

1 six, seven, eight exhibits I'm giving to defense counsel to
2 look at that we wish to enter into evidence.

3 THE COURT: These are the same ones ruled on the
4 end of business yesterday?

5 MS. ILLUZZI: Yes, one additional one.

6 THE COURT: All right.

7 MS. ILLUZZI: As we discussed a lot yesterday,
8 these are by stipulation authenticated and are relevant to
9 the testimony that the jury has already heard.

10 So therefore, we are asking to admit them now even
11 before we call our first witness.

12 THE COURT: Okay, Mr. Cheronis, Ms. Rotunno.

13 MS. ROTUNNO: Thank you. Our issue is not that we
14 disagree there is a foundation for the e-mails, we have
15 already stipulated to a foundation.

16 The issue is they need to be brought in through
17 the proper witness, so I cannot call Jessica Mann and ask
18 Jessica Mann to allow e-mails to be brought in for the
19 jury, so we have not stipulated beyond the foundation of
20 these matters.

21 So although they have a right to come in, they
22 need to come in the right way.

23 We are not stipulating to the e-mail itself, we
24 stipulated to the foundation. So we don't believe the
25 manner which Ms. Illuzzi is attempting to put them before

1 the Court is appropriate, because we have not stipulated by
2 and between the parties to the content of the e-mail, only
3 the foundation.

4 MS. ILLUZZI: So, these are e-mails from
5 defendant's company TWC and they have stipulated to the
6 authenticity of them, and they are relevant. So I don't
7 know what witness they would like me to call.

8 Would they like me to call a custodian of records
9 for TWC? I don't think I have to call a receiver or sender
10 of the e-mails when they are relevant, particularly because
11 it is the defendant, the defendant and his office are the
12 receiver and sender of these e-mails intermittently, and so
13 I'm confused about what else the defense is expecting with
14 regard to who is supposed to be on the stand and sitting in
15 that seat when these e-mails are admitted and published.

16 MS. ROTUNNO: That is an issue Ms. Illuzzi has to
17 worry about, not an issue defense has to worry about.

18 We are stipulating to the foundation of these
19 e-mails, we are not stipulating to the content where
20 normally you can stand in front of a jury and say we
21 stipulate by and between the parties the information
22 contained therein is true, that is not the case here. We
23 stipulated to the foundation, and the way she brings them
24 in is up to her. We can make proper objections if
25 necessary.

1 THE COURT: Can I just see the packet please.

2 All right, my ruling is as follows: I maintain my
3 ruling from yesterday. The stipulation adequately
4 authenticating them, the testimony thus far having already
5 made them relevant, a proper foundation is therefore
6 already per the stipulation and per the testimony are
7 there, so these may be introduced as such.

8 Similarly, yet conversely, on transcript page 1297
9 line 20, 21 and 22, where I thereafter asked Ms. Illuzzi to
10 stop testifying in her questioning.

11 She asks the question it is the contact for the
12 Weinstein Company Judge, here is the contact information
13 that the Weinstein Company has for Ms. Sciorra. So lines
14 20, 21, and 22 should be excised and which is not to say
15 that Ms. Illuzzi cannot hereafter call somebody to indicate
16 that People's 51, which is in evidence because it does have
17 the apartment number and address, was the Weinstein
18 company's contact information at the time that is germane
19 to that exhibit.

20 But the exhibit may remain in evidence for the
21 reason it was accepted, which is that it did contain the
22 accurate address at the time.

23 MS. ROTUNNO: Can we object for the record. There
24 was no evidence in terms of the time or how or when that
25 was contacted, generated, there is no date.

1 THE COURT: My point is you don't have to object
2 because there is no evidence of that.

3 MS. ROTUNNO: Thank you.

4 THE COURT: Jury is entering.

5 THE CLERK: Case on trial continues. Both sides
6 stipulate the jury is present and properly seated?

7 THE COURT: Parties stipulate the jury is present
8 and properly seated?

9 MS. ILLUZZI: Yes, yes.

10 MS. ROTUNNO: Yes.

11 MS. ILLUZZI: Yes, yes.

12 THE COURT: Welcome back jurors. Thank you for
13 being so prompt. You had something to say, Ms. Illuzzi?

14 MS. ILLUZZI: I do have something to say. Judge,
15 we have a number of exhibits which we understand the Court
16 will enter into evidence. They have been marked for
17 identification.

18 At this time I would ask they be marked in
19 evidence and published to the jury.

20 Although I have the hard copy here Judge, I
21 believe once they are admitted into evidence, the
22 electronic copy will be able to displayed on the screen.

23 THE COURT: Those numbers are?

24 MS. ILLUZZI: People's Exhibit Number 58, Number
25 58 is two pages. People's Exhibit Number 59, a single

1 page. People's Exhibit Number 54, that is a single page.
2 People's Exhibit Number 32, that is two pages. People's
3 Exhibit Number 43 is two pages. People's Exhibit Number 44
4 is two pages. People's Exhibit Number 46 is one page.
5 People's Exhibit Number 47 is one page.

6 THE COURT: All right, the Court receives those
7 into evidence, that is over defense objection.

8 MR. AIDALA: Yes, your Honor.

9 THE COURT: Thank you, proceed.

10 MS. ILLUZZI: The People would now did display or
11 publish to the jury People's Exhibit Number 58 which is a
12 two page document.

13 (Published to the jury).

14 MS. ILLUZZI: The next is People's Exhibit, now in
15 Evidence, number 59.

16 (Published to jury).

17 MS. ILLUZZI: Now publishing to the jury People's
18 Exhibit Number 54.

19 (Published to jury).

20 MS. ILLUZZI: Now publishing a two page document,
21 People's Exhibit Number 32.

22 (Published to jury).

23 MS. ILLUZZI: Another two page document, People's
24 Exhibit Number 43.

25 (Published to jury).

1 MS. ILLUZZI: Now People's Exhibit Number 44, also
2 a two page document.

3 (Published to jury).

4 MS. ILLUZZI: People's Exhibit Number 46.

5 (Published to jury).

6 MS. ILLUZZI: Finally Judge, People's Exhibit
7 Number 47.

8 (Published to jury).

9 MS. ILLUZZI: Thank you, your Honor.

10 THE COURT: Okay, call your witness please.

11 MS. ILLUZZI: The People call doctor Barbara Ziv.

12 COURT OFFICER: Witness entering.

13 (Witness enters courtroom and is sworn in.

14 COURT OFFICER: Doctor, in a loud clear voice,
15 give your full name, spelling your last name.

16 A Barbara Ellen Ziv, Z. I. V. MD.

17 COURT OFFICER: County of residence.

18 A I reside in Philadelphia County, Pennsylvania.

19 THE COURT: All right, good morning doctor.

20 Please listen carefully to the questions from the ADA and
21 answer her questions to the best of your ability.

22 Please answer them loudly, clearly, and slowly.

23 Please give full and complete responses to all questions
24 and try not to volunteer any information beyond her
25 questioned areas.

1 On cross examination it is perfectly likely Mr.
2 Cheronis is going to ask you questions also. If and when
3 he chooses to do so, give to him the same courtesy you're
4 about to give to the District Attorney.

5 If you are comfortable responding to either
6 attorney's questions directly to the jury, you should feel
7 free to do that, otherwise respond to whomever is asking
8 you questions at any given time.

9 The microphone only picks up your voice if you
10 speak right into it like that. Okay, please inquire.

11 DIRECT EXAMINATION

12 BY MS. ILLUZZI:

13 Q Good morning doctor.

14 A Good morning.

15 Q Can you please tell the jury what your occupation is?

16 A I'm a forensic psychiatrist.

17 Q How long have you been a forensic psychiatrist?

18 A I have been a forensic psychiatrist for the past at
19 least 20 years, maybe longer.

20 Q Can you tell the jury what your educational background
21 is?

22 A Yes, I graduated from Wesleyan University in
23 Connecticut in 1981. I did cancer research for two years at
24 Sloan Kettering. I went to Northwestern University Medical
25 School and graduated from there in 1987.

1 I did an internship in New York Hospital in internal
2 medicine, and I completed my residency in psychiatry at New York
3 Hospital, Cornell University in 1991.

4 Q Can you tell the jury what is meant by the term
5 forensic psychiatrist?

6 A A forensic psychiatrist differs from what people
7 generally think of as a psychiatrist, from a clinical
8 psychiatrist.

9 As a clinical psychiatrist, your obligation is to treat
10 the patient, to advocate for the patient.

11 A forensic psychiatrist is someone who assesses
12 individuals in any kind of setting that involves a courtroom, be
13 it a criminal setting or a civil setting.

14 As a forensic psychiatrist, you are not treating the
15 patient or the individual, you are evaluating, you are
16 evaluating the situation, and your obligation is not to the
17 person you are evaluating, it is to be objective.

18 So, in a forensic evaluation unlike a clinical
19 evaluation, you rely upon as much objective information as you
20 can possibly get.

21 So as a clinical psychiatrist, you take somebody where
22 they are at. If somebody comes in and complains about their
23 work environment, you take them where they are and help them
24 work through it.

25 As a forensic psychiatrist, if somebody complained

1 about their work environment, you would get work records and
2 educational records all the record that you can to see whether
3 that individual's perception conforms to what objective
4 information says.

5 Q In your forensic practice, do you have an opportunity
6 to evaluate perpetrators of rape and sexual assault?

7 A Yes.

8 Q For the purposes of your testimony, doctor, we are
9 going to use rape and sexual assault synonymously, so we will
10 just call it rape just for the purposes of your testimony, and
11 that will include also other forms of sexual assault.

12 Approximately how many perpetrators of rape have you
13 evaluated?

14 MR. CHERONIS: Objection, to relevance.

15 THE COURT: Overruled.

16 A I have been a member of the Pennsylvania Sex Offender
17 Assessment Board since 2000. This is an appointed position.
18 I've been appointed by all the governors of the state of
19 Pennsylvania since 2000.

20 In that role I assessed over a thousand convicted sex
21 offenders to see if their behavior conforms to what is commonly
22 known as Megan's Law, to see if they are at risk for
23 recidivousness, doing it again.

24 Q Do you also have the opportunity to interview victims
25 of rape?

1 A Yes.

2 Q Approximately how many victims of rape have you been
3 able to interview or evaluate?

4 A Well, I have assessed in a wide variety of situations.
5 I have treated victims of sexual assault and rape. I have
6 evaluated victims of sexual assault and rape in my forensic
7 practice and assessed individuals of sexual assault and rape
8 well over a thousand.

9 Q In your practice for those people that you treat, what
10 are generally those patients seeing you for?

11 A For my clinical practice?

12 Q Yes.

13 A I see a wide variety. First of all, my practice has
14 changed over the years.

15 As my forensic practice has taken up more and more
16 time, I see fewer patients.

17 When I first started out in practice, I would say the
18 vast majority of the patients I treated were individuals who had
19 severe problems as a result of being sexually abused often
20 throughout their childhood.

21 I still see individuals who have been sexually abused,
22 but my practice is broader, and I treat depression and anxiety
23 and post traumatic stress disorder et cetera, et cetera.

24 Q In addition to that, do you teach?

25 A I do. I'm responsible for teaching psychiatric

1 residents at Temple University Medical School. They are
2 required to rotate with me for a month during their residency.
3 In order to complete the requirements, they need to graduate in
4 forensic psychiatry.

5 I also teach classes to the residents and sometimes
6 that includes more than just the psychiatric residents, but
7 primarily psychiatric residents at Temple University.

8 Q When you say residents, you mean other doctors, is that
9 correct?

10 A Yes, they are individuals who have completed their
11 medical training, their medical school training now are in their
12 specialty training.

13 Q In your forensic practice in evaluating sex offenders
14 and sexual assault victims, are you called upon to write reports
15 regarding your findings?

16 A Yes.

17 Q Are you Board certified?

18 A I'm Board certified in psychiatry, yes, I was Board
19 certified in 1992.

20 Q Are you Board certified in forensic psychiatry?

21 A I'm not, I've been doing forensic psychiatry longer
22 than there has been a Board certification. It did not exist
23 when I started doing it.

24 I'm responsible for training the individuals who, for
25 training the residents so they can pass their boards and it

1 includes forensic psychiatrist information, but no.

2 Q In general terms, doctor, with regards to your entire
3 practice, what literature do you rely on?

4 A I rely, I'm lucky enough as part of my
5 responsibilities, as part of the benefit of being a professor at
6 Temple University Medical School, I have access to all their
7 libraries, electronic access to their law library, medical
8 school library, sociology library, undergraduate library, so
9 almost everyday depending on what I'm working on, I do research
10 on whatever the topic is that I'm, you know, that is the focus
11 of my present work.

12 You know, in addition, I keep up with the literature in
13 my field, especially the literature relevant to what I spend
14 most of my time doing, which is I do a lot of sexual assault
15 cases, so I spend a lot of time making sure that I keep up with
16 the literature and all the literature pertaining to sexual
17 assault.

18 Q How does the literature interface with your many years
19 of experience evaluating and treating perpetrators and victims
20 of sexual assault?

21 A Well, I am at the crossroads, so I use the literature
22 to inform my assessments of individuals who have been sexually
23 assaulted.

24 Clinicians who treat sexual individuals who have been
25 sexually assaulted or perpetrators of sexual assault tend to

1 have a relatively narrow focus.

2 MR. CHERONIS: I object to perpetrators of sexual
3 assault.

4 THE COURT: Overruled.

5 A Their focus is to address symptoms of whatever is
6 brought to them.

7 As a forensic psychiatrist, I use that literature to
8 inform my assessments of individuals who I'm evaluating for
9 sexual assault or perpetrators of sexual assault.

10 I look at the literature regarding what
11 characteristics, what are the characteristics of individuals who
12 had been sexually assaulted.

13 What are the best practices for interviewing
14 individuals who have made an allegation of sexual assault.

15 What should you look for in terms of behaviors before,
16 during, and after sexual assault, because I have my own
17 experience interviewing these individuals.

18 But when you use the literature, you get, you get the
19 information regarding many studies about individuals.

20 So, if I see a thousand individuals, I can look at
21 studies that have several thousand individuals about saying this
22 is what you can expect from an interview with somebody who has
23 been sexually assaulted.

24 Q In your evaluation and your practice, you are seeing
25 real people in real events, is that correct?

1 A Correct.

2 Q Not just contrived experimentation or hypothesis?

3 MR. CHERONIS: Objection to leading.

4 THE COURT: Overruled.

5 A Researchers, good research takes one variable. So you
6 keep everything the same and you are looking at one aspect of
7 research. So that is the best kind of research, because if you
8 have too many variables going in, you will not be able to
9 accurately interpret your results. So researchers who don't
10 have clinical experience, their work is valuable to guide
11 individuals like me who are clinicians. However, not being a
12 clinician, the ability to properly --

13 MR. CHERONIS: I object to the relevance of this.

14 THE COURT: Overruled.

15 A Interpret how meaningful that is going to be is
16 difficult for a researcher, and it requires somebody like me who
17 both sees people forensically and clinically and can use that
18 research appropriately.

19 Q Doctor, have you had an opportunity to be qualified as
20 an expert and testify regarding your opinion and your experience
21 with regards to forensic psychiatry and in particular with
22 regard to the subject of rape trauma?

23 A Yes.

24 Q Approximately how many times have you had an
25 opportunity to be qualified as an expert in those fields and

1 offer your opinion to juries?

2 A I have been qualified as an expert approximately,
3 between two hundred and 250 times.

4 I have been qualified as an expert in multiple counties
5 in Pennsylvania. I've been qualified as an expert in New York.
6 I've been qualified in federal court on multiple occasions. In
7 California, in Maryland, in Virginia, probably other states as
8 well.

9 I have always been qualified as an expert in forensic
10 psychiatry and I have always been qualified as a expert on
11 victim behavior, sexual assault victim behavior.

12 Q The courts you have been qualified as an expert in,
13 were you permitted by the Court to offer your opinion and your
14 expertise, were those criminal courts as well as civil courts
15 and administrative courts?

16 A Yes.

17 Q Have you ever been denied expert status in any case
18 where your expertise was being offered for expert status?

19 A No.

20 MS. ILLUZZI: At this time we ask Doctor Ziv be
21 qualified as an expert in forensic psychiatry and issues in
22 particular with rape trauma.

23 THE COURT: Any objection?

24 MR. CHERONIS: A few questions.

25 THE COURT: Sure.

1 MR. CHERONIS: Doctor Ziv, my name is Damon
2 Cheronis.

3 A Good morning.

4 MR. CHERONIS: Aside from being a forensic
5 psychiatrist over the last 20 or so years, you also work
6 for insurance companies?

7 A I do.

8 MR. CHERONIS: And you currently work for Aetna?

9 A Yes.

10 MR. CHERONIS: How long have you worked there?

11 A Eight years I think.

12 MR. CHERONIS: Prior to that, was it Signa?

13 A There was a little break, but yes, I worked for Signa.

14 MR. CHERONIS: Where prior to that if you recall
15 in the insurance industry?

16 A Signa was the first insurance company.

17 MR. CHERONIS: In your role working for the
18 insurance company, can you tell the members of the jury
19 what your role is?

20 A I'm a medical director of behavioral health medical
21 director. My job is to supervise individuals who, who they are
22 called case managers.

23 If you have insurance and you require behavioral health
24 or a higher level of care, there is a case manager that is
25 assigned to your case, and I make sure that the case managers

1 are appropriately insuring that Aetna members get the best
2 highest quality care possible, that the diagnosis they are given
3 fits the symptom pattern and they get the appropriate treatment,
4 the appropriate medication, appropriate follow up, the
5 appropriate ancillary service.

6 So I oversee a group of individuals who do that. I
7 have other responsibilities too, such as I'm involved in
8 innovating so we can find other ways to reach out to individuals
9 with mental health issues, things like that.

10 MR. CHERONIS: You make determinations whether
11 claims get paid or not?

12 A No.

13 MR. CHERONIS: Do the individuals that you oversee
14 have anything to do with that?

15 A Whether the claims get paid, no.

16 MR. CHERONIS: Whether treatment is offered?

17 A No, they do make assessments about level of care. So,
18 what level of care they meet from a medical necessity point of
19 view.

20 MR. CHERONIS: When you make an insurance claim or
21 are looking for a level of care, there is a group within
22 the insurance company who determines if it is covered, fair
23 to say?

24 MS. ILLUZZI: Objection, irrelevant.

25 THE COURT: Overruled.

1 A That is not quite how it works, no.

2 MR. CHERONIS: Insurance companies just pay for
3 whatever treatment?

4 A No, they don't make a determination about what is
5 covered. If you have Aetna insurance, you have whatever plan
6 that you have, that is determined by your employer, not by
7 Aetna, whatever plan you have. And we just make sure that
8 individuals are receiving the appropriate care and the
9 appropriate level of care.

10 MR. CHERONIS: Do you also occasionally go to
11 seminars and speak?

12 A Do I, yes.

13 MR. CHERONIS: You've spoke before on cross
14 examination in the courtroom, haven't you in a panel
15 discussion?

16 A Yes, well no, it is not cross examination, it is about
17 expert witness testimony, yes.

18 MR. CHERONIS: It has to do also with cross
19 examination, right?

20 A I don't recall, it was a panel discussion, I was there
21 -- on the panel was a couple of lawyers, defense lawyers and
22 plaintiff lawyers. This is for several cases, so I would not be
23 addressing the cross examination issue, I would be addressing
24 what I do as a forensic psychiatrist as an expert.

25 MR. CHERONIS: You testified over two hundred

1 times?

2 A Yes.

3 MR. CHERONIS: You also do speaking engagements at
4 CLE's?

5 A I have, yes.

6 MR. CHERONIS: Did you recently do one in April
7 of 2019 for the Employment Law Institute in Philadelphia?

8 A Yes.

9 MR. CHERONIS: Was that speaking engagement called
10 dealing with the Me Too plaintiff who is currently
11 employed.

12 MS. ILLUZZI: Objection, this is beyond
13 qualification voir dire.

14 MR. CHERONIS: No, your Honor.

15 THE COURT: Overruled.

16 A I don't remember the title of it, I was not the person
17 who wrote the title of it. It was actually written by the
18 lawyer Sara Beckly who is obviously an employment layer and who
19 asked me to speak.

20 MR. CHERONIS: I could refresh your recollection,
21 would the name help if I show --

22 A No, if that is what it says in the handout.

23 MR. CHERONIS: Would you take my word for it?

24 A Yes.

25 MR. CHERONIS: It says dealing with the Me Too

1 plaintiff who is currently employed, right?

2 A Yes.

3 MR. CHERONIS: Do you know why it specifically
4 states the Me Too plaintiff?

5 MS. ILLUZZI: Objection.

6 A I do not, I'm not the one who titled the talk.

7 MR. CHERONIS: You went to the talk?

8 A I did.

9 MR. CHERONIS: When the talk was introduced, it
10 was introduced as a seminar or part of the seminar dealing
11 with the Me Too plaintiff who is currently employed, right?

12 A Yes.

13 MR. CHERONIS: And do you have any understanding
14 why it delineated specifically the Me Too plaintiff?

15 A I don't.

16 MR. CHERONIS: Would you agree with me that
17 portions of that seminar where you spoke it was described
18 as, even over a year later, the affect of the Me Too
19 continues to percolate around the work place.

20 MS. ILLUZZI: Objection Judge.

21 THE COURT: Sustained.

22 MR. CHERONIS: But you do not remember it being
23 specifically about Me Too plaintiffs?

24 MS. ILLUZZI: Objection.

25 THE COURT: Hold on. Anything that goes to the

1 qualification you can probably cross her on this later.

2 MR. CHERONIS: Okay. Dr. Ziv, you said you are
3 not Board certified; is that right?

4 A No, I'm Board certified in psychiatry.

5 MR. CHERONIS: But there is another certification?

6 A There is a certification that has, that is more recent
7 than my practicing of forensic psychiatrist, yes.

8 MR. CHERONIS: When was that certification
9 available, if you know?

10 A I don't, I would say maybe 10, 15 years ago.

11 MR. CHERONIS: You teach individuals who are
12 trying to get that certification, but you yourself have not
13 got it?

14 A Correct.

15 MR. CHERONIS: A few more questions about your
16 qualifications.

17 You talked about the literature involved in these
18 types of situations, sexual assault and you are very
19 familiar with that literature?

20 A Yes.

21 MR. CHERONIS: Did you ever author any literature
22 in the area of sexual assault victims ordeal with sexual
23 assault?

24 A Have I published any papers, no.

25 MR. CHERONIS: Thank you, we have no further

1 questions. We will accept the qualifications.

2 THE COURT: So qualified, next question.

3 MS. ILLUZZI: Thank you.

4 Q Doctor, have you interviewed any witness in this case?

5 A I have not.

6 Q Have you heard the opening examination in this case?

7 A I have not.

8 Q Have you heard any witness testimony in this case?

9 A I have not.

10 Q Yesterday while you were coming and a witness was
11 going, did you meet a young woman within the Manhattan D.A.'s
12 Office's general space?

13 A Yes.

14 Q Aside from that, have you ever met a single witness in
15 this case?

16 A Well, I don't know who the witnesses are, but I will
17 assume I have not.

18 Q Have you ever evaluated anybody with regards to this
19 case?

20 A I have not.

21 Q Your testimony today will be based upon your general
22 knowledge and experience in the time you have been practicing
23 psychiatry and forensic psychiatry?

24 A Correct.

25 Q Can you define for the jury the term that is used

1 entitled rape trauma?

2 A Yes, if I can add one thing. When we were talking
3 about what a forensic psychiatrist does, I talk to about what I
4 do when I do evaluate. Part of what my responsibility as a
5 forensic psychiatrist is, is to act as a blind expert which is
6 what I'm here today to do.

7 As a blind expert, I'm not opining about any one
8 individual or your case, I'm talking, I've been hired to provide
9 information and education about sexual assault, victim behavior
10 in sexual assault, rape trauma in sexual assault. So I
11 apologize for not saying that before, but so that is what I'm
12 here to do. So --

13 MR. CHERONIS: I object at this point to the
14 narrative.

15 MS. ILLUZZI: Doctor.

16 THE COURT: Overruled.

17 Q Can I ask you another question. Isn't it true that you
18 were retained by the Manhattan District Attorney's Office with
19 regards to your expertise in this case?

20 A Yes.

21 Q Are you being paid for your time or your testimony?

22 A I'm being paid for my time.

23 Q You have a contract with regard to that?

24 A I do.

25 Q Have you billed us yet?

1 A I have not.

2 Q Doctor, to continue then. If you could please, define
3 for the jury what is known as rape trauma?

4 A So rape trauma is actually a legal term, it is not a
5 psychiatric term, but it refers --

6 MR. CHERONIS: I object defining it as a legal
7 term.

8 THE COURT: Overruled.

9 A So, rape trauma involves the experience of sexual
10 assault and the individual who has been sexually assaulted,
11 their responses to that.

12 Q Are there phenomena called rape myths?

13 A Yes.

14 Q Can you explain to the jury what that means, a rape
15 myth?

16 A One of the reasons that I'm allowed to testify in this
17 court and all 50 state have laws that allow for expert
18 testimony.

19 MR. CHERONIS: Objection to relevance.

20 THE COURT: Overruled.

21 A About sexual trauma and victim behavior is because
22 people come to assess sexual assault with preconceived notions
23 that are usually wrong, and they are not informed by. I do this
24 day in and day out.

25 I've done this for 20, 30 years, and one of the reasons

1 that I am, there are statutes that allow me to do this is
2 because people believe that they know things about sexual
3 assault, those are called rape myths.

4 Rape myths are not just don't just apply to rape, they
5 apply to all sexual assaults and they are commonly held beliefs
6 about perpetrators, victims, aftermath of sexual assault.

7 Rape myths are culturally dependant. What we believe
8 about rape in the United States in 2020 is different than what
9 people in Japan in 18 hundred believed about it.

10 It is different than what people in 2020 in Afganistan
11 may believe about rape or sexual assault, but what they all have
12 in common is that most people in society believe them and
13 research has shown they are not true.

14 Q Doctor, towards that end, in order to educate the jury
15 on these rape myths, have you provided us with a power point
16 presentation?

17 A Yes.

18 MS. ILLUZZI: Your Honor, this has been previously
19 given to defense as People's Exhibit Number 57. At this
20 time we offer it into evidence.

21 THE COURT: Any objection?

22 MR. CHERONIS: I have no problem using it as a
23 demonstrative, I think that is the proper way to do it.

24 MS. ILLUZZI: We are offering the power point in
25 evidence.

1 MR. CHERONIS: Then I object.

2 THE COURT: 57 is received into evidence.

3 Q Doctor, if you could draw your attention to the very
4 large screen here in the courtroom, I believe your screen has
5 the same image.

6 A Yes.

7 Q So that we could go through it together. This is
8 People's Number 57 in evidence and the title is?

9 A Rape myths. So this is the definition of rape myth,
10 they involve misconceptions about rape and behaviors of victims
11 of rape. These are societally determined beliefs that while
12 generally false, are widely and persistently held.

13 So one of the most common rape myths is that sexual
14 assault occurs most commonly or rape and sexual assault is most
15 commonly perpetrated by a stranger. This is not true.

16 At least 85 percent of all sexual assaults are
17 perpetrated by somebody who is known to the victim, an
18 acquaintance, a relative, a domestic partner. Those are the
19 most common perpetrators of sexual assault. Only less than 15
20 percent are perpetrated by strangers.

21 Q The next one.

22 MR. CHERONIS: I ask she ask a question, I'm not
23 sure if this is a power point, I don't know if there is a
24 question pending.

25 THE COURT: Overruled, go ahead.

1 A Another common rape myth is that victims of sexual
2 assault resist their assailants. This is not true. The vast
3 majority, actually I need to be clear, when we are talking about
4 rape myth, there are rape myths that apply to different
5 populations. The rape myths that apply to children are
6 different than adult females and they are different than those
7 that apply to males.

8 So these are rape myths specific to adult females who
9 have been sexually assaulted by a male. So it is also very
10 commonly believed and wrong that victims of sexual assault
11 resist their assailants.

12 Only between 20 and 40 percent of individuals who are
13 in the process understand most of the research on sexual assault
14 and behaviors in sexual assault that occurs in that rare
15 circumstances of an individual who is being raped by a stranger,
16 and some of the research includes being raped by more than one
17 individual at a time.

18 So these are people who are confronted with the
19 stereotypic person in the dark alley and possibly a weapon.

20 So even in those circumstances, most women only between
21 20 and 40 percent of women shout out, scream, yelling. Very few
22 people run and physically resist other than struggling is also
23 pretty rare, and the most common type of physical resistance
24 demonstrated by men, women, when faced with a stranger rape is
25 kicking. So this idea that women respond to sexual assault by

1 verbal, screaming, yelling, hitting, punching, biting, although
2 that happens, it is rare.

3 Q The next myth doctor.

4 A Another common misconception is victim of sexual
5 assault promptly reports the assault. This is absolutely
6 untrue. The vast majority of individuals who are sexually
7 assaulted do not report promptly.

8 The time, it can range from days to weeks to months to
9 years to report a sexual assault, to never. It is according to
10 the Bureau of Justice statistics, it is the most under reported
11 crime.

12 Q Does this mean report at all versus report to the
13 authorities?

14 A Well, so there are two levels. One is reporting to law
15 enforcement, that is so as you go up the ladder of intensity, it
16 becomes less and less common.

17 So many individuals who are sexually assaulted will
18 tell somebody, a friend, a parent, not everybody, but many.
19 Very few people then will report to a doctor or a counselor or a
20 spiritual advisor, and then the next level up is to law
21 enforcement and even fewer report to law enforcement.

22 Q Next myth.

23 A Another very common misconception is victim of sexual
24 assaults don't have contact with the perpetrator following the
25 sexual assault. It is extremely common. In fact, it is the

1 norm for individuals who have been sexually assaulted,
2 especially by somebody they know to have subsequent contact with
3 the individual.

4 Now that contact can range from having text
5 messages or e-mail exchanges with them to continuing in a
6 relationship with them, or to developing a relationship with
7 them even if one did not exist before the sexual assault.

8 The reasons behind this are complex, but you can think
9 about it in terms of this double edged --

10 MS. ILLUZZI: Give us one second, we will pause
11 for a second.

12 It may never end, what time is lunch, I fear we
13 are going to have to shout over it, I apologize. If you
14 could keep your voice very loud and speak directly into the
15 microphone.

16 A I will be happy to.

17 Q You were talking when we interrupted you?

18 A Right.

19 Q About the complex reasons why it is that rape victims
20 will often have subsequent contact with the perpetrator?

21 A Yes, so when we talk about children, we talk about the
22 carrot and the stick or I do in terms of how perpetrators gain
23 compliance.

24 The stick aspect of why do women continue to have
25 contact with the perpetrator include the fact that as

1 devastating as sexual assault is, most individuals think okay, I
2 can put it behind me, I can move on with my life, I'm just going
3 to put it in a box and forget about what happened. I don't want
4 it to get worse, I don't want this individual who had sexually
5 assaulted me to ruin my reputation, ruin my friendships, put my
6 job in jeopardy.

7 I can handle this physical trauma, but I God forbid
8 they ruin the rest of my life, make it impossible for me to go
9 on. Add to that the fact that perpetrators of sexual assault
10 often not only have overpowered an individual --

11 MR. CHERONIS: Objection.

12 THE COURT: Overruled.

13 A Not only have they overpowered a woman physically
14 showing that they can dominate their body, often there are
15 threats either implied or explicitly said to an individual.

16 If you tell anybody this, I'll ruin your reputation.
17 If you tell anybody this, nobody is going to believe you,
18 perpetrators say that to kids, they also say that to adults.
19 I'll bring you down, I will make sure that you pay for it.

20 So there is both sometimes an implied threat sometimes
21 an explicit threat, and always a worry on the part of the victim
22 that the individual, the perpetrator can invade other aspects of
23 their life and ruin their life even more profoundly than being
24 sexually assaulted.

25 Now on the flip side of that, is the desire. Remember

1 85 percent of sexual assault is perpetrated by somebody known to
2 the offender.

3 We all know individuals who are in a situation of
4 domestic abuse. Those women do not always leave. In fact, they
5 frequently do not leave and they stay for a long period of time,
6 and they may think about it but they don't do it.

7 Why is that, because they have a connection to the
8 individual. You often hear women who have been sexually
9 assaulted say they feel like damaged goods, they feel like I'm
10 used goods anyway, why not.

11 Sometimes women go and have subsequent contact with the
12 perpetrator because they cannot really believe this happened to
13 them, they want some explanation about how they can live with
14 this, how they can hold on to this relationship or image they
15 had of this person that they knew, and they are hoping this is
16 just an aberration, you hear that all the time, that they go
17 back thinking I can just bring this back to baseline, I can just
18 pretend this whole thing never happened, and I can continue to
19 have a relationship with this person and we can move on.

20 You know, there are other reasons too, the individual
21 none of us, just one quality, the individual may have other
22 positive qualities and the victim will say you know what, yes,
23 he did this horrible thing but look at all these other good
24 things he's done. So all those things go into play in terms of
25 subsequent contact.

1 It is the normal, and often what happens honestly is if
2 women go back to have contact with the perpetrator which they
3 almost always do and a lot of times they do believing okay, this
4 is outside the normal, but we can go back to square one and
5 sometimes what happens is that a second sexual assault occurs.
6 It might not occur at the first meeting but it might occur 6
7 month later, a year or two years later which is each more
8 devastating for that person because one of the things I think we
9 will talk about the first response ever women sexually assaulted
10 is to blame themselves, it is another part of the rape myth you
11 have done something to bring this on you, that is not true. But
12 people do feel that way, then when they go back and if they are
13 sexually assaulted again, they think in spades oh my God I was
14 and idiot, what was I thinking without knowing their behavior is
15 actually entirely expected.

16 Q I thing that we have discussed this doctor that victim
17 of sexual assaults it is a myth to believe victim of sexual
18 assault report the event to the authorities and I think that you
19 sort of outlined for the jury that reporting and how rare
20 reporting is with regard to first if you could tell us the
21 levels of reporting first to what level?

22 A Well, it is not uncommon for individuals to report to
23 tell a friend or a family member or somebody they are close to.
24 Often that does not occur in real time either but it can occur
25 within days of the sexual assault. When somebody had time to

1 sort of make sense of what happened. Then the next level is
2 health care providers, they are almost never informed of a
3 sexual assault, certainly women do not go and see their
4 know or primary care in the aftermath of a sexual assault,
5 /PRAOES is are often spiritual individual are often not
6 consulted, and it is very rare in fact for individuals who have
7 been sexually assaulted by somebody they know to go to the
8 police.

9 Q Doctor, what about individual who may not have close
10 connections in life, would you expect that those people may not
11 report to anybody even a friend?

12 A Absolutely, and it is not uncommon, there is even if
13 people do have friends, there is such shame involved in sexual
14 assault, it is the only crime where the victim blames themselves
15 and people are ashamed that they are a victim of sexual
16 assault and they do not want to be branded as a victim of
17 sexual assault, they do not want anybody to know, so there is
18 sizeable subset of individuals who never report to anybody.

19 Q Lastly doctor, one can determine a myth being one can
20 determine whether somebody has been raped by their behavior?

21 A Right, there have been lots of studies about victim
22 response before, during and after sexual assault, and almost
23 everything that I have told you about the fact women don't
24 typically screen engage in physical aggression towards their
25 perpetrator, but it goes beyond that. Studies have shown that

1 individual this the met of a sexual assault do everything from
2 comply to give a false statement to saying you know, no I've got
3 my period or I have a sexually transmitted disease to responding
4 reflectly, I have individual who are sexually assaulted by
5 somebody they know, it is a days orienting experience and so
6 they may respond there fray /SHAPB suppression may not reveal
7 they are horrified or gross had out whatever, they may tell you
8 that that is there internal experience but that is not what is
9 reflected. The aftermath of the sexual assault behavior is also
10 variable, there are over a hundred behaviors of individual who
11 have been raped by strangers that have been identified, so
12 individuals may retreat, they may in the aftermath of a sexual
13 assault engage in promise security, serve
14 ^ injure ^ injury ^ jury just behavior like cutting burning
15 themselves, drink, they may use drugs, they may become outgoing,
16 they may become withdrawn, there are a whole range of behaviors,
17 none of which tells you whether a sexual assault occurred or
18 not.

19 Q Doctor, with regards to the demeanor in the aftermath
20 of sexual assault, does this occur as well in people in domestic
21 violence situations?

22 MR. CHERONIS: Objection to relevance.

23 THE COURT: Overruled?

24 A Yes, individuals who are involved in domestic violence
25 obviously have a relationship with the person who is being

1 (Continued from the previous page.)

2 Q Now, Doctor, as a psychiatrist, you have -- is it true
3 that you have studied the effects of trauma and the storage of
4 memory and trauma in the human brain?

5 A Yes.

6 Q So with regards to memory, if you could explain how
7 the brain functions in trauma to the jury, we would appreciate
8 it?

9 Thank you.

10 A So one of the consequences of --

11 MR. CHERONIS: Judge, I just object to -- they
12 laid a foundation for her position as a forensic
13 psychiatrist but not as a memory doctor, so to speak.

14 THE COURT: Overruled.

15 MR. CHERONIS: All right.

16 THE WITNESS: So one of the consequences of
17 sexual assault can be post-traumatic stress disorder.
18 Post-traumatic stress disorder is the template by which one
19 understands the impact of trauma on memory.

20 So not to bore you with too many scientific
21 details, but, there is not just one kind of memory. We all
22 know this.

23 We all know that the memory that is studying for
24 a test, cramming and putting a lot of information in and
25 you spit it out that day or the next day is not retained.

1 There is also memory for sounds. There is memory
2 for names, which, is complicated and which is why it goes
3 away pretty early in the aging process.

4 There are memories for experiences. So they are
5 coded in different parts of the brain. If, a very
6 simplistic way to understand --

7 Q I am going to stop you there, Doctor.

8 Would it be helpful for you to come down and explain
9 that to the jury by showing them the various areas of the
10 brain?

11 A Yes. Well, I will be happy to do that, but --

12 MS. ILLUZZI-ORBON: With Your Honor's permission.
13 I apologize.

14 A All right, so the brain, I feel like I am teaching.

15 Okay, the brain can be thought off as from old to new.
16 The old part of the brain is the most protected. It is the
17 part of the brain that we have in common with all mammals.

18 The newer part of the brain which is the purple part
19 here, is the cortex. That's the newer part of the brain. It
20 is the last evolutionarily and it's also the last to be mature
21 as an individual, as a human.

22 In fact, that doesn't all kick in until about age 25.

23 Memory is encoded in different parts of the brain
24 depending on what kind of memory you are talking about.

25 If you are talking about the kind of memory where you

1 are memorizing something and you don't remember it, that's in
2 this more recent part of the brain. This part of the brain,
3 which includes the hippocampus and the amygdala and other
4 things is the oldest part of the brain. It is responsible for
5 memory and trauma.

6 It's responsible for the fight or flight response
7 which is how it's known. It's responsible for when you are in
8 a traumatic situation you -- this is the part of the brain
9 that's activated.

10 And when this part of the brain is activated there is
11 a narrowing of focus. So if you are in a traumatic situation,
12 you are in a situation where you are beings sexually assaulted,
13 you are not looking around the room seeing what people are
14 wearing. You are not focusing on irrelevant data because your
15 job is to preserve yourself in that movement. It is to focus
16 on what is salient to that situation.

17 So people have very clear, assuming there are no
18 drugs or alcohol involved, memories of the traumatic
19 experience. They will remember.

20 So what happens also during a sexual assault and
21 here is the difference --

22 MR. CHERONIS: I object, Your Honor, to this.

23 THE COURT: Overruled.

24 THE WITNESS: What happens during a sexual
25 assault and, again, this is where it's important that you

1 have clinical experience as well as just research
2 experience.

3 MR. CHERONIS: May I approach, Your Honor.

4 THE COURT: No. Continue.

5 THE WITNESS: -- people describe this shifting
6 awareness, monitoring what's going on with them and
7 monitoring what's going on outside of them. You know, the
8 first thing is what's happening, what's going on.

9 And so, it shifts between how do I get out of
10 here? What am I going to do and what's going on to them.

11 All of that is encoded in this part of the brain,
12 this primitive part of the brain and it is at the expense
13 of details that aren't going to be helpful to you.

14 Which is why, as to get out of that situation or
15 to survive that situation, so although some individuals may
16 after, you know, the initiation of a sexual assault, tell
17 you that they look at the ceiling and they can describe the
18 ceiling fixture for you because that's what they were doing
19 to try to preserve their -- themselves during the sexual
20 assault.

21 They may be able to describe the ceiling, that
22 may, if it is relevant, be able to describe the sheets or
23 the carpet but only if it is important to their being able
24 to tolerate or survive the traumatic experience.

25 As a result of this kind of traumatic memory,

1 people remember it and they remember the details that they
2 remember. You will hear people say I remember his nose
3 hairs.

4 They won't be able to tell you what he was
5 wearing but they will remember something that was salient
6 to them and they will remember what happened to them.

7 And they will remember it for a very long time.
8 And that memory, depending on how well, how deeply it's
9 encoded is a basis for the development post-traumatic
10 stress disorder because you can't do what most woman want
11 to do after a sexual assault which is put it in a box and
12 forget about it but they can't. So they try and they
13 can't.

14 BY MS. ILLUZZI-ORBON:

15 Q Is it true, Doctor, that some people are never
16 diagnosed or realize that they have post-traumatic stress
17 disorder even though they do after sex assault?

18 A I think people have a wide variety of responses. Some
19 people do not meet all the -- some people don't meet all of the
20 criteria for diagnosis of a post-traumatic stress disorder,
21 some people do and their response to it is to avoid it and
22 withdraw.

23 Not everybody who is sexual assaulted, develops
24 post-traumatic stress disorder. There is a wide variety of
25 psychiatric responses to sexual assault; it could be

1 depression, it could be anxiety, it could be a post-traumatic
2 stress disorder, it could be transient. So there is a wide
3 variety.

4 And yes, people really struggle valiantly to not let
5 it affect them emotionally but most of the time they are
6 unsuccessful, especially in the short-term.

7 Q You described for us a very primitive part of the
8 brain that is called fight or flight.

9 Does that -- is that literal?

10 In other words, people either look to fight or to flee
11 sexual assault?

12 A No, it just refers to -- so when I talk about PTSD,
13 when you think about a cougar stalking prey. The cougar has
14 the same part of the brain. So they are scanning the horizon.

15 Is that prey?

16 Is that something I can go after?

17 Is that a threat to me or is that just bushes blowing
18 in the wind?

19 That is what it refers to. If refers to that
20 attention, this is important to pay attention to.

21 Q And that is irrespective of whether somebody even ever
22 resists their attacker?

23 A That is. It is present during trauma, during whatever
24 traumatic circumstance there is.

25 Q As you said earlier, in fact, most women never

1 physically resist their attacker?

2 A Correct.

3 Q Do people, therefore, remember traumatic experiences
4 somewhat different than other experiences?

5 A Yes.

6 Q And tell me, Doctor, does the passage of time lessen
7 the emotional affect of the traumatic experience of the sexual
8 assault?

9 A The passage of time can impact the emotional response
10 to sexual assault. At passage of time, unless there were drugs
11 or alcohol or some other issues involved like disassociation or
12 something, does not impact memory of the assault.

13 People tend to remember, as I said, the core elements
14 of the trauma pretty clearly.

15 Q So, Doctor, we discussed this in that the memory of
16 traumatic events the memory is stored in different parts of the
17 brain, is that correct?

18 A Yes.

19 Q Is there, in remembering the event, Doctor, you
20 indicated that sometimes people will remember an item of
21 clothing or a decoration, but does that include other senses
22 such as olfactory nerves and maybe touch sensation?

23 A Yes. One of the things about sexual assault too is
24 you are not relying upon one sense. You are not relying
25 upon -- it is not an eyewitness testimony where you are

1 watching something across the street. It involves all of your
2 senses. It involves touch and smell and vision and emotion;
3 all of those things combined together to make memories of
4 sexual assault persistent and, unfortunately, vivid for
5 individuals.

6 Q And then this -- then that would lead to the next
7 slide which is enhanced attention to those factors which are
8 significant to survival, is that correct?

9 A Correct. At the expense, and I can't say this enough,
10 because, unfortunately, not all sex victims of sexual assault
11 or alleged victims of sexual assault, are interviewed with best
12 practices.

13 If you allow, you know -- if you allow a victim of
14 sexual assault or an alleged victim of sexual assault to
15 control their own memory and ask them open-ended questions,
16 they will tell you the salient information.

17 The minute you begin to ask directed questions, what
18 were they wearing, what did you eat, people are compelled to
19 answer those questions to the best of their ability.

20 And so, if there are directed questions about what day
21 of the week was it, what did you have to eat, things that were
22 not relevant, an individual will -- we are all programmed,
23 every single one of us is programmed to answer a directed
24 question. So people do that to the best of their ability, they
25 may be wrong.

1 That doesn't mean that their allegation is wrong. It
2 means that the interviewing style was faulty.

3 Q You have discussed this?

4 A We have discussed this?

5 We have discussed this, yes, too.

6 I mean, for example, a woman 30 years ago was sexually
7 assaulted. Long story short, she goes through all of the
8 things that we -- when she woke up --

9 MR. CHERONIS: I am going to object to this.

10 THE COURT: Overruled.

11 THE WITNESS: What happened, she had two little
12 kids in the home. She was beaten up very badly.

13 30 years later she gave almost the exact same
14 description of what happened which included, by the way,
15 waiting to get up after the door -- she heard the door
16 click because she knew then that the guy was out of the
17 house and that her babies were safe. And the minute she
18 heard the door click -- but that's the kind of stuff that
19 was important for her to remember for her safety and the
20 safety of her kids.

21 So that's what people remember and they remember
22 it for a long period of time.

23 Q Is it true, Doctor, for each individual, that factor,
24 that that focus would be different for each individual as to
25 what was important to them personally?

1 A Right and what is important to them, in the specific
2 situation.

3 Q We discussed that that memory will stay with them for
4 a long time, is that correct?

5 A Yes.

6 Q And lastly --

7 A Yes, we talked about that too.

8 Q It's unique in terms of each individual and how their
9 particular brain works?

10 A Well, it's unique to the situation. The brains work
11 pretty similarly. If there is not some, you know, medication
12 or drug or alcohol or whatever, but the circumstances of sex
13 crimes, obviously, is different.

14 MS. ILLUZZI-ORBON: Nothing further at this time.

15 Thank you, Judge.

16 THE COURT: Mr. Cheronis.

17 MR. CHERONIS: Thank you.

18 CROSS-EXAMINATION

19 BY MR. CHERONIS:

20 Q Good afternoon -- good morning again.

21 A Good morning.

22 Q You just stated that it is not unusual during the
23 course of a sexual assault for an alleged victim to say, I am
24 on my period, right?

25 A Well, that's one.

1 Q Is that what you said on direct examination?

2 A I don't know if I said that.

3 Q I think I heard it.

4 A I think I may have given it as an example.

5 Q You haven't talked to Ms. Illuzzi about the facts of
6 this case?

7 A No.

8 Q Not once?

9 A No.

10 Q When did you first meet with Ms. Illuzzi?

11 A Eighteen months ago, maybe.

12 Q Did she call you or did you call her?

13 A She called me.

14 Q When she called you, she told you she wanted you to
15 testify as an expert in The People of the State of New York
16 versus Harvey Weinstein, right?

17 A No, she said that she wanted to meet with me and she
18 and some detectives and other people came down and met with me.
19 It was after I -- I testified in a similar way at the Bill
20 Cosby trial.

21 Q Bill Cosby trial?

22 A Yes.

23 Q And after that you came to some attention, didn't you?

24 Your name was in the paper quite a bit, different
25 articles, wasn't it?

1 A Um --

2 Q You listed them on your curriculum vitae. If you want
3 me to show you I can.

4 A I listed a couple of interviews that I gave, yes.

5 Q So when Ms. Illuzzi called you, she told you that the
6 meeting was going to be for the People of the State of New York
7 versus Harvey Weinstein, right?

8 A Yes.

9 Q At that point, did you stop watching any news or
10 reading any articles about Mr. Weinstein?

11 A I didn't need to stop. I have never read any articles
12 about Harvey Weinstein.

13 Q So somebody who is an expert in an alleged sexual
14 assault and reactions, you didn't read anything about the case?

15 A No, I didn't read anything about the case. And I read
16 about scholarly articles and research about sexual assault.

17 Q How many times have you met with Ms. Illuzzi or talked
18 with her from that 18-month period when you first met with her
19 until you are testifying here today?

20 A Met with a couple of times. Talked with, I don't
21 know, half a -- a dozen times, maybe.

22 Q When you talked with Ms. Illuzzi a half a dozen times,
23 what did you talk about?

24 A About the stuff that I just testified to.

25 Q You didn't talk at all about the facts of the case?

1 A No.

2 Q You also testified that occasionally individuals will
3 send emails to their perpetrator, right?

4 A Yes.

5 Q Did you talk to Ms. Illuzzi about that?

6 A No.

7 Q You also testified that occasionally individuals will
8 be assaulted a few times by the same individual, right?

9 A I said more than once.

10 Q More than once?

11 A Yes.

12 Q Did you talk to Ms. Illuzzi about that?

13 A No.

14 Q And did she prepare you to testify?

15 A I don't know what you mean, prepare.

16 Q Here is what I mean, did she sit down and ask you
17 questions as if you were in court?

18 A No. No, we went over the set of questions that I just
19 answered, yes.

20 Q When did you do that?

21 A A month ago maybe.

22 Q And you testified earlier on your direct examination
23 that you are a forensic psychiatrist, correct?

24 A Yes.

25 Q And you described sort of what that means?

1 A Yes.

2 Q Did you not?

3 A Yes.

4 Q Okay. And you generated a report in this case, didn't
5 you?

6 A I offered her a summary of research in the area.

7 Q So that's a yes, you generated a report?

8 MS. ILLUZZI-ORBON: Objection, Judge.

9 THE WITNESS: If you want --

10 THE COURT: The question and answer can stand.

11 BY MR. CHERONIS:

12 Q I want to talk to you a little bit about your
13 background.

14 You testified, again, that you were a forensic
15 psychiatrist for over 20 years and I believe you testified over
16 200 times, is that right?

17 A Yes.

18 Q In courtrooms throughout the country?

19 A Yes.

20 Q State and Federal Court?

21 A Yes.

22 Q You served on boards that you explained to the jury,
23 right?

24 A Yes.

25 Q Okay. You have taught?

1 A Yes.

2 Q And you also have a clinical practice?

3 A Yes.

4 Q In your role as a forensic psychiatrist, sometimes you
5 are hired by Plaintiffs attorneys in civil cases?

6 A Yes.

7 Q And, for instance, you have testified in situations
8 where individuals have slipped and fallen and hurt themselves,
9 made a claim for a psychiatric condition and you could be hired
10 by either side and determine if that individual is actually
11 suffering from a psychiatric condition?

12 A Yes.

13 Q And at times you have been appointed by courts to make
14 a determination in a criminal aspect, correct?

15 A Yes.

16 Q And one of the types of evaluations you have done for
17 individuals is to determine whether or not they were legally
18 sane at the time -- no objection, thank you -- legally sane at
19 the time that a crime was committed, correct?

20 A Yes.

21 Q Now, when you do that, that's a forensic interview, is
22 it not?

23 A Yes.

24 Q And you testified that a forensic interview is
25 different than a clinical interview, isn't that true?

1 A Yes.

2 Q And going back to the sort of insanity issue for a
3 second, in a situation like that you wouldn't just take the
4 word of the criminal defendant who was claiming that he is
5 insane, would you?

6 A No.

7 Q You would want to interview that person, would you
8 not, if you could?

9 A If I could, yes.

10 Q You would want to look at reports that had to do with
11 the crime charged, wouldn't you?

12 A Yes.

13 Q You would want to look at the police reports?

14 A Yes.

15 Q You would want to look at witness statements?

16 A Well, it depends but, generally speaking, yes.

17 Q And, well, it depends on if you want to have a full
18 view of what was alleged, right?

19 A No. I mean, if I am alleging that someone is not
20 guilty by reason of insanity, then what I need to look at
21 mostly is their psychiatric status at the time of the crime.

22 So, you know, if there are witnesses to that, yes, but
23 I am not the detective.

24 Q You would have also have to look at their history of
25 psychiatric issues, wouldn't you?

1 A Yes.

2 Q And in order to do that you would want to get as many
3 of their medical records as you could, right?

4 A Yes.

5 Q If possible, if possible speak to doctors, right?

6 A No, I usually rely mostly on the records.

7 Q And if you have an issue with the record you would
8 want to call a doctor if you could?

9 A If I could.

10 Q After you got all of that information together, you
11 would make a determination as to whether or not in your opinion
12 an individual was insane at the time the crime occurred?

13 A Correct.

14 Q And one of the reasons you wouldn't just take the word
15 of the individual you were talking to is because of something
16 called, secondary gain, right?

17 A Yes.

18 Q For the Members of the Jury, secondary gain is
19 essentially an external motivator, isn't it?

20 A Yes.

21 Q And what I mean by that, the individual who is on
22 trial for a crime may want to lie in order to beat the rap?

23 A Yes.

24 Q Secondary gain also is something that you take into
25 account when you are doing forensic evaluations in civil cases,

1 correct?

2 A Correct.

3 Q And in civil cases, forensic examinations, they could
4 have to do with secondary gain, could have to do with somebody
5 who is filing a lawsuit, right?

6 A Correct.

7 Q The external motivator there could be money, right?

8 A Right.

9 Q You would agree that secondary gain could also be
10 attention?

11 A Yes.

12 Q It could be fame?

13 A Yes.

14 Q Okay. Secondary gain is something that in every
15 report you write in a forensic setting you include a paragraph
16 about the importance of keeping secondary gain in mind,
17 correct?

18 A Not every report that I write but a lot, yes.

19 Q In a lot of reports?

20 A Yes.

21 Q And similarly, you have been retained in other cases
22 in your forensic capacity to determine whether or not an
23 individual was sexually assaulted, correct?

24 A No, I have never been asked, specifically, whether
25 somebody was sexually assaulted.

1 I mean, again, that is the purview of a jury.

2 Q Sure.

3 A In my assessments it's a necessary part of what I do
4 in order to determine somebody's damages, first I have to
5 determine whether it was likely that the event occurred.

6 Q When you say, the event occurred in the context of a
7 sexual assault, what you mean is if somebody is making claims
8 for damages based upon a sexual assault part of your job is to
9 determine whether the assault occurred?

10 A Yes.

11 Q And you have done that before?

12 A Yes.

13 Q And similarly to what we talked about regarding the
14 insanity issue, if somebody claims they were sexually assaulted
15 you would not rely just on self-reporting, would you?

16 MS. ILLUZZI-ORBON: Objection, Judge.

17 THE COURT: Overruled. If you can answer it,
18 please do; if you can't, say so.

19 THE WITNESS: I would not rely only on
20 self-report.

21 Q Okay. When I say, self-reporting, what I mean is you
22 would not just rely on what the alleged victim told you,
23 correct?

24 A Correct.

25 Q And the reason that you would not rely just on

1 self-reporting is a little similar to the sort of insanity
2 issue, insofar as, there is a potential for secondary gain,
3 correct?

4 A Correct.

5 Q In other words, if someone is in the midst of a
6 lawsuit or wants to file a lawsuit they could have potential
7 for secondary gain, correct?

8 A Correct.

9 Q And in that situation, that forensic situation, again,
10 before determining whether or not somebody was sexually
11 assaulted or not you would want all the records you could get?

12 A Yes.

13 Q You would want to interview the person, correct?

14 A Yes.

15 Q You would want to interview them face to face,
16 correct?

17 A Yes.

18 Q You would want to talk to them about their life?

19 A Yes.

20 Q If there were any social media posts or emails they
21 had you would want to look at those?

22 A Yes.

23 Q And you would look at those to determine whether or
24 not an individual was credible in their claim that they were
25 assaulted?

1 A I would look at the individual and see their patterns
2 of behavior and the patterns of behavior of a perpetrator and
3 see whether it comported with what the literature says about
4 sexual assaults, yes.

5 Q But you would also want to determine whether or not,
6 in your opinion, the individual was credible, is that fair to
7 say?

8 A Yes.

9 Q Only after having as much information as you could
10 would you make a determination as to whether or not an
11 individual was, in fact, sexually assaulted in a forensic
12 setting?

13 A Correct.

14 Q And so we are all clear, you haven't spoken to Ms.
15 Illuzzi about any of the individuals in this case?

16 A Correct.

17 Q You haven't met with any of the individuals in this
18 case?

19 A Correct.

20 Q You don't know any of the individuals in this case?

21 A Correct.

22 Q You haven't seen any of the their medical records?

23 A Correct.

24 Q You have seen any of their social media accounts?

25 A Correct.

1 Q You haven't seen any of their emails?

2 A Correct.

3 Q You don't know if any of them have secondary gain
4 issues?

5 A Correct.

6 Q You don't know if any of them are filing lawsuits?

7 A Correct.

8 Q You don't know if any of them are seeking to file
9 lawsuits?

10 A Correct.

11 Q All of those types of things in a forensic setting you
12 would want to know before you made a credibility determination,
13 right?

14 A Yes.

15 Q And we are in a forensic setting, right?

16 MS. ILLUZZI-ORBON: Objection.

17 THE WITNESS: Yes.

18 THE COURT: Overruled.

19 Q Correct?

20 A Yes.

21 Q A forensic setting is a fancy word for a court
22 setting?

23 A Correct but -- but my, as I said, my role here is
24 different than when I do evaluate an individual, you know. My
25 forensic role here is just to educate.

1 Q Understood. Because you haven't evaluated anybody in
2 this case?

3 MS. ILLUZZI-ORBON: Objection, Judge. Objection.
4 May we approach?

5 THE COURT: No, overruled.

6 Q But you also did testify on direct examination about
7 your history as a forensic psychiatrist, correct?

8 A Yes.

9 Q Your history as a clinical psychiatrist?

10 A Yes.

11 Q Your history as a teacher?

12 A Yes.

13 Q Your history as somebody who is on boards?

14 A Yes.

15 Q And you take all of that into consideration when you
16 testify in front of a jury like this?

17 A Yes.

18 Q You can't just disassociate yourself from your past
19 and things that you have learned and taught, correct?

20 A Correct.

21 Q Now, we talked a little bit about, when we were up
22 here for the initial questioning about -- excuse me, a seminar
23 that you appeared at. The judge said I may be able to ask you
24 a little bit more about that.

25 Now, you said to the jury on cross-examination, not on

1 direct examination, that you testified at the Cosby trial?

2 A I did.

3 Q Right?

4 A Yes.

5 Q And after the Cosby trial was over in April of 2019,
6 you attended a seminar or you spoke at a seminar and the topic
7 was dealing with the Me Too Plaintiff Who Is Currently
8 Employed. If you would like me to refresh recollection or you
9 can take my work for it.

10 A I will take your word for it.

11 Q Would you also agree with me that the heading of that
12 topic was, even over a year later, the effects of Me Too
13 continue to percolate around the workplace?

14 A Again, I didn't write this. It was written by
15 somebody else. But, yes, I did -- I did present with those
16 other two women.

17 Q You may not have written this but your name is on this
18 if you want me to show it to you.

19 A Yes.

20 Q And when you saw your name on here you didn't say, I
21 don't want to be a part of this, did you?

22 A I did say it's a bad title and I think we should
23 change the title and on the slides it was changed.

24 Q It is not changed here?

25 A No.

1 Q Why does it specify a Me Too Plaintiff?

2 A Again, I don't know. I am not the one who titled the
3 talk and I can only assume that it was titled that way so that
4 they would get the maximum number of people to attend the
5 seminar.

6 Q Why would the maximum number of the people want to
7 come to a Me Too --

8 A Because it sounds more interesting than investigating
9 allegations of sexual harassment in the workplace.

10 Q When you were there, did you talk with your other
11 presenters about Me Too.

12 A No.

13 Q That didn't come up at all? It was just in the title?

14 A Correct.

15 Q And was part of that seminar as described -- was part
16 of it managing litigation and preventing a retaliation claim?

17 Does that sound right?

18 A That's not the part that I talked about. That was
19 what the lawyers talked about.

20 MR. AIDALA: Judge, can she just use the
21 microphone.

22 Q But that was part of it, right, how to manage and
23 prevent a retaliation claim?

24 MS. ILLUZZI-ORBON: Objection, judge.

25 THE WITNESS: I don't recall if the lawyers spoke

1 about that. I understand that that's in the write up. I
2 don't remember what they talked about.

3 Q And, normally, in your experience of talking at these
4 seminars, do the seminars follow suit with what the write up
5 is?

6 MS. ILLUZZI-ORBON: Objection, Judge.

7 THE COURT: Overruled.

8 Doctor, at any point you think that you can not
9 answer one of these questions, say I don't think I can
10 answer that question.

11 THE WITNESS: If I write it up and I am on my
12 own, then yes. But if I am presenting with somebody else
13 and somebody else is a person, these are two lawyers and it
14 is employment lawyers and it's a Pennsylvania employment
15 law seminar, so my role was, actually, pretty
16 circumscribed.

17 Q You are aware that that employment law seminar was
18 sponsored by a large law firm, Holland & Knight?

19 A I have no idea who sponsored it.

20 Q Regarding this presentation, you submitted a
21 curriculum vitae in this case, didn't you?

22 A I am sorry.

23 Q A CV, you submitted one in this case?

24 A I did.

25 Q So that the jury is aware what a CV is, that is a list

1 of your background, education, cases you testified in, speaking
2 engagements you have appeared in, right?

3 A It's a resume. Another word for resume.

4 Q Would you agree with me that The Dealing with the Me
5 Too Plaintiff who is Currently Employed was not on your resume
6 in this case?

7 A I don't know.

8 Q Would you take my word for that too?

9 A No, I because it may have -- it's probably there under
10 the title of the slides, because as I said, I didn't like the
11 title of that. So it -- I didn't need to see my -- I would
12 need to see my CV.

13 MR. CHERONIS: Can I approach, Your Honor?

14 THE COURT: The officer will assist you.

15 Just ask her explicitly what the question is.

16 BY MR. CHERONIS:

17 Q There is a portion in there and you typed that so you
18 know where it is, regarding your speaking engagements and
19 seminars.

20 Could you flip through it?

21 A Yeah, it says, selected and I, actually, don't have
22 anything from since May 16, 2018. So it's not updated.

23 Q Did you submit an updated resume before the trial?

24 A I don't know if I did or not.

25 Q And this was from May 16th?

1 A No, that's the last talk that I documented on my CV.

2 Q May 16th of what year?

3 A 2018. I have given many talks since then. So I guess
4 I hadn't updated it.

5 Q Do you remember changing the name in any of your
6 resumes from a Me Too Conference to something else?

7 A I don't know.

8 Q Now, you also talked a little bit about your clinical
9 experience, right?

10 A Yes.

11 Q You were full-time at Aetna?

12 A Yes.

13 Q Before that you worked full-time at another insurance
14 company?

15 A Yes.

16 Q You spent a good deal of time, I would assume, correct
17 me if I am wrong, in your forensic psychiatric practice?

18 A Yes.

19 Q And in your forensic psychiatric practice you are
20 reviewing records, right?

21 A Yes.

22 Q You are planning depositions?

23 A Yes.

24 Q You are testifying at trial?

25 A Yes.

1 Q You also teach?

2 A Yes.

3 Q And during that period of time you also have a
4 clinical practice?

5 A Yes.

6 Q And your clinical practice differs from your forensic
7 practice?

8 A Yes.

9 Q And one of the ways it differs is that in your
10 clinical practice, unlike the forensic practice that we just
11 talked about and gave some examples of, somebody comes into
12 your office and says something like, I've got a mean husband,
13 you don't run out and check if the guy is really mean, do you?

14 A Correct.

15 Q You don't look at his background, you don't look on
16 his web page or anything like that?

17 A Right.

18 Q Because in a clinical setting what you are doing is
19 you are relying to a large extent, on self-reporting?

20 A Yes.

21 Q Unlike in a forensic setting, unlike in a court
22 setting?

23 A Correct.

24 Q And the reason you do that in a clinical setting is
25 because it's not as important what actually happened, it's

1 important as to what your patient perceives happened, isn't
2 that fair?

3 A I don't -- wouldn't say it's not important what
4 actually happened but you do start with what their perception
5 of it is.

6 Q And back to the mean husband example, the husband
7 might be a nice guy?

8 A Could be.

9 Q Possible. But if your patient perceives him to be a
10 mean guy, your job as a clinician is to help deal with that,
11 right?

12 A Well, that's an over-simplification. My job may be to
13 help her see that she is distorting or it might be to help her
14 get out. It's somewhat reality based.

15 So I do not go and get his medical records and look
16 online to see if other people find him mean. But you are
17 over-simplifying what one does in a clinical practice.

18 Q Sure. Well, you have testified about this before,
19 haven't you, about what you do in a clinical practice?

20 A I testified about giving this as an example of the
21 difference between what we do in a clinical practice and in a
22 forensic setting.

23 Q Would you agree that you gave the example of a mean
24 husband and you don't go check out to determine if he is really
25 mean?

1 A I have given that example, yes.

2 Q I wasn't trying to over-simplify anything. I was just
3 responding to what I sort of read about your prior description.

4 MS. ILLUZZI-ORBON: Objection.

5 THE COURT: Overruled.

6 Q Now, your clinical experience and your clinical
7 practice is based in Philadelphia?

8 A Outside of Philadelphia.

9 Q In one of the suburbs?

10 A Yes.

11 Q Is that where it has been for as long as you have been
12 practicing or have you moved around?

13 A It's been, what, at the same office --

14 Q Same area?

15 A No, I mean, I lived in Boston. I have lived in New
16 York since I finished. As long as I have been in Philadelphia
17 it's been --

18 Q How long have you been in Philadelphia?

19 A Oh, God, 19 --

20 Q Ballpark. I am not trying to trip you up.

21 A Twenty-five years maybe.

22 Q And you told the Members of the Jury, about your
23 experience, or at least the clinical experience, and how that
24 sort of formed your ability to testify as to individuals who
25 were sexually assaulted, right?

1 A It's one of the elements, yes.

2 Q One of the elements. And you also testified that many
3 individuals who are sexually assaulted don't go to a therapist
4 or don't go to a hospital, is that right?

5 A No, I said -- yes, first of all, many don't. But what
6 I said was that they don't go to their primary care physician
7 or gynecologist for a sex assault.

8 Q It's also true that they don't go to therapists?

9 A Some don't, yeah.

10 Q Do you know percentages?

11 A One in five women --

12 MR. CHERONIS: I am going to object, Your Honor.

13 MS. ILLUZZI-ORBON: He just asked the questions.
14 He asked percentages.

15 MR. CHERONIS: That was not responsive.

16 THE COURT: Sustained.

17 MS. ILLUZZI-ORBON: He just asked percentages.

18 THE COURT: Ask a new question.

19 MR. CHERONIS: Sure.

20 BY MR. CHERONIS:

21 Q I want to talk a little bit about the representation
22 of your clients, your patients, without getting into specifics.
23 And what I mean by that is, we can agree that not everyone
24 sexually assaulted goes to see a therapist, right?

25 A Yes.

1 Q And we can also agree as a psychiatrist, you are able
2 to write prescriptions?

3 A Right.

4 Q There might be a higher level of trauma for some of
5 the individuals you see because you are a psychiatrist,
6 possible?

7 A Possible.

8 Q Okay. Usually people have insurance when they come?

9 A No, I don't accept insurance.

10 Q So they have to pay directly?

11 A Or I do it pro bono.

12 Q And are you -- you said that at least at some point in
13 your clinical career you dealt with children?

14 A No, I deal with -- I have never been a child
15 psychiatrist. I have, for a long time, I treated women who had
16 a history of childhood sexual abuse. I did not treat them as a
17 child. I did treat them when they were adults or at least a
18 teen.

19 Q Was that a large part of your clinical practice?

20 A Back in the day it was, yes.

21 Q And throughout the course of your clinical practice,
22 are you familiar with the term, confirmation bias?

23 A Yes.

24 Q And what is that?

25 A Confirmation bias is when you have a position and you

1 look at data and it -- and you selectively attend to
2 information that -- that supports your position.

3 I mean, we talk about it -- it's all over the news in
4 terms of politicks and the facts that people look at news that
5 supports their position. That's confirmation bias.

6 Q And it can happen in a medical setting, can't it?
7 It can.

8 MS. ILLUZZI-ORBON: Objection.

9 Q I will let you answer it. I apologize.

10 THE COURT: Overrule.

11 THE WITNESS: I don't know that I would say
12 confirmation bias happens in a clinical setting.

13 Q Well, it has happened in the term of repressed
14 memories, hasn't it?

15 A I don't know what you mean.

16 Q Well, you are outspoken that you do not believe in
17 recovered memories or things like that, right, you testified as
18 to that?

19 A Outspoken about it?

20 Q You have testified as to it?

21 A I have testified.

22 Q And as a matter of fact, you don't believe in
23 recovered memories and it's been debunked, right?

24 A Recovered memories in terms has been debunked.

25 Q But there was a time when doctors believed in

1 recovered memories, correct?

2 A Yes.

3 Q Like in the 80s and a lot of time it was with child
4 sexual abuse, right?

5 A Yes.

6 Q I am so sorry. It will not happen again.

7 A I have never believed in recovered memories.

8 Q You never believed in it?

9 A No.

10 Q But doctors did at some point?

11 A Right. Some doctors still do.

12 Q And do you think confirmation bias was attendant to
13 that issue?

14 In other words, if someone came in with depression or
15 something like that and that depression is consistent with
16 sexual assault, that they may confirm that bias by saying this
17 must be related to sexual assault?

18 A I am not going to venture into what somebody else does
19 in a clinical practice without a specific example.

20 Q I thought I just gave you one.

21 A No. You need to give me a specific doctor and a
22 specific patient and --

23 Q So you just can't answer a general question like that?

24 MS. ILLUZZI-ORBON: Objection, Judge.

25 THE COURT: Sustained.

1 Q Now, you talked about rape myths, that was on the
2 screen, right?

3 A Correct.

4 Q And you wrote a report in this case, or however you
5 want to -- it was called Sexual Assault Current Literature and
6 Perspectives?

7 A Yes.

8 Q And in that document that you drafted, you had a lot
9 of sites for literature?

10 A Yes.

11 Q But not everything was footnoted, was it?

12 There were certain things you included in there that
13 don't have a footnote?

14 A I don't know what you mean.

15 Q Not every sentence ends with a footnote?

16 A Correct.

17 Q I am going to ask you if you included this in your
18 Current Literature and Perspectives regarding rape myths,
19 because of embedded rape myths society acts as if it believes
20 that all woman are ready and willing to have sex at any time,
21 with anyone unless they unequivocally and forcibly refuse,
22 preferably multiple times in the presence of a witness who can
23 vouch for them.

24 Did you write that?

25 A I did.

1 Q Is it your belief that society as a whole thinks that
2 women are ready and willing to have sex at any time, with
3 anyone?

4 A I think a lot of -- there is a big swap of society who
5 believes that.

6 Q Well, in here it says society as a whole it isn't
7 qualified.

8 A So, well, society as a whole doesn't mean every single
9 member of a society, does it?

10 Q As you sit here today and the jury can be informed
11 about your state of mind regarding rape myths, when you wrote,
12 in your opinion society adds to the belief that all women are
13 ready, willing to have sex at any time with anyone unless they
14 unequivocally and forcibly refuse, you wrote that, correct?

15 A Yes.

16 Q And you said it was society who thought that way?

17 A Yes.

18 Q And you said it was society that thought that way?

19 A Yes. And I think that a lot of people in society
20 believe that somebody who -- I mean -- I mean -- I hardly know
21 where to begin with that.

22 Individuals who allege sexual assault are routinely
23 told, challenged and told that it is consensual. And that
24 implies, so it doesn't matter that the woman didn't want to
25 have sex. It doesn't matter what the woman did before she had

1 sex. It doesn't matter that she tried not to have sex.

2 Once the sexual act happened all of a sudden, it's up
3 to her to prove that she didn't want it, so that's what I mean
4 by that statement.

5 Q That society as a whole thinks that way?

6 A If --

7 Q Is that a yes or no?

8 A Generally, yes.

9 Q And did that state of mind inform your drafting the
10 rest of your report?

11 A No, I did not draft this report for this case. This
12 report is compilation of other reports I have on other cases.

13 Q Which you knew could be -- would be submitted to Mr.
14 Weinstein's team for this case?

15 A I actually didn't.

16 Q Did you send it to Ms. Illuzzi?

17 A Ultimately.

18 Q Now, you talked a little bit about a rape myth that
19 has to do with victims of sexual assault resist their
20 assailants, right? That's a myth?

21 A Yes.

22 Q Dr. Ziv, isn't it true that in another case you
23 actually opined that because somebody didn't fight back they
24 were not credible?

25 A No.

1 Q Okay. I want talk to you about the Jane Doe versus
2 Virginia Wesleyan case.

3 A Yes.

4 Q You are familiar with that case?

5 A Yes.

6 Q That is a case where you were hired by the defense?

7 A Yes.

8 Q There was a school, Virginia Wesleyan?

9 A Yes.

10 Q And a young woman claimed that she was violently
11 raped, correct?

12 A Yes.

13 Q By an individual that she met that night at a party?

14 A Yes.

15 Q Right?

16 A Yes.

17 Q She claimed she was given something and it affected
18 her memory?

19 A At some point she said that.

20 Q She says that. I understand. And you were hired by
21 the school?

22 A Yes.

23 Q The school?

24 A I don't remember who I was hired by.

25 Q The defense?

1 A Yes.

2 Q And the defense's position was that they weren't
3 responsible monetarily for whatever happened, right?

4 A I don't know what the school's position was.

5 Q Well, you gave the opinion that she wasn't sexually
6 assaulted?

7 A Correct.

8 Q And you testified in a jury trial of that case,
9 correct?

10 A Correct.

11 Q And you mentioned something about fighting back,
12 didn't you?

13 A No, counselor. I may have mentioned fighting back but
14 I also mentioned the fact that her story changed wildly over
15 time and --

16 Q We are going to get to it, Dr. Ziv.

17 MS. ILLUZZI-ORBON: Objection. Not to disturb
18 the witness. The question was asked.

19 MR. CHERONIS: It was nonresponsive, Judge.

20 THE COURT: Overruled.

21 THE WITNESS: So I may have said that she -- that
22 she didn't fight back because, you know, I don't have --
23 you have my testimony in front of me, but that is not the
24 reason that I did not find her credible?

25 Q I want to ask you a question about the specific issue

1 of whether or not an individual fights back, okay.

2 Do you remember testifying that, you know, you can't
3 have it both ways. You are either out of it in which case you
4 are not going to remember which is one of the problems with
5 date rape drugs. They wake up and they don't know what
6 happened. But the other disturbing where you remember, where
7 you wake up and you can tell what time it is.

8 If you can tell what time it is, you remember, then
9 you also have the capacity because of how our brain's works
10 sort of globally.

11 When you have something that shuts down, it shuts down
12 the speech, it shuts down the motor abilities and it also shuts
13 down your memory and it also shuts down your consciousness.

14 So if you are conscious, unless you have been given
15 something to specifically paralyze, like under anesthesia, then
16 you are going to be able to move.

17 So if you can pay attention to the clock, then you can
18 move your mouth and say, get out of here or you can elbow him
19 or scream or something. It doesn't work both ways.

20 Did you testify that way?

21 A I did.

22 MS. ILLUZZI-ORBON: Objection.

23 MR. CHERONIS: I asked her a question whether she
24 testified that way.

25 THE COURT: Sustained.

1 MS. ILLUZZI-ORBON: I objected, Judge. You
2 sustained my objection.

3 THE COURT: No. Sorry, Ms. Illuzzi.

4 BY MR. CHERONIS:

5 Q You just got through telling the members of this jury
6 that individuals rarely fight back during rape, correct?

7 A Correct.

8 Q And in this instance you said that if she could pay
9 attention to the clock, then she could move her mouth and say
10 get out of here or you can elbow him and scream or something,
11 it doesn't work both ways, it's one way or the other, you did
12 say that, right?

13 A I did not imply and certainly didn't mean to imply,
14 that that would have been an expected action on her part.

15 I said -- because she said on one occasion that she
16 had no memory and she was drugged. And then on the second
17 occasion and on another occasion, there were like 15 different
18 occasions.

19 She had said, I looked at the clock at 4:00 a.m. he
20 put his penis here. At 4:15 p.m. he turned me over. At 4:30,
21 these all or a.m., he pulled my hair. At 4:50 he did X.

22 So that's what I was speaking to. I was not speaking
23 to my not finding her credible because she didn't elbow him or
24 scream. That is a distortion of what I was saying.

25 Q Doctor, you say that is a distortion. Respectfully,

1 what the transcript says is, if she's conscious, then she could
2 say get out of here or she could elbow him or scream or
3 something.

4 So my question is, if it is a rape myth that
5 individuals fight back during rape, then would why this young
6 woman if she was conscious throw an elbow and yell at somebody?

7 A I didn't say -- I -- I said she could. She had the
8 capacity. I didn't say she should have or she was expected to.
9 I said she could.

10 Q And in that case, by the way, when you were hired by
11 the defense, you didn't talk at all about rape myths, did you?

12 A I wasn't asked about rape myths.

13 Q And when you testified regarding that portion I just
14 talked about, you didn't say but, by the way, it's not normal
15 for individuals to fight back, did you?

16 A That's not what the point of the testimony was.

17 Q We can agree, regardless of that testimony, that some
18 individuals who are sexually assaulted will fight back?

19 A Yes.

20 Q So if somebody says they fought back, that doesn't
21 mean they are not telling the truth, does it?

22 A Correct.

23 Q Some people won't fight back, right?

24 A Correct.

25 Q And individuals who false report regarding sexual

1 assault may say they fought back, correct?

2 A Correct.

3 Q Individuals who false report regarding sexual assault
4 may say they didn't fight back?

5 A Correct.

6 Q You also talked a little bit about the delay in
7 outcry?

8 A Yes.

9 Q And when I say delay in outcry, what I mean is, a
10 situation where an individual was sexually assaulted may not go
11 to the police right away?

12 A Correct.

13 Q And I agree a hundred percent that that's accurate
14 that --

15 MS. ILLUZZI-ORBON: Objection to Mr. Cheroni's
16 opinion.

17 THE COURT: Sustained.

18 Q I don't quarrel with you on that. Not every
19 individual who is sexually assaulted goes to the police right
20 away.

21 MS. ILLUZZI-ORBON: Objection.

22 THE COURT: Re-sustained.

23 MS. ILLUZZI-ORBON: This time you did mean me
24 though, right?

25

1 BY MR. CHERONIS:

2 Q Not everyone sexually assaulted goes to the police?

3 A Correct.

4 Q And not everyone sexual assaulted outcries on a
5 schedule, right?

6 A Correct.

7 Q Okay. Some people who are sexually assaulted may wait
8 a long time or never, isn't that fair?

9 A Correct, yes.

10 Q You would also agree that a false accuser may not
11 report for a number of days or weeks, right?

12 A I don't know what you mean.

13 Q Somebody who wasn't actually sexually assaulted may
14 wait three months later to say they were sexually assaulted?

15 A From what, if there is not instant offense, if there
16 is no sexual assault, so then what are you dating that from?

17 Q Well, a situation where maybe there was a sexual
18 encounter and three months later they say they were assaulted?

19 A It could.

20 Q It could happen?

21 A It could.

22 Q It could happen years later as well, right?

23 A It could.

24 Q And if a woman is sexually assaulted and she reports
25 right away, it doesn't make her less credible, does it?

1 A No.

2 Q And one of the issues regarding prompt outcry, and
3 this sort of covers some of the issues you discussed, is that
4 you don't think you should take anybody at their word for
5 anything when there is an allegation of criminal behavior,
6 isn't that true?

7 A Yes.

8 Q And you said that to CNN didn't you?

9 A I don't recall.

10 Q You said it and you know it was published?

11 A I don't know if it was published but I believe that.

12 Q You also remember saying that the Me Too Movement
13 doesn't educate people about why perpetrators or victims behave
14 the way they do?

15 A Yes.

16 Q Did you also say, in a way they serve, as I think,
17 sort of a shield behind which women and some men can sort of
18 hide behind and not push the conversation forward?

19 A Yes.

20 Q Did you also say it almost has become distorted to the
21 point where I say if I say Me Too then, okay, the you just have
22 to believe me too?

23 MS. ILLUZZI-ORBON: Objection, Judge.

24 THE COURT: Overruled.

25 Q You said that?

1 A Yes.

2 Q You said that I think it does a disservice to
3 everybody, to individuals, who have been accused of sexual
4 assault as well as victims of sexual assault?

5 A Yes.

6 Q Just as you should not take anybody at their word for
7 anything when there is an allegation of criminal behavior
8 that's why we have investigators?

9 A Exactly.

10 Q Okay. And what you mean by and it sort of goes back
11 to the forensic analysis, right?

12 A Yes.

13 Q As opposed to the clinical practice, in a forensic
14 practice in the courtroom, when there are consequences, you
15 wouldn't rely just on self reporting, would you?

16 MS. ILLUZZI-ORBON: It's been asked answered
17 already.

18 THE COURT: Overruled.

19 THE WITNESS: No.

20 BY MR. CHERONIS:

21 Q You talked a lot about memory?

22 A Was that a question?

23 Q I think you know it was?

24 A Well, it depends.

25 Q I have heard you do that before. I know you do that

1 to lawyers when they ask questions.

2 MS. ILLUZZI-ORBON: Objection. Objection, Judge.

3 THE COURT: Sustained. Mr. Cheronis, if you
4 persist in that, I will ask you to wrap it up.

5 Q I apologize, Dr. Ziv.

6 Do you think that if something happens closer in
7 proximity and somebody reports it soon the more accurate it's
8 going to be?

9 A I think that you can say that about a lot of things.
10 I think that that is -- yes, I think that is generally true.

11 Q Now, in other words, if something is happening the
12 closer in proximity somebody reports it the more accurate it is
13 going to be, correct?

14 A Correct.

15 Q And if we are relying on something that happens a year
16 and a half later or after all of this attention, is that
17 reliable? You said something like that?

18 A Pardon me.

19 Q Do you remember saying, if we are relying upon
20 something that happens a year-and-a-half later in a deposition
21 or after all of this attention is that reliable, not really?

22 Did you say that in relation to the Virginia case?

23 A Again, you are distorting what I said.

24 The Virginia Wesleyan case was, so -- is it going to
25 be more reliable close in time to the event?

1 Sure. For example, the woman that I told you 30 years
2 ago remembered the door clicking.

3 What she said about that night, about the core issues
4 of that night were almost identical to what she had said in
5 real time 30 years before. What wasn't was what she had to
6 eat, you know, irrelevant things.

7 So is it probably more accurate, her account of those
8 trivial things about, you know, what she ate that night or --
9 yes, it probably is but the central elements were the same.

10 Q Okay.

11 A So, you know, it is true that if you are close in time
12 to an event your memory for irrelevant or extraneous details
13 will be better but that doesn't mean that your memory for a
14 core traumatic experience is going to be much different.

15 Q One of the things you referred to in what I just read
16 to you was, if it happens a year and a half later after all of
17 this attention is that reliable?

18 A Well, all of this attention refers to fact that she
19 changed her story about the core issues. So it started out
20 with maybe something -- something -- it actually started out
21 with her going the day following him and having sex with this
22 guy, saying having brunch or whatever, with her college
23 friends, pointing him out and saying, you know, I had sex with
24 him and he is ugly.

25 And then that over time that morphed into, I think I

1 may have been sexually assaulted. It moved in to I believe I
2 was drugged and sexually assaulted.

3 It then became I was sexually assaulted. I was
4 vaginally raped. I was anally raped and I was -- he forced me
5 to give him oral sex.

6 And then it became, I was incontinent of feces. And
7 then it became I was bleeding everywhere.

8 So the core elements of the story were so wildly
9 dispirit that that's what made it not credible.

10 Q And you had done a complete forensic investigations
11 before that?

12 A I am not a detective but I reviewed thousands and
13 thousands and thousands of pages of records.

14 Q Okay. And while I agree that you are not a detective
15 but part of your job as a forensic investigator is to
16 investigate, right, as a forensic psychiatrist, I apologize?

17 A Part of my job as a forensic psychiatrist is to rely
18 upon objective information in order to make a determination
19 about an event.

20 Q Okay. And one of the claims in that case was that the
21 young woman claimed she had PTSD, right?

22 A Yes.

23 Q And you said that PTSD is easily faked, didn't you?

24 A Yes.

25 Q And PTSD is easily faked?

1 A No, it's not easily faked in terms of having
2 demonstrated symptoms. It is easily -- you can easily endorse
3 all of the symptoms of post-traumatic stress disorder. You can
4 say I have, all of the -- you can list the symptoms.

5 Q So it's easily faked?

6 A Well, I wouldn't say that it is easily -- you have to
7 evaluate every case of post-traumatic stress disorder for
8 malingering because it does rely upon self-report.

9 So, I mean, is it easy to fake real symptoms of
10 hypervigilance, no, not really.

11 Q Do you remember testifying on December the 29th of
12 2015?

13 A Probably not.

14 Q Where you were asked this question and gave this
15 answer, wait a minute, PTSD is usually something that's
16 subjective in terms of what the person feels or appreciates.
17 So you can't read their mind. You have to rely on what they
18 said, right?

19 No, in fact, that is an excellent point. That's why
20 the literature says that PTSD is easily faked. You cannot just
21 go by what somebody says. You have to look for signs and
22 symptoms, right?

23 A Yes.

24 Q And in that case one of the reasons that you held that
25 you didn't think she had PTSD because she claimed the PTSD came

1 much later than the sexual assault, right?

2 A Well, one of the main reasons that I didn't believe
3 she had PTSD was that she was hospitalized for a period of
4 something like six weeks. So there was round the clock
5 monitoring of her and she didn't demonstrate it in any of the
6 symptoms of PTSD during that hospitalization.

7 Q You are aware that in that case other health care
8 professionals diagnosed her with PTSD?

9 A Yes.

10 Q You just disagreed with that?

11 A I said there was no evidence about that.

12 Are we retrying this case?

13 Q No, I am asking -- you testified about PTSD on direct
14 examination. That is I am asking you.

15 THE COURT: Please, Mr. Cheronis. Next question.

16 BY MR. CHERONIS:

17 Q You talked extensively about why sexual assault
18 victims, don't report the assaults. You already stated that
19 sexual assault victims often deny that a rape has occurred?

20 A Yes.

21 Q And you would agree that a sexual assault victim, an
22 actual victim, could deny a rape occurred?

23 A Yes.

24 Q And somebody who is feigning a sexual assault may
25 obviously say things are inconsistent with having been sexually

1 assaulted?

2 A Yes.

3 MS. ILLUZZI-ORBON: Objection.

4 MR. CHERONIS: She answered yes.

5 THE COURT: Overruled.

6 Q Now, you also testified that individuals may have
7 subsequent contact with their attackers?

8 A Yes.

9 Q And you did give an example of potentially a domestic
10 relationship, a family relationship, that's one of the
11 examples, right?

12 A Yes.

13 Q And are you relying on your clinical experience on
14 that regard or the literature?

15 A Both.

16 Q And what study did you cite to regarding that?

17 A I don't have it off the top of my head.

18 Q Do you have your report with you?

19 A Yeah, I am not sure if -- I included.

20 MS. ILLUZZI-ORBON: Again, Your Honor, objection
21 to the term, report.

22 THE COURT: Well, that's fine, but next question.

23 Q You testified about memory, Dr. Ziv?

24 A Yes.

25 Q And how memory, I believe in one of your slides, you

1 said memory can be a -- I don't want to misquote you, it's
2 complicated, right, that was in one of the slides?

3 A Yes.

4 Q And you said that memory of traumatic events is
5 different than memory for other events?

6 A Yes.

7 Q Now, along the lines of memory, are you familiar in
8 the literature with the concept of relabeling?

9 A Yes.

10 Q And what I mean by relabeling is after a sexual
11 encounter the individuals can relabel that encounter as
12 something else?

13 A No. First of all, you are making an inference,
14 relabeling is when you experience something and over time it --
15 you sort it into a different bucket in your memory.

16 Q Well, you gave an opinion or an example of a victim of
17 sexual assault in your paperwork who may be sexually assaulted
18 but not realize at the time it was sexual assault for certain
19 reasons, right?

20 A Well, they might not realize that it constituted a
21 legal sexual assault, a rape. That doesn't mean that they
22 didn't know what happened to them was not -- was against their
23 will but it means that they didn't know that -- I mean, people,
24 the individuals who are victims of sexual assault live in the
25 same community that we all live in. And it's not uncommon for

1 individuals to believe that you -- so you can rape only refers
2 to stranger rape.

3 So a lot of people adhere to that, and so it doesn't
4 mean that they don't know they didn't want to have sex or it
5 doesn't mean that they didn't know that they were assaulted, it
6 just means that they don't know that this is legally an issue.

7 Q Do you think of, Doctor, can I have -- would you agree
8 that an individual could reinterpret after the fact things they
9 had done that they regret?

10 A Yes.

11 Q Even a sexual relationship?

12 A They can, sure.

13 Q You have heard of the term, consensual unwanted sex,
14 haven't you?

15 A I have heard of it. I think it is the most ridiculous
16 concept and it is not a consent that is accepted in any field
17 that I know of.

18 Q Let me ask you this, Dr. Ziv, can you think of a
19 scenario where an individual, a man or woman, would have sex
20 for a reason other than love or attraction?

21 A Yes. I talk about that in my report. You can have
22 sex just because you want to have sex. You can have sex
23 because it is an exchange, prostitution or it is an exchange
24 for something else, sure; but those parameters are set up
25 beforehand. There is an expectation that you have agreed to

1 this interchange.

2 Q And would you agree that it's been reported on that
3 individuals who are involved in transactional sex although
4 consensual may have regrets about that?

5 A People can have regret about anything.

6 Q Sure I understand that. Specifically a situation
7 where two individuals have sex and one of the individuals
8 thinks that it's shameful, they could have regret about that
9 over the years, correct?

10 A No, I don't think that that is a common experience.
11 Of course anything is possible but it certainly isn't common.

12 Q And then they could relabel a consensual encounter as
13 a non-consensual years later because of the regret and shame?

14 A Anything is -- anything is possible. It's not usual.

15 Q You talked about cognitive dissonance, right?

16 A Did I?

17 Q I believe you did.

18 A Okay.

19 Q And one of the ways you discussed it in your report,
20 was that individuals might say I can't be a smart, reasonable
21 person with good judgment and yet I decided to have sex --
22 excuse me, I apologize.

23 You said before, regarding individuals who are
24 sexually assaulted when they are trying to figure it out, they
25 say which reality is true, I can't hold on to both of these

1 things at the same time. I can't both belief that my judgment
2 is good and that my judgment of this person is good and this
3 bad thing happened and it takes time to figure that out, right?

4 MS. ILLUZZI-ORBON: Objection. Out of context.

5 THE WITNESS: I didn't -- I didn't write. That's
6 either testimony --

7 Q Testified. I apologize.

8 MS. ILLUZZI-ORBON: Out of context, Judge.
9 Objection.

10 THE COURT: The question and the answer stand.

11 BY MR. CHERONIS:

12 Q In that situation you were talking about an individual
13 who may have been sexually assaulted and had struggled with
14 determining how they could have let somebody do that or how
15 their judgment might be altered, is that right?

16 MS. ILLUZZI-ORBON: Objection, Judge?

17 THE WITNESS: Well, that -- what that means is
18 that is another reason why people don't report because they
19 are confused. They think, wait, I am a reasonable person.
20 I got good judgment.

21 How could this have happened to me?

22 And it takes time to sort through that whole
23 thing. I think that that is the context to which I
24 testified about that, that it does.

25 And as I said, the first response for most woman

1 Q Understood. My question to you then is you talked
2 about in various articles, importance of forensic evidence.

3 A Yes.

4 Q Forensic evidence is, we know what that is, DNA or
5 something else?

6 A Forensic evidence in a case like this can be
7 corroborating information. It can be statements of individuals
8 who experience the same thing or witness the same thing.

9 Forensic evidence does not always have to be DNA. It
10 can be, it evidences, you know, the victim's statements remained
11 constant over time or the central elements, is there a pattern
12 of behavior of the perpetrator that is consistent with the
13 allegations, all that is evidence.

14 Q You said a case like this, I thought you did not look
15 into any of the facts?

16 A A case involving sexual assault, that is all I'm
17 talking about.

18 Q You talked about directive questioning on direct
19 examination.

20 A Yes.

21 Q What I mean by that is a situation where an individual
22 who is a victim of sexual assault should be asked open ended
23 questions?

24 A Yes.

25 Q If possible, right?

1 A Yes.

2 Q Because that hopefully allows for them to tell their
3 story and do it in a way they do not feel directed by the
4 questioner?

5 A Yes.

6 Q On cross examination you are allowed to ask leading
7 questions, right?

8 MS. ILLUZZI: Objection Judge.

9 THE COURT: Sustained.

10 Q In a setting where you are interviewing somebody, you
11 are not supposed to ask leading questions if you can help it.

12 MS. ILLUZZI: Who, legally or the doctor.

13 THE COURT: Sustained.

14 Q If an individual is talking about somebody who sexually
15 assault them, you want to ask open ended questions?

16 MS. ILLUZZI: Objection.

17 A That does not mean you do not ask clarifying questions,
18 you do.

19 Q Fair enough. Now, do you think that police officers
20 are fairly trained in asking open ended questions or not?

21 MS. ILLUZZI: Objection.

22 THE COURT: Sustained.

23 Q Lawyers?

24 MS. ILLUZZI: Objection.

25 THE COURT: Sustained.

1 Q One of your slides stated that one can determine
2 whether someone has been raped by her behavior.

3 A No, one cannot.

4 Q I was going to say, it says one can determine whether
5 someone has been raped by the behavior, then it says false.

6 A Right.

7 Q That is what I have, I'm not trying. It says false on
8 the top. And that again ties into the importance of, in an
9 investigation, right?

10 A Yes.

11 Q If an individual who was sexually assaulted becomes
12 more elaborate in their description over time, is that something
13 that would lead you to believe they are not credible?

14 A Well, in the case of the woman map from Virginia
15 Wesleyan University, when it is that kind of elaboration, yes,
16 when it goes wildly from I had sex with that guy last night to
17 whatever.

18 However, it is not uncommon for individuals after they
19 first report, they test the water. I mean it is, as I said,
20 people feel ashamed being a victim of sexual assault. They
21 don't know how people are going to respond to them.

22 They may approach the discussion giving some general
23 ideas and see what kind of feedback they get in terms of are
24 they going to be blamed, are they going to be believed, are they
25 not going to be believed, are they going to be shamed. And so

1 they may not, in fact, they almost never come out with the whole
2 story from beginning to end.

3 The first time you interview them, these people are
4 cautious. And so it is not uncommon for after time to sort of
5 fill in the blanks or become more elaborate or, it is an
6 uncomfortable subject for women to talk about.

7 Q One of the inconsistencies you honed in on the Virginia
8 Wesleyan case was that the individual who alleged she was
9 sexually abused said I left my bra there. To another person she
10 said I left my tee-shirt there. To some other person she said
11 well, it was not my bra or tee-shirt, it was my underwear,
12 remember that?

13 MS. ILLUZZI: Objection, irrelevant.

14 THE COURT: Sustained, move on please.

15 Q When you reviewed all of the information in a forensic
16 setting, let me back up.

17 You talked a lot about rape myths today and society's
18 belief in them, right?

19 A Yes.

20 Q One of the rape myths was individuals who are raped
21 don't fight back?

22 A Yes, no, one of the myths is they do fight back.

23 Q They do, I apologize. Another myth is individuals
24 don't have contact with their perpetrators?

25 A Correct.

1 Q You would agree that individuals who have a consensual
2 sexual relationship could have contact over the years, right?

3 A Yes.

4 MS. ILLUZZI: Objection Judge, irrelevant.

5 THE COURT: Well sustained. If you don't have
6 any areas you have not gone over, just wrap up please.

7 Q Well, Dr. Ziv, I'm about to wrap it up. The last one
8 regarding people who are in touch over the years, individuals
9 who are sexually assaulted and their perpetrators okay.

10 My last question is individuals can also stay in touch
11 if they have a loving relationship?

12 MS. ILLUZZI: Objection.

13 THE COURT: Overruled.

14 A Yes, of course they can.

15 Q They can e-mail each other if they have a loving
16 relationship?

17 MS. ILLUZZI: Objection Judge.

18 THE COURT: Overruled.

19 A Yes, of course.

20 MR. CHERONIS: One moment Judge. Thank you
21 doctor.

22 THE COURT: People, any redirect?

23 MS. ILLUZZI: Yes, your Honor. Maybe this will be
24 a good time for a break.

25 THE COURT: Redirect will be that long?

1 MS. ILLUZZI: It is not going to be too long, it
2 will be long enough. Please.

3 THE COURT: All right Dr. Ziv, if you would be
4 good enough to step down and wait in the witness room for a
5 few minutes.

6 All right jurors, we will take a brief recess.
7 Remain mindful of all my prior admonitions. Keep an open
8 mind, do not form an opinion as to the guilt or innocence
9 of the defendant. See you back here in five or 10 minutes,
10 thank you.

11 (Jury exits courtroom).

12 THE COURT: The jury and the witness have left and
13 the doors are closed.

14 Just one matter, Mr. Cheronis objected to 57, the
15 power point being received fully in evidence. I now agree
16 with him it was a demonstrative exhibit, so all that means
17 is if the jury was to call for it in the jury room, they
18 would not be allowed to go through it as a power point,
19 they will have to call for the testimony.

20 MS. ILLUZZI: Your Honor --

21 THE COURT: You are on break.

22 MS. ILLUZZI: We are on break, thank you.

23 THE COURT: Use it or lose it.

24 (Brief recess taken).

25 COURT OFFICER: Jury entering.

1 (Jury enters courtroom).

2 THE CLERK: Case on trial continued, all parties
3 are present.

4 THE COURT: Welcome back jurors, the witness is
5 walking into the courtroom.

6 All right, welcome back Dr. Ziv. Once you get
7 settled in, Ms. Illuzzi will resume her inquiry.

8 MS. ILLUZZI: Thank you.

9 REDIRECT EXAMINATION

10 BY MS. ILLUZZI:

11 Q Doctor, Mr. Cheronis asked you when he first got up and
12 cross examined you, about your knowledge of this case, do you
13 remember those questions?

14 A Yes.

15 Q In particular, he asked you about something you had
16 told the jury which was that women sometimes try to navigate
17 their way out of sexual assault by saying oh, I have my period,
18 do you recall that question?

19 A Yes.

20 Q Is that correct, is it true that women in a sexual
21 assault situation may try to navigate their way out of it by
22 saying things such as I have my period?

23 A Yes.

24 Q Did you refer to this case in particular?

25 A No.

1 Q Has anyone told you in this case that that may or may
2 not be part of the testimony?

3 A No.

4 Q Similarly, Mr. Cheronis questioned the content of the
5 power point that we used as demonstrative evidence for your
6 testimony, do you recall those questions?

7 A Yes.

8 Q Have you used that power point in other venues aside
9 from this case and this courtroom?

10 MR. CHERONIS: Objection, scope.

11 THE COURT: Sustained.

12 Q Well Doctor, did you give me that power point?

13 A I don't know what you mean.

14 Q In other words, did you provide me with that power
15 point?

16 A I provided you with it, but I did not create it
17 specifically for this trial.

18 Q Have you used it in other places aside from here?

19 MR. CHERONIS: Objection.

20 THE COURT: Sustained.

21 Q Was it with knowledge of any of the testimony of this
22 case that that power point was created?

23 MR. CHERONIS: Objection to scope.

24 THE COURT: Overruled on that.

25 A No, I don't know anything about this case.

1 Q Now, Mr. Cheronis also asked you about a report that
2 you provided, do you recall that?

3 A Yes.

4 Q I'm going to show you what we marked for identification
5 as People's Exhibit Number 60.

6 (Handed to witness).

7 A Yes.

8 Q Without reading from that document, can you tell us
9 what it is?

10 A It is a summary of literature related to issues
11 pertinent to sexual assault.

12 I often put in this kind of information when I do a
13 report on somebody I evaluate. So I put this together from a
14 series of reports that I have.

15 Q And was it in any way a report regarding the expected
16 testimony in this matter?

17 A No, in fact it was created, you know, for other
18 specific cases, so no.

19 Q Mr. Cheronis asked you about secondary gain, do you
20 recall that?

21 A Yes.

22 Q Psychiatrically, would somebody who wants attention
23 falsely alleging a rape for attention, would that person have to
24 be psychiatrically ill to do such a thing?

25 MR. CHERONIS: Objection.

1 THE COURT: Sustained.

2 Q Well, would somebody who feigns rape for attention, is
3 that a person who otherwise has psychiatric problems?

4 MR. CHERONIS: Objection.

5 THE COURT: Sustained.

6 Q Mr. Cheronis asked you about secondary gain, do you
7 recall those questions?

8 A Yes.

9 Q In your experience, do many women allege that they have
10 been raped or sexually assaulted for secondary gain?

11 MR. CHERONIS: Objection.

12 THE COURT: Overruled.

13 A No.

14 Q Mr. Cheronis asked you about whether merely self
15 reporting would be enough for you to find a victim of sexual
16 assault credible; do you recall those questions?

17 A Yes.

18 Q Is it true then that somebody who comes off the street
19 and self reports that perhaps someone famous raped them, there
20 would be more questions to be asked before that would be
21 instantly believed, is that correct?

22 MR. CHERONIS: Objection.

23 THE COURT: Sustained.

24 Q Well, when you say self reporting, can you describe
25 what you mean by you can't just rely on self reporting, explain

1 that to the jury.

2 A Somebody comes in with a complaint, like any crime,
3 there needs to be an investigation, you need to investigate what
4 happened; whether all the circumstances around it which I would
5 assume your office has done --

6 MR. CHERONIS: Objection to adding that.

7 A Like any case.

8 THE COURT: Overruled.

9 Q Such as things like whether or not the victim even
10 knows the defendant or knows the perpetrator?

11 A Right, was it, could it have happened, was the person
12 in town when the crime was alleged to have occurred, are there,
13 you know, yes, an investigation.

14 Q Mr. Cheronis asked you specifically about whether or
15 not you evaluated any of the witnesses here, do you recall that?

16 A Yes.

17 Q Were you permitted in your capacity as an expert in
18 this particular case to evaluate any witness in this case?

19 A No.

20 Q Were you invited by any party in this litigation to
21 evaluate the defendant?

22 A No.

23 MR. CHERONIS: Objection.

24 THE COURT: Sustained.

25 Q Is your position here to speak of your general

1 knowledge and experience regarding sexual assault?

2 A Yes.

3 Q Mr. Cheronis asked you a lot of questions about this
4 case Virginia Wesleyan case.

5 A Yes.

6 Q That was a very specific case regarding a specific
7 individual, is that correct?

8 A Correct.

9 Q And in that case, I take it, you opined that the person
10 who was alleging rape was not credible; is that right?

11 A Among other things, she also had a severe psychiatric
12 disturbance.

13 Q Can you explain to the jury briefly how it is you came
14 to that conclusion in that particular case?

15 A Well, all of the conclusions I reached in that case
16 were based on review of literally thousands of pages of
17 records. It was based on my interview with her, it was based on
18 a test, a standard used, not like a standardized SAT test, but
19 on a psychometric test commonly used in psychology and
20 psychiatry. It was based on volumes, it was a 108 page report
21 or something along those lines.

22 It was a massive very thorough evaluation of her life;
23 had her medical records, her academic records, had her
24 psychiatric records, I had huge volumes of records, and she had
25 a severe mental illness and her story changed, and you know,

1 that is in a nutshell what I concluded.

2 Q Thank you. Mr. Cheronis asked you questions about rape
3 myths in society, do you recall those questions?

4 A Yes.

5 Q And is it true that without really understanding what
6 happens in the dynamic of sexual assault, people would commonly
7 ask victims of crimes why didn't you run, correct?

8 A Yes.

9 Q Why didn't you call the police?

10 A Yes.

11 Q Why didn't you immediately run and tell a friend?

12 A Yes.

13 Q Why didn't you push him out of the way and run past
14 him?

15 A Yes.

16 Q Are those all logical and common steps that a rape
17 victim takes while being sexually assaulted?

18 A No, they don't. They don't do what people, what people
19 think that rape victims do. Even in cases of stranger sexual
20 assault and even when there is more than one perpetrator they do
21 not do those things.

22 Q It is really out of touch to ask a rape victim why
23 didn't you scream?

24 A Absolutely.

25 Q Mr. Cheronis asked you about your comments regarding

1 fighting back. And again, do most rape victims fight back at
2 all against their accuser?

3 A No.

4 Q Mr. Cheronis asked you about consensual events, and you
5 had indicated to the jury that consent or even transactional sex
6 happens before the sex occurs, is that correct?

7 A Yes.

8 Q And so, in transactional sex, let's assume for example
9 in a prostitution scenario, that negotiation, right, I'll do
10 this for you if I get this, is had before the sex occurs, is
11 that correct?

12 A Correct.

13 Q It is not as if somebody is suddenly tricked into
14 somebody else's company and the sex is upon them; is that right?

15 MR. CHERONIS: Objection.

16 THE COURT: Sustained.

17 Q Well, in those situations people would have to be
18 tricked or surprised?

19 MR. CHERONIS: Objection to scope.

20 Q By the sex, right?

21 THE COURT: Sustained, your questions needs more
22 clarity.

23 Q I'll try again. When Mr. Cheronis asked you questions
24 about transactional sex, you recall those questions?

25 A Yes.

1 Q And he asked you the definition of it and what it means
2 in terms of the interaction between both parties in sex, is that
3 correct?

4 A Yes.

5 MR. CHERONIS: Objection.

6 THE COURT: Sustained.

7 Q Does the term --

8 MR. CHERONIS: Sustained.

9 MS. ILLUZZI: I have not asked the question.

10 THE COURT: That was the part I was sustaining.

11 Please ask a question.

12 Q In transactional sex, doctor, isn't that negotiation
13 done with complete knowledge of both parties prior to the sex?

14 MR. CHERONIS: Objection.

15 THE COURT: Sustained.

16 MS. ILLUZZI: I'm going to keep trying if you do
17 not mind.

18 THE COURT: I do, please move on.

19 Q You had indicated and you started talking about an
20 example you were giving versus this Wesleyan case Mr. Cheronis
21 was asking you about. In one instance you started talking about
22 a woman who was sexually assaulted 30 years prior, that was not
23 the Wesleyan case, that was --

24 MR. CHERONIS: I object, that was on direct.

25 THE COURT: Sustained.

1 Q Well, in the example you were giving of a woman who was
2 assaulted 30 years prior and remembered a certain thing, that
3 was not the Wesleyan case you were talking about, correct?

4 A It was not the Wesleyan case.

5 MS. ILLUZZI: One moment, thank you.

6 THE COURT: Okay within the confines of redirect
7 please.

8 RECROSS EXAMINATION

9 BY MR. CHERONIS:

10 Q Dr. Ziv, you just told Ms. Illuzzi and members of the
11 jury that the young woman from the Virginia Wesleyan case had
12 severe psychiatric disorder?

13 A Yes.

14 Q You are aware in that case a number of other medical
15 providers said she had P. T. S. D as it related to the rape she
16 claimed?

17 A I'm aware of that.

18 Q You met her one time, right?

19 A I met her one time, but I had records that documented
20 her psychiatric history and all of her other history;
21 educational history, social history for months and months and
22 years actually.

23 Q What did you diagnosis that young woman with?

24 A Borderline personality disorder.

25 Q Nobody else ever diagnosed her with that?

1 A Nobody else had done a comprehensive evaluation.

2 Q The four hour comprehensive and seeing her medical
3 records --

4 MS. ILLUZZI: Objection.

5 THE COURT: Sustained as to scope, move on.

6 Q And at the time you made that evaluation, you were
7 hired by the defense attorneys, right?

8 MS. ILLUZZI: Objection.

9 THE COURT: Sustained, move away from Virginia
10 Wesleyan please.

11 Q Ms. Illuzzi asked you some questions about individuals
12 asking directed questions, remember that?

13 MS. ILLUZZI: Objection.

14 A No I don't.

15 Q She asked you about interviews?

16 MS. ILLUZZI: Objection.

17 THE COURT: Sustained.

18 Q She asked you about secondary gain?

19 A You asked me about secondary gain.

20 Q She didn't ask about it?

21 A I don't recall.

22 MS. ILLUZZI: Objection, I was precluded from
23 doing it.

24 THE COURT: Sustained.

25 MR. CHERONIS: I have no further questions.

1 MS. ILLUZZI: Nothing.

2 THE COURT: Thank you very much for your
3 testimony doctor, you may step down, you are excused.

4 A Thank you, your Honor.

5 (Witness exits courtroom).

6 THE COURT: People, you have a witness.

7 MS. ILLUZZI: Yes, we do, People call Sam Anson.

8 THE COURT: Jurors, I can confirm for you that on
9 Tuesday we will only go to three p.m at the very latest.
10 And depending on what the witness situation is, maybe we
11 would finish for the day at one. It would not make sense
12 to come back for the 45 minutes. In any case three p.m at
13 the latest for Tuesday.

14 COURT OFFICER: Witness entering.

15 (Witness enters courtroom and is sworn in).

16 COURT OFFICER: In a loud clear voice, give your
17 full name.

18 A Sam Anson, A. N. S. O. N.

19 COURT OFFICER: County of residence?

20 A Los Angeles.

21 THE COURT: All right, if you want to pull up a
22 little bit there.

23 Please listen carefully to the questions from the
24 ADA and answer her questions to the best of your ability.

25 Answer them loudly, clearly, and slowly. Try to

1 speak right into the microphone, it does not work very
2 well.

3 Please give full and complete responses to all her
4 questions, but try not to volunteer information that goes
5 beyond her specific questioned area.

6 On cross examination it is very likely Mr. Aidala
7 will ask you questions. If and when he chooses to do so,
8 give to him the same courtesy you're about to give to the
9 District Attorney.

10 If you are comfortable responding to either
11 attorney's questions directly to the jury, you may do that,
12 otherwise respond to whomever is asking you questions at
13 any given time, okay?

14 A All right.

15 THE COURT: Right into the mic, please inquire.

16 MS. ILLUZZI: Thank you.

17 DIRECT EXAMINATION

18 BY MS. ILLUZZI:

19 Q Good afternoon?

20 A Good afternoon.

21 Q Mr. Anson, how are you employed?

22 A I'm a senior managing director at a firm called
23 Guidepost Solutions.

24 Q Mr. Anson, the acoustics aren't what we would like them
25 to be. Can you make sure you speak right into the microphone

1 and louder.

2 A Sure.

3 Q How long, what is your job there?

4 A I work in the monitoring and compliance and
5 investigations group.

6 Q Have you done investigations?

7 A Yes, we do investigations for clients, fact gathering,
8 research, typically in a litigation context.

9 Q How long have you been doing this?

10 A About 20 years.

11 Q How long have you been at Guidepost?

12 A Since last March.

13 Q Did there come a time in August of 2017 that you
14 received a call regarding Harvey Weinstein, a yes or no?

15 A Yes.

16 Q Prior to that, did you know who Harvey Weinstein was?

17 A Yes.

18 Q I'm going to ask you look around the courtroom today
19 and tell us if you see Mr. Weinstein here today and point him
20 out and describe an item of clothing he's wearing today.

21 A He's seated at the table to my right, he's wearing a
22 blue tie with yellow stripes.

23 MS. ILLUZZI: Indicating the defendant.

24 THE COURT: Very well, next question.

25 Q After you received that first call and minutes later,

1 did you receive a call which included Mr. Weinstein?

2 A Yes.

3 Q Without telling us the contents of that call, was Mr.
4 Weinstein concerned about the nature of articles that he
5 anticipated were coming out against him?

6 A Yes.

7 MR. AIDALA: Objection, your Honor.

8 THE COURT: Overruled.

9 Q Can you describe to the jury what his affect and
10 demeanor was during that call, again, without saying what
11 anybody said on the call, just his affect and demeanor during
12 that call?

13 MR. AIDALA: I'm going to object.

14 THE COURT: Overruled.

15 A He was somewhat agitated, distressed, not happy.

16 Q Approximately how long did that call last?

17 A About 20 minutes.

18 Q After that call, within days, did you begin to conduct
19 an investigation related to the subject matter of that call?

20 A Not directly. After the call we had a conversation
21 with an attorney for Mr. Weinstein and in the course of that
22 telephone call we discussed specific tasks they might ask us to
23 carry out.

24 MR. AIDALA: I object to the hearsay.

25 THE COURT: Overruled, next question.

1 Q At some point after that, did you receive a
2 communication from Mr. Weinstein directly regarding your
3 investigation, just yes or no sir?

4 A Yes.

5 Q I cannot hear you.

6 A Yes.

7 Q And was it Mr. Weinstein's communication to you and
8 other information that you had received that indicated Mr.
9 Weinstein wished you to investigate certain people?

10 MR. AIDALA: Objection, your Honor.

11 THE COURT: Overruled.

12 A Yes.

13 Q Did in fact you receive an e-mail directly from Mr.
14 Weinstein regarding other actions he wished for you to take
15 regarding that investigation?

16 A Yes.

17 Q Specifically, did you receive an e-mail and attachment
18 which was referred to as red flag list within the list?

19 A Yes.

20 Q I'm going to show you an exhibit sir which has been
21 previously marked for identification as People's Exhibit Number
22 34. I would like to hand it to the witness.

23 (Handed to witness).

24 Q Mr. Anson, during this beginning phase of your, of Mr.
25 Weinstein's request for you to investigate, was the subject

1 matter of that investigation Mr. Weinstein's sexual contact
2 towards some women?

3 MR. AIDALA: Objection.

4 THE COURT: Overruled.

5 A Generally, yes.

6 Q And towards that end, did you receive People's Exhibit
7 Number 34?

8 A Yes.

9 Q What is 34, what form is that in?

10 A It is an e-mail.

11 Q Who is the e-mail to?

12 A It is addressed to me.

13 Q Was it from Mr. Weinstein's e-mail?

14 A Yes.

15 Q Did you understand it was from Mr. Weinstein directly?

16 A Yes.

17 MS. ILLUZZI: I ask this exhibit be marked in
18 evidence as People's Exhibit Number 34.

19 THE COURT: Any objection?

20 MR. AIDALA: It is over our objection.

21 THE COURT: People's 34 is received into
22 evidence. Next question.

23 MS. ILLUZZI: I would like it published to the
24 jury electronically. I'm going to ask you some questions
25 about this.

1 Q Looking at People's 34, it is going, is this the e-mail
2 that you received on August 17, 2017?

3 A Yes.

4 Q And was it from Mr. Weinstein?

5 A That was my understanding, yes.

6 Q It was directly to you, correct?

7 A Yes.

8 Q And the message there was red flags are the first call,
9 do you recall that being the message?

10 A Yes, I see that in the message.

11 Q Going further in that exhibit, was there an attachment
12 to this exhibit and further information with some names?

13 A Yes, there was an attachment.

14 Q Were the red flags the people that Mr. Weinstein were
15 most concerned about?

16 A The red flags?

17 MR. AIDALA: Objection.

18 THE COURT: Overruled.

19 A The red flags are, I understood them to be the names
20 highlighted in red as you can see on the exhibit.

21 Q Those are the ones Mr. Weinstein wanted you to
22 investigate, is that correct?

23 A I think the e-mail said those were the first to call.

24 Q And in that documentation, is Annabella Sciorra, was
25 Annabella Sciorra highlighted in red on the list?

1 A I see it is now, I did not know the name at the time.

2 Q Going back, did you actually do the investigation that
3 Mr. Weinstein wanted you to do?

4 A No.

5 Q Do you know if anybody else actually did?

6 A I don't know.

7 Q Did Mr. Weinstein's lawyer tell you to sort of
8 disregard --

9 MR. AIDALA: Objection, your Honor.

10 THE COURT: Overruled.

11 Q Did Mr. Weinstein's lawyer tell you to disregard
12 instructions given to you directly by Mr. Weinstein?

13 MR. AIDALA: Objection, your Honor.

14 THE COURT: Sustained.

15 Q Going to the middle of the first page of the exhibit.
16 Did you have a list specifically attached there where Mr.
17 Weinstein made a comment about one of the people?

18 A I'm not sure I understand the question.

19 Q In the exhibit, the two page exhibit, there are lists,
20 correct?

21 A Yes.

22 Q And did Mr. Weinstein specifically at the top over
23 there, I'll show you, look at the screen, specifically talk
24 about one of the people?

25 A I don't recall any conversation about anyone mentioned

1 in this.

2 Q No, in the e-mail, not in a conversation, in the e-mail
3 itself?

4 A In the e-mail, this is in the e-mail, this looks like
5 it was forwarded from another e-mail.

6 MS. ILLUZZI: Thank you so much, nothing further.

7 THE COURT: Any cross.

8 MR. AIDALA: Quickly, your Honor.

9 CROSS EXAMINATION

10 BY MR. AIDALA:

11 Q Good afternoon sir.

12 A Good afternoon.

13 Q You currently work for Guidepost Solutions?

14 A Yes.

15 Q Did you work for Guidepost Solutions in 2017?

16 A No, I had my own firm called Custom Information
17 Service.

18 Q Where you work now, Guidepost Solutions, it is a very
19 reputable investigation firm, correct?

20 A We think so, yes.

21 Q The chairman there is Bart Schwartz?

22 A Correct.

23 Q You guys get monitorships appointed from federal
24 judges?

25 A Correct.

1 Q You guys are known to be the best and brightest in the
2 industry?

3 A We like to think so.

4 Q You are a very, very ethical firm, correct?

5 A That is right.

6 Q All of you receive, when you get there, certain
7 training about ethics and how to conduct your investigations for
8 Guidepost appropriately and accurately?

9 MS. ILLUZZI: Objection.

10 THE COURT: Sustained.

11 Q Was there anything different when you got to Guidepost
12 regarding the ethics of your firm that you did not know when you
13 had your own firm?

14 A No.

15 Q When you had your own firm, you did everything
16 ethically?

17 A Right.

18 Q Did everything properly to the best of your knowledge,
19 correct?

20 A Yes.

21 Q Whether it is Guidepost Solutions or your own firm at
22 the time, one of the many things you did was help people who
23 were being extorted, correct?

24 A Yes.

25 Q So if somebody, if there was a client of yours was

1 working with a lawyer and that individual is being extorted,
2 they would seek your assistance, correct?

3 A That is right.

4 Q And regarding the list that had the one particular
5 name, Annabella Sciorra on it, there were many other names on
6 that list, correct?

7 A That is right.

8 Q Those names were men and women?

9 A Yes.

10 Q And you have no independent recollection of any color
11 coding on that list?

12 A Only some names were in color and some were not.

13 Q And regarding that investigation, you did not do
14 anything in your mind to this day that was unethical or
15 inappropriate, correct?

16 A We didn't do anything period with regard to the list.
17 We never received an instruction from Mr. Weinstein's lawyer to
18 do so, we never did.

19 Q It was just work product that Mr. Weinstein's lawyer
20 shared with you, is that correct?

21 A It was an e-mail sent to me from Mr. Weinstein.

22 MR. AIDALA: Can I have one moment your Honor. I
23 have nothing further.

24 THE COURT: Any redirect?

25 MS. ILLUZZI: Yes.

1

2 REDIRECT EXAMINATION

3 BY MS. ILLUZZI:

4 Q Mr. Anson, did Mr. Weinstein ask you to investigate
5 those people because they were extorting him?

6 MR. AIDALA: Objection, your Honor.

7 THE COURT: Overruled.

8 A I don't remember the specific context of the
9 investigation. Generally speaking he was concerned the people
10 on the list might be providing information to journalists that
11 were writing a story about him.

12 Q Was that regarding Mr. Weinstein sexually assaulting
13 women?

14 MR. AIDALA: Objection, your Honor.

15 THE COURT: Overruled.

16 A I don't think he would have used that phrase or said it
17 in that way.

18 Q Do you remember what he did say?

19 A I think he said he was concerned the articles were
20 being written about him that would discuss his sexual conduct in
21 a negative way.

22 Q Did he ever tell you anybody on that list was extorting
23 him?

24 A I'm not familiar with all the names on the list, so I'm
25 not sure.

1 Q But did he tell you the red flags were people who were
2 extorting him?

3 A No, not specifically.

4 Q When you say not specifically, what are you referring
5 to?

6 A No, he did not say people with the red highlighted in
7 red were extorting him.

8 Q Was the entire gist of his reaching out to you to
9 investigate because he was concerned about what the people on
10 the list, the people were going to say regarding his sexual
11 conduct?

12 MR. AIDALA: Objection, your Honor.

13 THE COURT: Overruled.

14 A In the course of our conversations with him, his
15 interest was in general to have us understand who is providing
16 information to the journalists and that was the subject matter
17 of their articles. I also did raise the possibility he was
18 being extorted by people in that respect.

19 Q Did he name, did he tell you anybody was extorting him
20 specifically?

21 A He did.

22 Q Sorry?

23 A He did.

24 Q He did, okay, was it Annabella Sciorra?

25 A No.

1 Q When he sent you that red flag list, Annabella was not
2 red, correct?

3 A I see it is red now when I look at it, yes.

4 Q Did he say who was possibly trying to extort him?

5 A He did.

6 Q Who?

7 A He mentioned a woman named Rose McGowan.

8 Q Anybody else?

9 A Not that I recall.

10 MS. ILLUZZI: Thank you.

11 THE COURT: Anything on that?

12 RE CROSS EXAMINATION

13 BY MR. AIDALA:

14 Q you were notified Mr. Weinstein was being extorted?

15 A Yes.

16 Q You have a clear recollection of that, correct?

17 A Yes.

18 MR. AIDALA: Okay.

19 THE COURT: Anything?

20 MS. ILLUZZI: Yes.

21 RE REDIRECT EXAMINATION

22 BY MS. ILLUZZI:

23 Q His concern was that people were talking to
24 journalists?

25 MR. AIDALA: Beyond the scope, I asked one

1 question.

2 THE COURT: Overruled.

3 Q He was concerned people were talking to journalists
4 about his sexual conduct towards women?

5 MR. AIDALA: I'll object. I just asked one
6 person, Rose McGowan, not journalists.

7 THE COURT: Overruled.

8 Q Mr. Anson, when you spoke to Mr. Weinstein himself, was
9 he concerned that people were talking to journalists about his
10 sexual conduct against women?

11 MR. AIDALA: Objection, beyond the scope.

12 THE COURT: Overruled.

13 A Yes, among other things.

14 MS. ILLUZZI: Thank you.

15 THE COURT: Anything on that?

16 MR. AIDALA: No.

17 THE COURT: Thank you very much for your
18 testimony, you may step down, you are excused.

19 A Thank you.

20 THE COURT: Who is your next witness?

21 MS. ILLUZZI: We don't have anymore for this
22 morning.

23 THE COURT: At least it is a lovely day, so see
24 you back here 2:15.

25 Please remain mindful of all my prior admissions

1 and instructions. During this or any other recess, keep an
2 open mind, do not form an opinion as to the guilt or
3 innocence of the defendant.

4 Do not discuss this case among yourselves or with
5 anyone else nor allow anyone to discuss it in your
6 presence. Keep an open mind as I said and refrain from any
7 and all research or communication, electronic or otherwise
8 about anything to do with the case.

9 Avoid social media or the media or press about
10 anything whatsoever to do with this case. Have a great
11 lunch, see you prior to 2:15.

12 COURT OFFICER: Jurors leave your notebooks books
13 on the armrest and follow me.

14 (Jury exit courtroom).

15 MS. ILLUZZI: We have an application.

16 THE COURT: Okay.

17 MS. ILLUZZI: Your Honor as the defense has left
18 this jury with and impression that this list is comprised
19 of people who were possibly extorting the defendant, we ask
20 the entire list unredacted be provided to the jury because
21 that is clearly not the case.

22 MR. CHERONIS: Judge the State wanted to make the
23 opposite inference that all the names on there had to do
24 with some sort of sexual issues when in fact there are a
25 number of membership opinion that list, so they are trying

1 to what, bootstrap in something inadmissible by leaving the
2 false impression with the jury, I do not understand how she
3 had can make that argument, I'm not surprised I do not
4 under stand it, she was leaving the false impression.

5 MS. ILLUZZI: I think Mr. Cheronis agrees with me
6 we should be completely transparent and give this jury the
7 entire list of all the names and let the jury decide why
8 Mr. Weinstein wanted to investigate the red flag list.

9 THE COURT: People application is denied. Any
10 other issues.

11 MS. ILLUZZI: No, yes there is one.

12 THE COURT: Yes I'll hear you.

13 MS. ILLUZZI: Your Honor, the People would like to
14 call as our next witness, Rosie Perez, and we wish to call
15 Ms. Perez because Ms. Sciorra was cross examined by Ms.
16 Rotunno on recent fabrication, that recent fabrication
17 specifically was implied by her cross examination that Ms.
18 Sciorra was revealing or was talking about being sexually
19 assaulted by the defendant in October of 2017 when she
20 became public and told Ronan Farrow what happened to her.
21 In fact we know the truth is Ms. Sciorra had been telling
22 people for the last few decade that the defendant had raped
23 her?

24 A One of those people was Ms. Perez and in fact Ms.
25 Sciorra merely remembers telling people something bad

1 happened to her and specifically Ms. Perez, then in month
2 later it was a matter of month still in 1994 when Ms.
3 Sciorra was in London and the defendant was for simplicity
4 sake stalking her. Ms. Perez called her in London because
5 she had heard about what defendant was doing. When she
6 heard what the defendant was doing and questioned Ms.
7 Sciorra about it, Ms. Perez put together the fact that
8 perhaps it was the defendant that had raped her earlier
9 that Ms. Sciorra was not tell her the identity was. Ms.
10 Sciorra confirmed it was in fact the defendant and
11 continued to give her more details, details she has
12 testified to hear regarding what the defendant did to her
13 during the rape.

14 Therefore judge, we would like to call Ms. Perez
15 to testify to that.

16 THE COURT: Do you have a transcript.

17 MS. ILLUZZI: Yes.

18 THE COURT: I want to know where in the transcript
19 what page and lines you say this occurred then I want to
20 know exactly what Ms. Perez would say.

21 MS. ILLUZZI: Okay.

22 THE COURT: I guess you are not ready to answer
23 the question, do this in reverse, order, do you have
24 caselaw or legal basis opinion what you are about to tell
25 me occurred then you can tell me in that answer what you

1 say Ms. Perez would testify to.

2 MS. ILLUZZI: Yes your Honor. I have a summary
3 judge and it is very detailed, I would like to hand it to
4 the court.

5 THE COURT: Okay, do you have a copy for defense.

6 MS. ILLUZZI: I have already given it to them.

7 THE COURT: Thank you.

8 MS. ROTUNNO: The supervisory we were told there
9 were no note taken in a conversation with Ms. Perez, so
10 that is only a summary of apparently and interview they had
11 with her where no note were taken. Furthermore, in terms
12 of I know we have already put this in writing to your hop,
13 in terms of why we don't believe this is a prompt outcry.

14 THE COURT: They are not going with prompt
15 outcry, they abandoned that ship and jumped in the recent
16 fabrication boat.

17 MS. ROTUNNO: What they are attempting to do is
18 bolster a statement that Ms. Sciorra never made, Ms.
19 Sciorra says I told no one this happened, and now in
20 reverse they are trying to pool store a statement she
21 claims she never made, when I asked her, I asked it for a
22 reason when she was on the stand about who her best friends
23 were the a the time, she did not men son Rosie Perez.

24 THE COURT: And so this is a summary perhaps of
25 Ms. Perez what she said you would be planning on eliciting

1 all this.

2 MS. ILLUZZI: Not all no.

3 THE COURT: My question, thank you for the
4 summary I'll read it, I don't want a summary, I want to
5 know what she will say so I can say owe that is fine or
6 more significantly oh no that is not okay.

7 MS. ILLUZZI: Let me alter that, it is mostly what
8 she would say for sure.

9 THE COURT: Are you talking it back.

10 MS. ILLUZZI: For the moment to make sure there is
11 nothing we would not elicit.

12 MS. ILLUZZI: This is what she would say, yes.

13 THE COURT: I'm not doubting that, my question is
14 not what she said to you guys, what testimony, my question
15 is what testimony are you planning opinion eliciting on the
16 witness stand, if that is the same.

17 MS. ILLUZZI: That is the same.

18 THE COURT: That was not really, those are not
19 usually exactly the same.

20 MS. ILLUZZI: I just wanted to check.

21 THE COURT: What about Ms. Rotunno statement this
22 is just bolstering a statement Ms. Sciorra never even made.

23 MS. ILLUZZI: Well Ms. Sciorra testified as she it
24 and then she was asked about what she said to Ms. Perez in
25 London and I was objected to and you sustained it, so Ms.

1 Sciorra would have said that exactly what Ms. Perez says
2 exactly the same thing, and I tried to elicit that after
3 cross examination and I was prevented from doing so.

4 THE COURT: Okay, all right I'll see you 2:15,
5 can I have answers to these questions in a somewhat more
6 efficient manner.

7 MS. ILLUZZI: Yes.

8 THE COURT: See you 2:15.

9 (Whereupon a lunch recess was taken).

10 (Continued on next page).

11 THE COURT: Back on the record. People we left
12 off you were going to tell me what factually makes out the
13 recent fabrication.

14 MS. ILLUZZI: Yes, your Honor. I'm also, also the
15 caselaw you asked us about the caselaw regarding it. I
16 would like to direct the Court's attention to People --

17 THE COURT: Can you give me the facts.

18 MS. ILLUZZI: Yes. Starting on page 1243 when
19 she's asked starting line nine, who were your friends at
20 this time, Ms. Sciorra. She named some people.

21 Did you call any of these people? No. When is
22 the next time you saw any of those friends? Several weeks.

23 Then she talks about when it is that she left her
24 home for the first time. Afterwards --

25 MR. CHERONIS: Can we do this one at a time,

1 sorry, I do not mean to interrupt.

2 THE COURT: No.

3 MR. CHERONIS: All right.

4 MS. ILLUZZI: I have not made my argument.

5 THE COURT: I know, I'm just trying to get what
6 your theory is of what the recent fabrication is. Keep
7 going, he wanted to go one by one and I said no.

8 MS. ILLUZZI: Okay, 1259, when you -- starting
9 1258, when you start to realize that Miramax is involved in
10 this, do you say to your agent I don't want to be a part of
11 this movie because the money, not because of the money, I
12 don't want to work for someone that sexually assaulted me.
13 Did you say that, no.

14 Then skipping to 1265, question by defense
15 lawyer. Did you send Mr. Leight an e-mail at 1:01 p.m
16 stating Annabella here, starting again. 1265 starting line
17 19, October 17, 2017 did you send Mr. Warren Leight an
18 e-mail 1:01 p.m stating Annabella here. Hi Warren, I'd
19 like to meet you today through a series of mixups and
20 misunderstanding, and my fear still, I have not spoke to
21 Ronan. I'll be speaking to him at two o'clock.

22 I'm trying to remember something regarding the
23 press tour my father came on with us. I took him for a
24 reason. I remember being in London and Deauville with him
25 and also Venice, but I believe I was promoting two movies

1 at the same tour.

2 Then on 1267 question on line five, you go to
3 Cannes in May of 1997 and in Cannes there are two hotels.
4 Then goes on about the hotel.

5 You stated when you arrived at Cannes someone from
6 Miramax was waiting for you. Answer correct. And where
7 was this person waiting for you? Answer, where the
8 transportation from the airport to the hotel, wherever I
9 got off is where she was waiting for me. And she tells you
10 in that moment we put you next to Mr. Weinstein. No. I'm
11 going to skip a little. It goes at that moment, on page
12 1268 line seven, at that moment did you say move me to
13 another room just like in London when you said move me to
14 another room, it goes on for a lot of questions. 1279 line
15 eight. So after you were done with everything associated
16 with Cop Land, whatever the year was sometime in 1997 I
17 believe based on your timeline, and having reporters
18 reached out to you in October of 2016 into 2017, had you
19 heard from Harvey Weinstein? No. Had you seen him at any
20 events. Questions her about going to Lilyhammer continued
21 on the next page, 1280 line 16. And when you spoke to
22 Ronan Farrow, he told you he was working on a story about
23 allegations of sexual harassment against Harvey Weinstein
24 correct? Correct. That some people suggested you might
25 have something to say; is that right? Uh-hum yes. Your

1 response was that oh, it's weird I have heard that before.
2 Who told you, correct. Yes. His response is that he could
3 not reveal his sources, correct? Correct. That it could
4 help people if you knew anything, even if you wanted to
5 talk anonymously, correct? Correct. And your response is
6 no, nothing happened, I guess I just wasn't his type.

7 It went on, on 1283, line 19. You waited until
8 October 10th, two days later you say Yul, hey there just
9 more broke than I ever imagined. No insurance bla bla,
10 just a few episodes here and there, I have not worked in
11 years, and I am reaching out to friends asking for help in
12 any way. I'm looking for a job. Is that what you said?
13 Yes, I was fishing.

14 When the New Yorker wrote an article about Asia
15 Argento's allegations against Harvey, you responded to
16 that, correct? And she could not come up with where she
17 responded to it.

18 Page 1285 line 10 the first time you ever
19 mentioned anything about some issue between you and Harvey
20 during The Night We Never Met is when you talked to Warren
21 in 2017. We both talked about Harvey's difficult but that
22 went on to be corroborated by Ms. Sciorra.

23 1287 line 18 and did you have an agent back then
24 in October of 2017, October 2018 when you were working?
25 Yes. Who was it? Abrams Artists. Then Ms. Rotunno said

1 that is not one of the major agencies. There was some
2 discussion about that. And now you have a new agent, then
3 it goes on page 1288, you have a civil attorney who
4 represents you, yes? She's here in this courtroom, right?
5 Ms. Allred is in the front seat behind you, yes. And you
6 didn't pay her, right. And alleging you know she's here
7 for a civil lawyer and that she sues people.

8 Well, you know she represents people who file
9 civil lawsuits, that went on for a bit. 1293 alleging that
10 she is a liar.

11 On recross on 1321 and you say that you told Rosie
12 Perez you have no idea when that conversation took place,
13 correct? It was in the weeks or months, maybe a few
14 months later. Well, did Rosie Perez call you on a daily or
15 weekly basis and say how are you doing after that horrible
16 attack? No. That goes on for a while.

17 So Judge, there are several things going on here.
18 Number one is that Ms. Rotunno in her examination of the
19 witness is implying quite strongly and sometimes out and
20 out asking about whether or not this witness recently
21 fabricated these events in October of 2017 for the purpose
22 of getting money.

23 She brings up the fact that Annabella tells
24 someone that she needs money and that Gloria Allred is a
25 civil lawyer who sues people for money.

1 She questions her specifically about when she told
2 Rosie Perez and implies she's not telling the truth about
3 that because then naturally Ms. Perez would be calling her
4 repeatedly to ask her if she was still okay.

5 People versus McClean, 69 New York second, 426,
6 I'll read from a passage in that. This is actually a quote
7 from People versus Bermudez. I have copies for everyone.
8 Decided on January 10, 2019 and it says as follows: The
9 Court also properly received a detective's rebuttal
10 testimony that the girlfriend had told the detective the
11 victim had identified the defendant to her assailant.

12 The People properly introduced that testimony to
13 rebut the inferences raised by defense counsels on cross
14 examination of the girlfriend and direct of a defense
15 witness, that the girlfriend's testimony was a recent
16 fabrication invented to obtain a benefit from the people in
17 a pending case against her.

18 The prior consistent statement made to a detective
19 predated the alleged motive to falsify.

20 There is another case People versus Massy, three
21 New York third, 179, a 2004 case. A trial court should
22 decide door opening issues by considering whether to what
23 extent the evidence or argument said to open the door is
24 incomplete and misleading, and if any otherwise
25 inadmissible evidence is reasonably necessary to correct

1 the misleading impression.

2 And here it had to do with a photographic
3 identification, but in our case it obviously has to do with
4 the fact that Annabella Sciorra initially told Rosie Perez
5 that something had happened to her and within that same
6 year gave her details about how Harvey Weinstein had raped
7 her.

8 THE COURT: Okay, Mr. Cheronis.

9 MR. CHERONIS: Mr. Aidala.

10 MR. AIDALA: Your Honor, just to save time, is
11 there a particular -- the prosecutor just named 10
12 different places. I know the Court will agree asking the
13 witness is the lawyer in court a civil lawyer, that is
14 nowhere close to being recent fabrication.

15 Almost every passage she read that I could see
16 does not equate to recent fabrication. So, if the Court
17 wants to say well, I just heard all of them and I know the
18 Court was diligently writing, what about this on this page,
19 but it does not seem one passage she read was Ms. Rotunno
20 saying you just made this up just now.

21 It was just she claimed she was afraid of a lot of
22 things. So Ms. Rotunno brought out the fact even though
23 you were afraid, you still did this. Even though you were
24 afraid you made that movie. Even though you were afraid,
25 you went to that meeting. But it was not even though it

1 did not happen you still went to that. Even though it
2 never took place, you still went to that meeting.

3 It was more about fear than whether anything
4 actually took place. So they have to first go over the
5 first threshold we are saying Annabella Sciorra just made
6 this up within the last, I guess two years is their theory,
7 and that never was pursued. The pursuit was she made it
8 very clear she was afraid of Mr. Weinstein, but then her
9 actions were that of someone who continued to be at the
10 very least in the light most favorable to the witness, in
11 his circles, in his world, sending e-mails oh, I was going
12 to reach out to Harvey, doing movies with him.

13 It was not we challenged the fact it did not
14 happen. We were challenging the fact she was so afraid of
15 him and in fact, your Honor, the theory of the case is it
16 did happen, but it was a consensual event.

17 We are not challenging that it happened or even
18 when it happened, it is just a consensual meeting, not a
19 non consensual meeting.

20 So therefore, we are not arguing recent
21 fabrication, that is not part of the theory of the defense
22 case. The theory is there was no fear and obviously there
23 was no force and everything was consensual.

24 MS. ILLUZZI: Recent fabrication does not have to
25 be to the event actually happening. It has to be

1 allegations being made; specifically that it was not a
2 consensual event, that it was rape.

3 And their repeated conversations and questions to
4 Annabella Sciorra regarding your actions belie the fact
5 that he raped you because you didn't act like you were
6 afraid of him after this rape. So it in fact is more than
7 an inference, it is specifically arguing this was a recent
8 fabrication.

9 MR. AIDALA: We are not arguing it did not happen,
10 that is not what we opened on, that is not what we are
11 going to close on, that is not the theory of our case it
12 did not happen.

13 The theory of the case is an act took place but it
14 was a consensual act. There is no inference that can be
15 drawn by any of the sentences that the prosecutor read that
16 we are claiming this was just made up out of old clothes.

17 THE COURT: Well, you are stating that the rape
18 did not happen.

19 MR. AIDALA: We are stating that -- correct, rape
20 did not happen, nothing happened without everyone's consent
21 and acquiescence and knowledge and all of the above.
22 Everything that happened was a hundred percent consensual.

23 THE COURT: All right, so Ms. Perez's statement
24 can come in. But she has two separate statements, so the
25 first part the statement from Ms. Perez to Ms. Sciorra that

1 you have given to me, that can come in presumably.

2 But the second part has, contains the entire
3 harassment in London portion, and that would simply be for
4 hearsay. So you have to get to just simply Rosie Perez
5 called her because that is the point where Rosie Perez
6 deduces that she has been talking about Harvey Weinstein.
7 But you must omit the other not qualifying as a recent
8 fabrication information regarding that Rosie heard that
9 Harvey Weinstein was stalking Annabella Sciorra and called
10 to see if she is okay.

11 So I guess Rosie Perez has to call her in London,
12 but it got to be in a vacuum, and so if you need
13 clarification.

14 MS. ILLUZZI: I do.

15 THE COURT: Ask Ms. Hast, she seems --

16 MS. ILLUZZI: I want to ask may we approach on
17 exactly --

18 THE COURT: Do you have the blurb you gave me,
19 the second paragraph, you cannot elicit that.

20 MS. ILLUZZI: What about the details of what
21 happened back in New York?

22 THE COURT: Yes, that is the first paragraph.

23 MS. ILLUZZI: Okay, and that the identity of the
24 person who had done this to her.

25 THE COURT: Yes, that is the only reason you get

1 to ask anything in the second part.

2 MR. CHERONIS: Well, there may be --

3 THE COURT: I thought we were going with just one
4 attorney.

5 MR. CHERONIS: I'll be crossing. There may be
6 some inconsistencies based on her statements that I may
7 delve into during cross examination.

8 THE COURT: So the second part is --

9 MR. CHERONIS: It may be relevant.

10 THE COURT: You know my ruling.

11 MR. CHERONIS: It may be relevant of an
12 inconsistent statement. I don't know if it is relevant on
13 direct.

14 THE COURT: If that is the case, I'll let them
15 elicit it in the first instance and you can more properly
16 cross examine about it.

17 MR. CHERONIS: Sure.

18 THE COURT: Thank you Mr. Cheronis. Jury is
19 entering.

20 MR. CHERONIS: One issue, I do need to approach,
21 this is a delicate subject.

22 THE COURT: Okay.

23 All right, jury entering.

24 (Jury enters courtroom).

25 THE CLERK: Case on trial continued. All parties

1 are present. Do both sides stipulate the jury is present
2 and properly seated?

3 MS. ILLUZZI: May I call my next witness. Oh yes,
4 my God, why am I doing this.

5 THE COURT: Welcome back jurors, I hope you had a
6 nice long lunch. Call your next witness.

7 MS. ILLUZZI: The People call Rosie Perez.

8 COURT OFFICER: Witness entering.

9 (Witness enters courtroom and is sworn in).

10 COURT OFFICER: Pull your chair up to the mic
11 please. The closest you can get and in a loud clear voice,
12 state your full name, spelling your last name.

13 A My name is Rosa Marie Perez.

14 COURT OFFICER: County of residence?

15 A Kings County, Brooklyn, New York.

16 THE COURT: All right, good afternoon, Ms.
17 Perez. Listen carefully to the questions from the ADA and
18 answer her questions to the best of your ability.

19 Please answer them loudly, clearly, and slowly.
20 Please give full and complete responses to all of her
21 questions, but try not to volunteer any information that
22 goes beyond her specific questioned area.

23 On cross examination it is very likely Mr.
24 Cheronis will ask you questions also. If and when he
25 chooses to do so, give to him the same courtesy you're

1 about to give to the District Attorney.

2 If you are comfortable responding to questions
3 from either directly to the jury, you may do that.

4 Otherwise, just respond to whomever is asking you questions
5 at any given time, okay?

6 A Yes.

7 THE COURT: The mic does not work that well, you
8 have to speak right directly into it and a little louder.

9 A Yes, your Honor.

10 THE COURT: Inquire.

11 MS. ILLUZZI: Thank you.

12 DIRECT EXAMINATION

13 BY MS. ILLUZZI:

14 Q Good afternoon, Ms. Perez.

15 A Good afternoon.

16 Q The acoustics aren't terrific here.

17 A Okay.

18 Q If you could please, everyone needs to hear you, speak
19 very loudly and right into the microphone.

20 A You got it.

21 Q Can you please tell the jury your name and occupation?

22 A My name is Rosa Marie Perez, Rosie Perez, I'm an
23 actress.

24 Q How long have you been acting?

25 A I've been acting over 30 years.

1 Q Where were you born and raised?

2 A I was born and raised in Brooklyn, New York, in
3 Williamsburg South, Bushwyck and spent some time in upstate New
4 York.

5 Q How do you know Annabella Sciorra?

6 A I know Annabella Sciorra from the acting world.

7 Q How long have you known her?

8 A I have known her for a very long time from the early
9 90's.

10 Q What was your relationship, or what is your
11 relationship with Annabella?

12 A We are very, very good friends. We hit it off from the
13 first day that we met and we remained friends throughout the
14 years.

15 Q Do you know a man named Harvey Weinstein?

16 A Yes, I do.

17 Q Do you see him in the courtroom today?

18 A Yes, I do.

19 Q Can you point him out for the Court and jury and
20 describe an item of clothing he's wearing today.

21 A Right there.

22 MR. AIDALA: We acknowledge defendant.

23 THE COURT: Next question.

24 Q How do you know Mr. Weinstein?

25 A I know him from the entertainment business.

1 Q Do you remember when you met him?

2 A Yes.

3 Q When was that?

4 A I don't know specifically the year, but it was at the
5 Venice Film Festival in the 90's.

6 Q Can you explain to the jury what Mr. Weinstein over the
7 last 30 years, what his position and power has been in the
8 entertainment industry?

9 MR. CHERONIS: Objection.

10 THE COURT: Sustained.

11 Q Can you describe for the jury how, what Mr. Weinstein's
12 position was in the entertainment industry?

13 MR. CHERONIS: Objection.

14 THE COURT: Sustained.

15 Q Has Mr. Weinstein for the last 30 years, been a very
16 well known producer?

17 MR. CHERONIS: Objection.

18 THE COURT: Overruled.

19 A Yes, a very well known producer.

20 Q I'm going to direct your attention now to the early
21 90's. In the early 1990's, did you socialize with Annabella
22 Sciorra on a pretty regular basis?

23 A Yes.

24 Q Directing your attention specifically to when Ms.
25 Sciorra lived in the Gramercy Park area, do you remember

1 approximately when that was?

2 A In the early part of the 90's.

3 Q Directing your attention to a night that she was living
4 in the Gramercy Park apartment and you called her to go out with
5 you, but the conversation --

6 MR. CHERONIS: Objection, leading.

7 Q Became odd, I have to direct her to a point.

8 THE COURT: Overruled, go ahead.

9 Q Do you recall that moment?

10 A Yes, I do.

11 Q Do you recall the day specifically or even the year
12 specifically?

13 A I don't know the date, no, but I would say it was
14 probably around 1993.

15 MR. CHERONIS: I did not hear.

16 (Reporter repeated the answer).

17 Q What was the weather out at that time?

18 A It was chilly out.

19 Q Why did you call her on that particular evening?

20 A To hang out to go to a nightclub, to have fun.

21 Q And can you tell the jury to the best of your
22 recollection what that conversation, how that conversation went?

23 A I called her up, I was in a pretty jovial mood. Hey
24 Annabella, what's up, wonder if you want to hang out. And she
25 was talking in this very strange whisper of a voice as if she

1 was hiding from someone.

2 MS. ILLUZZI: I'm going to stop you for 30
3 seconds, there is an inaudible voice outside, but it is
4 very loud. It is inaudible for me, okay.

5 Q I'm going to ask you to go back and start again and
6 tell us how the conversation went with Annabella Sciorra?

7 A I told her hey Annabella, you want to hang out. And
8 she responded in a very weird voice like she was whispering like
9 this.

10 Q Explaining a whispering sound on the record.

11 A I said what's wrong with you, and she said I think
12 something bad happened, and I said what do you mean something
13 bad happened, what happened. And she said I think I was raped.
14 And the way she said it was so strange, because she was still
15 whispering, and she said I think I was raped, and her voice
16 started shaking, and I said to her do you think or did it
17 happen, and she goes I think it was rape, and she started
18 crying. And I said well, who did it, do you know who did it,
19 and she said I can't, I can't, I can't, and I could hear her
20 crying.

21 I said what happened, and she said I woke up on the
22 floor and my nightie was up, and it was a family heirloom. She
23 started crying and said I can't, I can't, I got to go. I said
24 wait, wait, wait, you have to go to the police, are you okay. I
25 can't, I can't, and she hung up the phone and I kept trying to

1 call her back all night long and I was so upset and she would
2 not pick up the phone.

3 Q Was Ms. Sciorra's tone of voice different than her tone
4 of voice was usually?

5 A Very, very, very, different, it was very different.

6 Q Now, Ms. Perez, I'm going to direct your attention to
7 the last few months of 1994, and I'm going to ask you, is it
8 correct that at some point at the end of 1994, Annabella Sciorra
9 was in London, is that yes or no?

10 A Yes.

11 Q And did you have an opportunity in those last few
12 months of 1994 to have a conversation with Annabella Sciorra
13 when she was in London, yes or no?

14 A Yes.

15 Q And at that time, after having your conversation
16 initially with Ms. Sciorra, did it occur to you that you might
17 know the identity of the person that Ms. Sciorra said raped her
18 in the months before she went to London?

19 MR. CHERONIS: Objection.

20 A Yes.

21 THE COURT: Sustained as to the way you asked
22 that question.

23 MS. ILLUZZI: Okay, I'll try again.

24 Q How long after your initial conversation with Ms.
25 Sciorra when she had that low voice and told you that she thinks

1 something bad happened to her, that conversation, how long had
2 it been between that conversation and the conversation that you
3 had with her in London?

4 A It was several months later, yeah, it was several
5 months later.

6 Q During that conversation in London, did you in your
7 mind, conclude that it was Harvey Weinstein she was talking
8 about months before?

9 MR. CHERONIS: Objection.

10 THE COURT: Sustained.

11 Q What did Ms. Sciorra tell you this time about what
12 happened to her those months before or what happened to her the
13 time she told you those months before happened to her in New
14 York, just tell us please what did she say about what happened
15 to her in New York those months before?

16 A She told me that it was in fact Harvey Weinstein that
17 raped her. She told me that he showed up at her door and she
18 was confused why he was there, standing there, and that he
19 pushed his way through the door, and she was crying and saying I
20 tried to fight back, I tried, I tried. And then she said that
21 she ended up in the bedroom with her hands pinned over her head
22 and that he raped her and then he pulled out and --

23 Q You have to just say it.

24 A He came on her leg and on her nightgown, and I said oh,
25 the family heirloom, and she was crying and she said yes. And

1 she swore to me never to tell anybody. And I told her that you
2 should go to the police, please go to the police, and she said I
3 can't, he's destroying me, he is going to destroy my career.

4 MR. CHERONIS: Objection.

5 THE COURT: Overruled, next question.

6 Q Have you remained friends with Ms. Sciorra since?

7 A Yes.

8 Q Ms. Perez, on a somewhat different topic, you have been
9 in the entertainment industry for quite some time now, correct?

10 A Yes.

11 Q And in the entertainment industry, is it common place
12 in your experience that meetings for jobs and businesses and
13 auditions often take place in hotels and hotel rooms?

14 MR. CHERONIS: Objection Judge.

15 THE COURT: Overruled.

16 A Yes, at times.

17 Q Have you had the opportunity to be with and go to
18 meetings with a director, actor, or producer in a hotel room?

19 A Yes.

20 Q And have those been for strictly business purposes?

21 MR. CHERONIS: Objection.

22 THE COURT: Overruled.

23 Q That means you can answer.

24 A Yes.

25 Q And has there ever been a time when you even met alone

1 with a member of the industry for business purposes in a hotel?

2 MR. CHERONIS: Objection.

3 THE COURT: Overruled.

4 A Yes.

5 MS. ILLUZZI: I have nothing further, thank you.

6 THE COURT: Cross examination, Mr. Cheronis.

7 CROSS EXAMINATION

8 BY MR. CHERONIS:

9 Q Good afternoon, Ms. Perez.

10 A Good afternoon.

11 Q Can you please tell me when you met Ms. Sciorra?

12 A In the early 90's.

13 Q Do you remember when in the early 90's?

14 A Not specifically.

15 Q Was it -- how long had you known her before you called
16 her that night to go out to a nightclub, if you can tell us?

17 A I can't pinpoint the exact amount of time.

18 Q Do you remember where you met her?

19 A Yes, I met her at a party.

20 Q Was that in New York City?

21 A Yes.

22 Q And before 1993, had you ever been in a movie with
23 Annabella Sciorra?

24 A No.

25 Q Ever been in a play with her?

1 A No.

2 Q So, when you met at this party, did you exchange phone
3 numbers?

4 A Yes.

5 Q Okay, and tell us a little bit about your relationship
6 from the time you met her up until the time this phone call
7 occurred?

8 A It developed gradually where we became friends and it
9 started to grow more and more, because we like the same things.
10 You know, we liked to go to plays, go to the theater, go to the
11 club, go to dinner parties. We had a lot of mutual friends and
12 we just clicked.

13 Q Sure. If you don't mind me asking, how old were you
14 when you met Ms. Sciorra about, approximately?

15 A Oh, I, well --

16 Q In your 20's?

17 A I would say probably, yes.

18 Q Is she around the same age?

19 A She's a little bit older than me.

20 Q And it is fair to say the two of you are really close?

21 A Yes.

22 Q You care about her?

23 A Yes.

24 Q And she cares about you?

25 A Yes.

1 Q And over the years after this call, you continued your
2 friendship with her?

3 A Yes.

4 Q And you continued your friendship with her right until
5 today?

6 A Yes.

7 Q You knew she was testifying yesterday in this case,
8 didn't you?

9 A I didn't know, I knew after the fact.

10 Q After she testified it was on the news?

11 A After she testified I had friends that told me that she
12 was going to testify.

13 Q Okay. Did you see anything about it on the news?

14 A No actually.

15 Q Did you talk to Ms. Sciorra yesterday?

16 A No.

17 Q You told the members of the jury that sometime in the
18 early 90's you called Annabella to go out somewhere?

19 A Yes, that is correct.

20 Q You wanted to go to a club or something?

21 A Yes, that is correct.

22 Q And when Annabella answered the phone, tell the jury
23 again what she said?

24 A She said in a very low whispery voice, I think
25 something bad happened to me. I think something bad happened.

1 I think something bad happened to me, I think it was rape.

2 Q What else did she say after that?

3 A She also said that she woke up on the floor with her
4 nightie over her, and she said that she was very, very scared.

5 Q She told you at that time it was her heirloom?

6 A Yes, she did, she said it was her heirloom nightie,
7 nightgown.

8 Q When you called her in the early 90's and she told you
9 that, she mentioned to you she was wearing that nightie, right?

10 A That is correct.

11 Q And to be fair, when you called her and she said I
12 think I was raped, you didn't know if she was talking about
13 something that just happened, did you?

14 A What do you mean.

15 Q In other words, she didn't say I think I was raped a
16 week ago, she said I think I was raped, right?

17 A She didn't give a timeline.

18 Q So, it is fair to say in your mind calling a friend to
19 go out, she could have been talking about something that just
20 occurred, right?

21 A I don't know.

22 Q Well, she said I think I was raped, she sounded,
23 according to you, she was talking in a whisper, right?

24 A Yes.

25 Q She sounded scared?

1 A Yes.

2 Q She told you that she thinks she was raped and then she
3 woke up and her heirloom nightgown was pulled up, right?

4 A Can you repeat that please.

5 Q Sure. When she whispered she thought she was raped,
6 she told you when she woke up, her heirloom nightgown was
7 raised?

8 A Yes.

9 MS. ILLUZZI: Objection to the phrasing of that.

10 THE COURT: Overruled.

11 Q So again, you didn't know if that was something she was
12 saying happened a long time ago or just that night, right?

13 A I don't know, it depends.

14 Q Well, if one of your best friends calls you up and says
15 I think I was raped and they sound scared, you yourself would
16 have been nervous right, you would have been worried for your
17 friend?

18 A Yes.

19 MS. ILLUZZI: Objection, speculation.

20 MR. CHERONIS: It's not.

21 THE COURT: Overruled.

22 Q You would have been worried for your friend?

23 A I was worried for my friend.

24 Q You didn't know if somebody had hurt her, correct?

25 A That is correct.

1 Q You didn't know if she was injured at that time when
2 she called you, right?

3 A Right, I assume she was.

4 Q Okay. You didn't go over to her apartment, did you?

5 A No, because she would not pick up the phone.

6 Q Well, your friend just told you that she thinks she was
7 raped, hangs up the phone, you did not go to check on her,
8 didn't go to the apartment?

9 A No.

10 Q Did you call the police?

11 A She told me, I told her you should call the police, she
12 said no, I can't, I can't, I can't.

13 Q So, when the phone is hung up, you are sitting there
14 thinking my friend may have just been raped, correct?

15 A Yes.

16 Q You said you called a couple of times?

17 A No, I was not thinking she may have been raped, I was
18 thinking she was raped.

19 Q Maybe that day.

20 A I don't know if it was that day, I did not say that.

21 Q You didn't go over there?

22 A I didn't go over there because she would not pick up
23 the phone and I was very upset and I was very, very shook
24 myself.

25 Q We covered you did not call the police or Fire

1 Department, correct?

2 A She did not or I didn't?

3 Q You didn't?

4 A No I did not.

5 Q And the next day, did you talk to her?

6 A I talked to her, I talked to her maybe a couple of days
7 after that, she finally called me.

8 Q Did you talk about the incident?

9 A I tried to and she did not want to talk about it.

10 Q Did you ask her what happened?

11 A She did not want to talk about it. So she was very,
12 still very upset, and she was very brief on the phone. She told
13 me she was fine and I said are you sure, and she said no, and I
14 said do you want me to come by and she said no.

15 Q Did you talk about this over the years with your friend
16 Annabella?

17 A No.

18 Q Because that, you would agree, if Ms. Sciorra told you
19 that, that is a pretty sacred thing to tell a friend that you
20 were assaulted like that, right?

21 A Yes.

22 MS. ILLUZZI: Objection.

23 THE COURT: Overruled.

24 Q You did not talk about it with her over the years?

25 A We talked about it over the years, yes.

1 Q And when would you talk about it with her?

2 A We talked about it when I called her in London.

3 Q So, from the time that you say you called Ms. Sciorra
4 to the time in London, did you talk to her at all in between
5 those times about it?

6 A Except for when I told you that I talked to her
7 afterwards, and she said she did not want to talk about it. I
8 left it at that because it was very, very traumatic for her, it
9 was traumatic for me, and it did not happen to me. So it was so
10 traumatic for her I was trying to be respectful.

11 Q And in London, you called Annabella Sciorra?

12 A Yes, I did.

13 Q The reason you called her was because you heard a rumor
14 that Harvey Weinstein was stalking her in London?

15 A Yes.

16 Q Yeah, who told you that?

17 A One of my friends just called me and said I heard this
18 and that.

19 Q Do you know who that was?

20 A I think -- I think, I don't remember who it was, but it
21 was an actor friend who was also in the business and saying
22 everybody was talking about it.

23 Q You don't remember who that was then you called
24 Annabella?

25 A I cannot recall, then I called Annabella because I was

1 in such a rush.

2 Q When you called Annabella, it is your testimony that at
3 that time she told you that it was Harvey Weinstein who raped
4 her?

5 A You mean the call in London?

6 Q Call in London?

7 A Yes sir.

8 Q And when she told you that, you told her to call the
9 police?

10 A Well, she confirmed it.

11 Q Okay.

12 A I told her it was Harvey that raped you that night, I
13 called you and you were so weird and you said what you said.

14 Q That was in London?

15 A That was in London and she said how did you know.

16 Q And you put two and two together?

17 A I put two and two together.

18 Q And then, did you and Ms. Sciorra talk about that after
19 London?

20 A Yes, and she wanted to stop talking about it after a
21 while.

22 Q Okay, and did there come a time then years later when
23 you were interviewed by Ronan Farrow from the New Yorker, yes?

24 A Yes.

25 Q And he wrote an article about you, not about you, but

1 you were in the article?

2 A I was in the article.

3 Q And you talked about some of the things you talked
4 about today, didn't you?

5 A Yes.

6 Q And that was printed and you read that, right?

7 A I read it a long time ago, I don't know specifically
8 what was printed.

9 Q Do you remember saying this to Mr. Farrow, that you had
10 heard from an acquaintance about Weinstein's behavior at the
11 hotel in London, and that you questioned Annabella about it, and
12 at that time Annabella told you about the attack in her
13 apartment, and you said oh Annabella, you have got to go to the
14 police and Annabella said I can't go to the police, do you
15 remember saying that?

16 A Yes I do, sir.

17 Q Nowhere in that interview with Mr. Farrow did you say
18 to him that you called Annabella Sciorra and had that
19 conversation with her in the early 90's, did you?

20 MS. ILLUZZI: Objection Judge.

21 THE COURT: Overruled.

22 A I don't recall the full extent of my conversation with
23 Mr. Farrow, but I do know that he did not put everything that we
24 had discussed in the article. So I may have discussed it, I
25 probably did discuss it because I was laying out the courses of

1 events, and so he did not put everything that was said, so I
2 think that question you should ask Mr. Farrow.

3 Q Isn't it true you told Mr. Farrow that it was when you
4 called Annabella in London that you found out about the attack
5 in the apartment, isn't that true?

6 A No. What I said to him was that I found out that it
7 was Harvey, because I put two and two together, not that I found
8 out about the attack.

9 Q You read this, right? If I showed it to you, you would
10 agree there is nothing in there about the initial call between
11 you and Ms. Sciorra?

12 MS. ILLUZZI: Objection.

13 THE COURT: Overruled.

14 A I can take a look at it. We talked ostensibly and he
15 did not put everything down. Does anybody have reading glasses.

16 THE COURT: What is your question for the
17 witness?

18 Q My question is does anywhere in there talk about the
19 phone conversation? May I approach your Honor, you want to use
20 these.

21 (Handed to witness).

22 A Yeah, but your question to me does not make sense.
23 This does not mean that I didn't say it to him, I probably did
24 say it to him, it does not mean that. I do not understand where
25 you are getting that.

1 Q All I'm asking you is if in that statement it says that
2 you found out about the attack while Ms. Sciorra was in London?

3 MS. ILLUZZI: Objection, asked and answered now
4 three times.

5 THE COURT: Sustained.

6 Q In this statement that you gave to Mr. Farrow was
7 October of 2017 or around there, right?

8 A I think so, I'm not sure.

9 Q You had talked to Ms. Sciorra in those months, hadn't
10 you?

11 A Yeah, we are friends.

12 Q She talked to you again about the events that she said
13 happened with her and Harvey Weinstein, correct?

14 A Yes.

15 Q She told you about the nightgown again, the heirloom,
16 right?

17 A No, I brought it up.

18 Q You brought up the heirloom nightgown?

19 A Yes.

20 Q She talked to you about London again, didn't she?

21 A Yes.

22 Q And you had those conversations with Ms. Sciorra before
23 you spoke to Mr. Farrow, didn't you, to be fair?

24 A Not necessarily, I don't know about that.

25 Q You spoke to the District Attorney in this case,

1 correct, prior to testifying?

2 A Yes.

3 Q And is it your testimony that all the way back in the
4 90's that Ms. Sciorra told you that first time you talked to her
5 about it, that she was wearing an heirloom nightgown?

6 A Yes.

7 Q And she said I think I was raped?

8 A Yes.

9 Q And over the years when you would talk to Annabella,
10 how often would you discuss that?

11 A I already told you that after the second phone call
12 back in the early 90's when I called to check up on her when she
13 finally, you know, took my call and got back to me, we talked
14 about it and she said she did not want to talk about it again
15 and I left it at that.

16 Q Now, in October of 2017 though when she spoke with
17 Ronan Farrow, you knew that she wanted you to talk to Ronan
18 Farrow too, didn't you?

19 A Excuse me.

20 Q She told you she wanted you to talk to Mr. Farrow,
21 didn't she?

22 A No.

23 Q No?

24 A No, sir.

25 Q Did she give Ronan Farrow your name?

1 A No sir.

2 Q How did he get your name, did you contact him?

3 A Did I contact Ronan Farrow, no.

4 Q And are you aware that, let me ask you this; in the
5 years after these allegations that Ms. Sciorra made, you go to
6 Weinstein events, wouldn't you?

7 A Everybody did.

8 Q Everybody did. But here is my question.

9 A I did not go to a lot of Weinstein events, no.

10 Q You went to the Mandela premier?

11 A Yes, because he's Mandela.

12 Q It was also Harvey Weinstein's company making that
13 movie, correct?

14 A Yes sir.

15 Q You got an invitation to go and it was from the
16 Weinstein Company?

17 A Yes sir.

18 Q And when you got that invitation to go from the
19 Weinstein Company, regardless of whether or not it was Mandela,
20 you went to the premiere, didn't you?

21 A Yes sir, I did.

22 Q Mr. Weinstein was there?

23 A I don't remember if he was there or not, he probably
24 was there.

25 Q Did you see him there?

1 A I don't remember if I saw him there or not.

2 Q You went to the Lilyhammer event, didn't you?

3 A The lilly what?

4 Q TV show Lilyhammer, do you recall?

5 A No sir, I don't recall.

6 Q Do you ever recall going to a show that was produced by
7 Harvey Weinstein and Steve Van Zandt for the show Lilyhammer or
8 being invited to go?

9 A I don't recall, I recall the Mandela because it is
10 Mandela, you know.

11 Q Did you go to other Weinstein events over the years if
12 there were premiers?

13 A Yes.

14 Q Harvey was at a lot of those events?

15 A I recall him being at two other events.

16 Q You would see him there?

17 A Yes.

18 Q Would you talk to him?

19 A Only if he said hello.

20 Q You would say hello back?

21 A On that one instance I said hello sarcastically back.

22 Q And are you aware that Ms. Sciorra testified yesterday
23 about people she talked to regarding this incident?

24 A No.

25 Q But in October of 2017 when Ms. Sciorra was going

1 public with this, she was still very close with you, right?

2 A Yes sir.

3 Q You would still discuss with her these events, correct?

4 A Yes, uh huh.

5 Q You would discuss what had happened, right?

6 A Prior to talking to Ronan, no.

7 Q No?

8 A No.

9 Q Are you sure?

10 A Yes.

11 Q And you know --

12 A He called her first, then called me. So no, prior to
13 her talking to Ronan, no.

14 Q What did you say, I did not hear you.

15 A he called her first.

16 Q Did she call you, text you, talk to you about it?

17 A Yes.

18 Q So you knew Ronan Farrow was going to be reaching out
19 to you?

20 A Yes, but I didn't know when.

21 Q You knew why he was going to be reaching out to you,
22 didn't you?

23 A Yes.

24 Q He was going to be reaching out to you to talk to you
25 what Annabella Sciorra said happened to her, right?

1 A Yes.

2 Q And did you know at that time Ms. Sciorra had said she
3 never spoke to anybody about this?

4 A At that time?

5 Q Yes.

6 A When she spoke to Ronan?

7 Q Yes?

8 A I don't know, I don't remember what she said to Ronan
9 because that article was a while ago. I only read it once, if
10 you like me to read it again.

11 (Continued on next page)

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1 (Continued from the previous page.)

2 BY MR. CHERONIS:

3 Q You testified that you and Ms. Sciorra talked about
4 this incident multiple times, correct?

5 A We talked about it. We talked about it a couple of
6 days after the initial call. I didn't talk about it again to
7 her.

8 When I made that phone call to her in London, we
9 talked about it again. She made me promise to never, ever,
10 ever tell anybody and that she never wanted to talk about it
11 again.

12 So we had not spoken about it ever sense then, until
13 the time when the Ronan Farrow article came up.

14 Q So my question is, are you aware that Ms. Sciorra,
15 that she said she hadn't told anybody about that incident?

16 MS. ILLUZZI-ORBON: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: No.

19 Q Okay.

20 MS. ILLUZZI-ORBON: Again, Judge, that wasn't the
21 testimony, objection. She never told anybody about it,
22 that's just not the testimony.

23 MR. CHERONIS: She spoke to the state.

24 MS. ILLUZZI-ORBON: Objection, Judge.

25 THE COURT: Next question, please.

1 Q Do you know a man named Paul Felcher?

2 A I don't think so. I don't know.

3 Q Did you ever go over to the Gramercy residence where
4 Ms. Sciorra lived?

5 A I never went and saw it. I would always tell her, I
6 will go pick you up and she would be waiting outside.

7 Q You never walked in the door?

8 A No, sir.

9 Q It was a nice place at least from the outside?

10 A Yes, sir.

11 Q And how often over the last couple of months have you
12 spoken to Ms. Sciorra?

13 A Over what months, currently?

14 Q Months over of this trial.

15 A Well, we talk about -- but, you know, we made a
16 promise to each other that we were not going to discuss the
17 trial.

18 Q You didn't discuss the trial?

19 A No, sir.

20 Q You didn't discuss any of the events leading up to the
21 trial?

22 A No, sir.

23 Q Didn't text message about any of that?

24 A Yes, we have.

25 Q Because you and her are very good friends, right?

1 A Yes.

2 Q And in October of 2017 when she went public, she
3 needed a friend, didn't she?

4 MS. ILLUZZI-ORBON: Objection.

5 THE COURT: Sustained.

6 Q And you went with her to talk with Ronan Farrow or
7 around the same time?

8 A I didn't go with her --

9 Q -- around the same time?

10 MS. ILLUZZI-ORBON: Objection.

11 THE COURT: Sustained.

12 Q You corroborated her story, didn't you?

13 MS. ILLUZZI-ORBON: Objection.

14 MR. CHERONIS: That's not an improper question.

15 That is not an improper question.

16 MS. ILLUZZI-ORBON: Objection.

17 THE COURT: Ask the question, please.

18 Q Your story mirrored her's, didn't it?

19 MS. ILLUZZI-ORBON: Objection.

20 THE COURT: Sustained.

21 Q Well, you read her account of the incident, didn't
22 you?

23 A Prior to talking to Ronan, no.

24 Q You read it in the book?

25 A I didn't read his book.

1 Q You knew that Annabella said she was wearing an
2 heirloom nightgown, right?

3 A Because she told me that.

4 Q It was also in the book.

5 A Okay, but I didn't read the book. With all due
6 respect, I didn't read the book.

7 Q But you had talked to her before that?

8 A Talked to her when?

9 Q Well, you tell me, leading up to the time she talked
10 to Ronan Farrow?

11 A Like I told you, I did not discuss the rape with her
12 prior to talking -- to her talking to Ronan. We did not
13 discuss it.

14 Q When you spoke to Mr. Farrow, you told him that you
15 first learned about this when you called her in London, right?

16 A No, sir.

17 Q Have you been to any of Ms. Sciorra houses in New York
18 other than the Gramercy one?

19 A Um, yes.

20 Q Okay. Do you remember which ones?

21 A In Chelsea and Williamsburg.

22 Q And that was -- was it Gramercy, Chelsea,
23 Williamsburg, do you know if that was sort of the order?

24 A I believe so.

25 Q Okay. And one last time, just so I am clear, when you

1 called her on the phone, what did she say?

2 A Which time, sir?

3 Q The first time.

4 A The first time?

5 Q Yes.

6 A I think something bad happened. I think something bad
7 happened to me. I think I was raped. I think I was raped.

8 You want me --

9 Q Then she talked about the heirloom?

10 A And then she said, I woke up on the floor and the, um,
11 my nightgown was pulled up and it was a heirloom nightgown.

12 Q That's what she told you?

13 A That's what she told me.

14 Q When she told you that, you didn't go to her house?
15 You didn't call the police? You didn't do any of that?

16 A Right because I was being respectful and I was in
17 shock.

18 Q Being respectful? You have a friend who may have been
19 attacked that night --

20 MS. ILLUZZI-ORBON: Objection, Judge.

21 THE COURT: Overruled.

22 Q Being respectful?

23 THE WITNESS: Does, overruled, mean I have to say
24 it?

25 THE COURT: It means you can answer it.

1 THE WITNESS: Could you repeat question?

2 Q You said you were being respectful and that's why you
3 didn't go over there?

4 A And I was until shock, yes.

5 Q In shock because your friend may be injured, your
6 friend may be hurt?

7 MS. ILLUZZI-ORBON: Objection. Objection.

8 MR. CHERONIS: That's a proper question.

9 THE COURT: Overruled.

10 THE WITNESS: Can you repeat the question,
11 please?

12 BY MR. CHERONIS:

13 Q I am going to try. You were in shock because at the
14 time your friend called you --

15 A Yes, I was in a panic. I was in a panic. I didn't
16 know what to do.

17 I was scared. I was scared for her. What I kept
18 doing was I kept calling and calling and calling and calling.

19 You know, you have a friend, a girlfriend, who tells
20 you something like that, you don't know what to do. You don't
21 know if you want to overstep your bounds and do something like
22 that.

23 You know, if she was -- she was my very, very good
24 friend. I mean, you know -- I -- it was shocking. It was -- I
25 was in shock. I was in a panic I remember that I kept calling

1 her repeatedly, crying, begging for her to pick up the phone to
2 see if she was okay.

3 And then when she said she was okay a couple of days
4 later, she said she didn't want to speak about it again.

5 Q Were you going out that night anyway? Were you going
6 to go out that night?

7 A I didn't go out that night.

8 Q I know you didn't. But your plan was when you called
9 her to go out --

10 A Yes.

11 Q -- were you going to pick up Annabella like you had in
12 the past?

13 A Yes, sir.

14 Q And you didn't drive over there?

15 A No, I was driving or on my way. No, I wasn't over
16 there yet.

17 MR. CHERONIS: No further questions.

18 THE COURT: Any redirect?

19 MS. ILLUZZI-ORBON: Yes, thank you.

20 REDIRECT EXAMINATION

21 BY MS. ILLUZZI-ORBON:

22 Q Ms. Perez, Mr. Cheronis asked you about you speaking
23 to Ronan Farrow and Annabella Sciorra speaking to Ronan Farrow.

24 Could you please tell the jury, if you know, how Ronan
25 Farrow reached out and why he reached out to Annabella?

1 MR. CHERONIS: Objection. That is speculation.
2 Beyond the scope. I didn't ask what was in Ronan Farrow's
3 mind.

4 THE COURT: Sustained.

5 MS. ILLUZZI-ORBON: It is not speculation, Judge.
6 Judge, can we approach?

7 THE COURT: Sure.

8 MS. ILLUZZI-ORBON: Thank you.

9 (Discussion held at the bench, off the
10 record.)

11 (The discussion off the record concluded,
12 and the following occurred in open court:)

13 BY MS. ILLUZZI-ORBON:

14 Q Ms. Perez, in October or around there of 2017, I am
15 just going to say in 2017 not knowing the month, were you
16 contacted by Ronan Farrow or did you call Ronan Farrow?

17 A I did not call Ronan Farrow. Ronan Farrow called me.

18 Q And at that time, had he already spoken to Annabella?

19 MR. CHERONIS: Objection, foundation.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 Q And what did Annabella tell him?

23 MR. CHERONIS: Objection.

24 THE COURT: Sustained.

25 Q Had Annabella told Ronan Farrow --

1 MR. CHERONIS: Objection.

2 THE COURT: Sustained.

3 Q Okay. What did you tell Ronan Farrow when he called
4 you regarding Annabella?

5 A I don't recall exactly everything that I had told him
6 that day but I did tell him, basically, the entirety of events
7 that were leading up to it. It was a very, very long
8 conversation, that I do remember.

9 And it was also a strange conversation because when I
10 had met him prior he was so fun and cordial and he was kind of
11 really businesslike.

12 Q Who was that?

13 A Ronan Farrow.

14 Q Did Ronan Farrow ask you to corroborate what Annabella
15 had told him or did you tell him what happened with Annabella?

16 A I told him what happened to Annabella. He told me
17 that he was --

18 MR. CHERONIS: Objection to what he said.

19 THE COURT: Sustained.

20 Q At the time you told Ronan Farrow what happened to
21 Annabella do you know whether or not Annabella had already told
22 Ronan what happened to her?

23 MR. CHERONIS: Objection. Objection.

24 Foundation. Speculation.

25 THE COURT: Overruled.

1 THE WITNESS: Did I know?

2 I don't know specifically what was discussed
3 between Ronan Farrow and Annabella. But, yes, I did
4 know --

5 MR. CHERONIS: Objection.

6 THE COURT: Sustained.

7 BY MS. ILLUZZI-ORBON:

8 Q Did you suggest to Ronan Farrow that he should call
9 Annabella about Harvey Weinstein?

10 A I did not directly tell Ronan Farrow to call
11 Annabella.

12 Q Who did you tell?

13 A My friend, Nicole Wallace.

14 Q And who is Nicole Wallace?

15 MR. CHERONIS: Objection, objection.

16 THE COURT: Overruled.

17 Q Who is Nicole Wallace?

18 A Nicole Wallace is a my friend that was a co-host with
19 me on The View and is now an anchor on MSNBC, Deadline White
20 House.

21 Q And did you suggest to Nicole that she should call
22 Annabella or Ronan should call Annabella?

23 MR. CHERONIS: Objection to leading.

24 THE COURT: Sustained.

25 MS. ILLUZZI-ORBON: One moment, Judge.

1 THE COURT: Sure.

2 Q Did you remember what Annabella told you before
3 Annabella spoke to Ronan Farrow?

4 MR. CHERONIS: Objection.

5 THE COURT: Sustained.

6 Q Mr. Cheronis asked you about calling Annabella in
7 London.

8 What did Annabella tell you happened with the
9 defendant in London?

10 A That he was harassing her and that she was scared that
11 he was going to get her again and that's, when she made that
12 statement, that's when I put two and two together.

13 And that's when I said, he is the one that raped you.

14 Q And what was her reaction?

15 A How do you know?

16 And I said, I didn't know. You just told me. You
17 just confirmed my speculation and --

18 MR. CHERONIS: Objection.

19 THE WITNESS: -- and then she started --

20 THE COURT: Overruled.

21 Q Go ahead.

22 A And then she started screaming, oh, my God. Oh, my
23 God. And she started crying hysterically and I got scared and
24 I tried to calm her down.

25 And I told her, don't you remember that phone call

1 when you sounded really weird and scared.

2 And I told her about the heirloom nightgown and she
3 just started crying.

4 And then at that time, that's when she gave me
5 specifics. That's when she started telling me detailed things
6 about the rape. And she was very, very, very distraught and we
7 both were crying over the phone.

8 And I told her, I said, Annabella, for the love of
9 God, please call the police but she was too scared too because
10 she thought that --

11 MR. CHERONIS: Objection.

12 THE COURT: Sustained.

13 Q Mr. Cheronis asked you repeatedly about the sequence
14 of events that Ms. Sciorra told you when you first spoke to her
15 in New York and she had spoke in this low voice.

16 I am directing you to that. Do you recall those
17 questions?

18 A Yes.

19 Q When Annabella said she woke up on the floor, did you
20 take that to mean that she didn't remember what happened during
21 the course of the rape?

22 A No.

23 MS. ILLUZZI-ORBON: Nothing further.

24 THE COURT: Mr. Cheronis.

25

1 BY MR. CHERONIS:

2 Q She said, I think I was raped, right?

3 A She said, I think I was raped. Um, I think it was
4 rape.

5 And I said, well, what do you mean, you think it was
6 rape? Were you raped or were you not raped?

7 And she said, yes. Like that, she was, yes, and it
8 was heart breaking.

9 Q You called Nicole Wallace who you said is a friend of
10 yours?

11 A Yes, sir.

12 Q Did you tell Annabella you were going to call her?

13 A No, sir.

14 Q Because you had promised not to talk about anything
15 that Annabella had said about the rape, right?

16 A Yes, sir.

17 Q Back in 1993, you didn't tell anybody about this?

18 A No, sir, I did not.

19 Q Okay. You didn't talk to anybody about it?

20 A No, sir, I did not.

21 Q And your testimony and Annabella's are pretty
22 consistent, aren't they?

23 MS. ILLUZZI-ORBON: Objection.

24 THE COURT: Sustained.

25 THE WITNESS: I don't know what her testimony

1 was, sir.

2 BY MS. ILLUZZI-ORBON:

3 Q Ms. Perez, did you ever tell Annabella that you told
4 Nicole Wallace?

5 A I told her -- I told her after the fact because I
6 betrayed my promise to her to never tell anybody that I knew.
7 I did not tell Nicole Wallace that it was Annabella and that
8 she was raped. I called Nicole Wallace without Annabella's --

9 MR. CHERONIS: Objection.

10 THE WITNESS: -- knowledge.

11 THE COURT: Overruled.

12 Anything that does not go beyond the scope?

13 MR. CHERONIS: No.

14 MS. ILLUZZI-ORBON: No.

15 THE COURT: Thank you very much for your
16 testimony. You may step down.

17 You are excused.

18 THE WITNESS: Thank you.

19 (Witness is excused.)

20 SERGEANT: Miss, follow me.

21 THE COURT: People do you have another witness?

22 MS. ILLUZZI-ORBON: It depends, Judge. I think
23 we need to speak about it.

24 THE COURT: Okay.

25 MS. ILLUZZI-ORBON: Thank you.

1 (Discussion held at the bench, off the
2 record.)

3 (The discussion off the record concluded,
4 and the following occurred in open court:)

5 THE COURT: Okay, People call your next witness.

6 MS. ILLUZZI-ORBON: Thank you. The People call
7 Kara Young.

8 MR. AIDALA: That's over the defenses, objection,
9 Your Honor.

10 SERGEANT: Witness entering.

11 (Witness entered the courtroom.)

12 SERGEANT: Follow me. Watch your step, please.

13 COURT OFFICER: Watch your step, please. Remain
14 standing. Raise your right hand. Face the Clerk.

15 THE CLERK: Do you swear or affirm the testimony
16 you are about to give today will be the truth, the whole
17 truth and nothing but the truth under the penalty of
18 perjury?

19 THE WITNESS: I do.

20 K A R A Y O U N G,

21 called as a witness on behalf of the People, being first duly
22 sworn by the Clerk of the Court, was examined and testified as
23 follows:

24 THE CLERK: Please have a seat.

25 THE COURT: In a loud clear voice, please give

1 your full name, spell your last name.

2 THE WITNESS: Kara Young. YOUNG.

3 COURT OFFICER: Your county of residence, please.

4 THE WITNESS: New York, Kings County.

5 THE COURT: All right, Ms. Young.

6 Please listen carefully to the questions from the
7 District Attorney and answer her questions to the best of
8 your ability.

9 Please answer them loudly, clearly and slowly.
10 Please give full and complete responses to all of her
11 questions but try not to volunteer any information beyond
12 her specific question area.

13 On cross-examination, Mr. Aidala is likely to ask
14 you questions also. If and when he choses to do so, please
15 give to him the same courtesy that you are about to give to
16 the DA.

17 If you are comfortable responding directly to the
18 jury, you may do that; otherwise, just respond to whomever
19 is asking you questions at any given time. Okay.

20 Try to speak loudly and directly right into the
21 microphone there.

22 And please inquire, ADA Illuzzi.

23 MS. ILLUZZI-ORBON: Thank you, Judge.

24 DIRECT EXAMINATION

25 BY MS. ILLUZZI-ORBON:

1 Q Good afternoon, Ms. Young.

2 A Good afternoon.

3 Q Are you currently living in New York?

4 A Yes, I do.

5 Q How long have you been a New Yorker?

6 A Thirty years.

7 Q Have you been working in the entertainment industry?

8 A I was a model if you consider that entertainment, yes,
9 then.

10 Q Are you still involved in the entertainment industry?

11 A Not really.

12 Q At some point in time were you also an actor?

13 A No.

14 Q Do you know a man named Harvey Weinstein?

15 A Yes.

16 Q And could you point him out for the Court if you see
17 him in the court. Point him out for the court and describe
18 what he is wearing.

19 MR. AIDALA: Acknowledging Mr. Weinstein.

20 MS. ILLUZZI-ORBON: Thank you, Mr. Aidala.

21 Q How do you know Mr. Weinstein?

22 A Through a mutual acquaintance. My ex-husband was a
23 photographer and did some of his movie posters and just on a
24 holiday see him on vacation at times.

25 Q Do you know a woman named Annabella Sciorra?

1 A Yes, I do.

2 Q How do you know Annabella?

3 A We became friends in the late '80s, early '90s and hit
4 it off really well and we have been friends ever since.

5 Q You have to talk just a little bit louder.

6 Were you a model when you met Annabella?

7 A Yes, I was.

8 Q Do you remember when that was, approximately, that you
9 met Annabella?

10 A We were at a concert, Simon and Garfunkel in Montauk
11 staying out there. So I want to say it was '89, '90.

12 Q You are dating us all with Simon and Garfunkel I am
13 sure.

14 A They weren't together.

15 Q I am going to direct your attention now to March of
16 1994.

17 Do you recall that time?

18 A Yes, I do.

19 Q I am going to direct your attention, specifically, to
20 the Academy Awards, the 1994 Academy Awards.

21 Do you recall that broadcast?

22 A Yes, I do.

23 Q Where were you during the broadcast of the Academy
24 Awards in 1994?

25 A I was watching the Academy Awards with Annabella and

1 Julian Schnabel's house with her boyfriend, Gary Oldman at the
2 time and my husband Sante D'Orazio.

3 Q The microphone is terrible. Raise your voice.

4 And without telling us anything that anyone said,
5 how -- what was Ms. Sciorra's demeanor and affect on that
6 evening?

7 A She was different. She was different than I knew her
8 before. She was fidgety and nervous around, um, she seemed
9 like a mess.

10 Q Did there come a point in time that evening when you
11 noticed something about Ms. Sciorra's body?

12 A Yes.

13 Q Could you describe for the jury what you noticed?

14 A She had cuts between her legs, on her upper thighs.

15 Q Could you describe the cuts for the jury?

16 A Long skinny cuts, this way.

17 Q You have to show us again.

18 A This way.

19 Q Indicating up and down?

20 A Up and down. Not across. Up and down.

21 Q And where were they on her legs?

22 A Between her legs.

23 Q Did you address it?

24 A I asked her what was that? What -- was she -- was she
25 cutting herself?

1 Q Without telling us any of the conversations, did she
2 acknowledge that she was engaging in self-harm, cutting
3 herself?

4 MR. CHERONIS: Objection, hearsay.

5 THE WITNESS: She said she was.

6 THE COURT: Overruled.

7 MS. ILLUZZI-ORBON: I have nothing further.

8 THE COURT: Cross-examination.

9 MS. ILLUZZI-ORBON: Oh, I am sorry.

10 May I reopen my direct examination for one
11 photograph?

12 THE COURT: Yes.

13 BY MS. ILLUZZI-ORBON:

14 Q Ms. Young, I am going to show you an exhibit which has
15 been previously marked in evidence before this jury, marked
16 People's Exhibit 30 in evidence. It's going to be on the
17 screen in front of you have and behind you.

18 Do you recognize that photograph?

19 A Yes.

20 Q Who is it?

21 A It's me and Annabella Sciorra.

22 Q Do you remember, approximately, when that photograph
23 was taken?

24 A I think it's in the mid '90s.

25 MS. ILLUZZI-ORBON: Thank you. No further

1 questions. Thank you.

2 MR. AIDALA: Can I have a moment, please?

3 THE COURT: Are you moving that into evidence.

4 MS. ILLUZZI-ORBON: It was already moved into
5 evidence.

6 THE COURT: Okay.

7 CROSS-EXAMINATION

8 BY MR. AIDALA:

9 Q Good afternoon, Ms. Young.

10 A Good afternoon.

11 Q My name is Arthur Aidala and I am one of the lawyers
12 for Mr. Weinstein. I am just going to ask you a couple of
13 questions, okay?

14 A Okay.

15 Q You said you were -- you became friends with Annabella
16 in the late 1980s correct?

17 A Correct.

18 Q And just to put that in context from a timeframe of
19 how far back we are going, that's before President Obama,
20 before president George W. Bush, before President Clinton, it's
21 actually when present George H. W. Bush was the President of
22 the United States, correct?

23 A Correct.

24 Q And you said '89, '90 that's when the Iran -- the
25 first Iran -- excuse me, Iraq war was going on, correct?

1 A Yes.

2 Q And with what modeling agency were you affiliated?

3 A Elite.

4 Q And where in Montauk did you see the Simon and
5 Garfunkel concert?

6 A We were staying at Julian Schnabel's house right on
7 the beach and we walked to the concert through the fields.
8 There was a lot of people. There was a lot of different houses
9 and a lot of people came that day, otherwise, I wouldn't
10 remember.

11 Q Was Annabella staying at that house?

12 A Yes.

13 Q And those were the circumstances under which you met
14 her, correct?

15 A Yes.

16 Q And from that time in 1990, until the night in
17 question that you talked about watching the Academy Awards, you
18 had not seen her very often, correct?

19 A We would go through phases where we would see each
20 other a lot and then not see much because of what I did and she
21 did for a living. Sometimes we would go a couple of months
22 without seeing each other and sometimes we would see each other
23 very often.

24 Q Did you know her husband?

25 A No.

1 Q Did you know that she got thrown out of her apartment
2 or Central Park West?

3 MS. ILLUZZI-ORBON: Objection.

4 THE COURT: Sustained.

5 Q Did you know that she was sued by her landlord on
6 Central Park West?

7 MS. ILLUZZI-ORBON: Objection.

8 THE COURT: Sustained.

9 Q Well, were you close enough that you guys would talk
10 about personal things between the two of you?

11 A Of course we would talk about money and personal
12 things.

13 Q Did she discuss with you the terms of her marriage?

14 MS. ILLUZZI-ORBON: Objection.

15 THE COURT: Sustained.

16 Q Did she talk to you -- she talked to you about
17 personal things, you just said money things, correct?

18 A Sure.

19 Q And during that period of time, that was the period of
20 time where she did some pretty big movies, correct?

21 A Yes.

22 Q She did Jungle Fever, right?

23 A Yes.

24 Q That was a big movie for her?

25 A Correct.

1 Q Did she tell you she made a lot of money doing that
2 movie?

3 MS. ILLUZZI-ORBON: Objection, Judge.

4 THE COURT: Sustained.

5 Q You said you talked about financial issues with her,
6 correct?

7 A Yes. When they were good or bad.

8 Q Good or bad, right?

9 So when she was doing Jungle Fever things were good
10 for her financially, correct?

11 MS. ILLUZZI-ORBON: Objection.

12 THE COURT: Sustained.

13 Q Were there other issues that you discussed with her
14 besides her finances?

15 MS. ILLUZZI-ORBON: Objection, Judge.

16 THE COURT: Sustained.

17 Q Well, I will ask you a question, what do friends talk
18 about?

19 MS. ILLUZZI-ORBON: Objection.

20 THE COURT: Sustained.

21 Q What was the degree of friendship that you had, did
22 you talk every day on the telephone?

23 A Not every day, no.

24 Q Did you talk once a week on the telephone?

25 A Yes, probably.

1 Q And from when you met her at the Simon and Garfunkel
2 concert, until the night that you spoke to her at the Academy
3 Awards get together, would you say -- you would say you saw her
4 once a month?

5 A A lot at that time.

6 Q A lot at the time of 1994?

7 A Yes.

8 Q And in 1994, the Academy Awards take place in,
9 approximately, February, March, does that make sense?

10 A Yes, I think it was when they took place towards the
11 end of March.

12 Q And you were living in New York City at the time,
13 correct?

14 A Yes.

15 Q And at that period of time it's usually kind of chilly
16 in New York City?

17 A In March, sometimes its cold and sometimes it is not.

18 Q Comes in like a lion and leaves like a lamb? Are you
19 familiar with that expression?

20 MS. ILLUZZI-ORBON: Objection, Judge.

21 THE COURT: Sustained.

22 Q What I would like to ask you if you remember exactly
23 on that night in March what Ms. Sciorra was wearing?

24 A No, I don't.

25 Q But she was wearing articles of clothing that enabled

1 you to see her upper thighs, is that what you are saying?

2 A Yes.

3 Q And who hosted the Academy Awards in 1994?

4 A I don't remember. I think -- I only remember because
5 it was Gary's birthday.

6 Q And whose apartment were you in?

7 A Julian Schnabel.

8 Q Did you know that Schindler's List won the Academy
9 Award that year?

10 A I think it did.

11 Q And during the course of your conversations and your
12 friendship with Annabella, did she -- were you guys close
13 enough that she confided in you that she was addicted to
14 Valium?

15 MS. ILLUZZI-ORBON: Objection.

16 THE COURT: Sustained.

17 Q You said you guys were very tight at that period of
18 time?

19 A Yes.

20 Q Around '93, '94, is that correct?

21 A Especially, yes .

22 Q Did she tell you she was struggling with drug
23 addiction?

24 MS. ILLUZZI-ORBON: Objection.

25 THE COURT: Sustained.

1 Q Did she tell you she was struggling with alcohol?

2 MS. ILLUZZI-ORBON: Objection.

3 THE COURT: Sustained.

4 Q Did she tell you that she was so exhausted from
5 working that she couldn't even continue in her field and she
6 needed a break?

7 MS. ILLUZZI-ORBON: Objection.

8 THE COURT: Sustained.

9 Q Do you remember what you were wearing that night?

10 A No.

11 Q Do you wear -- excuse me, I will take that back.

12 When it's cold outside you wouldn't wear something
13 that would expose your legs all the way up to the point where
14 someone could see your upper thigh, would you?

15 A I have many times.

16 Q And would that be work or would that be to go to a
17 birthday, Academy Awards party?

18 A I could do either.

19 Q And, well, you have told us that Annabella was acting
20 very differently than you had seen her act in the past,
21 correct?

22 A Yes.

23 Q You said she was shaking, right?

24 A Yes.

25 Q She was jittery, right?

1 A Yes.

2 Q Just like someone who would be coming off of an
3 addiction, right?

4 MS. ILLUZZI-ORBON: Objection, Judge.

5 THE COURT: Overruled.

6 Q Do you know of anyone who has been an alcoholic and
7 they are coming -- they are getting treatment and they are
8 coming off of their the addiction to alcohol?

9 A Yes.

10 Q And have you known -- and isn't it true that people
11 who are detoxing from alcohol have certain symptoms?

12 MS. ILLUZZI-ORBON: Objection, Judge.

13 THE COURT: Sustained.

14 Q People who are detoxing from drugs have certain
15 symptoms, isn't that correct?

16 MS. ILLUZZI-ORBON: Objection, Judge.

17 THE COURT: Sustained.

18 Q Do you know people who have had drug problems?

19 MS. ILLUZZI-ORBON: Objection, Judge.

20 THE COURT: Sustained.

21 Q Do you know people who have been upset and been
22 jittery for very different reasons in their lives?

23 MS. ILLUZZI-ORBON: Objection, Judge.

24 THE COURT: Objection.

25 Sustained.

1 Q You don't know why Annabella was acting jittery that
2 night, correct?

3 A I did. I think I do.

4 Q Nobody told you why she was acting jittery, correct?

5 A Not that evening.

6 Q In 1994, you had no idea why she was acting jittery,
7 correct?

8 A I found out in 1994.

9 Q On the night of the Academy Awards you did not know,
10 correct?

11 A I believe it was after that that I knew.

12 Q Okay. And tell me what the cuts looked like?

13 Did they look like a cat scratched you, like those
14 kinds of straight marks?

15 A Straight marks, thin.

16 Q And your friend, your good friend never told you
17 anything about that, correct?

18 MS. ILLUZZI-ORBON: Objection, Judge.

19 Q She never told you what the marks were, right?

20 THE COURT: Sustained.

21 Q So you just saw some scratches on her legs, correct?

22 A I asked her what they were.

23 Q You don't know how they got there, correct?

24 A I asked her were they cuts.

25 Q There came a time when you found out they were cuts,

1 correct?

2 A Yes.

3 Q Okay. And tell the Ladies and Gentlemen of the Jury
4 what doctor you called to guide you through helping your friend
5 with cutting herself?

6 MS. ILLUZZI-ORBON: Objection, Judge.

7 THE COURT: Sustained.

8 Q Did you call a doctor to ask how to handle the
9 situation for your friend?

10 MS. ILLUZZI-ORBON: Objection, Judge.

11 THE COURT: Sustained.

12 Q Who did you call withdrawn.

13 You didn't call anyone to figure out this problem,
14 someone in the medical industry, correct?

15 MS. ILLUZZI-ORBON: Objection, Judge.

16 THE COURT: Sustained.

17 Q You didn't call anyone to help you help your friend,
18 did you?

19 MS. ILLUZZI-ORBON: Objection, Judge.

20 THE COURT: Sustained.

21 Q Did you administer any help to your friend?

22 MS. ILLUZZI-ORBON: Objection, Judge.

23 THE COURT: Sustained.

24 MR. AIDALA: I would love to hear the grounds for
25 these objections, Your Honor. I would love to hear the

1 grounds.

2 THE COURT: Mr. Aidala, thank you. Sit down.

3 MR. AIDALA: Well, Your Honor, I have two more
4 pages of questions if the Court is ordering me to sit down.

5 I am asking relevant questions about her
6 relationship and about what she did when she found out
7 relevant issues to this case that were just brought out on
8 direct.

9 THE COURT: If you have no questions on
10 cross-examination for this witness, please sit down.

11 MR. AIDALA: I have plenty of questions, Your
12 Honor. May I continue.

13 THE COURT: Probably not, but why don't you step.

14 (Discussion held at the bench, off the
15 record.)

16 (The discussion off the record concluded,
17 and the following occurred in open court:)

18 CONTINUED CROSS-EXAMINATION

19 BY MR. AIDALA:

20 Q Ms. Young, when you saw those scratches or those cuts
21 on Annabella's leg, you never alerted Gary Oldman did you?

22 MS. ILLUZZI-ORBON: Objection.

23 THE WITNESS: No.

24 MR. AIDALA: Thank you. I have nothing further.

25 THE COURT: Any cross-examination?

1 MS. ILLUZZI-ORBON: No, thank you, Judge.

2 THE COURT: Thank you for your testimony, Ms.
3 Young. You are excused.

4 (Witness is excused.)

5 THE COURT: Do the People have any further
6 testimony or evidence?

7 MS. ILLUZZI-ORBON: Not for today, Judge.

8 THE COURT: Okay, Jurors. You see you
9 tomorrow -- not tomorrow. See you Monday at 9:30.

10 Please remain mindful of all of my prior
11 admonitions and instructions. Make that special effort to
12 not be exposed to any press or media about this case.

13 I am not saying it's easy. It's a challenge but
14 you really have to adhere to it. I have been practicing on
15 your behalf and it's not only doable, it's kind of pleasant
16 to not have a full segment of the media around you, so
17 enjoy it.

18 And as I said, do not discuss this case among
19 yourselves or with anyone else nor allow anyone to discuss
20 it in your presence and refrain from any and all research
21 or communication, electronic or otherwise, about anything
22 whatsoever to do with the case.

23 Have a great weekend. See you back here Monday
24 morning.

25 (Whereupon, the jury exited and the

1 following occurred.)

2 THE COURT: Okay. The jury has left. The door
3 is closed and for the record, my final ruling at the bench
4 was that Mr. Aidala was permitted to continue with his
5 cross-examination but I would stop sustaining the
6 objections and he would get the answers at his own peril
7 and the redirect at his own peril.

8 Okay, 9:30.

9 MR. CHERONIS: Can we put a few things on the
10 record, Your Honor.

11 THE COURT: Sure.

12 MR. CHERONIS: I objected during Dr. Ziv's
13 testimony on direct examination. It's my position that the
14 state went too far regarding her testimony, insofar as it
15 went beyond alleged victim responses to sexual assault and
16 it crossed over into, essentially, evidence that made it
17 more likely that the assault occurred.

18 We had filed numerous motions regarding this. I
19 am not going to belabor the point. All the law that we
20 thought was relevant we had included it in our motion in
21 limine.

22 So based on that, we are lodging a formal
23 objection and requesting a mistrial.

24 Regarding Kara Young, we objected to her
25 testimony based upon on the fact that we did not believe it

1 was relevant and it was sort of an outcry witness or a
2 corroboration witness that we did not think was
3 appropriate.

4 We also lodged an objection for Rosie Perez for
5 the reasons we included in orally before Court and do not
6 think that was a proper rehabilitation witness.

7 Additionally, Ms. Perez turned in to a quasi
8 expert on Hollywood despite the fact that she don't talk
9 about Mr. Weinstein, she started talking about hotels and
10 having meetings there which had absolutely nothing to do
11 with why she was called to testify. And she was allowed to
12 testify to that.

13 For those reasons, Your Honor, we are requesting
14 Your Honor to sustain those objections and we are
15 requesting a mistrial.

16 THE COURT: Anything on that, People?

17 MS. ILLUZZI-ORBON: Your Honor, the only thing I
18 think is worthwhile responding to is that --

19 MR. CHERONIS: I mean, come on.

20 MS. ILLUZZI-ORBON: -- is that they were probing
21 Kara Young's relationship to Annabella and with regards to
22 your ruling, Judge, I feel that we have respected it,
23 because it was in our view becoming dangerously close --

24 MR. CHERONIS: I am going to object.

25 MS. ILLUZZI-ORBON: Judge, you're --

1 MR. CHERONIS: I am going to object in putting
2 this on the record.

3 MS. ILLUZZI-ORBON: He can't just put stuff on
4 the record because he said outcry.

5 Kara Young is not a legal outcry but Annabella
6 did tell her that Harvey Weinstein raped her.

7 MR. CHERONIS: Objection. I was objecting to the
8 reason she was called and Ms. Illuzzi knows better than
9 this.

10 MS. ILLUZZI-ORBON: Knows better than what?

11 THE COURT: All right. I will see everybody at
12 9:30. This motion is denied. Have a good weekend.

13 Thank you.

14 (Off the record.)

15 THE COURT: I am receiving for the first time a
16 filing of January 23, 2020, regarding in reference to the
17 discussion regarding the People's email exhibits that were
18 heard just prior to the adjournment on January 23, 2020; so
19 I guess I will accept this but it is being given to me
20 after the fact. It does not address anything at the trial
21 that has not already been heard.

22 MS. ILLUZZI-ORBON: Your Honor, you asked me a
23 question before. I can answer it if someone can approach
24 with me at the bench.

25 THE COURT: Okay.

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(The trial was adjourned to January 27,
2020, at 9:30 a.m.)