.

22 MR. SCOTT: Okay.

23 SPECIAL MASTER POZZUOLI: Fair enough?

24 MS. McCAWLEY: Thank you. Yes. I do have
25 to break. It's almost time for me to leave. I

1 don't know if you want to finish up a question,
2 Brad, but I'm going to need to step out. I'm
3 just concerned about stepping out, given the
4 nature of where we are.

5 MR. EDWARDS: Two more short questions,
6 and then we can break.

7 A. So you don't want me to answer that whole
8 other question?

9 MR. EDWARDS: It's not that I don't want
10 you to. I think that are you being instructed
11 not to answer that. So we'll come back to
12 that.

13 SPECIAL MASTER POZZUOLI: Well,
14 Ms. McCawley raised an objection which she
15 believes is subject to a previous Court order
16 which I don't have knowledge of, and so given
17 that, and given the caveat that it was
18 nonprivileged relative to Mr. Epstein's
19 counsel's objection, we'll let that be dealt
20 with subsequent since we have to come back
21 anyway.

22 BY MR. EDWARDS:

23 Q. Okay. **Is Les Wexner a party to a joint**
24 **defense agreement?**

25 A. No.

1 Q. Okay. That card that we've marked as 26,
2 can you just look at the back of it and tell me what
3 is the significance of the writing on the back that
4 says -- can you read what it says?

5 A. It says "Scarola unethical e-mail." It's
6 a reference to the fact that when Mr. Scarola wrote
7 to me and asked me to waive the statute of
8 limitations, he engaged in an unethical act by
9 writing directly to a counseled client. And my
10 understanding of legal ethics is that he was not
11 entitled to write to me asking me to waive a statute
12 of limitations instead of going through my lawyer.

13 And if I was -- I just made a note to
14 myself that if I was asked about that again, I would
15 make a point that that was one of the reasons that I
16 declined to answer a direct e-mail from a lawyer to
17 an uncounseled defendant -- to a counseled
18 defendant.

19 SPECIAL MASTER POZZUOLI: So I can be
20 clear with respect to this exhibit that's
21 marked 26, the back of it contains handwritten
22 [sic] that is yours?

23 THE WITNESS: These are my notes that I
24 took over lunch.

25 SPECIAL MASTER POZZUOLI: That's all I

1 wanted.

2 THE WITNESS: Just to remind myself.

3 BY MR. EDWARDS:

4 Q. Okay. Last question. Outside of
5 privilege, inclusive of the potential
6 communication -- confidential settlement
7 communication privilege that we just discussed, are
8 you able to answer the question: Identify the
9 individuals that [REDACTED] was lent out to
10 for the purposes of sex by Jeffrey Epstein?

11 MR. SCOTT: That's the question that we --
12 just led to this whole thing that Ms. -- that
13 the young lady down at the end, Sigrid, doesn't
14 want him to answer. And so you're going to ask
15 it again and create this whole issue again
16 after he said no?

17 MS. McCAWLEY: What I don't want -- to be
18 clear, so the record is clear, what I don't
19 want him to do is reveal confidential
20 settlement communications that are already the
21 subject of a Court order.

22 MR. SCOTT: But he's indicating --

23 MS. McCAWLEY: You heard his answer -- let
24 me just finish. You heard his implicating me
25 and another lawyer in discussions, and what I'm

1 saying is those are the subject of an order.
2 So if he can answer that question without
3 revealing that information, he can answer it,
4 but he cannot go on the record and reveal
5 confidential settlement discussions.

6 MR. SCOTT: Can you answer that without
7 going to into what the special master does not
8 want you to do to preserve the record?

9 A. Let me think about that. I can say
10 that --

11 MR. SCOTT: Well, wait a minute. Tell you
12 what. Let's take a break for a minute. Let me
13 talk to him. I promised you that you would
14 honor all the privileges, and I don't want to
15 go down this road again. So let's take a break
16 right now. If that ends up the end of the day,
17 I think that's where we're at.

18 MR. SCAROLA: Because this is an issue as
19 to which Sigrid has an obvious interest, we
20 will wait to get the question answered when we
21 return.

22 MR. SCOTT: I agree with you. I'm trying
23 to honor her request, just like I honored this
24 lawyer's request.

25 SPECIAL MASTER POZZUOLI: I think that's

1 right. Let's go.

2 MR. SCOTT: That's what I'm saying.

3 A. I would like to answer that question,
4 obviously.

5 SPECIAL MASTER POZZUOLI: I realize that.

6 MR. SCOTT: Okay. We got that.

7 MS. McCAWLEY: And she's only protecting
8 herself, not her client.

9 SPECIAL MASTER POZZUOLI: Okay. Got it.

10 MR. SCAROLA: Those are entirely --

11 MS. McCAWLEY: Ask that be stricken.

12 MR. SCAROLA: Those are entirely
13 inappropriate comments, and we move that they
14 be stricken. They are not responsive to any
15 pending question. They are self-serving. They
16 are themselves a waiver of privilege. To the
17 extent that Mr. Dershowitz has the ability to
18 waive any privilege, those kinds of comments
19 waive any personal privilege he has.

20 MR. SCOTT: We don't agree with that as to
21 any waiver. That's it, then.

22 MR. SCAROLA: I do have a Motion to
23 Strike.

24 SPECIAL MASTER POZZUOLI: With respect to
25 the Motion to Strike by itself, notwithstanding

1 all the other argument you made, I'm going to
2 set that aside, and I will grant the Motion to
3 Strike for purposes of that.

4 MR. SCOTT: Thank you.

5 THE WITNESS: Thank you.

6 VIDEOGRAPHER: We're going off the record.

7 The time is 3:34 p.m.

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Kimberly Fontalvo



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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF BROWARD

I, the undersigned authority, certify
that ALAN M. DERSHOWITZ personally appeared
before me and was duly sworn on the 13th day of
January, 2016.

Signed this 17th day of January, 2016.

KIMBERLY FONTALVO, RPR, CLR
Notary Public, State of Florida
My Commission No. FF 226848
Expires: 7/12/2019

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF BROWARD

I, KIMBERLY FONTALVO, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing videotape continued deposition of ALAN M. DERSHOWITZ; pages 648 through 455; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 14th day of January, 2016.

KIMBERLY FONTALVO, RPR, CLR

January 17, 2016

COLE, SCOTT & KISSANE, P.A.
Dadeland Centre II - Suite 1400
9150 South Dadeland Boulevard
Miami, Florida 33156
BY: THOMAS EMERSON SCOTT, JR., ESQ.
thomas.scott@csklegal.com

Re: Bradley Edwards, et al., v. Alan M. Dershowitz

Please take notice that on the 13th day of January, 2016, you gave your deposition in the above cause. At that time, you did not waive your signature.

The above-addressed attorney has ordered a copy of this transcript and will make arrangements with you to read their copy. Please execute the Errata Sheet, which can be found at the back of the transcript, and have it returned to us for distribution to all parties.

If you do not read and sign the deposition within a reasonable amount of time, the original, which has already been forwarded to the ordering attorney, may be filed with the Clerk of the Court.

If you wish to waive your signature now, please sign your name in the blank at the bottom of this letter and return to the address listed below.

Very truly yours,

KIMBERLY FONTALVO, RPR, CLR
Phipps Reporting, Inc.
1551 Forum Place
Building 200, Suite E
West Palm Beach, Florida 33401
I do hereby waive my signature.

ALAN M. DERSHOWITZ

ERRATA SHEET

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In Re: BRADLEY EDWARDS, ET AL., v. ALAN M.
DERSHOWITZ
ALAN M. DERSHOWITZ
January 13, 2016

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Date

ALAN M. DERSHOWITZ