

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE - CENTRAL JUSTICE CENTER
DEPARTMENT C23

LE XUAN KHOA,)	
)	
PLAINTIFF,)	
)	
VS.)	NO. 30-2021-1201012
)	
NGUYEN DINH THANG; BOAT PEOPLE S.O.S.,)	
INC., AND DOES 1 THROUGH 100,)	
INCLUSIVE,)	
)	
DEFENDANTS.)	
_____)	

HONORABLE DAVID J. HESSELTINE, JUDGE PRESIDING

REPORTER'S TRANSCRIPT

TUESDAY, NOVEMBER 12, 2024

MICHELLE LOTT-MEYERHOFER, CSR 8226

COURT-APPROVED OFFICIAL REPORTER PRO TEMPORE

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1 SANTA ANA, CALIFORNIA - TUESDAY, NOVEMBER 12, 2024
2 MORNING SESSION
3 * * * * *

5 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUT OF THE
6 PRESENCE OF THE JURY:)

8 THE COURT: LET'S GO AHEAD AND GET OUR APPEARANCES.
9 WE'RE GOING TO BE ON THE RECORD IN KHOA V. THANG. IF WE COULD
10 PLEASE HAVE THE APPEARANCES FOR THE PLAINTIFF.

11 MR. HART: GOOD MORNING, YOUR HONOR. HOYT HART FOR
12 THE PLAINTIFF LE XUAN KHOA.

13 MR. VOSS: GOOD MORNING, YOUR HONOR. DAVID VOSS,
14 VOSS, SILVERMAN & BRAYBROOKE, FOR THE DEFENDANTS.

15 MR. ERIGERO: GOOD MORNING, YOUR HONOR. STEPHEN
16 ERIGERO, ROPERS MAJESKI, ALSO FOR THE DEFENDANTS.

17 THE COURT: ALL RIGHTY. THEN WE'RE BACK HERE FOR OUR
18 NEXT DAY OF TRIAL. WE SHOULD HAVE OUR JURORS HERE
19 MOMENTARILY. THEY'RE SUPPOSED TO BE HERE IN THE NEXT COUPLE
20 MINUTES.

21 WHEN WE LEFT OFF ON FRIDAY, WE HAVE JUST A FEW
22 MINUTES LEFT, I GUESS, A REDIRECT OF CECILE TRUONG; IS THAT
23 CORRECT?

24 MR. HART: YES, JUDGE. HOWEVER, I'D LIKE TO CALL A
25 WITNESS OUT OF ORDER. I'M DEBATING WHETHER OR NOT TO ASK ANY
26 FURTHER QUESTIONS OF MS. TRUONG, BUT IF I COULD DELAY THAT

1 DECISION UNTIL AFTER -- WE HAVE A WITNESS HERE TODAY, GIAO ANH
 2 NGUYEN. HE'S ON THE WITNESS LIST.
 3 THE COURT: JUST ONE MOMENT. AND THEN I'M GOING TO
 4 HEAR FROM MR. VOSS.
 5 WHAT WAS THE NAME AGAIN? I'M SORRY.
 6 MR. HART: GIAO ANH NGUYEN.
 7 THE COURT: OH, THE G-I-A-O?
 8 MR. HART: YES. I WAS ABLE TO MEET WITH HIM OVER THE
 9 WEEKEND, AND HE'S AGREED TO COME, AND HE'S HERE TODAY.
 10 THE COURT: AND -- GO AHEAD -- WELL, LET ME HAVE A
 11 PROFFER AS TO THIS WITNESS, THEN WE CAN -- MAYBE THAT WILL SET
 12 THE STAGE A LITTLE BIT MORE.
 13 MR. HART: VERY GOOD, JUDGE.
 14 HE HAS DECADES OF EXPERIENCE AS A REFUGEE
 15 ACTIVIST HIMSELF. HE HAS, IN THAT SEVERAL-DECADES TIME,
 16 INTERACTED WITH BOTH THE PARTIES RELATED TO REFUGEE
 17 ACTIVITIES. HE IS ONE OF THE PEOPLE WHO READ THE DEFAMATORY
 18 ARTICLE AND HAS TESTIMONY ABOUT THE AFFECT OF THAT DEFAMATORY
 19 ARTICLE WITHIN THE REFUGEE COMMUNITY.
 20 MY PLAN FOR HIM WOULD BE A GOOD BIT OF HIS
 21 BACKGROUND FOUNDATION; THEN HIS INTERACTION WITH KHOA. LATER,
 22 THERE'S INTERACTION WITH THANG. AND THEN FAST-FORWARD TO
 23 2020. HE'S ONE OF THE RECIPIENTS OF THE MAY 25TH -- HE'S ON
 24 THE MAILING LIST FOR B.P.S.O.S. MACH SONG MEDIA. SO HE'S READ
 25 THAT, AND HE HAS TESTIMONY TO GIVE ABOUT WHAT THAT ARTICLE
 26 SAYS AND WHAT THE EFFECT WAS IN THE COMMUNITY.

1 HE'S FAMILIAR WITH PROFESSOR KHOA'S REPUTATION
 2 AND THE HARM THAT WAS DONE BY THAT ARTICLE.
 3 I'LL BE HONEST. HE'S -- IN MY INTERVIEW
 4 PROCESS WITH HIM, I FEAR THAT IT WILL BE A LOT OF WORK TO
 5 MANAGE. I THINK I HAVE HIM IN THE RIGHT Demeanor FOR HIS
 6 COURT APPEARANCE. SO JUST FAIR WARNING TO EVERYONE. HE HAS
 7 RELEVANT TESTIMONY TO GIVE AS A THIRD-PARTY PERCIPIENT
 8 WITNESS, BUT HE'S PASSIONATE ABOUT A LOT OF ISSUES; SOME
 9 MATTER IN THIS CASE AND SOME DON'T.
 10 THE COURT: ALL RIGHT. SO I GUESS BEFORE I MAKE ANY
 11 COMMENT, I WILL GIVE MR. VOSS THE FLOOR.
 12 MR. VOSS: THANK YOU, YOUR HONOR.
 13 YOUR HONOR, WE HAVE PREVIOUSLY INDICATED TO THE
 14 COURT IN PRETRIAL PROCEEDINGS, FINAL STATUS CONFERENCE, ET
 15 CETERA, THAT THERE WERE WITNESSES NOT PREVIOUSLY DISCLOSED;
 16 THAT IT WAS OUR INTENT, IF THEY WERE GOING TO BE CALLED, TO
 17 BRING A MOTION TO EXCLUDE.
 18 WE WERE PROMISED AS LATE AS THE DAY PRIOR TO
 19 JURY SELECTION THAT WE WERE ONLY CALLING THREE WITNESSES, WE
 20 DIDN'T NEED TO WORRY ABOUT THE MOTIONS TO EXCLUDE BECAUSE IT
 21 WAS JUST GOING TO BE MS. TRUONG, PLAINTIFF, AND THE DEFENDANT.
 22 IF ANYTHING, THERE MIGHT BE SOME REBUTTAL WITNESSES.
 23 WE ARE NOW TOLD THAT ON CASE-IN-CHIEF THIS
 24 WITNESS NEEDS TO BE CALLED. WE HAVE FILED WITH THE COURT THIS
 25 MORNING A MOTION TO EXCLUDE, WHICH IS IN RESPONSE TO BEING
 26 TOLD ON THURSDAY NIGHT THAT THIS WAS THE PROPOSED WITNESS.

1 THIS WITNESS, AS YOU WILL SEE IN THE FULLY
 2 BRIEFED MOTION TO EXCLUDE, WAS NOT IN ANY WAY PREVIOUSLY
 3 DISCLOSED.
 4 THE CASE AUTHORITY IS CLEAR THAT IF WE ASK THE
 5 APPROPRIATE INTERROGATORIES IN DISCOVERY REQUESTS, ALL OF
 6 WHICH HAVE BEEN PROVIDED TO YOU AS EXHIBITS TO OUR MOTION, AND
 7 YOU DON'T IDENTIFY THE WITNESS, YOU CAN'T COME INTO COURT AND
 8 TRY AND CALL THAT WITNESS ON YOUR CASE-IN-CHIEF NOW AND
 9 PROPOSE TO US THAT, AMONGST OTHER THINGS, THIS WITNESS IS
 10 GOING TO DELVE INTO ISSUES THAT ARE DECADES OLD; THAT THE
 11 WITNESS IS GOING TO BE HARD TO CONTROL AND WANTING TO TALK
 12 ABOUT THESE IRRELEVANT ITEMS THAT DON'T HAVE ANYTHING TO DO
 13 WITH STATE OF MIND AT THE TIME OF THE STATEMENT; AND THAT HE'S
 14 NOW BECOME YOUR LINCHPIN WITNESS FOR EFFECT ON THE COMMUNITY,
 15 THE PLAINTIFF'S REPUTATION, AND THE HARM DONE BY THE ARTICLE.
 16 IF THIS WAS THEIR WITNESS FOR ALL OF THESE
 17 THINGS, THEN IT WAS INCUMBENT UPON THEM TO HAVE DISCLOSED THAT
 18 WITNESS AS PART OF THE DISCOVERY PROCESS SO THAT WE WOULD HAVE
 19 HAD THE OPPORTUNITY TO DEPOSE THE WITNESS, TO DO FURTHER
 20 FOLLOW-UP DISCOVERY BASED ON WHAT WE FOUND OUT FROM THE
 21 WITNESS, TO DO EVERYTHING THAT'S PART OF THE DISCOVERY PROCESS
 22 TO BE PREPARED AND FOR TO PROPERLY ADDRESS THE PROPOSED
 23 TESTIMONY. WE DO NOT PERMIT IN THE STATE OF CALIFORNIA TRIAL
 24 BY AMBUSH, SOMETHING THAT I HAVE REPEATEDLY SAID HERE. AND
 25 THIS IS EXACTLY WHAT THIS WOULD BE.
 26 IF THIS WITNESS, WITH ALL OF THESE THINGS, WAS

1 SO IMPORTANT TO PROVIDE WHAT I WOULD IDENTIFY AS SIGNIFICANT
 2 INFORMATION, THERE'S NO REASON IT SHOULD NOT HAVE BEEN
 3 DISCLOSED. AND SO FOR THAT REASON -- AND WE DID BRING THIS
 4 MOTION BEFORE YOU SO THAT YOU WOULD HAVE IT ALL IN WRITING AND
 5 BE ABLE TO CONSIDER IT. UNFORTUNATELY, COURT WAS CLOSED
 6 YESTERDAY, SO COULDN'T GET IT TO YOU SOONER.
 7 THE COURT: YEAH, AND I THINK IT'S PENDING. I WAS
 8 LITERALLY JUST HANDED A HARD COPY. I THINK IT MAY STILL BE IN
 9 THE PROCESSING QUEUE. SO IT HASN'T MADE ITS WAY INTO THE
 10 REGISTER OF ACTIONS YET.
 11 MR. VOSS: AND SO WE THINK IT'S IMPORTANT THAT THE
 12 COURT HAVE THE OPPORTUNITY TO REVIEW THAT MOTION, BUT IT'S
 13 BLACK-LETTER LAW. IF YOU DON'T TELL US WHO YOUR WITNESS IS,
 14 YOU DON'T GET TO COME IN HERE AND PROVIDE THAT WITNESS.
 15 SO HONESTLY, EVEN WITH THE OFFER THAT'S MADE
 16 THAT HE'S GOING TO COME AND TESTIFY TO HIS RELATIONSHIP TO THE
 17 PLAINTIFF AND DEFENDANT FROM DECADES AGO, THERE'S NO BEARING
 18 ON THIS CASE AS WE'VE DISCUSSED.
 19 SO I AM SURPRISED. I'M NOT SUPPOSED TO BE
 20 SURPRISED. AND THEREFORE, WE THINK IT'S PROPER TO EXCLUDE
 21 THIS WITNESS AND ASK THAT THE COURT REVIEW THE MOTION FILED.
 22 THE COURT: ONE MOMENT. HOW ARE WE DOING ON -- WE
 23 HAVE ALL OUR JURORS.
 24 ALL RIGHT. I'LL GIVE YOU JUST ONE MOMENT. AND
 25 I DON'T KNOW THAT WE'RE IN A POSITION TO HEAR FROM HIM RIGHT
 26 AT THIS POINT IN TIME. BUT BRIEFLY, MR. HART.

1 MR. HART: OKAY. I WAS NOT AWARE OF THIS WITNESS
2 UNTIL HIS NAME WAS MENTIONED IN MS. TRUONG'S DEPOSITION BACK
3 IN AUGUST. HIS NAME WAS ON THE WITNESS LIST. THERE WAS TIME
4 TO DO HIS DEPOSITION. THERE NEVER WAS ANY EFFORT TO DO HIS
5 DEPOSITION. MS. TRUONG TELLS ME TODAY THAT, IN FACT, IN ONE
6 OF THE AMENDED WRITTEN DISCOVERY RESPONSES, THIS WITNESS'S
7 NAME IS MENTIONED AS A WITNESS.

8 SO THERE'S OBVIOUSLY TWO SIDES TO THIS. HE'S A
9 RELEVANT WITNESS. HE MAY BE A SURPRISE TO MR. VOSS BECAUSE HE
10 WASN'T COUNTING ON HIM TESTIFYING, BUT I THINK WE'VE COVERED
11 ALL THE BASIS WE NEED TO COVER TO CALL HIM. HE WAS DISCUSSED
12 IN DEPOSITION. HE MAY HAVE EVEN BEEN MENTIONED -- I HAVENT
13 HAD A CHANCE TO LOOK YET -- IN WRITTEN DISCOVERY RESPONSES,
14 AND HE WAS ON THE 317 WITNESS LIST.

15 SO HE HAS IMPORTANT EVIDENCE TO PRESENT, AND I
16 THINK THERE'S NO REASON TO EXCLUDE HIM.

17 THE COURT: ALL RIGHT. GIVEN THAT HE HAS JUST NOW
18 BEEN IDENTIFIED AS BEING CALLED, WE ARE NOT GOING TO HEAR FROM
19 HIM RIGHT NOW. I'M GOING TO LOOK AT THE PAPERS, AND WE'LL
20 HEAR SOME OTHER ARGUMENT. SO WE'LL PROBABLY HAVE TO DISCUSS
21 THIS AFTER -- I'LL HAVE TO TAKE A LOOK AT THIS OVER LUNCH. I
22 DON'T KNOW WHEN ELSE I'M GOING TO HAVE AN OPPORTUNITY TO LOOK
23 AT ANY OF THE PAPERS BEFORE THAT POINT IN TIME.

24 BUT GIVEN THE TOTALITY OF THE CIRCUMSTANCES, I
25 THINK I HAVE TO AT LEAST LOOK AT THAT. BECAUSE, YES, HE WAS
26 ON THE WITNESS LIST, BUT HE WAS -- IT WAS -- THERE WAS

1 INDICATION THAT WE WOULDN'T BE NECESSARY CALLING HIM, AND NOW
2 WE'RE HEARING IT AT THIS POINT. SO I NEED TO AT LEAST LOOK AT
3 THE PAPERS BEFORE I MAKE ANY DEFINITIVE RULING, AND WE'LL HAVE
4 A FURTHER DISCUSSION AFTER I'VE HAD THE OPPORTUNITY TO LOOK AT
5 THE PAPERS.

6 MR. HART: VERY GOOD, JUDGE.

7 THE COURT: SO I WILL RESERVE -- BUT, AGAIN, WE NEED
8 TO -- HE'S NOT GOING TO -- IF HE TESTIFIES, HE'S NOT GOING TO
9 TESTIFY UNTIL I'VE MADE A RULING ON THE MOTION. SO THAT MEANS
10 HE WILL NOT BE TESTIFYING THIS MORNING. WE'LL NEED TO -- LIKE
11 I SAID, IF YOU'RE GOING TO WANT TO FOLLOW UP WITH MS. TRUONG,
12 DO THAT REDIRECT, YOU CAN DO THAT. AND THE PLAINTIFF HIMSELF
13 IS ALSO THE NEXT UP OR WAS ONE OF THE NEXT-UP WITNESSES. SO I
14 THINK THAT WOULD BE THE ROUTE WE NEED TO GO THIS MORNING IN
15 TERMS OF PRESENTATION OF EVIDENCE.

16 MR. HART: FINE, JUDGE. WE CAN AGREE TO THAT.

17 THE COURT: AND THEN, LIKE I SAID, I WILL TAKE A LOOK
18 AT THIS OVER THE LUNCH HOUR, AND THEN WE CAN HAVE A BIT OF A
19 DISCUSSION. BUT WE'RE NOT GOING TO BE ABLE TO HAVE A LENGTHY
20 ONE, BECAUSE WE'LL HAVE OUR JURORS HERE WHEN WE COME BACK AT
21 THE END OF THE LUNCH HOUR. BUT WE WILL ALL BE IN A BETTER
22 POSITION TO, HAVING LOOKED AT THE PAPERS, HAVE A DISCUSSION AT
23 THAT POINT.

24 MR. VOSS: MAY I HAVE 20 SECONDS, YOUR HONOR?

25 THE COURT: 20 SECONDS.

26 MR. VOSS: YOUR HONOR, I'D JUST REMIND THE COURT THAT

1 I HAD ADVISED THE COURT THAT WE HAD THE ISSUES CONFERENCE IN
2 THE CAFETERIA; AND THAT AT THAT TIME, I HAD ASKED, BECAUSE WE
3 STILL HADN'T BEEN PROVIDED WITH ANY WITNESSED LIST, WHO ARE
4 YOUR WITNESSES? AND HE SAID, "OH, TEN OR SO, BUT I DON'T KNOW
5 WHO THEY ARE RIGHT NOW." THAT IS NOT ADEQUATE NOTICE.

6 THE COURT: AGAIN, I'LL HAVE TO LOOK AT EVERYTHING.
7 SO I'M NOT MAKING THAT RULING AT THIS POINT.

8 MR. VOSS: THANK YOU, YOUR HONOR.

9 THE COURT: SO THEN ARE WE GOING TO START WITH MS. --
10 DO YOU THINK MS. TRUONG? OR ARE WE GOING TO GO STRAIGHT INTO
11 PLAINTIFF? OR WHAT ARE WE GOING TO DO?

12 MR. HART: WE CAN PUT MS. TRUONG BACK ON. I NEED A
13 FEW MINUTES TO TELL EVERYBODY WHAT THE NEW LOGISTICS ARE.

14 THE COURT: OKAY. SO WE'LL GIVE YOU A QUICK MOMENT
15 TO DO THAT, BUT THEN WE NEED TO GET OUR JURORS BACK IN HERE
16 THEN.

17 MR. HART: VERY GOOD. THANK YOU, JUDGE.

18 (OFF THE RECORD.)

19 THE COURT: I ASSUME, MR. HART, YOU RECEIVED A COPY
20 OF THEIR MOTION?

21 MR. HART: YES, YOUR HONOR. YES. I GOT IT THIS
22 MORNING.

23 THE COURT: ALL RIGHT. JUST WANTED TO MAKE SURE.

24 ALL RIGHT. THEN WE'RE GOING TO GO AHEAD AND
25 BRING OUR JURORS IN, AND THEN WE'LL --

26 MR. HART: MAY I HAVE JUST A SECOND, JUDGE? SORRY.

1 THE COURT: ALL RIGHT.

2 MR. HART: SORRY. I JUST DON'T WANT TO BE DOING THIS
3 WHEN THEY COME IN.

4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
5 PRESENCE OF THE JURY:)

6 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. WE
7 HAVE BEEN REJOINED BY ALL OF OUR JURORS. AGAIN, THANK YOU
8 VERY MUCH FOR YOUR TIME AND SERVICE HERE. I HOPE YOU HAD A
9 WONDERFUL WEEKEND.

10 SORRY ABOUT THE LITTLE BIT LATER START TODAY.
11 WITH THE HOLIDAY YESTERDAY, THAT PUSHED EVERYTHING FROM
12 YESTERDAY INTO 8 O'CLOCK THIS MORNING AND FOLLOWING ON AT 7:30
13 THIS MORNING. WONDERFUL STUFF KEEPS COMING ON, BUT WE'RE
14 MAKING OUR WAY THROUGH IT ALL.

15 SO WE'RE GOING TO GO AHEAD. YOU KNOW, COUNSEL
16 ARE FREE TO SIT DOWN. WE'RE GOING TO PICK UP WHERE WE LEFT
17 OFF WHEN WE WERE LAST TOGETHER ON THURSDAY.

18 AND WE'LL CALL MS. TRUONG AGAIN; IS THAT
19 CORRECT, MR. HART?

20 MR. HART: YES, JUDGE.

21 THE COURT: ALL RIGHT. AND IF WE ASK YOU TO PLEASE
22 RETURN TO THE WITNESS STAND, MS. TRUONG. AND AS YOU MAKE YOUR
23 WAY FORWARD, I WILL REMIND YOU THAT YOU REMAIN UNDER THE SAME
24 OATH YOU TOOK WHEN YOU WERE HERE LAST TIME.

25 SO WE HAVE A MOMENT TO GET SETTLED IN, GET
26 COMFORTABLE.

1 AND THEN WHENEVER YOU'RE READY, MR. HART.
 2 MR. HART: THANK YOU, YOUR HONOR.
 3 REDIRECT EXAMINATION
 4 BY MR. HART:
 5 Q GOOD MORNING, MS. TRUONG.
 6 A GOOD MORNING.
 7 Q THANK YOU FOR MAKING YOURSELF AVAILABLE FOR
 8 YOUR TESTIMONY TODAY.
 9 WHEN WE WERE LAST TOGETHER, MR. ERIGERO ASKED
 10 YOU A COUPLE OF QUESTIONS THAT I WANT TO FOLLOW UP ON. ONE OF
 11 THEM WAS WHETHER OR NOT YOU BELIEVED YOUR FATHER, THE
 12 PLAINTIFF, LE XUAN KHOA, WAS A PRINCIPLED PERSON.
 13 DO YOU RECALL THAT QUESTION?
 14 A YES.
 15 MR. VOSS: OBJECTION. SCOPE.
 16 THE WITNESS: YES, SIR.
 17 THE COURT: OVERRULED. I THINK THERE WAS A QUESTION
 18 ABOUT THAT.
 19 BY MR. HART:
 20 Q IN YOUR PERSONAL EXPERIENCE, CAN YOU SAY THAT
 21 HE'S A PRINCIPLED PERSON; NOT JUST YOUR BELIEF AS HIS
 22 DAUGHTER, BUT IN YOUR PERSONAL EXPERIENCE?
 23 MR. ERIGERO: OBJECTION. SPECULATION. FOUNDATION.
 24 THE COURT: WE'RE GOING TO NEED SOME FOUNDATION.
 25 BY MR. HART:
 26 Q HAVE YOU HAD OPPORTUNITIES TO SEE IN ACTION

1 WHETHER YOUR FATHER IS A PRINCIPLED PERSON?
 2 A YES, SIR. I HAVE READ --
 3 THE COURT: WAIT. NO FOLLOW-UP QUESTION. SO THAT'S
 4 A YES-OR-NO QUESTION. WE'LL GET A YES-OR-NO ANSWER, AND THEN
 5 HE'LL FOLLOW UP WITH INFORMATION HE THINKS IS NECESSARY.
 6 THE WITNESS: I'M SORRY.
 7 THE COURT: NO WORRIES.
 8 BY MR. HART:
 9 Q WHAT ARE SOME OF THOSE PERSONAL EXPERIENCES
 10 THAT YOU HAVE WITNESSED?
 11 A IN MY YOUNGER DAYS, WHEN I MET -- AND I WAS
 12 STILL LIVING IN WASHINGTON, D.C., I MET SEVERAL PEOPLE,
 13 NOTABLE PEOPLE AND REGULAR PEOPLE, WHO HAVE COMPLIMENTED OR
 14 COMMENTED ABOUT OUR FATHER. BUT I DIDN'T PAY AS MUCH
 15 ATTENTION UNTIL THE LAST FEW YEARS, WHEN I GOT TO READ THE
 16 WRITTEN TESTIMONIALS THAT MY FATHER RECEIVED OVER THE YEARS
 17 FROM NOTABLE PEOPLE SUCH AS MR. ELIE WIESEL, THE HOLOCAUST
 18 SURVIVOR AND NOBEL PRIZE WINNER; TO GENERAL VESSEY, WHO WAS
 19 THE SPECIAL ENVOY FOR --
 20 MR. ERIGERO: OBJECTION.
 21 THE WITNESS: -- FOR PRESIDENT REAGAN TO VIETNAM.
 22 THE COURT: WAIT. ONE MOMENT.
 23 MR. ERIGERO: I'M SORRY TO INTERRUPT. HEARSAY AND
 24 CHARACTER.
 25 THE COURT: I WILL OVERRULE IN THAT THESE STATEMENTS
 26 ARE SIMPLY WHAT SHE'S RELIED UPON TO ANSWER THE QUESTION

1 RELATING TO WHETHER OR NOT HE'S A PRINCIPLED PERSON. SO IT'S
 2 NOT NECESSARILY OFFERED FOR THE TRUTH OF ANY STATEMENT THAT
 3 WAS MADE TO HER, BUT IT'S THE BASIS FOR THE INFORMATION THAT
 4 SHE'S PRESENTED, FROM HER VIEW.
 5 MR. ERIGERO: THANK YOU, YOUR HONOR.
 6 THE COURT: AND MAY CONTINUE.
 7 MR. HART: YOU MAY CONTINUE.
 8 THE WITNESS: TO SENATOR ALAN SIMPSON, WHO WAS THE
 9 REPUBLICAN WHIP IN THE SENATE FOR TEN YEARS; TO SENATOR MARK
 10 HATFIELD, THE DEMOCRAT FROM OREGON; TO CONGRESSMAN PETE
 11 PETERSON, WHO WAS A P.O.W., WHO BECAME CONGRESSMAN IN FLORIDA
 12 AND THEN BECAME THE VERY FIRST U.S. AMBASSADOR TO VIETNAM
 13 AFTER THE VIETNAM WAR; TO MR. STEVE KURZMAN, WHO WAS THE
 14 EXECUTIVE DIRECTOR OF AMERICAN JEWISH COMMITTEE.
 15 BUT THE PERSON -- THE QUOTE THAT I STILL
 16 MEMORIZE AFTER READING IT, BECAUSE IT HAD THE MOST IMPACT FOR
 17 ME PERSONALLY, WAS MR. ROGER WINTER, WHO WAS THE EXECUTIVE
 18 DIRECTOR OF THE U.S. COMMITTEE ON REFUGEES AND IMMIGRANTS FOR
 19 20 YEARS. AND HE WAS ALSO A SPECIAL REPRESENTATIVE TO SUDAN
 20 FOR THE STATE DEPARTMENT. AND HE WAS A BRAVE HERO. HE WENT
 21 TO RWANDA DURING THE RWANDA GENOCIDE AND ET CETERA, AND HE HAD
 22 RECEIVED A LOT OF MEDALS FOR HIS ADVOCACY WORK AND HIS
 23 BRAVERY, BUT YET --
 24 MR. ERIGERO: EXCUSE ME, YOUR HONOR.
 25 THE COURT: WE'RE GETTING A LITTLE AFIELD HERE.
 26 BUT, I MEAN, FINISH UP THE STATEMENT, BUT WE'RE

1 GETTING OFF ON SOME LENGTHY TANGENTS.
 2 MR. HART: UNDERSTOOD, YOUR HONOR.
 3 THE WITNESS: I WAS JUST TRYING TO EXPLAIN WHY IT
 4 IMPACTED ME PERSONALLY.
 5 HE WROTE IN HIS LETTER TO MY FATHER, CALLING MY
 6 FATHER AS "ONE OF THE MOST HONORABLE MEN I HAVE EVER HAD THE
 7 PRIVILEGE TO WORK WITH. YOU WERE A LEADER, A HERO. YOU WERE
 8 BRAVE WHEN IT WAS UNPOPULAR" --
 9 MR. ERIGERO: OBJECTION. THIS IS GOING BEYOND WITH
 10 HEARSAY.
 11 THE COURT: SO I THINK I'M GOING TO STOP IT THERE.
 12 WELL, I'M GOING TO STOP IT RIGHT THERE, AND THEN WE'LL MOVE
 13 ON.
 14 MR. HART: THAT'S FINE, JUDGE.
 15 THE COURT: AND, AGAIN, THIS WAS THE BASIS FOR HER
 16 EXPRESSED OPINION, NOT FOR THE TRUTH OF ANY MATTER THAT WAS
 17 STATED.
 18 YOU MAY CONTINUE YOUR NEXT QUESTION.
 19 BY MR. HART:
 20 Q ALL RIGHT. AND SO HOW HAVE THESE EXPERIENCES
 21 YOU'VE JUST RELATED FIGURED IN YOUR ASSESSMENT OF WHETHER YOUR
 22 FATHER IS A PRINCIPLED PERSON?
 23 A OF COURSE, WHAT HE TAUGHT US, WHAT WE SAW HIM
 24 LEADING BY EXAMPLE, AND WHAT OTHER PEOPLE WHO WORKED WITH HIM,
 25 WHO KNEW HIM, SHARED WITH HIS FAMILY.
 26 Q OKAY. THANK YOU.

1 ANOTHER QUESTION THAT YOU WERE ASKED ON
 2 CROSS-EXAMINATION BY MR. ERIGERO WAS WHETHER YOU WERE HERE
 3 TESTIFYING OUT OF LOYALTY TO YOUR FATHER AS OPPOSED TO SOME
 4 OTHER REASON.
 5 DO YOU RECALL THAT QUESTION?
 6 A YES, SIR.
 7 Q WAS IT YOUR INTENT TO TRY TO HELP THIS LAWSUIT
 8 IN ANY WAY?
 9 A NO, SIR. MY SIBLINGS AND I WERE AGAINST THIS
 10 LAWSUIT AT THE BEGINNING, UNTIL I UNDERSTOOD THE REASONS THAT
 11 MY FATHER FILED THE LAWSUIT.
 12 MR. ERIGERO: OBJECTION. MOVE TO STRIKE AS
 13 NONRESPONSIVE AND BEYOND THE SCOPE.
 14 THE COURT: SUSTAINED IN TERMS OF THE "NO, SIR"
 15 RESPONSE WILL REMAIN, BUT EVERYTHING AFTER THAT WILL BE
 16 STRICKEN.
 17 BY MR. HART:
 18 Q OKAY. CAN YOU TELL US WHY YOU AND YOUR
 19 SIBLINGS WERE AGAINST THIS LAWSUIT.
 20 MR. ERIGERO: OBJECTION, YOUR HONOR. RELEVANCE AND
 21 BEYOND HER PERSONAL KNOWLEDGE.
 22 THE COURT: SUSTAINED. AND BEYOND THE SCOPE.
 23 BY MR. HART:
 24 Q WHEN YOU TALKED ABOUT NOTICING YOUR FATHER'S
 25 WORSENING FATIGUE AND DISINTERESTED SOCIAL ACTIVITIES, WERE
 26 YOU MEANING TO IMPLY THAT THESE WERE SOLELY RELATED TO THE

1 DEFAMATION?
 2 A NO, SIR.
 3 MR. ERIGERO: YOUR HONOR, OBJECTION. BEYOND THE
 4 SCOPE.
 5 THE COURT: OVERRULED ON THAT ONE.
 6 THE WITNESS: NO, SIR. I HAVE NO EXPERTISE TO BE
 7 CLAIMING WORSENING SYMPTOMS IN AN ELDERLY MAN DUE TO
 8 HUMILIATION AND STRESS. I WAS ONLY TRYING TO EXPLAIN WHAT I
 9 WITNESS EVERY DAY, WHAT I LIVE WITH, AND MY ABILITY TO LATER
 10 GETTING MY FATHER TO SHARE HIS HUMILIATION, HIS HURT, HIS
 11 EMBARRASSMENT. SO THAT WAS WHAT I WAS TRYING TO EXPLAIN.
 12 MR. ERIGERO: OBJECTION, YOUR HONOR. BEYOND THE
 13 SCOPE. MOVE TO STRIKE EVERYTHING AFTER THE FIRST PHRASE.
 14 THE COURT: OVERRULED. BUT WE'LL MOVE ON TO THE NEXT
 15 QUESTION.
 16 MR. HART: THAT'S ALL THE QUESTIONS I HAVE.
 17 THE COURT: FOLLOW-UP?
 18 MR. ERIGERO: NO, YOUR HONOR.
 19 THE COURT: THANK YOU, MS. TRUONG. YOU MAY STEP DOWN
 20 IN ORDER TO TAKE YOUR SEAT AGAIN.
 21 OUR NEXT WITNESS, MR. HART.
 22 MR. HART: THE PLAINTIFF WILL TAKE THE STAND NOW,
 23 JUDGE.
 24 THE COURT: GIVE HIM A MOMENT TO GET UP HERE.
 25 ALL RIGHT, MR. HART, WHENEVER YOU ARE PREPARED.
 26 MR. HART: THANK YOU, YOUR HONOR.

1 LE DINH KHOA,
 2 CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, AND HAVING NOT
 3 BEEN DULY SWORN BY THE CLERK YET, WAS EXAMINED AND TESTIFIED
 4 AS FOLLOWS:
 5 DIRECT EXAMINATION
 6 BY MR. HART:
 7 Q GOOD MORNING, PROFESSOR KHOA.
 8 THE COURT: IT'S A GREETING, NOT NECESSARILY A
 9 QUESTION.
 10 THE WITNESS: GOOD MORNING.
 11 BY MR. HART:
 12 Q GOOD MORNING. HAVE YOU BEEN PRACTICING WITH
 13 THE REAL-TIME TABLET THERE WHILE YOU HAVE SAT IN THE COURTROOM
 14 TO FOLLOW THE TESTIMONY?
 15 A YES.
 16 Q AND ARE YOU FEELING COMFORTABLE --
 17 A IT'S HELPFUL.
 18 Q -- WITH THAT PROCESS?
 19 A YES, I FEEL COMFORTABLE TO WORK WITH THIS.
 20 MR. VOSS: YOUR HONOR, IF I MAY, WITNESSES SHOULD BE
 21 EXCLUDED FOR THE TESTIMONY OF MR. KHOA.
 22 MR. HART: HER TESTIMONY IS CONCLUDED.
 23 THE COURT: IS THERE GOING TO BE -- IF THERE'S A
 24 POTENTIAL TO RECALL FOR ANYTHING, IF WE --
 25 MR. HART: NOT THAT I KNOW OF, BUT --

1 THE COURT: WELL, FOR THE DEFENDANTS' CASE-IN-CHIEF,
 2 THEY HAVE THE ABILITY TO CALL.
 3 MR. HART: OKAY. IF IT'S THEIR INTENTION, THEN,
 4 FINE.
 5 THE COURT: THANK YOU VERY MUCH.
 6 BY MR. HART:
 7 Q PROFESSOR, ARE YOU USED TO BEING ADDRESSED AS
 8 "PROFESSOR" OR "PROFESSOR KHOA"?
 9 A JUST CALL ME "KHOA."
 10 Q OKAY. HOW LONG IN YOUR LIFE HAVE YOU BEEN
 11 ADDRESSED BY PEOPLE AS "PROFESSOR"?
 12 A I LIKE TO HAVE JUST ONE MINUTE TO SAY A FEW
 13 WORDS.
 14 THE COURT: WAIT. JUST ONE MOMENT, SIR. SIR.
 15 THE WITNESS: I'M ASKING YOU TO --
 16 THE COURT: ONE MOMENT, PLEASE.
 17 THE WITNESS: -- TO BE PATIENT WITH ME.
 18 THE COURT: MR. KHOA.
 19 SO, MR. KHOA, THIS IS -- LET ME TAKE A MOMENT
 20 TO EXPLAIN THE PROCESS A LITTLE BIT HERE, IN THAT YOUR
 21 TESTIMONY HERE IN COURT IS DRIVEN ENTIRELY BY THE QUESTIONS
 22 YOU WILL BE ASKED BY THE ATTORNEYS. SO WE NEED TO -- THIS
 23 ISN'T LIKE A -- TESTIFYING BEFORE CONGRESS, WHERE YOU GET TO
 24 MAKE AN OPENING STATEMENT OR SOMETHING ALONG THOSE LINES. THE
 25 TESTIMONY IN COURT DOES NOT OPERATE THAT WAY. IT IS ENTIRELY
 26 DRIVEN BY THE ATTORNEY'S QUESTIONS TO YOU.

1 SO YOU'LL NEED TO LISTEN CAREFULLY TO THE
 2 QUESTIONS THAT WILL BE POSED AND THEN PROVIDE YOUR BEST
 3 RESPONSE TO THOSE IN TERMS OF WHAT YOU RECALL. AND WE NEED TO
 4 RESPOND TO THE QUESTIONS, AS OPPOSED TO VOLUNTEERING
 5 ADDITIONAL INFORMATION THAT YOU MAY LIKE TO HAVE OTHER PEOPLE
 6 HEAR. WE NEED TO REALLY FOCUS IN ON THE QUESTION AND DO OUR
 7 BEST TO RESPOND DIRECTLY TO THE QUESTIONS.
 8 AND SO, AGAIN, YOUR ATTORNEY IS GOING TO TRY
 9 AND FOCUS THE EXAMINATION TO WHAT HE DEEMS IS MOST IMPORTANT
 10 TO YOUR CASE.
 11 SO IF WE COULD TRY FOLLOW THOSE BASIC GROUND
 12 RULES, AND THAT WILL HELP KEEP THINGS MOVE ALONG AND KEEP IT
 13 ORDERLY AND PROPER IN TERMS OF THE EVIDENTIARY PRESENTATION.
 14 ANY QUESTIONS ABOUT THAT, SIR?
 15 THE WITNESS: OKAY. THANK YOU.
 16 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
 17 MR. HART, YOU MAY CONTINUE.
 18 MR. HART: THANK YOU, YOUR HONOR.
 19 BY MR. HART:
 20 Q PROFESSOR, I WANT YOU TO KEEP AT LEAST ONE EYE
 21 ON THE JUDGE WHILE WE'RE DOING THIS, BECAUSE IF YOU SEE HIM
 22 REACT TO SOMETHING, YOU NEED TO STOP TESTIFYING. OKAY?
 23 A OKAY.
 24 Q OKAY. SO KEEP ONE EYE ON THE JUDGE.
 25 THE COURT: SORRY YOU HAVE TO LOOK AT ME.
 26 BY MR. HART:

1 Q OKAY. SO I THINK MY QUESTION WAS --
 2 THE COURT: WAIT ONE MOMENT. LET'S GET ONE CHECK
 3 BEFORE YOU GET GOING, BECAUSE WE HAD -- WITH THE JUGGLING
 4 ABOUT WITH THE THING, WE NEED TO MAKE SURE HE'S SWORN IN
 5 PROPERLY. SO IF HE WANTS TO STAND --
 6 MR. HART: OH, THAT'S RIGHT. HE HASN'T BEEN SWORN
 7 IN. I THINK SOME PEOPLE GOT AHEAD OF US ON THAT ISSUE.
 8 LE XUAN KHOA,
 9 CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, AND HAVING
 10 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:
 11 THE WITNESS: I DO.
 12 THE CLERK: THANK YOU.
 13 PLEASE STATE YOUR NAME AND SPELL YOUR LAST NAME
 14 FOR THE RECORD.
 15 THE WITNESS: I DO.
 16 THE CLERK: STATE YOUR NAME, SIR.
 17 THE WITNESS: SAY IT --
 18 THE CLERK: YOUR NAME.
 19 THE WITNESS: SAY IT AGAIN, PLEASE.
 20 THE CLERK: YOUR NAME.
 21 THE WITNESS: OH, I SEE.
 22 MY NAME IS KHOA LE.
 23 THE CLERK: CAN YOU SPELL YOUR LAST NAME, PLEASE.
 24 THE WITNESS: THE LAST NAME IS LE, L-E.
 25 THE CLERK: THANK YOU.
 26 THE WITNESS: THANK YOU.

1 THE COURT: ALL RIGHT. THERE WE GO. NOW, WE CAN
 2 CONTINUE ON WITH THIS.
 3 DIRECT EXAMINATION
 4 BY MR. HART:
 5 Q OKAY. SO THIS MAY BE A LITTLE BIT OF A SLOW
 6 PROCESS BECAUSE YOU HAVE TO READ, BUT CAN YOU TELL THE JURY
 7 WHY WE'RE DOING IT THIS WAY.
 8 A YEAH. THAT'S WHAT I WANT TO SAY, THAT I AM
 9 ASKING FOR YOUR PATIENCE WITH ME BECAUSE I HAVE A HARD EAR --
 10 VERY HARD HEARING, AND I CAN'T EXPRESS MYSELF AS I USED TO DO.
 11 SOMETIMES WORDS DON'T COME TO ME. AND SO
 12 PLEASE BE PATIENT. I WOULD APPRECIATE THAT.
 13 Q THANK YOU, PROFESSOR.
 14 CAN YOU TELL US WHAT YOUR AGE IS TODAY.
 15 A MY AGE IS 93 AND A FEW MONTHS.
 16 Q OKAY. LET'S DO A LITTLE BIT OF BACKGROUND FOR
 17 YOU.
 18 CAN YOU TELL US WHERE AND WHEN YOU WERE BORN,
 19 PLEASE.
 20 A OKAY. I WAS BORN IN HANOI, VIETNAM, NORTH
 21 VIETNAM.
 22 Q AND WHAT YEAR WAS THAT?
 23 A 1931.
 24 Q OKAY. AND SO AFTER WORLD WAR II, WHO WAS IN
 25 CONTROL OF THE NORTH?
 26 A AFTER WORLD WAR II, THE SOUTH VIETNAMESE -- I'M

1 SORRY, NOT THE SOUTH, BUT THE NATIONALISTS, THAT WE CALL,
 2 BECAUSE IN VIETNAM WE SEPARATE NATIONALIST AND COMMUNIST.
 3 SO THE NATIONALISTS TAKE OVER THE POWER FOR
 4 JUST A FEW MONTHS, AND THEN THE COMMUNISTS CAME IN. THEY
 5 DON'T THINK THEMSELVES AS COMMUNIST. THEY JUST SAY THAT THEY
 6 ARE PATRIOTS. AND THEY CAME IN, AND THEY TOOK OVER THE
 7 NATIONALISTS. THEY WERE STRONGER.
 8 Q HOW OLD WERE YOU WHEN THAT HAPPENED?
 9 A SO I WAS ABOUT 15 YEARS OLD.
 10 Q WHAT SCHOOLING HAD YOU HAD BY THE TIME YOU WERE
 11 15?
 12 A OKAY. I WAS IN HIGH SCHOOL, A HIGH SCHOOL
 13 STUDENT.
 14 Q DO YOU REMEMBER WHAT GRADE?
 15 A IT'S 12 YEARS. SO IT'S ABOUT THE FOURTH GRADE
 16 OR SOMETHING LIKE THAT MAYBE.
 17 Q LIKE FRESHMAN YEAR IN HIGH SCHOOL?
 18 NEVER MIND. I WILL WITHDRAW QUESTION.
 19 A IT'S IN BETWEEN SOMETHING. I COULDN'T REMEMBER
 20 WELL, BUT THAT'S IT.
 21 Q AT SOME POINT IN TIME, DID YOU AND YOUR FAMILY
 22 MOVE TO THE SOUTH?
 23 A I MOVED SOUTH FIRST BECAUSE THAT -- WHEN I
 24 GRADUATE FROM SCHOOL, I WAS APPOINTED TO BE A TEACHER IN THE
 25 SOUTH. SO I MOVED FIRST. I MOVE ONE YEAR BEFORE. IT'S 1953.
 26 BUT THEN SO THE FOLLOWING YEAR --

1 Q HOLD ON. I WANT TO GIVE A LITTLE BIT OF A
 2 HISTORY LESSON HERE.
 3 YOU HAD GRADUATED FROM COLLEGE BY 1953?
 4 A YES, I GRADUATE FROM COLLEGE IN 1953.
 5 Q OKAY. AND SO YOU WERE GIVEN A JOB IN THE
 6 SOUTH?
 7 A YES. ACTUALLY, I CHOSE TO GO TO THE SOUTH. I
 8 WAS GRADUATE NUMBER ONE AT THE SCHOOL OF TEACHERS. AND THEN I
 9 HAVE THE RIGHT TO CHOOSE THE SCHOOL. I CHOSE THE SOUTH TO GO.
 10 Q DID YOU SAY YOU WERE NUMBER ONE GRADUATE AT THE
 11 TEACHER'S SCHOOL?
 12 A YES. I -- I THINK -- YEAH, TEACHER'S SCHOOL.
 13 AND I'M LUCKY. I WAS LUCKY.
 14 Q IN 1953, WHEN YOU ARRIVED IN THE SOUTH, WHAT
 15 WAS YOUR JOB?
 16 A YEAH, I BECAME A TEACHER AT THE PETRUS KY HIGH
 17 SCHOOL, A VERY WELL-KNOWN SCHOOL IN SAIGON.
 18 THE COURT: ONE MOMENT. I DON'T THINK THE COURT
 19 REPORTER GOT THE NAME OF THE SCHOOL.
 20 BY MR. HART:
 21 Q PROFESSOR, CAN YOU SPELL THE NAME OF SCHOOL,
 22 PLEASE.
 23 A YEAH. THE NAME OF THE SCHOOL IS PETRUS. IT'S
 24 A CATHOLIC NAME, I THINK. KY, K-Y. PETRUS KY HIGH SCHOOL.
 25 Q WE'LL WRITE IT OUT LATER. HOW ABOUT THAT?
 26 ALL RIGHT. DID THE REST OF YOUR FAMILY STAY IN

1 DO IN 1954.
 2 A YES, I CAN ANSWER FOR MY FAMILY.
 3 MY FAMILY STAY FOR A FEW MONTHS, AND THEN I
 4 WENT TO THE NORTH TO TAKE THEM SOUTH WITH ME.
 5 Q OKAY.
 6 A SO THAT I MOVED THE WHOLE FAMILY, MY MOTHER AND
 7 MY SIBLINGS AND MY CHILDREN.
 8 Q OKAY. WHAT DID YOU DO FOR THE REST OF THE
 9 '50S? DID YOU TEACH OR HAVE A FURTHER EDUCATION? WHAT
 10 HAPPENED UNTIL 1960?
 11 MR. VOSS: OBJECTION. LEADING. 352.
 12 THE COURT: OVERRULED.
 13 THE WITNESS: ACTUALLY, I NOT ONLY GRADUATE FROM THE
 14 TEACHER SCHOOL, BUT ALSO THE SCHOOL OF ARTS AND HUMANITIES.
 15 OKAY? AND SO THE -- AT THE SAME TIME. I GRADUATE AT THE SAME
 16 TIME, FOR THE FIRST EXAM AND THE SECOND EXAM, TWO DIFFERENT
 17 EXAM.
 18 BY MR. HART:
 19 Q DID YOU RECEIVE A BACHELOR'S DEGREE FROM THE
 20 SCHOOL OF TEACHERS?
 21 A THEY DON'T CALL THE -- AT THE SCHOOL OF
 22 TEACHERS THEY DON'T CALL A BACHELOR, JUST THE GRADUATE
 23 DIPLOMA. BUT FOR THE SCHOOL OF ARTS, AT THE UNIVERSITY OF
 24 HANOI, THAT'S DIFFERENT, DIFFERENT SCHOOL. THAT'S A BACHELOR
 25 DEGREE.
 26 Q WHAT DID YOU -- WHAT DEGREE DID YOU GET FROM

1 THE NORTH IN 1953?
 2 A YES. MY WHOLE FAMILY STAYED IN THE NORTH.
 3 Q OKAY. AND WHAT HAPPENED IN 1954 BETWEEN THE
 4 NORTH AND THE SOUTH?
 5 A IN 1954, I THINK THAT EVERYBODY KNOWS THE DIEN
 6 BIEN PHU, VICTORY OF THE COMMUNISTS AGAINST THE FRENCH. AND
 7 AS A RESULT, THE COUNTY WAS DIVIDED INTO TWO PARTS BY THE 17TH
 8 PARALLEL. AND THE NORTHERN PART BELONG TO THE -- WAS UNDER
 9 CONTROL OF COMMUNISTS, AND THE SOUTHERN PART UNDER THE
 10 NATIONALISTS.
 11 Q ALL RIGHT. AND WHAT DID YOUR FAMILY DO IN
 12 1954? DID THEY STAY IN THE NORTH, OR DID THEY COME TO THE
 13 SOUTH TO BE WITH YOU?
 14 MR. VOSS: YOUR HONOR, IF I MAY?
 15 THE WITNESS: WELL --
 16 THE COURT: WAIT JUST ONE MOMENT.
 17 THE WITNESS: I'M SORRY.
 18 MR. VOSS: I UNDERSTAND FOUNDATION, BUT 352 AND
 19 RELEVANCE.
 20 THE COURT: I WILL GIVE A LITTLE BIT, BUT THIS ISN'T
 21 A COLLEGE HISTORY CLASS, SO I -- WE'LL DO SOME BRIEF CONTEXT
 22 BECAUSE IT DOES PLAY POTENTIALLY INTO OTHER THINGS, BUT --
 23 MR. VOSS: I HAD TO OBJECT.
 24 MR. HART: THANK YOU, YOUR HONOR.
 25 BY MR. HART:
 26 Q CAN YOU ANSWER ABOUT YOUR FAMILY, WHAT DID THEY

1 THE UNIVERSITY OF ARTS IN HANOI?
 2 A SO THAT -- YEAH, I GRADUATE FROM THE
 3 UNIVERSITY, THE SCHOOL OF ARTS. IT WAS AS BACHELOR.
 4 Q ALL RIGHT. DO YOU HAVE A MASTER'S DEGREE?
 5 A NO, I DON'T HAVE A MASTER DEGREE BECAUSE THEY
 6 DON'T NEED THAT.
 7 Q OKAY. AND SO WHERE ELSE DID YOU STUDY?
 8 A LET ME TELL YOU THESE THINGS. THE UNIVERSITY
 9 OF HANOI IS THE ONLY VIETNAMESE UNIVERSITY FOR THE WHOLE
 10 COUNTRY AT THAT TIME, AND IT'S, LIKE, UNDER FRENCH. WE HAVE
 11 ONLY ONE UNIVERSITY FOR THE WHOLE THREE COUNTRIES OF
 12 INDOCHINA, ONLY ONE.
 13 AND WHEN WE BECAME INDEPENDENT IN 1945, AND
 14 THEN WE NEED A FEW YEARS, BECAUSE IT WAS A LITTLE BIT IN
 15 TROUBLE. AND THEN NOT UNTIL 1950 THAT WE HAD THE FIRST
 16 VIETNAMESE UNIVERSITY.
 17 THE COURT: WE'RE GETTING A LITTLE AFIELD THERE. SO
 18 THE DEGREE QUESTION IS APPROPRIATE, IF YOU WANT TO...
 19 MR. HART: THANK YOU, YOUR HONOR.
 20 BY MR. HART:
 21 Q PROFESSOR, DID YOU TEACH ABROAD, OUTSIDE OF THE
 22 COUNTRY OF VIETNAM?
 23 A NO, I DIDN'T TEACH OUTSIDE THE COUNTRY DURING
 24 THOSE YEARS.
 25 Q SOMETIME LATER?
 26 A THE ONLY COUNTRY THAT I TEACHING OUTSIDE OF

1 VIETNAM IS IN THE U.S., AFTER '75.
 2 Q DID YOU STUDY AS A STUDENT AT THE SORBONNE IN
 3 PARIS?
 4 A OKAY. YEAH, I STUDIED IN PARIS, BUT NOT IN THE
 5 U.S.
 6 Q OKAY. WHAT YEAR WERE YOU STUDYING AT THE
 7 SORBONNE IN PARIS?
 8 A OKAY. I STUDIED PHILOSOPHY. ACTUALLY, THEY DO
 9 SOMETHING -- FEW PEOPLE THING --
 10 THE COURT: EXCUSE ME, SIR.
 11 THE WITNESS: -- UNDERSTAND IT. I STUDIED --
 12 THE COURT: MR. KHOA, THE QUESTION WAS WHAT YEAR,
 13 WHAT YEAR DID YOU STUDY AT THE SORBONNE IN PARIS?
 14 THE WITNESS: 19 -- I GOT A SCHOLARSHIP -- A
 15 FELLOWSHIP FROM THE FRENCH GOVERNMENT. AND WHEN I -- WHEN I
 16 WAS ALREADY OLD ENOUGH AND WHEN I WAS A GOVERNMENT OFFICIAL
 17 ALREADY.
 18 THE COURT: AND, AGAIN, MR. KHOA, THE QUESTION IS THE
 19 YEAR, WHAT YEAR WAS IT?
 20 THE WITNESS: 1960. I GOT THE SCHOLARSHIP IN 1960.
 21 THE COURT: THANK YOU.
 22 GO AHEAD, MR. HART, WITH YOUR NEXT QUESTION.
 23 BY MR. HART:
 24 Q PROFESSOR, WHAT JOB WERE YOU DOING IN 1960 WHEN
 25 YOU GOT THE SCHOLARSHIP OR FELLOWSHIP FROM THE SORBONNE IN
 26 PARIS?

1 A I DIDN'T HAVE TO DO ANYTHING. JUST GO TO
 2 SCHOOL. OKAY. WHEN I CAME TO PARIS, SO I JUST SPEND MY TIME
 3 AT SCHOOL.
 4 Q ALL RIGHT. AND WHAT WAS THE COURSE OF STUDY IN
 5 PARIS?
 6 A SO I LEARN -- I STUDIED INDIAN PHILOSOPHY. WHY
 7 INDIAN PHILOSOPHY? ACTUALLY, MY THESIS REGISTERED AT SORBONNE
 8 WAS ON BUDDHISM. THE PARTICULAR SCHOOL IN BUDDHISM IN
 9 VIETNAM, IT'S CALLED THIEN. THAT'S "ZEN" IN JAPANESE, BUT IN
 10 VIETNAMESE, YOU CALL IT THIEN. AND THEN --
 11 Q HOW LONG WAS THAT FELLOWSHIP PROCESS?
 12 A OKAY. SINCE I WAS MARRIED ALREADY, AND I WAS
 13 THE BREADWINNER FOR THE FAMILY, AND ALSO THE OTHER REASON IS
 14 THAT YOU CANNOT STAY IN PARIS TO DO YOUR THESIS BECAUSE THE
 15 RESEARCH MATERIALS ARE IN CHINESE.
 16 THE COURT: MR. KHOA --
 17 THE WITNESS: IN THE OLD DAYS --
 18 THE COURT: MR. KHOA, THE QUESTION WAS: HOW LONG WAS
 19 THE FELLOWSHIP PROCESS IN TERMS OF HOW MANY MONTHS OR YEARS?
 20 THE WITNESS: THE FELLOWSHIP IS UNTIL I GRADUATE,
 21 UNTIL I GOT THE DOCTORAL DEGREE.
 22 BY MR. HART:
 23 Q ALL RIGHT. AND SO WHAT WAS YOUR EXPECTATION?
 24 WAS THIS A ONE-YEAR, A TWO-YEAR, OR A FIVE-YEAR PROGRAM? WHAT
 25 WERE YOU EXPECTING TIMEWISE TO COMPLETE YOUR DOCTORATE DEGREE?
 26 A BACK THEN, BECAUSE, AS I JUST SAID, I WAS

1 MARRIED AND I WAS A BREADWINNER FOR THE FAMILY, AND SO I WEAR
 2 SEVERAL HATS. BECAUSE, AT THAT TIME, I WORK DIFFERENT JOBS IN
 3 VIETNAM TOO. OKAY?
 4 AND BECAUSE OF THE RESEARCH MATERIALS, I NEED
 5 TO GO BACK TO VIETNAM, BECAUSE IN THE OLD DAYS, VIETNAMESE
 6 USED CHINESE CHARACTERS. WE HAVE OUR OWN WAY TO PRONOUNCE IT,
 7 BUT WE USE THE CHARACTER THAT'S CHINESE.
 8 Q ARE YOU TELLING ME YOU ONLY PLANNED TO BE IN
 9 PARIS FOR A SHORT TIME BUT WORKED YOUR FELLOWSHIP FROM
 10 VIETNAM?
 11 A YEAH. SO I CAME BACK TO -- AFTER A YEAR TO
 12 TAKE THE BASIC COURSES. OKAY? THE ORIGINAL BUDDHISM WAS IN
 13 INDIA. THAT'S WHY I STARTED INDIAN PHILOSOPHY, TO LEARN ABOUT
 14 THE ROUTE, THE ORIGIN OF BUDDHISM.
 15 AND THEN -- SO THEN I CAME BACK. I DO RESEARCH
 16 OF THE MATERIALS IN THE 14, 13 CENTURY. THAT THE BEST TIME
 17 FOR ZEN BUDDHISM IN VIETNAM. AND I DID RESEARCH.
 18 Q OKAY. LISTEN CAREFULLY OR READ CAREFULLY MY
 19 QUESTIONS.
 20 ARE YOU TELLING US THAT YOU STAYED IN PARIS AT
 21 THE SORBONNE FOR THE FIRST YEAR; YES OR NO?
 22 A THE FIRST YEAR AND THE ONLY YEAR, BECAUSE AFTER
 23 ONE YEAR, I CAME BACK TO VIETNAM. THAT'S MY PLAN.
 24 Q ALL RIGHT. SO AFTER THAT FIRST YEAR, YOU
 25 CONTINUED YOUR FELLOWSHIP RESEARCH FROM VIETNAM?
 26 A I SPENT NOT JUST AT SORBONNE BUT ALSO AT

1 DIFFERENT SCHOOL, AT THE UNIVERSITY OF PARIS TOO. OKAY?
 2 Q WHAT DIFFERENT SCHOOL?
 3 A FOR EXAMPLE, THE VERY WELL-KNOWN, INTERNATIONAL
 4 FAMOUS IS COLLÈGE DE FRANCE. IT'S CALLED COLLEGE, BUT THEN
 5 IT'S VERY, VERY HIGHLY EDUCATED.
 6 Q ALL RIGHT. WHAT WAS YOUR EXPECTATION WHEN YOU
 7 COMPLETED YOUR FELLOWSHIP? WHAT WOULD BE THE RESULT OF THAT
 8 WORK?
 9 A WHEN I COMPLETE MY SCHOLARSHIP AND CAME BACK TO
 10 VIETNAM, SO THE MINISTRY OF EDUCATION APPOINT ME TO THE --
 11 Q NO. IT'S A DIFFERENT QUESTION.
 12 A OKAY.
 13 Q WHEN YOU DID YOUR FELLOWSHIP, WAS THAT A
 14 DOCTORAL FELLOWSHIP?
 15 A YES, THAT'S FELLOWSHIP TO DO THE DOCTOR.
 16 Q WERE YOU EXPECTING TO BE AWARDED YOUR PH.D. BY
 17 THE SORBONNE WHEN YOUR WORK WAS COMPLETED?
 18 A IN FRENCH, THEY DON'T CALL PH.D., THEY
 19 CALL DOCTOR, YEAH. BUT NATURALLY I EXPECT THAT WHEN I FINISH
 20 THAT AND I SUBMIT MY THESIS, AND THEN I WILL BE A DOCTOR BY
 21 THEN.
 22 Q DID YOU PREPARE YOUR DOCTORAL THESIS?
 23 A YES, FOR THAT YEAR ONLY, FOR THAT FIRST YEAR
 24 AND ONE -- THE ONLY YEAR IN PARIS.
 25 Q DID YOU CONTINUE TO WORK ON YOUR THESIS IN YOUR
 26 RESEARCH IN THE YEARS AFTER THE SORBONNE?

1 A YES. WHEN I CAME BACK TO VIETNAM, I START --
 2 BECAUSE I JUST SAID THAT I WAS APPOINT TO BE A LECTURER, A
 3 LECTURER AT THE SCHOOL OF ART AT THE UNIVERSITY OF SAIGON.
 4 Q OKAY.
 5 A SO THAT MEANS THEY UNDERSTAND THAT I WOULD BE
 6 TEACHING IN UNIVERSITY, BECAUSE THE FELLOWSHIP IS LIKE THAT.
 7 AND I CONTINUE WITH MY FELLOWSHIP TO WRITE MY THESIS IN
 8 SAIGON. THAT'S WHY MY MINISTER SAY THAT YOU WILL BE A
 9 LECTURER. SO THAT IT'S VERY CONVENIENT FOR ME TO DO THE
 10 RESEARCH.
 11 Q WERE YOU ABLE TO COMPLETE YOUR DOCTORAL THESIS
 12 AND DEFEND IT AT THE SORBONNE?
 13 MR. VOSS: OBJECTION. COMPOUND.
 14 THE COURT: SUSTAINED. MAYBE BREAK IT UP.
 15 BY MR. HART:
 16 Q PROFESSOR, WERE YOU ABLE TO COMPLETE YOUR
 17 DOCTORAL THESIS?
 18 A I DON'T SEE THE QUESTION HERE.
 19 Q I'LL SAY IT AGAIN.
 20 WERE YOU ABLE TO COMPLETE YOUR DOCTORAL THESIS?
 21 A WHAT HAPPENED? THERE'S NO QUESTION HERE.
 22 THE COURT: ONE MOMENT. IT'S JUST SLOWLY --
 23 WHY DON'T YOU ASK THE QUESTION ONE MORE TIME,
 24 AND IT SHOULD, HOPEFULLY, COME UP THIS TIME FOR HIM.
 25 BY MR. HART:
 26 Q PROFESSOR, WERE YOU ABLE TO COMPLETE YOUR

1 DOCTORAL THESIS?
 2 A YES, I'M ABLE TO CONTINUE TO DO MY RESEARCH IN
 3 SAIGON AT THE UNIVERSITY IN SAIGON. BUT, YOU KNOW, IT TAKES
 4 TIME, BECAUSE I NEED TO DO RESEARCH -- IT TAKES TIME TO -- TO
 5 FIND -- LOOKING THROUGH THE ARCHIVE SEVERAL CENTURIES BEFORE,
 6 TO GET THE MATERIALS AND HAVE THAT TRANSLATED INTO FRENCH, YOU
 7 KNOW.
 8 Q SO VERY CAREFULLY, LOOK AT THIS QUESTION.
 9 DID YOU FINISH THE DOCTORAL THESIS?
 10 MR. VOSS: OBJECTION. ASKED AND ANSWERED.
 11 THE WITNESS: NO. I HAVE NOT FINISHED MY DOCTORATE
 12 IN SAIGON, NOT YET.
 13 BY MR. HART:
 14 Q OKAY. WHAT'S LEFT TO DO TO FINISH YOUR
 15 DOCTORAL THESIS?
 16 A I EXPECT TO FINISH IT IN FIVE OR SIX YEARS OR
 17 MAYBE A BIT LONGER MAYBE. BUT IN 1963, THERE WAS A COUP
 18 D'ÉTAT. AND THEN SO IN 1965, THERE WAS A CHANGE OF
 19 GOVERNMENT. OKAY. AND THEN SO THERE WAS AN INCIDENT. THIS
 20 IS A DIPLOMATIC INCIDENT BETWEEN VIETNAM AND FRENCH, BECAUSE
 21 THE GOVERNMENT THEN WAS GOVERNED BY THE MILITARY. IT'S THE
 22 MILITARY GOVERNMENT. AND I REMEMBER THE HEAD OF THE
 23 GOVERNMENT AT THAT TIME WAS GENERAL NGUYEN CAO KY.
 24 Q YES.
 25 A AND HE WAS PRO-AMERICAN. OKAY.
 26 Q HOLD ON.

1 HOW DID THIS INCIDENT INTERFERE WITH YOUR
 2 COMPLETING YOUR DOCTORAL THESIS?
 3 A YEAH, BECAUSE THE GOVERNMENT OF NGUYEN CAO KY,
 4 AND THERE WAS AN INCIDENT, DIPLOMATIC INCIDENT, AND THERE IS A
 5 TEMPORARILY INTERRUPTION BETWEEN VIETNAM AND FRANCE.
 6 Q SO THERE WAS A BREAK IN RELATIONS BETWEEN
 7 VIETNAM AND FRANCE, AND THAT INTERRUPTED YOUR COMPLETION OF
 8 THE DOCTORAL THESIS?
 9 A THAT'S TEMPORARILY.
 10 BUT IN ANY CASE, I CHANGED MY MIND AT THAT
 11 TIME, BECAUSE I SEE THAT THIS IS THE TIME TO CHANGE THE
 12 SYSTEM, THE VIETNAMESE EDUCATIONAL SYSTEM. OKAY.
 13 Q OKAY. SO WHAT DID YOU DO INSTEAD OF FINISH
 14 YOUR DOCTORAL THESIS?
 15 A YEAH, LET ME TELL YOU. ALSO, UNDER THE
 16 GOVERNMENT OF THE NGUYEN CAO KY, I WAS -- MY MINISTER OF
 17 EDUCATION WAS A VERY FRIEND -- GOOD FRIEND OF MINE. AND HE'S
 18 OLDER, BUT HE'S A GOOD FRIEND. HE APPRECIATE MY KNOWLEDGE,
 19 AND HE INVITE ME TO BE VICE MINISTER OF EDUCATION.
 20 Q SO FOR THE WHOLE COUNTRY, THE REPUBLIC OF
 21 VIETNAM, YOU WERE THE VICE MINISTER OF EDUCATION?
 22 A YEAH.
 23 Q "YES"?
 24 A YEAH, I WAS APPOINTED VICE MINISTER OF
 25 EDUCATION IN 1965.
 26 Q ALL RIGHT. AND SO WHAT WERE YOU DOING AS VICE

1 MINISTER OF EDUCATION IN 1965?
 2 A AND I REALIZE BY THAT TIME THE AMERICAN
 3 INVOLVEMENT IN VIETNAM WAS DEEP. AND I REALIZE ALSO THAT IT'S
 4 TIME TO TRANSITION FROM THE OLD FRENCH SYSTEM OF EDUCATION
 5 INTO THE AMERICAN EDUCATIONAL SYSTEM.
 6 Q ALL RIGHT.
 7 A THAT'S WHY, YEAH, I HAVE A PLAN FOR THAT.
 8 Q HOW LONG DID YOU FUNCTION AS DEPUTY MINISTER OF
 9 EDUCATION IN VIETNAM, IN SOUTH VIETNAM?
 10 A WELL, BECAUSE OF THE, YOU KNOW, POLITICAL
 11 SITUATION --
 12 Q HOW LONG?
 13 A -- IN VIETNAM BETWEEN -- EVEN AMONG THE
 14 MILITARY LEADERS, OKAY, AND BETWEEN MILITARY AND CIVILIAN
 15 PEOPLE. AND SO IT DID NOT LAST LONG. SO THE GOVERNMENT
 16 DIDN'T LAST LONG.
 17 THE COURT: MR. KHOA, THE QUESTION IS JUST SIMPLY:
 18 HOW LONG DID YOU SERVE AS THE VICE MINISTER? SO IN OTHER
 19 WORDS, EVENTS THAT MAY HAVE OCCURRED, BUT JUST HOW LONG?
 20 THE WITNESS: IT DIDN'T LAST LONG BECAUSE THEN -- SO
 21 I SERVE LESS THAN ONE YEAR AS VICE MINISTER.
 22 BY MR. HART:
 23 Q OKAY. AND SO IN 1966, WHAT WERE YOU DOING?
 24 MR. VOSS: OBJECTION, YOUR HONOR. 352.
 25 THE WITNESS: SO I CAME BACK TO THE SCHOOL TO TEACH.
 26 THE COURT: MR. KHOA, JUST ONE MOMENT. JUST ONE

1 MOMENT.

2 MR. VOSS: RELEVANCE.

3 THE COURT: WE'RE GETTING -- LET'S GET TO THE --

4 MR. HART: I'M TRYING.

5 THE COURT: -- TO THE POINT HERE. WE DON'T NEED --

6 AGAIN, THERE'S A LOT OF INTERESTING HISTORY POTENTIALLY, BUT

7 WE'RE NOT IN A COLLEGE CLASS AT THIS POINT. WE NEED TO FOCUS

8 IN. SOME BACKGROUND IS IMPORTANT, BUT EVERYTHING ISN'T.

9 BY MR. HART:

10 Q ALL RIGHT. LET'S TALK ABOUT THE TIME BETWEEN

11 WHEN YOU WERE VICE MINISTER OF EDUCATION AND 1975. THAT'S A

12 NINE-YEAR PERIOD.

13 JUST TELL US IN A SUMMARY FASHION WHAT YOU WERE

14 DOING IN THOSE YEARS.

15 A OKAY. AS I SAID, I WEAR DIFFERENT HATS ALSO.

16 THE MAJOR JOB, BESIDES TEACHING AT UNIVERSITY, WAS I FORM,

17 WITH A FEW FRIENDS OF MINE, AN ORGANIZATION, A RESEARCH

18 ORGANIZATION, CALLED VIETNAMESE ASSOCIATION FOR ASIAN CULTURAL

19 RELATIONS. BECAUSE WE REALIZE THAT, IN THE NORTH, THEY HAVE A

20 SYSTEM THAT'S COMMUNISM. THEY HAVE AN IDEOLOGY. AND IN THE

21 SOUTH, WE JUST CALL OURSELVES NATIONALISTS, BUT WE DON'T HAVE

22 ANY -- WE HAVE TOO MANY KIND OF IDEOLOGIES, BUT NOT

23 SYSTEMATIC.

24 SO WE -- AND A GROUP OF FRIENDS OF MINE, AND

25 HEADED BY MY OWN PROFESSOR, WHO WAS MY PROFESSOR AND WHO WAS A

26 DEAN OF MY SCHOOL OF ARTS, AND HE -- AND OUR GROUP FORMED AN

1 ORGANIZATION INITIALLY CALLED THE GROUP -- THE STUDY GROUP ON

2 VIETNAMESE NATIONALISM. WHAT IS VIETNAMESE NATIONALISM?

3 BECAUSE OUR TRADITION REALIZED THAT IN VIETNAM --

4 THE COURT: MR. KHOA, I THINK WE'RE GETTING A LITTLE

5 BIT FAR AFIELD. IF WE COULD LISTEN TO A FOCUSED QUESTION FROM

6 MR. HART AND THEN -- WE'LL KEEP THINGS FOCUSED ON WHAT WE NEED

7 FOR PURPOSES OF THE CASE.

8 BY MR. HART:

9 Q PROFESSOR, WHAT DID YOU DO IN THAT PERIOD

10 BETWEEN VICE MINISTER AND 1975 TO SUPPORT YOUR FAMILY? WHAT

11 WAS YOUR EMPLOYMENT?

12 MR. VOSS: OBJECTION, RELEVANCE, YOUR HONOR. IT'S

13 352.

14 THE COURT: SUSTAINED.

15 BY MR. HART:

16 Q OKAY. WE'RE GOING TO ASK A DIFFERENT QUESTION.

17 A OKAY.

18 THE COURT: WAIT. HE'S GOING TO ASK A DIFFERENT

19 QUESTION, MR. KHOA.

20 BY MR. HART:

21 Q WHAT BECAME OF YOUR DOCTORAL THESIS, PROFESSOR?

22 DID YOU KEEP A COPY OF IT?

23 A I WAS -- I CONTINUE TO WRITE IT, BUT VERY

24 SLOWLY. AND I STILL KEEP IT AND STILL WORKING ON THAT AT THAT

25 TIME. EVEN WHEN I WAS VICE MINISTER, I WORK VERY SLOWLY, YOU

26 KNOW.

1 Q ALL RIGHT. SO TELL US WHAT HAPPENED TO YOU AND

2 YOUR FAMILY AT THE END OF APRIL IN 1975.

3 A OKAY. AT THE END OF APRIL, I WAS -- AS I SAID,

4 I WAS STILL AT THE UNIVERSITY, BUT ALSO I HAVE ANOTHER JOB.

5 AND THIS RELATED TO WHAT I TOLD BEFORE, THAT MY DREAM ABOUT

6 AMERICANIZATION OF THE SYSTEM, OF THE EDUCATIONAL SYSTEM.

7 SO MY SECOND JOB WAS THAT DIRECTOR OF A

8 PUBLISHING HOUSE -- ACTUALLY, A PUBLISHING HOUSE AND A SPONSOR

9 BY THE VIETNAMESE-AMERICAN ASSOCIATION.

10 AND THE VIETNAMESE-AMERICAN ASSOCIATION IS

11 UNDER SPONSORSHIP OF U.S.A.I.D.

12 AND ALSO, MY --

13 MR. VOSS: YOUR HONOR.

14 THE COURT: MR. KHOA, LISTEN TO THE QUESTION IN TERMS

15 OF THE QUESTION WAS FOCUSED ON WHAT HAPPENED AT THE END OF

16 APRIL OF 1975.

17 SO IF YOU WANT TO RESTATE. I DON'T WANT TO

18 MISPARAPHRASE YOUR QUESTION, MR. HART.

19 BY MR. HART:

20 Q PROFESSOR, CAN YOU EXPLAIN A LITTLE MORE

21 QUICKLY WHAT HAPPENED TO YOU AND YOUR FAMILY AS SAIGON FELL TO

22 THE COMMUNISTS.

23 A OKAY. BECAUSE I WORK AS A DIRECTOR OF

24 VIETNAMESE-AMERICAN ASSOCIATION AND RUN A PUBLISHING HOUSE

25 SPONSORED BY U.S.A.I.D. AND THE ASIA FOUNDATION, THAT MEANS MY

26 RELATIONSHIP WITH AMERICAN IS TOO CLOSE, AND THEN I NEED TO GO

1 OUT, OTHERWISE, YEAH, I WOULD BE IN JAIL.

2 AND I WAS LUCKY ENOUGH BECAUSE THE -- THE ASIA

3 FOUNDATION AND THE AMERICAN -- VIETNAMESE-AMERICAN ASSOCIATION

4 LEADERSHIP, THEY TOOK CARE OF ME, AND THEY TOOK ME OUT AND

5 TOOK MY FAMILY OUT.

6 Q RIGHT.

7 AND DID YOU TAKE YOUR DOCTORAL THESIS WITH YOU?

8 A AND I DID TAKE MY UNFINISHED THESIS WITH ME,

9 THE MANUSCRIPT WITH ME. BUT I WAS TOLD, BEFORE I GO, THAT

10 EVERYBODY -- THAT EVERY FAMILY CAN HAVE -- EVERYBODY CAN HAVE

11 TWO LUGGAGE, ONE SMALL AND ONE BIG. BUT WHEN WE WENT TO THE

12 AIRPORT, BEFORE BOARDING -- BOARDING, THAT MEANS, THE KIND

13 OF -- THE KIND OF MILITARY AIRPLANE, YOU HAVE TO SIT DOWN ON

14 THE FLOOR. THERE'S NO SEAT ON THAT. AND I WAS TOLD THAT

15 EVERYBODY ONLY CAN TAKE ONE LUGGAGE ONLY.

16 Q AND SO?

17 A SO BETWEEN THE BIG ONE AND THE SMALLER ONE, I

18 TOOK THE BIG ONE, BECAUSE I TOLD MY WIFE TO PREPARE EVERYTHING

19 IN THE BIG ONE. AND THE SMALLER ONE, THAT MEANS MY PERSONAL

20 THING, MY THESIS, MY RARE BOOKS, AND THINGS LIKE THAT. OKAY.

21 AND THEN SINCE I THINK THAT THE BIG LUGGAGE WAS

22 MORE IMPORTANT FOR THE WHOLE FAMILY, THEN I HAVE TO DROP -- TO

23 LEAVE MY SMALL LUGGAGE AT THE AIRPORT. AND I LOST IT.

24 Q SO HAVE YOU EVER SEEN YOUR DOCTORAL THESIS?

25 A THE THESIS DID NOT GO WITH ME. I COULD NOT

26 TAKE IT OUT WITH ME.

1 Q WERE THERE ANY COPIES?
 2 A I'M SORRY?
 3 Q WERE THERE ANY COPIES OF YOUR THESIS, OR WAS
 4 THERE ONLY ONE?
 5 A THERE IS ONLY ONE, THE ONE MANUSCRIPT I WROTE
 6 BY HAND.
 7 Q OKAY. SO TELL US BRIEFLY WHAT YOUR JOURNEY WAS
 8 FROM THAT DAY UNTIL YOU WERE IN THE U.S.
 9 MR. VOSS: OBJECTION. RELEVANCE. 352.
 10 THE COURT: OVERRULED.
 11 MR. KHOA --
 12 THE WITNESS: IT WAS VERY LONG. WE WENT FROM SAIGON
 13 TO GUAM, THE PHILIPPINES; AND FROM GUAM, DIRECTLY TO THE U.S.,
 14 IN SAN FRANCISCO -- IN SAN DIEGO. YEAH. IT'S CALLED CAMP
 15 PENDLETON, THE MARINE CAMP. AND FOR ONE MONTH, AND THEN I
 16 MOVE TO WASHINGTON, D.C.
 17 BY MR. HART:
 18 Q HOW WERE YOU ABLE TO MOVE FROM CAMP PENDLETON
 19 TO WASHINGTON, D.C., IN ONE MONTH?
 20 A I WAS SPONSORED BY AN AMERICAN FAMILY.
 21 THE COURT: MR. KHOA, WAIT. WAIT.
 22 MR. VOSS: OBJECTION. RELEVANCE. 352.
 23 THE COURT: SUSTAINED.
 24 BY MR. HART:
 25 Q WHY DID YOU MOVE TO WASHINGTON?
 26 MR. VOSS: SAME OBJECTION.

1 THE COURT: OVERRULED.
 2 THE WITNESS: WELL, BECAUSE MY FRIEND WAS IN
 3 WASHINGTON, AND HE SPONSORED ME. SO I NEED TO COME TO
 4 WASHINGTON AND LIVE IN HIS HOUSE FOR A SHORT TIME.
 5 BY MR. HART:
 6 Q DID YOU TAKE YOUR WHOLE FAMILY WITH YOU?
 7 MR. VOSS: OBJECTION. RELEVANCE. 352.
 8 THE COURT: OVERRULED. BUT --
 9 THE WITNESS: YES, THE WHOLE FAMILY WAS THERE.
 10 MR. HART: ALL RIGHT.
 11 THE WITNESS: HE WAS KIND ENOUGH TO LEAVE THE WHOLE
 12 BASEMENT FOR US.
 13 BY MR. HART:
 14 Q WHAT WORK DID YOU DO IN THE U.S.?
 15 MR. VOSS: OBJECTION.
 16 THE WITNESS: FIRST OF ALL --
 17 THE COURT: WAIT. WAIT.
 18 MR. VOSS: VAGUE AS TO TIME. RELEVANCE. 352.
 19 THE COURT: LET'S SPECIFY TIME. WELL, THERE IS
 20 RELEVANCE. OVERRULED AS TO RELEVANCE.
 21 BY MR. HART:
 22 Q WHAT WAS THE FIRST EMPLOYMENT YOU HAD IN THE
 23 U.S., I'M ASSUMING IN THE '70S, AFTER YOU LEFT CAMP PENDLETON?
 24 MR. VOSS: AGAIN, YOUR HONOR --
 25 THE WITNESS: BEFORE I GO -- I WENT, I TOLD MY
 26 CHILDREN THAT --

1 THE COURT: MR. KHOA, JUST ONE MOMENT.
 2 SO THIS NEEDS TO BE QUITE BRIEF IN TERMS
 3 OF -- MR. VOSS.
 4 MR. HART, WE NEED TO BE FOCUSED ON THIS.
 5 MR. HART: I UNDERSTAND, JUDGE.
 6 BY MR. HART:
 7 Q PROFESSOR, VERY BRIEFLY, WHAT WAS YOUR FIRST
 8 EMPLOYMENT IN THE U.S.?
 9 A OKAY. MY FIRST JOB WAS BEING TRAINED TO BE AN
 10 ACCOUNTANT, BUT THEN -- SO IT'S NOT A JOB. AND THEN SO I
 11 APPLY FOR 7-ELEVEN. I KNOW THAT I HAD TO START FROM SCRATCH
 12 IN THIS COUNTRY.
 13 Q OKAY. DID YOU LATER OBTAIN OTHER EMPLOYMENT
 14 THAT WAS MORE CONSISTENT WITH YOUR EDUCATION?
 15 A AND THEN SO I ALSO SEND OUT MY APPLICATION TO
 16 DIFFERENT PLACES. OKAY? AND I WROTE DIFFERENT KIND OF A
 17 RESUME; THE MEDIUM, THE HIGHEST, AND THEN THE LOWEST.
 18 AND MY FIRST JOB WAS AT THE 7-ELEVEN, BUT FOR A
 19 VERY SHORT TIME, ONLY A FEW WEEKS. AND THEN I WAS LUCKY
 20 ENOUGH TO GET A JOB AT A RESEARCH -- AS A RESEARCH
 21 ASSOCIATE -- THAT'S A GOOD JOB -- AT A FIRM, A CONSULTING FIRM
 22 WHO HAD A CONTRACT IN D.C.
 23 THAT'S WHY I WAS INVOLVED IN REFUGEE AFFAIRS.
 24 THEY HAD A CONTRACT WITH THE OFFICE OF REFUGEE RESETTLEMENT,
 25 AND THEY HAD A CONTRACT TO DO RESEARCH ON HOW THE REFUGEES
 26 INTEGRATE INTO AMERICAN SOCIETY.

1 Q ALL RIGHT.
 2 A SO I DO RESEARCH. I INTERVIEW THEM. I PLAN
 3 WHAT WE CALL THE STUDY ON --
 4 Q DO YOU RECOGNIZE --
 5 A -- ON RESETTLEMENT.
 6 Q DO YOU RECOGNIZE THE ENTITY CALLED I.R.A.C.?
 7 A OKAY.
 8 Q YES OR NO?
 9 A I WORK FOR THESE COMPANY FOR --
 10 THE COURT: MR. KHOA, HE JUST WAS ASKING IF YOU
 11 RECOGNIZE THAT NAME.
 12 THE WITNESS: I.R.A.C., YOU MEAN?
 13 BY MR. HART:
 14 Q I.R.A.C., YEAH. WHAT IS I.R.A.C.?
 15 A YEAH, THAT'S THE -- YEAH, THE ORGANIZATION THAT
 16 I WOULD BE WORKING IN THE NEXT FEW YEARS. BUT NOT, I THINK,
 17 '75. I START WITH I.R.A.C. 1979. BETWEEN '75 AND '79, I HAVE
 18 MORE JOB, DIFFERENT JOB TOO.
 19 Q DOING THE RESEARCH ABOUT REFUGEE ISSUES?
 20 A YEAH, THE FIRST JOB IS TO DO STUDY ON REFUGEE
 21 RESEARCH, BUT THE FIRST WAVE -- THAT MEANS MY WAVE, THE FIRST
 22 WAVE, WHO CAME TO THIS COUNTRY AND THEN -- IN SAFETY, BECAUSE
 23 THAT WAS TRANSPORTED TO U.S. BY THE FRENCH -- BY THE
 24 U.S. GOVERNMENT.
 25 Q OKAY. NOW, THE QUESTION THIS TIME IS: WHAT DO
 26 THE LETTERS STAND FOR, FOR I.R.A.C.? WHAT DOES THAT MEAN?

1 A I.R.A.C. STANDS FOR INDOCHINA REFUGEE ACTION
2 CENTER.
3 Q OKAY. WHO FORMED THAT?
4 A YEAH, IT WAS FORMED BY A GROUP OF AMERICAN
5 PROFESSIONALS. THEY WERE PHILANTHROPISTS, LIKE THE FORD
6 FOUNDATION. THEY WERE FORMER DIPLOMATS. AND THEY WERE HUMAN
7 RIGHTS LAWYERS, PEOPLE LIKE THAT.
8 Q WHAT WAS THE --
9 A THERE'S A GROUP OF THEM.
10 Q WHAT WAS THE PURPOSE OF I.R.A.C.?
11 A YEAH, I UNDERSTOOD THAT THEIR PURPOSE, THEY
12 TOLD ME, THEY FORM I.R.A.C. TO HELP THE GOVERNMENT SET UP A
13 SYSTEM OF HOW TO RESETTLE THE NEWCOMERS FROM A VERY FOREIGN
14 COUNTRY.
15 Q RIGHT.
16 A AT THAT TIME, THERE WAS NO OFFICE LIKE OFFICIAL
17 RESETTLEMENT. SO THIS GROUP HELP FORM THE OFFICE OF REFUGEE
18 RESETTLEMENT.
19 Q DID YOU WORK AT I.R.A.C.?
20 A NOT FROM THE VERY BEGINNING, BUT ALMOST. THEY
21 WERE FORMED, AND THEN THEY -- AFTER A COUPLE MONTHS OR SO,
22 THEY NEED INDOCHINESE CONSULTANT SO THAT THEY CAN UNDERSTAND
23 THE NEEDS OF THE REFUGEES. AND THEN SO THEY HIRED FROM
24 CAMBODIA, LAOS, AND VIETNAM, EACH COUNTRY ONE CONSULTANT. SO
25 I WAS -- I APPLY, AND I GOT IT AS A CONSULTANT IN THE
26 BEGINNING FOR THIS ORGANIZATION, FOR I.R.A.C.

1 Q AND WHAT DID YOU DO AS A CONSULTANT FOR
2 I.R.A.C.?
3 A YEAH, I AM CONSULTING FOR THE -- CONSULTANT FOR
4 THE BOARD AND THE STAFF ON THE NEEDS OF THE REFUGEES, ON THE
5 HISTORY OF THE COUNTRY, AND ACTUALLY -- AND THE CULTURE OF THE
6 COUNTRY, AND WHAT WE NEED TO DESIGN A PROGRAM THAT VERY
7 APPROPRIATE FOR THIS GROUP.
8 Q DID YOU EVENTUALLY OBTAIN AN EXECUTIVE POSITION
9 AT I.R.A.C.? DID YOU BECOME THE PRESIDENT?
10 A AFTER A YEAR OR SO. AND THEN SO THE
11 FOUNDERS -- THE AMERICAN FOUNDERS SAY THAT THEY -- AND
12 ESPECIALLY THE EXECUTIVE DIRECTOR AT THAT TIME WAS ROB STEIN,
13 THE LAWYER. AND ROB SAID THAT I COULD ONLY --
14 (REPORTER ASKS FOR CLARIFICATION.)
15 THE COURT: MR. KHOA, THE COURT REPORTER WASN'T ABLE
16 TO GET -- SO YOU HAD INDICATED THAT AFTER ABOUT APPROXIMATELY
17 A YEAR, YOU BECAME THE PRESIDENT. AND THE ATTORNEY ROB STEIN
18 HAD SAID SOMETHING TO YOU OR MADE A DECISION RELATING TO YOUR
19 POSITION. SO THE COURT REPORTER WASN'T ABLE TO GET THAT PART.
20 THE WITNESS: OKAY. SO TO MAKE IT SHORT, SO AFTER A
21 YEAR, THEY DECIDE TO DISBAND THE GROUP. THEY SAID: SO THAT'S
22 ENOUGH. WE ALREADY HELP THE GOVERNMENT TO ORGANIZE THE OFFICE
23 OF REFUGEE RESETTLEMENT. SO NOW I CAN NO LONGER SACRIFICE MY
24 TIME ANYMORE.
25 AND THEN SO I SAY THAT: YOU CANNOT GO. WE
26 HAVE TO HELP US TO CONTINUE UNTIL WE CAN STAND ON OUR OWN.

1 AND THEY SAID: THEN SO DO IT YOURSELF. WE
2 WILL BE HELPING YOU TO DO IT, BUT YOU HAVE TO DO IT YOURSELF.
3 BY MR. HART:
4 Q DID YOU ACCEPT THAT?
5 A SO THAT'S WHY. THAT'S WHY THEY BEGAN TO DO THE
6 TRANSITION. THEY WANT TO HIRE A DEPUTY DIRECTOR FIRST.
7 THAT'S WHY THEY WANT TO HIRE DEPUTY, SO THAT THEY CAN TRAIN TO
8 DO THE LEADERSHIP OF THE ORGANIZATION.
9 Q DID I.R.A.C. --
10 A AND I APPLY FOR THAT. AND I WAS CHOSEN, AS ONE
11 OF THE CANDIDATE, AS THE DEPUTY DIRECTOR.
12 Q DID I.R.A.C. CHANGE ITS NAME LATER?
13 A YEAH, AFTER A COUPLE OF YEARS. OKAY. AND SO
14 WE CHANGE THE NAME. WE STILL KEEP THE ACRONYM I.R.A.C., BUT
15 WE CHANGED THE "R" FROM "REFUGEE" INTO "RESOURCE." IT'S MORE
16 APPROPRIATE, BECAUSE, YEAH, I DON'T WANT TO BE REFUGEE
17 FOREVER. I WANT TO BE RESOURCEFUL. I WANT TO HELP THE
18 REFUGEES, THE RESOURCEFUL REFUGEES. I WANT TO HELP THE
19 GOVERNMENT.
20 SO THE ORGANIZATION SHOULD BE RESOURCEFUL.
21 THAT'S WHY WE CHANGE THE NAME FROM "REFUGEES" TO "RESOURCE."
22 THE COURT: NEED TO GET A BREAK AT SOME POINT IN THE
23 MORNING.
24 MR. HART: THIS IS FINE.
25 THE COURT: SO, LADIES AND GENTLEMEN, WE'LL GO AHEAD
26 AND TAKE THAT MORNING RECESS HERE AT THIS POINT IN TIME. AND

1 IF I COULD HAVE YOU BACK OUTSIDE AT 11:15, WE'LL PICK UP
2 THROUGH THE REST OF THE MORNING SESSION. AND AGAIN, THANK YOU
3 VERY MUCH FOR YOUR TIME AND SERVICE.
4 (JURY EXCUSED FOR MORNING RECESS.)
5 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE THE
6 PRESENCE OF THE JURY:)
7 THE COURT: ALL RIGHT. AND WE ARE OUTSIDE THE
8 PRESENCE OF THE JURY.
9 I WANTED TO MAKE SURE WE'RE ALL ON THE SAME
10 PAGE. AND FOR ANY MEMBERS OF THE MEDIA, WE'RE OPEN TO THE
11 PUBLIC. THIS IS A PUBLIC -- NOT FORUM, BUT IT'S A PUBLIC
12 PROCESS THAT YOU'RE WELCOME TO SIT IN, OBSERVE, TAKE NOTES. I
13 JUST WANT TO MAKE SURE WE ALL UNDERSTAND SOME OF THE BASIC
14 GROUND RULES.
15 WE CANNOT DO ANY SORT OF RECORDING. ANY
16 PHOTOGRAPHS, ANY AUDIO RECORDING, VIDEO RECORDING. BUT TAKE
17 NOTES, AS MANY NOTES AS YOU LIKE. TAKE ALL THE NOTES YOU
18 WANT. BUT WE JUST WANT TO MAKE SURE WE CAN'T HAVE ANY SORT OF
19 RECORDING, AND WE CAN'T INTERRUPT THE PROCEEDINGS IN ANY WAY.
20 IF YOU'D LIKE TO TALK TO ANY PARTICIPANT, DO
21 ANY INTERVIEWS, THAT NEEDS TO BE DONE OUTSIDE IN THE HALLWAY
22 DURING THE BREAKS. BUT AGAIN, THIS IS AN OPEN PROCESS, SO
23 FEEL FREE TO -- THE ONE I WOULD ASK, THE JURY IS INSTRUCTED
24 NOT TO TALK TO ANYBODY AT ALL ABOUT THE CASE WHILE THE TRIAL
25 IS GOING ON. SO I'D ASK YOU TO PLEASE REFRAIN FROM SPEAKING
26 TO THE JURORS. BUT OTHERWISE, YOU'RE FREE TO TALK TO OTHER

1 PEOPLE, BUT IT NEEDS TO BE -- MAKE SURE THAT WE'RE OUTSIDE OF
2 THE COURTROOM, OUT IN THE HALLWAYS, AT A BREAK.
3 AND OTHER THAN THAT, AGAIN, YOU'RE WELCOME TO
4 BE IN HERE. AND TAKE AS MANY NOTES AND EVERYTHING AS YOU
5 WANT. AND I JUST WANTED TO GO OVER THAT REAL QUICKLY JUST SO
6 WE'RE ALL ON THE SAME PAGE AND HAVE THE SAME UNDERSTANDING.
7 I APPRECIATE YOUR TIME. THANK YOU.
8 AND THEN ANYTHING ELSE BEFORE WE TAKE OUR
9 BREAK?
10 ALL COUNSEL: NO, YOUR HONOR.
11 (MORNING RECESS.)
12 THE COURT: SO WE'LL GO AHEAD AND GO ON THE RECORD IN
13 THE KHOA V. THANG MATTER. WE'RE OUTSIDE THE PRESENCE OF THE
14 JURY.
15 SO, MR. KHOA, A COUPLE THINGS. AGAIN, WE NEED
16 TO CONTINUE TO LISTEN CAREFULLY TO THE QUESTION AND ANSWER THE
17 SPECIFIC QUESTION. WE ALSO NEED TO PAY CLOSE ATTENTION TO THE
18 COURT REPORTER. IF SHE PUTS HER HANDS UP, THAT MEANS SHE DID
19 NOT HEAR OR GET WHAT YOU JUST SAID. SO YOU'LL NEED TO REPEAT
20 YOURSELF. SO YOU NEED TO PAY A LITTLE BIT OF ATTENTION TO THE
21 COURT REPORTER AS WELL, BECAUSE SHE'S DOING THE BEST SHE CAN,
22 UNDER VERY DIFFICULT CIRCUMSTANCES, TO TRY AND GET DOWN
23 EVERYTHING THAT EVERYONE SAYS. AND SO SOMETIMES SHE CAN'T
24 HEAR EVERYTHING OR CAN'T QUITE CATCH IT ALL. SO IF SHE PUTS
25 HER HANDS UP OR WAVES AT YOU AT ALL, THEN WE'RE GOING TO NEED
26 YOU TO PAUSE AND REPEAT WHAT YOU JUST SAID OR LISTEN IF SHE'S

1 GOT A SPECIFIC QUESTION ABOUT SOMETHING THAT SHE MISSED.
2 OKAY?
3 THE WITNESS: YES, SIR.
4 THE COURT: ALL RIGHT. AND THEN HOW ARE WE DOING ON
5 OUR TIME ESTIMATE WITH MR. KHOA?
6 MR. HART: IT'S GOING SLOWER THAN I EXPECTED, JUDGE,
7 BUT I THINK I'M PICKING UP THE METHOD THAT CAN MOVE IT A
8 LITTLE FASTER.
9 THE COURT: SO DO WE --
10 MR. HART: I WILL NOT FINISH BEFORE THE NOON HOUR.
11 THE COURT: MY QUESTION -- I'M NOT SURPRISED BY THAT,
12 AND I UNDERSTAND THAT.
13 BUT THE QUESTION WAS GOING TO BE MORE DO WE
14 HAVE -- ARE WE 90 MINUTES? TWO HOURS STILL WITH -- IN TERMS
15 OF DIRECT. OBVIOUSLY, DON'T WORRY ABOUT MR. VOSS'S
16 QUESTIONING OR EVEN YOUR REDIRECT, BECAUSE THAT WILL BE DRIVEN
17 BY MR. VOSS'S QUESTIONING AS WELL.
18 MR. HART: I THINK I CAN DO IT IN 90.
19 MR. VOSS: SO TWO AND A HALF HOURS TOTAL?
20 THE COURT: SO WE'LL CALCULATE THAT IN A MOMENT.
21 SO -- YEAH, IT'S -- BUT BE AS FOCUSED AS WE
22 CAN. AGAIN, MR. KHOA, WE REALLY NEED TO LISTEN TO THE
23 SPECIFIC QUESTION SO THAT WE CAN KEEP THINGS MOVE ALONG,
24 BECAUSE IF WE END UP TAKING UP TOO MUCH TIME, AND IT JUST KIND
25 OF SNOWBALLS AND CAN POSE A LOT OF PROBLEMS WITH GETTING THE
26 TRIAL COMPLETED.

1 MR. VOSS: AND, HONESTLY, YOUR HONOR, I'M JUST,
2 LIKEWISE, JUST TRYING TO JUST E.T.A. FOR WHEN I'M GOING TO
3 START ON CROSS SO THAT I'M COGENTLY PREPARED AND NOT --
4 THE COURT: YES.
5 MR. VOSS: YOU? THAT'S ALL.
6 THE COURT: SO, I MEAN, WE'VE GOT -- WE'LL PROBABLY
7 GET ANOTHER 35 TO 40 MINUTES IN HERE THIS MORNING. SO THEN
8 THAT LEAVES MAYBE AN HOUR TO START THE AFTERNOON.
9 MR. VOSS: AND THEN A BREAK.
10 THE COURT: SO WE'LL SEE. WE HAVE TO TALK ABOUT YOUR
11 MOTION AS WELL. SO THAT'S KIND OF A CRUDE TIME ESTIMATE OF
12 WHERE WE'RE AT IN TERMS OF THE POINTS IN THE DAY.
13 MR. HART: I UNDERSTAND THAT THIS WITNESS WHO IS NOW
14 WAITING IS ALSO AVAILABLE TOMORROW. WE DON'T HAVE TO TRY TO
15 RUSH TO JAM HIM IN TODAY, ALTHOUGH HE WOULD BE MY NEXT
16 WITNESS.
17 THE COURT: WELL, I MEAN, AND THAT'S THING. WE NEED
18 DO WHAT WE CAN TO USE THE JURY -- I'M NOT TRYING TO JAM
19 ANYBODY IN ANYWHERE. I'M TRYING TO MAKE SURE THAT WE ARE AS
20 CLOSE TO OUR TIME ESTIMATES -- AND THEY'RE ESTIMATES -- AS WE
21 CAN, BUT THAT WE USE THE JURY'S TIME MY FOCUS, IS WHAT MY
22 FOCUS IS, THAT WE DON'T SEND THE JURY HOME AT 3 O'CLOCK. YOU
23 KNOW, SO I'M JUST TRYING TO -- THAT'S MY PRIMARY FOCUS, IS
24 USING THE JURY'S TIME.
25 MR. HART: IF I COME TO THE END AND WE HAVEN'T
26 DECIDED UPON THIS WITNESS, GIAO NGUYEN, WOULD THE COURT

1 CONSIDER THEN LETTING DEFENSE START THEIR CASE BEFORE I'VE
2 RESTED?
3 THE COURT: WE'LL HAVE TO CROSS THAT BRIDGE WHEN WE
4 GET THERE. I MEAN, GIVE ME AN OPPORTUNITY OVER THE LUNCH TO
5 TAKE A LOOK AT THE PAPERS, AND THEN THAT'S WHEN I CAN MAKE MY
6 RULING OR WHATEVER WE NEED TO DO. SO ALL I'M DOING RIGHT NOW
7 IS GETTING SCHEDULING INFORMATION AND AN ESTIMATE SO THAT I
8 CAN KIND OF TRY TO LINE UP -- GET THE DUCKS IN A ROW WHILE
9 USING THE JURY'S TIMES TO THE GREATEST EXTENT POSSIBLE.
10 MR. VOSS: AND I'M JUST TRYING TO ANTICIPATE SO THAT
11 WHEN I DO START, I'M EFFICIENT. I'M NOT, YOU KNOW, FISHING
12 AROUND, PULLING MY PAPERS TOGETHER. YOU KNOW WHAT I MEAN.
13 THE COURT: SO I COVERED EVERYTHING. SO WE'RE GOING
14 TO GO AHEAD AND BRING IN THE JURORS AT THIS POINT.
15 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
16 PRESENCE OF THE JURY:)
17 THE COURT: ALL RIGHT. WE HAVE BEEN REJOINED BY ALL
18 OF OUR JURORS, AND WE'RE GOING TO PICK RIGHT UP. FEEL FREE TO
19 SIT DOWN. GO AHEAD AND PICK RIGHT UP WHERE WE LEFT OFF.
20 GO AHEAD, MR. HART.
21 MR. HART: THANK YOU, YOUR HONOR.
22 BY MR. HART:
23 Q PROFESSOR, WHEN YOU WERE THE EXECUTIVE DIRECTOR
24 AT I.R.A.C. IN THE LATE '70S, EARLY '80S, CAN YOU TELL THE
25 JURY WHAT THE BUSINESS OF I.R.A.C. WAS.
26 MR. VOSS: OBJECTION, YOUR HONOR. ASSUMES FACTS NOT

1 IN EVIDENCE.
 2 THE COURT: SUSTAINED.
 3 YOU MAY REPHRASE.
 4 MR. HART: LET ME SEE IF THE SYSTEM IS WORKING. IT
 5 LOOKS LIKE HE DOESN'T HAVE A QUESTION.
 6 (PAUSE IN PROCEEDINGS.)
 7 THE COURT: YOU WANT TO REPHRASE, MR. HART.
 8 BY MR. HART:
 9 Q PROFESSOR, WHEN YOU WERE OPERATING -- RUNNING
 10 I.R.A.C., WHAT WAS IT THAT I.R.A.C. DID?
 11 A OKAY. I.R.A.C. HAD TWO MISSION. NUMBER ONE,
 12 IS TO HELP THE PROTECTION, RESETTLEMENT, AND ASSISTANCE TO THE
 13 REFUGEES. AND HOW TO -- THEY DON'T PROVIDE DIRECT SERVICE,
 14 BUT THIS IS IN TERMS OF POLICY AND PROGRAMS. THEY DESIGN
 15 PROGRAMS, FOR EXAMPLE, E.S.L. AND HEALTHCARE, SOME THINGS LIKE
 16 THAT, FOR THE AGENCIES TO HELP THEM.
 17 SO S.E.A.R.A.C. IS NOT A SERVICE PROVIDER.
 18 THAT NUMBER ONE.
 19 NUMBER TWO IS TO HELP THE COMMUNITY TO DEVELOP
 20 INTO A SELF-HELP ORGANIZATION AND INTO INTEGRATION
 21 SUCCESSFULLY INTO AMERICAN SOCIETY. SO FROM THE DEPENDENT
 22 REFUGEES TO BECOME PRODUCTIVE AND CONTRIBUTING CITIZENS.
 23 THAT'S THE TWO MAJOR ISSUES OF S.E.A.R.A.C.
 24 Q HOW DID I.R.A.C. ACHIEVE THOSE POLICY GOALS?
 25 WHAT DID IT DO TO ACHIEVE THOSE TWO MISSIONS?
 26 MR. VOSS: OBJECTION, YOUR HONOR. 352. RELEVANCE.

1 THE COURT: WAIT. OVERRULED.
 2 BUT LET'S LISTEN CAREFULLY TO THAT QUESTION.
 3 THE WITNESS: YEAH. WE WORK DIRECTLY, ALSO, WITH
 4 POLICYMAKERS AT THE STATE DEPARTMENT, AT THE WHITE HOUSE, AND
 5 ESPECIALLY IN THE CONGRESS. SO THE TWO OR THE THREE, SO WE
 6 WORK CLOSELY WITH THEM.
 7 SO I BECAME A PRO BONO CONSULTING TO SENIOR
 8 REFUGEE POLICYMAKER, FOR EXAMPLE.
 9 BY MR. HART:
 10 Q PRO BONO CONSULTANT?
 11 A DO YOU NEED TO KNOW THE NAME?
 12 MR. VOSS: OBJECTION. MOVE TO STRIKE AS
 13 NONRESPONSIVE.
 14 MR. HART: SO --
 15 THE COURT: WAIT. WAIT. THERE'S AN OBJECTION
 16 PENDING.
 17 OVERRULED. BUT MAJOR FOCUS, PLEASE.
 18 BY MR. HART:
 19 Q PROFESSOR, ARE YOU TELLING US THAT AT
 20 I.R.A.C. YOU WERE INTERACTING WITH GOVERNMENT POLICYMAKERS TO
 21 ASSIST THE REFUGEES?
 22 A YES, YES.
 23 Q OKAY. AND WERE THOSE POLICYMAKERS PEOPLE IN
 24 CONGRESS OR THE STATE DEPARTMENT?
 25 A THEY ARE BOTH PEOPLE IN THE STATE DEPARTMENT OR
 26 THE WHITE HOUSE, AS I SAID, AND PEOPLE IN THE CONGRESS,

1 SENATORS AND CONGRESSMEN.
 2 Q HOW DID I.R.A.C. FUND ITS OPERATIONS?
 3 A OKAY. WE ARE INITIALLY FUNDED BY THE FORD
 4 FOUNDATION. IT WAS ONE OF THE FOUNDER OF S.E.A.R.A.C. OKAY?
 5 AND THEY PROVIDE US WITH THE CORE FUNDING. OKAY. VERY
 6 LITTLE, SO THAT WE WERE -- RECEIVE VERY LITTLE SALARY.
 7 ANYWAY, SO THAT -- AND ALSO LATER ON, WE LEARN
 8 HOW DEVELOP PROPOSAL TO GET FUNDING FROM THE O.R.R., WITH
 9 THE -- HOW TO HELP DEVELOP THE LEADERSHIP AND COMMUNITY
 10 DEVELOPMENT. WE PROVIDED THAT KIND OF TRAINING. AND THEN
 11 THEY CAN GET FUNDING FROM O.R.R., NOT FROM STATE DEPARTMENT.
 12 Q WHEN YOU WERE AT I.R.A.C., DID YOU PARTICIPATE
 13 IN FUNDRAISING PROPOSALS TO THE GOVERNMENT?
 14 A YES, I DID PARTICIPATE IN DEVELOPING PROJECTS,
 15 PROGRAM PROPOSALS, TO SUBMIT TO THE O.R.R., TO GET FUNDING
 16 FROM GOVERNMENT.
 17 MR. HART: MAY I APPROACH, YOUR HONOR?
 18 THE COURT: YOU MAY.
 19 MR. HART: I'M GOING TO DIRECT THE WITNESS' ATTENTION
 20 TO EXHIBIT 222.
 21 BY MR. HART:
 22 Q PLEASE TAKE A MINUTE TO LOOK AT EXHIBIT 222 TO
 23 FAMILIARIZE YOURSELF WITH THAT EXHIBIT.
 24 DO YOU RECOGNIZE WHAT EXHIBIT 222 IS,
 25 PROFESSOR?
 26 THE COURT: I'M SORRY. WHAT WAS THAT, SIR?

1 THE WITNESS: YES. I RECOGNIZE IT.
 2 BY MR. HART:
 3 Q TELL US WHAT YOU RECOGNIZE IT TO BE. WHAT IS
 4 IT?
 5 A 222, YES.
 6 Q YES. WHAT IS IT?
 7 A NUMBER 222 HERE?
 8 THE COURT: YES. WHAT IS THE DOCUMENT, THOUGH? YOU
 9 SAID YOU'RE FAMILIAR WITH IT, AND HE'S ASKING YOU WHAT THE
 10 DOCUMENT IS.
 11 THE WITNESS: THIS IS PROPOSAL FOR FUNDING.
 12 BY MR. HART:
 13 Q PROPOSAL FOR FUNDING BY I.R.A.C.?
 14 A YEAH. AND THAT'S BY I.R.A.C., WE SUBMIT IT.
 15 Q OKAY. AND WHAT IS THE DATE OF THIS PROPOSAL?
 16 A AND THIS IS THE PROPOSAL TO PROVIDE TECHNICAL
 17 ASSISTANCE TO THE MUTUAL ASSISTANCE ASSOCIATION THAT BRING THE
 18 REFUGEE ORGANIZATIONS. THEY NEED TO LEARN HOW TO ORGANIZE
 19 THEMSELVES AND HOW TO -- YEAH.
 20 MR. VOSS: OBJECTION. MOVE TO STRIKE.
 21 THE COURT: WAIT. WAIT.
 22 MR. VOSS: I'LL JUST WITHDRAW, YOUR HONOR.
 23 THE COURT: GO AHEAD, MR. HART.
 24 BY MR. HART:
 25 Q PROFESSOR, WHAT IS THE DATE OF THIS PROPOSAL?
 26 A WELL, THE DATE OF THE PROPOSAL IS AUGUST 7,

1 1986.

2 Q OKAY. AND IS THIS PROPOSAL SIGNED BY YOU ON

3 THE FIRST PAGE?

4 A YEAH, IT'S SIGNED BY ME, AND IT'S SIGNED LE

5 XUAN KHOA, PRESIDENT.

6 Q YOU WERE THE PRESIDENT OF I.R.A.C. IN 1986?

7 A YES, I WAS PRESIDENT IN 1986.

8 Q WHEN YOU SUBMITTED THESE GRANT PROPOSALS, DID

9 YOU ATTACH YOUR CURRICULUM VITAE OR RESUME TO THESE PROPOSALS?

10 A OKAY. I REMEMBER THAT. IN THE BEGINNING,

11 EVERY TIME WE ATTACHED THE RESUME OF THE STAFF, INCLUDING ME.

12 Q OKAY. IN THE BEGINNING. AND DOES THAT

13 INCLUDE THIS PROPOSAL FROM 1986?

14 A I THINK SO. YEAH, I BELIEVE SO.

15 Q CAN YOU TURN TO PAGE 36 OF EXHIBIT 222, PLEASE.

16 MR. HART: MAY I APPROACH, YOUR HONOR?

17 THE COURT: YOU MAY APPROACH AND HELP HIM FIND THE

18 PAGE.

19 MR. HART: THE PAGE NUMBERS ARE DOWN HERE. SO IF YOU

20 WANT TO GO TO 36, LOOK DOWN THERE.

21 THE WITNESS: OKAY. YEAH.

22 BY MR. HART:

23 Q OKAY. DO YOU RECOGNIZE WHAT'S ON PAGE 36?

24 A OKAY. 36 IS MY RESUME.

25 Q ALL RIGHT. AND IS THIS THE RESUME THAT YOU

26 TYPICALLY ATTACH TO GRANT PROPOSALS?

1 A YEAH, THAT'S CORRECT. THIS IS THE RESUME TO BE

2 ATTACHED TO MY PROPOSAL.

3 Q DOES THIS RESUME SAY ANYWHERE IN HERE THAT YOU

4 ARE A PH.D.?

5 MR. VOSS: OBJECTION. RELEVANCE.

6 THE COURT: OVERRULED.

7 YOU MAY RESPOND, SIR.

8 THE WITNESS: NO.

9 BY MR. HART:

10 Q OKAY. WERE YOU A PH.D. IN 1986?

11 MR. VOSS: SAME OBJECTION, YOUR HONOR.

12 THE WITNESS: I'M NOT A PH.D.

13 THE COURT: OVERRULED.

14 THE WITNESS: THAT'S WHY IT'S NOT -- I DIDN'T SAY

15 THAT I HAVE A PH.D. IN HERE.

16 BY MR. HART:

17 Q OKAY. TURN TO PAGE 38 OF EXHIBIT 222, PAGE 38.

18 A NO, 1986 I WAS NOT A PH.D.

19 Q I UNDERSTAND. PLEASE TURN TO PAGE 38.

20 A YEAH, I HAVE PAGE 38.

21 Q OKAY. DO YOU SEE IN YOUR RESUME, NEXT TO THE

22 SUBHEADING "EDUCATION" -- DO YOU SEE THAT?

23 A YES, I SEE THAT.

24 Q OKAY. AND IT SAYS THERE: "DOCTORAL THESIS

25 ENTITLED THE PHILOSOPHY OF DHYANA ZEN BUDDHISM IN VIETNAM."

26 A OKAY. THIS IS A RESUME. AND THIS SECTION IS

1 ABOUT THE LEVEL OF EDUCATION OF THE STAFF. SO WHEN I PUT THAT

2 I HAVE A DOCTORAL THESIS, THAT MEANS I AM AT THAT KIND OF

3 LEVEL; THAT MEANS I WAS WORKING ON THE DOCTORAL THESIS. SO I

4 DON'T HAVE TO SAY THAT I DON'T HAVE THE PH.D., BUT THAT'S -- I

5 DON'T THINK SO.

6 Q OKAY. DOES THIS DESCRIPTION ACCURATELY AND

7 CORRECTLY DESCRIBE WHAT YOUR DOCTORAL THESIS WAS?

8 A YEAH. I THINK THE PEOPLE UNDERSTAND THAT I

9 HAVE A DOCTORAL THESIS TO WORK ON.

10 Q THE QUESTION IS: IS THIS AN ACCURATE

11 STATEMENT, AN ACCURATE DESCRIPTION, OF YOUR DOCTORAL THESIS?

12 MR. HART: CAN I TRY SOMETHING DIFFERENT, JUDGE? I

13 NEED TO APPROACH.

14 THE COURT: YOU WANT A DIFFERENT QUESTION?

15 MR. HART: NO, BUT I THINK A DIFFERENT WAY OF ASKING

16 THIS.

17 THE COURT: OKAY.

18 BY MR. HART:

19 Q PROFESSOR, DO YOU SEE THIS PART HERE WHERE IT

20 DESCRIBES YOUR DOCTORAL THESIS? DO YOU SEE THAT?

21 A YEAH, I SEE THIS. BUT WHAT IS THE QUESTION,

22 AGAIN?

23 Q THE QUESTION IS: IS THIS ACCURATE? IS THIS

24 TRUE AND CORRECT --

25 A YES, THIS IS CORRECT.

26 Q IS THERE ANYTHING UNTRUE IN THIS DESCRIPTION?

1 A THIS IS THE NAME OF THE THESIS. THAT DOESN'T

2 MEAN THAT I SAID THAT I AM A PH.D.

3 Q IS THIS STATEMENT TRUE?

4 A YEAH. SO THIS IS TRUE, THAT I AM WORKING ON

5 THIS THESIS. THE TITLE IS "DHYANA BUDDHISM IN JAPAN." YES,

6 THAT'S CORRECT.

7 MR. HART: YOUR HONOR, PLAINTIFFS WOULD MOVE 222 INTO

8 EVIDENCE, PLEASE.

9 MR. VOSS: IT WAS ALREADY RECEIVED.

10 THE COURT: WELL, PAGES 1, 36 THROUGH 39 HAVE ALREADY

11 BEEN ADMITTED. IS THERE OTHER --

12 MR. HART: OKAY. SORRY.

13 THE COURT: I DON'T THINK THE WHOLE THING WAS

14 ADMITTED. PAGE 1 AND PAGE 36 THROUGH 39 WERE ADMITTED LAST

15 WEEK.

16 MR. HART: OKAY. I STAND CORRECTED.

17 BY MR. HART:

18 Q PROFESSOR, DID YOU EVER CLAIM TO BE A PH.D. IN

19 ANY GRANT APPLICATION SUBMITTED BY I.R.A.C. OR S.E.A.R.A.C. OR

20 ANY OTHER ENTITY YOU WERE INVOLVED WITH?

21 MR. VOSS: OBJECTION, YOUR HONOR. RELEVANCE, YOUR

22 HONOR.

23 THE COURT: OVERRULED.

24 YOU MAY RESPOND.

25 THE WITNESS: I NEVER CLAIMED MYSELF A PH.D., THIS

26 PROPOSAL OR ANY OTHER PROPOSAL, GOVERNMENT OR PRIVATE. I CAN

1 SWEAR ON THAT.
 2 BY MR. HART:
 3 Q DO YOU THINK THAT ANY PROPOSAL THAT YOU
 4 SUBMITTED WOULD HAVE BEEN GIVEN BETTER HANDLING HAD YOU
 5 CLAIMED TO BE A PH.D.? WOULD THAT HAVE BENEFITTED YOU IN ANY
 6 WAY?
 7 MR. VOSS: OBJECTION. COMPOUND, VAGUE, AND 352.
 8 THE COURT: SUSTAINED ON 352.
 9 BY MR. HART:
 10 Q PROFESSOR, NEW QUESTION.
 11 A YES.
 12 Q IN YOUR EXPERIENCE, DID THE FUNDING ENTITIES
 13 GIVE MORE MONEY TO PEOPLE WHO HAD HIGHER CREDENTIALS? OR DID
 14 THAT MATTER?
 15 MR. VOSS: OBJECTION. CALLS FOR SPECULATION.
 16 THE WITNESS: I DON'T THINK SO.
 17 THE COURT: WAIT. WAIT. WAIT.
 18 OVERRULED.
 19 BY MR. HART:
 20 Q CAN YOU ANSWER AGAIN, PLEASE.
 21 A OKAY. I DON'T THINK THAT THE -- THE FUNDING
 22 FOR THIS KIND OF -- THIS IS NOT SOMETHING ABOUT ACADEMIC
 23 THINGS, FOR EXAMPLE. THIS IS ABOUT TRAINING TO BE RUNNING AN
 24 ORGANIZATION. SO YOU DON'T NEED TO BE A PH.D. ANYWAY. SO
 25 THEN I DON'T THINK THAT THERE'S A DIFFERENCE IN HERE.
 26 ANYWAY, I JUST LOOKED AT THE --

1 THE COURT: WAIT. WAIT. WAIT. WAIT. ONLY WHAT IS
 2 RESPONSIVE TO THE QUESTION.
 3 THE WITNESS: YOUR HONOR --
 4 THE COURT: BUT WAIT. WE CAN'T JUST VOLUNTEER
 5 INFORMATION, SIR.
 6 MR. HART: JUST WAIT.
 7 THE COURT: SO MR. HART MAY ASK HIS NEXT QUESTION.
 8 MR. HART: THANK YOU, YOUR HONOR.
 9 BY MR. HART:
 10 Q PROFESSOR, DURING THIS TIME IN THE '80S AND
 11 '90S WHEN YOU WERE WORKING WITH I.R.A.C. AND S.E.A.R.A.C., DID
 12 OTHER PEOPLE SOMETIMES ADDRESS YOU AS DOCTOR?
 13 A WELL, PEOPLE -- THERE ARE PEOPLE WHO CALL ME
 14 DOCTOR, YES.
 15 Q DO YOU KNOW WHY THEY DO THAT?
 16 A YEAH. LET ME TELL YOU THIS THING. THE FIRST
 17 TIME I WAS CALLED DOCTOR, WHEN I WAS CALLED DOCTOR, I TALK TO
 18 MY FRIENDS AT S.E.A.R.A.C. I REMEMBER I TALKED TO ROB STEIN
 19 WHEN I HAD LUNCH WITH HIM. I SAID: SO WHY PEOPLE CALL ME
 20 DOCTOR? I'M A PROFESSOR.
 21 AND HE SAID THAT: WELL, IN THE U.S., IF YOU
 22 ARE TEACHING AT THE UNIVERSITY, YOU CAN BE CALLED PROFESSOR OR
 23 DOCTOR INTERCHANGEABLY.
 24 THE COURT: WAIT. WAIT. WAIT.
 25 MR. VOSS: OBJECTION. MOVE TO STRIKE. OBJECTION AS
 26 HEARSAY.

1 THE COURT: OVERRULED. AND THAT IT'S NOT OFFERED FOR
 2 THE TRUTH OF THE MATTER THAT IS STATED IN THERE. IT'S FOR HIS
 3 FRAME OF MIND.
 4 BY MR. HART:
 5 Q PROFESSOR, DID YOU EVER TELL THE PEOPLE WHO
 6 ADDRESSED YOU AS DOCTOR NOT TO DO THAT BECAUSE YOU WERE NOT A
 7 DOCTOR?
 8 A WELL, INITIALLY, I DO TALK TO SOMEBODY LIKE
 9 THAT THAT, OKAY, THEY WANT TO CALL ME -- THEY ASK ME, "WHAT DO
 10 YOU WANT ME TO CALL YOU?" I SAID, "PROFESSOR."
 11 Q OKAY. AND SO DID THAT MAKE PEOPLE STOP CALLING
 12 YOU "DOCTOR"?
 13 A BUT WHEN -- AFTER SOME TIME, WHEN I LEARNED
 14 THAT "PROFESSOR" AND "DOCTOR," THEY CAN CALL ME IT
 15 DIFFERENTLY, INTERCHANGEABLY, I ACCEPT IT. SO I DON'T HAVE TO
 16 CORRECT EVERY TIME. WHEN PEOPLE CALL ME "DOCTOR," GO "NO, NO.
 17 I'M NOT 'DOCTOR.' CALL ME 'PROFESSOR.'" I DON'T HAVE TO DO
 18 IT EVERY TIME. SO I ACCEPT IT AS A WAY. THAT MEANS
 19 "PROFESSOR" AND "DOCTOR" SHOULD BE THE SAME.
 20 AND MY FRIEND EXPLAIN TO ME, IN LATIN, "DOCTOR"
 21 MEANS "PROFESSOR," MEANS TO TEACH. "DOCERE" MEANS TO TEACH IN
 22 LATIN.
 23 SO I DON'T SEE ANY -- ANY NEED TO CORRECT
 24 PEOPLE WHEN THEY CALL ME EITHER DOCTOR OR PROFESSOR.
 25 PERSONALLY, I PREFER PROFESSOR, BECAUSE IT'S -- ESPECIALLY, IN
 26 VIETNAMESE. MOST VIETNAMESE --

1 THE COURT: WAIT.
 2 MR. HART: MAY I APPROACH, YOUR HONOR?
 3 THE COURT: YOU MAY.
 4 MR. HART: I'M GOING TO CHANGE EXHIBITS.
 5 MR. VOSS: MAY WE KNOW WHAT EXHIBIT WE'RE CHANGING
 6 TO?
 7 MR. HART: YEAH. I'M DIRECTING THE WITNESS'
 8 ATTENTION TO EXHIBIT 221.
 9 BY MR. HART:
 10 Q AND YOU RECOGNIZE WHAT THIS EXHIBIT IS?
 11 A YES.
 12 Q ON PAGE 4 OF 221, WE SEE A LETTER FROM THE
 13 REFUGEE POLICY GROUP.
 14 YOU SEE THAT?
 15 A (NO AUDIBLE RESPONSE.)
 16 Q CAN YOU TELL THE JURY WHO OR WHAT THE REFUGEE
 17 POLICY GROUP IS.
 18 A YES, I SEE THAT.
 19 REFUGEE POLICY GROUP IS RUN BY A PERSON NAMED
 20 DENNIS GALLAGHER. AND AS THE NAME SAY, THEY DO RESEARCH ON
 21 POLICY. AND SINCE DENNIS GALLAGHER WORKED FOR THE OFFICE OF
 22 REFUGEE RESETTLEMENT FOR SOME TIME AND HE KNOWS ABOUT THE
 23 TECHNICAL ASSISTANCE, HOW TO PROVIDE THE -- THE REFUGEE
 24 ORGANIZATIONS TO LEARN SOME EXPERIENCE. OKAY.
 25 Q OKAY. NOW, DO YOU SEE THE LETTER IS ADDRESSED
 26 TO YOU AS "DR. LE XUAN KHOA"?

1 A I SEE. OKAY.
 2 Q OKAY.
 3 A SO IT'S NOT I CALLED MYSELF, BUT DENNIS CALL ME
 4 THAT. AS I SAID, THEY CAN CALL ME PROFESSOR OR DOCTOR
 5 INTERCHANGEABLY. SO I ACCEPT IT.
 6 Q OKAY. NOW, THIS EXHIBIT PAGE 4 HAS AN APPENDIX
 7 NUMBER AT THE TOP. DO YOU SEE THAT F7?
 8 A (NO AUDIBLE RESPONSE.)
 9 Q AND THEN IF YOU LOOK BEYOND THAT, YOUR RESUME
 10 STARTS ON THE NEXT PAGE, AND THAT'S GOT AN APPENDIX H1.
 11 DO YOU SEE THAT?
 12 MR. HART: MAY I APPROACH, YOUR HONOR?
 13 THE COURT: YOU MAY APPROACH AND SHOW HIM IT IS TOP
 14 RIGHT-HAND CORNERS.
 15 BY MR. HART:
 16 Q SEE THE APPENDIX HERE, APPENDIX F7? AND THE
 17 NEXT PAGE IS YOUR RESUME AGAIN, APPENDIX H1.1.
 18 OKAY. NOW, THE QUESTION IS: WHEN YOU MADE
 19 THIS GRANT PROPOSAL, THIS 221 GRANT PROPOSAL, DO YOU KNOW
 20 WHETHER YOU INCLUDED THIS LETTER FROM DENNIS GALLAGHER AS PART
 21 OF THE PROPOSAL?
 22 A IT'S HARD TO TELL. I CAN'T TELL YOU ABSOLUTELY
 23 THAT I -- I COULDN'T REMEMBER -- I DON'T -- I DON'T THINK I
 24 HAVE AN ANSWER FOR THIS.
 25 Q YOU DON'T KNOW?
 26 A BECAUSE OF THE TIME, WE HAD -- I COULD NOT

1 REMEMBER THE TIME NOW, WHETHER IT'S BEFORE OR AFTER OR WHAT.
 2 Q DOES A LETTER LIKE WHAT YOU GOT FROM DENNIS
 3 GALLAGHER HELP YOU IN ANY WAY TO GET TO SERVICE THE GRANT
 4 PROPOSAL?
 5 MR. VOSS: OBJECTION. 352. CALLS FOR SPECULATION.
 6 THE COURT: WAIT. WAIT. WAIT, PLEASE. THANK YOU.
 7 MR. VOSS: CALLS FOR SPECULATION. 352.
 8 THE COURT: SUSTAINED. CALLS FOR SPECULATION.
 9 BY MR. HART:
 10 Q OKAY. PROFESSOR, CAN YOU TELL US WHAT THE
 11 R.O.V.R. PROGRAM WAS.
 12 A "R.O.V.R." STANDS FOR, RIGHT, RESETTLEMENT
 13 OPPORTUNITY FOR VIETNAMESE RETURNEES.
 14 Q OKAY. AND WHAT WAS THE MISSION OF THE
 15 R.O.V.R. PROGRAM?
 16 MR. VOSS: OBJECTION, YOUR HONOR. RELEVANCE. 352.
 17 THE COURT: OVERRULED.
 18 BRIEFLY. WE'RE NOT GOING TO TAKE A DEEP DIVE
 19 ON THIS.
 20 MR. HART: OKAY.
 21 THE WITNESS: OKAY. AS THE NAME SAYS, IT PROVIDE
 22 REINTEGRATION ASSISTANCE TO THE RETURNEES. WHEN THEY WERE
 23 REPATRIATED FROM THE FIRST ASYLUM COUNTRIES, SUCH AS TAIWAN,
 24 HONG KONG OR MALAYSIA, FOR EXAMPLE, AND THEY WERE RETURNED TO
 25 VIETNAM, THEY ARE CALLED RETURNEES. AND THEY NEED
 26 REINTEGRATION ASSISTANCE, BECAUSE BEFORE THEY LEFT VIETNAM,

1 THEY LOST EVERYTHING, AND THEY COULD NOT GET IT BACK. SO THEY
 2 HAD TO BE ASSISTED TO MAKE A NEW LIFE, TO REINTEGRATE THEIR
 3 LIFE INTO VIETNAMESE SOCIETY.
 4 BY MR. HART:
 5 Q WHAT YEAR WAS THE -- WHAT YEAR OR YEARS WAS THE
 6 R.O.V.R. PROGRAM ACTIVE?
 7 MR. VOSS: YOUR HONOR, OBJECTION. RELEVANCE AND 352.
 8 THE COURT: WAIT. SUSTAINED.
 9 BY MR. HART:
 10 Q PROFESSOR, WHO PROMOTED THE R.O.V.R. PROGRAM?
 11 MR. VOSS: SAME OBJECTIONS, YOUR HONOR.
 12 THE COURT: OVERRULED.
 13 YOU MAY RESPOND TO THAT ONE, SIR.
 14 THE WITNESS: SO CAN I SAY IT?
 15 MR. HART: YEAH.
 16 THE WITNESS: YEAH. I BELIEVE I WAS THE FIRST WHO
 17 INITIATE THIS PROGRAM. IT'S INITIALLY -- IT DIDN'T CALL
 18 R.O.V.R., BUT INITIALLY I PROPOSED THAT WE NEED TO HELP THOSE
 19 WHO WERE -- WHO WAS CLEAN OUT, THAT MEANS WHO WERE REJECTED
 20 REFUGEE STATUS UNJUSTLY. THEY FELL THROUGH THE CRACKS. OKAY?
 21 AND THAT MEANS THAT BECAUSE THE FIRST ASYLUM CITIES, THEY HAVE
 22 EITHER INCOMPETENT, INEPT OR CORRUPT EVEN, AND THEY SCREEN IN
 23 THOSE ONLY WHO BRIBE THEM.
 24 MR. VOSS: OBJECTION, YOUR HONOR. MOVE TO STRIKE.
 25 WAY BEYOND THE QUESTION.
 26 THE COURT: WAIT. WAIT.

1 SUSTAINED. AFTER, "YEAH, I BELIEVE I WAS THE
 2 FIRST WHO INITIATED THIS PROGRAM." SO THAT WILL REMAIN, AND
 3 THE BALANCE WILL BE STRICKEN AND DISREGARDED BY THE JURY.
 4 BY MR. HART:
 5 Q PROFESSOR, ARE YOU ACQUAINTED WITH THE
 6 DEFENDANT, NGUYEN DINH THANG?
 7 A YEAH, I KNOW NGUYEN DINH THANG. YEAH.
 8 Q IS THAT HIM RIGHT THERE?
 9 A YEAH, I KNOW HIM.
 10 Q OKAY. WHEN DID YOU FIRST MEET HIM?
 11 A I THOUGHT I KNOW HIM IN THE LATE 1989 OR '90.
 12 Q DO YOU KNOW HOW YOU MET HIM?
 13 A AND EVEN BEFORE THAT, '88, '89. I REMEMBER HE
 14 WAS, AT THAT TIME, A STUDENT. AND THEN HE VOLUNTEERED TO THE
 15 BRANCH, NOT THE -- NOT THE MAIN -- HEAD OFFICE, MAIN OFFICE,
 16 BUT THE BRANCH OF B.P.S.O.S., IN VIRGINIA. AND HE -- I THINK
 17 THAT HE WAS A VOLUNTEER WORKING FOR THAT BRANCH, AND WE WERE
 18 WORKING TOGETHER AT THAT TIME.
 19 Q WHAT DID YOU DO TOGETHER WITH NGUYEN DINH THANG
 20 OR B.P.S.O.S.?
 21 A OKAY. TO ORGANIZE --
 22 THE COURT: WAIT. WAIT.
 23 MR. VOSS: OBJECTION. RELEVANCE AND 352.
 24 THE COURT: OVERRULED.
 25 BUT, AGAIN, LET'S BE FOCUSED ON THIS.
 26 MR. HART: YOU CAN ANSWER. SHORT ANSWER, PLEASE.

1 THE WITNESS: SO, I MEAN, I CAN ANSWER THE QUESTION;
 2 RIGHT?
 3 YEAH, WE WORK TOGETHER, FOR EXAMPLE, TO
 4 ORGANIZE DEMONSTRATION, PROTEST AGAINST THE FORCEABLE
 5 REPATRIATION BEFORE THE EMBASSY -- PETITION THE EMBASSY BEFORE
 6 THE -- THE WHITE HOUSE, FOR EXAMPLE, WE ORGANIZE PROTEST LIKE
 7 THAT.
 8 BY MR. HART:
 9 Q OKAY. NOW, THAT WAS IN THE LATE '80S THAT THAT
 10 HAPPENED; RIGHT?
 11 A YEAH.
 12 THE COURT: HE SAID "YEAH."
 13 MR. HART: I HOPE THAT WAS A RESPONSIVE "YEAH."
 14 THE WITNESS: YEAH, IN THE LATE '80S. I REMEMBER
 15 ESPECIALLY REALLY CONCRETELY ITS, LIKE, IN '89, FOR EXAMPLE,
 16 WHEN HONG KONG SENT BACK THE FIRST BATCH OF REFUGEES.
 17 THE COURT: ALL RIGHT. IT WAS JUST THE TIME.
 18 BY MR. HART:
 19 Q OKAY. SO THE ISSUE THAT YOU WORKED ON TOGETHER
 20 WAS THE FORCEABLE REPATRIATION OF VIETNAMESE REFUGEES; IS THAT
 21 RIGHT?
 22 MR. VOSS: OBJECTION. LEADING. NOT SUPPORTED BY ANY
 23 EVIDENCE IN EVIDENCE YET.
 24 THE COURT: OVERRULED. THAT WAS PART OF THE PREVIOUS
 25 RESPONSE.
 26 THE WITNESS: WELL, YES.

1 S.E.A.R.A.C. ORGANIZED -- COORDINATE WITH THE DIFFERENT
 2 ORGANIZATION, AND BOAT PEOPLE WAS ONE. AND I REMEMBER HE WAS
 3 VERY ACTIVE AT THAT TIME TO HELP ORGANIZE THE PROTEST.
 4 BY MR. HART:
 5 Q NEW QUESTION.
 6 AFTER 1989, DID YOU AND S.E.A.R.A.C. HAVE ANY
 7 OTHER INTERACTION WITH NGUYEN DINH THANG OR B.P.S.O.S.?
 8 MR. VOSS: OBJECTION. RELEVANCE. YOUR HONOR.
 9 THE COURT: OVERRULED.
 10 YOU MAY RESPOND.
 11 THE WITNESS: NO OTHER INTERACTION, JUST -- JUST
 12 ORGANIZE THAT, AND THEN EVERYBODY GO HOME.
 13 THE COURT: OKAY.
 14 BY MR. HART:
 15 Q SO IN THE '90S, WAS YOUR ORGANIZATION THEN
 16 CALLED S.E.A.R.A.C.?
 17 A NOT YET.
 18 Q WHEN DID THE NAME CHANGE?
 19 A THE NAME CHANGE, WE BEGAN IT IN 1993, NOT UNTIL
 20 THEN.
 21 Q OKAY.
 22 A 1993.
 23 Q AND DOES S.E.A.R.A.C. STILL EXIST TODAY?
 24 A YES, BUT IT'S RUN BY ANOTHER LEADER, MUCH
 25 YOUNGER.
 26 Q OKAY. WHEN DID YOU RETIRE FROM S.E.A.R.A.C.?

1 A I RETIRED FROM S.E.A.R.A.C. IN '97. ACTUALLY,
 2 I -- I -- THERE WAS A TRANSITION. I ANNOUNCE MY RETIREMENT IN
 3 1996 BECAUSE I BEGAN TEACHING. I RETURNED TO THE TEACHING
 4 PROFESSION. THAT'S MY PREFERENCE. OKAY.
 5 Q OKAY.
 6 A AND THEN SO -- BUT I STAY FOR SOME TIME INTO
 7 TRANSITION TO HELP S.E.A.R.A.C. SO HALF TIME AT TEACHING AND
 8 HALF TIME RUNNING S.E.A.R.A.C. AND TO TRAIN THE NEW STAFF.
 9 THE COURT: ALL RIGHT. MR. HART, I'M GOING TO JUMP
 10 IN RIGHT THERE FOR OUR LUNCH RECESS.
 11 SO, LADIES AND GENTLEMEN, YES, IT IS TIME FOR
 12 THAT LUNCH BREAK FOR YOU. AS ALWAYS, WE WILL GO TO 1:30. SO
 13 IF YOU COULD BE BACK OUTSIDE AT 1:30.
 14 AND AGAIN, AS A REMINDER, NO RESEARCHING,
 15 FORMING ANY OPINIONS, HAVING ANY DISCUSSIONS REGARDING THE
 16 PARTIES, THE ISSUES, OR THE CASE. AND HOPEFULLY IT'S A
 17 BEAUTIFUL DAY OUT THERE FOR YOU. THANK YOU VERY MUCH.
 18
 19 (JURY EXCUSED FOR LUNCH.)
 20
 21 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE THE
 22 PRESENCE OF THE JURY:)
 23 THE COURT: ALL RIGHT. AND WE ARE OUTSIDE THE
 24 PRESENCE OF THE JURY.
 25 SO I WANT YOU TO LOOK AT THE MOTION PAPERS.
 26 DO WE HAVE ANY UPDATES, MR. HART, IN TERMS OF

1 HOW WE'RE PROGRESSING ALONG ON THIS ONE?
 2 MR. HART: I'M READY TO MOVE INTO THE ARTICLES NOW.
 3 AND SO I'D SAY ANOTHER 30 OR 40 MINUTES.
 4 THE COURT: OKAY. BECAUSE WE'RE ABOUT 80 MINUTES BY
 5 MY O'CLOCK, SO FAR HERE.
 6 MR. VOSS: WE'RE NOT COMPLAINING ON THAT, YOUR HONOR.
 7 HE'S GOING AS QUICK AS HE CAN.
 8 THE COURT: I'M JUST TRY TO MANAGE IT ALL. I'M NOT
 9 CRITICIZING ANYBODY.
 10 MR. VOSS: I APPRECIATE THAT OFFER. THANK YOU.
 11 THE COURT: ALL RIGHT. THEN WE WILL BE IN RECESS.
 12 BACK AT 1:30.
 13 (LUNCH RECESS.)
 14
 15
 16
 17
 18
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 25
 26

1 SANTA ANA, CALIFORNIA - TUESDAY, NOVEMBER 12, 2024
 2 AFTERNOON SESSION
 3 * * * * *
 4
 5 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUT OF THE
 6 PRESENCE OF THE JURY:)
 7 THE COURT: LET'S GO AHEAD AND GO ON THE RECORD IN
 8 THE KHOA V. THANG MATTER. WE HAVE COUNSEL PRESENT. WE ARE
 9 OUTSIDE THE PRESENCE OF THE JURY.
 10 AND LET'S TALK QUICKLY ABOUT THE MOTION
 11 RELATING TO THE WITNESS, GIAO ANH NGUYEN.
 12 YOU HAD RECEIVED THAT, THE PAPERS, YOU SAID,
 13 MR. HART, THIS MORNING?
 14 MR. HART: YES.
 15 THE COURT: AND YOU HAD AN OPPORTUNITY TO LOOK AT
 16 THEM?
 17 MR. HART: I DID LOOK THEM OVER. MY COMMENT WOULD BE
 18 IT'S NOT CORRECT THAT WE DIDN'T IDENTIFY THIS PERSON. HE WAS
 19 IDENTIFIED -- THE FIRST TIME I LEARNED ABOUT HIM WAS IN THE
 20 DEPOSITION OF CECILE TRUONG.
 21 THE COURT: WELL, I GUESS, THEN LET ME KIND OF SET
 22 THE STAGE HERE A LITTLE BIT.
 23 SO WE HAVE THIS MOTION BY DEFENDANT TO EXCLUDE
 24 TESTIMONY OF GIAO, THAT'S G-I-A-O, ANH, A-H-N, NGUYEN
 25 N-G-U-Y-E-N. THE MOTION IS BROUGHT ON THE GROUNDS THAT THE
 26 WITNESS WAS NOT DISCLOSED, FROM DEFENDANTS' PERSPECTIVE, IN

1 THE RESPONSE TO ANY OF THE DISCOVERY REQUESTS IN THIS MATTER.
 2 AND, INDEED, THE WITNESS WAS NOT TO REVEALED
 3 UNTIL THE WITNESS LIST, AFTER DISCOVERY, HAD CLOSED.
 4 WE HAD THE PRO OFFER EARLIER TODAY AT THE
 5 COURT'S REQUEST AS TO THE POTENTIAL TESTIMONY OF THIS WITNESS,
 6 WITH THE EXPLANATION BEING THAT THE WITNESS IS FAMILIAR WITH
 7 BOTH SIDES, THAT IS INTERACTED WITH BOTH SIDES, IS AN ACTIVIST
 8 IN THE SAME COMMUNITY, FAMILIAR WITH THE SAME ISSUES, I GUESS
 9 I WILL SAY, THAT THE WITNESS HAS REVIEWED, THE MAY ARTICLE,
 10 THAT THE WITNESS IS ON THE MAILING LIST FOR THE BOAT PEOPLE
 11 S.O.S., AND ON AMONG OTHER THINGS THE WITNESS WILL TESTIFY
 12 ABOUT THE EFFECT OF THE ARTICLE ON THE COMMUNITY.
 13 AS YOU JUST MENTIONED, THERE WAS A
 14 REPRESENTATION THAT THIS WAS DISCOVERED BY PLAINTIFF'S COUNSEL
 15 AT THE TRUONG DEPOSITION IN AUGUST.
 16 I HAVE LOOKED THROUGH THE PAPERS, AND I LOOKED
 17 THROUGH THE WORD INDEXES ON BOTH PLAINTIFF'S DEPOSITION
 18 TRANSCRIPT AND MS. TRUONG'S DEPOSITION TRANSCRIPT THAT HAVE
 19 BEEN LODGED WITH THE COURT AS PART OF THE COURSES OF THE
 20 TRIAL.
 21 LOOKING AT THE DISCOVERY REQUESTS, IT LOOKS AS
 22 THOUGH THE WITNESS WOULD BE RESPONSIVE TO AT LEAST SOME
 23 DISCOVERY REQUESTS, IN PARTICULAR SOME OF THE SPECIAL
 24 INTERROGATORIES SUCH AS 23, 26, AND 28 THAT ASK FOR THE
 25 IDENTITY OF PEOPLE WITH KNOWLEDGE OF FACTS RELATING TO THE
 26 IMPACT THE STATEMENT HAD ON PLAINTIFF'S ESTEEM IN THE

1 COMMUNITY AND OTHER -- AND PLAINTIFF EVEN MORE GENERALLY.
 2 AND, AGAIN, THE WITNESS WAS NOT IDENTIFIED IN
 3 RESPONSE TO THOSE. THOSE RESPONSES WERE FROM JULY OF THIS
 4 YEAR.
 5 AND IN LOOKING THROUGH, AGAIN, THE WORD INDEXES
 6 FOR BOTH DEPOSITIONS, DID NOT SEE THIS WITNESS' NAME APPEAR
 7 ANYWHERE THROUGH THE REFERENCES TO ANY POTENTIAL, AND DID NOT
 8 SEE THIS WITNESS DISCLOSED IN EITHER PLAINTIFF'S DEPOSITION
 9 TRANSCRIPT OR MS. TRUONG'S. THERE WAS A GIAO PHAM, I BELIEVE
 10 IT WAS, THAT WAS IDENTIFIED.
 11 MR. HART: THAT'S THE DISCLOSURE, JUDGE.
 12 THE COURT: WELL, THAT'S A DIFFERENT PERSON, AT LEAST
 13 A DIFFERENT NAME THAT HAS BEEN PROVIDED.
 14 MR. HART: IT'S NOT A DIFFERENT PERSON. IT'S THE
 15 SAME PERSON; IT'S A DIFFERENT NAME. AND THE NAME WAS CLEARED
 16 UP BEFORE WE LISTED HIM ON THE -- THE NAME WITH THE WRONG LAST
 17 NAME AND THE ADDRESS AND PHONE NUMBER WERE PROVIDED AFTER THE
 18 DEPOSITION OF CECILE TRUONG, BUT THE LAST NAME WASN'T
 19 CORRECTED UNTIL THE PRETRIAL -- THE 317 COMPLIANCE DISCUSSIONS
 20 WHERE HE WAS PUT ON THE WITNESS LIST.
 21 THE COURT: WHICH WAS AFTER DISCOVERY.
 22 LET ME HEAR FROM MR. VOSS ON THAT. DON'T GO
 23 INTO ANYTHING ELSE; JUST SIMPLY THAT INFORMATION RELATING TO
 24 THE, I GUESS, CLARIFICATION OR CORRECTION OF THE NAME OR ANY
 25 OTHER INFORMATION RELATING TO, I GUESS, EITHER GIAO ANH
 26 NGUYEN, WHICH IS HOW IT'S ON THE WITNESS LIST, OR I DID SEE

1 THE NAME GIAO PHAM IN THE DEPOSITION TRANSCRIPT OF MS. TRUONG.
 2 MR. VOSS: YES, AND WE DON'T HAVE ANY REASON TO
 3 BELIEVE THEY'D BE ONE IN THE SAME PERSON.
 4 TWO THINGS TO ADDRESS. THE DEPOSITION OF
 5 CECILE TRUONG ONLY TOOK PLACE, BECAUSE SHE'S NOT EVEN LISTED
 6 IN THE DISCOVERY RESPONSES, BUT IT WAS AT THE CONCLUSION OF
 7 THE DEPOSITION OF THE PLAINTIFF, IN COLLOQUY BETWEEN COUNSEL
 8 AT THE DEPOSITION, THAT WE HEARD A REFERENCE TO THE -- WELL, I
 9 MIGHT LIKE TO CALL HIS DAUGHTER.
 10 AND IN RESPONSE TO THAT, BUT UP AGAINST THE
 11 DISCOVERY CUTOFF, AND IN AN ABUNDANCE OF CAUTION, WE TOOK HER
 12 DEPOSITION, EVEN THOUGH SHE ISN'T EVEN LISTED ANYWHERE.
 13 NOW TRY TO BOOTSTRAP THAT AND SAY THAT, WELL,
 14 THE PLAINTIFF FAILED TO IDENTIFY THIS WITNESS ANYWHERE IN
 15 DISCOVERY, BUT A WITNESS IDENTIFIED ANOTHER WITNESS, AND THAT
 16 SHE DID SO AT A POINT IN TIME, AUGUST THE 15TH, WHEN IT WOULD
 17 HAVE BEEN IMPOSSIBLE TO HAVE CONDUCTED ANY FURTHER DISCOVERY,
 18 IS NOT ABLE TO OVERCOME THE VERY CLEAR SCHEME THAT IS INTENDED
 19 BY THE CALIFORNIA LEGISLATURE IS BROUGHT BEFORE OUR MOTION,
 20 THAT WE HAVE A PROPER OPPORTUNITY TO INQUIRE, I'M SURE THE
 21 COURT IS WELL AWARE OF ALL THAT, AND I'M NOT GOING TO NEED TO
 22 REPEAT ALL OF THAT.
 23 TO SOMEHOW SUGGEST THAT GIAO PHAM IS GIAO ANH
 24 NGUYEN, AND THEN WE'RE GOING TO RELY ON THAT AND THE 317, I,
 25 AGAIN, HAVE TO CITE TO THE COURT THE HISTORY OF OUR ISSUES
 26 CONFERENCE PARTICIPATION.

1 WE FIRST AGREED, BECAUSE OF THE LATE MOTION FOR
 2 SUMMARY JUDGMENT, THAT WE WOULD CONDUCT THE ISSUES CONFERENCE
 3 AFTER THE MSJ -- YOUR ORDER CAME OUT SO THAT WE COULD BETTER
 4 NARROWLY TAILOR JURY INSTRUCTIONS, ETC., ETC.
 5 WHEN WE MET DOWNSTAIRS IN THE CAFETERIA, IT WAS
 6 THE FIRST TIME WE HEARD FROM COUNSEL THAT PLAINTIFF INTENDED
 7 TO CALL AS MANY AS TEN WITNESSES.
 8 THE ONLY WITNESSES THAT HE WAS ABLE TO
 9 IDENTIFY -- AND I'VE TOLD YOU THIS BEFORE STANDING HERE IN
 10 PRETRIAL -- WERE THE THREE YOU'VE HEARD FROM: CECILE,
 11 PLAINTIFF AND DEFENDANT, AND POTENTIALLY CONGRESSMAN SMITH.
 12 THEN HE SAID, THERE ARE OTHERS. AND WE
 13 CHALLENGED HIM: CAN YOU NAME ME ANYONE ELSE?
 14 THE ANSWER WAS NO.
 15 WE THEN GET UNILATERAL WITNESS LIST. THIS IS
 16 NOT THE WAY THAT THE COURT ANTICIPATES WE'RE SUPPOSED TO BE
 17 DOING AN ISSUES CONFERENCE AND COMING UP WITH JOINT DOCUMENTS
 18 TO THE COURT.
 19 AND THEN, SUBSEQUENTLY, HE JUST COMES UP WITH A
 20 LIST OF THESE PEOPLE WITH TIME ESTIMATES ON IT, WHICH IS WHEN
 21 WE GAVE YOU, YOU MAY RECALL, THE LAST EXHIBIT, WHICH IS THE
 22 ASTERISK WHEREIN WE IDENTIFIED TO THE COURT, WE DON'T HAVE
 23 MUCH TIME BECAUSE WE DON'T KNOW WHO THEY ARE, LET ALONE HAVING
 24 HAD THE OPPORTUNITY TO CONDUCT ANY DISCOVERY THEM.
 25 AND IN THAT ASTERISK ON THE WITNESS LIST FOR
 26 317, WE INDICATED TO THE COURT THAT IT WOULD BE OUR INTENT TO

1 NOW, I'LL TELL THE COURT THAT MAYBE I SHOULDN'T
 2 HAVE DONE IT, BUT I ERRED ON THE SIDE OF EXCESS WITH ANY
 3 POTENTIAL WITNESS, INCLUDING ANYBODY ON REBUTTAL, WHICH I'M
 4 NOT REALLY REQUIRED TO IDENTIFY. AND SO THOSE NAMES WERE
 5 INCLUDED AS A PROFESSIONAL COURTESY TO COUNSEL.
 6 THIS ISN'T REBUTTAL. I GOT A CHANCE TO PUT
 7 THIS WITNESS ON TODAY; THAT'S WHAT I WANTED TO DO. I
 8 APPRECIATE THE TIME THE COURT'S PUT INTO THIS.
 9 THE COURT: OKAY. AND I'M NOT OVERLY CONCERNED WITH
 10 THEM BEING ON THE LIST IN TERMS OF -- THAT'S NOT THE DECIDING
 11 FACTOR. IT'S WHETHER OR NOT -- IT'S THE DISCLOSURE. THAT'S
 12 -- SO I'M NOT IN ANY WAY SAYING IT WAS IMPROPER FOR YOU TO BE
 13 OVERINCLUSIVE ON YOUR WITNESS LIST. SO THAT'S NOT THE
 14 SUGGESTION AT ALL.
 15 IT'S THE DISCLOSURE OF THE POTENTIAL WITNESSES
 16 WITH THE OPPORTUNITY TO CONDUCT ANY DISCOVERY, WHICH
 17 IS -- EVERYBODY WAS UNDER THE GUN IN THIS ONE, OBVIOUSLY,
 18 BECAUSE OF THE STATUTORY, BUT THAT'S NOT AN EXCUSE FOR THE
 19 OBLIGATIONS, AND THE -- I DON'T THINK THAT THEY DIDN'T SEEK TO
 20 DEPOSE ANY OF THESE OTHER ONES THAT WERE ADDED TO THE --
 21 WAIT. MR. VOSS WAIT.
 22 -- THESE OTHER THE OVERLY INCLUSIVE PEOPLE ON
 23 THE WITNESS LIST IS NOT THE MEASURE OF PREJUDICE. THE MEASURE
 24 OF PREJUDICE IS HAVING A WITNESS ON THE STAND THAT THEY DON'T
 25 KNOW ANYTHING ABOUT.
 26 THAT'S, AT LEAST FROM THE COURT'S PERSPECTIVE,

1 BRING A MOTION TO EXCLUDE.
 2 WE DISCUSSED THAT AT LEAST TWICE MORE WITH YOU,
 3 THAT I'M AWARE OF, OR I WAS THE ONLY ONE HERE IN THE COURTROOM
 4 AND OTHERS WERE ON ZOOM. AND THEN WE WERE TOLD AT THE
 5 BEGINNING OF THIS TRIAL WE DON'T NEED TO WORRY ABOUT A MOTION
 6 TO EXCLUDE, BECAUSE I BROUGHT IT UP AGAIN --
 7 THE COURT: AND THAT'S IN THE PAPERS.
 8 MR. VOSS: SO, HERE WE ARE. NO, I DON'T KNOW WHO
 9 THIS PERSON IS. I DON'T HAVE ANY SUBSEQUENT ADDRESS, LISTING
 10 OR ANYTHING, NOR WOULD IT HAVE BEEN ANY MATERIAL DIFFERENCE AT
 11 THAT POINT BECAUSE THE DISCOVERY CUTOFF WAS OVER.
 12 THE COURT: ANYTHING FURTHER ABOUT THE SUGGESTION
 13 THAT, GIAO ANH NGUYEN IS GIAO PHAM OR THAT THAT WAS BROUGHT TO
 14 YOUR ATTENTION AT ANY POINT IN TIME?
 15 MR. VOSS: I DO NOT HAVE THAT BROUGHT TO MY
 16 ATTENTION.
 17 THE COURT: DOES THAT APPLY TO ALL COUNSEL^?
 18 MR. VOSS: AS FAR AS WE'RE AWARE.
 19 MR. ERIGERO: YES, YOUR HONOR, I DON'T RECALL THAT
 20 HAPPENING.
 21 THE COURT: ANYTHING FURTHER, MR. HART?
 22 MR. HART: YES, JUDGE. NOBODY FROM THE DEFENSE TRIED
 23 TO TRACK DOWN ANY OF THE WITNESSES THAT WERE IDENTIFIED. SO
 24 WHETHER THE NAMES WERE RIGHT OR WRONG OR OTHERWISE, THEY
 25 WEREN'T PREJUDICED BY THAT, THEY DIDN'T TRY TO FIND GIAO PHAM
 26 OR ANYBODY ELSE, EVEN THOUGH WE MADE THAT AVAILABLE.

1 AND COURT OF APPEAL CAN TELL ME IF I'M INCORRECT, BUT THAT'S
 2 WHERE I'M LOOKING TO FOR THE PREJUDICE.
 3 MR. VOSS: UNDERSTOOD.
 4 THE COURT: SO I WILL BE GRANTING THE MOTION TO
 5 EXCLUDE THE TESTIMONY OF GIAO ANH NGUYEN BECAUSE I DO FIND
 6 THAT THE WITNESS WOULD HAVE BEEN -- IT WAS RESPONSIVE TO THE
 7 DISCOVERY REQUEST, SO, I MEAN, IT'S NOT JUST -- THERE'S
 8 GENERIC OBLIGATION TO DISCLOSE IN DISCOVERY. THERE WERE
 9 QUESTIONS, SPECIFIC REQUESTS, TO WHICH THIS WITNESS WOULD HAVE
 10 BEEN RESPONSIVE. IF THERE WEREN'T REQUESTS TO WHICH THIS
 11 WITNESS WOULD HAVE BEEN RESPONSIVE, THEN ANALYSIS WOULD BE A
 12 MUCH DIFFERENT THING. BUT THIS WITNESS WAS, INDEED,
 13 RESPONSIVE TO SOME OF THE DISCOVERY REQUESTS.
 14 AND SO, BASED ON EVERYTHING THAT'S BEEN
 15 DISCUSSED HERE TODAY, I AM GOING TO GO AHEAD AND GRANT THAT
 16 MOTION TO EXCLUDE THE TESTIMONY OF WHAT APPEARS ON THE WITNESS
 17 LIST AS GIAO ANH NGUYEN.
 18 DO WE HAVE ALL OF OUR JURORS?
 19 ^WHO: ^YOUR HONOR.
 20 THE COURT: WE ARE STILL WITH THE TESTIMONY OF THE
 21 PLAINTIFF. SO WE WILL BRING THE JURORS IN AND RESUME WITH
 22 THAT TESTIMONY.
 23 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
 24 PRESENCE OF THE JURY:)
 25 THE COURT: ALL RIGHT. THEN, WE HAVE BEEN REJOINED
 26 BY ALL OF OUR JURORS, AND WE ARE GOING TO PICK UP WITH

1 MR. HART'S QUESTIONING OF HIS CLIENT, PLAINTIFF KHOA.
 2 WHENEVER YOU ARE READY, MR. HART, YOU MAY
 3 RESUME.
 4 MR. HART: THANK YOU, JUDGE.
 5 BY MR. HART:
 6 Q PROFESSOR, I'VE OPENED THE EXHIBIT BOOK TO
 7 EXHIBIT 18.
 8 YOU SEE THAT?
 9 A YES.
 10 Q TAKE A FEW MINUTES AND LOOK AT THAT LETTER SO
 11 WE CAN ASK SOME QUESTIONS ABOUT THAT.
 12 THE COURT: THEN DID WE HAVE ANOTHER COPY OF THIS?
 13 MR. HART: I'M WORKING ON IT, JUDGE. I DON'T HAVE A
 14 CLEAN COPY YET. I NEED NEW SOFTWARE.
 15 THE COURT: SO LET'S NOT PUT ANYTHING UP ON THE
 16 SCREEN. I'LL ALLOW THE WITNESS, BUT LET'S REFRAIN FROM
 17 PUBLISHING THIS ONE UNTIL WE GET IT A LITTLE MORE CLEANED UP.
 18 MR. HART: YES, YOUR HONOR.
 19 MR. VOSS: TO REFRESH MY RECOLLECTION, I APOLOGIZE,
 20 WAS 18 RECEIVED SUBJECT TO THE CLEANER COPY?
 21 THE COURT: I THOUGHT IT WAS ADMITTED. BUT NEED ONE
 22 BEFORE IT'S GOING TO BE SHOWN. SO IT'S ADMITTED, BUT WE NEED
 23 TO -- BEFORE IT IS GOING TO BE PUBLISHED, WE NEED A CLEAN ONE.
 24 SO HE CAN QUESTION AND TALK HAVE DISCUSSIONS ON IT. BUT IN
 25 TERMS OF PUBLISHING, I NEED TO GET A CLEANED-UP VERSION.
 26 BY MR. HART:

1 Q PROFESSOR, ARE YOU FAMILIAR WITH THE LETTER
 2 THAT IS EXHIBIT 18?
 3 A YES, I'M FAMILIAR WITH THAT.
 4 Q HAVE YOU SEEN THIS BEFORE?
 5 A I'VE SEEN THIS.
 6 Q OKAY. WHAT'S THE DATE OF THE LETTER?
 7 A THE DATE OF THE LETTER IS MARCH 10, 1996.
 8 Q AND WHO IS THE LETTER FROM? WHO IS THE AUTHOR
 9 OF THE LETTER, THE PERSON WHO SIGNED IT?
 10 A THE LETTER IS FROM DR. NGUYEN DINH THANG, THE
 11 DEFENDANT.
 12 Q DR. THANG. AND WHO DID HE SEND THIS LETTER TO?
 13 A DR. THANG SEND THIS LETTER TO THE DIRECTOR OF
 14 THE OFFICE OF REFUGEE RESETTLEMENT.
 15 Q NOW, IN THE SECOND PARAGRAPH, DR. THANG WRITES
 16 TO THE DIRECTOR, SOUTHEAST ASIA RESOURCE ACTION CENTER,
 17 S.E.A.R.A.C.
 18 THAT'S YOUR ORGANIZATION THAT YOU'RE WORKING
 19 FOR IN 1996; CORRECT?
 20 MR. VOSS: OBJECTION. MISCHARACTERIZES THE
 21 TESTIMONY.
 22 THE COURT: WAIT. WAIT.
 23 YOU WANT TO REPHRASE BASED ON THE TESTIMONY
 24 FROM LAST WEEK?
 25 MR. HART: I CAN PHRASE A DIFFERENT QUESTION.
 26 BY MR. HART:

1 Q PROFESSOR, IN MARCH OF 1996, WERE YOU THE
 2 PRESIDENT OF S.E.A.R.A.C.?
 3 A YES, I WAS THE EXECUTIVE DIRECTOR OF
 4 S.E.A.R.A.C. BUT --
 5 Q AND S.E.A.R.A.C. WAS THEN ACTIVELY ENGAGED IN
 6 ASSISTING REFUGEES IN DIFFERENT WAYS THROUGH THE REFUGEE
 7 SYSTEM?
 8 A THAT'S CORRECT.
 9 Q SO IN THIS LETTER, DR. THANG SAYS:
 10 "S.E.A.R.A.C. IS NOT A GOOD CHOICE FOR THAT MISSION."
 11 DO YOU SEE THAT IN THE SECOND PARAGRAPH?
 12 A I DON'T UNDERSTAND WHAT YOU MEAN BY DIFFERENT
 13 WAYS. WE HAVE -- LIKE I SAID BEFORE, WE HAVE A MISSION
 14 THAT -- TO HELP DEFINE OR SHAPE UP THE POLICY AND PROGRAMS.
 15 AND NUMBER TWO, IS TO ENHANCE THE CAPACITY
 16 BUILDING FOR THE REFUGEE ORGANIZATIONS. SO THIS GRANT -- I'M
 17 SORRY.
 18 Q STOP.
 19 MR. HART: MAY I APPROACH, YOUR HONOR?
 20 THE COURT: YES.
 21 BY MR. HART:
 22 Q LOOK HERE IN THE SECOND PARAGRAPH --
 23 A YEAH.
 24 Q -- WHERE DR. THANG SAYS: "THE SOUTHEAST ASIA
 25 RESOURCE ACTION, FORMALLY KNOWN AS INDOCHINA RESOURCE ACTION,
 26 HAS BEEN A MAJOR RECIPIENT OF O.R.R. FUNDING."

1 YOU SEE THAT?
 2 AND THEN HE SAYS: "HOWEVER, S.E.A.R.A.C. IS
 3 NOT A GOOD CHOICE FOR THAT MISSION."
 4 THE COURT: PAUSE. GO AHEAD.
 5 MR. VOSS: OBJECTION. MISCHARACTERIZES THE EVIDENCE.
 6 THE COURT: WAIT. WAIT.
 7 THAT IS GOING TO BE OVERRULED, BECAUSE THE
 8 EARLIER THING WAS THE RIGHT -- WAS THE -- SO THE VERB I'M
 9 GOING TO ALLOW IN THIS SITUATION BECAUSE OF THE SIGNATURE. I
 10 UNDERSTAND EXACTLY WHAT YOUR ARGUMENT IS, BUT WE HAVE A
 11 SIGNATURE ON IT. AND THE VERB HAS CHANGED.
 12 SO YOU MAY NOW -- YOU MAY RESPOND THAT
 13 QUESTION.
 14 BY MR. HART:
 15 Q OKAY. WHERE DR. THANG SAYS S.E.A.R.A.C. IS NOT
 16 A GOOD CHOICE FOR THAT MISSION, "FOR THE PAST SEVEN YEARS" --
 17 MEANING BACK TO 1989 -- "IT HAS BEEN AT ODDS WITH THE
 18 VIETNAMESE AMERICAN COMMUNITY AT LARGE ON MANY ISSUES."
 19 DO YOU SEE THAT PART?
 20 A YES, I SEE THIS.
 21 Q OKAY. IN 1996 -- OR IN THE TIME FRAME BETWEEN
 22 1989 AND 1996, WAS S.E.A.R.A.C. AT ODDS WITH ANYBODY IN THE
 23 VIETNAMESE COMMUNITY?
 24 MR. VOSS: OBJECTION. RELEVANCE. 352.
 25 THE COURT: OVERRULED.
 26 THE WITNESS: I SEE NOTHING AT ODDS AT ALL.

1 THE COURT: THAT'S A YES-OR-NO QUESTION. MR. KHOA,
 2 THAT WAS A YES-OR-NO QUESTION. SO WE'VE RECEIVED THE RESPONSE
 3 IN THE NEGATIVE, AND WE'LL MOVE ON TO THE NEXT QUESTION.
 4 BY MR. HART:
 5 Q IN THE VERY NEXT PARAGRAPH, NEXT TO ITEM NUMBER
 6 1, IT SAYS: "SECRET MEETING BETWEEN LE XUAN KHOA, EXECUTIVE
 7 DIRECTOR OF I.R.A.C., AND TRINH XUAN LANG, COMMUNIST VIETNAM'S
 8 AMBASSADOR TO THE UNITED NATIONS."
 9 DO YOU SEE THAT?
 10 A YES, I SEE THAT. AND YES, I DID --
 11 THE COURT: WAIT. WAIT. THERE'S NOT A QUESTION. HE
 12 JUST ASKED IF YOU SEE THAT PORTION OF THE LETTER. HE'LL
 13 FOLLOW UP WITH ANOTHER QUESTION.
 14 BY MR. HART:
 15 Q DID YOU HAVE A MEETING WITH THE U.N. AMBASSADOR
 16 FOR COMMUNIST VIETNAM?
 17 MR. VOSS: OBJECTION. RELEVANCE. 352.
 18 THE COURT: I'M GOING TO ALLOW VERY LITTLE ON THIS,
 19 BUT I WILL ALLOW IT. SO OVERRULED.
 20 BY MR. HART:
 21 Q THE QUESTION IS: DID YOU HAVE A MEETING WITH
 22 COMMUNIST VIETNAM'S U.N. AMBASSADOR?
 23 A YES, I DID MEET THE AMBASSADOR TO THE UNITED
 24 NATIONS.
 25 Q WHY?
 26 MR. VOSS: OBJECTION. RELEVANCE.

1 THE COURT: WAIT. WAIT.
 2 OVERRULED.
 3 WAIT. JUST A MOMENT. WE CAN'T KEEP TALKING
 4 OVER EACH OTHER.
 5 OVERRULED. AND THEN WE'RE GOING TO MOVE ALONG.
 6 MR. HART: YES, JUDGE.
 7 BY MR. HART:
 8 Q PROFESSOR, REMEMBER TO KEEP AN EYE ON THE
 9 JUDGE. OKAY? REMEMBER TO WATCH THE JUDGE.
 10 A OKAY.
 11 Q BECAUSE HE'LL SIGNAL WHETHER YOU CAN TALK OR
 12 NOT. ALL RIGHT?
 13 NOW, PLEASE TELL US, WHY DID YOU MEET WITH THE
 14 U.N. AMBASSADOR?
 15 A IT'S OKAY? YES.
 16 OKAY. THE REASON IS, THIS IS NOT -- I GO BY
 17 MYSELF, BUT THIS IS ARRANGED BY MR. FRANSET (PHONETIC), THE
 18 DEPUTY SECRETARY OF STATE. THAT ONE.
 19 NUMBER TWO, THE SECOND MAN WHO MET -- IS
 20 FORMER -- OR LATE CONGRESSMAN STEVE SOLARZ, WHO WAS A
 21 REPRESENTATIVE FROM NEW YORK. AND HE -- BECAUSE IN THE
 22 BEGINNING, WHEN MR. FRANSET ARRANGE THAT MEETING, I SAY THAT I
 23 DON'T WANT TO GO TO THE -- TO THEIR PLACE BECAUSE I -- I HAVE
 24 NO REASON TO MEET VIETNAMESE AMBASSADOR AT THEIR PLACE. WE
 25 NEED TO FIND ANOTHER PLACE, MUTUAL PLACE TO MEET. SO IT TAKES
 26 A WHILE.

1 THEN SO, MR. SOLARZ, THE CONGRESSMAN SOLARZ
 2 OFFER THAT: SINCE I WAS THE NEW YORK REPRESENTATIVE, I OFFER
 3 MY OFFICE. YOU CAN MEET AT MY OFFICE. THAT'S MUTUAL. OKAY.
 4 I HAVE A CONFERENCE ROOM. THE TWO OF YOU CAN MEET ME THERE.
 5 SO I FIND IT'S OKAY. BUT NOW THE AMBASSADOR
 6 SAY NO, HE COULD NOT COME TO THE U.S. CONGRESSMAN OFFICE
 7 BECAUSE THE TWO COUNTRIES HAVE NOT BEEN NORMALIZED YET,
 8 RELATIONS YET, SO HE REFUSED TO.
 9 THEN SO HE TAKES ANOTHER WHILE. AND FINALLY,
 10 WE HAVE A MUTUAL FRIEND, ACTUALLY, THE AMBASSADOR AND
 11 CONGRESSMAN, THAT IS A PROFESSOR AT COLUMBIA UNIVERSITY. I
 12 FORGET HIS NAME NOW, BUT I CAN FIND IT LATER. SO HE'S
 13 PROFESSOR AT COLUMBIA UNIVERSITY, AND HE WENT WITH THE
 14 AMBASSADOR.
 15 SO THEN HE OFFER HIS HOUSE, HIS APARTMENT. HE
 16 SAID: OKAY. I HAVE MY APARTMENT.
 17 THEN, SO I AGREE AND THE AMBASSADOR AGREE TOO.
 18 Q WHY DID YOU NEED TO MEET?
 19 A SO NOW THE REASON -- THE REASON IS
 20 TO -- BECAUSE WE WENT IN MARCH. AND IN JUNE THAT YEAR THERE
 21 WOULD BE THE INTERNATIONAL CONFERENCE ON REFUGEES. OKAY. AND
 22 THEN I WILL BE -- I PLAN TO GO THERE. AND NATURALLY I HAVE
 23 SOMETHING THAT I NEED TO ADVOCATE FOR REFUGEES.
 24 SO THE PURPOSE IS TO TELL -- THIS IS IDEA FROM
 25 MR. FRANSET, THE STATE DEPARTMENT. HE SAID THAT: YOU CAN
 26 TELL HIM THAT YOU ARE NOW VERY IMPORTANT -- THE

1 VIETNAMESE-AMERICAN COMMUNITY, YOU ARE A POLITICAL FORCE
 2 ALREADY. YOU ARE NOW CITIZENS. YOU HAVE A POWER. YOU CAN
 3 INFLUENCE THE POLICY. SO IF THEY WANT TO NORMALIZE THE
 4 RELATIONS WITH THE REST, THEY NEED TO TALK TO YOU. THEY NEED
 5 TO LISTEN TO YOU. THAT MEANS THE VIETNAMESE-AMERICAN.
 6 I SAID: THAT'S VERY FINE. I CAN SAY THAT IF
 7 I -- IF YOU AGREE, IF YOU WANT ME TO SAY THAT, I'M GOING TO.
 8 SO THAT'S THE MAIN PURPOSE. AND THEN
 9 VIETNAMESE AMBASSADOR -- I SAID: OKAY. NOW WE ARE NO LONGER
 10 REFUGEES. WE ARE NOW CITIZENS. AND WE HAVE ORGANIZED LOTS OF
 11 ORGANIZATIONS WHO ARE VERY POWERFUL IN TERMS OF VOTE, IN TERMS
 12 OF THE MONEY --
 13 THE COURT: MR. KHOA, I THINK WE'RE GETTING A LITTLE
 14 BIT FAR AFIELD NOW.
 15 BY MR. HART:
 16 Q HOW DID THE MEETING GO?
 17 MR. VOSS: OBJECTION. RELEVANCE. 352.
 18 THE COURT: WE ARE GETTING A LITTLE TOO FOR DOWN THIS
 19 PATH. I'M GOING TO SUSTAIN.
 20 BY MR. HART:
 21 Q MR. KHOA, PROFESSOR, DID YOU ACCOMPLISH YOUR
 22 MISSION IN MEETING WITH THE AMBASSADOR?
 23 MR. VOSS: OBJECTION. RELEVANCE. 352.
 24 THE COURT: I'M GOING TO SUSTAIN. WE'RE GETTING FAR
 25 AFIELD OF THE PURPOSE OF THE LETTER.
 26 BY MR. HART:

1 Q HERE IS A NEW QUESTION, PROFESSOR: IF YOU LOOK
 2 ON THE LAST PAGE, YOU CAN SEE THAT YOU WERE COPIED WITH THIS
 3 LETTER IN 1996.
 4 A YES, I SEE THAT.
 5 Q SO DO YOU RECALL GETTING THIS LETTER IN 1996?
 6 MR. VOSS: OBJECTION. RELEVANCE.
 7 THE COURT: I'LL ALLOW THIS. OVERRULED.
 8 YOU MAY RESPOND IF YOU RECALL RECEIVING THIS.
 9 THE WITNESS: YES, I DID RECEIVE THAT LETTER.
 10 BY MR. HART:
 11 Q YOU WERE ACQUAINTED WITH DR. THANG BEFORE
 12 MARCH OF 1996, WEREN'T YOU?
 13 A OKAY. I REMEMBER NOW. I WROTE THE LETTER TO
 14 THE BOARD OF DIRECTORS.
 15 Q WAIT A MINUTE. YOU HAVE GOT TO FOLLOW MY
 16 QUESTIONS, PROFESSOR. OKAY.
 17 MARCH OF 1996, YOU ALREADY KNEW DR. THANG,
 18 DIDN'T YOU?
 19 A YES.
 20 Q DID HE EVER CONTACT YOU TO DISCUSS WHAT'S IN
 21 THIS LETTER BEFORE HE SENT THE LETTER?
 22 MR. VOSS: OBJECTION. RELEVANCE. 352.
 23 THE WITNESS: NO.
 24 THE COURT: HE RESPONDED. LET'S HAVE A BRIEF
 25 SIDEBAR.
 26 WE'LL BE RIGHT BACK, LADIES AND GENTLEMEN.

1 (SIDEBAR. NO REPORTER.)
 2 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
 3 PRESENCE OF THE JURY:)
 4 THE COURT: THANK YOU VERY MUCH, LADIES AND
 5 GENTLEMEN.
 6 YOU MAY CONTINUE, MR. HART.
 7 MR. HART: THANK YOU, JUDGE.
 8 MAY I APPROACH, YOUR HONOR?
 9 THE COURT: YOU MAY.
 10 BY MR. HART:
 11 Q WE'RE GOING TO MOVE YOU BACK ONE EXHIBIT NUMBER
 12 TO 17. TAKE A MINUTE TO LOOK THAT OVER.
 13 MR. HART: 17 IS ADMITTED, CORRECT, YOUR HONOR?
 14 THE COURT: NO, I DO NOT BELIEVE SO.
 15 BY MR. HART:
 16 Q PROFESSOR, DID YOU SEE, IN DECEMBER OF 2019, A
 17 VIDEO THAT HAD BEEN POSTED ON MACH SONG MEDIA ABOUT THE
 18 R.O.V.R. PROGRAM?
 19 MR. VOSS: OBJECTION, YOUR HONOR. RELEVANCE. 352.
 20 THE COURT: OVERRULED.
 21 THE WITNESS: YES, I WAS AWARE OF THAT.
 22 BY MR. HART:
 23 Q HOW DID YOU BECOME AWARE OF IT?
 24 A IT WAS SOME FRIEND OR SOME PEOPLE JUST SEND ME
 25 COPY OF THIS.
 26 Q OKAY.

1 A SO I BELIEVE -- I BELIEVE I WAS ON THE MAILING
 2 LIST OF MACH SONG MEDIA MAYBE OR S.E.A.R.A.C., NOT JUST ME
 3 PERSONALLY, BUT MY ORGANIZATION. AND SOMETIME I READ IT AND
 4 SOMETIME I DON'T READ ANY.
 5 Q OKAY. AND SO DID YOU HAVE OCCASION, AFTER
 6 PEOPLE SENT IT TO YOU, TO WATCH THE VIDEO?
 7 A YES, I -- YEAH, WHEN PEOPLE SEND ME, I READ IT.
 8 Q AND WHAT DID YOU LEARN FROM WATCHING THAT
 9 VIDEO?
 10 MR. VOSS: OBJECTION, YOUR HONOR. CALLS FOR HEARSAY.
 11 THE COURT: WAIT ONE MOMENT. LET ME RULE AND --
 12 WAIT. WAIT.
 13 SO OVERRULED. THIS IS NOT OFFERED FOR THE
 14 TRUTH OF ANY STATEMENT THAT HE MAY HAVE HEARD OR SEEN IN THE
 15 VIDEO.
 16 BY MR. HART:
 17 Q OKAY. PROFESSOR, WHAT DID YOU LEARN FROM
 18 WATCHING THE VIDEO FROM THE DECEMBER 25TH, 2019 MACH SONG
 19 MEDIA?
 20 A WHEN I RECEIVED THIS --
 21 MR. VOSS: OBJECTION, YOUR HONOR. LACKS FOUNDATION.
 22 THE COURT: WAIT. ONE MOMENT, SIR. I'M SORRY. ONE
 23 MOMENT SO WE HAVE A RECORD HERE. WE HAVE TO HAVE EVERYTHING
 24 DONE IN THE PROPER ORDER.
 25 OVERRULED.
 26 NOW YOU MAY RESPOND.

1 BY MR. HART:
 2 Q WHAT DID YOU LEARN FROM WATCHING THE VIDEO?
 3 A OKAY. I CAN RESPOND NOW?
 4 FIRST, I THOUGHT THAT I SHOULD WRITE BACK TO
 5 MR. THANG TO TELL HIM: WHY DID YOU DO THIS? IT'S WRONG. YOU
 6 KNOW THAT.
 7 BUT THEN SO I THINK FURTHER BECAUSE I
 8 DON'T -- I DON'T THINK THAT I WANT TO AGREE WITH -- WITH A
 9 YOUNG MAN WHO -- WHO -- SO I WROTE DIRECTLY TO CONGRESSMAN
 10 SMITH WHO DID THE VIDEO. I WROTE TO HIM.
 11 I SAID: CONGRESSMAN, YOU DON'T KNOW ME. YOU
 12 DON'T KNOW ANY OF THE REAL STORY, AND YOU CAN'T SAY THIS
 13 THING.
 14 SO REALLY SURPRISE TO ME. SO THIS IS THE REAL
 15 TRUTH. SO I TOLD HIM THE REAL STORY OF THE R.O.V.R., WHAT I
 16 DID BEGINNING FROM 1990.
 17 Q HOLD ON. WE HAVE TO BACK UP AND BRING THE JURY
 18 UP TO SPEED. THEY DON'T KNOW WHAT THE VIDEO SHOWED.
 19 I WANT YOU TO TELL THEM WHAT YOU LEARNED FROM
 20 THE VIDEO. WHAT DID THE VIDEO SAY?
 21 MR. VOSS: OBJECTION. CALLS FOR HEARSAY AND LACKS
 22 FOUNDATION AND ASSUMES FACTS NOT IN EVIDENCE.
 23 THE COURT: WAIT.
 24 ANYTHING FURTHER?
 25 MR. VOSS: NO.
 26 THE COURT: WAIT. WAIT. WAIT.

1 THE WITNESS: I JUST REMEMBER THAT -- I'M SORRY.
 2 THE COURT: WE HAVE TO DO IT IN THE RIGHT ORDER.
 3 OTHERWISE, THE RECORD IS VERY CHALLENGING AS IT IS.
 4 SO I'M GOING TO OVERRULE.
 5 AND, AGAIN, IT IS NOT OFFERED FOR THE TRUTH OF
 6 THE STATEMENTS IN IT. IT IS OFFERED FOR ITS IMPACT ON HIM AND
 7 THE ACTIONS HE TOOK AFTER SEEING IT.
 8 MR. VOSS: THEN I WOULD RENEW MY OBJECTIONS UNDER
 9 RELEVANCY AND 352. IT'S NOT AUTHORED BY MY CLIENT.
 10 THE COURT: OVERRULED.
 11 YOU MAY RESPOND NOW, SIR.
 12 BY MR. HART:
 13 Q PROFESSOR, WHAT DID THE VIDEO SAY?
 14 A SO I WROTE A LETTER TO --
 15 Q NO. WHAT DID THE VIDEO SAY?
 16 A (NO AUDIBLE RESPONSE.)
 17 Q YOU HEAR MY QUESTION? WHAT DID YOU LEARN FROM
 18 WATCHING THE VIDEO?
 19 A THE VIDEO SAY -- I FORGOT THE -- BUT THIS WAY,
 20 HE PRAISE DR. THANG AND BOAT PEOPLE, OKAY, VERY HIGHLY PRAISE
 21 FOR THE FORMATION OF THAT PROGRAM TO RESETTLE NEARLY 20,000
 22 PEOPLE WHO WERE FORCED BACK TO VIETNAM. AND DR. THANG WROTE
 23 THEM TO RESETTLE THEM TO THE U.S. AND THAT'S COMPLETELY
 24 WRONG.
 25 THE COURT: WAIT.
 26 BY MR. HART:

1 Q SO CONGRESSMAN SMITH GAVE A SPEECH PRAISING
 2 DR. THANG; IS THAT WHAT YOU TOLD US?
 3 MR. VOSS: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE,
 4 MISCHARACTERIZES THE TESTIMONY, AND LEADING.
 5 THE COURT: SUSTAINED.
 6 YOU MAY REPHRASE.
 7 BY MR. HART:
 8 Q PROFESSOR --
 9 A WE HAVE --
 10 Q WAIT. I KNOW IT'S HARD FOR YOU, BUT YOU HAVE
 11 TO TRY TO FOLLOW MY LEAD. OKAY.
 12 WHAT WAS COMPLETELY WRONG ABOUT WHAT
 13 CONGRESSMAN SMITH SAID ABOUT B.P.S.O.S. AND DR. THANG?
 14 MR. VOSS: OBJECTION, YOUR HONOR. LEADING. ASSUMES
 15 FACTS NOT IN EVIDENCE. RELEVANCE. 352.
 16 THE COURT: WELL, OVERRULED ON RELEVANCE AND 352.
 17 HOWEVER, WE DON'T HAVE ANYTHING ABOUT THE VIDEO OTHER THAN HIS
 18 SUMMARY OF IT. SO WE DON'T HAVE THE FOUNDATION FOR THAT
 19 QUESTION YET.
 20 BY MR. HART:
 21 Q OKAY. PROFESSOR, WHO WAS ON THE VIDEO? WHO
 22 WAS THE PERSON SPEAKING ON THE VIDEO?
 23 A MR. SMITH.
 24 Q CONGRESSMAN SMITH?
 25 A CONGRESSMAN SMITH.
 26 Q AND WHAT DID HE SAY?

1 A HE SAID -- HE PRAISED --
 2 MR. VOSS: OBJECTION. ASKED AND ANSWERED.
 3 THE WITNESS: -- DR. THANG AND BOAT PEOPLE --
 4 THE COURT: OVERRULED. AND WE CAN LEAVE IT RIGHT
 5 THERE.
 6 THE WITNESS: -- TO RESETTLE.
 7 THE COURT: THANK YOU.
 8 BY MR. HART:
 9 Q AND WAS HE RIGHT OR WRONG IN WHAT HE SAID?
 10 A HE'S WRONG. THAT'S WHY I CORRECT HIM.
 11 Q WAIT. WHAT WAS WRONG ABOUT WHAT HE SAID?
 12 A BECAUSE BOAT PEOPLE DID NOT DO THAT. DR. THANG
 13 DID NOT DO IT.
 14 Q WHO DID IT?
 15 A S.E.A.R.A.C., ME. AND WE HAD THE
 16 OFFICIAL EVIDENCE --
 17 THE COURT: WAIT. WAIT.
 18 QUESTION.
 19 BY MR. HART:
 20 Q WHAT DID YOU DO WHEN YOU SAW THE VIDEO AND
 21 REALIZED WHAT CONGRESSMAN SMITH WAS SAYING?
 22 A SO I WAS STUNNED, AND I SAY: HOW COME
 23 THAT -- THAT CONGRESSMAN CAN DO THIS THING?
 24 ESPECIALLY -- OKAY. LET ME REMIND YOU.
 25 WHEN -- OKAY, THIS WAS -- IT WAS 1996, YEAH. IN '95, WHEN I
 26 MET WITH HIM TO TALK ABOUT THE GRAY AREA, THAT MEANS DEFECTO,

1 THAT MEANS R.O.V.R. EVENTUALLY --
 2 THE COURT: MR. KHOA, I'M GOING TO JUMP IN THERE.
 3 WE'RE NOT GETTING RESPONSIVE TO THE QUESTION. SO LISTEN AGAIN
 4 VERY CAREFULLY TO MR. HART'S QUESTION AND ANSWER THAT SPECIFIC
 5 QUESTION THAT HE ASKS.
 6 BY MR. HART:
 7 Q OKAY. AFTER YOU SAW THE VIDEO, WHAT DID YOU DO
 8 ABOUT IT?
 9 A SO, YEAH, I SAY THAT I DECIDED TO WRITE A
 10 LETTER TO CONGRESSMAN.
 11 Q SO YOU WROTE A LETTER TO CONGRESSMAN SMITH.
 12 OKAY. DID HE RESPOND TO YOU?
 13 A YES, I DID WRITE A LETTER.
 14 Q DID HE RESPOND TO YOUR LETTER?
 15 A NO, HE DID NOT RESPOND.
 16 Q OKAY. WHAT ELSE DID YOU DO BECAUSE OF THIS
 17 VIDEO?
 18 A I DON'T KNOW. HE DID NOT RESPOND TO ME, SO
 19 THEN I COULDN'T DO ANYTHING. I JUST -- I HOPE THAT HE -- HE
 20 WOULDN'T DO IT AGAIN. THAT'S IT.
 21 Q DID YOU PUBLISH YOUR OWN ARTICLE?
 22 MR. VOSS: OBJECTION. LEADING, YOUR HONOR.
 23 THE WITNESS: NO, I DID NOT PUBLISH THAT.
 24 THE COURT: OVERRULED ON THAT ONE.
 25 THE WITNESS: YEAH, I DID NOT PUBLISH. THIS IS A
 26 LETTER THAT I GOT.

1 THE COURT: MR. KHOA, LISTEN VERY CAREFULLY TO
 2 MR. HART'S QUESTION AND ANSWER, AGAIN, THE SPECIFIC QUESTION
 3 THAT IS BEING ASKED. SO WE'VE MOVED ON FROM ANYTHING THAT
 4 CONGRESSMAN SMITH TO THE NEXT QUESTION.
 5 AND THEN, MR. HART, YOU MAY ASK THAT NEXT
 6 QUESTION.
 7 MR. HART: THANK YOU, JUDGE.
 8 BY MR. HART:
 9 Q PROFESSOR, LET'S TURN TO EXHIBIT 236, PLEASE.
 10 THE COURT: YOU MAY NEED TO HELP HIM. I THINK THAT'S
 11 IN THE ANOTHER BINDER, SO YOU MAY APPROACH FOR THAT.
 12 YOU SAID 236?
 13 MR. HART: YES.
 14 BY MR. HART:
 15 Q THIS IS EXHIBIT 236. DO YOU SEE THAT?
 16 A YES.
 17 Q NOW, TAKE A FEW MOMENTS AND LOOK AT THIS AND
 18 TELL ME IF YOU RECOGNIZE WHAT THIS IS.
 19 A I RECOGNIZE THIS DOCUMENT.
 20 Q WHAT IS IT?
 21 A OKAY. THIS IS AN ARTICLE I WROTE ON THE
 22 OCCASION OF THE 45TH ANNIVERSARY OF THE FALL OF VIETNAM, OF
 23 SOUTH VIETNAM. EVERY YEAR ON THE 30TH OF APRIL WE COMMEMORATE
 24 THAT EVENT.
 25 Q DID YOU HAVE A CHANCE IN THIS ARTICLE TO
 26 CORRECT --

1 A SO I WROTE THIS --
 2 THE COURT: MR. KHOA. JUST WAIT. LET MR. HART
 3 FINISH HIS QUESTION AND THEN RESPOND.
 4 BY MR. HART:
 5 Q DID YOU ADDRESS IN THIS ARTICLE THE TRUTH ABOUT
 6 R.O.V.R.?
 7 MR. VOSS: OBJECTION, YOUR HONOR. RELEVANCE. 352.
 8 MAY WE BE HEARD?
 9 THE COURT: OVERRULED. NOT RIGHT NOW.
 10 THE WITNESS: I DID HAVE A SECTION, BECAUSE I TALK
 11 ABOUT THE CHARACTERISTICS OF VIETNAMESE REFUGEES, OF THE
 12 HISTORY OF VIETNAMESE REFUGEES. AND I SPELL OUT FIVE
 13 CHARACTERISTIC, AND R.O.V.R. IS ONE OF THE FIVE.
 14 BY MR. HART:
 15 Q THANK YOU.
 16 DID YOU WRITE ABOUT B.P.S.O.S. OR NGUYEN DINH
 17 THANG IN THIS ARTICLE, EXHIBIT 236?
 18 A YOU KNOW THAT THIS LETTER WAS WRITTEN FOUR
 19 MONTHS AFTER THE -- THE BREAKING NEWS OF DR. THANG.
 20 MR. VOSS: OBJECTION. MOVE TO STRIKE.
 21 THE WITNESS: SO THIS LETTER, IT'S NOT RESPOND --
 22 THE COURT: WAIT. WAIT. JUST ONE MOMENT.
 23 THAT INITIAL PART OF THAT RESPONSE IS
 24 NONRESPONSIVE AND WILL BE STRICKEN AND DISREGARDED BY THE
 25 JURY.
 26 YOU MAY RESPOND TO THE QUESTION, BUT WE NEED

1 YOU TO RESPOND TO THAT QUESTION.
 2 MR. HART: RIGHT.
 3 BY MR. HART:
 4 Q PROFESSOR, DID YOU WRITE ANYTHING IN THIS
 5 ARTICLE ABOUT NGUYEN DINH THANG OR B.P.S.O.S.; YES OR NO?
 6 A OKAY. THE --
 7 Q JUST TRY TO ANSWER YES OR NO.
 8 A I DID MENTION DR. THANG AND B.P.S.O.S., BUT NOT
 9 ABOUT R.O.V.R.
 10 Q OKAY.
 11 THE COURT: WAIT. WAIT.
 12 THE WITNESS: NOT ABOUT --
 13 THE COURT: MR. KHOA, MR. HART'S GOING TO ASK THE
 14 NEXT QUESTION.
 15 BY MR. HART:
 16 Q ALL RIGHT. DID YOU CONTINUE TO GET PHONE CALL
 17 INQUIRIES FROM PEOPLE ABOUT WHAT HAD BEEN SAID ON THE
 18 R.O.V.R. ISSUE?
 19 MR. VOSS: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE.
 20 RELEVANCE.
 21 THE COURT: IT DOES ASSUME FACTS. SO YOU MAY
 22 REPHRASE.
 23 MR. HART: OKAY.
 24 THE WITNESS: I THOUGHT I ANSWERED THE QUESTION, BUT
 25 ANYWAY --
 26 THE COURT: MR. KHOA, ONE MOMENT, PLEASE. HE'S GOING

1 TO REPHRASE HIS QUESTION.
 2 BY MR. HART:
 3 Q TURN THE PAGE TO EXHIBIT 237. IT'S THE NEXT
 4 ONE IN ORDER. TAKE A LOOK AT IT AND SEE IF YOU RECOGNIZE WHAT
 5 IT IS.
 6 DO YOU RECOGNIZE IT?
 7 A YES.
 8 Q TELL THE JURY WHAT THIS IS, EXHIBIT 237.
 9 A YES, I RECOGNIZE THIS.
 10 Q TELL US WHAT IT IS, PLEASE.
 11 A OKAY. THIS IS MY LETTER TO RESPOND TO THE
 12 READER WHO ASK ME ABOUT -- ABOUT THE BREAKING NEWS FROM
 13 B.P.S.O.S. AND ABOUT THE CONGRESSMAN VIDEO FROM THE
 14 CONGRESSMAN PRAISING, BECAUSE HE SAY THAT: I THOUGHT THAT
 15 THIS IS S.E.A.R.A.C., BUT NOW THE CONGRESSMAN WRITE THIS.
 16 SO --
 17 Q TELL US --
 18 A -- SO HE ASK ME TO CLARIFY.
 19 Q WHO ASKED YOU TO WRITE THIS LETTER?
 20 A THE READER.
 21 Q THE READER?
 22 A YEAH.
 23 Q IS THAT A READER WHO SAW THE DECEMBER 29TH
 24 ARTICLE AND VIDEO?
 25 MR. VOSS: OBJECTION. CALLS FOR SPECULATION. LACKS
 26 FOUNDATION.

1 THE WITNESS: YES.
 2 THE COURT: WAIT. WAIT.
 3 I'M GOING TO OVERRULE.
 4 BY MR. HART:
 5 Q SO WHAT DID YOU SAY IN THIS LETTER?
 6 A OKAY. I RESPOND TO THE QUESTION OF THE READER,
 7 AND I CORRECT --
 8 MR. VOSS: YOUR HONOR, I'M GOING TO OBJECT AS VAGUE.
 9 THE COURT: WAIT. I'M SORRY, MR. KHOA. ONE MOMENT.
 10 WE HAVE AN OBJECTION FROM MR. VOSS.
 11 MR. VOSS: CALLS FOR A NARRATIVE.
 12 MR. HART: I'LL REPHRASE, JUDGE.
 13 THE COURT: OKAY.
 14 BY MR. HART:
 15 Q PROFESSOR, WHAT WAS THE READER'S QUESTION THAT
 16 YOU RESPONDED TO?
 17 A OKAY. THE QUESTION BASICALLY IS: WHY IS
 18 DIFFERENT, YOUR STORY ABOUT THE R.O.V.R. AND NOW CONGRESSMAN
 19 SMITH SAID A VERY DIFFERENT THING? SO WHY? WHO IS RIGHT NOW?
 20 Q OKAY. AND SO --
 21 A HE WANTS TO KNOW THE TRUTH.
 22 Q AND SO IS THE PURPOSE OF THIS LETTER,
 23 EXHIBIT 237, TO RESPOND TO THAT QUESTION?
 24 A YES, I DID RESPOND TO THAT QUESTION.
 25 Q AND DID YOU ANSWER THAT QUESTION IN THIS
 26 ARTICLE, EXHIBIT 237?

1 A YES, I DID ANSWER THE QUESTION.
 2 MR. HART: OKAY. STOP THERE.
 3 YOUR HONOR, THE PLAINTIFFS MOVE EXHIBIT 237
 4 INTO EVIDENCE, PLEASE.
 5 MR. VOSS: NO OBJECTION, YOUR HONOR.
 6 THE COURT: ALL RIGHT. 237, WHICH FROM THE NUMBERING
 7 AT THE BOTTOM APPEARS TO BE 12 PAGES, I GUESS IT LOOKS LIKE AN
 8 ENGLISH AND A VIETNAMESE VERSION, AND IT WILL BE ADMITTED.
 9 (EXHIBIT 237 ADMITTED.)
 10 MR. HART: THANK YOU, YOUR HONOR.
 11 BY MR. HART:
 12 Q PROFESSOR, TURN THE PAGE NOW TO EXHIBIT 238.
 13 THE COURT: MR. HART, YOU MAY APPROACH TO DIRECT HIM
 14 TO THE PAGE YOU'RE LOOKING AT.
 15 BY MR. HART:
 16 Q TAKE A MINUTE TO LOOK THIS OVER.
 17 MR. HART: YOUR HONOR, JUST TO CONFIRM, THIS IS IN
 18 EVIDENCE?
 19 THE COURT: 238 WAS ADMITTED LAST WEEK, YES.
 20 BY MR. HART:
 21 Q PROFESSOR, DO YOU RECOGNIZE WHAT EXHIBIT 238
 22 IS?
 23 A YES, I RECOGNIZE THAT --
 24 Q OKAY.
 25 A -- VERY WELL.
 26 Q AND WHAT DO YOU RECOGNIZE THIS TO BE?

1 A THIS IS AN ARTICLE WRITTEN BY DR. THANG AND TO
 2 DENOUNCE ME AND TO DEFAME ME FOR -- FOR THE R.O.V.R. TOPIC.
 3 Q SO FROM YOUR READING, WHAT'S THE DATE OF THIS
 4 ARTICLE?
 5 A THE DATE OF THE ARTICLE, OF DR. THANG'S
 6 ARTICLE?
 7 Q YES.
 8 A IT IS MAY 25, 2020.
 9 Q OKAY. AND SO FROM READING THIS ARTICLE, IS
 10 THIS -- IS HE RESPONDING TO WHAT YOU SAID IN YOUR PREVIOUS
 11 ARTICLE?
 12 A YES, DEFINITELY. HE DID NOT RESPOND DIRECTLY
 13 TO ME, BUT HE JUST WRITTEN TO THE READERS, TO THE PUBLIC.
 14 Q YOU SEE THE SECTION ON PAGE 7?
 15 THE COURT: YOU MAY APPROACH TO SHOW HIM THE PAGE.
 16 MR. HART: THANK YOU.
 17 YOUR HONOR, I'D LIKE TO PUBLISH 238, PAGE 7,
 18 PLEASE.
 19 THE COURT: YOU MAY.
 20 (DOCUMENT PUBLISHED.)
 21 MR. HART: THE TOP HALF OF THE --
 22 THE COURT: IF YOU CAN BLOW IT UP. THERE YOU GO.
 23 THANK YOU.
 24 BY MR. HART:
 25 Q DR. THANG -- I'M SORRY.
 26 PROFESSOR, DID DR. THANG CORRECTLY STATE THE

1 HISTORY OF THE R.O.V.R. PROGRAM IN HIS MAY 25, 2020 ARTICLE?
 2 MR. VOSS: OBJECTION. RELEVANCE. 352.
 3 THE WITNESS: NO.
 4 THE COURT: OVERRULED.
 5 THE WITNESS: NOT AT ALL.
 6 BY MR. HART:
 7 Q OKAY. IN ADDITION TO THAT, WHEN YOU SEE WHAT
 8 HE HAS WRITTEN AT THE TOP OF PAGE 7, YOU SEE THAT SECOND FULL
 9 PARAGRAPH: "IMMEDIATELY AFTER THE TWO HEARINGS, CONGRESSMAN
 10 SMITH SENT AN OFFICIAL LETTER REQUESTING THE INSPECTOR GENERAL
 11 OF THE DEPARTMENT OF STATE TO INVESTIGATE MR. KHOA AND
 12 S.E.A.R.A.C. ON A FRAUDULENT BACKGROUND STATEMENT USED WHEN
 13 APPLYING FOR A FEDERAL GRANT."
 14 DO YOU SEE THAT PART?
 15 A YES. I HAVE READ IT SEVERAL TIMES.
 16 Q WERE YOU EVER INVESTIGATED BY THE INSPECTOR
 17 GENERAL ABOUT MAKING A FRAUDULENT BACKGROUND STATEMENT?
 18 MR. VOSS: LACKS FOUNDATION.
 19 THE COURT: OVERRULED.
 20 TO HIS KNOWLEDGE.
 21 THE WITNESS: I HAVE NEVER BEEN INVESTIGATED AT ALL.
 22 THERE WAS NO INVESTIGATION.
 23 BY MR. HART:
 24 Q ALL RIGHT. LET'S LOOK AT THE LAST SENTENCE
 25 THERE. IT SAYS: "MR. KHOA FALSELY CLAIMED THAT HE HELD A
 26 DOCTORAL DEGREE IN THE APPLICATION FOR A GRANT FROM THE

1 DEPARTMENT OF STATE. THAT WAS A CRIMINAL OFFENSE."
 2 DID YOU EVER DO THAT, PROFESSOR; DID YOU EVER
 3 MAKE A FALSE CLAIM OF A DOCTORAL DEGREE?
 4 A NEVER.
 5 Q WHAT IS YOUR UNDERSTANDING --
 6 A I'M NOT THAT KIND OF MAN.
 7 Q WHAT DOES THIS SENTENCE SAY TO YOU ABOUT YOU?
 8 A I SAY THAT THIS IS FALSE. THIS IS QUITE
 9 STRANGE. I CANNOT ACCEPT THIS, BUT -- THAT'S IT.
 10 Q PROFESSOR, HOW DID YOU FEEL WHEN YOU FIRST READ
 11 THIS?
 12 A THAT I WANT TO WRITE ANOTHER LETTER TO SMITH,
 13 BUT I WAS STRUGGLING WITH MYSELF. I JUST FORGET IT BECAUSE
 14 EVERYBODY -- BECAUSE MY WORK WITH THE STATE DEPARTMENT AND --
 15 AND -- AND INTERACTION. OKAY. INTERACTION IS VERY
 16 PRESTIGIOUS. IT'S COALITION OF ALMOST 200 NGO'S WORKING
 17 WORLDWIDE, HELPING PEOPLE WORLDWIDE.
 18 AND THEN I WAS HONORED TO BE A MEMBER OF
 19 INTERACTION. AND INTERACTION JUMP IN AND SAID: NO, WE HAVE
 20 TO FORCE YOU THIS. YEAH, FIX THAT.
 21 SO THAT'S WHY.
 22 Q DO YOU KNOW WHY DR. THANG PUBLISHED THESE
 23 STATEMENTS ABOUT YOU?
 24 MR. VOSS: OBJECTION. CALLS FOR SPECULATION.
 25 THE COURT: THAT'S A YES-OR-NO. OVERRULED ON THE
 26 YES-OR-NO QUESTION.

1 THE COURT: OVERRULED.
 2 YOU MAY RESPOND.
 3 THE WITNESS: OKAY. WHEN PEOPLE CALLED AND SHARE
 4 WITH ME THEIR CONCERN AND THEN THAT THEY ARE UPSET, THEN SO I
 5 FEEL -- I FEEL GOOD TO BE -- YEAH, I FEEL GOOD, KIND OF.
 6 BUT STILL THINKING ABOUT HOW TO STOP THIS KIND
 7 OF THING BECAUSE I DON'T KNOW. I WAS STRUGGLING WITH MYSELF.
 8 WHEN YOU NEED TO FIGHT PEOPLE, THAT'S NOT MY NATURE. OKAY.
 9 IN ANY CASE, I SEE THAT THERE'S A NEED TO DO SOMETHING ABOUT
 10 THIS.
 11 THE COURT: LET'S WAIT FOR MR. HART'S NEXT QUESTION.
 12 BY MR. HART:
 13 Q DID YOU FEEL SHOCKED WHEN YOU READ THIS?
 14 A AND, FINALLY, I WROTE ANOTHER LETTER TO --
 15 THE COURT: WAIT. YOU NEED TO RESPOND TO THE
 16 QUESTION. THE QUESTION WAS WHETHER YOU FELT SHOCKED WHEN YOU
 17 READ THE ARTICLE.
 18 THE WITNESS: YES, I FELT SHOCKED WHEN I READ THIS
 19 ARTICLE.
 20 BY MR. HART:
 21 Q DID YOU WORRY ABOUT WHAT OTHER PEOPLE WERE
 22 GOING TO THINK ABOUT YOU WHEN THEY READ THIS LETTER?
 23 MR. VOSS: OBJECTION. LEADING, YOUR HONOR.
 24 THE WITNESS: OH, NATURALLY.
 25 THE COURT: OVERRULED.
 26 YOU CAN RESPOND.

1 AGAIN, THAT'S STRICTLY A YES-OR-NO QUESTION,
 2 SIR.
 3 THE WITNESS: I DON'T KNOW. I CAN GUESS, BUT I
 4 DON'T -- I DON'T WANT TO SAY A GUESS, NO.
 5 BY MR. HART:
 6 Q CAN YOU THINK OF ANY REASON FOR HIM TO WRITE
 7 THESE THINGS ABOUT YOU?
 8 MR. VOSS: OBJECTION. CALLS FOR SPECULATION.
 9 THE COURT: SUSTAINED.
 10 BY MR. HART:
 11 Q PROFESSOR, DID YOU -- PROFESSOR --
 12 A I THINK --
 13 THE COURT: WAIT. WAIT. I SUSTAINED THE OBJECTION
 14 TO THAT QUESTION. HE'S FORMULATING ANOTHER ONE FOR YOU.
 15 BY MR. HART:
 16 Q ONCE THIS WAS PUBLISHED IN MAY OF 2020, DID
 17 ANYBODY CALL YOU UP TO TALK ABOUT IT?
 18 A NO, NOBODY CALLED ME EXCEPT, NATURALLY, FRIENDS
 19 WHO SAID: SO WHAT? WHY THIS HAPPENED?
 20 THAT'S IT.
 21 Q SO SOME PEOPLE CALLED YOU?
 22 A UH-HUH, PEOPLE ARE UPSET TOO.
 23 Q RIGHT.
 24 AND DID THAT HELP, TO HEAR FROM YOUR FRIENDS
 25 ABOUT THIS?
 26 MR. VOSS: OBJECTION. VAGUE.

1 THE WITNESS: I WAS VERY WORRIED ABOUT PEOPLE WHEN
 2 THEY READ THIS KIND OF THING.
 3 BY MR. HART:
 4 Q WERE YOU WORRIED THAT THIS PUBLICATION WOULD
 5 HURT YOUR REPUTATION?
 6 A DEFINITELY, YES.
 7 Q COULD YOU THINK OF ANY WAY TO UNRING THE BELL
 8 OF THIS PUBLICATION?
 9 MR. VOSS: OBJECTION. VAGUE.
 10 THE COURT: OVERRULED.
 11 THE WITNESS: I THINK THAT I WANT TO GET AN ANSWER
 12 FROM SMITH. THAT'S WHY I WROTE TO HIM AGAIN, TO TELL HIM
 13 ABOUT THIS LETTER. THE FIRST LETTER IS ABOUT THE NEWS. OKAY?
 14 BUT THIS LETTER IS MORE -- EXTREMELY DEFAMATORY. SO THAT'S
 15 WHY I TELL MR. SMITH: SEE, THIS IS TOO MUCH. YOU NEED TO DO
 16 SOMETHING TO STOP HIM TO DO THIS. OKAY. AND THEN TO SAVE MY
 17 REPUTATION.
 18 MR. VOSS: OBJECTION, YOUR HONOR. MOVE TO STRIKE.
 19 NONRESPONSIVE, 352, AND RELEVANCE.
 20 THE COURT: OVERRULED.
 21 NEXT QUESTION.
 22 BY MR. HART:
 23 Q DID YOU GET A RESPONSE FROM CONGRESSMAN SMITH
 24 WHEN YOU WROTE TO HIM ABOUT THIS LETTER?
 25 A HE DID NOT RESPOND TO ME EITHER. THIS IS THE
 26 SECOND TIME HE NOT RESPOND TO ME.

1 Q OKAY. SO WHAT ARE YOU LEFT WITH TO TRY TO
2 UNRING THIS BELL OR CLEAR YOUR NAME?
3 A SO AFTER, HE DIDN'T DO ANYTHING. AND WELL,
4 I -- SO -- WHAT'S THE DATE? THIS LETTER IS MAY 25TH. AND I
5 WROTE A LETTER TO MR. SMITH ON, I THINK, SEPTEMBER. I WROTE
6 HIM A LETTER. I WENT A BIT LONG, BUT I WROTE HIM FINALLY.
7 THE COURT: WAIT. MR. KHOA, WE NEED TO LISTEN TO
8 WHAT THE QUESTION HE WAS ASKING.
9 IF YOU WANT TO RESTATE YOUR QUESTION, MR. HART,
10 GO AHEAD.
11 BY MR. HART:
12 Q COULD YOU THINK OF ANY WAY TO RECOVER YOUR GOOD
13 NAME AFTER THIS ARTICLE WAS PUBLISHED IF CONGRESSMAN SMITH
14 WOULD NOT HELP YOU?
15 A I DON'T REMEMBER WELL, BUT I -- I TOLD HIM THAT
16 HE MUST DO SOMETHING TO SET THE RECORD STRAIGHT WITH THANG.
17 Q BUT HE DIDN'T DO IT, DID HE?
18 A BUT HE DIDN'T DO IT.
19 Q WHAT ARE YOU LEFT WITH? JUST LET IT STAND?
20 A LET'S SEE. IT'S SEPTEMBER AND THEN -- I DON'T
21 KNOW IF YOU HAVE -- YOU DON'T HAVE THAT.
22 MY LETTER TO SMITH, DO YOU HAVE ANY AS EXHIBIT?
23 THE COURT: WELL, THE QUESTION, MR. KHOA, WAS: AFTER
24 YOU DID NOT HEAR FROM CONGRESSMAN SMITH AFTER THE SECOND
25 LETTER THAT YOU'RE REFERRING TO, WHAT OTHER ACTIONS DID YOU OR
26 COULD YOU HAVE TAKEN TO CLARIFY THE RECORD?

1 THE WITNESS: WELL, THEN WHY -- I -- I JUST URGE HIM
2 TO DO SOMETHING.
3 MR. HART: UNDERSTOOD.
4 BY MR. HART:
5 Q BUT HE DIDN'T DO ANYTHING, DID HE?
6 A NO, HE DIDN'T DO ANYTHING.
7 Q IS THIS WHY YOU FILED THE LAWSUIT, TO CLEAR
8 YOUR NAME?
9 A BUT NOW I NEED TO CHECK THE DATE, BUT I
10 REMEMBER MR. THANG -- OH, YES, I WAS --
11 THE COURT: WAIT, MR. KHOA. MR. KHOA, YOU NEED TO
12 LISTEN TO MR. HART'S QUESTION.
13 THAT LAST RESPONSE WILL BE STRICKEN AND
14 DISREGARDED BY THE JURY. SO THE QUESTION WAS AFTER --
15 MR. HART: I'LL REPHRASE.
16 THE COURT: THANK YOU.
17 BY MR. HART:
18 Q PROFESSOR, DID YOU FILE THIS LAWSUIT TO CLEAR
19 YOUR NAME FROM THIS PUBLICATION?
20 MR. VOSS: OBJECTION, YOUR HONOR. 352 AND RELEVANCE.
21 THE WITNESS: YES, I FILED A LAWSUIT.
22 THE COURT: OVERRULED.
23 THE WITNESS: BUT I DON'T KNOW IF I FILED
24 AFTER -- AFTER THE THIRD TIME, YEAH.
25 MR. HART: OKAY.
26 THE WITNESS: THE THIRD TIME. CAN I --

1 THE COURT: NO. JUST WAIT.
2 BY MR. HART:
3 Q HOW HAS THIS PUBLICATION AFFECTED YOUR LIFE?
4 OTHER THAN BEING SHOCKED AT SEEING THIS, HOW HAS THIS AFFECTED
5 YOUR LIFE?
6 MR. VOSS: SAME OBJECTIONS.
7 THE COURT: OVERRULED.
8 THE WITNESS: THE THIRD TIME -- OH, THE THIRD TIME.
9 THE COURT: NO, NO, MR. KHOA. THE QUESTION NOW IS:
10 HOW HAS THE ARTICLE AFFECTED YOUR LIFE? HE'S NOT ASKING ABOUT
11 WHAT ACTIONS ANYONE TOOK. HE'S ASKING ABOUT THE EFFECT.
12 SO IF YOU WANT TO RESTATE THE QUESTION,
13 MR. HART.
14 BY MR. HART:
15 Q PROFESSOR, JUST LOOK AT THE WORDS IN THE
16 ARTICLE. OKAY. THE TOP OF PAGE 7, WHERE DR. THANG SAYS THAT
17 YOU FALSELY CLAIMED A PH.D. CREDENTIAL AND THAT THAT WAS A
18 CRIME. HOW HAVE THOSE WORDS AFFECTED YOUR LIFE?
19 MR. VOSS: OBJECTION. MISCHARACTERIZES THE EVIDENCE.
20 THE COURT: OVERRULED. THE STATEMENTS IS BEFORE THE
21 EYES OF THE JURY.
22 MR. VOSS: PH.D.
23 THE COURT: OH, WELL,, PH.D. VERSUS DOCTORAL.
24 MR. VOSS: YES.
25 THE WITNESS: YES, THE NEXT THING IS TO FILE A
26 LAWSUIT. THERE'S NO OTHER WAY.

1 BY MR. HART:
2 Q WE'RE TALKING ABOUT SOMETHING DIFFERENT NOW.
3 DID YOU HAVE -- HAVE YOU WRITTEN A BOOK?
4 A I DID WRITE A BOOK BUT NOT ABOUT R.O.V.R.
5 Q OKAY. WERE YOU INTENDING TO WRITE A SECOND
6 BOOK?
7 A YES, IN THE SECOND BOOK, IT SHOULD BE
8 R.O.V.R. IN THERE.
9 Q OKAY.
10 A YEAH.
11 Q ARE YOU ABLE TO WRITE THAT BOOK EVEN WITH THIS
12 CHARGE HANGING OVER YOUR HEAD?
13 MR. VOSS: OBJECTION. MISCHARACTERIZES THE EVIDENCE.
14 ARGUMENTATIVE.
15 THE COURT: SUSTAINED.
16 WAIT. WAIT.
17 WOULD YOU LIKE TO REPHRASE?
18 BY MR. HART:
19 Q HAS THIS PUBLICATION INTERFERED WITH YOUR
20 ABILITY TO WRITE THAT SECOND BOOK?
21 MR. VOSS: AND FOR THE RECORD, 352 AND RELEVANCE.
22 THE COURT: OVERRULED.
23 YOU MAY RESPOND, SIR.
24 THE WITNESS: YES, IT INTERFERE WITH MY EFFORT.
25 BY MR. HART:
26 Q EXPLAIN TO US HOW IT HAS INTERFERED.

1 A MY PLAN IS TO DO THAT IN TWO TO THREE YEARS,
2 BUT NOW -- EVEN UNTIL NOW IT IS INCOMPLETE. IT'S STILL
3 UNFINISHED, BECAUSE I COULD NOT CONTINUE.
4 Q PLEASE EXPLAIN HOW THESE STATEMENTS HAVE
5 INTERFERED WITH YOUR ABILITY TO WRITE THAT SECOND BOOK.
6 A HOW CAN I CONTINUE TO WRITE IT WHEN THE PROBLEM
7 IS NOT RESOLVED YET? HOW COULD I WRITE IN MY BOOK ABOUT MY
8 WORK, ABOUT MY EFFORT TO DO THE R.O.V.R. THING? HOW CAN I
9 TELL PEOPLE THAT?
10 IF I WANT TO WRITE A BOOK AND TO TELL THE
11 TRUTH, I MUST DO SOMETHING BEFORE. AND THAT'S WHY I MENTION
12 TO YOU THAT HE DID SOMETHING EVEN BEFORE I -- I FILED THE
13 LAWSUIT, BECAUSE HE --
14 THE COURT: WAIT. MR. KHOA, NO. YOU CAN RESPOND TO
15 THE QUESTION, WHICH YOU WERE DOING, AND THEN WE STARTED TO GET
16 OFF TRACK THERE A LITTLE BIT.
17 BY MR. HART:
18 Q HAS THIS PUBLICATION MADE YOU LOSE SLEEP?
19 MR. VOSS: OBJECTION, YOUR HONOR. VAGUE AS TO...
20 THE COURT: OVERRULED.
21 MR. VOSS: YOUR HONOR, COULD WE REQUEST ANOTHER
22 BREAK?
23 THE COURT: WE ARE GOING TO IN A FEW MOMENTS.
24 THE WITNESS: YES. I'M AFRAID I'M ADDICTED TO -- TO
25 SLEEPING PILL.
26 BY MR. HART:

1 Q AND DOES THAT HAVE ANYTHING TO DO WITH THIS --
2 MR. VOSS: OBJECTION. MOVE TO STRIKE AS
3 NONRESPONSIVE.
4 THE COURT: SUSTAINED.
5 THE LAST RESPONSE WILL BE STRICKEN AND
6 DISREGARDED BY THE JURY.
7 BY MR. HART:
8 Q PROFESSOR. PROFESSOR, HOW HAS THIS PUBLICATION
9 INTERFERED WITH YOUR ABILITY TO SLEEP?
10 MR. VOSS: OBJECTION, YOUR HONOR. LEADING. LACKS
11 FOUNDATION.
12 THE COURT: OVERRULED.
13 THE WITNESS: WELL, EVERYTHING -- EVERY TIME I TRY TO
14 CONTINUE WITH, I COULD NOT THINK THROUGH, AND I COULD NOT
15 REMEMBER WELL THINGS. AND THEN WHEN I -- I FELL ASLEEP WHEN
16 I -- I TOO TIRE, YEAH, JUST LIKE FATIGUE. I REMEMBER SEVERAL
17 TIME WHEN I WAS TYPING AND SUDDENLY I OPENED MY EYES AND I WAS
18 SLEEPING. SO I DISCONTINUED THE WRITING BECAUSE OF THAT.
19 AND SOMETIME EVEN MY THOUGHT I PUT, I OPEN MY
20 EYES, AND I SEE SOMETHING DIFFERENT, ANOTHER IDEA QUITE
21 IRRELEVANT TO MY TEXT. SO THAT MEANS SOMETHING ELSE COME TO
22 MY HEAD, AND I TYPE IT ON THE COMPUTER.
23 MR. HART: OKAY.
24 THE WITNESS: SO I DON'T KNOW WHAT PROBLEM IS THAT,
25 BUT THAT DEFINITELY WRONG.
26 BY MR. HART:

1 Q HAVE YOU BEEN WORRYING SINCE MAY OF 2020 ABOUT
2 HOW YOU WOULD FIX THIS PROBLEM?
3 A AND PEOPLE -- OKAY. I USED TO BE VERY ACTIVE.
4 AND PEOPLE USED TO ASK ME TO MEETINGS AND TO TALK, BUT THEN I
5 REFUSED. I COULD NOT TALK BECAUSE I COULD NOT --
6 MR. VOSS: OBJECTION. MOVE TO STRIKE AS
7 NONRESPONSIVE.
8 THE COURT: WAIT. ONE MOMENT, SIR.
9 THE LAST RESPONSE WILL BE STRICKEN AND
10 DISREGARDED AS NONRESPONSIVE TO THE QUESTION.
11 BY MR. HART:
12 Q HAVE YOU WORRIED, WORRIED IN YOUR MIND ABOUT
13 HOW YOU WOULD FIX THIS PROBLEM?
14 A I DON'T KNOW. I THINK THAT THIS QUESTION, THIS
15 ISSUE MUST BE RESOLVED BEFORE I CAN CONTINUE MY BOOK AND
16 BEFORE I CAN LIVE A NORMAL LIFE. AND ESPECIALLY NOW, I'M TOO
17 OLD NOW. OKAY. SO I'M WORRIED ABOUT THAT.
18 Q THE QUESTION IS: DO YOU WORRY ABOUT HOW YOU'RE
19 GOING TO SOLVE THIS PROBLEM?
20 MR. VOSS: OBJECTION. ASKED AND ANSWERED.
21 THE COURT: OVERRULED.
22 YOU MAY RESPOND.
23 THE WITNESS: JUST TO -- I HOPE THAT MY -- THE COURT
24 SHOULD AND THE JURY SHOULD SEE --
25 MR. HART: THAT'S NOT WHAT I'M ASKING.
26 THE COURT: THE LAST RESPONSE WILL BE STRICKEN AND

1 DISREGARDED BY THE JURY.
2 THE WITNESS: THAT'S WHAT I HOPE.
3 MR. HART: I UNDERSTAND.
4 THE WITNESS: ANOTHER THING.
5 THE COURT: WAIT. WAIT.
6 BY MR. HART:
7 Q NO, YOU CAN'T DO THAT. MY QUESTION WAS: DO
8 YOU WORRY ABOUT THIS? DO YOU UNDERSTAND WHAT THAT MEANS, TO
9 WORRY ABOUT SOMETHING THAT'S UNRESOLVED?
10 A "UNRESOLVED," THAT MEANS IN WHAT WAY?
11 THE COURT: WE'RE RIGHT ABOUT THE BREAK TIME NOW.
12 THE WITNESS: BECAUSE I NEED TO ADD SOMETHING ELSE.
13 MR. HART: STOP.
14 THE COURT: WE'LL GIVE EVERYBODY A BREAK, AND THEN
15 WE'LL GIVE YOU AN OPPORTUNITY TO COLLECT EVERYTHING, AND THEN
16 WE CAN MOVE ON FROM THERE.
17 SO, LADIES AND GENTLEMEN, WE'LL TAKE THAT
18 AFTERNOON BREAK. IT'S TEN TILL. SO BE BACK OUTSIDE AT FIVE
19 AFTER 3, AND WE'LL PICK UP FOR THE REST OF DAY. THANK YOU
20 VERY KINDLY, LADIES AND GENTLEMEN.
21 (JURY EXCUSED FOR AFTERNOON RECESS.)
22
23 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE THE
24 PRESENCE OF THE JURY:)
25 THE COURT: WE ARE OUTSIDE THE PRESENCE OF THE JURY.
26 MR. HART, WHAT DO WE THINK WE HAVE LEFT?

1 MR. HART: A MINUTE OR TWO. I'M NEAR THE END.
 2 THE COURT: YOU SEEM TO BE RIGHT AT THE END OF IT.
 3 GO AHEAD, MR. VOSS.
 4 MR. VOSS: YOUR HONOR, MY CONCERN, I THINK, IS
 5 PROBABLY OBVIOUS. WE'VE HAD ANTI-SLAPP. IT'S BEEN TO THE
 6 APPELLATE COURT. THE ALLEGATIONS THAT THIS LETTER CONSTITUTED
 7 DEFAMATION WERE MADE IN A MULTIPLICITY OF WAYS, ALL OF WHICH
 8 BUT ONE WERE THROWN OUT.
 9 NOW, COUNSEL IS HERE WITH THE CLIENT SAYING,
 10 WHEN YOU WERE -- HOW HAS THIS PUBLICATION, AS A WHOLE,
 11 AFFECTED YOUR LIFE? WHETHER YOU'RE RIGHT OR WRONG, WHO IS THE
 12 PERSON THAT CAN TAKE RESPONSIBILITY FOR R.O.V.R., HOW DOES
 13 THAT AFFECT HIS ABILITY AND HIS REPUTATION TO WRITE HIS BOOK?
 14 THESE ARE ALL THINGS THAT WERE PART OF THE COMPLAINT THAT WERE
 15 THROWN OUT OF COURT.
 16 WHAT WE HAVE IS THAT STATEMENT AND THAT
 17 STATEMENT ONLY. AND I REPEATEDLY, AND I'M TRYING TO DO IT
 18 RESPECTFULLY AND QUIETLY AS POSSIBLE, BUT THE REASON I'M
 19 SAYING RELEVANCE AND 352 OVER AND OVER AND OVER AGAIN IS
 20 BECAUSE OF THIS CONFLATION OF HOW HAS THIS PUBLICATION OF ALL
 21 OF THIS DEFAMED YOU WHEN COUNSEL SHOULD NOT BE ABLE TO INQUIRE
 22 AS TO ANY OF THE OTHER PARTS OF IT AND YET HERE WE ARE DOING
 23 EXACTLY THAT. THAT CONFUSES THE JURY. THAT'S MY CONCERN, AND
 24 I DIDN'T WANT TO BE SPEAKING OBJECTION.
 25 THE COURT: THAT'S FINE; I UNDERSTAND YOUR CONCERN.
 26 AND I DISAGREE. I THINK WE'RE FOCUSING ON THIS. THAT IS THE

1 BASIS. THE COURT OF APPEAL CAN TELL ME I'M CRAZY AS CAN BE,
 2 THE PUBLICATION IS THE STATEMENT. SO THAT'S HOW I'VE
 3 CONTINUALLY UNDERSTOOD IT.
 4 MR. VOSS: WILL I BE ENTITLED IN CLOSING -- FRANKLY,
 5 I'M NOT SURE, SO I DON'T WANT TO BE CHOPPED DOWN DURING
 6 CLOSING, BUT TO COMMENT ON THE FACT THAT OTHER ITEMS WERE
 7 RAISED IN THIS PUBLICATION, BUT THE ONLY THING THAT WAS LEFT
 8 IS THIS?
 9 THE COURT: WELL, WHAT YOU HAVE TO DISTINGUISH
 10 BETWEEN IS THE PUBLICATION AND THE CLAIMED IMPACT OF THAT
 11 INJURY HE CLAIMS TO HAVE SUFFERED.
 12 MR. VOSS: BECAUSE WHAT I'M HEARING IS A SERIES OF
 13 QUESTIONS ABOUT HOW DID THE PUBLICATION, AND THERE WAS NOTHING
 14 IN THOSE QUESTIONS -- THE LEAD UP TO ALL OF THOSE QUESTIONS
 15 HAD TO DO WITH THE VIDEO, AND HOW DID ALL OF THAT IMPACT YOU,
 16 AND THE CONGRESSMAN NOT RESPONDING TO YOU, ALL OF THIS WAS THE
 17 PRECURSOR THAT WAS LEADING UP TO SAYING, NOW, HOW DID THE
 18 PUBLICATION AFFECT YOU? WE DID NOT HEAR, DID THIS STATEMENT
 19 AFFECT YOU BUT THE PUBLICATION, AS A WHOLE.
 20 AND I WOULD LIKE THE JURY TO BE INSTRUCTED IN
 21 THAT REGARD, WHEN IT COMES TIME FOR THEM TO DELIBERATE, THAT
 22 THAT IS THE PUBLICATION, NOT EVERYTHING ELSE.
 23 THE COURT: VERY GOOD. SO I THINK I'VE MADE MY POINT
 24 THAT I CONSTRUED IT AS REFERRING TO THIS. HE KEPT REFERRING
 25 TO THOSE PAGES.
 26 THE FACT THAT HE'S CLAIMING SOME OF THESE OTHER

1 THINGS WERE PART OF HIS INJURIES, THAT'S FOR THE JURY TO
 2 DECIDE WHETHER THOSE ARE INJURIES CAUSE HE BY THIS STATEMENT.
 3 SO YES, THIS IS THE ALLEGED DEFAMATORY
 4 STATEMENT, BUT HE CAN TESTIFY ABOUT HIS CLAIMED INJURIES AND
 5 IMPACT THAT THE DEFAMATORY STATEMENT HAD ON HIM.
 6 MR. VOSS: THAT'S WHY I ALSO OBJECTED ON A COUPLE OF
 7 OCCASIONS, SPECIFICALLY TO THE QUESTION BEING VAGUE.
 8 BECAUSE WHEN COUNSEL ASKS ABOUT THE
 9 PUBLICATION, HE IS -- THERE IS NOTHING IN THERE TO LEAD TO US
 10 SAY THAT IT'S JUST THAT.
 11 THE COURT: THERE'S MULTIPLE REFERENCES, SO IT'S GOOD
 12 ENOUGH. I APOLOGIZE IF YOU FEEL I'M FAILING YOU; I'M DOING MY
 13 BEST TO MANAGE THIS WONDERFUL SITUATION.
 14 MR. VOSS: WE KNOW THAT, YOUR HONOR.
 15 THE COURT: THANK YOU.
 16 MR. VOSS: AND WE RESPECT THAT GREATLY. THANK YOU.
 17 MR. HART: JUST FOR THE RECORD, THE SPECIFIC
 18 STATEMENT IS PART OF WHAT'S HIGHLIGHTED AT THE TOP OF PAGE 7.
 19 THE COURT: I HEARD MULTIPLE REFERENCES TO THIS
 20 STATEMENT. IT WAS READ PROBABLY AT LEAST TWO TIMES, THE
 21 ACTUAL -- WHAT IS ON THE WHITEBOARD HERE AS THE STATEMENT IS
 22 THERE. AND SO THERE HAS BEEN --
 23 MR. VOSS: ALL THE R.O.V.R. STUFF IS THE THINGS THAT
 24 I'M CONCERNED ABOUT.
 25 THE COURT: BUT THERE'S CONTEXT. WE CAN'T
 26 READ -- HERE IS ONE SENTENCE AND NOT HAVE ANY CONVERSATION OR

1 DISCUSSION ABOUT ANY OF THE CONTEXT. THE CASE LAW IS CLEAR
 2 ABOUT THE CONTEXT IN THE CIRCUMSTANCES.
 3 SO ARE WE GOING TO PUT ON TRIAL WHO WAS
 4 RESPONSIBLE FOR R.O.V.R.? NO, WE ARE NOT GOING TO DO THAT.
 5 BOTH SIDES HAVE SAID, YOU KNOW, THAT THEIR
 6 BELIEF AND THEIR -- OF THE CREDIBILITY OR WHO GETS THE CREDIT
 7 FOR IT, AND THAT'S THE EXTENT OF IT.
 8 WE'RE NOT GOING TO PUT IN AN EXTENSIVE TRIAL
 9 ABOUT, YOU KNOW, BRING IN THE CONGRESSMAN AND THE
 10 CONGRESSWOMEN AND EVERYBODY TO TESTIFY ABOUT WHO WAS ACTUAL
 11 GOING TO GET THE CREDIT.
 12 THE CONTEXT -- I MEAN, I BELIEVE THE CONTEXT,
 13 THE CASE LAW MAKES CLEAR THAT WE HAVE TO LOOK AT THE TOTALITY
 14 OF THE CIRCUMSTANCES, THE CONTEXT. THIS THE DEFAMATORY
 15 STATEMENT, BUT WE NEED TO LOOK AT IT IN CONTEXT AS WELL.
 16 MR. VOSS: THANK YOU, YOUR HONOR.
 17 THE COURT: SO WE HAVE -- AT 3:05 WE WILL BACK. AND
 18 AGAIN, IT SEEMS LIKE WE REALLY ARE THE LAST COUPLE QUESTIONS
 19 ON THIS, AND AS I CONSTRUED OF THIS MOST RECENT LINE OF
 20 QUESTIONING IS, WHAT IS THE CLAIMED DAMAGES OR INJURY CAUSED
 21 BY THE DEFAMATORY STATEMENT RELATING TO IT BEING A CRIMINAL
 22 OFFENSE? THAT IS HOW I CONSTRUED IT. SO WE WILL SEE HOW THAT
 23 ALL COMES OUT.
 24 MR. VOSS: THANK YOU.
 25 MR. HART: THANK YOU, YOUR HONOR.
 26 (OFF THE RECORD.)

1 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE THE
2 PRESENCE OF THE JURY:)
3 THE COURT: WE ARE BACK ON WITH KHOA V. THANG. WE
4 HAVE OUR ATTORNEYS PRESENT. AND I BELIEVE WE SHOULD HAVE OUR
5 JURORS IN HERE MOMENTARILY.
6 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
7 PRESENCE OF THE JURY:)
8 THE COURT: ALL RIGHT. WE HAVE BEEN REJOINED BY ALL
9 OF OUR JURORS.
10 MR. HART, YOU MAY CONTINUE THE QUESTIONING.
11 MR. HART: THANK YOU, YOUR HONOR.
12 BY MR. HART:
13 Q PROFESSOR, DIRECTING YOUR ATTENTION TO THE TOP
14 OF PAGE 7, EXHIBIT 238, LOOKING AT THOSE WORDS WRITTEN ABOUT
15 YOU, DID YOU SUFFER HUMILIATION WHEN YOU READ THOSE?
16 A YES, I SUFFER DEEPLY. I FEEL HUMILIATED. I
17 FEEL INSULTED. AND NOT JUST ME, BUT I THOUGHT THAT MY FAMILY
18 SEEM ALSO BE AFFECTED VERY SERIOUSLY TOO.
19 I JUST HAD MY GREAT-GRANDCHILDREN, AND THEN I
20 DIDN'T WANT TO SEE EVEN THAT. I AVOID. THE FAMILY
21 CELEBRATION I SPENT IN MY ROOM.
22 Q HAS THIS IMPROVED ANY --
23 A -- SO THAT'S AFFECT ME. AND THEN AFFECT THE
24 WHOLE FAMILY, TOO, BECAUSE THEY DIDN'T WANT TO SEE ME LIKE
25 THAT. OKAY.
26 Q HAS THAT SITUATION IMPROVED ANY IN THE LAST

1 FOUR YEARS?
2 A AND ESPECIALLY WHEN I -- I SEE NOT JUST THIS,
3 BUT ALSO DR. THANG CALL ME --
4 THE COURT: WAIT. WAIT. MR. KHOA, WE NEED TO LISTEN
5 TO THE QUESTION. AND THE QUESTION WAS ABOUT WHETHER THE
6 CIRCUMSTANCES HAVE IMPROVED, NOT ABOUT ANYTHING ELSE.
7 YOU MAY REPHRASE THE QUESTION, IF YOU LIKE,
8 MR. HART.
9 MR. HART: I'M WAITING FOR HIS ATTENTION.
10 BY MR. HART:
11 Q PROFESSOR --
12 A YES.
13 Q -- HAS THE BURDEN OF THIS PUBLICATION IMPROVED
14 FOR YOU AT ALL IN THE LAST FOUR YEARS?
15 A HOW COULD IT IMPROVE?
16 NO, NOT AT ALL. IT'S WORSENER. IT'S WORSENER
17 VERY MUCH.
18 MR. HART: THANK YOU, PROFESSOR.
19 NO FURTHER QUESTIONS, YOUR HONOR.
20 THE COURT: THANK YOU VERY MUCH.
21 MR. VOSS: WITH YOUR PERMISSION, I'D LIKE TO CONDUCT
22 FROM HERE.
23 THE COURT: THAT'S FINE.
24 MR. VOSS: I HAVE A NUMBER OF PAGES TO LOOK AT.
25 CROSS-EXAMINATION
26 BY MR. VOSS:

1 Q FIRST OF ALL, HOW WOULD YOU LIKE TO BE
2 ADDRESSED TODAY? EARLIER, I HEARD YOU ASKED ABOUT BEING
3 REFERRED TO AS DOCTOR, ETC., AND YOU SAID, "OH, JUST CALL ME
4 KHOA"; IS THAT CORRECT?
5 A YES. I THINK THAT BETWEEN ME AND MR. HART, I
6 THINK THAT WE ARE CLOSE ENOUGH.
7 Q OBVIOUSLY, I'M NOT CLOSE WITH YOU, BUT I'D --
8 A IF YOU WANT TO CALL ME KHOA, THAT'S FINE, BUT
9 THAT MEANS YOU NEED TO BE KIND TO EACH OTHER. YOU NEED TO BE
10 JUST -- I JUST WANT TO BE JUST --
11 Q I JUST WANT TO BE RESPECTFUL OF YOU, SIR.
12 A DON'T TRY TO HARM ME.
13 THE COURT: THE QUESTION REALLY IS JUST: HOW WOULD
14 YOU PREFER THAT MR. VOSS ADDRESS YOU?
15 THE WITNESS: YOU CAN CALL ME KHOA OR MR. KHOA OR
16 PROFESSOR KHOA. IT'S UP TO YOU. I DON'T MIND.
17 BY MR. VOSS:
18 Q AND DO YOU RECOLLECT OUR SITTING DOWN TO HAVE
19 ME ASK YOU QUESTIONS BEFORE DURING WHAT'S CALLED A DEPOSITION?
20 A YOU CAN ASK ME.
21 Q DO YOU REMEMBER MY ASKING YOU QUESTIONS THAT
22 DAY?
23 A I'M READY TO ANSWER, YEAH.
24 Q AND IS IT FAIR TO SAY THAT YOU WERE ABLE TO
25 HEAR MY QUESTIONS WHEN I WAS ASKING THEM TO YOU IN THAT
26 SETTING?

1 A YES. WITH THIS HELP. OKAY.
2 Q WE WERE MUCH CLOSER TOGETHER ACROSS THE TABLE
3 FROM EACH OTHER THERE; RIGHT?
4 A OKAY.
5 Q ALL RIGHT. SO, MR. KHOA, I FIRST WANT TO GO
6 OVER SOME OF THESE ISSUES THAT YOU LAST TESTIFIED TO ABOUT
7 THIS VIDEO AND WHAT YOU LEARNED FROM IT.
8 YOU SAY THAT YOU WROTE TO THE CONGRESSMAN; IS
9 THAT CORRECT?
10 A YES, I DID WRITE TO THE CONGRESSMAN.
11 Q OKAY. AND IN THIS VIDEO THAT YOU SAW, DID MY
12 CLIENT, DR. THANG, APPEAR ON CAMERA?
13 A NO, HE DID NOT APPEAR ON THAT. OH, LET ME SEE.
14 Q IN FACT, HE TOOK NO PART AT ALL IN THE VIDEO;
15 ISN'T THAT CORRECT?
16 A I THOUGHT THAT, IN THAT VIDEO, IT WAS SAT WITH
17 SOMEBODY ELSE I THINK. SOME -- SOME -- I THINK THAT -- NO, I
18 COULDN'T REMEMBER NOW. I DON'T KNOW. I COULDN'T REMEMBER
19 ABOUT THE VIDEO ANYMORE. I JUST -- I KNOW THAT I SAW THAT
20 VIDEO. I WAS UPSET, BUT THE DETAILS AND THAT I COULDN'T
21 REMEMBER.
22 Q BUT THE VIDEO WAS A VIDEO OF CONGRESSMAN SMITH
23 SPEAKING; CORRECT?
24 A AND THAT VIDEO CLIP IS VERY -- IT'S JUST A FEW
25 MINUTES, AND I JUST PAY ATTENTION TO WHAT CONGRESSMAN TALK
26 ABOUT THAT.

1 Q AT NO TIME ON THAT VIDEO DID MY CLIENT,
2 DR. THANG, EVER APPEAR; ISN'T THAT CORRECT?
3 A I CAN'T -- I CAN'T ANSWER THAT. HE MIGHT BE
4 THERE.
5 Q DO YOU KNOW OR ARE YOU JUST GUESSING?
6 A HE MIGHT BE THERE. I DON'T REMEMBER.
7 Q SO YOU SAW THE VIDEO. YOU SAW CONGRESSMAN
8 SMITH ON THE VIDEO. AND IS IT CORRECT TO SAY THAT, WITH
9 REFERENCE TO MY CLIENT, THE ONLY PART OF THE VIDEO THAT
10 REFERRED TO DR. THANG AND BOAT PEOPLE WAS THAT THE CONGRESSMAN
11 PRAISED THEM FOR THEIR GOOD WORK; ISN'T THAT RIGHT? ISN'T
12 THAT CORRECT, SIR?
13 A I DON'T SEE THE QUESTION HERE.
14 Q OKAY.
15 THE COURT: JUST A MOMENT. YOU SEE THE QUESTION
16 THERE NOW, SIR?
17 THE WITNESS: I'M SORRY?
18 THE COURT: MR. VOSS, MAYBE YOU CAN REASK IT.
19 THE WITNESS: NO QUESTION. I DON'T SEE THE QUESTION.
20 MR. VOSS: TECHNOLOGY GUISE. WE'LL TRY AGAIN.
21 BY MR. VOSS:
22 Q ISN'T IT CORRECT TO SAY THAT THE ONLY
23 REFERENCES IN THE VIDEO TO DR. THANG AND BOAT PEOPLE S.O.S.
24 WAS WHEN THE CONGRESSMAN PRAISED THEM FOR THEIR WORK?
25 A YES.
26 Q AND THE PARTS OF THE VIDEO WHERE YOU THOUGHT

1 CONGRESSMAN SMITH WAS WRONG, AT NO TIME WERE HIS WORDS
2 REPEATING ANYTHING FROM DR. THANG OR THE BOAT PEOPLE; ISN'T
3 THAT CORRECT?
4 A I THINK THAT THIS IS ALL THE WORDS FROM
5 CONGRESSMAN. HE DID NOT QUOTE DR. THANG.
6 Q OKAY. IN FACT, THERE IS NO SUGGESTION ANYWHERE
7 IN THE VIDEO, IS THERE, THAT THE CONGRESSMAN, IN MAKING HIS
8 STATEMENTS, WAS RELYING ON ANYTHING MY CLIENT SAID; ISN'T THAT
9 CORRECT?
10 A BUT THE FACT THAT DR. THANG PUBLISH IT --
11 Q IT'S A YES-OR-NO, SIR.
12 A -- PUBLISH IT AND --
13 THE COURT: WAIT. WAIT. WAIT. JUST A MOMENT. WE
14 NEED TO LISTEN. JUST LIKE WITH MR. HART'S QUESTIONING, THE
15 SAME RULES APPLY TO MR. VOSS' QUESTIONING. SO WE NEED TO
16 LISTEN VERY CAREFULLY AND ANSWER THE SPECIFIC QUESTION THAT IS
17 ASKED.
18 MR. HART WILL HAVE A LITTLE BIT MORE TIME LATER
19 TO COME BACK AND CLARIFY ANYTHING THAT MIGHT BE NECESSARY.
20 BUT AT THIS POINT, WE NEED TO JUST LISTEN TO
21 MR. VOSS' SPECIFIC QUESTION AND ANSWER THOSE QUESTIONS. OKAY.
22 WOULD YOU LIKE TO PLEASE RESTATE THE QUESTION,
23 MR. VOSS. I WOULD APPRECIATE IT.
24 BY MR. VOSS:
25 Q THERE IS NO SUGGESTION ANYWHERE IN THE VIDEO,
26 IS THERE, THAT DR. THANG OR B.P.S.O.S. WAS THE ONES WHO TOLD

1 THE CONGRESSMAN WHAT TO SAY?
2 A I HAVE NO IDEA IF DR. THANG OR BOAT PEOPLE, BUT
3 DEFINITELY THE INFORMATION THAT HE GOT, IT MUST BE FROM
4 SOMEONE.
5 Q THAT MAY BE --
6 A OKAY.
7 Q -- MUST BE FROM SOMEONE. BUT YOUR COMPLAINT,
8 AT THIS POINT, WASN'T WITH ANYTHING THAT DR. THANG SAID; IT
9 WAS THAT YOU WERE COMPLAINING ABOUT WHAT CONGRESSMAN SMITH
10 SAID; ISN'T THAT RIGHT?
11 A THE ONLY THING I'M SURE OF IS THAT CONGRESSMAN
12 SMITH PRAISED HIM EXCESSIVELY AND ALSO THAT MEANS -- AND THEN
13 DR. THANG REPUBLISH THAT WITH REPETITION, REPEAT THAT. OKAY.
14 THIS IS WHAT -- THAT MEANS THE INFORMATION -- I'M SORRY. THE
15 INFORMATION THAT CONGRESSMAN GOT TO SAY TO PRAISE DR. THANG,
16 THE INFORMATION SHOULD COME FROM DR. THANG --
17 Q HOW DO YOU KNOW THAT?
18 A -- OR FROM BOAT PEOPLE.
19 Q DO YOU KNOW THAT OR ARE YOU JUST GUESSING?
20 A BECAUSE HOW DID HE KNOW IT?
21 AND EVEN BEFORE THAT, I ALREADY DON'T FORGET
22 BEFORE THAT.
23 THE COURT: MR. KHOA, MR. KHOA, AGAIN, WE NEED TO
24 LISTEN TO THE QUESTION AND ANSWER THE QUESTION. IT'S VERY
25 IMPORTANT THAT THE QUESTIONS ARE FORMULATED FOR A PURPOSE TO
26 TRY TO BE AS CLEAR AS POSSIBLE, AND SO WE NEED TO DIRECTLY

1 RESPOND TO THOSE QUESTIONS.
2 BY MR. VOSS:
3 Q YOU'RE JUST GUESSING THAT IT MUST HAVE COME
4 FROM DR. THANG, AREN'T YOU?
5 A AND DR. THANG AND CONGRESSMAN SMITH WERE
6 TOGETHER A FEW MORE TIMES, NOT JUST ONE TIME.
7 Q DID YOU --
8 A IT WAS --
9 Q DID YOU LISTEN TO A RECORDING OF A CONVERSATION
10 BETWEEN CONGRESSMAN SMITH AND MY CLIENT?
11 A THEY WERE TOGETHER IN THE EVENT, OKAY,
12 PHYSICALLY TOGETHER.
13 Q DO YOU KNOW WHAT THEY SAID TO EACH OTHER?
14 A AND THEY ANNOUNCE TO THE PUBLIC THAT -- OKAY --
15 THE COURT: MR. KHOA, MR. KHOA, WE NEED TO LISTEN TO
16 THE QUESTION. ANSWER THE QUESTION. THIS IS NOT THE
17 OPPORTUNITY TO VOLUNTEER WHAT YOU WOULD LIKE TO PUT IN IT. IT
18 NEEDS TO BE RESPONSIVE TO THE SPECIFIC QUESTION BEING ASKED.
19 BY MR. VOSS:
20 Q YOU THINK THAT THEY TALKED TO EACH OTHER.
21 DO YOU KNOW OR HAVE ANY EVIDENCE OF A
22 CONVERSATION OR COMMUNICATION BETWEEN CONGRESSMAN SMITH AND
23 DR. THANG?
24 A THEY WERE TOGETHER. OKAY. EVEN AT THAT
25 MOMENT, THEY DIDN'T TALK TO EACH OTHER, BUT SINCE THEY WERE IN
26 THE -- THEY CELEBRATE THE SAME EVENT. OKAY. AND --

1 Q DR. THANG'S NOT ON THE VIDEO ANYWHERE; RIGHT?
 2 A AND THEN AFTER THAT --
 3 Q THERE'S --
 4 (SIMULTANEOUS SPEAKING.)
 5 THE COURT: WAIT. WE HAVE GOT TO DO ONE AT A TIME
 6 HERE.
 7 AND, MR. KHOA, I CAN ONLY SAY IT SO MANY TIMES,
 8 THAT WE NEED TO LISTEN TO THE QUESTION THAT IS BEING ASKED AND
 9 NEED TO ANSWER THAT QUESTION. OKAY? PLEASE, THIS WILL KEEP
 10 THE THING MOVING ALONG. AND, AGAIN, MR. HART WILL HAVE HIS
 11 OPPORTUNITY TO DO HIS LAST BIT OF FOLLOWUP WITH YOU.
 12 BUT WE NEED TO ANSWER THE QUESTION. EVEN IF
 13 YOU DON'T LIKE THE ANSWER, YOU STILL NEED TO ANSWER THE
 14 QUESTION. OKAY?
 15 SO, MR. VOSS, YOU MAY CONTINUE.
 16 BY MR. VOSS:
 17 Q SO WHEN DR. THANG, IN EXHIBIT 17, POSTED THE
 18 VIDEO, I WANT TO MAKE SURE I UNDERSTAND THIS. ARE YOU
 19 COMPLAINING THAT IT WAS DEFAMATION BECAUSE MY CLIENT RECEIVED
 20 PRAISE FROM A CONGRESSMAN AND DECIDED THAT'D BE SOMETHING HE'D
 21 LIKE TO PUT ON THE INTERNET?
 22 MR. HART: I'M GOING TO OBJECT, YOUR HONOR.
 23 THE COURT: WAIT. WAIT. WAIT.
 24 MR. HART: THIS IS BEYOND THE SCOPE OF MY DIRECT
 25 EXAM.
 26 THE COURT: OVERRULED.

1 YOU MAY RESPOND NOW.
 2 THE WITNESS: OKAY.
 3 THE COURT: TO THE QUESTION.
 4 THE WITNESS: I CAN RESPOND NOW?
 5 THE COURT: TO THE QUESTION.
 6 THE WITNESS: JUST BECAUSE DR. THANG DEFAME ME. HE
 7 CALLED ME THE LIAR. OKAY. THE HABIT OF LYING --
 8 THE COURT: MR. KHOA, WE'RE NOT RESPONDING TO THE
 9 QUESTION. THE QUESTION, AT THIS POINT IN TIME, IS STRICTLY
 10 ABOUT THE VIDEO, NOT ANY OTHER STATEMENT OR ANYTHING ELSE.
 11 WE'RE FOCUSING STRICTLY ON THIS VIDEO REGARDING CONGRESSMAN
 12 SMITH. SO WE NEED TO FOCUS ON THAT AND RESPOND AND LISTEN TO
 13 THE QUESTION ABOUT THAT VIDEO, NOT OTHER INSTANCES.
 14 THE WITNESS: UH-HUH.
 15 BY MR. VOSS:
 16 Q WITH RESPECT TO EXHIBIT 17, WHICH IS, TO
 17 REFRESH YOUR MEMORY, THE PUBLICATION WHERE DR. THANG POSTED
 18 THE VIDEO, DO YOU BELIEVE THAT IT DEFAMED YOU THAT HE POSTED A
 19 CONGRESSMAN'S VIDEO THAT PRAISED HIM?
 20 A THAT NEWS IS NOT DEFAMING ME, THAT NEWS.
 21 Q THAT NEWS IS NOT DEFAMING YOU?
 22 A JUST THE WRONG THING THAT HE AGREE.
 23 THE COURT: WAIT. NEXT QUESTION.
 24 BY MR. VOSS:
 25 Q THERE'S NOTHING IN EXHIBIT 17 WHERE DR. THANG
 26 POSTS THE NICE WORDS OF THE CONGRESSMAN ABOUT HIM IN THE

1 VIDEO. THERE'S NOTHING IN THIS DOCUMENT REFERRING TO YOU, IS
 2 THERE?
 3 A HE DIDN'T SAY ANYTHING.
 4 Q RIGHT. YOU'RE NOT MENTIONED ANYWHERE ON THAT;
 5 RIGHT?
 6 A HE DIDN'T SAY. HE JUST PRINT IT.
 7 Q SO WHAT HE DID, IF I UNDERSTAND THIS CORRECTLY
 8 FROM YOUR WORDS, ARE THE CONGRESSMAN POSTED A VIDEO THAT GAVE
 9 ACCOLADES TO MY CLIENT, THE DEFENDANTS, AND THEY POSTED THESE
 10 NICE THINGS FROM THE CONGRESSMAN; YOU ARE NOT MENTIONED
 11 ANYWHERE IN THE POST; AND YOU AGREE THAT IT'S NOT DEFAMATORY;
 12 IS THAT CORRECT?
 13 MR. HART: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE
 14 AND COMPOUND.
 15 THE COURT: UNFORTUNATELY, IT IS COMPOUND.
 16 MR. VOSS: I GRANT YOU THAT. THANK YOU.
 17 BY MR. VOSS:
 18 Q WERE YOU MENTIONED BY NAME IN THE VIDEO?
 19 A NO, I WAS NOT.
 20 Q SO ALL THIS VIDEO DID WAS TO SAY NICE THINGS; A
 21 CONGRESSMAN CAME ALONG, POSTED A VIDEO ON YOUTUBE SAYING NICE
 22 THINGS ABOUT MY CLIENT. THAT'S IT; RIGHT?
 23 A MY --
 24 MR. HART: OBJECTION.
 25 THE WITNESS: MY NAME --
 26 THE COURT: WAIT. WAIT. MR. KHOA, YOUR ATTORNEY HAS

1 JUST INSERTED AN OBJECTION, SO I NEED TO HAVE THE OPPORTUNITY
 2 TO RULE UPON IT.
 3 MR. HART: FOUNDATION. WE DON'T KNOW WHO POSTED
 4 THIS, OTHER THAN THE DEFENDANT.
 5 THE COURT: OKAY.
 6 BY MR. VOSS:
 7 Q I'LL REASK THE QUESTION, BUT I'M SAYING: HE'S
 8 POSTING THIS, EXHIBIT NO. 17, WHERE MY CLIENT POSTED THE LINK
 9 TO THE NICE VIDEO ABOUT HIM, THERE IS NOTHING IN THAT VIDEO
 10 THAT MENTIONS YOU BY NAME AT ALL, IS THERE?
 11 A JUST THE TWO OF THEM --
 12 THE COURT: MR. KHOA, WE NEED TO FOCUS ON THE
 13 QUESTION. THE QUESTION IS WHETHER THE VIDEO MENTIONED YOU.
 14 THE VIDEO THAT THE DEFENDANT POSTED, IF IT MENTIONED YOU BY
 15 NAME.
 16 THE WITNESS: NO, MY NAME WAS NOT MENTIONED.
 17 BY MR. VOSS:
 18 Q SO YOU WROTE TO THE CONGRESSMAN TO TELL THE
 19 CONGRESSMAN THAT THE CONGRESSMAN WAS WRONG. DID YOU WRITE TO
 20 DR. THANG?
 21 A I TOLD THE CONGRESSMAN THAT HE WAS WRONG
 22 BECAUSE DR. THANG DID NOT DO THE R.O.V.R. THING.
 23 Q MY QUESTION TO YOU IS -- WE UNDERSTAND YOU
 24 WROTE TO THE CONGRESSMAN. DID YOU WRITE TO DR. THANG?
 25 A NO, I DID NOT WRITE TO DR. THANG.
 26 Q DID YOU SEND A LETTER TO MY OTHER CLIENT, BOAT

1 PEOPLE S.O.S., ASKING THEM TO RETRACT EXHIBIT NO. 17 FROM THE
 2 INTERNET?
 3 A IF CONGRESSMAN DID SOMETHING WRONG, I JUST TOLD
 4 HIM THAT HE'S WRONG.
 5 Q SO YOU NEVER COMMUNICATED ANY OF YOUR CONCERNS
 6 ABOUT SOMEBODY BEING WRONG TO EITHER ONE OF THE DEFENDANTS;
 7 ISN'T THAT CORRECT?
 8 A I EXPLAIN TO HIM WHY --
 9 Q EXPLAINED TO THE CONGRESSMAN?
 10 A -- BY TELLING HIM THE TRUTH ABOUT THE R.O.V.R.
 11 THAT'S IT.
 12 Q YOU EXPLAINED THIS TO THE CONGRESSMAN, TO BE
 13 CLEAR; CORRECT?
 14 A YES.
 15 Q SO IS IT CORRECT TO SAY THAT YOUR CONCERNS WERE
 16 THE ERRORS MADE BY THE CONGRESSMAN ALONE, NOT B.P.S.O.S. OR
 17 DR. THANG?
 18 A I THINK THAT YOU MAY GET OFF THE TOPIC, BECAUSE
 19 YOU ARE TALKING ABOUT DEFAMATION ABOUT -- MY FRAUDULENT ACT
 20 ABOUT --
 21 THE COURT: MR. KHOA. MR. KHOA.
 22 THE WITNESS: -- THE DOCTOR AND PH.D.
 23 THE COURT: MR. KHOA, WE'RE GETTING A LITTLE FAR
 24 AFIELD. RIGHT NOW WE ARE JUST TALKING ABOUT THE VIDEO. WE'LL
 25 MOVE ALONG AND TALK ABOUT SOME OTHER THINGS HERE SHORTLY.
 26 THIS QUESTIONING RELATES STRICTLY TO THE VIDEO. OKAY?

1 SO, MR. VOSS, IF YOU WANT TO TRY AGAIN ONE MORE
 2 TIME.
 3 BY MR. VOSS:
 4 Q OKAY. SO, AGAIN, YOUR COMPLAINT WITH ERRORS IN
 5 THE VIDEO WAS STRICTLY WITH THE CONGRESSMAN DIRECTLY; ISN'T
 6 THAT CORRECT?
 7 A OKAY.
 8 Q IS THAT CORRECT?
 9 A (NO AUDIBLE RESPONSE.)
 10 Q IS THAT CORRECT? IS WHAT I SAID CORRECT; YES
 11 OR NO?
 12 A YES. I COMPLAIN AND I TOLD THE CONGRESSMAN
 13 THAT HE IS INCORRECT. THAT'S IT. I DIDN'T -- I DIDN'T SAY
 14 ANYTHING ELSE.
 15 Q NEVER COMPLAINED TO THE DEFENDANTS IN ANY WAY,
 16 SHAPE OR FORM ABOUT THE VIDEO OR EXHIBIT 17 POSTING THE VIDEO;
 17 CORRECT?
 18 A I DON'T AGREE IF YOU SAY THAT THERE IS NO
 19 RELATIONSHIP BETWEEN THE STATEMENT OF CONGRESSMAN AND THE
 20 PUBLICATION BY DR. THANG. THERE MUST BE SOME AGREEMENT --
 21 THE COURT: MR. KHOA, MR. KHOA, THAT'S NOT THE
 22 QUESTION.
 23 THAT RESPONSE WILL BE STRICKEN.
 24 WAIT. MR. KHOA.
 25 THE WITNESS: SO I DISAGREE.
 26 THE COURT: MR. KHOA, THAT RESPONSE WILL BE STRICKEN

1 AND DISREGARDED BY THE JURY. THAT WAS NOT THE QUESTION. THE
 2 QUESTION, AGAIN, WE'RE TALKING STRICTLY ABOUT THIS VIDEO AND
 3 WHETHER OR NOT YOU WROTE TO EITHER OF THE DEFENDANTS ABOUT THE
 4 VIDEO AND THEIR POSTING OF IT, ANYTHING THAT YOU WROTE TO
 5 DEFENDANTS ABOUT THE VIDEO, ANYTHING AT ALL.
 6 THE WITNESS: I JUST WROTE TO CONGRESSMAN SMITH. I
 7 DIDN'T WRITE ANYTHING TO THE DEFENDANT.
 8 THE COURT: THANK YOU. NEXT QUESTION.
 9 WAIT. YOU HAVE GOT TO WAIT FOR THE NEXT
 10 QUESTION.
 11 BY MR. VOSS:
 12 Q SO IF YOUR CONCERNS WERE ONLY WITH WHAT
 13 CONGRESSMAN SMITH SAID ON THE VIDEO, WHY DIDN'T YOU SUE
 14 CONGRESSMAN SMITH INSTEAD OF THE DEFENDANTS?
 15 MR. HART: OBJECTION. RELEVANCE. ARGUMENTATIVE.
 16 THE COURT: SUSTAINED.
 17 BY MR. VOSS:
 18 Q YOU TALKED ABOUT WHAT YOU NEEDED TO DO IN ORDER
 19 TO BE ABLE TO OVERCOME WHAT HAD HAPPENED TO YOU, AND YOU
 20 THEREFORE, I BELIEVE, TO PARAPHRASE WHAT YOU SAID A FEW
 21 MINUTES AGO, FELT THE NEED TO FILE THE SUIT AGAINST MY CLIENTS
 22 TO CLEAR YOUR NAME. BUT IT WAS CONGRESSMAN SMITH, NOT MY
 23 CLIENTS, THAT POSTED THIS VIDEO; RIGHT? SO WHY DIDN'T YOU SUE
 24 HIM?
 25 MR. HART: OBJECTION. ARGUMENTATIVE. RELEVANCE.
 26 THE COURT: SUSTAINED.

1 BY MR. VOSS:
 2 Q DID YOU CONSIDER SUING CONGRESSMAN SMITH?
 3 A I THINK THAT -- YEAH, I WROTE TO HIM, AND HE
 4 DIDN'T ANSWER ME. I REALLY WANT HIM TO BE A WITNESS AT THIS
 5 SO THAT I CAN CONFRONT HIM ABOUT WHY HE DID NOT --
 6 Q SO HE DIDN'T RESPOND TO YOUR LETTERS --
 7 A BECAUSE THE QUESTION MAINLY IS THAT WHETHER I
 8 COMMIT AN OFFENSE. OKAY. LIKE DR. THANG ACCUSE ME TO
 9 COMMIT -- YEAH, TO COMMIT --
 10 MR. HART: HOLD ON. I'M NOT OBJECTING. DON'T
 11 INTERRUPT HIS ANSWER.
 12 THE COURT: GIVE HIM A MOMENT.
 13 FINISH THE ANSWER. AND I WILL JUMP IN IF IT
 14 GOES ASTRAY.
 15 THE WITNESS: THAT'S THE ISSUE.
 16 BY MR. VOSS:
 17 Q SORRY?
 18 A THAT'S THE ISSUE, WHETHER I COMMIT A CRIMINAL
 19 OFFENSE.
 20 Q OKAY. SO YOU WERE ASKED A LOT OF QUESTIONS
 21 ABOUT HOW THE PUBLICATION AFFECTED YOU; RIGHT?
 22 WHEN YOU HEARD THOSE QUESTIONS ABOUT HOW THINGS
 23 AFFECTED YOU FROM THE PUBLICATION, WERE YOU TALKING ABOUT
 24 EVERYTHING IN THE PUBLICATION OR JUST THE ONE STATEMENT?
 25 MR. HART: I NEED TO BELATEDLY OBJECT, YOUR HONOR,
 26 THAT IT'S UNCLEAR WHAT STATEMENT HE'S TALKING ABOUT, NOW,

1 AFTER WE SPENT TEN MINUTES ON THE VIDEO.
 2 THE COURT: OVERRULED.
 3 WHY DON'T WE READ THE --
 4 MR. VOSS: JUST TO BE CLEAR, THE WITNESS JUST
 5 REFERRED TO THE CRIMINAL OFFENSE.
 6 THE COURT: CORRECT.
 7 MR. VOSS: SO I'M FOLLOWING HIS LEAD IN ASKING THAT
 8 QUESTION. SO WITH RESPECT TO THE CRIMINAL OFFENSE VERSUS THE
 9 ENTIRE PUBLICATION.
 10 BY MR. VOSS:
 11 Q WHEN YOU TESTIFIED TO HOW YOU FELT AFTER SEEING
 12 THE PUBLICATION, WERE YOUR ANSWERS RELATED TO JUST THIS
 13 STATEMENT ON THE WHITEBOARD OR WERE YOU REFERRING TO THE
 14 PUBLICATION AS A WHOLE?
 15 A THIS IS A POOR PART OF THE PUBLICATION, SO I'M
 16 TALKING ABOUT THE PUBLICATION AS A WHOLE.
 17 Q MR. KHOA, WITH RESPECT TO -- SINCE WE'RE NOW ON
 18 THE STATEMENT ABOUT THE CRIMINAL OFFENSE, YOU SIGNED MANY
 19 GRANT APPLICATIONS FOR I.R.A.C. AND S.E.A.R.A.C.; ISN'T THAT
 20 CORRECT?
 21 A I SIGNED GRANT APPLICATIONS FOR I.R.A.C. AND
 22 S.E.A.R.A.C. --
 23 Q IN FACT --
 24 A -- YES.
 25 Q -- FROM THE TIME --
 26 A FOR S.E.A.R.A.C. AND I.R.A.C. NOTHING RELATED

1 TO MACH SONG.
 2 Q FROM THE TIME YOU BECAME PRESIDENT OF I.R.A.C.,
 3 WHICH LATER BECAME S.E.A.R.A.C., UNTIL THE TIME YOU RETIRED,
 4 ISN'T IT CORRECT TO SAY THAT YOU SIGNED ALL THE GRANT
 5 APPLICATIONS ON BEHALF OF THE ENTITIES SEEKING MONEY?
 6 A YES, I SIGN ON BEHALF OF I.R.A.C. OR
 7 S.E.A.R.A.C., BUT NOTHING ABOUT DOCTOR IN THERE. I SIGNED IT
 8 AS PRESIDENT.
 9 MR. VOSS: OBJECTION. MOVE TO STRIKE.
 10 THE COURT: THE MOTION WILL BE GRANTED. THAT "YES, I
 11 SIGNED ON BEHALF OF I.R.A.C. OR S.E.A.R.A.C." WILL REMAIN.
 12 THAT WAS AN ADMITTED RESPONSE TO THE QUESTION. THE BALANCE OF
 13 THE RESPONSE WILL BE STRICKEN AND DISREGARDED BY THE JURY.
 14 BY MR. VOSS:
 15 Q IS IT CORRECT TO SAY THAT NO GRANT APPLICATION
 16 EVER WENT OUT WITHOUT YOUR APPROVAL AND SUPERVISION OF THE
 17 GRANT APPLICATION DURING YOUR TIME AS PRESIDENT UNTIL YOU
 18 RETIRED?
 19 A YES.
 20 Q DID YOU UNDERSTAND, WHEN YOU WERE SUBMITTING
 21 THE GRANT APPLICATIONS, THAT THEY HAD TO BE ACCURATE?
 22 A DEFINITELY.
 23 Q DID YOU UNDERSTAND THAT YOU COULDN'T MAKE A
 24 MISREPRESENTATION ON A GRANT APPLICATION?
 25 A I NEVER MADE A MISREPRESENTATION AT ALL.
 26 Q DID YOU UNDERSTAND --

1 A EVERYTHING IS TRUE.
 2 THE COURT: WAIT. WAIT, MR. KHOA. LISTEN TO THE
 3 SPECIFIC QUESTION BEING ASKED, AND THEN ANSWER THAT QUESTION,
 4 PLEASE.
 5 MR. VOSS: AND I'LL MOVE TO STRIKE THAT ANSWER AND
 6 REASK THE QUESTION.
 7 THE COURT: THAT WILL BE GRANTED, AND THE LAST
 8 RESPONSE WILL BE DISREGARDED.
 9 BY MR. VOSS:
 10 Q DID YOU UNDERSTAND THAT YOU COULD NOT MAKE A
 11 MISREPRESENTATION ON A GRANT APPLICATION?
 12 A I UNDERSTAND THAT.
 13 Q DID YOU UNDERSTAND THAT YOU HAD TO HAVE
 14 TRUTHFUL INFORMATION ON THE GRANT APPLICATIONS?
 15 A I UNDERSTAND THAT.
 16 Q DID YOU UNDERSTAND THAT WAS BECAUSE OTHERWISE
 17 IT WOULD NOT BE LAWFUL?
 18 MR. HART: OBJECTION. CALLS FOR A LEGAL ANALYSIS OR
 19 LEGAL CONCLUSION.
 20 THE COURT: OVERRULED.
 21 THE WITNESS: YES.
 22 BY MR. VOSS:
 23 Q BECAUSE IF IT WASN'T TRUTHFUL, THAT WOULDN'T BE
 24 LAWFUL IN YOUR MIND; RIGHT?
 25 A YES.
 26 Q SO YOU CAN'T BE UNLAWFUL ON A GRANT

1 APPLICATION, AND IF IT WAS INACCURATE OR MISREPRESENTED FACTS,
 2 THAT WOULD BE UNLAWFUL; CORRECT?
 3 A I DON'T UNDERSTAND THE QUESTION.
 4 Q I'LL REREAD IT.
 5 SO YOU KNEW YOU COULDN'T SUBMIT AN UNLAWFUL
 6 GRANT APPLICATION; CORRECT?
 7 A YES.
 8 Q AND YOU UNDERSTOOD AT ALL TIMES, WHEN YOU WERE
 9 SIGNING ALL THOSE GRANT APPLICATIONS, THAT IF IT WAS
 10 INACCURATE OR MISREPRESENTED FACTS, THAT WOULD BE UNLAWFUL;
 11 ISN'T THAT CORRECT?
 12 A YES.
 13 Q OKAY. ISN'T IT ALSO CORRECT THAT WITH RESPECT
 14 TO YOUR RESUME ATTACHED TO THOSE GRANT APPLICATIONS, THAT IT
 15 REFERENCES YOUR DOCTORAL THESIS?
 16 A MY REFERENCE TO THE DOCTORAL THESIS, AS I SAID,
 17 IS TO SHOW THAT LEVEL. IT'S NOT A STATEMENT THAT I AM A
 18 DOCTOR OR I HAVE A PH.D.
 19 MR. VOSS: OBJECTION. MOVE TO STRIKE AS
 20 NONRESPONSIVE.
 21 THE COURT: WAIT. MR. KHOA, WAIT. THAT WILL BE
 22 GRANTED. THE RESPONSE WILL BE STRICKEN AND DISREGARDED.
 23 AND YOU MAY ASK THE QUESTION.
 24 LISTEN CAREFULLY TO THE QUESTION. IT'S LIKELY
 25 A YES-OR-NO QUESTION.
 26 BY MR. VOSS:

1 Q ISN'T IT CORRECT TO SAY THAT YOU REFER TO YOUR
2 DOCTORAL THESIS, THOSE WORDS, IN YOUR RESUME ATTACHED TO THE
3 GRANT APPLICATIONS? IS THAT TRUE?
4 A I'D LIKE TO REFER TO THE SECTION IN THAT SAME
5 PROPOSAL. THE SECTION SAYING --
6 THE COURT: WAIT. MR. KHOA, WOULD YOU LIKE --
7 MR. KHOA, SO IT WAS A YES-OR-NO. IF YOU WOULD LIKE TO SEE
8 THINGS, YOU MAY TURN TO THE PAGE. THAT'S FINE.
9 THE WITNESS: I'M RESPONDING TO HIS QUESTION --
10 THE COURT: YEAH, BUT HIS QUESTION WAS A YES-OR-NO
11 QUESTION.
12 THE WITNESS: -- THAT IN THAT SECTION ABOUT STAFF
13 QUALIFICATION.
14 THE COURT: WAIT. WAIT. WAIT. THIS ISN'T A --
15 WE'RE NOT HAVING A DEBATE AT THIS POINT. WE JUST NEED TO
16 LISTEN TO THE QUESTION AND ANSWER THE QUESTION AS IT IS POSED.
17 AND, AGAIN, MR. HART WILL HAVE THE OPPORTUNITY TO FOLLOW UP ON
18 ANYTHING HE NEEDS NECESSARY, BUT WE NEED TO LISTEN AND RESPOND
19 TO THE QUESTION BEING ASKED.
20 OKAY. SO TRY ONE MORE TIME, MR. VOSS.
21 BY MR. VOSS:
22 Q IS IT CORRECT TO SAY THAT ATTACHED TO THE
23 GRANTS WAS YOUR RESUME, WHICH MADE REFERENCE TO YOUR "DOCTORAL
24 THESIS"?
25 A MY UNDERSTANDING IS NOT -- THE REFERENCE TO THE
26 DOCTORAL THESIS IS NOT A CONFIRMATION THAT I --

1 THE COURT: MR. KHOA. MR. KHOA.
2 THE WITNESS: -- I HAVE THAT DEGREE.
3 THE COURT: MR. KHOA, THAT'S NOT THE QUESTION. THE
4 QUESTION IS SIMPLY WHETHER OR NOT THE RESUME ATTACHED TO THE
5 APPLICATIONS REFER TO YOUR DOCTORAL THESIS. THAT'S IT.
6 NOTHING MORE. NOTHING LESS. THAT'S A YES-OR-NO QUESTION.
7 THE WITNESS: YES.
8 BY MR. VOSS:
9 Q AND THE STATEMENT, WHICH IS OVER THERE ON THE
10 BOARD, AND IN THE LAST SENTENCE OF THE HIGHLIGHTED SECTION
11 WHERE IT SAYS: "MR. KHOA FALSELY CLAIMED HE HELD A DOCTORAL
12 DEGREE."
13 IS THERE ANYWHERE IN THIS DOCUMENT, THIS
14 PUBLICATION AS A WHOLE, THAT REFERENCES PH.D., IN PARTICULAR?
15 MR. HART: I NEED TO OBJECT, YOUR HONOR, BECAUSE
16 THERE'S AN ENGLISH VERSION AND THERE'S A VIETNAMESE VERSION.
17 THE COURT: I UNDERSTAND. WE ALSO NEED, FOR THE
18 RECORD, LET'S SAY -- LET'S REFER TO THE EXHIBIT, FIRST OF ALL.
19 AND THEN WE'LL ADDRESS THAT --
20 MR. HART: THAT'S 238.
21 THE COURT: 238 IS WHAT WE'RE REFERRING TO. AND I
22 THINK THE OBJECTION, THERE IS --
23 MR. VOSS: MAY I BE HEARD? WE'VE STIPULATED TO THIS
24 VERSION BEING THE OFFICIAL VERSION FOR USE BY THE JURY.
25 MR. HART: WELL, THEN, WHAT ARE WE DOING HERE?
26 THE COURT: WAIT. NO MORE. NO MORE.

1 WHAT WE CAN SAY IS WHAT'S -- TO BE CLEAR ABOUT
2 THIS, IN THE ENGLISH TRANSLATION.
3 YOU MAY REPHRASE.
4 BY MR. VOSS:
5 Q MR. KHOA, IS IT FAIR TO SAY THAT YOU WERE ASKED
6 A LOT OF QUESTIONS BY YOUR LAWYER ABOUT WHETHER OR NOT YOU HAD
7 A PH.D.?
8 THE COURT: DO YOU HAVE A RESPONSE TO THAT QUESTION,
9 SIR?
10 SO THE QUESTION, SIR, WAS: IS IT FAIR TO SAY
11 THAT YOU WERE ASKED A LOT OF QUESTIONS BY YOUR LAWYER --
12 THE WITNESS: I KNOW MY ATTORNEY ASK ME QUESTIONS
13 WHETHER I HAVE PH.D., BUT I DON'T -- I DON'T THINK THAT -- TOO
14 MANY WHAT? I JUST ANSWER THE QUESTION TO MY LAWYER AND I...
15 BY MR. VOSS:
16 Q IN THE STATEMENT, THE YELLOW HIGHLIGHTED -- THE
17 LAST SENTENCE AFTER THE COLON, IN THE YELLOW PART, DOES
18 ANYBODY -- STRIKE THAT.
19 DO THE DEFENDANTS, B.P.S.O.S. OR DR. THANG,
20 MAKE ANY REFERENCE TO PH.D. IN PARTICULAR?
21 A (NO AUDIBLE RESPONSE.)
22 Q THEY DON'T, DO THEY?
23 A (NO AUDIBLE RESPONSE.)
24 Q NEITHER DR. THANG OR B.P.S.O.S. EVER MADE ANY
25 REPRESENTATION ABOUT WHETHER YOU DID OR DIDN'T HAVE A PH.D.;
26 IS THAT CORRECT?

1 A I DON'T SEE ANYTHING LIKE THAT. I JUST
2 REMEMBER --
3 Q CONGRESSMAN DORMANT DID; RIGHT?
4 A DR. THANG SAY THAT I -- I DECLARE
5 FALSELY -- THAT I DID A FRAUDULENT ACT BY DECLARING MYSELF A
6 PH.D. BY EVEN SUBMITTING --
7 Q CAN YOU SHOW US WHERE IT SAYS "PH.D."?
8 A (NO AUDIBLE RESPONSE.)
9 Q WHERE DID DR. THANG FALSELY ACCUSE YOU OF
10 SAYING YOU HAD A PH.D. WHEN YOU DIDN'T? CAN YOU SHOW US THAT?
11 MR. VOSS: WITHDRAWN.
12 BY MR. VOSS:
13 Q ISN'T IT A FACT --
14 THE COURT: MR. KHOA, HE'S CHANGING HIS QUESTION.
15 MR. VOSS: I'M CHANGING MY QUESTION.
16 THE COURT: LET'S LISTEN TO THE NEW QUESTION, OR READ
17 THE NEW QUESTION.
18 BY MR. VOSS:
19 Q ISN'T IT A FACT THAT THE PERSON WHO --
20 A OKAY.
21 Q -- REFERENCED YOUR SELF-PROMOTION AS A PH.D. --
22 A THIS IS WHAT DR. THANG SAYS; RIGHT? I WILL
23 REPEAT IT --
24 THE COURT: MR. KHOA --
25 THE WITNESS: "MR. KHOA FALSELY" --
26 THE COURT: MR. KHOA.

1 THE WITNESS: -- "CLAIMED THAT HE HELD A DOCTORAL
2 DEGREE IN THE APPLICATION FOR A GRANT FROM THE DEPARTMENT OF
3 THE STATE." AND THAT'S FALSE. THAT'S IT.
4 THE COURT: MR. KHOA.
5 THE WITNESS: I DENY THAT. I DIDN'T DO THAT.
6 THE COURT: MR. KHOA, HE WITHDREW THE PRIOR QUESTION.
7 THAT STATEMENT WILL BE STRICKEN AND DISREGARDED.
8 SO WE NEED TO LISTEN. HE WITHDREW THAT
9 QUESTION, AND HE'S ASKING YOU A DIFFERENT QUESTION. SO WE
10 NEED TO LISTEN AND READ CAREFULLY THE NEW QUESTION THAT IS
11 BEING ASKED AND RESPOND TO THAT QUESTION.
12 BY MR. VOSS:
13 Q SO TURNING YOUR ATTENTION TO EXHIBIT 234.
14 THE COURT: MR. VOSS, YOU MAY NEED TO APPROACH THE
15 WITNESS, JUST SO WE GET TO THE PAGE.
16 MR. VOSS: IS THAT OKAY, YOUR HONOR?
17 THE COURT: YES, PLEASE. I'M HERE, AND I WILL
18 SUPERVISOR. WE JUST NEED TO --
19 MR. VOSS: VERY UNUSUAL.
20 THE COURT: I UNDERSTAND.
21 SO WE'RE GOING TO SWITCH BINDERS, MR. KHOA.
22 MR. VOSS: ACTUALLY, IT'S IN THIS BINDER. HE'S IN
23 THE RIGHT BINDER.
24 DOWN HERE (INDICATING).
25 THE COURT: ALL RIGHT. SO JUST FOR THE RECORD, WE
26 ARE NOW -- HE'S BEEN BROUGHT TO THE ATTENTION OF EXHIBIT 234,

1 WHICH HAS PREVIOUSLY BEEN ADMITTED, I BELIEVE, AND IS IN
2 EVIDENCE. AND HE IS DIRECTING THE WITNESS TO THE VERY LAST
3 PARAGRAPH ON THE BOTTOM OF PAGE NUMBER 1 THAT IS NUMBERED 5.
4 MR. VOSS: THAT'S CORRECT, YOUR HONOR. THANK YOU.
5 BY MR. VOSS:
6 Q SO CONGRESSMAN DORNAN WROTE THIS LETTER. DO
7 YOU UNDERSTAND THAT?
8 A (NO AUDIBLE RESPONSE.)
9 Q DO YOU UNDERSTAND THAT THIS LETTER WAS WRITTEN
10 BY CONGRESSMAN DORNAN?
11 A YES, I UNDERSTAND THAT.
12 Q THIS LETTER WASN'T WRITTEN BY DR. THANG; RIGHT?
13 A NO.
14 Q IT WASN'T WRITTEN BY BOAT PEOPLE S.O.S.; RIGHT?
15 A NO.
16 Q OKAY. SO HERE WE HAVE ANOTHER CONGRESSMAN,
17 CONGRESSMAN SMITH IN THE VIDEO.
18 NOW CONGRESSMAN DORNAN IN APRIL OF 1996 SAYS:
19 "MR. KHOA'S SELF-PROMOTION AS A PH.D. HOWEVER, HE RECENTLY
20 ADMITTED HE DOES NOT HAVE SUCH A DEGREE. HIS
21 MISREPRESENTATION OF ACADEMIC CREDENTIALS MAY HAVE RESULTED IN
22 HIS RECEIVING STATE DEPARTMENT GRANTS OVER COMPETING
23 APPLICANTS."
24 YOU'VE SEEN THIS BEFORE; RIGHT?
25 MR. HART: YOUR HONOR, I OBJECT TO THIS. HE'S
26 MISCHARACTERIZING THIS DOCUMENT, THIS EXHIBIT.

1 THE COURT: WAIT. WAIT. WAIT. WAIT. LET'S GIVE
2 THE WITNESS A MOMENT TO REVIEW THE ENTIRETY OF THE LETTER, AND
3 THEN WE CAN ASK THE QUESTION.
4 SO, MR. KHOA, IF YOU WOULD TAKE A FEW MOMENTS
5 AND READ THIS LETTER, NOT JUST LITTLE ISOLATED PORTIONS OF IT,
6 BUT REVIEW THIS LETTER IN ITS ENTIRETY SO YOU CAN SEE IT IN
7 ITS FULL CONTEXT. CAN YOU TAKE A FEW MOMENTS TO DO THAT?
8 THE WITNESS: THANK YOU, SIR.
9 THE COURT: I DON'T KNOW IF WE NEED THIS PUBLISHED.
10 MR. VOSS: YOU CAN LEAVE IT THERE. THAT'S FINE.
11 THAT'S 238? YES. YOUR HONOR, LET ME KNOW WHEN
12 I CAN PROCEED.
13 MR. HART: YOUR HONOR, CAN WE PUBLISH 234 SINCE WE'RE
14 TALKING ABOUT IT? LET THE JURY LOOK AT IT. IT'S IN EVIDENCE.
15 MR. VOSS: I DON'T HAVE ANY NEED TO PROMOTE.
16 THE COURT: LET'S TAKE THIS ONE DOWN SINCE WE'RE NOT
17 QUESTIONING ON THIS ONE AT THE PRESENT TIME.
18 (DISCUSSION BETWEEN COUNSEL.)
19 THE COURT: LOOK AT THE SECOND PAGE, SO YOU CAN
20 LOOK AT IT IN ITS ENTIRETY OF THE LETTER IN THE CONTEXT, AND
21 THAT WAY MR. VOSS CAN ASK QUESTIONS.
22 MR. NGUYEN: CAN WE PUBLISH 234, YOUR HONOR?
23 THE COURT: YOU MAY.
24 (DOCUMENT PUBLISHED.)
25 THE WITNESS: I DON'T KNOW ABOUT THE ANSWER.
26 THE COURT: WAIT. WAIT. LET'S WAIT FOR THE QUESTION

1 NOW. NOW THAT YOU'VE HAD AN OPPORTUNITY TO LOOK AT THE
2 ENTIRETY OF THE EXHIBIT, MR. VOSS IS GOING TO REASK THE
3 QUESTION. SO LISTEN AND READ CAREFULLY THE QUESTIONS THAT'S
4 ABOUT TO BE ASKED.
5 BY MR. VOSS:
6 Q LOOKING AT THE NUMBER 5, ON THE BOTTOM OF THE
7 PAGE, YOU SEE THAT PARAGRAPH?
8 A (NO AUDIBLE RESPONSE.)
9 Q ISN'T IT CORRECT TO SAY THAT IT'S CONGRESSMAN
10 DORNAN WHO IS STATING THAT -- AND I QUOTE -- "MR. KHOA'S
11 SELF-PROMOTION AS A PH.D."? THAT CAME FROM DORNAN, NOT FROM
12 THE DEFENDANTS; RIGHT?
13 MR. HART: OBJECTION. MISCHARACTERIZES THE EVIDENCE.
14 THE COURT: THE EVIDENCE IS BEFORE THE EYES OF THE
15 JURY TO READ IT IN ITS CONTEXT, AS WELL AS THE WITNESS' EYES.
16 SO WE MAY CONTINUE.
17 BY MR. VOSS:
18 Q ISN'T THAT CORRECT?
19 A IT'S NOT CORRECT.
20 Q ARE YOU SAYING THAT CONGRESSMAN DORNAN'S LETTER
21 DOESN'T SAY, "MR. KHOA'S SELF-PROMOTION AS A PH.D."? YOU DENY
22 THAT?
23 A YOUR HONOR TOLD ME TO READ THE WHOLE RECORD
24 AGAIN SO THAT IT SHOULD BE IN THE CONTEXT OF THE LETTER.
25 Q AND I'M ASKING --
26 MR. HART: OBJECTION, YOUR HONOR.

1 THE COURT: WAIT. WAIT.
 2 THE WITNESS: JUST THE SINGLE OF THE FIVE ITEMS
 3 THAT -- ISSUES THAT -- THAT CONGRESSMAN DORNAN RAISED. OF ALL
 4 THE FIVE, FOUR ARE FALSE, COMPLETELY FALSE. I HAD NOTHING TO
 5 DO WITH --
 6 THE COURT: THAT'S NOT -- MR. KHOA, MR. KHOA, YOU CAN
 7 LOOK AT THE CONTEXT OF THE LETTER, BUT THE QUESTION DOESN'T
 8 ASK WHETHER SOMETHING IS TRUE OR FALSE. SO THE QUESTION IS
 9 ABOUT THIS LETTER AND THE STATEMENT THAT'S MADE IN THE LETTER,
 10 WHO MADE THE STATEMENT.
 11 AGAIN, YOU CAN LOOK AT THE LETTER IN TERMS OF
 12 ITS ENTIRETY FOR THE CONTEXT OF THE STATEMENTS, BUT THE
 13 CURRENT QUESTIONS DO NOT CONCERN WHETHER ANY PARTICULAR
 14 STATEMENT IS TRUE OR FALSE, JUST WHO MADE THE STATEMENT.
 15 THE WITNESS: YEAH, OKAY. LET ME CONTINUE. AND
 16 NUMBER 5, IT'S COMPLETELY WRONG BECAUSE --
 17 THE COURT: NO, MR. KHOA, MR. KHOA, THAT'S NOT THE
 18 QUESTION. MR. KHOA, THAT'S NOT THE QUESTION AT THIS POINT IN
 19 TIME.
 20 THE QUESTION IS: WHO WAS MAKING THE
 21 STATEMENTS?
 22 YOU CAN LOOK AT THE LETTER IN CONTEXT. THAT IS
 23 PERFECTLY APPROPRIATE, BUT THE CURRENT QUESTION DOES NOT ASK
 24 ABOUT THE TRUTH OR FALSITY OF ANY ONE OF THE STATEMENTS. IT
 25 JUST SIMPLY ASKS WHO IS MAKING THE STATEMENTS IN THIS LETTER.
 26 THE WITNESS: YOUR HONOR, MY ANSWER IS THAT THESE ARE

1 ALL HEARSAY.
 2 THE COURT: MR. KHOA --
 3 THE WITNESS: NO EVIDENCE. I NEVER ADMITTED --
 4 THE COURT: MR. KHOA, THAT, AGAIN, IS NOT THE
 5 QUESTION. WE CAN'T ANSWER THE ENTIRE CASE IN RESPONSE TO ONE
 6 QUESTION. EVERYTHING IS ONE QUESTION AT A TIME TO GO ALONG.
 7 AND THIS QUESTION IS SIMPLY DIRECTED AT WHO IS MAKING THE
 8 STATEMENT, NOT WHETHER IT'S TRUE OR FALSE. IT'S JUST SIMPLY
 9 WHO IS MAKING THE STATEMENT.
 10 DO YOU UNDERSTAND THAT DISTINCTION?
 11 THE WITNESS: WHERE IS THE PROOF? I NEVER ADMIT
 12 THAT? I'M SORRY.
 13 THE COURT: I UNDERSTAND. I UNDERSTAND. BUT EVERY
 14 QUESTION HAS A DIFFERENT, YOU KNOW, SUBSTANCE TO IT. SO THE
 15 SUBSTANCE OF THIS ONE IS SIMPLY WHO IS MAKING THIS STATEMENT,
 16 NOT WHETHER IT'S ACCURATE. SO YOUR RESPONSE DOESN'T HAVE
 17 ANYTHING TO DO WITH WHETHER IT'S ACCURATE OR INACCURATE. IT'S
 18 SIMPLY THE QUESTION RELATES TO WHO IS MAKING IT.
 19 MR. VOSS, I DON'T WANT TO PUT WORDS IN YOUR
 20 MOUTH. I'LL ALLOW YOU TO ASK THE QUESTION AGAIN.
 21 BY MR. VOSS:
 22 Q WHO IS MAKING THAT STATEMENT THAT, "MR. KHOA'S
 23 SELF-PROMOTION AS A PH.D.?" ISN'T IT CORRECT TO SAY THAT'S
 24 CONGRESSMAN DORNAN?
 25 MR. HART: OBJECTION. THE DOCUMENT SPEAKS FOR
 26 ITSELF. HE'S MISCHARACTERIZING THE DOCUMENT.

1 THE COURT: SO WE'VE BEEN ROUND AND ROUND ON THAT.
 2 YOU MAY RESPOND TO THE QUESTION.
 3 THE WITNESS: THAT INFORMATION MUST COME FROM HEARSAY
 4 FROM DR. THANG.
 5 BY MR. VOSS:
 6 Q AND, AGAIN, ARE YOU JUST GUESSING AGAIN?
 7 A -- AT JOHNS HOPKINS AND THEY SAID
 8 JUSTIFICATION --
 9 THE COURT: SO, MR. KHOA, NO.
 10 ALL RIGHT. LADIES AND GENTLEMEN, WE'RE GETTING
 11 RIGHT AT THE END OF THE DAY.
 12 MR. KHOA.
 13 THE WITNESS: -- HEARSAY.
 14 THE COURT: MR. KHOA. MR. KHOA, YOU'RE NOT
 15 RESPONDING TO THE QUESTIONS THAT ARE BEING ASKED RIGHT NOW.
 16 THE WITNESS: I'M SORRY.
 17 THE COURT: AND WE'RE RIGHT HERE AT THE END OF THE
 18 DAY, SO I THINK WE'RE PROBABLY -- EVERYONE IS A LITTLE
 19 FATIGUED. SO WHAT WE'LL DO IS WE'LL GO AHEAD AND PAUSE FOR
 20 THE DAY.
 21 MAYBE WHATEVER CRICKET OR WHATEVER THEY GOT
 22 GOING BEHIND US OVER THERE -- THERE IS AN ELEVATOR BACK THERE
 23 THAT THEY'RE WORKING ON. I DON'T KNOW WHAT THAT NOISE IS. I
 24 WISH I COULD CORRECT THAT FOR YOU.
 25 BUT LET ME REMIND YOU OF YOUR ADMONITION. IT
 26 IS YOUR DUTY NOT TO CONDUCT RESEARCH, DISSEMINATE INFORMATION

1 OR CONVERSE WITH OR PERMIT YOURSELVES TO BE ADDRESSED BY ANY
 2 OTHER PERSON ON ANY SUBJECT OF TRIAL. AND IT IS YOUR DUTY NOT
 3 TO FORM OR EXPRESS AN OPINION THEREON UNTIL THE CASE IS
 4 FINALLY SUBMITTED TO YOU.
 5 THIS PROHIBITION ON RESEARCH, DISSEMINATION OF
 6 INFORMATION AND CONVERSATION APPLIES TO ALL FORMS OF
 7 ELECTRONIC AND WIRELESS COMMUNICATIONS.
 8 SO WE WILL RESUME TOMORROW AT 9 A.M., LADIES
 9 AND GENTLEMEN. THANK YOU AGAIN SO MUCH FOR YOUR TIME AND
 10 SERVICE AND HAVE A FANTASTIC EVENING.
 11 (JURY EXCUSED FOR THE EVENING.)
 12 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE THE
 13 PRESENCE OF THE JURY:)
 14 THE COURT: ALL RIGHT. WE ARE OUTSIDE THE PRESENCE
 15 OF THE JURY HERE AT THE END OF THE DAY.
 16 SO, AGAIN, MR. KHOA, WE NEED TO LISTEN
 17 CAREFULLY TO THE SPECIFIC QUESTION AND ANSWER THAT QUESTION.
 18 EVEN IF YOU DON'T LIKE THE QUESTION, IT IS STILL YOUR
 19 OBLIGATION TO ANSWER IT TO THE BEST OF YOUR ABILITY.
 20 MR. HART, I UNDERSTAND WE ALLOWED HIM TO DO IT;
 21 IT'S BEEN HIGHLIGHTED TO BE LOOKED AT IN CONTEXT, SO THE JURY
 22 HAS SEEN IT PUT UP HERE, AND IT WILL BE FOR THEM TO EVALUATE
 23 THE QUESTION AND THE RESPONSE THERETO. IT'S BEEN, AGAIN,
 24 REPEATEDLY HIGHLIGHTED AND EMPHASIZED THAT THINGS NEED TO BE
 25 LOOKED AT IN CONTEXT.
 26 SO I UNDERSTAND YOUR OBJECTION ABOUT THAT. AND

1 BASED ON THAT, THAT'S WHY I MADE SURE AND PAUSED AND GAVE HIM
2 AS MUCH TIME AS HE NEEDED TO REVIEW THE ENTIRETY OF THE
3 LETTER.

4 THE WHOLE THING IS PUT UP THERE SO THAT THE
5 JURY CAN SEE IT AND EVALUATE IT IN ITS CONTEXT. AND,
6 OBVIOUSLY, SINCE THIS HAS BEEN ADMITTED INTO EVIDENCE, THEY
7 WILL ALSO HAVE THE COPY TO SPEND AS MUCH TIME WITH AS THEY
8 LIKE DURING THE DELIBERATIONS AS WELL.

9 MR. HART: THANK YOU, JUDGE, VERY MUCH FOR THAT. I
10 APPRECIATE THE COURT'S EFFORTS.

11 WHAT OCCURS TO ME IS THAT, FROM TIME TO TIME,
12 THE PROFESSOR, BEING 93 YEARS OLD, MAY NOT UNDERSTAND THE
13 SUBTLETY OF THE QUESTION. AND SO I'LL TRY TO WORK WITH HIM
14 OVERNIGHT TO HELP HIM UNDERSTAND BETTER HOW TO LISTEN TO THE
15 QUESTION. I MEAN, SOME OF THE THINGS THAT WERE REQUESTED HAVE
16 ALREADY BEEN BASICALLY ADMITTED BY US.

17 SO I THINK THE PROBLEM HERE IS THAT HE DOESN'T
18 UNDERSTAND WHAT'S BEING ASKED, AND THAT MIGHT BE A MORE
19 PRODUCTIVE --

20 THE COURT: THAT'S WHY I WAS TRYING, AT THE END HERE,
21 TO BE CLEAR THAT THIS IS NOT CONCERNING THE TRUTH OR FALSITY;
22 IT IS SIMPLY WHO IN THIS LETTER IS MAKING THAT STATEMENT,
23 WHICH IS AN APPROPRIATE QUESTION.

24 AND THEN THE CONTEXT IS, YOU KNOW, FOR JURY TO
25 EVALUATE, AND THEY ASSIGN WHATEVER WEIGHT AND SIGNIFICANCE
26 THEY THINK IS APPROPRIATE TO THE ANSWER BASED UPON THE

1 STICK TO THE CACI VERDICT.

2 THE COURT: WELL, THEN, I WILL NEED TO GET A
3 COMPETING ONE FROM YOU.

4 MR. HART: I MADE THEM BOTH, AND I JUST FORGOT TO
5 BRING THEM.

6 THE COURT: SO LET ME MAKE SURE SO I UNDERSTAND WHOSE
7 IS WHAT THAT I HAVE HERE TODAY, WHAT THE SOURCE IS.

8 I HAVE A CACI 111. I HAVE A CACI 1700. I HAVE
9 A CACI 5013, A CACI 5014.

10 MR. HART: I DON'T THINK ANY OF THAT CAME FROM ME.
11 THAT'S ALL FROM THE DEFENSE.

12 MR. ERIGERO: YOUR HONOR, EVERYTHING CAME FROM US.
13 WE HANDED THEM TO MR. HART THIS MORNING, AND HE WAS GOING TO
14 -- WE ARE JUST GETTING A DIFFERENT FORMATS. SO WE HAD IN
15 PLEADING VERSUS WHAT WE WOULD GIVE THE JURY.

16 THE COURT: FOR PURPOSES OF THE VERDICT FORM. SO
17 BOTH OF THESE VERDICT FORMS ARE FROM THE DEFENDANT.

18 MR. VOSS: PER YOUR REQUEST, SUBJECT TO WHATEVER
19 CHANGES, SUBJECT TO OBJECTION AND THE COURT DECIDING.

20 THE COURT: I DIDN'T REALIZE THERE'S --

21 MR. VOSS: WE GOT A STARTING POINT.

22 THE COURT: -- TWO FORMATS, SO THE FORMAT OUT OF CACI
23 BOOK AND THEN A FORMAT ON PLEADING PAPER.

24 MR. VOSS: EITHER ONE.

25 THE COURT: I APPRECIATE THAT. I WAS JUST TRYING TO
26 IDENTIFY THE SOURCE SO I KNOW.

1 QUESTION AND THE CONTEXT OF THE DOCUMENT AS A WHOLE.

2 MR. HART: RIGHT. I THINK THE COURT HAS CORRECTLY
3 STATED IT.

4 THE COURT: MR. KHOA, IT IS A LONG DAY. IT'S TIRING.
5 SO WE'RE AT THE END OF THE DAY. SO, HOPEFULLY, WE'LL GET A
6 GOOD NIGHT SLEEP, GET SOME GOOD REST AND HOPEFULLY FINISH UP
7 TOMORROW. BUT, AGAIN, WE REALLY NEED TO WORK ON THE CALL OF
8 THE SPECIFIC QUESTION, BECAUSE THERE'S NOT GOING TO BE ONE
9 QUESTION THAT'S GOING TO ANSWER EVERYTHING RELATED TO THE
10 CASE. IT'S ONE BRICK AT A TIME; ONE LITTLE PIECE AT A TIME
11 FOR EVERYONE.

12 MR. HART: YES, JUDGE.

13 THE COURT: ALL RIGHT. SO LET ME SEE HERE. THEN, I
14 DID GET SOME OF THESE OTHER DOCUMENTS TODAY WHILE WE GOT A
15 MOMENT.

16 MR. KHOA, YOU'RE WELCOME TO STEP DOWN IF YOU'D
17 LIKE TO. I KNOW THAT'S NOT THE MOST COMFORTABLE SEAT ALL THE
18 TIME.

19 SO I DID RECEIVE THEN SOME ADDITIONAL JURY
20 INSTRUCTIONS, INCLUDING -- LET'S SEE, WE HAVE A VERSION OF
21 1700. ALL RIGHT. I APPRECIATE THAT.

22 AND THEN WE NOW HAVE THE TWO SIDES' PROPOSED
23 VERDICT FORM BASED ON PRESUMING THAT THE COURT INSTRUCTS USING
24 1700. IS THAT CORRECT, WHAT'S BEEN SUBMITTED HERE TODAY?

25 MR. HART: I DON'T AGREE NECESSARILY TO THEIR 1700,
26 JUDGE. SO THAT'S NOT A JOINT VERDICT FORM, BECAUSE THEY DON'T

1 MR. VOSS: ALL US.

2 THE COURT: ALL RIGHT. AND THEN MR. HART SAID HE
3 WOULD BE BRINGING HIS IN TOMORROW THEN.

4 MR. VOSS: WE HAVEN'T SEEN THEM.

5 THE COURT: NEITHER HAVE I. SO WE WILL SEE THAT
6 TOMORROW.

7 ALL RIGHT. THEN WE WILL PICK UP THERE.

8 DO YOU HAVE AN ESTIMATE?

9 MR. VOSS: I SPENT 20 MINUTES JUST TRYING TO GET AN
10 ANSWER TO THE QUESTION OF, "WHO SAID PH.D.?" SO I DON'T HAVE
11 AN ESTIMATE.

12 THE COURT: LET'S SAY IF IT GOES SMOOTHLY, WHAT IS
13 YOUR ESTIMATE?

14 MR. VOSS: BUT I'M NOT GOING TO CALL HIM ON DIRECT.
15 UNLIKE THE OTHERS WHERE I -- WHERE I RESERVED, THIS IS MY
16 ENTIRE PLAINTIFF'S.

17 THE COURT: SO MINIMUM OF AN HOUR THEN?

18 MR. VOSS: WHEN YOU OFFER IF ALL WENT WELL -- TRULY,
19 IT'S END OF THE DAY, AND I THINK THAT MAY HAVE WELL BEEN PART
20 OF THE PROBLEM. I AGREE.

21 THE COURT: THEN, MR. HART, BASED ON THE COURT'S
22 RULING HERE TODAY, ARE THERE ANY OTHER WITNESSES -- ONCE THIS
23 WITNESS IS COMPLETED, IS THAT THE END OF THE CASE-IN-CHIEF FOR
24 THE PLAINTIFF?

25 MR. HART: YES, JUDGE.

26 THE COURT: OKAY. SO THEN TURNING TO DEFENDANTS, WE

1 NEED YOUR WITNESSES. WHO IS GOING --

2 MR. VOSS: I ANTICIPATE, AT THE PRESENT TIME, WE'RE

3 DEBATING CECILE, BUT I WOULD SAY PROBABLY NOT. AND WE WOULD

4 ONLY BE CALLING THE DEFENDANTS -- WELL, NGUYEN DINH THANG ON

5 BEHALF OF B.P.S.O.S. AND HIMSELF.

6 THE COURT: SO ONCE EVERYBODY HAS COMPLETED WITH

7 PROFESSOR KHOA, PLAINTIFF THEN WILL, IN ALL LIKELIHOOD, REST.

8 AND THE FIRST WITNESS THAT DEFENDANTS WILL BE CALLING WILL BE

9 DEFENDANT?

10 MR. VOSS: THAT'S CORRECT.

11 THE COURT: OKAY. AND IF THERE IS TO BE ANOTHER

12 WITNESS AFTER THAT -- THAT WAS AN "IF" -- IT WILL BE

13 MS. TRUONG.

14 MR. VOSS: AND I DON'T SEE THAT HAPPENING. I GOT THE

15 ROUGH, AND I WANT TO GO THROUGH THE ROUGH.

16 THE COURT: I'M JUST TRYING TO, LIKE I SAID, GET MY

17 HEAD WRAPPED AROUND. SO THAT'S THE ONLY -- OTHER THAN

18 DEFENDANT, THAT'S THE ONLY OTHER POTENTIAL WITNESS THAT

19 DEFENDANT WILL BE CALLING WOULD BE MS. TRUONG?

20 MR. VOSS: THAT WOULD BE CORRECT, YEAH. AND THAT'S

21 EXTRAORDINARILY UNLIKELY.

22 THE COURT: THAT'S FINE. I JUST WANT TO -- SO

23 MR. HART IS AWARE, JUST THE SAME WAY, IT'S A TWO-WAY STREET,

24 LIKE I SAID, I JUST WANT TO MAKE SURE -

25 MR. VOSS: SO I WOULD ANTICIPATE IT'S ENTIRELY

26 POSSIBLE FOR US TO DO CLOSING TOMORROW, WHERE TODAY IS

1 TUESDAY --

2 THE COURT: WELL, THAT WILL ACTUALLY POSE A PROBLEM

3 BECAUSE I HAVE TO INSTRUCT THEM BEFORE CLOSING.

4 MR. VOSS: I'M TIRED NOW.

5 MR. HART: I'M NOT PARTICIPATING IN THAT.

6 THE COURT: LIKE I SAID --

7 MR. VOSS: WELL, WE HAD SAID END OF DAY ON THE 19TH,

8 WHEN WE TOLD THE JURY. THAT SEEMS TO BE -- IT DOES TAKE A

9 WHILE TO DO THE INSTRUCTION.

10 THE COURT: AND WE HAVE TO FINALIZE THE INSTRUCTIONS,

11 TOO, BEFORE WE CAN -- I MEAN, THIS ISN'T LENGTHY -- I MEAN,

12 IT'S GOING TO TAKE 45 MINUTES OR MAYBE AN HOUR TO READ THE

13 INSTRUCTIONS. BUT THIS ISN'T ONE OF THOSE CRAZY ONES WHERE IT

14 MAY GO ON FOR -- YOU KNOW, WE HAVE GOT 19 CAUSES OF ACTION OR

15 ANYTHING.

16 BUT BEFORE WE CAN INSTRUCT, WE HAVE TO HAVE OUR

17 FINAL CONFERENCE. AND THEN WE HAVE TO ALSO HAVE A PHYSICAL

18 COPY THAT'S IN AN ACCEPTABLE FORM FOR SUBMISSION TO THE JURY

19 BECAUSE I WILL -- I THINK WE'VE COVERED THIS ALREADY. IT IS

20 MY PRACTICE TO SEND IN THREE OR FOUR COPIES OF THE JURY

21 INSTRUCTIONS INTO THE JURY ROOM SO THEY HAVE THOSE TO REFER

22 TO. SO WE NEED TO HAVE THEM FINALIZED.

23 LIKEWISE, WE OBVIOUSLY NEED -- THE VERDICT FORM

24 IS GOING TO NEED TO BE FINALIZED SO THAT WE CAN -- FOR TWO

25 REASONS: TO THE EXTENT ANYONE WANTS TO USE IT DURING THEIR

26 CLOSING, WE HAVE IT IN FINAL FORM. AND SECOND OF ALL, SO THAT

1 WE HAVE THE FINAL FORM TO SEND INTO THE JURY ROOM UPON

2 COMPLETION.

3 SO WE ARE GOING TO NEED TO GET THOSE, MR. HART.

4 IF THEY'RE ANTICIPATING POTENTIALLY RESTING SOMETIME BY THE

5 END OF DAY TOMORROW, WE NEED TO GET THOSE SO THEN WE CAN

6 APPROPRIATELY SCHEDULE, TELL THE JURY, COME BACK ON THIS DAY,

7 AT THIS TIME, TO GIVE OURSELVES SOME TIME TO FINALIZE THOSE.

8 WE'RE NOT GOING TO GIVE OURSELVES ALL KINDS OF CRAZY TIME AND

9 WASTE THE JURY'S TIME, BUT WE DO NEED TO GET THOSE FINALIZED.

10 MR. VOSS: I ALSO ANTICIPATE -- I WANT TO MAKE SURE

11 THE COURT'S AWARE -- THE POTENTIAL FOR NOT ONE BUT TWO MOTIONS

12 TO THE COURT UPON PLAINTIFF RESTING. ONE OF THOSE, TO GIVE US

13 A PREVIEW, IS GOING TO BE -- I HAVEN'T GOTTEN THERE YET, BUT

14 PUBLIC FIGURE. SO THAT WE KNOW WHERE WE'RE GOING FROM.

15 THAT'S YOUR DETERMINATION.

16 THE COURT: SO YOU'RE SUGGESTING ONCE THE PLAINTIFF

17 REST, YOU HAVE IT.

18 MR. VOSS: I MAY BE REQUESTING, AT THAT POINT IN

19 TIME, THAT THE COURT MAKE A RULING ON WHETHER OR NOT MR. KHOA

20 IS A PUBLIC FIGURE.

21 THE COURT: I'LL HAVE TO SEE IF THAT'S APPROPRIATE AT

22 THAT POINT IN TIME TO MAKE THAT PARTICULAR RULING.

23 MR. VOSS: I HAVE GIVEN IT THOUGHT, AND I HONESTLY AM

24 UNCLEAR MYSELF. SO I WOULD LIKE TO YOUR DIRECTION IN THAT

25 REGARD, BUT IT WOULD CHANGE NECESSARILY THE QUESTIONING ON OUR

26 CASE-IN-CHIEF.

1 THE COURT: I THINK I WOULD -- I MEAN, I DON'T KNOW

2 THAT I CAN MAKE A FINAL RULING ON THAT UNTIL THE EVIDENCE IS

3 CLOSED BECAUSE --

4 MR. HART: WELL, IT'S DEFENDANTS' BURDEN TO ESTABLISH

5 THAT.

6 MR. VOSS: IF I ESTABLISH THAT DURING MY

7 CROSS-EXAMINATION, THEN I WOULD LIKE TO HAVE THAT RULING.

8 THE COURT: I'D LIKE SOME AUTHORITY -- IT IS A

9 QUESTION FOR ME. I THINK I MADE THAT CLEAR WHEN WE WERE GOING

10 THROUGH THE JURY INSTRUCTIONS, BUT IN TERMS OF -- AND I'VE

11 GIVEN YOU WHAT MY INCLINATION IS ON THAT. BUT UNTIL I'VE

12 HEARD ALL THE EVIDENCE, THERE IS ALWAYS THE POTENTIAL FOR

13 SOMETHING ELSE TO COME UP THAT, EVEN IF I MADE A RULING,

14 SOMETHING ELSE COULD COME TO LIGHT THAT COULD ALTER THAT.

15 SO I DON'T KNOW THAT I CAN MAKE A FINAL RULING

16 UNTIL THE EVIDENCE IS CLOSED ON THAT ISSUE. IF YOU HAVE

17 EVIDENCE TO THE CONTRARY, I'M HAPPY TO SEE THAT.

18 MR. VOSS: I WOULD SEE IT AS AKIN TO SEEKING NONSUIT

19 OR DIRECTED VERDICT.

20 THE COURT: BUT IT'S NOT A NONSUIT --

21 MR. VOSS: NO, IT'S NOT A NONSUIT. IT'S THE REVERSE

22 OF THAT.

23 THE COURT: LIKE I SAID, IF YOU HAVE AUTHORITY FOR ME

24 TO RULE AT THE END OF THE PLAINTIFF'S CASE ON THAT PUBLIC

25 PRIVATE FIGURE, I'M HAPPY TO CONSIDER THAT. MY VISCERAL

26 REACTION IS THAT I HAVE TO WAIT UNTIL I HEAR ALL THE EVIDENCE

1 BEFORE.

2 IT'S JUST LIKE I CAN'T SAY A HUNDRED PERCENT

3 WE'RE USING CACI 1700, WHICH IS THE SAME KIND OF THING, UNTIL

4 WE GET TO ALL THE EVIDENCE.

5 MR. VOSS: THIS BEING VERY BENEFICIAL, THEN I'M NOT

6 GOING TO WASTE THE COURT'S TIME WITH IT AT THE CLOSE OF

7 PLAINTIFF'S CASE, HEARING WHAT YOU'RE SAYING.

8 THE COURT: LIKE I SAY, I DO AGREE. THAT'S FOR ME TO

9 DECIDE. AND I WILL MAKE THAT DECISION IN CONNECTION WITH

10 FINALIZING THE JURY INSTRUCTIONS, WOULD BE MY INTENT.

11 MR. VOSS: ALL RIGHT. THANK YOU.

12 THE COURT: ANYTHING FURTHER?

13 MR. HART: NO, JUDGE.

14 THE COURT: WE'LL SEE EVERYBODY IN THE MORNING.

15 (EVENING ADJOURNMENT.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF CALIFORNIA)

4) SS.

5 COUNTY OF ORANGE)

6

7 I, MICHELLE LOTT-MEYERHOFER, CSR NO. 8226, REPORTER

8 PRO TEMPORE, IN AND FOR THE SUPERIOR COURT OF THE STATE OF

9 CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY;

10 THAT THE FOREGOING TRANSCRIPT IS A FULL, TRUE AND

11 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES, AND IS A FULL, TRUE

12 AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.

13

14 DATED THIS ____ DAY OF _____, 2024.

15

16

17 _____

18 MICHELLE LOTT-MEYERHOFER, CSR NO. 8226

19 OFFICIAL REPORTER PRO TEM

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