

IN THE COUNTY COURT FOR
PINELLAS COUNTY, FLORIDA
Criminal Division E

-----x CASE NO. CTC 01-00101-MMANO
 : POSSESSION OF MARIJUANA
 STATE OF FLORIDA :
 :
 :
 vs. :
 :
 :
 JESSE PRINCE :
 SPN 02157727 :
 :
 :
 -----x

DEPONENT: MR. BRIAN RAFTERY
 DATE: May 15, 2001
 TIME: 1:30 p.m. - 2:50 p.m.
 LOCATION: Criminal Justice Center
 14250 49th Street North
 Room 1100
 Clearwater, FL 33762
 REPORTER: Crissy Cladakis
 Stenographic Reporter
 Notary Public
 State of Florida at Large

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APPEARANCES:

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Assistant State Attorney
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Clearwater, FL 33760

For Jesse Prince: DENIS M. de VLAMING, ESQUIRE
Denis M. de Vlaming, P.A.
1101 Turner Street
Clearwater, FL 33756

For Brian Raftery: PAUL DUVAL JOHNSON, ESQUIRE
101 South Franklin Street
Suite 101
Tampa, FL 33602

For Moxon & Kobrin: HELENA K. KOBRIN, ESQUIRE
Moxon & Kobrin
1100 Cleveland Street
Suite 900
Clearwater, FL 33755

ALSO PRESENT: JUDGE MICHAEL F. ANDREWS

I N D E X

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1 MRS. KOBRIN: Mr. Raftery is -- does work for
2 my firm. And to the extent that any work that he was
3 doing, as of to which he is being deposed here, was in
4 that capacity, then it implicates a work product of
5 our law firm.
6 MRS. WARDELL: Okay. So you have reason to
7 believe that some of the testimony he'll give today
8 may go to information that he gathered as a result of
9 your firm hiring him?
10 MRS. KOBRIN: That's correct.
11 MR. JOHNSON: Everything, yes, was a result
12 of that. However, the judge has made his rulings.
13 We're not anticipating that any of his answers will
14 violate the work-product privilege. We anticipate
15 that maybe, we don't know, some of the questions may.
16 MRS. WARDELL: Okay.
17 MR. JOHNSON: To that extent that possibility
18 may come up, Helena is much better suited to assert
19 the work-product privilege on behalf of her firm, who
20 employed Mr. Raftery, than I ever could be.
21 I represent Mr. Raftery in his capacity as an
22 investigator not through their law firm. And so in
23 that sense, I raised the informant and investigator
24 privileges and all of the other related arguments that
25 I did. I was not in a capacity to raise the

1 MRS. WARDELL: Please get this part on the
2 record. Could you please identify yourself?
3 MRS. KOBRIN: Sure. My name is Helena,
4 H-e-l-e-n-a, Kobrin, K-o-b-r-i-n.
5 MRS. WARDELL: And what is your interest in
6 this deposition?
7 MRS. KOBRIN: I'm a partner in the law firm
8 of Moxon & Kobrin. And I'm here to represent the --
9 my firm as far as any privileges, work-product
10 privileges, that are implicated in this deposition.
11 MRS. WARDELL: And who are you asserting this
12 on behalf of?
13 MRS. WARDELL: My firm. It's all privileged.
14 MR. de VLAMING: But who do you represent?
15 MRS. KOBRIN: I represent my firm --
16 MRS. WARDELL: Well --
17 MRS. KOBRIN: -- Moxon & Kobrin.
18 MRS. WARDELL: Today, this is the first I've
19 heard of that name as it relates to this case. So
20 could you be a little more specific?
21 MRS. KOBRIN: Oh, because -- because of the
22 investigators.
23 MR. JOHNSON: I have raised an investigative
24 privilege and informed privilege, which the court
25 abrogated the investigator privilege and I assume

1 work-product privileges.
2 MRS. WARDELL: You're here, I'm sorry, as his
3 employer, not as his attorney?
4 MRS. KOBRIN: As his employer, right.
5 MR. JOHNSON: The holder of the work-product
6 privilege.
7 MRS. WARDELL: Do you have any questions?
8 MR. de VLAMING: No. Let's go ahead and
9 start it. If we have a problem, we'll go upstairs.

11 BRIAN RAFTERY,
12 WAS CALLED AND AFTER BEING DULY SWORN WAS EXAMINED AND
13 TESTIFIED AS FOLLOWS:
14
15 DIRECT EXAMINATION
16 BY MR. de VLAMING:
17 Q. State your name, please.
18 A. My name is Brian Joseph Raftery
19 R-a-f-t-e-r-y.
20 Q. And what do you do for a living, Mr. Raftery?
21 A. I own a private investigative firm called
22 Worldwide Investigations and Security, Inc.
23 Q. And where are your offices located?
24 A. On Turner Street in Clearwater, 213 Turner
25 Street.

1 allowed the former privileges just to not exist.
2 Can we close the door, Helena?
3 MRS. KOBRIN: Yeah.
4 MR. JOHNSON: I did not raise work-product
5 privilege. It was discussed. I raised about nine
6 arguments. There is still remaining a work-product
7 privilege. It may or may not come into play during
8 these depositions. The holder of the work-product
9 privilege is Helena's law firm. I'm not able to make
10 any objection, should they be necessary. They may not
11 be necessary on behalf of her firm, who's retained
12 these witnesses. So it was decided Helena would come
13 in to raise any of those concerns.
14 MRS. WARDELL: I'm missing a link, and excuse
15 my ignorance. Work product as it relates to Mr.
16 Raftery and her law firm?
17 MRS. KOBRIN: Correct.
18 MR. JOHNSON: Correct.
19 MRS. WARDELL: Okay. That's what we just
20 wanted to get to the bottom of.
21 MRS. KOBRIN: Yes, right.
22 MRS. WARDELL: Mr. Raftery has sought the
23 help of your firm as it --
24 MRS. KOBRIN: No.
25 MR. JOHNSON: Incorrect.

1 Q. Do you have any other satellite offices?
2 A. No, I don't.
3 Q. What is your date of birth?
4 A. December 4th, 1941.
5 Q. Do you have any prior law enforcement
6 experience?
7 A. I was a supervisor and a special agent with
8 the Drug Enforcement Administration for 22 years.
9 Q. And when did you start your own private
10 investigative firm?
11 A. Probably five years ago, something like that.
12 Q. And do you have any primary clients?
13 A. Yes, I do.
14 Q. Okay. Is one of your clients The Church of
15 Scientology?
16 A. My client is Moxon & Kobrin.
17 Q. And to your knowledge, does that law firm
18 represent The Church of Scientology?
19 A. To my knowledge, one of their major clients
20 is The Church of Scientology.
21 Q. Now, did you have an occasion to conduct any
22 investigation concerning an individual by the name of
23 Jesse Prince?
24 A. Yes, I did.
25 Q. And how do you know Mr. Prince?

1 A. Oh, let's see. Originally, I would,
2 probably, know Mr. Prince when he came here
3 demonstrating against The Church of Scientology
4 several years ago.
5 Q. And how did you meet him in that capacity?
6 A. I didn't meet him. I just saw him here.
7 Q. And were you working for the church at that
8 time?
9 A. Yes. My primary work for the church is in
10 security. So whenever there's a demonstration or a
11 problem or some incident, that's how I become
12 involved.
13 Q. Have you conducted any investigation
14 concerning Mr. Prince?
15 A. Yes.
16 Q. What type of work have you done?
17 A. Surveillance --
18 MR. JOHNSON: As it relates to this
19 particular case or are you talking open-ended.
20 MR. de VLAMING: I'm talking about, has he
21 conducted any investigation concerning Mr. Jesse
22 Prince.
23 MR. JOHNSON: Okay. Then, to that extent,
24 since the Court order is specific to the investigative
25 and informant privilege related to this case, I'm

1 COURT REPORTER: "Q. Okay. And did you
2 tell him that you, yourself, had conducted an
3 investigation concerning Mr. Prince?
4 A. Yes.
5 Q. Did you tell him, that is Detective Crosby,
6 that Mr. Prince -- "
7 MR. de VLAMING:
8 Q. What exactly did you tell Detective Crosby
9 when you contacted him concerning this investigation?
10 A. I told him that as part of the investigation
11 a person by the name of Barry Gaston, also a private
12 investigator, had met with and then befriended by
13 Jesse Prince. And in the course of their going out
14 together, Jesse Prince and his girlfriend, Deneen
15 Phillips, had smoked drugs. Jesse, he believed, was
16 snorting coke. She may have been smoking a crack
17 pipe. He thought he saw Jesse involved in drugs sales
18 with people, and there was this type of activity.
19 The second that happened and Barry told me
20 that, I told him that I didn't want to have anything
21 further to do with Jesse Prince until this went to law
22 enforcement officials. I said, we just -- I said, "I
23 don't want you out with the man. I don't want you
24 anywhere near him and bring this to the attention of
25 the police."

1 going to instruct the witness, pursuant to the Court's
2 limitation and restriction and his order, to answer as
3 it relates to this case.
4 I'd be happy to show you the precise language
5 of the order, which gives me the power of limitation.
6 Also, under Rule 1.310C, which is adopted by Rule
7 3.220, on how to conduct a deposition.
8 MR. de VLAMING: Were you --
9 MRS. WARDELL: Let me make a call and go
10 ahead and get the judge and see if he's even
11 available.
12 MR. de VLAMING: Okay.
13 MR. JOHNSON: We might as well go through it
14 all.
15 MRS. WARDELL: I just want to see if he's
16 even going to be here.
17 BY MR. de VLAMING:
18 Q. Were you given any information concerning
19 Jesse Prince, any background information of any kind
20 concerning Mr. Prince?
21 MRS. KOBRIN: Objection to the extent there's
22 a work product there. If he was given information or
23 instructions in connection with an investigation, it
24 would be work product.
25 BY MR. de VLAMING:

1 Q. So you're saying that Barry Gaston told you
2 that he saw Jesse using hard drugs, snorting cocaine?
3 A. On one occasion he believes he saw Jesse
4 Prince snorting a line of coke.
5 Q. Okay. And --
6 A. As well as smoking marijuana.
7 Q. As well as smoking marijuana?
8 A. Uh-huh.
9 Q. As well as selling drugs?
10 A. It appeared to Barry Gaston that there may
11 have been a sale taking place.
12 Q. What did he tell you?
13 A. That he had met with some young, white people
14 outside of a bar called Wilson's Lounge and that they
15 had gone off, and it just looked, to him, like a drug
16 deal. Barry is also a 13- or 14-year police officer
17 and worked extensively in narcotics.
18 Q. Did you hire Barry Gaston?
19 A. No, I didn't.
20 Q. Who hired Barry Gaston? Do you know?
21 A. I really don't know, exactly, who hired Barry
22 Gaston.
23 Q. Did The Church of Scientology in any way hire
24 Barry Gaston to do confidential, informant work here
25 in our town?

1 Q. Were you given any instructions concerning
2 your investigation of Jesse Prince?
3 MRS. KOBRIN: Same objection.
4 MR. de VLAMING: We need the judge.
5 MRS. WARDELL: Maybe he should come here and,
6 maybe, sit and listen. I'm just kidding.
7 MR. de VLAMING:
8 Q. Did you have any conversations with a
9 Detective Crosby concerning Jesse Prince?
10 A. Yes.
11 Q. Did you tell Detective Crosby that you were
12 working for The Church of Scientology in your
13 investigation of Jesse Prince?
14 A. Yes.
15 Q. Okay. And did you tell him that you,
16 yourself, had conducted an investigation concerning
17 Mr. Prince?
18 A. Yes.
19 Q. And did you tell him, that is Detective
20 Crosby, that Mr. Prince --
21 (Phone call interruption.)
22 MR. de VLAMING: What's the last thing I
23 asked him?
24 (At this time the following questions and
25 answer were read back by the Court Reporter.)

1 A. Let me take that back. I know who hired
2 Barry Gaston. I don't know who hired the person who
3 hired Barry Gaston, specifically.
4 Q. Who hired Barry Gaston?
5 A. A person by the name of Joseph Fabrizio.
6 Q. Spell the last name.
7 A. Phonetic, Fabrizio, Joseph Fabrizio. He's a
8 private investigator.
9 Q. And how do you know Mr. Fabrizio?
10 A. I met him sometime after he had been employed
11 to, apparently, find --
12 MRS. KOBRIN: Objection. That's work
13 product. I don't have an objection to him telling him
14 how he met you. Just -- it's also speculation, on his
15 part, as to what Mr. Fabrizio was hired to do.
16 BY MR. de VLAMING:
17 Q. Do you know what Mr. Fabrizio was hired to
18 do?
19 A. I can guess what he was hired to do.
20 Q. What?
21 MRS. WARDELL: Well, I would object to the
22 witness guessing or speculating.
23 MR. de VLAMING: Well, it's a depo. I agree
24 it might not be introduced. It's discovery. It might
25 lead to other information.

MRS. WARDELL: Well, I just don't think witnesses should be guessing as to their answers. If you have more than a guess, if you have a good inclination or a good strong gut feeling, okay, but don't just guess.

THE DEPONENT: All right.

A. I probably have a -- I would be reasonably certain that what he was hired to do, Mr. Fabrizio, was to find a black private investigator who would be able to surveil Jesse into the neighborhoods where Jesse was going, which were high-drug, prostitution-type areas in Clearwater. And they're all black down there.

So in terms of conducting surveillance, it's extremely difficult for a white person to -- and you know right exactly where I'm talking about, right north of your office, right at the end of Greenwood down by that -- you know, that section down there.

MR. de VLAMING:

Q. Have you ever surveilled Jesse Prince?

A. Yes, sir.

Q. In your surveillance, did you ever use any equipment to videotape him?

A. Yes.

Q. And where is that videotape now? Do you have

I followed him into the Greenwood section, to bars, countless bars, followed him into just almost wherever you can think of in the area, out to Clearwater Beach.

Q. How often did you conduct this surveillance during that time frame? On a daily basis?

MR. JOHNSON: And again, the prosecutor has laid out the time frame. It's the time frame and related to this case.

THE DEPONENT: Okay.

MR. JOHNSON: And if you can, answer within that restriction.

A. I would say throughout -- in the course of a day, during -- sometime during the day, he would have been observed.

Q. By you?

A. By surveillance, yeah.

Q. Daily?

A. Probably, pretty much, because he's right there downtown Clearwater and that's where I am.

Q. Would you conduct this surveillance in an effort that he would not know he was being followed or did you want him to know he was being followed?

A. He has never seen me follow him. Jesse Prince has never had any inclination that I personally

copies of it?

MR. JOHNSON: To the extent that any -- the question goes to circumstances beyond this case, I'm going to object and instruct the witness not to answer based on the limitations of this inquiry set forth in the order of the Court and ask that -- I'm not objecting or instructing the witness not to answer to anything that relates to this case.

BY MR. de VLAMING:

Q. Did you conduct any surveillance -- do you follow that dictate of your lawyer?

A. I'd actually like to hear that again.

MR. JOHNSON: The question was very open-ended, "Have you ever videotaped him?" A follow up of, "Where is it?" As far as my ability to object, it would go only to things outside of this case, which is the scope of the inquiry allowed by the judge. If you had done so as it relates to this particular investigation, this case, the result of these charges, then you're free to answer. If it relates to anything else, it's outside the scope of the order. I assume Mrs. Kobrin's going to -- I don't know if there's a work-product privilege or not. I have no idea.

MRS. KOBRIN: I would object to the extent that any of the videos were taken on behalf of

was following him.

Q. How do you know that?

A. I know.

Q. Are you that good?

A. I'm that good.

Q. Do you have any tattoos?

A. Pardon me?

Q. Do you have any tattoos? Do you have any tattoos?

A. No.

Q. Okay. Have you ever had a motorcycle? Do you ride a motorcycle at all in your surveillance work?

A. No.

Q. Have you hired anybody, to your knowledge, that rides a motorcycle that has tattoos?

A. No.

Q. Have you hired any other -- any private investigators in relation to the investigation that resulted in Mr. Prince's arrest?

A. Say that again?

Q. Sure. Have you hired any investigators?

MR. JOHNSON: In this case.

A. Whose investigation helped or contributed to Jesse Prince's arrest?

counsel, for counsel, for an investigation that counsel was conducting. And we would object to it as work product.

MRS. WARDELL: Let me place on the record that the time frames that are covered with regards to this investigation, which, I believe, the Judge's order would cover, would be April 7th of 2000 or maybe a few days leading up to that with regards to any conversations you had that led Gaston to do what he did, through August 11th, the day of his arrest.

BY MR. de VLAMING:

Q. On or about the dates that you just heard, did you conduct any surveillance of Jesse Smith -- or Jesse Prince?

A. Yes, sir.

Q. Where did you surveil him, and what did you do?

A. I conducted surveillance.

Q. Where?

A. And it would have been in the Clearwater area.

Q. Did you follow him? Did you film him by his house? Tell me where you went.

A. I followed him from his house, to his house, to the LMT, 33 North Fort Harrison. It's an office.

BY MR. de VLAMING:

Q. Correct.

A. No.

Q. When did you first talk to Barry Gaston?

A. I don't know. It was in the -- somewhere in the first week of February. I guess it would have been a little bit after that, because I remember -- I don't have many dates in my head, but I remember that something like February 9th was the first time he came to Clearwater. But I didn't talk to him that night, so I don't really -- I don't really remember exactly when I first talked to him.

Q. Did you talk to him first before he had befriended Mr. Prince or after?

A. He didn't befriend Mr. Prince. Mr. Prince befriended him. He was sitting on a surveillance in a bar and Jesse walked up and introduced himself to him and invited him over to join him at the table.

Q. Mr. Gaston told you that?

A. Yes.

Q. Did Mr. Gaston also tell you that his purpose of being in that bar was to -- in the hopes that he would be able to form a friendship with Mr. Prince?

A. No, that was never part of the idea at all. The idea was that Barry, because he was able to go

1 into the black areas and so forth, could conduct a
2 surveillance of the activities of Mr. Prince.
3 Now, as it turned out, Jesse walked up to
4 him, from my understanding of what Barry told me, and
5 introduced himself to him -- introduced and they
6 started talking, and that's how that whole thing
7 began.
8 Q. Okay. Do you know what orders were given to
9 Mr. Gaston concerning his investigation of Mr. Prince?
10 MRS. KOBRIN: Objection. Work product.
11 MR. de VLAMING: Well, let me just get an
12 answer yes or no, and then we'll find out whether --
13 MRS. KOBRIN: Okay.
14 BY MR. de VLAMING:
15 Q. Do you know?
16 MR. JOHNSON: Well, are you saying that's a
17 waiver of work product?
18 MRS. WARDELL: No, no, no.
19 MRS. KOBRIN: No. He's saying, yes or no,
20 does he know.
21 MRS. WARDELL: So we'll know whether or not
22 it's worth taking to the judge.
23 MRS. KOBRIN: He can answer whether he knows.
24 A. I would, again, have to say I think I know.
25 I don't know because I wasn't there. I don't know

1 what, exactly, somebody said to him.
2 MRS. WARDELL: But you know from either Mr.
3 Gaston or perhaps some other employer who told you in
4 the course of your investigation?
5 THE DEPONENT: Uh-huh.
6 MRS. WARDELL: In other words, it was
7 information you learned during your investigation?
8 THE DEPONENT: Yes, ma'am.
9 BY MR. de VLAMING:
10 Q. And that might include the private
11 investigator whose name you put on the record before?
12 A. Joseph Fabrizio?
13 Q. Right.
14 A. Uh-huh, yes.
15 Q. And what type of regularity contact did you
16 have with Gaston during the course of this
17 investigation? Did you speak with him once a week?
18 Once a day or what?
19 A. I didn't speak to him, sometimes, for weeks
20 at a time. As I recall, the way it was initially set
21 up was that Barry would come into town approximately
22 twice a week. So generally, I would see him when he
23 came into town with Joseph Fabrizio, and it didn't
24 always happen twice a week. Sometimes there were
25 weeks in between where several weeks would go. So I

1 would have no reason to talk to him.
2 Q. Did you ever tell Mr. Gaston anything
3 relating to the daily surveillance you were doing of
4 Mr. Prince that would help him in some way?
5 A. Absolutely. That was really the purpose of
6 my meeting with him, would be to just advise him as to
7 where Jesse was. Was he down in Greenwood? Was he
8 home? Was he over at Wilson's Bar? Was he doing this
9 or that? And that was, generally, the reason why I
10 would go meet them.
11 Q. To your knowledge, would that help Mr. Gaston
12 in order to position himself to conduct his work of
13 Mr. Prince?
14 A. Absolutely, certainly.
15 Q. And how many times, to your knowledge, did
16 Mr. Gaston come into town, that is this town, to
17 conduct either his work or surveillance concerning Mr.
18 Prince?
19 A. I don't know.
20 Q. Do you know how many days it took before Mr.
21 Gaston came in contact, that is physical contact, with
22 Mr. Prince? In other words, was he able to zero right
23 in on him when he came into town based upon your
24 surveillance?
25 A. No. Because -- like, for instance, the

1 surveillance could only determine where Jesse was, not
2 where he was going. And so the idea was, if at all
3 possible, to have -- let Barry figure out if Jesse was
4 home, is he going to go down to Greenwood, is he going
5 to go over to Wilson's or what was he going to do.
6 That was just a guess. A hit and miss.
7 Q. Did you ever call Mr. Gaston up and say, "I
8 just surveilled Jesse Prince to Wilson's Liquors.
9 He's there now?"
10 A. Yes. Probably. I mean, I'm saying in -- do
11 I specifically remember doing a certain time at
12 Wilson's Liquors? No. Would I have done it? Yes.
13 (Phone call interruption.)
14 (At this time there was a discussion
15 off the record.)
16 BY MR. de VLAMING:
17 Q. But you do recall times when you would have
18 called Mr. Gaston and gave him the benefit of your
19 surveillance?
20 A. Yes.
21 Q. And to your knowledge, would you do that by
22 cell phone?
23 A. Let me say I would call Mr. Gaston or Joe
24 Fabrizio. And yes, we'd use a cell phone.
25 Q. Had you worked with Mr. Fabrizio in the past?

1 A. No. I never met him before in my lifetime.
2 This is just --
3 Q. But he was given to you as the contact person
4 if you couldn't get Gaston?
5 A. Right. In fact, he was Barry's employer or
6 vice versa. In other words, Barry owns his own
7 license. He has an A license as a private
8 investigator, so he has his own firm. Joseph Fabrizio
9 has an A license and has his own firm, so Joseph
10 simply contacted Barry somehow -- I think through the
11 association of private investigators -- and I believe
12 that's how they hooked up. But you can ask him and
13 he'll tell you.
14 Q. Why did Fabrizio call you? How did you get
15 into the loop of this investigation if it was Fabrizio
16 and Gaston? How did Raftery get involved?
17 A. Oh, gosh. Somewhere I was asked to
18 coordinate with Fabrizio to let him know where Jesse
19 might be or not be when this thing began. This was --
20 I didn't even know they were coming until they were
21 basically there. I think it was like the day they
22 were coming and I was advised that they were going to
23 be in town and that they would have the, you know --
24 that they've got a black investigator, that they're
25 going to have the capability of going down to

1 Greenwood and hanging out and so forth. So they said,
2 "Will you go up and meet Mr. Fabrizio and just tell
3 him where everybody is?"
4 Q. Well, who said that to you, will you go up
5 and meet Fabrizio?
6 A. That probably came from Mr. Ben Shaw.
7 Q. Okay. And who is Mr. Ben Shaw?
8 A. Mr. Ben Shaw is the chief of OSA, Office of
9 Special Affairs.
10 Q. Of The Church of Scientology?
11 A. Church of Scientology, uh-huh. And the Flag.
12 Q. So Ben Shaw, then, was the -- I'll call it
13 intermediary. If you want to use another word, that's
14 fine, but intermediary of getting Fabrizio and Raftery
15 together? Is that what --
16 A. That's to the best of my memory, yeah.
17 Q. What do you think Ben Shaw told you about
18 this investigation?
19 A. We've got someone in town that can assist
20 with the --
21 MRS. KOBRIN: I'm going to object to work
22 product.
23 BY MR. de VLAMING:
24 Q. To your knowledge, was it Mr. Shaw, then, who
25 was the first person that told you that there was a

1 collateral investigation -- what I'll call a
 2 collateral investigation -- of Mr. Prince involving a
 3 black PI named Gaston? Is that how you think you
 4 learned about it?
 5 A. To the best of my memory, yeah.
 6 Q. So then after that, then that's when you and
 7 Fabrizio started talking?
 8 A. Exactly.
 9 Q. Okay. Did you ever sit down with Gaston and
 10 give him a briefing in any way about Jesse Prince, who
 11 he was and why Gaston was doing what he was doing?
 12 A. Probably.
 13 Q. Okay.
 14 A. Yeah. I would say, yes.
 15 Q. And what did you tell him?
 16 A. Basically, I told him that Jesse was the
 17 subject of a surveillance. I told him where he hangs
 18 out. I told him that he's, you know -- in my opinion,
 19 he's a chronic alcoholic. That he'll be in one of
 20 several bars that we'd identify. We know where he
 21 goes, and that we would want him to conduct a
 22 surveillance, your basic surveillance. Who does he
 23 meet with? Who are his associates, affiliations,
 24 methods? What he does every day. You know, just
 25 general surveillance of the person.

1 I withdrew my objection. You may need to hear the
 2 record, but specifically, I think some of the
 3 questions were very open-ended, asking for
 4 investigative work Mr. Raftery did, whose the
 5 gentleman at the end of the table, beyond the scope of
 6 this case. I made an objection based on your order
 7 which limited, I thought to this case, just as to the
 8 scope of the question. And sometimes, sometimes not,
 9 Mrs. Kobrin would also object as to work product.
 10 I don't know the extent of the work-product
 11 privilege that's involved here. That's why Mrs.
 12 Kobrin's here. I can't properly object because I
 13 don't know what instructions came through her firm or
 14 not through her firm. I was not involved in the case
 15 until after Mr. de Vlaming filed his initial motion.
 16 There are several times, and you'll probably
 17 need to hear the questions, where Mrs. Kobrin has
 18 objected on a work-product privilege ground, which I
 19 have not joined in because it was a question within
 20 the context of this case, asking how did you get your
 21 information, who did you report to. Mrs. Kobrin --
 22 you know, it's within the confines of this case, but
 23 then Mrs. Kobrin would object based on work-product
 24 privilege, as I couldn't. I don't know what the
 25 answer is going to entail as to where the information

1 Q. And was the end result of that, that if Jesse
 2 was selling drugs, you'd be able to surveil him and
 3 catch him doing something illegal like that?
 4 A. Me catch him?
 5 MRS. KOBRIN: Objection. Work product.
 6 BY MR. de VLAMING:
 7 Q. Well, what was the purpose of this
 8 surveillance?
 9 A. What was the purpose of the surveillance?
 10 Q. Yeah. I mean, you obviously know where he's
 11 going. But I mean, what was the end result of the
 12 surveillance, just to see if he goes to Publix or a
 13 bar?
 14 A. How about to determine his --
 15 MRS. KOBRIN: I'm going to have to object to
 16 that on work product.
 17 MR. JOHNSON: And to the extent the answer --
 18 or question is requesting an answer outside the scope
 19 of this case.
 20 MR. de VLAMING: Well, lest there be no
 21 misunderstanding. The purpose of the surveillance as
 22 it relates to this case, is the objection the same?
 23 MR. JOHNSON: No, not from me. I don't know
 24 about work product.
 25 MRS. KOBRIN: Well, there may be work

1 is going. If it's going up lines or down lines to the
 2 attorneys or not. So that's how we've been
 3 proceeding. I would estimate, without counting,
 4 there's been eight to ten objections, either jointly
 5 or separately, by me and Mrs. Kobrin.
 6 THE JUDGE: Okay. Well, is there any
 7 particular question in particular that we should
 8 address at this time or are you at this time, Mr.
 9 de Vlaming, seeking to abrogate the work-product
 10 privilege?
 11 And I'm going to ask this question first,
 12 which is: Work product for what type of case? Is he
 13 an investigator in matters related to civil issues?
 14 MRS. KOBRIN: Our firm is involved in -- or
 15 counsel in a civil case, a wrongful death case.
 16 And --
 17 THE JUDGE: Now, if you can answer this, and
 18 I imagine you could, is this the wrongful death action
 19 that has been filed on behalf of Ms. McPherson?
 20 MRS. KOBRIN: Well, it's her estate.
 21 THE JUDGE: It's her estate. Now, my next
 22 question is: Are you at this time asserting that in
 23 some method, in some way, Mr. Raftery has been used by
 24 your office in an effort to participate in
 25 investigating that case or assist you -- your office,

1 product.
 2 MR. de VLAMING: Well, I don't like maybes
 3 so...
 4 BY MR. de VLAMING:
 5 Q. What was the purpose of the surveillance as
 6 it relates to this case? What did you hope to
 7 accomplish by this surveillance?
 8 MRS. KOBRIN: Well, to the extent that that's
 9 related to something that he was instructed by
 10 someone, I will object to that as work product.
 11 MR. de VLAMING: Come on in, Judge.
 12 THE JUDGE: Okay. Thank you.
 13 MR. JOHNSON: Your Honor, if I may, this is
 14 Helena Kobrin.
 15 THE JUDGE: Okay. Nice to meet you, Mrs.
 16 Kobrin.
 17 MR. JOHNSON: She's an attorney with the firm
 18 of Moxon & Kobrin. They are the holder of privileges,
 19 certain privileges, which are being asserted relative
 20 to Mr. Raftery and will assert to Mr. Gaston,
 21 specifically, a work-product privilege. I didn't
 22 raise that before because I didn't have standing to
 23 raise the work-product privileges.
 24 We've had a series of questions and
 25 objections. Some of the questions were rephrased, and

1 your particular firm, in investigating the claims?
 2 MRS. KOBRIN: Well, to some degree that's
 3 correct. Mr. Prince has been named by the plaintiff
 4 as an expert witness in the case. Our contention is
 5 that he is in no way, shape or form qualified to be an
 6 expert witness in that case. And Mr. Raftery's work
 7 would largely relate to that subject matter.
 8 MR. JOHNSON: Judge, if it helps, we were not
 9 objecting to the extent that it focused exclusively on
 10 this case and Mrs. Wardell gave us the time frames of
 11 the case and --
 12 THE JUDGE: Do you --
 13 MRS. KOBRIN: And I -- Your Honor, I'm sorry.
 14 I certainly wouldn't object to the extent that he's
 15 spoken to law enforcement about this case. I
 16 certainly wouldn't claim any privileges to any of
 17 those.
 18 THE JUDGE: Is there a particular question?
 19 MR. de VLAMING: Judge, I haven't spoken yet.
 20 MRS. WARDELL: The very first one.
 21 THE JUDGE: I take it you're out of it?
 22 MRS. WARDELL: For this point.
 23 THE JUDGE: Okay.
 24 MR. de VLAMING: Judge, I have asked this
 25 witness and he has been, basically, instructed not to

1 answer on the basis of work product. This is the
2 first time, by the way, before you came into this room
3 that I realized that this woman represented, or her
4 firm did, The Church of Scientology. When we tried to
5 get that on the record, she kept saying she
6 represented her firm but would not state her client.
7 So I appreciate the Court asking her outright that
8 question that I could not get an answer to.

9 I did ask this witness, however, what the
10 purpose -- he surveilled Jesse Prince ever day during
11 the time of this investigative period, which was
12 placed on the record by Mrs. Wardell, following him
13 all over town. And when I asked him --

14 THE DEPONENT: I don't mean to interrupt,
15 but that isn't the way that came out. You asked me,
16 "Did I see him every day?" The answer was, at some
17 point in time during the day, perhaps I did, yes.
18 Probably every day. It wasn't like I followed him all
19 over every day, every minute of his life for seven
20 days a week, you know.

21 MR. de VLAMING: But each day he was
22 surveilled.

23 THE DEPONENT: Each day he was observed, and
24 I think there's a difference with the way you said it
25 and the way I said it.

1 MR. de VLAMING: Okay. Anyway, I asked him
2 the purpose of the surveillance as it related to the
3 time frame in this case, and an objection was placed
4 by the lawyer as far as work product. I fail to see
5 how there's any work product concerning the purpose of
6 their surveillance that led to this man being charged
7 with the offense that's before you.

8 Number 2, there's a man in town named Ben
9 Shaw. He's involved in the Office of Special Affairs
10 of The Church of Scientology. He had a discussion
11 with Mr. Raftery concerning the investigation of Jesse
12 Prince as it relates to this case. The objection was
13 made, again, on behalf of work product and would not
14 allow me to go into that aspect of it.

15 Lastly, there's, apparently, now another
16 private investigator that literally did the hiring of
17 Mr. Gaston and we learned his name. It's Joseph
18 Fabrizio. When I asked the witness to describe what
19 Mr. Fabrizio's orders were, if he knew, concerning the
20 case involving Mr. Prince, once again, they kept
21 injecting work product. I think I'm entitled to
22 discover this information.

23 MRS. WARDELL: Judge, I researched during the
24 break the issue that came up this morning. I just
25 thought you might want to read a little blurb of work

1 product. That just sort of gives you some outlines
2 and --

3 THE JUDGE: Work product or privileged?

4 MRS. WARDELL: Well, it's all in there, but
5 the work product is on that page.

6 MRS. KOBRIN: Your Honor, this is a case
7 regarding deposing an investigator, and I can give you
8 a copy.

9 THE JUDGE: Before I read this, just give me
10 the sort of low down of what you think this case is
11 going to tell me.

12 MRS. KOBRIN: Well, the point is that if -- I
13 mean, as the Court knows, there's two aspects to work
14 product. There's factual information that's work
15 product, and there's opinion work product. The
16 factual work product has less protection than the
17 opinion work product. And under the rules, the
18 opinion work product is almost never going to be
19 abrogated; whereas, factual work product will be
20 abrogated, you know, when there's a need.

21 THE JUDGE: That's the opinions and thought
22 processes of the lawyer.

23 MRS. KOBRIN: Right.

24 THE JUDGE: Okay. Are we somehow
25 contributing that to this witness?

1 MRS. KOBRIN: Well, to the extent that
2 someone receives instructions from a lawyer, what is
3 -- the lawyer tells him what he wants them to do or,
4 you know, what it is, where he's going with an
5 investigation or whatever, that would be work product
6 because it reflects the opinions and thoughts of the
7 lawyer and the lawyer's analysis of this case and what
8 information he may be looking for.

9 THE JUDGE: So, then, your objection would be
10 to anything that was an instruction from a lawyer?

11 MRS. KOBRIN: A lawyer or someone working
12 directly with a lawyer, yes.

13 THE JUDGE: The only problem with that is
14 that, as best I can tell being sort of an outsider
15 looking in briefly, frankly, is that everything he did
16 was at the instruction of some lawyer somewhere. Or
17 if not, at the instruction of someone who was hired by
18 a lawyer.

19 MRS. KOBRIN: Well, he can describe what he
20 did, you know. He can describe actions he took. He
21 can describe things that he observed. None of that is
22 privileged. But to the extent that it reflects an
23 instruction that's part of a lawyer's investigation in
24 connection with a case, that is work product.

25 MR. JOHNSON: Your Honor, if I may, just to

1 clarify Mrs. Kobrin said none of that of what Mr.
2 Raftery did was privileged. It was investigative
3 privilege, which has now been abrogated.

4 What's remaining is Mrs. Kobrin's claim
5 against the work-product privilege of her instructions
6 and what she essentially downloaded to him. That is
7 what they're protecting, the communication from the
8 attorneys. Not what he did. Not where he went. Not
9 what he saw regarding this case. Not what, you
10 know -- you know, that is why it opened. That we're
11 not objecting to, but they're trying to get at things
12 beyond this case and direct instructions from the
13 attorney relative to Mr. Fabrizio.

14 And again, it would be easier if we looked
15 directly at the question asked but, you know, Mr. de
16 Vlaming is saying, essentially, in the arguments to
17 the Court, he wants to know what Fabrizio's orders
18 were. And it's entirely appropriate, then, for Mrs.
19 Kobrin to assert the work-product privilege there to
20 the extent that it may exist. I don't know.

21 THE JUDGE: Mr. Fabrizio is not a lawyer,
22 then, right?

23 MR. JOHNSON: Fabrizio is an investigator.
24 We've disclosed his name because we felt we had to
25 give the disclosure in response to a proper -- or to a

1 question. It was identified he was the one who did
2 the hiring process. Then they're asking what
3 Fabrizio's orders were. I can't make the work-product
4 privilege, because I don't know who's giving him his
5 orders. But since Mrs. Kobrin's making them, we can
6 well assume it comes at the direction of the attorneys
7 or from a source related to the attorneys, and that's
8 within the privilege.

9 MRS. KOBRIN: And there's a second level of
10 problem in there. He said, "He doesn't know. He was
11 there." Anything he would say about it would be
12 guessing or speculation on his part. But he doesn't,
13 actually, even know the answer to that question.

14 THE JUDGE: Then it seems to me it wouldn't
15 hurt to let him answer "I don't know."

16 MRS. KOBRIN: Well, he's answered "I don't
17 know."

18 THE DEPONENT: I would have to guess.

19 MRS. KOBRIN: That I don't have a problem
20 with. But then he's being asked to guess.

21 MR. de VLAMING: Well, wait a minute. That's
22 not fair either because Mrs. Wardell covered that,
23 that we don't want him to guess. But we said if it
24 was reasonable that you could understand the answer to
25 that question and he said, I think I can. But then

1 the answer was not forthcoming.
 2 MR. JOHNSON: Then as it relates to Ben Shaw,
 3 we identified the man, but then they asked, "What were
 4 his instructions?" Mrs. Kobrin then, I can only
 5 assume appropriately, says now the work privilege. We
 6 didn't object to the giving of his name, but to the
 7 extent that he was acting in the behest of the
 8 attorneys to relay messages from the attorneys, that's
 9 appropriate for the work-product privilege.
 10 Again, we're not standing in the way of
 11 anything asking what they did, what they saw, but
 12 things about what they were told or what was relayed
 13 from the attorneys, that's Mrs. Kobrin's game. I'm
 14 just objecting to things that are outside the scope of
 15 this case. And again, I haven't joined in the
 16 work-product privilege. It's appropriate for her to
 17 do it. And, Judge, to the extent she's telling us
 18 this comes from the attorneys, without an in-camera
 19 hearing, I can't --
 20 MRS. WARDELL: I'm just all confused.
 21 Because when we started the depo, I thought we cleared
 22 up that you were here as his employer and not as his
 23 attorney.
 24 MR. JOHNSON: No. I'm the attorney for Mr.
 25 Raftery.

1 MRS. WARDELL: Right. But as far as her
 2 asserting the work-product privilege, she was doing it
 3 as her employer. That's what you stated on the
 4 record.
 5 MRS. KOBRIN: As the attorney, yes.
 6 MR. JOHNSON: Correct. The attorney -- the
 7 law firm.
 8 MRS. WARDELL: When I asked you about --
 9 THE JUDGE: The attorney for the employer or
 10 the employer, i.e. --
 11 MRS. KOBRIN: Employer.
 12 THE JUDGE: -- attorney for the employee?
 13 MRS. KOBRIN: No. The -- no. We are the
 14 attorneys that employ him.
 15 MRS. WARDELL: Right. Because I asked you
 16 every way to Sunday let's get your role clear on the
 17 record and --
 18 MR. JOHNSON: I think she was clear, quite
 19 frankly.
 20 MRS. WARDELL: And I took it to mean you were
 21 his employer.
 22 MR. JOHNSON: Correct.
 23 MRS. KOBRIN: That's what I said.
 24 MR. JOHNSON: And therefore, the holder of
 25 the privilege.

1 MRS. WARDELL: I just wanted to make sure the
 2 Judge understood that, because I don't think that came
 3 out.
 4 MR. JOHNSON: Thank you.
 5 MR. de VLAMING: Is Ben Shaw a lawyer?
 6 MR. JOHNSON: No.
 7 MRS. KOBRIN: No, he's a client. But he's
 8 working closely with the lawyer.
 9 MR. JOHNSON: And Mrs. Kobrin has standing to
 10 assert her privilege as the lawyer. I can't do that.
 11 I don't -- I wasn't giving orders.
 12 THE JUDGE: Okay.
 13 MR. JOHNSON: Judge, one thing I want to
 14 advise you of also, if you will recall, a Court's
 15 order is a Court's order and we're abiding by it as
 16 best I can -- if you will recall, I did ask for an
 17 in-camera hearing. This would have come out in an
 18 in-camera hearing. I couldn't openly start talking
 19 about work-product privilege, you know, as I think I
 20 found myself positioned between a rock and a hard
 21 place. I couldn't acknowledge the informant status of
 22 Mr. -- I really was kind of praying I can get an
 23 in-camera and then I could explain. And this is just
 24 the forum that, first time, we can raise that given
 25 these circumstances.

1 MRS. WARDELL: I was just going to suggest,
 2 and I had told Denis, to try and get more information
 3 from his investigators that we did this morning, but
 4 you might could use it to help you here because what
 5 it seems to suggest is anything that he's going to
 6 testify to at trial is what's fair game.
 7 MR. JOHNSON: Correct.
 8 MRS. WARDELL: Keep it in mind that at this
 9 point these witnesses still haven't been listed by the
 10 State. They are the witnesses that you found that had
 11 knowledge relevant to a purported or raised defense.
 12 So I can't tell you, as we sit here today, whether I'm
 13 going to call you -- I'm sorry -- not you, call them.
 14 THE JUDGE: You can't say today whether
 15 you're going to call them?
 16 MRS. WARDELL: Right. Because quite frankly,
 17 I need to hear what they have to say. But the point
 18 being, the case seems to suggest whatever it is
 19 they're going to testify to, is what's fair game. And
 20 I can assure you --
 21 THE JUDGE: There's no question that whatever
 22 they intend to testify to, you're entitled to know.
 23 MRS. WARDELL: But I don't intend to ask them
 24 all of these tangible issues that seem to come up.
 25 THE JUDGE: Well, I'm not sure I still have

1 anything from which to rule, because again, it will be
 2 based upon a particular question that was asked. And
 3 then based on that question, the confines of that
 4 question, and whether or not it reaches into what
 5 amounts to the work product here. So I'd ask that the
 6 questions be asked again, and let me sit here for a
 7 little while and try to respond as best I possibly can
 8 to the question and the objection when it is raised.
 9 MR. JOHNSON: And if I may, Your Honor, since
 10 Mrs. Kobrin identified she's involved in the civil
 11 suit of Lisa McPherson's Trust and the estate of Lisa
 12 McPherson, one other reason is this deposition, I have
 13 every reason to believe, had a dual purpose and that
 14 it would assist the civil case. I have reason to
 15 believe the employer of Mr. de Vlaming is the same
 16 person promoting and financing that civil suit. So
 17 Mr. de Vlaming's, work also --
 18 MRS. KOBRIN: Not Mr. de Vlaming.
 19 THE JUDGE: Mr. de Vlaming is not financing
 20 the civil suit. Mr. Shaw?
 21 MR. JOHNSON: No.
 22 MRS. KOBRIN: No, no. The person that is
 23 paying Mr. de Vlaming is also financially --
 24 MR. JOHNSON: Who is financing Mr. de
 25 Vlaming, is also the person financially supporting the

1 civil suit. So Mr. de Vlaming's work goes to the
 2 benefit of his employer.
 3 THE JUDGE: Okay. I got it. And I actually
 4 got the sense of that as soon as I walked in the room,
 5 as a matter of fact. Let's -- here's the thing.
 6 You're absolutely right, I think, as it relates
 7 particularly to the thought processes of some lawyer
 8 in some investigation. Whatever it is that that
 9 lawyer transmitted to whomever that ultimately got
 10 transmitted to this person is probably work product,
 11 and therefore, probably not disclosable. But I've got
 12 to hear the questions. So let's proceed.
 13 MRS. WARDELL: Do you want to just start over
 14 or do you want her to start reading?
 15 MR. de VLAMING: No, no. I'll do it. It
 16 would take too long to find this stuff.
 17 BY MR. de VLAMING:
 18 Q. Mr. Raftery, earlier in this deposition the
 19 name of Ben Shaw came up. Who was is Mr. Shaw?
 20 A. Mr. Shaw is the chief of the Office of
 21 Special Affairs at The Church of Scientology.
 22 Q. And for lack of a better term, do they also
 23 conduct some investigative services for the church?
 24 A. What do you mean "they"?
 25 Q. Does the Office of Special Affairs, is that

1 part of their job description, to conduct some
2 investigative aspects?
3 MRS. KOBRIN: If you know.
4 BY MR. de VLAMING:
5 Q. If you know.
6 A. I don't know.
7 BY MR. de VLAMING:
8 Q. Okay. But he's in the Office of Special
9 Affairs?
10 A. Right.
11 Q. And did Mr. Shaw have a discussion with you
12 concerning the investigation of one Jesse Prince?
13 A. Yes.
14 Q. And did it involve, specifically, the
15 investigation of Mr. Prince as it related to what
16 ultimately became this case, possession of marijuana?
17 A. Yes.
18 Q. Okay. And did Mr. Shaw, in his discussions
19 with you, discuss with you what orders or what the
20 goals should be in this investigation?
21 MRS. KOBRIN: I'm going to object to that as
22 work product. Because to the extent that Mr. Shaw had
23 any such conversation with him, it was -- it would
24 have been at the behest of the -- of the -- of our
25 firm or other attorneys working on the civil case and

1 it would be work product.
2 MR. de VLAMING: Judge, I think the
3 constitutional right to due process is paramount to
4 any of this privilege now being asserted. It's no
5 secret that we believe that Mr. Prince has been set
6 up. There's, obviously, been some discussions made by
7 -- now, we have proven -- The Church of Scientology as
8 being behind the investigation that led to Mr. Gaston
9 coming into town and Mr. Raftery being involved. I
10 think I'm entitled to find that out.
11 THE JUDGE: Mr. Raftery is not the person
12 that was met with in Orlando, it was Mr. Gaston; is
13 that correct?
14 MR. de VLAMING: Correct.
15 THE JUDGE: And it's my understanding, based
16 upon what has been represented to me by affidavit and
17 the representations of counsel, that it was Mr. Gaston
18 who specifically stated that there was an order to
19 find out anything that would be, I think, illegal or
20 unethical that is being done by Mr. Prince; is that
21 accurate?
22 MR. JOHNSON: I believe the way Mrs. Wardell
23 stated it was that she talked to the informant, and
24 the informant had said that. We're now telling the
25 Court that the informant was Mr. Gaston.

1 THE JUDGE: Okay. And that being the case,
2 Mr. Gaston got his orders from the same place -- am I
3 right, at the very same place that Mr. Raftery got his
4 orders?
5 MR. JOHNSON: Incorrect. That will not be
6 his testimony. That's a fair assumption, but that
7 will not be his -- how he received his orders, which
8 ultimately came from the firm of Moxon & Kobrin.
9 MRS. WARDELL: And, Judge, the witness
10 previously testified that Mr. Gaston got his orders
11 from this Mr. Fabrizio.
12 MR. JOHNSON: And that Mr. Raftery was
13 brought in to assist with the surveillance and provide
14 surveillance information for Mr. Gaston's work.
15 THE JUDGE: And at this time, unless, Mr. de
16 Vlaming, you have something else, I don't have any
17 basis to believe that Mr. Raftery was specifically
18 ordered to do anything that might lend itself to
19 setting up Mr. Prince in this case.
20 MR. de VLAMING: Well, the problem, Judge, is
21 that unless we hear the answer to the question, as to
22 what Mr. Shaw told him his orders were, you're right.
23 I mean, I think the answer to the question is going to
24 resolve that issue.
25 MR. JOHNSON: No. You're --

1 THE JUDGE: I think that the -- my order is I
2 -- at this time, I'm going to find that he does not
3 have to answer that question. Because, I believe,
4 that before that privilege can be abrogated, there
5 should be some well-founded reason for the Court to be
6 able to look at that and say, under these
7 circumstances, yes, the privilege should be abrogated
8 because the defendant's rights would be violated. And
9 at this point, we would be fishing.
10 MR. JOHNSON: And Your Honor, if I may, just
11 to supplement --
12 THE JUDGE: Do you really need to supplement?
13 Because I ruled in your favor.
14 MR. de VLAMING: Yeah, I just lost.
15 MR. JOHNSON: Yes.
16 THE JUDGE: Okay.
17 MR. JOHNSON: Just so the Court's aware, I'm
18 aware of the 1979 U.S. Supreme Court ruling regarding
19 the crime-fraud exception to the work product and
20 attorney-client privileges. I have no reason to
21 believe, at any time, a crime-fraud exception will
22 apply to any of the privileges. I have not heard of
23 that in any way, shape or form from my representation
24 of Mr. Raftery and Mr. Gaston, for the benefit of
25 future orders. I am aware of the crime-fraud

1 exception. And if I had known that they were given
2 improper orders, I would not be able to sit here and
3 have another attorney raise privilege, because that
4 would not apply. That is what Mr. de Vlaming is
5 arguing, is there's a crime-fraud exception and they
6 were criminally instructing Mr. Raftery and/or Mr.
7 Gaston. I'm telling you, in good faith, I have no
8 such knowledge. I'm aware of the law on that subject,
9 or I would object to contradictory statements by Mrs.
10 Kobrin.
11 BY MR. de VLAMING:
12 Q. Mr. Raftery, during the relevant time of the
13 investigation of Mr. Prince, would you tell us the
14 purpose of your surveillance of Mr. Prince around this
15 town?
16 MRS. KOBRIN: I'll object to the extent that
17 that answer would implicate anything that would be
18 work product, such as an instruction from an attorney
19 or a client working closely with an attorney.
20 THE JUDGE: Answer the question, sir, please.
21 A. The purpose of the surveillance would have
22 just been to ascertain his habits, his behavior
23 patterns, his associates, his ethics, if you will,
24 what he does on a daily basis.
25 BY MR. de VLAMING:

1 Q. Did you report back the results of your
2 surveillance to a particular individual?
3 A. Yes.
4 Q. And did you, at times, share the results of
5 your surveillance with a Brian Gaston?
6 A. Barry Gaston.
7 Q. Barry Gaston. I'm sorry.
8 A. Yes.
9 Q. And did it help Mr. Gaston, to your
10 knowledge, in finding out where Mr. Prince was?
11 A. Yes. Well, would be or was.
12 Q. During this relevant time of the
13 investigation, was your primary job at that time the
14 surveillance of Jesse Prince?
15 A. No.
16 Q. He was just one of the things you would do
17 during the day?
18 A. Just one of things I would do during the day.
19 Q. Would you specifically locate Mr. Prince to
20 conduct your surveillance or would you wait for him to
21 drive by a particular location?
22 MR. JOHNSON: I assume the question refers to
23 him as it relates to this case?
24 MR. de VLAMING: Yes.
25 MR. JOHNSON: Can we assume that with all

1 future questions so I don't have interrupt?
 2 MR. de VLAMING: Yes.
 3 MR. JOHNSON: Thank you.
 4 A. What I knew was that Barry Gaston would
 5 probably be in town twice a week. And so if it was
 6 the day that I knew Barry was coming in town, I would
 7 specifically make a point of knowing where Jesse was
 8 that day, especially late in the day.
 9 BY MR. de VLAMING:
 10 Q. Did you ever surveil him near his home?
 11 A. Yes, sir.
 12 Q. And you indicated earlier you did not believe
 13 that Mr. Prince realized he was being surveilled?
 14 A. No, I didn't say that. I said, Mr. Prince
 15 never saw me surveilling him.
 16 Q. When Mr. Prince would leave the home on these
 17 particular occasions, when Gaston was coming into town
 18 to do his work on Mr. Prince, did you step up the
 19 surveillance during those times? In other words,
 20 would you make it a point to surveil him when you knew
 21 Gaston was coming into town?
 22 A. When I knew Gaston was coming into town, I
 23 would make a point of trying to locate Jesse. Now,
 24 that doesn't mean we always did, by the way. But we
 25 would make a point of at least looking.

1 Q. If you found him, would you use your cell
 2 phone to tell Gaston where he might be able to find
 3 Mr. Prince?
 4 A. Yes.
 5 Q. During these periods of times, did you ever
 6 videotape Jesse Prince during these surveillances?
 7 A. Videod him -- I tried to video him one night
 8 because I thought he was lighting a joint in his car.
 9 It was 1:00 in the morning and he was out in front of
 10 Billy G's, a nightclub downtown, and I looked up and
 11 there was his Jeep and I saw him get in it and he
 12 appeared to be rolling a joint and trying to light it,
 13 but the windows are smoked, so I didn't get a video
 14 that night. I did video him on one other occasion. I
 15 think only one other time that I did.
 16 Q. Where was that?
 17 A. That might have been right at the house.
 18 Q. At his house?
 19 A. Uh-huh.
 20 Q. And was it a time where Gaston was in town?
 21 A. No.
 22 Q. Was it during this time frame of the
 23 investigation?
 24 A. Yes.
 25 Q. What was he doing? Was he with his family or

1 his kids?
 2 A. He was being arrested.
 3 Q. Oh, you came in and filmed his arrest?
 4 A. I was sitting in front of his house at 8:00
 5 in the morning and the police pulled up.
 6 Q. Did that footage ever reach the Internet?
 7 A. No.
 8 Q. Who did you give that footage to?
 9 A. I think it's still sitting in my office. I
 10 showed it to -- I showed it to Mr. Moxon and to,
 11 probably, Ben Shaw.
 12 Q. You had told us before the Judge came in the
 13 room that Joseph Fabrizio, you believed to be the
 14 individual that hired and worked closely with Gaston
 15 in this investigation?
 16 A. Uh-huh.
 17 Q. Yes?
 18 A. Wait a minute. Now, say that to me again.
 19 Q. Yes. You indicated that Joseph Fabrizio was
 20 the private investigator that worked primarily with
 21 Gaston in this investigation, correct?
 22 A. Yes, sir.
 23 Q. Did you ever have any discussions with Mr.
 24 Fabrizio concerning the status of the investigation or
 25 how the investigation was proceeding?

1 A. I'm sure we did.
 2 Q. What were they?
 3 A. I don't know. Like if we couldn't -- I
 4 remember that at one point Jesse used to hang out in a
 5 bar called Maccabee's, or something, down in
 6 Greenwood, and when he wasn't there, I can remember
 7 that he said, "Well, where else would he go?" I said,
 8 "Well, he goes to Wilson's Lounge down on Belcher." I
 9 told him where it was. I said, "You might try that,
 10 you know, as a place to do surveillance," especially
 11 when we knew where he was or where he was going.
 12 Q. Did you write any reports in this case? Did
 13 you --
 14 A. No.
 15 Q. -- write reports?
 16 Never did?
 17 A. I've never written a word on it, no.
 18 Q. Would you report back -- just yes or no.
 19 Would you report back to your employer concerning what
 20 you learned in your surveillance activities?
 21 A. Yes.
 22 Q. And do you know what Mr. Gaston was paid for
 23 his services?
 24 A. No, I don't.
 25 Q. Do you know whether he was given a bonus

1 after the arrest of Mr. Prince?
 2 A. I have no idea.
 3 Q. Were you paid for your services?
 4 A. I'm paid for my services, certainly.
 5 Q. Can I ask your hourly rate?
 6 A. Pardon me?
 7 Q. Your hourly rate.
 8 A. My hourly rate?
 9 Q. Yes, sir.
 10 A. \$60 an hour.
 11 Q. Do you know how much you were paid concerning
 12 the time frame of this investigation as it related to
 13 the Prince case?
 14 A. No, because my pay isn't based on Jesse
 15 Prince. My pay is based on an entire day and an array
 16 of jobs that I do and things that I do for the
 17 clients. I don't separate a bill. Like, for
 18 instance, you would probably separate your bill and
 19 most PIs do, where they separate a bill by client,
 20 what hours and so forth and particular jobs. I don't
 21 do that. I'm paid a flat rate on it.
 22 Q. What do you mean you're "paid a flat rate"?
 23 A. I have 60 hours a week that I'm paid.
 24 Q. Okay. You mean from -- and is it paid
 25 through the Moxon Law Firm?

1 A. Yes, sir.
 2 Q. All right. And is it all work having to do
 3 with the client of The Church of Scientology?
 4 MRS. KOBRIN: Objection to the form of the
 5 question.
 6 MR. de VLAMING: Judge, I think I'm going to
 7 be able to ask at trial what this man is paid for his
 8 services.
 9 MRS. KOBRIN: No. I'm objecting to the form
 10 -- to how you phrased your question.
 11 THE JUDGE: Church of Scientology; for the
 12 "client of The Church of Scientology."
 13 MRS. KOBRIN: When you said, "client of The
 14 Church of Scientology."
 15 MR. de VLAMING: I'm sorry. Then let me
 16 rephrase it.
 17 BY MR. de VLAMING:
 18 Q. Moxon is a law firm for a client, correct?
 19 A. Yes, sir.
 20 Q. The client that you're doing the work for,
 21 correct?
 22 A. In this case, yes, sir.
 23 Q. Yes. And is that The Church of Scientology?
 24 A. Yes, sir.
 25 Q. And of your billable hours for that 60-hour

1 week or whatever you put in, is that all for the same
 2 client, that is The Church of Scientology?
 3 A. Yes.
 4 Q. Okay. To your knowledge, were any other
 5 confidential informants used in the investigation of
 6 this case?
 7 A. I wouldn't have any knowledge of that, no.
 8 Q. But to your knowledge, no?
 9 A. No.
 10 Q. Once the arrest of Jesse Prince took place,
 11 did you make any calls to Detective Crosby of the
 12 Largo Police Department?
 13 A. Once the arrest took place, I don't think I
 14 did.
 15 Q. Let me be very specific. Did you call
 16 Detective Crosby and try to encourage him to arrest
 17 Jesse Prince for either possession or sale of
 18 marijuana within a thousand feet of a school?
 19 A. No, I did not.
 20 Q. Did you ever suggest that he be charged with
 21 sale of drugs out of this investigation?
 22 A. He didn't sell any in this investigation.
 23 Q. Do you recall calling Detective Crosby and
 24 suggesting that they either bring additional charges
 25 or arrest Mr. Prince for additional charges based upon

1 this investigation?
 2 A. I didn't tell Officer Crosby how to handle
 3 this investigation at all.
 4 Q. Were you calling Detective Crosby during the
 5 course of this investigation?
 6 A. No, sir. You know, I called him once when he
 7 had surgery on a knee. Once I turned, what I knew was
 8 taking place, over to Officer Crosby, all I did was
 9 introduce him to Barry. Once I knew that was -- that
 10 there were drugs involved, I didn't want Barry Gaston
 11 anywhere near Jesse Prince. I said, I don't want --
 12 "Get a hold of police." I said, "I don't want you in
 13 his house, in his car. I don't want you anywhere near
 14 him if he's got drugs in those cars or in his home or
 15 anything else." So I said, get a hold -- "We have to
 16 get a hold of the police. That's what you want to
 17 do."
 18 I introduced him. I said, "I'm out of this
 19 thing." I never seen him. I never -- the only other
 20 time that I can remember talking to Barry -- not Barry
 21 but Howard Crosby was when he had surgery on his knee,
 22 and I called him and asked him how he was.
 23 Q. But you didn't talk about this case?
 24 A. You know, I don't think so or I -- I don't
 25 remember it.

1 Q. Okay.
 2 A. In other words, you've got to realize
 3 Sergeant Crosby is a 17-, 18-year veteran. He's
 4 worked narcotics. That's his job. It's not my job.
 5 And quite frankly, it's a little sensitive when you're
 6 a former federal agent and you're dealing with a local
 7 officer. So what you do is, it's yours, you know.
 8 It's their case. It's their jurisdiction, and so I
 9 didn't want to be in any way, you know, like pushy in
 10 any kind of way in this investigation.
 11 I might also add that the first words that
 12 Officer Crosby told me when I told him who I worked
 13 for was that he did not like The Church of
 14 Scientology. He said, "Let me tell you straight out,
 15 I don't like your client. I don't like what they do."
 16 I said, "Fine." So from that point on, you can be
 17 certain that I would have, you know, not tried to
 18 influence it or be involved with it.
 19 Q. Was that conversation, where you told him who
 20 your client was, before Gaston conducted any work by
 21 getting into the home of Jesse Prince?
 22 A. No. I'm not sure where we are with that
 23 question.
 24 Q. I thought you just said that when you found
 25 out that there were drugs in the home, you didn't want

1 Gaston anywhere near that house?
 2 A. That's right.
 3 Q. Do you know that he subsequently went in that
 4 house several times?
 5 A. With Officer Crosby, yes. But I mean, yeah,
 6 that was with Officer Crosby. Right.
 7 Q. To your knowledge, did Gaston smoke dope
 8 inside of Jesse Prince's house?
 9 A. I would have no knowledge of that.
 10 Q. He never told you he did?
 11 A. No.
 12 Q. Detective Crosby said that he got a call from
 13 a police officer or a sheriff's detective from
 14 California within 48 hours of Mr. Prince's arrest, and
 15 that on that officer's desk in California was the
 16 booking sheet and all information concerning Mr.
 17 Prince's arrest.
 18 Do you have anything to do with sending that
 19 out to California?
 20 A. I'm glad this came up. No, nothing.
 21 Q. Why --
 22 A. And the reason I know about this is a
 23 Freedoms of Information Request where somebody from
 24 California, and I can't think of the detective's
 25 name -- in California, that's against the law to put

1 out, in the State of California. In the State of
 2 Florida, it's not against the law. It's public
 3 information. And somebody in FDLE wrote a report
 4 saying -- well, the guy called up and said, "I heard
 5 there's a DEA agent who may have used his influence to
 6 get illegal information." The FDLE agent Lee Strobe
 7 wrote an article and said, "Well, indeed, the primary
 8 investigator for The Church of Scientology is Brian
 9 Raftery." Intimating that, in fact, I had done
 10 something incorrectly.
 11 First of all, I didn't do it. I don't know
 12 who did it. I don't know where they got the
 13 information, but I do know it's public information.
 14 All you do is walk down to the desk and get it.
 15 Q. Did you tell Detective Crosby, in your first
 16 discussion with him, that you had information that
 17 Jesse Prince was using hard drugs and selling drugs to
 18 encourage Crosby to get involved in this
 19 investigation?
 20 A. By Jesse Prince's own admission, documents
 21 that I've seen written by him, he has used heroine,
 22 cocaine, THC, marijuana, mescaline, ups, downs, lefts
 23 and rights. Whatever it is, Jesse Prince has done in
 24 drugs. This is his own affidavit. His own writing
 25 which I read.

1 Q. What year was that?
 2 A. Those were in the '70s. I saw one, however,
 3 in '95 where he also admitted to using drugs.
 4 Q. Marijuana?
 5 A. It was marijuana and THC, I think.
 6 Q. Were those affidavits shown to you by The
 7 Church of Scientology?
 8 A. Oh, and by the way, these drugs were used in
 9 front of Barry Gaston. That's the information that I
 10 had that was totally currently. That's when I went to
 11 Officer Crosby. I didn't know anything about it until
 12 Barry was with him and he was doing drugs in front of
 13 Barry at Wilson's Lounge.
 14 Q. What kind of drugs?
 15 A. That's the night I told you where he thought
 16 -- Barry thought he observed him snorting a line of
 17 coke. He thought he saw Deneen Phillips, his
 18 girlfriend, smoking a crack pipe. He could smell the
 19 crack in the car. So, yes, did I tell that to Officer
 20 Crosby, sure.
 21 Q. Okay.
 22 A. Shouldn't I have?
 23 Q. Do you know if they found any hard drugs at
 24 Mr. Prince's house?
 25 A. To the best of my knowledge, no. In fact, I

1 know they didn't.
 2 MR. de VLAMING: Lydia, do you want to go? I
 3 might have a question or two.
 4 CROSS-EXAMINATION
 5 BY MRS. WARDELL:
 6 Q. Did Mr. Gaston relay to you the things that
 7 were going on inside Mr. Prince's home when he was in
 8 there prior to law enforcement involvement? In other
 9 words, did he let you know that he actually saw him
 10 with the dried leaves and the plants and things of
 11 that nature?
 12 A. Yes, ma'am.
 13 Q. And basically, your instruction to him was,
 14 at that point, if you're going to go back, take law
 15 enforcement with you?
 16 A. Absolutely. I said, "I don't want you
 17 anywhere near it." Which of course, he was -- agreed
 18 with.
 19 Q. So it is fair to say that your surveillance
 20 of Mr. Prince began long before this criminal
 21 investigation came to light, and this came up as a
 22 result of your other reason for watching him?
 23 A. That's correct.
 24 Q. And your other reason related to a civil
 25 matter?

1 A. That's correct.
 2 Q. Are there any other members of -- are there
 3 any other associates of Mr. Prince that you have
 4 watched and have later learned that they have dealt in
 5 criminal activity? In other words, have you told the
 6 police about anybody else's criminal activities? Have
 7 you told the police about any other associates of
 8 Jesse Prince that have been involved in criminal
 9 activities?
 10 MRS. KOBRIN: I'm going to object that that's
 11 beyond the scope.
 12 MR. de VLAMING: I don't object. This is a
 13 deposition.
 14 MR. JOHNSON: I don't know the answer. I
 15 mean, to the extent that this witness may or may not
 16 be an informant in some other case, I have no idea.
 17 But to the extent that there's any privilege based on
 18 that, I would --
 19 BY MRS. WARDELL:
 20 Q. I guess what I'm getting at is, is this an
 21 isolated incident or is it part of your duties and
 22 part of your salary is you watch a lot of people, and
 23 hey, if you happen to see them do something wrong, you
 24 tell police?
 25 A. Several associates of Jesse Prince have been

1 arrested. His boss has been arrested. Mr. de Vlaming
 2 handled that case, as a matter of fact, on an assault
 3 on a member of The Church of Scientology. Another
 4 person that was associated with their organization was
 5 arrested in California and charged with a hate crime,
 6 which was convicted in the last couple of weeks.
 7 Q. Are those things things that you --
 8 A. A third associate was arrested in Chicago for
 9 criminal trespass, who was later found -- he was
 10 acquitted.
 11 Q. But are those things things you would have
 12 learned through your surveillance?
 13 A. Yes.
 14 MRS. WARDELL: Okay. I don't have anything
 15 else.
 16 REDIRECT EXAMINATION
 17 BY MR. de VLAMING:
 18 Q. Could you give me an estimate about the
 19 number -- the amount of money The Church of
 20 Scientology paid you in the year 2000 for services
 21 rendered as a private investigator?
 22 MRS. WARDELL: No. I don't think he's
 23 testified that Scientology paid him. I think he
 24 testified the law firm paid him.
 25 BY MR. de VLAMING:

1 Q. Okay. That the law firm paid you?
 2 A. No. I'd have to go look it up.
 3 Q. Did you have any other client in the year
 4 2000 other than the law firm of Moxon?
 5 A. Yes, sir.
 6 Q. How many other clients?
 7 A. Two, I think.
 8 Q. Two other clients?
 9 A. Uh-huh.
 10 Q. Was the bulk of your income last year,
 11 however, the law firm of Moxon that represents The
 12 Church of Scientology?
 13 A. Uh-huh.
 14 Q. Yes?
 15 A. Yes, sir.
 16 Q. So that information could be readily
 17 available by getting your -- taking a look at your tax
 18 returns of last year, if need be?
 19 A. Uh-huh. I mean, I told you I get 60 hours a
 20 week.
 21 Q. We can do the math.
 22 A. We can do the math.
 23 Q. Do you bill out at 60 hours a week?
 24 A. I bill out at 60 hours a week. Now, I
 25 probably billed even higher in some points. I

1 probably put in 80-hour weeks in some weeks, but the
 2 -- long weeks. But the --
 3 MRS. KOBRIN: And he's testified that the
 4 majority of his work is for security purposes.
 5 A. But you see, that's the whole thing. I mean,
 6 a lot of what I do is security work. And in fact,
 7 it's mostly what I do.
 8 BY MR. de VLAMING:
 9 Q. But again, for that client?
 10 A. Yes, sir. Oh, yes, sir.
 11 Q. Rather than on an hourly basis, you just bill
 12 out 60 hours a week, if not higher, but --
 13 A. Uh-huh.
 14 Q. -- but we can safely assume it's a 60-hour
 15 week?
 16 A. At least.
 17 Q. At least. Okay.
 18 MR. de VLAMING: Judge, before we release the
 19 witness, I tried five times to serve him for the last
 20 trial. I apologize for this, but could the Court -- I
 21 don't think I can get him in time for your trial next
 22 week. Could I serve this or you serve this on him?
 23 THE JUDGE: Well, please serve it yourself at
 24 this time, Mr. de Vlaming. And, sir, we have a trial
 25 date set for the 23rd of May. We're noticing you at

1 this time that you need to be present for that.
 2 THE DEPONENT: Fine. No problem.
 3 MR. de VLAMING: Thank you, Judge.
 4 THE JUDGE: All right. Can I leave?
 5 MR. de VLAMING: Yes, sir.
 6 MR. JOHNSON: And, Judge, there's only one
 7 other matter.
 8 THE JUDGE: Sure, Mr. Johnson.
 9 MR. JOHNSON: On the way in, Mr. Raftery
 10 advised me that a couple of investigators of Mr. de
 11 Vlaming's client have video cameras out there. There
 12 may be a safety concern. Is there anything you can
 13 address with us about that? Is this man safe to
 14 leave?
 15 MR. de VLAMING: Oh, he's safe to leave. If
 16 the bailiff needs -- if Mr. Raftery has any concern
 17 there, but I know --
 18 MR. JOHNSON: Well, they're out there.
 19 They're out there with video cameras.
 20 MR. de VLAMING: I know. Well, he's going to
 21 get his picture taken, but --
 22 MR. JOHNSON: They videotaped us coming in.
 23 I've got safety concerns for my client.
 24 MR. de VLAMING: He's really okay.
 25 MR. JOHNSON: You're telling me there's no

1 problem?
 2 MR. de VLAMING: No problem.
 3 THE JUDGE: You need the bailiff involved?
 4 MR. JOHNSON: Because they're not coming
 5 through the thing where they'd have to -- if they have
 6 a gun, they'd have to take it off. They're not coming
 7 inside. They're clearly staying outside. One could
 8 be inside. One could be outside. It would be a more
 9 effective surveillance, which tells me they've
 10 probably got a gun in the --
 11 MR. de VLAMING: They don't have anything.
 12 If you want a bailiff, that's fine.
 13 MRS. WARDELL: Or I'll take you out the back
 14 door. Do you have a problem with that?
 15 MR. de VLAMING: No, no, not at all.
 16 THE JUDGE: I'm out of here.
 17 MR. de VLAMING: Thank you, Judge.
 18 MR. JOHNSON: Thank you, Judge.
 19 MRS. WARDELL: Judge, do you have a problem
 20 releasing that videotape to the State?
 21 THE JUDGE: No, unless --
 22 MRS. KOBRIN: I don't think so. I have not
 23 personally seen it. My partner has seen it.
 24 MR. de VLAMING: You mean the Jesse Prince
 25 video of the arrest?

ERRATA SHEET
READING AND SIGNING OF DEPOSITION

TO BE ATTACHED TO THE DEPOSITION OF BRIAN RAFTERY
TAKEN ON MAY 15, 2001, IN THE MATTER OF STATE OF
FLORIDA VS. JESSE PRINCE BY CRISSY CLADAKIS

TO THE DEPONENT: IN COMPLIANCE WITH THE RULES OF
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FOR MR. PRINCE:	Denis de Vlaming, Esquire
FOR MR. RAFTERY:	Paul Duval Johnson, Esquire
FOR MOXON & KOBRIN:	Helena K. Kobrin, Esquire
LINE & PAGE NO.	CHANGE OR CORRECTION AND REASON

BRIAN RAFTERY _____ Date _____

1 MRS. WARDELL: Yeah.
 2 MR. de VLAMING: Your Honor, may I have your
 3 permission to hand Mr. Gaston the subpoena, too?
 4 THE JUDGE: Yes.
 5 MR. JOHNSON: We voluntarily produced him
 6 today.
 7 THE JUDGE: He will accept his subpoena.
 8 That's not an issue, right?
 9 MR. JOHNSON: Right. I voluntarily produced
 10 him.
 11 MR. de VLAMING: And that's true.
 12 MRS. WARDELL: Judge, before you leave,
 13 aren't we going to have more of an issue with Mr.
 14 Gaston? I mean --
 15 MR. de VLAMING: Well, yeah, but I'm not
 16 going to make him stay around.
 17 MR. JOHNSON: All Mr. Gaston did, I can
 18 reveal to you, was work this particular case. He
 19 didn't have the concerns that we had for Mr. Raftery.
 20 THE JUDGE: I'm in my office.
 21 MR. de VLAMING: Okay.
 22 (At this time the deposition in the
 23 above-captioned matter was concluded at
 24 2:50 p.m.)
 25

DEPONENT'S CERTIFICATE

I have read the foregoing transcript of my
oral deposition taken on the date and at the location
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certify that said transcript is true and correct, with
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to page number, line and content of said error(s), and
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I also understand that upon completion of the
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pre-addressed envelope provided to me.

I further understand that if I do not carry
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STATE OF FLORIDA)
COUNTY OF PINELLAS)

I, CRISSY CLADAKIS, Court Reporter, certify
that I was authorized to and did stenographically
report the foregoing deposition; and that the
transcript is a true record of the testimony given by
MR. JOHNSON.

I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am
I financially interested in the action.

I, the undersigned authority, certify that
BRIAN RAFTERY personally appeared before me and was
duly sworn.

WITNESS my hand and official seal this 17th
day of May, 2001.

Crissy Cladakis
Notary Public - State of Florida
My Commission No. CC 736558
Expires: April 23, 2002

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