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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

BEFORE THE HONORABLE JUDGE ROBERT MCGUINESS

DEPARTMENT 22

JANE DOE,) No. HG115588324
)
Plaintiff,)
) ASSIGNED FOR ALL PURPOSES TO
v.) JUDGE ROBERT MCGUINESS,
) DEPARTMENT 22
WATCHTOWER BIBLE AND)
TRACT SOCIETY OF NEW)
YORK, INC., a)
corporation, et al.,)
)
Defendants.)
-----)

JURY TRIAL

MAY 31, 2012

DAY 3

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1 INDEX OF EXHIBITS:

2 NUMBER

ADMITTED

3 (no exhibits were marked or admitted)

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1 MAY 31, 2012

8:09 A.M.

2

PROCEEDINGS

3

(Whereupon, the following proceedings

4

were heard outside the presence of jurors)

5

6

THE COURT: All right. Back on the record in

7

the matter of the Candace Conti versus Watchtower Bible

and Tract Society of New York, Inc., et al. Let's

8

reiterate for a minute our witnesses today are:

9

10

MR. SIMONS: Carl Lewis, Neal Conti. I think

we are going to then show excerpts that we had agreed

11

on; although, there may be one last question that we

12

have to -- I don't think the court had to address it.

13

We just have to edit it.

14

15

And the depositions to Shuster, we are going

to then go into video land -- video deposition of Laura

16

Fraser and three treating physicians from Kaiser.

17

18

THE COURT: Okay. In terms of context and

time -- and you have been certainly very good about

19

conduct in this trial. Are we going to keep the jury

20

here until 3:00?

21

22

MR. SIMONS: I did not calculate the running

time after edits in these depositions. But Laura Fraser

23

runs over an hour, and Mr. Shuster runs probably a solid

24

hour. And the other three are probably an hour or so

25

between the three of them.

1 THE COURT: It is what it is. And we will
2 excuse the jury when the dust settles on it. We will be
3 in recess tomorrow. I will be -- I have a full day
4 already planned. But I will be all over, I'm thinking,
5 as to the proposed jury instructions, I will need just a
6 little bit of time tomorrow to really -- before I run
7 through them. I just need to have enough evidence to
8 assess what I was thinking in terms of their
9 application. But when we come back on Monday, I
10 guarantee I will be ready to roll on all of that.

11 MR. SIMONS: And I think that is important,
12 your Honor, because I think with one of their experts
13 Dr. Salter, I think she invades the province of some of
14 those issues. At least the standard of care is going to
15 be relevant to how she frames her testimony.

16 THE COURT: Okay. And when is Dr. Salter
17 coming forward?

18 MR. SIMONS: Monday morning.

19 THE COURT: Okay. Well, I'm still going to
20 do what I say and say what I did in terms of I didn't
21 know Dr. Salter, when she was coming. But, yes,
22 standard of care is an emotional issue here, and how it
23 gets framed is certainly crucial to everybody.

24 Where are we with -- I'm not sure -- is it
25 Mr. Lewis or Dr. Lewis?

1 MR. SIMONS: Mr. Lewis.

2 THE COURT: And I've already more than hinted
3 what I thought. Do we need to do that 402 at this
4 juncture? Where are we on it now?

5 MR. SIMONS: He is only going to testify as
6 to the child sexual abuse accommodation syndrome in
7 the -- I will call it generic -- with various questions
8 about the syndrome and about considerations that may
9 have relevance to this case, but no specific references
10 to this case, the actual people, et cetera.

11 MR. SCHNACK: And with that limitation, I
12 agree we don't need a 402 hearing. The problem I'm
13 going to have is if Mr. Lewis engages like he did in his
14 deposition saying that what Candace Conti said has rings
15 of truth to it. That's a quote.

16 Several times during his deposition he was
17 saying, quote, basically forced it upon a delayed
18 report. And we really need to walk a fine line from the
19 defense side on that. That is totally inadmissible.

20 MR. SIMONS: He did. And I agree, he won't.

21 THE COURT: Okay. And I thought -- I
22 commented upon the professionalism as to how we all
23 handled Mr. Williams yesterday and whatnot, and it was,
24 I guess, noted. So I will deal with Mr. Lewis, his
25 understanding in much of this case is the bottom line.

1 MR. SCHNACK: And then I assume, since the
2 silent lambs motion in limine was reserved, that
3 Mr. Lewis isn't going to address that in his testimony.

4 MR. SIMONS: Yes, you assumed correctly.

5 THE COURT: We are working well together. I
6 am getting rid of the double negatives. So fair and
7 nicely done. Good touch both. Okay.

8 MR. McCABE: One other thing. I have three
9 lay witnesses -- percipient witnesses that work -- they
10 are badgering me when, next week, they will be called.
11 So I wonder if Mr. Simons could tell us what his
12 intentions are Monday, Tuesday.

13 THE COURT: Mr. Simons, certainly Monday.

14 MR. SIMONS: I know where we are going here.
15 I'm pretty sure next week, because we are getting into
16 the Plaintiff's case so. We have Inspector Davila
17 available Monday. We have Ann Salter, the expert we
18 spoke about. Carolyn Martinez, assuming I can make the
19 arrangements, will be here Monday. And I assume the
20 Plaintiff will testify Monday.

21 That may or may not complete a day. I only
22 have one witness after that, and that would be
23 Dr. Ponton, the psychiatrist from UCSF, and she is first
24 thing Tuesday morning. And so we might be able to rest,
25 subject to --

1 MR. SCHNACK: And just so the Court and
2 counsel is aware, Dr. Martin Williams, Ph.D., the
3 defense IME doctor, may not be available Tuesday or
4 Wednesday of next week to testify. We may have to video
5 him on Friday of next week to present it on the
6 following Monday.

7 THE COURT: Because remember on Thursday and
8 Friday of week, I'm in the great city of Sacramento.

9 MR. SCHNACK: So, Rick, we can talk as to
10 whether you are available Friday morning.

11 MR. SIMONS: We will work it out.

12 THE COURT: You understand my attitude about
13 all that. Okay. All right. Good.

14 MR. SCHNACK: I guess one other question on
15 the Monica Applewhite motion in limine, we will be
16 submitting some briefing.

17 Can we just email that to you tomorrow?

18 THE COURT: Sure. Actually, I am in here a
19 long day tomorrow. But, yes.

20 MR. SCHNACK: I think we will probably submit
21 some briefing on the standard of care issue as well,
22 just to assist the Court.

23 THE COURT: That's fine. Because -- I don't
24 think this will shock anybody, but I spent last evening
25 rereading the briefs on standard of care and how to deal

1 with it.

2 And, of course, Mr. Simons, if I get
3 inundated with another standard of care -- that will
4 apply to anything or any case as presented.

5 MR. SIMONS: I will appreciate the
6 opportunity to also inundate. If we are through with
7 these matters, perhaps I could confer with Mr. Lewis
8 just to remind him of the --

9 THE COURT: All right. Everybody can rest
10 easy. At 8:30 we will wrap it up.

11 (Whereupon the following proceedings
12 were heard in the presence of jurors)

13 THE COURT: All right. Good morning tin the
14 members of our jury. Today you will have witnesses, and
15 then you will have some videos also in terms of people
16 whose depositions were taken.

17 In terms of your scheduling, remember, we are
18 not in session on this matter tomorrow. We will
19 commence again first thing Monday morning and work
20 through Wednesday.

21 And then I have to discharge my educational
22 requirements Thursday and Friday in Sacramento, and
23 you'll come back again the following week, subject to
24 what I told you as to the estimated length of trial.

25 I'm very cognizant, in terms of the trial

1 work and all the professionalism. We are moving at a
2 good pace each day during trial. And so we are very
3 much in line with the estimate I originally gave you
4 that you would get the case prior to June 15, on or
5 about. So going from there.

6 So back to the case. Mr. Simons.

7 MR. SIMONS: Yes, Your Honor. We would call
8 Carl Lewis.

9 CARL LEWIS,
10 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK
11 AND TESTIFIED AS FOLLOWS:

12 THE CLERK: Will you please state your name
13 and spell your first and last name for the record.

14 THE WITNESS: My name is Carl Lewis. Carl is
15 C-A-R-L. Lewis is L-E-W-I-S.

16 THE CLERK: Thank you.

17
18 DIRECT EXAMINATION

19 BY MR. SIMONS:

20 Q. Mr. Lewis, what is your occupation?

21 A. After retiring from a 25-year career in law
22 enforcement, I'm now in private practice as a
23 consultant, a trainer of child sexual abuse issues and a
24 licensed private investigator.

25 Q. Can you tell the jury, please, your

1 experience in law enforcement?

2 A. Certainly. I became a sworn California
3 Police Officer, Deputy Sheriff with the Alameda County
4 Sheriff's Department in 1984.

5 I was assigned to the Santa Rita
6 Rehabilitation Center. And after about a year and a
7 half, I transferred to the Redwood City Police
8 Department.

9 I was a police officer with the Redwood City
10 Police Department for about three years. My family
11 grew. I moved to the South Bay. I was a police officer
12 with the Los Gatos Police Department from 1988 through
13 1995.

14 In 1995 I was laterally transferred to the
15 Half Moon Bay Police Department, where I was a sergeant.

16 I returned to Los Gatos, then Monte Sereno,
17 Police Department in 1996.

18 I served again as a police
19 officer/detective/acting supervisor working primarily on
20 child sexual abuse issues, child abuse issues.

21 And I spent the last ten and a half years of
22 my career as a criminal investigator and senior
23 investigator with the Santa Clara County District
24 Attorney's office.

25 Q. Do you have specific experience in the

1 investigation of child sexual abuse?

2 A. Yes, I do.

3 Q. And can you tell the jury, please, your
4 experience in that field?

5 A. Yes. I was introduced to the topic at a
6 basic training course at the basic police academy in
7 1984, that level of first responder preliminary
8 investigator. And so that was essentially a 24-hour
9 block of instruction.

10 In 1992, I was selected to be the
11 investigator of crimes against children for the Los
12 Gatos Police Department. For that assignment, I was
13 required by law and by the California Commission On
14 Peace Officer Standards and Training, essentially
15 licensing credentials by police officers in California,
16 to complete training for newly-assigned investigators of
17 sexual assault. I believe that was a 36-hour course at
18 that time in 1992.

19 From that initial course that I was required
20 to take, I sought out additional training on my own from
21 a variety of sources, not just law enforcement based,
22 but essentially multi-disciplinary, meaning all
23 professions that work in child abuse intervention. To a
24 point where, as I sit here today, I have logged more
25 than 600 hours of classroom seminar workshop training in

1 the field of child sexual abuse, intervention and
2 investigation.

3 I held that position as investigator for
4 three years, when I transferred laterally to the Half
5 Moon Bay Police Department as a sergeant, I also was in
6 charge of juvenile programs which included child abuse
7 investigation.

8 As I mentioned, I returned to the Los Gatos,
9 then Monte Sereno, Los Gatos and Monte Sereno Police
10 Department.

11 And at that time I also was the investigator
12 of crimes against children for essentially a second
13 rotation in that assignment.

14 In 1998, when I transferred to the District
15 Attorney's Office as a civil police officer, but as a
16 criminal investigator, I was assigned to the high-tech
17 unit where I worked on cases of child sexual
18 exploitation, that is computer child pornography,
19 essentially.

20 After about eight months in that assignment,
21 I was assigned to be the investigator on a special
22 grant-funded program where I worked very closely with a
23 single prosecutor on aggravated cases of child sexual
24 abuse.

25 And I did that for, roughly, seven years

1 until I was promoted to senior criminal investigator. I
2 stayed in my same position, but then took on supervision
3 of other investigators who were in similar
4 investigations.

5 And I held the position of supervisor within
6 the Crimes Against Persons Unit at the DA's office until
7 my retirement in April of 2009.

8 Q. Have you taught and trained other law
9 enforcement officers in the techniques of investigation
10 of childhood sexual abuse?

11 A. Yes, I have.

12 Q. And can you detail that for us, please?

13 A. Certainly. I began teaching in the field in
14 1995 when I taught a -- essentially, a quarterly course,
15 a block of quarterly course for police officers who are
16 already well into their careers and just receiving
17 annual update by training and a block of instruction on
18 child interview. I believe I did that for about three
19 years.

20 I expanded into teaching about particular
21 techniques for conducting investigations of child sexual
22 abuse allegations. And then I taught a block of
23 instruction for the California District Attorneys
24 Association on, essentially, family dynamics in child
25 sexual abuse cases.

1 For about the last ten years, I have taught a
2 two-day course about four times a year through 2009 and
3 then about once or twice a year since then on a
4 particular technique for conducting forensic interviews
5 of children who are suspected victims of abuse.

6 I taught courses to police officers, but also
7 to multi-disciplinary audiences that included social
8 workers, prosecutors, family court lawyers, judges
9 sitting on the family court bench in other
10 jurisdictions, a variety of people who work in the child
11 abuse intervention field. In fact, I'm flying to Los
12 Angeles this afternoon to teach a block of instruction
13 there.

14 Q. Are you familiar with an organization called
15 the California Professional Society on the Abuse of
16 Children?

17 A. Yes, I am.

18 Q. And what is that organization?

19 A. It is a non-profit organization of which I am
20 elected president that works on providing training to
21 professionals and on working to shape public policy as
22 it relates to child abuse and child sexual abuse issues.

23 Q. In the course of your training and
24 experience, have you become familiar with the
25 professional literature on the subject of interviewing

1 and investigating childhood sexual abuse?

2 A. Very much so, yes.

3 Q. Have you become familiar, in the course of
4 your training and experience, with the subject of child
5 sexual abuse accommodation syndrome?

6 A. Yes.

7 Q. And without going into detail, can you tell
8 us the specific training you have received on the
9 subject of child sexual abuse accommodation syndrome?

10 A. Certainly. Because of its nature, which I
11 expect I will get into later, child sexual abuse
12 accommodation syndrome has no particular course of
13 study. So there is not a class one could take
14 necessarily on that topic. But I was introduced to that
15 information at that mandatory course that I took as a
16 new investigator sexual abuse crimes in 1992 during that
17 week-long introductory training.

18 The block of instruction was, I believe, four
19 hours at that time and provided by a mental health
20 professional.

21 Q. Have you previously qualified as an expert
22 witness on the subject of child sexual abuse
23 accommodation syndrome?

24 A. Yes, I have.

25 Q. And have you done so in the courts in

1 California?

2 A. Yes.

3 Q. On approximately how many occasions?

4 A. Since 1995, approximately 260.

5 MR. SIMONS: Your Honor, I would offer
6 Mr. Lewis as an expert on child sexual abuse
7 accommodation syndrome.

8 THE COURT: Would you like to ask any
9 questions of Mr. Lewis?

10 MR. SCHNACK: No.

11 MR. McCABE: No.

12 THE COURT: I will find that he is an expert
13 for the express purpose of testifying about child abuse
14 accommodation syndrome.

15 BY MR. SIMONS:

16 Q. Mr. Lewis, can you first tell us in an
17 overview fashion what the words or series of words
18 "child sexual abuse accommodation syndrome" refers to?

19 A. Yes. It refers to the phenomenon of child
20 sexual abuse accommodation that is intended as
21 background information for essentially adults looking
22 into a reported case of child sexual abuse, and it is
23 used as an aid to understanding some of the unexpected
24 and frequently counter-intuitive things that tend to
25 come up in these types of cases.

1 Q. Is child sexual abuse accommodation
2 syndrome -- well, let me rephrase that. Is there some
3 debate about the term "syndrome" that is included in
4 this long phrase?

5 A. There is. The term "child sexual abuse
6 accommodation syndrome" is the name that was given to it
7 by the person who put the information forward to the
8 professional field and that was a Dr. Roland Summit.
9 S-U-M-M-I-T. Dr. Summit is a psychiatrist, so a medical
10 doctor by training. And syndrome was what he felt was
11 the appropriate term at that time to use to describe a
12 collection of things that tend to happen at about the
13 same time that could be traced to a particular source.
14 Meaning, that syndrome often is misunderstood to equal
15 diagnosis. And in this case it is not meant as a
16 diagnosis. The child sexual abuse accommodation
17 syndrome is not diagnostic. It is not a condition that
18 someone could be said to suffer from, for example.

19 MR. SCHNACK: Your Honor, I'm going to
20 object. He is not a medical doctor, and he is talking
21 about medical issues. It's outside the scope of his
22 expertise.

23 THE COURT: Mr. Simons, I'm going to overrule
24 you on that, in terms of context. But I do wish you to
25 remain within the lines of your expertise.

1 BY MR. SIMONS:

2 Q. Amongst professionals, who you work with in
3 your professional organization that you are now the
4 state president of, and professionals generally based
5 upon your experience in this specific field, is there a
6 debate about the legitimacy of child sexual abuse
7 accommodation syndrome?

8 A. Yes.

9 Q. And what is the debate?

10 A. The debate, essentially, is that it is not
11 predicted; it is not diagnostic. It is -- which is
12 counter to what Dr. Summit, the original author has
13 said. He never said that it was intended to be used
14 that way. In fact, he authored and published a
15 subsequent article called "The Abuse of Child Sexual
16 Abuse Accommodation Syndrome" in which he tries to
17 clarify his selection of the word "syndrome" to describe
18 what it is.

19 Q. So what is child sexual abuse accommodation
20 syndrome?

21 A. Well, as I mentioned at the beginning, it is
22 essentially background information that is intended to
23 help adults view a reported case of child sexual abuse
24 with the understanding that, essentially, preconceived
25 ideas about child sexual abuse victims and the nature of

1 the crime don't necessarily match up to reality.

2 Q. How is it used in the investigation by law
3 enforcement of reports of childhood sexual abuse?

4 A. Again, as background information to remind us
5 as investigators, as mediators, not to make a decision
6 on a reported case based solely on one of these
7 unexpected possibly counter-intuitive things that we
8 might not expect to see in a case.

9 Q. Are there categories to child sexual abuse
10 accommodation syndrome?

11 A. There are. Dr. Summit, in his landmark
12 article published in 1983, outlined essentially five
13 categories that are used for discussion points to fill
14 out his opinion about the child sexual abuse
15 accommodation syndrome. They are not, again, symptoms.
16 It is not a checklist by any means. It is just meant to
17 be an aid to understand.

18 Q. How are these categories utilized by law
19 enforcement professionals such as yourself in the
20 investigation of child sexual abuse?

21 A. Well, they provide an alternative explanation
22 for, as I said, some of the unexpected things that tend
23 to come up in these kinds of cases.

24 And when I say "unexpected," sometimes there
25 are people who have preconceived ideas about child

1 sexual abuse and might expect, for example, that a child
2 would immediately report it, or might expect that a
3 child who had suffered sexual abuse would shun the
4 offender and want to have nothing to do with that
5 person.

6 The Child Sexual Abuse Accommodation Syndrome
7 offers a basis from observation to rely on, to say,
8 "Well, that's not necessarily the case."

9 Q. How many cases would you say of child sexual
10 abuse have you investigated in the course of your
11 professional career?

12 A. My best estimate is 500 or so.

13 Q. In the course of these investigations, have
14 you come to rely on Child Sexual Abuse Accommodation
15 Syndrome as an important tool in understanding what
16 victims reported?

17 A. Yes, and how they report.

18 Q. Are there some categories to Child Sexual
19 Abuse Accommodation Syndrome?

20 A. Yes. Essentially five categories Dr. Summit
21 talks about.

22 Q. Can you give us an overview of those five
23 categories?

24 A. Certainly. The first is secrecy.

25 Number 2 is helplessness.

1 Number 3 is entrapment and accommodation.

2 Number 4 is delayed, conflicted, unconvincing
3 disclosure.

4 Number 5 is retraction.

5 Q. And if you could, perhaps, just put these
6 categories, as you discuss each one, up on the board so
7 we can follow along.

8 Let's talk about the first category.

9 How does secrecy relate to this topic?

10 A. In this context, secrecy describes the fact
11 that the sexual abuse of the child occurs almost
12 exclusively when the offender is alone or somehow
13 isolated with the child.

14 I say "somehow isolated" because it could
15 occur in the public view. But in those cases, the
16 actual molesting behavior is camouflaged by the offender
17 in such a way that is it not readily recognizable by
18 someone who is looking on. But most often it is done in
19 private, in secret.

20 An offender might do something to either
21 create or take advantage of an atmosphere of secrecy,
22 maybe waiting until everybody has left the area, waiting
23 until everybody else is asleep, if it occurs in the
24 home, going to a secluded room and closing a door,
25 turning up the radio or TV and masking the sound.

1 And the fact that the offender has to create
2 or take advantage of this atmosphere of secrecy, as I
3 mentioned, can send a message to a child that there must
4 be something bad or wrong about this behavior or we
5 wouldn't have to wait for this set of circumstances.

6 An offender also can do things, explicitly or
7 implicitly, to communicate to the child that this is a
8 secret.

9 Depending on the relationship between the
10 offender and the child, the offender could strike a
11 particular body posture or maybe affect a facial
12 expression or a look that can communicate the
13 seriousness of the secret.

14 An offender could even say something to a
15 child such as:

16 "This is our secret. You can't tell."

17 "If you tell," for example, "you will get in
18 trouble."

19 Or "If you tell, no one will believe you."

20 "If you tell," for example, "I," the offender
21 "might go to jail."

22 "If you tell, your family will be mad."

23 "If you tell, you might have to move out of
24 your house. You might have to go to a different
25 school."

1 Up to and including:

2 "If you tell, I will kill you. I will kill
3 myself. I will kill your dog."

4 Q. What does the category of helplessness refer
5 to?

6 A. Helplessness, in this context, describes the
7 fact that children under the age of 18 are essentially,
8 dependent upon adults to make things happen in their
9 lives. So they are helpless in that regard.

10 Certainly children who are closer to age 18
11 are less helpless, but still require adults to get
12 certain things done.

13 The younger the children are, certainly, the
14 more they require adults to make things happen in their
15 lives.

16 And so that makes it that much more difficult
17 in many cases for a child to try to bring to light
18 something negative that is happening.

19 Most often, for example, the disclosure of
20 child sexual abuse is a process and not a one-time
21 event.

22 It is unlikely and far less common for a
23 child to come forward and make a one-time and sit-down
24 full disclosure.

25 What is far more common is a child who

1 struggles with the information, maybe lets out a little
2 bit of information, might seem kind of innocuous, but is
3 an attempt to let caretakers know that there is a
4 problem.

5 So a child might say something like:

6 "I don't want to go to the store with him
7 anymore," or "I don't want to go somewhere with him
8 anymore."

9 To the child, that can be a real cry for
10 help. But to the person hearing it, it could be
11 disregarded, rejected, denied.

12 And then, if the abuse occurs again, then
13 that can leave the child with feelings of, "Well, I
14 tried to get help, but it didn't work," which just
15 reinforces the sense of helplessness.

16 Q. Does the feeling that there is no safe person
17 to tell about abuse, is that part of helplessness in
18 this syndrome?

19 A. Well, it certainly can be. And I may have
20 mentioned this earlier, and if not, I would like to
21 clarify, that these categories are not symptoms, they
22 are not indicators by any means. They are merely meant
23 to be descriptive. And so they are often are very
24 overlapping.

25 The fact that a child has no sense of a safe

1 person in whom to disclose could be reflected in the
2 helplessness discussion. It could also be reflected in
3 the entrapment and accommodation discussion and the
4 following two categories.

5 Q. What does the category of entrapment and
6 accommodation refer to?

7 A. When a child has suffered sexual abuse or is
8 even carrying a secret from just a one-time event, the
9 person is trapped by that circumstance. So that is a
10 thing that has occurred in that child's life.

11 But children tend to be deemed fairly
12 resilient, will want to go on being children. So going
13 to school, hanging out with friends, those kind of
14 things, and often will find a way to cope with that
15 negative aspect of their lives. So they accommodate it.
16 They put up with it.

17 Accommodation mechanisms can take on as many
18 forms as there are children. So there is no one
19 particular type of accommodation mechanism you should
20 look for.

21 But some common ones could be: Change in
22 school performance, change in demeanor, change in
23 friends, change in appearance sometimes, maybe wearing
24 additional clothing or cutting one's hair or something
25 like that, up to and including substance abuse,

1 rebelliousness, promiscuity, things that could be seen
2 as possible coping mechanisms by these kids.

3 But I would say that far and away, the most
4 common accommodation mechanism, both in my experience
5 and as referred to in the literature, is the child who
6 tries very hard to act as if nothing is wrong.

7 And we can deny if somebody asks if something
8 is wrong. If we suspect otherwise, a child may not be
9 in a position where he or she is ready to tell yet.

10 Q. So in your experience, have you seen cases
11 where a child sex abuse victim may, for an extended
12 period of time, act as if nothing is wrong?

13 A. Yes.

14 Q. What does the next category refer to:
15 Delayed, conflicted and unconvincing disclosure?

16 A. Well, we'll break it into three parts.

17 Delayed describes the fact that most often
18 there is a delay from the time of the abuse until the
19 child is finally able to say something about it.

20 Because these are not symptoms or indicators,
21 there is no standard to be met for the delay in order
22 for it to have any assistance to us here. But it could
23 be two days, two weeks, two months, two years, two
24 decades.

25 And so the fact that there is a delay before

1 the child is able to say something about it, should not
2 be an automatic bar to accepting the child's complaint.

3 The next part is conflicted, which describes
4 the internal conflict a child might be going through in
5 weighing the pros and cons of disclosure.

6 So if a child is facing that, a child may
7 think:

8 "Well, if I don't tell, I know what will
9 happen. The abuse will continue, the promises, the
10 gifts, the rewards, the threats will continue. But I
11 know what that is and I have dealt with it, and so I
12 know what that is."

13 "If I do tell, I don't know what will happen.
14 Maybe some of the bad things I thought of will happen.
15 Maybe some of the bad things the offender told me will
16 happen, and I don't know how that is. I don't know how
17 to quantify that. I don't know what to expect by
18 telling."

19 And so that internal process just adds to the
20 delay.

21 Conflicted also describes the fact that
22 children often will make statements -- if they are in
23 the process of disclosing, they might make statements
24 that could appear to be in conflict with each other.

25 A child might say to one person in one

1 circumstance a particular aspect of the abuse in terms
2 that are appropriate for that discussion, but at another
3 time might describe more fully to another person, might
4 describe a different aspect of the abuse to that person.

5 And those two statements or two or three or
6 five statements could all appear to be in conflict with
7 each other, when it should be considered that they could
8 all be a part of the larger description of ongoing
9 abuse.

10 And then the last part of the category is
11 unconvincing, which describes that, when a child finally
12 does make a disclosure of sexual abuse, it often is done
13 at a time or in a manner that makes the child seem
14 unbelievable. So even a delay can make the child seem
15 unbelievable.

16 MR. SCHNACK: Your Honor, can we approach?

17 THE COURT: Sure.

18 (Sidebar discussion)

19 BY MR. SIMONS:

20 Q. I think perhaps another question would be
21 appropriate at this point. Have you had experience with
22 investigation of sexual abuse of children who are abused
23 in the age group of 9 and 10 and 11?

24 A. Yes. That is a common age group for these
25 types of crimes.

1 Q. And with regard to those children in that age
2 group of abuse, are there, in your experience and your
3 learning and training and education, issues with regard
4 to the completeness of their recollections in terms of
5 quantifying the amount of times that they may have been
6 abused?

7 A. Yes.

8 Q. And can you describe that, please?

9 A. Certainly. In fact, the particular forensic
10 technique I use for interviewing children does not call
11 for asking children how many times something happened
12 for that simple reason.

13 Children have a difficult time -- people have
14 a difficult time assigning a particular number to the
15 times of occurrences.

16 So particularly if something happened
17 repeatedly, might leave a child with a sense that:

18 "Well, it happened every Tuesday."

19 "It happened every time I went to X."

20 "It happened every time I went to the park."

21 So to that child, it might seem like it
22 happened a hundred times. Fifty times. Five hundred
23 times.

24 The child might not necessarily be
25 understanding the need for, certainly, criminal

1 investigators getting accurate information about the
2 number of times.

3 It may, instead, assign that to the child, a
4 seemingly large general number: "Well, about a hundred
5 times." Or "About 500 times."

6 And in my experience, children have told me
7 that it happened a lot. So it seemed like it was a
8 hundred times.

9 Q. When the disclosure comes, even if it comes
10 when the child who was abused at a younger age makes
11 disclosures as an adult or a late teen, does this
12 element that we are discussing of delayed disclosure,
13 conflicting and unconvincing disclosure, still apply?

14 A. Very much so. I mean, I have interviewed
15 many children and then adults, who reported abuse as
16 children, who I noticed, and certainly from what the
17 literature describes, the fact that children, or adults
18 describing the abuse as children, often will tell about
19 their feelings from that time.

20 And their sense, at that time was:

21 "It happened a lot."

22 "It happened every Tuesday."

23 "It happened every time I went to this
24 place."

25 And, to them, that's a hundred times or

1 that's 500 times.

2 Q. What is the next category?

3 A. Retraction.

4 Q. And how does that play into the overall
5 investigation in interviewing the victims of childhood
6 sexual abuse?

7 A. Well, retraction is taking it back in whole
8 or in part. And the particular value of this discussion
9 point is to discourage an adult community looking at a
10 reported childhood sexual abuse from washing one's hands
11 of it after the child takes it back.

12 What it really is is a reminder to look at
13 the whole circumstance, to look at the fact that there
14 could be reasons for a child now taking it back or
15 minimizing, which is far more common, such as pressure
16 from outside sources, pressure from inside sources.

17 Or a child or adult not reporting, sensing
18 the great attention and focus on her disclosure might
19 want to minimize that intensity.

20 Might want to say:

21 "Well, this is getting a little uncomfortable
22 talking about this all these times, so I want to go back
23 to how things were before."

24 And to many kids, young people, an easy way
25 to go back to how things were before is to say:

1 "Well, it wasn't really as bad as I first
2 said."

3 Or, "It didn't really happen as many times as
4 I said."

5 Or, "It didn't really happen. I just was
6 really angry."

7 And, again, the message of Dr. Summit's work,
8 and certainly what's seen in my experience, is to look
9 for possible reasons why a child might be taking it back
10 or minimizing, rather than just saying:

11 "Okay, it didn't happen. On to the next
12 case."

13 Q. Are all five of these categories present in
14 every case?

15 A. No. And, again, of course because they are
16 not symptoms or indicators. I have investigated many,
17 many cases, for example, that have no retraction. But
18 the Child Sexual Abuse Accommodation Syndrome is not the
19 kind of information that one uses as a checklist.

20 So we don't go into cases looking for these
21 things. Rather, once you are in a reported case of
22 child sexual abuse, this information helps you to
23 understand some of those things.

24 Q. Are the factors all codependent in any way?

25 A. No. The only statement that Dr. Summit made

1 about that, for example, is that the first two
2 categories, secrecy and helplessness, are essentially
3 pre-conditions to abuse. Meaning that children, by
4 their nature, their young, immature nature, are
5 susceptible to the concepts of secrecy and helplessness.

6 The three following categories tend to fall
7 in a basic pattern of the child being trapped and
8 accommodating and so forth.

9 Q. In your professional experience, is the Child
10 Sexual Abuse Accommodation Syndrome now used in the
11 investigative techniques and interviewing techniques of
12 law enforcement agencies throughout the state?

13 A. Oh, the information is very much so, and it
14 is certainly a part of the training I provide on
15 interviewing and investigation.

16 MR. SIMONS: Thank you.

17

18 CROSS-EXAMINATION

19 BY MR. SCHNACK:

20 Q. Good morning, Mr. Lewis.

21 A. Good morning, sir.

22 Q. If I heard your testimony right, you said
23 that the CSAAS is not a checklist that should be used by
24 investigators; is that correct?

25 A. That's right.

1 Q. And you also said it's not a diagnostic tool
2 that should be used; is that correct?

3 A. Correct.

4 Q. And did I hear you right saying that there is
5 still a debate within the academic community about it's
6 validity?

7 A. Well, there is a debate. But may I comment?

8 Q. There is a debate about it. You will agree
9 with that?

10 A. Yes. And I asked if I may comment.

11 Q. We'll get to that. But there is a debate
12 within the academic community about its validity. Is
13 that correct? Is that what you are saying?

14 A. Yes. May I comment?

15 Q. Sure.

16 A. The debate in the literature has certainly
17 subsided over the past decade or so, but the original
18 reaction in the professional literature was that it is
19 not empirically-based. It was not conducted in a
20 scientific method, meaning there was no control group,
21 for example.

22 Of course, it would be impossible to have a
23 control group because you would have to have children
24 that you saw being molested and then gauge their
25 reaction, which we could not do but ...

1 Q. So does that mean it has not been peer
2 reviewed scientifically?

3 A. No. It has been peer reviewed for
4 qualification in academic journals.

5 Q. But there is still a debate within academia?

6 A. Well, as I said --

7 Q. Is there or is there not, sir?

8 You just said it was before.

9 A. Well, I'll say it is, again, but I would like
10 to clarify that.

11 Q. Excuse me?

12 A. I said: I will say, yes, it is, but I would
13 like to clarify that.

14 Q. But it is used in law enforcement agencies.
15 Correct?

16 A. It is used by law enforcement investigators
17 who are aware of the information, yes.

18 Q. And you are just testifying, generally, about
19 CSAAS here today? You don't have any specifics as to
20 the case we are here about today; is that correct?

21 A. My testimony is about Child Sexual Abuse
22 Accommodation Syndrome as it applies generally to
23 children as a class of people.

24 Q. Through your law enforcement experience.
25 Correct? Is that correct?

1 A. Law enforcement and consulting experience,
2 yes.

3 Q. And you have been a consultant for what, a
4 couple years?

5 A. Three years.

6 Q. Have you ever advised churches on what they
7 should do when they receive reports of child sex abuse?

8 A. No.

9 Q. You have a curriculum vitae. Correct?

10 A. Yes.

11 Q. And the word "religion" or "churches" doesn't
12 show up on that at all, does it?

13 A. Correct.

14 Q. Now, would you agree with me that child sex
15 abuse investigation techniques has evolved over time?

16 A. Yes.

17 Q. So what might have been applied in the early
18 '90s would be different today?

19 A. I'm sorry. Are you relating that to the
20 syndrome information?

21 Q. No. To the evolution of investigation of
22 child sex abuse.

23 A. Yes.

24 Q. You just said that the investigation
25 techniques have evolved over time?

1 A. Yes, they have.

2 Q. And so, from the '90s up to the present, the
3 techniques have changed. Correct?

4 A. Yes.

5 MR. SCHNACK: Nothing further, Your Honor.
6 Thank you.

7 THE COURT: Okay. Anything further, Mr.
8 Simons?

9

10 REDIRECT EXAMINATION

11 BY MR. SIMONS:

12 Q. You wanted to clarify your answer with regard
13 to the debate?

14 A. Yes. Thank you. As I mentioned briefly, the
15 debate has been about its use as a scientific tool. And
16 as Dr. Summit had stated repeatedly, and I tried to make
17 clear, the Child Sexual Abuse Accommodation information
18 is not a scientific tool. It is not an instrument to be
19 applied to a particular case, rather it is descriptive
20 of the unexpected counter-intuitive conditions that tend
21 to present themselves in these types of case.

22 Q. And in your experience investigating hundreds
23 of these cases, has this doctrine or this syndrome, if
24 you will, shown itself, in your experience, to be
25 applicable to many of those cases?

1 A. Very much so. Yes.

2 MR. SIMONS: No further questions.

3 MR. SCHNACK: Just one question, your Honor.

4

5 CROSS-EXAMINATION

6 BY MR. SCHNACK:

7 Q. You just testified that this is not a
8 scientific tool that is supposed to be applied to a
9 particular case; is that correct?

10 A. Correct.

11 Q. Thank you.

12 THE COURT: Mr. Lewis, thank you for your
13 time. You are now excused.

14

15 NEAL CONTI

16 WAS DULY SWORN TO TELL THE TRUTH BY THE CLERK

17 AND TESTIFIED AS FOLLOWS:

18

19 THE CLERK: Will you please state your name
20 and spell your first and last name for the record?

21 THE WITNESS: Neal Richard Conti.

22 N-E-A-L. C-O-N-T-I.

23 DIRECT EXAMINATION

24 BY MR. SIMONS:

25 Q. And, Mr. Conti, where do you live at present?

1 A. In Fremont, California.

2 Q. And you are the father of Candace?

3 A. Yes, I am.

4 Q. And can you describe your relationship with
5 Candace at present?

6 A. At present?

7 Q. Yes.

8 A. We don't talk too much right now.

9 Q. How long has your relationship with her been
10 strained?

11 A. It has been on and off. It started when she
12 was around 12. She was having teenage, growing up
13 issues.

14 Q. Candace was born of your marriage with Kathy?

15 A. Correct.

16 Q. When did you and Kathy first meet?

17 A. In 1984.

18 Q. When were you married?

19 A. In 1985.

20 Q. How long did that marriage last?

21 A. About 11 years.

22 Q. Are there any other children of that marriage
23 besides Candace?

24 A. No.

25 Q. When Candace was a little girl, can you

1 describe what your relationship was with her at that
2 time?

3 A. It was wonderful. She was a spunky little
4 girl. We had fun. We would play and do things. She
5 was just a very happy child.

6 Q. And as Candace got older, did problems begin
7 to develop inside your family?

8 A. In the family? Yes. After Candace was born,
9 my wife started having memories, things she felt -- she
10 was depressed. It was hard for her. As Candace was
11 growing, she started having memories of things she felt
12 had happened to her in her childhood.

13 Q. And how did that affect her ability to
14 function within the marriage?

15 A. It made things rather stressful. I had to
16 take on a lot of responsibilities of taking care of the
17 family, cooking and shopping, that kind of thing.

18 I had to spend a lot more time with Candace
19 because her mom was basically in bed. She had a hard
20 time sleeping. She had a hard time functioning.

21 Q. Did you have to spend a lot more time just
22 doing the activities of daily living that the family
23 required?

24 A. Yes.

25 Q. Were things like the shopping and the laundry

1 more and more left to you?

2 A. I had to pick up where Kathy could not.

3 Q. And in the last year or so in the marriage,
4 did that become a much more serious problem?

5 A. Yes.

6 Q. To what level of function was she reduced
7 during that time period?

8 A. Well, she had her good days and her bad days.
9 It was just some days you knew to expect you had to get
10 off work early and go home and take care of the family.

11 Q. Were there any other persons living in the
12 household in that last year or so of your marriage?

13 A. Well, just right before our break up, she had
14 invited her niece to come stay with us during the
15 summer. My son from a previous marriage was there for
16 the summer as well. So we had three -- Candace and two
17 teenagers with us at the time.

18 Q. Was your son from the prior marriage -- and
19 that's Rick?

20 A. Yes.

21 Q. Was he regularly in your custody during the
22 last few years of the marriage?

23 A. I had shared custody. He would come visit
24 every two weeks, alternating holidays, alternating two
25 weeks during the summer, things like that. So he was

1 there fairly often.

2 Q. Was most of his time spent with his mother?

3 A. Yes.

4 Q. And would it be fair to say probably about
5 70/80 percent of Rick's time was spent with your first
6 wife?

7 A. It was more along 60/40 percent, but, yes,
8 yes, it would.

9 Q. Now, did you become active in the Jehovah's
10 Witnesses during the time of your marriage to Kathy?

11 A. Yes, I did.

12 Q. And do you remain active in that?

13 A. I do.

14 Q. Are you in the North Fremont Congregation?

15 A. No. I'm in the Niles Congregation. We share
16 the same Kingdom Hall. Same building, but different
17 congregations.

18 Q. Are you holding any title at present?

19 A. A ministerial servant.

20 Q. Is it your hope and aspiration to become an
21 elder?

22 A. Someday, yes.

23 Q. You are now remarried?

24 A. Yes.

25 Q. And in between your marriage to Kathy and

1 your marriage at present, was there another spouse?

2 A. Yes, there was.

3 Q. And who was that?

4 A. That was Carolyn.

5 Q. How long did that marriage last?

6 A. Four years.

7 Q. Did she have children from a prior marriage
8 as well?

9 A. She did. She had two daughters.

10 Q. And was there a time that she and Candace got
11 along very well?

12 A. In the very beginning, yes.

13 Q. How long did that last?

14 A. For six months.

15 Q. And after that did Candace not get along well
16 with Carolyn?

17 A. No.

18 Q. Was Candace active in the Jehovah's Witnesses
19 as a girl?

20 A. As a child, yes. I mean, she was not
21 dedicated and baptized, but she would come with me to
22 the meetings and participate in our activities, yes.

23 Q. What kinds of activities would she go to?

24 A. More, I mean, we would go throughout the
25 ministry and talk to people, educate people about the

1 Bible. And so she would participate with me in that
2 activity. She would go to meetings with me,
3 conventions, assemblies and things like that.

4 Q. Did she go to field service?

5 A. Yes. Field service is our ministry.

6 Q. And did she go to meetings at Kingdom Hall?

7 A. Yes.

8 Q. And how long would those meetings last?

9 A. Well, there is three days base -- two days at
10 the Kingdom Hall. It was a two-hour meeting on Tuesday
11 night and a two-hour meeting on Sunday.

12 Q. And so when Candace was eight, nine years
13 old, would she be at the Kingdom Hall for two or four
14 hours or sometimes six hours in a week?

15 A. Well, it would be a maximum of four hours in
16 a week, yes.

17 Q. Is it your recollection that she went to
18 events at the Kingdom Hall on occasions when you,
19 because of some of the family issues that were involved,
20 were unable to go with her?

21 A. No. She would always be with me.

22 Q. Always?

23 A. Always.

24 Q. And are there occasions when she would be in
25 field service where you, because of the other events

1 going on in the family, were unable to participate?

2 A. No. She would always go with me.

3 Q. Is it your best recollection that Candace
4 never went to any Jehovah's Witness event without you?
5 Is that true?

6 A. That is true. She did not go without me.

7 Q. Did you know Jonathan Kendrick?

8 A. I did.

9 Q. How did you meet him?

10 A. He came into the congregation later on, a few
11 years after I came in.

12 Q. And what was your relationship with Mr.
13 Kendrick?

14 A. He was an acquaintance. We attended the same
15 meetings at the same times.

16 Q. Did you do the field service with Mr.
17 Kendrick?

18 A. Occasionally, yes.

19 Q. And Bible study with Mr. Kendrick in homes?

20 A. I don't recall that.

21 Q. Did you and he share some interests,
22 mechanical interests, for example?

23 A. Yeah, mechanical. He was a welder and I
24 tinkered with welding, yeah.

25 Q. And were there times when he came to your

1 home?

2 A. A few times. But, again, we were not best
3 buddies or anything like that, no.

4 Q. You had, as we understand it, a paint shop in
5 your home?

6 A. Well, in my garage fixed up for working on
7 cars, yes.

8 Q. And there were occasions when other members
9 of the congregation would come to your garage to tinker
10 or to work on things?

11 A. There was one time, one car we worked on. I
12 was getting out of that business. So there was one time
13 we worked on one car for a friend.

14 Q. Was that Sister Crawford's vehicle?

15 A. Yes, it was.

16 Q. And during that time, were there elders and
17 other members of the congregation in your garage and in
18 your home to work on the car?

19 A. There was other members of the congregation,
20 yes.

21 Q. Mr. Kendrick was one?

22 A. He was not one of the primary people working
23 on it. He just came over to, kind of, see what was
24 going on.

25 Q. Was Mr. Kendrick a ministerial servant?

1 A. There was a time he was, yes.

2 Q. And did you become aware at some point that
3 he was no longer a ministerial servant?

4 A. Yes.

5 Q. How did you become aware of that?

6 A. It was announced on a Tuesday night meeting.

7 Q. Is it accurate to say, Mr. Conti, that you
8 became aware that Mr. Kendrick was no longer a
9 ministerial servant because you happened to notice that
10 he wasn't doing the duties anymore of that position?

11 A. After the announcement, yes.

12 Q. At your deposition we talked about this, and
13 you told me that you learned of it because of his no
14 longer being a ministerial servant because you saw that
15 he wasn't doing the duties anymore?

16 A. Correct.

17 Q. You didn't mention the announcement at that
18 time. Were you there for the announcement?

19 A. I don't remember it specifically.

20 Q. Did you know why he was no longer a --

21 A. No. That is not stated.

22 Q. Did it affect your relationship with him?

23 A. Again, we didn't have much of a relationship.
24 Again, he was an acquaintance. Occasionally, we would
25 talk and engage in the ministry, but it wasn't -- he had

1 his life and I had my life. It wasn't that close.

2 Q. Is it accurate to say that Candace helped
3 become a caretaker for her mother?

4 A. Well, unfortunately, at times, yes.

5 Q. Would it be fair to say that she was asked to
6 shoulder much too much of a load for an eight or nine
7 year old?

8 A. She wasn't asked, per se, to do it. But she
9 was there, and she loved her mom, and she wanted to help
10 her mom whatever way she could.

11 She was a very loving, caring child at the
12 time. She wanted her mom to feel better. It was very
13 obvious to her that mom was not feeling well. She was
14 depressed. And this affected Candace as well as myself.

15 Q. What were the circumstances of the ending of
16 your marriage to Kathleen?

17 A. Kathy had come home from the hospital after a
18 suicide attempt, and the three children were still there
19 with me. I had taken time off from work, and I was
20 taking care of them.

21 Within a few weeks after she came home, it
22 was apparent she was very angry. She was even in more
23 pain than she was previously.

24 That anger -- it was, kind of, directed at
25 all of us. And so I just felt it was better that I

1 remove the children, as well as myself, from that house
2 at that time, hoping it would give her time to continue
3 her therapy and get herself back together again.

4 Q. So you moved out with the children?

5 A. Yes.

6 Q. And you moved to your mother's?

7 A. Right.

8 Q. And your mother then moved to another place,
9 but you remained in your mother's residence for some
10 time?

11 A. Right.

12 Q. When did you first learn from Candace that
13 she had been abused by Mr. Kendrick?

14 A. She first brought it to my attention, I
15 believe it was 2005. She came to visit and she brought
16 it up at that time.

17 Q. And since then have you had discussions with
18 her about the subject?

19 A. We have had a few, yes.

20 Q. And when was the last time?

21 A. It had to be somewhere around 2008 or 2009,
22 maybe where she said she was pursuing it with the D.A.'s
23 office. She was going to try to press charges against
24 Jonathan for doing this.

25 Q. Did you offer to help?

1 A. I tried to be helpful for her and tried to,
2 you know, glean more information from her, but she
3 really wasn't giving me any details. She didn't tell me
4 what had happened, and I didn't want to push her real
5 hard for her own dignity.

6 But she told me she talked to the D.A. and
7 they were going to be calling me and asking me
8 questions, but I never received a call from anybody in
9 the office.

10 Q. As you sit here today, do you know any
11 details about the abuse?

12 A. No.

13 MR. SIMONS: Nothing further.

14

15 CROSS-EXAMINATION

16 BY MR. McCABE:

17 Q. Mr. Conti, where are you employed?

18 A. Currently at Texas Instruments in Santa
19 Clara.

20 Q. How long have you been employed there?

21 A. I started at National Semiconductor almost 30
22 years ago, and Texas Instruments purchased National
23 Semiconductor.

24 Q. So you have basically have been at the same
25 place for 30 years?

1 A. Yes.

2 Q. What do you do there?

3 A. I'm a certified electronic technician. I
4 work in an engineering lab. The company makes
5 semiconductors. I build prototypes. I build test
6 apparatus to physically test at the facility. More
7 recently, I build evaluation boards and test those for
8 customers as well.

9 Q. So you put devices together to test
10 semiconductors?

11 A. Put widgets together, yes.

12 Q. When you married Kathleen Conti, did you have
13 any idea about her childhood issues that surfaced?

14 A. No.

15 Q. When you married Kathleen -- and you lived
16 together for 11 years; is that correct?

17 A. Yes.

18 Q. Mr. Simons brought out that you separated
19 around 1996?

20 A. Yes.

21 Q. And that was following an attempted suicide?

22 A. Yes.

23 Q. Was she hospitalized following that attempt?

24 A. Yes.

25 Q. For how long?

1 A. A week or so.

2 Q. And you took care of the children during that
3 time?

4 A. Yes.

5 Q. And you took time off work to do that?

6 A. Right.

7 Q. What changed about Kathleen when she came
8 home?

9 A. She was very angry. Her attempt, suicide
10 attempt was not successful. She was miserable about
11 that.

12 Q. How did she exhibit her anger?

13 A. A lot of yelling and screaming and nobody
14 could do anything right and everybody was getting on her
15 nerves, and every little tiff between the kids blew up
16 into a big, bad thing. Just very painful for everybody.

17 Q. So is it fair to say it wasn't a very
18 conducive environment to raise children?

19 A. Not at all.

20 Q. And is that why you went to your mother's
21 house?

22 A. Yes.

23 Q. And about that time, did you seek any
24 counseling for yourself or for Candace?

25 A. We had already started some counseling.

1 Kathy had been in and out of counseling for years. And
2 at that time Candace started going to counseling as well
3 because we were already seeing this therapist before
4 this suicide attempt.

5 Q. And who was the therapist that Candace saw?

6 A. Her name was Laura Fraser.

7 Q. And did you take her to some of those therapy
8 sessions with Laura Fraser?

9 A. Yes. Right after the suicide attempt, I took
10 all three kids, and we had an emergency meeting with
11 her. I figured she was probably the best person
12 qualified to help all of the children and myself deal
13 with it.

14 Q. And how did you find her?

15 A. As -- out of the phone book or?

16 Q. How did you locate her?

17 A. She was in our health plan organization. I
18 believe it was through Palo Alto Medical Plan.

19 Q. And your family had been getting some
20 services with Palo Alto Medical prior to her suicide
21 attempt?

22 A. Yes.

23 Q. And just to be clear, the memories and the
24 things that Kathy was dredging up and bringing up to
25 light after the birth of Candace and continuing through

1 her suicide attempt had to do with some types of
2 childhood sexual abuse that she experienced in her
3 beginning years?

4 A. It wasn't -- she didn't say it was sexual,
5 per se, in the beginning. It was just memories of dark
6 places, black faces, you know, memories that were not
7 pleasant, obviously. And that led to her conclusion
8 that there was some sexual abuse somewhere along the
9 line.

10 Q. Was your wife ever diagnosed with any
11 particular disorder?

12 MR. SIMONS: Objection; outside scope of this
13 witness.

14 THE COURT: Sustained.

15 BY MR. McCABE:

16 Q. Anyway, it was a difficult marriage; is that
17 correct?

18 A. Yes.

19 Q. And Candace, being a loving and caring child,
20 loved her mother; is that correct?

21 A. She did very much.

22 Q. And she loved you too?

23 A. She did.

24 Q. I would like to the show you what has been
25 marked as Plaintiff's Exhibit 2 and ask you if you

1 recognize this.

2 We can come back to that.

3 Do you have any pictures from the time that
4 Candace was 8, 9, 10, 11 years old?

5 A. No. When we left the house, we didn't take
6 family pictures with us, and since then they have been
7 misplaced. When I went back to the house, they were
8 gone.

9 Q. Do you know what happened to them?

10 A. I really do not know.

11 Q. Well, let's talk about your activity with the
12 North Fremont Congregation of Jehovah's Witnesses. When
13 did that begin?

14 A. I started attending about 1986.

15 Q. And you weren't raised by Jehovah's
16 Witnesses?

17 A. No.

18 Q. And we saw your mother, talked to her
19 yesterday a little bit. She was a Catholic and then
20 raised and educated you as a Catholic; is that correct?

21 A. Yes.

22 Q. Is that -- your becoming one of Jehovah's
23 witnesses a source of any friction between the two of
24 you?

25 A. It did in the beginning, yes.

1 Q. And how is it now?

2 A. I think she accepts it.

3 Q. Where did you go to high school?

4 A. Mission San Jose in Fremont.

5 Q. Any education after high school?

6 A. I had to -- to be a certified electronics
7 technician, I took a year or so of training.

8 Q. And was your job at National Semiconductor
9 your first job?

10 A. After that training, yes.

11 Q. And you stayed with the company ever since?

12 A. Yes.

13 Q. When you started associating with Jehovah's
14 Witnesses, do you recall what year it was?

15 A. What year it was?

16 Q. Yes.

17 A. 1986.

18 Q. And you continued your association from that
19 time forward?

20 A. Yes.

21 Q. Were you a regular meeting attender of
22 congregation meetings two days a week at the Kingdom
23 Hall --

24 A. Yes.

25 Q. -- during 1994, '95, '96?

1 A. As much as I could, yes.

2 Q. Were there occasions when you had to miss
3 because of your wife's illness?

4 A. Yes.

5 Q. On those occasions, did you ever send Candace
6 to the Kingdom Hall by herself?

7 A. No.

8 Q. To your knowledge, was Candace ever at the
9 Kingdom Hall of the Jehovah's Witnesses in North Fremont
10 without you being present?

11 A. No.

12 Q. In the meetings of Jehovah's Witnesses -- and
13 I would like to show you what has been marked as a
14 previous exhibit, Number 132.

15 Let's go to the first picture first. Do you
16 recognize this?

17 A. Uh-huh.

18 Q. What is it?

19 A. That's the Kingdom Hall, yes.

20 Q. Has it changed much since 1993?

21 A. Some remodeling to it. But it's basically
22 the same hall.

23 Q. Okay. So what are we looking at here with
24 this picture?

25 A. This is from the street, looking down the

1 driveway and the hall behind the street.

2 Q. Okay. And let's go to the next picture.

3 What are we looking at here?

4 A. This is basically the front door, which is at
5 the back end of the Kingdom Hall.

6 Q. And do you recognize this photograph?

7 A. Yes. It is inside the Kingdom Hall.

8 Q. Okay. Now, I want to point out here that it
9 looks to me like there is seats still full here. Is
10 that true?

11 A. Yes.

12 Q. Is there anything that would be in this area
13 where people face -- what are the people facing?

14 A. They are facing a podium, which is on the
15 left side, up on a stage.

16 Q. How high is the stage?

17 A. It is about three feet.

18 Q. And that would be where the conductor of the
19 meeting stands?

20 A. Correct.

21 Q. And it looks like there's two aisles; one
22 here and one over there?

23 A. Yes.

24 Q. Do you know how many seats are on each side
25 of those aisles up against the walls?

1 A. They are four wide on the side.

2 Q. How about the center?

3 A. Seven.

4 Q. Do you know how many seats in total there are
5 in the hall?

6 A. About 200, 210, something like that.

7 Q. When you were attending meetings at the North
8 Fremont Jehovah's Witnesses in the '90s, how many people
9 were attending those meetings?

10 A. Roughly a hundred, hundred and ten, something
11 like that.

12 Q. Would it be a little more on Sunday than the
13 midweek meeting?

14 A. Sometimes Sundays it would be more.

15 Q. Were you usually present --

16 A. Yes.

17 Q. -- at those meetings?

18 A. Yes.

19 Q. Were there occasions that you missed?

20 A. Yes.

21 Q. And I notice this is one big auditorium. Are
22 there any separate classrooms for children in this
23 Kingdom Hall?

24 A. Not for children, no. There are separate
25 rooms, which is a library, a secondary school. But it

1 is not for children. There's no -- we don't separate
2 the children from the rest of the congregation.

3 Q. Okay. In all the time that you were
4 attending meetings at the Kingdom Hall, did you ever see
5 Candace sit on the lap of Jonathan Kendrick?

6 A. No, I did not.

7 Q. Did you ever see Candace give a big bear hug
8 to Jonathan Kendrick?

9 A. No, I did not.

10 Q. Did you ever allow Candace to be taken from
11 the Kingdom Hall property by Jonathan Kendrick -- taken
12 away from a meeting before or after?

13 A. No, I did not.

14 Q. I want to direct --

15 MR. McCABE: May we approach, Your Honor?

16 (Sidebar discussion)

17 BY MR. McCABE:

18 Q. Can you tell me where in Fremont you lived
19 when you were first married?

20 MR. SIMONS: Can we --

21 THE COURT: As an accommodation to all of us,
22 the jury and whatnot, we could limit at this juncture
23 questions of this witness, who through the effective
24 scope of what Mr. Simons asked him, but that would then
25 necessitate bringing him back on the defense side of the

1 case.

2 Because of the professionalism and the
3 efficiencies here, Mr. McCabe will now start asking this
4 witness questions as though he were presenting the
5 defense side of the case.

6 MR. McCABE: Thank you, Your Honor.

7 BY MR. McCABE:

8 Q. Where did you live in Fremont in the 1980s?

9 A. In the 1980s? My home on El Cajon Street --
10 or Avenue.

11 Q. And are you familiar with the Francis family?

12 A. Yes.

13 Q. How far away did they live from your El Cajon
14 residence?

15 A. A quarter mile. Five or six blocks.

16 Q. Do you recall what street they lived on?

17 A. I want to say Capistrano or something like
18 that.

19 Q. I think that's what she testified to.

20 Did you ever attend a congregation Bible
21 study at their home?

22 A. No.

23 Q. Were you in the 1980s, early 1990s, assigned
24 to a congregation study or do Bible study for a midweek
25 meeting?

1 A. Yes.

2 Q. Do you recall whose home that was at?

3 A. That was at the Mats' home.

4 Q. Okay. Was Jonathan Kendrick assigned also to
5 the Mats' home?

6 A. I don't believe so.

7 Q. And in that group study, how big was it? How
8 many people?

9 A. Fifteen, twenty people, maybe.

10 Q. And I understand in your religion you don't
11 have that meeting anymore?

12 A. Right. Not a Thursday night meeting, no.

13 Q. And at the Mats' home which you attended,
14 were there men, women and children attending?

15 A. Absolutely. Families, yes.

16 Q. Did you take Candace there?

17 A. Yes.

18 Q. Did you ever drop her off there by herself?

19 A. No.

20 Q. Did she ever go to that meeting without you
21 being present?

22 A. No.

23 Q. I want to bring up an incident that
24 Mrs. Francis talked about with the rollerblades. Did
25 your daughter, Candace, enjoy rollerblading?

1 A. Yes, she did very much.

2 Q. Did you buy her a pair of rollerblades?

3 A. Yes.

4 Q. Was there an occasion where you went to a
5 parts store with Candace to get parts for her?

6 A. Yes.

7 Q. Can you tell me about that?

8 A. She needed new wheels for her skates. They
9 were slowing her down. So we went to a parts store. It
10 was a second hand type store. They sold new stuff as
11 well. I believe it was Saturday afternoon we went and
12 took care of that.

13 Q. Did Jonathan Kendrick go with you on that?

14 A. Yes, he was with us.

15 Q. And why did he go?

16 A. He had rollerblades too, and he's the one
17 that mentioned -- we had talked about repairing her
18 skates, and so we all went together.

19 Q. To your knowledge, did Candace ever go
20 rollerblading alone with Jonathan Kendrick?

21 A. Not to my knowledge, no.

22 Q. I want to also take you on the occasion
23 that -- your family enjoyed outings to Sacramento from
24 time to time?

25 A. We went once.

1 Q. You went once. What was that occasion?

2 A. We went on the train up to Old Sacramento.

3 Q. And what did you do there?

4 A. We went to the train museum and some other
5 activities they have right there in Old Sacramento.

6 Q. And who was on the trip at that time?

7 A. It was Candace. And Jonathan actually went
8 with us that time.

9 Q. And what time did you leave?

10 A. I think the trains leave about every two or
11 three hours from the Fremont station. So it was
12 probably 8:00, 9:00 in the morning, something like that.

13 Q. How long did you spend in Sacramento once you
14 arrived there?

15 A. Maybe three hours or so.

16 Q. And did you return on the Amtrak train also?

17 A. Yes, we did.

18 Q. What time did you get back?

19 A. It was probably 7:00 or 8:00 that night.

20 Q. And do you recall what time of year it was?

21 A. It was still light, so it had to be
22 summertime. Spring, summertime, something like that.

23 Q. And on that trip, did you and Jonathan
24 Kendrick engage in the drinking of alcoholic beverages?

25 A. We moved into the dining car on the way back

1 and we had a little snack to eat and possibly had a beer
2 at the time.

3 Q. Possibly? Or did you?

4 A. No, we did.

5 Q. And how many beers did you have?

6 A. Well, this was just an outing with my
7 daughter, and Jonathan came along with us. So it
8 wasn't -- it wasn't a party.

9 Q. Well, did you have more than one beer?

10 A. No.

11 Q. Did you get drunk?

12 A. No.

13 Q. Did you ever, on that trip, leave Candace by
14 herself with Jonathan Kendrick?

15 A. No.

16 Q. Did you fall asleep on the train on the way
17 back?

18 A. No.

19 Q. Did you ever see Jonathan Kendrick do
20 anything inappropriate to Candace on that trip?

21 A. No.

22 Q. Did you ever take Candace to a movie Gone
23 With The Wind?

24 A. Yes.

25 Q. Where was that?

1 A. It was over in Palo Alto, across the bay.

2 Q. Do you recall specifically doing that?

3 A. Uh-huh.

4 Q. Do you recall how old Candace was at the
5 time?

6 A. She was 8 or 9.

7 Q. Just a one time? Anybody else go with you?

8 A. Jonathan went with us at that time as well.

9 Q. Seems like Jonathan is going with you and
10 Candace quite a bit. Were you really better friends
11 than you testified to?

12 MR. SIMONS: Objection. Leading.

13 THE COURT: Overruled.

14 THE WITNESS: We just went and did things
15 together. Towards the end, I needed to get out of the
16 house and take my daughter and do things, and Jonathan
17 was there. He wanted to go do it.

18 BY MR. McCABE:

19 Q. Okay. Let's go back to 1994, '95, '96.

20 A. Okay.

21 Q. How many times had you been a visitor to the
22 Kendrick home during that time period, if you could
23 estimate?

24 A. Less than a handful. I had no reason to go
25 over to his house. We weren't that close. He had a dog

1 that slobbered, and hair and everything. It was just --
2 if you went to Jon's house, you were accosted by this
3 messy dog. So it wasn't something I wanted to do.

4 Q. Did Jonathan live during that time period
5 with anybody else besides this messy dog?

6 A. He was married at the time.

7 Q. What was his wife's name?

8 A. His wife's name was Evelyn.

9 Q. Did anybody else live in the household?

10 A. She had a daughter named Andrea.

11 Q. Can you recall, were they married the whole
12 time that you knew them?

13 A. I think they came to the Hall, and they got
14 married shortly after that.

15 Q. So that would have been in the late 1980s?

16 A. Yes.

17 Q. From that time forward, were they married, as
18 far as you knew?

19 A. Yes.

20 Q. Do you know, did they ever separate or
21 divorce?

22 A. Later on they did. I don't remember the
23 exact time. It had to be close to the time that Kathy
24 and I separated as well.

25 Q. Somewhere around 1996?

1 A. '95, '96, something like that.

2 Q. How often was Jonathan Kendrick a visitor in
3 your home during the same time period, 1994, '95, '96?

4 A. Again, very infrequent. Maybe just a handful
5 of times. He came over with the car one time.
6 Sometimes we exchanged tools on the projects we were
7 working on individually, but not very frequent at all.

8 Q. Let's talk about this time frame in which you
9 talked about the car. Whose car was it that was being
10 worked on?

11 A. It was just an elderly sister in the hall who
12 had a Volkswagen that needed some repairs.

13 Q. And who was doing the repair work?

14 A. There was a couple brothers. One that was
15 very -- he worked at a German car dealership, so he was
16 very familiar with how to repair Volkswagens at the
17 time.

18 Q. And was he doing mechanic work?

19 A. Yes.

20 Q. And was there also some painting and bodywork
21 done?

22 A. At the end we decided let's throw a paint job
23 on it real quick.

24 Q. And was your garage set up to paint?

25 A. Yes.

1 Q. And, in fact, had you been doing some vehicle
2 painting in your garage before --

3 A. Yes.

4 Q. You have to let me finish the question before
5 you answer, if you would, please.

6 Would you do that?

7 A. Sure.

8 Q. What did you use the garage for prior to this
9 occasion of fixing Sister Crawford's car?

10 A. Right. Well, the reason, I did mechanical
11 work and then I graduated into bodywork and painted.
12 And then about '87, '88, I, kind of, retired. But I
13 stopped doing that because Candace was here now and I
14 wanted to spend more time with the family. So I, kind
15 of, retired from that activity.

16 The garage was still there. I still had my
17 tools. So when this opportunity to work on Sister
18 Crawford's car came along, I said yeah.

19 Q. So this wasn't a garage where people from the
20 North Fremont Congregation came over and over again to
21 work on vehicles?

22 A. No.

23 Q. This was a one-time event?

24 A. Right.

25 Q. How many people from the congregation

1 participated in working on this vehicle?

2 A. There might have been five or six over the
3 whole course of the whole week and a half, whatever it
4 took us to do it. And I don't recall the names of the
5 specific people.

6 Q. Was one of them Jonathan Kendrick?

7 A. Yes.

8 Q. Did there occur a problem between your
9 daughter, Candace Conti, and Jonathan Kendrick during
10 this time period?

11 A. Well, there was one occasion I think the
12 garage door was open and she was out playing in the
13 yard. And I didn't see it specifically, but she came to
14 me and said Jonathan had pulled her hand and her arm.
15 And she had a scratch on her arm. She showed me that.

16 Q. And you saw that?

17 A. I saw that.

18 Q. And did you say anything to Jonathan
19 Kendrick?

20 A. I told him, you know, don't grab a hold of
21 her. Don't hold on to her like that. That's not right.

22 Q. And did he respond to that?

23 A. He said, "Okay."

24 Q. Other than that, did you ever notice that
25 Jonathan Kendrick grabbed your daughter again?

1 A. No.

2 Q. I want to talk to you about another occasion.
3 Did you have Jonathan Kendrick and his wife to your home
4 ever for a social event, like a dinner?

5 A. No.

6 Q. Was he ever in your home and have a
7 confrontation or a problem with your wife, Kathy?

8 A. There was one time. And I'm not sure why he
9 had come over. It might have been just to talk when his
10 family was falling apart. I'm not sure.

11 Q. Do you have a sense of what year it was?

12 A. It had to be in the same time frame, late
13 '95, early '96, maybe.

14 Q. What happened? What did Mr. Kendrick do to
15 your wife?

16 A. She was, kind of, sitting on the couch -- or
17 standing by the couch, and he just, sort of, kind of,
18 fell into her and they both landed on the couch.

19 Q. Did he do anything else?

20 A. He was just -- it was almost like he was
21 roughhousing with her. So I got up and walked him
22 outside and said, "You can't do that. That's not
23 right."

24 Q. And did he leave at that point?

25 A. Yes.

1 Q. How many times all together would you say,
2 during the year -- typical year, 1995, '96 or '97 -- did
3 Jonathan Kendrick come to your house for any reason?

4 A. A few times, less than a handful of times.
5 We weren't that close. We did things. The meeting
6 point was at the Hall. If we decided we wanted to go on
7 the train we decided at the Hall. It wasn't, I would go
8 to his and we did it that way.

9 Q. When you took Candace to Laura Fraser, did
10 you tell her that Candace had taken on an adult role and
11 had a heavy burden placed on her?

12 A. Yeah. That was a big concern.

13 Q. And what kind of adult role did Candace take
14 on during this time period?

15 A. Just, I mean, when she was home with her mom,
16 you know, just whatever she could for her. Just that
17 caring, nurturing person in your life who would be your
18 mother, Candace started exhibiting those types of
19 activities, trying to the console her mother, trying to
20 be there for her. But she was a child. She didn't
21 understand the issues that Kathy was going through at
22 the time.

23 Q. Did you try to be there for your daughter?

24 A. Absolutely.

25 Q. Did you think you were successful?

1 A. I hope I was.

2 Q. During this time period that you were having
3 turmoil in your marriage leading up to the suicide
4 attempt of your ex-wife, Kathleen, did you go to anyone
5 for help, counsel, or comfort?

6 A. I would go to some of the elders in the
7 congregation.

8 Q. Did you go to Jonathan Kendrick?

9 A. No.

10 Q. During this time period, did you rely on
11 Jonathan Kendrick to help you take care of some of your
12 responsibilities in the family?

13 A. No.

14 Q. Did you have to take time off from work
15 frequently to take care of those responsibilities?

16 A. Yes.

17 Q. Who was it that you went to? Who was your
18 primary go-to person during that time period when you
19 needed help?

20 A. I had the opportunity to talk to one brother,
21 in particular, Larry Lamerdin.

22 Q. Mr. Lamerdin?

23 A. Mr. Lamerdin.

24 Q. Who was he?

25 A. He was one of the elders in the North Fremont

1 Congregation.

2 Q. And did you talk to him about the problems
3 that Kathy was experiencing?

4 A. Yes.

5 Q. Was he able to help you at all?

6 A. Well, he would bring scriptural information.
7 He would help me to be more understanding and to be able
8 to listen to her.

9 Because I'm a techie kind of guy. I'm a,
10 kind of, fix-it kind of guy. So I had to back off from
11 that trying to fix everything, and just try to listen
12 and be more understanding of what she was going through.

13 Q. Because you couldn't fix Kathy's problems?

14 A. No.

15 Q. Did Mr. Lamerdin ever give you any of the
16 literature published by Jehovah's Witnesses?

17 A. Yeah. The society publishes many different
18 publications, and one of those is the Awake Magazine.
19 And it focused on world events, but it was also articles
20 on families.

21 You know, you might have articles on
22 butterflies, so you could talk to your children and show
23 them nature.

24 Other times it was more serious things. With
25 all that Kathy was going through, it was encouraging to

1 see some articles about child abuse, and so we talked
2 about that as well.

3 Q. And did he direct you to any specific
4 articles?

5 A. Yes.

6 Q. I would like to show you what has been
7 previously marked Plaintiff's 64, Defense Number 37, and
8 ask you if you recognize this document.

9 A. Yes. This is the October 1993, "How to
10 Protect Your Children."

11 Q. Do you recall if Mr. Lamerdin directed you to
12 this particular issue of the Awake Magazine?

13 A. Yes, we did talk about it, yes.

14 Q. I would like to direct your attention to page
15 14. It's 13 of the exhibit. The last page of the
16 exhibit in front of you.

17 Do you recognize that particular page?

18 A. Yes. Because that was our main focus at the
19 time was how to help Kathy.

20 Q. And what is the title of that page?

21 A. It is "Consoling Adult Survivors of Childhood
22 Trauma."

23 Q. And what is the direction that is given to
24 you?

25 A. It talks about "Listen, Listen, Listen" is

1 the first subheading there.

2 It talks about if a child had a skinned knee,
3 first impulse is to run to their parents. And so we try
4 to keep an open dialogue with our children, if something
5 like that would happen, let's talk about it.

6 Q. Now we are talking about your wife?

7 A. Right.

8 Q. And so --

9 A. Well, there was the listening part, to listen
10 and be consoling. Again, I couldn't solve the problems,
11 but to try to be comforting to her and talk through.

12 Q. Was that hard for you to do, being a fix-it
13 guy?

14 A. At times, yes.

15 Q. Did you rely upon anyone else at the
16 Congregation of Jehovah's Witnesses during this
17 difficult time period -- I'm talking about the year
18 leading up to Kathy's attempted suicide -- to assist you
19 in taking care of Candace?

20 A. There was some other brothers I talked to,
21 yes.

22 Q. How about, did you entrust Candace's care to
23 anyone else outside the Kingdom Hall?

24 A. Well, my mother stepped in when it was
25 necessary.

1 Q. She is part of the family?

2 A. She is part of the family.

3 Q. How about any brothers or sisters from the
4 Kingdom Hall?

5 A. Well, Claudia took her one day to go shopping
6 or something like that.

7 Q. And that is Claudia Francis?

8 A. Claudia Francis, yes.

9 Q. Every time you went to the Kendrick home, was
10 he still married?

11 A. Yes.

12 Q. Was he still living with his wife and
13 daughter and a messy dog?

14 A. Yes.

15 Q. Did you ever go there after he separated?

16 A. No.

17 Q. Do you know if Candace ever went there by
18 herself with your approval?

19 A. No.

20 Q. When Candace told you that Jonathan Kendrick
21 had hurt her arm, was she bleeding?

22 A. It was just a white line from a fingernail
23 scratch, and there might have been just some very little
24 blood.

25 Q. Skin was broken?

1 A. Skin was broken.

2 Q. Was there ever any other time when she told
3 you Jonathan Kendrick hurt her?

4 A. No. There was no other time she said
5 anything about Jonathan hurting her.

6 Q. That was in 2005?

7 A. Right.

8 Q. Now, did there come a time in 2009 when you
9 received a call from Mr. Lamerdin about your daughter,
10 Candace?

11 A. Right.

12 Q. What was that call about?

13 A. Well, Candace had met with Larry and was
14 talking about what we are talking about today, that
15 Jonathan had touched her inappropriately.

16 Q. Did you follow up that phone call with a
17 meeting with Mr. Lamerdin?

18 A. Yes.

19 Q. Was anyone else present?

20 A. Mike Clarke.

21 Q. And what did you discuss, generally?

22 A. Well, they just asked me if I knew anything
23 about this. They, kind of, went through the time frame
24 that we have been discussing here now. And I had not
25 seen anything or -- that's all I could tell them.

1 Q. Did they encourage you to do anything?

2 A. They did encourage me to try to reconnect
3 with Candace and try to be there for her since they knew
4 our relationship had become somewhat strained.

5 Q. Did you do that?

6 A. I tried.

7 Q. Did you contact Candace?

8 A. I did contact her. I would leave messages.
9 She would call me back once in a while and she would
10 chat a little bit.

11 Q. So just so we are clear, you never saw
12 anything happen inappropriate to Candace with anybody at
13 the Kingdom Hall; is that correct?

14 A. No.

15 Q. You never saw anything inappropriate happen
16 with Jonathan Kendrick and Candace at the Kingdom Hall?

17 A. No.

18 Q. Did you see anything inappropriate with
19 Jonathan Kendrick and Candace anywhere?

20 A. No.

21 Q. Did you ever allow Candace to go in a
22 vehicle -- I think Jonathan drove a truck, didn't he?

23 A. No.

24 Q. Did you ever allow Candace to go in that
25 truck with Jonathan Kendrick?

1 A. No.

2 Q. In view of the fact that your wife had these
3 issues regarding memories of some childhood abuse, did
4 that make you a little leery regarding your daughter?

5 A. Her mom was very sensitive to it. So it was
6 now my responsibility to make sure that didn't happen to
7 Candace.

8 Q. When you went to the Kingdom Hall with
9 Candace, where would you sit?

10 A. Up in the middle section, up towards the
11 front. The first three or four rows, it is too hard to
12 look up. So it was usually about the fourth or fifth
13 row we sit back.

14 Q. Is that your normal pew?

15 A. Usually. That's kind of where I would hang
16 out, yes.

17 Q. And would that vary at all?

18 A. Typically not. Pretty much -- unless someone
19 else had taken our seat, we would have to move around.

20 Q. When your daughter was age 8, 9 and 10, 11,
21 how did you feel about her?

22 A. How did I feel about her?

23 Q. Yes.

24 A. I loved her. She was my daughter.

25 Q. Were you affectionate with her?

1 A. To a point.

2 Q. Would it surprise you to know that she told
3 Laura Fraser she felt very safe with you?

4 A. It wouldn't surprise me.

5 Q. Does it flatter you?

6 A. It means I did a good job.

7 Q. Still trying?

8 A. Still trying.

9 Q. At the Kingdom Hall, we heard some testimony
10 that before and after the meetings people talk and there
11 is a lot of activity going on.

12 Is that your recollection of what was going
13 on?

14 A. Yes.

15 Q. Do the children run around the halls,
16 everything chaos?

17 A. Well, we try not to allow that. Parents are
18 instructed to keep their children within view, you know,
19 so that they don't get run over by cars or anything like
20 that. We try very hard to teach our children to be
21 obedient.

22 Q. And how about you and Candace? Did you try
23 and do that with Candace?

24 A. Yes.

25 Q. Were there times when you were at the Kingdom

1 Hall where she was out of your sight?

2 A. I would usually try to keep her in the hall
3 where I would be talking to people or whatever, and she
4 would leave with me.

5 Q. When you were talking with people, did you
6 have her in view, or would she be out of view, not
7 around you?

8 A. I tried to keep an eye on her.

9 Q. How about going to the restroom?

10 A. Well, usually we take her to the restroom.

11 Q. What do you mean by "take her"?

12 A. Well, I would walk with her to get here
13 there.

14 Q. So you would walk and wait outside?

15 A. Correct.

16 Q. And that was your custom and practice when
17 she was 8, 9, 10?

18 A. Yes.

19 Q. Where did Jonathan Kendrick sit in the
20 Kingdom Hall, if you recall?

21 A. He sat a few rows back, in the middle toward
22 the back.

23 Q. Did you ever notice him in particular, at the
24 Kingdom Hall?

25 A. I would see him from time to time.

1 Q. Did you ever talk to him?

2 A. Yes.

3 Q. Did you ever notice he slept through
4 meetings?

5 A. He would nod occasionally.

6 Q. Did you do that too?

7 A. Once in a great while.

8 THE COURT: Let's take our morning break
9 until 10:30.

10 (Break taken)

11 BY MR. McCABE:

12 Q. Mr. Conti, I would like to show you the
13 picture that has been admitted as Plaintiff's Number 2.

14 Do you see that picture?

15 A. Yes.

16 Q. Do you recognize that picture?

17 A. Yes.

18 Q. Who is it?

19 A. That's Candace.

20 Q. Have you seen that picture before?

21 A. I have seen that picture, yes.

22 Q. Where?

23 A. There is one similar to it on my mom's
24 refrigerator.

25 MR. McCABE: I have nothing further, your

1 Honor.

2 MR. SCHNACK: No questions, your Honor.

3 THE COURT: Mr. Simons?

4 MR. SIMONS: I have some Direct.

5

6 REDIRECT EXAMINATION

7 BY MR. SIMONS:

8 Q. Mr. Conti, you told us that, because of the
9 concerns that you had about Candace and the effect her
10 mother and her mother's issues were having on her, that
11 you got Candace into therapy with Laura Fraser even
12 before the separation; is that correct?

13 A. Yes. We, as a family did, yes.

14 Q. And the separation was in July of 1996?

15 A. Correct.

16 Q. And would it surprise you to know that the
17 first appointment with Laura Fraser was August 12, 1996,
18 about a month later?

19 A. August 6?

20 Q. August 12, 1996, a month after the
21 separation.

22 A. After the separation?

23 Q. Right. When you moved out.

24 A. We moved out in July.

25 Q. Yeah. The first appointment is August. So

1 it was after the separation that Candace began therapy
2 with Laura Fraser, not before.

3 Does that ring any bells with you?

4 A. Because we went to see Laura Fraser right
5 after -- right after -- okay. It might be.

6 Q. And wasn't that Kathy who got Candace to go
7 to Laura Fraser, not you?

8 A. No. I never said it was me. It was Kathy.
9 But we collectively did it as a family. We found
10 someone within our medical plan.

11 Q. And didn't you tell us in the recess in
12 response to Mr. McCabe's question that because of your
13 concerns you got Candace into therapy?

14 A. We, as a family, collectively, did it
15 together.

16 Q. Let's take a look at your deposition at page
17 25, lines 2 through 17.

18 (Whereupon, the video recording was played)

19 BY MR. SIMONS:

20 Q. What started the process?

21 How did she get to --

22 (Whereupon, the video recording was stopped)

23 MR. McCABE: Counsel, what lines?

24 MR. SIMONS: I'm sorry. 25, lines 2 through
25 7.

1 (Whereupon, the video recording was played)

2 BY MR. SIMONS:

3 Q. What started the process? How did she get to
4 a therapist? She is ten years old. So, I'm assuming
5 she didn't call and make the appointment herself.
6 Someone assisted her.

7 Do you know how that happened?

8 A. I believe that was Kathy.

9 (Whereupon, the video recording was stopped)

10 MR. McCABE: Excuse me, your Honor. That's
11 not the lines I'm looking at.

12 THE COURT: Let's again. Are we sure we are
13 on the same lines?

14 MR. McCABE: Okay.

15 (Whereupon, the video recording was played)

16 BY MR. SIMONS:

17 Q. What started the process? How did she get to
18 a therapist? She is ten years old. So, I'm assuming
19 she didn't call and make the appointment herself,
20 someone assisted her.

21 Do you know how that happened?

22 A. I believe it was Kathy.

23 (Whereupon, the video recording was stopped)

24 BY MR. SIMONS:

25 Q. Before you came here to testify today, did

1 you discuss your testimony with the attorneys for the
2 defendants?

3 A. We had talked about it.

4 Q. And did you have a meeting in person?

5 A. Yes.

6 Q. And you looked at the photographs that we
7 looked at earlier of the Kingdom Hall?

8 A. No. That's the first time I have seen those
9 pictures.

10 Q. How long did your meeting last?

11 A. About an hour.

12 Q. And did that meeting help you focus on what
13 it was that the attorneys for the defendants wanted you
14 to say here today?

15 A. We basically talked about the things that
16 have happened, that's all. Just trying to discuss and
17 find out what happened.

18 Q. Did you ever hear Jonathan Kendrick say about
19 Candace that, "She is my number one," and, "I just love
20 Candace," or other terms of affection?

21 A. No.

22 Q. Never said that around you?

23 A. No.

24 THE COURT: "Never said that around you."

25 And "No." So we have that double negative

1 circumstance again.

2 BY MR. SIMONS:

3 Q. That's correct.

4 Your recollection is Jonathan Kendrick never
5 said affectionate things about Candace?

6 A. In front of me.

7 Q. Is that correct?

8 A. Correct.

9 Q. And you weren't really friends, and you
10 didn't see Mr. Kendrick very often, but it happened that
11 when Candace needed new wheels for her rollerblades that
12 Jonathan Kendrick went with you to the rollerblade
13 store. Correct?

14 A. Correct.

15 Q. And you weren't really friends with Mr.
16 Kendrick and you didn't see him very often, but when you
17 went on the Amtrak trip, Jonathan Kendrick went with you
18 and Candace.

19 And you weren't really friends and you didn't
20 see him very often, but when you went to see Gone With
21 The Wind, Jonathan Kendrick went with you and Candace.
22 Correct?

23 A. Correct.

24 Q. And there are other occasions when that
25 happened as well, weren't there?

1 A. Not that I'm aware of.

2 Q. You saw him hurt your daughter enough to make
3 her cry and to leave a mark on her?

4 A. She wasn't crying. She was noticeably upset
5 by it.

6 Q. She told you he hurt her?

7 A. Yes.

8 Q. And you said, "Don't grab my daughter."
9 And he said -- Kendrick said, "Okay."

10 A. Yes.

11 Q. That was pretty much it?

12 A. Yes.

13 Q. Same thing when he was roughhousing with
14 Kathy. You said, "You shouldn't do that."

15 And Mr. Kendrick said, "Okay."

16 A. Yes.

17 Q. When you would go to these various events,
18 you said you would almost always meet at the Kingdom
19 Hall. Correct?

20 MR. McCABE: Objection; vague.

21 THE COURT: I don't understand the question.

22 BY MR. SIMONS:

23 Q. When you went to the different events that
24 you mentioned with Mr. Kendrick, you would meet at the
25 Kingdom Hall?

1 A. We would talk about it at the Kingdom Hall
2 and make the plans. We didn't leave from the Kingdom
3 Hall and take the train, no. That's not it.

4 Q. So you went by and picked him up or he came
5 by and picked you and Candace up? Which was it?

6 A. I believe we just met at the train station.

7 Q. How about Gone With The Wind? Did you meet
8 over there in Palo Alto?

9 A. I am not sure. I don't remember who drove.

10 Q. And I think you told us that when your
11 daughter was 9 and 10 years old at the Kingdom Hall you
12 would take her to the restroom?

13 A. I would walk with her to the back of Kingdom
14 Hall, yes.

15 Q. When she was ten years old?

16 A. Yes.

17 Q. When you were doing these various events with
18 Candace and Jonathan Kendrick, Gone With The Wind or
19 rollerblade shop or Amtrak to Sacramento, did you have
20 any idea you were exposing your daughter to a known
21 child molester?

22 A. I had no idea.

23 Q. Would it have mattered to you if you did know
24 that?

25 A. No. Because we had already -- as a family

1 and Kathy's prior concerns, what happened in her life,
2 we tried to be very vigilant about that and not allow
3 Candace to be in that situation.

4 MR. SIMONS: Nothing further.

5 THE COURT: Anything?

6 MR. McCABE: Nothing further.

7 MR. SCHNACK: Nothing.

8 THE COURT: All right, sir. Thank you very
9 much for your time this morning. You are now excused.

10 Mr. Simons.

11 MR. SIMONS: May we dim the lights? And
12 under Evidence Code Section 776 present excerpts of the
13 video deposition of The Watchtower Bible and Tract
14 Society of New York, Inc. through Mr. Shuster.

15 And, Your Honor, may we inquire, because this
16 is a more protracted presentation, if there is any
17 problem with anyone being able to see the screen and may
18 I move to outside of counsel table so I'm not
19 obstructing the view?

20 THE COURT: Certainly. And noting the
21 circumstances, Mr. Simons, yes.

22 And then to members of the jury, is that
23 screen set up such that you all have a legitimate view
24 of what is going to go on?

25 Everybody okay with the view, the view line?

1 Your site line? Okay.

2 (Whereupon, the video recording was played)

3 VIDEOGRAPHER: Good morning. We are
4 now on the record. My name is Terry Carruthers, your
5 videographer. I represent Atkinson-Baker, Inc. in
6 Glendale, California. I am not financially interested
7 in this action nor am I a relative nor employee of any
8 attorney or any of the parties.

9 Today is February 15, 2012. The time on the
10 monitor is 10:01 a.m. This deposition is being taken
11 place at 100 Watchtower Drive in Patterson, New York.
12 And this is action Number HG41558324 in the Superior
13 Court of California, entitled Jane Doe versus Watchtower
14 Bible and Tract Society of New York.

15 Your deponent is Mr. Allen Shuster. Your
16 court reporter is Nancy Flynn from Atkinson-Baker.

17 Counsel will now introduce themselves, after
18 which, the court reporter will please swear in or affirm
19 this witness.

20 MR. SIMONS: Rick Simons for Plaintiff, Jane
21 Doe.

22 MR. SCHNACK: Bob Schnack for Defendant,
23 Watchtower Bible and Track Society of New York,
24 Incorporated.

25 MR. McCABE: James McCabe for the North

1 Congregation of Fremont, California.

2 MR. McNAMARA: Francis McNamara, associate
3 general counsel for Watchtower New York.

4 ALLEN SHUSTER

5 WAS DULY SWORN TO TELL THE TRUTH BY THE COURT REPORTER
6 AND TESTIFIED AS FOLLOWS:

7

8 EXAMINATION

9 BY MR. SIMONS:

10 Q. Please state your full name.

11 A. Allen Eugene Shuster.

12 MR. SIMONS: So I think, with counsel's kind
13 permission, I will go through the deposition notices and
14 just clarify which categories you will be testifying as
15 the representative of the Watchtower New York, Inc.

16 And that would include for the February 15th,
17 2012 1:00 p.m. Deposition Notice, the matters related to
18 the August 1st, 1995 body of elder letter, categories 1
19 and 2 in that Notice.

20 Am I correct in that, counsel?

21 MR. SCHNACK: Yes. Topics 1 and 2 in that
22 deposition notice.

23 MR. SIMONS: And similarly, you will be the
24 designated representative to testify as to the
25 correspondence of December 3, 1993 and the matters of

1 policy related to that, again, from the February 15,
2 2012 1:30 Deposition Notice today.

3 Am I correct in that as well?

4 MR. SCHNACK: Yes.

5 MR. SIMONS: And then, additionally, certain
6 of the categories designated in the deposition notice
7 for February 16 at 10:30 will be in your purview, which
8 I understand generally to be:

9 Category 1, Corporate Administrative
10 Structure.

11 Category 2, managerial staff functions, but
12 not as to the Legal Department?

13 MR. SCHNACK: Yeah. Topic 2 only is Legal
14 Departments. That would not be Mr. Shuster.

15 MR. SIMONS: Okay. Very good.

16 And the Topic 3, Service Department, would
17 include Mr. Shuster's subject matter; is that correct?

18 MR. SCHNACK: Yes.

19 BY MR. SIMONS:

20 Q. Now, Mr. Shuster, do you have official job
21 title at present?

22 A. Yes, I do.

23 Q. And what is that?

24 A. Assistant overseer of the Service Department.

25 Q. To whom do you report as your supervisor?

1 A. The overseer of the Service Department.

2 Q. And who is that at present?

3 A. His name is Gary Breaux.

4 Q. And who, in turn, does Mr. Breaux report to?

5 A. It is called the Branch Committee.

6 MR. SCHNACK: Are you talking about
7 currently?

8 MR. SIMONS: Yes.

9 BY MR. SIMONS:

10 Q. And what is the Branch Committee?

11 A. It is made up of twelve elders that represent
12 the United States Branch Territory among Jehovah's
13 Witnesses.

14 Q. Are there twelve separate territories within
15 the United States, or is it twelve elders who represent
16 the territory of the United States?

17 A. Twelve elders that represent the territories
18 of the United States.

19 Q. As assistant overseer, what are your general
20 duties and responsibilities?

21 A. We have, within the department, several
22 desks. We have a number of desks. I work with the area
23 schools that Jehovah's Witnesses conduct throughout the
24 United States.

25 We have a program of constructing Kingdom

1 Halls and assembly halls throughout the branch
2 territory. I oversee that. I also oversee the desk
3 that distributes convention assignments for our district
4 conventions.

5 Q. How long have you held this position?

6 A. The position of overseeing certain aspects of
7 this work, for probably 11 years.

8 Q. And prior to holding the position of
9 assistant overseer, what was your previous assignment?

10 A. I worked as what is called a "contact" within
11 the Service Department.

12 Q. And what is a contact?

13 A. A contact is an elder who consults or is
14 consulted with by a number of different elders within
15 the department.

16 Q. Have you been an elder since 1979?

17 A. Yes.

18 Q. And how long have you been performing
19 services and duties here at the national headquarters?

20 A. Since '76, 1976.

21 Q. Have you served as an elder in any
22 congregation?

23 A. Yes, I have.

24 Q. And where was that congregation or those
25 congregations located?

1 A. In New York City.

2 Q. What was the time frame of your service in
3 that regard as an elder in a congregation?

4 A. Well, from 1979 until transferring up here to
5 Patterson. So that would have been in one congregation
6 from 1979 until 1995, and then from 1995 until the
7 present here at Patterson.

8 Q. Is your position a compensated position?

9 A. No, it is not.

10 Q. Are you, in your own mind -- I'm not asking
11 for a legal conclusion -- but in your own mind, do you
12 work as an employee of one of the Jehovah's Witnesses
13 entities?

14 A. No, I do not.

15 Q. As part of the Service Department, currently,
16 are you within the Watchtower Bible and Tract Society of
17 New York, Inc.?

18 A. No.

19 Q. Is the Service Department presently operated
20 through the Christian Congregation of Jehovah's
21 Witnesses?

22 A. Yes.

23 Q. Has that been true since 2001?

24 A. That's correct.

25 Q. Are persons who are serving within the

1 Watchtower Bible and Tract Society of New York, Inc.
2 presently holding authority to implement or impose
3 policies, procedures or decisions upon Christian
4 Congregation of Jehovah's Witnesses?

5 A. I believe so.

6 Q. And tell me what your understanding is of the
7 relationship between those two entities?

8 A. I mentioned earlier there is a Branch
9 Committee. I do believe some of those members of the
10 Branch Committee are members of the New York
11 Corporation.

12 Q. What is the general role of the Branch
13 Committee?

14 A. They oversee the spiritual activities as well
15 as the administering of the properties at the three
16 complexes here in New York State.

17 Q. Is the Service Committee one of multiple
18 committees within the Branch Committee?

19 A. When you say "Service Committee" --

20 Q. Service Department.

21 A. Service Department. And your question again?

22 Q. Is that one of multiple departments or
23 entities within the Branch Committee?

24 A. It is one of a number of departments that the
25 Branch Committee has oversight of.

1 Q. And speaking in terms of the composition of
2 the Branch Committee, how large a committee is it?

3 A. Twelve members.

4 Q. And how are its members selected?

5 A. It is -- of course, I'm not privy to the
6 deliberations of the Branch Committee, so I'm not sure I
7 can answer that.

8 Q. And not asking as to any individual who might
9 have been appointed to the Branch Committee, but
10 generally speaking, procedurally, how are Branch
11 Committee members selected? By what authority or
12 process?

13 A. Members of the Branch Committee
14 collectively -- I should say, the collective Branch
15 Committee makes recommendations as to who should be
16 added in the case of deaths. And so those
17 recommendations are made to the governing body of
18 Jehovah's Witnesses.

19 Q. And what is the governing body within the
20 administrative structure? I'm not asking for spiritual
21 or theological information here. I'm really looking
22 administratively. What is the governing body?

23 A. The governing body is a committee that
24 oversees the worldwide activity of Jehovah's Witnesses.

25 Q. Does the Branch Committee have any sort of

1 written policies, procedures that it follows?

2 A. Yes.

3 Q. Is there some form of either a manual or
4 other documentary compilation that the Branch Committee
5 is guided by in its work?

6 A. Yes.

7 Q. What is that called?

8 A. It is called Branch Organization.

9 Q. And is that -- is the appropriate term a
10 "manual" or would it be some other term?

11 A. I think the terminology is "guidelines,"
12 Branch Committee guidelines.

13 Q. And is that series of guidelines applicable
14 to the Service Department of the Christian Congregation?

15 A. Parts of it are.

16 Q. What other areas --

17 Well, let me ask you: Have you ever seen the
18 Branch Committee Guidelines?

19 A. Yes.

20 Q. Do you use it, at least from time to time, in
21 your work?

22 A. From time to time.

23 Q. What are the general subject matters covered
24 under the Branch Committee Guidelines?

25 A. Matters having to do with branch facilities,

1 branch personnel, and the managing of the spiritual
2 activities within a specific branch or branch territory.
3 Just general operation guidelines.

4 Q. Are the Branch Committee Guidelines the same
5 for every branch throughout the world, or are there
6 separate Branch Committee Guidelines for different
7 geographical areas?

8 A. Same throughout the world.

9 Q. Are the contents of the Branch Committee
10 Guidelines approved by the governing body?

11 A. Yes.

12 Q. And would those Branch Committee Guidelines
13 apply to Watchtower Bible and Tract Society of New York,
14 Inc.?

15 A. I guess my question would be --

16 Can you say that one more time? I want to
17 make sure I have the question correct.

18 Q. Do the Branch Committee Guidelines apply to
19 the entities within the Watchtower Bible and Tract
20 Society of New York, Inc.?

21 A. I would think so.

22 Q. Do they also apply to the Christian
23 Congregation?

24 A. Yes.

25 Q. I know there are other entities such as

1 Watchtower of Pennsylvania. Would the Branch Committee
2 Guidelines apply to these other entities as well?

3 A. Yes.

4 Q. Other than the Service Department, what are
5 the other departments that have existed both --

6 Let me break this down, actually, I'm sorry.

7 Prior to the formation of the Fremont
8 Congregation, going back to Watchtower New York, what
9 were the various departments within Watchtower New York
10 prior to 2009?

11 A. I don't know that I could name them all. I
12 know that the Service Department came under the
13 direction of the Watchtower Corporation of New York. I
14 know certain other departments did. I can't say with
15 certainty, no.

16 Q. All right. We talked about the Legal
17 Department earlier, recognizing that you are not here in
18 that capacity, but do you know of your own knowledge
19 whether or not the Legal Department, prior to 2001, was
20 operated through the Watchtower Bible and Tract Society
21 of New York, Inc.?

22 A. I don't know.

23 MR. SCHNACK: I can tell you it was, Rick.

24 MR. SIMONS: It was. Okay.

25 MR. SCHNACK: Still is.

1 BY MR. SIMONS:

2 Q. In your work in the Service Department, if
3 you have a question that involves legal issues
4 presently, do you go to the Legal Department of
5 Watchtower New York, or do you have a separate Legal
6 Department within the Christian Congregation?

7 A. The Legal Department here at Patterson.

8 Q. Is that Watchtower New York?

9 A. As Rick has stated, it is. I'm sorry. Bob.

10 Q. Looking down at paragraph 10: Congregation
11 elders are expected to keep confession of other
12 spiritual communications confidential.

13 Is there a written definition, to your
14 knowledge, in any of the materials that you referenced
15 in your work or have been familiar with in your work, as
16 to what constitutes a spiritual confidential
17 communication?

18 MR. SCHNACK: I'm sorry. You are asking if
19 there is a written definition?

20 BY MR. SIMONS:

21 Q. Yes. What is a spiritual confidential
22 communication?

23 A. Nothing other than the scriptures.
24 Throughout the Bible it refers to keeping matters in
25 confidence. In Proverbs it refers to confidential talk.

1 So from a scriptural standpoint, spiritual advice or
2 counsel would be regarded as confidential.

3 Q. Are some matters, in your experience, that
4 are the subject of communications between an elder and a
5 congregation member not deemed spiritual?

6 A. Just general, just conversation with fellow
7 members of Jehovah's Witnesses is not regarded as
8 spiritual in nature.

9 Q. For example, if a congregation member spoke
10 to an elder about a problem he was having with a car
11 that would not operate correctly and asked for some
12 mechanical advice, would that be deemed spiritual in
13 nature?

14 A. I don't think any of us would regard that as
15 spiritual in nature.

16 Q. Where, within the definitions that you work
17 with administratively, is the dividing line between the
18 subject matter that is deemed spiritual communications
19 and the subject matter that is deemed nonspiritual
20 communications?

21 MR. SCHNACK: I'm going to object as vague.
22 I am not sure I understand the question.

23 You can respond.

24 THE WITNESS: That is pretty general. I
25 think I would like for you to give me a little more

1 specifics as to what you mean by that.

2 BY MR. SIMONS:

3 Q. How do you know in your work whether or not a
4 communication between a congregation member and an elder
5 is to be deemed spiritual or it is to be deemed
6 nonspiritual as the example that we talked about
7 earlier?

8 A. The example with the car?

9 Q. Yeah.

10 A. Well, let me give you an example. If someone
11 came to me and, for example, a woman confessed to
12 committing adultery, I would certainly want someone with
13 me, another elder, to listen to that confession. I
14 think we would both, as elders, regard that confession
15 as confidential.

16 Q. Because the subject matter would be deemed
17 spiritual?

18 A. I don't know that you would regard adultery
19 as spiritual, but the fact that the confession is before
20 two elders who represent the Christian Congregation,
21 from that standpoint, it would be spiritual.

22 Q. Is it the confession of wrongdoing that is
23 spiritual, regardless of the wrongdoing itself?

24 A. It is written in the context of a spiritual
25 problem that maybe someone has.

1 Q. If you have a question in your mind as to
2 whether the subject matter of the communication is
3 spiritual in nature or not, how do you resolve that
4 question?

5 A. Well, again, I think that is pretty general,
6 Mr. Simons. Can you be more specific?

7 Q. Yes. If you are unable to resolve a question
8 of whether a communication is spiritual in nature or not
9 in your work, how do you get the answer to the question?

10 Do you ask someone else within the
11 organization in a different department? Do you go to
12 your supervisor? Do you research it yourself and make a
13 decision yourself? How do you resolve a gray area as to
14 whether communication is spiritual or not?

15 A. I think through experience one is able to
16 determine the difference between what is a spiritual
17 matter that should be -- or, for that matter, anything
18 that should be kept confidential as to something that is
19 not confidential or not spiritual.

20 Q. When you say "experience," are you speaking
21 of your own individual experience or the collective
22 experience of yourself and others within the
23 administration and leadership here?

24 A. My own experience.

25 Q. Have you ever had an occasion during your

1 years of service where you asked for other's guidance in
2 determining whether communication should be deemed
3 spiritual and confidential or not?

4 A. Yes.

5 Q. And in those situations or in that situation,
6 to whom do you go for guidance?

7 A. It depends on the context. It depends on
8 what the issue is as to who I go to.

9 Q. Can you give me different examples of the
10 types of subject matters of communications that would
11 lead you to another and to --

12 A. Well, I served as an elder, as I said, since
13 1979 in various congregations. So in the role of an
14 elder within the local congregation is made up of a
15 number of elders bearing numbers of elders within a body
16 in a local congregation.

17 So if it is in regard to an issue I referred
18 to earlier, where a woman may confess adultery, then I
19 would consult with another elder in those matters. We
20 would regard that as confidential.

21 Q. How about if the subject matter was not one
22 which was clear to you as to whether it is spiritual and
23 confidential or not and you wanted further insight from
24 someone else on that in addition to your own experience,
25 to whom would you go for guidance on that?

1 A. You are talking about spiritual matters?

2 Q. Well, about the issue of whether or not a
3 communication is a spiritual communication as opposed to
4 one that is not.

5 A. As an elder in a local congregation, I would
6 consult with other elders.

7 Q. How about in your capacity here as an
8 assistant overseer in the Service Department?

9 A. I would consult with elders here in the
10 Service Department.

11 Q. Is there someone within the administrative
12 structure of the organizations, plural, who is the final
13 arbitrator of whether a specific type of communications
14 that you deemed spiritual and confidential or not?

15 A. I believe it depends on the nature of the
16 spiritual, confidential question.

17 Q. And can you explain that for me?

18 A. There are some issues, some questions that
19 are raised that I can freely discuss with my peers
20 within the department. And based on a discussion, a
21 determination can be made as to whether we have the
22 authority to make a decision. In other cases, not.

23 Q. Are there situations, in your experience,
24 when the question of whether or not a communication is a
25 confidential communication, you have turned to the Legal

1 Department for determination of that issue?

2 A. We have gotten legal advice, yes, on a
3 regular basis.

4 Q. And in your capacity within the Service
5 Department, do you have a discretion to overrule, if you
6 will, legal advice you received from the Legal
7 Department of Watchtower New York?

8 A. Do we have the authority to overrule? Again,
9 I think it depends on the context.

10 Q. With regard to the question -- I'm sorry if
11 that question was overbroad, but let me narrow. On the
12 question of whether or not an individual communication
13 is deemed confidential or not.

14 MR. SCHNACK: I'm going to object to the form
15 of the question. It seems you are co-mingling legal
16 issues and spiritual issues. I'm not sure the church
17 does that.

18 But to the extent you can respond, go ahead.

19 THE WITNESS: Yeah. I think, in response to
20 what Bob is saying, anything that is confidential is not
21 always spiritual. And something that is spiritual is
22 not always confidential. So I don't think we can draw a
23 parallel as if they were synonymous.

24 But again, your question?

25

1 BY MR. SIMONS:

2 Q. Thank you for that clarification. With
3 regard to whether or not a communication is
4 confidential, are you given the authority to make that
5 determination in a situation where the Legal Department
6 has given you an opinion as to that, can you determine
7 to be different than the Legal Department?

8 A. Do you mean me personally, or do you mean as
9 a department?

10 Q. You as an assistant overseer in your official
11 capacity.

12 A. Again, I think it is a judgment matter.
13 There are some things that are given in the way of
14 advice, and it is just that, advice.

15 There are other things that are presented
16 from the Legal Department that I personally would not
17 want to take it upon myself to make that decision to
18 overrule the good advice that we often get from -- that
19 we regularly get from our legal counsel.

20 Q. Going back to the time period before 2001,
21 when the Service Department was within the Watchtower
22 New York, were the respective roles that we have been
23 discussing between the Service Department and the Legal
24 Department the same, but just kept within the one
25 organization structure?

1 A. A little confusing question.

2 Q. All right. Prior to 2001, was the Service
3 Department, in terms of its authority and role, the same
4 as it is now within the Christian Congregation?

5 A. Do you mean the difference between when
6 Service Department was working as the New York
7 Corporation, since 2001, and the Christian Congregation?

8 Q. Yes.

9 A. Essentially the same.

10 Q. And was the nature of the relationship
11 between the Legal Department and the Service Department
12 the same before 2001 as it is at present?

13 A. When you say "relationship," do you mean --

14 Q. In terms of the nature of the issues that
15 would be brought to the Legal Department and the
16 consequences of information that would come back from
17 the Legal Department to the Service Department?

18 A. Yes.

19 Q. Mr. Shuster, have you seen this letter of
20 July 1st, 1989 before?

21 A. Yes.

22 Q. And when do you recall first being aware of
23 this letter?

24 A. Shortly before July 1st, 1989.

25 Q. Did you participate at all in the drafting of

1 this letter?

2 A. I'm not certain.

3 Q. Okay. Do you know any of the individuals who
4 participated in the drafting of this letter?

5 A. I don't think I could name someone specific.

6 Q. Is this what is known as a body of elder
7 letter?

8 A. Yes.

9 Q. Is the content of this letter, Exhibit 5, one
10 that requires the approval of anyone within the
11 Jehovah's Witnesses organization before it can be
12 circulated to elders throughout the United States?

13 A. Yes.

14 Q. What approval or approvals, if there is more
15 than one, must be made before a body of elder letter
16 such as this could be circulated at the time we are
17 talking about July 1, '89?

18 A. Within the time frame of 1989?

19 Q. Yes.

20 A. It would have been a group of elders within
21 the Service Department that would have reviewed this
22 letter. It would have been a collaborative effort.

23 You are talking about the Service Department.
24 Right?

25 Q. I'm talking about within the organization.

1 A. Within the organization?

2 Q. Completely.

3 A. Yes. Undoubtedly, the legal departments
4 would have input into this. It would have been approved
5 by a committee of the governing body.

6 Q. Has this body of elder letter of July 1, 1989
7 been revoked?

8 A. When you say "revoked," you mean in total or
9 in part?

10 Q. First, in total.

11 A. No.

12 Q. Have parts of it been modified or revoked?

13 A. I would have to review the letter --

14 Q. All right.

15 A. -- in further detail.

16 Q. Okay.

17 MR. SCHNACK: Do you want him to do that?

18 MR. SIMONS: Yes.

19 THE WITNESS: It is, actually, the same now.
20 Maybe there is one exception, and that's on page -- on
21 page 4 at the very top, the first sentence:

22 "If the alleged wrongdoer confesses
23 to the sin, crime, no one else should be
24 present besides the members of the committee."

25 Just in addition to that, in the case of a

1 child being a minor, likely, in most cases, his parent
2 or parents would be present. But other than that,
3 essentially it is the same.

4 (Whereupon, the video recording was stopped)

5 MS. KRAETSCH: Your Honor, may we take a
6 five-minute break until I figure out where the rest of
7 the video went?

8 THE COURT: Sure. I will see everybody at
9 11:25.

10 (Break taken)

11 (Whereupon, the video recording was played)

12 BY MR. SIMONS:

13 Q. Let me ask you a question that may seem
14 somewhat silly to you, but what is the difference in the
15 purpose between the Awake Magazine and the Watchtower
16 Magazine?

17 A. The Watchtower Magazine is a magazine that
18 deals a lot with prophecy -- Bible prophecy and world
19 events and how we see world events that we see happening
20 today are really part of a prophetic sign as to the
21 times that we are living in.

22 And so Watchtower is taken from as if a
23 sentry were standing out in the wilderness on top of a
24 tower overlooking a panoramic view, and he can see far
25 in advance these events, what is coming his way. That

1 is the idea behind the Watchtower.

2 The Awake Magazine is more designed toward
3 the public in general and articles of interest on
4 creation, history, geography. They both have a printing
5 of over 42 million copies.

6 The Watchtower is in 194 languages, and the
7 Awake is in 84 languages. So it is a worldwide -- both
8 of them have worldwide distribution.

9 Q. When members or publishers go out to spread
10 the word to the community at large among non-members, do
11 they provide to the community, at least as the persons
12 who are interested, both Awake and Watchtower?

13 A. Yes. Both Awake and Watchtower and other
14 publications.

15 Q. So am I correct in saying neither Awake nor
16 Watchtower are published exclusively for the membership
17 of Jehovah's Witnesses, they are directed towards the
18 larger community as well?

19 A. The Watchtower, about three years ago was --
20 there is two publications. There is the public edition
21 of the Watchtower and now there is a study copy -- a
22 study edition of the Watchtower. And the study edition
23 of the Watchtower is designed specifically for the
24 membership.

25 Q. And that's a more recent development?

1 A. Yes.

2 Q. If we look back to the 1990s, would we have
3 what is now the equivalent of the public Watchtower and
4 Awake both being distributed for use of members and to
5 the public at large?

6 A. Yes.

7 Q. Now, you mentioned the Watchtower now being
8 utilized in certain study committees. Am I correct that
9 there are various kinds of regular meetings and study
10 sessions that congregations hold within Jehovah's
11 Witnesses?

12 A. Yes, we do.

13 Q. And are there regular meetings held by
14 congregations at the Kingdom Halls?

15 A. Yes.

16 Q. And how frequently would regular sessions at
17 the Kingdom Hall be held in most congregations, at least
18 in your knowledge and experience?

19 A. Do you mean meetings that a congregation
20 would have, as opposed to meetings that Kingdom Hall
21 would have?

22 Q. Yes.

23 A. Yes. A congregation typically would have two
24 meetings a week; one during midweek, and typically one
25 on the weekend.

1 Q. And do each of these meetings have a
2 different purpose or is the purpose the same?

3 A. A different purpose.

4 Q. What are the purposes of the two meetings --
5 the midweek and the weekend meetings?

6 A. Well, both are open to the public. So
7 anybody is invited to attend these meetings. The
8 midweek meeting is made up of three different types of
9 meetings. One is called the Congregation Bible Study.
10 And there is a publication that the Jehovah's Witnesses
11 use. It varies from year to year. That is considered
12 for 25 minutes or half hour.

13 And then we have what is called a theocratic
14 ministry school that helps to train the congregants as
15 to how to perform public speaking or public reading,
16 speaking to others about the Bible.

17 And then the last part of the meeting is
18 called a service meeting. And information from a
19 periodical called Our Kingdom Ministry is reviewed.

20 And again, having to do with the ministry.
21 Because that's what Jehovah's Witnesses do is we
22 speak -- speak about matters of God and bear witness
23 about Him and tell others about what we consider to be
24 good news in the Bible.

25 Q. Are the midweek meetings that are held at the

1 Kingdom Halls attended customarily by children as well
2 as adults?

3 A. Yes.

4 Q. What does the weekend meeting usually consist
5 of?

6 A. It is -- it consists of two meetings, a
7 public talk addressed to the public, and then
8 consideration of the study edition of the Watchtower.
9 There are articles that are taken each week from that
10 Watchtower and considered during the course of that hour
11 on a variety of subjects.

12 Q. And are the weekend meetings customarily held
13 at the Kingdom Hall?

14 A. Yes. In this country.

15 Q. Are there other meetings routinely held, in
16 your experience and knowledge, that would be smaller
17 study groups held, perhaps, in homes of individuals who
18 are congregation members?

19 A. Not a study group. We do have places, homes,
20 private homes where we gather for a very, very brief
21 period of time, 10 to 15 minutes to meet prior to
22 engaging in the public ministry.

23 Q. Are the weekend meetings customarily attended
24 by children?

25 A. The public talk and Watchtower study at the

1 congregation Kingdom Hall?

2 Q. Yes.

3 A. Yes.

4 Q. When you say "public ministry," is service
5 work and public ministry -- are those concepts the same?

6 A. Service work, meaning?

7 Q. Does the service work that is customarily
8 used in your vocabulary include the public ministry that
9 you were about to describe.

10 A. Yes. We don't use the terminology "service
11 work." We do use the word "service." It is a field
12 service or field ministry. And, yes, it is synonymous
13 with the ministry.

14 Q. So it's service, not service work?

15 A. Right.

16 Q. Thank you. My apologies.

17 And how often are congregations involved,
18 say, on a weekly basis in field service?

19 A. Typically, we have meetings all during the
20 week and in the homes, usually in the mornings.
21 Sometimes in the afternoons, we have a meeting for field
22 service.

23 So in some cases it is seven days a week
24 either in the homes or at our places of worship, our
25 Kingdom Halls.

1 In other areas where the congregations are
2 much smaller, they may have arrangements to meet less
3 than that.

4 Q. And by field service or public ministry, does
5 that mean going into the community to preach the gospel
6 and spiritual teachings of Jehovah's Witnesses?

7 A. Yeah. The gospel. Speaking about the Bible
8 and -- yes.

9 Q. And are children allowed to engage in the
10 field service work -- I'm sorry -- the field service? I
11 beg your pardon.

12 A. Yes.

13 Q. What does the term "publisher" mean?

14 A. A publisher can refer to a baptized or an
15 unbaptized associate of the congregation.

16 Q. Can a child be a publisher?

17 A. Yes.

18 Q. And can a child be an unbaptized publisher?

19 A. Yes.

20 Q. What is the role of an unbaptized publisher
21 in field service?

22 A. The same as an adult publisher.

23 Q. And what is that?

24 A. Reading the Bible. Sharing with others one's
25 faith, one's conviction. Teaching them about what the

1 Bible says. There's a hope for the future. It is all
2 part of the ministry whether one is an adult or a minor.

3 Q. Does field service work include manning a
4 table or a booth or some kind of fixed place in a public
5 location where persons can come by and approach and be
6 given an Awake or Watchtower or other information?

7 A. That would be part of it. That is one form,
8 one aspect of the public ministry.

9 Q. Does it include going into communities, into
10 residences or neighborhoods going door-to-door as well?

11 A. That's part of it, yes.

12 Q. And that is usually done in smaller groups
13 of, perhaps, two or three individuals?

14 A. Yes.

15 Q. And children are allowed to do that?

16 A. Yes.

17 Q. What are the other ways in which field
18 service is accomplished?

19 A. Well, we have the public ministry, which
20 often involves calling on homes, the house-to-house
21 ministry. I think that's probably what Jehovah's
22 Witnesses are more known for than anything else is their
23 public ministry. Waking you up early in the morning is
24 part of it.

25 Another part of it is, as you mentioned, is

1 the street witnessing, talking to passersby, engaging
2 them in confession. Part of it is making visits on
3 people who have expressed interest and calling back on
4 them. There are many different types of ministry.

5 Q. Are any of these types of ministry ones which
6 children are precluded from participating in?

7 A. Some of the work that is done in the public,
8 like, on the street, maybe in metropolitan areas, there
9 is always concern about children, and we want to protect
10 them and keep them from harm. So there may be sometimes
11 when we would recommend that children not participate in
12 that aspect of the ministry, such as in business
13 territories or on the street.

14 Generally, that is up to the parent to make
15 that decision. They have the authority, the right to
16 dictate where they go, where they do not go.

17 But the elders in the congregation may make
18 some recommendations that would preclude children more
19 from the standpoint of their safety.

20 Q. Is there such a thing as a pioneer service
21 school?

22 A. Yes.

23 Q. What is a pioneer service school?

24 A. It is a two-week course that those who are
25 what we call "pioneers" in the congregation, who have

1 agreed to devote a certain set of number of hours per
2 month to the public ministry. Periodically they are
3 invited to the pioneer service school.

4 Q. Does a pioneer -- I'm sorry. Must a pioneer
5 be baptized to be eligible?

6 A. Yes.

7 Q. So an unbaptized publisher would not be
8 eligible to be a pioneer?

9 A. That's correct. And there is different types
10 of pioneers. But, yes. Right.

11 Q. So generally speaking, a family of members of
12 a congregation would be included in the midweek meeting,
13 the weekend meeting, possibly smaller study groups and
14 field service?

15 A. Yes.

16 Q. And the amount of time, frequency of
17 participation in these various activities and gatherings
18 would vary, I assume, greatly, from family to family.
19 Is that fair?

20 A. Yes.

21 Q. However, there is no requirement of a minimum
22 number of hours as to either participation in meetings
23 or in field service in order to maintain membership in
24 good standing with the congregation?

25 A. That's correct.

1 Q. Who is deemed to be clergy within the
2 Jehovah's Witnesses?

3 A. Well, this would be elders, anyone occupying
4 the position or serving within the capacity as an elder.

5 Q. Are ministerial servants considered clergy?

6 A. No.

7 Q. Are all members in good standing considered
8 to be ministers within Jehovah's Witnesses?

9 A. Yes.

10 Q. Let me have you -- direct your attention,
11 then, please, to Exhibit 7, the second affidavit of
12 Allen Shuster, signed December 7th, 2011, on page 4.

13 And that's your signature again. Correct?

14 A. Yes. In paragraph 7 on page 2, you advise us
15 that the terms "member," "publisher," and "ordained
16 minister" mean the same and are interchangeable within
17 the faith. Am I correct that that does not extend to
18 unbaptized publishers?

19 A. That's correct.

20 Q. Are persons who have been removed as field
21 servants, like Jonathan Kendrick in the 1990s, still
22 considered publishers?

23 A. Yes.

24 Q. So he was still a baptized publisher?

25 A. Yes.

1 Q. What was the predecessor, in terms of
2 function of the Branch Committee?

3 A. Prior to the Branch Committee, which was
4 formed in 2001, the Bethel operations, is the operations
5 of the three complexes that make up, not only the world
6 headquarters, but also the headquarters for the United
7 States Branch facilities as well as the field operations
8 who were separate. There were two separate entities
9 that care for those functions.

10 Q. We talked about the Branch Committee
11 Guidelines, the published guidelines and the handbook,
12 so to speak. Was there a predecessor of similar type
13 before 2001 when the Branch Committee was formed?

14 A. The Branch Organization -- is what you are
15 referring to -- has been in existence prior to the
16 formation of the U.S. Branch Committee.

17 Q. And so did the Branch Organization have a
18 handbook or guidelines prior to 2001?

19 A. I'm sure that there was some guideline that
20 they went by. I don't know that there was an official
21 document. Maybe more just internal communications or
22 perhaps some memoranda that gave them some structure.

23 Q. Who, if anyone, would have been required to
24 approve the content of articles in the Awake before they
25 were published? This is back in the '85 to '93 time

1 period.

2 A. It would be individuals that work in our
3 writing department.

4 Q. Were issues of --

5 I'm sorry.

6 Were articles on the subject matter of
7 protecting children from sexual abuse subject to
8 approval from anyone other than persons in the Writing
9 Committee back in the time frame that we are talking
10 about, '85 to '93, as to these articles?

11 MR. SCHNACK: Do you mean the Writing
12 Department?

13 MR. SIMONS: Writing Department, thank you.

14 THE WITNESS: I know, on occasion, that the
15 Writing Committee would send -- the Writing Department,
16 that is -- they would send articles to others outside
17 the Writing Department for their review.

18 BY MR. SIMONS:

19 Q. Would an article setting forth the policy on
20 something such as childhood sexual abuse, such as the
21 January 22, 1985 article in the Awake, have been
22 reviewed and approved by the governing body or a
23 committee of governing body prior to its publication?

24 A. My understanding is that they would.

25 Q. What is that understanding?

1 A. Whether all of the members of the then
2 existing governing body would review articles from the
3 Awake or the Watchtower -- and I can't say for
4 certainty, but what I do say for certainty is that some
5 members of the governing body would review it, yes.

6 Q. What is your understanding based on?

7 A. Based on my knowledge.

8 MR. SIMONS: We have been going for a while.
9 Any time you want to take a break, just tell us.

10 THE WITNESS: I'm good.

11 THE COURT: Or perhaps the court reporter.

12 (Discussion off the record)

13 BY MR. SIMONS:

14 Q. Your last answer was -- that you just
15 stated -- can you tell me a little bit about how you
16 acquired the knowledge of the governing bodies role in
17 terms of approval of the policy articles or Watchtower
18 policy articles?

19 A. I just know that the Writing Department is
20 directly overseen by the Writing Committee of the
21 governing body, and that there have been members in the
22 past of the governing body who are in the -- on the
23 Writing Committee, and also work in the Writing
24 Department.

25 And I know the process, that it is reviewed

1 by a number of writers. And it has been the policy of
2 at least a few members of the governing body, reviewing
3 anything of the Watchtower and Awake that is published.

4 MR. SIMONS: Thank you, sir, for your time
5 today. That is all the questions I have.

6 THE WITNESS: Thank you.

7 (Whereupon, the video recording was stopped)

8 THE COURT: Mr. Simons.

9 MR. SIMONS: Yes, Your Honor. Give me thirty
10 seconds for us to focus our eyes and then we'll go to
11 the next videotaped deposition, which would be
12 Ms. Harmatz.

13 THE COURT: How long is that?

14 MR. SIMONS: About 15 to 20, I thought.

15 THE COURT: Okay. All right.

16 (Whereupon, the video recording was played)

17 VIDEOGRAPHER: My name is John Peace, your
18 videographer. I represent Atkinson-Baker, Inc., in
19 Glendale, California. I'm not financially interested in
20 this action nor am a relative or employee of any
21 attorneys or any of the parties.

22 The date is April 30th, 2012. Time is 1:01
23 p.m.

24 This deposition is taking place at Kaiser
25 Permanente, Department of Addiction Medicine, located at

1 9449 East Imperial Highway, Suite 201, Downey,
2 California 90242.

3 This is Case Number HG11558324, entitled Jane
4 Doe versus The Watchtower Bible. The deponent is Helene
5 Harmatz, Ph.D.

6 This deposition is being taken on behalf of
7 the plaintiff.

8 The court reporter is Claudia Reyes from
9 Atkinson-Baker.

10 Counsel will now identify themselves.

11 MS. KRAETSCH: Kelly Kraetsch for Plaintiff,
12 Jane Doe.

13 MR. SCHNACK: Bob Schnack for Defendant,
14 Watchtower Bible and Tract Society of New York,
15 Incorporated.

16 MR. McCABE: James McCabe on behalf of the
17 North Congregation of the Jehovah's Witnesses Fremont,
18 California.

19

20 HELENE HARMATZ, Ph.D.

21 WAS DULY SWORN TO TELL THE TRUTH BY THE COURT REPORTER

22 AND TESTIFIED AS FOLLOWS:

23 EXAMINATION

24 BY MS. KRAETSCH:

25 Q. Good afternoon, Dr. Harmatz. Will you please

1 introduce yourself?

2 A. My name is Helene Harmatz.

3 Q. And what is your profession?

4 A. I'm a counselor at Kaiser Permanente
5 Psychiatry Department.

6 Q. And can you explain what a counselor here
7 does?

8 A. We do assessments and treatments for clients,
9 patients, who come in with depression or any type of
10 either mental illness or emotional distress.

11 Q. What is your educational background?

12 A. I have a Masters in social work, and I have a
13 Ph.D. in clinical psychology.

14 Q. Can you describe your professional training
15 and experience?

16 A. Well, my training in social work was at the
17 University of Southern California. And then my training
18 in clinical psychology was through a professional
19 educational university.

20 And the types of experience I have had is
21 varied. I have worked in medical hospitals, to acute
22 medical settings. I have worked in substance abuse at a
23 non-profit agency. I have worked in sexual assault in a
24 non-profit agency. I have worked in juvenile justice.
25 And long, long ago it was Head Start.

1 Q. Can you describe your experience working with
2 sexual assault victims?

3 A. I worked for a year-and-a-half in a
4 non-profit agency with victims of sexual assault, incest
5 survivors as well.

6 And I was the clinical director, but it was a
7 small agency. So I did a lot of counseling with
8 survivors, but also some hospital interventions and
9 occasionally a court witness.

10 Q. And where do you work now?

11 A. I work at Kaiser Permanente in the
12 Psychiatric Department in Downey.

13 Q. And how long have you been there?

14 A. I've been here -- I'm on my eighth year.

15 Q. Do you have a title here at Kaiser?

16 A. I do. It is psychiatric counselor.

17 Q. Have you ever treated Candace Conti?

18 A. Yes, I have.

19 Q. Over what period of time?

20 A. There have been five sessions, and I really
21 don't recall when we started.

22 Q. Do you recall when your last visit with her
23 was?

24 A. Last visit was last Friday, and that was on
25 April 27, 2012.

1 Q. How was Ms. Conti referred to you?

2 A. She was referred by her case manager in
3 addiction medicine.

4 Q. And what was your goal in Ms. Conti's care?

5 A. Supportive, but also assisting in the
6 treatment of depression, anxiety, but mostly some PTSD.

7 Q. When you first started treating Ms. Conti,
8 did you obtain a history from her?

9 A. I obtained some history. Not the full
10 history.

11 Q. Do you recall what that history was?

12 A. She mostly talked about some legal issues
13 that she was involved in, some substance history, her
14 substance recovery that she was working on, some family
15 issues concerning grandparents, mother as well. That's
16 a lot of it.

17 Q. Dr. Harmatz, turning to page 22.

18 MR. SCHNACK: Are you using the numbers in
19 the lower right-hand corner?

20 MS. KRAETSCH: Not the lowest number, but
21 above that page 22.

22 MR. McCABE: So you are using page 22 of 41
23 of the right corner?

24 MS. KRAETSCH: Yes, I am.

25 BY MS. KRAETSCH:

1 Q. Dr. Harmatz, here on the Exhibit 1, page 22,
2 there are notes from your October 4, 2011 session with
3 Ms. Conti.

4 And you state here:

5 "Patient reports she was sexually
6 abused from the ages of 9 to 12 by a man in
7 her religious community."

8 What did she tell you about that?

9 A. She really didn't go into details. She
10 simply stated that this occurred and, you know, that
11 this was -- these were issues she was dealing with.

12 Q. Did you place any significance on that report
13 that she gave you?

14 A. Yes. It is telling in terms of what could be
15 going on with the patient.

16 Q. Can you describe in a little bit more detail
17 why that was an important piece of her history for your
18 treatment?

19 A. Well, with the diagnosis of PTSD, which was
20 not made by me, this can explain where that comes from,
21 that a client has experienced something so difficult
22 that there are symptoms that can be ongoing and quite
23 difficult. And, again, traumatic for her that ran
24 through her life.

25 Q. You mentioned that she was diagnosed with

1 PTSD. Who made that diagnosis?

2 A. You know, I'm not positive, but I believe it
3 was made in addiction medicine, and possibly by the
4 psychiatrist; although, I'm not definitely clear on
5 that.

6 Q. What was the significance to you of the
7 diagnosis of PTSD?

8 A. Well, again, that it formulates so much of a
9 patient's life even currently that there are symptoms
10 that continue to be problematic: sleep disturbances,
11 concentration disturbances, but also that interfering
12 relationship issues, trust issues.

13 Q. Can you elaborate a little bit on what those
14 symptoms were that Ms. Conti was exhibiting?

15 A. Well, definitely sleep issues. Frequent
16 nightmares. So that kind of exhaustion can lead, again,
17 to depression and, again, more interrupted functioning
18 in daily life.

19 Also significant trust issues, which damage
20 relationships, or, you know, inhibit somebody from
21 carrying on.

22 So, again, the symptoms: sleep problems, some
23 depression, heightened anxiety, so fearfulness and a
24 lack of being able to trust.

25 Q. I see here on page 14 in your notes

1 pertaining to your visit with Ms. Conti on November 29,
2 2011, and you state: "She continues to have nightmares
3 every night."

4 A. Yes, I recall her saying that.

5 Q. Can you go into some detail about what these
6 nightmares consisted of?

7 A. She talked, and I stated here, about being
8 held down and waves. But she really talked about not
9 wanting to even sleep that, you know, being woken up and
10 not getting a good night's sleep constantly. But this
11 feeling of having no control over herself, that somebody
12 else is holding her down, and she is having difficulty
13 breathing.

14 Q. And from your professional experience, did
15 you make an assessment as to what was causing those
16 nightmares?

17 A. She seemed -- I don't think I even needed to
18 make an assessment. She seemed to believe that this was
19 related to the sexual abuse, and it seemed to make a lot
20 of sense to me.

21 Q. In your profession opinion?

22 A. Yes. Definitely. Definitely. It made
23 sense. To my knowledge, other things going on with
24 Candace wouldn't make the same impact on her.

25 Q. So based on your education, training,

1 research, clinical work and familiarity with Candace
2 Conti and her medical records, do you have an opinion as
3 to the most likely cause or causes for her
4 post-traumatic stress disorder?

5 A. From what I know of Candace, yes, it seems
6 that the sexual assault is truly what's behind this.

7 Q. And what is the basis for that opinion?

8 A. My education and the dealing with other
9 survivors of sexual assault and incest survivors.

10 Q. The notes from your session on November 29,
11 2011, on page 14, also mentions therapeutic techniques.

12 Can you explain the techniques that you
13 listed here?

14 A. The cognitive behavior really has to do with
15 the thought process and on using your thought process as
16 an understanding of an emotional state. So really
17 getting it into your cognitive sphere daily so that you
18 can make some changes.

19 Is that clear enough?

20 Q. Yes. How about the psychodynamic?

21 A. Psychodynamic really is the connection of
22 what happened, in terms of your past, so the social and
23 psychosocial areas of your life and how that is
24 displayed, again, significantly today.

25 Q. And can you describe the supportive

1 technique?

2 A. Just really being present, listening, and I
3 would say really kindness and being present in a
4 relationship with a patient.

5 Q. And in these notes you also describe a plan
6 for Ms. Conti and state that the patient agrees with the
7 plan.

8 Can you explain what that plan consisted of?

9 A. Well, if she takes medication in the way it
10 is prescribed, continue her support, 12-Step meetings,
11 because she is continuing to work on her sobriety. And
12 the 12-step meetings being supportive as well as
13 treatment oriented.

14 And the assertion on limit setting has to do
15 with family members who may lean on her. And she needs
16 to be a little bit more firm about that.

17 Q. You mentioned some prescriptions that Candace
18 is taking. Do you know what those prescriptions are?

19 A. You know, I don't have it right in front of
20 me, and I'm not a medical doctor.

21 Q. Okay. Fair enough. From her clinical care
22 and her medical records, are you familiar with Ms.
23 Conti's history and treatment in the Department of
24 Addiction Medicine here at Kaiser?

25 A. I have not reviewed those records. I do know

1 that she did have treatment in this department.

2 Q. Can you describe the program that Ms. Conti
3 was in?

4 A. I'm not familiar enough to do that. I'm
5 sorry.

6 Q. Okay. I wanted to talk a bit about Ms.
7 Conti's sobriety. Also in your notes from your visit
8 with Ms. Conti on October 4, 2011, on pages 21 and 22,
9 you stated: "Sober and clean over a year."

10 Did Ms. Conti undergo any objective
11 laboratory tests to confirm that?

12 A. In terms of my work with her, no. In terms
13 of her sobriety and working through the Chemical
14 Dependency Department, I'm pretty sure, yes. So that
15 was a self-statement that I put into my record.

16 Q. So do you know if she went for random drug
17 testing in her program?

18 A. Yes. I believe that's the case.

19 Q. In your professional experience, can those
20 random drug tests be faked?

21 A. Not to my knowledge, no.

22 Q. In your notes from October 4, 2011, you also
23 state, "Her sobriety is first in her eyes."

24 What did you mean by that?

25 A. Well, she said numerous times, and has so not

1 only on that day, that this is a really important part
2 of her life because she feels she has gotten back her
3 life, and that making a decision to become clean and
4 sober has given her a new chance, another chance to have
5 a good life. So it is extremely important to her.

6 Q. And in your opinion, based on observations
7 and any lab tests --

8 Let me start over. In your opinion, based on
9 observations of Ms. Conti and review of any lab tests,
10 as well as your own training and clinical experience,
11 can you state with reasonable, professional certainty
12 that Ms. Conti has been and remains free from influence
13 or use of any intoxicating substance other than those
14 that were prescribed for her?

15 A. I believe that to be the truth.

16 Q. And what is the basis for that opinion?

17 A. Her presentation is consistent. She may be
18 at times emotional, but she is clear. She is focused.
19 She seems extremely sincere.

20 The types of drugs she used in the past, I
21 don't think she would be able to present the way that
22 she does, in my experience.

23 Q. You mentioned that you saw Ms. Conti five
24 times.

25 A. Yes.

1 Q. Was she responsible in her attendance for
2 those five sessions?

3 A. Absolutely.

4 Q. Was she on time?

5 A. Absolutely.

6 Q. Did she ever miss any appointments that were
7 scheduled?

8 A. Not to my knowledge, no, not unless she
9 canceled. And I don't even know that that was the case.

10 Q. To your professional observation, did
11 Ms. Conti demonstrate that she was motivated to obtain
12 the maximum benefits from care and treatment that you
13 provided to her?

14 A. Yes.

15 Q. In what ways?

16 A. She -- in a treatment plan, she has been
17 agreeable to follow the recommendations. She is working
18 on the things that we have worked on in terms of her
19 being assertive with family members; in terms of, you
20 know, taking good care of herself in the ways that we
21 have talked about; in terms of some depression, she has
22 really worked on the issues, you know. So I really hear
23 from her that she is taking the steps that we have
24 talked about.

25 Q. So you mentioned post-traumatic stress

1 disorder as well as depression. Were those the
2 diagnoses that were made by a medical doctor for Ms.
3 Conti?

4 A. Yes.

5 Q. Were there any other diagnoses attributed to
6 her?

7 A. Probably secondary. Nothing that would stand
8 out. I mean there is some anxiety in all of this, but
9 that can be part of the post-traumatic stress, there is
10 an anxiety portion.

11 Q. Getting back to your sessions with Ms. Conti,
12 what demeanor does she display in your interactions with
13 her?

14 A. I'm not sure I'm clear about what you are
15 asking.

16 Q. Ms. Conti's demeanor while she's interacting
17 with you in sessions, is she --

18 A. Responsive, receptive. She is attentive.
19 She is very attentive. She seems forthcoming with a lot
20 of material that she is willing and able to work on.
21 There are some things that she is not really ready or
22 willing to approach.

23 Q. And is that willingness important,
24 clinically, to your evaluation and approach to treating
25 a patient?

1 A. No. No. Because there are things that take
2 time for somebody to be ready to deal with. There are
3 things that are buried very deeply, things that are very
4 traumatic that really can only be tapped when the
5 patient is really ready. And to force that person
6 before they are ready is, I don't believe, good
7 practice.

8 Q. Can you explain what Axis 2 means?

9 A. It is generally reserved for a
10 characterological or personality disorder.

11 Q. And to your knowledge, was Ms. Conti ever
12 diagnosed with any personality disorders or other
13 pathology?

14 A. No. To my knowledge, no. There is nothing
15 in the record.

16 Q. Have you ever known her to be delusional?

17 A. No.

18 Q. In your November 2011 notes, you mention that
19 Candace Conti told you:

20 "She continues to work her program
21 and attends meetings and is feeling good about
22 her sobriety."

23 That was an important enough
24 observation you made a note of it. Can you
25 explain why it was important for you to put it

1 in your notes?

2 A. Two things. It is important to her because,
3 again, she stated so many times, but that time as well,
4 that she was working a program and that sobriety is
5 important to her.

6 But it also shows a commitment. It shows,
7 in my professional experience, it shows somebody who is
8 committed and who really wants their life back.

9 So this isn't about being manipulative or
10 trying to get away with something. This is really about
11 doing what is right for you, right and healthy and being
12 on that path.

13 Q. What is your prognosis for Ms. Conti in the
14 short-term?

15 A. It is a good prognosis. With PTSD, that's
16 very, very difficult. That takes a long, long time.

17 In terms of any depression, or more
18 anxiety -- and I know that those things weren't
19 diagnosed at first -- but she is doing quite well. You
20 know, I think she can be successful in a lot of things
21 that she does. She still has, you know, plenty of
22 issues, though.

23 Q. Can you elaborate from your professional
24 experience and interactions and treatment of Ms. Conti,
25 especially relating to the PTSD that you just mentioned,

1 what prognosis do you have in the long-term for her?

2 A. She is going to need to deal with these
3 things more so than she has with me so that the
4 nightmares can be freed up and so that she can -- I
5 think she is developing more trust in people, but this
6 is still pretty serious in trusting relationships,
7 again, being able to be more comfortable in situations
8 where she is not looking over her shoulder.

9 Although, you know, this situation wasn't
10 like what you normally see in PTSD, a lot of times you
11 will see a war survivor or a rape victim, as an adult,
12 and they are looking over their shoulders.

13 But it is still the trust issues and the
14 relationship issues, and, again, for her, specifically,
15 the severe nightmares. So those things are -- I'm
16 hoping will really improve in time.

17 Q. One final question. Do you have an opinion
18 with reasonable professional certainty as to whether it
19 was more likely than not that sexual abuse Candace Conti
20 experienced as a child was a substantially contributing
21 factor to her post-traumatic stress disorder?

22 A. From what I know of Candace, that is the only
23 thing I know in her history that would equate with PTSD.

24 Q. And can you just explain the basis for the
25 opinion that you just stated?

1 Q. Now, as in as you sit here today?

2 A. Yes. Over this course of treatment. So the
3 first assessment where more often I would get a more
4 complete history, I didn't. But I have since that time.

5 Q. Okay. Is it fair to say you think she is
6 doing very well?

7 A. Yes, I do.

8 MR. SCHNACK: That's all the questions I
9 have.

10 EXAMINATION

11 BY MR. McCABE:

12 Q. Doctor, I think we introduced ourselves
13 before the deposition. I just have a few questions.

14 A. Certainly.

15 Q. In your dealing with Candace Conti, you did
16 not know her to have any relapses back into crystal meth
17 abuse; is that correct?

18 A. That is correct.

19 Q. And how long has she been clean and sober
20 now?

21 A. I believe she told me it's over a year and a
22 half.

23 Q. Do you know how long she abused crystal meth?

24 A. You know, I'm really not clear. I can't say
25 with certainty.

1 Q. Does eight years sound about right? Starting
2 at age 16?

3 A. I'm really not positive. I thought it was
4 more like six. But, again, I'm not positive.

5 Q. But basically for someone who has been
6 involved in the daily use of crystal methamphetamine,
7 she is doing quite well, isn't she?

8 A. Yes.

9 Q. It is quite remarkable that she hasn't had a
10 relapse; isn't that true?

11 A. It's a difficult drug.

12 Q. But you would agree she is doing really well,
13 remarkably well?

14 A. Very well.

15 Q. Ms. Conti seems to be well-oriented socially;
16 wouldn't you agree?

17 A. From what she told me, yes.

18 Q. She is either in school or planning to attend
19 school?

20 A. Yes.

21 Q. She has got plans to move to Central
22 California with her mother?

23 A. Yes. She is doing some exercises, yes.

24 MR. SCHNACK: That's all I have.

25 MS. KRAETSCH: I have a follow-up question.

EXAMINATION

BY MS. KRAETSCH:

Q. When you said she was doing very well, are you referring to her beating addiction or to dealing with her PTSD?

A. I think I'm saying on all levels -- levels as a whole. She is attending meetings. She is sober. She is social. She has plans for the future. So, yes, on both, I think.

Q. And in your professional opinion, will she require further treatment for her PTSD and her depression?

A. I would say it is indicated.

MS. KRAETSCH: Okay. I don't have anything further.

Thank you so much.

(Whereupon, the video recording was stopped)

THE COURT: All right. To the jury, I will look forward to see you all at 1:30. Thank you for your diligence and attention.

(Whereupon, the following proceedings

were heard outside the presence of jurors)

THE COURT: All right. Who do we have left for the day?

MR. SIMONS: Two Kaisers and the Laura Fraser

1 video.

2 THE COURT: Okay.

3 MR. SIMONS: All by videotape depo.

4 THE COURT: Understood. And do you think
5 we'll get it done by 3:00?

6 MR. SIMONS: I think we'll get it done, yes,
7 maybe even a little earlier.

8 THE COURT: Okay. Thank you.

9 MR. SIMONS: We're back at 1:15?

10 THE COURT: Yes.

11 MR. SIMONS: Thank you, Your Honor.

12 (Lunch recess)

13 (Whereupon, the following proceedings
14 were heard in the presence of jurors)

15 THE COURT: All right, Mr. Simons.

16 MR. SIMONS: We would play the videotape
17 deposition of Dr. Laura Walton.

18 THE COURT: All right. Thank you.

19 (Whereupon, the video recording was played)

20 MS. KRAETSCH: Kelly Kraetsch for the
21 Plaintiff, Jane Doe.

22 MR. SCHNACK: Bob Schnack representing The
23 Watchtower Bible and Tract Society of New York,
24 Incorporated.

25 MR. McCABE: James McCabe representing the

1 North Congregation of Jehovah's Witnesses of Fremont
2 California.

3 LAURA WALTON, M.D.

4 WAS DULY SWORN TO TELL THE TRUTH BY THE COURT REPORTER
5 AND TESTIFIED AS FOLLOWS:

6

7

EXAMINATION

8

BY MS. KRAETSCH:

9 Q. Good afternoon, Dr. Walton. Will you please
10 introduce yourself?

11 A. My name is Laura Michelle Walton.

12 Q. What is your profession?

13 A. I'm a psychiatrist.

14 Q. What is the nature of your practice?

15 A. Currently, I practice psychiatry and
16 addiction medicine.

17 Q. And what professional services do you perform
18 for your patients?

19 A. I do evaluation, assessment, diagnosis of
20 mental illness and addictive illnesses.

21 Q. What is your educational background?

22 A. I did a BSNB program at the University of
23 Akron in Northeastern Ohio College of Medicine. And
24 then I trained at the University of Pennsylvania in
25 Philadelphia in Psychiatry.

1 Q. Do you have experience and training
2 specifically with victims of childhood sex abuse?

3 A. I have a lot of experience. Not specific
4 training, no.

5 Q. Can you just elaborate on that experience?

6 A. A large portion, probably 25 of my patients
7 have some history of sexual abuse.

8 Q. And where are you working now?

9 A. I work for Kaiser Permanente.

10 Q. In which departments do you work at Kaiser?

11 A. Psychiatry and addiction medicine.

12 Q. Have you treated Candace Conti?

13 A. Yes.

14 Q. And over what period of time?

15 A. I would say the last year.

16 Q. How was Ms. Conti referred to you?

17 A. Through her therapy in addiction medicine.

18 Q. And that's here at Kaiser?

19 A. Yes.

20 Q. Can you describe what your role was in Ms.
21 Conti's care?

22 A. She was referred for nightmares. And so I
23 was to evaluate her medication with nightmares and to
24 treat her.

25 Q. When you began to treat her, did you obtain a

1 history for Ms. Conti?

2 A. Yes.

3 Q. What history did you get from her?

4 A. I would have to look at the notes
5 specifically.

6 Q. Okay. This is a copy of Candace Conti's
7 behavioral health records.

8 A. Okay. My initial eval --

9 Q. Dr. Walton, if I could direct you to page 3,
10 and looking here at Candace Conti's behavioral medicine
11 records, which will be Exhibit 1, page 3, regarding Ms.
12 Conti's visit with you on January 3, 2012.

13 Do you recognize these to be records that
14 were taken in conjunction with your treatment of Ms.
15 Conti?

16 A. Yes.

17 Q. Are these records kept in the regular course
18 of Kaiser's business?

19 A. They are kept in electronic medical records.

20 Q. And were they made at or around the time that
21 you saw the patient?

22 A. Yes.

23 Q. During your treatment of Ms. Conti, did you
24 reach any diagnoses for her?

25 A. I did.

1 Q. And what were those?

2 A. Post-traumatic stress disorder.

3 Q. What was the basis of the diagnosis of
4 post-traumatic stress disorder?

5 A. Based upon her history of having a traumatic
6 event and then some difficulty with sleep,
7 concentration, focus, interpersonal interactions as she
8 relates to that event.

9 Q. Can you elaborate on what that event was?

10 A. She reported that she had been abused by an
11 elder for several years in her youth -- if I had my
12 notes, I would know specifically, but it was some years
13 ago.

14 Q. Okay. Referring to your note on page 3 of
15 Ms. Conti's records, there is some diagnoses listed
16 here. Would you go through those with us?

17 A. Sure.

18 Q. Starting with Axis 1. What does Axis 1 mean?

19 A. Axis 1 is basically DSM's statistical manual
20 for mood and anxiety disorder. It is the psychiatry way
21 of quantifying mental illness.

22 So on Axis 1, usually these are affective
23 disorders or anxiety disorders. Typically, they have
24 a -- sort of a -- the best way to describe it is --

25 It is hard to describe. They weren't

1 influenced by personality, they weren't medical. These
2 are short mental illness diagnoses on Axis 1.

3 So depression, post-traumatic stress disorder
4 and chronic -- and drug abuse or addiction.

5 Q. So when you're talking about PTSD, would you
6 prescribe any medications for that initially?

7 A. I did. Initially, we tried Minipress, which
8 is an antihypertensive medication in the literature. It
9 is medication that is approved for nightmares,
10 specifically.

11 Q. Another diagnosis for Candace you mentioned
12 is depression.

13 Can you explain what that diagnosis consisted
14 of?

15 A. Sure. She basically suffered for a period of
16 two weeks or more of bad mood, low energy, problems
17 sleeping, eating, vegetative symptoms of depression.
18 Here, it was in remission, but it wasn't active, but at
19 some point, she met the criteria for her depressive
20 disorder.

21 Q. And did you prescribe any medication for her
22 depression?

23 A. I did. Wellbutrin.

24 Q. You mentioned that Ms. Conti first came to
25 you because she was suffering from nightmares.

1 Can you elaborate on what she told you the
2 nightmares consisted of?

3 A. She told me that she had recurrent nightmares
4 of being held down, of gasping for breath, that she
5 would awaken startled. And I didn't go into more depth
6 of content, but it was her recurring nightmare she
7 talked about.

8 Q. And in your professional opinion, those
9 nightmares were related to Ms. Conti's post-traumatic
10 stress disorder?

11 A. Yes.

12 Q. Based on your education, research, training
13 and familiarity with Candace Conti and her medical
14 records, do you have an opinion as to the most likely
15 cause or causes of her PTSD?

16 A. Given her significant abuse history, that
17 would be the most likely cause.

18 Q. So her abuse history is the basis for your
19 opinion. Correct?

20 A. That is the basis of my opinion.

21 Q. Thank you. From her clinical care and from
22 her records, are you familiar with Ms. Conti's history
23 of treatment in the Department of Addiction Medicine
24 here at Kaiser?

25 A. Yes.

1 Q. Can you describe the program that Ms. Conti
2 was in?

3 A. You know, let me quantify that. When she
4 came to me, she already had one month sober, so I don't
5 know where she started in the program. But when she
6 came to me, she was clean and sober for at least eight
7 months, and it went from there.

8 But it likely involved outpatient or
9 inpatient treatment for her addiction and then some work
10 with a sponsor and AA groups is typical treatment.

11 Q. Do you have enough knowledge to have an
12 opinion as to how Ms. Conti did in her program?

13 A. I believe she did well because that was never
14 an issue. When we were discussing, it was more her
15 mental health than her addiction. She was clean.

16 Q. Your entry in Ms. Conti's medical record for
17 January 3, 2012 also states, reports, that she remains
18 clean for meth and drug abuse and full remission.

19 A. Yes.

20 Q. Has Ms. Conti reported obtaining sobriety to
21 you?

22 A. Yes.

23 Q. Are there objective laboratory tests to
24 confirm she is being truthful about that?

25 A. There are.

1 Q. Did she undergo random drug testing?

2 A. Not based on my mental health care, no.

3 Q. Do you know if any of the drugs test results
4 indicate that Ms. Conti was taking any other drugs than
5 those prescribed to her?

6 A. No.

7 Q. You mentioned that you prescribed Wellbutrin
8 for Ms. Conti's depression.

9 A. Yes.

10 Q. Was she taking Wellbutrin on April 25, 2011?

11 A. I would have to check my notes which I don't
12 have. But I can say, from the time that I prescribed
13 it, she had a good response. So from the point she was
14 prescribed, she took it thereafter. I just don't know
15 when it was prescribed.

16 Q. In regards to Ms. Conti's sobriety, in your
17 opinion, based on observations of Ms. Conti and
18 reviewing her specific lab tests and your own training
19 and clinical experience, can you state with reasonable
20 professional certainty that Ms. Conti has been and
21 remains free from influence or use of any intoxicating
22 substance, other than those you prescribed for her?

23 A. It is my opinion that she has been clean and
24 sober.

25 Q. Can you explain a basis for that opinion?

1 A. This is all patient report. But her mental
2 status was very alert, engaged. She gave me no physical
3 signs of being under the influence. She was very clear
4 about her history. And it was very consistent in the
5 times that I met with her about her abuse, and she gave
6 a good history. So I didn't think that she was impaired
7 at all.

8 Q. To your professional observation, does Ms.
9 Conti appear to be motivated to be a responsible person?

10 A. In my opinion, yes.

11 Q. And why do you have that opinion?

12 A. I believe that -- she has mentioned more than
13 once that this is a very difficult process for her to
14 relive her abuse, and that she is doing this -- she
15 sustains for the greater good. So I think that she
16 seems to be a person of good conscience.

17 Q. Does trust play a role in your treatment of
18 patients?

19 A. Yes.

20 Q. How does trust play a role in your treatment
21 of Ms. Conti?

22 A. Good question. I believe that the basis for
23 a doctor/patient relationship is trust, or any
24 relationship period. Especially with a psychiatrist. I
25 treated her with psychiatry, everything is confidential.

1 It is not to be judged.

2 I am looking for signs and symptoms in a
3 medical model to see if there is some treatment I can
4 prescribe. I have to trust that she is giving me the
5 symptoms and I can bring my expertise to remedy her
6 symptoms.

7 Q. In your professional opinion, based on your
8 education, training and experience, did you feel trust
9 for Candace Conti?

10 A. Yes.

11 Q. Was Ms. Conti compliant with your
12 instructions?

13 A. Yes. Very.

14 Q. Did she participate in sessions and
15 counseling and keep her appointments with you in a
16 responsible manner?

17 A. Yes. According to her medical record, yes.

18 Q. What demeanor did Ms. Conti display in your
19 interactions with her?

20 A. She is very mature. Very articulate.

21 Q. Did you ever observe Ms. Conti to exhibit any
22 other psychological afflictions or pathologies, such as
23 schizophrenia?

24 A. No.

25 Q. Do you know Ms. Conti to be delusional?

1 A. No.

2 Q. What is your prognosis for Ms. Conti in the
3 short-term?

4 A. Short-term? I would like to say fair. I
5 would say fair, initially. She has a lot to get through
6 in terms of this. But once she is past her real issues,
7 I believe her life will be good. She has goals. She
8 has dreams. She is very bright. She responded well to
9 treatment.

10 Q. In your opinion what is it about the legal
11 issues that you just mentioned that is difficult for Ms.
12 Conti?

13 A. Every patient with PTSD, to recount the story
14 is to relive it as it has happened. And there is
15 inherent emotional consequences to reliving a story over
16 and over again.

17 So given her history and her diagnosis, I
18 believe it is difficult for her to talk about what
19 happened to her.

20 Q. Is there a likelihood that Ms. Conti will
21 continue to need therapy over her lifetime?

22 A. Yes.

23 Q. And what is the basis for that opinion?

24 A. PTSD can go into remission, but there really
25 is no cure. It can be re-triggered, and it can be

1 episodic. So there may be incidences in her life where
2 she -- it's re-triggered and has relapses.

3 Q. I want to discuss a little bit more about the
4 prescription medications you prescribed for Ms. Conti.
5 First, the Wellbutrin.

6 A. Yes.

7 Q. Was that successful?

8 A. Yes.

9 Q. Can you explain how that affected Ms. Conti?

10 A. She complained of low mood, low energy and
11 problems with the therapist. Actually, the first
12 medication we tried was Wellbutrin, and then she took
13 it, and within a couple weeks she felt wonderful. She
14 felt like she had the energy she needed to get a job.
15 She was sleeping better. She no longer felt sad, and
16 her depression remitted. She actually did very well
17 with it.

18 Q. In your opinion, will she need to continue
19 with that medication to maintain that in the future?

20 A. It is my recommendation that she does,
21 especially when she goes through something like this. I
22 think at one point she may be fine without medication,
23 but I wouldn't recommend it until she gets past this,
24 and she has no amount of stress.

25 Q. And how does the Minipress work that you gave

1 to Ms. Conti?

2 A. It worked well initially. Her nightmares
3 weren't decreased, but she had side effects.

4 Q. What were the side effects?

5 A. She had palpitations, and it lowered her
6 blood pressure to the point where she would awaken at
7 night. And so we had to stop it and her nightmares
8 continue.

9 Q. Has she reported that her nightmares continue
10 to this day?

11 A. She has asked if there is something else we
12 can try. And we have tried other medications, but none
13 have really helped.

14 Q. Based on your professional experience, do you
15 believe that Candace Conti's addictive behaviors are
16 consistent with someone who suffered sexual abuse as a
17 child?

18 A. It is certainly one of the sequela of abuse
19 that went on for many years.

20 Q. What is your basis for making that opinion?

21 A. I believe it is in the literature. But many
22 of the patients who have had early childhood trauma end
23 up abusing substances to self-medicate their anxiety
24 disorders, depressions and everything that comes with
25 childhood trauma. So I believe many times people

1 self-medicate to not deal with what happened to them.

2 Q. Can you just explain a little more about what
3 self-medicating means?

4 A. Sure. Patients who have been abused often
5 deal with depression, anxiety, maybe even a psychotic
6 disorder. And in order to feel normal, they often turn
7 to alcohol and drugs until they are really diagnosed and
8 treated for what is a PTSD or anxiety or depression, and
9 they get medications that are illicit and not
10 prescribed.

11 Q. And based on your professional experience and
12 interactions with Ms. Conti and the treatment she had
13 with you, is it your professional opinion that Ms. Conti
14 was self-medicating with her illicit drugs before she
15 began treating with you?

16 A. I believe that's a high probability, yes.

17 Q. Do you have an opinion with reasonable,
18 professional certainty as to whether it was more likely
19 than not that the sexual abuse Candace Conti experienced
20 as a child was a substantial and contributing factor to
21 her post-traumatic stress disorder?

22 A. I believe the two are correlated, yes.

23 Q. And could you please explain the basis for
24 that opinion?

25 A. As I recall, the ages were -- she mentioned

1 something, 9 to 13. And she -- her drug use started
2 shortly thereafter. And as I took her history, I
3 believe that she was trying to not relive the nightmares
4 that she had. And I believe that she turned to illicit
5 drugs. That's my opinion.

6 MS. KRAETSCH: Thank you. I don't have any
7 further questions now.

8 (Whereupon, the video recording was stopped)

9 MR. SIMONS: And next is the videotaped
10 deposition of Laura Fraser.

11 THE COURT: Okay. And Ms. Fraser is?

12 MR. SIMONS: She is the MFT counselor that we
13 heard testimony about earlier that Candace Conti saw in
14 '96 to '98.

15 MR. McCABE: Your Honor, can we approach for
16 one quick second?

17 (Sidebar discussion)

18 THE COURT: The last witness, the doctor,
19 through inadvertence, made a statement that Mr. Kendrick
20 was an elder of the church. He was not and is not. I
21 just want to correct that record. That was her
22 misstatement of her history. Do we all understand each
23 other? Mr. Kendrick is not an elder of the church.

24 All right. Mr. Simons and Ms. Kraetsch?

25 (Whereupon, the video recording was played)

EXAMINATION

BY MR. SIMONS:

Q. Please state your full name.

A. My full name is Laura Harrington Fraser.

Q. And, Ms. Fraser, where do you presently live?

A. In La Jolla, California.

Q. Were you, for a time, residing in Northern California?

A. Yes.

Q. And what is your profession?

A. I'm a licensed, clinical, social worker and I work as a psychotherapist.

Q. And what is a licensed, clinical, social worker?

A. Uh --

Q. What does a licensed, clinical, social worker do?

A. In my case, I work as a clinician treating children, families, adults, to help them with struggles in their lives.

Q. Did you receive certain education to help you enter that profession?

A. Yes. I have a master's degree and post-masters. I worked for two and a half years or so under the supervision of experienced clinicians, and

1 then sat for boards and oral boards to become licensed.

2 Q. When were you licensed as a clinical social
3 worker?

4 A. In 1994.

5 Q. And where was your practice when you first
6 began your licensed stage of practice?

7 A. I still worked in San Jose for Eastfield Ming
8 Quong, a large family therapy agency.

9 Q. Did you then become a professional practicing
10 at the Palo Alto Medical Foundation?

11 A. Yes, I did.

12 Q. When did you begin your professional work
13 there?

14 A. I began my professional work there, I think,
15 around 1995 or '96. I'm sorry that I didn't bring my CV
16 with me to review that.

17 Q. What was the nature of your patient
18 population, if you will? Who were the people that you
19 were providing your services for at Palo Alto Medical
20 Foundation?

21 A. It was the psychiatry department of a large
22 medical clinic. And so I feel like I was almost, like,
23 a general practitioner of psychiatry. Although I -- out
24 of the clinic stuff, I worked more with children and
25 adolescents and families.

1 Q. Was that a particular interest of yours?

2 A. Yes. Specialty area of practice.

3 Q. And what was it about that area of practice
4 with children and families that you found most
5 interesting?

6 A. So many things. Teenagers are interesting
7 and compelling and fun. And families, family work is --
8 I think, can have an impact over the long-term for
9 children and families. And you can impact many people
10 in one form of treatment versus taking individuals out.

11 Q. Did you provide therapy and counseling
12 services to Candace Conti?

13 A. Yes, I did.

14 Q. And we have looked at some records that we
15 have marked as an exhibit to your earlier deposition.

16 You have looked at those records?

17 A. Yes, I have.

18 Q. And are those records that you prepared
19 during the time that you were counseling Candace?

20 A. Yes, I did.

21 Q. And were the records each individually
22 prepared on or about the date that the visits occurred?

23 A. Yes.

24 Q. And when you left Palo Alto Medical
25 Foundation, did you bring the records with you?

1 A. No. I did not. They were the property of
2 the clinic.

3 Q. So there was a period of some many years
4 until you had seen the records again?

5 A. Many years.

6 Q. Do you remember Candace Conti?

7 A. Yes, I do.

8 Q. And do you remember her outside of some of
9 the things that are reported in your records? In other
10 words, do you remember things about her that may not
11 even be in your records?

12 A. Yeah. Probably, just fondness, memories, her
13 bouncing into the clinic. Her dog she brought into the
14 clinic. Things like that. Not necessarily some other
15 piece of clinical information.

16 Q. Do you remember her appearance?

17 A. I do. I remember she had really cute
18 freckles and red wavy, curly hair. And she would often
19 come into my office with a big smile on her face.

20 Q. The records that we have looked at show that
21 you first saw her on August 12, 1996; is that correct?

22 A. Yes.

23 Q. And then you last saw her on April 1st of
24 1998; is that correct?

25 A. Yes.

1 Q. And you saw her approximately 30 times; is
2 that correct?

3 A. Yes.

4 Q. When you first saw her in August of 1996,
5 what was your approach? In other words, how do you
6 begin counseling a patient such as Candace?

7 A. I would have Candace and her parents come
8 into a session. I would try to bring in all members of
9 the family. I don't think her mother was present for
10 that first session. And I don't recall why.

11 But I start by asking people to tell me why
12 they are there, the presenting problem. And we talk
13 about that a little bit. I ask, usually in families and
14 with children, ask them to tell me something about
15 themselves, just what they like to do or are interested
16 in.

17 I then would try to set them at ease about
18 being in a therapy situation, if they never have been
19 before. I would often explain to younger children that
20 I'm, sort of, like a coach, but a coach for feelings, or
21 a doctor about feelings. But I don't give shots and
22 things like that.

23 And I would explain confidentiality, that in
24 our sessions what we would talk about is confidential
25 between us unless there -- I would explain I was an

1 mandated reporter. If I learned anything about any
2 abuse in the past or the present, I would have to report
3 that. That would be a limitation to our
4 confidentiality.

5 And then I also explain to kids I also have
6 to use my clinical judgment, and if something is going
7 on with them that I'm very concerned about that I feel
8 their parents need to know, then I would have to do
9 that. And I would tell them about that and help them
10 with that so they have that understanding of the
11 parameters of therapy, so we can work from a position of
12 trust.

13 Q. You use the phrase "mandated reporter." What
14 does that mean?

15 A. A mandated court reporter is -- I'm sorry.
16 I'm getting distracted. Because I don't know if I am
17 supposed to look at the camera or look at you. Does it
18 matter? Okay.

19 A mandated reporter is someone who, like
20 myself who works with children, who must, if they have a
21 reasonable suspicion of child abuse, being neglect,
22 emotional abuse, physical abuse or sexual abuse, they
23 must report that to Child Protective Services, which is
24 the Social Services Agency. And then Child Protective
25 Services would initiate an investigation. And from

1 there many things can happen.

2 Q. Did you tell Candace Conti, in your first
3 visit, that you were a mandated reporter?

4 A. Yes. I would have explained to Candace Conti
5 and her father, yes.

6 Q. And did you explain what that meant to
7 Candace?

8 A. Yes.

9 Q. Why did you tell, in this case, a 10-year-old
10 patient, that you were a mandated reporter and what that
11 means?

12 A. I tell all of my clients -- children -- that
13 I am a mandated reporter, because I want them to
14 understand that our work together is confidential and
15 important in terms of our developing a relationship,
16 that if they are being harmed in a way, those ways that
17 are spelled out in the law, that I must protect them.
18 And that would mean telling somebody.

19 And it is very important for children to know
20 that because, when they do disclose abuse, it creates a
21 huge disruption in their lives. And they might feel
22 violated by their therapist, whom, if they understood
23 the therapist would never tell anything outside of the
24 session, that would be a huge violation of trust.
25 Because once that is reported to the agencies, it is a

1 huge, profound disruption in their lives.

2 Q. Was it your practice back in this time frame
3 in '96 to let the child make the determination as to
4 whether or not they would disclose to you information
5 that you would be mandated to report?

6 A. Of course, I couldn't report on something I
7 didn't have knowledge of. So I just let them know the
8 parameters of that. And there are many children who
9 would disclose abuse because they were ready to take it
10 on, so to speak, take on the ramifications of that.

11 And some have us choose not to disclose
12 because they were not ready to take on the ramifications
13 of disclosing abuse.

14 Q. Based on your education and training and
15 experience, what are some of the reasons that children
16 will not disclose to a mandated reported counselor such
17 as yourself a history of sexual abuse?

18 A. Because it is embarrassing. Because they
19 feel like it is their fault. Because they are very
20 concerned about what is going to happen to them if they
21 disclose that abuse either from the perpetrator
22 themselves, from their parents, their church, their
23 community, their school.

24 Due to the media, children know, they
25 understand that Child Protective Services people would

1 show up at your school to interview you or kids
2 understand that it is very disruptive.

3 Q. What was Candace's presenting problem when
4 you first saw her in August of 1996?

5 A. That her parents were going through a very
6 tumultuous divorce, and that she was witnessing a lot of
7 discord between her parents, fighting and what I called
8 shifting alliances in the notes.

9 Sometimes her parents would be, as she used
10 to say, lovey-dovey and seem like everything is fine,
11 and 20 minutes later they were screaming and yelling and
12 carrying on and saying they couldn't stand each other
13 and seeking out Candace for emotional support.

14 Q. Did you develop a plan of how you helped or
15 hoped to help, at least, Candace?

16 A. My primary goal was to demonstrate to Candace
17 that, by my actions, that I would be a consistent adult,
18 that I would do what I said I would do, that I would be
19 very interested in her emotional state. I didn't want
20 her to be interested in my emotional state, which would
21 show her a difference between how I believe an adult
22 should take care of a child versus how her parents'
23 inability to do that for her.

24 I thought I wanted to show, through my
25 actions, my clinical actions, to role model to Candace

1 ways that I would set limits and boundaries with her
2 parents when they would try to draw her in for emotional
3 support for their adult needs.

4 Q. In your notes -- which you are free to look
5 at as we go along here -- on August 12, 1996, in your
6 first meeting, you made a summary of what you found to
7 be Candace's mental status at the time.

8 A. Uh-huh.

9 Q. And what observations of Candace's mental
10 status did you have in that very first visit?

11 A. That -- I'm sorry. Could you --

12 Q. Yeah. Can you tell us what your observations
13 were of Candace Conti that you recorded on August of
14 1996?

15 A. Okay. That, as I just said, she was
16 oriented, as we call it. She knew the time of day; she
17 didn't have any psychotic behaviors; she knew the time
18 of day; she knew who she was; she knew why she was
19 there; she was able to communicate with me.

20 Her emotional responses, when I was asking
21 her questions, seemed appropriate to what we were
22 talking about. Sometimes if somebody is very disturbed,
23 they won't have -- they will laugh at a sad thing or
24 something like that. None of that was off for her. I
25 assessed her for whether she was at risk for suicide, as

1 we do always with a new intake with a new client.

2 Q. Was she?

3 A. No. And she denied feeling that way. She
4 did disclose that she is sad more often than not, as we
5 put it, indicating depression and particularly she
6 wished her parents would stay together and they would
7 stop fighting. That was deeply painful for her. That
8 was clear.

9 Q. You mentioned, in your note, a phrase of
10 "hypervigilance" about how others in the room are
11 feeling?

12 A. Yes.

13 Q. What were you describing?

14 A. I was describing that if I, for instance,
15 asked a question of Candace -- and I observe this in
16 children that are very conscious of how their parents
17 are doing, rather than just answering a question, they
18 might look to a parent to see how their parent is
19 reacting to what they have to say.

20 And if they see their parent is sad or mad,
21 they might change what they have to say to protect the
22 parents' emotional state.

23 And so I noticed in that session that she was
24 watching me. She was watching her father, and really
25 paying attention to the others in the room versus freely

1 just answering questions about things, or answering my
2 questions.

3 Q. What does that tell you about your patient
4 when they behave in that fashion?

5 A. It indicates that they have been in a
6 caretaker role, that they have learned in their families
7 that they need to take care of others, take care of
8 parents' feelings, most often, and watch all the time --
9 they won't be safe emotionally unless they can keep the
10 parents safe. Therefore, they better not disrupt the
11 parent, which is, of course, not the way it is supposed
12 to be in a parent/child relationship.

13 Q. Did you feel that Candace had adopted a role,
14 if you will, of caretaker to the parents?

15 A. Yes, I did.

16 Q. Why did you feel that way?

17 A. I gathered that from her hypervigilance. And
18 I believe that both her parents were able to state that
19 they thought she was in the middle of their arguing.
20 They probably would have pointed the finger at the other
21 parent to say, "She has to take care of my spouse when
22 my spouse is upset." And that is often the case with
23 acrimonious divorces.

24 But I believe that that was one of the
25 reasons -- I wrote "Parents are very concerned that

1 Candace is involved in their struggles and their
2 frequent fighting."

3 Q. Over the year-and-a-half that she was your
4 patient, did you obtain a more complete view of the home
5 life that Candace had experienced?

6 A. Yes.

7 Q. And what did you learn?

8 A. I learned that it was very chaotic, that she
9 could not count on parents to be able to follow through
10 on plans they had for her.

11 I learned that it was a very unpredictable
12 environment in which she lived. I experienced -- I
13 mean, there were a multitude of emotional crises, if you
14 will, particularly related to her mother.

15 But father was unable to follow through on a
16 lot of things I think he wished to be able to follow
17 through on, but was unable to do that.

18 Q. In your September 5, 1996 note, you mention,
19 towards the bottom of the note:

20 "Therapist could work with Candace on
21 being perhaps a little bit discerning about
22 relationships and trusting others, as Candace
23 is likely to have developed a somewhat skewed
24 view of trust and nurturing. When someone is
25 offering nurturing and positive attention, a

1 person will drive it out wholeheartedly
2 because it will go away very soon."

3 Do you see that sentence?

4 A. I just found the page. Yes.

5 Q. What were you recording in that note?

6 A. I was noting my clinical impression that
7 Candace would be extremely vulnerable to victimization
8 by other people, manipulation by other people, because
9 she was victimized and manipulated by her parents'
10 emotional struggles. And I was very concerned about
11 that.

12 Q. Did you learn that Candace's mother had been,
13 by history, a victim of some form of abuse?

14 A. Yes.

15 Q. And how did that come to your knowledge?

16 A. I have to go -- my memory -- it is possible
17 it probably was discussed at a treatment team meeting.
18 But I think Candace was aware of that because it was a
19 source of pain and struggle for the family.

20 Q. In the course of your professional
21 relationship, did you learn the role that the religious
22 membership in the Jehovah's Witnesses played in
23 Candace's life?

24 A. Yes. It came up quite a bit. And certainly
25 I have it noted toward the end of treatment that she was

1 really struggling with her involvement. But my sense is
2 there was a large time commitment involved in it. And
3 it is not noted in there, but I have memory of sessions
4 of, sort of, negotiating -- I don't know -- maybe their
5 regular Tuesday night meeting or something where Candace
6 would rather see her friends or do her homework or
7 whatever.

8 And then I think the father had to spend a
9 lot of time there and was also working very hard because
10 he was the only income earner in the family and
11 consequently didn't have much time for Candace and that
12 was difficult for her.

13 Q. Did the relationship that Candace had with
14 her father change at all over the time period that you
15 provided professional counseling with this thing?

16 A. Yes. At the beginning he was trying very
17 hard to be attentive to her and meet her needs. But
18 various things would come along and he would get
19 preoccupied with those. Sometimes it was his work. I
20 think it was commitments to the church as well.

21 And then toward the end of treatment, he got
22 involved with a woman from the church and her children.
23 And I believe that woman had a pretty chaotic life. And
24 Candace was troubled by that because she felt like she
25 needed his help.

1 Q. Over the course of this time that she was
2 your patient, would Candace grow more distant from her
3 father?

4 A. Yes. And that would fluctuate. The
5 alliances would fluctuate quite a bit. And I think as
6 Candace was struggling with some of the rules that dad
7 had, related to church and church practices, whatnot,
8 celebrating birthdays and not getting dressed up for
9 Halloween and Christmas celebrations, et cetera,
10 Candace's mother would allow her to have -- participate
11 in those things that all her friends were participating
12 in.

13 And so I think that would have pulled her
14 toward her mother, yet her mother's life was so chaotic
15 that Candace would get very offended about it, and then
16 her mother would have some emotional event, and Candace
17 would need her father or somebody else.

18 Q. Did her relationship with her mother change
19 over the course of time that you treated your patient?

20 A. Yes, it fluctuated a great deal. I think in
21 the beginning, Candace was extraordinarily worried about
22 her mother and her mother's safety.

23 I think she would then be angry with her, and
24 angry with her mother about involvement with a boyfriend
25 by the name of Steve that is mentioned quite a bit in

1 there.

2 And then her mother started to abuse
3 benzodiazepines -- tranquilizers -- and that created
4 disruption. And then, when she couldn't get any more of
5 that, she started drinking a lot. And she moved
6 frequently, and really didn't have a stable income. So,
7 yes, it was ever changing.

8 Q. If you could turn to your note of March 3,
9 1997.

10 A. Uh-huh.

11 Q. Did Candace have a problem setting boundaries
12 in her relationship with her mother?

13 A. Yes.

14 Q. And what did you mean by that?

15 A. Meaning that if children are -- children are
16 supposed to be the -- most of the emotional energy is
17 supposed to be directed toward the child, and the
18 child -- meeting their developmental needs, that the
19 child's a forming human being, and there's lots of tasks
20 they have to do out in the world to grow to be a healthy
21 adult. And the bulk of the emotional energy in a family
22 is to go towards that job of raising those children.

23 In Candace's case, her mother was extremely
24 limited emotionally and really thought of Candace a lot
25 more like a peer than she did as a mother.

1 And so -- I have distracted myself from the
2 question.

3 Q. Well, let me jut ask you: Did you offer some
4 suggestions in your March visit to Candace about how to
5 set boundaries?

6 A. Yes. And so I would reiterate that -- what I
7 was just saying, and got myself distracted -- but that I
8 was trying to teach Candace that her mom's job, if her
9 mom was not so emotionally limited and damaged, herself,
10 would have been to attend to Candace's needs, not
11 Candace to take care of her.

12 And so I was trying to help Candace
13 understand, when she got that terrible feeling in her
14 stomach or she felt scared, or her heart was racing or
15 something, that she needed to -- that that was a message
16 to her that she was really uncomfortable with how things
17 were going, and she needed to settle in with her mom,
18 "No, I won't meet this boyfriend."

19 Or I know she was scared about going to Los
20 Angeles with her mom --

21 I don't know the substance, but -- and
22 getting stuck down there, and her mom would say she was
23 going to take her there, and then leave her and go see a
24 boyfriend or that sort of thing, that Candace needed to
25 say, "No, mom, that's not okay." Or "I need you here."

1 Or "I'm scared." Or "Please take care of me." That
2 sort of thing.

3 Q. In your note you record that you gave Candace
4 suggestions, many suggestions --

5 A. Uh-huh.

6 Q. -- but Candace states that all of them seemed
7 too threatening. What were you trying to record in that
8 statement?

9 A. To record that the nature of the relationship
10 between Candace and her mother, it was to her feeling of
11 her mom being attached to her, and providing her support
12 and strength and structure and safety was so tenuous, so
13 limited, that if she made her mother angry or didn't do
14 what her mother asked that her mother would stop loving
15 her, essentially. And, for a child, there is no safety
16 in that once that happens.

17 Q. Did Candace have a relationship with the
18 paternal -- her father's parents -- the paternal
19 grandparents?

20 A. Just the paternal grandmother. The
21 grandfather was deceased, I believe.

22 Q. Was that an important relationship in her
23 life?

24 A. Yes. And it became more substantial in terms
25 of coming to therapy anyway. Toward the end of

1 treatment -- I don't recall her grandmother's
2 involvement toward the beginning of treatment. But my
3 sense was that Candace's paternal grandmother was very
4 enmeshed with her father. Enmeshed, I mean,
5 emotionally, not very separate themselves, and that can
6 be problematic in adult relationships.

7 Q. Is part of your professional work, in
8 particular working with adolescents as a therapist, to
9 interpret what the patients are telling you?

10 A. Yes.

11 Q. And do you look for things that they may not
12 be telling you as part of your therapy?

13 A. Yes.

14 Q. And why do you do that?

15 A. Well, I work particularly from what is called
16 a family systems theoretical orientation. So, as I said
17 before, the job of a family as a system, just like a
18 company or something, is to -- each member has certain
19 roles and responsibilities. But the job of that system
20 is for each member of the family to do what they need to
21 do developmentally at a certain age.

22 And, in particular, parents need to be full
23 adults to take care of children and meet children's
24 needs.

25 And so I first gather a hypothesis about

1 whether that structure is happening in a family. If the
2 parents are not occupying that, sort of, executive role,
3 if you will, I try to understand why not.

4 And so, in the first session, I gather family
5 history so I can get a sense of where I think parents
6 are, how they have done that developmental stage their
7 child is in.

8 And then from there, try to gather
9 information about how the child is doing in terms of
10 what they need to be doing developmentally at a
11 particular age.

12 Q. You have learned from me recently that
13 Candace now reports that she was sexually abused as a 9
14 and 10 year old?

15 A. Yes.

16 Q. Outside by a non-family member?

17 A. Yes.

18 Q. Well, did she ever disclose that to you?

19 A. She did not disclose that to me.

20 Q. Do you have any opinion, based on your
21 education and training and your experience with this
22 patient and her family why she would not disclose to you
23 an important piece of history such as history of sexual
24 abuse?

25 A. Right. Well, first of all, she -- this is

1 Tract Society of New York and I have a few questions for
2 you.

3 In your meetings and your therapy with
4 Candace, you saw her for roughly a year and eight
5 months; is that correct?

6 A. Yes.

7 Q. Throughout that time, isn't it true that
8 Candace felt open to comment on the failings of her
9 mother and father throughout her sessions with you?

10 A. She would not have characterized it as her
11 failings. She felt open to talk to me about the things
12 that were upsetting or scary to her in one way or
13 another.

14 Q. And what did some of those things include,
15 particularly with her mother?

16 A. That her mother got involved with a boyfriend
17 shortly after her parents had separated homes, or
18 shortly after we started treatment, and then wanting
19 kids to meet the boyfriend and like the boyfriend and
20 that sort of thing.

21 Q. Okay. And Candace shared with you about her
22 mother being abused; is that correct?

23 A. Yes. To the best of my recollection, I think
24 she did, yes.

25 Q. You reported that on August 12 of '96 and on

1 September 18 of '96, that Candace had shared that?

2 A. That Candace did. Okay.

3 Q. Correct.

4 A. Then that's true.

5 Q. And also that Candace came to you at one
6 point with a list of twelve items that she had written
7 down to discuss with you.

8 Do you recall that?

9 A. What --

10 Q. November 11th of 1996.

11 Do you see that?

12 A. Uh-huh.

13 Q. On November 11, 1996, Candace came to you
14 with a list of twelve items that she wanted to talk
15 about.

16 A. Yes.

17 Q. Is that true?

18 A. Yes.

19 Q. And is that indicative that she felt she
20 could be open and honest with you, that she would write
21 those things down?

22 A. Can you say more about open and honest?

23 Q. Well, you testified earlier this morning that
24 you believed that Candace was open and honest with you?

25 A. To the best of her ability, yes.

1 Q. You didn't put that limitation on it this
2 morning.

3 A. Okay.

4 Q. So is it unusual for a child like Candace to
5 come in with a list of items to talk about?

6 A. No. I might have even suggested it.

7 Q. Okay. And did she talk to you about her
8 mother having romantic sounds coming from the bedroom
9 and that it bothered her?

10 A. Yes.

11 Q. Did she talk to you at another point about
12 her mother being drunk, and her boyfriend Steve kissing
13 and sucking her toes in front of her?

14 A. Yes, she did.

15 Q. So she was talking to you about those types
16 of things?

17 A. Right.

18 Q. In fact, didn't Candace bring in a used
19 condom she found in the restroom from her boyfriend and
20 mother having sex?

21 A. Yes. And she did that because she wanted to
22 prove that what she thought happened really happened.

23 Q. And why did she feel a need to do that?

24 A. In case her mother might have tried to
25 dissuade her from thinking that's what happened.

1 Q. And did Candace express some concerns about
2 being with the court mediator at one point that were
3 dealing with the parents' divorce? Do you recall that?

4 A. Yes. I recall that was a note in there, and,
5 yes, I would have to look at that note.

6 Q. Yes. Look at the December 16, 1996 note and
7 it said that:

8 "Candace came in with a list of ten
9 things from a family law mediator." And you
10 called it an "excellent list."

11 Do you see that?

12 A. Yes.

13 Q. And Candace expressed some frustration in
14 that her mother was in denial about the things that her
15 mother had done to her?

16 A. Uh-huh.

17 Q. What did you mean that the mother was in
18 denial about the things she had done to Candace?

19 A. Making her a promise that we will live in a
20 certain house, or we'll live together, and everything
21 will be fine, or even indicating that the parents were
22 going to get back together and they would live happily
23 ever after and that sort of thing.

24 Q. And earlier Mr. Simons asked you about the
25 parents' relationships and whether they changed through

1 the course of the therapy you had with the parents, in
2 terms of their relationship with Candace. Do you recall
3 that?

4 A. Yes.

5 Q. And you said that the relationship fluctuated
6 for both parents; is that correct?

7 A. Yes.

8 Q. When you used the word "fluctuate," what did
9 you mean?

10 A. I'm talking about in terms of them not being
11 able to offer her much emotional sustenance, and that
12 fluctuated. I think her perception might have been,
13 "Hey, Mom said we're gonna move here and it's all going
14 to be great, so we are not going to have birthday
15 parties or whatever." And then the next day mom is not
16 there. She's with the boyfriend. Or dad said he was
17 going to have time to do things, and then he can't. In
18 terms of their ability to consistently provide emotional
19 sustenance.

20 Q. Okay.

21 A. And that fluctuated all the time.

22 Q. And let's go back to the court mediator.

23 Then, after she met with the court mediator, is it true
24 that she found it to be a positive result --

25 A. Yes.

1 Q. -- because the court mediator had listened to
2 her?

3 A. Yes.

4 Q. And that she had asserted what she wanted to
5 say, and the court mediator listened to her; is that
6 correct?

7 A. I believe so, yes.

8 Q. And so that's a situation where Candace
9 wasn't afraid to say what she thought. Is that fair?

10 A. No. But we had worked on it in the context
11 of therapy, and I helped prepare her, as I do for
12 children in that situation, about what they are up for,
13 what they can expect for the court mediator when they
14 are going through sorting out child custody.

15 Q. Okay. And then on the December 18, 1996
16 note, that's where you followed up on Candace's meeting
17 with the court mediator?

18 A. Uh-huh.

19 Q. And you wrote there that Candace thought she
20 was able to go through her list and her list of items
21 and felt that the mediator was listening to her and was
22 honest in stating at this point in time, et cetera.

23 So that was a positive interaction for
24 Candace; is that correct?

25 A. Yes.

1 Q. Now Candace talked to you a lot about her
2 peers; is that true?

3 A. Uh-huh. As all kids do.

4 Q. And by my count, there were at least eight or
5 nine different sessions where she talked about her
6 peers, her boyfriends, those types of things?

7 A. Uh-huh.

8 Q. Now, you wrote early on that she seemed to
9 have a wide network of peers. Do you recall that?

10 A. Uh-huh.

11 Q. She was developing a network of peers, even
12 on September 12th of '96?

13 Do you see the very last sentence on that
14 note?

15 A. Uh-huh.

16 Q. The positive balance to her mother's
17 relationship, essentially, is that Candace is developing
18 a fairly large network of peers and is feeling very good
19 about those connections and is feeling very cared about.

20 Do you see that?

21 A. Uh-huh.

22 Q. That was true at that time; is that correct?

23 A. Yeah. In the context of a sixth grade child.
24 So in her classroom she is talking with kids, she was
25 wanting to walk home with them, do things like that.

1 She wasn't, like, I don't know -- meeting kids outside
2 of that setting anyway.

3 Q. Okay. But those were her peers?

4 A. Yes.

5 Q. Weren't those her peers?

6 A. Yes.

7 Q. Okay. If you are in sixth grade, your peers
8 aren't people you meet outside. Your peers are in
9 school. Is that true?

10 A. Well, it could be at Girl Scouts, it could be
11 all different kinds of places.

12 Q. Okay.

13 A. So I'm just saying that's my phraseology for
14 meaning that she was talking about being really social
15 at that point.

16 Q. And on another note, you wrote that she was
17 not isolating herself, that she was talking with her
18 grandmother, with you, with her friends. That's on the
19 October 3, 1996?

20 A. Right. And that's in the context of
21 evaluating depression, not necessarily like you might
22 say in a day-to-day way. But that she, rather than just
23 staying holed up in her room, she was out there and
24 talking more. That doesn't mean she wasn't depressed
25 anymore, but she --

1 Q. But she had peer-to-peer interactions?

2 A. Yes.

3 Q. Correct? That are consistent with what you
4 would expect from a sixth grader?

5 A. Yes. Except shifting alliances, friends with
6 one, friends with others. Kind of shifting
7 relationships.

8 Q. Go ahead.

9 A. Not necessarily -- my recollection is not
10 that she had a set bunch of good friends that she had a
11 long and deep relationship with. I think she was
12 pursuing what felt good, sort of, in the moment.

13 Q. And where do you get that from? Because
14 that's not referenced anywhere in your clinical notes.

15 A. I get that from my memory. I get that from,
16 you know, I think maybe even from talking about, you
17 know, I said at the bottom of another note, I want to
18 help her declare boundaries and be discerning about who
19 she is friendly with or something along those lines we
20 talked about earlier. It is in one of these notes.

21 Q. Now, with respect to her father, did you get
22 the impression that he was very protective of her dating
23 and going out with boys?

24 A. He -- I wouldn't characterize it as very
25 protective. They struggled over negotiating those

1 boundaries and, you know, he wasn't rigid -- I don't
2 remember him setting big punishments or something that
3 they would talk about.

4 Q. Did Neal Conti ever tell you that, because of
5 what his wife Kathy had been through as a child, that he
6 was very protective of Candace as a child?

7 A. I don't remember that phrase directly.
8 Although, if I noted it, he said it to me. I don't
9 remember that in particular, but I may have noted that
10 again when I did the treatment.

11 Q. Okay. Let's turn to the mother's boyfriend.
12 And was Candace critical of her mother's boyfriend a
13 lot?

14 A. Yes.

15 Q. And was she open and honest with you about
16 that?

17 A. She told me her feelings about that.

18 Q. And she told you that quite a bit, did she
19 not?

20 A. Uh-huh. She felt, I think, disloyal to her
21 father by being connected to the mother's boyfriend too.

22 Q. And was Candace very direct with you about
23 what bothered her with respect to the boyfriend?

24 A. I think she would tell me about different
25 incidences that occurred usually, probably closer in

1 time to the timing of sessions because I think a lot
2 went on in her life between sessions. So oftentimes she
3 would come in with what was closest in that time frame.

4 Q. And did she tell you about the time that she
5 and a friend went camping with her mother and Steve and
6 her mothers exhibitionism?

7 A. Yes.

8 Q. And what did she tell you in that regard?

9 A. That it was embarrassing. I mean I'd have to
10 look at my notes to give you direct quotes, but it was
11 embarrassing, and she didn't like her mother's behavior,
12 and it was uncomfortable.

13 Q. And, indeed, didn't her mother walk around
14 naked in the campground?

15 A. She said that, yes.

16 Q. And did her mother ride horses topless as
17 well in front of her friends?

18 A. Or rode a horse. I don't know. I would have
19 to go look at the note. But, yes, I remember her saying
20 that, and I knew that that ...

21 Q. And you remember that Candace told you about
22 Steve and her mother having sex in a tent where it was
23 obvious to Candace and her friend what was going on and
24 that embarrassed her as well in front of the friend?

25 A. What note are we talking about?

1 Q. Let me find it. It was a camping trip. Let
2 me find it here.

3 The date is 7-30-97. In the middle of that
4 first page it says "They were camping at Kings Canyon."

5 A. "She always runs around naked" I put in
6 quotations.

7 So Kathy would go skinny-dipping and she rode
8 a horse in public with her top off. And then at home
9 Kathy walked around naked in front of Candace's friend
10 and sort of exhibitionism she was saying.

11 Q. Did you consider that something that needed
12 to be reported to CPS?

13 I'm just curious with where that falls.

14 A. No.

15 Q. Why not?

16 A. Because I would characterize it as
17 inappropriate, not necessarily abuse.

18 Q. Okay. And as a mandated reporter, where does
19 that line fall, sexually inappropriate, but abuse?

20 A. It is on a very individual basis.

21 Q. Okay. And does it --

22 A. It requires clinical judgment.

23 Q. Okay. Candace talked with you a lot about
24 her feelings about Jehovah's Witnesses; is that correct?

25 A. Toward the end, yes.

1 Q. And she was quite open about her struggles
2 with that?

3 A. Her struggles. Yes. I think I'm having a
4 hard time with you saying "open" all the time like that,
5 because that's not the term that I would use
6 necessarily.

7 Q. What term would you use? Just so we are on
8 the same page.

9 A. Just, I think, say what she said -- I think
10 the reason I'm reacting, is when you say "open," I think
11 people might use that term in a whole lot of different
12 ways.

13 So when you say she stated this at this time,
14 I guess I think it is like you are implying that it is
15 all exclusive about everything, and I think it is
16 specific to an individual incident.

17 So if you say "She was open and honest with
18 you about her feelings about her mother," what I'm
19 saying is in specific situations, she was telling me
20 what she experienced. But her overall relationship with
21 her mother -- she had great conflicts with her mother.
22 She loved her and she didn't want to disparage her. She
23 wanted her mother to be an okay person. But at the same
24 time she was deeply troubled when these kinds of events
25 would occur.

1 Q. Okay. How does that relate to being open or
2 not?

3 A. Well, I guess because my understanding is
4 "open" would mean nothing is ever held back.

5 Q. So with respect to Jehovah's Witnesses, she
6 told you about the struggles she had with the church.
7 Is that correct?

8 A. It was coming up related to -- especially
9 wanting to do things with peers, and, you know -- I
10 don't think it is noted in here.

11 My memory tells me. I didn't write it down.
12 But we talked a lot about Halloween. Because in sixth
13 grade they were having a Halloween party and she wanted
14 to dress up, and that wasn't sanctioned by the church.

15 And so I remember it coming up then. It
16 would come up with regard to it started with, you know,
17 birthday party celebrations, and I think Christmas also.

18 Q. Okay. So that was the conflict between her
19 mother's beliefs and her father's beliefs, and that's
20 where she had to try to develop her own belief system.
21 Is that you were trying to coach her on?

22 A. I wasn't coaching her on that, no. I was
23 just talking to her about how to speak to her parents.
24 It would not be appropriate for me to coach her on her
25 religion.

1 Q. Okay. But you did discuss with her, her
2 struggles with the religion?

3 A. Yes. And we use that as an opportunity for
4 her to articulate her needs and concerns to both of her
5 parents in a reasonable way and for them to try and have
6 dialogue about it.

7 Q. And you encouraged her to explore and
8 question her family's beliefs and values, particularly
9 about religion?

10 A. As all adolescents do.

11 Q. Okay.

12 A. In my opinion.

13 Q. Okay. And, again, at the end of the note on
14 May 12, '97, it sounds like Kathy Conti had suggested to
15 you that maybe Neal had some feelings for Candace that
16 were inappropriate.

17 Do you recall that?

18 A. Yes.

19 Q. And you had asked Candace very directly --

20 A. Yes.

21 Q. -- whether her father kissed her, or whether
22 there was anything inappropriate or uncomfortable?

23 A. Yes.

24 Q. And how did Candace respond to that?

25 A. And she said, "I feel safe around my dad."

1 Q. And she, indeed, said very strongly that he
2 is appropriate with her?

3 A. Correct.

4 Q. And you didn't have any reason to disbelieve
5 that?

6 A. No. I would have reported it if I did.

7 Q. Oh, if you had disbelieved her?

8 A. Yes.

9 Q. Even if her denial --

10 A. If I had a reasonable suspicion, I would have
11 reported it.

12 Q. And you didn't have any suspicion?

13 A. I didn't.

14 Q. So that's one instance where you brought up
15 the question of either physical or sexual
16 inappropriateness --

17 A. Uh-huh.

18 Q. -- with Candace. Correct?

19 A. Yes.

20 Q. Did you bring it up at any other time during
21 your sessions with her?

22 A. Not that I'm recalling without reading
23 through line-by-line. But I did discuss with you that
24 my clinical impression is she was -- from the start --
25 was that she would be somebody who was vulnerable.

1 Q. Did you ask her, in that first intake
2 session, whether she had been a victim of sexual abuse?

3 A. I didn't note it. I often did do that as
4 practice, but I didn't know whether I did or not. And
5 when I meet people, I have to decide whether that's
6 clinically appropriate to do at that time or not.

7 Q. What? Just to even ask that question?

8 A. Yes.

9 Q. Why is that?

10 A. Because it can be frightening to people or
11 disruptive or scare them away from therapy or, perhaps
12 the entire session has been spent in another area
13 around, and so we ultimately get to that.

14 Q. At any point after that, though, did you ever
15 ask her whether she had been sexually abused by anyone?

16 A. I didn't know that. So I don't know. It
17 would certainly have been my style and my method of
18 practice, if I felt that she was coming to me with
19 something that I could ask her about, I would have.

20 Q. And you don't remember, one way or the other,
21 whether you did?

22 A. No. I didn't note that anyway.

23 Q. You noted in a July 30th '97 note that you
24 suggested that Candace keep a journal.

25 Do you recall that?

1 A. Uh-huh.

2 Q. Do you know if she ever kept a journal?

3 A. I don't. I know that we talked about she
4 felt like if she were to try and keep one, that her
5 mother would invade her space.

6 Q. And you gave her some suggestions?

7 A. Like, hide it. Right.

8 Q. But it was never mentioned again?

9 A. No. It wasn't. And once in a while you will
10 get a child client who is a writer and they will like to
11 do that, and some kids or adults are not.

12 Q. And in the same July 30th, 1997 note, that's
13 when she talked with you about her mother's walking
14 around naked in the house and riding a horse topless and
15 that.

16 A. Uh-huh.

17 Q. And the note suggested that you also talked
18 with Candace about how her mother's sex abuse had
19 manifested itself.

20 A. Uh-huh.

21 Q. What discussions did you have with Candace at
22 that point?

23 A. It was 14 years ago. But I don't know
24 exactly how I phrased it beyond that, except for, in my
25 knowledge of it, what I would have described is that,

1 when people have been sexually abused, they sometimes
2 act out inappropriately, don't have appropriate
3 boundaries, that sort of thing, as one of the ways that
4 sexual abuse can manifest itself.

5 Q. And how did Candace react to that discussion?
6 Do you recall?

7 A. I don't think that there was a huge reaction
8 or I probably would have noted it. And not that -- I
9 mean, I don't know. I don't have any recollection of
10 her noting it. I mean, her stating anything. She
11 didn't cry. She didn't have a dissociative state. She
12 didn't giggle.

13 But she took in that information, but a lot
14 had gone on for her that week. So, as you can see, a
15 lot had gone on with her mother and she was pretty
16 distraught anyway, so...

17 Q. Now, let's go back, again, to another
18 incident with her mother, the November 3, 1997 note, and
19 you write, about a quarter of the way down the page,
20 Candace's mother consumed a bottle of wine by herself.
21 That was upsetting to Candace. And then, when Candace
22 got home, she found her mom's boyfriend, Steve, in the
23 living room, where her mother was drunk, sucking on her
24 mother's toes and kissing them. And Candace told Steve
25 to go away.

1 Again, it seems like Candace was pretty
2 assertive with respect to talking with you about things
3 like that. Is that true? Or how would you characterize
4 it?

5 A. Talking with me about "things like that"?

6 Q. Would you consider that sexual deviance, for
7 example, what Steve and Candace's mother were doing in
8 front of her?

9 A. Well, it is inappropriate to do that in front
10 of a child.

11 Q. Okay. And how did that come up?

12 A. Well, this was another instance where one of
13 the biggest things that Candace and I would have focused
14 on then is that Candace felt like she had to protect her
15 mother there, that he was taking advantage of an
16 inebriated woman, and she was a young child having to
17 tell him to stop.

18 Q. So she was stepping into the parental role
19 again?

20 A. Again.

21 Q. Okay. And then --

22 A. Just because her mother was so limited. Not
23 because she was so super mature as a child. It's a
24 pseudo maturity. Sort of -- it is not with a strong
25 emotional scaffolding. It is much more of a survival

1 kind of maturity, "You are hurting my mother right now."

2 And that is different from somebody who is
3 mature and wise in the way of the world and can be an
4 adult.

5 (Whereupon, the video recording was stopped)

6 MS. KRAETSCH: That's not quite the end,
7 your Honor.

8 THE COURT: Okay.

9 (Discussion off the record)

10 (Whereupon, the video recording was played)

11 BY MR. SCHNACK:

12 Q. You mentioned this morning, when we talked to
13 you about having to terminate the relationship, you had
14 to terminate it around April 1, 1998 because you were
15 going into a private practice?

16 A. Right.

17 Q. And did Candace express some concerns about
18 terminating that relationship?

19 A. Yes.

20 Q. What did she tell you in that regard?

21 A. She was sad. She felt like I was somebody
22 that knew a lot about her family history and all the
23 chaos of it and -- what else did she say?

24 Q. Well, let's turn to March 23 of '98. I think
25 that's the second to last session.

1 Do you have that one in front of you?

2 A. Yes.

3 Q. And the third full paragraph down, the second
4 sentence, it says: "Talk about the importance of our
5 relationship and the honesty that we've had with each
6 other."

7 A. Uh-huh.

8 Q. Was that your words or was that her words?

9 A. My words.

10 Q. Your words. And so did you mean that when
11 you wrote it down?

12 A. Did I mean it?

13 Q. Yeah. Is that true about the honesty that
14 you and Candace had had with each other?

15 A. Yes. But I stated that in a clinical sense
16 in that one of the other important goals of treatment
17 was to be authentic with her, that when I was talking
18 with her, if I was saying I was unhappy or concerned or
19 that I truly was feeling that versus some of the
20 manipulations she experienced emotionally in her
21 relationship with both parents.

22 So it was honest and authentic in terms of
23 what occurred between us in that therapy setting.

24 Q. Okay. And on the last session on April 1,
25 you wrote that Candace has felt like this has been a

1 safe place for her to get support and help when she is
2 dealing with difficult struggles in her family.

3 A. Yes.

4 Q. Is that along the same lines?

5 A. I said what I was going to do and I did it.
6 And that was really important, because I don't think she
7 experienced that with other adults.

8 Q. And then what you were going to do with what?
9 Provide a role model for her?

10 A. Be there when I said I was going to be there.
11 Be available when she called me. Try to teach her
12 parents about attending to Candace's needs instead of
13 having Candace attend to their's. When we set up an
14 appointment time, I was there. That sort of thing.

15 Q. Okay. And then the last sentence on that
16 April 1st note that references the, I think, the
17 paternal grandmother being a stable force and a very
18 helpful force to Candace in terms of her relationship
19 with her parents.

20 What did you mean when you wrote that?

21 A. Well, I don't remember her presence a lot
22 throughout therapy. But I think toward the end, I think
23 Candace's paternal grandmother lived in the same house
24 for many years and, you know, maybe had a routine she
25 observed.

1 She didn't have a bunch -- I mean, to my
2 recollection -- many different romantic relationships or
3 marriages or whatever, but she had stability.

4 I don't know that she was emotionally capable
5 of really guiding Candace a lot. My recollection is
6 that there was an emotional enmeshment between the
7 grandmother and Neal, the father, and that they hadn't
8 separated into more separate adult relationships.

9 Q. Well, that's not referenced in any of your
10 clinical notes. So what is that based on?

11 A. Maybe that's just my recollection, when I
12 look over my notes and remember my treatment with her.
13 And I think that's why I didn't ask the grandmother to
14 come in and have a bigger role in this. She just -- I
15 don't think she was a really strong force,
16 unfortunately.

17 Q. But, nevertheless, you thought she was a
18 stabilizing force for her?

19 A. Stable in that she was in the same house.

20 Q. And Candace was staying there during the week
21 so she could attend school?

22 A. Right. And was supposed to help her with
23 homework. And that was everybody's concern, even though
24 the poor kid didn't have much psychic energy to do her
25 homework.

1 Q. Just to quickly summarize, the things that
2 Candace talked to you about included her mother's
3 alcohol abuse; is that correct?

4 A. Pardon me? Could you say it again for me?

5 Q. Certainly. Just to summarize the things that
6 Candace talked to you about over this year-and-a-half
7 plus included her mother's alcohol abuse at times?

8 A. That came very much at the end. That was not
9 a focus of treatment.

10 Q. But she did talk to you about it?

11 A. Yes.

12 Q. And she also talked to you about her mother's
13 exhibitionist behavior?

14 A. On that occasion. And on that occasion she
15 told me there were other times when her mother would
16 walk around. That was not a focus of treatment. That
17 came out during --

18 Q. Okay. I'm not asking you about focuses of
19 treatment. I'm asking you about what Candace opened up
20 and talked to you about.

21 A. On that one session at that one time.

22 Q. Okay. Did she also talk to you about her
23 mother having been sexually abused? That came up in a
24 session. Correct?

25 A. Yes.

1 Q. She talked about -- Candace talked about her
2 own religious struggles with you?

3 A. At the end of treatment.

4 Q. Correct. But in several different sessions.

5 A. Uh-huh.

6 Q. She talked about her mother's mental illness
7 in several sessions. Do you recall that?

8 A. She did not understand it. I think that was
9 a concern of mine. She didn't understand it as her
10 mother's mental illness. And I think I noted that
11 throughout there that Candace wasn't really aware of her
12 mother's diagnosis, and --

13 Q. But you suggested Candace be told her
14 mother's diagnosis?

15 A. Right. And I don't think that occurred.

16 Q. Okay. And then Candace also talked about her
17 mother's boyfriend, Steve, and their sexual behavior
18 together. That was described in a couple of sessions;
19 is that correct?

20 A. In a couple of sessions, yes.

21 Q. You asked Candace whether her father had been
22 physically inappropriate with her; is that correct?

23 A. When her mother brought that up as a concern.

24 Q. Correct. But you discussed that with
25 Candace.

1 A. I asked her about that, yes.

2 Q. But you still don't find it surprising that
3 Candace would not have told you about her own sexual
4 abuse?

5 A. I absolutely do not find it surprising.
6 There was no safety for this child. Her parents -- we
7 just discussed so many different things that occurred to
8 this child. She couldn't have longer than 20 minutes of
9 safety with a parent. There was no way she could
10 disrupt their -- I mean, there wasn't any safety for
11 her. It would have been so disruptive to her.

12 She was still rescuing both parents. What
13 would they say if she disclosed that this had happened?
14 How could she stay connected to her father? Would her
15 mother say, "Well, my abuse is worse than yours"?

16 I mean, there was a myriad of possibilities.
17 This kid had no safety.

18 Q. And by having no safety in her home, then her
19 home life was truly troubled, probably from the start;
20 is that a fair statement?

21 A. Yes.

22 Q. I mean, from birth forward?

23 A. I didn't treat her from birth forward.

24 Q. But based on what she told you, was there any
25 doubt in your mind that this was going on for years?

1 A. That it had been chaotic in her home?

2 Q. Chaotic in her home for years.

3 A. Yes, I think so.

4 Q. And, again, one of those very things that I
5 just listed, her mother's alcohol abuse, and --

6 A. But, again, you are emphasizing that as the
7 primary area of treatment. I believe her mother -- I
8 don't know that that was her mother's primary issue.
9 And that is important because that was one way her
10 mother was probably handling her own post-traumatic
11 stress or whatever from her childhood. That was not, I
12 think, the first thing that created her mother's
13 difficulty.

14 Q. Well, why don't you list the troubled things
15 in Candace's life as of the time you treated with her,
16 then.

17 A. Can you be more specific?

18 Q. Well, you just -- I tried to go through these
19 things with you, and you agree that Candace has told you
20 about her mother's --

21 A. Right. But what I'm objecting to is that it
22 sounds like -- and perhaps this is a difficulty in the
23 way we discuss things in psychology and the way things
24 are discussed in the legal field -- but the focus of
25 treatment and the focus of Candace's struggles were not

1 as a result of her mother's drug abuse and alcoholism.

2 I believe that that was, in her mother's
3 case, more of symptom of the way her mother tried to
4 manage the pain she carried around with her all the time
5 from the trauma she had had in her childhood.

6 She was not a very evolved or psychologically
7 well-developed human being, nor was Candace's father.
8 They were developmentally like three children, in some
9 respects, living together.

10 Q. And what kind of effect does that have on a
11 child?

12 A. It makes it really hard for them to gather a
13 sense of self, to have a core sense of strength.
14 Candace sticks in my memory because she was very
15 resilient. I mean, maybe her temperament and her
16 neurobiology, and I think she was an intelligent kid,
17 helped her to couple together the best she could under
18 the circumstances.

19 MR. SCHNACK: I don't have any other
20 questions at this point.

21 (Whereupon, the video recording was stopped)

22 THE COURT: All right. Members of the jury,
23 thank you very much for your time this week in this
24 matter.

25 I will look forward to seeing each of you

1 first thing Monday morning by 8:30. I can assure each
2 of you, we continue to make progress time-wise, and
3 there are all sorts of good reasons for it.

4 But I will continue to assess the day-to-day
5 circumstances. I will inform you on a day-to-day
6 circumstance and I will look forward to seeing each of
7 you Monday morning. Thank you, again, for your time.

8 (Proceedings were adjourned at 3:30 p.m.)

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REPORTER'S CERTIFICATE

I, KATHRYN LLOYD, CSR No. 5955, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witnesses were put under oath by the court clerk;

That the testimony of the witnesses, the questions propounded, and all objections and statements made at the time of the examination were recorded

stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated this ____ day of _____, 2012.

KATHRYN LLOYD, CSR No. 5955