

ROUGH DRAFT TITLE

\*\*\*ROUGH DRAFT TRANSCRIPT\*\*\*

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CASE NAME: BRADLEY J. EDWARDS and PAUL G. CASSELL vs.  
ALAN M. DERSHOWITZ

WITNESS NAME: PAUL G. CASSELL

DATE OF DEPOSITION: 10/16/15

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This raw transcript may contain the  
following:

1. Conflicts - an apparently wrong word  
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Conflicts are remedied by the reporter in editing.

2. Untranslates/Misstrokes - a stenotype  
stroke appears on the screen as the result of the  
computer dictionary not having the same stroke  
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or phrase from the reporter. Since the reporter must  
write each word instantly, a misunderstood word or  
phrase will not be apparent until some time later.  
Reporter's notes provide the opportunity to correct such  
situations.

1 THE VIDEOGRAPHER: We are now on the video  
2 record. Today is Friday, the 16th day of  
3 October, 2015. The time is 1:33 p.m.

4 We are here at 110 Southeast 6th Street,  
5 Suite 1850, in Fort Lauderdale Florida for the  
6 purpose of taking the videotaped deposition of  
7 Paul G. Cassell. The case is Bradley J. Edwards  
8 and Paul G. Cassell versus Alan M. Dershowitz.

9 The court reporter is Terry Tomaselli and the  
10 videographer is Don Savoy, both from Esquire  
11 Deposition Solutions. Will counsel please  
12 announce their appearances for the record.

13 MR. SCAROLA: Jack Scarola appearing on  
14 behalf of Bradley Edwards and Professor Paul  
15 Cassell. With me is Joni J. Jones from the Utah  
16 Attorney General's Office.

17 MS. McCAWLEY: Sigrid McCawley on behalf of  
18 Virginia Roberts from Boies Schiller & Flexner.

19 MR. SIMPSON: Richard Simpson on behalf of  
20 Defendant and Counter-Claim Plaintiff Alan  
21 Dershowitz. And with me is my colleague Nicole  
22 Richardson and Thomas Scott from the firm of Cole  
23 Scott & Kissane. Ms. Richardson and I are from  
24 the firm of Wiley Rein.

25 MR. SWEDER: Kenneth Sweder from the firm of

1 Sweeder & Ross for Professor Dershowitz.

2 Thereupon,

3 PAUL G. CASSELL,  
4 having been first duly sworn, was examined and testified  
5 as follows:

6 THE WITNESS: I do.

7 DIRECT EXAMINATION

8 BY MR. SIMPSON:

9 Q. Good morning or good afternoon, I guess?

10 A. Afternoon, yes.

11 Q. If I ask any questions today that you can't  
12 understand, would you please let me know and I'll  
13 attempt to rephrase or clarify it?

14 A. Sure.

15 Q. You're a former United States District Judge;  
16 is that correct?

17 A. That's correct.

18 Q. When were you a judge?

19 A. From about 2002 'til about November 2007.

20 Q. Okay. So you were appointed by the first  
21 President Bush?

22 A. Yes.

23 Q. Uh, second President Bush?

24 A. Second President Bush, yes.

25 Q. And then after resigning as a judge, you

1 became a professor at the University of Utah; is that  
2 correct?

3 A. Yeah I was professor -- excuse me -- before I  
4 was a professor in the evening hours while I was a judge  
5 from 2002 to 2007. And then I resumed full time  
6 teaching at the University of Utah in around November of  
7 2007 when I left the bench.

8 Q. Okay. And since you've left the bench, have  
9 you also been affiliated with a law firm?

10 A. Yes.

11 Q. Could you tell me what that affiliation is  
12 what --

13 A. Sure. I'm a special counsel with Hatch James  
14 and Dodge. It's a law firm, small boutique litigation  
15 law firm in Salt Lake City, Utah, and I occasionally do  
16 cases with them.

17 Q. Is it fair to say that since 2007, since  
18 resigning as a judge, you've been engaged at least on a  
19 part-time basis in the practice of law?

20 A. Yes.

21 Q. And, in particular, in one of the cases  
22 that's at issue here, what has been referred to as the  
23 underlying CVRA case; you're familiar with that case?

24 A. Yeah. Let me be clear just the juxtaposition  
25 of the causes, the CVRA case is not through Hatch James

1 and Dodge. That's through the University of Utah. I'm  
2 pro bono work through the University of Utah.

3 Q. You have entered an appearance in that case?

4 A. Correct.

5 Q. And in order to enter that appearance, you  
6 were admitted pro hac vice; is that correct?

7 A. That's right.

8 Q. And to be admitted pro hac vice, you  
9 certified that you were familiar with the applicable  
10 rules including the rules of the southern district of  
11 Florida; is that right?

12 A. That's right.

13 Q. And you're also familiar with the rules of  
14 professional responsibility; is that correct?

15 A. Sure.

16 Q. Okay. As a judge, did you ever strike a  
17 party's pleadings because they were impertinent,  
18 scandalous, irrelevant?

19 A. I don't recall doing that immediately.

20 Q. Okay. To the best of your knowledge, you  
21 don't recall any instance of doing that?

22 A. I mean what I did, I think, there were two  
23 cases where I referred people to the Bar which was a way  
24 of dealing with the pleadings that were inappropriate in  
25 those cases.

1 Q. Okay. But other than referring the two  
2 parties to the Bar, you never entered, to your  
3 recollection, striking a party's pleadings; is that  
4 right?

5 A. That's right.

6 Q. Okay. I want to ask you a few questions  
7 about the issue of striking pleadings. Would you agree  
8 with me that courts generally disfavor a motion to  
9 strike?

10 A. No.

11 Q. And that striking allegations from a pleading  
12 is a drastic remedy to be resorted to only when required  
13 for the purposes of justice and only when the  
14 allegations to be stricken have no possible relation to  
15 the controversy?

16 A. I think that's what some courts have said,  
17 yes.

18 Q. And is it fair to say -- is that what you  
19 represented to the court in response to  
20 Professor Dershowitz's application to intervene?

21 A. That's right.

22 Q. And you wouldn't have represented that to the  
23 court unless you believed it to be accurate; is that  
24 right?

25 A. That's right.

1 Q. Would you also agree that if there is any  
2 doubt as to whether the allegations might be an issue in  
3 the action, courts will deny the motion?

4 A. That was our position in our response to  
5 Professor Dershowitz's motion to strike, yes.

6 Q. And in considering a motion to strike, the  
7 court must consider the pleadings in the light most  
8 favorable to the party making the pleading, correct?

9 A. Yeah, that's our position, that was our  
10 position, yes.

11 Q. Okay. In your view, is it -- for an attorney  
12 to ask a leading question at a deposition, does the  
13 attorney have to have a good-faith basis to believe that  
14 that question is true or the facts assumed in that  
15 question are true?

16 A. I mean, that's a broad question, but as a  
17 general rule, yeah.

18 Q. As a general rule -- I'm not being very  
19 articulate --

20 A. Yeah.

21 Q. -- you don't ask a leading question about a  
22 fact unless you have a good-faith basis to believe that  
23 facts is true, correct?

24 A. I think that's right. I mean I don't know if  
25 over the last day and a half, you know, narrow questions

1 have been given very long answers. I am assuming you  
2 want narrow answers; is that true?

3 Q. Well, that wasn't my question, but why don't  
4 we stay on that --

5 A. I mean, I could discuss that at great length.  
6 I didn't know if that's what you wanted me to do.

7 Q. I would like you to give a fair answer to my  
8 questions and I'll let you answer your questions and if  
9 follow up, I would ask that one at a time for the court  
10 reporter.

11 I would ask that you answer the question  
12 fairly and I'll try not to interrupt you. And then if  
13 you would do your best to answer the questions, and as I  
14 said, if you don't understand it, let me know.

15 A. Right.

16 MR. SCAROLA: Excuse me. I'm going to  
17 interrupt you for just a moment. Pardon me.  
18 There is this page that was placed in front of  
19 me, and I don't know whether this was intended as  
20 a delivery of something.

21 MR. SCOTT: No. You had asked for a copy of  
22 the entry from Professor Dershowitz's book when  
23 he made reference to it. I said I'd give you a  
24 copy in the last deposition, and that's it. We  
25 made a copy of it.



1 MR. SCAROLA: Okay. Thank you. I had also  
2 asked for all of the information regarding  
3 communications with Rebecca, which I was told  
4 that I would get today. Is that available?

5 MR. SCOTT: No. I told you that we would  
6 consider if that -- I apologize. I said we will  
7 consider that and you can put it in a request and  
8 we will respond.

9 THE WITNESS: I would sure like to see that  
10 before I answer any more questions. Is that  
11 something you could make available?

12 MR. SIMPSON: I don't think that's necessary  
13 to answer the questions I'm going to ask. I'm  
14 not going to ask you any questions -- I won't ask  
15 you any questions about Professor Dershowitz's  
16 communications with this Rebecca that you've  
17 heard about. You were in the room while he  
18 testified, correct?

19 THE WITNESS: Right, but I mean there are --  
20 there are broader subjects that extend beyond  
21 those communications, so if you're going to ask  
22 any questions about those broader subjects, I  
23 would like to see the communications. That would  
24 be helpful to me.

25 BY MR. SIMPSON:

1 Q. I'm just going to ask you questions about  
2 the case and about your knowledge, and all I ask is that  
3 you give your best answers based on your knowledge.

4 A. And all I ask is, if you're going to ask any  
5 questions touching on those communications and I get a  
6 chance to take a look at the subjects addressed in those  
7 communications --

8 Q. If I ask you a question that you need to look  
9 at something that you've never seen before to answer,  
10 why don't you let us know?

11 A. Okay. Will do.

12 Q. What is your understanding of the ethical  
13 responsibility of an attorney in signing a pleading to  
14 be filed in Federal Court, and let's say in the Southern  
15 District of Florida, if that's any different than  
16 elsewhere?

17 A. Sure.

18 Q. Just give me your understanding.

19 A. Sure. The obligation is to make sure that it  
20 is a good-faith pleading based on the facts and the law  
21 as the attorney understands them, and consistently with  
22 the obligation of the attorney to zealously represent  
23 the position of his client.

24 Q. Okay. Would you agree with me that it would  
25 be unethical to use pleadings for an improper purpose,

1 for a purpose other than to advance a cause in  
2 litigation?

3 A. Sure.

4 Q. And would you agree with me that it would be  
5 unethical to make allegation of misconduct by a person  
6 in a pleading if that -- if those allegations were not  
7 relevant to the case?

8 A. Sure.

9 Q. And would you agree --

10 A. Actually, not pertinent to the case.

11 Q. Not pertinent to the case?

12 A. Yeah. And when you say not relevant,  
13 obviously, reasonable people can have disagreements  
14 about what allegations are relevant to the case or not.

15 Q. And my question is that an attorney, it would  
16 be unethical, do you agree, for an attorney to sign a  
17 pleading where the attorney does not have a good-faith  
18 basis that the allegations of misconduct are relevant to  
19 the case, are pertinent to the case?

20 A. Pertinent to the case, and as I understand  
21 for example under rule 11, the requirement is that the  
22 allegations being advanced must not be frivolous.

23 Q. And that there's a good-faith basis for them?

24 A. Well, I mean if you're talking about good  
25 faith frivolity, those are I mean, potentially different

1 standards under the law. My understanding is that  
2 frivolity is the standard for, for example, rule 11  
3 sanctions.

4 Q. Is it unethical to include, in your opinion,  
5 to include allegations in a pleading for the purpose of  
6 generating publicity?

7 A. If that's the only purpose, sure, that it  
8 would be inappropriate.

9 Q. And is it unethical to make allegations  
10 without having done a reasonable investigation to  
11 satisfy -- for the attorney to satisfy himself or  
12 herself that there's a factual basis for the  
13 allegations?

14 A. Something along those lines, sure.

15 Q. As a general matter, you agree with that  
16 proposition?

17 A. Yes, sure.

18 Q. Would you agree that the scope of the  
19 investigation, the reasonable investigation an attorney  
20 must do, varies depending upon the nature of the  
21 allegations being made?

22 A. Sure, yes.

23 Q. Let me finish -- we are both speaking at the  
24 same time --

25 A. Sure.

1 Q. -- so let me finish --

2 A. Sure. I just want to make sure you get an  
3 opportunity to ask as many questions as you want so.

4 Q. Okay. And I appreciate that, but the court  
5 reporter can't take down both of us at once. So we just  
6 need to speak one at a time, but I appreciate that.

7 A. Good.

8 Q. I believe the last question I was asking you  
9 about whether the scope of the investigation, what  
10 reasonably required of an attorney varies depending upon  
11 the nature of the allegations being made. I think you  
12 said, yes; is that right?

13 A. Yes.

14 Q. And could you explain how, what in your  
15 understanding of how --

16 A. Sure. I mean, obviously, they are going to  
17 be some cases that are very complicated factually. More  
18 investigation would be appropriate there. There can be  
19 some situations that very simple factually, less  
20 investigation would be factually necessary there. Same  
21 points about legal issues, too, some cases are complex  
22 legally, some cases are simple legally.

23 The more legal investigation would be  
24 required for the more complex cases.

25 MR. SCAROLA: Professor Cassell, I know it is

1 a little bit unnatural for you to be responding  
2 to questions that are being asked immediately to  
3 your right and not be looking directly at the  
4 examiner the entire time, but because this is  
5 being videotaped, it might be helpful if you can,  
6 to the extent that you're able, to look into the  
7 camera so that the jury for whom this may be  
8 played --

9 THE WITNESS: I see.

10 MR. SCAROLA: -- at a later time gets to see  
11 your full face.

12 THE WITNESS: All right. I hope you won't  
13 consider me rude then --

14 MR. SIMPSON: I will not consider -- it's  
15 good advice from your counsel and I will not  
16 consider you rude.

17 THE WITNESS: Thank you.

18 BY MR. SIMPSON:

19 Q. I want to ask you some more questions about  
20 the scope of investigation. Would you agree that an  
21 allegation of serious misconduct by another person  
22 generally requires more investigation than a lesser  
23 serious type of allegation?

24 A. Sure. That's a fair statement.

25 Q. And so, for example, before accusing a person

1 of engaging in criminal misconduct, the attorney needs  
2 to do a thorough investigation; is that right?

3 A. Yeah, under the circumstances, sure. I  
4 should say in light of the circumstances, obviously, you  
5 know, different kinds of cases can have different  
6 circumstances.

7 Q. Okay. Is one of the considerations that goes  
8 into that how much -- whether there's time pressure to  
9 get the pleading on file?

10 A. Sure. That would be one of the factors.

11 Q. And how much time the attorney has to  
12 investigate the facts?

13 A. Yes. That would be one of the factors as  
14 well.

15 Q. Okay. And so before making -- where an  
16 attorney's client has no pressing need to get a pleading  
17 on file immediately, and the pleading is going to  
18 include serious allegations of misconduct by another  
19 person, an ethical attorney will take the time needed to  
20 do a full investigation; is that fair?

21 A. That's fair, and the converse of your  
22 proposition is also fair. For example, if a client has  
23 a pending discovery dispute in front of a judge that  
24 could be ruled on any day, that would be an exigency  
25 that would require pleadings to be filed more quickly

1       than -- than otherwise.

2           Q.     And if the dispute concerned, for example, a  
3       specific discovery issue, would you expect the response  
4       to be directed to that issue?

5           A.     I would expect that the record would be built  
6       so that it would be available for the discovery issue,  
7       yes.

8           Q.     Okay. I am going to ask the reporter to mark  
9       as Cassell -- am I pronouncing your name correctly?

10          A.     Yes, it's Cassell, yes.

11          Q.     Okay. Could I ask the reporter to mark as  
12       Cassell Exhibit 1 -- I will hand that to the reporter.

13                   (^ Plaintiff's ^ Defendant's I.D. Exhibit  
14       No. 1 - ^ description was marked for identification.)

15       BY MR. SIMPSON:

16          Q.     Let me identify that for the record. I may  
17       want to mark two things.

18          A.     Okay.

19          Q.     Exhibit 1 is documented Plaintiff's Response  
20       to Motion for Limited Intervention by Alan M.

21       Dershowitz, and I'm going to ask the reporter to mark  
22       another exhibit at the same time. This will be

23       Exhibit 2, and this is a document entitled Jane Doe

24       Number 3 and Jane Doe Number 4's motion pursuant to rule

25       21 for joinder in action. Both cases having been filed



1 in the case Jane Doe 1 and Jane Doe 2 versus the United  
2 States. This is number 2.

3 (^ Plaintiff's ^ Defendant's I.D. Exhibit  
4 No. 2 - ^ description was marked for identification.)  
5 BY MR. SIMPSON:

6 Q. Mr. Cassell, do you have those documents in  
7 front of you?

8 A. I do.

9 Q. Okay. I'm going to ask you first about  
10 Exhibit 2 before 1, since exhibit 2 is first in  
11 chronological order.

12 A. Yes.

13 Q. Is this the motion for joinder that you filed  
14 on behalf of the parties then known as Jane Doe Number 3  
15 and Jane Doe Number 4 in what was called the CVRA  
16 action?

17 A. This is the joinder motion, yes.

18 Q. Okay. And if you look at the last page  
19 before the certificate of service --

20 A. Yes.

21 Q. -- over on page 12, it shows the document  
22 being signed by Bradley J. Edwards and then it says and  
23 Paul G. Cassell, pro hac vice, S.J. Queeny [sic] College  
24 of Law

25 A. Quinney.

1 Q. Quinney, got that one wrong, College of Law  
2 at the University of Utah. Is that indicating your  
3 signature to the document?

4 A. That's -- that's indicating not my signature,  
5 but it's indicating that I stand behind the arguments  
6 made in the document, yes.

7 Q. Much more articulate statement than I. I  
8 simply wanted to confirm that you had authorized your  
9 name to be listed as a counsel who was, for purposes of  
10 the rules, vouching for this document?

11 A. Yes, I was vouching for this document  
12 completely.

13 Q. Okay. And you list here your address as  
14 being at the college of law at the University of Utah  
15 with no qualification. If you compare that to the next  
16 exhibit, Exhibit 1 actually --

17 A. Yes.

18 Q. -- your signature has a footnote that says,  
19 this daytime business address is provided for  
20 identification and correspondence purposes only, and is  
21 not intended to imply institutional endorsement by the  
22 university of Utah; do you see that?

23 A. I do see that.

24 Q. Why was that footnote not included on the  
25 first pleading filed which is Exhibit 2?

1           A.    The footnote -- one of the problems with the  
2 the Word processing program to drop a star footnote is  
3 it requires, under the word programing, you have to to  
4 have different sections in the document because  
5 otherwise it would be footnote -- let's see.

6           Yes, so there was already a footnote 1 on the  
7 joinder motion and so, what happens with footnotes is if  
8 you identify it as footnote, put in a footnote where the  
9 University of Utah signature block is, for example, it  
10 becomes footnote 2, so then you have to create a  
11 different section and then once you have a different  
12 section you can establish a new number and a new  
13 nomenclature instead of numbers. You can have the  
14 asterisk, and so somehow with the signature block  
15 getting reprocessed here, that star footnote dropped off  
16 and within I think -- I think it was about three days, I  
17 realized that the star footnote had dropped off, so I  
18 filed a corrected pleading with the -- with the new star  
19 footnote on it.

20          Q.    You would agree with me that a fair-minded, a  
21 reasonable reader looking at the signature block on the  
22 as filed original document, could conclude that the  
23 University of Utah was somehow endorsing or standing  
24 behind this pleading?

25          A.    I don't think that's quite fair. I think the

1 way that works is, people know that when, for example,  
2 you know, a Professor speaks from the university, they  
3 are giving their own point of view. The -- a school  
4 like the University of Utah has, gosh, several hundred  
5 faculty members, if not more, and so any time a member  
6 of the University of Utah speaks, they are giving their  
7 views on the subject. There may be a range of views.

8           Some Professors at the university of Utah may  
9 be in favor of crime victim rights. Other Professors  
10 may be opposed to crime victim rights. Young people  
11 generally jump to the conclusion that just because they  
12 are hearing a Professor from a particular school speak,  
13 that that necessarily means that they are saying  
14 something that the university endorses.

15           Q. If that's true, why do you include the  
16 footnote on some pleadings?

17           A. Well, I included the footnote in this  
18 particular case, the dean at the law school said, hey,  
19 you know, it might be useful just to drop a footnote in  
20 just to make sure that there's no misunderstanding and I  
21 said, sure, I would be glad to do that. And so I think  
22 pleadings, in this case leading up to this, had the star  
23 footnote. Apparently on the signature block had got  
24 dropped out. And then we were able to fix that in a  
25 couple of days on this one.

1           Q.    So is it accurate that after you filed what's  
2 Exhibit 2, that the dean of the law school asked you to  
3 file a corrected version with the footnote?

4           A.    No. That misunderstands what I said. Early  
5 on, just in talking -- I do a lot pro bono litigation  
6 for crime victims all over the country, and I do that,  
7 that's one of the reasons I'm at the University of Utah.  
8 They have been very supportive of my pro bono work in  
9 this case as well as in other cases, and so the dean  
10 said, well, one of the things just might be helpful is  
11 to drop a footnote. I don't think it was required that  
12 I drop the footnote, nobody suggested it would be useful  
13 to drop the footnote, and so I agreed to do that in this  
14 case and in other cases as well, but somehow in this  
15 particular pleading, the -- as I say, the signature  
16 block possibly was a cut-and-paste from an earlier  
17 pleading in the case, possibly it was some issue  
18 involving that section feature of the word processing  
19 program. The star footnote had dropped off.

20               And so once I realized that without anyone  
21 calling that to my attention when I looked at the brief  
22 a couple of days after we filed it, and said, oh, I need  
23 to fix that and did, indeed, fix that as quickly as I  
24 could.

25           Q.    What was the context in which the dean asked

1 you as a practice to drop the footnote; was it in  
2 connection with this case or some other circumstance?

3 A. It was -- as I recall, it was several years  
4 earlier. I don't know. Maybe a year or two earlier  
5 than this particular litigation, from what I remember.  
6 If I looked at some of my other pro bono cases around  
7 the country, we might be able to get a sharper time  
8 frame on that. I've done pro bono crime victims in a  
9 lot of cases. And the dean just thought it might be  
10 useful to have that kind of a footnote to avoid any  
11 misunderstanding.

12 Q. Would you agree with me that in order to  
13 allow your name to be listed as counsel on this  
14 pleading, that you were required to have a sufficient  
15 basis for the allegations based on what you knew as of  
16 December 30th, 2014?

17 A. Sure. I think that's fair. Obviously, I  
18 imagine one of the issues we are going to discuss here  
19 today is what is a sufficient basis for filing a  
20 pleading like that. So, yeah, in general, of course, we  
21 had to have a sufficient basis for filing something like  
22 this and I firmly believe that we did.

23 Q. And to put a point on my question, the way in  
24 which to measure the knowledge is as of December 30th,  
25 2014, so the facts that came to your attention after

1 that date, by definition, could have been part of what  
2 you were relying on to allow your name to be listed as  
3 counsel on this document, correct?

4 A. That's right. With regard to this document,  
5 we would be looking at knowledge on or before December  
6 30th, 2014.

7 Q. Would you turn to page 4 of the document,  
8 first full paragraph on the page, the second sentence.  
9 Actually, third sentence, you say: In addition to being  
10 a participant in the abuse of Jane Doe Number 3 and  
11 other minors, Dershowitz was an eye witness to the  
12 sexual abuse, et cetera. Do you see that?

13 A. Yes.

14 Q. Who were the other minors?

15 A. Well, one of the ways -- you want some  
16 documentation of that?

17 Q. I want to know: You made an allegation here,  
18 you first make an allegation that Professor Epstein  
19 abused -- Jane Doe Number 3 -- Dershowitz. I'm sorry?

20 A. Right.

21 Q. Jane Doe Number 3 who is no longer anonymous,  
22 Miss Roberts, correct?

23 A. Right. I'm sorry. Could you repeat the  
24 question please.

25 Q. I just want to clarify that your pleading is

1 alleging that Professor Dershowitz engaged in this  
2 sexual misconduct with Miss Roberts; she's Jane Doe  
3 Number 3, correct?

4 A. That's right. Jane Doe Number 3 is Miss  
5 Virginia Roberts Goufrey ^ (ph).

6 Q. And I will ask you questions about that. But  
7 my question now is: You also allege that Professor  
8 Dershowitz was a participant in the abuse of other  
9 minors besides Miss Roberts. Do you see that?

10 A. Yes, I see that.

11 Q. Who are the other minors?

12 A. So I don't know the exact name of the other  
13 minors who were involved, but I do have an 89 page  
14 police report from the Palm Beach Police Department  
15 which lists, if I recall correctly, about 23 or 24 names  
16 of minors who went to the Jeffrey Epstein mansion in  
17 Palm Beach during a period of time that extends from --  
18 let's see -- it would have been roughly, I don't know,  
19 from probably about a six-month period in 2005 -- there  
20 are a series of names. I don't think in this particular  
21 case because of confidentiality reasons, we can put into  
22 the record the names of those girls, but what I would  
23 propose doing is putting into the record the 89 page  
24 police report from the Palm Beach Police Department,  
25 which has page after page after page after page of young



1 girls going to the Epstein Palm Beach mansion and then  
2 being sexually abused in some cases, at least one case,  
3 forcibly raped. That is the basis for that particular  
4 allegation.

5 Q. Mr. Cassell, does the police report you're  
6 referring to at any point say Professor Dershowitz  
7 abused any of these particular minors -- not were they  
8 abused at the mansion -- but did it say anywhere that  
9 Professor Dershowitz did that?

10 A. The police report itself does not refer to  
11 Professor Dershowitz abusing these girls. However, when  
12 you look at the police report, what it shows is a  
13 pattern of egregious sexual abuse of approximately 23 to  
14 24 young girls over an extended period of time at a  
15 mansion that was owned by Jeffrey Epstein who was one of  
16 the closest personal friends, from what I could gather,  
17 of Mr. Dershowitz.

18 And so that was -- there's other information.  
19 I don't want to filibuster you on that. I would be  
20 happy to elaborate on that, but that is the first piece  
21 of evidence that I would begin referring to. If you  
22 want a more -- if you want -- just so the record is  
23 clear, if you want to know all the bases, all the  
24 grounds for which that allegation appears, then I would  
25 like to make a more extended presentation.

1           Q.    We will get there. But my -- I want to make  
2           sure we are clear about this.

3                    Am I correct that the report itself never  
4           says, Alan Dershowitz abused anyone?

5           A.    That is a correct statement, I believe.

6           Q.    And we won't -- and the report does  
7           reflect -- the conclusion of -- it reflects abuse of  
8           minors by Jeffrey Epstein, correct?

9           A.    Oh yes, oh yea. What it shows is forcible  
10          rape of underage girls, and not a, shall we say, one off  
11          situation, but on something that is happening over,  
12          let's say, this is roughly a six-month period, 180  
13          days -- I mean, I think you know, they document roughly  
14          speaking at least 180 sexual encounters give or take,  
15          and in fact, on some days, what they document in that  
16          police report is abuse that is taking place not once,  
17          not twice, but three times during the day in this  
18          mansion.

19                   And so I certainly agree with you, if it's  
20          possible, maybe my math is off here, 200 percent, that  
21          this report documents repeated sexual abuse including  
22          forcible rape by one of the closest friends of  
23          Mr. Dershowitz, Jeffrey Epstein.

24          Q.    So it's your testimony that Mr. Epstein was  
25          one of Professor Dershowitz's closest friends?

1 A. Yes.

2 Q. We will come back to your basis for that.

3 I want to go back to the police report.

4 We've clarified it never says Professor Dershowitz  
5 abused anyone, correct?

6 A. It doesn't say that directly, but the police  
7 report is part of a larger package of information that I  
8 had available to me since you asked on December 30th  
9 that suggested that Mr. Dershowitz was involved in the  
10 abuse of minors.

11 I'm sorry. Let me correct that. In the  
12 sexual abuse of minors, in particular, minor girls.

13 Q. Would it be your position that anyone who was  
14 a friend, or a friend of Mr. Epstein who visited his  
15 house on more than a few occasions, that that's  
16 sufficient to conclude that -- to allege that they  
17 engaged in sexual abuse of minors?

18 A. No.

19 Q. Are we talking about guilt by association  
20 here?

21 A. No. And that question requires a more  
22 extended answer, which I would be happy to provide for  
23 you, if you would like an extended answer.

24 Q. Let me ask you this question: You referred  
25 to the police report, correct?

1           A.    Correct.

2           Q.    And focusing now, not -- not on Virginia  
3   Roberts, we are focusing on the other minors, correct?  
4   I just have that in mind, right?

5           A.    I'm sorry. Could you repeat the question?

6           Q.    I want to make sure you're focusing on the  
7   allegation in this pleading that Professor Dershowitz  
8   abused other minors; do you have that in mind?

9           A.    I do.

10          Q.    Okay. First of all, I want to know, and for  
11   this question you don't have to give the names, do you  
12   have specific minors who you, at this point, contend  
13   were abused?

14          A.    I believe that the pool of people came from,  
15   among other young girls, roughly 23 to 24 minors  
16   identified in the Palm Beach Police Department report,  
17   or other similarly-situated girls in either New York, in  
18   the airplanes, or on -- in the Palm Beach mansion. So  
19   this -- the problem that I have here frankly, I'm sorry,  
20   but I think your question fairly calls for a longer  
21   answer, I could give you the names of those girls if  
22   Jeffrey Epstein would tell us the names of those girls  
23   that he trafficked in Florida, in New York, on his  
24   airplanes and elsewhere. But I think everyone in this  
25   room is aware Mr. Epstein has repeatedly refused to

1 answer questions about the names of the girls that he  
2 was sexually trafficking. And that's one of the things  
3 that has made this case so difficult, because if we  
4 could get the names of those girls, then we could -- we  
5 could try to help them.

6 We could -- we could start to unravel the  
7 many crimes that Mr. Epstein has committed along with  
8 his associates. So, again, I could go on longer, and I  
9 don't want to filibuster your time, I think I've seen  
10 illustrations of that recently, but I -- what I want to  
11 do is make sure that -- that I could give additional  
12 information if people like Mr. Epstein would cooperate  
13 and give me the names of the girls that he was sexually  
14 trafficking.

15 MR. SIMPSON: Move to strike the  
16 nonresponsive portion of the answer.

17 Can I have the same standing objection,  
18 Mr. Scarola?

19 MR. SCAROLA: No, I don't think -- I don't  
20 think you will need a standing objection.

21 MR. SIMPSON: Well, I'll just make the  
22 objection there and --

23 MR. SCAROLA: Thank you.

24 MR. SIMPSON: I will go back to my question.

25 BY MR. SIMPSON:

1           Q.    My question had nothing to do with whether  
2 you could identify girls that Jeffrey Epstein abused.  
3 My question was: As of December 30th, 2014 -- you don't  
4 have to give me the name right now -- is there any  
5 specific girl that you had evidence Professor Dershowitz  
6 abused?

7           A.    What I had was the police report moving girls  
8 and the girls were named in the police report, although  
9 the police report that I think has been made public has  
10 the names redacted, those girls were moving through the  
11 mansion at the time when, for example, household staff  
12 were saying that Mr. Dershowitz was receiving massages.

13               And so, yes, I have 24 names in mind as  
14 possible sexual abuse victims that Dershowitz may or may  
15 not have abused. And I have not been able to pinpoint  
16 exactly what happened, because the people who would be  
17 in the best position to help me sort out what the names  
18 were, specifically Jeffrey Epstein among others, have  
19 refused to cooperate and give me those names.

20           MR. SIMPSON: Move to strike the  
21 nonresponsive portion of the answer.

22           THE WITNESS: Can I ask what part of that was  
23 nonresponsive in your view?

24           MR. SCAROLA: That's all right.

25           THE WITNESS: Okay.

1                   MR. SCAROLA: Professor Cassell, you don't  
2                   need to do that.

3                   BY MR. SIMPSON:

4                   Q.     If I understand you correctly, you said in  
5                   that answer question -- strike that.

6                   If I understood you correctly, you said in  
7                   that answer that there was a universe of 24 girls I  
8                   believe you said or approximately, that Professor  
9                   Dershowitz may or may not have abused; is that your  
10                  position?

11                  A.     That's correct. It's been impossible to  
12                  narrow down exactly what happened because of lack of  
13                  cooperation from, for example, Jeffrey Epstein.

14                  Q.     If as of December 30th, 2014, based on your  
15                  information, Professor Dershowitz may or may not have  
16                  abused other minors, why did you allege that he did?

17                  A.     Your question, as I understood it, was did I  
18                  know the name of the particular girl that he may or may  
19                  not have alleged -- I'm sorry -- did I know the name of  
20                  the particular girl that he may have abused. And I  
21                  couldn't get the exact name, but what I had was  
22                  Mr. Dershowitz receiving massages in a time when,  
23                  according to the police report, massage was a code word  
24                  for sexual abuse of underage girls.

25                  Q.     And so was it your understanding as of

1 December 30th, 2014, that every massage given to anybody  
2 at Mr. Epstein's residence was a code word for sexual  
3 abuse?

4 A. It was my understanding that the term  
5 "massage" was frequently, if not almost invariably, used  
6 as a code word for sexual abuse, or at least sexual  
7 activity, if the girl happened to be over the age of 18.  
8 But in most cases at least, or in many cases depending  
9 on exactly what universe you're looking at, these were  
10 underage girls, under the age of consent in the State of  
11 Florida, they were under the age of 18.

12 Sometimes as young as -- I think it went all  
13 the way down to, gosh, I'm trying to remember now, I  
14 think 13 or 14 was was the youngest age in the police  
15 report.

16 Q. Is it your position that as of December 30th,  
17 2014, you had a sufficient basis under the Federal Rules  
18 of Procedure and applicable ethical rules to allege that  
19 anyone who got a massage at Mr. Epstein's residence had  
20 abused minors?

21 A. No.

22 Q. What -- back up now. With respect again to  
23 other minors as of December 30th, 2014, had anyone --  
24 had any young woman, other than -- we will put -- I'm  
25 going to ask about Virginia Roberts separately.



1 A. Okay.

2 Q. Had any other young woman told you she had  
3 been abused by Professor Dershowitz?

4 A. No other young women had told me that, no.

5 Q. Had, as of that date, had anyone told you  
6 that Professor Dershowitz had abused other minors?

7 MS. McCAWLEY: I'm going to object for a  
8 moment here to the extent that you're going to be  
9 answering a question that requires you to divulge  
10 any attorney/client communication with Virginia  
11 Roberts, I have a standing objection that I'm  
12 putting on the record right now.

13 Virginia Roberts does not waive her  
14 attorney/client privilege with her lawyers, and  
15 they are not entitled to testify as to  
16 information that she intended to be confidential  
17 that she communicated to her lawyers.

18 MR. SCAROLA: And I would instruct you not to  
19 answer the question on that basis.

20 MR. SIMPSON: All right.

21 BY MR. SIMPSON:

22 Q. I disagree with the position on the  
23 privilege, but I will -- you're going to follow the  
24 instruction not to answer those questions?

25 A. I am.

1           Q.    Okay.  I want to put then aside Virginia  
2    Roberts.

3                    Had anyone else as of December 30th, 2014,  
4    told you that Professor Dershowitz had abused any minor,  
5    other than Virginia Roberts?

6           A.    No one -- no other -- no other person, no  
7    other person had spoken to me and told me that directly,  
8    no.

9           Q.    And when you say no other person, I'm  
10   including not just any -- any victims of Mr. Epstein,  
11   but anyone else, no one had said to you, I have  
12   knowledge that Alan Dershowitz abused a minor, other  
13   than Virginia Epstein -- Virginia Roberts; is that  
14   correct?

15                   MR. SCAROLA:  Let me ask you for  
16   clarification if I could.  Are you asking whether  
17   any person made that statement based upon the  
18   direct personal knowledge of that person?  And  
19   the purpose for my clarification is to the extent  
20   information was conveyed to Professor Cassell by  
21   co-counsel, or anyone within the joint  
22   representation or common interest privilege, I'm  
23   not going to permit him to answer that question.  
24   If it's anybody outside that, he clearly can.  So  
25   if you're looking for someone with direct

1 knowledge, he can answer that question, because I  
2 assume none of the lawyers within the common  
3 interest privilege had that direct knowledge.

4 MR. SIMPSON: I'm asking -- for the purpose  
5 of the questions I'm putting aside Virginia  
6 Roberts and I'm putting aside her attorneys.

7 MR. SCAROLA: Attorneys.

8 MR. SIMPSON: Attorneys.

9 MR. SCAROLA: Attorneys.

10 MR. SIMPSON: Yes.

11 MR. SCAROLA: Not just Virginia Roberts'  
12 attorneys, but any attorney sharing a common  
13 interest privilege?

14 MR. SIMPSON: No. No.

15 MR. SCAROLA: Okay. Well I'm not going to  
16 let him --

17 BY MR. SIMPSON:

18 Q. Let me ask this: As of December 30th,  
19 2014, were there any attorneys who were sharing a common  
20 interest privilege with you as counsel in the CVRA case?  
21 Had you entered into an agreement with any other  
22 attorney? You have co-counsel, Mr. Edwards.

23 MS. McCRAWLEY: Well, to the extent that's  
24 going to reveal privileged information about  
25 accountant interest agreement, I am not going to

1 let him do that.

2 MR. SIMPSON: That certainly is not  
3 privileged. That's fact.

4 THE WITNESS: I think this is a -- I would be  
5 happy to answer the question, but this is a very  
6 complicated issue that -- that I think I should  
7 confer with -- I don't want to inadvertently  
8 waive a privilege that my client, Virginia  
9 Roberts, has or other persons may potentially  
10 have, so I think I would like take to short break  
11 and confer with my counsel on that question.

12 MR. SIMPSON: We will take a short break.

13 THE VIDEOGRAPHER: We are going off the video  
14 record, 2:13 p.m.

15 (Thereupon, a recess was taken.)

16 THE VIDEOGRAPHER: We are back on the video  
17 record, 2:25 p.m.

18 MR. SCAROLA: So that the record is clear, we  
19 have had an opportunity to consult, and we are  
20 asserting both the attorney/client and common  
21 interest privilege, and I can tell you that there  
22 is no source of information outside of the  
23 attorney/client and common interest privilege  
24 that relates to the area of your current inquiry.

25 MR. SIMPSON: Well, and I'll ask the question

1 and you can tell me if you'll answer this  
2 question.

3 BY MR. SIMPSON:

4 Q. Who, as your understanding as of December  
5 30th of 2014, with which attorneys did you have a common  
6 interest privilege?

7 A. Brad Edwards from, obviously, the law firm  
8 that I've been working with here. Also attorneys from  
9 the Boies Schiller law firm who were representing  
10 Virginia Roberts at that time.

11 Q. Anyone else?

12 A. The -- at that time, on December 30th, I  
13 don't know that it's directly responsive to your  
14 question, but also the Scarola law firm, Mr. Scarola in  
15 connection with litigation he was handling for Brad  
16 Edwards.

17 Q. Any any other law firm lawyers that you had a  
18 common interest privilege with?

19 A. No.

20 Q. And you're going to refuse to answer  
21 questions about communications with Miss Roberts; is  
22 that right?

23 A. Sure. Those are -- well, some -- some  
24 communications are public, we will discuss those, I'm  
25 sure as the deposition moves along, but certainly with

1     respect to confidential communications that were part of  
2     providing legal services to Miss Roberts, yes, I will be  
3     asserting -- well, she's -- let me be a little more  
4     precise.

5             She will be asserting attorney/client  
6     privilege and I'm not at liberty to waive that for her.

7             Q.     And we will make a proffer later as to  
8     questions we would ask about your communications with  
9     Miss Roberts as we believe those are not privileged,  
10    but --

11            MR. SCOTT:   As well as the others.

12            MR. SIMPSON:  As well as the others that  
13    have --

14            MR. SCOTT:   Attorney/client.

15            MR. SIMPSON:  -- attorney/client the  
16    privilege has been asserted.

17    BY MR. SIMPSON:

18            Q.     Let me go back to the common interest group.  
19    Is there any written agreement memorializing a common  
20    interest agreement?

21            MS. McCAWLEY:  I'm going to object to the  
22    extent that it seeks details of an agreement.  
23    You're allowed to know the existence of the  
24    agreement; he testified to that.  The details,  
25    you're not entitled to.

1 MR. SIMPSON: I'm not going to ask any  
2 details at all.

3 BY MR. SIMPSON:

4 Q. I'm simply going to ask: Is it in writing,  
5 yes or no? As of December 30th, 2014, was there a  
6 written common interest agreement, yes or no?

7 MR. SCAROLA: Those are two different  
8 questions and I think the record needs to be  
9 clear as to which one you're asking.

10 MR. SIMPSON: All right. Let me ask this  
11 question.

12 BY MR. SIMPSON:

13 Q. As of December 30th, 2014, was there any  
14 common interest agreement that was in writing?

15 A. I'm not certain what date a written agreement  
16 was executed on these subjects.

17 Q. At some point, was a written agreement  
18 executed?

19 A. Yes.

20 Q. And who were the parties to the written  
21 agreement?

22 A. Well, there have been addenda to the  
23 agreement, if I recall correctly, but sitting here  
24 today, the parties to the agreement include Virginia  
25 Roberts, and her -- well, attorneys representing -- I

1 mean -- I guess the attorneys representing Virginia  
2 Roberts on various matters which Boies Schiller law  
3 firm, the Bradley J. Edwards and his law firm,  
4 University of Utah's general counsel's office, the  
5 university -- I'm sorry -- the Utah Attorney General's  
6 office, Attorney General Reaz ^ (ph) and other persons  
7 there. And the Searcy -- well, Mr. Scarola's law firm,  
8 I'm trying to remember -- sorry, Jack, I can't remember  
9 the name of all your partners off the top of my head.

10 MR. SCAROLA: That's quite all right.

11 MR. SIMPSON: He's the man.

12 THE WITNESS: It's the law firm that

13 Mr. Scarola is a named partner in.

14 BY MR. SIMPSON:

15 Q. And is it -- am I correct that you cannot say  
16 one way or the other whether that written agreement was  
17 executed before or after December 30th, 2014?

18 A. That's right. Sitting here right now, no, I  
19 can't recall.

20 Q. Okay. I want to go back to the motion for  
21 joinder which is Exhibit 2, and the provision -- not the  
22 provision -- the assertion that we were referring to.

23 A. Right, right.

24 Q. Concerning not Virginia Roberts, but other  
25 minors. Do you have that in mind?



1 A. Yes.

2 Q. Okay. Because of the privilege instruction,  
3 I'm going to ask it this way: As of December 30th,  
4 2014, when you put your -- allowed your name to be put  
5 on this pleading as --

6 A. I didn't allow it. I was proud to sign this  
7 pleading.

8 Q. Okay. As of December 30th, 2014, when you  
9 were proud to sign this pleading, was there any witness,  
10 whether a victim or anyone else, who could be -- person,  
11 whether a victim or anyone else, who could be called as  
12 a witness who would say, I have knowledge that Alan  
13 Dershowitz abused a minor, other than Virginia Roberts?

14 A. I believe with further discovery we could  
15 have identified witnesses, yes.

16 Q. So is the answer to my question, no, when I  
17 ask: As of December 30th, 2014, when you signed this,  
18 were you aware of a single witness who would testify, I  
19 have knowledge that Alan Dershowitz abused a minor,  
20 other than Virginia Roberts?

21 MS. McCawley: Objection. I just want to be  
22 clear. Outside the context of Virginia Roberts,  
23 what he learned through the common interest  
24 privilege.

25 BY MR. SIMPSON:

1           Q.    I'm asking whether he was aware of I'm not  
2 asking about -- well, let me back up.

3                   Are you aware of any witness who could be  
4 called who, as of December 30th, 2014, any person who  
5 could be called as a witness who would testify, I have  
6 knowledge that Alan Dershowitz abused a minor to support  
7 the allegation that Alan Dershowitz abused other minors?

8           MR. SCAROLA: Outside of information gathered  
9 through attorney/client or common interest  
10 privileged communications; is that correct?

11          MR. SIMPSON: No. It's not correct.

12          MR. SCAROLA: Okay. Then, I'm not going to  
13 permit him to answer the question to the extent  
14 that it includes a request for information within  
15 the attorney/client and common interest  
16 privilege.

17          MR. SIMPSON: Is it your position that the  
18 name of a person who could be called as a witness  
19 is somehow privileged?

20          MR. SCAROLA: It is my position that any  
21 information communicated within the scope of the  
22 confidential attorney/client communication is  
23 privileged information.

24                It is my position that any information  
25 including names communicated in the scope of

1 confidential common interest privilege  
2 communications is privileged. Yes, that's my  
3 position.

4 MR. SIMPSON: Okay. That, we will have to go  
5 to the judge on.

6 BY MR. SIMPSON:

7 Q. Let me ask you this way: As of December --

8 A. I'm going to write down your question because  
9 this one sounds like it's going to be complicated.

10 Q. I'm going to ask it again. It's not  
11 complicated. It's very simple. This one is going to be  
12 very simple.

13 A. Okay.

14 Q. As of December 30th, 2014, had you spoken  
15 personally with anyone who said, I have knowledge that  
16 Alan Dershowitz -- I have personal knowledge that Alan  
17 Dershowitz abused other minors?

18 MR. SCAROLA: To the extent that that  
19 question calls for information conveyed within  
20 the scope of either the attorney/client or common  
21 interest privilege, I instruct you not to answer.

22 BY MR. SIMPSON:

23 Q. Put aside for the moment Virginia Roberts.  
24 I'll ask the question: Did Virginia Roberts tell you  
25 that Alan Dershowitz abused anyone other than her?

1 MR. SCAROLA: I instruct you not to answer.

2 MS. McCAWLEY: And I object to that.

3 MR. SIMPSON: Okay.

4 BY MR. SIMPSON:

5 Q. So will you not answer that question?

6 MR. SCAROLA: On the basis of attorney/client  
7 privilege, I instruct him not to answer.

8 BY MR. SIMPSON:

9 Q. And you will follow the instruction?

10 A. I'm being instructed not to waive  
11 attorney/client privileges of Virginia Roberts and I'm  
12 going to follow that instruction, yes.

13 Q. To shorten the deposition --

14 MR. SCAROLA: I might be able to help you a  
15 little bit. You can assume that Professor  
16 Cassell will follow my instructions. You  
17 don't need to ask for --

18 MR. SIMPSON: We are at the same place. I  
19 was just going to say, we have an agreement that  
20 if --

21 THE WITNESS: Yeah, yeah.

22 MR. SIMPSON: Let me just finish. If  
23 Mr. Scarola on Ms. McCawley instructs you not to  
24 answer, you're going to follow it?

25 A. That's fine. I don't want to try to run out

1 the clock or anything, but let's get this moving along  
2 so we can get your questions answered.

3 Q. I just need to make my record on that.

4 So we are going to put aside Virginia  
5 Roberts.

6 A. Okay.

7 Q. And I'm not talking about attorneys here  
8 talking about -- what I'm talking about is people who  
9 could be witnesses, people who saw things, people did  
10 things, heard things, people who have evidence that  
11 would be admissible in court. Do you have that in mind?

12 A. Okay.

13 Q. As of December 30th, 2014, putting aside  
14 Miss Roberts, as to whom you've refused to answer, had  
15 anyone who fits that category of a person with personal  
16 knowledge of admissible evidence told you that Alan  
17 Dershowitz had abused any other minors?

18 MR. SCAROLA: I'm going to instruct you not  
19 to answer that question on the basis of the  
20 attorney/client and work product privileges.

21 MR. SIMPSON: The knowledge -- let me ask  
22 this way.

23 MR. SCAROLA: Let me explain. It might be  
24 helpful to you if I were to explain the basis of  
25 my objection.

1 MR. SIMPSON: Let me --

2 MR. SCAROLA: You are not permitted to get  
3 indirectly what you cannot get directly, and by  
4 phrasing the questions as you have phrased them,  
5 you are attempting to narrow down the source of  
6 information to an attorney/client privileged  
7 communication.

8 I can't allow the witness to respond to that  
9 question and thus disclose information that may  
10 fall within the scope of the attorney/client  
11 privilege or common interest privilege.

12 BY MR. SIMPSON:

13 Q. Let me ask it -- try asking it this way: You  
14 filed this pleading in the CVRA case; is that correct?

15 A. Yes.

16 Q. And if I understand correctly, you have  
17 argued and the court has agreed that this is a civil  
18 proceeding; is that right?

19 A. That's a very complicated question that would  
20 require a longer answer, so I'm just tipping you off, if  
21 you want a long answer, we can talk about that.

22 Q. Give me a fair answer to the question.  
23 What's been your position and have there been rulings on  
24 the nature of the proceeding?

25 A. So this requires some context here. This

1 action was filed back in 2007 at a time when  
2 Mr. Edwards, and a couple days later, I did not know  
3 that there was a nonprosecution agreement that had been  
4 entered into between the U.S. Government and Jeffrey  
5 Epstein giving immunity to Epstein, four named women,  
6 and any other potential co-conspirators for sexually  
7 abusing minors over an extended period of time.

8 And Mr. Edwards and a couple days later I, we  
9 filed -- it was a petition seeking to get access to the  
10 nonprosecution agreement and also seeking to invalidate  
11 that agreement, which essentially, gave immunity to at  
12 least five and potentially, you know, many more persons  
13 from federal prosecution for federal sex crimes.

14 When the pleading was filed in the District  
15 Court, what happened I believe was that the -- you know,  
16 it was styled as a petition and the clerk refused to set  
17 set an emergency hearing so I think there's a  
18 hand-scrawled notation that it's an emergency hearing.

19 And at that point it went into the court and  
20 I believe the court gave it a civil caption. The  
21 caption that we see reflected here, it's 9:08-CV-80736,  
22 and it's a civil case. However the ultimate aim of the  
23 action is to try to invalidate a nonprosecution  
24 agreement and allow criminal prosecution.

25 Now, our position, as I understand it, and as

1 we tried to articulate it over seven years is that this  
2 action is an action that is ancillary to a contemplated  
3 criminal prosecution of Jeffrey Epstein, four women who  
4 were assisting him in international sex trafficking and  
5 the other co-conspirators that would be involved.

6 Judge Marra, I think it's fair to say, there  
7 are a whole series of ruling over seven years so I  
8 wouldn't want to try to encapsulate them in just a short  
9 statement here and I'll just take another minute or so I  
10 think we will have this finished.

11 But I think he's essentially ruled that  
12 procedural purposes, he's going to treat this case as a  
13 civil case and has not yet had to decide whether or not  
14 the case is actually a civil action or a criminal  
15 action. And that has had some consequences along the  
16 way, but we have been, I think generally, proceeding  
17 something under the civil rules, you know, for example,  
18 on interrogatory -- or with regard to different  
19 procedural issues.

20 So to that extent, the procedural rules  
21 covering civil actions have been what have been in play.

22 Q. All right. I'm going to go back to this  
23 allegation about other minors.

24 A. Yes.

25 Q. Putting aside your communications that you



1 are claiming privilege as -- as to, are you aware of any  
2 person who, as of December 30th, 2014, had said, I have  
3 knowledge that Professor Dershowitz abused other minors?

4 MR. SCAROLA: I'm sorry. I need to have that  
5 question repeated.

6 (Thereupon, a portion of the record was read  
7 by the reporter.)

8 MR. SCAROLA: That's fine. You can answer  
9 that. Were there any nonprivileged  
10 communications of that?

11 BY MR. SIMPSON:

12 Q. My question is -- for purposes of this  
13 question, I'm putting aside what you're claiming is  
14 scope of privilege. Were you aware of anyone who made  
15 the assertion that Alan Dershowitz had abused other  
16 minors?

17 A. I didn't have a named person, but I had a  
18 pool of persons that I understood would be potentially  
19 available to provide that kind of information.

20 Q. So the answer to the question is, no, you did  
21 not have a person who had said to you that Alan  
22 Dershowitz abused other minors?

23 A. I think that is slightly different than what  
24 I just said. I didn't have a named person. I had a  
25 pool of people in mind, the names of whom I didn't, you

1 know, know every single one of them, but I had a pool of  
2 persons in mind that I thought could provide that  
3 information.

4 Q. So at the time you filed the pleading, you  
5 didn't have the name of any other minor in mind; is that  
6 right?

7 A. No -- well, I had, you know, I had for  
8 example 23 names, 24 names in the West Palm Beach Police  
9 Department report as potential persons that could  
10 provide that information. I also had in mind a broader  
11 pool of people, again, some of whom had been identified  
12 by FBI, some of whom had not been identified as  
13 potentially providing that information.

14 Q. When you say these people have been  
15 identified as potentially providing this information,  
16 what do you mean?

17 A. What I mean is that, as indicated in the  
18 pleading, it was my understanding on December 30th, that  
19 Mr. Dershowitz had not only abused Virginia Roberts, but  
20 had abused other underage minors and that if we could  
21 figure out the names of those girls, we could bring them  
22 in and have them testify and explain exactly what he had  
23 done to them, explain the crimes he had committed to  
24 them

25 And I was hopeful that this was going to be

1 the first step in discovering the names of those girls,  
2 not just for purposes of moving this prosecution along,  
3 but if we could identify the names of some of these  
4 other girls who had been abused we could provide help to  
5 them, services to them.

6 So this was a first step in those kinds of  
7 developments or what I hoped to be those kinds of  
8 developments.

9 Q. So is it fair to say that as of December  
10 30th, 2014, you hoped you would be able to develop  
11 evidence showing that Alan Dershowitz had abused other  
12 minors?

13 A. No. What I had hoped to find was the name of  
14 the girl or the girl who would be willing come forward  
15 and testify so that we could put them into the case. I  
16 mean, let's be clear. This -- we are talking about  
17 sexual abuse and it's not just a matter of knocking on  
18 somebody's door and saying, hey, would you tell me how  
19 you were sexually abused by this very powerful person  
20 who was working with an international sex trafficking  
21 ring to do this, just -- just right out of the blue or  
22 call somebody up on the phone.

23 This is difficult and tricky business. The  
24 Federal Government had been trying to do this for years,  
25 and Mr. Edwards and I had been trying to do it too, so

1       it's not a simple task.

2               But I very much recall that there were going  
3       to be other girls who would come forward and swear under  
4       oath that Alan Dershowitz had sexually abused them in  
5       exactly the same way as he had sexually abused Virginia  
6       Roberts. And that was the basis on which I filed this  
7       pleading, along with my colleague Mr. Edwards.

8               MR. SIMPSON: Move to strike nonresponsive  
9       portion of the answer.

10       BY MR. SIMPSON:

11              Q.     Let me ask you this: In your pleading, in  
12       your motion to join, you allege that Professor  
13       Dershowitz abused Virginia Roberts, correct?

14              A.     Correct.

15              Q.     How did adding "and other minors" enhance  
16       your legal position in this case?

17              A.     So that's -- let me just be clear before I  
18       dive into that. It enhanced the legal position in  
19       multiple ways, so I am going to end up giving a long  
20       answer, I just want to tip you off, if that's what you  
21       want, I would be happy to give the extended answer.

22              Q.     I would like to know why you alleged "and  
23       other minors" given what you have said about your  
24       knowledge of the factual basis, so to speak, for that  
25       allegation.

1           A.    Okay.  There are going to be -- I'm going to  
2   end up giving you nine reasons, each of which is  
3   complicated, so I just want to -- I don't want to be  
4   accused of filibustering or anything.  I just want you  
5   to know that you have asked a broad question that's  
6   going to require a broad and extended answer.

7           Q.    Answer the question.

8           A.    Okay.  Then I'm going to refer to a -- I have  
9   a -- well, actually, I don't.

10          Q.    Let me ask you this:  Before you refer to  
11   something --

12          A.    Yeah.

13          Q.    -- please give me your best recollection of  
14   what the basis was, the factual basis that you had in  
15   mind, if the court said to you -- let me put it this  
16   way.

17                   If you went to court and Judge Marra said,  
18   Professor Cassell, what's your factual basis for this  
19   allegation?  Tell me.  What would you say?

20          A.    Right.

21                   MS. McCAWLEY:  Wait.  Outside the context of  
22   of anything that's been communicated to you.

23                   MR. SCAROLA:  Excuse me.  You have asked two  
24   different questions now and I need to understand  
25   which question you are asking.

1           The question that you posed before just now  
2           was: What was the reason for your including  
3           those allegations in this pleading? Now you have  
4           asked: What is the factual basis? And that's  
5           going back to questions that we have already  
6           covered and we have, I think, exhausted the  
7           ability to respond to that question outside of  
8           privileged information.

9           Do you want to go back to the question about  
10          what was your reason for including those  
11          allegations?

12          MR. SIMPSON: I'll ask the question a  
13          different way.

14          MR. SCAROLA: Thank you.

15          BY MR. SIMPSON:

16           Q.    Mr. Cassell, I'm going to ask you if you're  
17           in court and Judge Marra said to you, counsel, what is  
18           the factual basis for your allegation that Professor  
19           Dershowitz abused other minors, what would you say? And  
20           if you wouldn't say something because it's privileged,  
21           then don't include it. What would you tell the judge  
22           was your basis for this?

23           A.    All right. So the initial basis for it  
24           was --

25          MR. SCAROLA: First of all, let me object

1           because Professor Cassell is not here as an  
2           expert witness and hypotheticals are  
3           inappropriate. You're calling for speculation on  
4           his part and I'm not going to instruct him not to  
5           answer, but it is an improper question.

6           MR. SIMPSON: I disagree, but you can answer  
7           the question.

8           THE WITNESS: Right. So the factual basis  
9           would -- we are setting aside attorney/client  
10          communications, right?

11 BY MR. SIMPSON:

12          Q. I'm asking: What would you tell the judge?

13          A. Right. So that -- that's speculative. I  
14          don't think I can give a fair answer at this point  
15          because that would have involved going back to my client  
16          and carving out what kinds of things we were going to  
17          present to Judge Marra in light of the posture of the  
18          case at that point.

19                 So it's a speculative question. I would  
20          have -- let me just, without going into any  
21          attorney/client privileged communications, I would have  
22          provided an ample factual basis for those allegations.

23          MR. SIMPSON: Move to strike as  
24          nonresponsive.

25 BY MR. SIMPSON:

1           Q.    Let me ask this way: We have talked somewhat  
2 about the basis for this allegation about other minors.  
3 Putting aside information as to what you're claiming  
4 privilege, tell me what you knew as of December 30th,  
5 2014, that formed the factual basis for your -- for that  
6 allegation about other minors?

7           MR. SCAROLA: And I'll instruct you not to  
8 answer that question for the same reason that  
9 when the same question was asked earlier, I  
10 instructed you not to answer.

11           MR. SIMPSON: I'm -- maybe we are not being  
12 clear, Jack. I'm asking him to put aside -- I  
13 mean, certainly, he filed a pleading. You've  
14 asserted privilege as to certain aspects. I'm  
15 simply asking him, putting aside whatever you're  
16 claiming privilege for, right, so I'm not asking  
17 you right now to tell me anything you're claiming  
18 as privilege.

19 BY MR. SIMPSON:

20           Q.    Tell me whatever is not privileged that  
21 supports that allegation.

22           A.    Okay. The privileged information obviously  
23 you're asking me not to reveal at this point.

24           Q.    I'm asking you to tell me the nonprivileged  
25 information -- and I'm not agreeing with your privilege



1       assertion --

2           A.     Sure.

3           Q.     -- but purpose of this question --

4           A.     For purposes of this question.

5           Q.     -- I'm accepting it.

6                   Putting aside what you claim is privileged, I  
7       want to know everything that's the factual basis for  
8       including the allegation about other minors.

9           A.     Okay. The privileged information which I'm  
10       not disclosing in any way would have interacted with a  
11       vast body of other information. The vast body of other  
12       information would have started with an 89-page police  
13       report from the Palm Beach Police Department that showed  
14       for about a six-month period in 2005, there was sexual  
15       abuse of minor girls going on on a daily basis, in --  
16       whenever Jeffrey Epstein was in his Palm Beach mansion.

17                   And on some cases, it was going on, not once,  
18       not twice, but three times during the day. That -- let  
19       me just be clear. I mean, I referred to the 89-page  
20       police report. I have offered to put it into the record  
21       if it would speed things up.

22                   Let's just talk about some of the things that  
23       are in that 89-page police report. This was a very  
24       intensive investigation that the Palm Beach Police  
25       Department put together. They did, for example, what

1 are called trash covers; that is when trash came out of  
2 the mansion of Epstein, the police would intercept the  
3 trash and then they would go through the trash and look  
4 for incriminating information.

5 And what they began to discover was memo  
6 pads -- and I say memo pads, let's be clear. Pad after  
7 pad after pad or I guess I should say, sheet after sheet  
8 after sheet, that had the name of a girl. And then  
9 there was the notation of something to the effect of a  
10 massage. And so the Palm Beach Police Department began  
11 tracking down -- wait a minute, these are girls giving  
12 massages and they don't seem to have any specialized  
13 training in massages; they don't seem to be masseuses in  
14 any sense of the term; what's going on here?

15 And so the Palm Beach Police Department  
16 began, you know, I guess what we would call  
17 knock-and-talks, knocking on doors to try to get to some  
18 of these girls, and they would get to the girls and many  
19 of them initially were -- were afraid to explain what  
20 had happened.

21 But as they as they continued talking to  
22 them, the girls began to explain that what was happening  
23 was, they were going over to Epstein's house under the  
24 guise of giving a massage, and when they got there, the  
25 massage was, in fact, sexual activity. And for many of

1 the girls, as I said around 23, 24 something along those  
2 lines, they were underage; they were under the age of  
3 consent in Florida.

4 And so each and every one of those events was  
5 a crime being perpetrated -- and let's be clear, not  
6 just being perpetrated by Epstein, but by other people  
7 who were involved there at the mansion.

8 And so what the Palm Beach Police Department  
9 was putting together was that this mansion in Florida  
10 was the next of sexual abuse of young girls here in  
11 Florida that involved literally, in this period of time,  
12 more than a hundred events that they were able to  
13 document of sexual abuse. When you put that together  
14 with the pattern or practice that was being revealed  
15 there, there were hundreds of acts of sexual abuse going  
16 on in the mansion.

17 But then what becomes -- and in this is where  
18 I indicated the answer would continue on -- the problem  
19 was that the evidence was starting to show that this was  
20 a much broader series of events. For example, there  
21 were flight logs showing that Mr. Epstein was then  
22 flying with underage girls and those flight logs, you  
23 know, as the flight logs began to develop, for example,  
24 we have seen -- I know in the last day or two here, one  
25 underage girl was Virginia Roberts who is on the flight,

1 you know, with Epstein, and with Maxwell, and those  
2 sorts of things.

3 So you start to look at the flight logs and  
4 you see what's going on is not just events that are  
5 occurring in Florida, but it's occurring on a multi  
6 state basis which now starts to make it a federal crime.  
7 For example, we are seeing evidence that -- let's just  
8 talk about Virginia Roberts since she's central to this  
9 case.

10 We are seeing Virginia Roberts being flown  
11 from Florida to New York where she's in the clutches of  
12 Jeffrey Epstein who is sexually abusing her, you know,  
13 many times a week. And not just Jeffrey Epstein, but  
14 other powerful persons, for example, Ghislane Maxwell is  
15 there with him on all of these flights and apparently  
16 being involved in the abuse.

17 Indeed -- and so you have you have -- you  
18 have -- you have that. You also start to see on the  
19 flight logs, what to my mind are some very sinister  
20 things, suggesting that the pattern is not just confined  
21 to sort of, you know, the girls that are there in  
22 Florida, but it is extending more broadly.

23 Like one to my mind sinister and scary things  
24 on the flight logs is we see, you know, Virginia Roberts  
25 who we know has been sexually abused and we see Jeffrey

1 Epstein and then we see on the flight logs one female,  
2 that's kind of an odd notation for a flight log because,  
3 you know, typically, I understand flight logs, the  
4 purpose is, well, if something happens with the flight,  
5 or there's some question about who was on and you want  
6 to know who the person was who was on the flight.

7 So, to my mind, when I started to see on  
8 these flight logs entries like one female, I view that  
9 as a potential device for obscuring the fact that there  
10 was interstate trafficking of underage girls for  
11 purposes of sexual activity. Serious federal offenses.

12 But then the evidence extended, you know,  
13 more broadly than that. The evidence also started to  
14 show again if we talk just about flight logs, that  
15 the -- that underage girls such as Virginia Roberts were  
16 being flown internationally from, for example, Teterboro  
17 in New York to locations just to pick one, for example,  
18 in London, where again sexual abuse was occurring.

19 And so you started to put together this  
20 pattern of criminality that was started in this, you  
21 know, I don't know what the right word is here, I don't  
22 know -- I don't want to -- you know, you've heard  
23 discussions of hyperbole and things like that, but we  
24 have got this nest of, I won't say snakes, but we have  
25 this nest of criminals in Florida, but it seems to be

1 spreading to Epstein's mansion in New York, it seems to  
2 be spreading to Ghislane Maxwell's flat in London,  
3 and -- and it goes on.

4 So those are the kinds of things that would  
5 have formed the -- the -- the basis. Particularly when  
6 you start to add in this fact, what the Palm -- going  
7 back now to Florida with the Palm Beach Police  
8 Department, the Palm Beach Police Department had  
9 discovered, was a not one-off kind of event, one  
10 particular day, one particular girl had been sexually  
11 abused. What the Palm Beach Police Department had  
12 discovered was brazen, notorious, repetitive activity  
13 sometimes occurring as often as three times in a  
14 particular day. And so that led me to believe that the  
15 sexual activity that was going on in Florida was such  
16 that someone who was a regular house guest there would  
17 have immediately come to the conclusion that, well,  
18 look, gee, there are these underage girls coming in here  
19 and they seem to be -- you know, they don't seem to be  
20 here to be doing business activities, they might be here  
21 doing other kinds of activity. So those would be the  
22 kinds of things that would -- would have formed the  
23 factual basis.

24 There are other things as well, but I'm sure  
25 you want to ask other questions in addition to that. So

1 I'll stop there, but those -- that's -- I think gives  
2 you a small flavor of the kind of evidence that, you  
3 know, was undergirding the allegations that were being  
4 presented here.

5 Q. It sounds like you quite passionately believe  
6 that there was strong evidence that Mr. Epstein had  
7 engaged in sexual misconduct; is that right?

8 A. I think "strong" understates it.

9 Q. In the course of that long answer, you didn't  
10 mention Professor Dershowitz's name once.

11 A. I said flight logs. Let's talk about flight  
12 logs.

13 Q. Let me back up. You didn't answer his  
14 name -- mention his name once; is that your recollection  
15 as well?

16 A. That's correct. We were talking about a  
17 factual basis and I'll be glad -- I told you that there  
18 were other things if you want, factual basis for  
19 Mr. Dershowitz, I'll be glad to add that in. Let me --  
20 I would like to supplement my answer then if I could.

21 Q. Do you want to look at a document?

22 A. Yes.

23 Q. Let me first -- have we exhausted your  
24 recollection without documents of all the evidence that  
25 you would refer to to support the allegation that

1 Professor Dershowitz abused other minors?

2 A. No.

3 MR. SCAROLA: And let me say that you have a  
4 right to refer to whatever documents you choose  
5 to refer to, to be sure that you give a complete  
6 response to the question that has been asked, as  
7 long as you understand that whatever you refer to  
8 is going to be available to the other side and we  
9 would be happy to make it available to you.

10 MR. SIMPSON: And I'll give you an  
11 opportunity to look at that --

12 THE WITNESS: Sure --

13 BY MR. SIMPSON:

14 Q. -- but I'm entitled to ask first about your  
15 recollection.

16 A. Okay.

17 Q. Based on your recollection, I want to know  
18 all the evidence you're relying on here?

19 A. Right. So what I'm going to do, I'm going to  
20 make a list here on my notepad of all the things and  
21 then I'm going to compare that with notes I have here.  
22 There may be couple things I don't cover.

23 Q. As long as your counsel is okay with that?

24 A. Yeah.

25 Q. You understand you'll have to give that to



1 me?

2 A. Yeah, I'll give you the notes and then I will  
3 compare with what I've got there.

4 Q. All right.

5 A. So I mentioned the Palm Beach Police  
6 Department report. The next thing that I want to  
7 mention is the Jane Doe 102 complaint. In August of  
8 2009, Bob Josefsburg, who is from what I understood a  
9 very well-regarded lawyer here in Florida; in fact, a  
10 lawyer that was selected by the United States Government  
11 to represent a number of the girls that had been  
12 sexually abused by Jeffrey Epstein. He was part of the  
13 procedure that was including the nonprosecution  
14 agreement.

15 In August of 2009 he filed a complaint on  
16 behalf of Virginia Roberts. That complaint indicated  
17 that Virginia Roberts had been sexually abused in  
18 Florida, in New York, and in other places as I recall.  
19 The thing that I particularly recall was that  
20 Mr. Josefsburg had said Virginia Roberts was abused  
21 by -- he gave some categories of people.

22 He mentioned, I think, business people, he  
23 mentioned royalty, and he mentioned academicians. And  
24 so to tie into your question, I knew that Professor  
25 Dershowitz was an academician, and so what I was seeing

1 now was, that according to a very, very respected  
2 attorney here in Florida, he had found Virginia Roberts  
3 to be credible. And had filed a lawsuit against  
4 Mr. Epstein saying that she had been trafficked,  
5 sexually trafficked, you know, not just abused by  
6 Mr. Epstein, but now being forcibly sent to, you know,  
7 other people to abuse. And in the categories of people  
8 that were sexually abusing her were academicians and I  
9 knew that Mr. Dershowitz fell within that category of  
10 being an academician.

11 That complaint also indicated that there  
12 might be flight logs that would show that Virginia  
13 Roberts had been sexually abused in these various  
14 locations. And that started to indicate to me that  
15 there might be what the law refers to as a common scheme  
16 or plan. And that just as Virginia Roberts was being  
17 trafficked to these powerful people in various places,  
18 there might well be other girls.

19 And so I have mentioned a flight log and you  
20 wanted to talk about Mr. Dershowitz. On December 30th,  
21 2009, I was aware that there was a flight log showing  
22 Mr. Dershowitz flying with Tatiana (indicating), who as  
23 far as I can tell was not a business person, was not  
24 providing financial advice or something else.

25 I understood that Mr. Epstein was a

1     billionaire who was heavily involved in financial  
2     issues. I knew that Tatiana was on plane with  
3     Mr. Dershowitz and then there was also, if I recall  
4     correctly working from memory as you were wondering  
5     about, there was a notation that Mr. Dershowitz was on a  
6     plane with one female.

7             And so I was -- when I looked at that, I'm  
8     seeing Mr. Dershowitz on a flight with a women who  
9     doesn't seem to be there for, frankly, anything other  
10    than sexual purposes or something along those lines with  
11    Mr. Epstein, with Mr. Epstein, who is a sex trafficker,  
12    and with one female which seemed to me to be a  
13    potentially entry for disguising international sex  
14    trafficking. So that was of concern.

15            I then began to look at, well, I wonder, how  
16    would I find out if Mr. Dershowitz had been abusing  
17    other girls? Let's see, I knew that Virginia Roberts  
18    had been forced to -- to -- to do this sort of thing...

19            MS. McCawley: You're okay as long as  
20            you're -- if you're revealing something in an  
21            affidavit, that she submitted, you're fine.

22            THE WITNESS: Right. So -- so what... let's  
23            see. At this point --

24    BY MR. SIMPSON:

25            Q.     Do you want the question back?

1           A.    No, I'm just trying to remember what I was  
2 thinking about with -- with regard to --

3           MR. SCAROLA: Do you need the response read  
4 back up to the point --

5           THE WITNESS: If you would do that.

6           MR. SCAROLA: -- about privilege. Just read  
7 the last couple of sentences back or the last two  
8 sentences.

9           THE WITNESS: Oh, I'm sorry, now I remember  
10 exactly.

11           How would we go find out whether Mr. Epstein  
12 was lending women, or in this case, underage  
13 girls to Mr. Dershowitz for sexual purposes?  
14 Well, the first thing I want to do was ask -- I  
15 will ask go Jeffrey Epstein.

16           And so what I discovered when I started to  
17 look at the transcripts, there were a number of  
18 transcripts where Mr. Epstein was asked about  
19 Alan Dershowitz. And rather than say, well, no,  
20 he wasn't involved in any of these illegal  
21 activities, Jeffrey Epstein took the Fifth as the  
22 phrase, you know, to be more precise, he  
23 exercised his right against compelled  
24 self-incrimination and refused to answer the  
25 question, which since these were civil cases

1 indicated to me, since he was being represented  
2 by very experienced legal counsel, that there was  
3 more than an insignificant risk of incriminating  
4 himself if he answered that.

5 And so Jeffrey Epstein now had taken the  
6 Fifth. And one of the things that I was aware of  
7 having been involved in, you know, civil  
8 litigation and criminal litigation in other  
9 cases, once somebody refuses to answer a question  
10 like, you know: Do you know Mr. Dershowitz, and  
11 they take the Fifth on that, that you're then  
12 entitled to draw what's called an adverse  
13 inference. You can infer that, well, if they  
14 answered that question --

15 MR. SCAROLA: Excuse me.

16 MS. McCAWLEY: Yeah, I want to make an  
17 objection here --

18 MR. SCAROLA: Pardon me. Could you please  
19 try to control your client who keeps jumping up  
20 and down and distracting everybody in the room?

21 MS. McCAWLEY: Yeah, and there was also  
22 profanity used earlier. I mean, we just have to  
23 settle down on this side, take a deep breath, and  
24 let him answer his questions.

25 MR. SIMPSON: Look, I mean, the same thing

1 was happening on the other side.

2 MR. SCAROLA: No, sir. No, no, no. There  
3 was never anyone who jumped to their feet at any  
4 time during the course of the last two days. The  
5 only person who keeps jumping up is Alan  
6 Dershowitz. Have him pass you a note quietly if  
7 you would, please.

8 MR. SIMPSON: I will disagree with your  
9 characterization, but let me say the  
10 argumentation --

11 MR. SCAROLA: Are you making the  
12 representation --

13 MR. SIMPSON: No, I'm not.

14 MR. SCAROLA: -- that somebody on this side  
15 of the room jumped up?

16 MR. SIMPSON: No, no, no, I'm not.

17 MR. SCAROLA: Okay. Thank you. I appreciate  
18 that.

19 MR. SIMPSON: And I --

20 MR. SCAROLA: And you do acknowledge that  
21 Mr. Dershowitz has repeatedly been jumping up in  
22 the middle of testimony, correct?

23 MR. SIMPSON: That's -- he just got up and  
24 came over to me, that's the only time I'm aware  
25 of because I'm looking at the witness, but he did

1 just do that, and I will pass notes. We won't  
2 get up.

3 MR. SCAROLA: Okay. Well, I will -- I will  
4 for the record, as an officer of the court,  
5 represent that there have been multiple times  
6 during the course of Professor Cassell's  
7 deposition when Alan Dershowitz has jumped up in  
8 the middle of the testimony and excitedly  
9 whispered in your ear.

10 You may not have realized it because you were  
11 focusing on the witness, but everybody on this  
12 side of the room has been distracted by his  
13 unprofessional conduct.

14 MR. SIMPSON: I'm not going to argue with  
15 you.

16 MR. SCAROLA: Thank you.

17 MR. SIMPSON: I disagree with that  
18 characterization. There is another attorney  
19 sitting between us. We will pass notes.

20 MR. SCAROLA: Thank you.

21 MR. SIMPSON: And I believe, Ms. McCawley,  
22 were you instructing not to answer or what was  
23 happening? What did you -- what were you  
24 raising?

25 MS. McCAWLEY: No. There was a lot of

1           yelling going on here, so I was trying to make  
2           sure that everybody was quiet so that the client  
3           could answer.

4           MR. SIMPSON: All right. Let me back up.  
5           Professor Cassell, I think you were in the middle  
6           of an answer?

7           THE WITNESS: Yeah, I was.

8           MR. SIMPSON: Could the court reporter read  
9           me the last two lines of your answer?

10           (Thereupon, a portion of the record was read  
11           by the reporter.)

12 BY MR. SIMPSON:

13           Q. Can you pick up then?

14           A. Sure. I'll pick up the ans -- so I was  
15           beginning to draw an adverse inference when Jeffrey  
16           Epstein, who is at the heart of the sexual abuse of not  
17           only Virginia Roberts, but dozens and dozens and dozens  
18           of girls literally scattered across the globe, takes the  
19           Fifth, refuses to answer the question.

20           Off the top of my head, I can't recall  
21           exactly, but something along lines of: Do you know Alan  
22           Dershowitz? And he says, I take the Fifth. That sort  
23           of, frankly, startled me, that this international sex  
24           trafficker was taking the Fifth now when asked about  
25           Mr. Dershowitz.



1           And so I was stymied in trying to get  
2 information from Mr. Epstein at that point. I think  
3 there were two depositions, if I recall correctly off  
4 the top of my head, that I had an opportunity to review  
5 in which he took the 5th when asked questions about  
6 Dershowitz.

7           So at that point in trying to figure out, you  
8 know, whether Mr. Dershowitz was involved in sexually  
9 abusing not only Virginia Roberts, but in other girls,  
10 then you go down to the next level, next layer of the  
11 criminal conspiracy. Epstein is at the top, so you go  
12 to the next layer. These are, you know, basically the  
13 women who, from what I could gather, were older than the  
14 age that Epstein wanted to sexually abuse. I think  
15 these were 22, 23-year-old girls, so they had, you know,  
16 essentially aged out of being his sexual abuse victims,  
17 but they continued to -- what they would do is collect  
18 girls for him under the age of 18, that I guess was in  
19 his target range.

20           And so what -- so the next person I wanted to  
21 talk to, you know, and get information from was Sarah  
22 Kellen. Sarah Kellen is on a lot of these flight logs  
23 with, you know, these girls that -- or women and with  
24 Epstein and others, and so I wanted to talk to Sarah  
25 Kellen.

1 But what I discovered there was that when  
2 Sarah Kellen was asked about Alan Dershowitz, she took  
3 the Fifth and she wasn't the only one. There was  
4 Miss Mucinska who also took the Fifth when asked  
5 questions about Alan Dershowitz.

6 And then there was Marcin -- Miss Marcinkova  
7 who also took the Fifth. So what we -- what I had at  
8 this point was Jeffrey Epstein's international sex  
9 trafficking organization. I had the next echelon and  
10 both the top kingpin of the sex trafficking organization  
11 and the next echelon had taken the Fifth, had refused to  
12 answer questions about Alan Dershowitz.

13 And so at that point, I was drawing an  
14 adverse inference, not just from one person, but from  
15 four persons and that adverse inference was being  
16 strengthened by the surrounding circumstances, some of  
17 which we have already talked about.

18 One of the things that really bolstered the  
19 adverse inference that I was drawing in this case was  
20 that I've mentioned those three girls, Kellen, Mucinska,  
21 and Marcinkova, they were all covered by a  
22 nonprosecution agreement. And the nonprosecution  
23 agreement was highly unusual.

24 I had been a federal prosecutor for about  
25 four years, I had been a federal judge for about

1 five-and-a-half years, so I had seen a lot of, you know,  
2 nonprosecution types of arrangements. And one of the  
3 things that was very unusual in this one is, it has what  
4 I'll refer to as the blank check immunity provision.

5           There was a provision in the nonprosecution  
6 agreement that said, this agreement will prevent federal  
7 prosecution for international and interstate sex  
8 trafficking, not only of Jeffrey Epstein, and not only  
9 of the four women who were identified, but -- and this  
10 is a direct quote: Any other potential co-conspirator,  
11 close quote. And so that was unusual because what it --  
12 what it seemed to be doing was somehow this agreement  
13 was quite out of the normal and had been designed to  
14 extend immunity to other people that might have been  
15 associated with Epstein.

16           And I knew that that category included the  
17 people that were involved in negotiating this highly  
18 unusual provision included Mr. Dershowitz who had been  
19 heavily involved, not only in the drafting of the  
20 agreement, but had also been involved remarkably in  
21 attacking the credibility of these girls and saying  
22 things like, you know, it was -- Epstein wasn't  
23 targeting minor girls, which just struck -- you know, I  
24 was -- I don't want to use a technical term,  
25 gob-smocked, that a defense attorney with an obligation

1 to tell the truth was making a factual representation  
2 that Jeffrey Epstein was not targeting minor girls, when  
3 the Palm Beach Police Department had collected, you  
4 know, 23 of them that had all given essentially  
5 interlocking stories about how they had all gone over  
6 this house, you know, the mansion, to give a massage and  
7 when they had gotten, there they had been sexually  
8 abused.

9 So the kingpin wouldn't talk. The next  
10 echelon of the trafficking organization wouldn't talk.  
11 So the next step was to say, okay, let's see if we can  
12 find somebody, you know, lower level in there, you know,  
13 a household employee or something like that, maybe they  
14 will have some information about, you know, what this  
15 criminal organization is doing.

16 Now, let's understand, you know, given the  
17 pervasiveness of the criminal activity, I wasn't  
18 convinced that they were going to be able to get in  
19 there and start saying exactly what was going on because  
20 they might well be exposing themselves to criminal, you  
21 know, criminal culpability.

22 But I was able to read a sworn deposition  
23 from Juan Alessi and Juan Alessi, I don't know, maybe  
24 just to speed things up today, I won't go through all  
25 the things that are said there, but Alessi puts

1 Mr. Dershowitz at the nest of this international sex  
2 trafficking organization, let's see, I think he said  
3 four or five times a year, two or three -- you know, two  
4 or three days when he goes there.

5 And let's be clear, I know Mr. Dershowitz,  
6 had said at some point like, I'm an attorney, that's my  
7 client. So Alessi said, no, but this was not in a  
8 lawyer/client capacity, this is in a friend capacity.

9 So now we have Alessi putting him there at  
10 the same time when young girls were there. And one of  
11 the things that I picked up -- so is Alessi, is he able  
12 to figure out how these girls are? A photograph of  
13 Virginia Roberts is shown to Juan Alessi in the  
14 deposition, and he I.D.s the photograph as, you know,  
15 V.R., so he had put two and two together.

16 So now I've got V.R. coming to the house at a  
17 time when Mr. Dershowitz is also in the house, and  
18 apparently spending, you know, two to three nights there  
19 and doing this four or five times a year.

20 Now, Alessi wasn't the only one. There was  
21 Alfredo Rodriguez who was there about 2004 to 2005,  
22 after the time period of Virginia Roberts, but it's part  
23 of the common scheme or plan that we've been discussing  
24 here.

25 And so in 2005, Alfredo Rodriguez says, yeah,

1 again, Mr. Dershowitz is there at a time when these  
2 massages are going on, and when you start to look at  
3 Alessi and Rodriguez's statements in context where they  
4 are saying, he's there at the same time of the massages  
5 are occurring, and with the West Palm Beach Police  
6 Department reports showing that massages are of a sexual  
7 nature, again, it started to put two and two together.

8           One of the things that was particularly  
9 important about Rodriguez's situation was that Rodriguez  
10 had an access to what's been called the little black  
11 book. I think he referred to it as the holy grail.  
12 This was Jeffrey Epstein's, you know, telephone book  
13 where he had telephone numbers in it. And so Rodriguez  
14 had that and, you know, I guess thought that this was  
15 would be worth a lot of money because it would -- it  
16 would identify all of the people that have been sexually  
17 abused by Jeffrey Epstein. And so he tried to sell it,  
18 the FBI busted him for that. And when the FBI busted  
19 him, now he's got this book. And so the book went to  
20 Alessi and according to a later FBI report, Alessi  
21 identified information that was pertinent to the FBI's  
22 investigation.

23           And so when I look at the little black book  
24 that I have seen copies of, there are a handful of names  
25 in that black book that have been circled, apparently by

1 Mr. Rodriguez, and one of the names that's -- that --  
2 that has been circled is Alan Dershowitz. And so that,  
3 to me, was suggesting that Mr. Rodriguez had identified  
4 Alan Dershowitz as somebody who had information about  
5 this international sex trafficking ring.

6 Just as a side note, but an important note,  
7 the thing that was circled on the Alan Dershowitz page  
8 was not a single phone number indicating somebody  
9 Epstein had bumped -- you know, Epstein had bumped into  
10 at one point.

11 I believe there were 10 or 11 phone numbers  
12 that were associated with Mr. Dershowitz that had all  
13 been circled and an e-mail address as well. So that  
14 started to corroborate my sense that Mr. Dershowitz was,  
15 indeed, a very close friend of Jeffrey Epstein.

16 Now, I had then continued to do -- there's  
17 been reference today to using Google to do research and  
18 so forth, so I Googled Jeffrey Epstein and one of the  
19 things that pops up rather rapidly is an article in  
20 Vanity Fair and what you see in that article is, you  
21 know, discussion about Mr. Epstein, but when you're  
22 trying to do a profile of someone, you try to figure out  
23 who that person's closest friends are.

24 And so the Vanity Fair author had gone to  
25 Alan Dershowitz, you know, our Mr. Dershowitz here, and

1 had asked him, hey, what do you know about Jeffrey  
2 Epstein? And, again, off the top of my head, you want  
3 to know what I can remember right now.

4 What I can remember right now is that in the  
5 Vanity Fair article, the -- in the Vanity Fair article,  
6 Mr. Dershowitz said, I've written 20-some odd books.  
7 There's only one person outside my immediate family with  
8 whom I share drafts and that's Jeffrey Epstein.

9 So I took that as indicating a very close  
10 personal association that, you know, among the people  
11 that obviously he's sharing these kinds of things that  
12 he wants evaluated before he shares them with the  
13 broader world. There's his immediate family and then  
14 there's Jeffrey Epstein.

15 There was also another similar quote in the  
16 article that indicated that -- that Mr. Dershowitz said  
17 that he wasn't interested in Epstein just because he has  
18 a lot of money. I mean, Epstein was identified as a  
19 billionaire -- billionaire with a B, so the record is  
20 clear.

21 But he said, look, if Epstein wants all his  
22 money, and I'm paraphrasing here, I will be happy to  
23 walk down, you know, the Coney Island Boardwalk with him  
24 and discuss things with him, even if he didn't have any  
25 money.



1           So now I'm seeing Dershowitz is a very close  
2 personal friend of Jeffrey Epstein. And then I started  
3 to look at flight logs. There were some very  
4 interesting things that I noticed on the flight logs.

5           One of the things I noticed was when I began  
6 to, you know, get into this, that you know, I was  
7 wondering, well, how do these flight logs come into the  
8 possession of, you know, law enforcement agencies? And  
9 the answer turned out to be that they had been provided  
10 by Epstein's defense attorney and, you know,  
11 coincidentally I suppose, or in my mind suspiciously,  
12 they were not provided by just any defense attorney on  
13 this rather large defense team.

14           They were provided by one attorney according  
15 to Detective Riccari ^ (ph). Detective Riccari  
16 testified under oath that the flight logs were provided  
17 to him by Alan Dershowitz.

18           So one of the things that was interesting  
19 was, Dershowitz has had access to these flight logs and  
20 now I'm beginning to wonder, well, has there been an  
21 opportunity to sanitize those flight logs or remove any  
22 incriminating information?

23           And one of the things that was interesting  
24 about the flight logs that were produced, I believe,  
25 just so the record is clear, that was Exhibit 1 that --

1 if I could refer -- I need to refresh my recollection --  
2 well, you may not want me to look at a document.

3 It was either Exhibit 1 or 2 this morning  
4 during Dershowitz's deposition which was covering a time  
5 period of January to, I believe, September 2005. These  
6 were flight logs that were produced by Mr. Dershowitz to  
7 the Palm Beach Police Department.

8 When you wonder why did they stop in  
9 September, you know, why stop in September 2005? What's  
10 the significance of that? Well, later on, additional  
11 flight logs were obtained, and sure enough, who shows up  
12 on an October 2005 flight log with Jeffrey Epstein?  
13 Mr. Dershowitz.

14 So that led to a suspicion that  
15 Mr. Dershowitz had provided to the Palm Beach Police  
16 Department flight logs that, the time period of which  
17 for the production had been carefully crafted to keep  
18 him out of it; in other words, to not produce the  
19 October 2005 version.

20 The other thing I began to discover is, I  
21 started going through some flight logs. Dave Rogers,  
22 who is one of I think about three pilots that Epstein  
23 regularly relied on to fly his -- he had very fancy --  
24 to use the technical term -- jets. There were about  
25 three pilots there.

1           One of them had some flight logs and that was  
2 the pilot, Dave Rogers, if I'm recalling his name  
3 correctly. And so later on in the litigation, the sex  
4 abuse litigation against Epstein, flight logs were  
5 obtained from Dave Rogers and it was possible to -- to  
6 compare -- I'm sorry, I don't mean to -- I want to make  
7 sure I get -- you know, the question is how much can I  
8 remember and I'm trying to make sure I get it all in.

9           And so the flight logs were produced from  
10 Dave Rogers. And so Dave Rogers produced some flight  
11 logs and some of the flights that he produced logs for  
12 coincided with the logs that Mr. Dershowitz had provided  
13 to Palm Beach Police Department and there were  
14 inconsistencies.

15           And so that again aroused my suspicion that  
16 maybe Mr. Dershowitz when he had --

17           MR. SCOTT: I just got a call from a lawyer  
18 on the screen. His phone is not working,  
19 Epstein's lawyer, Darrin Indyke. Do you want to  
20 take a break for a second?

21           MR. SIMPSON: Why don't we let him finish his  
22 answer.

23           MR. SCAROLA: Finish the answer.

24           MR. SCOTT: You're right.

25           MR. SCAROLA: Although it may take a while.

1 THE WITNESS: It's, I mean, the question --

2 MR. SCAROLA: Yeah. But let's --

3 MR. SCOTT: I don't care.

4 MR. SCAROLA: Let's go ahead and finish.

5 MR. SCOTT: Let's go ahead and finish the  
6 answer. We heard this much. I don't want to  
7 break him on a roll.

8 MR. SCAROLA: Thanks.

9 THE WITNESS: Right. I mean, I want to  
10 make -- I want to make clear that there was a lot  
11 of information that I was relying on in filing  
12 this pleading, and of course, the later pleading.  
13 So we are on the subject of flight logs.

14 Flight logs showed that the flight logs that  
15 Mr. Dershowitz had produced to Detective Riccari  
16 were incomplete and inaccurate. And so that led  
17 to concern on my part that Mr. Dershowitz had had  
18 an opportunity to sanitize the flight logs, had  
19 provided incomplete production, you know,  
20 obviously, very important production that the  
21 Palm Beach Police Department was looking at.

22 Then we got some additional flight logs from  
23 Dave Rogers. What those flight logs showed --  
24 first off, let's talk again about the production  
25 of those flight logs.

1           My recollection is that Dave Rogers's flight  
2 logs were provided by Bruce Rinehart ^ (ph) who  
3 is a former Assistant U.S. Attorney who had been  
4 inside the Southern District of Florida office at  
5 a time when the Epstein case was the subject of  
6 regular discussion in that office.

7           And then he had gone to work for some kind of  
8 a law firm or private operation that was located  
9 adjacent to Mr. Epstein's business. And so, now,  
10 Rinehart, who appeared to be being paid by  
11 Mr. Epstein and certainly was adjacent to  
12 Mr. Epstein's business office, was producing  
13 these flight logs. So that, again, aroused  
14 suspicion that the flight logs that were being  
15 produced would have been sanitized or inaccurate.

16          But even -- I mean, I think the problem with,  
17 you know, you can't sanitize everything, that  
18 would be too suspicious. And so what was -- what  
19 was evident on these flight logs was, for  
20 example, approximately ten flights by  
21 Mr. Dershowitz with Tatiana has been discussed,  
22 with Maxwell, with Jeffrey Epstein. One of them  
23 had one female, which again in the context that I  
24 was looking at, seemed to be a potential code  
25 word for underage, underage girl.

1           And so those flight logs showed, you know,  
2           again, close association and travel with --  
3           with -- with Mr. Dershowitz, and Mr. Epstein.  
4           Another thing that I had, and I will not reveal  
5           any privileged communications here or any  
6           confidential information, but on December 30th, I  
7           was aware that one of the preeminent lawyers in  
8           the United States, David Boies, had agreed to  
9           represent Virginia Roberts and given the vast  
10          amounts of business that tries to get in the  
11          door --

12          MR. SIMPSON: Could I interrupt? I think we  
13          are going towards a waiver here.

14          MS. McCAWLEY: Yeah.

15          MR. SIMPSON: We can't have testimony  
16          about -- this is one most respected people in the  
17          country or lawyers in the country and then you  
18          won't answer the questions.

19          THE WITNESS: Okay.

20          MR. SIMPSON: You said not to answer.

21          MS. McCAWLEY: Well, describing David Boies  
22          in general doesn't constitute waiver.

23          MR. SIMPSON: I agree with the description;  
24          he's a distinguished lawyer.

25          MR. SCAROLA: And I don't think we are

1 getting beyond anything that is a matter of  
2 public record.

3 MR. SIMPSON: I just --

4 MS. McCawley: But I appreciate you letting  
5 me know that.

6 THE WITNESS: All right. I will not waive  
7 anything, and if I start to do that, I would  
8 certainly request the opportunity to retract what  
9 I'm doing, but I was aware, since the issue is,  
10 well, what's in the public record, I was aware  
11 that, you know, probably the most significant  
12 United States Supreme Court case argued in the  
13 last 20 years was Bush versus Gore, which was a  
14 case that essentially determined who was going to  
15 be President of the most powerful country in the  
16 world.

17 There were two attorneys who argued that case  
18 in front of the United States Supreme Court and  
19 arguing for the Democratic Presidential  
20 Candidate, Al Gore, was David Boies. He had put  
21 his credibility on the line in arguing the Bush  
22 versus Gore case, and without going into any  
23 confidential communications or trying to waive in  
24 any way, I knew that David Boies had agreed to  
25 represent Virginia Roberts which gave me

1 additional confidence in the fact that I was also  
2 representing this young woman in her effort to  
3 bring sex traffickers to justice, and those who  
4 had sexually abused her to justice.

5 And so those are things that come to mind  
6 immediately as -- let me just take a second and  
7 see if there were other things regarding  
8 Dershowitz that come immediately -- immediately  
9 to mind.

10 Oh, one of the things was in the Jane Doe 102  
11 complaint which alleged academicians that had --  
12 that had abused -- sexually abused Jane Doe 3,  
13 there -- there were -- so that raises a question,  
14 obviously, of who were the academicians that Bob  
15 Josefsburg had identified.

16 I can't recall, actually, the record should  
17 be clear, I can't recall immediately whether it  
18 was singular or plural. It may have been plural,  
19 but if it's singular, I don't want to suggest  
20 that there were other academicians, but at least  
21 one academician had sexually abused Jane Doe 3  
22 according to the complaint that had been filed by  
23 Bob Joseph ^ [sic].

24 There were two things of interest to that:  
25 One was that Mr. Epstein, the man that I wasn't



1       able to get information from because he was  
2       invoking the Fifth, had refused or declined to  
3       file an answer to that complaint.

4               Rather than deny the allegations, he had  
5       ultimately, it's my understanding -- I don't have  
6       inside information and I'm not trying to waive  
7       any information, but my understanding is that  
8       rather than answer the complaint, he settled the  
9       case through the payment of some kind of  
10      compensation that Jane Doe 102 found desirable  
11      for dropping her claim.

12             The other thing that I found interesting is  
13      that Josefsburg's partner, I believe it is,  
14      Miss Isell (indicating), had been to some of the  
15      depositions of, for example, I believe Juan  
16      Alessi and Alfredo Rodriguez. I believe at least  
17      one of those, and perhaps both of those. And she  
18      had asked questions about Alan Dershowitz in  
19      those depositions, but had not asked questions  
20      about other academics in those depositions.

21             So that led me to conclude that Bob  
22      Josefsburg and his outstanding law firm had  
23      identified Alan Dershowitz as someone who had  
24      information relevant -- and let's be clear, this  
25      is not a lawsuit about some contract dispute or

1 something -- that he was someone who had  
2 information relevant to the sexual abuse of  
3 underage girls and, indeed, they were asking  
4 questions about what information -- what  
5 information he might have.

6 Another -- I remember now, there's a whole  
7 other line of things that I had in mind at the  
8 time, and I think since you want to test my  
9 memory -- let me be clear, I'm not claiming I  
10 have a superb memory, I have an average memory,  
11 but this is a subject that's very important to me  
12 and so I've worked, you know, very hard to get  
13 all the information.

14 THE WITNESS: I would like to take a break.

15 MR. SCAROLA: Sure. Take a break.

16 THE VIDEOGRAPHER: We are going off video  
17 record, 3:27 p.m.

18 (Thereupon, a recess was taken.)

19 THE VIDEOGRAPHER: We are back on the record,  
20 3:41 p.m.

21 THE WITNESS: I want to continue my answer.  
22 I'm sorry I got emotional there for a moment. I  
23 want to do a good job for Virginia Roberts on  
24 representing all the -- the evidence that is  
25 available to support her.

1           The next thing that I was thinking of was,  
2 all right, then the question is, well, what does  
3 Mr. Dershowitz have to say about all this? So I  
4 started to look at the information on that as  
5 well.

6           In 2009, there had been a deposition request  
7 sent to Mr. Dershowitz, and I saw a document  
8 showing that that had actually been served on  
9 him, and you know, to the extent that what I saw  
10 was a, I think a receipt, from the process server  
11 or something along those lines, so I saw attempt  
12 to contact him in 2009.

13          And then I saw an additional attempt to  
14 contact him in 2011. Mr. Scarola had sent him a  
15 note and there was, you know, some back and  
16 forth. The one note that jumped out to me was  
17 one in which Mr. Scarola had written to  
18 Mr. Dershowitz, I think the phrase was, multiple  
19 witnesses have placed you in the presence of  
20 Jeffrey Epstein and underage girls. I would like  
21 to depose you about those subjects.

22          And the answer that came back was not, well,  
23 let me clear all of that misunderstanding up.  
24 You know, that's frankly -- if I had gotten  
25 something like that, that's what I would I have

1           said.

2           The answer that came back was, from  
3           Mr. Dershowitz, was something along the lines, if  
4           I remember correctly, well, tell me what you --  
5           tell me what you want to know and I'll decide  
6           whether to cooperate, was I think the phrase that  
7           was used. And so there was an attempt, you know,  
8           in 2009, an attempt, a 2011 attempt to get  
9           information from Mr. Dershowitz.

10          Then there was another subpoena without  
11          deposition for documents. You know, we have  
12          heard a lot about records in this case that could  
13          prove innocence. There was a records request to  
14          Mr. Dershowitz in 2013. Again, my understanding  
15          was that there was no -- you know, no documents  
16          were provided on that.

17          And so those I -- had that information.  
18          Another bit of information that I had was that in  
19          2011, I believe in early April, the -- this is  
20          not attorney/client privileged information from  
21          Virginia Roberts. This is a telephone call that  
22          she placed from Australia where she had been  
23          essentially forced into hiding by Jeffrey  
24          Epstein.

25          She managed to escape and was hiding out in

1 Australia, and she somehow, you know, Mr. Scarola  
2 and Mr. Edwards were able to reach her and there  
3 was a telephone call that was made. And in that  
4 telephone call she identified Alan Dershowitz as  
5 someone who would have relevant information about  
6 Jeffrey Epstein and the sexual abuse of underage  
7 girls.

8 And so I had that information as well. So  
9 that is -- the question was: What could I recall  
10 off the top of my head with regard to the factual  
11 basis for information connecting Mr. Dershowitz  
12 with the sexual abuse of minor girls, plural, and  
13 that, sitting here at this moment, is the best  
14 that I can recall for the information along those  
15 liens.

16 BY MR. SIMPSON:

17 Q. Was that answer --

18 MR. SCAROLA: Excuse me. Before -- before  
19 you go on to another subject, Professor Cassell  
20 is entitled to refresh his recollection to give  
21 you a complete response. So why don't you go  
22 ahead and do that now. Make sure you've covered  
23 everything.

24 MR. SIMPSON: I'm -- I think I get to ask the  
25 questions, but I was going to ask the same

1 question.

2 MR. SCAROLA: Wonderful. We are on the same  
3 page.

4 BY MR. SIMPSON:

5 Q. Mr. Cassell, you mentioned that you had  
6 something that you had prepared --

7 A. Yes.

8 Q. -- that would summarize --

9 A. Right.

10 Q. -- your knowledge.

11 A. Right.

12 Q. And now that you have exhausted your  
13 recollection, could you produce that and let's just mark  
14 it as an exhibit?

15 A. Sure.

16 MR. SIMPSON: We are up to Exhibit 3, I  
17 believe. Cassell 3?

18 THE WITNESS: Right. Now, there are two  
19 parts to this --

20 MR. SIMPSON: Can we mark it first?

21 THE WITNESS: Yeah. I just want the record  
22 to be clear, there's a pre-December 30th section  
23 and a post-December 30th section, so the top part  
24 is the what I was working off of.

25 BY MR. SIMPSON:

1 Q. Okay.

2 A. Now, underneath this is the, you know, if you  
3 have questions about what happened after December 30th.

4 Q. So you're -- you're prepared to produce the  
5 entire document, but you're clarifying? I don't want to  
6 ask you. If you're going to use it in your testimony  
7 then we will mark the whole thing?

8 MR. SCAROLA: Mark the whole thing. You can  
9 use it.

10 MR. SIMPSON: Mark the whole thing and I'll  
11 ask you about it.

12 THE WITNESS: Absolutely.

13 MR. SIMPSON: I'm going to ask the court  
14 reporter to mark as Cassell Exhibit 3, a one-page  
15 document that the witness has just handed to me.  
16 It's mostly typed, it has some handwriting on it.

17 (^ Plaintiff's ^ Defendant's I.D. Exhibit  
18 No. 3 - one-page note of witness was marked for  
19 identification.)

20 THE WITNESS: All right. So let me -- if I  
21 could look at this to see if the top portion of  
22 to see if it refreshes my recollection about --

23 BY MR. SIMPSON:

24 Q. Could I just see it for one second?

25 A. Absolutely.

1 Q. All right. Let me just clarify one point  
2 before you do that?

3 A. Yes, sir.

4 Q. In your answer, were you referring to the  
5 evidence you could recall or the information you could  
6 recall that supported your allegations as to both  
7 Virginia Roberts and other minors or were you treating  
8 those separately?

9 A. No, I was not treating those separately. I  
10 was -- for me, there's a common -- what the law refers  
11 to as a common scheme or plan in a criminal conspiracy  
12 for international trafficking that involved not just a  
13 single girl, but multiple girls, so the answer was --  
14 was with respect to multiple girls.

15 Q. Okay. So I may have some questions to  
16 distinguish further between those two --

17 A. Yes.

18 Q. -- but is it fair to say that -- and I  
19 realize you're going refresh your recollection, but that  
20 you had exhausted your recollection of the basis for the  
21 allegation in this Exhibit 2, the motion to join as to  
22 both Miss Roberts and other minors?

23 A. Yes.

24 Q. Okay. So then now take a look at that and  
25 tell me if there's anything there that refreshes your



1 recollection as to something that you have not yet told  
2 me about.

3 A. So -- and this refreshes my recollection.  
4 Sarah Kellen, I think I refer to her as Miss Kellen.  
5 Sarah Kellen was the first name.

6 Nadia Marcinkova, Nadia was the first name  
7 there. Adrianna Mucinska was the full name of those --  
8 that's the second echelon of the -- of the criminal  
9 conspiracy.

10 Oh, this refreshes my recollection that  
11 Jeffrey Epstein had answered some questions in the civil  
12 litigation. He provided, for example, names of some  
13 people who were involved, but he took the Fifth when  
14 asked -- he took -- he provided names of some people who  
15 would have relevant information in the civil cases. But  
16 when asked in deposition about Mr. Dershowitz, he took  
17 the Fifth.

18 So I found it significant that for some  
19 people, he was willing to answer questions, but with  
20 regard to Mr. Dershowitz, he took -- invoked his Fifth  
21 Amendment right against compelled self-incrimination  
22 presumably because revealing what he knew about  
23 Mr. Dershowitz would, you know, cause criminal --  
24 criminal charges potentially to be filed against him.

25 There was a common scheme or plan and I'll

1 elaborate on that in a moment, but yeah, one of -- so  
2 this was another point. I mentioned that there had been  
3 three efforts to get information from Mr. Dershowitz by  
4 way of a 2009 deposition request, a 2011 deposition  
5 request, and further follow-up correspondence from  
6 counsel on that, and a 2013 document request all  
7 propounded to Mr. Dershowitz that had not gone answered.

8 And this was -- yeah, I'm sorry this slipped  
9 my mind at the time -- but when we saw Mr. Dershowitz  
10 not responding to these answers, you know, maybe the  
11 mail didn't get delivered to him or something like that.  
12 I suppose that's, you know, a theoretical possibility.

13 But the reason I ruled out that possibility,  
14 first, it didn't seem likely; but secondly, there was a  
15 pattern of Mr. Epstein's associates evading efforts to  
16 get information from them. And so let me just go back  
17 to the earliest instance of that.

18 According to the Chief of Police in the Palm  
19 Beach -- of the Palm Beach Police Department,  
20 Mr. Dershowitz had said that he would make available  
21 Mr. Epstein for questions about the sex, you know, abuse  
22 that was going on. And, you know, Mr. Dershowitz had  
23 said to the Palm Beach Police Department, yeah, we will  
24 make him available, no, we got to reschedule it, you  
25 know, another time reschedule, another time. And so

1 there were multiple -- according to the Chief of Police,  
2 there had been multiple, you know, requests to interview  
3 Mr. Epstein and Mr. Dershowitz had repeatedly said, oh,  
4 yeah, we will schedule that. And then it hadn't  
5 happened.

6 Now, obviously, there could have been a  
7 situation there where an emergency had come up for  
8 Mr. Epstein and he wasn't able to make a schedule or  
9 something like that. But what I saw was a pattern of  
10 offers to meet and then withdrawals and that seems to me  
11 to be a deliberately calculated strategy to sort of  
12 stall the investigation to say, oh, we will get you  
13 Epstein, oh, we can't meet now. Oh, we will get it  
14 now -- and so forth.

15 And one of the things that I noted from all  
16 that was that Mr. Dershowitz, as Mr. Epstein's attorney,  
17 never ultimately produced Epstein for a meeting with the  
18 Palm Beach Police Department, having made another  
19 offers -- now, obviously, something could have happened  
20 there. I mean, I don't -- I don't know what was the  
21 communications and so forth, but as an attorney trying  
22 to get information and unable to do that, I had to make  
23 some reasonable inferences.

24 And so one of the inferences I began to draw  
25 was that this was a stall tactic by Mr. Dershowitz, and

1 in my view potentially an unethical one, but I don't  
2 think we need to get into that in this litigation.

3 What I saw was a stall tactic going on, and  
4 the reason I think it was a stall tactic as we are  
5 sitting here now in, what is it, October of 2015, and  
6 Mr. Epstein has never been willing to answer questions  
7 about his sexual abuse of these girls.

8 And this was back in around, what was it, I  
9 guess it would be 2005, 2006, you know, roughly a decade  
10 ago, Mr. Dershowitz was offering to make Epstein  
11 available. And then that never happened and given the  
12 ten-year pattern that -- I guess I should go back. I'm  
13 sorry. Let me correct my answer.

14 We should go back to December 30th, 2014, so  
15 there -- there appeared to be about an eight-year period  
16 of time during which Mr. Epstein had refused to answer  
17 any questions about his sexual abuse of girls and yet,  
18 Mr. Dershowitz said, oh, it's just a scheduling issue  
19 and we will get the Palm Beach Police Department to --  
20 to -- to, you know, to meet and learn all this.

21 The other thing that that I'm seeing here, so  
22 now there's -- there's -- Mr. Dershowitz had been  
23 involved in concealing Mr. Epstein from the Palm Beach  
24 Police Department, but there were others that had done  
25 similar sorts of things.

1           So one of them was a Ghislane Maxwell. I  
2 will just call her Glen Maxwell. I think that's kind of  
3 the nickname I understand she goes by.

4           Glen Maxwell -- remember, she is the one, you  
5 know, I think the record is clear, in litigation that,  
6 you know, allegation has been made that she was the one  
7 that -- that brought Virginia Roberts into the -- into  
8 the sex trafficking, and was heavily involved with, you  
9 know, in all the -- not all the flights, but on many of  
10 the flights with Jeffrey Epstein where this seemed to be  
11 going on and was very close to Epstein, staying at the  
12 mansion frequently.

13           And so she would, obviously, be I guess if  
14 you have Epstein at the top of the -- you know, the  
15 kingpin of the operation, Maxwell would be, you know, a  
16 close second or certainly at the higher echelon.

17           So, obviously, someone who would have very  
18 significant information about, you know, the sex  
19 trafficking, who were the other people that -- the girls  
20 were being trafficked to, what kind of abuse was going  
21 on, you know, what kind of sex toys were being used to  
22 abuse them, because I think it was in her room or  
23 adjacent to her room that many of these devices were  
24 located, and so she would have had very significant  
25 information to provide.

1           And so in connection with the civil cases  
2   that some of the girls had filed against Mr. Epstein,  
3   her deposition was set by my co-counsel, Mr. Edwards,  
4   and there was some haggling over a confidentiality  
5   agreement, you know, and that had all been worked out  
6   and then she was set for a deposition and finally  
7   agreed, you know, to deposition. And just shortly, I  
8   think a couple of days before that deposition, she  
9   canceled. Well, she didn't cancel, her -- her attorney  
10   called to cancel the deposition, and represented that  
11   Miss Maxwell was outside the United States of America  
12   and had no plans to return back to the United States.

13           And so, at that point, the deposition was --  
14   was not able to go forward. But it turned out that she  
15   had not left the United States for an extended period of  
16   time. She was spotted later at a wedding of a prominent  
17   person in New York. And so that was Maxwell fitting  
18   into this pattern, you know, Epstein was being, you  
19   know, Palm Beach Police Department being told by  
20   Dershowitz that Epstein will answer your questions, and  
21   then not getting information.

22           Maxwell evading the deposition. Jean Luc  
23   Brunel ^ (ph) was another person who seemed to be very  
24   much involved in trafficking the girls and it was the  
25   same situation. A deposition was set to try to get

1     answers, you know, who is involved, which girls are  
2     involved, what are their names, what's -- what's going  
3     on? And so Brunel's deposition is set and then he -- he  
4     finagles out of it, too. I don't recall exactly what  
5     his excuse was, but, you know, evaded the deposition and  
6     in fact, later information came to light he was hiding  
7     out in the mansion of Epstein while he's claiming he's  
8     unavailable for deposition.

9             So -- so this pattern of Mr. Dershowitz, you  
10    know, there were three attempts to obtain information  
11    from him, if that's all I had, I guess that would have  
12    been one thing. But what I had was a pattern of people  
13    who were implicated in the sex trafficking ring evading  
14    questions, you know, quite in violation of court orders  
15    and depositions and things -- I shouldn't say court  
16    orders -- in violation of the deposition notices that  
17    were being sent and agreements being made through  
18    counsel.

19            And then in addition to that, I had this, so  
20    why -- why would you think that there's this sex  
21    trafficking, you know, ring going on? It sounds kind of  
22    farfetched. Well, one of the things that I had  
23    available to me on December 30th was a photograph that  
24    was widely available on the Internet, and that  
25    photograph depicted three people.

1           It depicted Glen Maxwell, Prince Andrew and  
2 Virginia Roberts, and at the time that it looked like  
3 Virginia Roberts was an underage girl, she was not  
4 dressed in formal attire. And Prince Andrew had his arm  
5 around her, I think if memory serves, and right next --  
6 smiling in the background is Miss Maxwell, and it  
7 appeared that that was a private residence presumably in  
8 London close to Buckingham Palace where Prince Andrew  
9 lived.

10           So here was Prince Andrew with this underage  
11 girl with Glen Maxwell, the right-hand girl, if that's  
12 the right expression. I probably should say -- strike  
13 that -- right-hand woman of Mr. Epstein, that were there  
14 and somebody had taken the photograph.

15           Given the surrounding circumstances, I  
16 thought perhaps Mr. Epstein had taken the photograph.  
17 So that would have shown Virginia Roberts's sexual abuse  
18 was not confined just to Florida, not confined to the  
19 New York mansion, it would have -- it would have  
20 presumably continued into London where one of, you know,  
21 the highest, most powerful persons in the governmental  
22 structure that exists in England was now involved in  
23 sexual abuse.

24           And so that created grave concern about, how  
25 far did this sex trafficking ring reach, what were their



1 connections, what were their abilities to influence, you  
2 know, law enforcement agencies in those countries, in  
3 England or law enforcement agencies in this country  
4 through power that somebody at that level, fifth, I  
5 think in line to the British Throne, would have, you  
6 know, presumably access to levers of power that other  
7 people might not -- might not have.

8 And so that is the -- I believe is the  
9 information that I had available to me on December 30th  
10 involving not just Virginia Roberts, but the entire sex  
11 trafficking organization.

12 Q. Okay. And that, just to clarify again, it  
13 exhausts and refreshed your recollection as to both the  
14 information you were relying on as to the allegations  
15 about Virginia Roberts and as to the allegations about  
16 other minors; is that right?

17 A. Correct.

18 Q. So I don't have to ask you separately about  
19 Roberts?

20 A. That's right. No, and I gave you a heads-up  
21 that was going to be long answer.

22 Q. You made Mr. Dershowitz look like an amateur.  
23 If I could --

24 MR. SCAROLA: I'm sorry. Like a what?

25 MR. SIMPSON: Amateur, at long answers.

1 THE WITNESS: Well, I wasn't trying to -- let  
2 me be clear. I was not trying to filibuster.  
3 You asked me a very direct question which was, I  
4 want to know everything that was in your memory  
5 on December 30th, and as you can tell, this was a  
6 very important subject to me and it's very  
7 important to Miss Roberts and I wanted to be  
8 comprehensive. And I gave you the opportunity  
9 to say, let's have a narrower question, but you  
10 wanted a broad questions. That's why I did this.

11 BY MR. SIMPSON:

12 Q. Mr. Cassell, I apologize for attempting humor  
13 in this intense situation.

14 A. This is very important to me. This is not --  
15 this is not something that I find funny.

16 Q. Well, I say it's very important to  
17 Mr. Dershowitz, Professor Dershowitz also, he was trying  
18 to answer questions. I'm not questioning that you were  
19 trying to answer my question and I appreciate it.

20 Mr. Dershowitz was trying to do the same  
21 thing and it is a difficult situation.

22 A. All right.

23 Q. So I was not trying to make light of the  
24 questions I'm asking you.

25 A. This involves sexual abuse --

1 Q. I understand that.

2 A. -- of multiple girls.

3 Q. I understand that. I understand the  
4 allegations that have been made.

5 A. And your side keeps attacking these girls.  
6 That's why it's emotional for me.

7 Q. That part is not true, but I will ask  
8 questions --

9 A. I believe that part is true. I would like to  
10 take a break. I'm sorry.

11 THE VIDEOGRAPHER: We are going off the video  
12 record, 4:01 p.m.

13 (Thereupon, a recess was taken.)

14 THE VIDEOGRAPHER: We are back on the video  
15 record 4:04 p.m.

16 MR. SCAROLA: The record should reflect that  
17 Mr. and Mrs. Dershowitz have -- are no longer  
18 present.

19 MR. SIMPSON: Correct.

20 MR. SCAROLA: Thank you.

21 BY MR. SIMPSON:

22 Q. Mr. Cassell, would you agree with me that  
23 accusing someone --

24 MS. McCawley: I'm sorry. I just realized  
25 that she stepped out to get water. I didn't ask.

1 I'm sure it's probably --

2 THE WITNESS: It's all right.

3 MR. SIMPSON: That's okay with you?

4 THE WITNESS: Sure.

5 BY MR. SIMPSON:

6 Q. Would you agree with me that accusing a  
7 person of -- an adult of engaging in sex with a minor is  
8 a serious accusation?

9 A. Sure.

10 Q. And would you agree with me that the cause of  
11 victims' rights is harmed and not furthered by false  
12 allegations of sexual abuse?

13 A. Sure.

14 Q. I want to go back. I'm going to follow up on  
15 some aspects of your answer.

16 A. Sure.

17 Q. Kind of work my way through some of those.

18 A. Sure.

19 Q. But first let me -- let me ask this: You  
20 drew in your answer a lot of inferences based on the  
21 facts or information you -- you recited, inferences that  
22 Professor Dershowitz had engaged in the conduct alleged;  
23 is that fair to say?

24 A. I think part of it was -- was inference, part  
25 of were the facts. I mean, you say a lot of inferences.

1 I think that would be, you know, subject to the debate  
2 which perhaps we are going to do now.

3 Q. No. Let's say you drew some inferences based  
4 on information you had; is that fair to say?

5 A. Sure.

6 Q. Okay. It's true, is it not, that you and  
7 your co-counsel, Mr. Edwards, had decided to seek the  
8 joinder of Miss Roberts and Jane Doe 4 as parties no  
9 later than the Summer of 2014?

10 A. Jane Doe 4, I think, give or take, yeah. I  
11 think Jane Doe -- well, that's -- there's a nomenclature  
12 issue. Let's refer to -- how do you want to refer to  
13 Virginia Roberts? Shall we just call her --

14 Q. I think we can call her Miss Roberts since  
15 the name is now known.

16 A. Right. Sure.

17 Q. And just clarifying, we can call Jane Doe 4.  
18 We won't use that name, Jane Doe 4.

19 A. Right. I think sometime in the Summer or the  
20 Fall the decision was made to -- to approach the U.S.  
21 Attorneys's Office to get their agreement to add her  
22 into the case. And they declined, which ultimately led  
23 to the filing on December 30th.

24 Q. Okay. And the basis for my question was, I  
25 believe I saw in a pleading that you had represented to

1 the court that you had been asking the government for  
2 consent since, I believe it was the Summer of 2014; is  
3 that consistent with your recollection?

4 A. The exact timing, you know, if I looked at  
5 the documents, we could refresh my recollection. We put  
6 those documents into the court record in January 21st,  
7 2015, the correspondence that we had had. The U.S.  
8 Attorney's Office had delayed, you know, giving us an  
9 answer on that for as I recall, several months and  
10 ultimately they said, no, and that's why we filed the  
11 pleading.

12 Q. Okay. My question is: Why, during that  
13 several-month period before you filed the motion itself,  
14 did you not contact Professor Dershowitz to ask him if  
15 this was true, and if he had any evidence to refute it?  
16 Why not contact the person you're accusing?

17 A. I mean, there's a cost -- you know, again,  
18 this is going take a little bit of an answer, not as  
19 long as the other one.

20 Q. I won't cut you off.

21 A. No, you have been very polite. I appreciate  
22 that. This is about a five-minute answer, just so you  
23 got a heads-up.

24 Okay. So the issue of why didn't I contact  
25 Mr. Dershowitz, it's a cost benefit situation. So what

1 would be the benefit of asking him. Well, I thought the  
2 benefit would be zero. What I thought we would get was  
3 zero, because in 2009, an effort to depose him had been  
4 made unsuccessful. 2011, an effort had been made to  
5 depose him unsuccessfully. In 2013 --

6 MR. SIMPSON: Was there an objection on the  
7 phone?

8 MR. INDYKE: No.

9 MR. SIMPSON: Okay. I didn't think so.

10 BY MR. SIMPSON:

11 Q. Please continue.

12 A. In 2013, an effort had been made to depose  
13 him unsuccessfully, and I mentioned a moment ago this  
14 manner of people involved in Epstein's organization that  
15 had been evading efforts to get information. So it  
16 wasn't just that something hadn't been received in the  
17 mail. It appeared to me that Dershowitz fit into a  
18 pattern of not providing information and, indeed, he had  
19 been party to making, supposedly, Mr. Epstein available  
20 to the Palm Beach Police Department and then pulling --  
21 pulling him back. And that seemed to be a stall tactic.

22 So I didn't think we were going get any  
23 information. On the other hand, now we had to waive a  
24 cost of calling Mr. Dershowitz and saying, we are  
25 preparing to file a pleading that identifies you. And I

1 don't want -- I'm not going to get into communications  
2 that Mr. Edwards and I had, which you have asked what  
3 was my state of mind on December 30th as to why I hadn't  
4 called Mr. Dershowitz?

5 My own personal state of mind, not revealing  
6 any attorney/client communications, but it does revolve  
7 around Virginia Roberts. I had in front of me evidence  
8 of an international sex trafficking organization that  
9 was going to the Fifth in line to the Throne in England,  
10 to very powerful people in the United States, to a  
11 billionaire in Palm Beach, Florida, Epstein. Very  
12 powerful people.

13 And what I also had was a history of  
14 Mr. Epstein intimidating, threatening witnesses, and in  
15 some cases, you know, potentially what seemed to be  
16 possibly life-threatening kinds of situations. There  
17 was a report of investigators quote, unquote, following  
18 I think it was girls or witnesses against Mr. Epstein  
19 and, indeed, had done so in a circumstance that  
20 suggested the possibility that somebody had been forced  
21 off the road.

22 I had been personally and directly involved  
23 in an Epstein effort to intimidate a witness in the  
24 Summer of 2010, which was a very disturbing incident.  
25 The incident took place right around, I don't know, July



1 2nd, July 3rd, I believe it was 2010, where a woman that  
2 I was representing along with my colleague, Brad  
3 Edwards, I'll refer to her by initials, if that's all  
4 right with you.

5 (Phone Interruption.)

6 MR. SIMPSON: On the phone, could you --

7 THE WITNESS: Can we mute them?

8 MR. SIMPSON: Would you mute it, please?

9 MR. SCAROLA: Before the phone is muted,  
10 could we identify who is on the phone now,  
11 please? Who is on the phone?

12 MR. SIMPSON: Yeah. Who is on the phone?

13 MR. SWEDER: Ken Sweder.

14 MR. SIMPSON: Anyone else?

15 MR. SWEDER: Alan Dershowitz.

16 MR. INDYKE: Darrin Indyke.

17 MR. SIMPSON: Anyone else? Did you get  
18 those? Okay.

19 THE WITNESS: I just need to make a note  
20 because I kind of got distracted there. Let's  
21 see. We had -- oh, right. Okay.

22 That was the other point I wanted to make.

23 And I've only got about another minute or  
24 two, but the point was, I had had personal  
25 experience on about July 2nd, I believe it was,

1           2010. What had happened was, S.R. was a young  
2 woman who had been sexually abused by Jeffrey  
3 Epstein. She was identified in the  
4 nonprosecution agreement as sex abuse victim, and  
5 we had a civil suit going against Mr. Epstein and  
6 her case was set for trial. It was going to be  
7 the first trial against Mr. Epstein.

8           You know, this -- he had abused, according to  
9 the NPA, I think 35 girls, and at that point I  
10 think, gosh, I think 31 of them had settled, all  
11 the girls except for the three represented by  
12 Mr. Edwards and I had settled.

13           So this was going to be the first person that  
14 was going to bring, if you will, the light of day  
15 to this. This was going to be the first time  
16 where this was going to be tried in open court.  
17 So this was potentially an opportunity to, you  
18 know, expose exactly what Epstein has done  
19 because people are going to be called as  
20 witnesses including Epstein and others like him.

21           So this was, I think, a potentially explosive  
22 situation for Mr. Epstein because all of the --  
23 all of the crimes that his organization had been  
24 committing were going to be exposed during the  
25 course of this trial. So -- but this all

1 depended on S.R. being able to get to trial and  
2 not be intimidated.

3 She's a very petite woman and what happened  
4 that evening was a very large, physically large,  
5 private investigator who turned out had been  
6 hired by Mr. Epstein, went and parked his car in  
7 front of her home. And then, indeed, as I  
8 understand it -- I wasn't there, but I was  
9 getting frantic reports from -- from people in  
10 Florida about what was going on -- the car was  
11 pivoted so that I think the phrase is  
12 high-beaming or something. The private  
13 investigator was shining his lights into S.R.'s  
14 home and she was terrified.

15 We were trying to get assistance to her and  
16 then we went -- we were filing motions to try to  
17 protect her. She had to flee her home, so that's  
18 what happened to S.R. just a few days before she  
19 went to trial.

20 And so I'm thinking, you know, if we call  
21 Mr. Dershowitz, who is his first call going to  
22 be? I mean I think -- I didn't have this  
23 information on December 30th. I want the record  
24 to be clear that, sure enough, we learned today  
25 that within just a day or two of these

1       allegations coming out, Dershowitz called  
2       international sex trafficker Epstein to make sure  
3       their memories coincided or something like that.

4       And I was afraid if we contacted Alan  
5       Dershowitz, what had happened to S.R. was going  
6       to happen to Virginia Roberts, which was going to  
7       be even worse because she had been hiding out in  
8       Australia for a number of years to escape  
9       Epstein.

10       And now this would potentially tip him off  
11       that she was now back in contact and he would  
12       redouble efforts to find her. So I was, frankly  
13       again, just speaking for myself, I'm not speaking  
14       for my co-counsel, but I was extremely afraid of  
15       tipping off Mr. Dershowitz that we were going to  
16       be filing this pleading because he would have  
17       contacted Epstein in the same intimidation  
18       tactics and, indeed, life-threatening tactics  
19       that had apparently been used against other  
20       witnesses might be used against her.

21       I mean, I also was thinking frankly, about  
22       whether to file this pleading, because of the  
23       risk that she would be in, but I thought that the  
24       safest way to protect her was to file this so  
25       that the information was out there.

1           And, at that point, you know, you know, if  
2           she disappeared or something, the world would  
3           know, you know, who the first person would be to  
4           look at would be, you know, Jeffrey Epstein and  
5           other people to look at would be those who were  
6           associated with him.

7       BY MR. SIMPSON:

8           Q.    I want to go back to your testimony a bit ago  
9           about the Fifth Amendment. You testified that  
10          Mr. Epstein took the Fifth when he was asked about  
11          Professor Dershowitz?

12          A.    Yes.

13          Q.    Is that right?

14          A.    Yes.

15          Q.    Didn't he take the Fifth with respect to a  
16          whole host of people?

17          A.    With some other people, yes, but not with  
18          every person. That's why I want my memory to aid here.  
19          If you look at the Jeffrey Epstein answers to  
20          interrogatories in one of the civil cases, he provided,  
21          for example, the name of Alessi as someone who would  
22          have relevant information, but not Dershowitz.

23                And that was consistent with I think invoking  
24          the Fifth, not on the sort of household people, but the  
25          people who were higher up in the echelon which would

1 have been, in my view, Mr. Dershowitz.

2 Q. At his deposition, he took the Fifth as to  
3 everyone he was asked about; isn't that true?

4 A. I haven't looked at the depositions lately.  
5 There were also variations in tactics that he used. I  
6 recall for example, that sometimes when he was asked  
7 about a person, even if he knew that person, he would  
8 pretend not to know that person and try to communicate  
9 that, you know, maybe he didn't know that person.

10 But he did he did have broad invocations of  
11 the Fifth Amendment in his deposition. I certainly  
12 wouldn't quarrel with you on that.

13 Q. And you understand or I believe this was in  
14 your testimony that if a person takes the Fifth in  
15 response to a question in a civil litigation, that  
16 answer can be used against the person generally; is that  
17 right?

18 A. Sure. Right.

19 Q. Are you aware of any authority whatsoever  
20 that Person A taking the Fifth can be used as evidence  
21 against Person B?

22 A. Yeah, we are sitting here in the -- let's  
23 see, we are in Florida, in the 11th Circuit, and that  
24 is -- there's 11th circuit case law that allows that to  
25 happen. I could give you the citation, you know, in

1 about five minutes if you know me take a break, I can  
2 give you the case.

3 Q. We -- we -- we can come back to it.

4 A. Okay.

5 Q. In your mind, if you have a witness who is  
6 asked about a long litany of persons and he takes the  
7 Fifth Amendment in response to all of them, is it fair  
8 to draw an adverse inference as to the other person?

9 A. Okay. So now this will be about a  
10 three-minute answer, if that's okay, and I would say the  
11 answer to that question is, yes, and I want to explain  
12 why.

13 The 11th Circuit I'll give you the name, if I  
14 have a chance to look at WesLaw or something like that  
15 has a four-factor test that says, look, you can't just  
16 draw an adverse inference against someone in every  
17 circumstance, you have to balance various factors.

18 And so you have to look at the relationship  
19 between the parties and things like that, the degree of  
20 control that one person has over another party.  
21 Different factors that you would look at.

22 And so I -- I think there are two things here  
23 that would lead to the conclusion that under the  
24 four-factor balancing test, the adverse inference could  
25 be used in the 11th Circuit and recall that the crime

1 victims' rights act case that we are talking about is in  
2 the Southern District of Florida. I think the record  
3 should be clear that that is in the 11th Circuit. And  
4 so that case law says that you look at these different  
5 factors, one of the factors, that to my mind would weigh  
6 heavily in favor of drawing the adverse inference would  
7 be the degree of control that the one party has over the  
8 other.

9 Dershowitz was the attorney for Epstein and,  
10 indeed, we heard today that he continues to be the  
11 attorney on the Tri-Tech case and I'm assuming an  
12 attorney/client privilege on other matters as well. So  
13 he would seem to have a significant control over that.

14 The other thing that was going on in my mind  
15 when I'm drawing the adverse inference is that there  
16 might be some people that are invoking the Fifth  
17 Amendment but not getting sound legal advice.

18 An attorney can only allow his client to  
19 assert a Fifth Amendment privilege in civil case if  
20 there's a significant risk that the answer will be  
21 incriminating. You can't just invoke it willy-nilly.

22 And I knew that Mr. Epstein had been  
23 receiving -- you know, as a billionaire would -- you  
24 know, the best legal advice that money could buy, and  
25 the advice he was getting with regard to questions about



1 Mr. Dershowitz was apparently, based on the transcripts  
2 I was seeing, to take the Fifth even with regard to any  
3 knowledge of Mr. Dershowitz.

4 So in those circumstances I did think it was  
5 highly fair to draw an inference from Mr. Epstein,  
6 particularly where, you know, like some of the sexual  
7 abuse involved Virginia, Epstein, and Dershowitz was the  
8 allegations, you know, the trafficking and so forth.

9 So you know, if Virginia is making an  
10 allegation, Mr. Epstein is invoking the Fifth and  
11 Mr. Dershowitz is, you know, declining to answer  
12 questions, it seemed to me in those circumstances an  
13 adverse inference would be fair.

14 Q. Isn't it routine practice for a witness who  
15 is the target or faces -- I'm going to start over.

16 Isn't it routine practice for a witness who  
17 faces potential criminal liability to take the Fifth as  
18 to all substantive questions?

19 A. That's not -- no. I would say absolutely  
20 not. And again, I'm drawing -- I was a federal  
21 prosecutor for four years. I was a federal district  
22 court judge for about five-and-a-half years. I would  
23 say, that is not the practice and, indeed, that would be  
24 inconsistent with Fifth Amendment case law as I  
25 understand it.

1 Q. As a prosecutor, did you ever in a  
2 prosecution against one person successfully introduce  
3 into evidence that somebody else had taken the Fifth?

4 MR. SCAROLA: In a criminal case?

5 MR. SIMPSON: In a criminal case, yeah.

6 THE WITNESS: So I had about 20 trials, most  
7 of them I was in the general crimes units in the  
8 eastern district of Virginia. Most of them  
9 involved drug dealers and gun runners that did  
10 not -- where those issues didn't come up.

11 So as sitting here today, I can't recall a  
12 circumstance where in that criminal case I was  
13 able to do that. The standards for using it in a  
14 civil case would be much, much broader.

15 MR. SIMPSON: Move to strike nonresponsive  
16 portion of the answer.

17 BY MR. SIMPSON:

18 Q. Have you been involved in a civil case in  
19 which you have successfully introduced into evidence the  
20 fact that Person A took the Fifth Amendment as evidence  
21 against Person B?

22 A. I haven't been involved in many civil cases  
23 involving invocations of the Fifth Amendment so I can't  
24 recall a circumstance like that right now.

25 Q. And is the 11th Circuit case you're referring

1 a criminal case or a civil case?

2 A. My understanding, it's a civil case.

3 Q. Did you ask -- you referred to the complaint  
4 that is styled Jane Doe 102 versus Epstein, you referred  
5 to that complaint?

6 A. Yes.

7 Q. And Jane Doe 102 is Virginia Roberts,  
8 correct?

9 A. Yes.

10 Q. And you talked about the Josefsburg firm, Bob  
11 Josefsburg, who we all -- there was testimony about him  
12 being a respected lawyer; you heard that. Right?

13 A. Right.

14 Q. Did you ever ask Mr. Josefsburg if he -- if  
15 the term "academicians" in that complaint included Alan  
16 Dershowitz?

17 A. Did I --

18 MS. McCawley: I'm sorry. To the extent that  
19 it reveals anything that is a privilege of  
20 Virginia's because she was represented by  
21 Mr. Josefsburg, I don't want you to reveal.

22 BY MR. SIMPSON:

23 Q. I'm just asking whether you ever asked him  
24 the question. Don't give me the answer right now. But  
25 did you ever ask him the question?

1 A. Did I personally do that?

2 Q. Yes.

3 A. No. To my knowledge, I've never met  
4 Mr. Josefsburg, so no.

5 Q. To your knowledge, did anyone else in the  
6 group of attorneys you were working with ask  
7 Mr. Josefsburg that question?

8 MR. SCAROLA: Excuse me. To the extent that  
9 that question would call for a communication  
10 within the common interest privilege, you should  
11 not answer it.

12 THE WITNESS: I'm going take my counsel's  
13 advice. I can't answer that.

14 BY MR. SIMPSON:

15 Q. You're not going to answer whether to your  
16 knowledge anyone asked Mr. Josefsburg?

17 A. Right.

18 Q. But you are testifying that the fact that  
19 Mr. Josefsburg had signed a complaint with a generic  
20 term "academicians" in it was some evidence, in your  
21 mind, against Professor Dershowitz?

22 A. Yes, because he's an academician and shortly  
23 after the complaint was filed, a partner in his firm  
24 began asking Alan Dershowitz questions about the sex  
25 abuse matter that we are discussing here.

1 Q. Did you misspeak about whether they were  
2 asking for Mr. Dershowitz or they were asking some other  
3 witness?

4 A. No, they -- I'm sorry. They asked about --  
5 thank you for that clarification. They asked other  
6 witnesses about Dershowitz's knowledge of the matters we  
7 have been discussing.

8 Q. All right. And at those depositions, which  
9 deposition do you have in mind?

10 A. Rodriguez and Alessi.

11 Q. Okay. And didn't Rodriguez testify that he  
12 didn't know, didn't have any knowledge as to  
13 Mr. Dershowitz doing anything improper?

14 A. He said that he was present at the scene of  
15 the crime, if you will. Now, whether he had direct  
16 knowledge of what happened in the bedroom, you're right,  
17 he didn't -- he did not indicate that.

18 Q. The "scene of the crime" being what?

19 A. Sex abuse of minor girls.

20 Q. But I take it you're referring to a location?

21 A. That's right.

22 Q. What location are you referring to?

23 A. Jeffrey Epstein's Palm Beach mansion.

24 Q. How many academicians visited Mr. Epstein's  
25 Palm Beach mansion?

1 A. I'm not certain.

2 Q. Do you -- can you give any estimate at all?

3 A. You know, in this case, I've probably seen  
4 reference to another in Florida, you know, maybe another  
5 four or five academics that had some kind of interaction  
6 with Epstein.

7 Q. And you are aware that Epstein was so closely  
8 associated with Harvard, that he had his own office  
9 there?

10 A. No, I didn't know that Mr. Epstein had an  
11 office at Harvard.

12 Q. Did you know that Mr. Epstein regularly had  
13 dinners and other social events in which there were  
14 scores of distinguished academicians?

15 A. Are we talking about Florida or New York?

16 Q. Generally.

17 A. Yeah, I knew there was some events like that  
18 in New York. I don't recall having specific information  
19 about an event like that in -- in Palm Beach.

20 MR. SCAROLA: Richard, let me just make note  
21 of the fact that it's almost 4:30, and by  
22 agreement, we are going stop at 4:30, so if  
23 there's something really pressing you want to get  
24 in this afternoon, this would be a good time to  
25 do that.

1 MR. SIMPSON: Well, we have a lot to cover,  
2 but I'll ask a few more questions until we get to  
3 that -- that time.

4 MR. SCAROLA: Okay. It's 4:25.

5 BY MR. SIMPSON:

6 Q. In the Rodriguez deposition at one point, he  
7 was asked a question and he responds with the name,  
8 Larry Dershowitz. Do you recall that?

9 A. Oh, you mean Larry -- you didn't mean to say  
10 Larry Dershowitz.

11 Q. His answer was Larry Dershowitz in the  
12 deposition?

13 A. I don't recall that.

14 Q. Did you consider whether he was thinking  
15 about Larry Summers ^ (ph)?

16 A. My recollection of the Rodriguez depo and,  
17 you know, there are two depositions here, Alessi and  
18 Rodriguez, was that -- that the identifiers with regard  
19 to Dershowitz were famous criminal defense lawyer-type  
20 which would fit Mr. Dershowitz, but not fit Mr. Summers.

21 Q. Okay. We will come back and look at the  
22 transcript itself.

23 A. Okay. Sure.

24 Q. One of the other things that you mentioned in  
25 your -- your answer, was that the flight logs showed

1 Mr. Dershowitz on a flight with Tatiana; is that right?

2 A. Correct.

3 Q. Did you find out before December 30th of 2014  
4 how old Tatiana was at the time?

5 A. Yes.

6 Q. How -- how old was she?

7 A. I understood she was around -- which time are  
8 we referring to, 1998?

9 Q. We are referring to when she -- the log shows  
10 her on a flight with Professor Dershowitz.

11 A. Yeah, I was understood she was over the age,  
12 she was 18 or older, you know, and I think within a  
13 couple of years maybe 18.

14 Q. And you heard today that Mr. Dershowitz's,  
15 Professor Dershowitz's wife was able to determine in a  
16 few second on Google that she was 24 at the time. Any  
17 reason to question that?

18 A. Well, because -- I think I want to look at  
19 the information we were talking about. Is the question  
20 of time frame and so, you know, the Dershowitzes on  
21 these flights with Epstein in 1998, and I think 2004,  
22 2005, which is, you know, there's like a -- obviously a  
23 six or seven-year period, so I would want to know  
24 exactly what time frame we are talking about.

25 Q. Well --



1           A.    But I understood, let me be clear, I  
2 understood Tatiana was, you know, 18 or older at the  
3 time.

4           Q.    And -- and -- and you could have found out  
5 exactly how old she was; isn't that true?

6           A.    Potentially, yeah.

7           Q.    Yes. And in fact, we heard today that  
8 someone found it in just a few seconds?

9           A.    We heard a representation to that effect. I  
10 don't know if that's true or not.

11          Q.    Okay. Do you have any reason to doubt that  
12 Tatiana was 24 at the time?

13          A.    I mean, give or take. I mean, give or take.  
14 I mean, I'm not trying to say -- let me be clear. I  
15 know she's over the age of 18. Now whether she's 24 or  
16 something, that was not something that I had  
17 specifically --

18          Q.    I understand you don't know, but I'm just  
19 asking whether if we represent to you that our research  
20 indicates she was 24 at the time, do you have any reason  
21 to question that?

22               MR. SCAROLA: At what time?

23               MR. SIMPSON: At the time of the flight, the  
24 flight logs showed --

25               THE WITNESS: 1998 flight?

1 BY MR. SIMPSON:

2 Q. Whatever the flight -- the date of the  
3 flight?

4 A. Yeah. I think that sounds too old for  
5 Tatiana.

6 Q. Okay.

7 A. But I mean, I don't, you know, we could  
8 obviously check into it so...

9 Q. And you do know though that she was over 18?

10 A. Eighteen or over, yes.

11 Q. Eighteen or over. And have you ever heard of  
12 an older man having a relationship with a younger woman;  
13 has that ever happened in your experience?

14 A. Sure, but what --

15 Q. That's my --

16 A. I guess, how much of a difference? I mean  
17 the question is, you know -- sure, there are examples of  
18 that. It's unusual, but there are examples of that.

19 Q. Is a 24-year-old woman an adult?

20 A. Yes.

21 Q. Is there anything criminal or anything  
22 criminal about a man of Jeffrey Epstein's age having a  
23 relationship with a 24-year-old woman?

24 MR. SCAROLA: I assume you agree that depends  
25 upon the nature of the relationship.

1 MR. SIMPSON: Is there anything -- let me --  
2 I think my question was clear.

3 BY MR. SIMPSON:

4 Q. You can answer the question. Having a  
5 romantic relationship with a 24-year-old?

6 A. Just if those are the only facts, sure,  
7 that's not a crime.

8 Q. And so if --

9 MR. SCAROLA: And it is -- it is 4:30.

10 MR. SIMPSON: Let me just ask one more  
11 question then.

12 MR. SCAROLA: Sure. So long as it isn't one  
13 of the 30-minute ones.

14 MR. SIMPSON: That's in the witness's  
15 control.

16 MR. SCOTT: That applies to you.

17 MR. SCAROLA: So stop smiling.

18 MR. SCOTT: I'm not smiling at all. I'm  
19 anything but smiling, Mr. Scarola.

20 BY MR. SIMPSON:

21 Q. My -- my question --

22 MR. SCOTT: Oh, you are.

23 BY MR. SIMPSON:

24 Q. My question, Mr. Cassell, is that if all you  
25 have is the fact that a middled-aged man is on an

1 airplane with a 24-year-old woman, is there a basis to  
2 draw an adverse inference from that about anything?

3 A. If that's all that you have, obviously not.

4 MR. SIMPSON: Okay.

5 MR. SCAROLA: Thank you.

6 MR. SIMPSON: We will break then and we will  
7 talk off the record about logistics for tomorrow.

8 MR. SCAROLA: Okay.

9 THE VIDEOGRAPHER: We are going off the video  
10 record, 4:31 p.m.