IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

BEFORE THE HONORABLE JOHN C. MINNEY

Department 12

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PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,

vs.)**DR. URQUIZA**

RANDALL JEFFREY) No. 030856-9

Defendant.

_____)

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDING

MARCH 1, 2004

A-P-P-E-A-R-A-N-C-E-S

FOR THE PEOPLE: ROBERT J. KOCHLY
District Attorney
Contra Costa County
Martinez, CA 94553
By: LUCINDA SIMPSON
Deputy District Attorney

FOR THE DEFENDANT: PATRICK CLANCY
Attorney at Law
101 Ygnacio Valley Rd., Ste 305
Walnut Creek, CA 94596

Reported By Lori Cheda C.S.R. #8810

MONDAY, MARCH 1, 2004

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P-R-O-C-E-E-D-I-N-G-S

MS. SIMPSON: Thank you, Your Honor.

People call Dr. Anthony Urquiza.

ANTHONY JOSEPH URQUIZA,

called as a witness on behalf of the People, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

THE CLERK: Thank you.

Please be seated.

State your name and spell your last name for the record.

THE WITNESS: Anthony Joseph Urquiza, U-r-q-u-i-z-a.

DIRECT EXAMINATION

BY MS. SIMPSON:

Q. Good morning, Dr. Urquiza.

A. Good morning.

Q. Can you tell the jury what you do for a living?

A. Sure. Actually have a couple of titles. I'm a psychologist licensed in the state of California. I am a socio-clinical faculty in the department of pediatrics at UC Davis Medical Center in Sacramento, California. And

last title, I'm director of mental health services for a program called the CAARE Center which is a medical and mental health service program, specifically for children who are sexually abused, physically abused, and neglected in their families.

Q. Is that CAARE Center part of UC Davis?

A. It is a part of the department of pediatrics.

Q. Would you describe what you do in your present occupation? What kind of things you do?

A. A few things. I, as a psychologist -- I have historically conducted therapy, done therapy. Again, my area is child abuse, so I've done therapy with children who have been abused. I stopped doing that probably about three years ago.

Prior to that time, I had seen several thousand children in therapy. I continue to do psychological evaluations of families and children.

I conduct research as I'm faculty. That's part of the mission of the university is to do research in some area, my area being child abuse is the area I do research and have been doing research on child abuse for the past twenty years.

And last thing I do -- almost the last thing I do is teaching. I teach in conferences. I don't teach a classroom setting. I teach -- we have an internship program where we teach people to be social workers and psychologists. I teach at seminars, workshops, training that we do.

And then the very last one is some administration where, as director, I have responsibility to manage some budgets, personnel, those types of things.

Q. Okay. Would you describe your educational background including any internships you've done?

A. Sure. I have three degrees, all from the University of Washington in Seattle. I have undergraduate degree in child development. I have a master's degree in clinical psychology. And doctorate degree in psychology, or Ph.D. in psychology.

Q. And would you tell the jury what internships you've been a part of or you've completed?

A. As a part of my -- in the United States to be a psychologist and to be licensed, you have to have an internship. I had an internship that was approved by the American Psychological Association at primary children's medical center which is in Salt Lake City, Utah, probably 1987, 1988, about that time.

Q. Okay. Can you describe for the jury specifically what teaching experience you've held?

A. Sure. Well, the beginning teaching experience I had was as a preschool teacher back in the seventies. I was a preschool teacher for a couple of years.

As a graduate student at the University of Washington, I taught several classes related to child development and child abuse and problems -- emotional and psychological problems that children and families have.

I held for about a year and a half, teaching

position or faculty position at San Diego State University in the department of family studies. And then I assumed my current position as faculty in pediatrics in January of 1990. So about thirteen, fourteen years ago.

Q. Okay. Would you describe your training and experience as it relates to any expertise in the field of child sexual abuse and/or child sexual assault accommodation syndrome?

A. I entered graduate school with the expectation that my career decision was going to be as faculty, someone who taught, did research, and had a clinical expertise in child abuse.

So I started graduate school in 1983, and so all of my training, really, has been specifically geared to that so through graduate school, I was very focused on seeing clients who had a history of abuse and research and teaching.

Since graduate school, since I received my degree, I regularly participate in conferences and trainings, and at my level now I often give trainings at conferences, so I often present at workshops and conferences nationally, and I'm usually in a position to teach courses, although as a licensed psychologist, it's a requirement for me to do continuing education, and so I do that. I'm required to do that, and I do that on a regular basis. But I -- the typical pattern is for me to attend a conference, usually it's one I'm presenting at, and while I'm there -- a few weeks ago, I was in San Diego

presenting at a conference. While I'm there, I usually attend that conference and go to workshops and training for my own continuing education.

Q. Can you describe any clinical or research experience that you have?

A. Clinical experience is I started seeing clients in 1983 when, in undergraduate school, at that time under somebody else's supervision. Now, as a licensed psychologist, I don't need that supervision. And so from about 1988, while I received my license in 1990. So 1990 until currently, I have been seeing children in either therapy or evaluations on a regular basis.

I now supervise both faculty -- sorry -- psychologists and social workers. I supervise intern -- psychology interns, and also supervise six supervisors. We have a staff of about fifty people, and I have six clinical supervisors. So I'm their direct supervisor.

So a lot of my clinical responsibilities currently are involving supervision rather than providing direct services.

With regard to research experience, again, that started in 1983. My areas of research have been primarily related to what are the effects of child abuse, either sexual abuse or physical abuse, on a child. And secondarily, what are the strategies that we can adopt to ameliorate or alleviate a lot of the problems kids have.

What happens with the kids psychologically or who's been abused and probably over the last eight years,

what can we do to return them to as best mental health state as we can. So to alleviate mental health states they have incurred as a result of their abuses.

Q. Can you tell the jury if you've authored papers related to the subject matter or closely related?

A. I have.

Q. Can you give us a ballpark, how many or what topics, you've covered?

A. Articles that have been published, I don't really keep track. I'd estimate maybe thirty-five or so; of presentations, probably a few hundred presentations at conferences or workshops over the last twenty years.

Q. Can you give me a little insight into what kind of groups you've presented to over the years?

A. Sure. American Psychological Association; American Society on the Abuse of Children; the California Department of Education; numerous community child abuse prevention organizations or national child abuse prevention organizations. There's an international society on the abuse of children. I've presented for them in several countries. The National Institute of Mental Health, the Center for Disease Control, the National Science Foundation.

There's a few others but those are some of the primary organizations that I've presented to.

Q. Okay. Have you had occasion to produce any types of professional videos?

A. I have.

Q. And can you tell me a little bit about that?
A. Again, I think I said earlier that probably around eight years ago, I started shifting from what are the effects of abuse to how can we treat children who have been abused? And there's a part of that developed and adapted a child treatment program and currently involved in disseminating -- training other organizations how to use that program.

And concurrent with that has been the development of about five training videos. I say "about" because we're still working on one.

Currently, I think there are three that are English, two in Spanish, and we're just finishing up the third one in Spanish.

Q. And can you describe for the jury any honors you've received?
A. I've received honors for work that I've done related *to* child abuse, Sacramento County Child Abuse Prevention Council, from that organization, the acronym, APSAC, American Professional Society on the Abuse of Children. I used to be one of the Board of Directors and now advisory board, but I received an honor from them.

From the Department of Education for the Danforth Compton Fellowship. It's a national program related to ethnic minorities who achieve academic excellence and a few others.

Q. And have you had occasion to receive various grants?

A. Grants? I have.
Q. Can you give me an estimate of the total dollar amount of grants that you obtained?
A. I don't think I can do that other than it's a few million dollars, but I couldn't tell you how many, exactly how much.
Q. Okay. Do you serve on any advisory boards?
A. I do.
Q. Can you just name a few?
A. APSAC American Professional Society on the abuse of Children; California Department of Social Services -- California Department of Social Services related specifically to adoptions.

I'm currently, in Sacramento County, on the advisory board for the Department of Mental Health Sacramento County Department of Mental health, and also the Victims Compensation Program, which, essentially, oversees a large amount of mental health services throughout the state of California, providing funds for children who have a history of being abused and neglected.
Q. Can you describe any affiliations that you hold, professional affiliations?
A. APSAC, the American Psychological Association, there are a few others, the international version of -- not APSAC but there's a CAPSAC, which is the state version of APSAC. There's the international child abuse organization and, again, a couple of others. But I don't have a copy of my C.V. in front of me. So my memory might

not be complete.

Q. Okay. Are you familiar with something, a theory called child sexual accommodation -- pardon me -- Child Sexual Abuse Accommodation Syndrome?

A. I am.

Q. Can you describe how it's you're familiar with that concept?

A. My recollection is -- though, this is a little over twenty years ago so -- it's a bit vague, that phrase is the title of an article that was published in 1983 by a man named Roland Summit. And my recollection is that I read that article when it was first published in 1983.

Since that time -- well, the purpose of that article is to provide a description of what commonly occurs with a child who has been sexually abused. So since that time, I have been involved in training, certainly learning more about sexual abuse as I was in graduate school, but also training related to teaching people about what happens with kids who have been sexually abused and a lot of the foundational research that has gone into -- or since 1983 that's gone into to support the Child Abuse Accommodation Syndrome

I currently use it in my intern -- I teach psychology interns and social work interns about sexual abuse by explaining Child Abuse Accommodation Syndrome

Q. And in the thousand or so kids that you have personally treated, if you will, for lack of a better word, have you had occasion to utilize the theories of

Child Sexual Abuse Accommodation Syndrome in observing kids that have been sexually abused?

A. Yes, I have. I would -- the term "utilize" means you're doing something like doing something in treatment. The Child Sexual Abuse Accommodation Syndrome is really developed to educate people, to inform them about what happens, and so I think that information that is contained within the accommodation syndrome has been very helpful to me and something, certainly, I have seen repeatedly in children I've evaluated or treated.

I don't necessarily utilize it in that I do something with kids related to it but it is foundational to my understanding about what happens to kids who have been sexually abused.

Q. Have you ever qualified in court in the state of California as an expert in Child Sexual Abuse Accommodation Syndrome?

A. I have.

Q. And particularly, in this county only, how many times have you so qualified?

A. As an estimate, I would say seven or eight times.

Q. And what about in the state of California?

A. Seventy-five, eighty-five, maybe eighty, eighty-five times would be an estimate. I don't know exactly. I don't keep track. But it's about the number of times.

Q. Okay. And have you ever qualified as an expert

in child sexual abuse?

A. Yes. Well, I should separate that out. I'm currently in criminal court. I have testified a few hundred times in juvenile court where I have been asked by the judge to address a specific issue, often to evaluate either a child or an adult, and then to report back to the Court. I do that on a regular basis, but that's different than criminal court.

Q. Okay. So in the context of juvenile court, have you been qualified as an expert or asked to give an expert opinion in Child Abuse Accommodation Syndrome?

A. Both.

Q. Okay.

MS. SIMPSON: Your Honor, I'd ask to offer Dr. Urquiza as an expert in Child Abuse Accommodation Syndrome and child sexual abuse.

THE COURT: Mr. Clancy, did you wish to voir dire?

MR. CLANCY: No, but I wish to approach.

THE COURT: Well, do you wish to discuss the matter on the record?

MR. CLANCY: Yes.

THE COURT: We'll go into chambers for a moment. Ladies and gentlemen, just remain, please, if you would and in your seats. Relax for a moment. We'll be right back.

(Whereupon the following was

conducted in chambers:)

MR. CLANCY: I have no objection --

THE COURT: Wait a second.

We're in chambers with both counsel and my court reporter.

And you're waiving your client's presence, Mr. Clancy?

MR. CLANCY: I am.

THE COURT: Okay go ahead.

MR. CLANCY: Have no objection to him qualifying for Child Sexual Abuse Accommodation Syndrome. To call him an expert in child molestation without defining what portion of it he's allowed to talk about is just a generalistic, (sic) broad thing that can lead to all sorts of problems.

THE COURT: The offer was child sexual abuse.

MR. CLANCY: Child sexual abuse and child molest. And it's the second part.

MS. SIMPSON: You're saying "and molest."

THE COURT: Just so we're perfectly clear, I heard you say C.S.A.A.S. and child abuse.

MR. CLANCY: C.S.A.A.S. and child abuse. We need to know what areas she's going to go into. That's a vast field, and what's admissible -- all that she has made an offer of proof for that is admissible is Child Abuse Accommodation Syndrome. I don't want to open the door that he can talk about anything having to do with child

abuse.

THE COURT: Well, first of all, regardless of whether something's admissible or not, do you have an objection of offer of expertise?

MR. CLANCY: Yes, in the second part.

THE COURT: What's your foundation?

MR. CLANCY: The objection to the foundation *of* his expertise, it's not an area of general expertise that's allowed in the courts.

THE COURT: All right.

Submitted?

MR. CLANCY: Submitted.

THE COURT: I find that he is an expert in the field of the C.S.A.A.S. -- I'll called it for short -- and in the field of child sexual abuse based on experience, training, and educational background. I'll announce to the jury that I accept him as an expert in those areas.

Now, Ms. Simpson, Mr. Clancy is concerned over the questions you're going to ask him about child sexual abuse, issues quite separate and apart from C.S.A.A.S. issues.

MR. CLANCY: That's correct.

MS. SIMPSON: I'm only offering that secondary expertise so the jury can understand that this isn't just an expert in someone else's article, that he has his own independent expertise with which to say whether he agrees with that premise or not.

THE COURT: Okay. So is it your intention to

limit this witness to explaining to the jury C.S.A.A.S.?

MS. SIMPSON: Yes. I do plan on asking him if, in the course of his own work with kids, whether he has formed an opinion as to whether he agrees with these theories or not.

THE COURT: C.S.A.A.S. theories?

MS. SIMPSON: Yes, whether he's personally observed things and kids that are consistent with these theories and if he believes this theory to be accurate.

MR. CLANCY: I have no objection to that. It's just this generalized thing could go anywhere.

THE COURT: I understand. All right.

We're going to proceed with the offer the district attorney made, limited to that, and if you hear a question that you feel is headed in the south direction from that, if you'll object, we'll come into chambers and talk about it.

MR. CLANCY: Okay.

(Whereupon the following was conducted in open court:)

THE COURT: We're back in court with the jury, all principals, and our witness. And the Court will accept the witness ladies and gentlemen as an expert in the field offered by the district attorney.

And I'll just remind you this is another person who we're putting in the category of expert witness, and

you will hear extra instructions from me on that topic at the end of the case.

Ms. Simpson, go ahead.

MS. SIMPSON: Q. Dr. Urquiza, for purposes of time, I'm going to refer to Child Sexual Abuse Accommodation Syndrome as C.S.A.A.S., if it's all right with you.

What is C.S.A.A.S.?

A. Well, as I said earlier, that phrase comes from the title in an article by Dr. Summit, now, more than twenty years ago.

The purpose of that article, the reason Dr. Summit wrote that article, was specifically for people who would be doing therapy with children who had been sexually abused. And the purpose was to educate them, to dispel any misunderstandings or distortions or misperceptions that they had about what commonly occurred with a child who had been sexually abused, and to provide them with a framework to understand what, at that time, the research said about what happened with sexual abuse. And currently, it's still being used for that same purpose, to simply just describe what happens with a child, what commonly happens with a child that has been sexually abused.

Q. And you talked about the purpose of the theories that he articulated that was used to dispel myths or misunderstandings?

A. Yes.

Q. Can you talk about some of the myths or misunderstandings that it's directed towards dispelling?

A. Yes. One of the myths was we made -- at least I recall -- as I recall as a child I was often told to be wary of strangers and don't take candy from strangers.

And while that might be a prudent thing to do with regard to child sexual abuse, we know that very few children are sexually abused by a stranger. Sometimes it happens, but most children are sexually abused by someone with whom they have an ongoing relationship, some type of acquaintance. That could be all types of people. But it's uncommon for a child to be sexually abused by a stranger.

One of the misperceptions, if your child is sexually abused, you'll go run and tell your mommy, daddy, teacher. Again, we know from research sometimes it happens, but much more typical for there to be some strategy placed upon the child to be quiet, and that strategy is quite effective in keeping kids quiet for a long time, sometimes throughout their whole childhood. Sometimes kids sexually abused don't disclose until adulthood.

Q. What about the manner in which a child discloses, how quickly they disclose, the demeanor when they disclose, any myths associated with those ideas?

MR. CLANCY: I'll object as compound question.

THE COURT: Did you understand the question, Doctor?

THE WITNESS: Well, yeah. It's going to be a rather long answer.

THE COURT: Did you agree it was more than one question?

THE WITNESS: Yes.

THE COURT: If you would break it down for us.

MS. SIMPSON: Q. Are there any myths associated with how a child presents, in effect, when they disclose sexual abuse?

A. The common characteristic if your child has been sexually abused, they'll be extremely traumatized, crying. So the expectation is if you're going to talk or disclose being sexually abused, you will be crying, distraught, when in fact there appears to be a lot of evidence to support the fact that kids, after a while exactly, get into one of the issues, accommodate, or get used to the experience of being sexually abused, that their experience of the feelings they have associated with being sexually abused -- I don't want to say they become normalized -- but they're not as traumatized or those feelings aren't as acute.

As a result, when they make the disclosure, it's not unusual for kids to make it in a somewhat matter-of-fact or detached from the feelings they have, so they don't look acutely distraught and crying. Clearly, there are kids who disclose and are distressed.

I think what Dr. Summit is trying to present is that child who presents as information or makes that

disclosure and they're not crying and upset is not atypical.

Q. Let's talk a little bit about the theories that Dr. Summit announced in his paper.

Is the first, theory one, called secrecy?

A. Yes,

Q. And would you describe for the jury, explain to the jury what Dr. Summit meant when he talked about the concept of secrecy in his paper?

A. Sure. In order to understand secrecy, I think it's important to understand the context in which sexual abuse happens. It's a relationship.

As I said earlier, usually children are sexually abused by somebody they know, ongoing relationship. That's important because children tell us there's been some strategy imposed upon them to keep them quiet about the abuse, hence the term secrecy.

The strategy can be lots of different things. It can be an overt threat. It can be, you know, if you tell, then you'll go to jail or I'll kill you or I'll kill your mom or dad or you.

I think, actually, Dr. Summit says in his article, uses an example you'll go to an orphanage, your parents will get divorced, a lot of different things. But there's some type of coercive strategy imposed upon the child to keep them quiet about the victimization.

And what he's trying to do is trying to explain to therapist that there's more than just a child being

approached and fondled or something done to them, that there are some dynamics between -- in the relationship between the victim and the perpetrator that are acting on the child that function to keep the child quiet about the abuse.

Q. Did Dr. Summit discuss things that are other than direct threats, things about whether the victim would be -- whether the child would perceive that they would be displeasing to someone if they told or displeasing the person who was committing the crime against them if they told?

A. What I said earlier, there's some type of coercion or manipulation that's used. It can be an overt threat. Sometimes it can be force, though it's a little uncommon for kids to be physically forced, like assaulted.

It can also be other strategies. Kids also tell us that they are bribed, provided special gifts, talked about having a special relationship, so that they can be -- they perceive that could be an important relationship to them. It doesn't necessarily have to be an overt threat.

What I often explain to parents and children who come to therapy is clearly if a child is being threatened, then a smart thing to do if you're that child would be to comply if the person who's threatening is bigger and stronger.

But sometimes it can be a covert threat. If you see somebody beat up your mom and that person comes into

your bedroom at night and wants to do something, then you know you should comply. And so kids often comply with overtures to be molested.

I think the other part related to that, also part of manipulation, kids often feel like they could get in trouble if they were to disclose, and it's a topic that is not easy to talk about. I think for most of us, talking about our own sexual experiences or own sexual history is a really hard thing to do, and so those things actually help kids keep the secret about kids being abused because they're embarrassed, disgusted, or ashamed of what they've participated in.

Q. Is there anything else about the concept of secrecy that you think you need to explain to the jury before we move on?

A. No. I think that mostly covers what Dr. Summit described in his article.

Q. And is the next theory or topic called helplessness?

A. Yes.

Q. Would you describe for the jury what Dr. Summit meant when he talked about helplessness?

A. Sure. Essentially, the misperception -- we'll start there -- is if you're a child and somebody approaches you, they have some overture to sexual abuse, you then -- you'll be able to do something about it, protect yourself, fend them off. You'll be able to do something to prevent yourself from being sexually abused

or prevent yourself from being revictimized if it happened before.

I think Dr. Summit points out the fact that's not reasonable. In the face of a perpetrator who was bigger, stronger, smarter, more worldly, has more experiences, a child is not able to -- again, the phrase that I often use because I think it's simpler to understand is not able to ensure their own sexual safety. They're not able to do anything to protect themself, so Dr. Summit talks about the fact they're relatively helpless or vulnerable and relatively powerless or vulnerable. I think he uses the phrase they're helpless.

Q. Does Dr. Summit use a term called "sexual safety," or is that a term you're familiar with?

A. That's a term I'm familiar with, I often use when I'm describing that to parents or explaining to parents that children are not able to ensure their own sexual safety.

Q. Does Dr. Summit discuss children are less able to protect their sexual safety when they're involved in an authoritarian relationship such that they are subordinate to an authoritarian in their life?

A. Yes. I mean, I think that's some of the phrases that he uses I believe in the article, and I think, similar to what I had said, using less large words.

Just that you know, kids are relatively powerless when there's somebody who's in a position of authority or somebody bigger, stronger, and they are

subordinate or submissive or weaker position than that person.

Q. Does Dr. Summit talk about the causes of helplessness in the context of a known assailant or unknown assailant? Is there a relationship there?

A. Children who are sexually abused -- again, it's important to go back to what I had said at the beginning. There's a context to the abusive relationship. Children who are abused by somebody with whom they have an ongoing relationship and that person is bigger and stronger and inherently -- that's what happens -- has more control over their life.

If those two things are happening -- acquaintance -- means there's ongoing contact and the person is bigger, stronger, more authoritarian, that really serves to reinforce a lot of the strategies that are imposed upon kids. That is, if you're threatened to be quiet, don't talk about the abuse, and you have ongoing contact with somebody who is both bigger, stronger, more powerful, and who has access to you, then that reinforces the notion that it's a really good idea for you to be quiet about the abuse, to not talk about the abuse.

Q. Does Dr. Summit talk about when -- when the abuse takes place in the context of a loving relationship, whether that makes the child even more vulnerable?

A. Well, one of the -- I don't think accommodation syndrome is exclusive to incestuous relationships or familial relationships. I think there are lots *of* --

parts of the accommodation syndrome that describe interfamilial types of abuse in that context. That would be a situation where a child would be perhaps most helpless because if the perpetrator is somebody who's bigger, stronger, and in their family, then they have a fair amount of control over what the child does or says or to be able to reinforce any type of threat that was made. And so even though the child may care about -- when you say loving -- may even love the person with whom they're being abused, doesn't negate the accommodation syndrome.

It's not uncommon for kids to have both a sense of like or enjoyment in the relationship they have with the perpetrator, sometimes even to love the person that is abusing them, and to be sexually abused by that person.

Q. Is there anything discussed in Dr. Summit's article about whether helplessness is exaggerated or increased when the caretaker or a parent is someone who has a substance abuse problem or isn't available to the child?

A. Well, we know -- we know from research that children who have a caregiver who is in some way incapacitated are at greater risk to be sexually abused. And the example I often use is with a mother whose responsibility it may be to protect the child, a mother who is an alcoholic, may do a relatively poor job of supervising the child, may fraternize with people who have more problems or maybe are somewhat unseemly, and so the child would have more contact with someone like that.

All those things, or those two things, serve to diminish the parent's ability to protect the child or ensure their safety. And so if there is some incapacity of the ability *of* the care-giving environment, like a mom or dad or baby-sitter or whatever, that would put the child at greater risk, make the child more vulnerable or more helpless.

Q. Is there another topic in Dr. Summit's paper called entrapment accommodation?

A. There are five parts to the accommodation syndrome. The third one is entrapment in accommodation.

Q. Would you describe for the jury what Dr. Summit meant by that?

A. Entrapment and accommodation, the entrapment part is pretty simple. If a child is being sexually abused -- and we're describing what happened to a child who's been sexually abused or taking as an assumption the child has been sexually abused -- if the child is sexually abused and can't do anything to stop it, that's helplessness, and can't tell anybody, that's the secrecy. They're trapped.

And the reason why it's entrapment and accommodation, he goes on to talk about what are the things the child does to cope with -- we argue that coping is somewhat synonymous with accommodation -- how does a child cope with or adjust with or deal with experiences that they are forced to endure. And he goes on *to* speak about some of the coping strategies that kids go through,

often related to being able to manage the unpleasant feelings that he experiences as a result of being abused.

Q. And how does this take place? Can you describe that a little bit?

A. One of the things that happens with kids who are sexually abused that being abused and again, it's important to go beyond just touching or fondling. It's important to understand some of the psychological processes.

And one of the things the kids -- that occurs to kids when they're sexually abused, there are a lot of unpleasant feelings like being ashamed, a sense of humiliation, or disgust, sometimes fear, sometimes even like confusion, not being old enough or appreciating what's happening to them.

There's a lot of feelings that go on with them. They're very difficult feelings for them to experience and to tolerate. And what we're finding in the mental health field, for kids who are sexually abused, especially kids who are sexually abused at least a few times, that they -- the best way I can explain it -- become somewhat numbed to a lot of those feelings because it's too difficult to tolerate them.

We've seen that in other types of people who experience traumatic events, and the most common, frequent one is veterans where they have a numbing of a lot of the feelings that they have relating to the experiences that were too difficult for them to bear at the time. Even

twenty years later, they still have somewhat of a numbing, and it's really somewhat of a protective factor.

Well, kids do the same thing. They think anybody who has experience of really horrible things happen to them, it's a common process that occurs, and so this process of accommodation really is this experience of trying to maybe compartmentalize a lot of the feelings that they have about the victimization experiences.

Q. You talked a little bit about the concept of entrapment. Is it at all a myth that a child who's being sexually abused wouldn't want to go back and see the person who's abusing them?

A. Well, I think it's something that is not easily understood by people that if you're being sexually abused by somebody, why would you go back over their house? Why would you want to spend time? Why would you appear to enjoy time with that person?

And again, if you take it out of the context of just sexual abuse, just the physical things that are happening, it's not uncommon for kids to have a relationship outside of victimization with the perpetrator, and as a result, it's not uncommon for kids to like the person who's abusing them, especially if that person, outside of that relationship, is somebody who they care about, spend time with, does fun things with them.

Sometimes incestuous -- if you're being sexually abused by mother, father, or big brother, it's not uncommon for kids to love that person because they need to

love caregivers because that's what we do in families.

So it's easy to sort of question why would you go back? Why would you spend time with that person if that person was also sexually abusing you? But I think that's somewhat of a narrow perspective what goes on in sexually abusive relationship.

Q. And is there another theory, the fourth theory from Dr. Summit, called delayed unconvincing disclosure?

A. There is.

Q. Would you describe what Dr. Summit meant by that concept?

A. Sure. Delayed disclosure is quite simple, that if -- the misperception is you're sexually abused, you'll tell somebody right away. We now know -- and sometimes that happens; I mean, sometimes kids are approached, they're sexually abused, and immediately go and tell somebody. That actually is something that happens a minority of times. What the research shows it is quite common for kids to have a delay in time from when they are first sexually abused to when they are actually able to disclose that they have been sexually abused .

What that means is a couple of things, and primarily, that whatever strategy that was imposed upon them in this issue of secrecy must be pretty effective if they can keep kids quiet about their sexual abuse for a significant period of time.

So the notion kids will tell right away is really not a common thing. It is really uncommon that

kids tell right away. And then beyond that, there is this issue of because it's -- the third part of the accommodation syndrome is delayed and unconvincing disclosure. The best way to describe this unconvincing disclosure not -- to think of sexual abuse not so much as an act but a process and by process, it is that it is a really hard thing to talk about. Sexuality is often difficult for us to talk about. Victimization is difficult. And if your child, who perhaps were threatened or perhaps feel embarrassed or humiliated or have different feelings about the experience you participated in, you can imagine it's really hard *to* put yourself in a position to tell somebody else about that.

And so what we found is that kids who go through this process of disclosure often will say something -- are often somewhat vague will provide some information. If they're responded to positively or supportively, they may say more, and as time goes on, they may tell more and more and more about their victimization experience over different iterations over different periods of time.

They also may make some minor mistakes about disclosure. If you have somebody that says five or four different times, they're not exactly alike every single time, then they may look unconvincing. That is, Dr. Summit was talking about the fact that this process which we now have research to support, this process of disclosure may ultimately look like the child was not telling the truth or unconvincing in their description of

what happened to them because they're not identical every single time. They don't provide these verbatim descriptions what happens with regard to their sexual victimization.

Q. Is the concept of consistencies taken into consideration in that disclosure process by Dr. Summit?

A. I think that's part of the process or that you may not be completely consistent, you may not be able to articulate clearly the first time what happened, and so it may take a couple of times before a child is able to provide some kind of a description about what happened to them in their victimization.

Q. What studies, if any, were relied upon with regard to the proposition that a child might not necessarily disclose immediately sexual abuse?

A. Well, there are actually about -- I think about four or five studies. Now, the one that I usually use is by Elliott Briar or Briar Elliott. They found, basically, about three quarters of kids had failed to disclose the first twelve months from when they were abused to when they disclosed, essentially, saying most kids -- well, two things, very similar. We shouldn't expect that kids will disclose right away although some kids do. We shouldn't expect the kids will disclose right away and some kids have some significant delay by the time they're eventually able to disclose.

Q. And is it also fair to say some kids never disclose?

A. I think that's a reasonable assumption to make. It would be difficult for me to give you any research because we don't know those people who don't disclose. I know in research that I have done with adults, there were a fair number of adults who never disclosed in their childhood, so if you were to say there are children who never disclose -- understanding that when they hit eighteen, they're no longer children -- I would agree with that.

But those -- there may well be, and probably are, people who never disclose throughout their entire lifetime. I could not give you an estimate how frequently that would happen.

Q. Okay. And the last theory that Dr. Summit talks about something called retraction?

A. Yes.

Q. Would you briefly talk a little bit about that?

A. Sure. Again, we're talking about children who have been sexually abused, and what he found was there are a small percentage of people, children, or percentage of children who have been sexually abused who made a disclosure who then took back the allegation of the abuse.

And goes on to talk about some of the reasons why a child would take back -- child who was abused would take back the allegation, and, essentially, points to access -- to the child having access to the perpetrator, presumably reinforcements the threats or coercion, was put in place, again so the child kept quiet. And sometimes

other things like pressures put on by the family or pressures put on by the child to keep quiet about the abuse for a variety of reasons results in the child retracting allegations of abuse.

Q. Okay. Did Dr. Summit write a second article about nine, ten years later called "Abuse of the Child, Sexual Abuse Accommodation?

A. Yes. It was either 1990 or '92, somewhere around there.

Q. And what was the premise of that second article?

A. He felt at that time that there was some use of the -- misuse of the Child Sexual Abuse Accommodation Syndrome and the issues were mostly to, one, he felt people were using the Child Sexual Abuse Accommodation Syndrome as a way to diagnose child abuse. They were saying okay, if you have these five things, then you're sexually abused. And he was arguing -- and I would absolutely agree with him -- that that would be an improper use of the Child Abuse Accommodation Syndrome because it's not the place of mental health -- it's not my place to say whether a particular person is a perpetrator or not, or a particular child has been sexually abused. That's a criminal issue and a jury issue.

So he was arguing if anybody is using it for that purpose, that's inappropriate. And that really is consistent with the notion that this is not a diagnosis. It's really an educational tool to explain what happens

with sexual abuse.

The other thing that he was trying to explain is there's a lot of discussion about whether -- what the definition of a syndrome is because Child Sexual Abuse Accommodation Syndrome people often equate syndrome with diagnosis or medical condition, and there has been a lot of arguments or discussion whether Child Abuse Accommodation Syndrome is really a syndrome or not. I actually think it is, in my opinion, but his position is he wishes we would not use the term syndrome because it detracts from the overall opinion, which is just to explain what happens with kids who have been sexually abused.

He says in the follow-up, it would have been probably better if she said Child Sexual Abuse Accommodation pattern because it would -- would have avoided the syndrome and would have enabled greater attention to what he thinks is attention which is just people pay attention to people who have been sexually abused.

Q. So the premise of the second article was to suggest that perhaps syndrome wasn't an appropriate word to use; that pattern is something he would have rather used?

A. Correct.

Q. And that C.S.A.A.S. is not something to be used for purposes of diagnosing or saying whether a child has, in fact, been abused?

A. Correct.
Q. It is, instead, a tool used to dispel myths and to look at some things that typically might be associated with behaviors of the child sexual abuse victim?
A. I think that was its initial purpose, was to dispel myths and misperceptions for therapists. I think in its current use in the courts, is essentially do the same thing, to dispel myths or misunderstandings that the jury may have about sexual abuse.
Q. During the course of your personal work with about a thousand or so kids, have you specifically worked with kids who were victims of sexual abuse?
A. I have.
Q. And were those sort of victims that you could ascertain as known victims of sexual abuse, if you will?
A. For the most part, yes.
Q. And in working with that large number of children over the years, have you been able to personally observe some of the theories that were announced in Dr. Summit's papers?
A. For clinical purposes, I think Dr. Summit's article has done a very good job of initially providing me -- and now I use it for training with an understanding or foundation of what happens with sexual abuse, and so I use that for that purpose.
I also use it to try to explain to parents who come with their child with questions like why didn't they tell me sooner, how could this have happened to my child,

so it provides me with the framework to try to explain to parents about some of the dynamics that occur with sexual abuse and why is it that a child would have difficulty describing or disclosing victimization.

Q. And in treating a thousand or so kids, have you formed a personal opinion about whether you agree with the theories that Dr. Summit has put forward?

A. I have.

Q. What is your opinion?

A. Well, perhaps more importantly -- I mean, certainly my opinion is that it's consistent with what it is that I see in children who have been abused. I think probably more importantly, my opinion is that the research supports what the Child Sexual Abuse Accommodation Syndrome is by Dr. Summit.

MS. SIMPSON: I have no further questions.

THE COURT: Mr. Clancy?

MR. CLANCY: I thought he was testifying this afternoon, and I have some things in my car I need to get.

THE COURT: All right. We'll take a short break so you can go to your car.

So, ladies and gentlemen, let's take five, six, seven minute's break in the hallway. Please don't leave the hallway. Leave your notebooks here.

We'll start right up as soon as he returns.

(Break was taken.)

THE COURT: Again, we will show the presence of our jurors, alternates, and witness. And Mr. Clancy will

start cross-examination.

MR. CLANCY: Thank you.

CROSS-EXAMINATION

BY MR. CLANCY:

Q. Good morning Dr. Urquiza.

A. Good morning.

Q. We've met before?

A. Yes, about a month ago or something like that.

Q. I got a couple of things on your C.V. I'd like to clarify.

Did you get a bachelor of arts in June of '83 from the University of Washington in Seattle in psychology?

A. Yes, I did. And actually, the degree was in child development. I was in the department of psychology, but it was in child development.

Q. Now, you hold a license?

A. I'm licensed as a psychologist in the state of California.

Q. What organization is responsible for the issuing of licenses for psychology, the State of California?

A. Well, it's under the Department of Consumer Affairs, and I believe it is the board of professional practices or something like that. I forget. I can look on my license -- it says on there -- if you'd like. We're supposed to be carrying our license with us, so I should

have one here.

Board of psychology.

Q. Does the American Psychological Association issue licenses?

A. Not that I'm aware of, but I don't think it does.

Q. Does the American Psychological Association give its recommendation or approval on programs in the area of psychology?

A. On certain types of programs like internship programs -- for example, I have an internship program, and we recently, two years ago, applied, were site-visited, and we had two people from A.P.A. site-visit us. And we were reviewed and approved by the American Psychological Association. And I think they do the same thing with graduate programs, that you would offer both a master's degree and master's degree or HPD.

Q. Now, isn't it true the American Psychological -- well, universities issue doctorate degrees, correct?

A. Yes. Some issue doctorate degrees.

Q. In order to do that, they have to be approved to issue doctorate degrees, correct?

A. Yes. They have to be accredited, and then, usually, they're also approved by the American Psychological Association.

Q. I'm talking about what they're required to have in order to issue doctorate degrees?

A. I think that's accredited -- I don't think that's by A.P.A

Q. And accreditation is not done by the A.P.A.

A. I don't believe so.

Q. The issuing of a license by a university in the state of California requires the school be accredited?

THE COURT: You say a license?

MR. CLANCY: Degree. Excuse me.

Q. Is that correct?

A. That's my understanding.

Q. And the purpose of that is protect the public to do standards that the state issues?

MS. SIMPSON: Calls for speculation.

THE COURT: Do you know the answer?

THE WITNESS: It's not my area of expertise. I only know it in relation to my supervising our internship application in that there's an accreditation process which universities and colleges have to go through to be able to offer any type of degree, whether it's undergraduate degree or graduate degree, which is separate from American Psychological Association bestowing approval. It's a college -- university could have both accreditation and A.P.A. approval or probably only accreditation and not A.P.A. approval.

Q. And what is the Northwestern Association of Schools and Colleges?

A. I don't know.

Q. You went to a school in Washington state; is

that correct?

A. Correct -- well, to undergraduate and graduate school.

Q. Where did you get your doctorate degree?

A. University of Washington.

Q. And the University of Washington, in order to grant that doctorate degree, was accredited through the Northwest Association of Schools and Colleges; is that correct?

A. Wouldn't have that information.

Q. Okay. So you don't know what the governing bodies are --

A. Not for the state of Washington.

Q. -- for accreditation?

A. Correct.

Q. Now, I'd like to go over what it is that you're doing at this time, starting with the treatment. You indicated that you were no longer giving treatment; is that correct?

A. That's correct.

Q. And you had not been doing that for three years?

A. Approximately.

Q. In the last year that you were giving treatment, how much of your time was spent per week giving treatment?

A. Rough estimate, perhaps five to ten hours a week.

Q. Now, when you're saying "giving treatment," are you the primary treating person during this five or ten hours or are you supervising someone else?

A. That would be where I was the primary therapist.

Q. How long have you been operating at the level of maybe five hours to ten hours a week, how many years?

A. I don't know that I could tell you that. A few years. Most of my career has been carrying, roughly, a full-time caseload until we had a significant increase on our staff about seven or six years ago.

Q. So six years ago is when you started decreasing the amount of treatment that you were giving; is that correct?

A. Roughly.

Q. And then over a period of three years -- from six years ago to three years ago, you went down to zero; is that correct?

A. About three years ago, I stopped seeing treatment in therapy.

Q. Now, you talked about also doing -- get my notes here -- working on boards or advisory boards.

How much of your time, say per week or per month, do you spend working on advisory boards?

A. Probably not very many; probably not more than two or three hours a week. Most of the boards are national organizations -- I participate in are national organizations, so they meet quarterly or twice a year or

once a year. And so if you average, on a weekly basis, how much time I'm involved, it's not a lot.

Q. You said that you work teaching. Are these classes or internships?

A. They are part of our internship. I haven't taught a class, a formal, regular class, traditional class, since I stopped teaching at San Diego State University.

Q. What year was that?

A. I believe it was 1989.

Q. So the type of teaching you're doing now is more of one on one with individual interns?

A. Most I do some didactics, which is a seminar. We have three predoctoral interns, two postdoctoral fellows, so I do a didactic or seminar with them.

I also do some other presentations that are structured with my staff. But most of the teaching that I do at the moment is as a part of supervision that I do. And that is one and -- one or two staff people and myself, where they seek supervision. Sometimes they're -- often they are unlicensed staff people on a weekly basis.

Q. Have those people that are being educated for purposes of obtaining a higher degree, how much time are you spending a week or per month doing that type of teaching?

A. Well, I have a didactic I'm responsible for related to evaluations which is two hours every other week, that my responsibility is, and there may be as many

as another two hours I use in preparation for that meeting.

Q. So you're doing about four hours every two weeks?

A. Every other week, yes, that would be a rough estimate.

Q. Now, you mentioned that the other teaching that you were doing was in your supervisorial role. Are those people not going for advanced degree?

A. I supervise staff who have already received the degrees but are not yet licensed, and then I also supervise on a less frequent basis other supervisors, so those would be people who have received the degrees, received licenses and are senior staff of my program, and they supervise a lot of people. And so they -- I meet with them to address any issues or concerns they have with regard to the people that they supervise.

Q. With regard to the people that have degrees but are not licensed, how much time do you spend providing supervision?

A. It's about two hours a week.

Q. Now, how many people are you supervising in that position?

A. At the moment, two.

Q. Now, those individuals have to accumulate hours of therapy before they can become licensed; is that correct?

A. Correct.

Q. And do they report back to you progress with their patients, things like that?
A. Yes.
Q. You're not sitting in with them while they're giving therapy on a regular basis, are you?
A. It's occasional although rare that I would actually sit in. For example, about two weeks ago, one of the people who was unlicensed had a suicidal mother, and I actually helped. She called -- came into my office, and I helped, but that's uncommon.

It is very common for me to actually observe, usually through a one-way mirror, the treatment session.

Q. And you do about two hours of that per week; is that correct?
A. I meet with them for about two hours a week. Well, there's two of them, and we meet an hour each, so usually totals to about two hours a week.
Q. Now do you do, in the last year, interviews of children where abuse is suspected?
A. Not usually. Usually, the children that we see, some method has been used to determine whether the child has been abused already.
Q. Do you, at the request of the district attorney's office or the police, conduct interviews of children where abuse is suspected and then turn your results over to the police, say, in the last year?
A. No, that's not something I do.
Q. Have you done that in the last five years?

A. No. It's not something I do. You mean, like evidentiary interviews or evaluations whether abuse has occurred?

Q. Correct.

A. I don't do that.

Q. So you don't do evaluation interviews to determine if abuse has occurred, correct?

MS. SIMPSON: Objection. Can we approach?

THE COURT: Do you want this on the record?

MS. SIMPSON: Not initially, no.

(Sidebar.)

MR. CLANCY: Q. Now, you also talked about doing evaluations. I think you said most of them were for the juvenile court; is that correct?

A. Most of the evaluations I do are for juvenile court, yes.

Q. Were these evaluations to determine appropriate treatment?

A. For a number of reasons, one of the reasons may be a treatment.

Q. What other types of evaluations were you doing in the juvenile court other than for that kind *of* treatment?

A. There's a wide variety of reasons, issues such as in many of the children we do, evaluations are children who are involved in CPS or foster-care system, so some type of the child welfare system.

Some of the reasons for the evaluation include

assessment of parents' capacity to safely and adequately care for their child; to make an assessment of a child's progress in treatment; to make an assessment of the parents' progress in treatment; to determine whether it's appropriate for parents to reunify or children should reunify with the parents; sometimes to make a determination whether a recommendation should be made regarding termination of parental right; sometimes related to placement of siblings, especially in issues of adoption.

There's this thing called a bonding assessment that they use in the juvenile court system which is assessing the quality of the relationship between the parent and the child. Those are a few examples. But those are the types of cases in which a judge will order me to do an evaluation. I do the evaluation, and then report the findings of that evaluation back to Court.

Q. Am I correct in understanding, then, that all of these evaluations are basically after a determination has been made whether or not a molest has occurred?

A. Usually. Not always, but usually.

Q. Now, how many times have you testified concerning Child Sexual Abuse Accommodation Syndrome?

A. As I said earlier when Ms. Simpson asked me, I don't keep track, but I would estimate 75 to 85 times would be a rough estimate.

Q. Would those be in criminal cases?

A. Those would be criminal cases.

Q. And would those normally be for the prosecution?
A. Most of the time, yes.
Q. Have you ever testified for the defense?
A. I have.
Q. And approximately how many times?
A. About three times.
Q. And you're paid for your time, correct?
A. Correct.
Q. And you're paid one seventy-five an hour?
A. One seventy-five an hour.
Q. What's an average amount that you get paid when you take on one of these cases such as you did?
A. It's purely on an hourly basis, depending upon the time I have. So if I am testifying, I come from Sacramento, about an hour and fifteen minutes, an hour and a half from Sacramento to here. So let's say two and a half hours. And depends how long I take, so if I take two hours of time here, then four and a half hours might be, I don't know, 7, $800, if my math is good. My math is not that good, but $175 per hour for the time I'm involved in the case.
Q. Okay. Do you do any preparation with the district attorneys before you come to testify?
A. Not usually. It is typical for me to not know very much about a case. For example, in this case, I know almost nothing about the case.

I have talked with Ms. Simpson on a number of

occasions, mostly that's been related to scheduling and what day and what my availability has been.

Q. Do you brief the district attorneys about potential questions the defense attorneys will ask you?

A. I explain to them what I testify about. That doesn't change. I explain to them issues that I think might be valuable for them to know about, but it's a little difficult because I don't usually know about the case so it's hard for me to provide information since I don't know anything about the case.

Q. Do you ever do any or have any time involved in the case after you're through testifying? For example, reviewing what defense experts have testified about?

A. Not usually, no.

Q. Have you in this case?

A. I haven't finished testifying in this case yet.

Q. Have you in a case that you and I had several months ago?

A. No. I actually had heard about the outcome of that case.

Q. I'm asking about the testimony about another witness?

A. I have not read the testimony of any expert witnesses on the case we were both involved in.

Q. Now, when you do an evaluation, these types of evaluations that you were doing in the juvenile court -- use those as an example -- isn't it important for you to be unbiased?

A. Usually, yes.
Q. Isn't it important for you to not be an advocate for one side or the other but really do a fair evaluation?
A. Those are not mutually exclusive. I think it's important to be unbiased. I think of myself as an advocate for the child and family.

One of the things that I think I advocate for most strongly is a healthy relationship and a safe relationship, but within that context, certainly I usually advocate, as I believe, that children should be raised by their parents in a healthy way.

Q. What is a "confirmatory bias model"?
A. Confirmatory bias model, it's more of a statistical term really meaning, bias or err that may result from someone having a predisposed opinion about the outcome.

So if you have a preliminary opinion about an outcome going into something, you may be more likely to find that than if you had a completely neutral opinion.

Q. Is that sometimes referred to as a single-hypothesis model?
A. It could be.
Q. And -- well, let me -- do you have a copy of Child Sexual Abuse Accommodation Syndrome?
A. I do not.
Q. Well, we have one made for you.
A. This is your copy?

Q. It's the DA's copy. I forgot mine.

Is that -- taking a look at the document that's been given to you, is that a copy of "Child Sexual Abuse, Child Abuse Accommodation Syndrome"?

A. Yes. A copy of the article that Dr. Summit wrote in 1983, yes.

Q. I would like to go through some of the quotations that are contained in that article. By the way, you've seen these boards before; is that correct?

A. Again, we had an acquaintance a month, month and a half ago, and I saw them at that time.

Q. I would like to go through the first board and read the first quote: Acceptance and validation are critical to the psychological survival of the victim.

Is that a quote from Child Abuse Accommodation Syndrome?

A. Actually, it's crucial to the psychological survival of the child; you said critical.

Q. Crucial?

A. Yes. We had gone through this before, so I know they all are because we've done this before.

Q. Validation means letting the child know that they're being heard, correct? What does "validation" mean?

A. I think that's a reasonable explanation of validation in this context, that they're being heard, being understood, being supported.

Q. So he is promoting acceptance and validation,

right?

A. I would agree with that, yes.

Q. Let's go to the next one. The validation of the child's perception of reality, acceptance by adult caregivers, and even the emotional survival of the child may all depend on the knowledge and skill of the clinical advocate.

A. Right. It's on here, but I remember from our conversation before that that was on here somewhere. I just don't see it at the moment.

Q. So he's talking about a clinical advocate, not an evaluator?

A. He's talking about somebody who would be supportive and advocating for the child.

Q. And he's asking them to accept the child's perception of reality?

A. That's where I think it would be best for me to take it, in context rather than out of context, which means I have to look for it on this page.

Q. Please do.

A. The entire sentence says: In a crime where there is usually no third-party eyewitness and no physical evidence, the verdict, the validation of the child's perception of reality, acceptance by adult caretakers and even the emotional survival of the child may all depend on the knowledge and skill of the clinical advocate.

Q. He's talking about individuals coming in and testifying and advocating for the child, right?

A. I'm not sure that he's necessarily talking about that. I mean, if you remember from my prior testimony, we have an assumption that the child has been sexually abused because the Child Abuse Accommodation Syndrome describes what happens as a result of being sexually abused.

Q. So the paper --

THE COURT: Let him finish.

THE WITNESS: So what we're talking about is advocating for a child who has been sexually abused. Not presuming that maybe the child has been or hasn't been providing advocacy for them. That we're providing advocacy for a child who has been sexually abused

MR. CLANCY: Q. So it starts with the position that the child that they are talking about in the article has, in fact, been sexually abused?

A. That's the assumption, and then describes what commonly occurs.

Q. Okay. Clinical experience and the experience testimony can provide advocacy for the child?

A. Page 183 and begin to reiterate --

THE COURT: Wait. There's no question. If you wanted to check and see.

THE WITNESS: Yeah.

MR. CLANCY: Q. That's a quote from the Child Abuse Accommodation Syndrome?

A. Yes, it is.

Q. And again, he refers to providing advocacy,

correct?

A. Correct.

Q. Next quote, is this accurate? They need an adult clinical advocate to translate the child's words into an adult acceptable language.

A. That's from Dr. Summit's articles.

Q. And again, he's talking about an advocate?

A. An advocate for a child who has been sexually abused, yes.

Q. Let's go to the next quote. Is this an accurate quote?

Without a consistent therapeutic affirmation of innocence, the victim tends to become filled with self-condemnation and self-hatred for somehow inviting and allowing the sexual assault?

A. As I recall, I think there was a slight mistake in one of these from the last time, and I'm looking for that one on this page. But I don't see it.

I'm at a loss here. I'm sure it's on this page here, 183.

Q. 183?

A. Without a consistent therapeutic affirmation -- there it is.

Without a consistent therapeutic affirmation of innocence. Okay. I'm sorry for the delay.

Q. So you have to keep supporting the child in their story so they don't feel that it's their fault?

A. Correct. That you would support the victim so

they don't feel it's their fault.

Q. Let's go to the next one: As an advocate for the child, both in therapy and in court, it's necessary to recognize no matter what the circumstances, the child had no choice but to submit quietly and keep the secret.

That's an accurate quote from Child Abuse Accommodation Syndrome, isn't it?

A. That's correct.

Q. And they're talking about advocating, not just in therapy but in court, correct?

A. Correct.

Q. Let's go down to the next one: The more illogical and incredible the initiation scene might seem to adults, the more likely it is that the child's plaintive description is valid.

That's a quote?

A. That's correct.

Q. So if what the child says is illogical and incredible, it's more likely that it's valid?

A. That's what his statement is. I think that's somewhat of an odd statement, but that's what it says.

Q. It's advocating that no matter what the child says, you're supposed to believe it, isn't it?

A. Again, I'll take it back a little bit. What we're talking about is a child who has been sexually abused and sometimes situations arise where the circumstances of their victimization may not seem logical or may not seem critical. And so I believe what

Dr. Summit is saying, even in those situations where they're illogical or incredible, for a child who has been sexually abused, that -- I think that he thinks it's important to recognize the validity *of* their experience.

Q. The next one: Unless there's an expert advocacy for the child in the criminal court, the child is likely to be abandoned as the helpless custodian of a self-incriminating secret which no responsible adult can believe. He's advocating using this theory in court, isn't he?

A. And here's the correction.

Q. Let's look at the next quote on page 188. I'm going to read it to you. Tell me if it's accurate.

The psychiatrist or other counseling specialist has a crucial role in early detection, treatment intervention and expert courtroom advocacy. The specialist must help mobilize skeptical caretakers into a position of belief, acceptance, support and protection of the child.

It's a quote from the Child Abuse Accommodation Syndrome?

A. And protection of the child or protection of children.

Q. So he's advocating this theory from the time of earliest detection, isn't he?

A. Right. As soon as -- what I think he's saying, as soon as a child who has been abused is identified, early detection, and treated -- treatment intervention, and even to the point of supporting them if the case goes

to court, that it would be important to provide a sense of belief, of acceptance, and support and protection of that child.

Q. So he's advocating believe the child, isn't he?

A. Actually, I think what he's saying, for those children who are sexually abused, he is advocating the belief that they are sexually abused.

Q. But this is what he said: He's advocating believe the child?

A. Right. And I think what I said earlier, we're starting from the assumption that this describes what happens with a child who has been abused, and so given that, he's advocating that we should support the child's assertions or statements or disclosures.

Q. Next quote: Unless there's a special support for the child and immediate intervention to force responsibility on the father, the girl will follow the normal course and retract her complaint. The girl admits she made up the story.

That's a direct quote?

A. Yes.

Q. So he's basically saying when they retract the story, the retraction is false?

A. With a child who has been sexually abused, yes.

Q. The next quote: The clinician with an understanding of the child sexual abuse accommodation syndrome offers the child a right to parity with adults in the struggle for credibility and advocacy.

That's a direct quote, isn't it?

A. I'm looking for it on page 191.

Q. 191?

A. That is correct.

Q. So he's encouraging people to be advocates on the credibility of children, correct?

A. And again, I think I would repeat what I was saying earlier, assuming that the child has been abused which is what accommodation syndrome is talking about, then he is advocating or providing some support for their credibility that people believe that they have been abused and advocacy for them.

Q. But he's advocating using this -- a courtroom -- the credibility issue?

A. I think you could use it -- if your perception is the accommodation syndrome should be used to make a determination about whether the child is abused or not -- which I previously said I don't agree with -- then I think that issue of credibility would have one interpretation. That is, you know, we're looking to see if they're credible, if they're telling the truth or not telling the truth. That, I think, goes out the window when we're talking about the fact that we've assumed the child has been abused.

Child accommodation syndrome is all about what has happened with the child who's been abused. In that case, we're providing support or credibility for the child in their disclosure.

Q. Isn't Roland Summit the person who came up with the theory believe the child, all allegations are true?
A. Not sure of that. I've not heard that.
Q. The last quote, it has become a maxim among child sexual abuse intervention counselors and investigators that children never fabricate the kind of explicit sexual manipulations they divulge in complaints and interrogations. That's a quote from the Child Abuse Accommodation Syndrome in 1983?
A. Right. That's a quote from the Child Abuse Accommodation Syndrome. That's actually not Dr. Summit's position or words. That actually was taken from Elmer Dean Muldoon, an article in nineteen -- or maybe a book, 1979, "Incest: Confronting the Silent Crime," Minnesota Program for Victims of Sexual Assault, in which --
Q. He didn't say don't believe this? He put it in his article. He put this out to the world.
A. He did, in fact, put that in his article and I think he's describing, essentially, a position that was made by this organization in Minnesota.
Q. But he felt that he -- well, he incorporated it into his article?
A. That is correct.
Q. Near the conclusion section, correct?
A. It is in the second to the last page of text.
Q. Isn't it true that the Child Sexual Abuse Accommodation Syndrome is an advocacy model?
A. I would agree with that. It advocates for some

characteristics with children who have been sexually abused.

Q. Doesn't it provide an advocacy to explain any possible defense that could be brought up, some explanation out of it?

A. I wouldn't have an opinion about that. I mean, my job is not to have an understanding of defense or legal issues related to defense, but really about psychology and mental health and child abuse.

Q. Have you taught this to police, Child Sexual Abuse Accommodation Syndrome, have you taught it to the police?

A. I don't specifically recall teaching about Child Sexual Abuse Accommodation Syndrome to the police. There may have been police in presentations I did but I don't remember teaching Child Abuse Accommodation Syndrome to a police group.

Q. Have you ever in your research written any research having to do with how police are conducting investigations?

A. No. That's not my area.

Q. Have you taught CPS workers?

A. I have, yes.

Q. CPS workers do investigations in juvenile court, correct?

A. That's correct.

Q. Have you talked to them about Child Abuse Accommodation Syndrome?

A. Again, I don't believe I specifically taught a presentation on Child Abuse Accommodation Syndrome to CPS workers, but I have talked about child abuse and talked about accommodation syndrome as a part of that and some of the characteristics of accommodation syndrome as a part of that.

Q. Have you written any -- or have you conducted any research and published an article on how to question a child in evaluating whether or not a molest has occurred?

A. That's not my area of child abuse research. I have not.

Q. Secrecy was the first of the five categories that Roland Summit talked about; is that correct?

A. That's correct.

Q. Now, if a child fabricates an allegation of molestation, they can say that it occurred right now, it's happening right now, he's touching me right now, or it happened sometime in the past, correct? Those are the only two choices?

A. That's correct.

Q. And if they say it happened right now, the witness would be able to look and see it, correct?

A. Sure.

Q. So if they say it happened a month ago, six months ago, a year ago, that would give the appearance that they have kept a secret for six months or a year, wouldn't it?

A. It could give that appearance.

Q. And Dr. Roland Summit never talked about that in the article, did he?

A. Dr. Summit -- what you're essentially talking about is false allegations, and Dr. Summit did not talk about false allegations in his article.

Q. Now, an investigator might ask a child in a suggestive way did he tell you to keep a secret. That can happen, can't it?

A. It could happen, yes.

Q. Does Roland Summit talk about that might be an explanation for secrecy, for a child's secrecy?

A. Again, that issue of suggestibility or that the allegation was false was not a part of Dr. Summit's focus or intent in talking about the Child Sexual Abuse Accommodation Syndrome.

Q. You talked about helplessness?

A. Yes.

Q. You talked about children being molested are helpless, right?

A. Helpless, vulnerable, relatively powerless.

Q. Isn't it true that all children are helpless, whether or not they've ever been molested?

A. That characteristic is, in different ways, consistent with certainly many children who are younger or smaller or in some ways less powerful than others.

Q. Now, he also talked about entrapment; is that correct?

A. Yes.

Q. And he talks about children accommodate abuse due to imbalance of power, would that be fair to say?
A. Generally because of the circumstances that they're in.
Q. Children can also accommodate an adult who want to falsely accuse someone, can't they?
A. I'm not sure I understand.
Q. Domestic case, husband and wife fighting over custody, can't a parent have an influence on the child, the child's statement?
A. Certainly a parent could have an influence on a child's statement.
Q. And if the child went along with that, that would be accommodating that parent, right?
A. I think you could use the word "accommodating." I'm not sure that's consistent with what Dr. Summit is talking about.

I mean, I don't think he's talking about changing your perspective to fit the domestic violence. I think he is being quite unique in talking about accommodating as related to symptoms or mental health problems or sources of coping that a child who has been sexually abused would engage as a result of their abusive experience.

Q. Well, being raised in a family that has an alcoholic in it, would children accommodate that?

MS. SIMPSON: Objection. Vague.

THE COURT: You understand the question, Doctor?

THE WITNESS: I think he's asking me if you're a child who's raised in an alcoholic family, would you cope if you want to use the syndrome to accommodate.

THE COURT: On that understanding, the objection is overruled.

You can answer.

THE WITNESS: And I would agree that there would be some element of learning how to cope with an experience or modify the way in which you live your life or think or feel if you came from a family where one or both parents were alcoholics.

MR. CLANCY: Q. Same is true if you came from a family where there was violence, isn't it?

A. I think there's an element of learning how to cope or adapt to other types of violence if you have somebody who is just a violent person, if there's an issue of domestic violence, you know, kids learn to make adaptations or changes in the style in which they think or feel, based upon a lot of different types of dominant themes, particularly aggressive ones.

Q. And Roland Summit never talked about, in a false allegation case, how children might accommodate, did he?

A. No, he didn't. Dr. Summit's article was not about false allegations. It was, quite simply, about what commonly occurs with a child who has been sexually abused.

Q. Number four, delayed conflict and unconvincing disclosure. That was one of his four field -- four areas?

A. It's five areas. That was the fourth.
Q. Fourth of the five?
A. Correct.
Q. Delayed -- he talked about children can delay because they're embarrassed, right?
A. That could be one reason, yes.
Q. A delay can also be because, in a false allegation case, they point to a time in the past, and it happens six months ago, a year ago, give the appearance of a delay even though there wasn't?
A. Well, if it's an appearance of a delay, even though there wasn't one, I would argue isn't applicable to the accommodation syndrome. As we talked earlier, accommodation syndrome is about children who have been sexually abused. So you can't have a delay in disclosure about being sexually abused if you haven't been sexually abused.
Q. It would give the appearance of one?
A. You can have the appearance -- if you made a false allegation about something that happened in the past, you could have that.
Q. It also talks about the quote we had on incredible stories, incredible stories can be caused because the story is false, it's a false allegation, correct?
A. It is possible that if you were going to make up a story, you're going to have a false allegation of abuse, it is quite possible that that could be a story

that could be incredible.

Q. Did Roland Summit talk about that an incredible story could be caused by false allegation?

A. Dr. Summit wrote an article what commonly occurs to children that have been sexually abused. It was not his intention to write about false allegations.

Q. It was a single-hypothesis article?

A. It was -- no, wasn't single-hypothesis article. He wasn't using it to make a determination about whether the child was abused or not. He wasn't using it with regard to hypothesis. He's using it -- and actually, I think his 1990 article goes specifically to that point -- and when he uses the term "pattern," he's not making a determination about whether the child is abused. He's describing the pattern of behavior that sexually abused children exhibit.

Q. And these patterns can exist in false allegations cases also, right?

A. Well, I would argue and perhaps agree with you to some degree. There are certain characteristics that are consistent with kids that have not been abused. But I would disagree with the basic position of that question because the accommodation syndrome is used to provide a description of a child who has been sexually abused.

So if they have not been sexually abused, then there is no issue of secrecy. What would you keep an issue of secrecy about if you have not been sexually abused? What would you delay in disclosing if there was

no abuse to have a disclosure about?

I mean the question you're asking me sort of leads to the issue of using accommodation syndrome as a means to make a determination whether somebody is abused or not, and --

Q. He indicated under the section called delayed conflict and unconvincing -- that the inconsistencies may be caused by the trauma of the abuse, correct?

A. That would be one of the reasons, yes.

Q. But he never talked about inconsistencies can be caused by the allegation being false?

A. And again, Dr. Summit's article was not about false allegations. It was about describing what commonly happened with a child who was abused.

Q. And the fifth section was called retraction, correct?

A. Correct.

Q. And he indicated children can retract stories of abuse to preserve the family?

A. That would be one of the reasons.

Q. Isn't it also true that a retraction can be true? In other words, they retract a false allegation?

A. That could be the case, but that wouldn't be consistent with accommodation syndrome. I mean, that's not the accommodation syndrome. It is possible that a child can make an allegation that is not true and retract that allegation which would then be true. I don't want to get too convoluted, but that could be the case. But that

wouldn't be an applicable part of the accommodation syndrome because, again, we're dealing with the assumption that the child has been abused.

Q. Does he advocate keeping the child away from nonbelievers so that they won't retract?

A. I don't recall specifically.

MR. CLANCY: One moment, please.

THE COURT: Sure.

(Brief pause in proceedings.)

MR. CLANCY: Q. Do you see any danger in teaching a jury one way to evaluate a fact without teaching the other way?

MS. SIMPSON: Objection. Improper question.

THE COURT: I think I understand the question. Do you understand the question, Doctor?

THE WITNESS: I have a sense the intent of the question. I'm not sure I understand the specific question itself.

MR. CLANCY: Let's see if I can rephrase.

THE COURT: Go ahead.

MR. CLANCY: Q. Roland Summit came out with an article years later saying it was being misused, right?

A. Correct.

Q. Do you see any danger in teaching -- whether it's a jury or the police or CPS workers -- Child Sexual Abuse Accommodation Syndrome without, at the same time, teaching them the flip side having to do with false allegations?

A. Well, my understanding of what Child Abuse Accommodation Syndrome is as presented by Dr. Summit has been fairly well supported. Not completely -- there are some inconsistencies, but fairly well supported -- by the literature.

I don't see a danger of presenting to any group -- whether it's law enforcement, social workers, teachers or members of a jury -- what research has to say about what happened with kids who have been sexually abused. It's my opinion that general people in the community, their perception of what sexual abuse is and how kids respond, is usually taken from newspaper accounts, magazines, sort of sensationalistic television stories, not what research has to say. And so I don't see the danger of providing information what research has to show about sexual abuse.

Q. You don't see a danger of them not seeing both sides of the story?

A. To the best of the knowledge that we have with regard to what research has to say, I don't know that there is a different side of the story. I'm presenting to you what research has to say about child sexual abuse, the effects of child sexual abuse, the dynamics of sexual abuse.

If there's another side of the story, then I don't know what that is, or it wouldn't be my place -- if there is, I don't know quite what would be the example.

If the other side of the story would be most

children are sexually abused by strangers, I think it would be dangerous if you had somebody come and say most children are sexually abused by strangers, because that's not what the research shows. It shows somebody they have an acquaintance with. That's what I said, and that's what the research supports.

Q. Nowhere in the child sex -- Child Abuse Accommodation Syndrome, which uses the word "advocacy" over and over and over again, does it discuss issues of false allegations; isn't that correct?

A. That's correct. That was not Dr. Summit's intention and that wasn't the focus of the article.

MR. CLANCY: I have no further questions.

MS. SIMPSON: I'd ask he be able to finish the answer.

THE COURT: Were you able to finish your answer?

THE WITNESS: Just that it provides a description of what commonly occurs to a child that has been sexually abused.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MS. SIMPSON:

Q. I just want to make this clear for the twentieth time here. The C.S.A.A.S. theory is based on the assumption that a child has been sexually abused; is that correct?

A. Correct.

Q. And you're not here today to tell this jury whether the alleged victim in this case was, in fact, molested or not; is that correct?

A. That's correct.

Q. We're here to talk about dispelling commonly held myths about what a child would or wouldn't do if they have, in fact, been molested?

A. Well, I think the reason Dr. Summit wrote the accommodation syndrome to begin with is to dispel myths or misperceptions that therapist had back in 1983. That's why I currently use it or how I currently use it when I use it with interns in my program. And I think that's consistent with what the intention here is today, which is to dispel any misperceptions that members of a jury would have about what commonly occurs with a child who has been sexually abused.

Q. Mr. Clancy talked about the possibility of false allegations and suggestibility. Are you familiar with any research on the topic of suggestibility?

A. There has been or have been probably about eight or ten articles trying -- I'm sorry -- on suggestibility?

Q. Yes.

A. There actually has been a fair amount of research on issues of suggestibility probably over the last ten years.

Q. And are you familiar with whether there's any kind of an age range, if you will, that is more at this

point identified in a question of whether someone has been subjected to suggestible allegations of sexual abuse?

A. Well, the history of suggestibility research over the last ten years seems to suggest that certain age children -- and certainly those would be kids who are in the preschool-age years, even five, sometimes even six, years of age -- depending upon the studies, while they can be able to provide good, clear, accurate information, if presented with improper questioning, leading questions or certain types of questions, they can be more suggestible than older-aged children.

So certainly preschool-age kids -- the gray area -- tend to be those five, six-year-old age kids. After that age period, the issue of suggestibility appears to decrease substantially.

Q. If I can direct your attention to the bottom of page 179, starting with the word "the purpose of this paper,'' would you read to the jury Dr. Summit's own words on the purpose of this paper?

A. Sure. The purpose of this paper then, is to provide a vehicle for a more sensitive, more therapeutic response to legitimate victims of child sexual abuse and to invite a more active, more effective clinical advocacy for the child within the family and within the systems of child protection and criminal justice.

Q. I want to direct your attention to the bottom of statements here on the board that Mr. Clancy held up starting with "Clinical experience and expert testimony

can provide advocacy for the child" at page 183.

He goes on to quote: They need an adult clinical advocate to translate the child's world into an adult-acceptable language.

In looking at page 183, there's actually a line missing here in between?

A. Correct.

Q. And that line read: Children are easily ashamed and intimidated, both by their helplessness and inability to communicate their feelings to uncomprehending adults?

A. That's correct.

Q. If I can direct your attention to the board where there's reference to the theory that it has become a maxim among child sexual abuse intervention counselors and investigators that children never fabricate the kind of explicit sexual manipulations they divulge in complaints or interrogations, which you stated was actually a citation from another author incorporated into the article?

A. That's correct.

Q. Indeed, the line prior to this statement, which, again, is based on footnote, read: Very few children, no more than two or three per thousand have ever been found to exaggerate or invent claims of sexual molestation?

A. That's correct.

Q. That statement precedes this statement that

Mr. Clancy showed you?

A. Yes.

Q. And indeed, the statement that precedes Mr. Clancy's statements is also cited to a footnote; is that correct?

A. Correct.

MR. CLANCY: May we approach?

THE COURT: On the record?

MR. CLANCY: On the record.

THE COURT: All right. In chambers.

(Whereupon the following was conducted in chambers:)

THE COURT: We're in chambers with both counsel. Mr. Clancy, waiving your client's presence?

MR. CLANCY: Yes.

At this time, I'm moving for a mistrial for a direct violation of the court order to not bring the percentages into this case. That's a direct violation.

THE COURT: I don't understand.

MR. CLANCY: I asked that there be an order that this witness not be allowed to testify about what percent of the cases are false. You granted that order. And now it has been directly violated.

THE COURT: All right.

Ms. Simpson?

MS. SIMPSON: Well, Your Honor, Mr. Clancy has

introduced specific out-of-context statements which he is attributing to Dr. Summit, and I think that for the jury to properly receive those statements in evidence, they have to be able to understand what the context is, what ideas, what suppositions precede these statements by Dr. Summit to understand what he's talking about, where he's going.

I don't think it's at all inappropriate for experts to rely on hearsay. That is not to suggest that the victim in this case is telling the truth. I think it is proper for experts to rely on hearsay research, and whether that is tantamount to percentages, I don't think is necessarily running afoul of any of the Court's ruling.

Mr. Clancy did indeed introduce this statement, and I think it's helpful for the jury to understand the context. And this is the statement that immediately precedes the statement that he offered to the jury, trying to suggest that Dr. Summit believed that all kids tell the truth at whatever cost, and that is a misrepresentation of this article.

THE COURT: I don't think this is the first reference to that, either.

MS. SIMPSON: I don't either.

THE COURT: I don't remember whether it was a response to one of your direct questions or yours that this reference was made.

MR. CLANCY: It's the first time I saw it.

THE COURT: In any event, Mr. Clancy, you may

respond, and then I'll rule.

MR. CLANCY: The last thing is that the Court ordered this should not be gone into unless we approached the bench and got specific permission. I'm now going to have to present evidence that this number is false, it's an advocacy number, and I was trying to avoid that.

THE COURT: All right. First of all, my memory -- and I'd have to have the reporter research this for me; I'm not going to rely on this -- but my memory is this is not the first mention that this gentleman has made of percentages and truth-telling, but I didn't write it down specifically to be able to make reference to it.

But secondly, and more importantly, I think that, in picking individual sentences out of a document and questioning the witness here about the efficacy of those statements, while proper methods of cross-examination invites rehabilitation by way of explanation from the other side, and she is only quoting from material contained in the article that you crossed on.

So I think that there was not a violation of my court order and the motion for mistrial will be denied.

As to where you choose to go, I think we'll have to wait and see. In any event, let's -- do you have more questions of the witness?

MS. SIMPSON: I don't think so.

THE COURT: Let's *see* where we are.

(Whereupon the following was conducted in open court:)

THE COURT: Okay. We're again back in court with all the participants.

Ms. Simpson?

MS. SIMPSON: If I could have just a moment, Your Honor.

(Brief pause in proceedings.)

MS. SIMPSON: Q. I want to direct your attention lastly to the statement about illogical and incredible things described by children.

Mr. Clancy showed you a quote on page 183 that read: The more illogical and incredible the initiation scene might seem to adults, the more likely it is that the child's plaintive description is valid.

I want to refer your attention to the same page at the top of page 183. Dr. Summit writes: Children often describe their first experiences as waking up to find their father (or stepfather, or mother's live-in companion) exploring their bodies with hands or mouth. Less frequently, they may find a penis filling their mouth or probing between their legs. Society allows the child one acceptable set of reactions to such an experience. Like the adult victim of rape, the child victim is expected to forcibly resist, to cry for help and to attempt to escape the intrusion. By that standard, almost every child fails.

Was Dr. Summit providing some --

MR. CLANCY: Is there a question?

THE COURT: I'm waiting.

MS. SIMPSON: Q. Was Dr. Summit providing, at the bottom of page 183, some frame of reference to some of the unusual situations that children can find themselves in when they're being sexually abused and the fact that adults shouldn't necessarily discredit their reports?

A. I think what he was trying to say is that those things that occur in sexually abusive relationships between an adult or significantly older person and the child may seem incredible to people who don't have a good understanding of what goes on with sexual abuse.

I mean, it's difficult to -- even sentences that you just read, it's sometimes difficult to understand all of the experiences, especially from the perspective of the child, that go on in a sexually abusive relationship. And from that position, it may well seem incredible that these things really happened.

Q. And again, lastly before I conclude, all of Dr. Summit's conversation and theories that he talks about in his article are premised on the idea that the child has, in fact, been sexually abused?

A. Correct.

MS. SIMPSON: No further questions

THE COURT: Recross.

MR. CLANCY: Nothing further.

THE COURT: Okay. Witness excused or subject to

recall?

Mrs. Simpson?

MS. SIMPSON: Subject to recall, please.

THE COURT: All right, the understanding then, Doctor, is that you may go about your business at this point, but if asked to return, we'll try and work out the time. Obviously, if you're required to return, you'd still be under oath.

THE WITNESS: Okay.

THE COURT: With that --

THE WITNESS: What do I do with this?

THE COURT: You can give it back to Mr. Clancy.

THE WITNESS: Okay. Thank you.

(Witness excused, subject to recall.)

State of California)
)ss.
County of Contra Costa)

I, Lori Cheda, a Certified Shorthand Reporter in and for the State of California, do hearby certify:

That said proceedings were taken before me at said time and place and were taken down in shorthand by me, and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said proceedings which took place.

JULY 2, 2004

Lori Cheda

Certified Shorthand Reporter