

1 prior to your side resting to talk to your attorneys about
2 whether or not you were going to testify or not. And I
3 asked you a couple of questions, or I asked you one
4 question about talking to your attorneys, and you indicated
5 you did not wish to testify.

6 But given your subsequent statements, I want to
7 make absolutely certain that it is your decision to not
8 testify at this trial.

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: So, is it correct it is your decision
11 to not testify at this trial?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Is it correct you did not wish to
14 testify at this trial?

15 THE DEFENDANT: Yes.

16 THE COURT: All right, and there were some
17 further discussions about the charge, most specifically or
18 at least what would be imminently the request for a missing
19 witness charge and that is denied.

20 We discussed a number of other matters and I will
21 amend some of the language that both sides have alerted me
22 to, and we will get you a copy of the verdict sheet as it
23 currently is, once it is free of typos.

24 And other than that, Ms. Rotunno, are the final
25 instructions in their current form satisfactory for you to

1 make your closing argument?

2 MS. ROTUNNO: Yes Judge.

3 THE COURT: Are you ready to go?

4 MS. ROTUNNO: I am.

5 THE COURT: Jury is entering. So Ms. Fabi
6 Samson, e-mail me the particular language.

7 COURT OFFICER: Jury entering.

8 (Jury enters courtroom).

9 THE CLERK: Case on trial continues, all parties
10 are present. Do the parties stipulate the jury is present
11 and properly seated?

12 MS. ILLUZZI: Yes.

13 MR. CHERONIS: Yes.

14 THE COURT: All right, welcome back jurors, I hope
15 you had a good Lincoln's Birthday holiday.

16 Members of the jury, you'll now hear the
17 summations of the lawyers.

18 You will hear from Ms. Rotunno today and tomorrow
19 you will hear from ADA Illuzzi.

20 Following the summations, we will recess for the
21 long weekend and then return on Tuesday morning at 9:30 at
22 which time I'll instruct you on the law. And after that,
23 you will begin your deliberations in rendering your
24 verdict.

25 Under our law, defense counsel sums up first and

1 the prosecutor will follow.

2 The lawyers may not speak to you after that.
3 Summations provide each lawyer an opportunity to review the
4 evidence and submit for your consideration the facts,
5 inferences, and conclusions that they contend may properly
6 be drawn from the evidence.

7 If you find that a lawyer has accurately
8 summarized and analyzed the evidence, and if you find that
9 the inferences and conclusions that the lawyers asks you to
10 draw from that evidence are reasonable, logical, and
11 consistent with the evidence, then you may adopt those
12 inferences and conclusions, either in whole or in part.

13 On the other hand, if you find that a lawyer has
14 not accurately summarized and analyzed the evidence, and if
15 you find the inferences and conclusions the lawyer asks you
16 to draw from that evidence are not reasonable, logical, and
17 consistent with the evidence, then you may disregard those
18 inferences and conclusions, either in whole or in part.

19 Either way, you are free to draw your own
20 conclusions based on your analysis of the evidence
21 presented.

22 Members of the jury, please bear in mind the
23 following points: First, you are the finders of fact and
24 it is for you and you alone to determine the facts from the
25 evidence that you find to be truthful and accurate.

1 Thus, whatever the lawyers say, and however they
2 say it, you should remember that what the lawyers say is
3 simply argument submitted for your consideration.

4 Second, remember, the lawyers are not witnesses in
5 this case. So if a lawyer asserts as fact something that
6 is not based on the evidence, you must disregard it.

7 Remember, nothing the lawyers say at anytime is
8 evidence. So nothing the lawyers say in their summations
9 is evidence.

10 You have heard the evidence and must decide this
11 case on the evidence as you find it and the law as I
12 explain it.

13 Third, during the summations, one lawyer's
14 recollection of the evidence may in good faith differ from
15 the recollection of the other lawyer or from your own
16 recollection, and the lawyers will undoubtedly differ with
17 each other on the conclusions to be drawn from the
18 evidence.

19 It is your own recollection, understanding, and
20 evaluation of the evidence however that controls,
21 regardless of what the lawyers have said or will say about
22 the evidence.

23 You and you alone are the judges of the facts in
24 this case.

25 If during your deliberations you need to have your

1 recollection of the testimony refreshed, you may have all
2 or any portion of the testimony read back to you.

3 Fourth, remember under our law I'm responsible for
4 explaining the law, not the lawyers.

5 However, prior to the summations, the lawyer were
6 permitted to read the instructions on the law that I will
7 deliver to you after their summations, and the lawyers are
8 permitted to refer to portions of those instructions in
9 their summations if they wish to do so.

10 However, even though a lawyer may refer to
11 portions of those instructions, you must listen carefully
12 to all the instructions that I will give you after the
13 summations.

14 If you think there is any difference between what
15 the lawyers may have said and what I say the law is, your
16 sworn duty as jurors is to follow my instructions on the
17 law.

18 Fifth and finally, if during the summations I
19 sustain an objection to a comment of a lawyer, that comment
20 will be stricken from the record and you must disregard it
21 as if it were never said.

22 If I overrule an objection, the comment will
23 stand.

24 Whether I sustain or overrule an objection or on
25 my own indicate a comment must be disregarded, my ruling

1 indicates only that the comment does or does not violate
2 one of the rules of law set down for lawyers to follow
3 during a summation.

4 It is not an attempt to indicate that I have an
5 opinion on what is said or of the facts of the case or
6 whether the defendant is guilty or not guilty.

7 Remember, under our law, you and you alone judge
8 what facts, if any, are proven, and whether the defendant
9 is guilty or not guilty, not I and not the lawyers.

10 We will now turn to the summations, Ms. Rotunno.

11 MS. ROTUNNO: Thank you, your Honor. Right at the
12 time of the sirens, I'll let it pass.

13 Good morning ladies and gentlemen. Before I delve
14 into the sum and substance of the summation, I want to
15 first thank you for your time, your attention, your
16 promptness everyday.

17 We know that is not easy leaving your own lives
18 and coming here to listen to what we present to you
19 everyday and we appreciate it.

20 We know it is difficult to be pulled from your
21 respective lives and ask to serve your fellow citizens, but
22 as citizens of this great country, it is one of the most
23 important duties we have.

24 Harvey thanks you. After all, your fate, his fate
25 now lies in your hands.

1 Take that responsibility seriously. You 12 are
2 now going to be the judges of the facts and evidence in
3 this case.

4 You will wear the black robes.

5 Well, here we are. We finally came to the point
6 of the trial where all of the questions you asked, you were
7 asked during jury selection matter.

8 When you walked into this courtroom at the
9 beginning of January and discovered this is the case you
10 were called for, you knew the importance, the significance,
11 the scrutiny you felt as a result.

12 You listened to all the questions asked of you
13 during jury selection and you all said that you would
14 listen to the evidence and you would make a fair
15 determination after listening to everything that was
16 presented before you.

17 Just a few weeks ago you were all plucked from
18 your own lives, brought here. You were at work, you were
19 at work, and you were brought here and asked to do the
20 right thing in a room full of strangers.

21 You don't know me, you don't know Judge Burke, the
22 prosecutors, Miriam Haley, Jessica Mann, or Mr. Weinstein.

23 You are being asked to make a decision about Mr.
24 Weinstein, another humanbeing. It is not an easy task, but
25 it is one of the most important that will ever be asked of

1 you.

2 You promised during jury selection you would have
3 the courage to make the right decision even if it was not
4 the most popular.

5 You promised to render your verdict based on
6 evidence or the lack of evidence no matter how unpopular
7 you might be when you went back to work or back to your
8 homes.

9 The District Attorney has failed to prove their
10 case beyond a reasonable doubt. On behalf of Mr.
11 Weinstein, we are imploring you to have the courage to tell
12 them that by saying not guilty on all counts.

13 From the beginning, you knew this case was a big
14 deal. This is not just any other case. You hear the
15 typing of the key boards, and you see the flash of the
16 cameras. In fact, every one of you was familiar with this
17 case before you arrived for jury duty.

18 However, it is like every other case in that the
19 same rules apply.

20 You need to block out all the noise, and you need
21 to show the world that here in New York City, in the United
22 States of America, we don't cave to the pressures.

23 We will not allow outside forces to dictate an
24 objective review of evidence.

25 You will not have the luxury six weeks, six

1 months, six days after your verdict to change your mind.
2 The time to do the right thing is right now.

3 Every person in this country is cloaked with the
4 presumption of innocence. And because of that, it is this
5 table's responsibility to prove guilt. And if you take
6 that away from Mr. Weinstein, you take it away from each
7 and every one of us.

8 As Harvey sits here, he sits here an innocent
9 man. He was innocent when the District Attorney charged
10 him with an indictment. He was innocent when he walked in
11 the doors on January 6th at the start of this trial. He
12 was innocent when each witness took the stand. And he's
13 innocent as he sits here right now.

14 MS. ILLUZZI: Objection Judge.

15 THE COURT: Overruled.

16 MS. ROTUNNO: The Judge is going to instruct you
17 on the law. Throughout these proceedings, the defendant is
18 presumed to be innocent. As a result, you must find him
19 not guilty unless from the evidence presented at this trial
20 you conclude that the People have proven the defendant
21 guilty beyond a reasonable doubt.

22 It is not a small doubt, it is not a little doubt,
23 it is beyond a reasonable doubt.

24 We were told throughout the course of our lives we
25 have to trust our gut. When you came into One Hundred

1 Centre Street for the first time, you may have had a gut
2 feeling that you thought Harvey Weinstein could be guilty.

3 In a courtroom setting, you have to throw that gut
4 feeling right out the window, because you have to evaluate
5 evidence and never let your emotions cloud your intellect.
6 If you do that, and if you do nothing else than evaluate
7 the evidence after listening to the witnesses and apply the
8 legal standard of proof beyond a reasonable doubt, you
9 cannot find Mr. Weinstein guilty.

10 In determining whether the People have satisfied
11 their burden of proving the defendant's guilt beyond a
12 reasonable doubt, you may consider all evidence presented;
13 whether by the People or the defendant.

14 In doing so however, remember even though the
15 defendant introduced evidence, the burden of proof still
16 remains right here.

17 During deliberations, I'm going to ask you that
18 you use your New York City common sense. Use it as a
19 beacon of light. And everytime you feel emotion taking
20 off, I want you to remember that common sense when
21 evaluating this evidence, because it will guide you to the
22 right answers.

23 The defendant is not required to prove that he or
24 she is not guilty. In fact, the defendant is not required
25 to prove or disprove anything.

1 To the contrary. The People have the burden of
2 proving the defendant's guilt beyond a reasonable doubt.

3 That means before you can find the defendant
4 guilty of a crime, the People must prove beyond a
5 reasonable doubt every element of the crime, including that
6 the defendant is the person who committed the crime.

7 The burden of proof never shifts from the People
8 to the defendant. And if the People fail to satisfy their
9 burden of proof, you must find the defendant not guilty.

10 If the People meet their burden of proof, you must
11 find the defendant guilty.

12 When does our law, what does our law mean when it
13 requires proof of guilt beyond a reasonable doubt?

14 The law uses the term proof beyond a reasonable
15 doubt to tell you how convincing the evidence of guilt must
16 be to permit a verdict of guilty.

17 The law recognizes in dealing with human affairs,
18 there are very few things in this world that we know with
19 absolute certainty.

20 Therefore, the law does not require the People to
21 prove a defendant guilty beyond all possible doubt. On the
22 other hand, it is not sufficient to prove that the
23 defendant is probably guilty.

24 In a criminal case, the proof of guilt must be
25 stronger than that, it must be beyond a reasonable doubt.

1 I don't know if you remember the example the Judge
2 used during jury selection. He talked about if you are
3 getting on a plane and you ask the pilot if the plane is
4 safe and he says probably, it is probably not a flight you
5 want to take.

6 That is the type of standard we are talking about
7 here. And if you look at the evidence and you say maybe
8 he's guilty, probably he's guilty, that is not enough.

9 There is something very special about the jury
10 process. It is a great equalizer. Each one of you has one
11 vote, and that one vote is equal to the vote of everyone
12 else.

13 You all come from different experiences, and you
14 bring different things from your own lives into the
15 deliberation room. No matter where you grew up, no matter
16 where you went to school, no matter what you do for a
17 living, each one of you has one powerful vote.

18 Although you must deliberate with an open mind,
19 you should never be bullied or pressured to change your
20 decision.

21 Even if you are now friendly with somebody sitting
22 next to you or someone you spent time within the last four
23 weeks you consider a friend, stand your ground.

24 Historically, you are the last line of defense in
25 this country from overzealous media, from an overzealous

1 prosecution. You are the ones that are here asking, being
2 asked to make possibly an unpopular decision.

3 You don't have to like Mr. Weinstein, this is not
4 a popularity contest. And you have to remember that we are
5 not here to criminalize morality, and thank God, because if
6 we were, we would probably all be in some trouble.

7 In this country, it is the unpopular people that
8 need juries the most. So, I want you to remember that, when
9 you are in the deliberations room, remember the unpopular
10 person needs you the most.

11 In their opening statement, I'll go back to this.
12 A reasonable doubt is an honest doubt of the defendant's
13 guilt for which a reason exists based upon the nature and
14 quality of the evidence.

15 It is an actual doubt, not an imaginary doubt. It
16 is a doubt that a reasonable person acting in a matter of
17 this importance would be likely to entertain because of the
18 evidence that was presented or because of the lack of
19 convincing evidence.

20 Proof of guilt beyond a reasonable doubt is proof
21 that leaves you so firmly convinced of the defendant's
22 guilt, that you have no reasonable doubt of the existence
23 of any element of the crime or of the defendant's identity
24 as the person who committed the crime.

25 In determining whether or not the People have

1 proven the defendant's guilt beyond a reasonable doubt, you
2 should be guided solely by a full and full evaluation of
3 evidence. After carefully evaluating the evidence, each of
4 you must decide whether or not that evidence convinces you
5 beyond a reasonable doubt of the defendant's guilt.

6 Whatever your verdict may be, it must not rest
7 upon baseless speculations nor may it be influenced in any
8 way by bias, prejudice, sympathy, or by a desire to bring
9 an end to your deliberations or to avoid an unpleasant
10 duty.

11 There is something that I want to talk to you
12 about that the Government brought up in their opening
13 statement.

14 In their opening statement, Ms. Hast, we have a
15 sinister tail of a man who searched out his victim by
16 putting women through a series of tests.

17 The Government has to weave a story, because
18 without a story, they know that if you had to look at the
19 evidence alone from their prospective, they lose.

20 They know they lose the ultimate test when each
21 woman took the witness stand, so they had to deflect and
22 try to trick you into making sense of the nonsensical.

23 Try to explain the inexplicable, the irony is that
24 the ADA's in this case are the producers and they are
25 writing the script.

1 In their story, they have created a universe that
2 strips adult women of common sense, autonomy, and
3 responsibility.

4 It is offensive actually. In their universe women
5 are not responsible for the parties they attend, the men
6 they flirt with, the choices they make to further their own
7 careers, the hotel room invitations, the plane tickets they
8 accept, the jobs they ask for help to obtain.

9 In their universe, they are not even responsible
10 for sitting at their computers sending e-mails to someone
11 across the country.

12 In this script the powerful man is the villain and
13 he's so unattractive and large, that no woman would ever
14 want to sleep with him voluntarily. Regret does not exist
15 in this world, only regret renamed as rape.

16 Ms. Illuzzi is going to address you tomorrow. She
17 will go on and on, she will be emotional, she will be
18 invective, and she will rile you up.

19 But you have seen the evidence, and it does not
20 matter how many times she points at Mr. Weinstein or me,
21 the evidence will not become more helpful to her plight,
22 quite the contrary.

23 Prompt outcry. You must consider whether whoever
24 was testifying complained of the crime promptly or within a
25 reasonable period of time after its alleged commission.

1 If you find that the complaint was made promptly
2 or within a reasonable time, you may consider whether and
3 to what extent if any the fact tends to support the
4 believability of the witness's testimony.

5 If you find the complaint was unreasonably
6 delayed, you may consider whether and to what extent, if
7 any, the fact tends not to support the believability of the
8 witness's testimony.

9 The charges in this case are not evidence. The
10 indictment is not evidence. The indictment simply states
11 the charges. Neither the indictment itself nor the fact an
12 indictment has been filed constitutes evidence.

13 The defendant has pleaded not guilty to the
14 charges contained in the indictment, and the trial is to
15 decide whether the defendant is guilty or not guilty.

16 As we talked about before, just because Mr.
17 Weinstein was indicted, does not change the fact that he
18 holds on to that presumption of innocence.

19 Consent. Lack of consent results from
20 circumstances under which at the time of the act of
21 intercourse, the complainant clearly expressed he or she
22 did not consent to engage in such an act. And a reasonable
23 person in the actor's situation would have understood the
24 complainant's words and acts as an expression of lack of
25 consent to understand such act under all circumstances.

1 Forcible compulsion. Forcible compulsion means to
2 intentionally compel either one, by the use of force; or
3 two, by threat expressed or implied which places a person
4 in fear of immediate death or physical injury to himself or
5 herself or another person, or in fear that he or she or
6 another person will immediately be kidnapped.

7 You have heard from many witnesses in this case.
8 They are all listed on the screen. But in the end, it only
9 comes down to those two. And if you do not believe Miriam
10 Haley or Jessica Mann, you don't have to evaluate anything
11 else.

12 You don't get to Annabella Sciorra if you do not
13 believe Miriam Haley, and if you do not believe Jessica
14 Mann, you don't get to Annabella Sciorra.

15 Lets talk about Miriam Haley. The Government will
16 tell you e-mails don't matter, that they belie the truth,
17 and that the truth was that Miriam Haley was sexually
18 assaulted by Harvey Weinstein.

19 But for some reason she decided to put that in a
20 box and move on.

21 Put it in a box and go on as normal. Well, in
22 what other circumstances would a real time evidence not
23 matter.

24 If this were a kidnapping case and the alleged
25 victim sent an e-mail to her kidnapper saying thanks for

1 the vacation, had a great time, lots of love. Would that
2 be relevant to whether a kidnapping occurred?

3 If someone was charged with stealing a watch and
4 there was an e-mail from the alleged victim saying hey, how
5 is that watch I gave you, wear it in good health. Would
6 that matter? You bet it would.

7 And it matters here.

8 If there was one e-mail between Miriam Haley and
9 Harvey Weinstein or between Jessica Mann and Harvey
10 Weinstein that in any way, shape, or form established that
11 assault occurred, there wouldn't be a screen big enough for
12 them to put it up here for you.

13 They would say look, don't you see there is proof,
14 there it is in black and white.

15 We have shown you black and white, we have shown
16 you that it matters, that the truth matters, and it does
17 not change.

18 This is the timeline of events of Miriam Haley.
19 She meets Harvey at an Aviator premier with Michael White
20 in 2004. In 2006 she claims she meets Mr. Weinstein at a
21 hotel in Cannes, and claims of an awkward instance where he
22 asks her for a massage and she's offended.

23 In June of 2006 after being so offended, she goes
24 to work on her Project Runway, which is a Weinstein Company
25 show.

1 She then, after moving to New York to work at
2 Project Runway, goes to meet Harvey at the Mercer Hotel,
3 June 27th of 2006. Sometime in June she receives a Paris
4 invitation she does not accept.

5 July 10th she claims sexual assault at his Soho
6 apartment. The next day she flies to L.A on a Weinstein
7 ticket. She comes back from L.A on July 24th on a
8 Weinstein ticket, and two days later meets Mr. Weinstein
9 and engages in a consensual sexual encounter.

10 July 31st, she contacts Harvey's office to see if
11 she can go, and then after that, three days later she flies
12 to London on a Weinstein ticket.

13 September 8, 2006, Miriam reaches out to Harvey
14 and his assistant about seeing him in London, and then in
15 2007 she pitches a TV show to him. Later in 2007 she
16 requests premier tickets from Harvey and she continues
17 contact with Mr. Weinstein after the fact.

18 Let's go through Miriam's testimony.

19 She meets Harvey Weinstein in 2004 with Michael
20 White. They have connections in the industry, knowledge of
21 the industry, and she's 29 years old. She's an adult.

22 Her motive at the time was to meet other people
23 that can help her in the industry, and then she runs into
24 Harvey Weinstein in Cannes in 2006.

25 She's looking for a job. So what does she do, we

1 can look at her calendar, and her calendar is going to be
2 of prime importance here because the calendar tells the
3 true story. The calendar is what happened in real time
4 when she's feeling the things she's feeling, when she's
5 making the appointments she's making.

6 On Monday, May 22nd of 2006 she has Barbara
7 Schneeweiss's phone number and you can see the last name is
8 scribbled out. I think she said on the stand because she
9 didn't know how to spell it.

10 What does she do, she has a meeting with Mr.
11 Weinstein at the Majestic Hotel at two p.m on Wednesday May
12 24th. She tells you at that meeting she thinks she's going
13 for this professional meeting and she goes to the meeting
14 and Harvey asks her for a massage.

15 She was offended, she ran out the door, I think
16 she said she was crying and she could not believe that she
17 would be so silly to think that he actually wanted to help
18 her.

19 Now, if we look at these crossoffs here, you can
20 see at the top, that was the original slide from her
21 calendar, underneath it says call Harvey and Emily.

22 If we look back, we could see I think that comes
23 from the top of that calendar on the 23rd. As I said, she
24 has Barbara Schneeweiss's phone number before she goes to
25 the Majestic, crosses off call Harvey and Emily. I have no

1 idea why she would cross that off.

2 She admitted she was trying to convince Mr.
3 Weinstein on cross examination to give her a job, that she
4 would be a runner, she would do anything that she could.

5 She claims the first thing he does is asks for a
6 massage. But yet, she's offered a job and she accepts the
7 job.

8 If you remember, we talked about on cross
9 examination the fact that she left the meeting with Mr.
10 Weinstein's phone number.

11 And on cross examination she was asked about when
12 did you receive the phone number in the context of this
13 meeting and feel humiliated and crying. And Mr. Cheronis
14 said it would be normal to take a number at the end of a
15 meeting and she said yes, I guess.

16 You left the room, and you left the room you
17 testified and started crying. Answer, once I left the
18 hotel. When did Mr. Weinstein give you his phone number
19 during the course of that. Answer, I don't recall when he
20 actually gave it to me. Question, somebody's phone number
21 is usually the last thing you get, right. Probably.

22 At some point during that meeting, they must have
23 talked about Project Runway because Miriam has a note in
24 her calendar that says call Harvey's office about Project
25 Runway. Barbara, it looks like there is a check mark next

1 to it as she did that. We know she did that because she
2 got the job.

3 Here is an e-mail per your request, I called
4 Miriam Haley today to let her know that we have a position
5 open on Project Runway. Please let me know, she let me
6 know she does not have a work visa. That said I asked her
7 to take care of the requisite paperwork. If she needed us
8 to write a letter on her behalf we would be happy to do
9 so.

10 I let her know we would hold the job for her but
11 we wrap production June 20th.

12 We know when she was coming to New York she was
13 coming for a job that was going to last less than three
14 weeks, and the Weinstein Company was happy to help her work
15 on her issues regarding her visa.

16 Once Harvey offered her the job, she picked up her
17 life and moved to New York.

18 She works on Project Runway for about two weeks,
19 and remember her friend Liz Entin that testified, we will
20 get back to her. She claims Miriam worked on Project
21 Runway for five months which we clearly know is not what
22 happened.

23 Miriam calls Barbara Schneeweiss and we know she
24 has her number before she goes to the Majestic.

25 There we see it again on the calendar from May

1 23rd.

2 Now, she calls Barbara on the 29th, we know from
3 the e-mail on June first that she's coming to New York. We
4 see she's getting in touch with Charles Meech at the
5 Weinstein Company and she's making plans.

6 Let's look at her state of mind during this time
7 in June in New York.

8 I know it was discussed at length when she was on
9 the witness stand, and she was asked do these hearts, these
10 flowers, do they indicate your state of mind at the time.
11 She comes to New York, she's living in New York. I love
12 love, I love love, I love New York, I love stuff.

13 We can turn to June 22nd, this is your entry for
14 June 22nd all right. I think everyone can see it, this is
15 your entry in your calendar for June 22nd through June
16 24th, correct. Yes. You write I love New York, I love
17 love, I love New York, I love stuff, and draw a bunch of
18 hearts above it and what looks like a rocket ship, yes.

19 Is it fair to say when you drew that, that
20 reflected how you felt about New York at that time. Answer
21 yes. You drew I love these things and you drew hearts,
22 correct. Things you draw when you are in a good mood.
23 Answer yes.

24 Now, let's get to June 27th of 2006. We know from
25 the e-mail on June first that her time on Project Runway

1 has come to an end. And she had told you about the
2 incident in Cannes at the Majestic where she left feeling
3 upset and humiliated.

4 She takes a request from Mr. Weinstein to meet her
5 at the Mercer Hotel in New York City.

6 She talks about that meeting as wonderful. They
7 were joking, it was a great meeting, and she felt like at
8 that point she didn't have to worry about how Mr. Weinstein
9 was acting.

10 Of course she tells you she was certainly not
11 acting flirtatious with Mr. Weinstein, because of course no
12 one in this case ever acted flirtatious with Mr. Weinstein
13 in any way.

14 They have a nighttime meeting in a bar. So when
15 we talked about that common sense earlier, I want you to
16 think about what that meeting was really about.

17 You know that Miriam Haley was a flirtatious
18 person because you heard it from her roommate Liz Entin.

19 Liz Entin tells us about a meeting at Cipriani
20 with Harvey and Miriam that Miriam left out. And Liz Entin
21 knows about it because she said it was the only time she
22 ever met Harvey Weinstein, and she tells you Harvey
23 Weinstein grabbed Mimi and said how attractive she was.

24 So for Miriam to say she never had any intentions
25 with Mr. Weinstein and that she never knew of any

1 intentions Mr. Weinstein had with her, is clearly false.

2 And again, this is what happens when we don't look
3 at real time evidence and we only listen to someone else
4 when they come into a courtroom.

5 You remember Dr. Ziv. Dr. Ziv talked about how
6 you have to look beyond only self reporting because if we
7 are only listening to what someone says without looking at
8 e-mails, without looking at communications, without looking
9 in context of what was happening during the relationship,
10 you cannot look at that reported information as being
11 purely truthful. You have to go beyond that.

12 That is what we are doing here. We are going
13 beyond that so we can take ourselves back to June 26th or
14 June 27th of 2006 and say what was this meeting really
15 about.

16 Did she want another job, did she want to come and
17 hang out with Mr. Weinstein. And we know if we look at
18 e-mails further, and we will get to it, that she sends Mr.
19 Weinstein an e-mail many years later reminiscing about this
20 night.

21 This meeting is a couple of weeks prior to the
22 July 10th assault she claims, and it is a few weeks after
23 she claims he asked for a massage in the hotel.

24 You described to the members of the jury he was at
25 times charming and funny during the conversations. Yes.

1 He was sharing things he loved about the movies apparently
2 yes. You don't really remember that conversation at all
3 well. No. You came away from it feeling good. Yeah.

4 The prosecutor's opening statement they tell you
5 Miriam didn't just catch on and left the meeting more
6 confident than she had been right about Harvey Weinstein
7 that he was embarrassed by that first encounter and he was
8 trying to convey to her they could have a professional
9 relationship. But the evidence will show unbeknownst to
10 her, she passed another test.

11 This is that alternative universe that they need
12 to create for you so you don't go back and look at evidence
13 in real time.

14 There were no tests. Mr. Weinstein was a busy man
15 in 2006, in 2008, in 2013, 14, 15, 16, he was calendered to
16 the umpth degree, meetings every half hour, and for them to
17 make you think that he developed some grand plan to meet
18 women is obscene.

19 Then she talks about receiving a Paris invitation
20 shortly after the meeting at the Mercer. She says Harvey
21 begs her to go. Even though we know based on the man from
22 border patrol came in and told us Mr. Weinstein was in
23 Paris with Georgina Chapman. She was not his wife at the
24 time but they traveled to Paris, was in Paris together and
25 came back on two different days.

1 So the fact he's begging her to go when he was
2 already going with somebody else begs the question that it
3 actually makes no sense.

4 Miriam talks about how she declines that Paris
5 invitation because she knew that it was romantic in nature.

6 So, this invitation happened shortly after the
7 Mercer where she says she leaves feeling great. She talks
8 about how Mr. Weinstein shows up at her apartment.

9 But what you don't remember about this, this is
10 the same day that she goes back to the Weinstein Company
11 because she said she wanted to return a book.

12 He shows up at her house, and she said he proceeds
13 to text and beg. And that somehow he's able to enter her
14 apartment.

15 Now, we have heard a lot of testimony in this case
16 about people entering apartments, and I will talk
17 specifically about this situation, and I'll move to
18 Annabella when we get there.

19 But you saw the doors, you saw the circumstances
20 of how you have to buzz in one door, buzz in a second door
21 and somehow know where you are going.

22 Miriam came out to greet Mr. Weinstein. Miriam
23 allowed Mr. Weinstein to come into that apartment, and when
24 she told him you have a terrible reputation with women, he
25 leaves.

1 When you told him that he had a terrible
2 reputation with women, there was something you said to the
3 jury, you just wanted to shut him down, right. Correct.
4 It was just the two of you alone in the apartment at that
5 time, yes. Nobody else is there. Nobody else was with you
6 and Mr. Weinstein at that point, correct. No, apart from
7 potentially the pets.

8 So, he does not put his hands on her, does not
9 touch her. Two people there alone. She says you have a
10 terrible reputation with women and he leaves.

11 We know the story about how he got in. It was
12 unbelievably contrived as I talked about. Get in the front
13 door, get through the second door, make a left and right,
14 find the apartment, and enter the apartment.

15 Question, a regular apartment, Mr. Weinstein could
16 just not walk right in because there is a security door,
17 right. There is a buzzer, you need to buzz in to get into
18 the apartment, correct.

19 So Mr. Weinstein would have had to sit out there
20 all day unless you came to the door. Correct.

21 Is that story credible? That is for you to
22 decide. It is for you to decide, or is this a story she
23 contrived to try to make sense of all of the other things
24 that they are trying to make you believe took place between
25 Ms. Haley and Mr. Weinstein?

1 Miriam claimed to jokingly tell Harvey that he had
2 a bad reputation, and just like that, he leaves. He's
3 gone, he's not interested in her anymore and he likes her
4 less.

5 This is important, because she uses this
6 interaction as the reason she continues to stay in contact
7 with him. She says I was afraid he didn't like me as much.

8 If you think about that statement and you think
9 about how that applies to the relationship they allegedly
10 had based on her account, why would she care, why would she
11 care that she thought he liked her less because she didn't
12 go to Paris.

13 She cared because they had more of a relationship
14 than she wants you to believe.

15 She cared because they had a flirtatious
16 relationship. She cared because she was using him for
17 jobs. She cared because she wanted him to fly her places.
18 But she cannot tell you that because then the rest of her
19 actions don't make sense.

20 This is what we have to ask ourselves with regards
21 to Paris: We knew she had an issue with regards to a work
22 visa. So she was asked could you leave the country, come
23 back and still get it, that should be in, still get in.
24 She answer I have no idea.

25 Now, if you are here on a visa and you stay longer

1 or here on a different type of visa and you try to leave
2 the country, you cannot get back in. This is why she does
3 not go to Paris. And we know that because she has no
4 problem saying I can't go to Paris, and then accepts a
5 ticket to L.A.

6 So, she says I do not want to go to Paris with
7 Harvey Weinstein because Harvey Weinstein was showing some
8 interest in me and I did not want to be a part of that
9 experience.

10 But then how does she explain away going to L.A.
11 It is a longer flight actually, but she does not have to
12 leave the country.

13 So here is where things get interesting for Miriam
14 and Miriam's story. She goes to the grand jury on June
15 18th, she tells the grand jury that she goes to the Soho
16 apartment on July 10th because as we left it, I thought
17 Harvey Weinstein was mad at me for rejecting the Paris
18 invitation.

19 Now remember, this is the woman who has been to
20 the Majestic, claims she leaves crying because she's so
21 insulted by the request for a massage.

22 This is a woman who says he barged his way into
23 her apartment, she wanted him to leave.

24 This is a woman who says oh, I could not go to
25 Paris with him because I have no interest in him

1 whatsoever. But then on July 10th, thinks absolutely
2 nothing about going to his house in Soho.

3 When asked why she agreed to go to the apartment
4 alone, her response she had no reason not to.

5 If she had no reason not to, then you have to call
6 into question whether anything happened at the Majestic and
7 whether there was of any issue about her rejecting Paris or
8 him coming to her house. Because if there were, then she
9 would have had a reason, she would have had a reason not to
10 go.

11 This is an excuse for a fact that she cannot
12 admit. Either Miriam Haley did not want to be alone with
13 Harvey Weinstein and would not put herself in such a
14 position, or she did want to be alone with him and she
15 cannot admit that fact to you. But either way, there is a
16 huge question you need to ask yourself there about the
17 motivation for going to that apartment on July 10th.

18 And remember, border patrol came and told you
19 Harvey Weinstein arrived back in New York at 5:30 p.m at
20 Teterboro. Made stops we know from his credit cards and
21 somehow got home and met Miriam on July 10th.

22 (Continued on next page)

23

24

25

1 (Continued from the previous page.)

2 MS. ROTUNNO: Miriam's lying about the nature of
3 her interactions with Harvey Weinstein at the Majestic
4 Hotel in Cannes and the Paris invitation or is she telling
5 the truth and she agrees to go to his hotel anyway?

6 Either way you need to look at these actions and
7 her testimony and it should raise serious doubt as to her
8 credibility.

9 She previously told the Grand Jury, as we left
10 it, I had rejected Paris and I thought he was mad at me.
11 But on July 9th she sends an email to Charles Meech, one of
12 Mr. Weinstein's assistants, and writes, Harvey kindly
13 offered to fly me to Los Angeles.

14 So which is it?

15 She can't go to Paris but she is willing to go to
16 LA?

17 Here is the email to Charles and, again, this is
18 now after the Majestic and this is after he allegedly
19 barges his way into her home but he kindly offers to fly
20 her to LA and she waits. She waits until Sunday to call
21 and she wants to leave two days later, signs it, all the
22 best, Miriam.

23 Once she is confronted she stated that when she
24 testified in front of the Grand Jury in June she still had
25 not seen this email.

1 What don't you think about that answer?

2 What that tells you is she has created whatever
3 she creates in her mind and then when she is confronted
4 with actual evidence that she cannot run from, she realizes
5 why it's a problem. She realizes that she has now said,
6 oh, that's right. He did fly me to LA when she never told
7 anyone else that before.

8 This also illustrates the problem that I talked
9 about before with Dr. Ziv and self reporting versus relying
10 on objective evidence.

11 Miriam did not decline any invitation to Paris
12 for fear of being alone with Mr. Weinstein. Mr. Weinstein
13 wasn't mad at her. He offered to fly her to Los Angeles
14 and she accepted.

15 This is where the truth leaves a paper trail.

16 Well, you remember testifying in front of the
17 Grand Jury in June of 2018 and were you asked these
18 questions and did you give these answers:

19 Question, why did you agree? Why? What were you
20 thinking about going to see him?

21 Answer, well, I was still in the exact same
22 position as far as like wanting a good relationship with
23 him. I would like the opportunity and the work and that he
24 sort of said I could have the following year or whatever.

25 And so, I was still in the same position and as

1 we left it, I had rejected his Paris invitation. I also
2 felt like he kind of didn't like me so I sort of wanted to
3 make the relationship better.

4 Did you say those things?

5 Yes.

6 And in the Grand Jury you didn't mention that he
7 kindly offered to fly you to Los Angeles, did you?

8 Well, you testified that you thought he didn't
9 like you because you had rejected the Paris invitation,
10 right?

11 Answer, yes, that's how I remembered. He didn't
12 like me as much, yes.

13 Before that though, as we can see from the July
14 9th email, he had kindly offered to fly you to Los Angeles?

15 Answer, I had not yet seen the email and I didn't
16 recall at the time that he offered for me to go to LA.

17 Remember, he didn't just offer for her to go to
18 LA. She went to LA.

19 So you didn't see that email before you testified
20 in front of the Grand Jury?

21 I don't recall seeing it, no.

22 So when we went to Mr. Weinstein's apartment on
23 July 10th, she already had the ticket in motion on July
24 9th.

25 So when she says, I don't really know why I went

1 there, I had no reason not to, I thought he was mad at me
2 about Paris, nonsense because she is leaving for Los
3 Angeles the next day.

4 Why does Harvey Weinstein offer to fly her to Los
5 Angeles?

6 She says because her friend was having a baby and
7 she asked him to.

8 Now, do you know many employers who are going to
9 fly you to Los Angeles for two weeks so you can see your
10 friend having a baby?

11 Of course not. She and Mr. Weinstein were having
12 a relationship. He offered to fly her to Los Angeles like
13 you would if you were someone in his position and you were
14 seeing someone who wanted to go and see a friend.

15 And why do we know that?

16 Because she wants to wrap it around The Clerks
17 premier, acting as if she was going Los Angeles because of
18 that and was able to stay for the friend. We know that's
19 not true because she doesn't even go to The Clerks premier.
20 She blows The Clerks premier off.

21 And then, again, here we are looking at her state
22 of mind and her rocket ships and her hearts.

23 Why did Harvey offer to fly her to Los Angeles?

24 She said she was broke. She stayed there for two
25 weeks and she flew in on the day of The Clerks premier.

1 The prosecutor's opening statement they say, in
2 fact, that the day she reached out to take advantage of the
3 offer, Harvey Weinstein invited her to his apartment.

4 Miriam, having just accepted the flight to LA and
5 the premier and wanting to keep this professional
6 relationship, accepted the invitation.

7 Again, we are back to this wanting to label
8 everything as a professional relationship and they have to
9 do that. They have to label it as a professional
10 relationship because if they label it as what it was, we
11 wouldn't be here.

12 Soho, July 10th.

13 July 10th is the alleged incident where Miriam
14 says that Harvey Weinstein assaulted her in his apartment.

15 Now, remember, she is flying to Los Angeles on
16 his ticket the next day.

17 Regardless, regardless of the version of events
18 that she has described to you leading up to July 10th, what
19 do we know?

20 We know that Miriam went to Harvey's apartment
21 alone to spend time with him at night after he returns from
22 Paris, which is what you do when you are seeing someone and
23 it's new.

24 What do you do when you are in a new relationship
25 with someone and they fly home from a trip?

1 You go to their house.

2 Do we know if she's correct about this July 10th
3 date that she tells us?

4 We don't know. We spoke to the agent from Border
5 Patrol Crossing who tells us what time Mr. Weinstein's
6 plane landed at Teterboro. He had to get through the
7 airport, fight the Monday traffic, get back to Soho, we
8 have credit card receipts to show he could have made some
9 stops.

10 Now, let's look at this July 10th entry in the
11 calendar. Much of this -- much was made of this during on
12 the course of the trial.

13 You see the, HW, on the bottom?

14 Now, remember, think about back in the days when
15 we kept handwritten calendars. I actually still keep them.

16 If someone calls you and you go to their house
17 immediately, I got a call he was coming back from Paris, I
18 went to the house, when do you write that in your calendar?

19 That wasn't a planned visit. That wasn't a
20 planned appointment.

21 We talked about this a lot during testimony
22 because if you look at other HWs in her calendar, it looks
23 different and even when asked on cross-examination, did you
24 write that first HW and she said, well, I presume because
25 it's in my calendar.

1 And if we look back she tells you that solacious
2 story about the fact that she had her period and the HW is
3 written on the bottom very close to the P.

4 If we look again at another HW in her calendar on
5 October 9th of 2006, it again looks much more like the one
6 from July 26th of 2006, than it does the July 10th of 2006.

7 Do we know when that HW was written in her
8 calendar on July 10th?

9 We don't but we do know if she wrote it down
10 after the fact it probably makes sense whether it was a day
11 later, ten days later or ten years later.

12 What we know is that she wanted to document that.

13 Usually, if something terrible happens to you,
14 you don't document it with just a HW. You probably put a
15 big circle around it and say, bad day, probably not have
16 hearts in her calendar.

17 But seeing Harvey was something that made her
18 happy.

19 How do we know that?

20 We know that when we look at the emails that come
21 later in the years where she reminisces about this summer
22 with Harvey Weinstein. That's how we know.

23 November 6th, there is another HW where she sees
24 Harvey in London.

25 If we go back to the July 10th, HW, are those

1 similar?

2 The answer, not really.

3 Did you write them both?

4 Answer, like I said, I don't know that anyone
5 else would have written in my calendar so I would say, yes.

6 Let's talk about her ride over to the Soho
7 apartment.

8 She tells you that when she is riding over to
9 that apartment, she tells the Grand Jury, that there was a
10 New York Post article in the car, in the back of the car
11 that she was being driven over in. And in that article she
12 says it talked about Georgina and Harvey being in Paris.

13 And she said that she thought he planted it there
14 to make her jealous.

15 Ask yourself, jealous of what?

16 If this -- if they don't have a relationship and
17 it's all professional, what would she have to be jealous
18 about?

19 But what we know is that she lied about that.
20 And the reason we know is because and there is a
21 stipulation that was read into evidence that there was no
22 New York Post article on July 10th regarding Harvey and
23 Georgina.

24 There was a July 11th article which she would
25 have seen when she was going to Los Angeles in the car and

1 we will get there in a minute.

2 And, finally, when somebody from the DA's Office
3 looked for this article, because, again, if it was a July
4 10th article it would be on a screen bigger than this one
5 showing us, look it corroborates her story; no, it doesn't.

6 So, finally, when somebody tells her, that's when
7 she again changes her story.

8 The problem is, she had already given a very
9 detailed account of how she felt on July 10th and how she
10 felt was that it was there to make her jealous.

11 And if it was there July 11th when she went to
12 Los Angeles to make her jealous, maybe that's because they
13 had a relationship and it wouldn't make sense that it was
14 there to make her jealous if he assaulted her the night
15 before.

16 There is the article.

17 Question, and that New York Post was actually
18 opened to an article about Harvey Weinstein?

19 No, it wasn't. I know. No, it wasn't. It was
20 in the back seat of the car, back pocket of the seat.

21 Question, you spoke to the DA in this case in
22 June of 2018, correct?

23 Answer, yes.

24 When you spoke to the DA, there were prosecutors
25 there, there were people taking notes, correct?

1 Yes.

2 And you told them about some of the things you
3 are telling the jury today?

4 You went over your version of events, correct?

5 Yes.

6 And when you spoke to the DA in June of 2018, you
7 told them that when you got into the back seat of the
8 vehicle there was a New York Post article opened up, didn't
9 you?

10 I don't believe I did.

11 Do you remember telling them that when you saw
12 the New York Post article there was a picture of Harvey
13 Weinstein and his wife in the article?

14 No.

15 Do you remember telling the DA that you thought
16 Harvey Weinstein had planted it there to make you feel
17 jealous?

18 No, no. I said I wondered if he had planted it
19 there.

20 You wondered if he had planted the article about
21 him, correct?

22 No, the New York Post there because it was the
23 only thing in the back of the car.

24 Let me ask you a question, why would Mr.
25 Weinstein be planting a New York Post?

1 The truth is you told the DA you thought he
2 planted a picture of him and his wife in London, correct?

3 That's not correct at all, not correct at all.

4 Well, the truth is, you found out after the
5 statement that the article didn't come out until July 11th,
6 correct?

7 Answer, I have been told that there was an
8 article on July 11th. I never thought he planted a picture
9 in the New York Post.

10 And you never told the DA's Office that on July
11 10th when you got into that vehicle there was a New York
12 Post article open about Harvey Weinstein and Georgina
13 Chapman, you never said that?

14 No, I said there was a New York Post article in
15 the back of the car and that I read it and that I found
16 something about Harvey Weinstein and Georgina Chapman being
17 in a fashion show in Paris. She was his girlfriend at the
18 time, not the wife.

19 So notice, out of all of those things, she is
20 worried about correcting and Mr. Cheronis calls Ms. Chapman
21 his wife, she says, well, no, that was his girlfriend at
22 the time. Because she knew. She knew that she was the
23 other person in his life.

24 Okay, that was on July 10th. I remembered it as
25 July 10th.

1 You now know that article didn't come out until
2 July 11th and said somebody told you.

3 I don't know if that's definitely the exact
4 article. I am not sure. I know I have been told since
5 then that there was an article on July 11th.

6 And you were told that after you initially told
7 the DA that you saw the article on July 10th, correct?

8 Right. But I also took the car the following day
9 to the airport so I don't know.

10 But you never told them you thought he planted it
11 to make you feel jealous?

12 Not jealous. I never said that. I never used
13 that word.

14 You didn't?

15 I did not.

16 Isn't it true that you initially told the state
17 the story and then you found out later it couldn't be true
18 because the article didn't come out until a day later.

19 If the timing was wrong then that may have been
20 but my memory of the actual event is what it is. It's
21 absolutely correct.

22 The stipulation is that there is no article on
23 July 10th.

24 Let's get to the Soho apartment.

25 Mimi claims that she shows up at Harvey's

1 apartment and we talk about all the reasons why she gives
2 you the excuses that she goes there and why she said it
3 didn't seem to make any difference to her about why she
4 should go.

5 When she goes to the apartment she tells you
6 about -- she tells you a horrible circumstance where he
7 throws her on the bed and forces oral sex on her.

8 She doesn't remember what she is wearing. She
9 doesn't remember if it was a dress or pants, how her
10 clothes were removed or put back on.

11 She talks to you about leaving that house and
12 that the first thing she does is look for the driver
13 because she, in her mind, thinks may be the driver was in
14 on it and she feels a sense of relief that there is no
15 driver there.

16 So in terms thinking about whether or not she is
17 truthful about what took place in the Soho apartment, we
18 have to look at what she does the next day.

19 So if you believe that she was concerned about
20 the driver after what happened to her, do you think that
21 the next day she gets in a car driven by a Weinstein
22 employee?

23 She even tells you in that last conversation of
24 testimony, she says, it could have been the same car. I
25 could have gotten in the same car.

1 So the night before she feels an immense sense of
2 relief to not see the driver and then the next morning
3 Tuesday, July 11th, LA, 10:00 a.m. car.

4 And she tells you that that car was a Weinstein
5 car, could have been the same car, could have been the same
6 driver.

7 Does that make sense?

8 Does that make sense that on July 10th in a Soho
9 apartment he violently pushed her on a bed, went down on
10 her, pulled out a tampon and the next morning she's getting
11 in a car driven by possibly the same guy who took her to
12 her assault?

13 Of course it doesn't. It makes absolutely, no
14 sense. And it also makes no sense that when she flies to
15 Los Angeles she has a list of people there, a list of
16 people that she is going to call.

17 Do we hear from any of those people that when she
18 got to Los Angeles she was distraught?

19 Do we hear from her friend who had the baby to
20 say how she was when she showed up?

21 MS. ILLUZZI: Objection, Judge.

22 THE COURT: Sustained as to that part.

23 MS. ROTUNNO: While she is in Los Angeles, what
24 does she do?

25 She's in Los Angeles from July 11th until July

1 24th.

2 The 15th, phone numbers for Dan, Dan Guando,
3 Harvey's assistant, New York phone numbers.

4 What does she do when she is in LA?

5 She goes to the Peninsula. She has the address,
6 her aunt address. And we know, based upon other testimony
7 in this case, and we heard from people from the Peninsula,
8 that Harvey Weinstein often stays at the Peninsula.

9 MS. ILLUZZI: Objection, Judge.

10 THE COURT: Overruled.

11 MS. ROTUNNO: While she is in LA she reaches out
12 to Collin Calendar about other job opportunities and then
13 on the bottom of July 17th, 10:00 p.m., hospital, baby.

14 She goes to a spa. There is a birthday party.
15 There are hearts. There are flowers.

16 When we, again, we asked her, when you put these
17 things down, is that your state of mind?

18 Is that the state of mind of someone who has been
19 assaulted the way she claims she was assaulted?

20 She returns from Los Angeles on July 24th. She
21 takes a 3:15 flight. She doesn't get back into New York
22 until almost midnight.

23 She spends the next day running errands as you
24 would if you were gone for 14 days.

25 In that list of things it says what she needs to

1 do.

2 And who is the first person she makes an
3 appointment with after being away in LA for two weeks?

4 The first person, five o'clock p.m., HW.

5 Because that's what you do when you are seeing
6 someone after you have been traveling, you make plans to
7 see them.

8 And look at her list of things to do when she
9 comes backs. Have mani pedi. Get underwear.

10 These are things you do when you are going to see
11 someone that you are with that you haven't seen in two
12 weeks.

13 And then, she has another dinner later.

14 Now, before I talk about the meeting with Mr.
15 Weinstein on July 26th, let's go to Liz Entin.

16 Liz Entin was Miriam's roommate for that short
17 period of time in 2006. You saw Liz Entin. You saw her
18 demeanor. You saw the way she wanted to argue with me
19 about her testimony.

20 She hasn't talked to Miriam since the summer of
21 2006 and what she tells you is that the night of this
22 incident in Soho on July 10th, Mimi tells her, she doesn't
23 know if it's that exact date or if it is another day but
24 what we know is that at 10:00 a.m. the next morning Miriam
25 was gone and out of the apartment.

1 So that leaves a very short window for Liz
2 Entin's story to have any ring of truth.

3 But the problem with Liz Entin's story is when
4 asked, well, do you remember that she went to Los Angeles
5 for two weeks?

6 No, I don't remember.

7 Did you know that she went to Los Angeles on a
8 Harvey Weinstein ticket?

9 No, I didn't remember.

10 Did you know that when she went to London, Harvey
11 Weinstein bought that ticket?

12 No, I didn't know that. I wasn't aware of that.

13 Liz Entin was brought in here for one reason and
14 one reason only, to back up a story that didn't make sense.

15 Because what do you do for your friend when your
16 friend is in a circumstance when she can't prove her case?

17 You say, oh, she told me. She told me.

18 And how can we look at that evidence and decide
19 whether or not it's truthful?

20 We look at that evidence and say, wait, Liz Entin
21 talked about the fact that Miriam Haley was upset for an
22 entire summer.

23 Upset for an entire summer?

24 She was gone. July 10th, she leaves July 11th.

25 She comes back July 24th and then August 1st, she goes to

1 London.

2 So what's Liz Entin talking about?

3 Liz Entin barely knew Mimi. She didn't know Mimi
4 well. Mimi didn't have conversations with her.

5 What about the friend she went to see in Los
6 Angeles?

7 MS. ILLUZZI: Objection, Judge.

8 THE COURT: Overruled.

9 MS. ROTUNNO: She also tells you that Miriam
10 worked for Project Runway for five months. She worked
11 there for two weeks.

12 Clearly, this woman has no recollection.

13 Clearly, she had an agenda.

14 And most telling, I think, about her testimony
15 was when we talked about all of those press conferences
16 that Miriam Haley did, all of these press conferences.

17 Did you see those press conferences? Is that
18 where you learned about this?

19 Oh, no, I never watched those.

20 Now, anybody that you know that ends up on TV,
21 who is not normally on TV, I can vouch for this myself,
22 people watch and they call you. They call you to say, I
23 saw your press conference. I saw you on TV. I heard your
24 story. That's what friends do.

25 People that you went to high school, see you on

1 TV and they reach out. People that you went to grammar
2 school with see you on TV and they reach out.

3 MS. ILLUZZI: Objection.

4 THE COURT: Overruled.

5 MS. ROTUNNO: Liz Entin watched press conferences
6 and that's how she got herself involved in this case.

7 Again, this is her talking about how long she
8 worked at Project Runway which we know is false.

9 When is the last time you spoke to Miriam?

10 I would say 2006 or 2007. We have not spoken
11 since we lost touch.

12 Was that after she moved out of your house?

13 Correct.

14 We know that when she went to London in August
15 after 2006, she did not come back.

16 Do you remember that she was gone for a period of
17 time in July when she went to LA to visit her friend who
18 was having a baby?

19 I don't remember that. We were both traveling
20 frequently.

21 You do not remember July 11th to July 26th she
22 went to LA?

23 I don't remember that.

24 Do you remember her telling you that Harvey
25 Weinstein bought her a ticket to go to Los Angeles?

1 I don't remember that.

2 Do you remember her telling you when she was in
3 Los Angeles she arrived to a premier of a movie that Harvey
4 was having?

5 I don't remember that.

6 Do you remember telling her that on July 26th
7 when she came back from Los Angeles, she went and met with
8 Harvey Weinstein and had sex with him in a hotel?

9 No, I never heard her say anything about
10 consensual sex with Harvey Weinstein.

11 You stated in the summer of 2006, she had a
12 boyfriend?

13 She did.

14 What was your boyfriend's name?

15 I don't remember his name. Well, if he was I
16 believe it was Sean Paul, something French. I do not
17 remember specifically.

18 You knew she had a boyfriend because you would
19 hang out with them?

20 THE WITNESS: Yes.

21 You knew she had a boyfriend because he would
22 come to your home?

23 He stayed there some, yes.

24 Liz Entin is the only person who told us Miriam had a
25 boyfriend. Miriam herself didn't even tell us she had a

1 boyfriend.

2 MS. ILLUZZI: Objection, Judge.

3 THE COURT: Overruled.

4 MS. ROTUNNO: Let's go to the Tribeca Grand Hotel
5 on July 26th of 2006, the day after Mimi was home for a
6 full day in New York.

7 When she first describes this encounter, it comes
8 out that she had consensual sex with Mr. Weinstein.

9 And when she testified, when she spoke to the DA
10 and she testified before the Grand Jury in 2001, in June,
11 she talked about a consensual sexual encounter with Mr.
12 Weinstein, that's it.

13 As time went on and as this trial got closer, she
14 testified again. And when she testified the second time
15 she added that in that consensual sexual encounter, and
16 make no mistake, she told you here that it was consensual,
17 but she added terms.

18 She added terms that he called her a bitch. He
19 called her a whore and that she laid there like a dead
20 fish.

21 Why did she do that?

22 Because she knows that if you look at her
23 original testimony and description about her Grand Jury
24 testimony in June, you know that you wouldn't believe this
25 whole encounter.

1 You wouldn't believe that after what happened on
2 July 10th, she would then agree to go to a meeting.

3 So they spin it again. They spin it into
4 something else to make you believe that he is a horrible
5 guy and she just gives in.

6 She did it. It was consensual. She didn't
7 really want to.

8 Again, stripping women of any ability to make
9 their own decision. Stripping women of the choices they
10 make and relabeling it as something else.

11 And this is where Dr. Loftus really comes in.
12 You listen to Dr. Loftus testify about memories and how
13 things change over time and that's exactly what this is.

14 They change to fit a narrative. After you are
15 talked to enough, after you have enough interviews and
16 after you speak to police and District Attorneys and go to
17 Grand Juries and hear media coverage, your story changes.

18 We saw that happen on the stand with Emanuela
19 Postacchini.

20 Emanuela says, there was this one time I went to
21 the room and Harvey had a bathrobe on.

22 Really? Because you haven't told anyone that
23 before and that is a stipulation. She has never told
24 anyone that before until she hit this witness stand.

25 Because now, all of a sudden, you have heard this

1 story and now, well, if I say Harvey had a bathrobe on, I
2 will be believed. It's ridiculous.

3 Tribeca Grand.

4 Ma'am, you didn't take your clothes off?

5 Did he take your clothes off?

6 Did you take your clothes off?

7 Did he take your clothes off, do you recall?

8 I don't recall.

9 And you told this jury that Harvey Weinstein said
10 pretty horrible things to you, right?

11 Yes, correct.

12 Used on the word, bitch, or you said he did?

13 Well, yes.

14 Okay, you spoke to prosecutors in June of 2018,
15 correct?

16 Yes.

17 And it was one of the first times you spoke to at
18 least the prosecutors, not your lawyers, but the
19 prosecutors, right?

20 Yes.

21 And when you spoke to the prosecutors in June of
22 2018, they asked you questions, not only about the July
23 10th but they asked you about questions about July 26th,
24 correct?

25 Correct.

1 And when they asked you about questions about
2 July 26th and what happened with Harvey Weinstein at the
3 hotel, you told them that, I don't remember the situation,
4 I don't remember the meeting, didn't you?

5 I don't remember saying that.

6 You don't remember saying that.

7 No, I don't.

8 You certainly didn't tell the DA in June of 2018,
9 that Mr. Weinstein called you those names?

10 No, I don't think that is something I
11 remembered -- I think that is something I remembered later
12 because I focused in more particular on that.

13 You remembered later?

14 Yes.

15 So by the time you had spoken to the DA's, ma'am,
16 you had already done a press conference, correct? You had
17 on the Megan Kelly show, correct?

18 You had appeared on MSNBC, correct?

19 Yes.

20 And it is your testimony that after that when you
21 spoke to the DA's you still hadn't remembered that Mr.
22 Weinstein called you those names and treated you that way?

23 Answer, I had not been focusing on that incident
24 at that point. So -- and it was a very long time ago. So
25 I wasn't really remembering as much and then because I was

1 focusing more on that later, I remembered more.

2 So everything was a long time ago, correct?

3 Correct.

4 And but some things stick out, you didn't focus
5 on the Tribeca situation when you spoke to the DAs in July
6 of 2018?

7 Correct, correct. But I did tell them about it
8 as far as I can recall.

9 You also testified in front of the Grand Jury,
10 not just a meeting with the DA's Office, but you testified
11 and when you testified it was in a room, maybe not as big
12 as this, or may be bigger, there were jurors sitting here
13 and you were asked questions about the meeting at the
14 Tribeca Grand, correct?

15 Correct.

16 Well, you are -- well, you testified in the Grand
17 Jury in 2018. You didn't mention anything about him
18 calling you those names, did you?

19 No, I didn't.

20 And they asked you about that and you said you
21 didn't have a recollection of it?

22 They didn't ask me, specifically, about any
23 names, no?

24 They asked you about the incident, didn't they?

25 They did.

1 And you didn't offer that? You didn't say he had
2 done that?

3 No, I didn't recall at that movement.

4 And he didn't force you to have sex at the
5 Tribeca Grand, did he?

6 I didn't physically resist but I felt that --
7 yeah.

8 Do you remember testifying before the Grand Jury
9 that it wasn't forced?

10 Correct because I didn't resist.

11 So here we are again in a circumstance where we
12 have to look at July 26th in conjunction with the other
13 choices that Ms. Haley made.

14 July 26th she goes to see Mr. Weinstein willingly
15 to Tribeca Grand. The first time she talked about it, we
16 had consensual sex.

17 It morphs into, yeah, I didn't resist. I laid
18 there like a dead fish and he called me bad names.

19 She has to tell you that. She has to tell you
20 that because if she doesn't tell you that, it puts July
21 10th under a bigger spot light than it does without this;
22 because if July 10th happened the way she said it did, July
23 26th never takes place the way she initially described it.

24 Here we are again with hearts after July 26th.

25 And here is the infamous London situation.

1 We hired an expert who testified, as you heard
2 Mr. Luber, and he showed you about these cross-offs in the
3 calendar and how he was able to remove those cross-offs and
4 underneath it says, call Dan and see if I can go.

5 Now, we know that that's about the London ticket
6 and that's Dan Guando that she calls.

7 Ask yourself why that obliteration to that degree
8 on the calendar?

9 Why cross that off to that point?

10 The reason is because she hadn't told anybody
11 that she accepted a ticket to London when she originally
12 spoke to the prosecutors, when she originally went to the
13 Grand Jury, she didn't talk about London.

14 Underneath we know that she then accepts a ticket
15 to London and when she does all of her press conferences on
16 MSNBC, on Megan Kelly, she doesn't tell those people about
17 anything that happened after July 10th.

18 When she goes to the news to talk about how
19 horrible Harvey Weinstein is and how horrendous her
20 experience was and she takes her lawyer, Gloria Allred,
21 with her, not one time does she mention anything about what
22 happened after July 10th and on so.

23 She doesn't say, oh, well, you know, the next day
24 I took a flight to LA that he paid for and oh, yeah, then I
25 saw him again on July 26th and we had consensual sex oh,

1 yeah, then I called his office and had him buy me a ticket
2 to London.

3 Because she decided what story she wanted to put
4 out there and now that we are here in this forensic setting
5 that Dr. Ziv talked about, where we look at all of the
6 facts, we know that her July 10th story makes absolutely no
7 sense.

8 This is the record of the phone call on July 31st
9 and now we know that she leaves on August 2nd, JFK to
10 London; and we know that, again, two days before she calls
11 Dan Guando and it's obliterated.

12 And you know Harvey Weinstein paid for that
13 ticket, don't you?

14 I know that now, yes.

15 Well, you knew it then too, didn't you?

16 I knew it then but I didn't remember particularly
17 until I was shown.

18 So did you talk to Mr. Weinstein at the Tribeca
19 Grand about him flying you to London?

20 I don't remember.

21 Days later?

22 I don't remember that conversation.

23 It says, call Dan to see if I can go.

24 I see, okay, yes.

25 And you agree with me that's what it says under

1 there?

2 I have been shown something that says that's what
3 it says, yes.

4 And, again, the only reason we know that it said
5 that is because we hired an expert, not them, we did.

6 There is that other HW, September 7. Talking
7 about putting together Trash TV.

8 She flies back, briefly, from London.

9 What does she say, hi Dan? How are you -- I am
10 sorry, I am back in London and totally bummed to have
11 missed you guys. I tried to change my flight until Friday
12 but I couldn't. So if you are coming back any time soon,
13 please let me know.

14 Also it would be great to know when catwalk might
15 be shooting.

16 You can see on July 7th she's looking at another
17 flight but we know from the email that she is still in
18 London.

19 Then what does she do in London?

20 She meets Harvey Weinstein in another hotel room.

21 And when asked, if all of these other things
22 happened to you, why go meet him in a hotel?

23 And her response, I was not nervous because he
24 had taken everything she had to take.

25 Whatever that means.

1 Again, if we look back critically at the
2 timeline, the choices that she makes, the hearts on her
3 calendar, accepting plane tickets, that's a great answer to
4 give to try to make you feel sorry for the situation she
5 wants you to believe.

6 We know that she pitches Trash TV to Mr.
7 Weinstein and this is in February of 2007.

8 When you met with him at a hotel in London, were
9 you alone?

10 The assistants were going in and out, yes.

11 Did you know his assistants were going to be
12 there when you went there?

13 It was a busy work day, yes.

14 You had no fear of going to Mr. Weinstein's
15 hotel?

16 No, at that point I didn't. At that point some
17 six months after July of 2006?

18 Answer, correct.

19 This is when she sends Trash TV over to Dan
20 Guando and says, please send this to Harvey. It is her own
21 thing, so please, please make sure that he gets it, signs
22 it. All the best, Miriam.

23 She talks about meeting him in London, showing
24 him Trash TV on her laptop. Talked about the timeframe.

25 And that's what you thought of Mr. Weinstein in

1 November of 2006, he was a person you could share your work
2 with because he was experienced in the field, correct?
3 Right?

4 Yes, I felt he was a successful producer who knew
5 a lot.

6 Miriam's requests to Harvey continued.

7 In May of 2007, she is going to be in Cannes and
8 she wants tickets to a screening of Sicko. She sends an
9 email.

10 And when she reaches out asking for the tickets,
11 she includes in her message that she'll be in a private
12 apartment.

13 Very odd word choice to put in a message to
14 somebody you claim sexually assaulted you. She wanted him
15 to know that she was in a private apartment.

16 His employee starts scrambling to see if they can
17 get her tickets.

18 All of this is within a year of this alleged
19 assault in Soho on July 10th of 2006.

20 All of the real-time communication, all of the
21 documented evidence, would make any reasonable person say
22 that Miriam Haley and Harvey Weinstein had a good
23 relationship; other than her account of what she says
24 happened on one day in July, which doesn't make sense in
25 conjunction with every other action she took.

1 Ask yourself, did what she say happened on July
2 10th actually happen that way?

3 Or is this something that after October of 2017,
4 she decided to rename, relabel and re-quantify?

5 Dr. Ziv got up and talked about rape myths. And
6 remember in order for a rape myth to potentially be viable,
7 you need to believe a rape happened.

8 So it's very easy to talk about all of these
9 things you could do or not do or maybe do but you first
10 have to believe that someone was actually raped to even
11 consider buying into that.

12 Dr. Ziv never testified it's common for victims
13 of sexual assault to reach out to their assailants for
14 premier tickets. She never testified that an assault
15 victim let's her attacker know that she'll be in town
16 staying in a private apartment.

17 She reaches out May 27th of 2007. She never got
18 to go to the film but the gesture was appreciated.

19 Talking about being in London and then a message
20 she sends on June 27th of 2008, two years to the date, two
21 years to the date of the Mercer event, how are you Harvey?

22 Great to see you in Cannes. I noticed an article
23 in today's New York Post about the Addams Family being
24 turned into a Broadway musical.

25 Just to remind you what a genius I am, didn't I

1 tell you that was a great idea like three years ago at the
2 Mercer Bar? Hmmm. Lots of love, Mimi.

3 So here she is, reminiscing, actually two years
4 ago, at their time at the Mercer Bar, June of 2006. Not
5 something you do to someone who sexually assaulted you, not
6 an email you send, lots of love, Miriam.

7 Here is her testimony in regards to that email
8 and that conversation.

9 And then we jump to 2009. And, again, in their
10 opening statement the prosecutors weaved this tail about a
11 man who gets some one in their grasp and doesn't let them
12 go.

13 You did not see one email where Harvey Weinstein
14 reaches out to Miriam. Not one email where he tries to
15 keep her close. Not one email where he hopes to get her a
16 job so he forces her to take a job, not one.

17 Every time, Miriam reaches out to Harvey and
18 every time she signs the emails lovingly, uses explanation
19 points, talks about nothing but fondness.

20 Dear Harvey, I haven't seen you in so long. How
21 are you? Listen, I am saving up to be a kundalini yoga
22 teacher and I just wanted to announce myself available for
23 work if you happen to by any chance have anything shooting
24 in London. I will be a runner, whatever. I really
25 appreciate any leads. My cat needs feeding.

1 Either way, hope you are super well. Peace and
2 love, Miriam.

3 Again, not an email you send to your sexual
4 assaulter even in the world they wanted to create for you.
5 Not even in that world.

6 In this period of time between 2009 and 2017,
7 Miriam continues to reach out to Harvey, sends scripts from
8 her friends, let's people know that she knows Harvey and
9 trades on that relationship when she tries to get a job
10 with the British version of Project Runway.

11 3,163 days later, October 24th of 2017 comes.

12 Miriam reads the paper and her memories
13 resurface. Her friends call her. She says she wants to
14 remain anonymous, yet the first thing she does is hire
15 Gloria Allred.

16 Gloria Allred is a civil lawyer who sues people
17 for money. Gloria has been here almost every day of this
18 trial sitting in the front row. She hasn't been paid. She
19 doesn't sit here for her health.

20 MS. ILLUZZI: Objection.

21 THE COURT: Overruled.

22 MS. ROTUNNO: She doesn't sit here because it's
23 fun for her. She sits here because she knows that there is
24 a pot of gold at the end of this criminal trial.

25 MS. ILLUZZI: Objection, Judge. Objection.

1 THE COURT: Overruled.

2 MS. ROTUNNO: On October 24th of 2017, she has
3 her press conferences where she goes out with her lawyers
4 and the script that they tell the world. But in that
5 script they leave out the ending.

6 They leave out the continued contact. They leave
7 out the emails. They leave out the plane tickets. And all
8 they tell you is about a horrible assault that happens in
9 July of 2006.

10 And what's Miriam going to do when this is over
11 with?

12 Seek compensation.

13 MS. ILLUZZI: Objection, Judge.

14 THE COURT: Overruled.

15 MS. ROTUNNO: When she sat on this witness stand
16 and she was asked, are you going to sue Mr. Weinstein?

17 I don't have plans to.

18 Do you think you may sue him?

19 Maybe, anything is possible.

20 Of course anything is possible. Those are
21 scripted answers as that civil lawyers give witnesses in a
22 criminal trial so they don't have to admit to you that they
23 are looking for money.

24 Why can we not believe Ms. Haley?

25 We have talked about it. The truth doesn't

1 change. The communication doesn't change. The emails
2 don't change.

3 No matter how they want to spin it in the
4 universe they have created for you. You looked at her
5 calendar, her inconsistencies, her communications, her
6 relabeling and this is where that beacon of common sense
7 comes in.

8 This is where you need to say, wait a minute, do
9 I have doubt about the story that she told about all of
10 these dates?

11 Do I have doubt about why somebody would get in a
12 car with a driver the next day after they claim that driver
13 took them to their sexual assault?

14 Do I have doubt about the fact that somebody
15 would take gifts and tickets from somebody?

16 Of course you have doubt. Of course you have
17 doubt.

18 How could you not?

19 Think about that presumption of innocence and
20 that burden of proof that we talked about earlier on.

21 Think about whether you have questions about
22 whether or not you can believe the nonsense she told you.

23 Think about the story that she tells and how it
24 changes to make what's happening at this side of this room
25 sound better.

1 Your Honor, this is a good time.

2 THE COURT: All right, Jurors. We will take a
3 break here. Please remain mindful of all of my prior
4 admonitions and instructions during this or any other
5 recess. Keep an open mind. Do not form an opinion as to
6 the guilt or innocence of the defendant.

7 Do not discuss this case among yourselves or with
8 anyone else nor allow anyone to discuss it in your
9 presence.

10 See you back here in ten, ten minutes.

11 Okay.

12 (The jury exited the courtroom and the
13 following occurred:)

14 THE COURT: Okay. Ten minutes.

15 (A recess was taken.)

16 (After the recess the following occurred:)

17 THE COURT: Come to order, jury is entering.

18 COURT OFFICER: Jury entering.

19 (The jury entered the courtroom and the
20 following occurred:)

21 THE CLERK: Case on trial continues. All parties
22 are present. Do the parties stipulate that the jury is
23 present and properly seated?

24 MS. ILLUZZI: Yes.

25 THE CLERK: Defense.

1 MS. ROTUNNO: Yes.

2 THE COURT: All right, welcome back, Jurors.

3 Ms. Rotunno.

4 MS. ROTUNNO: Thank you.

5 Jessica Mann.

6 Let's start by talking about the relationship
7 that began between Jessica Mann and Harvey Weinstein
8 sometimes after February 8th of 2013.

9 She had met him at a party in the Hollywood Hills
10 and you heard from Talita. I will mention Talita now and
11 weave her in with Jessica.

12 Talita told you an interesting fact about that
13 initial meeting with Mr. Weinstein. When Jessica said, I
14 thought it was a professional contact. I thought it was
15 going to be a professional meeting and he would be good for
16 my career, Talita tells us about a very interesting fact
17 when she says that Jessica pinches Harvey's cheeks and say,
18 oh, he is so cute, in response to why all of those people
19 are stopping to talk to him.

20 So that manipulation that she starts with Harvey
21 Weinstein starts upon her first meeting with him. She
22 presents herself as someone other than professional in that
23 first encounter.

24 So they meet before February 8th, 2013, and soon
25 after the meeting, there is an article in People's magazine

1 stating that Harvey Weinstein and Georgina are expecting a
2 baby.

3 And her friend sends it to her and says -- she
4 responds back, I am so going to ask him.

5 Again, not really the way we would look at a
6 professional interaction between two people or an
7 interaction that Jessica thought was professional because
8 that would not be your response.

9 So at the outset we know that she's lying about
10 the circumstances of their relationship.

11 This is part of the prosecutor's opening
12 statement.

13 Again, in their world Harvey Weinstein is
14 bringing people into this world. Jessica Mann approaches
15 Harvey Weinstein. Harvey Weinstein does not approach
16 Jessica Mann.

17 One of their first meetings alone is the
18 Peninsula dinner. They didn't talk much about Book Soup.
19 I think they met at Book Soup. He buys her some books.

20 She has friends with her. She lies about the
21 fact that she brought friends with her and then there is
22 the dinner at The Peninsula.

23 She talks to you about at that dinner how Harvey
24 is talking to her about her family, her life, things more
25 personal than in a couple of meetings before.

1 Well, when you go take someone out for dinner at
2 a hotel, these are usually the types of conversations that
3 you have, especially when your first interaction is someone
4 pinching your cheek and talking about how cute you are.

5 This is the dinner where every one is coming up
6 speaking to Harvey. He says, I don't want to talk to
7 people, which is probably the polite thing to do if you are
8 there with another dinner guest.

9 He says, let's have the dinner moved upstairs.
10 And this is the day where Jessica says she goes up to the
11 hotel and Harvey asks her if he can give her a massage.
12 She declines but she decides that she'll give him a
13 massage.

14 Again, she wants to talk about the professional
15 nature of her relationship with Mr. Weinstein when we know
16 right away at the outset that that's not the case.

17 I will let you read that testimony.

18 And you see in her answer that could have been
19 death to any attempt of a career I would have had.

20 So we know that Jessica is not telling Harvey, I
21 am using you for my career but we know that's exactly what
22 she was doing.

23 She was going to do anything she needed to do to
24 have the career that she wanted to have. She was going to
25 pretend to him that she was something else.

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1 MS. ROTUNNO: This begins party invitations.

2 February 23rd was the pre Oscar party at the Soho.

3 This party is very, very telling, because this is
4 the party where Jessica is introduced to Emmanuella
5 Posticcini.

6 She goes to the party with Talita. Talita tells
7 you they went together, then the next day, the day of the
8 actual Oscars was the party at the Mondrian.

9 Emmanuella testified she was asked, you wore a red
10 dress to that party. Yes I did. You did not wear a red
11 dress to the Montage a few days later. No. It would be
12 unlikely, right. Yes.

13 What is important about this is because Jessica is
14 so unclear and unsure about her timeline and her dates,
15 this is why this is important, she is shown a picture of
16 Emmanuella in a red dress at the party at the Soho and then
17 a few days later they meet at the Montage.

18 February 24th is the day of the actual Oscars.
19 There is an Oscar party at the Mondrian. After that party
20 is over, Talita and Jessica were at that party together,
21 they see Harvey. Harvey invites them to the Montage for a
22 drink.

23 Talita drives Jessica at Jessica's request. And
24 we saw through Jessica's entire testimony, Jessica tried to
25 pinpoint Talita as the person who forced her to go to

1 events, forced her to go to screenings, forced her to go to
2 auditions, because she was worried about Talita's career.
3 We know that is not true, we know it is absolutely not
4 true. Who called Talita? The defense did.

5 The prosecutors did not call Talita because the
6 prosecutors did not like what Talita had to say. We called
7 Talita and she tells you about the nature of her
8 relationship.

9 And Talita e-mailed Harvey Weinstein on her own.
10 She did not need Jessica. Jessica acted as if she needed
11 to be involved in that relationship. She did not.

12 They are at the bar at the Montage. As the bar is
13 closing, Talita tells you a very plausible story that makes
14 much more sense than the one Jessica tells you.

15 Jessica tells you that they start talking about
16 scripts.

17 Remember, this is the night of the Oscars. This
18 is not just a random night where people are out talking
19 about things. This is the night of the Oscars. Everyone
20 is dressed up. Mr. Weinstein is in a tuxedo, the night of
21 the Oscars, and they are having a drink.

22 And ask yourself, in real time, what story makes
23 more sense to you. The one that Jessica tells you where
24 she says oh, come upstairs and see the scripts. Or the one
25 that Talita tells you, these are two people who had

1 interest in one another the minute they met at the party in
2 the Hollywood Hills.

3 Talita goes to the restroom thinking they are
4 getting ready to leave. She comes back from the restroom
5 and Harvey and Jessica both say to her we are going to go
6 upstairs, come up with us.

7 She tells you it was weird, it was strange.
8 Didn't tell you anything about scripts, didn't say Harvey
9 said come up and look at scripts.

10 She was brought into that circumstance because
11 there were two people going out; one is married, she's the
12 third person to make it not look like they are on a date.

13 What does she do? She goes upstairs, she is not
14 telling you about any negotiation, any conversation between
15 Harvey and Jessica. She does not tell you she's like
16 should I go in the room, what do you think he wants me in
17 the room for. None of that happens.

18 They go up to the room. Talita sits down, watches
19 some TV. They go into the bedroom. Jessica comes out,
20 everyone is fine. She drives Jessica home. Jessica does
21 not say anything happened. Jessica continues her ongoing
22 relationship with Mr. Weinstein.

23 What does Jessica say about what happened in that
24 hotel room at the Montage? She comes out, and in her
25 words she says to Talita, he went down on me and I told him

1 it the was best I ever had.

2 Now, ask yourselves in real time if it makes sense
3 to you that that was something forced upon her or if that
4 was an act she engaged in with a person she's now happy to
5 be starting a relationship with.

6 Now, whether she is attracted to him, whether she
7 thinks he's gross or smells, and all those horrible things
8 she said when she testified. She made a choice that she
9 wanted to be in his world. She made a choice she wanted
10 the life that he could potentially provide for her. She
11 made a choice that she wanted to go to parties, and
12 everytime she sent him an e-mail talking about how
13 wonderful he was and how loving, what the tone of her
14 e-mails were, she made a choice.

15 February 26th of 2013. How do we know this is the
16 date? Jessica did not know the date.

17 We know this is the date because Emmanuella has an
18 e-mail, and Jessica tells you of this circumstance where
19 she's forced into doing something she does not want to do,
20 and she leave the situation in tears because she's so
21 uncomfortable.

22 What we know is what we learned from Emmanuella.
23 Emmanuella has no reason to come into this courtroom and
24 not be honest. She tells you when she met Jessica Mann,
25 she tells you that she knew Harvey Weinstein, and she tells

1 you that she had a prior sexual encounter with Harvey
2 Weinstein that was consensual.

3 She talks about meeting Jessica and coming to the
4 hotel on the 26th, which would make sense if you look at
5 the timeline of the other events that were happening
6 between Mr. Weinstein and Jessica Mann.

7 They meet beginning of February. They go to a
8 book store for a first date or meeting. They go to a
9 dinner. She goes up to the room, gives him a massage. The
10 second encounter things progress, now here we are.

11 What do we know from Jessica? Jessica talks about
12 how it is something she does not want to do. Emmanuella
13 says he didn't force her to do anything and didn't force
14 Ms. Mann to do anything either.

15 I'll let you read that.

16 Then there is the stipulation we talked about
17 earlier where Emmanuella never told anyone she saw Mr.
18 Weinstein in a bathrobe.

19 Now we get to the part about the failed threesome.

20 Why is this so important? This is so important
21 because Jessica told us some things on the witness stand
22 that refute this, and she told us a couple of things on the
23 witness stand that corroborate this.

24 Lets talk about why it is important. Jessica says
25 she wrote a blog, and she wrote a blog and took things from

1 her personal life and tried to make them comedic.

2 She told us she had more than one threesome in her
3 life and they just didn't work for her, and she had two
4 others after this.

5 So, we know by the title of this, the failed
6 threesome part one, this is the first time she ever engaged
7 in this behavior.

8 And she uses some very interesting language in
9 this note she has in her phone or this blog post that she
10 talks about.

11 What is interesting is she talks about who she's
12 seeing. She arranges a date where -- he arranges a date
13 where she would meet her friend and she's talking about the
14 older man I was casually dating. Enjoyed his women and
15 open dialogue to see if I would be interested in a little
16 threesome.

17 Now, does that make sense given what we know about
18 their interaction up to this point? Of course it makes
19 sense.

20 They meet Emmanuella at a party a couple of days
21 later, here it is. Look at how she describes what that
22 woman looks like.

23 She describes her accent, she describes her
24 height. She describes her ethnicity. She talks about what
25 goes on and why it is just not good for her, not her

1 thing. She does not like it, does not really know how to
2 act.

3 Then she talks about why she got so upset. She
4 didn't get upset because of what her date wanted her to do.
5 She got upset because in her words, the other woman faked
6 it. She's I'm over this.

7 Then interestingly enough, that is the exact way
8 she described how Harvey was acting. This is in real time,
9 this is what was happening in February of 2013.

10 Jessica Mann was not forced to do anything.
11 Jessica Mann was not forced to show up anywhere. Jessica
12 Mann was not forced to write this note or on her computer.
13 And this is what she says about her blog why it is not
14 on-line anymore. No, it was not on-line anymore because
15 when she came in and knew she was going to have to testify
16 in this case, she wanted to make sure that was not there.

17 Then she says, and this is one of the blogs I
18 thought was going to be funny because I thought every guy
19 wants a girl to have a threesome and I was incapable.

20 So, she talks about this being funny and wanting
21 it to be funny. If she was having a horrible experience
22 with Harvey Weinstein, why is she then going to write
23 something she thought was going to be funny.

24 Then she says and I tried the two other times to
25 have threesomes after the experience with Harvey, which

1 corroborates exactly what she says in her post.

2 I say to her the bits and pieces of what you
3 described as a horrible night for you, and you turn it into
4 this. She says I wanted to reframe it through comedy.

5 That is all Jessica Mann does, reframe, reframe,
6 reframe. Reframe her meeting with Harvey Weinstein.
7 Reframe the way she viewed him. Reframe the reason she
8 wanted him in her life. Reframe the contents of her
9 e-mails.

10 That is what she knows how to do. She even
11 reframes when she talks to her therapist. We talked about
12 relationship reinvented which is the forum she chose to
13 speak to when she was upset and when she felt she needed
14 guidance.

15 Did she at any point in time ever talk about
16 Harvey or about how Harvey treated her? Nothing other
17 than positive wonderful words between her and her
18 therapist.

19 Who did she talk about with her therapist? Edi.
20 She talked about Edi and how upset Edi was because Harvey
21 was in her life.

22 Those are the real time communications that she
23 now wants to reframe in this courtroom.

24 I asked her about how important it was to come up
25 with dates and times. I think to prove my case, yes, it's

1 important.

2 But everytime I tried to pinpoint her to a date,
3 everytime I tried to show her e-mails that would
4 corroborate what she was trying to say, she would not
5 commit to the times, not once.

6 We know the next day she meets with Barbara. So
7 after this threesome circumstance, actually the same day
8 she meets with Barbara. Thank you for making me feel so at
9 ease yesterday when we met. You have an amazing bright
10 personality and had me laughing.

11 I just wanted to follow up with you per our
12 conversations. I'm going to copy Talita on this as well.
13 You can reach me here or on my cell.

14 So, what do we know about that week? This week
15 is a good week for Jessica Mann. She goes to two parties,
16 the 23rd, the 24th. She has drinks with Harvey and her
17 friend. She's with Harvey and Emmanuella the day before
18 and that same day she meets Barbara.

19 Then Harvey leaves L.A and comes back to New York.
20 Lets talk about the weekend, mid March in 2013.

21 We know that Jessica Mann is coming to New York
22 and we know this is where Harvey Weinstein lives.

23 What do they do? They set up a time to meet.
24 Why, why did they set up a time to meet?

25 They set up a time to meet not because it was

1 professional, not because she was here for scripts, they
2 set up a meeting because they spent over a week together in
3 L.A in sexual circumstances, having dinners and getting to
4 know each other.

5 So, what does Harvey Weinstein think that he's
6 going to do on this weekend that Jessica Mann comes to New
7 York? He's going to come and see the woman that he's been
8 seeing, the woman that has been sending nice e-mails, the
9 woman that has been in communication with him.

10 Dear Jessica, what time do you arrive in New
11 York? All my best, Harvey. Not Jessica, you're coming to
12 New York. You must see me, you have no choice. None of
13 that. Not once, not one time in 2012 to 2017 does Harvey
14 Weinstein tell Jessica that she has to do anything.

15 She says so good to hear from you, I just arrived
16 this afternoon and leave on Monday. They obviously knew
17 she was coming, and they set up some time to get together.
18 And he says I'm going to come in from Connecticut.

19 March 18th at the Doubletree Hotel. Talk about
20 reframing.

21 Jessica tells you she sets up a meeting for her
22 friends and Harvey at the Doubletree Hotel.

23 How does that start? That meeting starts with
24 Jessica saying Harvey arrives early.

25 Now, what is really interesting about the

1 circumstances of that arrival is what we hear from Mr.
2 Capulong who works at the Doubletree.

3 And he tries to tell you that he saw this person
4 who was upset. But here is the problem with what he told
5 you if we believe Jessica Mann. Jessica says when she
6 comes down, Harvey is already checking in. He's already at
7 the desk. He's already checking in, and she goes right up
8 and says why are you checking in.

9 But if we believe the person who works at the
10 hotel, that is not what happened. I see these two people
11 in line, they are behind someone else. I don't know if
12 they walked up together.

13 Why is that important? It is important because
14 her recollection of this day might be one of the most
15 imperative of all.

16 So, if the Government wants to bring in a witness
17 to make you think that she was distressed in any way, it
18 didn't help; because it contradicted what Ms. Mann said.
19 Not only did it contradict what Ms. Mann said when they
20 were standing in line at the Doubletree, but it contradicts
21 what Ms. Mann says when they walked away from the desk.

22 Ms. Mann said he put his hand on my back and led
23 me upstairs.

24 Why did she say that? She says that because
25 again, in the world they create, they want you to believe

1 she didn't have a choice.

2 Ladies and gentlemen, she had her own room. She
3 had her own key. She could have easily A, not come
4 downstairs. B, gone right back up to her own room and shut
5 the door where her friend was still in the room.

6 But she didn't do those things. What does she
7 tell you? I wanted to go upstairs with Harvey because I
8 thought there is where we could have the more reasonable
9 conversation, because she had no reason to fear him, none
10 whatsoever.

11 They had spent time together in L.A, she kept
12 going back night after night after night to see him. She
13 had no reason whatsoever to be afraid of Harvey Weinstein,
14 zero.

15 And why does Harvey Weinstein get a room at the
16 Doubletree? One, to make it convenient for Jessica so
17 she's not running around New York. Not a hotel he normally
18 stayed in. Two, because he was going to see the woman he
19 was having a sexual relationship with.

20 Doesn't that make more sense? Doesn't it make
21 more sense the person you had a sexual relationship with
22 for weeks now comes to your city and you are married, where
23 else are you going to meet her? So that is what they do,
24 comes, he gets a room and they go upstairs.

25 And you know what is interesting about the New

1 York encounter? You have to go forward, you have to go
2 forward and look at the messages Jessica Mann sends when
3 she first comes forward with the case against Harvey
4 Weinstein. And she says the statute of limitations civilly
5 in L.A bars me. I have a better chance in New York.

6 So, what does she have to do? Come up with the
7 only time she's ever been with Harvey Weinstein in New York
8 City. So when is it, it is that.

9 Again, we have to look at whether or not this
10 makes sense to you in the grand scheme of everything else
11 she does.

12 So, she claims she's assaulted in a New York hotel
13 room. And to be fair, even if we look at her testimony and
14 her testimony alone about what happened there that night or
15 that day. Even if you believe every word she says about
16 what happened in that hotel room, it does not rise to the
17 level of a rape.

18 She says, page 2259, I was very angry inside and a
19 little scared because we were having -- at that point that
20 was one of the more escalated times. He never came at me
21 like that with his hand holding me to undress. Were you
22 able to get out of the room? No. What did you do next?
23 I gave up at that point and I undressed, and he stood over
24 me until I was completely naked then he told me to lie on
25 the bed. Once I was on the bed, once I was naked and lying

1 on the bed, he walked into the bathroom and sort of closed
2 the door behind him. He was gone for not very long at all
3 and the door was still kind of opened a bit. He came out
4 naked and got on top of. Me, that is when he put himself
5 inside me.

6 She does not say at that point she says no. She
7 does not say at that point she tries to push him off of her
8 in any way.

9 At that point she's involved in a relationship
10 with him, and she tells you they have this negotiation
11 upstairs where he's telling her what to do. She's saying
12 no, then what does she do? Gets naked and lays on the bed.

13 This is not a rape, this is not a sexual assault.
14 This is someone who agrees to do what has then been
15 discussed.

16 And how do we know that, how do we know what
17 happened in that room? I was not there, you weren't there,
18 Ms. Illuzzi was not there.

19 But what we do know is what she does immediately
20 after. And what is she most upset about, most upset about
21 going upstairs, God forbid her friends know. That is what
22 she tells you.

23 She says I did not want people to see me coming
24 out of the room with him. I did not want anybody to think
25 it was not professional, that is what she was telling

1 everyone. I didn't want Tommy Richards, the agent, to meet
2 Harvey Weinstein to think poorly of me, that is what she
3 was worried about, she tells you that.

4 She gets into this whole thing about seeing
5 needles. Now for the first time she's worried. Let me ask
6 you this, I can understand not calling the police, I can
7 understand maybe not even calling a friend. But if you
8 believe what she says, what I do not understand is not
9 going to a doctor.

10 MS. ILLUZZI: Objection.

11 THE COURT: Overruled.

12 MS. ROTUNNO: If she was as fearful as she claimed
13 to be about the needles she saw, wouldn't you do the first
14 thing that makes sense, go get an STD test. Not one, not
15 one of these women that you have heard from over the course
16 of a few weeks, not one has said you know, I didn't call
17 the police, I did not call law enforcement, I did not call
18 my friend, but I went and had a test. Not one.

19 So, what does Jessica Mann do after she's in the
20 hotel room?

21 She goes to brunch. She goes to brunch with
22 Tommy, goes to brunch with Harvey. And Talita tells you --
23 Jessica tells you Talita was there. Talita tells you she
24 shows up later, sees Harvey for a short period of time and
25 helps Jessica get her things out of the room.

1 She corroborates what Tommy Richards said when he
2 said I don't think Talita was at the breakfast because she
3 was not, she came later.

4 At the breakfast, what happens. She's not upset.
5 She's her normal self. She does not look disheveled, face
6 is not red, does not look like she's been crying, everyone
7 says she looks normal.

8 And even if you want to believe you can have that
9 happen to you, come down moments later and look normal,
10 lets talk about what she does at the breakfast.

11 Finds out there is a screening of August of Osage
12 County. What does she do, decides to stay an extra day in
13 New York.

14 Now, she in this universe wants you to believe she
15 did that because she was forced. She felt like she had no
16 other choice. Talita who could have had three other
17 invites on her own was the reason she stayed.

18 What does Tommy Richards tell us. Tommy Richards
19 tells us that Jessica took him away from the table, which
20 is consistent with what Jessica says and says do you mind
21 if I stay.

22 Why is that significant? It is significant
23 because Tommy Richards is the reason she was in New York to
24 begin with.

25 You heard Jessica talk about her plights of money

1 over and over and over again. Tommy flew her, flew her to
2 New York, and she did not want to be rude, so she says is
3 it okay if I stay.

4 Tommy does not see distress on her face. All
5 Jessica would have had to do in that meeting away from
6 Harvey which they all agree was away from Harvey, was tell
7 him I have to go home, that is it.

8 But no, she does not do that. She wants to go to
9 yet another screening which she goes to. She goes to a
10 meeting with Julie Oh at the Weinstein Company that day, a
11 7:30 screening. She goes back to Talita's house and she
12 says I didn't want to go see Harvey.

13 She does not say she told anybody why, but she did
14 not want to see Harvey. What does she do, she does not go,
15 she does not go.

16 So, all of this talk about how she was afraid to
17 say no to him. How she didn't feel she could say no to
18 him. How she was under some spell he put on her. She said
19 no, she does not go, and there are zero consequences.
20 Zero.

21 What does she do the next day? I asked her only
22 because I knew the date. I said March 19th is Harvey's
23 birthday, did you see he him March 19th? Oh yeah, I saw
24 him March 19th. Again, a fact she never told anyone, ever.

25 So, if you claim you were raped in a New York

1 hotel on March 18th then voluntarily go see your rapist to
2 celebrate his birthday the next day, that might be a fact
3 that would have been important in deciding whether or not
4 to believe if anything took place in that hotel on March
5 18th.

6 Back to this notion she was so distraught, or
7 fearful if there was an issue. You heard me ask the
8 security guy, Mr. Castillo from the Doubletree, was there
9 any issue, if there was an emergency, would security be
10 called? Of course immediately, that is what you do. You
11 don't write up some incident report that somebody does not
12 see until the next day that now does not exist.

13 So, he pulled me away, pulled me aside away from
14 the counter and told me not to embarrass him. I got really
15 quiet and started pacing when he went back to the counter,
16 and I was looking at people at the counter like pleading
17 like I did not want them to give him a room key.

18 The man who was on the other side of that desk
19 said I couldn't see her face, I couldn't even identify her
20 with a picture. I remember all the things that happened, I
21 remember there was Harvey Weinstein, I remember there was
22 some conflict, but I could not identify even with a photo.

23 Then he's got it and he comes back to me. Where
24 did she go, that also does not make sense with Mr.
25 Capulong's testimony. You know, and he put his arm on me

1 and started guiding me to go to the room.

2 Remember, Mr. Capulong says she followed after
3 him. So I thought well, at least up there in private I can
4 yell at him if I need to talk to him, which I never really
5 could yell at him.

6 See, this is where she catches herself. It is
7 exactly why she went up to the room, to yell at him,
8 because she did not want her friends to know they were
9 going to be together.

10 Then she realizes wait, in the world I created,
11 I'm so afraid of Harvey Weinstein I cannot admit I would
12 yell at him. That is exactly why she went up to the room
13 saying my friends are coming and I don't want to do this
14 now.

15 I started to argue with him. We don't have time,
16 not I don't want to do this, we don't have time.

17 Talita is coming, she's going to be here, I was so
18 afraid that Thomas and Talita would see me coming out of
19 this like room with him and make all these assumptions, you
20 know, because I was just trying to hide everything.

21 And I attempted twice to open the door and leave
22 and he blocked the door both times.

23 Think about it, you are in an argument with
24 somebody you care about and they are trying to leave.
25 Quite often you try to deflate or deflect or de-escalate

1 the circumstances.

2 You have to describe for us now what that was how
3 you tried to open the door and how did he block it. So I
4 attempted to open the handle and he would put his arm up
5 both times. Never once did she say put his hands on me, he
6 stopped me from leaving, never one time.

7 Let's look at the last line. How are you feeling,
8 panic, because my worst nightmare I felt that could happen,
9 which was, there you go, the secret of this dynamic with
10 him was about to be seen in front of Talita and Thomas.
11 This was embarrassment, is that correct? Panic, more panic
12 that the secret of this dynamic was about to be seen. Not
13 that I was about to get raped. Not that I was going to get
14 sexually assaulted. My biggest fear was the secret of the
15 dynamic was about to come out.

16 This is what she says after the fact. So can you
17 imagine, can you imagine if you had been raped in a hotel
18 room and answering a question and saying I was afraid my
19 biggest fear, panicked, because my worst nightmare, I felt
20 like could happen. That tells you everything right there
21 about what happened at the Doubletree, that is all you need
22 to know.

23 Have you ever had intercourse with him before this
24 moment? No. I would have what I thought we were doing
25 was role playing, but I don't have any, I didn't have any

1 experience of his penis inside me.

2 So this notion of role playing, is this what she
3 was doing at the Doubletree?

4 Then the end she says I go to the bathroom, I'm
5 trying to collect myself for a minute and I see a needle in
6 the trash can and I flip out.

7 She does not tell you she goes into the bathroom
8 and flips out because she had non consensual sex. She
9 tells you she flips out because she sees a needle.

10 So embarrassed of thoughts of him knowing you were
11 in a hotel room with Mr. Weinstein. Correct. Were you so
12 embarrassed at the thought Talita would know you were in a
13 hotel room with Mr. Weinstein? I didn't want them to see
14 us coming down. But Talita already had known you went to a
15 hotel room with Mr. Weinstein, right? Well yeah. Because
16 Talita was in that hotel room with you that one time, yes.
17 At that time he told Talita he went down on me and I
18 pretended I liked it. Talita was there, yes.

19 March 19th is the day she sees Mr. Weinstein for
20 his birthday. Then again of course the Weinstein Company
21 is arranging tickets and transportation.

22 She circles back with Julie Oh saying I wanted to
23 follow up from New York, it was great meeting you, thank
24 you for your time.

25 Now it is the slew of e-mails. Ladies and

1 gentlemen, if I went through every e-mail between Harvey
2 Weinstein and Jessica Mann, she would still be on the
3 witness stand.

4 The amount of communications between the two of
5 them was vast. It spanned years, and these are all e-mails
6 that have already been placed into evidence. I'll not
7 spend your time reading them to you because you heard me
8 pain painstakingly go through them with her while she was
9 on the witness stand.

10 In the alternative universe that the prosecutors
11 have created for you, Harvey Weinstein is a monster, he's
12 unattractive, he's overweight. They showed you naked
13 photographs of him. Ask yourselves why. To do nothing
14 more than shame him. Absolutely no reason whatsoever for
15 those photographs, not one. No issue of identification.

16 April 12th of 2013, I hope to see you sooner than
17 later. I appreciate all you do for me. Harvey responds
18 you deserve it.

19 Again, they create a monster. You see in real
20 time communications that span years, years where this man
21 says nothing but kind things to me, to Jessica.

22 More communication about her part she wants to
23 play. They made a big deal about these women and these
24 roles.

25 Jurors, you are smart enough to know women play

1 roles that are younger than they are in Hollywood.
2 Annabella is proud of that actually, women do that.
3 Sometimes they are thin, sometimes they lose weight, that
4 is what happens.

5 April 17th to the 19th, more contact. Going to be
6 in L.A Sunday, maybe Friday night too, will you be around.
7 All my best Harvey. Not you must see me, you have no
8 choice but to see me.

9 Early May, late June of 2013 more exchange
10 attempts for them to meet. She's asking if he's coming to
11 L.A. He says come to New York. July of 2013, more July
12 2013. Then the whole situation about him helping her get a
13 job.

14 Only in this alternative universe is helping
15 somebody get a job a bad thing. Only is this a place where
16 you feel forced and felt like you had no choice even though
17 you went to the interviews, you are a part of the
18 demonstrations, and the auditions for cutting hair.

19 She says he forced her to get a job. That is what
20 she says now. She says that now because if you knew she
21 took a job voluntarily and took his help voluntarily, you
22 would say there is no way he raped you in March of 2013, no
23 way.

24 So what do we have to do about that now. Say he
25 forced me to work when he was in New York and I was in L.A.

1 You saw his travel schedule and the amount of
2 times he left the country. Mr. Weinstein was a busy guy,
3 he didn't have time to worry about forcing Jessica Mann to
4 go to work.

5 She wants you to believe he forces her to work
6 while claiming to be these things. Legitimate acting
7 career, living out of her car and a garage in Comton.

8 More communication. Then these are my favorite
9 e-mails of all, all of the times she says I have a new
10 number, here it is.

11 If there is really someone that you don't want to
12 talk to ever again, and even if you are being forced to
13 send nice e-mails, and even if you are being forced to sit
14 at your computer and sign things love and nobody
15 understands me like you do, and you make the haircut look
16 good because of your blue eyes and bright smile.

17 Even if you believe all of that, how do you
18 reconcile the five or six times she says oh, here's my new
19 number, I wanted you to have it.

20 Not only her numbers, when she does not have
21 access to a number, she is sending him her friend's numbers
22 which is the way he can get a hold of her.

23 Hope you are well, call me anytime, always good to
24 hear your voice.

25 Sending nice e-mails in September about something

1 she overheard about him. Ending it with miss you big guy.
2 Response, dear Jessica, thank you for your sweet message,
3 all my best, Harvey. Will you be in L.A around my birthday
4 which is also another thing you would send your rapist.

5 More communication all through October of 2013.
6 November of 2013. Talking about her dad being sick again,
7 not things you reach out to somebody you're trying to
8 distance yourself from.

9 More premiers. Then November of 2013 is the first
10 time she let Harvey know she has someone in her life,
11 someone in her life she loves and how she can deal with it.

12 Thank you for your unfailing support and
13 kindness. It has helped me believe in myself. Again, not
14 words you say to your rapist.

15 And in this e-mail, she is saying I want to define
16 some boundaries here because it would be hurtful to my
17 partner.

18 If Harvey Weinstein raped her in a New York hotel
19 room, wouldn't this person that she's trying to become so
20 close to be the first most understanding and empathic of
21 that? No.

22 What does she do, starts dating someone. And what
23 does she do in every communication with him, she justifies
24 her relationship with Harvey Weinstein. Justifies it.
25 He's great to me, he understands me. He validated me.

1 How do you reconcile that, how do you reconcile
2 this behavior? You can't, you can't. This is real time
3 communication happening in real life at the real time. Not
4 the spin that has been placed on it, not the I felt like I
5 had no other choice. What are we doing to women, women
6 have choices.

7 Ms. Mann, here is the issue, all your friends
8 really didn't know what was going on because you were lying
9 to your friends, correct? It was something I was hiding.
10 In hiding, you were keeping something from them, correct?
11 Yes.

12 Here is the interesting part of the timeline. Now
13 we are at January of 2014. Now remember, Jessica describes
14 a horrific scene in a hotel in Beverly Hills.

15 She says it is around the time she thinks she even
16 gave him a haircut she says in her e-mail to Maxine
17 Rosenthal and tried to frame her timeline, then when asked,
18 no, no I cannot commit, I don't know, let me tell you why.

19 Because there is an open investigation in L.A and
20 she knows anything she says --

21 MS. ILLUZZI: Objection Judge.

22 THE COURT: Overruled.

23 MS. ROTUNNO: Anything she says here can hurt her
24 there.

25 MS. ILLUZZI: Objection Judge.

1 THE COURT: Jurors, just make sure you make your
2 determinations on facts that are actually in evidence.

3 MS. ROTUNNO: She does not want to commit, she
4 does not want to commit to that. She says I don't know,
5 I'm not sure, I don't remember. Because of course if she
6 remembers, we can refute it, we can refute it with
7 timelines, we can refute it like we did with Mimi with
8 plane tickets and circumstances, calendars, crossoffs, much
9 easier like Annabella, much easier, let's not pick a time.

10 So, she says this assault happens soon after she
11 lets Harvey know she has a boyfriend. She thinks it is the
12 day she gave him a haircut.

13 This e-mail is the reason she does not want to
14 commit to that. Because if she commits to that story
15 happening in the Peninsular in January of 2014, then how
16 does she reconcile this: Dear Jessica, that is the best
17 haircut and trim I've gotten. I've got a million
18 compliments, thank you, all my best, Harvey. You are the
19 one who makes it look good with your smile and beautiful
20 eyes. But thank you, that makes me so happy to hear,
21 smiley face, Jess.

22 If he did what she said he did in a hotel in L.A
23 at the Peninsular, is this the e-mail you send the day
24 after that happened? Of course not, it makes absolutely
25 no sense, zero.

1 Let's continue to look at the timeline about why
2 maybe this does not make sense.

3 She gets invited to a Weinstein Company event for
4 the SAG awards. She told you how many times on the stand
5 she loved the parties. Thank you, I will attend plus
6 one.

7 So again, she has a problem with that horrible
8 story she tells at the Peninsular where she has nail marks
9 on her legs. Take any pictures of those? Didn't tell
10 anybody about it.

11 But what do we know? This is what was happening
12 in real time. Then who reaches out to who. February right
13 before the Oscars, somebody is looking for an invite to a
14 party. Curious if you'll be needing your hair done for the
15 Oscars, because it will get busy and I'll plan on it if you
16 will.

17 Now, if your rapist was coming back to the hotel
18 he raped you in where you were working, wouldn't you hope
19 your schedule was full. Wouldn't you hope he would have to
20 go to somebody else to cut his hair?

21 She told you it was common for me to go upstairs
22 and cut his hair. No, she wants to cut his hair, wants to
23 go to a party.

24 Then it's a joke, banter between the two of them.
25 Are you around tomorrow, I'm arriving in L.A. Yes, here

1 today and tomorrow. Still with the boy. She responds back
2 ha, ha smiley face, you know the answer to that.

3 This man raped her in a Beverly Hills hotel after
4 she claims she had a boyfriend in her words one last time.
5 Is this the conversation that you're having?

6 Of course it is not the conversation you're
7 having. These are text messages we talked about between
8 her and Edi. Then April 14th of 2014, I heard you wore a
9 hat all week. He responds back I'm Farrell, she said that
10 was in relation to him getting a bad haircut.

11 What we know is soon after this, Jessica Mann is
12 gone from the Peninsular. Again, she does not want to
13 commit to the timeline because if that horrendous rape
14 happened, from January till now she has a problem with all
15 these communications.

16 Then the Edi one. This is where the true feelings
17 about Harvey Weinstein and the relationship she has with
18 him comes to light.

19 We know in this letter this is where she talks
20 about prior sexual assaults that she suffered from that had
21 nothing to do with Harvey Weinstein.

22 In this letter, I'll not read the whole thing
23 because you heard it during the trial. But this is where
24 she talks about Harvey validating her, and wanting Edi to
25 understand her relationship with Harvey.

1 Harvey was someone I believe had, saw past the
2 junk. Because of my own issues and me found ways to bond
3 in that situation, whether they are true or not, I accepted
4 that my father was that older man who dated women younger
5 than me, and in turn I would become that kind of woman
6 because I, because of my failed relationships. Harvey
7 validated me. He always offered to help me in ways my
8 parents didn't.

9 The end. Harvey was my father's age and gave me
10 all, capital A, lots of L's, the validation I needed I
11 thought at the time. He offered to give me things, I
12 refused them. I never let him buy me things or give me
13 money which he tried.

14 I did let him change my plane ticket so I could
15 stay an extra day in New York when Talita and I went to the
16 August Osage County screening. Here she says I rarely saw
17 him because of scheduling, and a big part of myself avoided
18 him because I didn't yet control the situation.

19 She tells you on that recording with her therapist
20 I'm in total control of him, he does whatever I want. The
21 therapist validates that.

22 June 2014, her timeline, she says I see you're
23 gone from the Peninsular. She's like I've been at my new
24 job for almost three months. We know it was probably two
25 based on her e-mail in April talking about the haircut.

1 This is what she says to her relationship
2 reinvented therapist module she used. How good Harvey is
3 for her. Again remember, can you believe what she says
4 happened in March of 2013 and sometime in 2014 at the
5 Peninsular then reconcile what she is saying to the people
6 she seeks help in therapy.

7 He's always extended his hand to help. Should I
8 come to him with something. She says to him you are
9 supposed to tell me when you are in L.A. How's married
10 life. Again, more contact trying to see one another.
11 August of 2014 again August 28th of 2014. September 2014.
12 Goes on and on and on and on.

13 She sends him photographs. I'm in Berlin, more
14 about Germany, 2014. And this she sends in November of
15 2014 to Nadia Tyson about Edi, something she would send to
16 Edi. Dear Edi, I suppose when the relationship starts off
17 with me fucking other men, having a one night stand in
18 Vegas and blowing a super rich Hollywood producer who could
19 ruin your career, it's not going to work out long term.
20 Coming to this realization, love Jess.

21 Even if, even if you want to believe she didn't
22 tell anyone, she kept it all in. If you believe what she
23 says happened to her, this is not the way you would
24 characterize your relationship with a rapist.

25 More contact. December of 2014, enjoy the

1 holidays. Again, I'm using a temporary line. More
2 parties.

3 Then she says thank you for the party invite, my
4 father past this morning, not sure I'll make it back.
5 Please let me know if there is anything I can do for you.

6 I don't know if you have noticed from all the
7 e-mails you have seen, whether it is Claudia Salinas,
8 whether it is Lauren Young, Jessica Mann, Miriam Haley,
9 Annabella Sciorra, every single one of these women reaches
10 out, asks for things and he does anything he can do to make
11 it happen.

12 This is not the monster they painted him out to
13 be. This is a guy who anytime anybody asks him for help,
14 not only does he get assistants involved, not only does he
15 get staff to help, when you are upset, he says please let
16 me know if there is anything at all I can do.

17 Let me know when you are back in L.A, love to see
18 you, February of 2015. More of February 2015. Of course
19 it is Oscar time now. Going again to parties. I have a
20 plus one. More parties. And what does she say to her
21 therapist she seeks out, Oscar time, about to get crazy.

22 Are you going to them. I'm going to a lot of
23 parties and viewings. The actual Oscars is limited seating
24 for the actors and nominees. I'll be the Weinstein Company
25 party. She wore this like a badge of honor.

1 Then the requests. I want to apply for a
2 membership at Soho House and take my business meetings.
3 Remember when I asked her about all the people that she
4 claimed to know in Hollywood, and all the other people she
5 spent time with. She said I know the Marvel guy, maybe
6 reach out to the Marvel guy for help before you ask your
7 rapist to be your sponsor in an exclusive club.

8 Again, it makes no sense. It makes no sense she
9 would ask her rapist, because he didn't rape her. That is
10 why she's doing this, that is why she's reaching out,
11 whether she's using him for what she wants, whether she's
12 acting as if she's using him, pretending whether she really
13 likes him, who knows.

14 What we do know is that all of this does not
15 suggest what she claims happened in those hotel rooms.

16 You saw Jessica Mann, you saw Jessica Mann, she
17 could not keep anything straight.

18 She could not keep a date straight. Couldn't keep
19 a circumstance straight. She broke down. I feel sorry for
20 Jessica Mann. Jessica Mann is a victim of this table. The
21 Government, the People of the State of New York used
22 Jessica Mann.

23 They used Jessica Mann to get to this guy. That's
24 why. They didn't have enough, they had witnesses like
25 Tarale Wulff with her fragmented memories, sent her to

1 doctors. They didn't have enough.

2 They put Jessica Mann up here and they used her.

3 Know how you know, they didn't even redirect her.

4 After I was done, after two and a half days, the
5 only witness, the only witness they didn't ask another
6 question to was Jessica Mann.

7 Why? They saw, they knew. They knew she broke
8 down. She talked about all the symptoms she has. Looked
9 at for borderline personality disorder.

10 If we go back to Doctor Ziv, Doctor Ziv tells you
11 in her Virginia Wesleyan case, she believed she testified
12 for this table, for the defense, because the woman was
13 exactly what Jessica Mann is, exactly. Doctor Ziv was
14 actually a witness for the defense. Doctor Ziv did not
15 help them at all.

16 More communications, continued communications.
17 You'll have all these in the back. You can look at
18 everyone, I'll not read through them, you heard them
19 before.

20 Don't forget about the ones where she says I went
21 through a breakup, I was really hoping for dinner with you.

22 Another new number message. Now into 2016,
23 another new number. Oscar time, 2016. Thank you so much
24 for extending me a lovely invite with friends. It was the
25 most beautiful viewing so far.

1 Again, using her trading on her relationship with
2 Harvey. And here we come to October of 2017.

3 Don't forget before we get to this, there was that
4 encounter she says she had consensual sex with him in
5 2016. It was a surprise to us because we did not know
6 until she said it from the witness stand.

7 Again, something that didn't help her. This is
8 what she says, October 9th of 2017, obviously the headlines
9 are bringing up a lot of emotions considering my time with
10 Harvey Weinstein.

11 There was an incident one time with him which has
12 left me confused about all the good he did for me because
13 it was abusive. I just don't know how to process the
14 emotions. If I have any obligations or things or what.

15 So, she sees headlines, and all of a sudden of
16 course now she does not want to be the person that had
17 consensual relationships with Harvey Weinstein because the
18 Harvey Weinstein in 2012 and 2013 and 2014, 15, 16 who
19 could do things for her, now has a problem, what does she
20 say, there was an incident one time that left me confused
21 about all the good he did for me.

22 She does not say he raped me. She talks about how
23 he would yell at people on the phone. She does not say oh
24 my God, I have a bombshell story to tell. No. This is
25 what she says, on her own privately, this is not a message

1 she was forced to send to Harvey Weinstein, this was a
2 message she wrote herself.

3 Here we have it. Why do this. At this point
4 bottom paragraph, I do not have an attorney, if I want to
5 pursue damage civilly, I have very little time left to file
6 in New York.

7 I've not known what to do or if I should move
8 forward with that. My initial concern was validating the
9 truth that he's a rapist and criminal charges.

10 Here's the problem. The problem is she knew if I
11 wanted to pursue damages civilly, in a prior e-mail she
12 says I can't do it in L.A, it is too late in L.A. So, was
13 it one time, two times, what is convenient, what works.

14 We can take a break.

15 THE COURT: Sure. All right jurors, we will take
16 our lunch recess.

17 Remain mindful of all my prior admonitions and
18 instructions.

19 During this and any other recess, keep an open
20 mind. Do not form an opinion as to the guilt or innocence
21 of the defendant.

22 Do not discuss the case amongst yourselves or with
23 anyone else nor allow anyone to discuss it in your
24 presence.

25 Absolutely refrain from any and all research or

1 communications, electronic or otherwise about anything
2 whatsoever to do with the case. See you back here prior to
3 2:15, thank you.

4 (Jury exits courtroom).

5 THE COURT: Okay, 2:15.

6 (Lunch recess taken).

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1 (A luncheon recess was taken.)

2 (After the luncheon recess, the following
3 occurred:)

4 ***

5 A F T E R N O O N S E S S I O N .

6 (The trial continued.)

7 THE COURT: All right before the jury comes back
8 in, ADA Illuzzi, you said you wanted to put something on
9 the record?

10 MS. ILLUZZI: We have been objecting to certain
11 portions of the defense summations, Judge, and I don't know
12 what your -- that from your vantage point you are able to
13 see everything that's on the screen.

14 THE COURT: I have my own screen.

15 MS. ILLUZZI: But we have -- we have seen at
16 least one or more exhibits that are not in evidence that
17 are being put up on the screen.

18 So there are exhibits Cannes put up on the screen
19 that does not have defense numbers on them or even like in
20 the corner or whatever that illustrate that it is evidence.

21 And we have an email here that was, you know,
22 highlighted for quite sometime on summation and it's not in
23 evidence from what we can see.

24 We could be wrong. We have asked the defense and
25 we haven't heard anything back. They are putting up

1 evidence not in evidence, number one.

2 Number two, Ms. Rotunno is quoting testimony and
3 the testimony she is putting up their is questions that
4 were objected to and sustained.

5 So it's like, question and then another question
6 and then an answer and it is implying that the answer is
7 the answer to both questions, when the question was
8 sustained.

9 And so, that shouldn't appear anywhere and it is
10 certainly not going to be in the read back testimony.

11 She referenced an email where Jessica Mann
12 started talking about the statute of limitations. We don't
13 know where she is referencing that from. She didn't put an
14 email up and we don't know of one.

15 THE COURT: All right. So if, in fact, you have
16 used or are using or intending to use any exhibits that
17 were not received in evidence, please do not do so. And as
18 far using testimony, if a question and an answer were
19 objected to and sustained then you may not use the question
20 or the answer.

21 MS. ILLUZZI: She is also putting up Grand Jury
22 testimony, the actual testimony of what happened in the
23 Grand Jury. That's not in evidence either.

24 MS. ROTUNNO: That's not true. In terms of the
25 question and answer, there is not one sustained question

1 there.

2 MS. ILLUZZI: Yes, there is. If you go back to
3 the slides, yes, there was.

4 MS. ROTUNNO: If you want to pull up specific
5 examples --

6 MS. ILLUZZI: I don't have your point PowerPoint.
7 I don't have your PowerPoint, so how am I going
8 to do that?

9 MS. ROTUNNO: Well, first of all, we made
10 absolutely sure that all we did was removed the objection
11 portion. Not one sustained issue, not one, is up there,
12 number one.

13 Number two, in regards to an email, I will go
14 through all of my exhibits. I do not believe we used
15 anything that was not in evidence. If we did, obviously,
16 it would not go back to the jury.

17 I do not believe that we did. I do have the
18 email that you are referencing.

19 MS. HAST: If you numbered them on the screen --

20 MS. ROTUNNO: Judge, I would ask Ms. Hast not to
21 tell my how to do my summation.

22 What we did was we took --

23 MS. HAST: You need to reference your exhibits --

24 MS. ROTUNNO: Excuse me, Megan.

25 The bottom line is, Judge, if that's the case, we

1 do not believe it is, we will go through and make sure.

2 But we absolutely, in terms of the transcript, did not put
3 any sustained objection questions in.

4 Also, there is no Grand Jury testimony transcript
5 in the PowerPoint, not any.

6 THE COURT: Yeah, it struck me that the Grand
7 Jury testimony that she summed up on was Grand Jury
8 testimony that was the question and answers were elicited
9 on the record at trial which is permissible if that's what
10 it is.

11 MS. ILLUZZI: Right, Judge, but there is no
12 question or answer.

13 What they are putting up -- what they are putting
14 up is the transcript from the Grand Jury. They are putting
15 up like an actual transcript from the Grand Jury.

16 MS. ROTUNNO: We absolutely did not.

17 MS. ILLUZZI: Number one.

18 Number two, for example you said that she could
19 speak to the jury about the reasonable doubt charge, beyond
20 a reasonable doubt charge which is fine except that she
21 just eliminated the paragraph that says, reasonable doubt
22 must be a doubt which someone can give a reason, that whole
23 paragraph is out.

24 Like, in other words, the reasonable doubt
25 charge, the words were correct except that they skipped an

1 entire paragraph of what beyond a reasonable doubt means.

2 THE COURT: Well, that's your choice whether to
3 deal with that tomorrow or if not, on that.

4 All right, jury is entering.

5 COURT OFFICER: Jury entering.

6 (The jury entered the courtroom and the
7 following occurred:)

8 THE CLERK: Case on trial continued. All parties
9 are present and properly seated. Do the parties stipulate
10 that the jury is present and properly seated?

11 MS. ILLUZZI: Yes.

12 THE CLERK: Defense.

13 MS. ROTUNNO: Yes.

14 THE COURT: All right. Thank you, Jurors, once
15 again for being so prompt and timely.

16 We will resume the closing arguments or
17 summations as of Ms. Rotunno.

18 MS. ROTUNNO: Good afternoon. I hope you had a
19 nice lunch.

20 I am going to talk a little bit about Nicholas
21 DiGaudio.

22 Nicholas DiGaudio is not a witness you heard from
23 in this trial. His name was mentioned as the lead
24 investigator in this case through the testimony of Jessica
25 Mann.

1 And Nicholas DiGaudio is important because
2 Nicholas DiGaudio is the person that tells Jessica Mann
3 that she could delete information that she was
4 uncomfortable with from her phone before the prosecution
5 received her phones or before the police took them into
6 custody and that she could do that and they won't tell
7 Joan.

8 And it might seem insignificant, especially
9 because the DA called the investigator from their office to
10 talk about the fact that they looked at the phones and that
11 the phones seemed to be intact and nothing had been deleted
12 from the phone from the date that was important.

13 However, what we do know is that Jessica Mann had
14 multiple phones and we know that because of all the phone
15 numbers that were tendered back and forth to Harvey.

16 So what we don't know is if we received all the
17 phones. We don't know if Joan received all the phones.

18 The phones that we did receive, obviously,
19 produced a lot of things that you have seen here today,
20 whether they are text messages or conversations or
21 testimony that you heard about those things.

22 But what also is key, when I bring up Nicholas
23 DiGaudio, is the fact that in this case I want you to pay
24 attention to what we don't have in this chase. We have not
25 one police detective's testimony, not one.

1 MS. ILLUZZI: Objection, Judge.

2 THE COURT: Overruled.

3 MS. ROTUNNO: We have no law enforcement.

4 This was a case that was an investigation that
5 expands months upon months and we have not heard from one
6 person from the NYPD, not one person that did any
7 investigation into this case, whatsoever, except some
8 commentary about some people in LA through the witnesses.

9 But there has not been one officer of law that
10 has come in here and talked to you about how we even got
11 here and you should raise that question in your mind.

12 Here we are in a criminal case, in a criminal
13 courtroom, for a criminal trial and there is not one law
14 enforcement officer here.

15 MS. ILLUZZI: Objection, Judge.

16 THE COURT: Sustained.

17 You should not ask how you got here. You have a
18 job to determine whether the DA has proven the charges
19 beyond a reasonable doubt and how you got here is not
20 necessarily material to your determination.

21 MS. ROTUNNO: You don't have any information with
22 regard to the investigation that took place here other than
23 hearing from lay witnesses.

24 You don't have any real eyewitnesses. You don't
25 have any DNA. You don't have any photographs of any

1 injuries. There is no forensic evidence, whatsoever, zero.

2 And I want you to think about that as you
3 evaluate the evidence in this case and when you deliberate
4 in the jury room.

5 Annabella Sciorra, now, we are at the point in
6 this case, and we are going to talk about people that have
7 really nothing to do with the case or the charges.

8 Annabella was brought into this case for one
9 reason and one reason only, she was brought in so there
10 would be one witness who had some star power, one witness
11 you may recognize and one witness whose name may mean
12 something.

13 Annabella makes claims in this courtroom that
14 defy the statute of limitations so the government cannot
15 charge Mr. Weinstein with anything that they allege
16 happened to Annabella.

17 MS. ILLUZZI: Objection, Judge.

18 THE COURT: Overruled.

19 MS. ROTUNNO: There is a reason that we have
20 statutes of limitations in this country and the reason is
21 so people can defend themselves.

22 When you come in and you make a claim of
23 something that happened 27 years ago, at least we think
24 based upon the timeline, again, she gives us and remember
25 she tells us sometime between the winter months of 1993

1 into 1994, so imagine, think about where you were in 1993.

2 I was in high school and if somebody asks me to
3 talk about what I did on a winter night in 1993, it would
4 probably be difficult for me to pinpoint what I was doing,
5 where I was and who I was with.

6 So think about how Mr. Weinstein defends himself
7 against a crime that they alleged happened 27 years ago.
8 It's nearly impossible, nearly impossible because at that
9 point you can't go back.

10 You can't go back and look at any evidence in any
11 cameras. You can't go back and look potential phone
12 records that you had at that time. You can't go back and
13 look at travel or even American Express. You can't call
14 that long ago to find out, maybe, where you were or what
15 you were doing.

16 So there is a reason in this country that they
17 can't charge a crime. You will not see a verdict form of
18 guilty for Annabella Sciorra and nothing else.

19 You cannot find Harvey Weinstein guilty of
20 Annabella Sciorra and nothing else because the law doesn't
21 allow it.

22 What they need you to do is if, and only if, you
23 believe that he is guilty of the crime against Miriam Haley
24 or guilty of the crime of Jessica Mann, that's the only
25 time you even get to Annabella.

1 So if you decide based upon the evidence that you
2 have seen and based upon the burden of proof and the
3 presumption of innocence and everything that I already laid
4 out to you, that there is no way that Mr. Weinstein is
5 guilty in your mind of those two charges of those two
6 women, you don't even need to go there, don't even need to
7 think about it, don't even need to discuss it and you can
8 move on.

9 But I wouldn't be doing my job if I didn't at
10 least go over some of the issues with her testimony. So I
11 am going to do that now.

12 You -- we talked a little bit about this
13 situation.

14 You will receive instructions that say if you
15 believe the charges against Miriam Haley, then you can move
16 to Annabella Sciorra. If you don't believe the crimes
17 against Miriam, you don't go to Annabella.

18 If you believe the crimes against Jessica then
19 you go to Annabella. If you don't believe the crimes
20 against Jessica, you don't get to Annabella.

21 Circumstances of their meeting.

22 We know that at the time Ms. Sciorra was 31 years
23 old. Again, a woman, not a young woman, not a child, a
24 woman who had a very on the upswing acting career at that
25 time.

1 She had done Hand That Rocks the Cradle and she
2 meets Harvey Weinstein in a party in Los Angeles. He
3 drives her home. There is no incident.

4 And he says, to her, here is my card. If you
5 come up with a script or anything you think might be
6 interesting to me, let me know.

7 He doesn't contact her. This web that they said
8 he weaves and these tests that women pass, he didn't call
9 her. She called him.

10 She called him and said I have a script that I
11 would like you to look at.

12 He says, no problem. Listens to the script.

13 Now, remember when she talks about how she reads
14 and then right away Mr. Weinstein says, if you don't do
15 this movie, I don't want to do the script.

16 She says, she feels bad for her friend Warren
17 Leight and she decides she's going to do the movie even
18 though she was overworked and she doesn't want to do it.

19 She even throws in Mr. Weinstein threatened to
20 sue me.

21 Well, she had no contract so I don't know what
22 he's suing about.

23 Why does she though that in?

24 She throws that in because she wants to start
25 this notion that right away they had some sinister,

1 horrible meeting and that things weren't going well between
2 them.

3 If you look at the rest of their interaction with
4 one another you have to ask if that makes sense. She makes
5 a decision, again. They want you to think she has no
6 ability to make her own choice. She chooses to do the
7 movies and she becomes part of what she called the Miramax
8 Family.

9 Show goes to events and she goes to parties.
10 And, again, we listen to these circumstances in the
11 courtroom and we think about them within the vacuum or
12 tunnel that they explain them.

13 You have to look at the totality of the
14 circumstance at the time and the relationships that she had
15 and that she was making.

16 And at the time, you heard Paul Feldsher. Paul
17 Feldsher came in and said, she was my friend at that time.
18 She was my good friend.

19 And Annabella knew that Paul Feldsher was going
20 to take the stand in this case.

21 So what did she do right away?

22 We weren't friends and I met him when he got
23 fired. We know that is not true. Mr. Feldsher did not get
24 fired from ICM.

25 So right away, the first thing she did when she

1 took that witness stand was attempt to discredit him.

2 And why?

3 Because she knew what he knew. She knew what she
4 had told him and she wanted you to believe before you even
5 saw him take that stand that you shouldn't believe him.
6 She did that on purpose. She is not a naive, dumb woman.

7 Annabella Sciorra spent most of her time in
8 Brooklyn, New York. You saw her. She was tough. She was
9 smart.

10 And what did she do when spotted somebody in the
11 back that she thought was taking a picture, she said, who
12 is taking my picture? Who is taking my picture?

13 That's Annabella. Annabella is not a shrinking
14 violet. She wasn't somebody who was going to let someone
15 push their way into her apartment. That's not who she is.

16 She is the person that stands up and fights for
17 herself. She is the person who says who is that in the
18 back. That's who she is.

19 She is the person you saw on David Letterman
20 laughing and joking about not telling the full truth.
21 That's Annabella.

22 Annabella is not the addicted, Valium popping,
23 alcohol drinking person she wants you to believe that she
24 was.

25 And if at the time she had a problem, again, in

1 the alternative universe that they created, her addictions
2 are Harvey Weinstein's fault too. It's insane. It's
3 absolutely preposterous.

4 A grown woman decides she is on a set that she is
5 overworked and decides to take Valium and say Harvey
6 Weinstein made me do it.

7 You remember the questions I asked her, did he
8 open your mouth?

9 Did he stick the pills in?

10 Did he put the water down?

11 No.

12 Did you refill your own prescriptions?

13 Yes?

14 Did you go to the Doctor on set?

15 Yes.

16 There was a Walgreens in my building.

17 Did you fill it there sometimes?

18 Maybe.

19 And then here she is in her Valium hat. So
20 somebody who wants you to believe that she was suffering
21 from some addiction, then several months later decides to
22 make fun of it and she says that was my cry for help. I
23 was thin and unhappy.

24 Well, most actresses are thin and that doesn't
25 look like somebody who is very unhappy.

1 She says that she lived at Gramercy Park North at
2 the time that this alleged incident took place.

3 Let's talk about that whole set of circumstances.

4 Annabella claims that she is at a party sometime
5 in 1993 or 1994, Uma Thurman, Harvey Weinstein and a group
6 of other people that she doesn't remember.

7 She says that at that dinner she decides that she
8 wants to leave early and Harvey says that he will take her
9 home. And we have to look critically, I think, at this
10 entire story to determine what actually makes sense. And
11 as New Yorkers, you use your common sense and you think
12 about this whole idea of how he got to her apartment to
13 begin with.

14 And this is where the question becomes, if her
15 interaction with Harvey was, she did a crazy thing that
16 night as Paul Feldsher tells you, if that's more plausible
17 or if it is more plausible that he came barging in to the
18 17th floor of your house.

19 Let's talk about that.

20 She says she goes home. He drops her off after
21 she is in a car given by a driver.

22 She tells the driver the address of 60 Gramercy
23 Park North. She never tells the driver the apartment
24 number, never tells Harvey Weinstein her apartment number.

25 She gets dropped off and she goes upstairs. She

1 puts on a nightgown.

2 Now, again, it's winter time. She describes it
3 as a white linyeny, burlap nightgown. It might not mean
4 much to the men on the jury, but to the women, thing about
5 it?

6 A thin summery night gown with no sleeves in the
7 middle of the winter and she puts this on and of course
8 what she remembers is it is an heirloom nightgown.

9 Does it make sense that a woman who goes home
10 alone puts on a night gown or does it make more sense that
11 you put on a pair of sweats?

12 That's for you to decide.

13 And then she goes upstairs to her house and
14 claims that a few minutes later she gets a knock on the
15 door.

16 And here is the big question, she lives in the
17 building and as Nelson the doorman told you, who is
18 probably the best doorman in the history of doormen, tells
19 you how that building is run. How serious it's run. What
20 the protocols are at that building.

21 And even when Ms. Illuzzi tries to say, well he
22 could have gone in the bathroom, he says, no, that's not
23 how it works. This is what we do. There are precautions
24 in place for this.

25 We lock the door and the other door men from the

1 other side comes over.

2 So how does he get up to the unit?

3 They are going to tell you that he had that unit
4 number because of some information he had in a Rolodex.

5 Now, this was 1993 or 1994. Not a smart phone to
6 be had, not a cell phone of any kind. No information that
7 he would have had available to him the way we do now.

8 So how he gets past the doorman, gets up to a
9 unit that he pulls out of thin air, goes to her door and
10 then when she hears the knock on the door, what does she
11 do?

12 Does she look through the peephole?

13 No.

14 Does she ask who it is?

15 No.

16 Does she call downstairs and say to the doorman
17 did you let someone up?

18 No.

19 1993, New York City, crime wave, height of crime.

20 She opens the door.

21 Could it have been a neighbor?

22 She didn't live there very long. We know from
23 cross-examination that she lived on Central Park for at
24 least close to this period of time because she was being
25 sued there.

1 She didn't live there long. As you saw, there
2 was no neighbor right next door. They could have come from
3 the other side of the hall.

4 She wants you to believe Harvey Weinstein just
5 comes barging in. She doesn't leave the door she came out
6 of, doesn't go get help from the doorman.

7 She let's him in. She tells conflicting stories
8 about whether he was upset. She thought she did something
9 wrong.

10 On cross-examination she said, actually, he was
11 kind of cajoling in sort of a nice way.

12 So ask yourself if it makes sense about how he
13 got up there and ask yourself if it makes sense that the
14 woman who sat there and said, who is taking my picture,
15 just let's somebody in?

16 Remember the nightgown?

17 That's the thing she seems to remember is the
18 nightgown because to her that gives this story that she
19 told no one credibility. She doesn't call anyone.

20 And at the time when I asked her who her friends
21 were at the time, she does not say the name Rosie Perez.

22 Why is that important?

23 That's important because Rosie Perez came in this
24 courtroom and told you that she called her that night.

25 If that were true, number one, Annabella would

1 have remembered that she told Rosie and Annabella says, I
2 told no one.

3 And number two, Rosie Perez would have gone over
4 to see her friend.

5 Call someone late at night and they answer the
6 phone and, again, remember she says we were supposed to go
7 out.

8 Rosie says, we were supposed to go out. That's
9 why I was calling her.

10 How late was that?

11 She said Harvey came after ten o'clock.

12 Sometime later than that she calls and she says,
13 I don't know if that day or another today she told me, I am
14 lying on the floor. I remember the heirloom nightgown and
15 she says, I don't know, I think I might have been raped.

16 Ask yourself does that make sense in the context
17 of everything else Annabella Sciorra tells you?

18 Annabella says the reason I didn't report this to
19 anyone, the reason I didn't tell anyone is because I didn't
20 think it was rape.

21 Again, if we go back to Annabella that you saw on
22 the stand, at that time, 33 years old from Brooklyn in the
23 entertainment industry knows what rape is.

24 And the story that she told you about him barging
25 into her apartment and holding her arms above her head and

1 forcing himself inside of her, if that's not rape, what is?

2 What is?

3 Very difficult for Mr. Weinstein to try to prove
4 a negative. Very difficult to prove something that never
5 happened. Very difficult to say, I was some where else. I
6 wasn't there.

7 When she makes the claims that she makes, very
8 difficult, 27 years later.

9 Let's talk about what she claims happened after
10 this alleged attack in her house.

11 She goes to London for a movie that didn't have
12 anything to do with the Weinstein Company and then when she
13 is in London -- that should say Matthew Vaughn.

14 She is in London and she works with Matthew
15 Vaughn. And Matthew Vaughn is a director and she says to
16 Matthew, I am getting these calls in my room for cars that
17 I didn't order and Harvey is in town and Harvey wants to
18 have breakfast with me and I want you to come with.

19 She doesn't tell Matthew Vaughn I don't want to
20 see Harvey Weinstein because he raped me several months
21 earlier. She doesn't say there is no way I want to go with
22 Harvey Weinstein.

23 She asks him to go with. We don't know why.

24 But where is he?

25 Matthew Vaughn didn't come here to tell you that

1 any of this even happened in London.

2 And then she shows up in Cannes. Well, then she
3 agrees to do the movie, Cop Land, and Cop Land was a movie
4 with Sylvester Stallone and Robert De Niro and big names.
5 And she says it is this little movie and she complains
6 about what she is being offered for the movie.

7 And, again, she goes back to, he threatened to
8 sue me when there was no contract. If any of this was true
9 or any of this happened, it would be easy to call an agent,
10 call a lawyer for any of these people to say, yeah, at the
11 time there was a big fight between Miramax and Harvey
12 Weinstein.

13 And, again, she tells you at the beginning when
14 she first does Cop Land, she says, I didn't know it was a
15 Miramax Film. I didn't know that Harvey Weinstein was
16 going to be involved in it.

17 Why does she say that?

18 Any actor that shows up to do a reading or an
19 audition knows where the money is coming from.

20 It doesn't make any sense but she tells you that
21 because she knows if she willingly volunteered to go do a
22 movie that Harvey Weinstein was involved in you would
23 question the veracity of her statements from winter of 1993
24 into 1994.

25 So then it becomes something else. Then it

1 becomes, well, we are fighting about the money but I do it
2 anyway. You saw the picture from that set. There didn't
3 seem to be any discontent.

4 And then she says, he goes to Cannes and when she
5 shows up in Cannes, low and behold, she is told that Harvey
6 Weinstein's room is right next to hers.

7 She doesn't move rooms. She doesn't say, I don't
8 want to be next to a rapist.

9 No, she stays there.

10 And why? She was asked.

11 She said, I had already unpacked.

12 So she stays in Cannes and when she stays in
13 Cannes, she claims there was a knock at her door. Remember
14 the first knock on the door didn't end well if you believe
15 her story.

16 So there is a knock at the door. She doesn't
17 ask, again, who is it. She doesn't look out the peephole
18 to see who it is. She doesn't call the front desk and
19 says, I am not expecting anybody.

20 She opens the door and claims that Harvey
21 Weinstein, at the height of Harvey Weinstein, is naked in a
22 hotel room hallway with underwear and baby oil.

23 If that happened the way she said it did and she
24 called for help at the hotel, there would be records.

25 There would be records of what happened there and we know

1 there would be records because you are going to see records
2 from the Peninsula and the Montage. It's what businesses
3 do.

4 We don't have those showing that there was any
5 problem in Cannes. There are no witnesses. There is no
6 corroboration, whatsoever, of anything Annabella tells us
7 and it's not corroboration that would be difficult to get.

8 In London she says she leaves the hotel and goes
9 to another one.

10 She doesn't remember what hotel. She doesn't
11 remember where she went. Another thing that would be easy
12 to verify if it happened.

13 She talks about the timeline and how she looked
14 and remember it's very interesting that she didn't know the
15 dates that this took place or couldn't really pinpoint it
16 more than a four to six month period. But what she did
17 know was that the opening night of her play was February
18 2nd.

19 She knew that date and she said, I could tell by
20 the way I looked that I had lost weight and that's why I
21 think it was around this time because I don't look happy.

22 You can judge those photos for yourself.

23 And then we hear nothing about any issues between
24 Annabella and Harvey Weinstein.

25 Again, in this world that they have you living

1 in, Harvey's constantly reaching out to these women to keep
2 them close. He doesn't reach out to Annabella ever, not at
3 all.

4 And then she gets contacted by Ronan Farrell late
5 2016 early 2017 and what does she tell Ronan Farrell, that
6 nothing happened.

7 You can read the transcript.

8 And how does she respond?

9 No, nothing happened. I don't know. I guess I
10 just wasn't his type.

11 Now, again, even if you believe every word that
12 she said and you believe she didn't want to tell anyone, is
13 that the response you give?

14 I guess I just wasn't his type.

15 It makes no sense. And what does that do, it
16 raises doubt. It raises doubt and it raises more doubt.

17 So then she gets text messages from her friend
18 Yul.

19 MS. ILLUZZI: Objection, Judge.

20 MS. HAST: That's not evidence.

21 MS. ROTUNNO: Judge, we went over them at length
22 when she was on the stand.

23 THE COURT: If they were not received in
24 evidence.

25 MS. HAST: They are not.

1 MS. ROTUNNO: While she was on the stand we
2 talked to Annabella about text messages that she received
3 from her friend Yul, when Yul was asking her for her phone
4 number and says that Harvey wants it.

5 And how does she respond now knowing, knowing,
6 what's going on with Ronan?

7 She says, hey there. I am okay. Just more broke
8 than I ever imagined possible. No insurance, et cetera.
9 Just a few episodes here or there. I haven't worked in
10 years and have been reaching out to friends asking for help
11 in the way of recommendations, et cetera.

12 Talked with someone and they tried to give me a
13 job and gave me the idea to just be honest and tell people.

14 I am hoping Harvey has a job for me. It's funny
15 because I have been meaning to call Harvey about something.

16 Do you know what he wants?

17 So that's her reaction. When she gets reached
18 out to in regard to Harvey Weinstein, not, don't give him
19 my number. Not, I want nothing to do with him.

20 I hope he has a job for me.

21 And remember when Annabella talks about running
22 in to Harvey after she claims she was raped?

23 The first thing Annabella says to Harvey
24 Weinstein is, I remember what happened and it is an odd
25 thing to say because I think what that does is, that

1 clearly indicates that she was in some form of inebriation,
2 whether she was drinking too much or whether she was
3 popping Valium.

4 If she was sober and raped she would never say, I
5 remember what happened. It is a very odd phrase.

6 If she and Harvey had a fun night out on the town
7 and drinking which culminated at her apartment where Paul
8 Feldsher told you was, they did something crazy, that's not
9 rape.

10 It's two friends may be doing something crazy and
11 Annabella saying I remember what happened.

12 And if we look at Annabella through Dr. Loftus,
13 Dr. Loftus talks about 27 years later and what can happen.

14 There are resentments. There is a changed view
15 of Harvey. There is a failed career. There is financial
16 struggles. There is Ronan Farrell calling and she says
17 nothing happened. But Ronan has a theory and if she fits
18 into his theory, she becomes relevant and she can become a
19 star again.

20 And that's exactly what happened to Annabella.

21 She is now more relevance then she was before.

22 Twenty-seven years later after telling Paul
23 Feldsher that she had a crazy night with Harvey, she has
24 changed her memories and now she was raped.

25 Once, again, she is a star. She has new agents

1 and now she is the darling of the movement of the minute.

2 They are going to talk to you about Annabella and
3 this notion of Black Cube and they are going to say that
4 Harvey Weinstein hired investigators because he knew that
5 Annabella was going to say something negative about him.

6 If Harvey Weinstein had something to hide from in
7 1993, he would have hired investigators then.

8 There was no reason for Harvey Weinstein to wait
9 until 2017 to talk about something that happened in 1993.

10 He was the head of a huge company. He was coming
11 under attack by law enforcement.

12 They were -- excuse me -- they were coming under
13 attack by a journalist, not by law enforcement. At the
14 time there was not an investigation in '93 or '94 or '06 or
15 2013.

16 As the owner of a business, whose name was going
17 to be splashed in the newspaper, he had an absolute right
18 to hire an investigator because what happens when you hire
19 an investigator is you find things that can prove your
20 innocence. You find things like emails and communications
21 and phone calls and phone records, that's what happens.

22 You find people who have talked to others and
23 say, wait, that's not what that person said because as you
24 can see, if you do a full investigation you get the whole
25 picture. You get the whole picture. And this office did

1 their own investigation of Harvey Weinstein and they got
2 the full picture.

3 They talked to Talita. They talked to Claudia
4 Salanis and they knew that what Jessica Mann was saying
5 didn't make sense through the lens of Talita.

6 So what do they do?

7 They don't put Talita up here and Harvey
8 Weinstein knew that. Harvey Weinstein knew if he left it
9 to other people the full picture wouldn't get told.

10 What do we do?

11 We go out and talk to people they talked to and
12 they decided not to bring it to you.

13 If you want Justice and if you want the truth and
14 if you want the right verdict, bring everybody. Call the
15 witnesses that tell the full picture. Call the Claudia
16 Salanises that tell you that Lauren Young is lying. Call
17 them.

18 They will make a big deal tomorrow about Paul
19 Feldsher and how he has a reason to lie because he is
20 friends with Harvey Weinstein.

21 Paul Feldsher told you about a long history with
22 both Harvey and Annabella. He told you about the nice
23 texts he sent to Annabella and the nice texts he sent to
24 Harvey. And that's what friends do and they were friends
25 with people on two sides of an allegation.

1 Paul Feldsher, and they will make a big deal
2 about it tomorrow, said Harvey liked women. Harvey spends
3 a lot of time with women and he even used the term, sex
4 addict.

5 Tiger Woods is a sex addict. We don't see him in
6 a criminal courtroom. Being a sex addict and being a
7 rapist are two different things.

8 We talked about Rosie.

9 What did Rosie do?

10 Rosie did what a friend does. She lied. Even
11 though Annabella doesn't list her as a friend.

12 And in Rosie's testimony she repeated verbatim,
13 three times, exactly what she claims Annabella told her and
14 Annabella says she never told anyone.

15 And think about it, if your friend tells you, I
16 think I was raped, and you don't go to the house and you
17 don't check on her, do you at least, maybe, follow up with
18 her the next couple of times you see her?

19 Do you say, oh my gosh. How are you, after that
20 call. And had she done that, Annabella would have
21 remembered telling Rosie.

22 We talked about this and as you can see,
23 Annabella says, I didn't think it was rape. And the next
24 day, that day, two day later, she would not have said, I
25 think I was raped.

1 What was interesting in looking at the defense
2 witnesses is how much Ms. Illuzzi wanted to attack the fact
3 that they couldn't remember because of the timeframe.

4 So, apparently, that only applies to the
5 witnesses that comes from this side of the room and not
6 from the witnesses that come from this side of the room.
7 We acknowledge that the time passage affects people's
8 ability to remember but it doesn't only work on one side.

9 That's true for every single person that takes
10 the witness stand and we know that because we heard two
11 different experts to tell us that.

12 And now the other three witnesses, they really
13 don't matter in this case.

14 The Judge will instruct you that these witnesses
15 can be considered to say that in some way it shows that
16 because of this Mr. Weinstein then could use force.

17 But we know from these three that there was zero
18 force whatsoever. Zero.

19 Let's talk about Dawn Dunning.

20 Dawn Dunning tells one-story consistent for a
21 period of time. She shows up at a hotel because she thinks
22 she is going to sign contracts and then Mr. Weinstein shows
23 up.

24 She shows up at the hotel and Mr. Weinstein is
25 there and there is an assistant there named Bonnie Hong and

1 that Mr. Weinstein suggests that they do something sexual.
2 She leaves.

3 That's the story she told. That's the story she
4 has told consistently. The only story she told.

5 She went on Don Lemon after 2017 to talk about
6 her experience, she throws in a bathrobe for good measure
7 and that's the only story she tells.

8 And then several weeks before this case was going
9 to trial, she says, oh, wait, wait, wait. I forgot about
10 the time that he put his fingers in my vagina.

11 Now, here is what we have to talk about with
12 regard to those two issues, if the first incident happened,
13 if it took place, when she went to the hotel the second
14 time she would have been upset because she tells you after
15 she left the hotel the second time, because she thinks she
16 is signing scrips or signing contracts, she is upset. She
17 is crying. She is upset.

18 Nothing happened to her that night. Nothing
19 happened. She didn't sign contracts. Nobody touched her.
20 Nothing physical happened to her. She left.

21 Does it make sense that she would have thought
22 nothing about going to that hotel room if the added
23 incident of him putting his fingers in her vagina actually
24 happened?

25 She testified that she was so disgusted by the

1 proposition at the hotel that she walked out of the door in
2 tears, never to work in the industry again.

3 She was so disgusted about that and that's what
4 she tells consistently to Don Lemon, to the prosecutors.
5 Never talks about incident number one.

6 The first time she talks to the DA, she tells
7 them about the incident where she leaves the hotel and only
8 that. She tells them she wasn't worried because his
9 assistant was there.

10 Didn't think anything of him answering the door
11 in a bathrobe. Nothing.

12 If the incident with the fingers took place,
13 would this have been her reaction?

14 She talks to the DA again. And again describes
15 one incident, showing up and leaving upset.

16 Finally, July 18th of 2019, almost two years
17 later -- excuse me -- on July 18th she describes that one
18 incident again and it was after that meeting that she
19 changes her story and picks up the phone and says, oh, I
20 forgot about this, and a few weeks prior he stuck his hand
21 up my skirt.

22 And here is the problem, the problem with this is
23 that that undermines and calls into question the story that
24 she has told over and over and over again to them, once,
25 twice, three times, to the media, to the world.

1 Isn't it true that you told Don Lemon I showed up
2 at the restaurant and it was just her. She then led me up
3 to a room. I went up with her.

4 I didn't think anything strange of it and then he
5 opened the door to the room in an open bathrobe and I
6 thought that was weird but, again, I was still, you know,
7 she was there with me. I wasn't like whoa, this is weird.
8 I am out of here.

9 Answer, I guess so. Yes, yes.

10 And here we are again thinking about doubt.

11 Lincoln Davies, actually, was a great witness for
12 the defense because Lincoln Davies tells you that she was
13 only upset after she came home after the instance with the
14 contracts and the bathrobe and that she was not upset or
15 nervous or worried to go see Mr. Weinstein.

16 And if what she has to say makes sense or if it
17 happened, she would have not gone to that room to sign
18 contracts without being upset.

19 Lincoln Davies, do you remember talking to Ms.
20 Dunning before she went to that meeting with Mr. Weinstein?

21 About what?

22 About the fact that she was going there to
23 potentially sign contracts?

24 Yes, I do.

25 Was she excited about it?

1 Of course?

2 Was she excited about it because it was her dream
3 to become an actress?

4 Answer, fair to stay.

5 If she knew she was going to meet with Harvey
6 Weinstein?

7 Yes.

8 She told you she was going to meet with Harvey
9 Weinstein?

10 Yes.

11 She did not ask you to come with her for
12 protection?

13 No.

14 Didn't have -- didn't have or show to you any
15 fear about the fact that she was going to meet with Harvey
16 Weinstein did she?

17 No.

18 She did not seem upset about the fact that she
19 was going to meet with Harvey Weinstein?

20 Did she tell you she had any issues with Harvey
21 Weinstein?

22 No.

23 Didn't tell you she was afraid of Harvey
24 Weinstein?

25 No.

1 Didn't tell you Mr. Weinstein never been
2 inappropriate with her before?

3 Correct.

4 In fact, when Ms. Dunning went to this meeting
5 where she came back earlier, her attitude was completely
6 different later, right?

7 Yes.

8 She was very excited when she went?

9 Yes, I would not say very excited. She was,
10 yeah, looking forward to it.

11 Looking forward to it because this may be the
12 culmination of her dream to be in a movie?

13 Right.

14 Had the instance happened two weeks prior, where
15 she claims he put his fingers in her vagina, this would not
16 have been the way she reacted, especially given the way she
17 acted when she wasn't even touched.

18 Tarale Wulff.

19 Tarale Wulff is the witness who tells you she
20 can't remember anything.

21 She couldn't remember the year until she called a
22 friend that we didn't hear about until she was on the
23 witness stand.

24 She didn't remember circumstances. She didn't
25 remember any details of what happened to her.

1 What does she do?

2 I hired a civil lawyer. Mr. Wigdor, sitting
3 right here. She wants to sue.

4 MS. ILLUZZI: Objection, Judge.

5 THE COURT: Overruled.

6 MS. ROTUNNO: There is no other reason to hire a
7 civil lawyer unless you are thinking about filing a
8 lawsuit.

9 There is no other reason for a civil lawyer to
10 sit in this courtroom for weeks on end unless you are
11 thinking about filing a civil lawsuit.

12 Then, again, we are back to the same script that
13 you don't talk about the fact that you are going to sue
14 while the criminal case is going on.

15 MS. ILLUZZI: Objection, Judge.

16 THE COURT: Overruled.

17 MS. ROTUNNO: Ms. Wulff, I am going to draw your
18 attention to October 16, 2017, when you first met with the
19 District Attorneys Office. Do you remember that day?

20 I do.

21 When you sat down with the District Attorney's
22 Office on that day, you did not sit down with either
23 prosecutors sitting at this will table right now is that
24 correct?

25 Correct.

1 When you sat down and spoke to those prosecutors,
2 you told them that you started working at Cipriani's in
3 2004, correct?

4 THE WITNESS: I believe so, yes.

5 I wasn't very unsure, but I was -- I wasn't very
6 unsure. I knew my timing but some of it might have been
7 off.

8 So you were trying to figure it out, correct?

9 At the time I felt confident of my timing.

10 And then that timing changed, correct?

11 It did.

12 Because originally you thought this happened in
13 2004, isn't that right?

14 Yes.

15 And isn't it correct that after that first
16 meeting the District Attorney's Office told you your
17 memories were fragmented and they could not use you in this
18 case, isn't that correct?

19 That's not exactly what was said.

20 Something like that?

21 It's not exactly. Something like that.

22 Tell me what was said.

23 They understood it's been a long time and there
24 may be gaps in my memory and that was it.

25 And how did you get referred there?

1 There we are speaking of the memory doctor that I
2 want to call it.

3 MS. ILLUZZI: Objection, Judge.

4 THE COURT: Overruled.

5 (Continued on the next page.)

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1 MS. ROTUNNO: And after speaking with the District
2 Attorney the first time seeing how it affects me, they
3 offered referrals if I wanted them, they gave me those
4 referrals, correct. The District Attorney's Office gave me
5 those referrals.

6 You know that you have seen her 55 times? I
7 believe that, yes. From a span of October 2017 until the
8 end of 2019, does that sound right? Yes.

9 It was after all those sessions and meetings, the
10 District Attorney's Office then said we can use you as a
11 witness, correct? It was after I had seen Ally that day
12 that I met with them again.

13 Then they said we will use you in this case,
14 correct? Yes. Even their witness, Dr. Ziv, tells you that
15 you cannot rely on these types of recovered memories.

16 Maurizio. They bring in Maurizio to prove to you
17 that Harvey Weinstein and Tarale Wulff maybe went up to the
18 roof.

19 Remember Maurizio, he came in, didn't really
20 remember much, and when he was pressed about how he got to
21 his memories, it was because of all the conversations he
22 had with the District Attorney's Office.

23 I'll let you read that. They told you Ms. Wulff,
24 they said she went upstairs with Mr. Weinstein, didn't
25 they? Yes. It was then that these prosecutors here, that

1 is correct, it was when these prosecutors here told you Ms.
2 Wulff, she went upstairs with Mr. Weinstein, you remember
3 you saw it, right? Yes. Mr. Ferrigno, you met with
4 prosecutors in November of 2019. Correct. When you met
5 with them, you told them that Ms. Wulff, when you met with
6 them, they told you Ms. Wulff was making an allegation that
7 her and Mr. Weinstein went upstairs at Cipriani, correct?
8 Yes.

9 It was after they told you that, you said oh, I
10 remember seeing that happen, correct? Yes. Okay, the
11 first time you met with them was in November of 2019?
12 Yes. And everytime you met with them, they reminded you
13 Ms. Wulff was making an accusation that Harvey Weinstein
14 took her upstairs, didn't they? Yes.

15 Are you testifying today because you actually
16 remember that, or are you testifying today because they
17 told you what Ms. Wulff said? I can't say yes or no.

18 Lauren Young. Lauren Young is the witness who
19 told you she ended up in a bathroom at the Montage.

20 The most troubling aspect of Lauren Young is that
21 Lauren Young tells law enforcement that Claudia Salinas was
22 working in conjunction with Harvey Weinstein, and she
23 locked her in a bathroom from the outside so Harvey
24 Weinstein could touch her breasts.

25 The prosecutors in both New York and L.A met and

1 spoke with Claudia Salinas.

2 Claudia Salinas is not charged with a crime.

3 Claudia Salinas is not charged with holding Lauren Young in
4 the bathroom. Because when the prosecutors in New York and
5 L.A met with Claudia Salinas and listened to her version,
6 never happened. Never happened.

7 MS. ILLUZZI: Objection Judge.

8 MS. ROTUNNO: She told them it never happened.

9 THE COURT: Overruled.

10 MS. ROTUNNO: Claudia Salinas didn't ask for a
11 lawyer, she did not refuse to speak with them even though
12 this would have been a crime for Claudia. She came in this
13 courtroom called by us again. She was credible. She
14 completely undercuts Lauren Young's story.

15 And the prosecutors with the burden of proof are
16 the ones that did not want you to hear her.

17 Why? Because Lauren Young's story didn't make
18 sense. When Lauren Young who is confronted with more
19 details about the fact that it did not make sense, her
20 entire story changed.

21 The first story she goes to a hotel, does not know
22 which one. She spends her time driving around L.A trying
23 to look at hotels to figure out which one it might be.

24 And it is not until law enforcement says to her
25 these are two hotels we know he goes to. And if you think

1 they didn't tell her we knew he stayed at the Montage
2 during that period of time, of course they did.

3 MS. ILLUZZI: Objection Judge.

4 THE COURT: Sustained.

5 MS. ROTUNNO: Well, they definitely told her it
6 was either the Montage or the Peninsular because we have
7 the text messages that shows it.

8 Look at Lauren Young's testimony on its own. She
9 first says she gets locked into the bathroom from the
10 outside. It is a sliding door, does not say anything about
11 the fact the door you could see through it is frosted.

12 And Claudia leads her into a bathroom with Harvey
13 Weinstein.

14 Remember she first claimed this event occurred in
15 2012, because she knew she met Mr. Weinstein at Mr. Cee's
16 in L.A. There are photographs from that night in 2012 also
17 around Oscar time.

18 Then she moves the incident to over a year later.

19 She says Claudia calls her out of the blue to talk
20 about a half finished script she referenced over a year
21 prior.

22 So ask yourselves if that makes sense. Lauren
23 Young wants you to believe the entire meeting at the
24 Montage was about a script that she never wrote, that she
25 never finished, then she allegedly took a friend's script

1 with her. She told you she was all excited and put on her
2 best dress.

3 When you are back there, look at that dress, there
4 is a reason I want you to look at it.

5 She claims the dress was pulled down to both of
6 her shoulders. Women on this jury will be able to look
7 specifically at that and tell me if you think it makes
8 sense.

9 There is a button at the top, a sewn portion
10 before you get to the zipper. You tell me if that dress
11 could come down over her shoulders.

12 There was no script. Lauren Young never wrote a
13 script. Her meeting with Harvey Weinstein was never about
14 a script.

15 And remember her script not being completed made a
16 little more sense when she thought the meeting happened in
17 2012, a couple of days after the dinner at Mr. Cee's. It
18 makes a lot less sense when you talk about it a year later.

19 A friend with the script never came here. We
20 never saw a script she was bringing Mr. Weinstein. And
21 there is absolutely zero reason to believe that one ever
22 existed.

23 She says she went upstairs to talk about Americas
24 Next Top Model even though she never wanted to be part of
25 the modeling show, and Mr. Weinstein has nothing to do with

1 that show.

2 Think about the way she talks about going into
3 that hotel. I blindly followed someone in, walked into the
4 room, walked through another door, walked through a
5 bedroom, then I thought once I was in the bathroom, there
6 would be a door to another room.

7 You'll be able to look at the photos from that
8 hotel suite. This is where the story gets completely
9 ridiculous.

10 She said he was in a tie, a buttoned up shirt,
11 pants, shoes, and a belt. Then within eight seconds he
12 gets completely naked, turns on the shower, gets in the
13 shower, has a quick rinse and blocks her exit, eight
14 seconds.

15 She stands in the bathroom, if you believe her,
16 with this man in the shower, all she had to do was leave.

17 They want you to believe Harvey Weinstein is
18 superman. Lets talk about the ways Lauren Young lied.

19 Claudia tells you that never happens. She claims
20 there was a sliding door. And not until confronted with
21 the actual hotel suite where he stayed, did she change her
22 story.

23 When she's walking through the room, she claims
24 Claudia locked her in the bathroom from the outside, and as
25 the people from the Montage told you, there is no bathroom

1 doors that lock from the outside.

2 She has to tell you this for you to believe an
3 assault happened, because otherwise, she's there
4 voluntarily.

5 She didn't remember any details of the hotel, any
6 frantically driving around L.A with her friend.

7 Again, the witness we have not heard from. Then
8 she gets the text message. She's taken to the Montage by
9 the State for the very room they know Harvey stayed in,
10 then suddenly she remembers.

11 No sliding door, not locked from the outside. She
12 learns from e-mails it happened a few days later, it does
13 not happen a few days later versus a year later.

14 Here is what she testifies to: She describes
15 Harvey Weinstein to the police. She describes his body,
16 and after the police push and push and push, she says maybe
17 he did not have balls.

18 Police have the pictures. They are trying to get
19 her testimony to conform with the physical evidence,
20 because without it, it makes no sense.

21 Remember Jessica Mann's testimony where she talks
22 about Harvey needing injections, but Lauren Young claims he
23 gets into the shower, gets an erection to the point where
24 he then ejaculates. No needles, no nothing.

25 Lauren Young was with Harvey Weinstein for 30

1 minutes prior downstairs. They walk upstairs together
2 afterwards. She never saw an injection, never saw a
3 needle.

4 Claudia came in, she was credible and she was
5 reliable.

6 She told you what she remembered. She told you
7 she would never push someone into a bathroom. She would
8 never stand outside a bathroom when Harvey Weinstein went
9 inside with a woman. She was honest that when Harvey
10 Weinstein hit on her, she turned him down and they
11 maintained a friendship.

12 He did things for her, she even admitted she
13 wished it was more. Why didn't the State call Claudia?
14 Don't they want the truth, the whole truth, and nothing but
15 the truth. Or was this case really a production.

16 The State already knew that she denied any
17 involvement.

18 In her cross examination, the State asked her
19 extensively about her first interview with prosecutors.
20 What they did not tell you was when they did that first
21 interview with her, they never told her about Lauren
22 Young's allegation. All they did was say what happened at
23 the Montage.

24 How do you respond to that, nothing, nothing
25 happened at the Montage.

1 Once she finds out, she denies it. And again with
2 Lauren Young, we have e-mails that she sends after she
3 claimed she was assaulted in a bathroom.

4 She meets with Barbara. A couple of days later
5 she says I'll be at the Oscar party and please let me know
6 if I can bring one guest. If it's not okay, it's okay too.

7 We talked about the dress. Lauren Young right
8 before she testifies hires Gloria Allred.

9 And in terms of the dress, remember, the
10 investigation here has been going on for years. The dress
11 appears in the middle of this trial.

12 In the middle of this trial, Lauren Young calls
13 the prosecutors and says oh, I found the dress from 2013 in
14 a bag in my room.

15 Ms. Young, when you spoke to the D.A's in July,
16 you said the meeting at the Montage was a few days after
17 Mr. Cee's, right, that is just what you said? Yes that is
18 what I said.

19 When you spoke to the California District Attorney
20 and the California investigators in October of 2018, you
21 told them the same thing, you told them the incident that
22 occurred at the hotel was a few days or few weeks I should
23 say after the Montage incident after the dinner at Mr.
24 Cee's, didn't you? Yes, but I was not exactly sure.

25 So, are you telling me you were confused as to

1 whether it was a few days or a year later? Answer, yes,
2 because of the times in my e-mail were confusing when I
3 looked back.

4 And when you spoke to the District Attorney again
5 in May of 2019, you said the same thing, the incident at
6 the Montage occurred within a week or so after the dinner?
7 Yes.

8 You are asking me when I realized it was a year
9 later? Yes. When I got into my e-mails and finally
10 figured out just because I moved it was not the time change
11 I thought. The year was off because both months were
12 February.

13 So, you confused a few days or a few weeks with a
14 year, that is fair? I confused it when I was telling my
15 story because I had been looking at e-mails that were not,
16 it was never logged. Okay, it is your testimony that you
17 were never told Mr. Weinstein frequented the Montage or
18 that he was there on February 19th of 2013 by law
19 enforcement? They did tell me that. When did they tell
20 you that? In that message you just showed me. Did they
21 tell you he was there on February 19, 2013? They never
22 told me that, I don't know if they confirmed it.

23 They took you to the hotel, didn't they? They
24 took me there. At that point when they took you to the
25 hotel, you got to walk in, right? Yes. When you walked

1 in, you had an opportunity to go to room 520, right? They
2 took you to room 520, you didn't find room 520, there were
3 other rooms, they took you to 520, right? Yes. And in
4 your previous discussions of the events we talked about, we
5 talked about there being a sliding door in the bathroom,
6 right? Correct. And certainly when you saw the
7 photographs and when you were in there, there was no
8 sliding door in the bathroom, was there? Can you repeat
9 that.

10 You walked into the bathroom, there was no sliding
11 door in the Montage, yes. In the bathroom, yes, there is a
12 sliding door. You told the District Attorney in California
13 in both October 2018 and May of 2019 there was a sliding
14 door to enter the bathroom, right? Yes, I told them that.
15 Isn't it also true in May of 2019 you told the District
16 Attorney Claudia Salinas pushed you into the bathroom? I
17 probably said that, yes, and I did say that, I guess, yes.

18 Did she push you into the bathroom? No, I walked
19 in. She was behind me pressuring me obviously to stay in
20 the room when I saw the shadow outside the door. Ma'am,
21 isn't it true you told the District Attorney in California
22 you were walking forward and I quote, was pushed into a
23 bathroom, right? Yes. Were you pushed into a bathroom?
24 No.

25 Okay, that was October of 2018, yes. You told the

1 members of the jury you didn't try to open the door of the
2 bathroom, right? I approached it to open it, but I
3 actually didn't touch it.

4 Do you remember telling the District Attorney in
5 October of 2018 that Claudia locked you in there? Yes.
6 Was the door locked? I'm not sure, I believe it was. Do
7 you remember telling the District Attorney I could not open
8 the door, you remember saying that? Yes. You also
9 remember telling the District Attorney in October of 2018
10 regarding the door, I tugged on it but it was not like I
11 was pounding on the door because he got out of my way, do
12 you remember saying that? Yes.

13 So, you told the District Attorney in October you
14 actually tugged on the door? Yes. Okay, the sliding door
15 at that point, I was not certain. You didn't say you were
16 not certain when you were talking to the D. A in October of
17 2018, you said you tugged on the door? Correct. You told
18 the members of the jury that you didn't try to open the
19 door of the bathroom, right? I approached it to open it,
20 but I didn't actually touch the handle.

21 So, what you see is you see the complete
22 distinction between what she said then versus what she says
23 now. And the reason she changes her story now is because
24 she's confronted with actual photographs of a room she
25 would have had to be in if it happened the way she said it

1 did.

2 You remember on October 29th of 2018 saying to
3 Detective Vargas I don't think he touched me down there?
4 He didn't penetrate me down there. You did not say
5 penetrate, you said I don't think he touched me down there,
6 do you remember saying that? Yes. You didn't say grazed
7 either, did you? No.

8 Again, stories that change over time. Stories
9 that change after you talked to law enforcement and
10 prosecutors, and you hear about all the people involved in
11 this case and then your stories change.

12 Two days ago as this trial is almost over, this is
13 the first time you found that dress, it is, the trial is
14 almost over, yes. The one you knew you were going to
15 testify in this trial, correct? I've been looking for,
16 trying to look for it. Excuse me, I have been trying to
17 look for the dress for a long time.

18 Where did you find the dress? In my room. Where
19 in your room? In my closet. So, for two years she did not
20 find a dress that was in the closet, not like it was in a
21 storage facility or in a bag or in a suitcase she packed
22 away, it was in a closet.

23 Ryan Beatty, the alleged witness that says she
24 came home and was upset, script, crying, don't remember.
25 Script, crying, don't remember, don't remember, don't

1 remember, don't remember. Crying, script, don't remember.
2 That is what Warren Beatty told us.

3 Dr. Ziv. Dr. Ziv was called by the State, but
4 really ended up being a better witness for the defense.

5 She's a forensic psychiatrist who talked to you
6 about what a forensic setting is. That a courtroom is a
7 forensic setting, and when you look for things and
8 determine whether or not things make sense, you have to
9 look at the totality of evidence. Almost as if you are an
10 investigator.

11 MS. ILLUZZI: Objection.

12 THE COURT: Overruled.

13 MS. ROTUNNO: She claims to be a rape myth
14 expert. Basically says that anything you do after an
15 alleged sexual assault is acceptable. Call the police,
16 don't call. Call a friend, don't call a friend. Go to a
17 party, a dinner, go to a movie, anything you do is okay.

18 And you have to believe that a rape took place
19 before you can even worry about whether these myths are
20 viable.

21 She never spoke to anyone in this case.

22 MS. ILLUZZI: Objection Judge.

23 THE COURT: Overruled.

24 MS. ROTUNNO: She never reviewed any reports about
25 this case.

1 MS. ILLUZZI: Objection Judge.

2 THE COURT: Overruled. Jurors, you are free to
3 adopt or reject the arguments of the attorneys on their
4 summation. Their arguments must be based on the evidence
5 received at trial in this case.

6 MS. ROTUNNO: I'll clarify just so you are clear.
7 When I'm saying never spoke to anyone in the case, never
8 any of the women making a claim, not one.

9 Remember Ms. Illuzzi's cross examination of Doctor
10 Loftus regarding Valium. And she hammers her about the
11 fact she must have read something about this case to know
12 Valium was an issue in this case.

13 She says yeah, I read it, but I don't know of a
14 study with regards to Xanax, I know of a study with regards
15 to Valium.

16 Look what Dr. Ziv says. You just stated it is not
17 usual during the course of a sexual assault for an alleged
18 victim to say I'm on my period, right? She goes well,
19 that's one. Then Ms. Illuzzi goes ballistic with Doctor
20 Loftus when her witness does exactly the same thing.

21 MS. ILLUZZI: Objection.

22 MS. ROTUNNO: She knows about facts from this
23 case.

24 THE COURT: Sustained.

25 MS. ROTUNNO: Miriam Haley talks about being on

1 her period. Think it is a coincidence that Dr. Ziv
2 testifies this way?

3 Also testified occasionally individuals will send
4 e-mails to their perps, right? Yes. Did you talk to Ms.
5 Illuzzi about that? No. You also testified occasionally
6 individuals will be assaulted a few times by the same
7 individual, right? I said more than once. Did you talk to
8 Ms. Illuzzi about that? No.

9 So, when Ms. Illuzzi called you, she told you the
10 meeting was going to be for the People of the State of New
11 York versus Harvey Weinstein, right? Yes. At that point,
12 did you stop watching any news or reading any articles
13 about Mr. Weinstein? I didn't need to stop, I never read
14 any articles about Mr. Weinstein.

15 So, somebody who is an expert in an alleged sexual
16 assault, you didn't read anything about the case? No, I
17 didn't read anything about the case, and I read about
18 scholarly articles and research about sexual assaults.

19 It is preposterous to think even with all of you
20 who came in here knowing something about this case, it is
21 ridiculous to think a woman who specializes in this field
22 prior to being called would not know anything about any of
23 the facts going on here.

24 MS. ILLUZZI: Objection Judge.

25 THE COURT: Overruled.

1 MS. ROTUNNO: Doctor Loftus was honest on the
2 stand. Doctor Loftus said yeah, I have seen some accounts
3 in the news. Does not change the way I'm going to testify.

4 One of the reasons you would not just take the
5 word of the individual you were talking to is because
6 something called secondary gain, right? Yes. Members of
7 the jury, secondary gain is essentially an external
8 motivator, isn't it? Yes. What I mean by that, the
9 individual who is going on trial for a crime, may want to
10 lie in order to beat the rap? Yes. Secondary gain is also
11 something that you take into account when you're doing
12 forensic evaluations in civil cases, correct. In civil
13 cases, forensic examinations, they could have to do with
14 secondary gain. Could they have to with somebody who is
15 filing a lawsuit, right? Correct. The external motivator
16 could be money, right? Right. You would agree secondary
17 gain could also be attention, yes? It could be fame, yes.

18 Okay, secondary gain is something that in every
19 report you write in a forensic setting, you include a
20 paragraph about the importance of keeping secondary gain in
21 mind, correct? Not every report I write, a lot, but not
22 every report I write, but a lot, yes.

23 Dr. Ziv tells you the importance of looking at all
24 of the factors that we are looking at in this case, all of
25 the factors to determine if someone is telling you the

1 truth.

2 Self-reporting. Would you rely just on
3 self-reporting? I would not rely only on self-reporting.
4 Okay, when I say self-reporting, what I mean is you would
5 not just rely on what the alleged victim told you,
6 correct? Correct.

7 This is their expert, in this case we have no
8 other evidence than what someone told us, other than
9 everything we presented to you; the e-mails that raise
10 doubt, the calendars that raise doubt, the plane tickets
11 that raise doubt, the phone calls to civil lawyers that
12 raise doubt.

13 We brought all of those things to you. They
14 brought one sided versions of people's events.

15 In that situation, the forensic situation again
16 before determining something, someone was sexually
17 assaulted or not, you would want all the records you could
18 get? Yes. You would want to interview the person,
19 correct? Yes. You would want to interview them
20 face-to-face, correct? Yes. You would want to talk to
21 them about their life, social media posts or e-mails, you
22 would want to look at those? Yes. You would want to look
23 at those to determine whether or not an individual was
24 credible in their claim they were assaulted.

25 When you go back to the jury room, you be the Dr.

1 Ziv. You be the one that critically looks at all the
2 evidence, e-mails, phone calls, the motivation for calling
3 civil lawyers. You think about that and you think about
4 whether any of those secondary gain issues raise doubt.

5 Recovered memories. Go to Wulff and any other
6 witness who said I remembered it later. Something
7 triggered me. Even Dr. Ziv says recovered memory in terms
8 has been rebuked.

9 I'm going to ask you, if you included this in your
10 current literature and prospective regarding rape myths
11 because every embedded rape myth, society acts as if it
12 believes all women are ready and willing to have sex at
13 anytime with anyone unless they unequivocally and forcibly
14 refuse, preferably multiple times in the presence of a
15 witness who can vouch for them. Their witness. Did you
16 write that? I did. Did you also say almost become
17 distorted to the point where if I said me too, then okay,
18 you just have to believe me too.

19 MS. ILLUZZI: Objection Judge.

20 THE COURT: Overruled.

21 MS. ILLUZZI: This is what we raised before,
22 Judge.

23 MS. ROTUNNO: It was the second question.

24 MS. ILLUZZI: Objection Judge.

25 MS. ROTUNNO: Yes. You said that I think it does

1 a disservice to everybody, to individuals who have been
2 accused of sexual assault as well as victims of sexual
3 assault? Yes. Just as you said, just as you should not
4 take anybody at their word for anything when there is an
5 allegation of criminal behavior, that is why we have
6 investigators? Exactly. Their witness. Their doctor,
7 their expert.

8 Do you think if something happens closer in
9 proximity to somebody reports it soon, the more accurate it
10 is going to be? I think you can say that about a lot of
11 things. I think that, that is yes, that is generally true.
12 In other words, if something is happening the closer in
13 proximity somebody reports it, is it going to be more
14 accurate or is it going to be -- reports it, the more
15 accurate it is going to be, correct? Correct.

16 Okay, while I agree with you that you are not a
17 detective, but part of your job as a forensic investigator
18 is to investigate, right? A forensic psychiatrist, I
19 apologize. Answer, part of my job as a forensic
20 psychiatrist is to rely upon objective information in order
21 to make a determination about an event.

22 Do you think ever doctor, can I have, would you
23 agree an individual could reinterpret after the fact things
24 they had done that they regret? Answer yes. Even a
25 sexual relationship? They can, sure. Would you agree it's

1 been reported individuals who are involved in transactional
2 sex, although consensual, may have regrets about it?

3 Answer, people can have regrets about anything.

4 Remember Virginia Wesleyan. Dr. Ziv testified for
5 the defense in the Virginia Wesleyan case. In that case
6 she did not describe rape myths.

7 MS. ILLUZZI: Objection Judge.

8 THE COURT: Overruled.

9 MS. ROTUNNO: In that case she talks about not
10 believing the victim because, because the victim had
11 borderline personality disorder.

12 MS. ILLUZZI: Objection Judge.

13 THE COURT: Overruled.

14 MS. ROTUNNO: She talks about because the woman
15 didn't fight back, she didn't believe her.

16 What did Doctor Loftus tell us? Memory does not
17 work like a tape-recorder. It is a reconstructive process,
18 it is malleable and it changes.

19 There are three stages of memory: Acquisition,
20 retention, and retrieval.

21 Doctor Loftus told you about she drew that diagram
22 to show you how you get your memory, how you retain your
23 memory, and then how you then go back and retrieve that
24 memory.

25 There are factors that come into play in each of

1 these three stages that affect the accuracy of what
2 somebody is remembering or retrieving.

3 Acquisition factors: While you are making your
4 memories, substance abuse can affect your memory. Valium
5 can impair the formation of memory leading to a less
6 complete memory, or even an inaccurate memory, and
7 sometimes can be associated with greater susceptibility to
8 contamination.

9 When we talk about retention, memory fades over
10 time and there are forgetting curves.

11 That is steep, she drew that line and it means
12 lots of forgetting happens quickly, especially in
13 conversations.

14 As time passes and memory gets weaker and weaker,
15 it becomes more vulnerable to post event information.

16 So, when we talk about investigators coming in and
17 talking to people about something that happened a long time
18 ago or sitting down with prosecutors and learning facts
19 that you did not know, those things affect your memory.

20 Lauren Young. Lauren Young sat down, had no idea
21 what hotel this happened in. Gets two names of two hotels
22 from police. Goes back to one of the hotels, gets taken to
23 a specific room, then all of a sudden changes her memory to
24 fit within the way that hotel room looked.

25 Post event information can be anything from

1 allowing people to hear another person's version of an
2 event, leading questions from law enforcement, prosecutors
3 and interviewing journalists, media coverage even
4 conversations with friends.

5 Doctor Loftus tells you therapy can also cause
6 distortions in memory, especially when it involves
7 techniques such as guided medication, dream interpretation,
8 or when information is supplied to the person that is
9 misleading or pressure is placed on patients for more
10 detail. And that I think also applies well, to Lauren
11 Young when talking about Harvey's physical appearance,
12 because she says one thing, and then when pushed and pushed
13 and pushed and shown a photo, she changes her story.

14 And the result from that is something that can
15 feel like a memory, but it is often false and inaccurate.

16 There are many ways in which post event
17 information can become available to somebody that can cause
18 contamination, and it can align legitimate memories and the
19 more and more repeated this post event information gets,
20 the stronger affect it has on memory.

21 As time passes, the memory weakens. It is how our
22 memory changes and how we choose in our efforts to remember
23 something.

24 There are gaps in our memory and we can draw
25 inferences from what may have happened or what we guess

1 happened.

2 She talks about gaining confidence. When you are
3 speaking to someone and they are responding favorably to
4 what you are saying, do you have a memory, they say oh yes,
5 that make sense with something else.

6 Or someone makes a face and says that does not
7 really jibe with what we have. It is a confidence or lack
8 of confidence in your ability to remember, and then present
9 that to the person asking you the questions.

10 And confidence has very little correlation to
11 whether or not somebody's memories are actually reliable.

12 Relabeling. Relabeling is a concept where
13 something happens to you, and then these post event
14 circumstances enter in, then you change what you believe
15 happened to you before.

16 I had a great relationship with my boyfriend. It
17 was amazing. Big bad fight, now all of a sudden it was the
18 worst relationship I ever had.

19 The issue of trauma. Talking about characterized
20 events as traumatic. That characterization is itself the
21 result of factors that are known to have memory change.

22 And the fact that in this case every single woman
23 that testified came forward after 2017 or in 2017 based on
24 what they heard from others being interviewed, based on
25 what they heard when they were being interviewed by law

1 enforcement in different jurisdictions, based on
2 journalists interviews, those changed, and I think the
3 issue with regard to the bathrobe really, really sheds
4 light there, because Emmanuella herself comes up with a
5 bathrobe story that no one ever heard before.

6 When the women in this case testified, each one
7 was asked by the prosecutors if they knew each other, as if
8 the fact they didn't, somehow established they were telling
9 the truth.

10 That actually does nothing of the sort.

11 Mimi and Dawn did interviews. They went on
12 national TV and told their stories.

13 Annabella was in the New Yorker, and in October of
14 2017 the biggest story in the world was with Harvey
15 Weinstein, and they all read it. They all knew that story,
16 that is what pushed everyone as they say, to come forward.

17 So, to act as if --

18 MS. ILLUZZI: Objection.

19 MS. ROTUNNO: Everybody was isolated from each
20 other or don't know this playbook is disingenuous.

21 Three of them are represented by Gloria Allred.
22 One is represented by Mr. Wigdor, and it is hard not to
23 embellish or lie about Harvey Weinstein.

24 Again, remember Emmanuella. She throws the
25 bathrobe and massage in for the first time in this

1 courtroom because who isn't going to believe that, that is
2 the story everyone hears.

3 We know it is the first time she said it. In
4 October of 2017 Harvey was no longer the famous Hollywood
5 producer and he was no longer the king of Hollywood.

6 He was a target of a cause and of a movement.

7 MS. ILLUZZI: Objection Judge.

8 THE COURT: Well, again jurors, the attorneys are
9 free to argue their positions to you as long as their
10 positions are based on the evidence at this trial.

11 Attorneys are not allowed to testify themselves
12 during the summations, but they are allowed to make, ask
13 you to make inferences from the facts that are in evidence.

14 MS. ROTUNNO: Accusers come forward from years
15 later, some from so long ago they cannot provide dates or
16 times or even years.

17 They make it impossible to prove a negative. They
18 say believe me, forget the burden of proof, forget the
19 presumption of innocence, forget the rights that are
20 afforded to every single one of us, makes it impossible to
21 defend.

22 They change their stories, they block out their
23 calendar, obliterated marks they do not want you to see.

24 When you go back, pay attention, it is hard to see
25 on the screen because it is black and white. When you go

1 back you'll get the actual copy of the calendar itself,
2 look at the July 10th date and look at the P, then I want
3 you to look at those obliterations we talked about, they
4 are in the same exact color ink, and it is different ink
5 than used on the other pages of that calendar. Just look
6 at it, I don't know what it means to you, I think it is
7 worth paying attention to.

8 They go on TV to discuss what should be the most
9 private aspect of their lives, and they become part of a
10 movement, truth be damned.

11 So, don't let Ms. Illuzzi sell you that these
12 witnesses are credible because they don't know each other.

13 MS. ILLUZZI: Objection Judge.

14 THE COURT: Sustained.

15 MS. ROTUNNO: Their credibility rises and falls on
16 their own words and on their own actions individually.

17 Look at how the stories were unraveled when
18 questions, hard questions but necessary questions, were
19 asked.

20 Think about the cross examination, and think about
21 the other side that came out. And we asked you during
22 opening statements, Mr. Cheronis said be patient, be
23 patient, listen to the cross examination, listen to them
24 because they are going to tell you something, and that is
25 exactly what happened.

1 This isn't a game, it is not the some rubber stamp
2 media version of events, or to kowtow to the court of
3 public opinion. This is a criminal trial, and in a
4 criminal trial, proof matters.

5 It is a criminal trial where evidence matters. It
6 is a criminal trial where we don't judge on sympathy or
7 emotion.

8 You have been the jurors in the case of the People
9 of New York versus Harvey Weinstein. You have seen and you
10 have heard the evidence, and you know now what you did not
11 know when you walked in, Harvey Weinstein is not guilty of
12 these charges.

13 The State has failed to meet their burden. And
14 you don't have to feel sorry for them, because they win
15 when justice is done.

16 They are not supposed to have a stake in the game.
17 They are supposed to bring to you a case and hope for
18 justice. They win whenever justice is done.

19 And in this case, justice demands a finding of not
20 guilty, not because it is easy, and it should not be, and
21 not because it is popular, because it may not be, and not
22 because the pendulum swings so far in one direction or
23 another. Because the great thing about this system when it
24 swings too far one way and swings back another, this system
25 is the equalizer, this is the system that says they have to

1 prove it. This is the system that says it is their job to
2 bring justice. Not because it is popular, not because it
3 is easy, but because facts and law demand that finding.

4 Over the last couple of weeks you have sat very
5 close to this table, almost on top of them. Maybe
6 sometimes you heard their comments, maybe times you
7 exchanged smiles or glances and hear them talking in my ear
8 every chance they get.

9 We are on the other side of the room and we don't
10 get to share that intimacy or closeness. Some of you may
11 feel connected to them, or even us, God forbid.

12 But as you know, we are all advocates, and we are
13 actually the least important players in this game. The
14 true star of the show is the testimony, the evidence or the
15 lack thereof.

16 And I don't know what Ms. Illuzzi will say
17 tomorrow. I'm sure it will be good, she's a good lawyer.
18 I have a feeling it may be emotional, and may be at times
19 loud.

20 And she has the last word; the last word is a
21 powerful thing. And if you have learned anything about
22 myself and my dear friend and trial partner, Mr. Cheronis,
23 you know we love to get up here and give the last word.
24 But the law does not allow that.

25 You have been empowered with what you need to

1 answer those questions. And everytime Ms. Illuzzi says
2 something, I want you to think what would Ms. Rotunno say,
3 what would Mr. Cheronis say, what would be the response to
4 that. Because I don't get up, I do not get to get up and
5 answer those questions for you.

6 But you have the tools to ask those questions for
7 me. Ask Ms. Illuzzi how Harvey got up to Annabella's
8 apartment. Ask her why Annabella didn't think it was rape
9 and did not tell anybody, but years later Rosie Perez comes
10 up with a story to match her friend.

11 Ask Ms. Illuzzi how she can reconcile Mimi's
12 conduct as a truly sexual assault victim. Ask why Mimi
13 changes her story. How it always was there to change and
14 change and change to hurt Harvey more.

15 She will have answers I suspect, and they will be
16 full of emotion and may be sometimes anger. But that is
17 when you remember the facts control, the evidence controls,
18 and at the end of this day, this table wants to win so bad
19 they can feel it.

20 The pressure to win this case in this climate, in
21 this city at this time --

22 MS. ILLUZZI: Objection, Judge, objection.

23 MS. ROTUNNO: Is a mess.

24 THE COURT: Sustained.

25 MS. ROTUNNO: They want to win so bad they did not

1 call Talita as an eyewitness to what happened at the
2 Montage, an eyewitness to the relationship that Jessica
3 Mann had with Harvey.

4 MS. ILLUZZI: Objection Judge.

5 THE COURT: Overruled.

6 MS. ROTUNNO: They wanted to win so bad they did
7 not call Tommy Richards who was at the Doubletree the day
8 of the alleged rape.

9 They want to win so bad they didn't call Claudia
10 Salinas because she refuted the story.

11 They want to win so bad, they had to remind
12 Mauricio Ferrigno about what happened 15 years ago. They
13 had to tell Lauren Young what hotel room this happened in,
14 what hotel it happened in.

15 They wanted to tell Tarale Wulff what year it
16 happened in. They wanted to win so bad they did not call
17 one police officer because they knew what they would do to
18 them.

19 MS. ILLUZZI: Objection Judge.

20 THE COURT: Overruled.

21 MS. ROTUNNO: You are going to go back to the jury
22 room on Tuesday. You will think about the burden of proof,
23 you are going to think about the presumption of innocence,
24 and you are going to read the law, you will hear the law
25 and instructions that the Judge gives you.

1 And when you do that, and when you think about it,
2 the behavior and the actions and the e-mails and the
3 contacts and the loving communication, and the way Mr.
4 Weinstein treated every single person that asked for help,
5 you will realize that the tale that they wove and the story
6 that they spun where women have no free will and no choice
7 and no ability to engage in relationships that maybe they
8 didn't think were appropriate or what they wanted to tell
9 their friends, and they did not want to admit they were for
10 gain, maybe in that world, you'll see that facts don't
11 matter.

12 But in this world, to Mr. Weinstein, to Mr.
13 Cheronis and everybody else at this table, and to you,
14 facts matter, evidence matters, and when this case is over,
15 we know that you'll do the right thing because justice
16 demands it and you'll find Mr. Weinstein not guilty, thank
17 you.

18 THE COURT: All right jurors, we will take our
19 recess. See you tomorrow 9:30. Remain mindful of all my
20 prior admonitions and instructions.

21 During this and any other recess, keep an open
22 mind. Do not form an opinion of the guilt or innocence of
23 the defendant.

24 Do not discuss this case amongst yourselves or
25 with anyone else or allow anyone to discuss it in your

1 presence.

2 Avoid all contact with any media coverage and
3 refrain from any and all research or communication,
4 electronic, on the internet, or otherwise about anything
5 whatsoever to do with this case.

6 Have a great afternoon and evening, see you
7 tomorrow 9:30, thank you.

8 (Jury exits courtroom).

9 THE COURT: See you 9:30.

10 MS. ILLUZZI: We are going to ask for another jury
11 charge based upon Ms. Rotunno's criticism of the evidence.

12 As you know Judge, in order to qualify to be able
13 to call an expert in a case of this nature, that expert is
14 only permitted to talk about their general knowledge. They
15 are not permitted to interview witnesses and to tailor
16 their testimony towards a particular case, that is the only
17 way we are permitted to call an expert and the jury should
18 know that.

19 THE COURT: Send me an e-mail cc'd to all
20 parties.

21 MS. ILLUZZI: Thank you.

22 (Trial adjourned to February 14, 2020)

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