

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. NO. 20-CV-24294-KMM-LOUIS

RAQUEL CAMPS, in her capacity as the
personal representative of the
ESTATE OF ALBERTO CAMPS,) Pages 1-242

EDUARDO CAPPELLO, in his individual
capacity, and in his capacity as the
personal representative of the ESTATE
OF EDUARDO CAPPELLO,) Miami, Florida

) July 1, 2022
8:30 A.M.

ALICIA KRUEGER, in her individual
capacity, and in her capacity as the
personal representative of the ESTATE
OF RUBEN BONET,

and, MARCELA SANTUCHO, in her
individual capacity, and in her
capacity as the personal
representative of the ESTATE OF ANA
MARIA VILLARREAL DE SANTUCHO,

Plaintiffs,

vs.

ROBERTO GUILLERMO BRAVO,

Defendant.

TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE LAUREN FLEISCHER LOUIS
U.S. MAGISTRATE JUDGE

APPEARANCES:

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08:34AM 1 THE COURT: Good morning. Please be seated.

08:34AM 2 THE COURTROOM DEPUTY: Calling Case No. 20-CV-24294,

03:42PM 3 Raquel Camps, et al., vs. Bravo.

08:34AM 4 Counsel, would you please note your appearances for the

08:34AM 5 record.

08:34AM 6 MR. KRISHNAN: Good morning, Your Honor. Ajay Krishnan

08:34AM 7 for the plaintiffs.

08:34AM 8 THE COURT: Good morning.

08:34AM 9 MS. MATTHEWS: Good morning, Your Honor. Elzbieta

08:34AM 10 Matthews for plaintiffs.

08:34AM 11 THE COURT: Ms. Matthews.

08:34AM 12 MS. VARGAS: Good morning, Your Honor. Claret Vargas for

08:34AM 13 the plaintiffs.

08:34AM 14 THE COURT: Ms. Vargas.

08:34AM 15 MR. MUZZIO: Good morning, Your Honor. Franco Muzzio for

08:34AM 16 the plaintiffs.

08:34AM 17 THE COURT: Mr. Muzzio.

08:34AM 18 MR. DAVIS: Good morning, Your Honor. Steve Davis for

08:34AM 19 the defendant, and Roberto Bravo is here as well.

08:34AM 20 THE COURT: Thank you.

08:34AM 21 MR. SLADE: Your Honor, Roger Slade for the plaintiffs as

08:34AM 22 well.

08:34AM 23 THE COURT: Thank you very much, Mr. Slade.

08:34AM 24 Counsel, we received your e-mail and proposed verdict,

08:35AM 25 which doesn't make sense for us to start with the verdict. It

08:35AM 1 seems like the only thing that remains not agreed upon by the
08:35AM 2 parties is whether or not to include a separate question regarding
08:35AM 3 theory -- the theories of liability and whether or not to skip
08:35AM 4 after deciding the timeliness. Am I right that those are the only
08:35AM 5 things that remain in dispute?

08:35AM 6 MR. DAVIS: I put in my e-mail to counsel that it's going
08:35AM 7 to in part depend on how you rule on the tolling instruction and
08:35AM 8 what that's going to look like. Because I think that the 1b or
08:35AM 9 the b question in each of the series should be -- excuse me. Not
08:36AM 10 b. The statute of limitations question in each one, it should be
08:36AM 11 a tolling question.

08:36AM 12 If Your Honor determines you're going to submit the
08:36AM 13 tolling question to the jury, then -- the point of that being it
08:36AM 14 is something that the plaintiff has the burden of proof on.

08:36AM 15 THE COURT: Okay. All right. So even though it's not on
08:36AM 16 this proposed form, you would advance something along the lines of
08:36AM 17 what you had in your original verdict form?

08:36AM 18 MR. DAVIS: Yes, Your Honor. Again, it just depends on
08:36AM 19 your rulings on what the final jury instructions is going to look
08:36AM 20 like on the statute of limitations defense. So, yes, is the
08:36AM 21 answer.

08:36AM 22 THE COURT: Okay. May I ask a couple of questions? Both
08:36AM 23 advanced language that I don't normally include, which is telling
08:36AM 24 them their outcome is a finding in favor of one side or the other
08:36AM 25 as opposed to asking them to advance to another question or skip

08:36AM 1 another question. But it seems like you both want that. Am I
08:36AM 2 right?

08:37AM 3 MR. KRISHNAN: Your Honor, yes. I would actually -- I
08:37AM 4 typically prefer it in cases with multiple questions, particularly
08:37AM 5 this many questions because of jury confusion just given the
08:37AM 6 number of questions is potentially high.

08:37AM 7 Here, depending on where we land on the other questions
08:37AM 8 -- you know, my concern is if we have multiple statute of
08:37AM 9 limitations questions, things can get confusing. And so having it
08:37AM 10 be clear what the -- what the decision the jury makes, who it
08:37AM 11 favors, I think would be helpful. If it's just a liability
08:37AM 12 question, then a statute of limitations question, then a damages
08:37AM 13 question, I would be fine not including that parenthetical.

08:37AM 14 THE COURT: Okay. That's helpful. Let me then hear your
08:37AM 15 respective positions on including the other theories of liability.

08:37AM 16 Mr. Davis, I think I can understand why you'd want to
08:38AM 17 have them on the form. I didn't -- I thought I did when I saw the
08:38AM 18 proposed. Now when I saw the joint, I thought maybe I am wrong.
08:38AM 19 So could I just hear your position?

08:38AM 20 MR. DAVIS: Sure. The position being that it is our
08:38AM 21 argument, our position that there is no proof of a conspiracy. I
08:38AM 22 mean, obviously I'll be arguing that and I suspect it's going --
08:38AM 23 Your Honor is going to have it submitted to the jury. But I
08:38AM 24 believe there's been no proof of conspiracy, aiding and abetting
08:38AM 25 at all, and I'm going to argue about just basically a joint

08:38AM 1 criminal enterprise. But I think that these should be separate as
08:38AM 2 opposed to just a simple question about whether he is directly
08:38AM 3 liable for his own personal acts. And so that's why I broke it
08:38AM 4 out because the question 1c is broad. There are other theories
08:38AM 5 that they are traveling on, and they certainly pled them in their
08:39AM 6 complaint, and I just think it should be separately decided by the
08:39AM 7 jury.

08:39AM 8 THE COURT: I agree that they're separate theories. But
08:39AM 9 they all point to whether or not the defendant is liable. Do you
08:39AM 10 agree? Meaning, if they check yes to the Box 1c --

08:39AM 11 MR. DAVIS: Yes, Your Honor.

08:39AM 12 THE COURT: -- then it would potentially -- what I'm
08:39AM 13 trying to avoid is first of all setting up a verdict that has
08:39AM 14 inherent conflicts in them. Or is he liable, yes. Is he liable
08:39AM 15 for conspiracy, no, or vice versa. And while I recognize that the
08:39AM 16 jury can make all kinds of findings -- we will deal with that
08:39AM 17 after the verdict comes back -- this form seems to have a tension
08:39AM 18 between those two questions.

08:39AM 19 So is your position at all dependent on the outcome of a
08:39AM 20 directed verdict on those theories?

08:40AM 21 MR. DAVIS: In part, yes.

08:40AM 22 THE COURT: If the -- just for purposes of us figuring
08:40AM 23 out our verdict form, if the evidence -- if they're allowed to
08:40AM 24 advance those theories to the jury and the directed verdict isn't
08:40AM 25 granted, I still would -- I'm trying to figure out why it would be

08:40AM 1 either way -- sorry.

08:40AM 2 Let me just do it this way. Let me ask you one more time
08:40AM 3 why you think it is necessary for the jury to separately indicate
08:40AM 4 whether they find him liable directly or to know that they found
08:40AM 5 him liable on a conspiracy theory.

08:40AM 6 MR. DAVIS: Because Mr. Bravo testified he acted in
08:40AM 7 self-defense. That was his testimony. A jury could conclude that
08:40AM 8 he acted in self-defense, yet other soldiers acted in a way that
08:41AM 9 was not consistent with -- was an extrajudicial killing, if you
08:41AM 10 will, and that's why that is separated out, and then the jury
08:41AM 11 could find him under these theories alleged under those counts for
08:41AM 12 conspiracy, joint enterprise, or aiding and abetting. And that's
08:41AM 13 why I think this is just -- there is a difference between his
08:41AM 14 personal actions and the actions of the entire -- of the five, six
08:41AM 15 people that the testimony was were present in the room at the time
08:41AM 16 of the deaths of the prisoners.

08:41AM 17 THE COURT: Okay. I understand your position on the
08:41AM 18 strength of the evidence, but not yet on the necessity of asking
08:41AM 19 the jury two questions.

08:41AM 20 MR. DAVIS: Just to separate it out, I mean, because it
08:41AM 21 would be two different ways of attacking it, not only post verdict
08:41AM 22 and in appeal but also in the way it could be argued to the jury.

08:42AM 23 THE COURT: Okay. Okay. So you're looking to know in
08:42AM 24 the event of -- that there's a guilty verdict, you want to know
08:42AM 25 which theory it was for purposes of being able to pursue

08:42AM 1 post-verdict relief.

08:42AM 2 MR. DAVIS: In part, yes.

08:42AM 3 THE COURT: Okay. I'm going to table that for a minute
08:42AM 4 and let the plaintiffs digest that as well. I'm not sure that the
08:42AM 5 way that it's advanced on this form does that. At a minimum, it
08:42AM 6 seems to me that that would be accomplished by asking something
08:42AM 7 closer to, is defendant Bravo liable because he aided, abetted,
08:42AM 8 conspired, or participated in a joint criminal enterprise with,
08:42AM 9 but that's -- okay. Since your position is dependent on whether
08:42AM 10 or not the counts survive a directed verdict motion, then I'm
08:43AM 11 still not sure why that would not be there.

08:43AM 12 MR. DAVIS: I'm sorry, Your Honor, I didn't hear your
08:43AM 13 question.

08:43AM 14 THE COURT: That's okay. I'm thinking to myself.

08:43AM 15 Mr. Krishnan, are you prepared to respond to the
08:43AM 16 defendant's request to have essentially an interrogatory to the
08:43AM 17 jury on what theory they find him liable?

08:43AM 18 MR. KRISHNAN: Yes, Your Honor. So a few points: One is
08:43AM 19 I'm not sure that I follow the rationale that Mr. Davis just
08:43AM 20 advanced with respect to the statute of limitations, what if
08:43AM 21 somebody else in the group not Mr. Bravo is found by the jury to
08:43AM 22 have --

08:43AM 23 THE COURT: I don't think it was statute of limitations;
08:43AM 24 it was his affirmative defense of self-defense. But just as I
08:43AM 25 understand it, should Mr. Davis want to challenge the sufficiency

08:43AM 1 of the evidence on behalf of his client, he's asking the jury to
08:44AM 2 specify what theory, meaning that -- they want to be able to
08:44AM 3 preserve their ability -- I guess it's not preserve. But if they
08:44AM 4 want to pursue post-verdict relief to be able to say to the
08:44AM 5 Eleventh Circuit, while the jury said it's conspiracy, I'm showing
08:44AM 6 you why the evidence is insufficient.

08:44AM 7 MR. KRISHNAN: Right. I understand. I guess -- at that
08:44AM 8 level, I understand. I think that he had articulated a rationale
08:44AM 9 that if the jury believes that Mr. Bravo acted in self-defense --
08:44AM 10 I apologize -- that's what I meant the first time -- but that his
08:44AM 11 fellow soldiers were -- acted in a way that would have given rise
08:44AM 12 to liability. The self-defense defense would be a defense, and so
08:44AM 13 there wouldn't be -- there wouldn't be a basis for liability. So
08:44AM 14 I'm not seeing how that really -- asking separate questions really
08:44AM 15 does anything there.

08:44AM 16 I think that the -- breaking out a separate interrogatory
08:45AM 17 for every theory that the defense thinks they might have a
08:45AM 18 directed verdict motion on, seems like a little much. Here, you
08:45AM 19 technically have four theories of potential liability, and I don't
08:45AM 20 really want to walk us into having four or five questions now,
08:45AM 21 because there's also the form of liability that has nothing to do
08:45AM 22 with any of aiding and abetting, conspiracy, and whatever, because
08:45AM 23 obviously Mr. Camps' survivor's statement says that Mr. Bravo came
08:45AM 24 in and shot him. You don't need any group liability for that.

08:45AM 25 And, likewise, Mr. Bravo placed himself as the shooter

08:45AM 1 that was in the front in the middle of the corridor. And so a
08:45AM 2 jury could find that it was more likely true than not true that he
08:45AM 3 was ultimately responsible for each of the plaintiffs' decedents'
08:46AM 4 deaths.

08:46AM 5 So I just think we're going down a path here where just
08:46AM 6 because defense thinks they might have a theory for asking
08:46AM 7 separate interrogatories -- I will just say that we do have
08:46AM 8 significant evidence. I would be happy to mention it if it's
08:46AM 9 valuable. But as the -- it's circumstantial evidence, but it's a
08:46AM 10 significant amount of circumstantial evidence as to all three of
08:46AM 11 the group liability theories.

08:46AM 12 THE COURT: I understand. I anticipate that we will be
08:46AM 13 doing that shortly this morning. But for purposes of the verdict
08:46AM 14 form, if you can articulate why it is not appropriate to ask the
08:46AM 15 jury, for example -- I'm looking under -- I'm just going to use
08:46AM 16 Mr. Cappello's just because I have it up on page 3 asking if you
08:46AM 17 both agree to phrase the question: Is Defendant Bravo liable for
08:46AM 18 the extrajudicial killing of the decedent? The next question -- I
08:47AM 19 disagree again that this accomplishes what you've suggested it
08:47AM 20 should, Mr. Davis, for the purposes that you've advanced it for.

08:47AM 21 It seems to me that if it was going to do that, it would
08:47AM 22 have to say: Is defendant Bravo's -- I am not the wordsmith in
08:47AM 23 the group. But my point would be that they would have to elect
08:47AM 24 between conspiracy, aiding and abetting, or be given the
08:47AM 25 opportunity for each. I don't see how it helps you to know that

08:47AM 1 it was just on a theory other than direct liability without
08:47AM 2 knowing which one you, it seems to me, would not be in a different
08:47AM 3 position for your posttrial motions.

08:47AM 4 MR. DAVIS: Fair enough. Then that would then get us two
08:47AM 5 more questions if I understand what the Court was saying there.

08:47AM 6 In other words, you're separating aiding and abetting,
08:48AM 7 conspiracy, and joint enterprise --

08:48AM 8 THE COURT: Right.

08:48AM 9 MR. DAVIS: -- if I understand the Court. Is that what
08:48AM 10 you're saying, Judge?

08:48AM 11 THE COURT: That is. I think that's how you originally
08:48AM 12 proposed it. That's -- I'll be candid. While I understand why
08:48AM 13 you want it, I'm not getting a lot of guidance from either side
08:48AM 14 about why it is or isn't appropriate or necessary on this verdict
08:48AM 15 form to make this decision.

08:48AM 16 MR. KRISHNAN: Your Honor, it's two points. It's juror
08:48AM 17 confusion in my view and the possibility of an inconsistent
08:48AM 18 verdict form.

08:48AM 19 THE COURT: The way it is phrased, I agree. It is
08:48AM 20 confusing, and I'm not going to give it in the way that it's
08:48AM 21 proposed and highlighted for the reasons I said at the very
08:48AM 22 beginning. Breaking it out so that it is -- that it specifies,
08:48AM 23 you know, is the reason you think he's liable because he joined a
08:49AM 24 conspiracy. But I still -- I tend to agree with Mr. Krishnan that
08:49AM 25 asking them that may yet be confusing.

08:49AM 1 MR. DAVIS: Well, I certainly don't want to confuse the
08:49AM 2 jury. I stated the reason that I want it.

08:49AM 3 THE COURT: Okay.

08:49AM 4 MR. DAVIS: And obviously the Court can disagree.

08:49AM 5 THE COURT: Then on the statute of limitations -- wait.
08:49AM 6 Let me make sure that that's -- okay. I'm not sure then that I
08:49AM 7 understand the disagreement that's highlighted after the statute
08:49AM 8 of limitations question.

08:49AM 9 Was that just a place holder, Mr. Davis, for you to argue
08:49AM 10 that you wanted the statute of limitations questions presented
08:49AM 11 differently?

08:49AM 12 MR. DAVIS: Well, yes, Your Honor.

08:49AM 13 THE COURT: Okay.

08:49AM 14 MR. DAVIS: Because our position -- and Mr. Slade will
08:49AM 15 speak to it -- but our position is the statute of limitations
08:49AM 16 expired in 2002, and it's their burden to prove equitable tolling
08:50AM 17 for any time beyond that, and that should be reflected in the
08:50AM 18 question. But I will let Mr. Slade speak to that if you want to
08:50AM 19 hear argument or discussion on that.

08:50AM 20 THE COURT: I do accept that Mr. Slade may want the
08:50AM 21 benefit of knowing that I agree that the defense verdict form is
08:50AM 22 better on this point and that the jury should be asked on -- until
08:50AM 23 what date the statute of limitations was tolled in a manner very
08:50AM 24 similar to what the defendants here have proposed as opposed to
08:50AM 25 just asking them whether or not it was timely.

08:50AM 1 MR. KRISHNAN: So, Your Honor, I think that the problem
08:50AM 2 here is -- and maybe just before I jump into that, can I just ask:
08:50AM 3 Are you thinking exactly as proposed so that I have something to
08:50AM 4 shoot at, or is it just sort of something with more -- with two
08:50AM 5 questions? Because I think that they proposed --

08:50AM 6 THE COURT: They did. They had proposed a number of
08:50AM 7 them. So you're right. I would suggest that it may be
08:51AM 8 unnecessary to ask them whether or not the action was commenced --
08:51AM 9 within ten years the cause of action arose -- well, I would be
08:51AM 10 less inclined to propose that question to them. And I invite your
08:51AM 11 argument on whether or not you want to include the question
08:51AM 12 that -- oh, no. I read this differently.

08:51AM 13 My inclination would have been to at a minimum ask if
08:51AM 14 plaintiffs -- if they find -- whether or not it's phrased as how
08:51AM 15 they've proven it, but to initially ask if they find extraordinary
08:51AM 16 circumstances tolled the statute of limitations, and until what
08:52AM 17 date the statute of limitations they find was tolled. So, again,
08:52AM 18 you're the wordsmiths, it doesn't seem to me that that needs to be
08:52AM 19 any more than two questions.

08:52AM 20 Have the plaintiffs shown extraordinary circumstances
08:52AM 21 tolled the statute of limitations, and if so, if you find -- or
08:52AM 22 even one, if you find that extraordinary circumstances tolled the
08:52AM 23 statute of limitations, until what date was the statute of
08:52AM 24 limitations tolled.

08:52AM 25 MR. KRISHNAN: I think, Your Honor, we're inviting a lot

08:52AM 1 of confusion and, perhaps, a return form that will have
08:52AM 2 contradictions or inconsistencies in this. And there are a couple
08:52AM 3 of reasons why. You have situations, for instance, like Mr.
08:52AM 4 Cappello, who was not of age of majority at the time the TVPA was
08:52AM 5 enacted.

08:52AM 6 THE COURT: Could I interrupt you for a split second to
08:53AM 7 ask: It's been advanced by your team that the statute of
08:53AM 8 limitations does not have to be proven by the individual
08:53AM 9 plaintiffs.

08:53AM 10 At a minimum, why wouldn't we pose a question that --
08:53AM 11 whether or not the statute of limitations -- whether or not they
08:53AM 12 find that extraordinary circumstances tolled the statute of
08:53AM 13 limitations and until what date generically.

08:53AM 14 MR. KRISHNAN: Fair enough. Okay. So on that point,
08:53AM 15 Your Honor --

08:53AM 16 THE COURT: You will be able to be heard, Mr. Slade. But
08:53AM 17 at a minimum, it seems to me, that if that's the plaintiffs'
08:53AM 18 theory, they should agree that that question should be asked.

08:53AM 19 MR. KRISHNAN: Fair enough. I think the problem is that
08:53AM 20 there are multiple theories for tolling. So you're assuming that
08:53AM 21 it's getting tolled on sort of the back end versus the front end;
08:53AM 22 right? Because we've put forward that the statute of limitations
08:53AM 23 was tolled for reasons related to fear, starting from let's say
08:54AM 24 1992 forward, at least through 2005. They might find that it goes
08:54AM 25 past 2005 based on fear. There might be -- you know, jurors might

08:54AM 1 have found that they could have found him prior to 2008 based on
08:54AM 2 some fact in the record that was stated. There could be -- you
08:54AM 3 know, they could find that some portion of the extradition
08:54AM 4 proceeding counts and some portion doesn't. And so it's -- given
08:54AM 5 the number of theories and the amount of factual evidence on these
08:54AM 6 points that have been presented --

08:54AM 7 THE COURT: You're highlighting my inclination to include
08:54AM 8 the question. That's precisely it. They have to tell us which
08:54AM 9 one they find tolled and until when.

08:54AM 10 MR. KRISHNAN: It seems like -- it seems like a very,
08:54AM 11 very hyper-specific question to ask juries to answer, to
08:55AM 12 articulate.

08:55AM 13 THE COURT: I don't see how that can be so.
08:55AM 14 Hyper-technical is suggesting improper. Since you're asking them
08:55AM 15 to toll the statute of limitations up to a point, they need to
08:55AM 16 actually make that finding. They can't just generically say:
08:55AM 17 Look, these are late, and we're not going to consider -- we're not
08:55AM 18 going to make a finding. I mean, it's your position that if there
08:55AM 19 shouldn't be a directed verdict because there is a factual
08:55AM 20 dispute, that it should go to the jury. We should have the
08:55AM 21 benefit of how they resolve that dispute.

08:55AM 22 MR. KRISHNAN: Fair enough. Although any -- I mean,
08:55AM 23 there could often be a factual dispute, but we don't ask the
08:55AM 24 jurors to identify -- you know, for instance with respect to
08:55AM 25 liability, we don't ask the jurors to identify their basis for

08:55AM 1 liability. But if Your Honor is inclined to go in this direction,
08:55AM 2 I think we can live with it. I understand.

08:55AM 3 THE COURT: Let me ask your position or preference on my
08:56AM 4 suggestion that it is a single question. If you find
08:56AM 5 extraordinary circumstances tolled the statute of limitations,
08:56AM 6 until what date, as opposed to asking several questions of the
08:56AM 7 individual -- with respect to each plaintiff?

08:56AM 8 MR. KRISHNAN: Yes. We agree with that approach.

08:56AM 9 THE COURT: Okay.

08:56AM 10 MR. KRISHNAN: By the way, Your Honor, when I said we
08:56AM 11 could go along with it, what I perhaps meant to say was that we
08:56AM 12 would preserve our objections and submit to Your Honor's position.

08:56AM 13 THE COURT: I understood.

08:56AM 14 Okay. Mr. Slade.

08:56AM 15 MR. SLADE: I think that may be all on the verdict. Is
08:56AM 16 there anything further on the verdict?

08:56AM 17 MR. DAVIS: I think we agree.

08:56AM 18 MR. SLADE: I think we're with you on the verdict form.
08:56AM 19 Am I right, Mr. Davis?

08:56AM 20 MR. DAVIS: Sorry. We would agree with Your Honor's
08:56AM 21 suggested approach as to the statute of limitations.

08:56AM 22 My question would be: Would you then -- once the date is
08:56AM 23 established, do we give them a, say if your date is on or before
08:57AM 24 October 20, 2010, which is ten years before the date of the filing
08:57AM 25 of the case, then your verdict is for Bravo? Or how do you want

08:57AM 1 to address that issue? Because then if it's before --

08:57AM 2 THE COURT: I was going to ask you the same question.
08:57AM 3 You go first.

08:57AM 4 MR. DAVIS: Yes, Your Honor. My suggestion would be that
08:57AM 5 that would be actually the precise question. We say: If it was
08:57AM 6 tolled on or -- I guess when they establish the date, if you say:
08:57AM 7 If it's on or before October, I guess, 19, 2010, then sign and
08:57AM 8 date the verdict form.

08:57AM 9 If it's after that, then questions four and five,
08:57AM 10 whatever the next two damages questions are. That's a suggestion,
08:57AM 11 thinking how the jury would proceed. Because if they came back
08:57AM 12 with a statute of limitations finding and then didn't consider the
08:58AM 13 damages questions, then we would have some pretty big posttrial
08:58AM 14 issues, I think.

08:58AM 15 THE COURT: If they went which way? If they came back --

08:58AM 16 MR. DAVIS: In other words, if they said the -- if the
08:58AM 17 questions were worded in such a way that if they basically found
08:58AM 18 in favor of the defendant on the statute of limitations, but the
08:58AM 19 verdict form wasn't clear how to get to the damage questions and
08:58AM 20 then they went ahead and answered the damage questions anyway,
08:58AM 21 that's what I'm saying.

08:58AM 22 I don't know if I'm making -- you're looking at me in a
08:58AM 23 way that --

08:58AM 24 THE COURT: No. I'm just thinking it through, because I
08:58AM 25 can see issues on both -- in both directions there.

08:58AM 1 I think that the parties -- am I right that previously
08:58AM 2 you wanted and advanced -- yeah. So you both had previously said
08:58AM 3 that with respect to whatever statute of limitations question is
08:58AM 4 asked, that the jury be told that that's outcome determinative for
08:58AM 5 one side or the other. So that's your position?

08:59AM 6 I'm looking at the proposed form, Mr. Krishnan. If we
08:59AM 7 look together at what's 1c or 1d: Did the estate of plaintiff
08:59AM 8 Alberto Camps file its claims against defendant Roberto Bravo too
08:59AM 9 late under the statute of limitations; whereas answering, yes, is
08:59AM 10 a finding in favor of defendant Bravo.

08:59AM 11 The suggestion here -- then, perhaps, we would have to
08:59AM 12 break it into two questions. Okay. So just work with me.

08:59AM 13 If it were two questions, the first would be: Do you
08:59AM 14 find the plaintiff has shown by a preponderance of the evidence --
08:59AM 15 or whether or not you include that -- but has the plaintiff
08:59AM 16 demonstrated extraordinary circumstances tolled the statute of
08:59AM 17 limitations in this case? Yes or no. If you find
08:59AM 18 extraordinary --

08:59AM 19 I mean if the answer there is no, then they would go on
08:59AM 20 to -- if it's the first question, it would be a sign and date. If
08:59AM 21 you find yes, then you go on to the next question, which is; until
09:00AM 22 what date was the statute of limitations tolled. They fill that
09:00AM 23 in, and they go through the rest of the verdict form.

09:00AM 24 MR. KRISHNAN: Right. Your Honor, let me -- I'm not sure
09:00AM 25 I followed the entire thought process there. I think I certainly

09:00AM 1 got the end part. One issue is -- I think we would ask that
09:00AM 2 regardless of how the jury finds on statute of limitations, that
09:00AM 3 they be instructed to answer the damages questions. And the
09:00AM 4 reason why I think as Your Honor has noticed -- mentioned before
09:00AM 5 is that we will be making new law here one way or the other. And
09:00AM 6 my concern is a situation where we have a favorable verdict on
09:00AM 7 liability, we have an adverse finding on statute of limitations,
09:00AM 8 and no finding on damages, we go up the statute of limitations --

09:00AM 9 THE COURT: Sorry. But under the verdict form I just
09:01AM 10 proposed, there wouldn't be a finding on liability. If the first
09:01AM 11 question is: Have the plaintiffs proven extraordinary
09:01AM 12 circumstances tolled the statute of limitations, if they answer
09:01AM 13 that, no, they sign and date.

09:01AM 14 MR. KRISHNAN: I think we would object to that, Your
09:01AM 15 Honor, to have the -- to have the defense interrogatory before the
09:01AM 16 liability interrogatory. It's --

09:01AM 17 THE COURT: But I was thinking about that. This is what
09:01AM 18 prompted me when I was looking at your joint proposed -- liable is
09:01AM 19 a legal word. So he's not liable if the claim was untimely. So
09:01AM 20 even as I was looking at how you both proposed it, I couldn't
09:01AM 21 quite frankly make sense of how it was that you wanted the jury to
09:01AM 22 find out, first, if he's liable and --

09:02AM 23 MR. KRISHNAN: Right.

09:02AM 24 THE COURT: -- and then ask if the claims were untimely.
09:02AM 25 But either way, your verdict form proposed that if they find it's

09:02AM 1 not timely, that they know it's a verdict for the defendant, move
09:02AM 2 on. So I'm trying to understand; that was your position, and I'm
09:02AM 3 trying to understand it now.

09:02AM 4 MR. KRISHNAN: I guess why I don't believe that we ever
09:02AM 5 advanced the position that if the -- that if the jury found in
09:02AM 6 favor of the defense on statute of limitations that they should
09:02AM 7 skip the damages questions. We never proposed that. Certainly in
09:02AM 8 our original verdict form, that was the opposite of what we
09:02AM 9 proposed.

09:02AM 10 THE COURT: I'm looking at -- the original verdict form
09:02AM 11 says: Answering yes is a finding in favor of defendant Bravo.

09:02AM 12 MR. KRISHNAN: That's simply for that question. That's
09:02AM 13 just to clarify that question that if you answer yes to that
09:02AM 14 question, you are siding on that question -- it wasn't with Mr.
09:02AM 15 Bravo. That wasn't intended to mean finding as in a final
09:02AM 16 finding. It was just a finding on that question. We never
09:02AM 17 intended that to mean it's outcome determinative.

09:03AM 18 THE COURT: Isn't it?

09:03AM 19 MR. KRISHNAN: Well, legally, it would be outcome
09:03AM 20 determinative if that -- if that finding were to be upheld. I
09:03AM 21 mean, both parties are going to be filing motions with respect to
09:03AM 22 the statute of limitations issues.

09:03AM 23 THE COURT: Why wouldn't the jury's finding be upheld?

09:03AM 24 MR. KRISHNAN: If there was error in the jury
09:03AM 25 instruction, if as a matter of law, the -- because no reasonable

09:03AM 1 jury could find that -- in favor of the defense on the statute of
09:03AM 2 limitations question -- if any of those things happened, we would
09:03AM 3 then be in a position where we don't have an answer on damages,
09:03AM 4 and we would then be back here for a trial on damages.

09:03AM 5 THE COURT: Okay. Let me make sure that I understand
09:03AM 6 then how you want this presented. I understand Mr. Davis'
09:03AM 7 preference that if they find statute of limitations not tolled,
09:04AM 8 they not answer anything further. And your preference?

09:04AM 9 MR. KRISHNAN: Is that they just go ahead and answer the
09:04AM 10 damages questions. We have the answers on damages. If they don't
09:04AM 11 find for us on liability, obviously, they can skip everything
09:04AM 12 else -- in favor of our claims. And we don't have to phrase that
09:04AM 13 initial question as liability. It can be whether or not --

09:04AM 14 THE COURT: I mean, you both proposed that language. I
09:04AM 15 don't want to upset the apple cart on something that's apparently
09:04AM 16 been long-since agreed in terms of how to phrase the liability
09:04AM 17 question.

09:04AM 18 MR. KRISHNAN: Right.

09:04AM 19 THE COURT: But -- so your suggestion is that the jury
09:04AM 20 should be asked as I proposed it: Do you find that the plaintiffs
09:04AM 21 have shown extraordinary circumstances tolled the statute of
09:04AM 22 limitations, yes, no. The next question: Until what date. They
09:04AM 23 fill it in, and then they fill in the rest of the verdict form
09:04AM 24 regardless of how they've answered those two questions.

09:05AM 25 MR. KRISHNAN: I see.

09:05AM 1 If we are asking the statute of limitations question
09:05AM 2 first, then, yes, we would ask that the jury fill out the rest of
09:05AM 3 the verdict form as well.

09:05AM 4 THE COURT: And alternatively what you're really saying
09:05AM 5 is you would want them to be asked that question last.

09:05AM 6 MR. KRISHNAN: Last -- I don't particularly -- I think
09:05AM 7 last would be best. It could be second. It could be after
09:05AM 8 liability. You could do liability then statute of limitations.

09:05AM 9 THE COURT: Then that would be individual -- we would ask
09:05AM 10 it after each plaintiff.

09:05AM 11 MR. KRISHNAN: Right.

09:05AM 12 THE COURT: And before they got to damages.

09:05AM 13 MR. KRISHNAN: Right.

09:05AM 14 THE COURT: But you said you want them to do damages
09:05AM 15 anyway, so I don't know that there is any value in that placement;
09:05AM 16 right?

09:05AM 17 MR. KRISHNAN: Fair enough, fair enough.

09:05AM 18 THE COURT: Okay. Last word, Mr. Slade?

09:05AM 19 MR. SLADE: Not on the verdict form. We were going to
09:05AM 20 talk about the jury instructions next.

09:05AM 21 THE COURT: Oh, no. Do you want to respond to Mr.
09:05AM 22 Krishnan's position that they should fill the whole form out no
09:05AM 23 matter how they answer on the statute of limitations?

09:06AM 24 MR. DAVIS: I disagree. I have not seen that in any case
09:06AM 25 that I have ever been involved in where if a defense -- an outcome

09:06AM 1 determinative defense interrogatory has been checked in favor of
09:06AM 2 the defendant, that they consider damages anyway. I mean, maybe
09:06AM 3 that has happened, I don't know. But I've not seen it in my
09:06AM 4 practice. I don't think that would be appropriate for them to be
09:06AM 5 considering damages if that's -- if that's the, you know, the
09:06AM 6 position argued by plaintiff. I think that's --

09:06AM 7 THE COURT: As a middle ground, this is what I am now
09:06AM 8 considering. Including the question that has been posed about
09:06AM 9 whether or not a respective plaintiff's claims are timely and
09:06AM 10 concluding the form as I just did with my proposal for essentially
09:06AM 11 an interrogatory which will then let us -- require the jury to
09:06AM 12 tell us the basis for their finding that it was timely or not
09:07AM 13 timely and treat it functionally like an interrogatory. If it
09:07AM 14 comes back and they weren't able to fill it out or there wasn't a
09:07AM 15 basis or it reveals something else, then you have the matter
09:07AM 16 preserved then to take up.

09:07AM 17 But if they identify that they found extraordinary
09:07AM 18 circumstances and a date at or beyond November 1st, 2010, then,
09:07AM 19 you know, they did their job. I mean, you know that there is a
09:07AM 20 factual finding that supported their conclusion that the claims
09:07AM 21 were timely but that the form is otherwise filled out.

09:07AM 22 I mean, you both know my position. I intend to ask the
09:07AM 23 jury to answer those two questions, and as Mr. Krishnan asked me
09:07AM 24 to do, come here with an open mind about exactly how that's
09:07AM 25 presented to them. But I think it needs to be asked, and that's

09:07AM 1 my proposal.

09:08AM 2 MR. DAVIS: That's acceptable to us, Your Honor.

09:08AM 3 THE COURT: Okay. Give me one second just to tie that
09:08AM 4 up.

09:08AM 5 MR. DAVIS: Your Honor, I do -- well.

09:08AM 6 THE COURT: Go ahead.

09:08AM 7 MR. DAVIS: It's another issue related to it, and that is
09:08AM 8 just the stipulation of dates. I just think we ought to put that
09:08AM 9 in front of the jury. We talked about it yesterday. Stipulate
09:08AM 10 the date that the extradition was filed, the date that it was
09:08AM 11 denied, and the date you filed the lawsuit.

09:08AM 12 MR. KRISHNAN: I wasn't thinking that would go in the
09:08AM 13 verdict form.

09:08AM 14 MR. DAVIS: What?

09:08AM 15 MR. KRISHNAN: I wasn't thinking that would go in the
09:08AM 16 verdict form.

09:08AM 17 MR. DAVIS: I agree. I wasn't either.

09:08AM 18 MR. KRISHNAN: But before we move off the verdict form,
09:08AM 19 Your Honor, there is actually another issue that's related between
09:08AM 20 the verdict form and the jury instructions.

09:08AM 21 THE COURT: Go ahead.

09:08AM 22 MR. KRISHNAN: Which is self-defense as an affirmative
09:08AM 23 defense.

09:08AM 24 THE COURT: Neither of you proposed it. What were you
09:08AM 25 thinking? Oh, that was a bad question. What is it now, Mr.

09:08AM 1 Krishnan, that you're proposing?

09:08AM 2 MR. KRISHNAN: Oh, I'm sorry, I -- honestly, Your Honor,
09:08AM 3 we weren't fully following where Your Honor was landing in the
09:09AM 4 proposed jury instructions with self-defense as an affirmative
09:09AM 5 defense versus --

09:09AM 6 THE COURT: Negating an element?

09:09AM 7 MR. KRISHNAN: Yes. And so because we had confusion
09:09AM 8 about that, it wasn't -- it wasn't literally raised in this form.
09:09AM 9 This form that we submitted last night was simply a red line of
09:09AM 10 our original form with areas -- it was a red line that defendants
09:09AM 11 presented on our original form.

09:09AM 12 THE COURT: No problem. But I mean none of the proposed
09:09AM 13 verdict forms, including pretrial from either side, included a
09:09AM 14 space for: Do you find that he acted in self-defense. So I just
09:09AM 15 thought -- not every affirmative defense requires a different
09:09AM 16 interrogatory, I understand that. But I just assumed that the
09:09AM 17 parties decided they didn't want to ask the jury that. So what
09:09AM 18 are you proposing?

09:09AM 19 MR. KRISHNAN: Your Honor, I think we could live with --
09:09AM 20 the way you phrased has convinced me that we can live without a
09:10AM 21 self-defense question.

09:10AM 22 THE COURT: Okay. Thank you, Mr. Krishnan. Shall we do
09:10AM 23 the jury instructions?

09:10AM 24 MR. SLADE: Sure, Your Honor. I'm ready to listen.

09:10AM 25 Where do you want to go with that, Your Honor?

09:10AM 1 THE COURT: Well, I got your e-mail, so I know your
09:10AM 2 respective concerns. Mr. Slade, lead us off.

09:10AM 3 MR. SLADE: Your Honor, you know that there's been
09:10AM 4 supplemental briefing on this issue, which we provided. The other
09:10AM 5 side provided last night at 4:30 in the morning. We provided
09:10AM 6 something at 8:30. Basically our primary problem relates to
09:10AM 7 page 24, the very last statement here, in which plaintiffs have
09:10AM 8 requested an instruction that says: Where plaintiffs did not
09:10AM 9 pursue their claims in the United States, while they were
09:10AM 10 participating in or relying on accountability processes in the
09:10AM 11 country where the incident occurred.

09:10AM 12 That is another way of saying criminal proceedings. We
09:10AM 13 had extensive argument on that, and we briefed it as well, that
09:11AM 14 there is no case -- and I think Mr. Krishnan recognizes this --
09:11AM 15 that has interpreted the TVPA inequitable tolling to include a
09:11AM 16 reliance on criminal processes. It just hasn't been the case.

09:11AM 17 The criminal processes as you know as Mr. Langer
09:11AM 18 testified yesterday, a criminal proceeding is a criminal
09:11AM 19 proceeding. The purpose of it is to find liability against a
09:11AM 20 defendant; not for monetary damages but for punishment, and there
09:11AM 21 is a different process for civil.

09:11AM 22 So those things were fleshed out yesterday in Argentina.
09:11AM 23 Not only that, the testimony has been with respect to this, quote
09:11AM 24 unquote, truth and reconciliation process that they have in other
09:11AM 25 countries, that's not really what was going on with the criminal

09:11AM 1 proceedings in Argentina. There was a truth and reconciliation
09:11AM 2 process, according to Mr. Langer yesterday, but that was in 1983.

09:11AM 3 And Mrs. Camps testified yesterday that what she did with
09:11AM 4 respect to the criminal proceedings was nothing that's any
09:12AM 5 different than any criminal complaining witness would do in any
09:12AM 6 criminal case, participate with the prosecutors, attend some
09:12AM 7 hearings, travel back and forth to the trial itself, and so there
09:12AM 8 hasn't been a sufficient showing that this is something that
09:12AM 9 should justify tolling or would justify this type of instruction,
09:12AM 10 which I think as Mr. Krishnan said, and I agree with him, we were
09:12AM 11 all in agreement, this is an issue of first impression. Why put
09:12AM 12 it in the jury instruction when there is no legal support for you?
09:12AM 13 What you would be doing here would be inviting an appeal on this
09:12AM 14 one issue. Of course, there will be an appeal anyway.

09:12AM 15 THE COURT: Can I make an observation that I am not sure
09:12AM 16 that there is not legal support for it. I think if I understand
09:12AM 17 your argument correctly that there is not factual support for it.
09:12AM 18 The bullet point is an accurate statement of the law that's
09:12AM 19 developed. You take issue with the jury here being able to find
09:13AM 20 that such an accountability process is taking place, because as a
09:13AM 21 matter of fact, the only proceeding was criminal; right?

09:13AM 22 MR. SLADE: Well, I do take issue with that. And I also
09:13AM 23 take issue with the fact the nomenclature here, which says,
09:13AM 24 accountability processes, which I think we all know is just
09:13AM 25 another way of saying criminal proceedings. And there is no

09:13AM 1 authority that we have been able to locate, and that's in our
09:13AM 2 reply brief which we filed this morning, that says that a criminal
09:13AM 3 proceeding pending in another country is sufficient to become an
09:13AM 4 extraordinary circumstance sufficient to toll the statute of
09:13AM 5 limitations when there was nothing preventing the plaintiffs from
09:13AM 6 filing a lawsuit here.

09:13AM 7 They still have in their instruction the other
09:13AM 8 circumstances, which the Eleventh Circuit and other circuits have
09:13AM 9 recognized, would potentially provide a basis for equitable
09:13AM 10 tolling, but not this one. This accountability process, they've
09:13AM 11 already said that there was no Truth and Reconciliation Commission
09:13AM 12 going on now. That is not what Ms. Camps participated in. She
09:14AM 13 participated in the criminal proceedings, which started in 2005,
09:14AM 14 resulted in a guilty verdict in 2012, but that has nothing to do
09:14AM 15 with whether she could file a lawsuit here. So we think that
09:14AM 16 putting this instruction in here is devastating to our case and
09:14AM 17 gives the jury an incorrect instruction on the law.

09:14AM 18 THE COURT: Well --

09:14AM 19 MR. SLADE: Maybe there is another way to phrase it.

09:14AM 20 THE COURT: Beg your pardon?

09:14AM 21 MR. SLADE: Maybe there is another way to phrase it.

09:14AM 22 THE COURT: You knew exactly what I was about to ask you,
09:14AM 23 Mr. Slade. So if the issue turns on the term, accountability
09:14AM 24 process, and your argument or position here is that that
09:14AM 25 overstates the law that's been developed -- am I accurately

09:14AM 1 summarizing your position; that accountability process here is too
09:14AM 2 broad of a term to capture that, which courts have since
09:15AM 3 recognized?

09:15AM 4 MR. SLADE: It dramatically overstates it. In fact, it's
09:15AM 5 not even recognized anywhere.

09:15AM 6 THE COURT: Okay. Now I understand -- I'm going to
09:15AM 7 confess that I haven't read your reply yet. As I walked in, I saw
09:15AM 8 that it was filed, and so I think that I am hearing some of your
09:15AM 9 argument, and I will look particularly if you've given me
09:15AM 10 additional authority, and I understand that we still have time for
09:15AM 11 the directed verdict. But I can't ignore that I did hear a few
09:15AM 12 things yesterday that I had not heard yesterday morning. And I
09:15AM 13 will tell you for the benefit both of this discussion -- because
09:15AM 14 it very much focuses on the jury instruction itself, but I know we
09:15AM 15 still have, you know, a directed verdict that we might hear in
09:15AM 16 another two hours. But I will tell you what those things were.

09:15AM 17 First, Mr. Krishnan's acknowledgment that it was the
09:15AM 18 denial of the extradition application that as a matter of
09:16AM 19 historical fact signaled to these plaintiffs that the statute of
09:16AM 20 limitations may be tolled and running. They as a matter of
09:16AM 21 historical fact used that moment in time.

09:16AM 22 Now, whether or not they were legally entitled to, I
09:16AM 23 think there is evidence that this jury has in front of it,
09:16AM 24 including description from plaintiff Camps that she was a
09:16AM 25 complainant in a criminal proceeding, which is qualitatively

09:16AM 1 different than the United States criminal process, at least.

09:16AM 2 And while I anticipate your objection to my reliance on
09:16AM 3 this, Mr. Langer did testify that the criminal trial that occurred
09:16AM 4 beginning from 2005 forward was the kind of proceeding that took
09:17AM 5 place for Trelew that was -- it was the same kind of proceeding
09:17AM 6 that otherwise would have been a truth and reconciliation process.

09:17AM 7 I have more precisely in my notes how he said it. But he
09:17AM 8 offered his opinion based on his legal expertise that drew an
09:17AM 9 analogy -- I'm sorry. I am being imprecise.

09:17AM 10 He offered evidence that that proceeding that started in
09:17AM 11 2005 was similar to a proceeding on which courts have previously
09:17AM 12 relied for tolling.

09:17AM 13 MR. SLADE: Your Honor, the way I heard his testimony was
09:17AM 14 that when he was talking about truth and reconciliation, he was
09:17AM 15 talking about the 1983 CONADEP. He wasn't talking about the 2005
09:17AM 16 process. And when I asked him or when Mr. Muzzio asked him -- and
09:18AM 17 I think I have some testimony here.

09:18AM 18 THE COURT: Here's what my notes reflect -- and I know
09:18AM 19 poor Vernita is giving you daily transcripts, so this could be
09:18AM 20 more precise -- but he was asked if Argentina had a Truth and
09:18AM 21 Reconciliation Commission. Yes, but it did not cover Trelew. The
09:18AM 22 only accountability process was a criminal investigation. Those
09:18AM 23 criminal proceedings were the equivalent of --

09:18AM 24 And then I've bracketed here his actual words were "the
09:18AM 25 kind of, the truth and reconciliation proceedings." Those were my

09:18AM 1 notes from yesterday. And whether or not there is additional
09:18AM 2 evidence that the parties might argue at the directed verdict for
09:18AM 3 tolling beyond that point, it was my observation at the time that
09:18AM 4 that was evidence on which a jury could base a finding that
09:18AM 5 extraordinary circumstances existed until November 1, 2010, when
09:19AM 6 the extradition was denied.

09:19AM 7 MR. SLADE: Your Honor, we also briefed this issue.

09:19AM 8 THE COURT: I know. Like I said, I'm so sorry, I have
09:19AM 9 not had a chance to see your reply.

09:19AM 10 The directed verdict motion was excellent and absolutely
09:19AM 11 honed the issue exactly where it needed to be. I'm sorry.

09:19AM 12 MR. SLADE: I'm sorry. I didn't mean to interrupt.

09:19AM 13 THE COURT: No. I just -- I regret --

09:19AM 14 I needed the benefit of your legal research, but I regret
09:19AM 15 that I pushed you as hard as I did to file it before the evidence
09:19AM 16 was in because you filed it before you had the benefit of all the
09:19AM 17 evidence. I am sorry for that. And it is without prejudice to
09:19AM 18 you making your argument at the close of the plaintiffs' evidence,
09:19AM 19 of course.

09:19AM 20 MR. SLADE: I understand, and we'll do that. And I want
09:19AM 21 to point out something that is in the directed verdict motion,
09:19AM 22 which I don't think maybe the Court -- I'll just remind you what's
09:19AM 23 in there.

09:19AM 24 THE COURT: Please.

09:19AM 25 MR. SLADE: Page 18, there is a description from law

09:19AM 1 review articles that we were able to locate about what a truth and
09:20AM 2 reconciliation process is. Okay.

09:20AM 3 And that is: The purpose of the commission is promoting
09:20AM 4 truth telling and reconciliation, psychological healing for
09:20AM 5 victims, establishing an accurate historical record, recommending
09:20AM 6 reparations for victims, restoring minimal accountability,
09:20AM 7 restoring dignity to victims, making recommendations for
09:20AM 8 institutional reform, as well as preventing violence and
09:20AM 9 repetition of abuses.

09:20AM 10 So when Mr. Langer testified yesterday, he did not touch
09:20AM 11 on any of those issues, and he simply was able to distinguish,
09:20AM 12 when he was asked by Mr. Muzzio, the difference between a civil
09:20AM 13 and criminal proceeding generally in Argentina. One is for
09:20AM 14 punishment, and one is for damages; just like here.

09:20AM 15 So I don't think that what happened in Argentina -- nor
09:20AM 16 do I think there has been sufficient development in this record --
09:20AM 17 was the equivalent of a truth and reconciliation process that had
09:20AM 18 been identified in the case law. So our position is that this
09:20AM 19 instruction is only -- basically, it's been initiated based upon a
09:21AM 20 first time --

09:21AM 21 THE COURT: Mr. Slade, I would just make the observation
09:21AM 22 that from that list, the only goal or objective that I would say
09:21AM 23 there is no evidence of on this record is reparations; meaning
09:21AM 24 that to the extent that this is as the phraseology suggests it is,
09:21AM 25 a noninclusive list, meaning that in order for the accountability

09:21AM 1 process on which the plaintiffs have reasonably relied to be
09:21AM 2 qualitatively that which they could have relied, that these are --
09:21AM 3 they don't have to check every one, there has been evidence that
09:21AM 4 hits every other one of these objectives.

09:21AM 5 With respect to that criminal proceeding in 2005, they
09:21AM 6 testified that this was the investigation that developed the
09:22AM 7 record, that identified the participants, that identified the
09:22AM 8 witnesses, that enabled the forensic to go in and examine the
09:22AM 9 military base. The plaintiffs testified to the impact that it had
09:22AM 10 with respect to their healing process. It's just the only piece
09:22AM 11 it didn't touch upon was reparations.

09:22AM 12 And I will tell you that I personally, and to the
09:22AM 13 detriment of my poor law clerks, have looked hard to try to see
09:22AM 14 the extent to which that remedial piece, that monetary piece is
09:22AM 15 determinative; meaning that the remedy they seek in this suit had
09:22AM 16 to have been available to them in those other proceedings on which
09:22AM 17 they reasonably relied, and I didn't have it. And if your reply
09:22AM 18 did, that will be very meaningful support for me to look at.

09:23AM 19 MR. SLADE: We'll take another look at it, Your Honor.
09:23AM 20 But I still think there are things about this process that I did
09:23AM 21 not hear testimony about such as the psychological issue to
09:23AM 22 victims. I'm not aware that there was an issue with historical
09:23AM 23 record.

09:23AM 24 THE COURT: Mr. Slade, I am just going to respond to that
09:23AM 25 one. Ms. Camps did testify -- and in response to at least some of

09:23AM 1 the questions over the defense objection -- to the impact of the
09:23AM 2 trial on her and the families.

09:23AM 3 MR. SLADE: I understand that. But what this is
09:23AM 4 suggesting is that there is -- the purpose of the Truth and
09:23AM 5 Reconciliation Commission is for the Commission to provide
09:23AM 6 psychological healing for the victims.

09:23AM 7 THE COURT: On what do you rely for that narrow
09:23AM 8 interpretation? That's fairly specific.

09:23AM 9 MR. SLADE: We cited law -- some review articles that
09:23AM 10 have gone into some analysis of this. And, again, it's at
09:23AM 11 page 18.

09:23AM 12 THE COURT: Oh, I'm sorry. I misunderstood your proffer.
09:23AM 13 I understand you now.

09:23AM 14 MR. SLADE: I think it's a different issue of whether Ms.
09:24AM 15 Camps was able to achieve psychological healing on her own as a
09:24AM 16 result of what happened at the criminal proceedings. I'm not
09:24AM 17 aware that there was any recommendation for constitutional reform
09:24AM 18 that took place as a result of the criminal findings. I'm not
09:24AM 19 aware that there was anything going forward which would prevent
09:24AM 20 violence and repetition of abuses. Remember of course, this
09:24AM 21 started in 2005, ended in 2012, and the events that are at issue
09:24AM 22 here took place in 1972. So things had already changed anyway.
09:24AM 23 But these recommendations, as far as I know, from the record we
09:24AM 24 have were not made. That's why I think this is a different type
09:24AM 25 of thing. We're talking about Liberia. We're talking about

09:24AM 1 Somalia, where there is a complete breakdown in the government in
09:24AM 2 total. And because of that, the government made the determination
09:24AM 3 that we need to have some psychological national healing that has
09:24AM 4 to take place.

09:24AM 5 My understanding of the criminal proceedings in this
09:25AM 6 case, there was conviction of three of Mr. Bravo's compatriots,
09:25AM 7 and that was it. I'm not aware that any of these things took
09:25AM 8 place as part of that process, and I don't think that Mr. Langer
09:25AM 9 went into that kind of detail, although he did make clear the
09:25AM 10 distinguishing factor between criminal and civil proceedings in
09:25AM 11 Argentina. One is for money. One is for punishment. It was that
09:25AM 12 simple, and he did -- I will go back and look at the transcript.

09:25AM 13 THE COURT: No. I agree. That's how I remember his
09:25AM 14 testimony on that point.

09:25AM 15 MR. SLADE: Yeah. And he talked about truth and
09:25AM 16 reconciliation with respect to the 1983 CONADEP.

09:25AM 17 THE COURT: Right.

09:25AM 18 MR. SLADE: But that related to something completely
09:25AM 19 different and did not involve Trelew.

09:25AM 20 THE COURT: Right.

09:25AM 21 MR. SLADE: So that's a different issue. So we're going
09:25AM 22 to just make our argument that this instruction should be struck
09:25AM 23 from the form in its entirety. The jury should not be instructed
09:25AM 24 on this. Because, again, as you will see in our reply brief, we
09:25AM 25 make the argument, that there is no case in the United States that

09:25AM 1 you're going to be able to find that relies upon a criminal
09:26AM 2 proceedings should somehow toll the statute of limitations in a
09:26AM 3 50-year-old incident case. I mean, this has got to be the longest
09:26AM 4 case of tolling in history, so far as I can see from the cases
09:26AM 5 that I read.

09:26AM 6 So like you said yesterday -- and I looked and read what
09:26AM 7 you said, which I think you were very well informed, and you had
09:26AM 8 very good points to make -- it can't be up to the plaintiffs to
09:26AM 9 make the determination about when the statute of limitations
09:26AM 10 starts, because they were relying on this, and they were relying
09:26AM 11 on that. There has to be an end point. But Mr. Bravo has rights
09:26AM 12 too. His rights are that there have to be some type of statutory
09:26AM 13 federal case law cutoff as to how long this can go on.

09:26AM 14 THE COURT: I agree with you. I mean, I think that you
09:26AM 15 heard that from yesterday.

09:26AM 16 MR. SLADE: Yes, I did.

09:26AM 17 THE COURT: As a practical matter, if they get any jury
09:26AM 18 instructions, then they'll also get the statute of limitations
09:26AM 19 instruction; right? Meaning, if you prevail on this, they're
09:27AM 20 getting no instructions. But if we're instructing them, they're
09:27AM 21 going to get a statute of limitations tolling. And I'm sure that
09:27AM 22 you would want them to be told how they figure out if the
09:27AM 23 plaintiff met their burden on tolling. So under that hypothetical
09:27AM 24 and for our purposes this morning and without prejudice to your
09:27AM 25 directed verdict motion, is your objection to the statute of

09:27AM 1 limitations instruction that I have advanced in this set limited
09:27AM 2 to use of the term "accountability processes?"

09:27AM 3 MR. SLADE: Yes.

09:27AM 4 THE COURT: Do you have a different proposal?

09:27AM 5 MR. SLADE: No. But I would like an opportunity to
09:27AM 6 confer with my cocounsel, and I would like to make one.

09:27AM 7 THE COURT: Okay. Let me turn then to the plaintiff team
09:27AM 8 and ask them to respond to the use of the word "accountability
09:27AM 9 processes." While Mr. Langer used it yesterday, where else does
09:27AM 10 it find its source?

09:28AM 11 MR. KRISHNAN: Your Honor, I stood up because I had
09:28AM 12 something slightly bigger picture on this point to say.

09:28AM 13 THE COURT: What was that?

09:28AM 14 MR. KRISHNAN: Which is that -- I try to do this artfully
09:28AM 15 when I can. Although -- but it's probably too late in the week
09:28AM 16 for me to do this artfully. But given where Your Honor appears to
09:28AM 17 be leaning, we understand that -- you know, in a situation where
09:28AM 18 we're only going to the jury on that first piece up until the
09:28AM 19 first extradition denial, we understand that where Your Honor is
09:28AM 20 leaning on that and would preserve our objections with respect to
09:28AM 21 anything later, but would -- I don't know that we need to argue
09:28AM 22 further depending on where Your Honor is on this particular point.
09:28AM 23 So I have obviously not done that artfully. Maybe I just missed
09:28AM 24 where Your Honor is on this.

09:28AM 25 THE COURT: I don't know what you want, Mr. Krishnan.

09:28AM 1 MR. KRISHNAN: Okay. I -- why don't we go ahead and
09:29AM 2 answer the question that you asked then.

09:29AM 3 THE COURT: Thank you.

09:29AM 4 MR. KRISHNAN: Which is -- go ahead.

09:29AM 5 MR. MUZZIO: Your Honor, the only evidence in the record
09:29AM 6 is Mr. Langer's testimony.

09:29AM 7 THE COURT: Oh, no. Sorry. First, can I just ask --
09:29AM 8 have an answer to the legal question, which is: From where do you
09:29AM 9 get that word -- or that phrase? Is it just from Mr. Langer? Or
09:29AM 10 does it find a source in the law that we can look at together or
09:29AM 11 otherwise consider if we should be using a different phrase to
09:29AM 12 describe the thing on which they relied in Argentina?

09:29AM 13 MR. MUZZIO: I believe it is not used in the two cases we
09:29AM 14 have cited. But I would like an opportunity to review them.
09:29AM 15 However, Mr. Langer's legal expertise and testimony is in the
09:29AM 16 record.

09:29AM 17 THE COURT: Yes.

09:29AM 18 MR. MUZZIO: And he used the phrase, and not only did he
09:29AM 19 use the phrase, but as Your Honor noted correctly this morning, he
09:29AM 20 described the Trelew criminal proceedings as the equivalent to the
09:29AM 21 truth commission. And so he described both of these proceedings
09:30AM 22 as accountability processes, and I think the law is undisputed
09:30AM 23 that Truth and Reconciliation Commissions fall within this
09:30AM 24 category, and so we would offer that. So the 2005 and 2012 --

09:30AM 25 THE COURT: So that we're moving efficiently, you both

09:30AM 1 will have the opportunity to look at the sources, advance an
09:30AM 2 alternative. It is without prejudice to your position that your
09:30AM 3 position was the right one in the first instance, but I think we
09:30AM 4 would benefit from knowing what you would want if you lost.

09:30AM 5 I likewise feel like I have seen in list form other
09:30AM 6 courts describe in a succinct way a thing going on in another
09:30AM 7 country. And if there's consistency in the case law that is
09:30AM 8 factually applicable to what we've heard described here, it would
09:30AM 9 be my inclination to borrow it from established law. So that's
09:31AM 10 where I'm going to look. But I will otherwise be giving this
09:31AM 11 instruction. And at our final charge conference, we will talk
09:31AM 12 about what the language should be.

09:31AM 13 MR. SLADE: Can we put on one other thing from the
09:31AM 14 transcript, and then I will sit down?

09:31AM 15 And that is that on page 133 of our transcript -- this
09:31AM 16 was yesterday -- the Court said: Okay. So even though -- so even
09:31AM 17 though in that proffer you're saying the truth and reconciliation
09:31AM 18 --

09:31AM 19 THE COURT: Slow down, Mr. Slade. Sorry. Even though --

09:31AM 20 MR. SLADE: I'm sorry. I have been told that before.

09:31AM 21 THE COURT: That's okay. Even though in that proffer --

09:31AM 22 MR. SLADE: I have a copy of the transcript too, Your
09:31AM 23 Honor, and we'll provide that.

09:31AM 24 It says at page 133, the Court: Okay. So even though in
09:31AM 25 that proffer you're saying truth and reconciliation, you're

09:31AM 1 referring to the CONADEP? And Mr. Muzzio says: Yes, Your Honor.
09:31AM 2 So I think that's the point that I was making, and that was my
09:31AM 3 recollection of the testimony. But -- or the colloquy rather.
09:31AM 4 And I can provide -- we can provide that next break.

09:31AM 5 THE COURT: It's on the docket. I appreciate it so much,
09:31AM 6 but I have it.

09:31AM 7 Let me then turn to the plaintiffs, who wanted to talk
09:32AM 8 about conspiracy. What's wrong with conspiracy?

09:32AM 9 MR. KRISHNAN: I can just address it quickly, Your Honor,
09:32AM 10 which is it has to do with the first of the three elements of
09:32AM 11 conspiracy. I believe the way that conspiracy typically works,
09:32AM 12 and I think it's even reflected in the remainder of this
09:32AM 13 instruction, is that for the first requirement, two or more
09:32AM 14 persons agreed to -- I believe it's committing a wrongful act.
09:32AM 15 They don't have to agree to the violation. The violation is
09:32AM 16 the -- it comes up in number 3. The violation is the natural --
09:32AM 17 if -- if the violation is caused by the conspiracy to commit the
09:32AM 18 wrongful act, that's how conspiracy typically works. So that's
09:33AM 19 the major issue. There are a couple of other wordsmithing things.

09:33AM 20 THE COURT: Okay. But before you go any further, so
09:33AM 21 conspiracy is two or more people agreeing to do something the law
09:33AM 22 forbid -- expressly forbids. And that knowing its unlawful
09:33AM 23 purpose, he joined it. The parties in both of their instructions
09:33AM 24 seem to take what in criminal law would be two elements and made
09:33AM 25 it sort of one. So I've done the best that I could, and I tracked

09:33AM 1 this from a number of instructions that have been given in our
09:33AM 2 district.

09:33AM 3 Pat, did this come right out of Emami?

09:33AM 4 MR. DARCEY: Yes.

09:33AM 5 THE COURT: So if you want to tell me where you drew your
09:33AM 6 language from, I thought it was too general.

09:33AM 7 MS. MATTHEWS: Your Honor, it's taken directly from
09:33AM 8 Cabello, which is the controlling case on secondary liability in
09:34AM 9 the Eleventh Circuit in TVPA cases. The Cabello court didn't go
09:34AM 10 on to give the remainder of the instruction, which the Mamani
09:34AM 11 court gave.

09:34AM 12 THE COURT: But a lot of the Cabello instructions were
09:34AM 13 really succinct and very different than --

09:34AM 14 MS. MATTHEWS: Right.

09:34AM 15 THE COURT: I could not customize the parties' proposed
09:34AM 16 consistent with Cabello. They were just too far apart. So this
09:34AM 17 was closer to that which had been proposed. But the --

09:34AM 18 So tell me: The specific objection is to --

09:34AM 19 MS. MATTHEWS: I mean --

09:34AM 20 THE COURT: -- the inclusion of what the unlawful purpose
09:34AM 21 of the conspiracy is?

09:34AM 22 MS. MATTHEWS: Yes, Your Honor. We think it should say:
09:34AM 23 Agreed to commit a wrongful act, which is what it says in the
09:34AM 24 Cabello instruction, and that is implied by the fact that the
09:35AM 25 conspirators do not have to know the scope of the plan or the

09:35AM 1 exact limits of the plan when they join the conspiracy.

09:35AM 2 THE COURT: Well, the scope of. But they need to know
09:35AM 3 its unlawful purpose. That's required by conspiracy law.

09:35AM 4 MR. KRISHNAN: But I'm not sure that they need to know
09:35AM 5 that the unlawful purpose is the very thing that would be the
09:35AM 6 violation; that if there was -- so for instance, if we --

09:35AM 7 THE COURT: Do you have authority on that?

09:35AM 8 MR. KRISHNAN: I think --

09:35AM 9 THE COURT: And I mean -- sorry. Go ahead.

09:35AM 10 MR. KRISHNAN: I think Cabello would be it.

09:35AM 11 THE COURT: Well, no. So you're inferring from the fact
09:35AM 12 that that was the instruction given that -- I'm disinclined.

09:35AM 13 MS. MATTHEWS: Your Honor, one of the more recent cases
09:36AM 14 in this district on conspiracy in the TVPA case is Harramio
09:36AM 15 (phonetic) v. Narango (phonetic). I'm mispronouncing that I'm
09:36AM 16 sure. There the court specifically found that the conspiracy was
09:36AM 17 to use paratroop force to combat the illegal drug trade and
09:36AM 18 guerrilla forces, and that was the agreement, the plan.

09:36AM 19 THE COURT: Do you want to give me a cite?

09:36AM 20 MS. MATTHEWS: Sure. The case is 2021 WL 4427, 455.

09:36AM 21 THE COURT: I'm so sorry. My keyboard wasn't with us,
09:36AM 22 2021 Westlaw. Go ahead.

09:36AM 23 MS. MATTHEWS: 2021 Westlaw, and 4427,455.

09:36AM 24 THE COURT: And you're citing that for the proposition
09:36AM 25 that a conspiracy is just the agreement to do something unlawful?

09:37AM 1 MS. MATTHEWS: Yes, Your Honor.

09:37AM 2 THE COURT: To commit a wrongful act actually.

09:37AM 3 MS. MATTHEWS: Yes. That's the controlling standard in
09:37AM 4 the Eleventh Circuit at the moment. That's the recitation of the
09:37AM 5 elements that all the courts that I have read use other than I
09:37AM 6 think Mamani. And that's how it's been applied.

09:37AM 7 THE COURT: Okay. I'll take a look at that one. What
09:37AM 8 were the wordsmithing issues?

09:37AM 9 MS. MATTHEWS: On point 3, we think it should be torture,
09:37AM 10 attempted extrajudicial killing, or extrajudicial killings of
09:37AM 11 plaintiffs' relatives. It should be disjunctive, not conjunctive.

09:37AM 12 THE COURT: I think that's accurate.

09:37AM 13 Mr. Davis?

09:37AM 14 MR. DAVIS: I agree, Your Honor.

09:37AM 15 THE COURT: All right. Keep going.

09:37AM 16 MR. DAVIS: Did you hear me? I said I agree.

09:37AM 17 THE COURT: Beg your pardon?

09:37AM 18 Thank you. When I said keep going, I'm sorry. I meant
09:38AM 19 to the plaintiffs.

09:38AM 20 MS. MATTHEWS: That's the only one. That's the only
09:38AM 21 wordsmith gone.

09:38AM 22 THE COURT: All right. So conspiracy down. And then
09:38AM 23 damages were next, right?

09:38AM 24 MS. MATTHEWS: Yes, Your Honor. I think this is a minor
09:38AM 25 point, but on compensatory damages, the instruction just

09:38AM 1 plaintiffs' burden of proof twice. I think that that's just not
09:38AM 2 necessary.

09:38AM 3 THE COURT: On page 26?

09:38AM 4 MS. MATTHEWS: Sorry, page 26. It stated in the
09:38AM 5 introduction. In considering the issue of compensatory damages,
09:38AM 6 you should determine what amount has been proven by the plaintiffs
09:38AM 7 by a preponderance of the evidence. And then below, it states it
09:38AM 8 again with respect to the elements of damage.

09:39AM 9 THE COURT: Actually, it says it three times, and I think
09:39AM 10 that the standalone sentence is the one that I would be amenable
09:39AM 11 to removing. So it starts by saying that you should look at
09:39AM 12 damages, if any, that have been proven by a preponderance. Then
09:39AM 13 there is a standalone sentence that the plaintiffs have the burden
09:39AM 14 of proof of proving by a preponderance. Then it tells them that
09:39AM 15 you should ask upon the extent to which they have been proved by a
09:39AM 16 preponderance.

09:39AM 17 So I would be amenable to taking that standalone sentence
09:39AM 18 in the middle bottom of the paragraph that says the plaintiffs
09:40AM 19 have the burden of proving?

09:40AM 20 Any objection from the defense to removing one of the
09:40AM 21 three references to the burden?

09:40AM 22 MR. DAVIS: No objection.

09:40AM 23 THE COURT: Okay. All right. What, if anything, else?

09:40AM 24 MS. MATTHEWS: And then on the issue of punitive damages,
09:40AM 25 our proposed instruction had accurately stated that it is

09:40AM 1 defendant's burden to show that his financial resources should be
09:40AM 2 considered in fixing the amount of punitive damages. That's not
09:40AM 3 currently included in the instruction.

09:42AM 4 THE COURT: Okay. Let me just ask the defense response
09:42AM 5 to -- I will look back at the Jarra (phonetic) instruction.
09:42AM 6 That's where you pulled this from; is that right?

09:42AM 7 MS. MATTHEWS: My recollection is we added it based on
09:42AM 8 the case law.

09:42AM 9 THE COURT: Okay. I was going to say, I didn't remember
09:42AM 10 seeing that language, and it's not consistent at least with the
09:42AM 11 phraseology of how I -- if I agree would tell them -- if I agree
09:43AM 12 it should be -- that they should be told the defendant has the
09:43AM 13 burden, it will be much closer to how they were told the plaintiff
09:43AM 14 has the burden on compensatory. But what is the defense position
09:43AM 15 on advising the -- including in the instruction that to the extent
09:43AM 16 financial circumstances warrant a limitation of the award of
09:43AM 17 punitive damages, the burden bears -- defendant bears the burden
09:43AM 18 of proof with respect to his financial circumstances?

09:43AM 19 MR. DAVIS: I wasn't prepared to discuss on the burden of
09:43AM 20 proof. I know that every punitive damage award relates to the
09:43AM 21 amount of punitive damages. But that being said --

09:44AM 22 MR. SLADE: Compensatory damages.

09:44AM 23 MR. DAVIS: No. But the amount of punitive damages.

09:44AM 24 THE COURT: Okay. Then I hear you when you say that you
09:44AM 25 weren't ready. But we still need to talk one more time on -- let

09:44AM 1 me just try to tie back the issue I've asked you both to propose
09:44AM 2 on statute of limitations, the first element of conspiracy, and
09:44AM 3 this. And then so we still have -- am I correct that those are
09:44AM 4 the only three things that remain in play on the jury instructions
09:44AM 5 from the plaintiffs?

09:44AM 6 MR. DAVIS: Yes, Judge. Just so I'm clear on the
09:44AM 7 question on the last punitive damages, I haven't researched that.

09:44AM 8 THE COURT: Yes, sir.

09:44AM 9 MR. DAVIS: You want my position on whether or not it's
09:44AM 10 the defendant's burden of proof for their financial resources?

09:44AM 11 THE COURT: Yes. Whether or not the jury should be
09:44AM 12 instructed that the defendant bears the burden of showing that his
09:44AM 13 financial circumstances weren't a limitation on the award of
09:45AM 14 punitive damages. That's the position the plaintiffs are
09:45AM 15 advancing.

09:45AM 16 And I, like you, did not know what the challenge to
09:45AM 17 punitive damages was going to be; so I need an opportunity to go
09:45AM 18 back.

09:45AM 19 And maybe, Ms. Matthews, you could hone us in on your
09:45AM 20 best case for that proposition that we should look at, because
09:45AM 21 it's a number of cases cited here.

09:45AM 22 MS. MATTHEWS: Yes, Your Honor. They're in the argument
09:45AM 23 in support. There's two Southern District of Florida cases, LaBoy
09:45AM 24 vs. Florida Department of Children and Family Services, and Paul
09:45AM 25 vs. Avri11 (phonetic).

09:45AM 1 THE COURT: I'm struggling to find those in this -- in
09:45AM 2 your advanced -- I'm sorry -- in the support you advanced to your
09:45AM 3 instruction, are they there?

09:45AM 4 MS. MATTHEWS: They're in the argument section, Your
09:46AM 5 Honor.

09:46AM 6 THE COURT: Okay. I see LaBoy. And the other one was?

09:46AM 7 MS. MATTHEWS: On the next page, it's Paul.

09:46AM 8 THE COURT: Okay.

09:46AM 9 So, Mr. Davis, do you get that? It's page 149 and --

09:46AM 10 MR. DAVIS: Sorry, Your Honor.

09:46AM 11 THE COURT: Page 149 and 150 of the parties' proposed
09:46AM 12 jury instruction cites to two cases there, LaBoy is at 2008
09:46AM 13 Westlaw, 11408625. The parenthetical that follows says: It is
09:46AM 14 the defendant's burden of proof to show grounds warranting a
09:46AM 15 punitive award reduction.

09:46AM 16 The next case is Paul, and it's 901 F.supp 3d, quote:
09:46AM 17 Although in assessing punitive damages the Court must consider the
09:46AM 18 defendant's financial condition, the burden is on the defendant to
09:47AM 19 introduce evidence of his modest means.

09:47AM 20 If that's what those two cases say, I'm not sure, Ms.
09:47AM 21 Matthews, that I agree that that's the instruction we should give.
09:47AM 22 But I'm going to look at it and keep the open mind that I've
09:47AM 23 promised Mr. Krishnan.

09:47AM 24 MR. DAVIS: I would just say the jury is allowed to
09:47AM 25 consider his financial resources. There is evidence in there.

09:47AM 1 There wasn't really a lot of challenge on it by the plaintiffs on
09:47AM 2 it, and we haven't challenged it beyond -- in fact, we haven't
09:47AM 3 challenged it. And so the jury can consider those financial
09:47AM 4 resources, which I think is the standard in every punitive damages
09:47AM 5 case I am aware of.

09:47AM 6 THE COURT: I agree. I think as I understand it, I'm
09:47AM 7 just going to repeat back the three things that I understand to
09:47AM 8 still need to be decided; that is, the inclusion of the phrase
09:47AM 9 "accountability process" or a replacement therefor in the
09:47AM 10 equitable tolling instruction; the first element of the conspiracy
09:48AM 11 charge whether or not it should be left as broad as wrongful acts;
09:48AM 12 and last, punitive damages whether the jury should be told that
09:48AM 13 the defendant bore burden of proof with respect to his financial
09:48AM 14 condition.

09:48AM 15 Is the plaintiff aware of any other undecided issue with
09:48AM 16 respect to the jury instructions?

09:48AM 17 MR. KRISHNAN: I don't think so, Your Honor. There is
09:48AM 18 another opportunity for us to put things that are kind of below
09:48AM 19 the threshold on the record objections; is that right?

09:48AM 20 THE COURT: I'm sorry. I didn't understand that.

09:48AM 21 MR. KRISHNAN: Yes.

09:48AM 22 THE COURT: Are we going to go page by page and
09:48AM 23 wordsmith; is that what you're asking?

09:48AM 24 MR. KRISHNAN: No, no. I don't think so. It sounds like
09:48AM 25 we have nothing else at this point, Your Honor.

09:48AM 1 THE COURT: Okay.

09:48AM 2 Mr. Davis, are you aware of any other outstanding issue
09:48AM 3 with respect to the jury instructions that needs to be decided?

09:48AM 4 MR. DAVIS: There is one last issue which relates to
09:48AM 5 compensatory damages for Mr. Cappello; that he is the nephew of
09:49AM 6 the decedent, and he was unborn when the decedent died, and his
09:49AM 7 testimony was that the grandmother received reparations, and under
09:49AM 8 -- like in the wrongful death statute, which is what the courts
09:49AM 9 typically look to, is it would be the grandmother bringing the
09:49AM 10 claim. And I don't know that he would have a basis to claim
09:49AM 11 damages because it's limited to spouse, the children, and the
09:49AM 12 parents under the wrongful death statute. It doesn't go to other
09:49AM 13 relatives.

09:49AM 14 THE COURT: I don't either. As I sit here, I don't know
09:49AM 15 the answer to that. If you're asking for a ruling on something, I
09:49AM 16 don't --

09:49AM 17 MR. DAVIS: I'm going based upon what -- I'm just reading
09:49AM 18 the statute, 28 U.S.C., 1350, which is this, and it just talks
09:49AM 19 about --

09:49AM 20 THE COURT: But tell me, Mr. Davis: Is there an ask at
09:49AM 21 this time? Are you asking me to revisit a jury instruction or --

09:49AM 22 MR. DAVIS: It just --

09:49AM 23 THE COURT: Beg your pardon?

09:49AM 24 MR. DAVIS: It would be a directed verdict as to his
09:49AM 25 damage claims.

09:50AM 1 THE COURT: Oh, we will get there.

09:50AM 2 MR. DAVIS: Okay.

09:50AM 3 THE COURT: But why don't we finish the plaintiffs' case,
09:50AM 4 shall we? I assume you need a break before I bring the jury in.

09:50AM 5 MR. DAVIS: Please.

09:50AM 6 MR. MUZZIO: Yes. Your Honor, there's a couple documents
09:50AM 7 we wanted to move into evidence. We don't have to do it right
09:50AM 8 now. We just -- I wanted to note that.

09:50AM 9 THE COURT: Please.

09:50AM 10 MR. MUZZIO: So the first one is PDX9. It is the
09:50AM 11 demonstrative that Mr. Bravo used during his testimony where he
09:50AM 12 drew the positions.

09:50AM 13 THE COURT: Okay. Any objection to PDX9?

09:50AM 14 MR. DAVIS: No, Your Honor.

09:50AM 15 THE COURT: So admitted.

09:50AM 16 (Plaintiffs' Exhibit PDX9 received.)

09:50AM 17 MR. MUZZIO: Then the other one is Plaintiffs' Exhibit 79
09:50AM 18 and 79T. There were no objections preserved to this exhibit.
09:50AM 19 It's the Interpol document.

09:50AM 20 MR. DAVIS: I would object to that. There's been no
09:50AM 21 sponsoring witness that they put up to introduce the Interpol
09:50AM 22 document. You can't -- anyway, I would object to the Interpol
09:50AM 23 document.

09:50AM 24 MR. MUZZIO: It was Apostille, Your Honor. So its
09:50AM 25 authenticity is not in question, and no objections were preserved.

09:51AM 1 THE COURT: When you say no objections were preserved,
09:51AM 2 you're moving to admit it now. This is the moment where I turn to
09:51AM 3 Mr. Davis and say: Is there an objection to PX79 and 79T?

09:51AM 4 MR. DAVIS: Yes, Your Honor.

09:51AM 5 THE COURT: And those are?

09:51AM 6 MR. DAVIS: There is no sponsoring witness for it.
09:51AM 7 There's no basis --

09:51AM 8 THE COURT: I'm going to admit that I don't understand
09:51AM 9 that objection. Are you contesting its foundation? I'm sorry. I
09:51AM 10 don't know what evidentiary objection that is.

09:51AM 11 MR. DAVIS: I'm trying to think what the true grounds
09:51AM 12 would be. I don't have it in front of me.

09:51AM 13 Chanel, can you give me Exhibit 79, please?

09:51AM 14 I wasn't aware they were going to move this in, Judge.
09:51AM 15 I'm sorry.

09:51AM 16 THE COURT: Okay. I'm going to make this suggestion
09:51AM 17 then.

09:51AM 18 Take your break. Let's have the jury come in.

09:52AM 19 Were you planning on using this document? Was anyone
09:52AM 20 planning on using this document with Ms. Camps?

09:52AM 21 MR. MUZZIO: I don't believe so, Your Honor.

09:52AM 22 THE COURT: So we will conclude her cross and excuse the
09:52AM 23 jury and take that argument up and flow directly into directed
09:52AM 24 verdict argument. Sound like a plan? Okay.

09:52AM 25 All right. You are excused. If you could make your way

09:52AM 1 back in the next five or so minutes, I know the jury would be
09:52AM 2 grateful. We won't start without you.

09:52AM 3 (Recess at 9:52 A.M.)

09:59AM 4 (Jury in at 10:03 A.M.)

10:03AM 5 THE COURT: Good morning. Welcome. Everyone may be
10:03AM 6 seated.

10:03AM 7 We're starting later than we expected. But we, as
10:03AM 8 always, made very good use of the time to avoid another
10:03AM 9 interruption in the proceeding this morning.

10:03AM 10 And so with that, I will turn to Mr. Davis

10:04AM 11 MR. DAVIS: Thank you, Your Honor.

10:04AM 12 THE COURT: Good morning, Ms. Camps. You remain under
10:04AM 13 oath.

10:04AM 14 THE WITNESS: Good morning.

10:04AM 15 RAQUEL CAMPS PARGAS, PLAINTIFF, PREVIOUSLY SWORN

10:04AM 16 CROSS-EXAMINATION

10:04AM 17 BY MR. DAVIS:

10:04AM 18 Q. Good morning, Ms. Camps. My name is Steve Davis, and I
10:04AM 19 represent the defendant, Roberto Bravo.

10:04AM 20 I am going to ask you some questions this morning on
10:04AM 21 cross-examination related to the questions you answered yesterday.
10:04AM 22 If I ask you a question that you don't understand, will you agree
10:04AM 23 to tell me you don't understand it?

10:05AM 24 A. Yes.

10:05AM 25 Q. Thank you, ma'am.

10:05AM 1 And if we -- I'm going to be relatively short, I hope. But
10:05AM 2 if for some reason if we get into an emotional area, I will try to
10:05AM 3 be very sensitive to your needs.

10:05AM 4 A. Thank you very much.

10:05AM 5 Q. I'd like to go back and talk a little bit about you.
10:05AM 6 Can you tell me what is your educational background?

10:05AM 7 A. I went to elementary school, high school, and I went to
10:06AM 8 advanced school but not university level.

10:06AM 9 Q. Did you have any particular study once you completed your
10:06AM 10 education, or is it a general education completion?

10:06AM 11 A. General.

10:06AM 12 Q. And I know you told us a little bit about your current job.
10:06AM 13 Can you give me just a little high-level background of the kind of
10:06AM 14 jobs you've held in your lifetime?

10:06AM 15 A. As I stated yesterday, I work with the judiciary system in the
10:07AM 16 city of Buenos Aires.

10:07AM 17 Q. Yes. I understand that's what you currently do. But is that
10:07AM 18 the only job you've ever had?

10:07AM 19 A. No.

10:07AM 20 Q. So I'm asking you before that job -- can you tell us what kind
10:07AM 21 of work did you do?

10:07AM 22 A. I have worked at a tollbooth on a highway, at the civil
10:08AM 23 registry, which is vital statistics department.

10:08AM 24 Q. Were both those jobs -- and I want you to continue, but were
10:08AM 25 both those jobs for a government entity?

10:08AM 1 A. I don't quite understand what a government agency is.

10:08AM 2 Q. Well, I will try to do the best I can, because I don't -- you

10:08AM 3 know -- okay. There is a federal government and then there's

10:08AM 4 local government. There is a district of Buenos Aires; correct?

10:08AM 5 A. Yes.

10:08AM 6 Q. Did you work for any -- and I'm talking about entities like

10:08AM 7 that. And I don't know the Argentine government structure, but

10:09AM 8 there may be -- based on the jobs you just described that you

10:09AM 9 worked in, you may have worked for some -- a city or a county or

10:09AM 10 some other governmental subdivision?

10:09AM 11 A. Not directly.

10:09AM 12 Q. Okay. All right. So you were telling me you had -- you

10:09AM 13 worked for a tollbooth; a toll collector?

10:09AM 14 A. Yes.

10:09AM 15 Q. And then what other jobs did you have before your current

10:09AM 16 position?

10:09AM 17 A. Just those.

10:10AM 18 Q. When did you finish -- what year did you finish your

10:10AM 19 education?

10:10AM 20 A. 2000, approximately.

10:10AM 21 Q. And you would have been born in 1970 -- excuse me.

10:10AM 22 What year were you born?

10:10AM 23 A. 1976.

10:10AM 24 Q. And we saw yesterday the picture of you with your father, we

10:10AM 25 saw that picture. And your father passed away in 1977?

10:11AM 1 A. He was killed in 1977.

10:11AM 2 Q. Understood. But the date of your father's death was in 1977?

10:11AM 3 A. Yes.

10:11AM 4 Q. And your father was born in 1948?

10:11AM 5 A. Yes.

10:11AM 6 Q. And you would have been 28 years old -- excuse me.

10:11AM 7 He would have been 28 years old when you were born?

10:11AM 8 A. Yes.

10:11AM 9 Q. Do you know what your father did to make a living?

10:12AM 10 A. No.

10:12AM 11 Q. Were you ever given any information about his political

10:12AM 12 activities?

10:12AM 13 MR. MUZZIO: Objection, Your Honor. Hearsay.

10:12AM 14 THE COURT: Response.

10:12AM 15 MR. DAVIS: Yesterday, she -- I'm just testing what she

10:12AM 16 knows about her father. That's all, Your Honor. And obviously --

10:12AM 17 well, that's what I'm doing.

10:12AM 18 THE COURT: Overruled.

10:12AM 19 BY MR. DAVIS:

10:12AM 20 Q. Please answer.

10:12AM 21 A. No.

10:13AM 22 MR. DAVIS: Could you bring up PX 128T? And, Judge --

10:13AM 23 I'm sorry. Before we bring that up, this is a document that's not

10:13AM 24 in evidence, although I will be offering it in evidence. And is

10:13AM 25 there any objection?

10:13AM 1 MR. MUZZIO: I need to see it.

10:13AM 2 MR. DAVIS: It's the letter.

10:13AM 3 (Brief pause for counsel to confer.)

10:13AM 4 THE COURT: Any objection to the admission?

10:13AM 5 MR. MUZZIO: Actually, Your Honor, we would probably have
10:13AM 6 some redactions to this document. We think there may be the
10:13AM 7 propensity issue with this document.

10:13AM 8 MR. DAVIS: Your Honor, do you want us to give you a copy
10:14AM 9 of that document?

10:14AM 10 THE COURT: I have it up here. I just see that it's
10:14AM 11 listed as a document plaintiff expects to offer but objects to.

10:14AM 12 MR. MUZZIO: Your Honor, I know that we have some
10:14AM 13 objections to specific language in this document. And I would
10:14AM 14 want to address that language with you outside the presence of the
10:14AM 15 jury.

10:14AM 16 THE COURT: What I'm grappling with is that you have it
10:14AM 17 listed as a document you expect to offer on your exhibit list, but
10:14AM 18 you, nonetheless, object to it.

10:14AM 19 MR. MUZZIO: Your Honor, we have this document on our
10:14AM 20 exhibit list, but we did not want to open the door to any of the
10:14AM 21 propensity issues we previously discussed and this Court has ruled
10:15AM 22 on.

10:15AM 23 MR. DAVIS: Your Honor, I think for my purposes -- I
10:15AM 24 don't know what the redaction is they wish. And so maybe I can
10:15AM 25 just show this to the witness and ask my questions, and then we

10:15AM 1 could take it up after the witness steps down, because it's going
10:15AM 2 to come up with witnesses on my case as well.

10:15AM 3 THE COURT: Okay. Mr. Muzzio, can you direct me to where
10:15AM 4 on the page you think there is an issue that you think affects the
10:15AM 5 admissibility of this document?

10:15AM 6 MR. MUZZIO: The third paragraph, Your Honor, we would
10:15AM 7 have issues with that.

10:15AM 8 THE COURT: The number 3 or the third paragraph listed on
10:15AM 9 the page?

10:15AM 10 MR. MUZZIO: The third paragraph that appears on the
10:15AM 11 page. Oh, I see. Yes. The third paragraph that appears on the
10:16AM 12 page, not the number 3 at the bottom of the page. It's the third
10:16AM 13 paragraph from -- starting at the top.

10:16AM 14 THE COURT: Mr. Davis, do you have other areas to go
10:16AM 15 into? I don't understand the objection. But it is something we
10:16AM 16 should take up outside of the presence of the jury. Do you have a
10:16AM 17 few other areas that you can do?

10:16AM 18 MR. DAVIS: I have a few others, Your Honor, so I'll go
10:16AM 19 ahead and move on to that. But I would like to ask this witness
10:16AM 20 about this document if we can get there.

10:16AM 21 BY MR. DAVIS:

10:17AM 22 Q. Ma'am, as you understand it, your father survived the injuries
10:17AM 23 he had at Trelew?

10:17AM 24 A. Yes.

10:17AM 25 Q. And his death in 1977 was caused by other people?

10:17AM 1 A. Yes.

10:17AM 2 Q. In fact, it was the military who killed your father in 1977,

10:17AM 3 the Argentine military?

10:17AM 4 A. Yes.

10:18AM 5 Q. In your direct yesterday, you testified that you -- I think it

10:18AM 6 was 1999 or 2000 you received reparations from the Argentine

10:18AM 7 government in connection with your father?

10:18AM 8 A. Yes.

10:18AM 9 Q. How much did you receive?

10:18AM 10 A. I don't remember.

10:18AM 11 Q. Do you have an estimate? Was it more than 100,000 pesos?

10:19AM 12 A. Yes.

10:19AM 13 Q. Was it more than a million pesos?

10:19AM 14 A. No.

10:19AM 15 Q. Was it almost a million pesos?

10:19AM 16 A. No. I believe -- I believe -- I believe it was 200,000 pesos,

10:19AM 17 approximately.

10:19AM 18 Q. And in connection with the reparations you received, did you

10:19AM 19 also receive reparations for your mother?

10:19AM 20 A. Yes.

10:19AM 21 Q. And do you have brothers and sisters?

10:19AM 22 A. One older brother.

10:19AM 23 Q. And did your older brother also get compensation?

10:19AM 24 A. Yes.

10:19AM 25 Q. Did he get the same amount as you?

10:19AM 1 A. Yes.

10:20AM 2 Q. Did you only receive the one payment of reparations from the
10:20AM 3 Argentine government in connection with your father's death?

10:20AM 4 MR. MUZZIO: Objection, Your Honor, relevance, given the
10:20AM 5 withdrawal of the affirmative defense.

10:20AM 6 THE COURT: On exhaustion?

10:20AM 7 MR. MUZZIO: Yes.

10:20AM 8 THE COURT: Overruled.

10:20AM 9 THE WITNESS: Yes.

10:20AM 10 BY MR. DAVIS:

10:20AM 11 Q. And have you always lived in the country of Argentina
10:20AM 12 throughout your life?

10:20AM 13 A. Yes.

10:20AM 14 Q. And yesterday, you mentioned that you had children. How many
10:20AM 15 children do you have?

10:20AM 16 A. Three children.

10:20AM 17 Q. And are you married?

10:20AM 18 A. No.

10:20AM 19 Q. Have you ever been married?

10:21AM 20 A. Yes.

10:21AM 21 MR. DAVIS: Your Honor, I'd like to get back to the
10:21AM 22 letter now. So you tell me.

10:21AM 23 THE COURT: I would -- yes, I need the plaintiff to
10:21AM 24 articulate if the concern about the third paragraph falls into the
10:21AM 25 scope of the pretrial ruling with respect to what we've been

10:21AM 1 calling the motion in limine. Do I understand your objection
10:21AM 2 correctly?

10:21AM 3 MR. MUZZIO: Yes, Your Honor, and 404.

10:21AM 4 THE COURT: 404(a) or (b)? What are you --

10:21AM 5 MR. MUZZIO: It's the Mill's on propensity, Your Honor.

10:21AM 6 THE COURT: Overruled on that basis. This is the letter
10:21AM 7 that Ms. Krueger testified about; right?

10:21AM 8 MR. DAVIS: Yes, Your Honor.

10:21AM 9 THE COURT: Overruled.

10:21AM 10 MR. DAVIS: Then, Your Honor, I would move for the
10:21AM 11 admission of 128T.

10:22AM 12 THE COURT: So admitted over plaintiffs' objection.

10:22AM 13 (Plaintiffs' Exhibit 128T received.)

10:22AM 14 MR. DAVIS: And, Dan, can you bring it up?

10:22AM 15 BY MR. DAVIS:

10:22AM 16 Q. Ma'am, I would like you to look at what we've marked as
10:22AM 17 Exhibit 128T. This is the English translation of the document.

10:22AM 18 MR. DAVIS: Could you scroll to the Spanish version of
10:22AM 19 it, Dan? It's part of 128.

10:22AM 20 BY MR. DAVIS:

10:22AM 21 Q. So my question to you, ma'am --

10:22AM 22 THE COURT: Mr. Davis, I'm going to just suggest
10:22AM 23 consistent with the Court's rule that the jury rely on the English
10:22AM 24 translation. I suggest that you publish the English and show Ms.
10:22AM 25 Camps the Spanish, which I have a copy of here if you'd like me to

10:22AM 1 hand her.

10:22AM 2 MR. DAVIS: I have an extra copy too.

10:22AM 3 BY MR. DAVIS:

10:22AM 4 Q. Ma'am -- well --

10:22AM 5 MR. DAVIS: May I approach the witness?

10:22AM 6 THE COURT: Yes.

10:22AM 7 MR. DAVIS: Is it okay if I hand this to her?

10:23AM 8 THE COURT: Yes, please.

10:23AM 9 THE WITNESS: Please forgive me. I cannot see a thing.

10:23AM 10 I don't see it. I can't see it.

10:23AM 11 BY MR. DAVIS:

10:23AM 12 Q. It is the copy that was produced in the case. And it's the

10:23AM 13 quality of the copy that we have. And so, ma'am, do you know who

10:23AM 14 Ms. Krueger is?

10:23AM 15 A. Yes.

10:23AM 16 Q. She's one of the fellow plaintiffs in this lawsuit?

10:23AM 17 A. Yes.

10:23AM 18 Q. And are you aware of a letter that she wrote? It's this

10:23AM 19 letter of August 24, 2005?

10:24AM 20 A. I don't know.

10:24AM 21 Q. So you're -- and I will agree with you --

10:24AM 22 A. I can't see it.

10:24AM 23 Q. I'm sorry. What?

10:24AM 24 A. I can't see it.

10:24AM 25 Q. So without regard to looking at the document which I will

10:24AM 1 admit -- the Spanish version is a lousy -- is a dark copy. Ma'am,
10:24AM 2 are you able to read English?

10:24AM 3 A. No.

10:24AM 4 Q. Now, I'm going to ask you some questions. I'm going to read
10:24AM 5 from the English version, see if that refreshes your recollection
10:25AM 6 about this document, and I'll go that way.

10:25AM 7 The letter is dated August 24, 2005, and it's addressed to:
10:25AM 8 Dear Mr. President, and it's the president of Argentina. But it
10:25AM 9 says -- the letter says, quote --

10:25AM 10 THE INTERPRETER: Mr. Davis, from the interpreter, I am
10:25AM 11 not able -- oh, I apologize. Strike that. Go ahead. I
10:25AM 12 apologize.

10:25AM 13 MR. DAVIS: I don't think I ever could strike anything on
10:25AM 14 the record. Only the judge could.

10:25AM 15 THE INTERPRETER: No, I apologize for interrupting you.
10:25AM 16 I see it on the screen now. Please forgive me.

10:25AM 17 BY MR. DAVIS:

10:25AM 18 Q. I guess it would be for you as opposed to Ms. Camps, this
10:25AM 19 says: "We, the undersigned, are immediate family members of the
10:25AM 20 young patriots murdered in Trelew on August 22, 1972. All of whom
10:25AM 21 offered their life for a fairer, freer, and more equal country."

10:25AM 22 And it says: "Their execution 33 years ago remains
10:26AM 23 unpunished, and events have not been elucidated by an official
10:26AM 24 investigation." Does that refresh your recollection at all about
10:26AM 25 this letter, ma'am?

10:26AM 1 A. Yes.

10:26AM 2 MR. DAVIS: Go to the third paragraph, please.

10:26AM 3 BY MR. DAVIS:

10:26AM 4 Q. It says: "The execution of 16 prisoners and the serious
10:26AM 5 injuries inflicted on three survivors of this group of people's
10:26AM 6 fighters, who had surrendered their weapons in a pact that
10:26AM 7 military authorities were quick in breaking, constitutes a crime
10:27AM 8 against humanity due to its infeasible nature." Do you remember
10:27AM 9 this letter, ma'am?

10:27AM 10 A. Honestly, I do not. I cannot see the letter here and shall --
10:27AM 11 and I don't remember. I don't.

10:27AM 12 Q. And, ma'am, in the Spanish version of the letter, it is signed
10:27AM 13 by a number of family members whose relatives were at Trelew.

10:27AM 14 But you have no memory of there being a letter of this --
10:27AM 15 like this signed by many of the families of people who died at
10:27AM 16 Trelew?

10:28AM 17 A. Okay. I cannot actually discern the signatures, and I do
10:28AM 18 realize --

10:28AM 19 Q. I can't have you talk over each other.

10:28AM 20 A. I cannot discern the signatures. I do see that this is a
10:28AM 21 request for justice, similar to many others that we have
10:28AM 22 presented.

10:29AM 23 Q. Ma'am, do you remember being asked to sign this letter or a
10:29AM 24 letter like this that was being sent to the president of the
10:29AM 25 country?

10:29AM 1 A. No, I don't remember.

10:29AM 2 Q. All right.

10:29AM 3 MR. DAVIS: Judge, that's all I have.

10:29AM 4 THE COURT: Okay. Is there any redirect?

10:29AM 5 MR. MUZZIO: No, Your Honor.

10:29AM 6 THE COURT: Okay. All right.

10:29AM 7 Ms. Camps, that concludes your testimony. You can return
10:29AM 8 to your counsel's table.

10:29AM 9 (The witness is excused.)

10:29AM 10 THE COURT: Mr. Krishnan, are there any other witnesses?

10:29AM 11 MR. KRISHNAN: Your Honor, I believe that there was that
10:29AM 12 last document that had held over, but there are no more witnesses.

10:30AM 13 THE COURT: Okay. All right.

10:30AM 14 So, ladies and gentlemen, as you have seen is our
10:30AM 15 practice, we take up oral argument without you. And today is
10:30AM 16 going to be a day when we have in addition to the argument we
10:30AM 17 heard this morning, there are -- the way the trial is structured,
10:30AM 18 we cannot avoid the necessity for us to take this oral argument
10:30AM 19 now; even though you're with us.

10:30AM 20 So I'm going to give you a longer -- much longer morning
10:30AM 21 break in the hope that you might be able to get a good snack, and
10:30AM 22 then we might be able to have a later lunch break.

10:30AM 23 Would that work for you?

10:30AM 24 Okay. So we're going to need 45 minutes, okay. And so
10:30AM 25 I'm going to ask you to be back -- it's now 10:30 -- at 11:15, and

10:30AM 1 we'll keep going from there. And I promise you we are making
10:30AM 2 every minute count when we have sent you away to move this as
10:30AM 3 quickly as we can. We will do our very best. I'll see you at
10:30AM 4 11:15.

10:31AM 5 (Jury out at 10:30 A.M.)

10:31AM 6 THE COURT: Let's take up the document, 79.

10:31AM 7 MR. MUZZIO: Yes, Your Honor. There is a translation at
10:31AM 8 79T.

10:31AM 9 THE COURT: Yes, Mr. Davis, the objection?

10:31AM 10 MR. DAVIS: Actually, Your Honor, no.

10:32AM 11 THE COURT: I beg your pardon?

10:32AM 12 MR. DAVIS: I'm withdrawing our objection.

10:32AM 13 THE COURT: Okay. 79 and 79T then admitted without
10:32AM 14 objection. While I'll ask you to repeat it in front of the jury,
10:32AM 15 does that then conclude the plaintiffs' case?

10:32AM 16 MR. MUZZIO: I believe we would want to read portions of
10:32AM 17 79.

10:32AM 18 THE COURT: So you're going to publish when the jury
10:32AM 19 comes back?

10:32AM 20 MR. MUZZIO: Yes.

10:32AM 21 THE COURT: As a technical matter, and I apologize, I
10:32AM 22 didn't know that. So that's why I sent them away for 45 minutes.
10:32AM 23 Recognizing that the evidence is now on -- is now all in, is there
10:32AM 24 any impediment to us moving to the arguments on directed verdict
10:32AM 25 even though you will publish and technically close in front of the

1 jury when they come back; from the plaintiffs' perspective?

10:32AM 2 MR. MUZZIO: No, Your Honor.

10:32AM 3 THE COURT: From the defense perspective?

10:32AM 4 MR. DAVIS: No, Your Honor.

10:32AM 5 THE COURT: Okay. Then with that, you'll please remind
10:33AM 6 me when they come back that you'll do those two things and then --
10:33AM 7 so conditioned on that the plaintiff has now rested and advanced
10:33AM 8 all of its evidence in the case, does the defense have any
10:33AM 9 additional motion?

10:33AM 10 I've read of course your written motion, but that is, as
10:33AM 11 I told you before, without prejudice to you making a fulsome
10:33AM 12 motion for a directed verdict at this time.

10:33AM 13 MR. SLADE: Yes, Your Honor. Defendant was going to move
10:33AM 14 for directed verdict on several grounds.

10:33AM 15 THE COURT: Okay.

10:33AM 16 MR. SLADE: One of which is obviously the statute of
10:33AM 17 limitations, which I will be addressing. There are other issues
10:33AM 18 which Mr. Davis will be addressing with respect to the other
10:33AM 19 substances of the claims.

10:33AM 20 THE COURT: Okay.

10:33AM 21 MR. SLADE: As Your Honor knows, we have briefed these
10:33AM 22 issues. We have been discussing them in the context of the jury
10:33AM 23 instructions and the verdict form. But we don't think that this
10:33AM 24 plaintiff -- that these plaintiffs can prove any set of facts
10:34AM 25 that's going to establish equitable tolling for a statute of

10:34AM 1 limitations that clearly expired in 2002. This case, as I
10:34AM 2 mentioned earlier, would be the oldest TVPA case on record since
10:34AM 3 the events in question occurred in 1972. If the statute of
10:34AM 4 limitations had been ten years from that date, we would be in
10:34AM 5 1982. We think that the evidence has shown that, first of all,
10:34AM 6 Mr. Bravo did not conceal himself, which distinguishes it from any
10:34AM 7 other factors in many other cases.

10:34AM 8 Mr. Bravo moved here to the United States in 1973. He
10:34AM 9 was employed during that time. He went to school. He was
10:34AM 10 involved with the military of the United States. He started a
10:34AM 11 business, he started a family. He bought and sold homes,
10:34AM 12 properties. He was an open and notorious person here in the
10:34AM 13 United States.

10:34AM 14 So there was no effort to conceal himself. Of course as
10:34AM 15 we know, plaintiffs have withdrawn that argument. So I don't
10:35AM 16 think that's on the table either.

10:35AM 17 I don't think the plaintiffs have made a sufficient
10:35AM 18 showing of an effort that they have made since 1973 to locate Mr.
10:35AM 19 Bravo or to understand where he was. We argued a little bit
10:35AM 20 earlier today about the difference in the Truth and Reconciliation
10:35AM 21 Commissions, and we will revisit that. But if we look at the
10:35AM 22 timeline, the date of the incident here was August 22, 1972. Even
10:35AM 23 the claims that they're making with respect to intimidation,
10:35AM 24 witness intimidation, lawyers being killed, these date back to
10:35AM 25 1974. Mr. Lanusse, President Lanusse left office in 1973, and it

10:35AM 1 has been established that democracy was restored for a period of
10:35AM 2 time after that. 1983, there was also democracy in Argentina.

10:35AM 3 Mr. Cappello when he testified talked about the issues
10:35AM 4 that he had with his family; unfortunate where his family home was
10:36AM 5 raided and kidnapped, but that was in 1977.

10:36AM 6 The Argentine Supreme Court started acting upon what they
10:36AM 7 perceived to be crimes committed earlier during the presidency of
10:36AM 8 Mr. Lanusse and that was between 2004 and 2005 and that certain
10:36AM 9 officers were indicted in connection with trial and potentially
10:36AM 10 other crimes in 2006.

10:36AM 11 Now, the arrest warrant, as I am told and the evidence
10:36AM 12 seems to have shown, from Mr. Bravo was issued in 2008. So at
10:36AM 13 that point, that's something that certainly could have been
10:36AM 14 discovered or should have been discovered by plaintiffs, the
10:36AM 15 location, whereabouts of Mr. Bravo; that they knew he was in the
10:36AM 16 United States. This was followed by an extradition request made
10:36AM 17 by the government in Argentina in 2008 for Mr. Bravo. And of
10:36AM 18 course the extradition was finally denied in November of 2010.

10:37AM 19 Now, the Trelew incident is distinguishable from many of
10:37AM 20 the other incidents that you will find in the case law. And why
10:37AM 21 is that? This was a national public scandal in Argentina. It was
10:37AM 22 televised on the news. It was in the newspaper. There were
10:37AM 23 protests, which we heard testimony about, at the funerals. There
10:37AM 24 was no cover-up of the bodies like there were in many of the other
10:37AM 25 cases that you see. The bodies were delivered to the family

10:37AM 1 members. In fact, photographs were taken, autopsies performed at
10:37AM 2 that time. Pictures were taken. So there was no deliberate
10:37AM 3 concealment of the events at Trelew.

10:37AM 4 Now, people might differentiate or disagree with the
10:37AM 5 results of the investigation, but what happened, everyone knew
10:37AM 6 what happened.

10:37AM 7 Your Honor, the Eleventh Circuit has been pretty clear
10:37AM 8 about this, even though I think that we've talked about this
10:37AM 9 before, that there's not a case around where the equitable tolling
10:38AM 10 is actually applied, but we would suggest that this is the case
10:38AM 11 for that. This is a case of first impression. The Eleventh
10:38AM 12 Circuit has been clear that equitable tolling must be applied
10:38AM 13 sparingly.

10:38AM 14 Now, they did not even sue until 2020. And I think as
10:38AM 15 we've gone through the course of the trial, we've seen the
10:38AM 16 problems that this has created and the reason that we have a
10:38AM 17 statute of limitations; because witnesses disappear, their
10:38AM 18 memories fade, documents are hard to locate. This is the reason
10:38AM 19 for that; because to reconstruct the events of what happened in
10:38AM 20 1972 had to be and was for this trial for all parties a Herculean
10:38AM 21 effort, but that goes to my argument of this is out of time. They
10:38AM 22 must show extraordinary circumstances. And these plaintiffs
10:39AM 23 apparently have changed their theory about why equitable tolling
10:39AM 24 applies, respectfully, dancing from one foot to another by any
10:39AM 25 basis to toll the statute.

10:39AM 1 They started off -- when they started to talk about
10:39AM 2 extradition, they were relying on the extradition proceeding, but
10:39AM 3 there's an illogic in that. The illogic in that is that if Mr.
10:39AM 4 Bravo was brought to Argentina, they would be unable to get some
10:39AM 5 type of monetary compensation from him. The monetary compensation
10:39AM 6 that they needed to get from him that, if they ever do get from
10:39AM 7 him, would be here where his assets are.

10:39AM 8 The United States courts were open for business from
10:39AM 9 1972. There wasn't one day that I am aware of that you could not
10:39AM 10 file a lawsuit. All you needed to do was put together whatever
10:39AM 11 the price is now 400, \$500 to file a complaint in this court, and
10:39AM 12 it could be done. They didn't do it. There is no case law that
10:39AM 13 we were able to find, and I think we have talked about that too,
10:39AM 14 that says the statute of limitations for a TVPA claim has anything
10:40AM 15 whatsoever to do with the grant or the denial of a TVPA -- I'm
10:40AM 16 sorry -- with an extradition request.

10:40AM 17 There is no case law, as we talked about before, about
10:40AM 18 anything having to do with a criminal trial in a foreign country.
10:40AM 19 And that makes sense; because they didn't need extradition or a
10:40AM 20 criminal trial in order to sue Mr. Bravo here. In fact,
10:40AM 21 extraditing him and bringing him back to Argentina would have hurt
10:40AM 22 their claims, because their best way to handle it was the way
10:40AM 23 these lawyers did, was to file a lawsuit here where Mr. Bravo is
10:40AM 24 -- he's been a United States citizen for many years. There is no
10:40AM 25 question that there is jurisdiction here. Jurisdiction has been

10:40AM 1 admitted. And their best avenue was always, as soon they knew
10:40AM 2 where he was in 2008, to sue Mr. Bravo here. But they didn't do
10:40AM 3 that.

10:40AM 4 We have the case law that we have looked at, and we
10:40AM 5 briefed it extensively. I'm not going to regurgitate it all,
10:41AM 6 because it's all in our papers. But you have case law -- like,
10:41AM 7 for example, the Cabello case where the Chilean government
10:41AM 8 concealed the bodies of victims and the manner of death. Not the
10:41AM 9 case here.

10:41AM 10 The Eleventh Circuit has basically said that suit must be
10:41AM 11 brought after finding the necessary information. I think the
10:41AM 12 evidence has shown here that the necessary information about where
10:41AM 13 Mr. Bravo was and what happened to their relatives was available.
10:41AM 14 They also -- the case law also says you have to find affirmative
10:41AM 15 misconduct.

10:41AM 16 Now, what kind of misconduct have they been able to show
10:41AM 17 about what happened to Mr. Bravo, what Mr. Bravo did, starting
10:41AM 18 upon his arrival in the United States in 1973? Ever since then,
10:41AM 19 all the man did was work for the military, get himself an
10:41AM 20 education, raise a family, buy a house, start a business, become
10:42AM 21 involved in the community with charities, and not do anything to
10:42AM 22 hide or conceal his whereabouts.

10:42AM 23 In the Arce case that the Eleventh Circuit considered,
10:42AM 24 the defendants were leaders in the Salvadorian military. And in
10:42AM 25 that case, the jury instructions did not include an instruction on

10:42AM 1 the statute of limitation defense.

10:42AM 2 THE COURT: Isn't that though because the court decided
10:42AM 3 it as a matter of law before it went to the jury, because there
10:42AM 4 was an absence of disputed fact?

10:42AM 5 MR. SLADE: I believe that's correct, Your Honor.

10:42AM 6 I wanted to go through a listing of what the Eleventh
10:42AM 7 Circuit, and we put these in our papers, has --

10:42AM 8 THE COURT: But to be clear though they found -- the
10:42AM 9 Court in Arce found it in the plaintiff's favor, and that's why it
10:42AM 10 didn't go to the jury; meaning that as a matter of law, the Court
10:42AM 11 found the claims tolled; that the plaintiffs were entitled to
10:43AM 12 equitable tolling.

10:43AM 13 To the extent you're asking me to make this finding that
10:43AM 14 there are no disputes and that it should be entered, it seems to
10:43AM 15 me that there having been -- I understand your disagreement on the
10:43AM 16 law. But if there was a judgment as a matter of law on this, I
10:43AM 17 think that the case law would thus far suggest that I would be --
10:43AM 18 that would be a finding in the plaintiffs' favor on tolling.

10:43AM 19 MR. SLADE: I think Your Honor could certainly find in
10:43AM 20 defendant's favor. That's what we have directed verdict motions
10:43AM 21 for, because I don't think any set of facts that they could prove
10:43AM 22 would demonstrate that they're entitled to equitable tolling. And
10:43AM 23 let me take you through what the bases for equitable tolling are.

10:43AM 24 Would you mind passing me my glasses? I'm sorry. My
10:43AM 25 eyesight is not what it used to be.

10:43AM 1 The equitable tolling considerations that the Eleventh
10:44AM 2 Circuit has indicated include a time when defendant was absent
10:44AM 3 from the United States.

10:44AM 4 Now, Mr. Bravo has been here. He's testified to that.
10:44AM 5 He hasn't left for any period of time. He hasn't fled.

10:44AM 6 Now, there was a period of time when Mr. Bravo had
10:44AM 7 immunity from suit, but that expired years ago, and that was also
10:44AM 8 in Argentina. I don't believe that there was ever any immunity
10:44AM 9 entered for Mr. Bravo here in the United States. Any period of
10:44AM 10 time in which a plaintiff was imprisoned -- as far as I know, none
10:44AM 11 of the plaintiffs in this case were imprisoned. There was no
10:44AM 12 testimony about that.

10:44AM 13 THE COURT: May I suggest, Mr. Slade, that we know the
10:44AM 14 list of factors a court can rely upon are nonexhaustive. So it
10:44AM 15 seems that the most constructive way for us to focus the argument
10:44AM 16 is whether the facts the plaintiffs, in fact, rely on here are
10:44AM 17 supported by record evidence and sufficient to go to the jury.
10:44AM 18 No?

10:44AM 19 MR. SLADE: I don't disagree with that. I was just
10:44AM 20 giving you the whole shebang. But if you want me to shorten it, I
10:45AM 21 understand that.

10:45AM 22 THE COURT: I mean, I just don't think there is a dispute
10:45AM 23 that the plaintiffs haven't been to prison.

10:45AM 24 MR. SLADE: Okay. So what's in the jury instructions,
10:45AM 25 and we can get to the meat of this. What's in the jury

10:45AM 1 instructions at least as proposed right now where litigants or
10:45AM 2 witnesses -- these are the tolling considerations -- where
10:45AM 3 litigants or witnesses fear or face danger pursuing claims related
10:45AM 4 to human rights violations. There has been no real credible
10:45AM 5 evidence that those fears persisted or had in any way any type of
10:45AM 6 justification. In other words -- I'm sorry -- it may have made
10:45AM 7 sense at or about the time in question, 1972, even through maybe a
10:45AM 8 little bit later, that there would have been a reason for fear.
10:45AM 9 But you can't have that subjective criteria of fear -- which is up
10:45AM 10 to a plaintiff to make that decision when their fear starts and
10:45AM 11 when their fear ends -- toll the statute of limitations
10:45AM 12 indefinitely.

10:45AM 13 There has to be some objective way for a court to
10:46AM 14 determine when that ends.

10:46AM 15 So it's very easy to get up there behind the witness
10:46AM 16 stand and say: Well, I'm still in fear today. I've been in fear
10:46AM 17 for 50 years. I'm going to be in fear my whole life. But that
10:46AM 18 gets to your argument of an indefinite tolling. We can't have
10:46AM 19 that.

10:46AM 20 We have to have an objective cutoff period. And I don't
10:46AM 21 think that the evidence has shown that the fear that they claimed
10:46AM 22 -- and it's all been a little different -- was either significant
10:46AM 23 enough or realistic enough or recent enough to justify a tolling
10:46AM 24 up until let's say past 2008.

10:46AM 25 There is also a question about whether plaintiffs can

1 investigate their claims in their home country. While this
2 process, the criminal investigation started in 2005, so at that
3 point, the government was involved in looking into that. So how
4 long it took the government to investigate the claims, I mean, if
5 the government investigation goes on for 20 years, does that mean
6 that the statute of limitations is tolled for 20 years?

7 I think the question is whether they were prohibited or
8 precluded in some way from investigating their claims. And when
9 the government investigation started, it shows us that there was
10 nothing precluding them at that point. Things have changed in
11 Argentina from the testimony that I understood from the witnesses,
12 even from Professor Brennan, things have changed.

13 Now, we also know that Mr. Bravo -- I think that there
14 was a document indicating Interpol located Mr. Bravo in 2008, and
15 that was made available information to the prosecutorial
16 authorities in Argentina. So if that's the case -- I'm sorry --
17 and it was made known to the plaintiffs in 2008. So that criteria
18 is not met because they knew where Mr. Bravo was. He wasn't in
19 hiding. And I think Mr. Cappello's testimony was very
20 interesting, because we heard a lot of objections and efforts to
21 keep evidence out about the public availability, the public
22 knowledge of where Mr. Bravo was.

23 At some point, we have to say, we're in the 21st century.
24 We're in 2020, or at this point, we were in, you know, 2005, 2008.
25 We do Internet searches on people, the public records of housing

1 records in Florida is public, Sunbiz is public. We can find
2 anybody we really want if we make the effort.

3 Now, there has been no effort -- there's been no
4 demonstration or proffer that they looked for Mr. Bravo and they
5 couldn't find him. They didn't even have to leave their desks.
6 They didn't have to come to the United States and start looking
7 around neighborhoods. They didn't even have to leave their desk.
8 All they had to do was log onto the Internet and do a search for
9 Mr. Bravo. They would find RGB Group. They would find out where
10 he lived. But they didn't do that.

11 We don't think there has been sufficient evidence in this
12 case to show that this could go to the jury. As I said before
13 when I talked about the jury instruction about criminal processes,
14 I think we are bending the law a lot farther than it was intended
15 to go, because if we start basing -- if our analysis of a statute
16 of limitations upon when criminal processes start, or Truth and
17 Reconciliation Commission, which is a different animal, okay, I
18 think we run the risk of elongating the statute of limitations
19 indefinitely. And the problem here, these events happened in
20 1972. I mean, I was 12 years old. I had hair back then. Where
21 do we end this? At what point are we going to make a
22 determination about where this gets cut off?

23 So if there is ever a case which the statute of
24 limitations for the TVPA should be applied, it is this one. It is
25 this one because this case has also been harder to defend, I'm

10:50AM 1 sure harder to prosecute because of the unavailability of
10:50AM 2 documents and witnesses and things that have changed. The Trelew
10:50AM 3 prison -- not the prison -- but the military base, you know, it's
10:50AM 4 been altered. It's been painted. It's been plastered. And a lot
10:50AM 5 of things have happened since then. And in a matter -- fairness
10:50AM 6 is part of this, right?

10:50AM 7 So I understand of course the Court wants to be fair.
10:50AM 8 But the Eleventh Circuit says, listen, we can't have -- we can't
10:50AM 9 just rely on sympathy. But we have to be fair to both parties.
10:50AM 10 We have to be fair to Mr. Bravo who is 79 years old, who has lived
10:50AM 11 here in the United States for God knows how many years, and to
10:50AM 12 have this come out of the blue, it's -- it defeats the purpose of
10:51AM 13 having a statute of limitations. In other words, I realize that
10:51AM 14 the TVPA makes reference to the words justice, but if we open the
10:51AM 15 door to this kind of inquiry after all these years, where is it
10:51AM 16 going to end?

10:51AM 17 THE COURT: I hear you, Mr. Slade. But you're I think
10:51AM 18 expressly asking me to weigh the evidence. You've characterized
10:51AM 19 the plaintiffs' testimony on fear is not credible, and it sounds
10:51AM 20 like you're expressly asking me to make a fairness choice as
10:51AM 21 opposed to evaluate whether the evidence that's been advanced at
10:51AM 22 the end of plaintiffs' case is sufficient to go to the jury.

10:51AM 23 MR. SLADE: I don't think it's sufficient to go to the
10:51AM 24 jury. And I am not asking you to weigh the evidence. Although I
10:51AM 25 don't really think that there has been a sufficient proffer of

10:51AM 1 things like fear that continued up to a point where it would toll
10:51AM 2 the statute of limitations. I'm not asking you to weigh the
10:51AM 3 evidence. I'm asking you to consider the evidence. If you
10:52AM 4 consider what Mrs. Camps said about her participation in the
10:52AM 5 criminal prosecution, like I said earlier, it's absolutely no
10:52AM 6 different than any person in the United States who participates in
10:52AM 7 the criminal process as a witness or a victim.

10:52AM 8 THE COURT: I have to ask -- when you raised it the first
10:52AM 9 time, I put in my notes to ask you, there's no indication in any
10:52AM 10 of the TVPA cases of the extent of the plaintiff's specific
10:52AM 11 involvement that I found in any reported case other than the court
10:52AM 12 characterizing it as time-consuming. There was no specific facts,
10:52AM 13 or as far as I could tell, even anything that was specific to the
10:52AM 14 plaintiffs there as opposed to an expectation. And so I point
10:52AM 15 this out because you're making the argument that the criminal
10:52AM 16 proceeding or her involvement in it is not like that which we
10:53AM 17 might expect to see in a truth and reconciliation act. And I
10:53AM 18 don't know what your basis for advancing that is.

10:53AM 19 MR. SLADE: I'm basing it on her testimony.

10:53AM 20 THE COURT: No. I mean the comparison to make it to.

10:53AM 21 MR. SLADE: I'm basing it upon the characterization of
10:53AM 22 what the truth and reconciliation process was in the case law in
10:53AM 23 Liberia and Somalia where you had two governments who completely
10:53AM 24 collapsed, and the country made the determination to install these
10:53AM 25 truth and reconciliation-type commissions to basically fix global

10:53AM 1 problems in the country itself; to do all sorts of things that are
10:53AM 2 not typically done in a criminal proceeding.

10:53AM 3 In a criminal proceeding, as I understand in Argentina
10:53AM 4 and here, the purpose of it is to establish the guilt or innocence
10:53AM 5 of a particular defendant. My read on what the truth and
10:53AM 6 reconciliation process is in other countries is it's much broader.
10:54AM 7 The purpose of it is to heal the country as a whole. It's not
10:54AM 8 only to deal with guilt or innocence. It's to promote truth
10:54AM 9 telling and reconciliation. I'm not aware that there was any
10:54AM 10 testimony about that here.

10:54AM 11 Psychological healing for victims, I think what I
10:54AM 12 understand it is that the Truth and Reconciliation Commission
10:54AM 13 provides that. I don't think I heard any evidence or any
10:54AM 14 testimony about Mrs. Camps saying when she went to visit or when
10:54AM 15 she went to see the criminal proceedings in Argentina, they
10:54AM 16 provided any type of psychological healing for her. I don't know
10:54AM 17 whether there is any testimony about whether the purpose of the
10:54AM 18 criminal proceedings in Argentina was to establish an accurate
10:54AM 19 historical record other than with respect to this one thing. And
10:54AM 20 as I said too, CONADEP, which Mr. Langer testified to, was a truth
10:54AM 21 and reconciliation-type process, but in 1983; not in 2005.

10:55AM 22 Restoring dignity to victims, I'm not aware that that
10:55AM 23 happened. I mean, there hasn't been any proffer about that. I
10:55AM 24 don't have any information telling me that the government of
10:55AM 25 Argentina said: Hey, you know, the victims of this incident, you

10:55AM 1 know, they really weren't at fault. I didn't hear that.

10:55AM 2 And I didn't see any recommendations which could result
10:55AM 3 in states or jurisdictions prosecuting perpetrators of violence
10:55AM 4 and promoting justice for victims as a whole.

10:55AM 5 So it's almost like a -- it sounds to me as almost like a
10:55AM 6 legislative quasi -- a legislative and judicial process together
10:55AM 7 that we're going to have accountability and we are going to fix
10:55AM 8 the country. I don't see that that happened.

10:55AM 9 I'm going to ask the Court to enter a directed verdict on
10:56AM 10 the statute of limitations. But I will turn the podium over to
10:56AM 11 Mr. Davis unless the Court has any other questions to address
10:56AM 12 other issues in the case for which we don't think the plaintiffs
10:56AM 13 have met their burden.

10:56AM 14 THE COURT: Thank you, Mr. Slade.

10:56AM 15 MR. SLADE: Thank you.

10:56AM 16 MR. DAVIS: Your Honor, we'd move for directed verdict as
10:56AM 17 to the claim of Mr. Cappello under the TVPA 28 U.S.C., 1350, you
10:56AM 18 know, he would not be a person who could claim damages. He wasn't
10:56AM 19 alive when his uncle died.

10:56AM 20 He's not a direct -- so he's not a direct descendant. He
10:56AM 21 is not a brother. He's not a parent, and it would not have -- and
10:56AM 22 I'm just going down the language of the statute itself. I don't
10:56AM 23 have a case that says this, but it's, you know -- and in Florida,
10:56AM 24 as Your Honor I believe knows, that it's limited to spouse,
10:57AM 25 children, parents. But, you know, I know in applying federal law

10:57AM 1 that he would not be a claimant.

10:57AM 2 The second part of this -- and I don't know how we would
10:57AM 3 address this -- is Ms. Camps just testified and it is not disputed
10:57AM 4 in this record that her father survived what happened to him at
10:57AM 5 Trelew and then her father was killed in 1977 not by Mr. Bravo and
10:57AM 6 not related to Mr. Bravo and not tied to Mr. Bravo, and whatever
10:57AM 7 damage claim she would have would be limited only to the injuries
10:57AM 8 that he had, and, in fact, it would be like a survivor claim by
10:57AM 9 Mr. Cappello -- excuse me -- by Mr. Camps up until 1977 when he
10:57AM 10 was actually killed. And I don't know what basis there would be
10:57AM 11 for her to have a damages claim under did -- under this factual
10:58AM 12 record.

10:58AM 13 And then my additional on grounds, Your Honor, would
10:58AM 14 relate to a motion to -- for directed verdict as to the remaining
10:58AM 15 portions of the claims on the merits, but particularly, there has
10:58AM 16 been absolutely no evidence that there was any type of conspiracy
10:58AM 17 in this record. There's been no testimony -- I mean, there's been
10:58AM 18 argument that there was a conspiracy. But there's been no
10:58AM 19 testimony about a conspiracy or even circumstantial evidence on
10:58AM 20 which a jury could infer that a conspiracy exists, and the same
10:58AM 21 thing for -- there is no evidence that there is a joint enterprise
10:58AM 22 or that Mr. Bravo was aiding and abetting in the commission of a
10:58AM 23 TVPA. I would ask that you enter a directed verdict on that. So
10:58AM 24 that's our motion, Your Honor.

10:58AM 25 So as to the remaining portions of the TVPA claims, but

10:59AM 1 specifically as to Camps -- Ms. Camps and Mr. Cappello's, as I
10:59AM 2 just described.

10:59AM 3 THE COURT: Okay. So let me make sure that I understand
10:59AM 4 your positions or the relief that you're seeking. For Cappello,
10:59AM 5 you're seeking a directed verdict in full because he has standing?

10:59AM 6 MR. DAVIS: Standing was dropped as an affirmative
10:59AM 7 defense by Mr. Sonnett, but he has no damages claim. And so, yes,
10:59AM 8 he has no injury that's recognized by the courts for him to be
10:59AM 9 compensated. So he should not be able to recover damages, and so
10:59AM 10 that is the motion there.

10:59AM 11 And as to Ms. Camps, we have to tease out how her father
10:59AM 12 survived. She was born after the Trelew incident, and he was
10:59AM 13 killed by others in 1977. So her claim would be a very restricted
11:00AM 14 one as to the time from -- I would assume from when she was born,
11:00AM 15 to the time of her -- to the time of her father's death.

11:00AM 16 THE COURT: Okay. Two questions.

11:00AM 17 Mr. Cappello's claims, he also is the personal
11:00AM 18 representative of his uncle's estate; is he not?

11:00AM 19 MR. DAVIS: And he's the sole beneficiary, yes.
11:00AM 20 Actually, I don't know if he is the personal representative of the
11:00AM 21 estate.

11:00AM 22 THE COURT: Isn't he? That's how it's pled, and I
11:00AM 23 remember that he described the court process in which he became
11:00AM 24 the estate.

11:00AM 25 MR. DAVIS: That all may be true.

11:00AM 1 THE COURT: Okay. So both of your verdict forms sought
11:00AM 2 one entry for damages and punitive damages per plaintiff and did
11:00AM 3 not separate in personal capacity versus in the estate, and I
11:00AM 4 assumed it was intentional since you both did that.

11:00AM 5 So how does that affect your argument, Mr. Davis?

11:00AM 6 MR. DAVIS: He is the sole beneficiary. He testified,
11:01AM 7 his grandmother, I'm sure Your Honor remembers, his grandmother
11:01AM 8 was the one who was involved in this -- in 2016, I believe was the
11:01AM 9 time he said his grandmother passed away, and he has picked up the
11:01AM 10 family mantle I guess for the lack of a better word. But he is
11:01AM 11 the sole heir.

11:01AM 12 THE COURT: So that I understand the relief you're
11:01AM 13 seeking at directed verdict, are you advancing that there has been
11:01AM 14 no evidence of that the estate can assert a claim for damages?

11:01AM 15 MR. DAVIS: Correct. I mean, there is no evidence --
11:01AM 16 correct, I mean, the pain and suffering would go to first
11:01AM 17 particularly to denominated heirs such as children, parents,
11:01AM 18 brothers and sisters, but not an unborn nephew.

11:01AM 19 THE COURT: But that's under the statute as opposed to as
11:01AM 20 a matter of -- the law recognizes someone's ability to step in for
11:02AM 21 the estate as he has done here. There's damages and pain and
11:02AM 22 suffering, I think, that arise from killing.

11:02AM 23 MR. DAVIS: But pain and suffering for whom?

11:02AM 24 THE COURT: For the descendant for whom he stands in the
11:02AM 25 shoes of the estate, meaning, I don't -- I'm sorry. And this is

11:02AM 1 not -- if you can advance authority to me so that I can look for
11:02AM 2 additional guidance, but it wasn't my understanding that the
11:02AM 3 plaintiff -- that where the estate is the plaintiff, then the
11:02AM 4 representatives' pain and suffering is the measure.

11:02AM 5 MR. DAVIS: Well, there is -- well, the whole point is
11:02AM 6 there is no compensable plaintiff in this claim.

11:02AM 7 THE COURT: Okay. I understand your argument. Okay. So
11:03AM 8 let me turn to -- did you complete your -- you did. You're
11:03AM 9 sitting down.

11:03AM 10 Okay. So let me turn to the plaintiffs on -- if you
11:03AM 11 don't mind, can I ask you a series of questions?

11:03AM 12 MR. KRISHNAN: Yes, Your Honor.

11:03AM 13 THE COURT: Okay.

11:03AM 14 MR. KRISHNAN: Although, let me just say that I'm
11:03AM 15 prepared to do a part of the sort of record creating portion of
11:03AM 16 the response to the motions. If there are questions that really
11:03AM 17 go to TVPA law or things like that, you're probably aware that I
11:03AM 18 am not the strongest member of our team to answer them.

11:03AM 19 THE COURT: Okay. Mr. Slade's argument with respect to
11:03AM 20 an absence of evidence that, for example, an inability to find him
11:04AM 21 that factor as a basis for tolling cannot serve as the basis to
11:04AM 22 have tolled the statute of limitations all the way up to 2010.
11:04AM 23 Agreed?

11:04AM 24 MR. KRISHNAN: Correct.

11:04AM 25 THE COURT: So Mr. Slade will correct me if I'm wrong,

11:04AM 1 but I understand his argument to parse out the plaintiffs' factual
11:04AM 2 bases for tolling the statute of limitations and requested
11:04AM 3 directed verdict on them individually. Let me try to explain that
11:04AM 4 better how I understood it. But so using that example on which
11:04AM 5 the parties agree, because it is without dispute that the families
11:04AM 6 had identified him in the United States in 2008, inability to find
11:05AM 7 him could not have tolled the statute of limitations to 2010. And
11:05AM 8 accordingly, the defendants would be entitled to a directed
11:05AM 9 verdict as to that theory -- or rather -- I guess more pointedly
11:05AM 10 here that the jury should not be instructed or permitted to find
11:05AM 11 that the equitable tolling as a result of the inability to find
11:05AM 12 the defendant made these claims timely.

11:05AM 13 MR. KRISHNAN: We agree with Your Honor on every
11:05AM 14 substantive matter. The only question I have is the availability
11:05AM 15 of a directed verdict to one tolling factor, but certainly we do
11:05AM 16 not intend to argue to the jury that this tolling factor proceeds
11:05AM 17 past 2008.

11:05AM 18 THE COURT: I agree with you procedurally in terms of
11:05AM 19 that was -- while we're making this argument at the directed
11:06AM 20 verdict posture, it is not, you're right, a partial directed
11:06AM 21 verdict, but rather a question of whether or not the plaintiffs
11:06AM 22 have produced competent evidence that should go to the jury; that
11:06AM 23 would ask the jury to find tolling based on, for example, the
11:06AM 24 inability to find the defendant until -- beyond 2008.

11:06AM 25 MR. KRISHNAN: We agree.

11:06AM 1 THE COURT: Okay. And then Mr. Slade would also argue
11:06AM 2 that fear could not have been a factor that delayed or rather
11:06AM 3 justified -- tolled the statute of limitations until 2010. Let me
11:06AM 4 just pause and ask Mr. Slade am I understanding your argument
11:06AM 5 right.

11:06AM 6 Am I?

11:06AM 7 MR. SLADE: I think Your Honor has hit it correctly.

11:06AM 8 THE COURT: Okay. So then that's how I'm going to ask
11:06AM 9 you to respond to the motion, which is: What should you still be
11:06AM 10 allowed to argue to the jury? Should you be able to -- is there
11:06AM 11 record evidence that would support your ability to ask this jury
11:07AM 12 to find that the fear was an extraordinary circumstance up to 2010
11:07AM 13 that permitted you to toll the statute of limitations -- or,
11:07AM 14 rather, that tolled the statute of limitations?

11:07AM 15 MR. KRISHNAN: We would put forth the following evidence,
11:07AM 16 Your Honor; the plaintiff Raquel Camps testified to the --
11:07AM 17 testified to her grandmother's statement that "silence is health"
11:07AM 18 as of 2002 and her grandmother's refusal to share with her the
11:07AM 19 circumstances of her father's death.

11:07AM 20 THE COURT: I think that was the grandfather; but any way
11:07AM 21 around it. That was when she was ten.

11:07AM 22 MR. KRISHNAN: No. This was in 2002 I believe she
11:08AM 23 testified to, Your Honor. There was a conversation with her
11:08AM 24 grandfather when she was ten years old where he said, never ask me
11:08AM 25 about that again.

11:08AM 1 THE COURT: That's what I thought you were referring to.

11:08AM 2 MR. KRISHNAN: And then there was a period after she

11:08AM 3 started learning about her father in the '90s, in 2001, where she

11:08AM 4 went to her grandmother and tried to talk to her, and her

11:08AM 5 grandmother -- this was the "silence is health" statement. Do you

11:08AM 6 recall that, Your Honor?

11:08AM 7 THE COURT: I do.

11:08AM 8 MR. KRISHNAN: That happened in 2002. It came from her

11:08AM 9 grandmother. And the reason why I raise that, and I understand

11:08AM 10 Your Honor is talking about 2010 and that this is eight years

11:08AM 11 before that, but the basis for our ability we believe to go up to

11:08AM 12 2010 on fear is the extraordinary events that occurred previously

11:08AM 13 in the '70s, the '80s, and even parts of the '90s, that were

11:09AM 14 testified to by many witnesses, death camps, torture,

11:09AM 15 disappearances, such that continued fear -- there was continued

11:09AM 16 fear based on those things, and then I'm going to get to --

11:09AM 17 THE COURT: I'm going to ask -- I'm going to tell you

11:09AM 18 that I agree with that point. It is candidly why I permitted the

11:09AM 19 latitude that I did with respect to that evidence, because

11:09AM 20 notwithstanding the fact that it wouldn't have been relevant to

11:09AM 21 tolling during that time period, I viewed it at the time as

11:09AM 22 relevant to the family's ongoing fear. And I'll preview to the

11:09AM 23 defendant so that you can use the remaining time efficiently that

11:09AM 24 I am not going to limit the presentation on tolling with respect

11:09AM 25 to fear. I think that there is record of evidence there.

11:09AM 1 MR. KRISHNAN: Thank you, Your Honor. I'll just add two
11:09AM 2 more points then.

11:09AM 3 There was record evidence between the 2005 to 2010 period
11:10AM 4 of witness intimidation in the Videla trials in Spain, and from
11:10AM 5 2012 to 2016 in the La Perla trials that Dr. Brennan discussed, so
11:10AM 6 that was our factual basis for opposing on fear.

11:10AM 7 THE COURT: I understand. I wouldn't -- I'm hard-pressed
11:10AM 8 to characterize that as competent evidence, but it came in. But
11:10AM 9 it's sort of negated by the finding I've made or ruling with
11:10AM 10 respect to the other evidence with respect to fear.

11:10AM 11 Okay. I will give Mr. Slade the last word on statute of
11:10AM 12 limitations. The reality is this: You agree this will be the
11:10AM 13 longest, oldest, and on circumstances that no other court has
11:10AM 14 waded into, if this jury comes back and finds that they were,
11:10AM 15 nonetheless, extraordinary circumstances.

11:11AM 16 MR. KRISHNAN: I don't want to agree to that yet, Your
11:11AM 17 Honor. But I do want to give Your Honor one data point which we
11:11AM 18 developed right now. It was the Harr (phonetic) case. It was --
11:11AM 19 the death occurred, the killing, it was from the Pinochet regime
11:11AM 20 197 --

11:11AM 21 THE COURT: '73. And the suit was filed?

11:11AM 22 MR. KRISHNAN: In 2015. So it's six years -- it doesn't
11:11AM 23 answer your question. It's not -- this is still longer.

11:11AM 24 THE COURT: That's okay. It was a rhetorical question.
11:11AM 25 I just am quite mindful of the ask. But as I mean -- like I said,

11:11AM 1 Mr. Slade, I will give you the last word. But I think that it
11:11AM 2 would be a mistake to take it away from the jury and that it goes
11:11AM 3 to the jury to ask whether or not these are extraordinary
11:11AM 4 circumstances that tolled the statute of limitations.

11:11AM 5 Oh, before you do though, I know I told you I was going
11:11AM 6 to give you the last word, and I promise. But I do want to get
11:11AM 7 plaintiffs' response with respect to damages because I've had
11:12AM 8 questions as I listened to the testimony myself. But I am not
11:12AM 9 sure that I also understand the ask.

11:12AM 10 So what is your response?

11:12AM 11 MR. KRISHNAN: Your Honor, on Ms. Camps, I can answer,
11:12AM 12 which is that she's bringing legal -- she's bringing her damages
11:12AM 13 claim on behalf of the estate. So those are the claims of the
11:12AM 14 estate.

11:12AM 15 Mr. Camps survived. So there was pain and suffering
11:12AM 16 during his life, and that's the claim that Ms. Camps brings.

11:12AM 17 THE COURT: Oh. But I think that his argument was that
11:12AM 18 her damages should be limited to the pain and suffering he
11:12AM 19 experienced up until his death in 1977 at someone else's hands;
11:12AM 20 right?

11:12AM 21 Isn't that the argument, Mr. Davis?

11:12AM 22 MR. DAVIS: Yes.

11:12AM 23 MR. KRISHNAN: We don't dispute that. We're not going to
11:12AM 24 try to seek other damages for compensation during his life.

11:12AM 25 THE COURT: All right. Then next. I cut you off.

11:13AM 1 MS. VARGAS: Your Honor, as to Eduardo Cappello, he is
11:13AM 2 the nephew and the only surviving relative, and aside from his
11:13AM 3 role as estate representative, under the TVPA the victims' both
11:13AM 4 legal representative may present a claim, but also any person who
11:13AM 5 may be a claimant in an action for wrongful death. And when the
11:13AM 6 -- and that would be under the Florida wrongful death statute.

11:13AM 7 However, when there is no remedy provided under the state
11:13AM 8 law, courts in the TVPA are directed to look to the law of the
11:13AM 9 country where the violation took place, and I have case law for
11:13AM 10 that. It's ex Rel Tapia v. Drummond, 640 F.3rd, 1338.

11:13AM 11 THE COURT: Sorry. Slower. 640 F.?

11:13AM 12 MS. VARGAS: 1338. And I believe that plaintiffs have
11:14AM 13 presented enough evidence that Mr. Cappello is a proper
11:14AM 14 representative and can present claims on behalf of his uncle now
11:14AM 15 that he is the only surviving relative of Eduardo Cappello I in
11:14AM 16 Argentina.

11:14AM 17 THE COURT: Okay. Do the plaintiffs agree that, for
11:14AM 18 example, let's just stay with Mr. Cappello, the damages that he is
11:14AM 19 limited in seeking here are not his own, but those on behalf of
11:14AM 20 the estate?

11:14AM 21 MS. VARGAS: We would argue that he can seek them on
11:14AM 22 behalf of the estate, but also inasmuch as he has presented
11:14AM 23 evidence that the death of his uncle affected his -- him
11:14AM 24 personally.

11:14AM 25 THE COURT: Not from an evidentiary standpoint. I know

11:14AM 1 he said that, there is evidence to support it legally; is he
11:14AM 2 permitted to present -- I'm sorry -- to demand damages?

11:15AM 3 MS. VARGAS: As far as I understand the case law, he
11:15AM 4 should be permitted to bring a claim for damages because even if
11:15AM 5 the Florida wrongful death statute would not permit that, I think
11:15AM 6 we have adduced evidence that he has been and is the
11:15AM 7 representative -- or is able to bring -- to continue the criminal
11:15AM 8 claims in Argentina after his grandmother died.

11:15AM 9 And so he continued -- he is the complainant now in the
11:15AM 10 criminal case that's going on.

11:15AM 11 THE COURT: I understand the relevance of it now.

11:15AM 12 All right. I promised to give the last word to you, Mr.
11:15AM 13 Slade, but it's -- while I agree with you that this is unique, I
11:15AM 14 wonder if you appreciate that from my perspective that also cuts
11:15AM 15 against you.

11:15AM 16 This is your directed verdict to convince this Court that
11:16AM 17 the jury shouldn't decide the matter that as a matter of law, the
11:16AM 18 facts here are not extraordinary and don't toll the statute of
11:16AM 19 limitations.

11:16AM 20 MR. SLADE: I disagree. I hate to say that. I disagree
11:16AM 21 that it cuts against me. I think it's in my favor. Because the
11:16AM 22 way I look at it is if you want to come to a federal courthouse
11:16AM 23 and make the argument of equitable tolling, you should have some
11:16AM 24 authority to support your position. But if you don't have the
11:16AM 25 authority to support your position, you should be subject to a

11:16AM 1 directed verdict motion.

11:16AM 2 But anyway, I have a few things to say. I'm not going to
11:16AM 3 take up much more time on this. I sense the Court's anxious to
11:16AM 4 move on. But I want to clarify -- if you're going to give me more
11:16AM 5 time, I wanted to clarify something. Are we striking that based
11:16AM 6 upon -- I know you said there is no partial directed verdict
11:16AM 7 motion. At least I've heard that.

11:16AM 8 THE COURT: We will have to look at the jury instruction
11:16AM 9 again if that's what you're asking.

11:16AM 10 MR. SLADE: Yes; about the unable to locate defendant
11:17AM 11 charge.

11:17AM 12 THE COURT: Yes.

11:17AM 13 MR. SLADE: I guess what I also would like to know, and
11:17AM 14 this is -- well, again, for the record, I don't think these
11:17AM 15 parties have established due diligence, which is a standard under
11:17AM 16 the Eleventh Circuit case law.

11:17AM 17 THE COURT: I have considered that heavily. And it is my
11:17AM 18 observation that in order for me to reject their efforts as
11:17AM 19 diligent, I would have to replace my -- I would have to replace my
11:17AM 20 finding for that of the jury, which is inappropriate. I
11:17AM 21 understand and I have given a lot of thought to that.

11:17AM 22 But whatever my perspective on the diligence, there is
11:17AM 23 evidence that the jury will credit and deduce from.

11:17AM 24 MR. SLADE: I understand your point. So thank you for
11:17AM 25 clarifying that for me. But the one thing I want to talk about

11:17AM 1 with respect to fear, and I was really hoping to hear a lot more
11:17AM 2 detail in response to my argument about the lack of fear. But
11:17AM 3 what I heard was that something that was told to Mrs. Camps -- and
11:18AM 4 that doesn't include any of the other plaintiffs, just Mrs. Camps
11:18AM 5 -- by her grandmother in 2002 that "silence is health" that that
11:18AM 6 is going to be enough to prevent a directed verdict on this issue
11:18AM 7 of fear. I mean, this is obviously going to go to the Eleventh
11:18AM 8 Circuit. And we're going to have the Court ruling on whether this
11:18AM 9 one statement by someone's grandmother in 2002 "silence is health"
11:18AM 10 which is ambiguous in and of itself, that's enough, that one
11:18AM 11 statement is enough to take this case and send it to the jury.

11:18AM 12 THE COURT: I appreciate your frustration, and I caused
11:18AM 13 it. So I cut plaintiff's counsel off in proffer because I felt
11:18AM 14 like I could see where it was going, and I agreed. And so and
11:18AM 15 that's why I made the observation that I had anticipated from
11:18AM 16 their various proffers and outside of the jury argument that it
11:19AM 17 would be the position as it was, and at least the two live
11:19AM 18 plaintiffs testified that their systematic fear -- not their word,
11:19AM 19 mine. I'm just trying to cut to the chase -- stays with them
11:19AM 20 today. And that it was -- you have to link it up to just about
11:19AM 21 everything else that was introduced through the country conditions
11:19AM 22 testimony and everything about the families.

11:19AM 23 But I could see where Mr. Krishnan was going with it --

11:19AM 24 MR. SLADE: Okay.

11:19AM 25 THE COURT: -- because I had dealt with those rulings

1 throughout the trial. So that is my fault. I just wanted to try
2 to use the time efficiently, and I was satisfied for the purposes
3 of the directed verdict. I just want the record to be clearer
4 that my ruling is not limited to a 2001 ambiguous statement.

5 MR. SLADE: Okay. I understand. I'm not frustrated.
6 I'm actively engaged in this, and this is a very interesting
7 experience.

8 But I do believe that, as a matter of law, the plaintiffs
9 cannot determine subjectively whether they're in fear forever in
10 order to keep the statute of limitations running or tolled,
11 rather, indefinitely. That's my only other point, and then I will
12 sit down.

13 THE COURT: I agree with you on that point. Again, the
14 question that I'm precisely being asked is whether or not these
15 plaintiffs on this record will be permitted to argue to the jury
16 that an extraordinary circumstance that tolled the statute of
17 limitations at least until November 1st of 2010 was their fear of
18 persecution if they brought these claims.

19 MR. SLADE: I understand the Court's ruling. Thank you.

20 THE COURT: I know you do. Okay. Then take a comfort
21 break before we bring them back, and we will -- when we come
22 back -- I'm sorry. To be clear, I'm denying the directed verdict
23 motion at the close of the plaintiffs' evidence and of course
24 without prejudice to your ability to renew.

25 I still agree that we need to look at the jury

11:21AM 1 instruction a second time, but we're going to look at it anyway.
11:21AM 2 So you'll take your break. We'll bring them in. You'll publish
11:21AM 3 and rest. We'll do the defendant's case. You'll rest. We'll
11:21AM 4 take another longer break after the defense case is in, and we'll
11:21AM 5 have to figure out both how you eat and we get our jury
11:21AM 6 instructions done. We'll take that up after the defendant's case
11:21AM 7 then.

11:21AM 8 Okay?

11:21AM 9 MR. DAVIS: Thank you, Judge.

11:21AM 10 MR. SLADE: Thank you, Your Honor.

11:21AM 11 MR. KRISHNAN: Your Honor, do we have a time for
11:21AM 12 returning?

11:21AM 13 THE COURT: Do you have a time for what?

11:21AM 14 MR. KRISHNAN: Returning.

11:21AM 15 THE COURT: For returning?

11:21AM 16 MR. KRISHNAN: Are we taking a break? I'm sorry. You
11:21AM 17 said five minutes?

11:21AM 18 THE COURT: Yes, sir.

11:21AM 19 MR. KRISHNAN: I'm sorry.

11:21AM 20 THE COURT: Okay.

11:21AM 21 (Recess at 11:21 A.M.)

11:27AM 22 (Jury in at 11:27 A.M.)

11:27AM 23 THE COURT: All right. Welcome back, ladies and
11:27AM 24 gentlemen, from your big morning break.

11:27AM 25 We're ready to proceed if you are, Mr. Muzzio.

11:28AM 1 MR. MUZZIO: Yes, Your Honor.

11:28AM 2 At this time, I would like to read in a portion of
11:28AM 3 Exhibit 79T.

11:28AM 4 THE COURT: Okay.

11:28AM 5 MR. MUZZIO: Can we have access to the ELMO?

11:28AM 6 Buenos Aires, March 3, 2008.

11:28AM 7 Mister Judge, I am pleased to address you in connection
11:28AM 8 with File No. 12-4122-year 2006, entitled Sosa, Luis Emilio;
11:29AM 9 Bravo, Roberto Guillermo, et al., for their alleged perpetration
11:29AM 10 of illegitimate deprivation of liberty, tortures, and aggravated
11:29AM 11 homicides Trelew being processed before that honorable court, and
11:29AM 12 in regards to the international capture timely ordered against
11:29AM 13 citizen Roberto Guillermo Bravo.

11:29AM 14 In this respect, please be informed that we received the
11:29AM 15 following message from our Interpol counterpart in Washington:

11:29AM 16 "Matter: Roberto Guillermo Bravo, date of birth
11:29AM 17 03-07-1942. Concerning our communique on the above, Roberto
11:29AM 18 Guillermo Bravo, who is being sought in Argentina for the crimes
11:29AM 19 of "illegal deprivation of liberty" and "premeditated homicide,"
11:30AM 20 we hereby confirm that he is currently residing in the State of
11:30AM 21 Florida, U.S.

11:30AM 22 "Additionally, our preliminary investigation indicates
11:30AM 23 that Roberto Guillermo Bravo is residing in the State of Florida.

11:30AM 24 Please inform us regarding your intentions of seeking a
11:30AM 25 provisional arrest warrant via a formal diplomatic channel and

11:30AM 1 your intentions of extradition concerning Roberto Guillermo Bravo.

11:30AM 2 "Deputy Commissioner Edgardo Rammundo, Tossetti, second
11:31AM 3 head of the international affairs department Interpol.

11:31AM 4 MR. KRISHNAN: Your Honor, plaintiffs now rest.

11:31AM 5 THE COURT: Ladies and gentlemen of the jury, you have
11:31AM 6 now heard all of the evidence in the plaintiffs' case.

11:31AM 7 And I'll turn to Mr. Davis and ask if the defendant has a
11:31AM 8 case to advance?

11:31AM 9 MR. DAVIS: Yes, Your Honor.

11:31AM 10 THE COURT: Okay. Are you ready?

11:31AM 11 MR. DAVIS: Yes. We're going to be playing depo
11:31AM 12 designations. We need the computer access switched to our side.

11:31AM 13 THE COURT: It shall be so.

11:31AM 14 MR. DAVIS: These are addition -- we're going to start
11:31AM 15 with Carlos Celi.

11:31AM 16 THE COURT: Just remind the jury of the name.

11:31AM 17 MR. DAVIS: Carlos Celi. Pardon my pronunciation. He
11:31AM 18 has already testified in part in the plaintiffs' case.

11:31AM 19 THE COURT: Thank you, Mr. Davis.

11:32AM 20 (Video deposition of Carlos Humberto Celi played.)

11:35AM 21 MR. DAVIS: That's the end of that designation, Your
11:36AM 22 Honor.

11:36AM 23 Next we're going to play one of the plaintiffs you also
11:36AM 24 heard from, Ms. Santucho.

11:36AM 25 THE COURT: Ms. Santucho, okay.

1 (Video deposition of Ms. Santucho played.)

2 MR. DAVIS: Your Honor, our last depo designation will be
3 of plaintiff Alicia Krueger.

4 (Video deposition of Alicia Krueger played.)

5 MR. DAVIS: Judge, I just wanted to point out it is not
6 in evidence. I would like to move it into evidence at this point.

7 THE COURT: What is it? Sorry.

8 MR. DAVIS: Exhibit 129, PX 129.

9 MR. MUZZIO: We would renew our propensity objection,
10 Your Honor. Do you have a copy?

11 MR. DAVIS: Judge, do you need a copy?

12 THE COURT: No, thank you.

13 MR. MUZZIO: This one actually -- let me -- I think we
14 are okay with this one. No objection.

15 THE COURT: Admitted without objection.

16 MR. DAVIS: Thank you, Your Honor.

17 (Plaintiffs' Exhibit PX129 received.)

18 MR. DAVIS: I'm going to continue, but I know she's going
19 to talk about the letter, so I wanted to get it in.

20 THE COURT: Go ahead.

21 (Video played.)

22 MR. DAVIS: Your Honor, that's the end of the playing.
23 There is one other matter and just the dates that we talked about.
24 Your Honor, I think -- can you give me the date -- excuse
25 me -- one moment?

1 (Brief pause to confer with cocounsel.)

2 MR. DAVIS: There are three dates that we stipulated, and
3 I just want to make sure that we stipulate to the right dates.

4 THE COURT: Of course.

5 Ladies and gentlemen, I will remind you that a
6 stipulation is a fact that's agreed on by the parties. And when
7 they do so as they have in this case, you must treat that fact as
8 found; meaning, it's not in dispute.

9 MR. DAVIS: Judge, we have the PACER is locked up and
10 somehow. I apologize.

11 THE COURT: ECF is down in our district right now.

12 MR. DAVIS: Oh.

13 THE COURT: Sorry. I knew that. What do you need?

14 MR. DAVIS: The three dates are the date the extradition
15 was filed, which is February 2010, but I don't know the exact
16 date, but we will get it.

17 THE COURT: I think it's the 23rd, but I have access. So
18 is that the date you're looking for?

19 MR. DAVIS: That's consistent with Chanel's recollection.

20 MR. MUZZIO: And ours.

21 MR. DAVIS: Okay. And counsel's. So we can stipulate to
22 February 23, 2010, being the date the extradition was filed.

23 The date the extradition was denied is November 1st,
24 2010, and the date the lawsuit was filed is October 20, 2020.

25 THE COURT: Okay.

1 Ladies and gentlemen, do you understand that those three
2 dates are stipulated to by the parties? Those facts are found.

3 MR. DAVIS: With that, Judge, we'd rest.

4 THE COURT: Okay. The defense has concluded its case
5 now.

6 And I'll turn to Mr. Krishnan and ask if there is a
7 rebuttal case.

8 MR. KRISHNAN: There is not, Your Honor.

9 THE COURT: Okay.

10 Then, ladies and gentlemen of the jury, you've now heard
11 all of the evidence in this case. The two pieces that involve you
12 in this courtroom that remain are for me to give you the Court's
13 instructions on the law and for the parties to give you their
14 closing arguments. So while you have heard the evidence, it's not
15 ready for you to start discussing or deliberating over. So that
16 we have an opportunity to make sure that we're ready to give you
17 those instructions and closing argument, we're going to go ahead
18 and take your lunch break. We're going to be working.

19 But we'll have you come back -- counsel, can I ask if it
20 gives you sufficient time if I have the ladies and gentlemen of
21 the jury come back at 2:00? It is ten to 1:00.

22 MR. KRISHNAN: Yes, Your Honor.

23 MR. DAVIS: Yes, Your Honor.

24 THE COURT: Okay. So then that's what we'll do. You go
25 ahead and take your lunch break. We'll have you come back for

12:52PM 1 those last two pieces. I just want to reiterate my instruction
12:52PM 2 and caution you not to talk about the case, keep an open mind
12:52PM 3 until it's completely finished even though you've heard the
12:52PM 4 evidence. Okay. Thank you for your patience.

12:52PM 5 We'll see you at 2:00.

12:52PM 6 (Jury out at 12:52 P.M.)

12:52PM 7 THE COURT: Mr. Slade.

12:52PM 8 MR. SLADE: I was going to ask for a bathroom break; five
12:52PM 9 minutes, is that possible?

12:52PM 10 THE COURT: Yes, absolutely. So just as a matter then of
12:52PM 11 us figuring out what we're going to do. We're going to finish
12:52PM 12 going through the jury instructions. And then I figured that you
12:53PM 13 would also need and want a lunch break before you go into your
12:53PM 14 closings.

12:53PM 15 MR. SLADE: Yes.

12:53PM 16 THE COURT: Okay. So you go ahead and take that if we
12:53PM 17 can the five-minute break, and then we'll do the jury
12:53PM 18 instructions.

12:53PM 19 MR. SLADE: Thank you, Your Honor.

12:53PM 20 (Recess at 12:53 P.M.)

01:02PM 21 THE COURT: Let me lead by just telling you a couple of
01:02PM 22 other things that I identified as issues. If we look together at
01:02PM 23 pages 8 and 9 of your set, they belong at the end. I have moved
01:02PM 24 them to the back. Hyper-technical, I understand. I just want you
01:02PM 25 to understand.

01:02PM 1 MR. DAVIS: What was the page, Your Honor?

01:02PM 2 THE COURT: 8 and 9. They're the ones that just --

01:02PM 3 because I told you there are damages, they should be the last
01:02PM 4 thing I say. So I've moved that to the back.

01:02PM 5 Your page 10, which has currently a heading that says,
01:02PM 6 claims and liability, that second or rather the third paragraph is
01:02PM 7 almost fully redundant to the instruction that sits on page 17,
01:03PM 8 and the version on page 17 is much more fulsome. So it would be
01:03PM 9 my preference to cut the redundant first one leaving the one on
01:03PM 10 17.

01:03PM 11 MR. DAVIS: That's okay with the defense.

01:03PM 12 THE COURT: Any objection from the plaintiffs?

01:03PM 13 MR. KRISHNAN: I apologize, Your Honor, which was the
01:03PM 14 first one?

01:03PM 15 THE COURT: 10, page 10 is the one -- that's the
01:03PM 16 paragraph I'm proposing to cut. It's both internally redundant
01:03PM 17 and redundant to page 17.

01:03PM 18 MR. KRISHNAN: No objection, Your Honor.

01:03PM 19 THE COURT: Okay. So we're going to take that out just
01:03PM 20 that last paragraph. Okay.

01:03PM 21 Similar issue on extrajudicial killing as Ms. Matthews
01:03PM 22 and I were covering earlier, the instruction on Cappello is so
01:03PM 23 succinct and covers none of these extraneous definitions, and I
01:03PM 24 suggest that we follow suit.

01:03PM 25 After the third numbered paragraph of that instruction, I

01:03PM 1 would strongly recommend that we trim all of those other
01:04PM 2 definitions out. They're not -- there isn't evidence that goes to
01:04PM 3 these issues. They're not on the verdict form. Plaintiff agrees?

01:04PM 4 MR. KRISHNAN: Yes, Your Honor, we agree.

01:04PM 5 THE COURT: Mr. Davis?

01:04PM 6 MR. DAVIS: Yes, Your Honor.

01:04PM 7 THE COURT: Okay. So I'm going to cut that. I just
01:04PM 8 think it's confusing.

01:04PM 9 And then jumping to liability for conspiracy.

01:04PM 10 MS. MATTHEWS: Your Honor, one quick question: Would the
01:04PM 11 same apply to the attempted extrajudicial killing instruction also
01:04PM 12 on the definition?

01:04PM 13 THE COURT: No, you're right. It should.

01:04PM 14 MR. DAVIS: I couldn't hear what she said.

01:04PM 15 THE COURT: Page 13, Ms. Matthews is right. Thank you.
01:04PM 16 So that would apply to that last page on that last paragraph on
01:05PM 17 page 13, and the numbered paragraphs on page 14, and the paragraph
01:05PM 18 about acting under color of law but not substantial step. That
01:05PM 19 would stand. Right?

01:05PM 20 MS. MATTHEWS: Yes, Your Honor.

01:05PM 21 THE COURT: Mr. Davis?

01:05PM 22 MR. DAVIS: Defendant agrees, Your Honor. We agree. I
01:05PM 23 thought I said it.

01:05PM 24 THE COURT: Okay. On the conspiracy instruction, having
01:05PM 25 revisited Cabello and a couple of other cases, I agree with the

01:05PM 1 plaintiff that the pronouncement in the Eleventh Circuit of the
01:05PM 2 elements is more consistent with the way they proposed that two or
01:05PM 3 more persons agree to commit a wrongful act. I will deleted the
01:05PM 4 language that I proposed here.

01:05PM 5 MR. DAVIS: Which means you would be changing
01:05PM 6 paragraph 1, Your Honor?

01:05PM 7 THE COURT: Yes, only the first.

01:06PM 8 MR. DAVIS: So it would be: Two or more persons agreed
01:06PM 9 to a wrongful act?

01:06PM 10 THE COURT: Commit a wrongful act.

01:06PM 11 MR. DAVIS: Agree to commit a wrongful act?

01:06PM 12 THE COURT: Yes. And the second paragraph is where the
01:06PM 13 wrongful act is there defined just as it is.

01:06PM 14 MS. MATTHEWS: I think the third paragraph is where the
01:06PM 15 wrongful act is defined. The goals of the conspiracy --

01:06PM 16 THE COURT: I'm sorry, Ms. Matthews. I didn't catch
01:06PM 17 that. Start again.

01:06PM 18 MS. MATTHEWS: I thought the third paragraph is what
01:06PM 19 defines the wrongful act. But the second -- the goals of the
01:06PM 20 conspiracy, wouldn't that be broad?

01:06PM 21 THE COURT: I don't know how to contextualize what you're
01:06PM 22 telling me. The only change I'm proposing is, as you requested,
01:06PM 23 that the first element there, the first numbered paragraph, be
01:06PM 24 changed to "two or more persons agreed to commit a wrongful act."

01:06PM 25 MS. MATTHEWS: I think if you delete "agreed to

01:06PM 1 deliberately torture, kill, and attempt to kill" in number 1, you
01:06PM 2 would then also have to delete "torture, kill, and attempt to
01:07PM 3 kill" in number 2 after goal of the conspiracy to make those two
01:07PM 4 consistent.

01:07PM 5 THE COURT: I think that probably does make it more
01:07PM 6 consistent.

01:07PM 7 Mr. Davis, your position on those two changes? And then
01:07PM 8 the paragraph 3 continues there to define the torture, attempted
01:07PM 9 extrajudicial killing or extrajudicial killings of the plaintiffs'
01:07PM 10 relatives were committed by someone. So one of the acts in
01:07PM 11 furtherance was committed by somebody in the conspiracy.

01:07PM 12 MR. DAVIS: I'm trying to follow what the proposed change
01:07PM 13 is. I think I'm okay with it. But I just --

01:07PM 14 THE COURT: Sure. Let me -- from the top on page
01:07PM 15 19, there are three numbered paragraphs. The change I am
01:07PM 16 proposing is the numbered element one would now read: "Two or
01:08PM 17 more persons agreed to commit a wrongful act."

01:08PM 18 Paragraph 2 then would read: "Defendant Bravo joined a
01:08PM 19 conspiracy knowing of at least one of the goals of the conspiracy
01:08PM 20 and intending to accomplish it; and" -- and then we change the
01:08PM 21 third numbered paragraph is to replace "and" with "or."

01:08PM 22 MR. DAVIS: No objection, Your Honor.

01:08PM 23 THE COURT: On statute of limitations, at the bottom of
01:08PM 24 your number 23 that last bullet point where plaintiffs were unable
01:08PM 25 to locate the defendant, I would omit. And have either of you had

01:08PM 1 a chance to consider or propose alternative language for the final
01:08PM 2 numbered or bulleted point on page 24?

01:09PM 3 MR. MUZZIO: We have, Your Honor. We think the
01:09PM 4 instruction is appropriate as is. But I did want to note that the
01:09PM 5 Jane case uses language that's not only consistent with the
01:09PM 6 instruction but it's broader in describing both truth and
01:09PM 7 reconciliation and civilian justice systems. And that appears at
01:09PM 8 pages at 871 of the Jane W case. It says: "Each avenue of
01:09PM 9 potential accountability for the massacre." And this was the
01:09PM 10 massacre of the Lutheran church from the military to civilian
01:09PM 11 justice systems and a Truth and Reconciliation Commission failed
01:09PM 12 to punish the perpetrators.

01:09PM 13 MR. SLADE: Your Honor, we still object to the
01:09PM 14 instruction as a whole. But we have not had a chance to talk
01:09PM 15 about a potential narrowing, if that's possible.

01:09PM 16 THE COURT: You haven't had a chance to talk about a
01:09PM 17 narrowing among your team? Is that what you mean?

01:10PM 18 MR. SLADE: I thought you wanted us to talk to opposing
01:10PM 19 counsel about it.

01:10PM 20 THE COURT: Well, I always invite that. What I meant was
01:10PM 21 to talk within your team and propose alternative language. I will
01:10PM 22 tell you that I had invested some time. The Jane case is also
01:10PM 23 what I came up with, and while I agree that the accountability in
01:10PM 24 particular uses it as a noun, civil and criminal accountability
01:10PM 25 just as a noun in the Jane case.

01:10PM 1 In the manner that we're using it, it wouldn't work to
01:10PM 2 just kind of hang out there like that.

01:10PM 3 Processes I think is too vague. And though what I would
01:10PM 4 propose is accountability proceedings. And I understand your
01:10PM 5 continued objection to instruction that suggests to the jury
01:10PM 6 criminal -- a criminal case, but it is my observation at least
01:11PM 7 that -- because I considered and weighed different options, like
01:11PM 8 judicial proceedings or litigation, and all of them are imperfect
01:11PM 9 fits.

01:11PM 10 And the point that I think is substantiated in the case
01:11PM 11 law, and I think even your argument touched upon the quasi
01:11PM 12 judicial and quasi legislative aspect of those proceedings that
01:11PM 13 have been found to toll the statute of limitations, that they
01:11PM 14 might not fit into a box that we know how to uniquely define, and
01:11PM 15 so it is my goal to advance something to the jury that is narrow
01:11PM 16 and specific enough to give them meaningful guidance without
01:11PM 17 choosing a proceeding that they have to find, because a list of
01:12PM 18 factors should be nonexhaustive.

01:12PM 19 I think the right answer here is accountability
01:12PM 20 proceedings.

01:12PM 21 MR. SLADE: Rather than processes?

01:12PM 22 THE COURT: I thought that proceedings was more specific
01:12PM 23 than processes in giving them guidance about -- that it's
01:12PM 24 something finite; that it's a procedure that begins and ends as
01:12PM 25 opposed to what's a process. That was my thought, Mr. Slade. You

01:12PM 1 can tell me I'm wrong.

01:12PM 2 MR. SLADE: I told you, you were wrong before, but I'm
01:12PM 3 happy to do it again. I understand this is your ruling. If it is
01:12PM 4 your ruling, I'm going to just renew my motion to strike, okay,
01:12PM 5 get a ruling from the Court -- granted, denied -- so we'd preserve
01:12PM 6 our record. That's all. Because I don't agree that that's an
01:13PM 7 appropriate instruction in this case.

01:13PM 8 THE COURT: Okay. To Mr. Muzzio: Accountability
01:13PM 9 processes versus proceedings?

01:13PM 10 MR. MUZZIO: We agree with Your Honor.

01:13PM 11 THE COURT: Okay. And I heard no reaction to my proposal
01:13PM 12 to strike that third bullet point consistent with my discussion
01:13PM 13 with Mr. Krishnan. Going once. Going twice.

01:13PM 14 MR. MUZZIO: One moment, Your Honor.

01:13PM 15 THE COURT: While you're doing that, just so I'm moving
01:13PM 16 the ball forward, I am not persuaded by the cases that I looked at
01:13PM 17 on punitive damages that the jury should be told that the
01:13PM 18 defendant bore the burden of proof on that. I think that the
01:13PM 19 instruction as we proposed it is an accurate statement of the law,
01:13PM 20 and I am not persuaded that either case suggests otherwise. So I
01:14PM 21 am not going to add that language to the punitive damages
01:14PM 22 instruction.

01:14PM 23 I am, however, inclined to separate punitive damages on
01:14PM 24 the verdict form from compensatories (phonetic), again in the
01:14PM 25 manner that the Cabello court did, so that they consider statute

01:14PM 1 of limitations, liability as to each plaintiff, and compensation
01:14PM 2 as to each individual plaintiff; but then whether the
01:14PM 3 circumstances of the case warrant punitive damages, and then an
01:14PM 4 opportunity to indicate with respect to each of the plaintiffs the
01:14PM 5 amount of punitive damages.

01:14PM 6 But I agree with the way that it was structured there;
01:14PM 7 that punitive damages should be reached after they finish going
01:14PM 8 through the liability portion. So I've rearranged it in that
01:14PM 9 respect.

01:14PM 10 MR. KRISHNAN: Your Honor, I think we can live with that.
01:14PM 11 But I did -- I think we may have had a misunderstanding with
01:15PM 12 respect to -- going back to the statute of limitations, the third
01:15PM 13 bullet point.

01:15PM 14 THE COURT: Okay.

01:15PM 15 MR. KRISHNAN: The conversation I got -- the third bullet
01:15PM 16 point is of the list of nonexhaustive factors where plaintiffs
01:15PM 17 were unable to locate the defendant. I thought the conversation
01:15PM 18 we had was that we would not go past 2008 on that.

01:15PM 19 THE COURT: That's true. But if you don't go past 2008
01:15PM 20 with that, then they can't decide in your favor.

01:15PM 21 MR. KRISHNAN: But they could because -- I mean, just for
01:15PM 22 instance, although let me just think here.

01:15PM 23 THE COURT: Let me try to say it this way, and then you
01:15PM 24 can respond. Maybe I didn't articulate it well. If the jury were
01:15PM 25 to find that the plaintiffs couldn't locate the defendant and

01:15PM 1 that's the only factor that they found in your favor on tolling,
01:15PM 2 are your claims timely?

01:15PM 3 MR. KRISHNAN: No. But -- you're right. You're right on
01:15PM 4 that point, yes, Your Honor. But can I give a different scenario?

01:15PM 5 THE COURT: Okay.

01:15PM 6 MR KRISHNAN: They don't buy into the fear, and so the
01:16PM 7 only thing that gets us to 2008 is the inability to find Bravo;
01:16PM 8 right? They might say that fear ended at some point earlier.
01:16PM 9 1983 is what the defense is proposing, and so we might need the
01:16PM 10 inability to find him to get us to 2008. And then thereafter, we
01:16PM 11 would rely on the bullet 4 to get us the rest of the way.

01:16PM 12 THE COURT: What page?

01:16PM 13 MR. KRISHNAN: 23.

01:17PM 14 THE COURT: Mr. Slade, I saw you on your feet. Did you
01:17PM 15 want to be heard?

01:17PM 16 MR. SLADE: I think we're going to give the Court an
01:17PM 17 opportunity to review it and then we will --

01:17PM 18 THE COURT: No, I looked back at it. I'm ready for you.

01:17PM 19 MR. SLADE: I think he's mixing things up here, Your
01:17PM 20 Honor. There's separate prongs here, and the Court's already
01:17PM 21 ruled about this issue about plaintiffs were unable to locate the
01:17PM 22 defendant. And they're seeking a second bite at the apple. I
01:17PM 23 don't want to make this more confusing. But the Court's ruled on
01:17PM 24 this already, and fear is a separate part of the instructions,
01:17PM 25 which the Court -- you know, it's in there, and it's going to be

01:17PM 1 there. So fear and unable to locate are two different things.

01:17PM 2 THE COURT: They are. I resist the qualification that
01:17PM 3 they're prongs that -- at least in my mind -- suggest that these
01:18PM 4 are multiple things that they have to satisfy as opposed to a
01:18PM 5 nonexhaustive list of factors that they can consider. And I agree
01:18PM 6 with Mr. Slade. I thought that this had been decided and we're
01:18PM 7 revisiting it. Because I had understood there to be an
01:18PM 8 acknowledgment on the plaintiff side that the inability to locate
01:18PM 9 him is not a factor on which this jury could rely in finding your
01:18PM 10 claims were timely filed in 2010.

01:18PM 11 MR. KRISHNAN: I don't think that's exactly what you
01:18PM 12 asked me, Your Honor. You asked me if we only won on that factor.

01:18PM 13 THE COURT: That's what I just asked you now. But during
01:18PM 14 the directed verdict argument, I thought that that was the
01:18PM 15 concession.

01:18PM 16 MR. KRISHNAN: I thought I was also being asked that if
01:18PM 17 all you got was that one prong and you didn't get any other prong,
01:19PM 18 we lose. I agreed with that.

01:19PM 19 By the way, this would go to the jury -- however, it is
01:19PM 20 also an alternative to fear. And so if the jury doesn't believe
01:19PM 21 that fear gets us all the way to 2005 or 2008, they think that the
01:19PM 22 fear should have stopped earlier, then we would be relying on
01:19PM 23 inability to find the defendant, plus the reliance on
01:19PM 24 accountability proceeding. So we would be relying on those two.
01:19PM 25 Those two together would get us there. We couldn't get there on

01:19PM 1 inability to locate the defendant standing alone. We concede
01:19PM 2 that.

01:19PM 3 But because in this situation we also have the
01:19PM 4 accountability processes, it could be something that we need to
01:19PM 5 rely on.

01:20PM 6 THE COURT: I am -- I'm both grappling with the potential
01:20PM 7 for confusion for the jury and the fact that it's a true statement
01:20PM 8 supported by evidence and advanced by the plaintiffs.

01:20PM 9 MR. KRISHNAN: Your Honor, I will say that our plan for
01:20PM 10 closing was to explain this; that certain -- you know, the factors
01:20PM 11 overlap and we would use -- we would be explaining it. I
01:20PM 12 understand that it's not the simplest concept in the world. But I
01:20PM 13 think we would be explaining the multiple overlapping factors at
01:20PM 14 different periods of time.

01:21PM 15 MR. SLADE: Your Honor, is he proposing stacking them on
01:21PM 16 top of one another? Because that's what it sounds like.

01:21PM 17 THE COURT: Functionally, yes.

01:21PM 18 MR. SLADE: I don't think that's how it works.

01:21PM 19 THE COURT: Except that the TVPA cases -- I mean James
01:21PM 20 most recently I think. Ms. Matthews will tell me I'm wrong.

01:21PM 21 But I think the most recent one that I saw where the
01:21PM 22 court, quite literally, looks at four to six factors and says:
01:21PM 23 Based on all of these, this took you from this period to that
01:21PM 24 period. Maybe you could have filed a suit here, but then it
01:21PM 25 relapses. That's a long way of saying this would not be the first

01:21PM 1 Court that recognized tolling periods may be different for
01:21PM 2 different factors -- different periods of time based on different
01:21PM 3 factors.

01:21PM 4 MR. SLADE: I think that's a determination for the Court,
01:21PM 5 first of all. And I think you're going to make this so confusing
01:21PM 6 for the jury -- I just -- I think it's going to confuse the jury.

01:22PM 7 And I think there's been a stipulation and agreement
01:22PM 8 about 2008, for good reason, because that's what the testimony has
01:22PM 9 shown. So why reinsert an issue into the case that's really not
01:22PM 10 there anymore and the Court's already ruled on it?

01:22PM 11 MR. KRISHNAN: It's completely in the case, Your Honor.
01:22PM 12 What's out of the case is post-2008. We agree that this factor
01:22PM 13 doesn't get us past there, and we wouldn't argue to the jury
01:22PM 14 otherwise.

01:22PM 15 And even if Your Honor wanted to include language that
01:22PM 16 limits that factor to 2008, no later than 2008, that would be
01:22PM 17 acceptable to us, too. We're not trying to go past 2008; it's
01:22PM 18 just that we might need it to get to 2008.

01:23PM 19 THE COURT: Okay. I'm editing the last sentence on 23
01:23PM 20 that begins with the words such extraordinary circumstances to
01:23PM 21 insert the word: "may include, but are not limited to."

01:23PM 22 I am going to leave the factor that enumerates location
01:23PM 23 of the defendant. I am going to edit the last one to
01:23PM 24 accountability proceedings.

01:23PM 25 Your objection is preserved, Mr. Slade. I think that

01:24PM 1 your jury will follow the instructions and understand that these
01:24PM 2 are examples that it may include. Okay.

01:24PM 3 With that, are there any other changes or issues with the
01:24PM 4 jury instructions?

01:24PM 5 MR. KRISHNAN: None here, Your Honor.

01:24PM 6 MR. DAVIS: No, Your Honor.

01:24PM 7 THE COURT: Okay. I'm going to input those changes, and
01:24PM 8 the law clerks will print a copy for each side for you to inspect
01:24PM 9 during the lunch break.

01:24PM 10 If you find anything wrong, please immediately bring it
01:24PM 11 to our attention to input the changes. And I'll see you at five
01:24PM 12 to 2:00 for that purpose; so that you can tell me if there is a
01:24PM 13 problem.

01:24PM 14 MR. SLADE: Five to 2:00?

01:25PM 15 THE COURT: Five to 2:00; a half hour. I know it's
01:25PM 16 short, but you're almost there.

01:25PM 17 MR. DAVIS: We understand. And do we have the verdict
01:25PM 18 form?

01:25PM 19 THE COURT: If you wait for just five minutes -- not
01:25PM 20 even, hopefully -- the law clerk will bring it out to you right
01:25PM 21 now, and you'll have both to review.

01:25PM 22 MR. KRISHNAN: Thank you, Your Honor.

01:25PM 23 THE COURT: Okay. Five to 2:00, and we'll make sure at
01:25PM 24 that time I will ask you if there are any additional objections
01:25PM 25 not preserved; meaning anything you haven't previously raised to

01:25PM 1 the jury instructions. Okay?

01:25PM 2 MR. DAVIS: Just for the record, Judge, we would renew
01:25PM 3 our motions for a directed verdict as previously proffered to the
01:25PM 4 Court now at the close of the evidence.

01:25PM 5 THE COURT: The defendant's motion is recognized, and the
01:25PM 6 ruling is the same as at the close of the directed verdict; that I
01:25PM 7 think the evidence is sufficient to go to the jury.

01:26PM 8 And I will excuse you all while I make these changes very
01:26PM 9 quickly, and we will get you the instructions.

01:26PM 10 MR. DAVIS: Thank you, Your Honor.

01:26PM 11 MR. SLADE: Thank you, Your Honor.

01:26PM 12 MR. KRISHNAN: We can go back to our room then?

01:26PM 13 THE COURT: Yes. I'll have the clerk bring it back to
01:26PM 14 you in your room there.

01:26PM 15 (Recess at 1:26 P.M.)

01:58PM 16 THE COURT: Did you get both sets; the instructions and
01:58PM 17 the verdict form?

01:58PM 18 MR. MUZZIO: Yes, Your Honor.

01:58PM 19 THE COURT: All right. Have a seat.

01:58PM 20 From the plaintiffs, have you had a chance to go through
01:58PM 21 the instructions?

01:58PM 22 MR. MUZZIO: We have, Your Honor.

01:58PM 23 THE COURT: You have?

01:58PM 24 MR. MUZZIO: The instructions, yes.

01:58PM 25 THE COURT: Any further issues?

01:58PM 1 MR. MUZZIO: No.

01:58PM 2 THE COURT: From the defense, have you had a chance to go

01:58PM 3 through the jury instructions?

01:58PM 4 MR. SLADE: Yes.

01:58PM 5 THE COURT: Okay. Are there any further issues?

01:58PM 6 MR. SLADE: No further issues, Your Honor.

01:58PM 7 THE COURT: Okay. Then let me just ask: Without

01:58PM 8 prejudice to your prior objections that are made and preserved,

01:58PM 9 does the plaintiff have any objection to the manner in which the

01:58PM 10 Court decided the jury instructions?

01:58PM 11 MR. MUZZIO: No, Your Honor.

01:58PM 12 THE COURT: Does the defense?

01:58PM 13 MR. DAVIS: No, Your Honor.

01:59PM 14 THE COURT: Okay. The verdict form is different than we

01:59PM 15 discussed this morning, I know. Have you had a chance to both

01:59PM 16 look at it?

01:59PM 17 Plaintiffs?

01:59PM 18 MR. MUZZIO: Yes, Your Honor.

01:59PM 19 THE COURT: Any objection to the verdict form?

01:59PM 20 MR. MUZZIO: Yes, Your Honor.

01:59PM 21 THE COURT: Tell me.

01:59PM 22 MR. MUZZIO: We would object again to the statute of

01:59PM 23 limitations question being presented before the questions related

01:59PM 24 to the claims.

01:59PM 25 THE COURT: Okay. Is that the only?

01:59PM 1 MR. MUZZIO: Yes, Your Honor.

01:59PM 2 THE COURT: Okay. From the defense?

01:59PM 3 MR. DAVIS: No, Your Honor.

01:59PM 4 THE COURT: Okay. This is the format in which I intend

01:59PM 5 to do it. And it is a complete bar if they find that the claims

01:59PM 6 aren't tolled; so that is, I think, both consistent with the law

01:59PM 7 and what they have to decide now.

01:59PM 8 So over the plaintiffs' objection, that's how I intend to

01:59PM 9 order it.

01:59PM 10 So if there are no other objections on either the verdict

01:59PM 11 form or the instructions, then we can go to closings.

02:00PM 12 MR. MUZZIO: No further objections.

02:00PM 13 MR. DAVIS: No objections, Your Honor.

02:00PM 14 THE COURT: Okay. Let's bring them in.

02:00PM 15 MR. DAVIS: Your Honor, one thing. I don't think we ever

02:00PM 16 decided. We have both been pretty busy.

02:00PM 17 My preference is you read the instructions at the end of

02:00PM 18 closing.

02:00PM 19 THE COURT: Yes. That's what we're doing.

02:00PM 20 MR. DAVIS: Okay.

02:00PM 21 MR. KRISHNAN: Your Honor, are we allowed to refer to

02:00PM 22 instructions during closing; not put them up or anything --

02:00PM 23 THE COURT: The Court's final instructions, absolutely;

02:00PM 24 totally appropriate. Not your own, but anything that is in the

02:00PM 25 final set, then, yes, absolutely.

02:00PM 1 Are there any other questions or issues with
02:00PM 2 demonstratives, tech that we need to do before they come out?
02:00PM 3 Okay.

02:00PM 4 Seeing no hands, are they ready?

02:00PM 5 (Jury in at 2:01 P.M.)

02:01PM 6 THE COURT: Okay.

02:01PM 7 Ladies and gentlemen of the jury, welcome back. Everyone
02:01PM 8 else, please be seated.

02:01PM 9 I hope that you enjoyed second your lunch and that you
02:01PM 10 are ready to give the attorneys your undivided attention as they
02:01PM 11 turn to their closing arguments.

02:01PM 12 We are almost at the conclusion of the case, but not
02:01PM 13 quite there yet. And so, again, please listen carefully to the
02:01PM 14 attorneys as they tell you their arguments.

02:01PM 15 Mr. Krishnan.

02:02PM 16 MR. KRISHNAN: Thank you, Your Honor. Could we also
02:02PM 17 please have access to the court's video system?

02:02PM 18 THE COURT: Do you have it?

02:02PM 19 MS. LIND: We do, thank you.

02:02PM 20 MR. KRISHNAN: May I proceed, Your Honor?

02:02PM 21 THE COURT: Yes, sir.

02:02PM 22 MR. KRISHNAN: Hello again, everyone. Thank you again
02:02PM 23 for the tremendous and generous time and attention that you have
02:03PM 24 given us this week. All four of my clients, including Alicia and
02:03PM 25 Marcela who could not be here today or this week, thank you with

02:03PM 1 their full hearts for listening to their story, to listening to
02:03PM 2 the injustice that they have suffered, and the pain that they have
02:03PM 3 experienced.

02:03PM 4 And we now ask you to hold Roberto Bravo accountable. He
02:03PM 5 ruthlessly killed Marcela Sanchuto's pregnant mother, Ana Maria.
02:03PM 6 He killed Alicia Krueger's husband, Ruben Bonet. He killed
02:03PM 7 Eduardo Cappello's uncle and namesake. And he shot Raquel Camps'
02:04PM 8 father, Alberto, and left him to die in a cold prison cell
02:04PM 9 surrounded by death.

02:04PM 10 I have three simple points to make to you today. And if
02:04PM 11 we can go to the first slide -- the next one. These are the three
02:04PM 12 key points of evidence that I'm going to talk to you about today.

02:04PM 13 First, that Mr. Bravo conspired to shoot and kill 19
02:04PM 14 unarmed prisoners and was not acting in self-defense.

02:04PM 15 Second, that my clients' lawsuit was filed on time in a
02:04PM 16 timely manner.

02:04PM 17 And, third, that Mr. Bravo must be held accountable for
02:04PM 18 the massacre.

02:04PM 19 On the next slide, I want to make one point about the
02:05PM 20 attacks on each victim.

02:05PM 21 Now, there will be a slightly different way when you go
02:05PM 22 into your deliberations that you'll have to talk about Alberto
02:05PM 23 Camps compared to the other three victims. And that's because Mr.
02:05PM 24 Camps survived the shooting. He wasn't killed that night. And so
02:05PM 25 as a result, different legal claims will apply with respect to Mr.

02:05PM 1 Camps than for the other victims.

02:05PM 2 For Mr. Camps, the legal claims are attempted
02:05PM 3 extrajudicial killing and torture by shooting. If you'll recall,
02:05PM 4 Mr. Camps had a survivor statement, and he explained how Mr. Bravo
02:06PM 5 came to his cell, asked him if he would now answer questions, when
02:06PM 6 he said, no, he was shot in the stomach at close range.

02:06PM 7 Now, that is an attempted extrajudicial killing,
02:06PM 8 extrajudicial because no judge ordered that. And it was also a
02:06PM 9 form of torture by shooting, which I want to just take a second to
02:06PM 10 explain. Oftentimes we might not think of shooting someone as
02:06PM 11 torture. In this case, it obviously was. Mr. Bravo was trying to
02:06PM 12 elicit information from Mr. Camps as explained in his survivor's
02:06PM 13 statement, and when Mr. Camps refused to give it to him, Mr. Bravo
02:06PM 14 shot him. And, in any event, when you get your jury instructions,
02:06PM 15 you'll see that torture includes intentionally inflicting severe
02:07PM 16 physical pain, and that is exactly what shooting is.

02:07PM 17 So the shooting of Mr. Camps will be both attempted
02:07PM 18 extrajudicial killing and torture. Those are claims that will
02:07PM 19 apply with respect to Mr. Camps. And for all of the other victims
02:07PM 20 the claim will be extrajudicial killing, and again, extrajudicial
02:07PM 21 because no judge ordered what happened that night.

02:07PM 22 If we could go to the next slide. I'd like to talk to
02:07PM 23 you a little bit about the legal standard, the burden of proof
02:07PM 24 that you're going to be applying. It's called the preponderance
02:07PM 25 of the evidence.

02:07PM 1 Now, just to set this up, this is not a case that's full
02:07PM 2 of nuance. We've presented a lot of evidence showing that Mr.
02:07PM 3 Bravo and his fellow officers came to the cellblock area on the
02:08PM 4 night of August 20 -- or the early morning of August 22, 1972, to
02:08PM 5 harm the prisoners.

02:08PM 6 Now, Mr. Bravo, on the other hand is saying, oh, it was
02:08PM 7 all a mistake. We were just trying to shoot Pujadas. Pujadas
02:08PM 8 tried to pull a gun, and maybe we were trying to shoot one or two
02:08PM 9 others who were moving forward, but then we accidentally shot all
02:08PM 10 18 -- all of the other 18 plus Pujadas.

02:08PM 11 Now, you're going to have to decide who is right. Those
02:08PM 12 are the two stories that have been presented to you in this trial.

02:08PM 13 Now, my clients bear the burden of proof by a
02:08PM 14 preponderance of the evidence, but my clients only have to
02:08PM 15 prove -- and this is the important part -- we only have to prove
02:08PM 16 that our claims are more likely true than not true. Even just a
02:08PM 17 little more likely is good enough. And as you see on the scales
02:09PM 18 there, even by a feather, that would be more likely true than not
02:09PM 19 true if you think of the scale as weighing each side's case. But
02:09PM 20 as you'll see, we don't just have a feather more of evidence. We
02:09PM 21 have compelling evidence that tips the scales conclusively in our
02:09PM 22 favor.

02:09PM 23 We can go to the next slide. We're going to see that the
02:09PM 24 medical evidence is all you need to find that Mr. Bravo is lying
02:09PM 25 and that he and his fellow officers deliberately killed the

02:09PM 1 prisoners. Remember, Mr. Bravo clearly testified that he was the
02:09PM 2 closest soldier to the prisoners. He said he was nine to ten feet
02:10PM 3 away. You saw him testify to this in court. There was the
02:10PM 4 question: So Mr. Pujadas and Mr. Sosa were collectively nine to
02:10PM 5 ten feet away? His answer was, yes.

02:10PM 6 He also testified that the prisoners couldn't move more
02:10PM 7 than one to two steps before they were shot. And he testified
02:10PM 8 that the prisoners were moving towards him. If we go to the next
02:10PM 9 page.

02:10PM 10 We'll see that three separate pieces of medical evidence
02:10PM 11 independently, each one standing alone independently, expose Mr.
02:10PM 12 Bravo's story as a lie. As Dr. Anderson, the medical pathologist
02:10PM 13 made clear, at least two bodies, Jorge Ulla and Ruben Bonet had
02:10PM 14 gunshot residue on their wounds, meaning that they had been shot
02:10PM 15 from within 20 inches. And Mr. Ulla's wound was a press-contact
02:11PM 16 shot.

02:11PM 17 So we have the photo of Mr. Ulla, that's number one.
02:11PM 18 Number two, we see in the text below -- that's from the Ruben
02:11PM 19 Bonet autopsy. It's Plaintiffs' Exhibit 71T at page 4, and it
02:11PM 20 describes -- and Dr. Anderson also discussed that this last bullet
02:11PM 21 was shot from a short distance, and there was fine blackish
02:11PM 22 gunpowder grains observed. As Dr. Anderson testified, that second
02:11PM 23 shot was taken from within six inches.

02:11PM 24 So you have two different independent pieces of evidence
02:11PM 25 that show that there were close contact shots that couldn't have

02:11PM 1 been taken with the nine- to ten-foot separation that Mr. Bravo
02:12PM 2 clearly testified to. There is no way that his story can be true.
02:12PM 3 Those officers went in after the survivors and shot them at close
02:12PM 4 range. That's the only way that you can explain those two pieces
02:12PM 5 of medical evidence; the Ulla photograph and the Bonet autopsy.

02:12PM 6 And then we have the photo here of Miguel Marileo. He
02:12PM 7 was the undertaker who treated the bodies. We saw his video
02:12PM 8 testimony during the trial. And this is the clip of him pointing
02:12PM 9 to the back of his neck. And if you recall, he was asked about a
02:12PM 10 young woman's body where he noticed something; that there weren't
02:12PM 11 any other wounds on her body.

02:12PM 12 And he said: That I found a single wound, a gunshot to
02:12PM 13 the nape, to the back of the neck.

02:12PM 14 There is no way, there is no way if Mr. Bravo's story is
02:12PM 15 true, there is no way that one of the victims would have only a
02:13PM 16 single gunshot wound at the back of the neck. She was shot
02:13PM 17 execution style. That is the more reasonable view of that piece
02:13PM 18 of evidence.

02:13PM 19 So there are three pieces of medical evidence that
02:13PM 20 independently show that Mr. Bravo's story is false and that there
02:13PM 21 were execution-style killings, which is exactly what Mr. Camps
02:13PM 22 said in his survivor's statement.

02:13PM 23 So before I move on, just a quick point about evidence.
02:13PM 24 You will be getting evidence when you go back to the jury room.
02:13PM 25 We've been talking about these exhibit numbers during the course

02:13PM 1 of the trial. So if there is something that you see during the
02:13PM 2 summation when I'm speaking to you that you want to look at, we
02:13PM 3 have exhibit numbers here, you can take those down so you're able
02:13PM 4 to look at them in the jury room. We have PX11 on the Ulla
02:13PM 5 photograph, and we have PX 71T, the Bonet autopsy there.

02:14PM 6 If we can go to the next slide.

02:14PM 7 Now, let's see -- can we actually go to the next slide?

02:14PM 8 The one after this.

02:14PM 9 Oh, Ms. Lind, are we able to go to the next slide after
02:14PM 10 this? Okay. Well, why don't we take that down for just a second
02:14PM 11 while I talk in another point.

02:14PM 12 There is a separate piece of evidence that independently
02:14PM 13 exposes -- we talked about three. This is another category of
02:14PM 14 evidence that independently exposes Mr. Bravo's story as a lie.
02:14PM 15 And that is the forensic analysis, those bullet holes in the
02:14PM 16 bathroom door.

02:14PM 17 Now, you will recall -- and unfortunately, I think we're
02:14PM 18 missing the right slide here, but you'll have in evidence what's
02:15PM 19 marked as PDX9. PDX9 was the drawing that Mr. Bravo made -- oh,
02:15PM 20 here we go. Thank you so much. PDX9 on the left is the drawing
02:15PM 21 that Mr. Bravo made in court, and PX122 is the -- actually, PX 122
02:15PM 22 isn't showing up properly here. This is Dr. Pregliasco's plan.
02:15PM 23 And what you can't see here -- I think there's probably a tech
02:15PM 24 issue. But remember there was a red trajectory that he marked,
02:15PM 25 which was the only place that he marked a line, the only range of

02:15PM 1 places where the shooter could have been for those two bullet
02:15PM 2 holes. And what we see is that it was simply not possible for the
02:15PM 3 way that Mr. Bravo described the shooting by Pujadas for the two
02:16PM 4 bullet holes in the door to have appeared.

02:16PM 5 Now, obviously, the conclusion -- and if you recall, Mr.
02:16PM 6 Bravo came out during his examination. He did a demonstration for
02:16PM 7 everyone. He went down like this. He demonstrated what Pujadas
02:16PM 8 looked like when he is shooting the gun. He said that Pujadas
02:16PM 9 shoved down Mr. Sosa, he came down like this, and he said the
02:16PM 10 gunshot was fired from around here. Later, he said that that
02:16PM 11 gunshot -- the height of the gun was maybe four feet, no higher
02:16PM 12 than five feet. Five feet is probably about here. Even if you
02:16PM 13 give him the benefit of the doubt, the gun was shot at five feet
02:16PM 14 high.

02:16PM 15 Dr. Pregliasco testified and demonstrated that if you
02:16PM 16 were standing at the place where Mr. Pujadas was supposedly
02:16PM 17 standing according to Mr. Bravo, Pujadas would have to have been
02:17PM 18 shooting like this in order to make the gunshot -- the bullet hole
02:17PM 19 in the door that we saw.

02:17PM 20 So that piece of forensic evidence independently shows
02:17PM 21 that Mr. Bravo's story is wrong.

02:17PM 22 What it really shows is that those bullet holes were
02:17PM 23 completely fabricated. And you don't fabricate evidence like that
02:17PM 24 if one of the prisoners is shooting at you, unless what actually
02:17PM 25 happened is that you went in, you killed them, and then you were

02:17PM 1 creating a counter-narrative that they were coming at us. The
02:17PM 2 prisoners were coming at us. They attacked us. One of them got a
02:17PM 3 gun. They got some shots off.

02:17PM 4 The existence of those bullet holes at a place that is
02:17PM 5 inexplicable with respect to where Mr. Pujadas was shows that Mr.
02:17PM 6 Bravo's story is false.

02:17PM 7 Let's go now to the slide that we were at before. I
02:17PM 8 think we're a few slides back. Thank you.

02:18PM 9 Another piece of evidence that completely exposes Mr.
02:18PM 10 Bravo's story as a lie is the Camps statement.

02:18PM 11 Now, Mr. Camps' survivor statement was written one day
02:18PM 12 after the shootings, and it tells us what really happened. It's
02:18PM 13 much more consistent with the physical evidence than Mr. Bravo's
02:18PM 14 story. But it also proves that Mr. Bravo is lying; because,
02:18PM 15 remember, Mr. Bravo says that he never spoke to the prisoners
02:18PM 16 while they were at Trelew. If that were so, why would Mr. Camps
02:18PM 17 fabricate a story that identified Mr. Bravo as the wrongdoer if
02:18PM 18 they had never met? How would he even know Mr. Bravo's name when
02:18PM 19 Mr. Bravo says that he never spoke to the prisoners? It doesn't
02:18PM 20 make sense.

02:18PM 21 And here we see some of the things that Mr. Camps said to
02:19PM 22 him. For instance, Mr. Camps said in his survivor's statement:
02:19PM 23 "The only person who treated us with unjustified harshness was
02:19PM 24 Bravo." Why would he said say that about Mr. Bravo, a person who
02:19PM 25 he had never met before? How would he even know to blame that on

02:19PM 1 Mr. Bravo? It doesn't make sense that Camps would have identified
02:19PM 2 Bravo in his witness statement. And remember, in Camps' witness
02:19PM 3 statement, he says that he was in the very back, cell number 10
02:19PM 4 near the north wall. He was nowhere near the front where Bravo
02:19PM 5 claims to be. He wouldn't have even seen Bravo that night. And
02:19PM 6 yet in his witness statement, he identifies Bravo as the man who
02:19PM 7 was interrogating him the week before and was treating him with
02:19PM 8 unjustified harshness.

02:19PM 9 Let's go to the next slide. Something else that Mr.
02:19PM 10 Camps says in his witness statement: "On Tuesday the 22nd around
02:19PM 11 0300 hours, I was woken up by the shouts and insults of Captain
02:20PM 12 Sosa and Officer Bravo." Remember, Bravo says even that night he
02:20PM 13 never spoke to the prisoners. He says Sosa went up and down the
02:20PM 14 hall shouting at the prisoners asking them to come out. Why would
02:20PM 15 Camps have put Bravo's name attached to that act if Bravo had
02:20PM 16 never spoken to them before?

02:20PM 17 And then next on the next slide, we see Mr. Camps also
02:20PM 18 says: "Officer Bravo shooting his .45-caliber pistol at
02:20PM 19 point-blank range wounding me at the level of the stomach." He
02:20PM 20 says that Bravo came into his cell and shot him. He would have no
02:20PM 21 reason to just make up some story about Mr. Bravo if what Mr.
02:20PM 22 Bravo was saying true. If what Mr. Bravo was saying was true that
02:20PM 23 he never met the prisoners before, that he never spoke to the
02:20PM 24 prisoners before, why would it be that Camps would blame Bravo for
02:20PM 25 that?

02:20PM 1 Notice the one thing that Mr. Camps does not blame Bravo
02:21PM 2 for. He doesn't blame Bravo for the one thing that Mr. Bravo
02:21PM 3 actually admits to doing, which is standing in the front of the
02:21PM 4 hall and shooting down the hall with machine guns. And do you
02:21PM 5 know why Mr. Camps doesn't blame Mr. Bravo for that? He says he
02:21PM 6 couldn't see. That's what an honest witness says; that they
02:21PM 7 couldn't see what was happening up there. He said he heard the
02:21PM 8 machine gun fire. He jumped into his cell. He doesn't blame
02:21PM 9 Bravo for the one thing he experienced that Bravo actually did.
02:21PM 10 And instead, somehow takes this person who he somehow doesn't even
02:21PM 11 know and blames him for everything else. It makes no sense at
02:21PM 12 all.

02:21PM 13 Let's go to the next piece of evidence.

02:21PM 14 The massacre outcome also disproves Mr. Bravo's story.
02:21PM 15 And by the massacre outcome, I am talking about how this all
02:21PM 16 played out at the end. All of the soldiers were perfectly fine,
02:21PM 17 not a scratch on them, and all of the prisoners were shot. I just
02:22PM 18 want to take a second and step back and have us all really
02:22PM 19 consider Mr. Bravo's absurd story. So there's a prison block
02:22PM 20 holding 19 prisoners in eight or nine cells, all of the prisoners
02:22PM 21 are let out of their cells and shot, and not a single soldier was
02:22PM 22 injured. That's all the people of Argentina knew back in 1972.
02:22PM 23 And as Dr. Brennan explained, there was huge public outcry about
02:22PM 24 that. And it's because people wouldn't buy this lie.

02:22PM 25 And it doesn't get more believable when you hear Mr.

02:22PM 1 Bravo tell it. Remember, he's now saying that he shot people who
02:22PM 2 he couldn't see. He says that the prisoners weren't running
02:22PM 3 forward. They were just moving forward when he shot. So he's
02:22PM 4 saying, I was very -- I was very scared at the time, it all
02:22PM 5 happened so fast. You know, maybe some people were moving
02:22PM 6 forward. They weren't running, and you know, I couldn't see all
02:23PM 7 the people in the back. And oops. I ended up shooting everyone.
02:23PM 8 I shot through ten rows of people by accident. That's his story.

02:23PM 9 And then he goes on to say, by the way, also Pujadas shot
02:23PM 10 at us, and he missed. So none of the soldiers get hurt, all of
02:23PM 11 the prisoners get shot, and that's his explanation for how that
02:23PM 12 happens when they were under the control and custody of Mr. Bravo.
02:23PM 13 It doesn't make any sense at all. These are trained military
02:23PM 14 officers who know how to operate their weapons. And by the way,
02:23PM 15 it is highly, highly unlikely that Mr. Bravo is just the logistics
02:23PM 16 guy that he now pretends to be.

02:23PM 17 The Rawson Prison break was obviously a black eye for the
02:23PM 18 military dictatorship. The military wasn't just going to call a
02:23PM 19 random logistics guy back from vacation, that's Mr. Bravo
02:23PM 20 supposedly, to come to the Trelew base and oversee the prisoners
02:24PM 21 who committed this escape that was a black eye for the military.
02:24PM 22 It just makes no sense that they would have done that.

02:24PM 23 And remember, the burden of proof in this case is a
02:24PM 24 preponderance of the evidence. The question here is: Are my
02:24PM 25 clients more -- are my clients' claims more likely true than not

02:24PM 1 true? And this is just simply not a hard case. The evidence
02:24PM 2 falls decisively in my clients' favor.

02:24PM 3 Then there is the fact that Mr. Bravo and his fellow
02:24PM 4 officers had absolutely no reason for being at the prison block
02:24PM 5 that night. That's another major hole in his story. He doesn't
02:24PM 6 have any corroboration as to why he and three other officers
02:24PM 7 showed up at the cellblock area at 3:30 A.M. People don't show up
02:24PM 8 in an armed group at 3:30 A.M. unless they're looking to mess with
02:25PM 9 someone. And that's exactly what was happening here. What's Mr.
02:25PM 10 Bravo's story? That some sailor told him to come.

02:25PM 11 If you showed up somewhere for seemingly no reason at all
02:25PM 12 at 3:30 A.M. and all of a sudden, 19 people died, you would want
02:25PM 13 to make sure you knew who the sailor was who told you to go there
02:25PM 14 in the first place. But he still to this day says he doesn't know
02:25PM 15 the name of the person, can't identify the person. There is no
02:25PM 16 way to know who this sailor was who told him to come to the
02:25PM 17 cellblock area. And what did the sailor tell him? That the
02:25PM 18 prison guards guarding the prisoners -- this is what the sailor
02:25PM 19 supposedly told him -- was that the prison guards guarding the
02:25PM 20 prisoners were uncomfortable because the prisoners were doing
02:25PM 21 something. And you see here the question: So the sailor reported
02:25PM 22 to you that the corporals watching the cellblock were worried that
02:26PM 23 something was wrong; right? His answer was, yes. So that's why
02:26PM 24 he came, he says.

02:26PM 25 But what's the problem with that? Mr. Marandino, the

02:26PM 1 guard who was actually there at this prison block area, says that
02:26PM 2 that wasn't happening. The prisoners were not acting up. There
02:26PM 3 was no reason for these officers to come. He was asked -- again,
02:26PM 4 remember, his deposition was taken by video, and it was an
02:26PM 5 Argentine judge asking the questions at this point, and she asked:
02:26PM 6 Did you see any behavior that could be considered inappropriate?
02:26PM 7 And he answered: No, no. Everything was calm. In fact, it was a
02:26PM 8 very cold night.

02:26PM 9 So there was nothing going on at the cellblock area when
02:26PM 10 Mr. Bravo and his fellow officers showed up armed at 3:30 A.M.
02:26PM 11 They came there to shoot the prisoners. The sailor is just a
02:26PM 12 cover story.

02:26PM 13 And then there is the fact that Mr. Bravo, obviously, let
02:27PM 14 the prisoners out of their cells. This is one of Mr. Bravo's
02:27PM 15 greatest lies in this case. Why did they let all the prisoners
02:27PM 16 out of the cells at the same time? It's completely an
02:27PM 17 unjustifiable thing to do, and Mr. Bravo knows that, and so he
02:27PM 18 doesn't even try to justify it. What does he say? Oh, Mr. Sosa
02:27PM 19 did it. Mr. Sosa let them out. I was just watching. He was my
02:27PM 20 superior officer. I didn't want to say anything. Mr. Sosa let
02:27PM 21 them out of the cells. And by the way, Sosa is now dead, so he
02:27PM 22 can't say otherwise. But it was clearly Mr. Bravo who did it. We
02:27PM 23 have two sources from the same time -- back from that time both of
02:27PM 24 whom -- and both of those sources say that it was Bravo, not Sosa,
02:27PM 25 who let all of the prisoners out of their cells. So you see at

02:27PM 1 the top, it's Mr. Marandino. He testifies: Lieutenant Bravo
02:27PM 2 asked me to open the cells, and then I was told to leave. It
02:27PM 3 wasn't Sosa. It was Bravo.

02:28PM 4 And then you also see this -- what we've called the
02:28PM 5 Auditor General's Report. It's DX 2. This was what the military
02:28PM 6 wrote to whitewash what happened saying, oh, all of the soldiers
02:28PM 7 acted appropriately. They're innocent. But it's pretty clear it
02:28PM 8 was Bravo. It says Roberto Guillermo Bravo decided to order the
02:28PM 9 detainees to come out of the cells where they were housed. Two
02:28PM 10 pieces of evidence from back at the time put it on Bravo. The
02:28PM 11 idea that Sosa did it simply isn't true. It's a lie, as is the
02:28PM 12 entirety of Mr. Bravo's story.

02:28PM 13 Now, we get on to the inconsistencies in his story. And
02:28PM 14 Mr. Bravo used a number of techniques during the trial to conceal
02:28PM 15 the truth. But one of the most common was simply to change his
02:28PM 16 deposition testimony as if that were no big deal. So I should
02:28PM 17 make one thing clear. Depositions involve giving testimony under
02:29PM 18 oath. And if someone is willing to change their deposition
02:29PM 19 testimony so easily, you have no reason to trust their testimony
02:29PM 20 at trial. The most obvious inconsistency in Mr. Bravo's story has
02:29PM 21 to do with whether there were one shot or two shots in that
02:29PM 22 bathroom door and as to whether Pujadas fired one shot or two.

02:29PM 23 And to be clear, Mr. Pujadas never fired any shots. The
02:29PM 24 whole thing was fabricated. But Mr. Bravo testified at deposition
02:29PM 25 that Pujadas could not have, could not have fired more than one

02:29PM 1 shot. But here, he changed that story to two. He said two. And
02:29PM 2 he did so to conform his testimony with the magazine article that
02:29PM 3 showed two bullet holes in the door.

02:29PM 4 So here that's one inconsistency in Mr. Bravo's
02:29PM 5 testimony. There were a litany, but we've given a couple or
02:30PM 6 several of them here. So it was two shots versus one shot. He
02:30PM 7 admitted that during his deposition testimony he said that the
02:30PM 8 prisoners were facing forward towards the soldiers. But during
02:30PM 9 his testimony here at trial, he had them facing each other. He
02:30PM 10 admitted that here at trial that -- or he testified here at trial
02:30PM 11 that he wasn't sure whether Mr. Marandino was in the room. He
02:30PM 12 couldn't see him. But he admitted that during his deposition, he
02:30PM 13 testified that Mr. Marandino was in the room.

02:30PM 14 He changed his testimony about the positioning of the
02:30PM 15 officers, and for that, you just have to compare PDX9, which was
02:30PM 16 the diagram that he drew today in court -- or a few days ago in
02:30PM 17 court with PX 3, which was the diagram he drew during his
02:30PM 18 deposition, and factor in his deposition. And even earlier at
02:31PM 19 trial, he testified that the Auditor General's Report was perfect
02:31PM 20 and very thorough. And then we looked at all of the
02:31PM 21 inconsistencies between his testimony and the Auditor General's
02:31PM 22 Report, and he took all of that back.

02:31PM 23 These inconsistencies are all reflective of the fact that
02:31PM 24 Mr. Bravo's story is not true. When you're trying to tell a lie,
02:31PM 25 it's hard to keep it straight.

02:31PM 1 I now want to go on to a separate point. We've looked at
02:31PM 2 all of the evidence that shows that Mr. Bravo's story is not true.
02:31PM 3 I now want to go on to some of the other issues that you're going
02:31PM 4 to have to think about in the case.

02:31PM 5 One of them has to do with the forms of group liability.
02:31PM 6 Now, not all legal violations are committed by one
02:31PM 7 person. Sometimes they're committed by groups, and that was the
02:31PM 8 case here. And when there are two or more people who either have
02:31PM 9 an agreement or a plan or try to help each other in doing
02:31PM 10 something wrong, they can all be liable for the bad acts of anyone
02:32PM 11 in the group.

02:32PM 12 And so why is that important here? Because Mr. Bravo may
02:32PM 13 not have personally shot -- personally himself shot all of the
02:32PM 14 victims, but that doesn't matter. He can still be responsible for
02:32PM 15 the gunfire of all of the soldiers either because he ordered them
02:32PM 16 to fire or because they had a plan to come in and kill the
02:32PM 17 prisoners. And if there was such a plan, he's covered by one of
02:32PM 18 these liability theories. And those theories are -- and you're
02:32PM 19 going to hear the judge explain these to you, conspiracy, aiding
02:32PM 20 and abetting, joint criminal enterprise. So those are forms of
02:32PM 21 group liability that you'll have to consider when you do your
02:32PM 22 deliberations later today.

02:32PM 23 It's also important here to talk about circumstantial
02:32PM 24 evidence. As the Court is going to explain to you, circumstantial
02:32PM 25 evidence is proof of a chain of facts and circumstances that tend

02:33PM 1 to prove or disprove a fact. And the instructions also say that
02:33PM 2 there is no legal difference in weight that you may give -- no
02:33PM 3 legal difference in weight between direct or circumstantial
02:33PM 4 evidence. What that means is that circumstantial evidence can be
02:33PM 5 just as good as direct evidence.

02:33PM 6 And that's important for these types of group liability
02:33PM 7 theories because usually people who are in conspiracies don't go
02:33PM 8 around admitting that there was a conspiracy. Instead, you have
02:33PM 9 to use circumstantial evidence to prove that people were in a
02:33PM 10 conspiracy together, that they had a common plan, or that they
02:33PM 11 were helping each other out.

02:33PM 12 So if we go to the next slide, we're going to see some of
02:33PM 13 the evidence that there was a group plan and that there was a
02:33PM 14 premeditated plan to go in and kill all of the prisoners, kill or
02:33PM 15 shoot.

02:34PM 16 First, the telephone office was unstaffed. This was
02:34PM 17 critical evidence that came in from a video witness, Mr. Celi. He
02:34PM 18 was the conscript who was responsible for that telephone office.
02:34PM 19 And that telephone office, he pointed out on his map that you saw,
02:34PM 20 is right where the cellblocks are.

02:34PM 21 And what he said is that telephone office had to be
02:34PM 22 staffed 24/7 because all calls in and out of the base went through
02:34PM 23 that office. When was the one time that that telephone office
02:34PM 24 wasn't staffed? The night of the shootings. It shows that this
02:34PM 25 was a premeditated effort to kill the prisoners.

02:34PM 1 Mr. Marandino's testimony. When you look -- recall his
02:34PM 2 testimony, he testified by video, what did he say? He said that
02:34PM 3 the officers came in, Bravo ordered me to open all the cells and
02:34PM 4 then leave. Why do you tell a corporal to open all the cells and
02:35PM 5 then leave? Only one reason in this circumstance, which is you
02:35PM 6 don't want him there to watch as you shoot all the prisoners.

02:35PM 7 It demonstrates that they had a plan, they wanted to get
02:35PM 8 Marandino out of there so he wouldn't see what they were about to
02:35PM 9 do. There was no reason for the officers to go to the cellblock
02:35PM 10 in the first place. Remember, the fact this made-up sailor story
02:35PM 11 -- they made the sailor story up. They just showed up. Four
02:35PM 12 officers showed up at 3:30 A.M., and Mr. Marandino was there at
02:35PM 13 the cellblock area. They just showed up.

02:35PM 14 The fact that they showed up together with guns is
02:35PM 15 evidence that they came there to kill. They had no other reason
02:35PM 16 to be there at 3:30 A.M. They had to fabricate the reason, oh,
02:35PM 17 some soldier told us something was going wrong. But we know that
02:35PM 18 wasn't true. Marandino said that there wasn't anything wrong. It
02:36PM 19 was all calm. The fact that they came there all together at
02:36PM 20 3:30 A.M. in the morning for no reason shows that they had a
02:36PM 21 common plan, a conspiracy to come there and kill the prisoners.

02:36PM 22 The fact that all 19 prisoners and none -- were shot and
02:36PM 23 none of the soldiers were shot. How does that happen? How do you
02:36PM 24 accidentally shoot all 19 of them when you can only see a few?
02:36PM 25 The fact that they were -- and that none of the soldiers get hurt,

02:36PM 1 none of them. It's evidence that that was their plan all along.
02:36PM 2 If that wasn't their plan, they just came, this Pujadas thing
02:36PM 3 happened, and they tried to stop it, it wouldn't be the case that
02:36PM 4 just all 19 of the prisoners were shot, none of the soldiers were
02:36PM 5 harmed.

02:36PM 6 And, finally, the close range and execution-style shots.
02:36PM 7 This was the medical evidence we looked at, at the very beginning.
02:36PM 8 That is some of the best evidence of conspiracy. Obviously, the
02:36PM 9 fact that they went in to finish off the survivors, execution
02:37PM 10 style, close range shows that they came there to kill. It wasn't
02:37PM 11 that they just started shooting because Pujadas fired off some
02:37PM 12 shots and then stopped when they were done. They went in
02:37PM 13 afterward to finish off the survivors. That's evidence that that
02:37PM 14 was their plan. They came in with that plan.

02:37PM 15 So we have a lot of circumstantial evidence that these
02:37PM 16 folks were involved in a joint criminal enterprise, they had a
02:37PM 17 conspiracy, and they were aiding and abetting, and Mr. Bravo was
02:37PM 18 aiding and abetting the plan of the group.

02:37PM 19 Okay. Let's go to the next slide. This is a pretty key
02:37PM 20 point. All of the evidence in the case contradicts Mr. Bravo's
02:37PM 21 story. There were eight third-party witnesses in this case.
02:37PM 22 There were four expert witnesses and four folks like
02:37PM 23 Mr. Marandino, Mr. Ulla, Mr. Celi, Mr. Marileo, the undertaker,
02:37PM 24 all of them testified for the plaintiffs.

02:37PM 25 Nobody has come here to testify for Mr. Bravo. You saw

02:38PM 1 the plaintiffs rested their case today; about 45 minutes later or
02:38PM 2 an hour and a half later, we played some video clips of witnesses
02:38PM 3 that already appeared in the plaintiffs' case, and that was it.
02:38PM 4 Where are Mr. Bravo's witnesses? There weren't anybody. Nobody
02:38PM 5 has come here to testify that he was in the right.

02:38PM 6 Let's look at the medical evidence. The Camps survivor
02:38PM 7 statement, the bullet holes in the bathroom door, the Auditor
02:38PM 8 General's Report, that right there on this slide is all of the
02:38PM 9 evidence from the time, the contemporaneous evidence back from
02:38PM 10 1972; the witnesses, the medical evidence of who was shot where,
02:38PM 11 Mr. Camps' survivor statement, the bullet hole in the bathroom
02:38PM 12 door and the Auditor General's Report, that's the evidence -- all
02:38PM 13 of the evidence that exists from that time, and all of it, all of
02:38PM 14 it contradicts Mr. Bravo's story. He has no evidence that
02:38PM 15 corroborates his.

02:38PM 16 Let's go to the next slide.

02:38PM 17 So that was the first key point of evidence, that Mr.
02:39PM 18 Bravo conspired and planned with the group to kill the 19 unarmed
02:39PM 19 prisoners, and he was not acting in self-defense.

02:39PM 20 Now, you'll get a verdict form later today when you'll
02:39PM 21 have to fill out your verdict. And the first question that you'll
02:39PM 22 get asked on the verdict form has to do with the statute of
02:39PM 23 limitations, which is the issue that I am going to discuss next.

02:39PM 24 The second question on your verdict form has to do with
02:39PM 25 claims brought by plaintiff Raquel Camps. And by each of the

02:39PM 1 plaintiffs, you'll see these questions against Mr. Bravo. And
02:39PM 2 you're going to be asked whether Mr. Bravo was liable for either
02:39PM 3 the extrajudicial killing, or the attempted extrajudicial killing,
02:39PM 4 or the torture. And for all of those questions, you should
02:39PM 5 answer, yes. He was liable based on the conclusive evidence in
02:39PM 6 this case that we've just looked at.

02:39PM 7 So -- and I say that only because I want to make sure
02:40PM 8 that everyone has a good sense of how to fill out the verdict
02:40PM 9 form.

02:40PM 10 The next item I am going to talk about is statute of
02:40PM 11 limitations. That's actually going to be the first issue you see
02:40PM 12 on your verdict form. So the question there was whether my
02:40PM 13 clients filed their lawsuit on time, and they certainly did.

02:40PM 14 Let's go to the next slide. I actually -- I'm sorry. I
02:40PM 15 should have -- this is a slide that seems to be out of order.
02:40PM 16 It's one that I should have discussed before. Just very quickly,
02:40PM 17 one of the pieces of evidence, and actually there are quite a few
02:40PM 18 that you can see here that demonstrate that Mr. Bravo's story is
02:40PM 19 false, is just all of the evidence of a cover-up afterwards.
02:40PM 20 There was a lot of it.

02:40PM 21 The fabricated evidence are the bullet holes in the
02:40PM 22 bathroom door, remember that Mr. Celi talked about the fact that
02:40PM 23 the conscripts were ordered to follow an official story. Dr.
02:40PM 24 Brennan talked about the fact that a law was passed after Trelew
02:41PM 25 that criminalized people disseminating information that

02:41PM 1 contradicted the official military story, there was threatening of
02:41PM 2 witnesses like that undertaker Mr. Marileo. There was the General
02:41PM 3 Auditor's Report that was part of the whitewashing of the events.
02:41PM 4 Mr. Bravo and Sosa and Mr. Marandino were sent off to the United
02:41PM 5 States where they wouldn't be around anymore. They were getting
02:41PM 6 rid of the witnesses from the country. And then they went after
02:41PM 7 and persecuted the families. All of those things are part of the
02:41PM 8 cover up. And why do you cover-up if you have nothing to hide?
02:41PM 9 The cover-up itself is proof of the conspiracy, it's proof of the
02:41PM 10 guilt associated with the killings.

02:41PM 11 So with that out of the way, let's go to the statute of
02:41PM 12 limitations points, which are next. And the issues that you want
02:41PM 13 to -- that you're going to have to decide with respect to statute
02:41PM 14 of limitations have to do with something called tolling. And we
02:41PM 15 might have touched on it very briefly during openings. But
02:42PM 16 tolling, another way to think about it is just pausing, pausing
02:42PM 17 the statute of limitations. So the statute of limitations in this
02:42PM 18 case is ten years, and the events of Trelew happened in 1972.
02:42PM 19 This lawsuit was filed 48 years later in October of 2020.

02:42PM 20 So, obviously, that was more than ten years. However,
02:42PM 21 very importantly, the -- that ten-year period was tolled or paused
02:42PM 22 for very lengthy periods of time, and that's what I'm going to be
02:42PM 23 talking about now. Why was it tolled, and when was it tolled?
02:42PM 24 When was it paused? And there are three main reasons that I'd
02:42PM 25 like you to hear about and I'd like you to be thinking about.

02:42PM 1 First of all, the fear of persecution. The fear of the
02:42PM 2 awful, awful things that could happen to you if you were one of my
02:43PM 3 clients in Argentina and you decided to try to do something
02:43PM 4 against Mr. Bravo. If you tried to file a lawsuit, there was a
02:43PM 5 long time in this country's history where that would have gotten
02:43PM 6 you killed, and there was a long time when there was a great deal
02:43PM 7 of fear, which we'll talk about, that would have legitimately
02:43PM 8 prevented my clients from filing their lawsuit. And that is what
02:43PM 9 paused the statute of limitations.

02:43PM 10 And you'll see one of the dates that is really important
02:43PM 11 here is November 1st of 2010. And the reason why I focus on
02:43PM 12 November 1st of 2010 is because there are ten years between that
02:43PM 13 date, November 1, 2010, and October 20th, 2020. There is a little
02:43PM 14 bit less than ten years, but it's about ten years, a little less
02:43PM 15 between that date and the date that my clients filed this lawsuit.
02:43PM 16 And as long as that ten-year period was paused, up until
02:44PM 17 November 1st, 2010, or thereabouts, then my clients' lawsuit was
02:44PM 18 filed on time. And so the period that I'm really going to be
02:44PM 19 focusing on is that period up to late 2010. It's really
02:44PM 20 October 20, 2010, that's ten years earlier, as long as the
02:44PM 21 ten-year period was paused up until that point, this lawsuit was
02:44PM 22 filed on time.

02:44PM 23 And so the first reason why it was paused at least up
02:44PM 24 until then has to do with the fear of persecution.

02:44PM 25 The second reason why that ten-year period was paused has

02:44PM 1 to do with the fact that Mr. Bravo's location was unknown, that
02:44PM 2 takes us at least -- that takes us all the way up to 2008. It
02:44PM 3 doesn't get us all the way to 2010. But it takes up to 2008,
02:44PM 4 that's when Interpol found Mr. Bravo.

02:44PM 5 But then also the other reason why the ten-year period
02:45PM 6 was paused has to do with pursuing accountability against Mr.
02:45PM 7 Bravo in Argentina. And when you see the jury instructions or
02:45PM 8 hear them later today, you're going to hear how accountability
02:45PM 9 proceedings in your home country, in this case in Argentina, those
02:45PM 10 can pause the statute of limitations.

02:45PM 11 And so here starting in 2005, and it's part of the reason
02:45PM 12 why you heard so much about the criminal trial in Argentina,
02:45PM 13 because starting in 2005, my clients started participating in that
02:45PM 14 criminal trial in Argentina in order to collect evidence about who
02:45PM 15 was responsible for the Trelew killings and in order to go after
02:45PM 16 Mr. Bravo, and those efforts continued at least past that late
02:45PM 17 date in 2010.

02:45PM 18 So for a combination of these reasons, and the red arrow
02:45PM 19 shows how far each of these reasons extends, the ten-year in this
02:46PM 20 case was paused at least for my clients at least until 2010. And
02:46PM 21 after that comes the ten-year period, which they were entitled to
02:46PM 22 before filing their lawsuit. They weren't just sitting around
02:46PM 23 during that time by the way. They've still been involved in
02:46PM 24 criminal proceedings in Argentina and trying efforts to extradite
02:46PM 25 Mr. Bravo.

02:46PM 1 So I just want to talk very quickly about some of the
02:46PM 2 evidence you've heard about these tolling factors.

02:46PM 3 Let's go to the next slide.

02:46PM 4 I'm calling this traumatizing fear. And I do not want to
02:46PM 5 really repeat the stories that we heard today about the awful,
02:46PM 6 awful things that happened in Argentina to my clients, to their
02:46PM 7 families. I'm going to go over it briefly. But you know the
02:46PM 8 stories. You heard the stories; torture camp, death camps,
02:46PM 9 disappearances, and getting thrown out of planes, kidnappings,
02:46PM 10 kidnappings of children, awful things. And these are things that
02:47PM 11 thankfully many of us have never had to experience within our own
02:47PM 12 families. But what you have in this case is a situation where my
02:47PM 13 clients had traumatizing fear that really ought to have
02:47PM 14 traumatized them for a lifetime. And I just want to highlight
02:47PM 15 some of the evidence that we've heard about that.

02:47PM 16 Remember the undertaker Mr. Marileo. He said when he got
02:47PM 17 back from -- after treating -- or sort of preparing the bodies at
02:47PM 18 the naval base the day of the shootings, he was leaving the base,
02:47PM 19 and one of the soldiers threatened him, and said, hey, you didn't
02:47PM 20 see anything here. Remember, you have young children. He was
02:47PM 21 threatened, and this is what he said about that threat. It was a
02:47PM 22 threat that I needed to be silenced and silent forever. That was
02:47PM 23 the nature of the fear in this country, silenced forever.

02:48PM 24 Remember the story that my client Raquel Camps told about
02:48PM 25 her grandfather. When she was ten years old, she asked her

02:48PM 1 grandfather, you know, what happened to my father? And he said:
02:48PM 2 Don't ever ask me again about that. That is the type of fear that
02:48PM 3 these people were dealing with, a lifetime's worth of fear. And
02:48PM 4 Professor Brennan, he didn't experience this himself, but he
02:48PM 5 studied it, the historian. He said: It was a way to instill a
02:48PM 6 sense of overwhelming dread and fear where people would
02:48PM 7 self-censor and exercise a kind of social control. The best kind
02:48PM 8 of dictatorship is one that's internalized; right, where you
02:48PM 9 control yourself, you control everything you say and what you do
02:48PM 10 and who you talk to.

02:48PM 11 So I just want you when you are discussing and thinking
02:48PM 12 about the pausing of the statute of limitations because of fear, I
02:48PM 13 just want you to think about how devastating that fear is and how
02:48PM 14 long-lasting it could be.

02:48PM 15 The next slide we see how long lasting it could be.
02:49PM 16 Remember in 2002, over 30 years after the events of Trelew, Raquel
02:49PM 17 wanted to talk to her grandmother. She had just learned about how
02:49PM 18 her father had died. She goes to her grandmother and asks, and
02:49PM 19 grandmother won't talk to her about it. And she says to Raquel:
02:49PM 20 Silence is health. They're saying this in 2002.

02:49PM 21 Dr. Brennan testified about witness intimidation that was
02:49PM 22 occurring in the Videla trials, which happened in Spain. The
02:49PM 23 trials happened in Spain, a completely different country, and
02:49PM 24 still there was witness intimidation, accounts of witness
02:49PM 25 intimidation 2005 to 2010 time period. So these, the history of

02:49PM 1 fear and these events that keep occurring are ones that
02:49PM 2 legitimately prevent people from filing lawsuits, from getting
02:49PM 3 involved in litigation.

02:50PM 4 Finally, he also talked about even as late as 2012 to
02:50PM 5 2016 there was witness intimidation -- accounts of witness
02:50PM 6 intimidation at the La Perla trials.

02:50PM 7 We'll go to the next slide now. We're going to talk
02:50PM 8 about the next tolling factor. This one takes us up to 2008.
02:50PM 9 Obviously, this is the same time period that we're talking about
02:50PM 10 with respect to fear. This is the time period when -- although a
02:50PM 11 little bit shorter, only to 2008 when Mr. Bravo's location was
02:50PM 12 unknown.

02:50PM 13 Remember in Argentina back in 1972 after Trelew, there
02:50PM 14 was no ability of family members to say, oh, you know what
02:50PM 15 happened? Could we investigate? They tried to file a lawsuit,
02:50PM 16 and then they were all persecuted. They had no idea who Bravo
02:50PM 17 was. There is no evidence that they knew anything more than his
02:50PM 18 last name.

02:50PM 19 The defense is going to come up here and say, oh, Mr.
02:50PM 20 Bravo was open, open, living openly, filing stuff with the
02:51PM 21 government in Miami. How is anybody supposed to know that this
02:51PM 22 Bravo was the Bravo that was involved in Trelew? There is
02:51PM 23 absolutely no way they would have known that. Bravo as Ms. Camps
02:51PM 24 testified is a very common name. He was moved to the United
02:51PM 25 States, so people in Argentina wouldn't know where to look. Ms.

02:51PM 1 Camps testified that they didn't even know that they had to look
02:51PM 2 outside of Argentina.

02:51PM 3 And it really wasn't until 2008 when government
02:51PM 4 prosecutors relied on Interpol to find Mr. Bravo that that's when
02:51PM 5 they actually finally knew where he was. Interpol was needed. So
02:51PM 6 the idea that my clients could have found Mr. Bravo before 2008
02:51PM 7 simply makes no sense. It doesn't matter that he was filing
02:51PM 8 certificates of incorporation with the secretary of state of
02:51PM 9 Miami. Who knew to go look there? Interpol was needed.
02:51PM 10 Government prosecutors in Argentina needed Interpol to find Mr.
02:52PM 11 Bravo in 2008. So the ten-year period is tolled at least or
02:52PM 12 paused at least up until then.

02:52PM 13 And then on the next slide we see that from 2005 to at
02:52PM 14 least November 1st, 2010, that was the period when my clients were
02:52PM 15 pursuing Mr. Bravo from Argentina under the criminal investigation
02:52PM 16 and extradition proceedings that arose out of it. So that
02:52PM 17 criminal investigation began in 2005. You'll see in your jury
02:52PM 18 instructions that an accountability proceeding in your home
02:52PM 19 country like in Argentina can pause the statute of limitations.
02:52PM 20 That's exactly what this was. They were trying to hold
02:52PM 21 accountable the perpetrators of the Trelew Massacre.

02:52PM 22 And remember what they got out of that. They got access to
02:52PM 23 that naval base where Dr. Pregliasco could go and perform his
02:52PM 24 forensic analysis. They found out who Bravo was. They found out
02:53PM 25 who the other perpetrators were. Witnesses -- they were able to

02:53PM 1 develop the evidence that -- some of the evidence that you heard
02:53PM 2 today during this trial. That was a critical investigation and
02:53PM 3 accountability proceeding that they were spending time on in
02:53PM 4 Argentina, and that pauses the statute of limitations. It
02:53PM 5 resulted in Mr. Bravo being found in 2008. That extradition
02:53PM 6 request is filed by 2010. And by November 1st, 2010, when the
02:53PM 7 first extradition request was denied, if the statute of
02:53PM 8 limitations starts running then, our suit filed was on time. It
02:53PM 9 was filed within ten years.

02:53PM 10 Now, again, they weren't just waiting around for the ten
02:53PM 11 years. They were still trying to secure the convictions in
02:53PM 12 Argentina against Sosa, Del Real, and others. That took them all
02:53PM 13 the way up to 2012. They needed to secure it on appeal and then
02:53PM 14 eventually a second extradition request again.

02:53PM 15 But even if you think all of that stuff that happened
02:53PM 16 later was a waste of time, it's still the case that our lawsuit
02:54PM 17 was filed within the ten-year period starting from November 1st of
02:54PM 18 2010. And so this lawsuit was filed on time.

02:54PM 19 We can go to the next slide. I'm now going to talk about
02:54PM 20 the final key point of evidence that Mr. Bravo must be held
02:54PM 21 accountable for the massacre.

02:54PM 22 Before I do that, just one quick thing. So your verdict
02:54PM 23 form has statute of limitations questions. Those are the first
02:54PM 24 ones you're going to answer. Question one -- the first question
02:54PM 25 in every set, you'll get a question like this for each of the

02:54PM 1 individual plaintiffs. Do you find that plaintiffs proved by a
02:54PM 2 preponderance of evidence that extraordinary circumstances tolled
02:54PM 3 the statute of limitations? And I just want to make sure you
02:54PM 4 understand what that means. That means did we prove that the
02:54PM 5 statute of limitations should have been paused because of
02:54PM 6 extraordinary circumstances. And the answer to that question, we
02:55PM 7 believe, is yes. And so we'd like you to respond yes to that
02:55PM 8 statute of limitations question.

02:55PM 9 And with that, we will get on to the final key point of
02:55PM 10 evidence that Mr. Bravo must be held accountable for the massacre.

02:55PM 11 THE COURT: Mr. Krishnan, I just want to let you know
02:55PM 12 it's 2:55.

02:55PM 13 MR. KRISHNAN: Thank you. Your Honor, when did we start?

02:55PM 14 THE COURT: 2:00.

02:55PM 15 MR. KRISHNAN: Okay. Thank you.

02:55PM 16 These are the victims. We've seen them already. You are
02:55PM 17 going to have to decide how to value -- how to value the loss that
02:55PM 18 they experienced.

02:55PM 19 For many of my clients as we discussed, for three of
02:55PM 20 them, it was the death of their loved one, and it's the loss that
02:55PM 21 they experienced for the death of their loved ones. That loss is
02:55PM 22 called compensatory damages. It's compensating my clients.

02:56PM 23 You will also be asked a question or questions about
02:56PM 24 punitive damages. And punitive damages have to do with punishing,
02:56PM 25 punishing Mr. Bravo.

02:56PM 1 And I'm going to throw some numbers out there for you
02:56PM 2 relating to both compensatory and punitive damages for you to be
02:56PM 3 thinking about with respect to, first, Mr. Camps. He was the one
02:56PM 4 that survived the shootings. So we're talking about the pain and
02:56PM 5 suffering associated with getting shot in the stomach. We just
02:56PM 6 throw out there for your consideration -- you need to be deciding
02:56PM 7 these things by yourselves -- about \$1.5 million for being shot in
02:56PM 8 the stomach.

02:56PM 9 Marcela Santucho, that her mother, Ana Maria -- she lost
02:56PM 10 her mother. She lived her life without her mother. It's the pain
02:56PM 11 and suffering of not having your mother. \$10 million is what we
02:56PM 12 think is an appropriate number.

02:56PM 13 Next, you see Ms. Bonet. She lost her husband. Her
02:57PM 14 husband Mr. Bonet. \$5 million for the pain and suffering
02:57PM 15 associated with that.

02:57PM 16 And finally, Eduardo Cappello, whose namesake is our
02:57PM 17 client, he lost his uncle, and we'd ask for \$1.5 million
02:57PM 18 associated with that in compensatory damages.

02:57PM 19 With respect to punitive damages, we ask that whatever
02:57PM 20 number you find for compensatory damages, you triple it and assign
02:57PM 21 that as punitive damages to make it clear that Mr. Bravo should be
02:57PM 22 punished for this heinous, heinous act.

02:57PM 23 At the beginning of the case, I told you that this case
02:57PM 24 calls out for justice, and it's going to be up to you today to
02:57PM 25 deliver that justice. So we're going to ask you for a liability

02:57PM 1 verdict in favor of the plaintiffs. Thank you so much.

02:57PM 2 THE COURT: Mr. Davis, are you ready?

02:58PM 3 MR. DAVIS: Your Honor, is it possible to have a
02:58PM 4 one-minute break?

02:58PM 5 THE COURT: Absolutely.

02:58PM 6 MR. DAVIS: I need to go outside.

02:58PM 7 THE COURT: I understand. The jury does too. We're just
02:58PM 8 going to step out for a three-minute comfort break before you hear
02:58PM 9 Mr. Davis's closing. Okay.

02:58PM 10 (Jury out at 2:58 P.M.)

03:02PM 11 MR. KRISHNAN: Your Honor?

03:03PM 12 THE COURT: Yes?

03:03PM 13 MR. KRISHNAN: I was advised by my team that I might have
03:03PM 14 had a couple more minutes than you had estimated. But I was going
03:03PM 15 to hope to reserve a five-minute rebuttal.

03:03PM 16 THE COURT: No problem.

03:03PM 17 MR. KRISHNAN: Thank you.

03:03PM 18 THE COURT: All right. Welcome back.

03:03PM 19 Mr. Davis, are you ready?

03:03PM 20 MR. DAVIS: Yes, Your Honor.

03:03PM 21 THE COURT: Everyone else may be seated.

03:03PM 22 (Jury in at 3:03 P.M.)

03:03PM 23 MR. DAVIS: Good afternoon, members of the jury. It is a
03:04PM 24 privilege to be in front of you this week. We certainly thank you
03:04PM 25 for all of your time and attention in dealing with this.

03:04PM 1 THE COURT: Mr. Davis, the interpreters are asking if you
03:04PM 2 could use the microphone.

03:04PM 3 MR. DAVIS: Okay. This one?

03:04PM 4 THE COURT: Any one would be fine for them.

03:04PM 5 MR. DAVIS: Okay. I'll try and stay still. My
03:04PM 6 apologies.

03:04PM 7 I represent Roberto Bravo. I don't represent anyone else
03:04PM 8 in the Argentine military. I don't represent the country of
03:04PM 9 Argentina. I don't represent anyone else but Roberto Bravo. As I
03:04PM 10 told you at the beginning of this trial, what happened was a
03:04PM 11 tragedy, and what happened was a reaction. It wasn't planned. It
03:04PM 12 wasn't calculated. Mr. Bravo spent a day testifying about what he
03:04PM 13 did, why he did it. One of the big problems and one of the
03:05PM 14 reasons we have a statute of limitations defense in this case is
03:05PM 15 it happened 50 years ago in another country where you can't get
03:05PM 16 witnesses, you can't confront them, and you can't come here --
03:05PM 17 other than have Mr. Bravo -- and tell you what happened. And as I
03:05PM 18 said at the beginning of this case, this is a case about the
03:05PM 19 actions Roberto took 50 years ago defending himself.

03:05PM 20 Now, the statute of limitations is a very important -- is
03:05PM 21 the important defense that we have. But we also have a
03:05PM 22 self-defense, and you will have an instruction on that. But the
03:05PM 23 thing I want to talk about first is what happened in Trelew.

03:05PM 24 So let's start at the beginning. What do we know about
03:05PM 25 the prisoners? We know that the week before that 25 of them

03:06PM 1 escaped from Rawson Prison. You heard about Rawson Prison being a
03:06PM 2 maximum security prison. You heard the fact that it was a -- that
03:06PM 3 a prison guard was killed during that escape. And you also heard
03:06PM 4 that of the --

03:06PM 5 MR. KRISHNAN: Your Honor, objection. This is directly
03:06PM 6 covered by Mill.

03:06PM 7 THE COURT: The six?

03:06PM 8 MR. KRISHNAN: The -- probably the last two bullets
03:06PM 9 actually.

03:06PM 10 THE COURT: I disagree. Overruled.

03:06PM 11 MR. DAVIS: You heard six prisoners escaped to Chile back
03:06PM 12 -- Ms. Santucho said her dad -- she told you today her dad went to
03:06PM 13 Chile, and she told you about her life after that.

03:06PM 14 But 19 prisoners were captured. 19 prisoners were taken
03:06PM 15 to the naval base in Trelew. This is from Defendant's Exhibit 2.
03:07PM 16 It says: On the other hand, I believe that the riot and escape
03:07PM 17 from Rawson Penitentiary, which had taken place only days before
03:07PM 18 by the extremist group that was later housed at the naval base,
03:07PM 19 should certainly have been irrefutable proof of the operative
03:07PM 20 capacity and danger of their members.

03:07PM 21 This is the fact that we know that it happened and we
03:07PM 22 know how the prisoners ended up in that space. In Defendant's
03:07PM 23 Exhibit 2, we're going to talk about that a little bit more. But
03:07PM 24 you have that in evidence. You'll be able to see it. It's from
03:07PM 25 the General Auditor's Report. Next slide, please.

03:07PM 1 What else do we know about the prisoners? We know
03:07PM 2 that -- and this is from Mr. Camps' statement. It's in
03:07PM 3 Plaintiffs' Exhibit 41T. T is the translated version of the
03:07PM 4 exhibits. And so this is what Mr. Camps said in his statement.
03:08PM 5 He says: On Tuesday, August 15, 1972, our group of 19 people,
03:08PM 6 after escaping Rawson Penitentiary, surrendered in the airport of
03:08PM 7 Trelew to the forces commanded by Captain Sosa, in the presence of
03:08PM 8 the federal judge of Rawson, lawyers, and journalists, and prior
03:08PM 9 confirmation of our perfect health status. From there, they were
03:08PM 10 taken to the naval base. And then they were accommodated in ten
03:08PM 11 prison cells that had an -- that opened to a passageway on the
03:08PM 12 one, closed on the other. You've seen diagrams of that prison
03:08PM 13 cell and all of that.

03:08PM 14 But when these prisoners were taken at the airport and
03:08PM 15 when they are taken to the -- taken to -- and this is from
03:08PM 16 Exhibit 71. And when they're taken from the airport to that
03:09PM 17 prison, there are special risks for this prison. And one of the
03:09PM 18 things I talked about was the fact that we know that these
03:09PM 19 prisoners were perceived to be dangerous. But we also would know
03:09PM 20 that -- and you saw the facilities, that they weren't adequate for
03:09PM 21 what they were trying to do and keep these prisoners there. And
03:09PM 22 there is no evidence as to why they were sent there. There is no
03:09PM 23 evidence this was a black eye to anyone other than whoever at the
03:09PM 24 prison. There is no evidence of that; you've heard no testimony
03:09PM 25 about that.

03:09PM 1 What else do we know about the base? We know it was not
03:09PM 2 designed to be a prison. Anyone looking at that configuration
03:09PM 3 would know that it was not -- that 19 prisoners should have never
03:09PM 4 been housed there. As you can see, and you heard testimony about
03:09PM 5 the size of the jail cell, you could barely hold one prisoner.
03:09PM 6 The doors -- they had doors with small windows, maybe room for a
03:10PM 7 mattress, the cells did not even have bathrooms. There was no
03:10PM 8 real place to sit down. Those prisoners couldn't even eat there.

03:10PM 9 That created a very difficult and stressful situation to
03:10PM 10 house these prisoners. That is something that we looking back at
03:10PM 11 that event can say, this is -- this is a powder keg. This is a
03:10PM 12 dangerous situation.

03:10PM 13 So the holding area -- and you've seen different
03:10PM 14 examples -- different diagrams of what the cells were like. There
03:10PM 15 could be more cells. There could be fewer cells. Dr. Pregliasco
03:10PM 16 talked about it, but the essential configuration we know this it
03:10PM 17 was four feet 11 inches wide. We know the cells were
03:10PM 18 approximately five by eight. We know that that is where all these
03:11PM 19 19 prisoners were housed in nine or 10 cells. It was a holding
03:11PM 20 area.

03:11PM 21 So now what else do we know about Roberto in 1972? He
03:11PM 22 had the primary responsibility -- his primary responsibility on
03:11PM 23 the naval base was logistics. Whether they like it or not, that's
03:11PM 24 what he did. He was calculating supplies, dealing with -- in
03:11PM 25 fact, on the night in question, he was looking at calculating

03:11PM 1 calories for soldiers. What happened? He was called back to the
03:11PM 2 naval base on August 15th. He was on vacation with his family in
03:11PM 3 Buenos Aires. He was told to come back. The decision -- and we
03:11PM 4 also know about Roberto the decision to put the prisoners in this
03:11PM 5 bad location was not made by Roberto.

03:11PM 6 And by the way, going back to what we talked about
03:11PM 7 earlier, when the prisoners surrendered, it wasn't a quiet thing.
03:12PM 8 You heard some things about -- you heard testimony about people
03:12PM 9 who disappeared or people were taken to -- I think concentration
03:12PM 10 camps and other things done by the Argentine military. This was a
03:12PM 11 public -- the world knew -- or the people of Argentina knew that
03:12PM 12 these prisoners were in the Trelew naval base.

03:12PM 13 At some point when Roberto got back, he was ordered to
03:12PM 14 help guard the 19 prisoners. That was one of his duties he was
03:12PM 15 given. It was a special assignment at the prison.

03:12PM 16 What else do we know? We know that while he was at the
03:12PM 17 naval base -- what did Roberto not do? He did not take prisoners
03:12PM 18 to the bathroom. He did take the prisoners their meals. The
03:12PM 19 guards usually would have the corporals guard them, and they would
03:12PM 20 deal with the day-to-day activities. Corporal Marandino was one
03:13PM 21 of those guards. You heard his testimony in here.

03:13PM 22 Now, let's talk about August 22, 1972. But going into
03:13PM 23 that night, I've set the stage as to what the situation was.
03:13PM 24 You've got those dangerous prisoners in a small confined area, and
03:13PM 25 the testimony has been that none of these soldiers were trained to

03:13PM 1 guard these prisoners. Roberto was on the night shift. You heard
03:13PM 2 that a sailor came. Roberto told you a sailor came and told him
03:13PM 3 there's something going on with the prisoners. Come up to see
03:13PM 4 them.

03:13PM 5 So Roberto goes carrying nothing but his holster. He's
03:13PM 6 got a holster, which he talked about. He goes up to the area
03:13PM 7 where the prisoners are housed. And what happens next? He tells
03:13PM 8 you, and he goes through pretty great detail as to what happened
03:13PM 9 at that time. He tells you that he shows up, talks to the
03:14PM 10 corporal. He is followed in by Sosa, Herrera, Del Real. And what
03:14PM 11 does he do? Marandino was ordered to open the guards -- the first
03:14PM 12 thing he does, he excuses Corporal Marchan because Corporal
03:14PM 13 Marchan says he feels sick. So he leaves. Uncontested testimony.
03:14PM 14 And what happens after that? Marandino is ordered by Sosa to open
03:14PM 15 the cells.

03:14PM 16 Now, there's a lot of discussion about Bravo versus
03:14PM 17 Marandino. But Roberto told you the order was given by Captain
03:14PM 18 Sosa, Commander Sosa to open the cells. So Marandino goes, when
03:14PM 19 Marchan left, Roberto took the machine gun that Corporal Marchan
03:15PM 20 had. And then what happened? Back up just a touch.

03:15PM 21 Then what happened? The cells are opened. Roberto is
03:15PM 22 not -- is -- and he gave you this in detail. It was a tense time
03:15PM 23 for him. It was scary. Remember what we know about the 19
03:15PM 24 prisoners. Why Sosa is ordering these cells to be opened and
03:15PM 25 unlocked and let the prisoners out, we don't have any testimony of

03:15PM 1 that, but we know that it was being done. And what happens then?
03:15PM 2 The cells are opened and unlocked. Sosa orders all of the
03:15PM 3 prisoners out. You are told also that Roberto hands his handgun
03:15PM 4 to Del Real. And you hear that while Marandino was providing
03:16PM 5 his -- was opening the doors, his machine gun was given to the
03:16PM 6 other officer.

03:16PM 7 Sosa for some reason walks in -- once the prisoners get
03:16PM 8 out, walks in, walks through, and tells the prisoners whatever,
03:16PM 9 yelling insults, yelling -- telling them to behave themselves.
03:16PM 10 Remember he's going through, and he has to go like this to go
03:16PM 11 through the prisoners. And then when he comes back, Roberto sat
03:16PM 12 here and told you what happened. He told you that Pujadas grabbed
03:16PM 13 Sosa, grabbed his gun, shot twice, and the one thing Dr.
03:16PM 14 Pregliasco confirmed. He looked at the photographs, and he did
03:16PM 15 tell you this that the only piece of evidence, the only photo we
03:16PM 16 have from 1972 was the picture that shows that there is the two
03:16PM 17 bullet holes on the side of the wall on the south side of the wall
03:17PM 18 where the -- would have been coming from Pujadas's gun.

03:17PM 19 Now, I know that they're saying it was at seven feet and
03:17PM 20 all this. But Dr. Pregliasco says on the witness stand: Well,
03:17PM 21 you have to have two points. You can't have one point. And the
03:17PM 22 bathroom door that's supposedly hit is not in existence anymore.
03:17PM 23 So I submit to you that that testimony on that issue is not
03:17PM 24 testimony that you should accept.

03:17PM 25 So we have confirmation that the bullets went that way.

03:17PM 1 And then Roberto told you -- and I don't think I have to, you
03:17PM 2 know, repeat what he told you about. He felt scared, obviously
03:17PM 3 saw the bullets, reacted, and shot. That's what happened.

03:17PM 4 It was -- it's a tragedy, and it was wrong that the
03:17PM 5 prisoners got shot. But the circumstances created by the
03:18PM 6 Argentine military led to this impossible situation and tense
03:18PM 7 situation.

03:18PM 8 So what don't we have in the plaintiffs' case? What
03:18PM 9 don't we have? They say that there is a conspiracy. Nowhere in
03:18PM 10 all of the documents in this case have you heard anyone say that
03:18PM 11 there was an agreement that these people are going to be
03:18PM 12 intentionally shot. No one has said that there was a plan to go
03:18PM 13 shoot these people. And what would be the point for these
03:18PM 14 soldiers to shoot these prisoners? There was no basis other than
03:18PM 15 the reaction to a sudden event. And the fact is, it was that
03:18PM 16 split-second reaction that caused this terrible event.

03:18PM 17 Now, Roberto testified about what he did. He admits he
03:19PM 18 shot the machine gun. He admits the other machine gun was being
03:19PM 19 shot. But what happened after that? Well, Roberto told you he
03:19PM 20 was in shock. There's smoke in the air. He leaves the room. But
03:19PM 21 he's very clear with you, he never takes his pistol down. He gave
03:19PM 22 his pistol away. He never had a pistol. He never walks down in
03:19PM 23 the cells. And he 100 percent denies Mr. Camps' statement. He
03:19PM 24 did not do that. You heard him. He testified to it. But he did
03:19PM 25 not do that. Mr. Camps' statement is from 1972. But Roberto also

03:19PM 1 gave a statement in 1972.

03:19PM 2 So the fact is -- going on to the next one -- everything
03:20PM 3 Roberto did was in reaction, it was in an act of self-defense in
03:20PM 4 an effort to stop the prisoners from advancing towards him, to
03:20PM 5 stop them, to protect him, to protect his fellow soldiers. And
03:20PM 6 this event, the gunshot was over in seconds.

03:20PM 7 This is also from the general auditor's report where it
03:20PM 8 says -- this is from Roberto's testimony at the time. Lieutenant
03:20PM 9 Bravo started to fire his machine gun, followed by Lieutenant Del
03:20PM 10 Real with a similar weapon and Corporal Marandino -- Corporal
03:20PM 11 Marandino with a handgun.

03:20PM 12 Go ahead to the next one.

03:20PM 13 Roberto calls guards for first aid. And as you know, 13
03:20PM 14 of the prisoners died there, six survived, three later died. The
03:21PM 15 guards come up, the survivors received first aid and were taken to
03:21PM 16 the hospital, and statements were taken from them.

03:21PM 17 Looking back at Exhibit 2 again, and this is the Auditor
03:21PM 18 General's report, which you'll have, which is a document prepared
03:21PM 19 on August, talking about what happened on August 22, 1972. It
03:21PM 20 should be stated here that a few minutes after the events took
03:21PM 21 place, the entire health care staff of the naval base went into
03:21PM 22 action in order to treat all those who had been shot.

03:21PM 23 So remember, this is -- everyone in Argentina, it was
03:21PM 24 well publicized these prisoners were there. They were in a naval
03:21PM 25 base. There were at least a couple of hundred people in the

03:21PM 1 building where this happened. This is not a place to have an
03:21PM 2 execution. This is not a place to try and kill a lot of people.
03:22PM 3 If you want -- the Argentine military would know how to kill
03:22PM 4 people if they wanted to do this. This was something that
03:22PM 5 happened, as I said, a tragedy. It was a tragedy that happened
03:22PM 6 based upon a split-second reaction and an act by Mr. Pujadas in
03:22PM 7 grabbing the gun and shooting the gun.

03:22PM 8 Go on to the next one.

03:22PM 9 I'd like to take you also from 31T. This is also from
03:22PM 10 Mr. Camps' statement where he says: Approximately 30 minutes
03:22PM 11 later, two nurses showed up, turned him around, took his pulse,
03:22PM 12 and he was taken by stretcher to the base infirmary. It was a day
03:22PM 13 already when the deponent, Mr. Camps, was moved in an ambulance
03:22PM 14 with another prisoner, Mr. Haidar, in another ambulance, was also
03:23PM 15 taken to the airport. They were moved to the naval hospital of
03:23PM 16 another location.

03:23PM 17 But these prisoners were not -- did not die. They were
03:23PM 18 protected.

03:23PM 19 Also looking at the Camp statement -- again, this is
03:23PM 20 Plaintiffs' Exhibit 31T, and it's in evidence in front of you --
03:23PM 21 it is says: As far as analyzing the conduct of the military
03:23PM 22 personnel that intervened in the events, I should stress that
03:23PM 23 after thorough analysis of the exhaustive investigation that was
03:23PM 24 carried out with the sworn statements, I draw the conclusion --
03:23PM 25 this is actually from the General Auditor's Report. I draw the

03:23PM 1 conclusion there was no convincing evidence, not even
03:23PM 2 circumstantial evidence, which would allow criminal charges to be
03:23PM 3 brought against the personnel who intervened in the suppression in
03:23PM 4 order to prevent the escape and Pujadas's rash behavior. In this
03:23PM 5 sense, I agree with the opinion of the investigative judge, that
03:24PM 6 the grounds for exemption from responsibility set out in the
03:24PM 7 criminal code come into play for the military personnel's conduct.

03:24PM 8 Again, Roberto told you, and he's here. He's under oath,
03:24PM 9 he's subject to perjury. He is in this jurisdiction. He is the
03:24PM 10 one who testified in front of you. And he is the one who told you
03:24PM 11 that the charges that Mr. Camps made is just wrong. He never used
03:24PM 12 his pistol. Never had his pistol again, and Defendant's
03:24PM 13 Exhibit 2, the General Auditor Report will show you that this is
03:24PM 14 something that happened that was compiled at the time.

03:24PM 15 Now, Roberto told you he didn't see the report when it
03:24PM 16 was prepared. And what happened after the incident? Roberto was
03:24PM 17 isolated. He told you that he was interviewed by general -- not
03:25PM 18 general -- not general, Captain Bautista. And while Bautista was
03:25PM 19 preparing his report, he was isolated. So he just -- his stories
03:25PM 20 were not compared with other people. He provided the information.
03:25PM 21 But he never saw the report. He did not say the report was
03:25PM 22 perfect. He did not say the report was totally accurate.

03:25PM 23 And I went through with him -- and you will remember
03:25PM 24 this. I went through the report with him almost line by line, and
03:25PM 25 he told you a number of places where he disagreed with the reports

03:25PM 1 or the factual findings of the report.

03:25PM 2 Roberto wants you to know exactly what happened that
03:25PM 3 night and exactly what he went through. But he never used a
03:25PM 4 pistol, and he didn't see anyone use a pistol that night.

03:25PM 5 So the investigative findings continued on. And this is
03:25PM 6 also in Defendant's Exhibit 2. And you'll see it's the General
03:26PM 7 Auditor's Report, and it says -- and it talks about in the second
03:26PM 8 paragraph here: On the other hand, I believe that the riot and
03:26PM 9 the escape from Rawson Penitentiary, which had taken place only
03:26PM 10 days before by the extremist group that was later housed at the
03:26PM 11 naval air base, should certainly have been irrefutable proof of
03:26PM 12 the operative capacity and danger of their numbers.

03:26PM 13 Again, self-defense is part of the state of mind. Was it
03:26PM 14 reasonable for Roberto to be fearful of these people who had
03:26PM 15 killed a guard the week before in a prison escape from a maximum
03:26PM 16 security prison?

03:26PM 17 And one other finding is as far as Lieutenant Bravo: I
03:26PM 18 agree with what was stated that would determine that the previous
03:26PM 19 named officer should not be sanctioned. So Roberto was able to
03:26PM 20 stay in the military.

03:27PM 21 And here it talks about: He acted appropriately when
03:27PM 22 faced with a very difficult circumstance in which he had to
03:27PM 23 fulfill his task as leader of the guard responsible for guarding
03:27PM 24 the fanatically dangerous detainees. It is evidence that through
03:27PM 25 his actions he not only saved the life of an officer but also

03:27PM 1 prevented the escape and the almost certain occurrence of other
03:27PM 2 events with unforeseeable consequence.

03:27PM 3 Now, mind you, once they're out of the cell, they could
03:27PM 4 have gone anywhere. And, again, we don't know why Captain Sosa
03:27PM 5 ordered them out. But we do know that Commander Sosa is the one
03:27PM 6 who had the responsibility for ordering the prisoners out. And I
03:27PM 7 would invite you to look at Mr. Camps' statement. He talks about
03:27PM 8 Sosa yelling at the prisoners immediately before the shooting.
03:27PM 9 And Mr. Camps' counsel said could not, could not see what was
03:27PM 10 happening up front.

03:27PM 11 So there is no one to contradict Roberto's testimony
03:28PM 12 about what Pujadas did, not a single witness in this case.

03:28PM 13 Now, as you know -- and we're going to go down to
03:28PM 14 Roberto's life and the statute of limitations. But Roberto Bravo
03:28PM 15 came to the United States and he went to two air force -- to two
03:28PM 16 military bases. He went to Fort Benning, Georgia. He went to
03:28PM 17 Washington first, then he went Fort Benning, Georgia, then he went
03:28PM 18 to Camp Lejuene, North Carolina. And he worked with the United
03:28PM 19 States military maintaining his time in the Argentine military.

03:28PM 20 When he moved here, he told you he got his driver's
03:28PM 21 license. He wasn't hiding. But from 1978 for first five years,
03:28PM 22 he was in Washington in addition to Fort Benning and Camp Lejeune.

03:28PM 23 So in 1978, he retires from the Argentine Navy, and what
03:29PM 24 he decides is: I want to be an American citizen. I want to be in
03:29PM 25 the United States of America. So he becomes a United States

03:29PM 1 resident starting the long process ultimately to become a citizen.

03:29PM 2 But 1980, he is officially a United States resident.

03:29PM 3 Then what happened? He moved to Miami in 1982. And he does -- he
03:29PM 4 builds on the American dream. What does he do? He works two jobs
03:29PM 5 to support his family. He registers to vote. He gets a Florida
03:29PM 6 driver's license. Continue on.

03:29PM 7 In 1984, he buys his first house in Naranja right here in
03:29PM 8 Miami-Dade County. In 1987 he becomes a United States citizen.
03:29PM 9 You can't vote until you become a citizen. But then what does he
03:29PM 10 do? He enrolls in St. Thomas University. And he works in the
03:29PM 11 daytime, goes to school at night, and in 1990, he graduates from
03:30PM 12 St. Thomas cum laude.

03:30PM 13 And look what happens. We have the documents in
03:30PM 14 evidence. I want to go through this and highlight some of the
03:30PM 15 information we have here; that in 1990, he forms RGB Inc. What is
03:30PM 16 RGB Inc.? RGB Inc. is a company that became quite successful as
03:30PM 17 you heard a lot about, and we're going to talk a little bit about
03:30PM 18 it.

03:30PM 19 Roberto on what he files with the Florida Secretary of
03:30PM 20 State, he gives his home address at Homestead, Florida. And even
03:30PM 21 look below, he lists his wife Ana Maria Bravo as -- you know, his
03:30PM 22 wife. She is not listed as wife here. But they put their home
03:30PM 23 address here. And this is filed on June 22, 1990, is when the
03:30PM 24 document -- when the company was originally formed. The document
03:30PM 25 you have here, Exhibit 54, which is in evidence, you will be able

03:31PM 1 to see it was a corporate report filed in 1996.

03:31PM 2 Another company you'll see had to deal with Stafford
03:31PM 3 Bookbinding Inc., and that company had also -- again, he lists his
03:31PM 4 wife and him as the directors, and he gives his home address, and
03:31PM 5 acting -- Roberto Guillermo Bravo.

03:31PM 6 Let's talk a little bit about RGB. You heard a little
03:31PM 7 bit about this. A government contractor. It was doing business
03:31PM 8 with the United States, becomes a qualified small business, he's
03:31PM 9 awarded his first bid with the United States government in 1996.
03:31PM 10 And from there, he builds to a great, great business. From -- for
03:31PM 11 20 years, he told you he provided medical personnel to the United
03:31PM 12 States Navy, to the United States Marines, to the Department of
03:31PM 13 Homeland Security, to the U.S. Coast Guard, to MacDill Air Force
03:32PM 14 Base, and at one point, he gets up to 500 employees. He's a man
03:32PM 15 who works hard, who wants to work hard and build a better future.

03:32PM 16 In 1998, he forms One Fountainhead. Again, another
03:32PM 17 company, and notice he also puts his home address here at 2235
03:32PM 18 Arch Creek Drive, North Miami, Florida. He is in plain sight.
03:32PM 19 There are additional exhibits. Exhibit 55 which talks about
03:32PM 20 Bragio, LLC, which also again lists him and his wife as the
03:32PM 21 managing members and giving the Miami Avenue address.

03:32PM 22 And we gave you testimony about other companies where he
03:32PM 23 was a registered agent of. And we told you that they're up here
03:32PM 24 on the demonstrative from El Farolito, to American Fiduciary
03:33PM 25 Services.

03:33PM 1 So let's look to what the law is. And one of the things
03:33PM 2 I want to tell you about here is this case is filed in the
03:33PM 3 Southern District of Florida. And one of the first instructions
03:33PM 4 Judge Louis is going to give you is that you must base your
03:33PM 5 decision on the evidence presented here. You must not be
03:33PM 6 influenced in any way by sympathy for or prejudice against anyone.
03:33PM 7 You must follow the law as I explain it even if you do not agree
03:33PM 8 with the law. And you must follow all of my instructions as a
03:33PM 9 whole. You must not single out or disregard any of the
03:33PM 10 instructions of law.

03:33PM 11 So let's see. As you know, the case was brought under
03:33PM 12 the TVPA, the Torture Victim Protection Act, and as I said at the
03:33PM 13 beginning of this case, this is the first time a U.S. jury is
03:33PM 14 listening to this case. It is important to understand for the
03:34PM 15 plaintiffs to recover damages, they must meet certain
03:34PM 16 requirements. The first requires that the actions taken by
03:34PM 17 Roberto were done in a deliberate, calculated way. We told you
03:34PM 18 and you heard the details from Roberto; that is, that he always
03:34PM 19 acted in self-defense.

03:34PM 20 But next, the statute of limitations.

03:34PM 21 Can I get the ELMO on, Your Honor? What do I have to do?
03:34PM 22 Do I have to push this? Got it. Thank you.

03:34PM 23 The first question you're going to be asked in this case:
03:34PM 24 Do you find that plaintiffs proved by a preponderance of evidence
03:34PM 25 that extraordinary circumstances tolled the statute of

03:34PM 1 limitations? This case requires that, and you've heard some of
03:34PM 2 this from counsel, that it's a ten-year statute of limitations.
03:34PM 3 It is their burden to prove that the statute was appropriately
03:35PM 4 tolled. And what were you told about the reasons for not filing
03:35PM 5 the case on time? The case was late from 2002 on. The TVPA was
03:35PM 6 passed in 1992 when the statute of limitations, ten-year statute
03:35PM 7 of limitations would have expired in 2002.

03:35PM 8 And there are three factors that they talk about, and the
03:35PM 9 judge is going to instruct you. It says that there are situations
03:35PM 10 when statute of limitations is suspended or tolled. Tolling
03:35PM 11 applies if the plaintiff showed they could not bring the suit due
03:35PM 12 to extraordinary circumstances beyond their control and that were
03:35PM 13 unavoidable even with due diligence. And the plaintiffs must
03:35PM 14 prove that such circumstances existed by a preponderance of the
03:35PM 15 evidence. And so the judge is going to tell you that some of the
03:36PM 16 factors that you are to consider, it says: Extraordinary
03:36PM 17 circumstances include, but are not limited to, were the litigants
03:36PM 18 and witnesses fear or face danger.

03:36PM 19 You were shown on the initial presentation by counsel
03:36PM 20 that they say the fear ends in 2005, and that's actually
03:36PM 21 consistent with the facts in this case, because that's when the
03:36PM 22 Argentine government recognizes this is that it's going to hold
03:36PM 23 the people from Trelew accountable and that process starts.

03:36PM 24 At that point, the information about what happened in
03:36PM 25 Trelew is all public. It had been known for a long time. But by

03:36PM 1 that -- by 2005, the plaintiffs admit that that evidence is all
03:36PM 2 out there. And by the way, looking back at the evidence you heard
03:36PM 3 about all of the stuff, the terrible things that happened in the
03:36PM 4 '70s, and the terrible things that happened in the '80s, that's
03:36PM 5 done by the country of Argentina. Roberto Bravo has nothing to do
03:37PM 6 with that. He was out of the country. He was living here. He
03:37PM 7 has nothing to do with that. And no one is taking on the
03:37PM 8 responsibility for what Argentina did.

03:37PM 9 But I can tell you these plaintiffs, they know -- and Ms.
03:37PM 10 Krueger who you heard this morning said she knew Roberto Bravo was
03:37PM 11 one of the people involved since 1972 because she filed suit
03:37PM 12 against the navy a month after this happened, and she testified
03:37PM 13 this morning and you heard that testimony.

03:37PM 14 And so the other factor is whether the plaintiffs could
03:37PM 15 not investigate their claims because of the circumstances in their
03:37PM 16 home country. By 2005, that was done. By 2005, that was done.

03:37PM 17 Or another factor is were plaintiffs unable to locate the
03:37PM 18 defendant. It is undisputed by every witness in this case that
03:37PM 19 everyone knew by 2008 where Roberto Bravo was. As I showed you
03:37PM 20 from the life that Roberto Bravo lived, he was easily located if
03:38PM 21 anyone who bothered to look from 1987. 1987 on, and certainly
03:38PM 22 from 1990 when the companies were formed.

03:38PM 23 And then the last one is: Were the plaintiffs did not
03:38PM 24 pursue their claims in the United States participating and relying
03:38PM 25 on accountability processes in the country where the incident

03:38PM 1 occurred on the defendant was. The defendant was not immune from
03:38PM 2 suit here or in Argentina in 2000 in the -- after 2005. And one
03:38PM 3 of the dates we just got you is that the extradition proceeding
03:38PM 4 Argentina initiated in 2009, but they filed it here in the
03:38PM 5 Southern District of Florida on February 23, 2010.

03:38PM 6 So under any circumstance, the ten-year tolling -- the
03:38PM 7 statute or ten-year statute of limitations is expired. So my
03:39PM 8 suggestion is that this first question says: Do you find the
03:39PM 9 plaintiffs proved by a preponderance of evidence that
03:39PM 10 extraordinary circumstances tolled the statute of limitations.
03:39PM 11 For all these years, for all the things that we've talked about,
03:39PM 12 the answer to that question is, no. And it's not even a close
03:39PM 13 question.

03:39PM 14 I'm going to kind of walk through some of the -- oops.

03:39PM 15 Can you go back to -- Dan?

03:39PM 16 So the TVPA -- I talked a little bit about it -- has a
03:39PM 17 ten-year statute of limitations. These events took place 50 years
03:39PM 18 ago, and it expired. And the evidence in this case has shown
03:39PM 19 plaintiffs cannot meet the requirements in the law, and the
03:39PM 20 statute should stop running.

03:39PM 21 Go to our next chart. Kind of go back through what
03:39PM 22 actually happened here.

03:39PM 23 The date of the event was August 22, 1972. The TVPA was
03:40PM 24 enacted in March 12th of 1992. So that statute allowed people to
03:40PM 25 bring these claims. So let's look at some of the events that

03:40PM 1 happened and have been testified to by various witnesses in this
03:40PM 2 case. The alleged equity tolling event.

03:40PM 3 By 1983, Argentina had returned to democracy. So that
03:40PM 4 would mean the statute would end in 1993.

03:40PM 5 The Supreme Court of Argentina also finds that the crimes
03:40PM 6 committed by the military dictatorship could be prosecuted.

03:40PM 7 That's in 2005. That means the statute applies in 2015.

03:40PM 8 Trelew officers were prosecuted in Argentina starting in
03:40PM 9 2006, which means that the statute of limitations would expire in
03:40PM 10 2016.

03:40PM 11 Krueger admits -- a plaintiff who testified today --
03:40PM 12 admits having confidence in the Argentine judicial system since at
03:40PM 13 least 2006. And this is undisputed by all of the plaintiffs here;
03:41PM 14 they knew that Roberto Bravo was living here in Miami at least by
03:41PM 15 2008. I submit to you they should have known much earlier than
03:41PM 16 that; but even that gets them only to 2018.

03:41PM 17 Here is what the plaintiff said about that. Mr. Cappello
03:41PM 18 admitted that he knew Roberto lived here in 2008. Remember, he
03:41PM 19 did some research? He told me he did some informal research and
03:41PM 20 he learned Roberto had a business. He did not file a lawsuit in
03:41PM 21 the United States.

03:41PM 22 Alicia Krueger, you heard her. She testified today. She
03:41PM 23 learned that Roberto lived in Miami in 2008. She also did not
03:41PM 24 file a lawsuit in the United States. And Ms. Krueger -- and I put
03:41PM 25 in evidence, letters that she sent to the Argentine government.

03:41PM 1 And it is signed by a number of the family members. That document
03:41PM 2 is in evidence, and you'll see it. That document will show you
03:41PM 3 that by 2005, they were all in and going after the prisoners --
03:42PM 4 the Trelew military officers they thought were involved.

03:42PM 5 Marcela Santucho admitted that she also knew that Roberto
03:42PM 6 lived here in Miami since 2008, and also did not file a lawsuit in
03:42PM 7 the United States.

03:42PM 8 And then you look at the fear that they have. And
03:42PM 9 there's things that the country of Argentina did in the '70s and
03:42PM 10 '80s that are just deplorable. Again, nothing to do with Roberto
03:42PM 11 Bravo. But we're not sitting here trying to argue for the
03:42PM 12 Argentine government.

03:42PM 13 But what are we saying? We're saying, and you heard,
03:42PM 14 that each one of the plaintiffs received compensation from the
03:42PM 15 Argentine government. They were not afraid to put their names out
03:42PM 16 there and receive compensation from the government.

03:43PM 17 The fact is each of them -- Mr. Cappello testified that
03:43PM 18 his grandmother received the compensation. Alicia Krueger told
03:43PM 19 you that she received the compensation. And notice Mr. Cappello
03:43PM 20 has always lived in Argentina. Alicia Krueger, who now lives in
03:43PM 21 France, you saw her again this morning, she has traveled back and
03:43PM 22 forth from France to be here. Raquel Camps, who also testified
03:43PM 23 today, she's always lived in Argentina.

03:43PM 24 And Marcela Santucho, she moved back to Argentina in
03:43PM 25 2008. She also sought and received compensation for the Trelew

03:43PM 1 incident.

03:43PM 2 So I'm going to point out a couple other things in the
03:43PM 3 jury instructions.

03:43PM 4 When talking about the expert witnesses, you don't have
03:43PM 5 to accept the expert witness' testimony if you don't believe it or
03:43PM 6 it doesn't help you.

03:43PM 7 It says: And the Court gives you, as the finders of
03:44PM 8 fact, the ability to evaluate what the expert witness means. So
03:44PM 9 it doesn't mean -- and the instruction will say: that doesn't
03:44PM 10 mean you must accept the witness' opinion. As with any other
03:44PM 11 witness' testimony, you must decide for yourself whether you rely
03:44PM 12 on that opinion.

03:44PM 13 The plaintiffs' experts were Mr. Brenna, Mr. Anderson,
03:44PM 14 Mr. Pregliasco, Mr. Langer. And I submit that the testimony that
03:44PM 15 they gave you talks about issues around the case but doesn't focus
03:44PM 16 on the details of what Roberto physically did at the time of this
03:44PM 17 incident. And Roberto Bravo stood here and told you what
03:44PM 18 happened.

03:44PM 19 Now, I'd like to look a little further. There's a lot in
03:44PM 20 the jury instructions that you need to evaluate, and you were
03:45PM 21 asked for I think it was \$20 million by -- \$18 million by counsel
03:45PM 22 at least for the compensatory damages. And there are some things
03:45PM 23 I would wish to point out about that. That claim is that you are
03:45PM 24 the ones who are to evaluate it. I don't think you get to any of
03:45PM 25 those issues, because the statute of limitations was 100 percent

03:45PM 1 had expired, it was not tolled, and it was not something that you
03:45PM 2 can allow these plaintiffs to do.

03:45PM 3 The Court will tell you, you must follow the law as she
03:45PM 4 explains it. And you must apply that law looking at the
03:45PM 5 instructions as a whole.

03:45PM 6 So what does that mean about where we are right now? We
03:45PM 7 are in a situation where you need to weigh the evidence, weigh
03:45PM 8 what Mr. Bravo said, weigh -- this is an important event to him as
03:46PM 9 well. It's a 50-year -- 50 years since this happened. The
03:46PM 10 statute of limitations has long since expired. There is no
03:46PM 11 circumstance under which these plaintiffs can justify waiting
03:46PM 12 until October of 2020 to sue Mr. Bravo, to sue Roberto. And to do
03:46PM 13 that, not only is it barred by the TVPA, it's barred by fairness,
03:46PM 14 it's barred by the fact that how does he defend himself from
03:46PM 15 things that happened 50 years ago?

03:46PM 16 I ask you to look carefully at the judge's instructions.
03:46PM 17 I ask you to think carefully about what Roberto told you. I ask
03:47PM 18 you to look at the facts of this case that are not disputed, which
03:47PM 19 are that the case was filed in 2020 for a 1972 incident is barred
03:47PM 20 by the statute of limitations, that these plaintiffs had every
03:47PM 21 ability to file suit.

03:47PM 22 I went through the education background with all of these
03:47PM 23 witnesses -- all of these plaintiffs were educated, some more
03:47PM 24 educated than others, but they're all educated. They're all --
03:47PM 25 they know that they had the loss that they told you about. But

03:47PM 1 the law requires that you have to act within a certain time; that
03:47PM 2 you have to follow what fairness allows you to do and to allow
03:47PM 3 Roberto to defend himself, and to have a case brought on time is
03:48PM 4 something that's fundamental in our court system.

03:48PM 5 So I will leave you with a couple of thoughts. And that
03:48PM 6 is that this case comes down to whether an 80-year-old man, a
03:48PM 7 grandfather, a businessman who built up a successful life would
03:48PM 8 come into this courtroom and not tell you the truth. He's living
03:48PM 9 here in Miami, and whether or not the plaintiffs did what the law
03:48PM 10 requires of them to timely file this lawsuit, to file this
03:48PM 11 lawsuit. The lawsuit should have been filed 2005, 2006. As soon
03:48PM 12 as they knew they had the information, they should have filed this
03:48PM 13 lawsuit. But they waited, and that has a consequence.

03:48PM 14 So I ask that you look carefully at the evidence, and we
03:48PM 15 gave you a lot of information, you have a lot of documents to look
03:48PM 16 at if -- as you carefully evaluate this information. But I ask
03:49PM 17 that you consider it, and that you return a verdict finding that
03:49PM 18 the statute of limitations was not tolled and that you do not go
03:49PM 19 any further in the verdict.

03:49PM 20 But thank you for your attention.

03:49PM 21 THE COURT: Thank you, Mr. Davis.

03:49PM 22 Mr. Krishnan.

03:49PM 23 MR. KRISHNAN: Thank you, Your Honor, and thank you
03:49PM 24 again, members of the jury. I'm going to be brief. I'm going to
03:49PM 25 respond to a little bit of what we just heard.

03:49PM 1 First of all, please, please don't let Mr. Bravo blame
03:49PM 2 the victims. Mr. Davis just got up here and tried to insinuate
03:49PM 3 that they were dangerous. They escaped from a prison. There is
03:49PM 4 no evidence about that in this case. There is not a single
03:49PM 5 charging document against any of them. There isn't a single
03:49PM 6 conviction against any of them. This was a regime that was
03:50PM 7 blatantly and blankedly calling people subversives, terrorists,
03:50PM 8 extremists. Do not let them excuse murder by insinuation.

03:50PM 9 Next, Mr. Davis made a couple of points about, oh, the
03:50PM 10 military in Argentina, they know how to kill people. You know,
03:50PM 11 this doesn't really make sense. If they wanted to kill them, they
03:50PM 12 would have killed them. That -- the evidence is going to show
03:50PM 13 that they really did -- and I think it has shown that they really
03:50PM 14 did want to kill these people. He asked what was the motive for
03:50PM 15 killing them? The motive was clear. They escaped from Rawson.
03:50PM 16 It was embarrassing for the military. It's just that simple.

03:50PM 17 And Mr. Davis says, but this wasn't a great way to kill
03:50PM 18 them in this prison cell area. It was a perfect way to kill them.
03:50PM 19 It was a kill box. There was nowhere for them to go. They could
03:50PM 20 have gotten this done within minutes except for the fact that
03:50PM 21 enlisted men ended up coming in and interrupting them. Mr. Camps
03:51PM 22 only survived because he played dead. You have his witness
03:51PM 23 statements. It is in evidence. 31T, 41T, please read them. You
03:51PM 24 will see he was playing dead until enlisted people came and
03:51PM 25 interfered with the plan.

03:51PM 1 You know, I heard a lot of Roberto told you this, Roberto
03:51PM 2 told you that. Where is the evidence? There was none. There is
03:51PM 3 corroborating evidence for Mr. Bravo's story, and it's certainly
03:51PM 4 not that bathroom door. As Dr. Pregliasco demonstrated, the
03:51PM 5 bullet holes are fabricated. The only proof that Mr. Bravo --
03:51PM 6 that the bullet holes only prove that Mr. Bravo and his fellow
03:51PM 7 officers were fabricating evidence.

03:51PM 8 On statute of limitations, I want to clarify a couple of
03:51PM 9 things. Back in 1972, they only knew his last name, Bravo. It
03:51PM 10 wasn't enough to find him. That was true all the way
03:52PM 11 through 2008. There is not a single piece of record evidence or
03:52PM 12 evidence, period, that shows that the victims or other people knew
03:52PM 13 which Bravo to be looking for. That's the truth.

03:52PM 14 Mr. Davis really ignored a lot of what I said about
03:52PM 15 tolling when he was putting up numbers like 2005, you expire in
03:52PM 16 2015; 2006, 2016.

03:52PM 17 There were two big points I made, and I just want you to
03:52PM 18 keep these in mind. The fear, the terrible fear extended through
03:52PM 19 at least 2010, and that's enough to have a timely filed lawsuit in
03:52PM 20 2020.

03:52PM 21 And my clients were legitimately investigating and
03:52PM 22 pursuing Mr. Bravo through that criminal proceeding in Argentina
03:52PM 23 where they developed a ton of evidence. They found critical
03:52PM 24 witnesses, and they were doing that at least until November of
03:53PM 25 2010 when extradition against Mr. Bravo was denied. Those are the

03:53PM 1 dates, 2010 dates, you add ten years to those, and you're -- the
03:53PM 2 October 2020 filing of this lawsuit was within the statute of
03:53PM 3 limitations.

03:53PM 4 And just bigger picture. I just want to say: It is easy
03:53PM 5 for any of us who haven't suffered the terrible trauma and terror
03:53PM 6 that my clients have suffered to nitpick in hindsight their
03:53PM 7 actions. But the circumstances that they were dealing with were
03:53PM 8 truly, truly extraordinary, and they acted reasonably in light of
03:53PM 9 those circumstances.

03:53PM 10 My last point. This isn't really about the money for my
03:53PM 11 clients. What my clients have been working for since 2005 is to
03:53PM 12 get Mr. Bravo extradited back to Argentina where he can face
03:53PM 13 trial. That's what they wanted. What they can get though, what
03:53PM 14 they have to settle for is this civil proceeding to hold Mr. Bravo
03:54PM 15 accountable. And so that's going to be up to you to do. It's
03:54PM 16 ultimately justice is going to be in your hands.

03:54PM 17 Thank you so much.

03:54PM 18 THE COURT: Okay.

03:54PM 19 Members of the jury, it is my duty to instruct you on the
03:54PM 20 rules of law that you must use in deciding this case.

03:54PM 21 When I have finished, you will go to the jury room and
03:54PM 22 begin your discussions, sometimes called deliberations. Your
03:54PM 23 decision must be based only on the evidence presented here. You
03:54PM 24 must not be influenced in any way by either sympathy for or
03:54PM 25 prejudice against anyone.

03:54PM 1 You must follow the law as I explain it -- even if you do
03:54PM 2 not agree with the law -- and you must follow all of my
03:54PM 3 instructions as a whole. You must not single out or disregard any
03:54PM 4 of the instructions on the law.

03:54PM 5 As I said before, you must consider only the evidence
03:54PM 6 that I have admitted in the case. Evidence includes the testimony
03:54PM 7 of witnesses and the exhibits admitted, but anything the lawyers
03:55PM 8 say is not evidence and isn't binding on you.

03:55PM 9 You shouldn't assume from anything I've said that I have
03:55PM 10 any opinion about any factual issue in this case. Except for my
03:55PM 11 instructions to you on the law, you should disregard anything I
03:55PM 12 may have said during the trial in arriving at your own decision
03:55PM 13 about the facts.

03:55PM 14 Your own recollection and interpretation of the evidence
03:55PM 15 is what matters.

03:55PM 16 In considering the evidence, you may use reasoning and
03:55PM 17 common sense to make deductions and reach conclusions. You
03:55PM 18 shouldn't be concerned about whether evidence is direct or
03:55PM 19 circumstantial.

03:55PM 20 "Direct evidence" is the testimony of a person who
03:55PM 21 asserts that he or she has actual knowledge of a fact, such as an
03:55PM 22 eyewitness.

03:55PM 23 "Circumstantial evidence" is proof of a chain of facts
03:55PM 24 and circumstances that tend to prove or disprove a fact.

03:55PM 25 There's no legal difference in the weight you may give

03:55PM 1 either direct or circumstantial evidence.

03:55PM 2 When I say that you must consider all of the evidence, I
03:56PM 3 don't mean that you must accept all of the evidence as true or
03:56PM 4 accurate. You should decide whether you believe what each witness
03:56PM 5 had to say, and how important that testimony was. In making that
03:56PM 6 decision, you may believe or disbelieve any witness, in whole or
03:56PM 7 in part. The number of witnesses testifying concerning a
03:56PM 8 particular point doesn't necessarily matter.

03:56PM 9 To decide whether you believe any witness I suggest that
03:56PM 10 you ask yourself a few questions:

03:56PM 11 Did the witness impress you as one who was telling the
03:56PM 12 truth?

03:56PM 13 Did the witness have any particular reason not to tell
03:56PM 14 the truth?

03:56PM 15 Did the witness have a personal interest in the outcome
03:56PM 16 of the case?

03:56PM 17 Did the witness seem to have a good memory?

03:56PM 18 Did the witness have the opportunity and ability to
03:56PM 19 accurately observe the things he or she testified about?

03:56PM 20 Did the witness appear to understand the questions
03:56PM 21 clearly and answer them directly?

03:56PM 22 Did the witness's testimony differ from other evidence --
03:56PM 23 I'm sorry -- other testimony or other evidence?

03:56PM 24 You should also ask yourself whether there was evidence
03:57PM 25 that a witness testified falsely about an important fact. And ask

03:57PM 1 whether there was evidence that at some other time a witness said
03:57PM 2 or did something, or didn't say or do something, that was
03:57PM 3 different from the testimony the witness gave during the trial.

03:57PM 4 But keep in mind that a simple mistake doesn't mean a
03:57PM 5 witness wasn't telling the truth as he or she remembers it.
03:57PM 6 People naturally tend to forget some things or remember them
03:57PM 7 inaccurately. So, if a witness misstated something, you must
03:57PM 8 decide whether it was because of an innocent lapse in memory or an
03:57PM 9 intentional deception. The significance of your decision may
03:57PM 10 depend on whether the misstatement was about an important fact or
03:57PM 11 an unimportant detail.

03:57PM 12 When scientific, technical, or specialized knowledge
03:57PM 13 might be helpful, a person who has special training or experience
03:57PM 14 in the field -- in that field is allowed to state an opinion about
03:57PM 15 the matter.

03:57PM 16 But that doesn't mean you must accept the witness's
03:57PM 17 opinion. As with any other witness's testimony, you must decide
03:58PM 18 for yourself whether to rely on the opinion.

03:58PM 19 In this case it is the responsibility of plaintiffs to
03:58PM 20 prove every essential part of their claims by a "preponderance of
03:58PM 21 the evidence." This is sometimes called the "burden of proof" or
03:58PM 22 "burden of persuasion."

03:58PM 23 A "preponderance of the evidence" simply means an amount
03:58PM 24 of evidence that is enough to persuade you that the plaintiffs'
03:58PM 25 claim is more likely true than not.

03:58PM 1 If the proof fails to establish any essential part of a
03:58PM 2 claim or contention by a preponderance of the evidence, you should
03:58PM 3 find against the plaintiffs.

03:58PM 4 When more than one claim is involved, you should consider
03:58PM 5 each claim separately.

03:58PM 6 In deciding whether any fact has been proved by a
03:58PM 7 preponderance of the evidence, you may consider the testimony of
03:58PM 8 all of the witnesses, regardless of who may have called them, and
03:58PM 9 of all of the exhibits received in evidence, regardless of who may
03:58PM 10 have produced them.

03:58PM 11 If the proof fails to establish any essential part of the
03:58PM 12 plaintiffs' claims by a preponderance of the evidence, you should
03:58PM 13 find for the defendant as to that claim.

03:59PM 14 In this case, Defendant Bravo asserts the statute of
03:59PM 15 limitations and self-defense. Even if the plaintiffs prove their
03:59PM 16 claims by a preponderance of the evidence, the defendant can still
03:59PM 17 prevail in this case if he proves an affirmative defense by a
03:59PM 18 preponderance of the evidence.

03:59PM 19 When more than one affirmative defense is involved, you
03:59PM 20 should consider each one separately.

03:59PM 21 I caution you that the defendant does not have to
03:59PM 22 disprove that the plaintiffs' claims, but if the defendant raises
03:59PM 23 an affirmative defense, the only way he can prevail on that
03:59PM 24 specific defense is if he proves that defense by a preponderance
03:59PM 25 of the evidence.

03:59PM 1 Under United States law, there is a civil action for
03:59PM 2 recovery of damages for extrajudicial killings or torture
03:59PM 3 committed by an individual acting under the actual or apparent
03:59PM 4 authority of a foreign nation. This law is known as the Torture
03:59PM 5 Victim Protection Act or the "TVPA" for short.

04:00PM 6 The plaintiffs are pursuing three claims against
04:00PM 7 defendant based on the allegations that Ruben Bonet, Eduardo
04:00PM 8 Cappello I, and Ana Maria Villarreal de Santucho were the victims
04:00PM 9 of extrajudicial killings and that Alberto Camps was the victim of
04:00PM 10 attempted extrajudicial killing and torture, and that defendant is
04:00PM 11 liable for those violations. In a moment I will tell you what the
04:00PM 12 plaintiffs must prove in order for you to find that those
04:00PM 13 violations happened.

04:00PM 14 Plaintiffs, Alicia Krueger, Eduardo Cappello II, and
04:00PM 15 Marcela Santucho contend that their relatives Ruben Bonet, Eduardo
04:00PM 16 Cappello I, and Ana Maria Villarreal de Santucho were the victims
04:00PM 17 of extrajudicial killing. To find in favor of a particular
04:00PM 18 plaintiff, you must find that a particular plaintiff's or
04:00PM 19 plaintiff's relatives' death involved the following:

04:00PM 20 A person or persons deliberately killed that relative;

04:01PM 21 The person or persons killed that particular relative
04:01PM 22 while acting under the actual or apparent authority, or color of
04:01PM 23 law, of the Argentine Republic; and

04:01PM 24 The killing was not previously authorized by a judgment
04:01PM 25 of a regularly constituted court affording all the judicial

04:01PM 1 guarantees, which are recognized as indispensable by civilized
04:01PM 2 peoples.

04:01PM 3 Plaintiff Raquel Camps, in her capacity as the personal
04:01PM 4 representative of the estate of Alberto Camps, contends that
04:01PM 5 Alberto Camps suffered an attempted extrajudicial killing. To
04:01PM 6 establish this claim, plaintiff Raquel Camps must prove by a
04:01PM 7 preponderance of the evidence the following:

04:01PM 8 1. That a person or persons attempted to deliberately
04:01PM 9 kill Alberto Camps;

04:01PM 10 2. This person or persons attempted to kill Alberto Camps
04:01PM 11 while acting under the actual or apparent authority, or color of
04:01PM 12 law, of the Argentine Republic;

04:02PM 13 3. That the person or persons acted with the purpose of
04:02PM 14 carrying out an extrajudicial killing of Alberto Camps and made a
04:02PM 15 substantial step toward the commission of the extrajudicial
04:02PM 16 killing; and

04:02PM 17 4. That the attempted killing was not authorized by a
04:02PM 18 previous judgment pronounced by a regularly constituted court
04:02PM 19 affording all the judicial guaranties, which are recognized as
04:02PM 20 indispensable by civilized peoples.

04:02PM 21 A substantial act is an act or series of acts that mark
04:02PM 22 defendant's conduct as a whole liable and strongly corroborate the
04:02PM 23 required mental state required for liability. For example,
04:02PM 24 certain facts such as detaining the victim, acquiring the
04:02PM 25 materials necessary to commit an extrajudicial killing of him, and

04:02PM 1 possessing these materials at or near the place where that conduct
04:02PM 2 was attempted, taken together, may constitute a "substantial step"
04:02PM 3 towards the commission of an extrajudicial killing.

04:03PM 4 Plaintiff Raquel Camps, in her capacity as the personal
04:03PM 5 representative of the estate of Alberto Camps, alleges that
04:03PM 6 Alberto Camps was tortured. To establish this claim, plaintiff
04:03PM 7 Camps must prove that:

04:03PM 8 1. Defendant Bravo intentionally inflicted severe pain or
04:03PM 9 suffering, whether physical or mental, on Alberto Camps; or
04:03PM 10 actively participated in the intentional infliction of severe pain
04:03PM 11 or suffering, whether physical or mental, on Alberto Camps;

04:03PM 12 2. Alberto Camps was in the custody or physical control
04:03PM 13 of Defendant Bravo;

04:03PM 14 3. That the intentional infliction of severe pain or
04:03PM 15 suffering on Alberto Camps was done while acting under the actual
04:03PM 16 or apparent authority, or color of law, of the Argentine Republic;

04:03PM 17 4. That severe pain or suffering was inflicted for the
04:03PM 18 purpose of intimidation, punishment, or any discriminatory
04:03PM 19 purpose.

04:03PM 20 Even if Defendant Bravo did not personally torture
04:03PM 21 Alberto Camps, he may still be liable for torture if he aided or
04:04PM 22 abetted torture, conspired to commit torture, or participated in a
04:04PM 23 joint criminal enterprise. I will provide you with further
04:04PM 24 instructions on what those terms mean in a moment.

04:04PM 25 Defendant has offered evidence of having acted in

04:04PM 1 self-defense. If the defendant was not the aggressor and had
04:04PM 2 reasonable grounds to believe and actually did believe that he was
04:04PM 3 in imminent danger of death or serious bodily harm from which he
04:04PM 4 could save himself only by using deadly force against his
04:04PM 5 assailant, he had the right to employ deadly force in order to
04:04PM 6 defend himself. By "deadly force" is meant force which is likely
04:04PM 7 to cause death or serious bodily harm.

04:04PM 8 Self-defense is a ground for avoiding liability only when
04:04PM 9 the defendant acted reasonably to defend himself or another person
04:04PM 10 against an imminent and unlawful use of physical force. For
04:04PM 11 self-defense to be applicable, the use of force by the defendant
04:04PM 12 must have been proportionate to the degree of danger to the
04:05PM 13 defendant or the other person protected.

04:05PM 14 The circumstances under which he acted must have been
04:05PM 15 such as to produce in the mind of a reasonably prudent person
04:05PM 16 similarly situated the reasonable belief that the other person was
04:05PM 17 then about to kill him or to do him serious bodily harm.

04:05PM 18 In addition, the defendant must actually believe that he
04:05PM 19 was in imminent danger of death or serious bodily harm and that
04:05PM 20 the deadly force must be used to repel it. Additionally,
04:05PM 21 continued use of force after the threat has been subdued does not
04:05PM 22 establish self-defense.

04:05PM 23 If evidence of self-defense is present, defendant must
04:05PM 24 prove by preponderance of evidence that he acted in self-defense.

04:05PM 25 Plaintiffs claim that Defendant Bravo directly

04:05PM 1 perpetrated the extrajudicial killing of Eduardo Cappello I, Ruben
04:05PM 2 Bonet, and Ana Maria Villarreal de Santucho and the attempted
04:05PM 3 extrajudicial killing and torture of Alberto Camps. The
04:06PM 4 plaintiffs also contend that Defendant Bravo is liable for the
04:06PM 5 extrajudicial killing, attempted extrajudicial killing, and
04:06PM 6 torture of their relatives under alternative forms of liability,
04:06PM 7 without prejudice to their claim that Defendant Bravo directly
04:06PM 8 perpetrated extrajudicial killing, attempted extrajudicial
04:06PM 9 killing, and torture of their relatives.

04:06PM 10 Thus, even if you were to find that the plaintiffs have
04:06PM 11 not shown by a preponderance of the evidence that Defendant Bravo
04:06PM 12 personally extrajudicially killed, attempted to extrajudicially
04:06PM 13 kill, or tortured the plaintiffs' relatives, you may still find
04:06PM 14 that Defendant Bravo is nevertheless responsible for the
04:06PM 15 extrajudicial killing of Eduardo Cappello I, Ruben Bonet, and Ana
04:06PM 16 Maria Villareal De Santucho and the attempted extrajudicial
04:06PM 17 killing and torture of Alberto Camps under -- killing Alberto
04:06PM 18 Camps under one or more of the three following additional theories
04:07PM 19 of liability:

04:07PM 20 Aiding and abetting;

04:07PM 21 Conspiracy; and

04:07PM 22 Joint criminal enterprise.

04:07PM 23 Each of these is a separate theory of liability and will
04:07PM 24 be explained in more detail in a few moments. You must consider
04:07PM 25 them separately. You only need to find in the plaintiffs' favor

04:07PM 1 on one of these four theories to hold Defendant Bravo liable with
04:07PM 2 respect to each of the plaintiffs' claims. If you find that the
04:07PM 3 plaintiffs have not carried their burden of proof on any one
04:07PM 4 theory of liability, that finding does not affect any other
04:07PM 5 theory.

04:07PM 6 Defendant Bravo may be found liable if you find that he
04:07PM 7 aided and abetted others in a wrongful act committed against
04:07PM 8 Alberto Camps, Eduardo Cappello, Ruben Bonet, and/or Ana Maria
04:07PM 9 Maria Villarreal de Santucho.

04:07PM 10 In order to prove the defendant liable for aiding and
04:07PM 11 abetting any of the violations against Alberto Camps, Eduardo
04:07PM 12 Cappello, Ruben Bonet, and/or Ana Maria de Santucho, plaintiffs
04:08PM 13 must prove the following by a preponderance of the evidence;
04:08PM 14 first, that one or more wrongful acts that comprise the claim were
04:08PM 15 committed; second, that Defendant Bravo substantially assisted
04:08PM 16 some person or persons who committed or caused one or more of the
04:08PM 17 wrongful acts that comprised the claim; and third, that Defendant
04:08PM 18 Bravo knew that his actions would assist in the illegal or
04:08PM 19 wrongful activity at the time he provided the assistance.

04:08PM 20 The second theory under which the plaintiffs seek to hold
04:08PM 21 Defendant Bravo liable for extrajudicial killing, attempted
04:08PM 22 extrajudicial killing, and torture of their relatives is known as
04:08PM 23 "conspiracy." The law of conspiracy makes a person liable if they
04:08PM 24 conspired with another person to commit a wrongful act. To prove
04:08PM 25 conspiracy liability, plaintiffs must prove by a preponderance of

04:08PM 1 the evidence as to each claim.

04:08PM 2 1. Two or more persons agreed to commit a wrongful act;.

04:08PM 3 2. Defendant Bravo joined the conspiracy knowing of at
04:08PM 4 least one of the goals of the conspiracy and intended to
04:09PM 5 accomplish it; and.

04:09PM 6 3. The torture and attempted extrajudicial killing -- or
04:09PM 7 extrajudicial killings of plaintiffs' relatives were committed by
04:09PM 8 someone who was a member of the conspiracy and acted in
04:09PM 9 furtherance of the conspiracy.

04:09PM 10 For a conspiracy to have existed, it is not necessary
04:09PM 11 that the conspirators made a formal agreement or that they agreed
04:09PM 12 to every detail of the conspiracy. Proof of a tacit as opposed to
04:09PM 13 explicit understanding is sufficient to show agreement.

04:09PM 14 The exact limits or scope of the plan need not be known
04:09PM 15 to each conspirator, nor is it necessary that the identity of
04:09PM 16 everyone involved in the conspiracy be known to all of them. What
04:09PM 17 the plaintiffs must show is that the conspirators shared the same
04:09PM 18 general conspiratorial objective, even if their motives for
04:09PM 19 desiring the result are not necessarily identical.

04:09PM 20 Once the conspiracy has been formed, all of its members
04:09PM 21 are liable for injuries caused by acts pursuant to or in
04:10PM 22 furtherance of the conspiracy and all acts that were the natural
04:10PM 23 and foreseeable consequence of the conspiracy.

04:10PM 24 A conspirator need not participate actively in or benefit
04:10PM 25 from the wrongful act in order to be found liable. He need not

04:10PM 1 even have planned or known about the injurious action, so long as
04:10PM 2 the purpose of the tortious act was to advance the overall
04:10PM 3 objective of the conspiracy.

04:10PM 4 Defendant Bravo may be found liable if you find that he
04:10PM 5 was involved in a joint criminal enterprise that resulted in the
04:10PM 6 harms alleged against the plaintiffs.

04:10PM 7 Although I have used the term "joint criminal
04:10PM 8 enterprise," recall that you are not being called on to decide a
04:10PM 9 criminal case. As with the other claims, the plaintiffs' burden
04:10PM 10 of proof is a preponderance of the evidence and not a higher
04:10PM 11 burden of proof required in criminal cases.

04:10PM 12 A joint criminal enterprise is a common plan or purpose
04:10PM 13 between two or more people to commit a wrongful act. If Defendant
04:11PM 14 Bravo is found to participate in a joint criminal enterprise, then
04:11PM 15 he is liable for the cop perpetrator of the wrong acts that resulted
04:11PM 16 from that enterprise. To establish a joint criminal enterprise,
04:11PM 17 the plaintiff must prove first the existence of a common plan or
04:11PM 18 purpose to commit any wrongful act; second, that Defendant Bravo
04:11PM 19 committed an act that either directly or indirectly contributed to
04:11PM 20 the execution of this common plan; third, that Defendant Bravo
04:11PM 21 committed this act with the intention to participate in and
04:11PM 22 further the common plan; and; fourth, wrongful acts committed in
04:11PM 23 the execution of this common plan resulted in the harm claimed by
04:11PM 24 the plaintiffs.

04:11PM 25 Defendant Bravo can also be held liable for the acts

04:11PM 1 committed by a member of the joint criminal enterprise that were
04:11PM 2 not agreed upon in the common plan as long as the act was a
04:11PM 3 natural and foreseeable consequence of the enterprise; Defendant
04:11PM 4 Bravo was aware of the wrongful conduct was a possible consequence
04:11PM 5 of the joint criminal enterprise; and even with that awareness, he
04:12PM 6 continued to participate in the enterprise.

04:12PM 7 A common plan of purpose may not be expressed but can be
04:12PM 8 inferred from the circumstances; such as the fact that several
04:12PM 9 people acted in unison, nor do plaintiffs need to show the plan
04:12PM 10 was prearranged.

04:12PM 11 Instead, plaintiffs can show that the plan materialized
04:12PM 12 spontaneously and without prior preparation.

04:12PM 13 Plaintiffs need not prove that Defendant Bravo
04:12PM 14 participated in any of the wrongful acts; nor do plaintiffs need
04:12PM 15 to prove that Defendant Bravo was physically present during the
04:12PM 16 commission of the wrongful acts.

04:12PM 17 Defendant Bravo has raised an affirmative defense that
04:12PM 18 the plaintiffs cannot prevail on their claims because they did not
04:12PM 19 bring the suit within the time allowed by the law. Defendant
04:12PM 20 Bravo must prove this affirmative defense by a preponderance of
04:12PM 21 the evidence.

04:12PM 22 The statute of limitations specify the amount of time a
04:12PM 23 person has to initiate legal proceedings after an event occurs.
04:12PM 24 The statute of limitations that applies to the law the plaintiffs
04:13PM 25 rely on to bring their claims -- the TVPA -- provides that claims

04:13PM 1 must be brought within ten years of the date on which the TVPA was
04:13PM 2 enacted, March 12, 1992, or within ten years of the date the
04:13PM 3 incident occurred, whichever is later.

04:13PM 4 If the plaintiffs brought suit after March 12, 2002, and
04:13PM 5 if any of the acts or occurrences that is the subject of this
04:13PM 6 lawsuit took place more than ten years before the plaintiffs
04:13PM 7 brought suit, then a claim based on that act or occurrence is
04:13PM 8 barred by the statute of limitations, unless an exception applies.
04:13PM 9 The plaintiffs brought their suit against Defendant Bravo in
04:13PM 10 October 20, 2020.

04:13PM 11 There are situations in which the statute of limitations
04:13PM 12 is suspended or tolled. Tolling applies if the plaintiffs show
04:13PM 13 they could not bring the suit due to extraordinary circumstances
04:13PM 14 beyond their control and that were unavoidable even with
04:14PM 15 diligence.

04:14PM 16 The plaintiffs must prove that such circumstances existed
04:14PM 17 by a preponderance of the evidence. Such extraordinary
04:14PM 18 circumstances may include, but are not limited to; where litigants
04:14PM 19 or witnesses fear or face danger pursuing claims related to human
04:14PM 20 rights' violations; where plaintiffs could not investigate their
04:14PM 21 claims because of the circumstances in their home country; where
04:14PM 22 plaintiffs were unable to locate the defendant; or where
04:14PM 23 plaintiffs did not pursue their claims in the United States while
04:14PM 24 they were participating in or relying on accountability
04:14PM 25 proceedings in the country where the incident occurred, or where

04:14PM 1 the defendant was immune from suit.

04:14PM 2 It is my duty to instruct you as to the proper measure of
04:14PM 3 damages to be applied in this case if you find that plaintiffs
04:14PM 4 have proved each of the elements of their claims. By instructing
04:14PM 5 you regarding damages, I am not indicating, one way or the other,
04:14PM 6 that I have any opinion regarding whether or not damages should be
04:14PM 7 awarded in this case.

04:15PM 8 If you find in favor of any and all plaintiffs and
04:15PM 9 against Defendant Bravo, then you must determine an amount that is
04:15PM 10 fair compensation for the damages suffered by the plaintiff or
04:15PM 11 plaintiffs for any loss or injury you find was actually sustained
04:15PM 12 as a consequence of Defendant Bravo's conduct.

04:15PM 13 In considering the issue of compensatory damages, you
04:15PM 14 should determine what amount, if any, has been proven by the
04:15PM 15 plaintiffs by a preponderance of the evidence as full, just, and
04:15PM 16 reasonable compensation for all of the plaintiffs' damages, no
04:15PM 17 more and no less.

04:15PM 18 Compensatory damages are not allowed as punishment and
04:15PM 19 must not be imposed or increased to penalize Defendant Bravo.
04:15PM 20 Also, compensatory damages must not be based on speculation or
04:15PM 21 guesswork. You may not award compensatory damages for economic
04:15PM 22 damages such as lost earnings or medical expenses, but only for
04:15PM 23 noneconomic damages, which cover both mental and physical aspects
04:16PM 24 of injury, both tangible and intangible.

04:16PM 25 The plaintiffs are not required to offer evidence of the

04:16PM 1 actual value of intangible injuries such as physical or emotional
04:16PM 2 pain and mental anguish.

04:16PM 3 There is no exact standard to be applied. Any such award
04:16PM 4 should be -- I'm sorry -- yes. Any such award should be fair and
04:16PM 5 just in the light of the evidence. It is for you to determine
04:16PM 6 what damages, if any, have been proved. You should consider only
04:16PM 7 the following elements of damage to the extent you find them
04:16PM 8 proved by a preponderance of the evidence as to each plaintiff;
04:16PM 9 the plaintiff's physical and emotional pain, suffering and mental
04:16PM 10 anguish; the plaintiff's physical and mental injury; where the
04:16PM 11 deceased was the plaintiff's spouse, the plaintiff's loss of
04:16PM 12 spousal companionship and protection; where the deceased was
04:16PM 13 plaintiff's parent and the plaintiff was under 25 years of age at
04:16PM 14 the time of death, the plaintiff's loss of parental companionship,
04:16PM 15 protection, instruction, and guidance.

04:17PM 16 Each plaintiff must prove that the compensation that he
04:17PM 17 or she seeks relates to damages that naturally flow from the
04:17PM 18 injuries proved. In other words, there must be a sufficient
04:17PM 19 causal connection between the injuries sustained and the harm
04:17PM 20 sustained by the plaintiff.

04:17PM 21 In addition to compensatory damages, you have the
04:17PM 22 discretion to award punitive damages. Unlike compensatory
04:17PM 23 damages, which are imposed to reimburse the plaintiff for their
04:17PM 24 injuries, punitive damages are designed to make an example of the
04:17PM 25 defendant's conduct so that others will not engage in similar

04:17PM 1 practices. You may award punitive damages to the plaintiffs if
04:17PM 2 they have proven that Defendant Bravo's conduct was wanton and
04:17PM 3 reckless, not merely unreasonable.

04:17PM 4 An act is wanton if done in a reckless or callous
04:17PM 5 disregard of or indifference to the safety and rights of others,
04:17PM 6 shocking and offensive misconduct. Punitive damages are
04:17PM 7 appropriate only for especially shocking and offensive misconduct.

04:18PM 8 If you decide to award punitive damages, you must use
04:18PM 9 sound reasoning in setting an amount. It must not reflect bias,
04:18PM 10 prejudice, or sympathy toward any party.

04:18PM 11 There is no exact standard for fixing the amounts of
04:18PM 12 punitive damages. You should consider the degree of
04:18PM 13 reprehensibility of Defendant Bravo's conduct toward a plaintiff
04:18PM 14 and the relationship between the harm suffered by a plaintiff and
04:18PM 15 the amount of punitive damages you are considering.

04:18PM 16 You may also consider the evidence regarding Defendant
04:18PM 17 Bravo's financial resources in fixing the amount of punitive
04:18PM 18 damages.

04:18PM 19 Of course, the fact that I have given you instructions
04:18PM 20 concerning the issue of the plaintiffs' damages should not be
04:18PM 21 interpreted in any way as an indication that I believe the
04:18PM 22 plaintiffs should or should not prevail in this case.

04:18PM 23 Your verdict must be unanimous -- in other words, you
04:18PM 24 must all agree. Your deliberations are secret, and you'll never
04:18PM 25 have to explain your verdict to anyone.

04:19PM 1 Each of you must decide the case for yourself, but only
04:19PM 2 after fully considering the evidence with the other jurors. So
04:19PM 3 you must discuss the case with one another and try to reach an
04:19PM 4 agreement.

04:19PM 5 While you're discussing the case, don't hesitate to
04:19PM 6 reexamine your own opinion and change your mind if you become
04:19PM 7 convinced that you were wrong. But don't give up your honest
04:19PM 8 belief just because others think differently or because you simply
04:19PM 9 want to get the case over with. Remember, that in a very real
04:19PM 10 way, you are judges, judges of the facts. Your only interest is
04:19PM 11 to seek the truth from the evidence in the case.

04:19PM 12 When you get to the jury room, choose one of your members
04:19PM 13 to act as a foreperson. The foreperson will direct your
04:19PM 14 deliberations and speak in court for you.

04:19PM 15 A verdict form has been prepared for your convenience.

04:19PM 16 Where is my verdict form?

04:19PM 17 I want to go over the verdict form with you now. I know
04:19PM 18 you saw a little bit. I'm going to show you the whole thing.
04:19PM 19 Obviously, this is going back into the room with you. Okay.

04:19PM 20 So after the case caption -- I will try to do this in a
04:20PM 21 way that you can all see it. After the case caption, it indicates
04:20PM 22 here that -- you know, the verdict form.

04:20PM 23 Your first question is, as you saw, the statute of
04:20PM 24 limitations; the question below it has boxes as with each question
04:20PM 25 you will see.

04:20PM 1 So this one is followed by a yes and a no, and you'll see
04:20PM 2 the instructions here that if you answer no here that you go
04:20PM 3 directly to the end, you sign and date the verdict form. But if
04:20PM 4 you answer yes, you go on to question 2, which is on the next
04:20PM 5 page.

04:20PM 6 And each of these, again, has the instructions for you.
04:20PM 7 Just follow along.

04:20PM 8 The second question are the claims brought by plaintiff
04:20PM 9 Raquel Camps. You will answer the question here by checking in
04:20PM 10 the box yes or no with respect to liability. And then you will
04:20PM 11 see here question 2c: If you answered yes to either of these two
04:20PM 12 questions with respect to Plaintiff Camps, then you'll be asked to
04:21PM 13 answer the question on compensatory damages: What do you find to
04:21PM 14 be the total amount of compensatory damages, if any, to the estate
04:21PM 15 of Alberto Camps?

04:21PM 16 It's virtually identical for each of the plaintiffs,
04:21PM 17 except, as you heard, that for Plaintiff Camps there will be two
04:21PM 18 questions on the attempted killing and torture. The rest of the
04:21PM 19 three are two questions that you answer. The first, again, you
04:21PM 20 know, has yes or no for the liability question with respect to the
04:21PM 21 extrajudicial killing, and followed by the question about damages,
04:21PM 22 if any.

04:21PM 23 The last page of your verdict form asks about punitive
04:21PM 24 damages. And again, it asks you whether under the circumstances
04:21PM 25 punitive damages are warranted. There is a yes and a no. And if

04:21PM 1 you answer yes, then you should also fill out the rest of the
04:21PM 2 questions here.

04:21PM 3 These instructions are on the verdict form for you. But
04:22PM 4 it will ask you to assess the amount of punitive damages, if any,
04:22PM 5 that you find should be assessed. And this is where you fill that
04:22PM 6 out.

04:22PM 7 Then your foreperson will put a date here, and you will
04:22PM 8 sign it, and that foreperson will print their name on the verdict
04:22PM 9 form.

04:22PM 10 When you've all agreed on the verdict, your foreperson
04:22PM 11 must fill in the form, sign and date it, then you report -- you
04:22PM 12 will return to the courtroom.

04:22PM 13 If you wish to communicate with me at any time, please
04:22PM 14 write down your messages or question and give it to the court
04:22PM 15 security officer.

04:22PM 16 My courtroom deputy is going to give you forms to fill
04:22PM 17 out that indicates it's a question from the jury, and your
04:22PM 18 foreperson should just fill that -- use that form to communicate
04:22PM 19 those questions to me. I will respond as promptly as possible --
04:22PM 20 either in writing or by talking to you in the courtroom.

04:23PM 21 Please understand that I may have to talk to the lawyers
04:23PM 22 and parties before I respond to your question or message, so you
04:23PM 23 should be patient as you await my response. But I caution you not
04:23PM 24 to tell me how many jurors have voted one way or the other at that
04:23PM 25 time. That type of information should remain in the jury room and

04:23PM 1 not be shared with anyone, including me, in your note or question.

04:23PM 2 And just to be clear that when you have reached a

04:23PM 3 verdict, that is still something you need to communicate to us.

04:23PM 4 Just use the juror note form to tell us that you have a verdict;

04:23PM 5 not what the verdict is, just that you have a verdict so that we

04:23PM 6 can collect the parties and bring you back to the courtroom for

04:23PM 7 that.

04:23PM 8 All right, that concludes your jury instructions. I'm

04:23PM 9 going to send you back to begin your deliberations. You'll get a

04:23PM 10 knock on the door in just a moment as my courtroom deputy brings

04:23PM 11 in the verdict form. And the parties are going to work together

04:23PM 12 to collect the physical evidence that will also be brought back to

04:24PM 13 you. So you're going to be interrupted twice for those.

04:24PM 14 All right. All rise for the jury.

04:24PM 15 (Jury out at 4:24 P.M.)

04:24PM 16 THE COURT: So as I just advised them, I expect counsel

04:24PM 17 to coordinate and confirm with my courtroom deputy that the

04:24PM 18 physical exhibits that she is about to give them match your notes

04:24PM 19 about what you advanced and what was accepted into evidence so

04:24PM 20 that there is -- I'd like you to do that together so that my

04:24PM 21 courtroom deputy isn't trying to go back through the record and

04:24PM 22 figure it out.

04:24PM 23 It's my intention -- you can all be seated. I'm sorry.

04:24PM 24 I know I always forget to tell you that. But it's my intention

04:25PM 25 not to cut them off this evening until they tell us that they want

04:25PM 1 to leave for the evening. So take the time that you need now to
04:25PM 2 get the exhibits together. But I am just anticipating that
04:25PM 3 someone is going to ask me that question, and that's the answer.
04:25PM 4 Okay. Anything else?

04:25PM 5 MR. SLADE: Not that I'm aware of, Your Honor.

04:25PM 6 MR. KRISHNAN: Nothing here, Your Honor.

04:25PM 7 THE COURT: Okay. I would be remiss if I didn't use this
04:25PM 8 opportunity now before anything else happens to tell you that this
04:25PM 9 case has been so phenomenally tried, and it has just been a
04:25PM 10 spectacular experience to sit in front of attorneys of this
04:25PM 11 caliber. And your presentation of the case was nothing short of
04:25PM 12 amazing.

04:25PM 13 I'm just very impressed and want your clients to hear
04:25PM 14 that before we all disburse and I don't get a chance to pay that
04:26PM 15 compliment to you.

04:26PM 16 MR. DAVIS: Thank you, Your Honor.

04:26PM 17 MR. SLADE: Thank you, Your Honor.

04:26PM 18 MR. KRISHNAN: Thank you, Your Honor. And thank you for
04:26PM 19 your attention during the case. And I know that chambers and the
04:26PM 20 court staff have been wonderful. We really appreciate it.

04:26PM 21 MR. DAVIS: It's pretty good. A week ago Friday, you
04:26PM 22 didn't even know you would be here.

04:26PM 23 THE COURT: That is true for almost everyone here except
04:26PM 24 one of the two law clerks. But thank you. Okay.

04:26PM 25 Don't go far, and make sure my courtroom deputy has your

04:26PM 1 phone number.

04:26PM 2 (Recess at 4:26 P.M.)

06:31PM 3 (Back on the record at 6:31 P.M.)

06:31PM 4 THE COURT: We're back on the record. Appearances as

06:31PM 5 previously noted.

06:31PM 6 You saw the question from the jury?

06:31PM 7 MR. DAVIS: Yes.

06:31PM 8 THE COURT: My proposed response is just to refer them

06:31PM 9 back to the instructions. I've written it down:

06:31PM 10 Members of the jury, I have received your question and

06:31PM 11 respond that you've already received all of my instructions on the

06:31PM 12 law, including my instructions on damages. Please refer to the

06:31PM 13 instructions as I have previously provided to you.

06:31PM 14 Plaintiff's position?

06:31PM 15 MR. KRISHNAN: No objection, Your Honor.

06:31PM 16 THE COURT: Mr. Davis?

06:31PM 17 MR. DAVIS: No objection.

06:31PM 18 THE COURT: Okay. We'll send it back.

06:31PM 19 MR. KRISHNAN: Thank you, Your Honor.

06:31PM 20 (Recess at 6:31 P.M.)

07:01PM 21 THE COURT: I have a note indicating that we have a

07:01PM 22 verdict. Is that correct.

07:01PM 23 THE COURTROOM DEPUTY: Yes, Judge.

07:01PM 24 THE COURT: Please be seated. Anything we need before we

07:01PM 25 bring the jury in?

07:01PM 1 MR. KRISHNAN: Nothing here, Your Honor.

07:01PM 2 MR. DAVIS: No, Your Honor.

07:01PM 3 THE COURT: Okay. Would you bring them in.

07:01PM 4 (Jury in at 7:01 P.M.)

07:02PM 5 Ladies and gentlemen, welcome back. It's my
07:02PM 6 understanding you've reached a verdict in this case.

07:02PM 7 THE JURY: Yes, Your Honor.

07:02PM 8 THE COURT: The parties can sit, and I'll ask the
07:02PM 9 courtroom deputy to publish the verdict.

07:02PM 10 THE COURTROOM DEPUTY: United States District Court
07:02PM 11 Southern District of Florida, Case No. 20-cv-24294-Magistrate
07:03PM 12 Judge Louis.

07:03PM 13 Raquel Camps, and in her capacity as the personal
07:03PM 14 representative of the Estate of Alberto Camps, et al., vs Roberto
07:03PM 15 Guillermo Bravo.

07:03PM 16 Verdict

07:03PM 17 Question 1. Statute of limitations.

07:03PM 18 Question 1a. Do you find that plaintiffs proved by a
07:03PM 19 preponderance of evidence that extraordinary tolled the statute of
07:03PM 20 limitations?

07:03PM 21 Answer: Yes.

07:03PM 22 If you answered no to this question, proceed to date and
07:03PM 23 sign the verdict form without answering any further.

07:03PM 24 If you answered yes to this question, proceed to Question
07:03PM 25 2.

07:03PM 1 Question 2. Claims brought by plaintiff Raquel Camps,
07:03PM 2 the representative of Alberto Camps' Estate against Defendant
07:04PM 3 Bravo.

07:04PM 4 Question 2a. Is Defendant Bravo liable for the attempted
07:04PM 5 extrajudicial killing of Alberto Camps?

07:04PM 6 Answer: Yes.

07:04PM 7 Question 2b: Is Defendant Bravo liable for the torture
07:04PM 8 of Alberto Camps?

07:04PM 9 Answer: Yes.

07:04PM 10 Question 2c: If you answered yes to either question 2a
07:04PM 11 or 2b, what do you find to be the total amount of compensatory
07:04PM 12 damages, if any, to the estate of Alberto Camps?

07:04PM 13 Compensatory Damages: \$1 million.

07:04PM 14 Question 3: Claims brought by plaintiff Eduardo Cappello
07:04PM 15 I.

07:04PM 16 Question 3a: Is Defendant Bravo liable for the
07:05PM 17 extrajudicial killing of descendant Eduardo Cappello I?

07:05PM 18 Answer: Yes.

07:05PM 19 Answer 3b: If you answered yes to question 3a, what you
07:05PM 20 do you find to be the total amount of compensatory damages, if
07:05PM 21 any, to the plaintiff Eduardo Cappello?

07:05PM 22 Compensatory Damages: \$250,000.

07:05PM 23 Question 4: Claims brought by the plaintiff Alicia
07:05PM 24 Krueger.

07:05PM 25 Question 4a: Is defendant Bravo liable for the

07:05PM 1 extrajudicial killing of Ruben Bonet?

07:05PM 2 Answer: Yes.

07:05PM 3 Question 4b: If you answered yes to question 4a, what do
07:05PM 4 you find to be the total amount of compensatory damages, if any,
07:05PM 5 to the plaintiff Alicia Krueger?

07:06PM 6 Compensatory damages: \$4,500,000.

07:06PM 7 Question No. 5: Claims brought by plaintiff Marcela
07:06PM 8 Santucho.

07:06PM 9 Question 5a: Is Defendant Bravo liable for the
07:06PM 10 extrajudicial killing of Ana Maria Villarreal de Santucho?

07:06PM 11 Answer: Yes.

07:06PM 12 Question 5b: If you answered yes to Question 5a, what do
07:06PM 13 you find to be the total amount of compensatory damages, if any,
07:06PM 14 to the plaintiff Marcela Santucho?

07:06PM 15 Compensatory damages: \$6,500,000.

07:06PM 16 Question No. 6: Punitive damages.

07:06PM 17 Question 6a: Under the circumstances of this case, state
07:07PM 18 whether punitive damages are warranted against Defendant Bravo?

07:07PM 19 Answer: Yes.

07:07PM 20 Question 6b: If you answered yes to Question 6a, what is
07:07PM 21 the total amount of punitive damages, if any, which you find
07:07PM 22 should be assessed against defendant on behalf of the following
07:07PM 23 plaintiffs:

07:07PM 24 For Plaintiff Raquel Camps: \$3 million.

07:07PM 25 For Plaintiff Eduardo Cappello II: \$3 million.

07:07PM 1 For Plaintiff Alicia Krueger: \$3 million.

07:07PM 2 For Plaintiff Marcela Santucho: \$3 million.

07:07PM 3 If you elect not to assess punitive damages against the
07:07PM 4 defendant, you should enter zero as to the amount of damages.

07:07PM 5 So say we all, this 1st day of July 2022. And signed by
07:08PM 6 the foreperson.

07:08PM 7 THE COURT: Juror No. 1, is the verdict as published
07:08PM 8 published your verdict?

07:08PM 9 JUROR NO. 1: Yes.

07:08PM 10 THE COURT: Juror No. 2, is the verdict as published your
07:08PM 11 verdict?

07:08PM 12 JUROR NO. 2: Yes, ma'am.

07:08PM 13 THE COURT: No. 3, is the verdict as published your
07:08PM 14 verdict?

07:08PM 15 JUROR NO. 3: Yes.

07:08PM 16 THE COURT: Juror No. 4, is the verdict as published your
07:08PM 17 verdict?

07:08PM 18 JUROR NO. 4: Yes.

07:08PM 19 THE COURT: Juror No. 5, is the verdict as published your
07:08PM 20 verdict?

07:08PM 21 JUROR NO. 5: Yes.

07:08PM 22 THE COURT: Juror 6, is the verdict as published your
07:08PM 23 verdict?

07:08PM 24 JUROR NO. 6: Yes.

07:08PM 25 THE COURT: Juror No. 7, is the verdict as published your

07:08PM 1 verdict?

07:08PM 2 JUROR NO. 7: Yes.

07:08PM 3 THE COURT: That concludes your jury duty service here in
07:08PM 4 the Southern District of Florida; not only for this week, but for
07:08PM 5 this summons.

07:08PM 6 I can't send you, obviously, back to the clerk's section.
07:08PM 7 It's 7:10, and they are not there.

07:08PM 8 I do have certificates that can be used to document the
07:08PM 9 fact that you were here, but also something from me that thanks
07:08PM 10 you for being here.

07:08PM 11 I'm going to the walk back to the jury room in just a
07:08PM 12 moment to collect them from chambers. So if you'll wait for me
07:09PM 13 for just a minute, I'll give you those certificates and
07:09PM 14 acknowledgments of having been here.

07:09PM 15 I know that the parties said it themselves, but I'll just
07:09PM 16 reiterate that we are grateful for your service and your attention
07:09PM 17 this week. With that, you're excused.

07:09PM 18 (Jury out at 7:09 P.M.)

07:09PM 19 THE COURT: Okay. With that, if there is anything else,
07:09PM 20 let me know. Other than that, I'll look for any posttrial
07:09PM 21 motions. But I do want to go address the jury, not hold them here
07:09PM 22 too much longer.

07:09PM 23 I will ask if there is anything else we need to do this
07:09PM 24 evening, Mr. Krishnan?

07:09PM 25 MR. KRISHNAN: No, Your Honor.

07:09PM 1 THE COURT: Mr. Davis?

07:09PM 2 MR. DAVIS: No, Your Honor.

07:09PM 3 THE COURT: All right. I appreciate you bearing with
07:09PM 4 them and they completed the case tonight, and I will hear from you
07:10PM 5 when I see your motions. All right. Everyone have a good night.
07:10PM 6 Thank you.

07:10PM 7 MR. KRISHNAN: Thank you,.

8 C E R T I F I C A T E

9 I certify that the foregoing is a correct transcript from
10 the record of proceedings in the above-entitled matter.

11
12 July 2, 2022

/s/ Vernita Allen-Williams

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