

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA

CERTIFIED COPY

ZENAIDA GONZALEZ,

Plaintiff/Counter-Defendant,

VS.

CASE NO.: 08-CA-24573

CASEY ANTHONY,

Defendant/Counter-Plaintiff.

The transcript of proceedings held before the Honorable Jose Rodriguez, Judge of the Circuit Court, Orange County, Florida, on Wednesday, September 9, 2009, beginning at 3:30 p.m., at the Orange County Courthouse, Courtroom 19-D, Orlando, Florida, before Laura J. Landerman, R.M.R., C.R.R., F.P.R., and Notary Public, State of Florida at Large.

A P P E A R A N C E S:

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No appearance on behalf of the
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For Dominic Casey.

<p style="text-align: right;">2</p> <p>1 INDEX</p> <p>2 MOTION FOR CONTEMPT AND SANCTIONS - DOMINIC CASEY</p> <p>3 TESTIMONY OF DOMINIC CASEY</p> <p>4 Direct Examination by Ms. Tennis 38</p> <p>5 Cross-Examination by Mr. Mitnik 41</p> <p>6 CERTIFICATE OF REPORTER 67</p> <p>7 WORD INDEX</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 MR. CONWAY: I heard most of it, Judge.</p> <p>2 (Open court.)</p> <p>3 THE COURT: Whose motion are we hearing today?</p> <p>4 MR. MITNIK: Judge --</p> <p>5 THE COURT: As I live and breathe, Mr. Mitnik,</p> <p>6 is it yours again?</p> <p>7 MR. MITNIK: Yes, sir.</p> <p>8 THE COURT: Good.</p> <p>9 MR. MITNIK: But let me --</p> <p>10 THE COURT: Prepare?</p> <p>11 MR. MITNIK: No, I'm prepared. I'm going</p> <p>12 to --</p> <p>13 THE COURT: I know you are.</p> <p>14 MR. MITNIK: -- give you something.</p> <p>15 THE COURT: I see that very large document</p> <p>16 there.</p> <p>17 MR. MITNIK: Mr. Dill is going to argue the</p> <p>18 one motion that we have today. What I do want to</p> <p>19 give you is a motion -- a plaintiff's reply to the</p> <p>20 defendant's motion for stay we argued the other day.</p> <p>21 I just put it down in --</p> <p>22 THE COURT: Has opposing counsel received it?</p> <p>23 MR. MITNIK: We have sent it to him, so if I</p> <p>24 may just file that. And also, in light of our</p> <p>25 discussion yesterday about the pending issue of</p>
<p style="text-align: right;">3</p> <p>1 PROCEEDINGS</p> <p>2 THE COURT: Cameraman needs to please be</p> <p>3 seated. Thank you. Mr. Mitnik?</p> <p>4 MR. MITNIK: Yes.</p> <p>5 THE COURT: Counsel approach.</p> <p>6 (Bench conference.)</p> <p>7 THE COURT: Okay. The reason that I'm having</p> <p>8 you up here is because we've got a new member of the</p> <p>9 crowd. I want to go ahead and make the observations</p> <p>10 that I have that which I have made for all of the</p> <p>11 hearings. And the reason that I'm particularly</p> <p>12 addressing your status is because the tenor of what</p> <p>13 you have written is inappropriate in instances where</p> <p>14 the use of sarcasm and quips is absolutely not going</p> <p>15 to be tolerated and to be paraded in front of the</p> <p>16 cameras.</p> <p>17 MS. TENNIS: Understood.</p> <p>18 THE COURT: We're going to stick simply to the</p> <p>19 facts and to the law. There will be no personal</p> <p>20 comments, and we're only going to go ahead and do</p> <p>21 the absolute utmost job that needs to be done to</p> <p>22 make sure that the law that -- the law is followed</p> <p>23 and that we litigate with the absolute utmost of</p> <p>24 professionalism. Okay? I didn't want to speak too</p> <p>25 loud.</p>	<p style="text-align: right;">5</p> <p>1 Casey Anthony's -- us moving to compel the</p> <p>2 interrogatory answers, in particular, the one where</p> <p>3 we wanted her to answer the question looking at a</p> <p>4 picture of our client and say that's not the Zenaida</p> <p>5 Gonzalez, as much as we want that answered because</p> <p>6 she's the only one that's seen the alleged phantom</p> <p>7 nanny, as much as I want that --</p> <p>8 THE COURT: May I make a suggestion?</p> <p>9 MR. MITNIK: Yes, sir.</p> <p>10 THE COURT: And I've been toiling about this</p> <p>11 all yesterday afternoon and all night and even this</p> <p>12 morning.</p> <p>13 MR. MITNIK: Yes, sir.</p> <p>14 THE COURT: Isn't that perhaps something that</p> <p>15 can be discussed between you and opposing counsel</p> <p>16 instead of having the Court intervene on it because</p> <p>17 I have a feeling, from what I've heard objectively,</p> <p>18 that if you-all sat down without all of the peering</p> <p>19 eyes that are necessary and unnecessary, you might</p> <p>20 be able to resolve that one without necessitating of</p> <p>21 court intervention. But I appreciate that you will</p> <p>22 go ahead and leave it at my feet should you not be</p> <p>23 able to agree on it.</p> <p>24 MR. MITNIK: I'm going to leave it at your</p> <p>25 feet, Your Honor, because in all candor, I don't</p>

<p style="text-align: right;">6</p> <p>1 believe that I can work anything out with Mr. Kasen.</p> <p>2 I've tried. The relationship is such --</p> <p>3 THE COURT: He's not here so --</p> <p>4 MR. MITNIK: -- and so I would rather deal</p> <p>5 with the Court. There are certain lawyers I deal</p> <p>6 with man to man or lady to man and there are others</p> <p>7 I don't. I'd rather deal with the Court.</p> <p>8 THE COURT: I appreciate your vote of</p> <p>9 confidence, so you may lay it at my bench.</p> <p>10 MR. MITNIK: So this is our formal withdrawal</p> <p>11 of our efforts to get Casey Anthony once and for all</p> <p>12 to say it's not our client we're withdrawing because</p> <p>13 we do not want it to be a hindrance in the decision</p> <p>14 that's pending on the motion for stay. This moving</p> <p>15 forward is too important.</p> <p>16 THE COURT: Excellent.</p> <p>17 MR. MITNIK: So that's off the table.</p> <p>18 THE COURT: Does that mean that --</p> <p>19 MR. MITNIK: We're not moving to compel</p> <p>20 anything from her.</p> <p>21 THE COURT: At all?</p> <p>22 MR. MITNIK: At all. Not a single question.</p> <p>23 THE COURT: Not now, not ten days from now and</p> <p>24 not six months from now, not nine months from now?</p> <p>25 MR. MITNIK: Well, I have withdrawn it, Judge.</p>	<p style="text-align: right;">8</p> <p>1 reasonable.</p> <p>2 MR. MITNIK: But if we were to refile it, I</p> <p>3 would certainly consider that to be a new factor to</p> <p>4 be reconsidered on a motion to stay.</p> <p>5 THE COURT: Absolutely.</p> <p>6 MR. MITNIK: So it's highly unlikely that we</p> <p>7 would ever do any such thing. And then, lastly, I</p> <p>8 just want to announce for the Court for planning</p> <p>9 today purposes that we are not pursuing what was --</p> <p>10 we've notified Brad so he knew not to prepare.</p> <p>11 THE COURT: Mr. Conway.</p> <p>12 MR. MITNIK: Mr. Conway. I'm sorry.</p> <p>13 THE COURT: That's quite all right. And</p> <p>14 that's why he's not in front of the Bar but he's</p> <p>15 behind.</p> <p>16 MR. MITNIK: Yes, sir. George and Cindy</p> <p>17 Anthony, we had motions to compel on matters that we</p> <p>18 feel they should not have objected to, should have</p> <p>19 answered the questions. However, in studying and</p> <p>20 preparing for the hearing and looking at what it is</p> <p>21 that they would not answer, we realized that we can</p> <p>22 get those answers from other sources, for example,</p> <p>23 FBI tapes and things; and therefore, so as not to --</p> <p>24 THE COURT: I seem to have mentioned something</p> <p>25 about that yesterday, and I am glad you have seized</p>
<p style="text-align: right;">7</p> <p>1 I can't predict in the future. But I can tell you</p> <p>2 this. If in the future -- I have no anticipated</p> <p>3 intent of changing position.</p> <p>4 THE COURT: I got you.</p> <p>5 MR. MITNIK: But if sometime in the future we</p> <p>6 did, then they certainly could reraise their motion</p> <p>7 to stay at that time. I don't anticipate -- this</p> <p>8 isn't some trickery to win it and put it back in.</p> <p>9 THE COURT: I would not couch it in those</p> <p>10 terms at all.</p> <p>11 MR. MITNIK: Nor is it strategy to later put</p> <p>12 it back in. The intent would be --</p> <p>13 THE COURT: And, you know, I have thought</p> <p>14 about that. I'm glad you have gelled it for me.</p> <p>15 Perfect.</p> <p>16 MR. MITNIK: There is no strategy with an</p> <p>17 intent to pull it later. The only reason I put any</p> <p>18 caveat on it is that I can't predict in the future</p> <p>19 something.</p> <p>20 THE COURT: And you don't know, quite frankly,</p> <p>21 what your client's going to require of you.</p> <p>22 MR. MITNIK: True.</p> <p>23 THE COURT: And as a consummate professional,</p> <p>24 you are absolutely duty bound to follow what your</p> <p>25 client's instructions are so long as they're</p>	<p style="text-align: right;">9</p> <p>1 that opportunity.</p> <p>2 MR. MITNIK: So it is information we consider</p> <p>3 important but we can get elsewhere, and we would</p> <p>4 rather minimize distractions and keep the case</p> <p>5 focused.</p> <p>6 There is one issue in today, and that is</p> <p>7 Dominic Casey, a witness -- our motion to --</p> <p>8 THE COURT: I will tell you that I prepared</p> <p>9 for every one of those motions, so I am well read on</p> <p>10 them and the time was not wasted.</p> <p>11 MR. MITNIK: Okay. And I apologize we didn't</p> <p>12 let you know sooner, but the decision wasn't made</p> <p>13 until --</p> <p>14 THE COURT: Counsel, I have realized that I'm</p> <p>15 always the last to know, and that's okay.</p> <p>16 MR. MITNIK: With that, I'll let Mr. Dill</p> <p>17 argue.</p> <p>18 THE COURT: Mr. Conway, you may remain in the</p> <p>19 courtroom or if you wish to withdraw, you may also</p> <p>20 do so.</p> <p>21 MR. CONWAY: Thank you, Judge Rodriguez. I'll</p> <p>22 stay.</p> <p>23 MR. DILL: Good afternoon, Your Honor. I'm</p> <p>24 John Dill.</p> <p>25 THE COURT: Hello, Mr. Dill. How are you?</p>

<p style="text-align: right;">10</p> <p>1 MR. DILL: May it please the Court. We're 2 here on the -- the motion is entitled our motion for 3 contempt and sanctions against Dominic Casey for 4 failure to appear. I can narrow the issue a little 5 bit for the Court. 6 Although we think there may be a reason to 7 have sanctions in preparing for contempt, we're 8 really only going to focus on -- and withdraw those 9 matters -- and focus on having him compelled to come 10 to the deposition which he did not attend, so I'm 11 going to focus my argument on that. 12 THE COURT: So your motion becomes a motion to 13 compel attendance at deposition. 14 MR. DILL: Exactly, Your Honor. 15 THE COURT: That's excellent. You know, this 16 is the kind of narrowing down and whittling down of 17 issues that I, you know, I must complement you. 18 MR. DILL: Okay. Thank you, Your Honor. Just 19 for background, though, as far as the timeline here, 20 Dominic Casey is a witness in this case. He was 21 served with a subpoena on February 12th of this year 22 for a deposition that was March 25th of this year. 23 On the evening of March 25th, he called my law 24 partner and boss, John Morgan, and told him that he 25 would not be able to attend. He did not attend the</p>	<p style="text-align: right;">12</p> <p>1 at the time of the questioning. There may be many 2 matters -- 3 THE COURT: Would you be delaying the filing 4 of the deposition? 5 MR. DILL: I'm not sure what you mean by that, 6 Judge. 7 THE COURT: Will you be delaying the filing of 8 the deposition so that they do not become public 9 record until such time as any and all objections are 10 handled by the Court? 11 MR. DILL: If that was a privilege -- 12 MR. MITNIK: Yes. 13 MR. DILL: If that's appropriate, but that 14 really wasn't -- our thought would be let's find out 15 what, in fact, it is that -- 16 THE COURT: What I'm trying to do is I'm 17 trying to lessen the possibility of someone -- 18 MR. MITNIK: Yes, sir. 19 THE COURT: -- refusing to answer something 20 that may be inadmissible that may be distributed and 21 possibly taint any and all panels out there. 22 MR. DILL: I understand, Judge. We 23 wouldn't -- it's our goal, obviously -- 24 MR. MITNIK: We would follow that procedure. 25 MR. DILL: It's not our goal to file things</p>
<p style="text-align: right;">11</p> <p>1 deposition, and we filed a certificate of 2 nonappearance. 3 It was our understanding at that time that he 4 was represented by Mr. Mason, who was going to be 5 filing a notice of appearance, who apparently did 6 not. Subsequently, though, Ms. Tennis filed a 7 notice of appearance and also filed a motion for 8 protective order. 9 The basis of the motion for protective order 10 appears to be, from what I can gather, is that 11 Mr. Casey is an investigator who was hired by the 12 Anthonys; and therefore, everything that Mr. Casey 13 may, in fact, testify to is going to be privileged. 14 We have a few reasons why that would not be the 15 proper procedure. 16 First of all, we suggested to Ms. Tennis -- 17 and I have a letter here for the Court to Ms. Tennis 18 just for your perusal from July 15th. May I 19 approach? 20 THE COURT: Yes. 21 MR. DILL: It's our position that if there is, 22 in fact, a claim of privilege, the proper procedure 23 would be to have the deposition, have the questions 24 asked and any properly raised areas of privilege, 25 which we don't think there are, will be objected to</p>	<p style="text-align: right;">13</p> <p>1 that are not ripe to be filed, but getting back 2 to what I -- 3 THE COURT: I'm anticipating. You know, a 4 wise judge always stays one, maybe two, sometimes 5 three steps ahead of the lawyers. I'm trying to be 6 wise. 7 MR. DILL: I understand, Your Honor. As far 8 as what our thoughts on the procedure were, 9 though -- and keep in mind this is a deposition of a 10 fact witness. This is somebody who has information 11 that we believe could reasonably lead to the 12 discovery of admissible evidence. 13 THE COURT: And that's the standard. That's 14 the standard. 15 MR. DILL: So, therefore, there may be many 16 questions that would be outside of this area of 17 privilege; for instance, if when they were hired, 18 what they were hired for. So we don't believe that 19 there is even a privilege that applies, which I'm 20 going to talk about in a minute, but we believe the 21 proper method would not be to not show up for a 22 deposition altogether and say I have nothing to give 23 to you. It's not the place of a witness to 24 determine what is relevant and what isn't and also 25 not to show up and say I'm not going to answer any</p>

<p style="text-align: right;">14</p> <p>1 questions at all.</p> <p>2 It doesn't matter if it was filed months and</p> <p>3 months ago. We tried to get his deposition taken on</p> <p>4 the 25th of March and here we are in September now</p> <p>5 finally getting a motion to compel. So that's why</p> <p>6 I'd like to address these issues of potential</p> <p>7 privilege based upon what was said in the prior</p> <p>8 depositions and also what has been raised in the</p> <p>9 motion.</p> <p>10 Dominic Casey, it's our understanding from the</p> <p>11 deposition, was hired by George and Cindy Anthony to</p> <p>12 find their child when the child was missing. Judge,</p> <p>13 I have a copy of Ms. Anthony's deposition -- can I</p> <p>14 approach?</p> <p>15 THE COURT: Yes. That's been filed, hasn't</p> <p>16 it?</p> <p>17 MR. DILL: It has, Your Honor. It's a</p> <p>18 courtesy copy to you because there is a specific</p> <p>19 passage I'd like to point out to the Court. Page</p> <p>20 145 of Cindy Anthony's deposition.</p> <p>21 THE COURT: There are expert witness testimony</p> <p>22 that is not as long as this that I've seen in</p> <p>23 trials. It's 145, did you say?</p> <p>24 MR. DILL: Yes, sir.</p> <p>25 THE COURT: What line?</p>	<p style="text-align: right;">16</p> <p>1 is the time before, obviously, that the discovery</p> <p>2 that took place in December.</p> <p>3 And so what we want to take the deposition of,</p> <p>4 and I think we're entitled to take the deposition of</p> <p>5 all areas, but going to the area of privilege and</p> <p>6 whether there is a privilege or not, certainly at</p> <p>7 the time that he was hired and the time he was</p> <p>8 retained and the relevant time period that we're</p> <p>9 going to be asking about there is no pending lawsuit</p> <p>10 against Cindy or George Anthony. There is no</p> <p>11 pending criminal investigation against George or</p> <p>12 Cindy Anthony.</p> <p>13 The objection appears to be that, well, there</p> <p>14 is a possibility that maybe somewhere out there</p> <p>15 there could be litigation; so, therefore, anything</p> <p>16 that could have happened during the time that he was</p> <p>17 hired is somehow now going to be blanketed by this</p> <p>18 privilege. Well, there's case law specifically on</p> <p>19 point to this, Judge. And if I can approach with</p> <p>20 the case of Neighborhood --</p> <p>21 THE COURT: Tell you what we're going to do.</p> <p>22 I'm going to pull up my Westlaw.</p> <p>23 MR. DILL: Very well, Judge.</p> <p>24 THE COURT: And what we're going to go ahead</p> <p>25 and do is and I'm going to ask you to cite it for</p>
<p style="text-align: right;">15</p> <p>1 MR. DILL: Line 17.</p> <p>2 THE COURT: I'm there.</p> <p>3 MR. DILL: Thank you.</p> <p>4 THE COURT: Question.</p> <p>5 MR. DILL: Question: And he was retained in</p> <p>6 your mind to do what?</p> <p>7 Answer: Dominic did whatever we asked him to</p> <p>8 do.</p> <p>9 Question: Okay. And what were you asking him</p> <p>10 to do?</p> <p>11 Answer: Look for Caylee.</p> <p>12 Question: Do you know if he was ever given</p> <p>13 information about Zanny or Zenaida Gonzalez?</p> <p>14 Answer: Yes.</p> <p>15 Next question: When was that?</p> <p>16 Answer, on the next page, Your Honor: Him and</p> <p>17 I talked about Zenaida --</p> <p>18 THE COURT: 146, line 1.</p> <p>19 MR. DILL: Him and I talked about Zenaida</p> <p>20 Gonzalez all the time.</p> <p>21 So what we were looking for and seeking the</p> <p>22 deposition of Dominic Casey is something that has to</p> <p>23 do with his employment as an investigator for the</p> <p>24 Anthonys and his search for Zenaida Gonzalez. This</p> <p>25 is at a time before there was any litigation. This</p>	<p style="text-align: right;">17</p> <p>1 me.</p> <p>2 MR. DILL: Sure.</p> <p>3 THE COURT: I will pull it up. That way I can</p> <p>4 check behind your case and find out what other cases</p> <p>5 might be also involved.</p> <p>6 MR. DILL: That would be -- that would be</p> <p>7 appropriate, Judge. It's 8 So.3d 1180, and the case</p> <p>8 is, for the record, Neighborhood Health Partnership,</p> <p>9 Incorporated, versus Merkle.</p> <p>10 The language that I'd like to direct the Court</p> <p>11 to -- and this case goes through the issues of work</p> <p>12 product, and as you know, there is the Hickman</p> <p>13 versus Taylor case and all of its progeny. There is</p> <p>14 a lot of case law in Florida. But this has been</p> <p>15 dealt with in the courts as far as what is actual</p> <p>16 pending litigation and what is maybe something's</p> <p>17 going to happen litigation.</p> <p>18 On page 5, actually, it's at 1184 for the</p> <p>19 Court -- and this case is citing the Cotton</p> <p>20 States --</p> <p>21 THE COURT: I tell you what. Since this is</p> <p>22 not my regular courtroom, I am not set up for</p> <p>23 Westlaw here with my account, I will take the copy</p> <p>24 under one condition; and that is, that you take it</p> <p>25 back and recycle it.</p>

18

1 MR. DILL: I will do that, Judge, but I have a
2 highlighted copy for the Court.

3 THE COURT: That's quite all right.

4 MR. DILL: And the language that I've
5 highlighted, I believe, is particularly applicable
6 here.

7 THE COURT: On page 1184?

8 MR. DILL: It's 1184. It's on page 5 of your
9 copy there, Judge. It's citing another case, which
10 is the Cotton States Mutual case. The work product
11 privilege attaches to statements and materials
12 prepared by a party's investigator or insurer only
13 if these were prepared in contemplation --

14 THE COURT: Contemplation of, those are the
15 buzz words.

16 MR. DILL: And I would point out mere
17 likelihood of litigation does not satisfy this
18 qualification. And the case goes on to talk about
19 that the mere general likelihood of litigation --
20 first of all, in this case, we don't think
21 there's -- obviously, there is no litigation arising
22 out of that investigation against George and Cindy
23 Anthony. That -- what Mr. Casey was hired to do,
24 according to the Anthonys, was to locate the child.
25 So this is not an investigator who's been hired on a

19

1 potential criminal matter against the Anthonys by
2 their own testimony.

3 Even so, you can't say, well, maybe somewhere
4 out there there's a possibility that some day there
5 could be litigation. The case law says there has to
6 be a specific articulable likelihood of
7 litigation. And that makes sense because,
8 otherwise, every single person who ever investigated
9 or looked into any matter could say, hey, some day
10 there may be a lawsuit; therefore, everything I say
11 or everything I've discovered is privileged.

12 So it's fairly clear not only from the
13 materials that have been cited by Ms. Tennis in her
14 motion but also from the case law on the specific
15 point that there is no privilege. There is no work
16 product privilege. And if there were some sort of
17 work product privilege, it would have to be
18 articulated by specific litigation and likelihood of
19 specific litigation. There is none at this point.

20 Beside the fact that they can't just come in
21 and say we have no relevant information; therefore,
22 we're not going to show up, besides the procedural
23 problems they have as far as the validity of not
24 showing up, there's no circumstance under which he
25 could say everything I found out was, in fact,

20

1 privileged. We're going off the sworn testimony of
2 the people that hired him.

3 So we want to take his deposition not only for
4 what he was looking for, for his efforts to find
5 Zenaida Gonzalez, which is relevant in our case, the
6 scope of his representation, all those type of
7 things. Based upon that and the fact that it's been
8 six months ago, what we'd like from the Court is an
9 order compelling his attendance at deposition, and
10 we'd like that within the next seven to ten days
11 because here we are again almost six months since
12 the time that this was noticed.

13 May I have just a moment, Judge.

14 And the order should be that he appears within
15 ten days as opposed to that it be set within ten
16 days. We'd like to have his deposition taken within
17 that time. That's the relief we seek. Thank you,
18 Your Honor.

19 THE COURT: Thank you, sir.

20 MS. TENNIS: Judge, I know the Court had
21 received my --

22 THE COURT: One moment. Excuse me.

23 MS. TENNIS: Sure.

24 THE COURT: I'm still taking notes. All
25 right.

21

1 MS. TENNIS: Thank you, Judge. I know that
2 you've received my motion for protective order and
3 the attached case law. Here's just a couple of
4 cases that were not included in that batch.

5 Judge, on June 1st, prior to filing my motion
6 for protective order, I sent a letter to opposing
7 counsel and informed them that the only possible
8 connection that I knew of that Dominic Casey could
9 possibly have to their lawsuit was through his
10 connections and work for both Cindy and George
11 Anthony and Casey Anthony and their respective
12 lawyers, José Baez and Brad Conway.

13 And I informed them that as he had no
14 independent information relating to Zenaida
15 Gonzalez, that all the information he had would have
16 been pursuant to his work in the joint efforts
17 related to Casey Anthony and her now murder charge.

18 I asked them what it was they thought that he
19 would be able to tell them about that would not be
20 privileged so that we could come to some
21 understanding. To this date, despite the fact that
22 we've spoken on the phone, until we were here in the
23 courtroom today, I have never been given an idea of
24 what it is they want to talk to Dominic Casey about.

25 I believe that it's clear that their motion to

<p style="text-align: right;">22</p> <p>1 compel is legally deficient.</p> <p>2 THE COURT: And how is it so clear that it was</p> <p>3 legally deficient?</p> <p>4 MS. TENNIS: The Keating versus State case</p> <p>5 I've given you at 777 So.2d 348, 5th DCA, 2001, the</p> <p>6 motion to compel itself, when you're dealing with</p> <p>7 privileged information, must allege the need for</p> <p>8 that information and the hardship to obtain that</p> <p>9 information via other means. Without those</p> <p>10 allegations -- and that would include what it is</p> <p>11 they're looking for. Without that contained within</p> <p>12 the motion, it's facially deficient and the Court</p> <p>13 should dismiss it.</p> <p>14 Now, that doesn't mean they couldn't file --</p> <p>15 THE COURT: Come right back and --</p> <p>16 MS. TENNIS: They could file an amended motion</p> <p>17 to compel, but what that would allow us is, for</p> <p>18 example -- let me use the Cindy Anthony transcript</p> <p>19 as an example. I've never read that. I don't have</p> <p>20 any reason, frankly, to have read it.</p> <p>21 THE COURT: May I provide you with a copy, if</p> <p>22 you wish to do that?</p> <p>23 MS. TENNIS: The recitation that I heard a</p> <p>24 moment ago made me believe --</p> <p>25 THE COURT: That's at page 145 and 146. Lines</p>	<p style="text-align: right;">24</p> <p>1 holds even after that litigation is over.</p> <p>2 Anticipation of litigation does not mean that</p> <p>3 litigation had to result. Those cases are</p> <p>4 throughout the document that I provided you earlier.</p> <p>5 The Scene versus Pilkington Brothers, the 508 So.2d</p> <p>6 437 case from '87, talks about a joint defense or</p> <p>7 pooled information. This was --</p> <p>8 THE COURT: To whom does the privilege attach</p> <p>9 here?</p> <p>10 MS. TENNIS: Well, until one of the players in</p> <p>11 that pool decide they want to waive the privilege,</p> <p>12 he can't talk about work he did for this joint</p> <p>13 effort. This was a family that came together and</p> <p>14 did their --</p> <p>15 THE COURT: So you're saying that this</p> <p>16 basically was not an investigator for Mr. or</p> <p>17 Mrs. Anthony but for Mr., Mrs. Anthony, Miss Anthony</p> <p>18 and the whole kit and caboodle, everything.</p> <p>19 MS. TENNIS: Correct. Correct. He had</p> <p>20 conversations and contracts with all the Anthonys.</p> <p>21 He had conversations and arrangements with Mr. Baez</p> <p>22 and Mr. Conway at the same time, at different times.</p> <p>23 He's continued to have communications across the</p> <p>24 board.</p> <p>25 This was -- this was always a family coming</p>
<p style="text-align: right;">23</p> <p>1 17 through 25 on 145 and the entire page 146. Even</p> <p>2 though all of it was not requested for the Court to</p> <p>3 read, I read that whole page because the whole page</p> <p>4 basically deals with Zenaida Gonzalez as well.</p> <p>5 MS. TENNIS: If the argument is that the</p> <p>6 privilege has been partially waived by the voluntary</p> <p>7 giving of this deposition by Cindy Anthony --</p> <p>8 THE COURT: I don't know that that's factual</p> <p>9 because there is an objection right there.</p> <p>10 MS. TENNIS: There is an objection. And also</p> <p>11 my read of this is that there was nothing -- you're</p> <p>12 right. There was an objection.</p> <p>13 THE COURT: The judge is right.</p> <p>14 MS. TENNIS: You're right. You're right.</p> <p>15 THE COURT: Let the media note that the judge</p> <p>16 is right.</p> <p>17 MS. TENNIS: You're absolutely correct, Judge.</p> <p>18 THE COURT: I do my homework.</p> <p>19 MS. TENNIS: There is certainly nothing about</p> <p>20 those conversations that are not covered by</p> <p>21 privilege. A couple of the other cases that I've</p> <p>22 given the Court include the Alachua General versus</p> <p>23 Zimmer, the First District, 1981 case. And it talks</p> <p>24 about investigative work particularly that is in</p> <p>25 anticipation of litigation and how that privilege</p>	<p style="text-align: right;">25</p> <p>1 together getting lawyers onboard, getting an</p> <p>2 investigator involved to deal with this tragedy.</p> <p>3 There isn't anything that Mr. Casey knows that isn't</p> <p>4 related to those -- to those issues. It's just</p> <p>5 really that simple. And without an allegation that</p> <p>6 there is either a hardship and an evidentiary</p> <p>7 hearing with a finding that he has information that,</p> <p>8 without a fishing expedition, they can point to to</p> <p>9 say we need this, we can't get it any other way --</p> <p>10 even the questions, frankly, that were asked of Ms.</p> <p>11 -- of Cindy Anthony, understood that there were</p> <p>12 objections being raised, but the questions go on as</p> <p>13 they always do so that the Court can later make a</p> <p>14 determination about whether those objections should</p> <p>15 be sustained at the trial setting, they never asked</p> <p>16 the real meat questions; and that is, you know, was</p> <p>17 there a description of this woman? Where does she</p> <p>18 live? Did you see her yourself? I mean, they</p> <p>19 didn't even -- it was far short of a showing to you</p> <p>20 that they would need to get to Dominic Casey in</p> <p>21 order to get anything real for their case.</p> <p>22 In essence, their case is about proving a</p> <p>23 negative. Their case is about proving that there</p> <p>24 never was a Zenaida Gonzalez and that Casey somehow</p> <p>25 meant this Zenaida Gonzalez when she was talking</p>

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1 about that. There's no -- there's really no showing
2 whatsoever to this court that they need Dominic
3 Casey to do those things.

4 And in my motion for protective order, perhaps
5 more fully than was necessary, I mean, I think I've
6 laid out some of the weaknesses in the case or the
7 point that it would be very difficult for them to
8 have a need to talk to Dominic Casey in order for
9 them to prove a negative.

10 THE COURT: Then why do you think they're
11 asking for that? Why do you think they're asking to
12 speak to him?

13 MS. TENNIS: You've instructed me to be polite
14 and I'm going to be.

15 THE COURT: That's -- and I wouldn't have to
16 instruct you to be polite for you to be polite. I
17 think that should come as second nature.

18 MS. TENNIS: Lawyers ask for all sorts of
19 things that they don't have a right to, and that's
20 why judges are the gatekeepers and you have the hard
21 job. I think it's clear that my client's only
22 connection with this case is through his role as an
23 investigator for a legal defense team, and their
24 motion to compel needs to lay out a predicate to
25 come into you and have an evidentiary hearing to

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1 determine whether or not they have sufficient need
2 and there is sufficient hardship in obtaining this
3 information elsewhere. And if Miss Anthony could
4 not be compelled to give this information, certainly
5 her investigator could not.

6 THE COURT: Mr. Mitnik.

7 MR. MITNIK: Yes, sir.

8 THE COURT: It's a family event.

9 MR. MITNIK: Yeah. I can't --

10 THE COURT: Therefore, you're dealing with
11 Mr. Conway, Mr. Baez and the accused, and this is in
12 contemplation -- I'm not saying that that's what
13 I'm -- the issue or the points that I'm reaching.
14 I'm basically trying to restate the position --

15 MR. MITNIK: Sure.

16 THE COURT: -- that I understand has just been
17 advanced; and that is, that the privilege attached
18 is because it's work product in contemplation of
19 litigation involving one or a series of the members
20 of the family.

21 MR. MITNIK: Where's the evidence? Where's
22 the evidence? We've got evidence from George
23 Anthony saying the investigator, Dominic Casey, did
24 he work for you or the family at any time? He
25 worked for us, I believe, since about November of

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1 '08. And "us" would be who? Here comes the family
2 answer.

3 THE COURT: Cite me to the page.

4 MR. MITNIK: Page --

5 THE COURT: This is not Cindy Anthony. This
6 is George Anthony.

7 MR. DILL: I have a copy of that, Your Honor.

8 THE COURT: Which I will return since we do
9 have it scanned, but, again, I'm not --

10 MR. DILL: That's fine, Your Honor.

11 THE COURT: Cite me to the page.

12 MR. MITNIK: Page 21 beginning on -- it's line
13 15, beginning on line -- I'm sorry. Yes. Page 21,
14 line 15 is where it starts. We get down to who
15 the -- he's working for the family, and he says us.
16 Who would us be?

17 THE COURT: Page 21, did you say, line 15?

18 MR. MITNIK: Yeah. The Anthony family, Cindy
19 and I. Cindy and I.

20 THE COURT: Page 21, line 15.

21 MR. MITNIK: Line 15.

22 THE COURT: I have, Question, were there
23 incidences --

24 MR. MITNIK: I'm sorry, Judge. It may be at
25 the end. There is a number at the top. That must

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1 be the quote above. It's page 29, line 25 because
2 the cite's at the bottom of the quote.

3 THE COURT: Line 25?

4 MR. MITNIK: Yep.

5 THE COURT: Question: The investigator,
6 Dominic Casey, did he work -- and now we're on page
7 30, line 1 -- for you or the family at any time?

8 Mr. Conway: You can answer that.

9 Answer: He's worked for us, I believe, since
10 about November of 2008.

11 Question: And "us" would be who?

12 You mean whom, would that be?

13 Who?

14 Answer: The Anthony family, Cindy and I.

15 Would that mean you all were paying his bill?

16 That's privileged. It's work product.

17 It's work product why, and then there's a
18 continued discussion between the lawyers.

19 Anything else?

20 MR. MITNIK: There is -- we hear that
21 Dominic -- I want to make another point on the law
22 in a minute, but let me state this. We hear from
23 counsel, who wasn't involved at the time, that --
24 this lady wasn't there. We've never --

25 THE COURT: Meaning? Who do you refer to as

<p style="text-align: right;">30</p> <p>1 "this lady."</p> <p>2 MR. MITNIK: Right here.</p> <p>3 THE COURT: Opposing counsel?</p> <p>4 MR. MITNIK: What's your name?</p> <p>5 MS. TENNIS: Ms. Tennis.</p> <p>6 MR. MITNIK: Ms. Tennis.</p> <p>7 THE COURT: Opposing counsel.</p> <p>8 MR. MITNIK: Yeah.</p> <p>9 THE COURT: If you do not know her name, you</p> <p>10 can --</p> <p>11 MR. MITNIK: Opposing counsel was not there.</p> <p>12 The way this is supposed to work is we take a</p> <p>13 person's deposition and we lay the foundation.</p> <p>14 Let's hear what he's got to say. Are you going to</p> <p>15 stand -- this is what I want to know. This is why I</p> <p>16 don't buy that, frankly, Judge, that he was working</p> <p>17 for Mr. Baez too.</p> <p>18 Let's follow the connect the dots and see if</p> <p>19 that's what the gentleman's really going to say. At</p> <p>20 the time that he was out there looking around for a</p> <p>21 body in which a great deal of the criminal defense</p> <p>22 is based to say she was in jail at the time, if he</p> <p>23 was working for Mr. Baez at the time, that means</p> <p>24 that Mr. Baez -- whatever information Casey Anthony</p> <p>25 gave Mr. Baez about the whereabouts of the body</p>	<p style="text-align: right;">32</p> <p>1 the criminal case. I don't care. In my case it</p> <p>2 might end up blocking us, but I get to ask him that</p> <p>3 and establish it. I get to say who were you working</p> <p>4 for.</p> <p>5 THE COURT: Didn't you do that?</p> <p>6 MR. MITNIK: He won't show up. We should have</p> <p>7 had that deposition and be here arguing those points</p> <p>8 to Your Honor. Instead six months after the fact</p> <p>9 I'm still trying to follow the basic procedure.</p> <p>10 And here's the problem, Your Honor, and I'm</p> <p>11 going to be courteous, but we have rules in civil</p> <p>12 court we follow. Some of it's kind of hornbook we</p> <p>13 know that do civil law. For example, the case that</p> <p>14 was cited that says we have to lay out how we can't</p> <p>15 get it from other sources, that case, I'm sure Your</p> <p>16 Honor knows, that deals with when we say, yes, there</p> <p>17 is a privilege but we want to pierce it and we want</p> <p>18 it anyhow, then we have a really, really high</p> <p>19 burden.</p> <p>20 THE COURT: I know.</p> <p>21 MR. MITNIK: But when we say we just want to</p> <p>22 find out even the existence of a privilege, we don't</p> <p>23 have that burden. That case is irrelevant. We're</p> <p>24 not here saying it's privileged but give it to us</p> <p>25 anyhow. We're here saying, for goodness sake, let</p>
<p style="text-align: right;">31</p> <p>1 could have been shared with him privileged. So he</p> <p>2 would have just been out there looking for the body</p> <p>3 saying it's not there at a place she could have sent</p> <p>4 him through Mr. Baez. I doubt with the criminal</p> <p>5 case pending they're really going to take the</p> <p>6 position he was working for Mr. Baez at the time he</p> <p>7 was out in the woods. But if he does, so be it. I</p> <p>8 don't know his answer. There's only one way I can</p> <p>9 know the answer.</p> <p>10 I have indications from the testimony of Cindy</p> <p>11 and George Anthony he was working for them for the</p> <p>12 purpose of finding the missing child. That is not</p> <p>13 privileged. There's nothing pending against Cindy</p> <p>14 and George Anthony. We've got case law that says it</p> <p>15 has to be a specific pending, not just some generic</p> <p>16 potential.</p> <p>17 THE COURT: Right.</p> <p>18 MR. MITNIK: There was nothing pending at</p> <p>19 these early stages before the body was found, and</p> <p>20 they had hired -- all indications to us are they</p> <p>21 hired him to go find the granddaughter, not working</p> <p>22 for the criminal side. If that's the case, there's</p> <p>23 no privilege.</p> <p>24 If at those early days he was really working</p> <p>25 for Mr. Baez too, I suspect that's a huge problem in</p>	<p style="text-align: right;">33</p> <p>1 us take our discovery in this case. The witnesses</p> <p>2 are just piling on. Every time we want to take a</p> <p>3 deposition in this case, we have to wait months and</p> <p>4 months. Then we have to wait on your calendar,</p> <p>5 which it's not your fault. There is too much going</p> <p>6 on.</p> <p>7 THE COURT: You have no idea how many lawyers</p> <p>8 today I had who cancelled their hearings or failed</p> <p>9 to show up.</p> <p>10 MR. MITNIK: Judge, I mean nothing --</p> <p>11 THE COURT: It's sad.</p> <p>12 MR. MITNIK: I mean nothing but --</p> <p>13 THE COURT: No, but it is sad because these</p> <p>14 are --</p> <p>15 MR. MITNIK: -- I have a client I'm trying to</p> <p>16 represent.</p> <p>17 THE COURT: These are lawyers that are not</p> <p>18 being considerate of you or your client because they</p> <p>19 take hearing time that, obviously, they don't need.</p> <p>20 MR. MITNIK: My point is, Judge, if we follow</p> <p>21 the correct procedures -- we backed off the</p> <p>22 sanctions because I'm not a sanctioning guy. I</p> <p>23 don't like to sanction other lawyers and parties. I</p> <p>24 just want get my job done. But I'm ready to move</p> <p>25 for sanctions. Not now. We backed off them when we</p>

<p style="text-align: right;">34</p> <p>1 have this hearing, but for the deposition, which I</p> <p>2 hope Your Honor's going to let us go lay the</p> <p>3 foundation so that we can really having a meaningful</p> <p>4 hearing and not waste your time, our time,</p> <p>5 everyone's time, not six months of time to take a</p> <p>6 witness, not even a party, and I have to hear how</p> <p>7 our case is frivolous. It's baseless.</p> <p>8 This is a witness' lawyer. It ain't none of</p> <p>9 his business whether our case is frivolous or not.</p> <p>10 Everyone's jumped on the bandwagon. It's not</p> <p>11 frivolous to my client. I would like to be able to</p> <p>12 conduct discovery in a meaningful, rationale way and</p> <p>13 not have to come over here, two lawyers preparing,</p> <p>14 taking up your valuable time when there are</p> <p>15 procedures are to be followed.</p> <p>16 I would like them to be told show up and</p> <p>17 answer the questions that aren't privileged. Lay</p> <p>18 it -- if you think it's privileged, for goodness</p> <p>19 sake, you better be sure it's privileged because I</p> <p>20 can tell when you we come back, if Your Honor lets</p> <p>21 us take it and they insert some nonsense privilege,</p> <p>22 I will move for every sanction I can think of. I've</p> <p>23 had it with this.</p> <p>24 We need to be able to take our discovery. My</p> <p>25 client's access to the courts and rights are being</p>	<p style="text-align: right;">36</p> <p>1 in the public court file.</p> <p>2 THE COURT: Thank you. I'm glad you cut</p> <p>3 off here. You were beginning to repeat yourself but</p> <p>4 that's okay.</p> <p>5 MR. MITNIK: I know. I'm frustrated.</p> <p>6 THE COURT: I figured I needed to let you</p> <p>7 vent. That's what we're here for, redressing</p> <p>8 someone's grievances. Ms. Tennis.</p> <p>9 MS. TENNIS: I think what I'm hearing is that</p> <p>10 if we can just put Mr. Casey on the witness stand,</p> <p>11 have him confirm what I've been telling everyone for</p> <p>12 months, that the only information he has about any</p> <p>13 of these characters is pursuant to his work for</p> <p>14 various parts of the Anthony joint defense team,</p> <p>15 they will accept that there is a privilege and we</p> <p>16 will all go our merry ways. So I think that would</p> <p>17 be the fastest, cleanest, easiest route to take, and</p> <p>18 I'd like to call Dominic Casey at this time.</p> <p>19 MR. MITNIK: Sure. And --</p> <p>20 THE COURT: You mean to tell me that there may</p> <p>21 very well be agreement though.</p> <p>22 MS. TENNIS: That's what I'm hearing is we</p> <p>23 just need to establish -- they're not taking my</p> <p>24 word, and I don't blame them for not taking my word</p> <p>25 for it. I think we just establish that, and I think</p>
<p style="text-align: right;">35</p> <p>1 denied. We have witnesses' lawyers coming in and</p> <p>2 have decided unilaterally we know your case is</p> <p>3 frivolous, we know there's nothing can be answered</p> <p>4 and we're not even going to show up, and we have to</p> <p>5 come to you to say that's not the way we do it.</p> <p>6 Go there, let them answer at least the</p> <p>7 predicate questions. We'll see whether he really is</p> <p>8 going to say under oath he was working for Mr. Baez</p> <p>9 back at that time. We'll find out. But if he</p> <p>10 wasn't, then he better be answering these because</p> <p>11 there wasn't any pending litigation, and I want them</p> <p>12 answered.</p> <p>13 There may be a time later when he went to work</p> <p>14 for Mr. Baez. How would I know until I get to</p> <p>15 question him. I can't present a meaningful argument</p> <p>16 nor can they defend it, but I'm just supposed to</p> <p>17 accept they've unilaterally decided we don't</p> <p>18 need to -- we just aren't showing, so we moved for</p> <p>19 sanctions. I backed off them because I don't like</p> <p>20 them, but I'm done being nice about it.</p> <p>21 Please let us go take this man's deposition</p> <p>22 and let us come back. We will not file it. I will</p> <p>23 give you my word we will not file it. There will be</p> <p>24 no public disclosure until we come back, had your</p> <p>25 ruling, and then we will do the appropriate filing</p>	<p style="text-align: right;">37</p> <p>1 maybe we'll have things taken care of.</p> <p>2 THE COURT: Mr. Mitnik?</p> <p>3 MR. MITNIK: Great. Does he have the</p> <p>4 documents of when he was hired, any documents</p> <p>5 showing who hired him, when, any checks?</p> <p>6 THE COURT: Sir, you are asking questions that</p> <p>7 are way beyond my ability to know.</p> <p>8 MR. MITNIK: May I ask counsel?</p> <p>9 THE COURT: No. I tell you what. Let's do</p> <p>10 this. Let's give counsel the opportunity to</p> <p>11 proceed. If you'll have a seat at counsel table,</p> <p>12 you'll get an opportunity to cross-examine, please.</p> <p>13 Ms. Tennis, call your witness.</p> <p>14 MS. TENNIS: Mr. Casey.</p> <p>15 THE COURT: Sir, please raise your right hand.</p> <p>16 Do you swear or affirm the testimony you're about to</p> <p>17 give will be the truth, the whole truth, nothing but</p> <p>18 the truth so help you God?</p> <p>19 THE WITNESS: I do.</p> <p>20 THE COURT: Be seated. Counsel proceed.</p> <p>21 -----</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">38</p> <p>1 DOMINIC CASEY</p> <p>2 having been first duly sworn testified as follows:</p> <p>3 DIRECT EXAMINATION</p> <p>4 BY MS. TENNIS:</p> <p>5 Q Please state your name.</p> <p>6 A Dominic Casey.</p> <p>7 Q And what's your employment?</p> <p>8 A Private investigator.</p> <p>9 Q And I gather you know why we're here this</p> <p>10 afternoon?</p> <p>11 A Yes, I do.</p> <p>12 Q Do you have any relationship with the Anthony</p> <p>13 family as it relates to doing investigations for them?</p> <p>14 A Yes, I do.</p> <p>15 Q When did your relationship with any of the</p> <p>16 Anthonys begin?</p> <p>17 A August of 2008.</p> <p>18 Q And who did that begin with at that time?</p> <p>19 A Cindy and George.</p> <p>20 Q And were you working with their lawyer?</p> <p>21 A Yes.</p> <p>22 Q Did you consider yourself working for them in</p> <p>23 an investigatory capacity?</p> <p>24 A Yes.</p> <p>25 Q Did you consider that relationship to be one</p>	<p style="text-align: right;">40</p> <p>1 THE COURT: Okay.</p> <p>2 A They were -- the bases of the letters of</p> <p>3 engagement were to investigate the circumstances</p> <p>4 surrounding the disappearance of Caylee Marie Anthony.</p> <p>5 Q Was it your belief that that investigation</p> <p>6 would lead to assistance in Casey Anthony's pending</p> <p>7 criminal charges?</p> <p>8 A Yes.</p> <p>9 Q Did that continue to be your belief?</p> <p>10 A Yes.</p> <p>11 Q Was there ever any concern that you had that</p> <p>12 Cindy and George Anthony may also face criminal charges?</p> <p>13 A Yes.</p> <p>14 Q Were there discussions that you would have had</p> <p>15 with their lawyer, Brad Conway, regarding that issue?</p> <p>16 A Yes.</p> <p>17 Q Have you considered yourself at various</p> <p>18 times -- well, no.</p> <p>19 Have you considered yourself at all times an</p> <p>20 investigator for that joint defense team?</p> <p>21 A Yes.</p> <p>22 Q Has anybody, José Baez, any of the Anthonys,</p> <p>23 Cindy, George, Casey or Mr. Conway ever indicated to you</p> <p>24 that they wanted to waive your privilege in any way?</p> <p>25 A No.</p>
<p style="text-align: right;">39</p> <p>1 of a confidential nature?</p> <p>2 A Absolutely.</p> <p>3 MR. MITNIK: Judge, can we just, so I don't</p> <p>4 have to backtrack, you said "their lawyer." I don't</p> <p>5 know who "their lawyer" is.</p> <p>6 THE COURT: Yeah, please don't use collective</p> <p>7 pronouns. If you will again --</p> <p>8 BY MS. TENNIS:</p> <p>9 Q Who was it that you worked with when you</p> <p>10 worked with the Anthonys?</p> <p>11 A Cindy, George, José Baez and the other</p> <p>12 attorneys at Baez's law firm.</p> <p>13 Q And did you continue to have ongoing</p> <p>14 communications and do ongoing investigation for that</p> <p>15 family or for Cindy and George and Casey?</p> <p>16 A Yes.</p> <p>17 Q And through Mr. Baez' office?</p> <p>18 A Separately.</p> <p>19 Q And what do you mean by separately?</p> <p>20 A I have three letters of engagements. One with</p> <p>21 the Anthonys, Cindy and George Anthony; one with Casey</p> <p>22 Anthony; and one with José Baez. All of those --</p> <p>23 THE COURT: You had three letters of</p> <p>24 engagement, did you call them?</p> <p>25 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">41</p> <p>1 Q Have they ever authorized you to speak out</p> <p>2 about the case, give information, interviews, those kinds</p> <p>3 of things?</p> <p>4 A No.</p> <p>5 Q Do you have any independent information</p> <p>6 regarding any person named Zenaída Gonzalez, other than</p> <p>7 through your work for the Anthonys and their lawyers?</p> <p>8 A I'm not understanding your question.</p> <p>9 Q All right. Did you know anything</p> <p>10 independently about Ms. Gonzalez, other than through your</p> <p>11 work for them?</p> <p>12 A Which Ms. Gonzalez are we talking?</p> <p>13 Q The plaintiff in the case that we're here</p> <p>14 discussing today.</p> <p>15 A Oh, I'm sorry. Okay. Do I have information</p> <p>16 regarding --</p> <p>17 Q Outside of your work for the families?</p> <p>18 A No.</p> <p>19 MS. TENNIS: I'm finished.</p> <p>20 THE COURT: Cross-examination, Mr. Mitnik.</p> <p>21 -----</p> <p>22 CROSS-EXAMINATION</p> <p>23 BY MR. MITNIK:</p> <p>24 Q Okay. Tell me, when were you first hired?</p> <p>25 A July 20 -- I'm going off memory and going to</p>

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1 say July 27, 2008.

2 **Q This engagement letter, I assume you still**

3 **have, all three of them?**

4 A Yes, sir.

5 **Q I assume that the July 21st approximate date**

6 **is the one for the first one for George and Cindy**

7 **Anthony?**

8 A I did not say July 21st.

9 **Q What did you say?**

10 A July 27th.

11 **Q 7th, I'm sorry. I misheard you.**

12 **Who was that with?**

13 A José Baez, the Baez Law Firm.

14 **Q So you were hired July 27th by José Baez?**

15 A The Baez Law Firm.

16 **Q Okay. And what was the purpose of that**

17 **engagement?**

18 MS. TENNIS: Objection, work product.

19 MR. MITNIK: That's -- I've got to establish

20 the purpose. She asked him a question about what he

21 was hired for.

22 THE COURT: Overruled.

23 A To investigate circumstances surrounding the

24 disappearance of Caylee Marie Anthony.

25 **Q In defense of some potential criminal charge**

43

1 **or just to go find her?**

2 A To investigate the circumstances surrounding.

3 It wasn't necessarily a search. I'm not EquiSearch. I'm

4 a private investigator. So I wasn't hired to be

5 searching. It's to investigate the circumstances.

6 **Q I don't understand what that means. What's**

7 **that mean?**

8 MS. TENNIS: I'd object, Judge.

9 THE COURT: Sustained.

10 MS. TENNIS: I know exactly what he means.

11 THE COURT: And you need to rise.

12 MS. TENNIS: Certainly.

13 BY MR. MITNIK:

14 **Q To investigate the circumstances --**

15 THE COURT: Surrounding the disappearance.

16 A The disappearance of Caylee Marie --

17 **Q Right. Does that mean you were working in**

18 **anticipation of criminal charges or not?**

19 MS. TENNIS: Judge, my objection here is that

20 what was going on in the lawyer's mind who hired him

21 is certainly not something that this --

22 THE COURT: Sustained.

23 MR. MITNIK: Judge, I'm trying to establish

24 what he was doing whether or not there was a

25 privilege or not.

44

1 THE COURT: I think he's answered.

2 MR. MITNIK: With all due respect, I don't

3 know what he was doing, whether he --

4 THE COURT: With all due respect, I think it's

5 plainly clear.

6 MR. MITNIK: Okay.

7 BY MR. MITNIK:

8 **Q Let me ask you a different way. So you're**

9 **telling me as of July 27th, you were being paid by José**

10 **Baez as an investigator?**

11 A I was retained by the Baez Law Firm as of July

12 the 27th.

13 **Q And paid by --**

14 A As to the billing arrangements, I don't

15 believe that's appropriate for you to even talk about.

16 **Q Well, I don't think that's for you to decide.**

17 **How about the most --**

18 THE COURT: Okay. Folks.

19 MS. TENNIS: I would object.

20 BY MR. MITNIK:

21 **Q Who was paying your bill?**

22 THE COURT: Excuse me. You will ask

23 questions. You will answer questions. You will not

24 get into any type of arguments.

25 MR. MITNIK: Yes, sir.

45

1 THE COURT: Okay. Your next question.

2 BY MR. MITNIK:

3 **Q Who was paying your bill from July 27th?**

4 MS. TENNIS: Objection, completely irrelevant.

5 THE COURT: Sustained.

6 BY MR. MITNIK:

7 **Q And you said you had -- and did you say you**

8 **would have a copy of that engagement letter from José**

9 **Baez July 27th?**

10 A Yes, sir.

11 **Q Do you have -- and then you had another**

12 **engagement letter with Casey Anthony, if I heard correct?**

13 A That is correct.

14 **Q What is the date of that?**

15 A Sometime in September of 2008.

16 **Q And why were you, if you were already under**

17 **contract from July -- let me ask another question.**

18 **Did your contract with José Baez from July 27**

19 **come to a conclusion at some time, end?**

20 A Could you repeat the question?

21 **Q Yes. Did the engagement letter under which**

22 **you were conducting investigation into the circumstances**

23 **that you entered into July 27th with José Baez ever come**

24 **to an end?**

25 A Yes, it did.

<p style="text-align: right;">46</p> <p>1 Q When?</p> <p>2 A October the 1st, 2008.</p> <p>3 Q October what?</p> <p>4 A 1st. That was the effective date.</p> <p>5 Q And why did it come to an end?</p> <p>6 MS. TENNIS: Objection, work product,</p> <p>7 irrelevant.</p> <p>8 THE COURT: I need you to approach.</p> <p>9 (Bench conference.)</p> <p>10 THE COURT: I'm really going to need a proffer</p> <p>11 because I don't know quite how to rule on that</p> <p>12 unless I know or can anticipate what the answer is,</p> <p>13 and --</p> <p>14 MR. MITNIK: How about I step away and bring</p> <p>15 him up here?</p> <p>16 THE COURT: But what I --</p> <p>17 MR. DILL: We can proffer it --</p> <p>18 THE COURT: Unless she knows and she can</p> <p>19 proffer.</p> <p>20 MS. TENNIS: I probably do know. I'm not sure</p> <p>21 that it should be on the record. I mean, I don't --</p> <p>22 his disagreements with José Baez aren't relevant to</p> <p>23 whether or not he was still --</p> <p>24 MR. MITNIK: I can make it easy. If you want</p> <p>25 to have him come up, we'll step back and you can ask</p>	<p style="text-align: right;">48</p> <p>1 Judge? Can I go ahead and finish what I'm doing and</p> <p>2 each of those that there is an issue on we can</p> <p>3 figure the procedure out at the end?</p> <p>4 THE COURT: Okay. That's -- but I wanted to</p> <p>5 toss that out for consideration because I think</p> <p>6 we're really -- I think we're really belaboring</p> <p>7 something that can be done so much easier under the</p> <p>8 rules.</p> <p>9 (Open court.)</p> <p>10 BY MR. MITNIK:</p> <p>11 Q We're going to come back to that. Let's put</p> <p>12 that one on hold. Okay.</p> <p>13 So as of October, you were no longer working</p> <p>14 for José Baez, but you had signed a -- was it a signed</p> <p>15 contract, this engagement letter?</p> <p>16 A Which one would you be referring to?</p> <p>17 Q Let's start with the first one, July 27th with</p> <p>18 José Baez. Was it signed by him?</p> <p>19 A Yes, it was.</p> <p>20 Q So it was like a contract?</p> <p>21 A Yes.</p> <p>22 Q And then the September -- I'm sorry. The next</p> <p>23 one was September what, the one with Casey?</p> <p>24 THE COURT: The testimony was sometime in</p> <p>25 September 2008.</p>
<p style="text-align: right;">47</p> <p>1 him whatever on the record. Do it at the bench and</p> <p>2 we won't be here.</p> <p>3 THE COURT: Why don't we do this. What would</p> <p>4 be the likelihood or the possibility of having him</p> <p>5 with a privilege log disclose these to the Court so</p> <p>6 that I might be able to determine what the content</p> <p>7 of the --</p> <p>8 MS. TENNIS: But you're suggesting --</p> <p>9 THE COURT: -- what the contract was between</p> <p>10 them and when it was --</p> <p>11 MS. TENNIS: You mean have a conversation with</p> <p>12 him?</p> <p>13 THE COURT: No, no. Since this is -- since</p> <p>14 you're raising the issue of privilege, wouldn't a</p> <p>15 way around discussion of the issue be to file a</p> <p>16 privilege log with the documents so that the Court</p> <p>17 reviews it in a sealed fashion and then make a</p> <p>18 determination on the issue as to what -- what the</p> <p>19 content of the contracts were?</p> <p>20 MS. TENNIS: So if I understand you, you're</p> <p>21 saying we could file under seal the letters of</p> <p>22 engagement and a synopsis or overview of his --</p> <p>23 THE COURT: Following the rules of civil</p> <p>24 procedure --</p> <p>25 MR. MITNIK: Can I make this suggestion,</p>	<p style="text-align: right;">49</p> <p>1 Q You don't know. Can you be more specific?</p> <p>2 Early, late, middle?</p> <p>3 THE COURT: You may answer, if you know. If</p> <p>4 you don't know --</p> <p>5 A Early in the September period.</p> <p>6 Q Okay. Would it be fair to say within the</p> <p>7 first week?</p> <p>8 A I'm not going to talk on the hypotheticals. I'd</p> <p>9 have to look at the actual documents.</p> <p>10 Q Okay. So early September, would that have</p> <p>11 been a written agreement, contract?</p> <p>12 A Yes.</p> <p>13 Q Signed by Casey Anthony?</p> <p>14 A Yes.</p> <p>15 Q Did that come to an end?</p> <p>16 A No, sir.</p> <p>17 Q So when you were -- so in November when you</p> <p>18 were out in the woods, you were under contract to Casey</p> <p>19 Anthony; is that right?</p> <p>20 A That would be one of the people.</p> <p>21 Q Who else at that time?</p> <p>22 A George and Cindy Anthony.</p> <p>23 Q George and Cindy. Anyone else? How about</p> <p>24 José Baez, the lawyer.</p> <p>25 A It would also be the Baez Law Firm.</p>

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1 **Q** So when you were out in the woods in the
2 vicinity where the remains were found, you would have
3 been working under contract for Casey Anthony, José Baez
4 and George and Cindy all at that time?

5 A That would be correct.

6 **Q** And did your written contract include some
7 kind of confidentiality clause that the things you
8 learned or knew would be held in confidence?

9 MS. TENNIS: I would object as to relevance.
10 It's not a contractual right.

11 MR. MITNIK: It's not privileged.

12 THE COURT: I'll sustain.

13 BY MR. MITNIK:

14 **Q** Did you consider yourself at that time to be
15 under some confidentiality with them that you couldn't
16 talk about what was happening?

17 A With who?

18 **Q** With anyone other than within the group of
19 people who hired you?

20 A Yes. There is a confidentiality --
21 confidentiality and nondisclosure agreement.

22 **Q** There is an agreement that would have been in
23 place in November?

24 A It was in place from July of 2008 and is still
25 current today.

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1 **Q** Continuously throughout then up to today?

2 A It is still in effect.

3 **Q** And there were no gaps where it wasn't in
4 place?

5 A No, sir.

6 **Q** And through that whole time, you would have
7 had a confidentiality agreement with -- from July up
8 through today -- with Cindy Anthony -- I'm sorry -- Casey
9 Anthony and/or José Baez, one or the other, or both?

10 A Both and more. Both and more.

11 **Q** So anything that was told to you by either
12 Casey Anthony or her lawyer, José Baez, about the
13 location of the body, you would have felt, if
14 hypothetically, you would have felt that would have been
15 privileged and you couldn't share that?

16 A I found that --

17 MS. TENNIS: Objection to the hypothetical,
18 irrelevant.

19 THE COURT: Irrelevant. Sustained.

20 MR. MITNIK: No, Judge, it is relevant to our
21 case. It's very relevant. You want me to tell you
22 why?

23 THE COURT: No. I ruled. I did not ask. I
24 ruled I think it is irrelevant. Your next question.

25 BY MR. MITNIK:

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1 **Q** Okay. You said that you entered into a
2 third --

3 THE COURT: And if you want me to explain,
4 although I am not duty bound to explain, I will
5 bring you up to the bench so that you can have the
6 rationale, though I do not need to. This is the
7 case of Zenaída Gonzalez versus Casey Anthony, and
8 we cannot go far afield into the other case, and
9 that's what I thought we were doing. So let's go to
10 your next question.

11 MR. MITNIK: I'll take you up on it.

12 THE COURT: Nope. I've already answered.

13 I've already explained to you. You may go ahead and
14 ask the next question.

15 BY MR. MITNIK:

16 **Q** Okay. Moving on. You said that there was a
17 third engagement letter with who else? What was the date
18 and who was the third engagement letter?

19 A I was retained by Cindy and George Anthony in
20 July of 2008. We did not come to an actual formal
21 written agreement until sometime around September, the
22 end of September.

23 **Q** Of what year?

24 A 2008.

25 **Q** At any time did you try to find anybody named

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1 Zenaída Gonzalez?

2 MS. TENNIS: Objection, work product.

3 THE COURT: Sustained.

4 BY MR. MITNIK:

5 **Q** You said that part of your belief was that
6 Cindy and George Anthony there were potential criminal
7 charges against them. What -- what criminal charges?
8 What are you talking about?

9 MS. TENNIS: Judge, I guess --

10 A You're --

11 MR. MITNIK: She asked the question, Judge.

12 I'm following up on the question she asked.

13 MS. TENNIS: I --

14 THE COURT: I have not heard an objection from
15 Ms. Tennis, so you may answer unless there is an
16 objection.

17 MS. TENNIS: My objection, Judge, is to the
18 extent that this answer will be work product;
19 whereas, what I was asking him was his understanding
20 as in a state of mind, not what other people had
21 literally said to him. I'm not sure if this is
22 meant to be drawing a --

23 THE COURT: Counsel, I forgot your question.
24 Would you reask it again?

25 MR. MITNIK: Yes. I'm following up

<p style="text-align: right;">54</p> <p>1 whatever -- my question --</p> <p>2 THE COURT: Ask the question.</p> <p>3 MR. MITNIK: Sure.</p> <p>4 THE COURT: And I think, basically, what</p> <p>5 counsel is -- counsel's objection is that you're</p> <p>6 asking for hearsay that may be subject to work</p> <p>7 product. And that's -- if you'll reask the</p> <p>8 question, I'll -- I'll analyze it in that sense</p> <p>9 before you answer.</p> <p>10 MR. MITNIK: And I will reask it, but may I</p> <p>11 say one thing to couch it? If there is, she's</p> <p>12 waived it because she asked him -- if that's the</p> <p>13 source, she asked him to present it. She can't ask</p> <p>14 him to present it on that limited issue and shut the</p> <p>15 door. She did it. She didn't have to ask that</p> <p>16 question.</p> <p>17 THE COURT: And your question is so that I</p> <p>18 might analyze it as to whether or not you're asking</p> <p>19 for hearsay based on -- that is work product as well</p> <p>20 as hearsay.</p> <p>21 MR. MITNIK: But I will suggest she asked for</p> <p>22 hearsay and for work product. How else would he</p> <p>23 have known?</p> <p>24 MS. TENNIS: What I was asking him was what he</p> <p>25 thought.</p>	<p style="text-align: right;">56</p> <p>1 A Yes.</p> <p>2 Q Threat's my word, but words to that effect.</p> <p>3 A There's a possibility of anything at that</p> <p>4 particular time or at any time, so --</p> <p>5 Q Well, so did you have a specific belief in</p> <p>6 your mind that there was a potential criminal charge</p> <p>7 against George and Cindy as opposed to just anything's</p> <p>8 possible?</p> <p>9 A Could you repeat the question?</p> <p>10 Q Sure. You gave the answer to a question did</p> <p>11 you believe that there was a potential criminal charge</p> <p>12 against George and Cindy, and you said yes. I have</p> <p>13 followed up with asking you -- you have just given me a</p> <p>14 response back that you said, well, it's possible that</p> <p>15 things could happen.</p> <p>16 I'm trying to narrow in on the belief that you</p> <p>17 expressed when counsel asked you a question that there</p> <p>18 was a potential for criminal charges against George and</p> <p>19 Cindy Anthony. Was that a specific concern of yours as</p> <p>20 opposed to, gosh, anything's possible?</p> <p>21 A It was not a concern, no.</p> <p>22 Q It was not?</p> <p>23 A It was not a specific concern.</p> <p>24 Q Did George and Cindy Anthony ever give you any</p> <p>25 instructions to go look for Zenaída Gonzalez? Not José</p>
<p style="text-align: right;">55</p> <p>1 BY MR. MITNIK:</p> <p>2 Q Okay. What's the basis of what you thought?</p> <p>3 MS. TENNIS: That's --</p> <p>4 Q Don't tell me what you heard, but what's the</p> <p>5 basis of what you thought?</p> <p>6 THE COURT: All right. We are going -- we are</p> <p>7 steadily going downhill here, and that's -- we're</p> <p>8 going to raise it back up. Now, I cannot analyze</p> <p>9 your question unless it is a full question.</p> <p>10 MR. MITNIK: Sure.</p> <p>11 THE COURT: When you asked him -- and I</p> <p>12 realize that maybe the back and forth has thrown all</p> <p>13 of us off, but I think the question that I heard was</p> <p>14 what is the basis for your thoughts. About what?</p> <p>15 MR. MITNIK: Let me ask the question better.</p> <p>16 THE COURT: I know you will.</p> <p>17 BY MR. MITNIK:</p> <p>18 Q Your attorney here today asked you the</p> <p>19 question did you believe that George and Cindy were</p> <p>20 under -- there was a potential criminal charges against</p> <p>21 them. Do you remember asking those questions?</p> <p>22 A I remember asking the question, yes.</p> <p>23 Q Do you remember answering the question, yes,</p> <p>24 you believe there was a threat of criminal charges</p> <p>25 against them?</p>	<p style="text-align: right;">57</p> <p>1 Baez, not Casey Anthony. George or Cindy?</p> <p>2 MS. TENNIS: Objection, work product.</p> <p>3 THE COURT: Sustained.</p> <p>4 BY MR. MITNIK:</p> <p>5 Q You had a contract not just with George and</p> <p>6 Cindy -- did your contract with George and Cindy at any</p> <p>7 time overlap with contracts with either José Baez or</p> <p>8 Casey Anthony?</p> <p>9 A Yes.</p> <p>10 Q When would the overlap period have been?</p> <p>11 A Consecutive periods?</p> <p>12 Q Where they would happen at the same time.</p> <p>13 A Beginning from January the 27th -- July the</p> <p>14 27th of 2008.</p> <p>15 Q So from July 27th, you were under contract</p> <p>16 with all three -- actually, all four, Casey, Cindy,</p> <p>17 George and José Baez?</p> <p>18 A That was my understanding, yes.</p> <p>19 Q I'm missing something. I thought you told me</p> <p>20 that July 27th you had a contract with José Baez.</p> <p>21 A That is correct.</p> <p>22 Q I thought you told me that you didn't have a</p> <p>23 contract with George and Cindy until later.</p> <p>24 A No, I did not say that. I said it was not</p> <p>25 formalized until later. We had an agreement from day</p>

<p style="text-align: right;">58</p> <p>1 one.</p> <p>2 THE COURT: Letter of engagement, July 28,</p> <p>3 according to my notes. September '08 formal</p> <p>4 agreement. Recap.</p> <p>5 MR. MITNIK: Okay.</p> <p>6 BY MR. MITNIK:</p> <p>7 Q So you were under agreement with George,</p> <p>8 Cindy, although not formalized, and José Baez, from July</p> <p>9 27th?</p> <p>10 A That is correct.</p> <p>11 Q How about Casey Anthony? Was she part of it</p> <p>12 from July 27th too?</p> <p>13 A That is correct.</p> <p>14 Q And if the contracts were to be provided to</p> <p>15 the Court, they will spell out all those people for the</p> <p>16 dates you've given us, those letters of engagement?</p> <p>17 A They will spell out the dates that the</p> <p>18 contracts were actually entered into, actually</p> <p>19 formalized.</p> <p>20 Q Now, as the Court just clarified, you had an</p> <p>21 earlier agreement with Cindy and George, but it wasn't</p> <p>22 formalized until September. Do you have any</p> <p>23 documentation as to the earlier agreement that wasn't</p> <p>24 finalized with George and Cindy Anthony?</p> <p>25 A There is in effect from July 27th, 2008, a</p>	<p style="text-align: right;">60</p> <p>1 I know I'm about to lose this chance. I want to</p> <p>2 finish it.</p> <p>3 BY MR. MITNIK:</p> <p>4 Q I want to ask you about something. You've</p> <p>5 never had a contract with any -- you didn't have a</p> <p>6 contract with any psychics, did you?</p> <p>7 MS. TENNIS: Objection, irrelevant.</p> <p>8 MR. MITNIK: It is relevant, Judge, because if</p> <p>9 there is no contract, I can ask him about it. If</p> <p>10 he's out talking to people outside of the privileged</p> <p>11 people, that clearly is not privileged.</p> <p>12 THE COURT: You may answer, if you know.</p> <p>13 A Let me just clarify one thing here so there is</p> <p>14 no misunderstanding. Dominic Casey is an employee of D&A</p> <p>15 Investigations. D&A Investigations is the contracting</p> <p>16 party with the parties that have been brought forward</p> <p>17 today.</p> <p>18 Q Did anyone, to your knowledge, have a contract</p> <p>19 or a confidentiality clause with any psychic?</p> <p>20 MS. TENNIS: Judge, I'm not -- I'm just not</p> <p>21 understanding the relevance. I may --</p> <p>22 THE COURT: Sustained.</p> <p>23 MS. TENNIS: -- not be following the case well</p> <p>24 enough, but I don't --</p> <p>25 THE COURT: I've ruled. Sustained.</p>
<p style="text-align: right;">59</p> <p>1 confidentiality and nondisclosure agreement which covered</p> <p>2 all the parties.</p> <p>3 Q Including -- when you say all parties, who do</p> <p>4 you mean?</p> <p>5 A I would mean the Baez Law Firm, the Anthony</p> <p>6 family, including Cindy, George, Lee, Casey Anthony,</p> <p>7 Caylee Marie Anthony.</p> <p>8 MR. MITNIK: Okay. Hang on just a second.</p> <p>9 Judge, as far as what we can do in open court, I am</p> <p>10 done. Should I put on the record some other</p> <p>11 questions that I want? How do you want me to</p> <p>12 handle the --</p> <p>13 THE COURT: Why don't you do those in writing</p> <p>14 and what we'll wind up doing is we will reconvene if</p> <p>15 those are necessary -- if I rule that those are</p> <p>16 appropriate.</p> <p>17 What else? Anything else subject to following</p> <p>18 the rules of civil procedure on providing whatever</p> <p>19 matters in a privilege log for me to review as well</p> <p>20 as any claims of privilege or request for</p> <p>21 disclosure?</p> <p>22 MR. MITNIK: I do have something else.</p> <p>23 THE COURT: Go ahead. I just reminded you of</p> <p>24 something?</p> <p>25 MR. MITNIK: No, I'm running my brain because</p>	<p style="text-align: right;">61</p> <p>1 BY MR. MITNIK:</p> <p>2 Q Did you have any conversations with a psychic</p> <p>3 about the whereabouts of the body?</p> <p>4 MS. TENNIS: Objection, work product.</p> <p>5 MR. MITNIK: Talking to third parties isn't</p> <p>6 work product.</p> <p>7 MS. TENNIS: If he's doing it --</p> <p>8 THE COURT: I'm sustaining it on other</p> <p>9 grounds.</p> <p>10 MR. MITNIK: What are the other grounds, Your</p> <p>11 Honor?</p> <p>12 THE COURT: Relevance.</p> <p>13 MR. MITNIK: Okay. May I be heard?</p> <p>14 THE COURT: No. I think at this point it is</p> <p>15 quarter to 5:00. We have gone way beyond the</p> <p>16 allotted time.</p> <p>17 MR. MITNIK: Can I ask one other question,</p> <p>18 Judge?</p> <p>19 THE COURT: You may.</p> <p>20 BY MR. MITNIK:</p> <p>21 Q Did you speak to any third parties that were</p> <p>22 not part of the group of privileged people you had</p> <p>23 confidentiality with about Zenaída Gonzalez?</p> <p>24 MS. TENNIS: Judge, I would object. If the</p> <p>25 only --</p>

<p style="text-align: right;">62</p> <p>1 THE COURT: It only calls for a "yes" or "no." 2 I'm going to allow the question. You may answer, if 3 you know. 4 A Just like I'm speaking to you. 5 Q I don't know what that means. Is the answer 6 yes? 7 A You asked me if I had spoken to other people. 8 My answer would be, yes, just like I'm speaking to you. 9 Q Let me be more precise. Did you speak to any 10 potential witnesses, not just people on the street and 11 just chatter, any specific witnesses about trying to 12 locate Zenaída Gonzalez? 13 MS. TENNIS: Judge, that is what an 14 investigator does. 15 THE COURT: Sustained. It is part of work 16 product. It's part of the investigation. 17 We are at this time in recess. I will caution 18 the media not to block the exit. If you must 19 conduct your interviews, please do so with 20 sufficient dignity and distance that you can do so 21 without blocking the exit. 22 The Court at this time, based on what I've 23 heard, I believe I am required to find that the 24 motion to compel attendance of this individual at 25 deposition at this time is denied subject to</p>	<p style="text-align: right;">64</p> <p>1 anticipate. I think that you will have a ruling on 2 the motion to dismiss much quicker than I had 3 anticipated. 4 I had an opportunity to go back, review not 5 only your case -- the cases that were cited 6 yesterday but also the number of cases that I had 7 accumulated and I had reviewed, so you should be 8 hearing from me promptly. 9 MR. MITNIK: And how about on the issue of 10 stay? Is that -- 11 THE COURT: That's a more difficult one. 12 That's a more difficult one. And I'm glad that we 13 had this process here today because I think that 14 this assists the Court in a more global sense to 15 reach that issue. I am less concerned now about 16 making a decision than I was yesterday. I'm at a 17 better place. And I have -- let's just say that 18 time and the ability to review what you've argued as 19 well as what you've cited for me has gotten me much 20 closer. 21 MR. MITNIK: May I just approach on one issue 22 from before? I just want to clarify something 23 between us. And the witness doesn't -- 24 THE COURT: Do you need -- 25 MR. MITNIK: She probably should. It's</p>
<p style="text-align: right;">63</p> <p>1 additional information being provided. In other 2 words, this is a denial of the motion to compel 3 attendance at deposition of Mr. Casey without 4 prejudice to have it renewed should additional 5 information come to light on this narrow issue. 6 Okay? 7 MR. MITNIK: Judge, but in order to -- there 8 is additional information. I need those contracts 9 to be provided to you in-camera. 10 THE COURT: What we'll wind up doing -- you 11 will wind up doing what I believe the rules require, 12 which is have a, perhaps, a request to produce. 13 MR. MITNIK: Judge, he's a nonparty. So while 14 we're here, can we just ask you to order that those 15 be produced to you under seal? 16 MS. TENNIS: Not a problem. 17 THE COURT: Okay. Done. 18 MR. MITNIK: And then when you've reviewed 19 them, can you either correspond or enter an order 20 saying I have reviewed them and -- 21 THE COURT: Will do. 22 MR. MITNIK: So we know what the outcome is. 23 THE COURT: I will tell you that my estimate 24 yesterday for being able to rule on the motion that 25 you requested, my estimate was much longer than I</p>	<p style="text-align: right;">65</p> <p>1 official so she probably should be. 2 THE COURT: Sir, you may step down. 3 (Bench conference.) 4 MR. MITNIK: Can we leave you the one 5 significant piece because if there is some 6 problem -- 7 THE COURT: Yeah, yeah, absolutely. Do I need 8 to give you this back, by the way? Do I need to 9 give you this back? 10 MR. MITNIK: I don't even know what it is but 11 probably. That's just the reply. 12 THE COURT: Perfect. 13 MR. MITNIK: That one is more significant. 14 THE COURT: That's perfect because I've got my 15 nice neat little stack of cases and all, and I met 16 with one of my law clerks and we're -- we've begun 17 the back and forth. You have the advantage of 18 having someone, as I'm sure Ms. Tennis does. I am 19 the lonely bull, and I need -- you know, sometimes 20 it makes it clearer when you discuss it, so -- 21 MR. MITNIK: Just the one point I wanted to 22 make, Judge -- 23 THE COURT: The reason, again, I'm ruling 24 without prejudice is because until I see -- this 25 is -- what's in the depositions is one thing. It is</p>

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not as clear as when he got up here and basically --
MR. MITNIK: I have to tell you it's
completely different from the impression I got from
the depos but that could be consistent.

THE COURT: But I get it, I get it and I got
that. And I wasn't sold on it until he testified.
I thought this -- we can go off.

(Off-the-record discussion was had.)

THE COURT: We are done.

(The proceedings were concluded at 4:50 p.m.)

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CERTIFICATE

STATE OF FLORIDA)
COUNTY OF ORANGE)

I, LAURA J. LANDERMAN, R.M.R., C.R.R., certify that
I was authorized to and did stenographically report the
foregoing proceedings and that the transcript is a true
and accurate record.

Dated this 11th day of September, 2009.

LAURA J. LANDERMAN, R.M.R., C.R.R.

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