

SEALED UNTIL FURTHER ORDER OF THE COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

JANE C.R. DOE, an individual,) Case No. 05CC00148
)
Plaintiff,)
)
vs.)
)
THE ROMAN CATHOLIC BISHOP OF)
ORANGE, a corporation sole;)
MATER DEI HIGH SCHOOL, a business)
entity of form unknown; et al.,)
)
Defendants.)
)
_____)
Full Caption on Page 3.)
_____)

VIDEOTAPED DEPOSITION OF BISHOP TOD D. BROWN

Santa Ana, California

Monday, September 10, 2007

(Pages 1 through 173)

Reported by:
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF ORANGE - CENTRAL JUSTICE CENTER
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4 JANE C.R. DOE, an individual,) Case No. 05CC00148
5)
6 Plaintiff,)
7)
8 vs.)
9)
10 THE ROMAN CATHOLIC BISHOP OF)
11 ORANGE, a corporation sole;)
12 MATER DEI HIGH SCHOOL, a business)
13 entity of form unknown; JEFFREY)
14 ANDRADE, an individual; and DOES)
15 1 through 100, inclusive,)
16)
17 Defendants.)
18)
19)
20)
21)
22)
23)
24)
25)

1 APPEARANCES OF COUNSEL:

2

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12 a corporation sole, and Mater Dei High School, a
13 business entity of form unknown:

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22

23 Also Present:

23

Julio Pena, Legal Videographer

24

Hahn & Bowersock Corporation

25

1 I N D E X

2

3 WITNESS

EXAMINATION

4 BISHOP TOD D. BROWN

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PAGE

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By Mr. Manly

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E X H I B I T S

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EXHIBITS

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Exhibit 1 Documents re allegations
against Bishop Brown

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1 Santa Ana, California; Monday, September 10, 2007

2 10:42 a.m. - 3:13 p.m.

3

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

5

6 THE VIDEOGRAPHER: The date is September 10th,
7 2007. The time is 10:42. We're taking volume 1 of the
8 deposition of Bishop Tod Brown in the matter of Jane
9 C.R. Doe versus the Roman Catholic Bishop of Orange for
10 the Superior Court for the State of California, case
11 number 05CC00148.

10:42:54

12 My name is Julio Pena. I represent Hahn &
13 Bowersock, which is located in Costa Mesa, California.
14 This deposition is being taken at Judicate West, located
15 in Santa Ana, California.

10:43:09

16 At this time, could all parties please
17 introduce themselves, starting with the witness.

18 MR. CALLAHAN: Give us your name.

19 THE WITNESS: Tod Brown.

10:43:18

20 MR. CALLAHAN: My name is Peter Callahan. I
21 represent the witness in this case.

22 JUDGE JAMESON: I am Judge C. Robert Jameson,
23 Retired, sitting as a court-appointed referee monitoring
24 these depositions.

10:43:30

25 MR. FINALDI: Vince Finaldi for Manly, McGuire &

10:43:30 1 Stewart for the plaintiff.

2 MR. MANLY: John Manly for the plaintiff. Also
3 appearing, Patrick J. Wall as a consultant.

4 THE VIDEOGRAPHER: Would the court reporter
10:43:38 5 please swear in the witness.
6

7 BISHOP TOD D. BROWN,
8 called as a witness, having been first duly administered
9 an affirmation to tell the truth by the Certified
10:43:39 10 Shorthand Reporter, was examined and testified as
11 follows:
12

13 - EXAMINATION -
14

10:43:50 15 BY MR. MANLY:

16 Q Good morning, Bishop.

17 A Good morning, Mr. Manly.

18 Q Before you -- we came on the record, you
19 asked me not to address you as Your Excellency and said
10:43:59 20 you would prefer to be addressed at Bishop. Is that
21 okay with you?

22 A That's correct. Thank you.

23 Q Okay. Bishop, have you ever been deposed
24 before?

10:44:06 25 A I was deposed many years ago for an accident

10:44:08 1 case.

2 Q Okay. When did that occur?

3 A In the middle 1960s, I think.

4 Q Okay. Where?

10:44:17 5 A It was in Bakersfield, California.

6 Q Okay.

7 MR. CALLAHAN: Bishop, try to talk slowly --

8 THE WITNESS: Oh, okay.

9 MR. CALLAHAN: -- and wait until he finishes

10:44:24 10 because of the -- although it's being taped on video,
11 you can see this other young lady is taking it down word
12 for word. And she needs to --

13 THE WITNESS: Thank you.

14 MR. CALLAHAN: -- have a pause between. Thank

10:44:34 15 you.

16 BY MR. MANLY:

17 Q Okay. Were you living in Bakersfield at the
18 time?

19 A I was living in Bakersfield at the time, yes.

10:44:38 20 Q Okay. Now, it's probably -- the '60s is a
21 long time ago, so you may not remember what they said
22 and not even know what they did in the '60s in
23 depositions, so I'll go through the rules again.

24 Have you had an opportunity to speak with

10:44:54 25 your counsel about today?

10:44:55 1 A I was able to speak to my counsel
2 yesterday --

3 Q Okay. And --

4 A -- and today.

10:45:01 5 Q I'm sorry. I didn't mean to interrupt you.
6 You spoke to him yesterday and today?

7 A That's correct.

8 Q Okay. My guess is he probably explained to
9 you what a deposition is about, but I want to go through
10 a few of the ground rules so we're clear. All right?

11 A That will be fine. Thank you.

12 Q All right. First of all, the -- anything you
13 say while the court reporter is on the record will be
14 taken down whether the video takes it down or not. Do
15 you understand that?

16 A I do understand that. Thank you.

17 Q Okay. And so it's very important that you
18 give your best and most accurate testimony here today.
19 Okay?

10:45:31 20 A Yes. I understand.

21 Q All right. And further, in the event that
22 you remember something or forget something later, you're
23 going to be given an opportunity after the deposition --
24 well, let me rephrase that.

10:45:48 25 After the deposition is over, the court

10:45:49 1 reporter is going to transcribe her notes into the form
2 of a booklet. And at that time, you're going to be
3 given an opportunity to make changes to your deposition
4 before you sign it. I want to caution you from the

10:46:03 5 outset of your deposition that if you make changes that
6 are substantive in nature, that myself or the other
7 lawyers in the case will be entitled to comment upon
8 that at time of trial. Do you understand?

9 A I do understand.

10:46:15 10 Q Okay. And do you also understand that you're
11 under oath here today?

12 A I do understand I'm under oath today.

13 Q And by virtue of that, you understand you're
14 bound to tell the truth?

10:46:27 15 A I'm bound to tell the truth, yes.

16 Q Okay. Have you ever heard of something
17 called mental reservation?

18 A Yes, I have heard of mental reservation.

19 Q Okay. What do you understand that to be,
10:46:35 20 Bishop?

21 A My understanding of mental reservation is
22 that if someone's asked a question, the response might
23 be evasive.

24 Q Okay. My understanding of it is, and it was
10:46:49 25 explained to me by a Jesuit, so maybe it's automatically

10:46:52 1 suspect, is that -- is that there are times when for the
2 greater moral good as perceived by that person it's okay
3 to be untruthful. And the example that I was told about
4 was --

10:47:08 5 (Whereupon, Mr. DiMaria entered the
6 proceedings.)

7 BY MR. MANLY:

8 Q -- when a -- in 1945 or '44, if an SS officer
9 came up and asked somebody who was Jewish in Poland "Are
10:47:18 10 you Jewish" and they said "No" because they knew if they
11 were -- they said "Yes," they'd be killed, that was not
12 an immoral act, and that was a just use of mental
13 reservation.

14 Is that a good summary of something that
10:47:32 15 would apply?

16 A Yes, that could be an example of mental
17 reservation.

18 Q Okay. Will you commit not to employ that
19 doctrine today?

10:47:40 20 A I commit not to use any mental reservation in
21 my testimony.

22 Q Okay. Okay. Now, tell me what -- outside of
23 what you learned from your lawyer, tell me what you know
24 about the allegations in the [REDACTED] case?

10:48:05 25 A I know nothing other than what my lawyers

10:48:06 1 have told me.

2 Q So you've done no independent investigation
3 or made any inquiry of any employee who works for you
4 about what they know about it?

10:48:15 5 A I have made no personal investigation of this
6 particular case.

7 Q So just so the record's clear, you -- do you
8 understand just from reading a paper that this young
9 girl is alleging that she was sexually abused while at
10:48:32 10 Mater Dei?

11 A Yes. I understand that from a paper and also
12 from what my -- the diocesan attorneys have told me.

13 Q Well, I -- Bishop, I don't want to know what
14 your lawyers have told you. It's not ethical for me to
10:48:43 15 ask, and I don't want -- I don't want you to divulge it
16 accidentally. Okay?

17 A Thank you.

18 Q So what I want to know is have you -- have
19 you heard whether or not the alleged perpetrator has
10:48:54 20 admitted or denied the allegation?

21 MR. CALLAHAN: Other than from his lawyers.

22 MR. MANLY: Right.

23 THE WITNESS: No.

24 BY MR. MANLY:

10:49:00 25 Q So as you sit here today as the head of the

10:49:03 1 Diocese of Orange, you don't have any information other
2 than what your lawyers have told you as to whether or
3 not Mr. Andrade has admitted sexually abusing [REDACTED]

4 A I know no other information about the case
10:49:14 5 other than what my -- the diocesan attorneys have told
6 me.

7 Q Okay. Do you read the papers?

8 A Sometimes I read the papers.

9 Q Is it -- have you ever come to the conclusion
10:49:29 10 that in the past, at least during the 1990s, there was a
11 problem in the Diocese of Orange with sexual abuse?

12 A I came to the Diocese of Orange in September
13 of 1998, and I was not aware of problems that preceded
14 me.

10:49:46 15 Q Okay.

16 MR. CALLAHAN: I would draw that limited
17 question, Your Honor, but I don't think that's one of
18 the four areas that were allowed under your order, but I
19 assume its preliminary to what it is.

10:49:57 20 JUDGE JAMESON: Well, it's on the border, and
21 we'll assume that it's -- it will take us in the other
22 direction.

23 MR. CALLAHAN: Thank you. I just didn't want to
24 waive anything.

10:50:03 25 JUDGE JAMESON: No. I understand.

10:50:03 1 BY MR. MANLY:

2 Q Have you ever gained information that leads
3 you to believe that from 1988 -- let me strike that.

4 Have you gathered or obtained any information
10:50:11 5 from any source other than your lawyers that from 1988
6 to 2002, the beginning of 2002, there was a significant
7 problem with persons who were sexual abusers working in
8 the Diocese of Orange?

9 A I had no information of difficulties
10:50:36 10 regarding sexual abuse at Mater Dei other than what I've
11 learned from my attorneys.

12 Q Okay. Well, respectfully, that's not my
13 question. It's broader than that. So let me ask it
14 again.

10:50:46 15 Did you -- have you, Bishop Tod Brown, at any
16 time come to any conclusions or learned from any source
17 that there were significant problems with child
18 molesters working in the Diocese of Orange from 1988 to
19 2002?

10:51:00 20 MR. CALLAHAN: Other than your lawyers. I
21 hate --

22 MR. MANLY: Right.

23 MR. CALLAHAN: He doesn't want to repeat that
24 each time, but --

10:51:04 25 MR. MANLY: Right.

10:51:04 1 MR. CALLAHAN: -- but we have to have it
2 understood that anything you learned from your lawyers
3 you're not supposed to talk about. Other than your
4 lawyers.

10:51:11 5 THE WITNESS: No. I'm not aware of a -- of a
6 problem of that order at Mater Dei or anywhere else.

7 BY MR. MANLY:

8 Q I'm not asking about Mater Dei.

9 A Oh, I'm sorry.

10:51:22 10 Q I'm asking -- my question includes Mater Dei,
11 but it's broader about the Diocese of Orange. Would you
12 like the court reporter to read it back, Bishop?

13 A I would appreciate that, please.

14 Q Sure.

10:51:32 15 And I should have said, Bishop, at any point
16 if you need a break, you stop me, and we will stop.

17 A Thank you.

18 Q Okay. Just if I have a question pending,
19 just answer it, and I want you to be as comfortable as
10:51:41 20 you possibly can today.

21 A Thank you.

22 Q Okay. And also -- sorry -- if I -- if you
23 don't understand one of my questions, stop me, and I'll
24 be happy to rephrase it. Okay?

10:51:50 25 A Thank you.

10:51:50 1 Q Okay.

2 THE REPORTER: "Question: Have you, Bishop Tod
3 Brown, at any time come to any conclusions or learned
4 from any source that there were significant problems
10:51:51 5 with child molesters working in the Diocese of Orange
6 from 1988 to 2002?"

7 THE WITNESS: No, I did not.

8 BY MR. MANLY:

9 Q So at no time has that come to your attention
10:52:27 10 outside of your lawyers; is that correct?

11 A Not of the -- I have learned about the
12 difficulties in the -- in the diocese almost exclusively
13 by means of various suits that have been filed against
14 the diocese by the alleged victims.

10:52:47 15 Q How many suits have been filed against the
16 diocese?

17 A I am aware at the moment of the 90 suits that
18 we settled in December of this year -- last year.

19 Q Okay. When did you first become aware of a
10:52:58 20 lawsuit filed against the Diocese of Orange alleging
21 sexual abuse?

22 A I first learned of a lawsuit when I first
23 came to the Diocese of Orange in 1998.

24 Q And what suit was that?

10:53:10 25 A I believe that was the Ryan DiMaria/Harris

10:53:15 1 suit.

2 Q And you know Mr. DiMaria, sitting in the room
3 today?

4 A No, I do not.

10:53:22 5 Q Now, this is not the first diocese you have
6 been a bishop of; is that correct?

7 A The Diocese of Orange is the second diocese
8 I've been the bishop of.

9 Q Okay. Were you an auxiliary before you
10:53:35 10 became a bishop of a diocese?

11 A No, I was not an auxiliary bishop.

12 Q All right. So sometimes a -- in the Roman
13 Catholic world, is a bishop also known as an Ordinary,
14 with a capital O?

10:53:50 15 A In the Roman Catholic world, there are
16 several Ordinaries. The bishop charge is referred to as
17 the diocesan bishop.

18 Q Okay.

19 A There may be other Ordinaries in the diocese
10:54:01 20 besides him.

21 Q Okay. The other Ordinaries would be for
22 provincials or other heads of religious orders, correct?

23 A No. For the diocese, it would be like the
24 vicar general or auxiliary bishops.

10:54:12 25 Q I see. Who was the auxiliary bishop or

10:54:16 1 auxiliary bishops when you arrived in the Diocese of
2 Orange?

3 A When I came to the Diocese of Orange, the
4 auxiliary bishop was Bishop Michael J. Driscoll.

10:54:26 5 Q Okay. And who was -- was Bishop Soto
6 ordained by that time?

7 A No. Bishop Soto was ordained later.

8 Q Ordained as a bishop, not as a priest, right?

9 A As a bishop, correct.

10:54:37 10 Q All right. And who was the vicar general
11 when you arrived here?

12 A When I first came to the Diocese of Orange --
13 right now I don't recall who the vicar general is. The
14 vicar general, I think, was Bishop Driscoll.

10:54:56 15 Q Okay. At some point, did that change,
16 Bishop?

17 A Yes, that changed. Bishop Driscoll was
18 transferred to Boise, Idaho, and they -- I then named
19 Monsignor John Urell as vicar general of the diocese.

10:55:09 20 Q Okay. So what happened is you came from the
21 Diocese of Boise where you had been the bishop. You
22 succeed Bishop McFarland. And then sometime later,
23 Bishop Driscoll went to Boise?

24 A That's correct.

10:55:21 25 Q Okay. How much time elapsed between the time

10:55:24 1 you arrived in the diocese and the time Bishop Driscoll
2 went to Boise?

3 A I came to Orange in early September of 1998,
4 and I believe Bishop Driscoll went to Boise March of the
10:55:37 5 following year.

6 Q So you came in September of '98?

7 A That's correct. I came in September of '98.

8 Q And he left in March?

9 A Of '99 he left.

10:55:52 10 Q Okay. Okay. So you had six or seven months
11 where you worked together?

12 A That is correct. We worked together during
13 that time period.

14 Q And who was the chancellor of the Diocese of
10:56:03 15 Orange when you arrived here?

16 A When I arrived in the Diocese of Orange, the
17 chancellor was Monsignor John Urell.

18 Q And both of those men had been previously
19 named by Bishop McFarland?

10:56:16 20 A Both of those men were previously appointed
21 by Bishop McFarland.

22 Q And -- and where is Monsignor Urell today?

23 A Monsignor Urell is the pastor of St. Nich- --
24 St. Norbert's church in Orange.

10:56:30 25 Q Was there an e-mail sent out over the weekend

10:56:32 1 regarding Monsignor Urell's status by the diocese?

2 A I think there was an e-mail sent out. I did
3 not see it.

4 Q What did it say? Do you know?

10:56:40 5 MR. CALLAHAN: I think we're getting beyond the
6 scope of the questions. If this is preliminary, fine.
7 But it doesn't seem to fall within one of the four
8 categories about which the witness is going to speak.

9 JUDGE JAMESON: Well, I've -- given more recent
10:56:55 10 discussions about Monsignor Urell's situation, I'll
11 allow it.

12 MR. CALLAHAN: Okay.

13 THE WITNESS: I believe the e-mail which was sent
14 to the priests notified them that Monsignor Urell was on
10:57:09 15 a medical leave of absence.

16 BY MR. MANLY:

17 Q Did it say he was being evaluated?

18 A I don't recall. I didn't see the e-mail.

19 Q Where is Monsignor Urell today?

10:57:17 20 A I think you would have to talk to his
21 physician for the answer to that question.

22 Q Okay. Is he at St. Luke's?

23 MR. CALLAHAN: You can answer if you know.

24 THE WITNESS: I -- yes, he is not at St. Luke's.

10:57:33 25 BY MR. MANLY:

10:57:33

1

Q Is he at a Roman Catholic facility?

2

MR. CALLAHAN: I think, Your Honor, we're beyond
the scope of what this witness was called to --

4

JUDGE JAMESON: Well, we're making it more
complicated than it needs to be.

10:57:46

5

6

Do you know where Monsignor Urell is -- is --
not where he is every second, but where he slept last
night, where you think he'll sleep tonight, where
he's --

7

8

9

10:58:01

10

THE WITNESS: Yes, I do, Your Honor.

11

JUDGE JAMESON: Would you tell us, please.

12

THE WITNESS: He's at a facility called
Southdown, which is outside Toronto.

13

14

BY MR. MANLY:

10:58:08

15

Q Now, is Southdown a pedophile treatment
facility?

16

17

A Southdown is a treatment facility for clergy
and religious who have emotional and psychological
difficulties.

18

19

10:58:18

20

Q And it treats pedophile, does it not?

21

A It treats many conditions.

22

Q And it has treated pedophiles over the years,
has it not?

23

24

A It -- the treatment there has been varied,
depending upon a particular situation. Among others, I

10:58:28

25

10:58:30 1 believe they have -- it's possible, I don't know that
2 they have, but it's possible they have dealt with
3 pedophile priests. I think they -- I'm sure they have.

4 MR. CALLAHAN: I'm going to object to this, Your
10:58:42 5 Honor. Because what we're going to see now is a
6 newspaper article headline before the day is over,
7 "Urell Being Treated for Pedophilia." And I think that
8 is just so wrong and so improper.

9 JUDGE JAMESON: Well, that would be, but I'm
10:58:55 10 hoping that that won't occur, and I'm also hoping that
11 we'll move on back to --

12 MR. MANLY: Well, Judge --

13 JUDGE JAMESON: -- the bishop's knowledge of this
14 case.

10:59:09 15 MR. MANLY: Can I -- can I make a record on this
16 Urell thing? Because I want to do it -- thank you, Your
17 Honor.

18 For the first time yesterday after -- after
19 two years of litigation, eight depositions of my client,
10:59:18 20 and numerous production requests, I had Bishop McFarland
21 whip out a policy on sexual abuse that no one previously
22 said existed with Mr. Callahan's fax number on it.

23 There have been various misrepre- --
24 representations made to us about Bishop -- about
10:59:35 25 Monsignor Urell, I believe none of which were true. And

10:59:40 1 he's being evaluated at a treatment facility for a
2 condition unknown run by the bishops of -- of Canada.
3 That's what Southdown is run by. And I can tell you
4 from doing these cases for ten years, Southdown does
10:59:55 5 evaluate pedophiles.

6 Now, I hope Monsignor Urell isn't being
7 evaluated for that. But if he is, I'm entitled to know
8 it, and that gives me the absolute right, in my opinion,
9 under the law to inquire as to what he is being
11:00:08 10 evaluated for. And if it's alcoholism or -- or stress
11 or something else, fine. And I don't think anybody
12 should draw any conclusion as to why he is there, and
13 I'll say that on the record.

14 But I have to tell you it is very suspicious
11:00:20 15 given the history of that place. There are four or five
16 treatment facilities that people all over this country
17 have been sent to. One is St. Luke's, one is the
18 Servants of the Paraclete, both in New Mexico and in
19 St. Louis. There is the -- there's Fall River and
11:00:36 20 there's Southdown and there's several others.

21 What's that?

22 MR. FINALDI: Vianney.

23 MR. MANLY: Saint John Vianney in Philadelphia.

24 And -- and on the eve of trial, Mr. Urell has
11:00:46 25 been sent to a facility outside the United States. And

11:00:49 1 if he had psychological problems, there are some of the
 2 best psychiatrists in the country within driving
 3 distance of here.

4 So why he is sent to a facility -- a
 11:01:00 5 lock-down facility run by the bishops of Canada is
 6 beyond me.

7 MR. CALLAHAN: Well, I will address that to say
 8 this. I'm not his doctor. I'm not his lawyer. But
 9 his -- the decisions on his health were made by his
 11:01:15 10 doctor and himself. And my understanding of Southdown
 11 is it's a very reputable institution that treats a lot
 12 of different problems, medical and psychological.

13 And -- and this isn't about discovery. This
 14 is about sound bites. This is about newspaper
 11:01:32 15 publicity. And I think it's -- it's not only wrong, it
 16 borders on immoral to use this vehicle to find out
 17 confidential information of what ordinarily would be
 18 revealed -- this might be funny to you, Mr. Finaldi.
 19 It's not funny to me.

11:01:47 20 MR. MANLY: You know what? If you want to talk
 21 about morality, I'll be happy to engage you.

22 JUDGE JAMESON: Hey, we're not going to do that
 23 here.

24 MR. FINALDI: For the record, I didn't make a
 11:01:55 25 sound.

11:01:56 1 JUDGE JAMESON: Well, look, folks. Monsignor
2 Urell's medical condition is put in play. We even had
3 his attorney on the phone the other day. It was left
4 open that it's Monsignor's burden to establish his
11:02:17 5 inability to attend deposition and ultimately attend
6 trial. Conceivably, if it's important, there could even
7 be an independent review of that.

8 So what Bishop Brown knows generally about
9 where he is, if he has some unique information about the
11:02:45 10 medical condition or why, fine. If he doesn't, we know
11 where he is. We know that's a pending issue. But what
12 contributions the bishop can make to that may be
13 minimal. So let's -- let's go forward.

14 BY MR. MANLY:

11:02:59 15 Q Okay. Bishop, is he being evaluated for
16 childhood sexual abuse?

17 A I do not know that.

18 Q Do you know one way or the other?

19 A I presume he -- I don't know for sure.

11:03:14 20 Anyone who goes to a facility like Southdown is
21 evaluated to see exactly what their condition is.

22 MR. MANLY: Let's take a break.

23 THE VIDEOGRAPHER: The time is 11:03, and we're
24 going off the record.

11:03:27 25 (Recess taken from 11:03 a.m. until

11:03:33 1 11:10 a.m.)

2 THE VIDEOGRAPHER: The time is 11:10, and we're
3 back on the record.

4 MR. CALLAHAN: Your Honor, I just made a phone
11:10:30 5 call to my office to ask what the procedure was to have
6 this portion of this transcript sealed and any
7 references to John Urell not told to the press pending a
8 decision by either yourself or Judge Andler.

9 What we have come across here now is
11:10:48 10 information that ordinarily would be privileged
11 information in a personnel file about somebody's medical
12 condition. And the last time --

13 MR. MANLY: Where they are?

14 MR. CALLAHAN: The last time --

11:10:58 15 MR. MANLY: Where they are is privileged; is that
16 correct?

17 MR. CALLAHAN: The last time --

18 JUDGE JAMESON: Just let him finish, Mr. Manly.

19 MR. CALLAHAN: The last time this came up in the
11:11:04 20 framework of this particular case, confidential
21 information was mentioned from a personnel file of
22 Andrade. We were challenged why don't we tell people
23 who are accused, et cetera. And then Andrade sued us,
24 and it cost us a hundred thousand dollars.

11:11:18 25 JUDGE JAMESON: I don't use apples and oranges,

11:11:20 1 Mr. Callahan.

2 MR. CALLAHAN: Okay. This is the same kind of --
3 same kind of a deal, Your Honor. We've got confidential
4 information from a personnel file. That it is

11:11:27 5 confidential information, the inferences that can be
6 spun or drawn on this would be very harmful medically
7 for somebody who was under emotional stress, if that's,
8 indeed, what the problem is. I don't know what the
9 problem is. I don't have any information on that.

11:11:41 10 But I do know this, that this is not going to
11 be something, in my opinion, that should immediately be
12 leaked to the newspapers before we leave today.

13 Now, there was a break. I don't know who
14 called, but I think -- right now I believe no one except
15 the people in this room have been --

11:11:52 16 MR. MANLY: No. I called Ms. Soltan and told her
17 she should tell her expert who's being deposed at the
18 present time. I mean am I not allowed to call my
19 co-counsel, either?

11:12:04 20 MR. CALLAHAN: Then, Your Honor, I am very, very
21 suspicious that somehow --

22 MR. MANLY: Did you call your office?

23 MR. CALLAHAN: I called my office and asked about
24 sealing records.

11:12:14 25 MR. MANLY: I'll bet you did.

11:12:15 1 MR. CALLAHAN: Yeah. And I can virtually
2 guarantee Your Honor that the person I spoke to is not
3 going to call the newspapers and leak this information.

4 MR. MANLY: Judge, nobody's calling the
11:12:23 5 newspapers.

6 JUDGE JAMESON: John, the other day when I got a
7 call and they got a call while we were sitting here, you
8 said nobody's called the papers, and the papers quoted
9 Venus.

11:12:32 10 MR. MANLY: Well, maybe Venus called -- maybe the
11 "Register" called and said "What happened at the
12 deposition?"

13 There's no gag order. He's entitled to
14 discuss it.

11:12:40 15 JUDGE JAMESON: I would like -- no. I'm -- I'm
16 not --

17 MR. FINALDI: The press was at the hearing
18 prior -- three days prior.

19 MR. MANLY: But -- yeah. The press knew the
11:12:44 20 deposition was taking place. I mean in the Arch- -- in
21 the case of the deposition of Cardinal Mahoney, the
22 Archdiocese released it. I mean -- so, you know, Judge,
23 let me -- let me --

24 MR. CALLAHAN: That's apples and oranges.

11:12:54 25 MR. MANLY: Well, I --

11:12:55 1 JUDGE JAMESON: Just a minute.

2 MR. MANLY: Let me -- let me just say that here's

3 what we have here. You have John Urell, who has been

4 the person who's -- who's the right-hand man of the

11:13:07 5 bishop, who's been the person who's handled these cases

6 for 20 years, including mr. DiMaria's case. And you

7 have an undisclosed illness, and they've gone out and

8 hired one of the largest law firms in the state to keep

9 it unknown.

11:13:23 10 They've never disclosed it. They act like

11 it's some kind of stress or something like that. And

12 then I ask where he is, and he's at a pedophile

13 treatment facility. And then I ask "Is he being treated

14 for childhood sexual abuse?" I asked the chief

11:13:36 15 executive of the organization, and I get "I don't know."

16 Now, you know, it seems to me that I'm

17 entitled to put this in records, to put this in -- into

18 evidence, and to deal with it. And the other thing is I

19 believe that I -- there has been unethical conduct here,

11:13:52 20 and I'm not going to say by who. But for a bishop to

21 pull out a document in the middle of a deposition on the

22 eve of trial that absolutely sinks the defendant's case,

23 in my opinion, that everyone either didn't know about or

24 lied about, and I think it's the latter -- what's that?

11:14:09 25 And with the counsel's fax number on it, and I've never

11:14:14 1 seen it.

2 This does not look good. And you know what,
3 Judge? I'm upset. I'm upset because I think the
4 process has been perverted. And -- you know, and now we
11:14:23 5 have the key witness, the person who knows the most
6 about this topic apparently in a pedophile treatment
7 facility, so -- outside the United States, outside the
8 jurisdiction of the federal courts, outside the
9 jurisdiction of the state courts.

11:14:38 10 And with a -- with a clear -- and I don't
11 think the Court can disagree with this -- with a clear
12 record of the defendants trying to conceal it.

13 Now, you know, I'm not going to call the
14 press. Am I going to -- if the press calls me and asks
11:14:52 15 me, should I lie to them? What should I say? Maybe we
16 should agree -- can we agree to release this together?

17 MR. CALLAHAN: Here's what I'll agree to, Your
18 Honor. I'll agree that we should immediately call
19 Ms. Soltan and tell her this matter is now being
11:15:07 20 considered by the Court and ask her as an officer of the
21 court not to tell anyone about it. If she's already
22 told her expert, fine. Then call the expert and tell
23 him "This is a matter that's currently being reviewed by
24 the Court. You can talk about it in your deposition,"
11:15:21 25 but let's not play games about --

11:15:22 1 MR. MANLY: Then why don't we find out why --

2 MR. CALLAHAN: Let me finish, please, John.

3 Let's not -- let's not play games about the expert leaks

4 it to the secretary, et cetera, et cetera.

11:15:29 5 MR. MANLY: What, the di- --

6 MR. CALLAHAN: Let me finish, John.

7 MR. MANLY: I apologize.

8 MR. CALLAHAN: Let's at least try just this once

9 to act in a professional capacity and -- and respect the

11:15:39 10 judicial process and not try to try this case in the

11 newspaper.

12 Now, on this -- wait a minute. I'm not done

13 yet. I'll -- I'll tell you when I'm finished.

14 When -- the spin now is he's at a pedophile

11:15:50 15 treatment facility. Well, if he were at UCLA, that

16 would -- or USC, that would be described as a pedophile

17 treatment facility because they treat pedophiles.

18 He's at a facility that treats a lot of

19 different people for a lot of different things. And

11:16:04 20 it's -- it's one which the church has an affiliation

21 there, so they have confidence in it, the same as they

22 do St. Luke's or same as they do any other facility.

23 The inference is -- is being made here that

24 this is some sort of a -- he's being treated for

11:16:22 25 pedophilia or he's at a pedophile treatment facility,

11:16:25 1 which is just improper.

2 And this business about some policy statement
3 coming out, Mr. Manly asked -- the bishop went to his --
4 his briefcase and pulled something out. I am confident
11:16:35 5 that if that document had been asked for in discovery,
6 it was furnished in discovery. It certainly was --
7 was -- has been discussed in a number of other cases. I
8 imagine there's probably 50 copies of it in different
9 files in Mr. Manly's office.

11:16:48 10 But that's beside the point. I don't want to
11 argue about that. What I want to talk about right now
12 is the pending matter that is -- is a potentially very
13 damaging matter for John Urell's health if he does,
14 indeed, have a mental health problem.

11:17:03 15 You saw him testify. He was very
16 overwrought. If this is something that should come out,
17 fine. Let's have it come out. Not leaked, not in the
18 middle of a deposition, but through a proper proceeding.

19 Now, I've asked my office how fast can we get
11:17:18 20 in front of Judge Andler or yourself, and I would ask
21 you to enter a temporary restraining order subject to
22 our ability to get in front of Judge Andler to rule on
23 it. Will it have any teeth? No. No. Because people
24 can do things that they know are wrong and play games.

11:17:37 25 MR. MANLY: You know what? Judge, that's just

11:17:39 1 wrong.

2 MR. CALLAHAN: I agree it is.

3 MR. MANLY: He gets to sit here and insult me and
4 insult -- you know, if we want -- how come he can do

11:17:45 5 that and I can't?

6 JUDGE JAMESON: You do very well at it, John.

7 MR. MANLY: Thank you, Judge.

8 MR. CALLAHAN: I think you got the issues
9 before --

11:17:53 10 MR. MANLY: Let me tell you what the diocese
11 wants, Your Honor. The diocese wants a secret trial.

12 And what's very disturbing, again, is nobody here,
13 despite the fact I asked the bishop directly, will tell
14 us why Monsignor Urell is at Southdown.

11:18:05 15 So Mr. Callahan can attack my integrity,
16 attack the fact that, you know what, the press now knows
17 what the diocese was up to, and they don't want people
18 to know this.

19 Let me -- let me just tell you Monsignor
11:18:16 20 Urell was not only a public figure in the diocese.
21 Monsignor Urell was an official of the County of Orange.
22 He was on the human relations committee in charge of
23 funding children's programs. He is a public figure.

24 And if Monsignor Urell is a -- let me just
11:18:33 25 get this straight. I think I just heard the counsel for

11:18:36 1 the Diocese of Orange compare my alma mater, USC, and
 2 UCLA to well-known pedophile treatment facilities. And
 3 if -- if they're so good, why didn't Monsignor Urell go
 4 there?

11:18:47 5 Any reasonable person who looks at this,
 6 including the Court, will conclude that this is suspect,
 7 and no one can tell us why. And what they want is they
 8 want to use the court to have a secret trial. They want
 9 to buy time to make up an excuse. Okay?

11:19:04 10 Now, I haven't called the press. When I
 11 talked to Ms. Soltan, I specifically told her not to
 12 call the press. Nobody's calling the press. Okay? But
 13 the diocese should not be able to conduct themselves in
 14 secret because that's what got us in trouble in the
 11:19:18 15 first place.

16 And, you know, I'm waiting to hear why he's
 17 there. I've asked. I've asked Mr. Callahan.
 18 Mr. Callahan refuses to tell us why he's there. The
 19 bishop apparently doesn't know why he's there. So --
 11:19:31 20 and, you know, they've hired Palmieri, Tyler, and
 21 Palmieri, Tyler specifically told Ms. Soltan, "Oh, he's
 22 sick. He's" -- you know.

23 Well, you know what, Judge? I want to be
 24 able to find out if -- if he's been accused and you
 11:19:44 25 enter a protective order the press can't disclose this,

11:19:47 1 his accuser will never know and never be able to come
2 forward. Other people won't be able to come forward.

3 If you look at these cases and the reason
4 most people came forward and said "This person did this
11:19:56 5 to me" and the reason these men and these women who did
6 this were taken out of ministry and taken out of
7 teaching and taken out of circulation and not able to
8 hurt other kids is because the press disclosed it.

9 And what the diocese wants to do is what
11:20:09 10 they've been doing for a hundred years -- a hundred
11 years or more -- which is hide it, conceal it, and don't
12 let anybody find out. And, Judge, that is not the
13 purpose of the judiciary.

14 Children's safety -- when you balance the
11:20:21 15 privacy interest, children's safety should prevail. And
16 that's what Judge Litman found, and that's what we
17 should do here.

18 MR. DiMARIA: And if I may say one thing, I don't
19 want to take up too much of the record here, but I think
11:20:35 20 John touched on this. This is a children -- a public
21 safety issue. And by law, the diocese is required to
22 report this to a whole slew of authorities, law
23 enforcement, Child Protective Services, and potentially
24 the district attorney's office.

11:20:50 25 And, you know, I think that's a huge -- huge

11:20:54 1 issue, given that this man was -- meaning Monsignor
2 Urell -- was the individual who was basically intake
3 person and who has been pushed off by the officials at
4 the diocese as being the intake person, including Bishop
11:21:07 5 McFarland, and I think Bishop Tod Brown, as being the
6 one that gathered all of that information.

7 I think it is a huge public safety issue,
8 and, you know, I don't know how you -- how we could
9 realistically -- not that we're going to go to the
11:21:23 10 press, but how we realistically, with this
11 information -- I think all of us, including the bishop
12 and Mr. Callahan -- can refuse to do anything and even
13 act in a manner that -- that furthers this public safety
14 issue.

11:21:36 15 MR. CALLAHAN: Mr. DiMaria, you're saying you're
16 not going to go to the press with this accusation?

17 MR. DiMARIA: I said that's not necessarily what
18 we're going to do. But if someone -- it's a public
19 safety issue.

11:21:47 20 MR. CALLAHAN: What is?

21 MR. DiMARIA: I think it needs --

22 MR. CALLAHAN: What's a public safety issue?

23 MR. DiMARIA: The fact that we have the head of
24 an organization now not knowing where or what -- what
11:21:57 25 his priest is being treated for when, in fact, we do

11:22:02 1 know that at least one of the major functions of St.
2 Luke's and Southdown is to treat pedophile priests.

3 MR. CALLAHAN: Okay. Can I respond, Your Honor?

4 JUDGE JAMESON: Sure.

11:22:12 5 MR. CALLAHAN: Now we've got the spin down. It's
6 a public safety issue that the bishop is hiding an
7 accusation against Urell, all untrue, because --

8 MR. DiMARIA: That's --

9 MR. CALLAHAN: Wait a minute. Wait a minute.

11:22:25 10 Let me finish.

11 MR. DiMARIA: Please do not put words in my
12 mouth. I don't want to cut you off, but that's unfair.

13 MR. CALLAHAN: I -- let me finish, and then you
14 can talk. We'll take turns.

11:22:33 15 I agree that it's terribly unfair to -- to do
16 this to Urell and to try this case in the newspapers.
17 There's been absolutely no indication of any accusations
18 by Urell -- against Urell. There's been absolutely no
19 indication that he's being treated for anything other

11:22:52 20 than a, quote, medical problem, which the Court saw, I
21 think, when he was here for his deposition. The man was
22 distraught.

23 And the -- who should -- who should -- who
24 should tell now some sort of a public announcement?

11:23:05 25 I've told -- been told several times here that nobody --

11:23:08 1 these lawyers, nobody in this room -- I include
2 myself -- is going to -- is going to run to the press.
3 Well, we'll see. We'll just have to wait and see what
4 the newspapers say.

11:23:16 5 But -- but what we do know is this. Where is
6 he? Why is he there? Those are matters that -- that
7 you might need to find out, Judge, to make some rulings
8 on some depositions. But that information's going to
9 come from Urell, Urell's lawyer, and Urell's doctor, not
11:23:34 10 inferences to be drawn or insinuations made. That's
11 inappropriate. It's hot stuff for the papers, but it's
12 inappropriate.

13 MR. MANLY: Judge, I'm not saying that John Urell
14 is a pedophile. I hope he's not. From the bottom of my
11:23:48 15 heart, I hope he's not. Because if he is, the
16 devastation to the people he's now apologized to and
17 dealt with who've been abused will be legion.

18 What really disturbs me, again, is we
19 don't -- these men will not tell us what they know.
11:24:08 20 These two men sitting here will not tell us what they
21 know about what's wrong with Monsignor Urell. And --
22 you know, and now they're asking you to keep it a
23 secret.

24 And, Judge, you weren't involved in Clergy I,
11:24:23 25 but a lot of the information we were able to get and

11:24:25 1 able to use are from the press. I'm not going to call
2 the press. And obviously, if the Court orders us not to
3 talk to the press, we won't.

4 Mr. Callahan and the bishop have access to a
11:24:34 5 huge press machine. But one of the things that sticks
6 in my mind that I think is appropriate for the court to
7 consider is that thing on the bishop's lapel, Your
8 Honor. The covenant with the faith. What the diocese
9 said and the bishop specifically promised in 2004 when
11:24:48 10 he nailed those to the Holy Family door, that they will
11 be open and transparent. And I got to tell you what's
12 happening today is neither open nor transparent. It's
13 just more of the same. And --

14 THE WITNESS: May I speak, Your Honor?

11:25:03 15 JUDGE JAMESON: No, please don't.

16 MR. MANLY: And -- and -- and, you know, if they
17 know why he's there, fine. But the fact that we're
18 sitting here and no one, including the head of this
19 organization, who is his direct supervisor, he's one of
11:25:16 20 his priests, who Catholics believe is a successor to the
21 apostles of Jesus Christ, cannot sit here and tell me
22 why his priest is at a facility that is most well-known
23 for treating pedophiles. And that is, indeed, very
24 disturbing. I'm done.

11:25:34 25 MR. CALLAHAN: I'm ready to -- to respond.

11:25:35 1 JUDGE JAMESON: Well, I -- I'm ready to resume
2 this deposition. And first thing is there will be a
3 temporary order that disclosures made up till now and
4 what may be in the next few minutes concerning Monsignor
11:25:54 5 Urell will be for litigation purposes only, and there
6 will be no public disbursement of that.

7 I say "temporary" because, one, there may be
8 reason to release that information later, and it may be
9 subject to review by -- by Judge Andler. But it
11:26:16 10 wouldn't -- if it were appropriate not to reveal that
11 information, the barn door -- barn door would
12 have been -- wouldn't open, and that would moot that
13 issue.

14 So for now and in the next couple days, we
11:26:31 15 will not release any information about Monsignor Urell's
16 location or medical condition.

17 As I recall, I even took some information
18 from his counsel out of the presence of everyone else
19 the other day.

11:26:49 20 MR. MANLY: You did, sir.

21 JUDGE JAMESON: But I also recall advising them
22 that -- that we needed a declaration and a written
23 correspondence from the doctor and -- and the like, and
24 I don't think that has changed. So I assume that where
11:27:12 25 he is and what he's being treated for will soon come to

11:27:16 1 light anyway.

2 MR. CALLAHAN: Perhaps we should take -- thank
3 you, Your Honor. May I suggest we take a brief recess?
4 I'll call my office and speak to the person I said and

11:27:25 5 say -- tell him your order. I would ask that
6 plaintiff's counsel do the same.

7 MR. MANLY: Before we do that, Judge, I would
8 like to make a request.

9 JUDGE JAMESON: All right.

11:27:31 10 MR. MANLY: Given this development, it is
11 manifestly unfair to throw us headlong into trial in
12 eight days. I mean this is a huge development in the
13 case. And -- and --

14 JUDGE JAMESON: John, Urell is very important to
11:27:43 15 the case. His production at the trial is important, the
16 finishing of his deposition is important, and I would
17 guess it's a slam-dunk continuance for you.

18 MR. MANLY: Okay. Thank you, Your Honor.

19 JUDGE JAMESON: But that's -- but that's not my
11:27:55 20 decision.

21 MR. MANLY: Would that be your recom- --

22 JUDGE JAMESON: But you don't need -- but you
23 don't need to address me on that.

24 MR. MANLY: Okay. Would you -- would that be
11:27:59 25 your recommendation, Your Honor, if asked?

11:28:01 1 JUDGE JAMESON: If asked.

2 MR. MANLY: Okay.

3 JUDGE JAMESON: But there's other issues in the
4 case, not just --

11:28:07 5 MR. MANLY: No. I understand, Your Honor.

6 JUDGE JAMESON: -- Urell, but --

7 MR. MANLY: That's fine, Judge. So let me -- let
8 me get this straight because I want to be clear. If I
9 intend to file a motion on this, do I have to do that
10 under seal?

11 JUDGE JAMESON: If -- yes. If -- and I would
12 assume that if you're going -- if you are applying for a
13 continuance and you want to have a declaration directed
14 at the unavailability of Monsignor Urell, if you're
15 going to include anything about South whatever and what
16 Southdown -- Southdown, is it?

11:28:38 17 MR. CALLAHAN: Yes. Southdown.

18 JUDGE JAMESON: Whatever -- and whatever
19 Southdown might be known for, it initially should be
20 under seal. If the judge wants to release it, then --
21 then that's fine. And in the meantime, we may learn
22 differently because we don't have all the details that
23 we would want to know under seal or not about.

11:28:54 24 MR. MANLY: Well, I mean the other thing I would
25 request is to be allowed to depose the person -- the

11:29:14 1 people at Southdown, if appropriate. I don't know that
2 we're there yet, but I mean I'm just telling you.

3 JUDGE JAMESON: Is Southdown in Toronto?

4 MR. MANLY: Toronto, I believe. Is that correct?

11:29:25 5 THE WITNESS: It's outside Toronto.

6 MR. MANLY: Yeah.

7 MR. CALLAHAN: I'm at a loss, Your Honor, to know
8 why Urell's medical condition is relevant other than for
9 you to consider his availability to continue the
10 deposition. Now -- now we're going to somehow indict
11 Southdown with depositions? I mean --

12 JUDGE JAMESON: Well, that's -- that's
13 another issue. I'm not going there.

14 MR. CALLAHAN: All right. Shall we each call our
11:29:47 15 offices and -- so at least we can say that we've called
16 and told them that --

17 MR. MANLY: Can I ask one more thing? I need to
18 be able to convey this matter to experts.

19 JUDGE JAMESON: It can be -- it can be used in a
11:29:58 20 litigation sense, but it needs to be used with a caveat
21 that -- like any other witness or related party, when
22 the information is given, they're told that they're to
23 use it for their own --

24 MR. MANLY: Purposes.

11:30:11 25 JUDGE JAMESON: -- purposes in pursuing their

11:30:14 1 task within the litigation framework and not make it
2 public.

3 MR. CALLAHAN: So if we're called by some
4 newspaper for who knows what reason and asked that
11:30:23 5 specific question, we would say "I'm sorry. I'm not
6 allowed to" --

7 JUDGE JAMESON: Yeah. "No comment."

8 MR. CALLAHAN: Well, then why don't we all call
9 so that --

11:30:32 10 JUDGE JAMESON: I'm going to go Google Southdown,
11 anyway, just to see what --

12 MR. MANLY: All right. What's it called?

13 MR. WALL: Southdown Institute.

14 THE VIDEOGRAPHER: The time is 11:30, and we're
11:30:42 15 going off the record.

16 (Recess taken from 11:30 a.m. until
17 11:46 a.m.)

18 THE VIDEOGRAPHER: The time is 11:46, and we're
19 back on the record.

11:46:34 20 MR. CALLAHAN: Your Honor, I called Judge
21 Andler's court, or actually somebody in my office did,
22 and we're giving notice of an ex parte for Thursday,
23 September 13th, at 9:00 a.m.

24 Judge Andler is not in today or tomorrow.

11:46:45 25 However, her clerk said -- this is double hearsay --

11:46:49 1 "Isn't that something that Judge Jameson would rule on?"

2 And I said, "I'll pass that on."

3 But the ex parte is scheduled for
4 September 13th at 9 o'clock.

11:47:02 5 MR. MANLY: For what?

6 MR. CALLAHAN: On -- for an order to seal this
7 transcript and to -- the exact same thing I just talked
8 about. So --

9 MR. MANLY: You want to seal the entire
10 transcript?

11 MR. CALLAHAN: No. I want to seal what --
12 exactly -- I want to follow Judge And- -- Judge
13 Jameson's exact words, and I'll quote those for you.

14 MR. MANLY: You're just taking my time. Do you
11:47:21 15 want to seal the whole transcript or not?

16 MR. CALLAHAN: I want to seal what has transpired
17 up to this point regarding Urell and what --

18 MR. MANLY: I heard the judge's words. You don't
19 have to requote it for me.

11:47:32 20 MR. CALLAHAN: Well, that's what I want to do.

21 MR. MANLY: So you do not want to seal the whole
22 transcript; is that right?

23 MR. CALLAHAN: If you want to seal the whole
24 transcript, that's fine.

11:47:35 25 MR. MANLY: No. I'm asking what you're going to

11:47:37 1 move for. Are you going to move to seal the whole
2 transcript or not?

3 MR. CALLAHAN: Not at this point in time. I'm
4 going to follow the -- the suggestions of Judge Jameson.

11:47:43 5 Now, whatever you're going to do next, I may make
6 another motion.

7 MR. MANLY: Anybody want to lay odds on what he's
8 going to do? Okay.

9 JUDGE JAMESON: No. Let's just go.

11:47:52 10 MR. MANLY: All right. Let's go back on the
11 record.

12 BY MR. MANLY:

13 Q Who -- are we on?

14 THE VIDEOGRAPHER: Yeah.

11:47:58 15 BY MR. MANLY:

16 Q Who made the decision to transfer Monsignor
17 Urell to Southdown?

18 A Monsignor's doctor and his attorney and the
19 vicar for priests for the Diocese of Orange recommended
11:48:12 20 that to me. Ultimately, I had to make the decision.

21 Q When did you make that decision, Bishop?

22 A I made that decision at the latter part of
23 last week.

24 Q When did he go there?

11:48:26 25 A He went there the same day that -- I believe

11:48:29 1 he left -- he left Thursday of last week.

2 Q Why was his attorney involved -- his attorney
3 involved in the decision?

4 A I do not know why his attorney was involved
11:48:41 5 in the decision.

6 Q Is the diocese paying his attorneys?

7 A I do not know the answer to that -- that
8 question.

9 MR. CALLAHAN: I would think it would be
11:48:50 10 irrelevant, your Honor.

11 BY MR. MANLY:

12 Q Who would -- who would know the answer to
13 that?

14 MR. CALLAHAN: I'm going to object on the grounds
11:48:55 15 of relevancy and not calculated to lead to the
16 discoverable evidence and also may well involve
17 attorney-client issues.

18 JUDGE JAMESON: The issue for Monsignor Urell is
19 his availability and whether or not his sufficiency of
11:49:14 20 his medical condition warrants his unavailability to us.
21 Whether he's got an attorney or not and the fact that
22 we've even talked to the attorney, I don't -- I don't
23 see where that goes.

24 MR. MANLY: Well, I'll tell you, Judge, because
11:49:26 25 the diocese previously hired Mr. McKnight an attorney to

11:49:30 1 threaten to sue a newspaper, and we didn't know that,
2 either, and now that came out.

3 So, you know, and I think there is a -- it is
4 our contention, Your Honor, that there is an intentional
11:49:41 5 effort by the diocese to prevent Monsignor Urell from
6 giving further deposition testimony or at trial. And if
7 they're paying a lawyer to achieve that goal, I think
8 I'm entitled to it.

9 MR. CALLAHAN: Your Honor, I would --

11:49:52 10 JUDGE JAMESON: Let's assume he's getting -- so
11 what? So he's getting paid. The point is he shouldn't
12 have Mr. Callahan's firm. Otherwise, you'd be jumping
13 up and down about that. He's got somebody independent.
14 I don't even remember who they are now.

11:50:10 15 MR. MANLY: It's Palmieri, Tyler, Your Honor.

16 JUDGE JAMESON: And that's -- it's appropriate if
17 his attendance is being sought at court and he thinks he
18 has a reason or that he would be made unavailable, it's
19 appropriate for him to have counsel.

11:50:27 20 MR. MANLY: Well, that may be, Your Honor, but
21 the diocese has no obligation to pay for it. And if
22 they are paying for it, effectively, I should be able to
23 argue to the jury that not only did they want him not to
24 testify, they paid for a lawyer to prevent him to
11:50:40 25 testify.

11:50:42 1 JUDGE JAMESON: Well, that's -- if that becomes
2 relevant, you'll -- you'll learn that down the road.

3 MR. MANLY: Okay. Thank you, Your Honor.

4 BY MR. MANLY:

11:50:47 5 Q Now, Bishop, do you know -- I'm sorry. Who
6 is the vicar for priests for the diocese?

7 A The vicar of priests is Christopher Smith,
8 Father Christopher Smith.

9 Q And does he have a parish assignment?

11:51:02 10 A No. His full-time work is providing pastoral
11 care to the priests of the diocese.

12 Q Do you know why Southdown was selected?

13 A I don't know specifically why Southdown was
14 selected. I just know it's a very good facility.

11:51:16 15 Q And how do you know that?

16 A I have had dealings with Southdown over
17 some -- in the past -- past years.

18 Q Did anybody interview Monsignor Urell as to
19 whether or not he had abused a child prior to his
20 leaving?

11:51:31 21 A Not to my knowledge.

22 Q Do you know whether Southdown has an
23 obligation to report as a mandated reporter to the state
24 of California if they found that a priest was abusing?

11:51:50 25 A I do not know the answer to that question

11:51:53 1 regarding reporting from Southdown as a possibility.

2 Q Was there a meeting on this between you and
3 the vicar for priests and/or others?

4 A No. There was simply telephone

11:52:08 5 conversations.

6 Q Was there a conference call?

7 A No, there was not a conference call. Father
8 Smith coordinated the matter and reported to me.

9 Q When was this set in motion, you say?

11:52:21 10 A Last Thursday, I believe.

11 Q Okay. And was there an event that
12 precipitated this?

13 A Monsignor Urell was obviously not well. He
14 was very emotionally and psychologically distraught by
15 those who worked with him and knew him, and that's what
16 I think brought this about.

11:52:39

17 Q So how was this matter brought to your
18 attention?

19 A It was brought to my attention primarily
20 through Father Smith.

11:52:49

21 Q Did Monsignor Urell contact Father Smith?

22 A I do not know whether he did or whether
23 Father Smith contacted him.

24 Q Was the diocesan attorney in any way, shape,
25 or form involved in this or Mr. Callahan's firm?

11:53:06

11:53:10 1 A Not that -- not that I'm aware of.

2 Q So your sworn testimony is Ms. Schinderle had
3 no involvement in this; is that correct?

4 A To my -- as I sit here today, I'm not aware
11:53:19 5 of any involvement.

6 Q Bishop, did you know when you sent him to
7 Canada that my client was trying to depose him?

8 A Yes. I know that Monsignor Urell was going
9 to be -- had given a deposition and was going to be
11:53:33 10 called back for a further deposition.

11 Q Did you know that he was going to be asked to
12 testify at trial in this matter on the 18th of
13 September?

14 A No, I did not know that, that he was going to
11:53:46 15 be asked to testify at trial on the 18th.

16 Q Who suggested Southdown to you?

17 A Father Christopher Smith suggested Southdown
18 to me.

19 Q Did you ask him why?

11:54:03 20 A No, I did not ask him why other than the fact
21 that I knew it was a very good facility, and it was
22 apparent that Monsignor Urell needed some kind of
23 residential care.

24 Q Now, do you know Sister Donna Markham?

11:54:20 25 A Yes, I know Sister Donna Markham.

11:54:23 1 Q And does Sister Donna Markham have any
2 affiliation with Southdown?

3 A She was the director of Southdown. She's no
4 longer there.

11:54:30 5 Q And have you ever read anything Sister Donna
6 Markham has written on the treatment of pedophile
7 offenders?

8 A No, I have not read anything that Sister
9 Donna Markham may have written.

11:54:40 10 Q When do you expect Monsignor Urell back from
11 Canada?

12 A I do not know when he'll come back. I
13 presume it will be after his evaluation is complete and
14 they know what his problem is, and then they will
15 suggest a treatment plan.

11:54:50 16 Q Okay. Do you expect him back in two weeks?

17 A I have no idea when he will get back.

18 Q Two months?

19 A I don't know the answer to that question.

11:55:00 20 Q A year?

21 A I'm sorry. I cannot answer that question.

22 Q What did Chris Smith tell you was wrong with
23 Monsignor Urell?

24 A Father Smith --

11:55:12 25 MR. CALLAHAN: Your Honor, again, I'm concerned

11:55:14 1 here that we're -- we're getting into materials that
2 are -- are, I think, privileged and -- and shouldn't
3 come out of a personnel file and then shouldn't come out
4 of a -- the mouth of a supervisor for somebody who's not
11:55:29 5 here and his lawyer's not here.

6 Now, maybe I'm wrong on that. I'm not an
7 employment lawyer. But it doesn't sound right to me
8 that this kind of information should come out.

9 Now, if you say it should, then fine. But I
11:55:41 10 think this information should be coming from the
11 employee and the employee's doctor and --

12 MR. MANLY: Well, let's make him available.

13 MR. CALLAHAN: -- and the employee's lawyer.

14 MR. MANLY: Let's go to Canada tomorrow and take
11:55:51 15 his deposition. I'll go. Let's suspend the -- let's
16 move the depositions, and let's go to Canada tomorrow.

17 JUDGE JAMESON: Come on, guys. If that was an
18 objection, Mr. Callahan, it's overruled.

19 MR. CALLAHAN: Okay.

11:56:01 20 JUDGE JAMESON: Just answer the question, Bishop.

21 MR. MANLY: All right.

22 THE WITNESS: Would you please repeat the
23 question for me?

24 THE REPORTER: "Question: What did Chris Smith
11:56:06 25 tell you was wrong with Monsignor Urell?"

11:56:19 1 THE WITNESS: Father Smith told me Monsenior
2 Urell was very upset, was not really able to continue on
3 with his normal pastor duties, that he was not well, in
4 Father Smith's opinion, and that there was a
11:56:32 5 consultation after that with Father -- Monsignor Urell's
6 doctor and with his attorney.

7 BY MR. MANLY:

8 Q Who's his doctor?

9 A I'm not sure who his doctor is. He has -- I
11:56:42 10 think he has more than one doctor.

11 Q Was it a psychiatrist?

12 A I think one of his doctors is a psychiatrist.

13 Q Is -- was Dr. Fineman consulted?

14 A Not to my knowledge.

11:56:58 15 Q Now, you announced to the entire priesthood
16 in the Diocese of Orange, you sent an e-mail or somebody
17 sent an e-mail saying that he's gone to be evaluated,
18 correct?

19 A I didn't see the e-mail. To my knowledge,
11:57:11 20 the e-mail was that he was on medical leave.

21 Q Okay. Well, have you ever seen e-mails or
22 communications from the Diocese of Orange about priests
23 when they're going to be evaluated?

24 A No, I have not seen that -- pardon me. I'm
11:57:26 25 not quite sure what the question is.

11:57:29 1 Q Okay. Let me -- it's a poor question. Let
2 me rephrase it.

3 Have you ever -- is there a process where
4 priests are customarily evaluated at places like
11:57:36 5 Southdown, to your knowledge?

6 MR. CALLAHAN: I'm going to object to the form of
7 "places like Southdown."

8 JUDGE JAMESON: Sustained.

9 BY MR. MANLY:

11:57:44 10 Q Well, are you -- what are -- what pedophile
11 treatment facilities run by the Roman Catholic church
12 are you aware of, Bishop Brown, in the United States or
13 Canada?

14 MR. CALLAHAN: I'm going to object to that
11:57:56 15 question unless it is only pedophile treatment because,
16 as I said before, UCLA --

17 JUDGE JAMESON: Just a minute. Let him finish
18 the question.

19 MR. CALLAHAN: Okay. I'm sorry. I thought --

11:58:03 20 MR. MANLY: Last time I looked, UCLA wasn't run
21 by the Roman Catholic church, but maybe I missed
22 something.

23 MR. CALLAHAN: Let's take -- let's take --

24 JUDGE JAMESON: Hey.

11:58:10 25 MR. CALLAHAN: Okay.

11:58:11 1 JUDGE JAMESON: Just wait for the question. If
2 you have an objection, make it, and we've got to move on
3 here.

4 MR. CALLAHAN: Okay. Shall we have the question
11:58:22 5 read back?

6 JUDGE JAMESON: He hasn't finished it yet. I'd
7 like to hear it in its entirety.

8 MR. CALLAHAN: Okay.

9 BY MR. MANLY:

11:58:27 10 Q What pedophile treatment Roman Catholic --
11 well, actually, what facilities are you aware run by
12 and/or affiliated with the Roman Catholic church that
13 treat pedophilia either of children and/or adolescents
14 in the United States and/or Canada, Bishop Brown?

11:58:44 15 A To my knowledge, there are no facilities
16 under church auspices that treat people afflicted with
17 pedophilia or phedophelia exclusively. There are
18 several treatment centers in this country and the one in
19 Canada that was mentioned earlier that treatment a
11:59:00 20 variety of illnesses.

21 Q Okay. I didn't ask exclusively, so let me
22 ask it again. What facilities run by and/or affiliated
23 with the Roman Catholic church are you aware of, Bishop
24 Brown, that treat pedophiles, people who molest either
11:59:18 25 children or adolescents, that are located in the United

11:59:21 1 States and/or Canada?

2 A I think there are four or five.

3 Q Would you name them for me, please?

4 A There is Southdown and -- outside of Toronto,
11:59:32 5 Canada. There is Saint John Vianney, which I think is
6 in Pennsylvania. There is a facility in St. Louis, a
7 facility in Maryland. That's all I can recall at the
8 moment.

9 Q Okay. So there is Southdown, Saint John
11:59:51 10 Vianney. Is St. Lewis run by the Servants of the
11 Paraclete?

12 A I believe so.

13 Q And is Maryland run by -- is the Maryland
14 facility called St. Luke's?

12:00:00 15 A Maryland facility is called St. Luke's.

16 Q Have you personally ever been to any of these
17 facilities?

18 A The only facility I've been to is the one in
19 Toronto, outside Toronto.

12:00:10 20 Q Why were you there?

21 A I was there because there was a priest from
22 Idaho receiving treatment there.

23 Q Which one?

24 A Pardon me?

12:00:17 25 Q Which one?

12:00:19 1 MR. CALLAHAN: Your Honor, I would object.

2 JUDGE JAMESON: Sustained.

3 BY MR. MANLY:

4 Q Was he being treated for sexual abuse?

12:00:25 5 A No, he's not being treated for sexual abuse.

6 Q Was he being treated for child pornography?

7 A He was not being treated for child

8 pornography.

9 Q Have you ever --

12:00:33 10 A Pardon me. No. Southdown, no. That's not
11 to my knowledge.

12 Q Did you have some other priest from Idaho
13 treated for child pornography?

14 A I'm not aware of any priest -- I am aware of
12:00:54 15 a priest who was from vistise, working in Idaho, who
16 was, I think, accused of child -- watching child
17 pornography.

18 Q Now, have you ever -- are you familiar with
19 other priests -- are you familiar with priests from any
12:01:16 20 diocese you have served in that have been sent to
21 Southdown to be treated for sexual misconduct with
22 minors of any type or sort, including child pornography?

23 A I'm not aware of any priests that I know in
24 Boise or Idaho -- or Orange County who went to Southdown
12:01:32 25 for any sexual disorder regarding minors.

12:01:42

1

Q Do you know George Gonzales?

2

A Yes, I know -- I knew George Gonzales.

3

Q Is he still a priest?

4

A George Gonzales passed away some years ago.

12:01:52

5

Q Okay. Was George Gonzales ever accused of

6

sexual misconduct with a minor?

7

A I'm not aware of any accusation against

8

George Gonzales.

9

Q How about with child pornography?

12:02:02

10

A I'm not aware of any charge against him for

11

child pornography.

12

Q Did you transfer Father Gonzales to Boise,

13

Idaho?

14

A No. I was the bishop of Boise, Idaho. And

12:02:11

15

George Gonzales applied to work there, and Bishop

16

McFarland released him to do so.

17

Q And why did he do that?

18

A My understanding was that Father Gonzales was

19

not happy in Orange and was looking for some kind of a

12:02:27

20

new start.

21

Q Now --

22

MR. CALLAHAN: I don't believe this is relevant,

23

Your Honor, and --

24

MR. MANLY: Well, I'm moving on to a different

12:02:35

25

topic, so --

12:02:36 1 BY MR. MANLY:

2 Q Now, when you were appointed by the Holy See
3 or the Holy Father to be bishop of Orange, was there a
4 period of time where you were coadjutor?

12:02:51 5 A No. I was never the coadjutor bishop.

6 Q Okay. So basically, you came to Orange, and
7 you were already appointed the bishop; is that accurate?

8 A That's correct.

9 Q Okay. And, now, I take it when you got here,
12:03:04 10 there was a period of time where you transitioned?

11 A When I first got here, there was certainly a
12 transition period, yes.

13 Q Okay. Had Bishop McFarland already moved out
14 of his office when you arrived?

12:03:15 15 A When I arrived, Bishop McFarland had left his
16 office.

17 Q And did you sit down prior to your arrival or
18 concurrent with your arrival and meet with Bishop
19 McFarland to have an orderly transition?

12:03:29 20 A Yes. I did meet with Bishop McFarland both
21 before and after my arrival.

22 Q Okay. Now, had you -- by the time you
23 arrived here in 1998, did you consider childhood sexual
24 abuse in any way a problem in the Roman Catholic church?

12:03:48 25 A I knew that there were members of the Roman

12:03:51 1 Catholic church, clergy and lay, who had -- were guilty
2 of or alleged to be guilty of child molestation.

3 Q When did you first become aware, Bishop, that
4 some priests molested kids?

12:04:08 5 A When I was the bishop of Boise, Idaho, was
6 the first time I became aware of that.

7 Q And how did you become aware of that?

8 A I became aware through a -- a case that came
9 to my attention.

12:04:19 10 Q Okay. And I take it you called the police
11 when that came to your attention?

12 A The -- I did not call the police because
13 the -- it came to my attention by an adult male who had
14 been allegedly abused when he was an adolescent.

12:04:38 15 Q How many times did you have allegations of
16 sexual misconduct by priests while you were the bishop
17 of Boise, Idaho?

18 A I can think of two.

19 Q Okay. Were the priests alive?

12:04:52 20 A The priests were alive.

21 Q Now, in either instance when that came to
22 your attention, did you pick up the phone and call the
23 police?

24 A No, I did not do that because in all -- both
12:05:01 25 of those cases, the alleged victims were adults at the

12:05:06 1 time I found out about the cases.

2 Q Now, when is the first time while you were
3 attending a National Conference of Catholic Bishops
4 meeting, either an executive session or regular session,
12:05:16 5 somebody mentioned the issue of childhood sexual abuse?

6 A I think that that issue of child sexual abuse
7 was mentioned at one of my first meetings.

8 Q When was that?

9 A When I became a bishop in 1989.

12:05:37 10 Q Okay. So the first bishops -- one of the
11 first bishops meeting you attended, the bishops were
12 already talking about the problem of priests having sex
13 with kids, right?

14 A That is correct.

12:05:47 15 Q Okay. So did you come to an understanding at
16 some point that child molesters are frequently
17 recidivist? Do you know what that means?

18 A I do know what that means. My understanding
19 is that that is true sometimes, but not always true.

12:06:03 20 Q Okay. And so did you make a determination in
21 either instance of the priests you dealt with in Idaho
22 as to whether or not there was a risk that they had
23 molested other kids?

24 A Well, the priests in Idaho in the one case
12:06:15 25 was removed from ministry, and in the second case the

12:06:19 1 priest retired.

2 Q With due respect, Bishop, that's not what I
3 asked you.

4 A Oh.

12:06:24 5 Q Did you make an independent determination or
6 did you direct anybody to determine whether the priest
7 that molested kids in Idaho that you came to -- that
8 came to your attention had recidivist tendencies?

9 A Would you please repeat the question?

12:06:41 10 MR. MANLY: Ms. Reporter, would you read it back,
11 please?

12 THE REPORTER: "Question: Did you make an
13 independent determination or did you direct anybody to
14 determine whether the priest that molested kids in Idaho
15 that you came to -- that came to your attention had

12:06:43 16 recidivist tendencies?"

17 THE WITNESS: In learning about the cases brought
18 to my attention in Idaho, in one case there was one
19 victim, in the other case there were -- there was more
20 than one victim. I don't recall how many.

12:07:06 21 BY MR. MANLY:

22 Q Bishop, with all due respect, what I'm asking
23 you is did you make a determination or did you tell
24 somebody to make a determination whether the perpetrator

12:07:18 25 priests that came across your desk in Idaho were likely

12:07:22 1 to offend or had offended more than once?

2 A I made the determination.

3 Q And what training did you have regarding
4 recidivism to make that determination?

12:07:31 5 A I have no training in recidivism. I was
6 consulting experts in the field.

7 Q What experts did you consult with to
8 determine whether or not they were recidivist?

9 A People in the medical -- mental health area.

12:07:46 10 Q What people?

11 A Doctors.

12 Q What doctor?

13 A Well, in the case of one, it was at the
14 facility where he was receiving treatment.

12:07:59 15 Q What was that?

16 A That was in Hartford, Connecticut.

17 Q Institute for Living?

18 A Yes. That's correct.

19 Q Is that a pedophile treatment facility you
12:08:08 20 forgot to mention?

21 MR. CALLAHAN: I'm going to object to the
22 characterization of it as a pedophile treatment facility
23 unless that's --

24 MR. MANLY: Well, let me rephrase that.

12:08:14 25 BY MR. MANLY:

12:08:15 1 Q Is that a -- well, I don't -- I'm not going
2 to agree with that objection, but I'll -- I'll rephrase
3 it just to make it easy.

4 Do you have an understanding, as you sit here
12:08:23 5 today, that the Institute for Living is an institution
6 run by the Catholic church?

7 A The Institute for Living is not an
8 institution run by the Catholic church, to my knowledge.

9 Q Is it affiliated in any manner with the
12:08:35 10 Catholic church?

11 A I think that at one point in their history
12 and when I dealt with them, they had a Catholic chaplain
13 on the staff.

14 Q Okay. And is the Institute for Living a
12:08:46 15 place that you are aware of that frequently has treated
16 pedophile religious and/or priests?

17 A I'm not sure what they have treated people
18 for, but they have treated people with that -- those
19 difficulties.

12:08:57 20 Q Did -- did you forget about the Institute for
21 Living or --

22 A I did forget about it. Thank you for
23 reminding me.

24 Q Okay. Oh, my pleasure.

12:09:05 25 And so was Father Michael Peterson the person

12:09:09 1 you consulted there?

2 MR. CALLAHAN: Objection, Your Honor.

3 JUDGE JAMESON: Sustained.

4 MR. MANLY: I didn't ask if that was the priest.

12:09:14 5 I asked if it was the doctor he consulted. I'm not
6 asking about the priest, Your Honor.

7 JUDGE JAMESON: The objection is sustained.

8 MR. MANLY: Okay. I -- I'm not sure -- what was
9 the objection just so --

12:09:26 10 MR. CALLAHAN: I didn't even bother to get it out
11 because it was so obvious. It's not calculated to lead
12 to discovery of admissible evidence in this particular
13 case, it's irrelevant, it's beyond the Court's order
14 regarding the things that this judge can talk about.

12:09:39 15 Excuse me.

16 BY MR. MANLY:

17 Q Has Father Michael Peterson ever addressed
18 the National Conference of Catholic Bishops on childhood
19 sexual abuse?

12:09:47 20 A I do not recall that name.

21 Q Is he well-known among the bishops as
22 somebody who has expertise on treating priest offenders?

23 A I am not aware of that.

24 Q Okay. So the -- your testimony is you talked
12:10:02 25 to the person at the Institute for Living, and they told

12:10:06 1 you that in the one instance, the man was not a
2 recidivist risk?

3 A That is correct.

4 Q Did you put him back in ministry?

12:10:12 5 A No, I did not.

6 Q Where is he now?

7 A He left the ministry. I think he's working
8 in Oregon someplace.

9 Q And what was the age of his alleged victim?

12:10:23 10 A I think his alleged victim was --

11 MR. CALLAHAN: At the time or when he spoke to
12 the bishop? Pardon me?

13 MR. MANLY: At the time he molested him.

14 MR. CALLAHAN: At the time he allegedly molested
15 him, how old was he?

12:10:37 16 THE WITNESS: I think he was -- I'm not quite
17 sure about that. The molestation continued for a period
18 of years, and I think it started when he was about --
19 I'm guessing now -- 10 or 12.

12:10:47 20 BY MR. MANLY:

21 Q Okay. And where in Idaho did that take
22 place? Do you recall?

23 A I think that -- I think that molestation took
24 place in Moscow, Idaho.

12:11:03 25 Q Okay. And was there a decision -- did

12:11:08 1 anybody at the Diocese of Boise and/or you ever consider
2 calling the police?

3 A No, I didn't get to -- consider calling the
4 police because, again, the victim was an adult when I
12:11:20 5 knew him.

6 Q Was there a public announcement made?

7 A Yes, there was.

8 Q You told the newspapers?

9 A No, I did not tell the newspapers. The
12:11:27 10 alleged victim did.

11 Q After -- after the abuse?

12 A Oh, yes.

13 Q So how much time elapsed between the time the
14 victim made the allegation public and the time the
12:11:46 15 allegation was brought to the diocese' attention?

16 A No. The allegation -- the allegation was
17 made known to the diocese before the victim -- alleged
18 victim made it public.

19 Q How much time between the two?

12:11:59 20 A There were -- I can't quite -- can't quite be
21 sure. There were several months. The alleged victim
22 wanted a cash settlement, which the diocese was not
23 willing to agree to. He threatened to go to the press
24 if we didn't accept his offer, and he went to the press.

12:12:22 25 Q Now, and did you -- you never considered

12:12:25 1 calling the police when he first reported it?

2 A No. Because he was an adult when he reported
3 it.

4 Q But the priest was still -- had still -- had
12:12:34 5 contact with kids, right?

6 A At the time it was reported, no. As soon as
7 it was reported, as soon as we understood who the priest
8 was, he was called into the office, confronted with the
9 accusation, and he at that point went immediately to the
12:12:52 10 Institute for the Living.

11 Q Did he admit it?

12 A Yes, he did.

13 Q So he admitted he had molested kids, and you
14 didn't --

12:13:00 15 A He admitted he molested one person.

16 Q He admitted he molested a child, and you
17 didn't call the police, right?

18 A No, I did not call the police.

19 Q All right. Now, the second instance in Boise
12:13:09 20 you told us about, did you call the police in that
21 instance?

22 A I did not call the police in that instance.

23 Q Why?

24 A Because, again, the victims were adults at
12:13:18 25 the time that the accusations were made.

12:13:21 1 Q Well, but they allege that they had been
2 abused as kids, right?

3 A That's correct.

4 Q Okay. Well, so did you think it was a good
12:13:27 5 idea to pick up the phone and call the police?

6 A I didn't think that -- the man was not in a
7 situation where -- where he was going to be of -- at the
8 time, I didn't think he was in a situation where he
9 would be a risk.

12:13:51 10 MR. MANLY: Can I have the bishop's answer read
11 back, please?

12 THE REPORTER: "Answer: I didn't think that --
13 the man was not in a situation where he was going to be
14 of -- at the time, I didn't think he was in a situation
15 where he would be a risk."

12:13:54 16 BY MR. MANLY:

17 Q You mean the victim or the perpetrator?

18 A The perpetrator.

19 Q And so you made a situ- -- you made a
12:14:13 20 determination that he was not a risk to kids?

21 A At that time.

22 Q And were you aware at that time, Bishop,
23 that -- as to whether or not either men accused of
24 pedophilia could have been charged criminally?

12:14:28 25 A No, I was not aware of that.

12:14:30 1 Q Did that even enter your mind?

2 A It may not have entered my mind because I
3 wasn't advised of that.

4 Q When did you learn that it was wrong to
12:14:45 5 molest a child?

6 A When I first learned about molestation.

7 Q When was that?

8 A Probably in college.

9 Q So you went to the seminary?

12:14:56 10 A I did go to the seminary.

11 Q So you learned that it was wrong to molest a
12 child when you were at college at Saint John's Seminary;
13 is that right?

14 MR. CALLAHAN: You're talking about formal
12:15:05 15 training or just general awareness that something like
16 that's wrong?

17 BY MR. MANLY:

18 Q Bishop, you can answer.

19 A Well, I think that mol- -- molestation of any
12:15:17 20 kind, but child molestation was a serious moral -- moral
21 failure and also a crime. That was -- makes a lot of
22 common sense. I found out very early on.

23 Q Okay. Now, you knew it was a crime when you
24 were the bishop of Boise, Idaho; is that correct?

12:15:33 25 A Yes.

12:15:34 1 Q Is it a crime if a priest does it?

2 A If anyone does it.

3 Q Okay. So if you knew it was a crime and you
4 knew it was morally wrong, why didn't you call the
12:15:46 5 police?

6 A This was a matter to take -- these are things
7 that happened many years before. And people -- the
8 alleged victims were now adults, and it was my thought
9 that they should call the police if they wished to do
12:16:01 10 that.

11 Also, I'm not quite sure what the -- the
12 criminal law in that regard is in Idaho. It's not the
13 same as it is here in California.

14 Q Bishop, have you ever called the police on a
12:16:14 15 priest?

16 A No, I've never called -- to my knowledge,
17 I've never called the police about a priest.

18 Q How do you know it's different -- the law is
19 different in Idaho than California?

12:16:27 20 A I just know the statutes are different there.
21 They were different and -- because of the issue of suits
22 we were involved in.

23 Q Statutes of what?

24 A Limation.

12:16:36 25 Q What does that matter whether you call the

12:16:40 1 police or not?

2 A I didn't see a need to call the police since
3 this was not an ongoing activity with a minor at the
4 time.

12:16:49 5 Q But I think you just told me that it's
6 well-known and common sense, to use your words, that
7 pedestrians molest repeatedly and repeatedly, right?

8 MR. CALLAHAN: Objection. He did not say that.
9 He said sometimes they do, and sometimes they don't.

12:17:02 10 You're putting words in his mouth. I object to that
11 question.

12 BY MR. MANLY:

13 Q Is it not your understanding and common sense
14 that if you -- do you think it's common sense if
12:17:08 15 somebody's a pedophile, whether their victim's 20 or 40
16 and they're still around kids, is it common sense to
17 call the police, Bishop?

18 A I don't think it's common sense if you have
19 restricted the individual in a situation where they're
12:17:20 20 not able to fail in that regard.

21 Q So did you put him in clerical prison?

22 A No, I did not put them in clerical prison.

23 Q What did you do?

24 A Well, in one case, the priest was -- had gone
12:17:35 25 to a facility for treatment and then subsequently left

12:17:38 1 the ministry, and the other case the person retired.

2 Q So if he retired from ministry, your view is
3 he would never molest again?

4 A Knowing the person that -- who retired and
12:17:49 5 knowing his history and having had conversations with
6 him, I was confident that there was not going to be a
7 matter of recidivism.

8 Q So effectively, you were -- did you think, in
9 effect, you were doing the police's job for them with
12:18:03 10 regard to --

11 A No, I did not.

12 Q Now, how -- how many priest perpetrators have
13 you come across in your career?

14 A I am aware of two in Idaho, and in Orange
12:18:18 15 County I can think of three right now. There may be
16 others. I'm not sure.

17 Q So you only know of two in Idaho and three in
18 Orange County; is that accurate?

19 A As I sit here with my -- at the moment. I
12:18:33 20 would have to research that issue.

21 Q So was it your expectation as a bishop, as a
22 new bishop, that if Bishop McFarland knew that he had
23 priests who had raped children or molested children or
24 adolescents in parishes, that he would tell you that?

12:18:54 25 MR. CALLAHAN: Objection; calls for speculation

12:18:55 1 as to expectations.

2 JUDGE JAMESON: Sustained.

3 BY MR. MANLY:

4 Q Did Bishop McFarland -- well, I take it as
12:19:11 5 bishop of Orange, you did not want to have people who
6 had molested children in ministry; is that accurate?

7 A I certainly would not want to have people who
8 molested children in ministry. And as I speak now, I
9 realize I can think of four priests in Orange County who
10 have been accused of that here in Orange County.

11 Q Okay. All right. Now, do you know how many
12 priests were in ministry of any type or sort in -- well,
13 actually, let me ask it a different way.

14 How many priests, whether on inactive leave,
12:19:44 15 sick leave, or on active duty, in the Diocese of Orange
16 when you arrived had been accused of molestation?

17 MR. CALLAHAN: I'm going to object to that, Your
18 Honor, based on your previous order that says on page 14
19 we're not going to have any questions about since he
12:20:00 20 arrived after the facts here, meaning the Andrade
21 matter, there will be no questions of Bishop Brown
22 regarding abuse by clerics or priests in the diocese or
23 anywhere else.

24 I've tried to not object and allow this some
12:20:12 25 reasonable latitude, but we now see that we're going to

12:20:16 1 repeat the Bishop McFarland deposition, and I don't
2 think that's appropriate.

3 JUDGE JAMESON: Well, at least you acknowledge
4 that we're going into people in Idaho and their
12:20:27 5 circumstances which I had ruled was out of bounds. It
6 was incredible to me that you let this go on for an
7 hour.

8 MR. CALLAHAN: I'm sorry, Your Honor.

9 JUDGE JAMESON: But the objection's sustained.

12:20:38 10 MR. MANLY: Judge, if -- if -- we talked about
11 the transition period and that Bishop Blair -- Bishop
12 Blair -- excuse me -- Bishop Brown is aware of people
13 that were molesters in 1998 when he arrived. That is
14 squarely within the ambit of the Andrade period as ruled
12:20:55 15 by Judge Andler, which is 1987 to 2001. So I think I'm
16 entitled to ask that question.

17 MR. CALLAHAN: I don't.

18 JUDGE JAMESON: The objection's sustained.

19 BY MR. MANLY:

12:21:08 20 Q Okay. Did Bishop McFarland tell you that
21 there were numerous people working at the diocese, both
22 as priests, laypeople, and otherwise, during the
23 transition period that were molesters?

24 MR. CALLAHAN: I'm going to object to that. The
12:21:24 25 court's order is that --

12:21:25 1 JUDGE JAMESON: No. I -- the transition and what
2 Bishop McFarland advised Bishop Brown --

3 MR. MANLY: Okay.

4 JUDGE JAMESON: -- is one of the -- I think I
12:21:40 5 even commented that that would be appropriate. So
6 what -- what was communicated regarding the status of
7 allegations and cases at the time Bishop Brown arrived
8 is relevant.

9 So you may -- if you have the question in
12:22:00 10 mind, you may answer.

11 MR. CALLAHAN: Do you have the question in mind,
12 Bishop, or do you want it read back?

13 THE WITNESS: I have the question in mind, I
14 think.

12:22:07 15 Bishop McFarland spoke to me about two
16 priests who had been accused of sexual molestation
17 and -- during our transition period.

18 BY MR. MANLY:

19 Q Which ones?

12:22:18 20 A Monsignor Harris and Father John Lenahan were
21 the two priests he spoke to me about.

22 Q Okay. Now, I take it he told you that Father
23 Harris and Father Lenahan had been accused of -- of
24 abuse?

12:22:36 25 A Bishop McFarland told me that both of those

12:22:38 1 had -- no. Bishop McFarland told me that Monsignor
2 Harris had been accused by various people of abuse and
3 that there was a pending lawsuit. In the case of Father
4 Lenahan, he told me about one -- one event.

12:22:54 5 Q Did he tell you that Father Lenahan had
6 admitted abusing the girl in question?

7 A I think he -- Bishop McFarland told me that
8 he had -- I'm not quite positive of --

9 (Interruption in proceedings at 12:23 p.m.)

12:23:11 10 THE WITNESS: I'm not positive as I sit here now.
11 I think he told me about involvement of Father Lenahan
12 with a -- a teenage girl, and I don't recall whether --
13 what the admission question was. I do know there was
14 some kind of legal settlement in that case, though.

12:23:30 15 BY MR. MANLY:

16 Q He said "involvement." What does that mean?

17 A I'm not quite sure. I presume it was some
18 kind of sexual involvement.

19 Q Now, I take it once you learned that Father
12:23:41 20 Lenahan had been sexually involved with a young girl,
21 you kicked him out of the diocese.

22 A I did not kick Father Lenahan out of the
23 diocese because the matter had been dealt with by my
24 predecessor some years before, and I was not going to
12:23:58 25 return to the past, but rather move on into the future.

12:24:01 1 Q Well, I -- certainly, you would think it
2 would be inappropriate for him to be in any sort of
3 position of leadership, given that he had engaged in sex
4 with a minor. Agree?

12:24:12 5 A I simply accepted the decisions that Bishop
6 McFarland had made in regard to Father Lenahan.

7 Q Did you ever come to -- did it ever come to
8 your attention at any time that Father Lenahan was
9 holding positions of leadership in a diocese when it was
10 known to you and Bishop McFarland that he was a
11 molester?

12 A Bishop McFarland had appointed him to a
13 certain position of the diocese. He was in those
14 positions when I arrived here, and I did not change the
15 status.

12:24:39 16 Q So you never appointed Father Lenahan to any
17 position of leadership; is that accurate?

18 A I'm not quite sure. He was a consultor
19 and -- appointed by Bishop McFarland. And I think when
12:24:54 20 his term was -- I think when his term was finished, that
21 I reappointed him.

22 Q Okay. Now, I take it as a part of the
23 transition, you wanted to become familiar with the
24 priests of the diocese?

12:25:15 25 A I'm very intent on becoming aware of the

12:25:18 1 priests of the diocese as quickly as I could.

2 Q So I take it one of the things did you was
3 review their files?

4 A No. I did not review their files.

12:25:25 5 Q Did you speak during the transition with
6 Bishop McFarland -- I'm sorry.

7 During the transition, did you speak with
8 Bishop Driscoll and/or Monsignor Urell about the
9 priests?

12:25:36 10 A I did not speak to Monsignor Urell or to
11 Bishop Driscoll about priests during my transition.

12 Q Bishop, is it -- you've been a bishop a long
13 time, right?

14 A Since 1989 -- '88, actually.

12:25:52 15 Q If your vicar general and/or chancellor are
16 possessed of information that some priests might pose a
17 threat to children, was it your -- is it your
18 expectation at any time that they would make you, as the
19 bishop, aware of that?

12:26:07 20 A That would be my expectation, yes.

21 Q So it would be your expectation that if
22 Bishop Driscoll and/or Monsignor Urell were possessed of
23 information that there were molesters working in the
24 diocese, that they would have told you that; is that

12:26:21 25 accurate?

12:26:22 1 A I would have expected they would have told me
2 that if the occasion arose.

3 Q What do you mean "if the occasion arose"?

4 A Well, I don't know. I -- usually we didn't
12:26:33 5 discuss priests unless there was some particular reason
6 to speak about a priest.

7 Q Okay. Have you ever spoken with them
8 subsequently about their failure to tell you -- well,
9 let me ask you this.

12:26:45 10 Did either of them during the transition
11 period ever tell you that there were multiple priests
12 working in the diocese who had been accused?

13 A No. Neither priest spoke to -- neither of
14 them spoke to me about that during the transition.

12:26:56 15 Q Did they speak to you about it at any time?

16 A No, except that I think that after the --
17 after the Dallas meeting of the bishops and the
18 bishops -- Catholic bishops of our country adopted the
19 charter for the protection of young people, at that time
12:27:15 20 Monsignor Urell had spoke to me about one of the priests
21 in terms of a certain -- had had some accusations
22 against him, which I did not know up until that point.

23 Q Did Monsignor Urell tell you that -- during
24 the transition period that Father Ramos was accused of
12:27:30 25 taking boys to donkey shows in Tijuana?

12:27:33 1 A No. Monsignor Urell did not tell me that. I
2 don't believe Father Ramos was on active duty when I
3 came here.

4 Q Okay. Well, if you learned that any priest,
12:27:44 5 whether on active duty or not, during the transition had
6 been taking children to donkey shows with prostitutes in
7 Tijuana, would you have taken action to laicize that
8 priest?

9 A I certainly would have taken some action.

12:28:00 10 Q Well, that's fine. My question is would you
11 have taken action to defrock that priest?

12 A I would certainly have taken such a priest
13 out of active ministry.

14 Q Did you ever come to learn that another
12:28:16 15 priest in your diocese, Father Peturich, who was on duty
16 when you were in -- let me ask -- let me ask a different
17 question.

18 Did you ever come to learn during the
19 transition that Father Ramos had been to -- had served
12:28:30 20 in Tijuana after he was a notorious -- known to be a
21 notorious pedophile by Bishop Driscoll?

22 A As I sit here at this moment, I don't recall
23 that conversation.

24 Q So Bishop Driscoll never told you that he had
12:28:43 25 sent, along with Bishop McFarland, Father -- well, did

12:28:47 1 Bishop McFarland, Bishop Driscoll, or John Urell ever
2 tell you, Bishop Brown, that they had sent a notorious
3 pedophile, who used sex toys and took boys to donkey
4 shows, and put him in Tijuana with access to children?

12:29:01 5 A Not to my --

6 MR. CALLAHAN: Objection, Your Honor. That --
7 well, all right. It certainly misstates the evidence,
8 but I can't object to the question if it misstates
9 evidence.

12:29:09 10 MR. MANLY: What evidence did I misstate?

11 MR. CALLAHAN: That they -- they -- they sent him
12 down to Mexico with a bunch of donkeys and sex toys
13 and -- and applied them to a bunch of kids.

14 MR. MANLY: Did they send him to Tijuana?

12:29:19 15 MR. CALLAHAN: They sent him -- I don't really
16 know if they sent him --

17 MR. MANLY: Is there an allegation that he had --
18 he took boys to donkey shows and used sex toys on them,
19 Mr. Callahan?

12:29:28 20 MR. CALLAHAN: I don't know about the
21 allegations. What I do --

22 MR. MANLY: You want me to say the victims' names
23 who will say it?

24 MR. CALLAHAN: I -- I'm sure -- save it for the
12:29:33 25 newspapers, John. Let's go on to the next question.

12:29:36 1 MR. MANLY: Well, you said I made a mistake.

2 I'd like to know what I did, Your Honor.

3 JUDGE JAMESON: Lunch is here. Let's take a
4 break.

12:29:42 5 THE VIDEOGRAPHER: The time is 12:29, and we're
6 going off the record.

7 (Recess taken from 12:29 p.m. until
8 1:10 p.m.)

9 THE VIDEOGRAPHER: The time is 1:10, and we're
01:10:57 10 back on the record.

11 BY MR. MANLY:

12 Q Bishop, who made the decision to pay
13 Mr. Andrade a hundred thousand dollars to settle his
14 lawsuit? Forgive me.

01:11:11 15 A As far as I know, I believe that was a
16 decision made by the insurance company.

17 Q Okay. So you didn't make that decision?

18 A No, I did not make the decision.

19 Q Who was working on that matter for the
01:11:21 20 diocese?

21 A To my knowledge, I believe that our general
22 counsel, Maria Schinderle, was working on it, together
23 with others.

24 Q Bishop Brown, do you know who Father Morris
01:11:33 25 is?

01:11:36 1 A Pardon me?

2 Q Father Morris. Have you ever heard of a
3 Father Morris?

4 A I'm not aware of a Father Morris.

01:11:42 5 Q Okay. How about Father Rubin Garcia? Have
6 you ever heard of him?

7 A As I sit here, I don't recall that name right
8 now.

9 Q How about a Father James Wersly? Do you know
01:11:54 10 him?

11 A Yes, I do know Father Wersly. He was one of
12 the priests I mentioned in Idaho.

13 Q Father --

14 A Pardon me. Rubin Garcia, I think I can
01:12:02 15 recall that now. He was -- I think Father Garcia was
16 a --

17 MR. CALLAHAN: We've got a court order that
18 indicates we're not to reveal the names of victims or
19 accused.

01:12:17 20 MR. MANLY: I'm just asking if he knows who they
21 are.

22 MR. CALLAHAN: Well, I'm just telling him -- he
23 doesn't know about the court order. So probably the
24 best way to answer this is yeses or nos so no reference
01:12:26 25 can be implied.

01:12:27 1 MR. MANLY: Well, I don't know that that's still
2 the court order. I mean so --

3 BY MR. MANLY:

4 Q Do you know who Father Rubin Garcia is or
01:12:34 5 not, Bishop?

6 A I think I do.

7 Q Who is he?

8 A I think he was a priest who at one time was
9 ministering in Idaho, and if it was the one I'm thinking
01:12:47 10 about, he --

11 MR. CALLAHAN: That's good enough.

12 MR. MANLY: Don't interrupt him. I asked who he
13 is. He was ministering in Idaho and what?

14 MR. CALLAHAN: I would suggest that he answer the
01:12:56 15 question and we proceed on an orderly basis to avoid
16 violating the court order.

17 BY MR. MANLY:

18 Q Well, what was he doing?

19 MR. CALLAHAN: That's the question. What was he
01:13:04 20 doing? What was his assignment?

21 THE WITNESS: Father Garcia was not an active
22 priest in Idaho when I went there.

23 BY MR. MANLY:

24 Q Was he in Idaho?

01:13:11 25 A I don't -- I don't believe he was in Idaho,

01:13:12 1 no.

2 MR. CALLAHAN: I'm going to object because I
3 think this also is far beyond the scope of the
4 permissible inquiry according to this particular
5 judge -- order of Judge Jameson last week.

01:13:20

6 JUDGE JAMESON: Sustained.

7 BY MR. MANLY:

8 Q Do you know who Father William Gould is?

9 A Yes, I know who Father William Gould is.

01:13:28

10 Q Who is Father Gould?

11 A Father Gould is a priest of the Diocese of
12 Boise.

13 MR. CALLAHAN: I would object, then, and move to
14 strike as beyond the legitimate inquiry of this
15 particular deposition.

01:13:37

16 MR. MANLY: I just asked if he knew who he was.

17 BY MR. MANLY:

18 Q Do you know who Father --

19 JUDGE JAMESON: You need to object to the
20 question, Mr. Callahan. We don't object to answers.

01:13:43

21 MR. CALLAHAN: Okay. I'm sorry, Your Honor.

22 BY MR. MANLY:

23 Q Do you know who Father Joel Stuber is?

24 MR. CALLAHAN: Objection.

01:13:51

25 JUDGE JAMESON: Sustained.

01:13:52 1 MR. MANLY: Well, how is that? I mean we don't
2 even know who he is. Judge, I can't ask him who a
3 priest is?

4 JUDGE JAMESON: If you want to get into an area,
01:14:04 5 you need to take it step by step and lay a foundation.
6 Out of the blue, that question is objectionable.
7 Sustained.

8 BY MR. MANLY:

9 Q Do you know who -- let me ask you this,
01:14:21 10 Bishop. Do you know who Father William Gould is? Did I
11 ask you that?

12 MR. CALLAHAN: Yes, you did.

13 MR. MANLY: Okay.

14 MR. DiMARIA: Look at the bottom portion.

01:14:55 15 BY MR. MANLY:

16 Q Now, when you were being considered for
17 appointment to be bishop of Orange, was there an
18 investigation by the Holy See?

19 MR. CALLAHAN: Objection, Your Honor. And if I
01:15:09 20 may state my objection in detail here. It's my
21 understanding that today's proceeding is subject to four
22 areas of inquiry. These are not areas that are
23 prohibited, but rather, everything is prohibited except
24 these areas.

01:15:23 25 And these areas are, number 1, [REDACTED]

01:15:26 1 number 2, the Andrade return to campus on the Varsity
2 Gold; number 3, the policies and practice of lay
3 employees regarding childhood sexual abuse; and number
4 4, what Bishop McFarland related to him regarding the
01:15:41 5 events of this case and related to it.

6 And I'm going to object to any questions that
7 aren't clearly within the parameters of those four
8 areas. This question I object to because it appears not
9 to be connected to one of those four. It may well be,
01:15:55 10 but it does not appear to be connected to one of those
11 four areas of permissible inquiry.

12 MR. MANLY: It goes to the transition, Your
13 Honor.

14 JUDGE JAMESON: What's the question?

01:16:02 15 MR. MANLY: When you were -- before you were
16 appointed bishop of Orange, was there an investigation
17 by the Holy See?

18 MR. CALLAHAN: Wait, wait, wait. Objection. I
19 don't think that has to do with, quote, the reference to
01:16:14 20 Bishop --

21 JUDGE JAMESON: The objection's sustained.

22 MR. CALLAHAN: Thank you, Your Honor.

23 BY MR. MANLY:

24 Q Let me show you -- I'll give the Court a copy
01:16:25 25 of these documents. Give me all of them. Oh, okay.

01:16:35 1 Your Honor, you didn't have these documents
2 when we talked about this, and I want you to look at
3 them, and I'll show counsel. And it's my intention to
4 question the bishop about these. So --

01:16:49 5 MR. CALLAHAN: Should we number these?

6 MR. MANLY: These are -- well, we can number them
7 by Exhibit 1 and then A through whatever. These are
8 documents from the Diocese of Fresno and -- and relating
9 to allegations against Bishop Brown. And there's also
01:17:08 10 documents from the Archdiocese of Boston and the
11 Archdiocese of Los Angeles, and I -- and the Diocese of
12 Fresno. And they should be marked Exhibit 1A through I.

13 (Whereupon, Exhibit 1 was introduced for the
14 record, a copy of which is attached hereto.)

01:17:38 15 MR. CALLAHAN: Your Honor, I would object to
16 these being marked and attached and, hence, perhaps
17 inadvertently, released to the press as a part of this
18 transaction. If -- if --

19 MR. MANLY: They've already been released to the
01:17:49 20 press. The "OC Weekly's" published them.

21 MR. CALLAHAN: I'm going to mostly address my
22 question -- my comments to you, Your Honor. I think it
23 would probably be smoother that way.

24 I don't want this -- these documents to be
01:17:59 25 attached to the sound bites and the videotape that may

01:18:03 1 inadvertently, who knows what, as -- as a part of this,
2 and then, you know, the diocesan counsel is objecting
3 and trying to hide, et cetera. I don't want -- I don't
4 want to get into that.

01:18:14 5 If you think these documents are related to
6 one of those four areas, fine. Then we'll address it.
7 But if you don't think these four -- these documents are
8 related to one of those four areas of permissible
9 inquiry, I don't think they should be attached, and I
01:18:27 10 don't think we should have any colloquy on the record on
11 them and we should move on to something that is
12 permissible inquiry. That's my position.

13 JUDGE JAMESON: Well, we need to -- we can take a
14 break or you can sit here, but I -- it's several pages
01:18:39 15 that I have not seen before, and given concerns
16 expressed, I will review them.

17 MR. MANLY: We'll take a break, Your Honor.

18 THE VIDEOGRAPHER: The time is 1:18, and we're
19 going off the record.

01:18:52 20 (Recess taken from 1:18 p.m. until
21 1:29 p.m.)

22 THE VIDEOGRAPHER: The time is 1:29, and we're
23 back on the record.

24 MR. CALLAHAN: Your Honor, have you had a chance
01:30:06 25 to review these documents?

01:30:08 1 JUDGE JAMESON: I have.

2 MR. CALLAHAN: These documents were discussed at
3 the -- the time of your initial ruling. And, in fact, I
4 have a transcript of that in which Mr. Manly makes the
01:30:19 5 point that Bishop Brown is himself an accused abuser,
6 quote, end quote. That was not disclosed.

7 He goes into the diocesan policy and cites
8 the "Orange County Weekly." The court may recall that.
9 And he offered to produce all these numerous documents,
01:30:36 10 and he described them in some detail. And he explained
11 why that -- his theory, that if Brown had been an abuser
12 and was head of the diocese when Andrade was retained,
13 et cetera, and so these documents have been referred to
14 at some length and argued extensively.

01:30:56 15 And I mention this only that the Court is
16 aware that these -- this deposition has a four-hour time
17 limit on it. I'm not going to interrupt, obviously, in
18 the middle of a question or anything like that. But I
19 would not want to hear the claim "Well, Judge, we had to
01:31:10 20 use up a lot of time to go over these documents" because
21 that was counsel's choice, and I would submit that these
22 documents do not address the four areas about which the
23 Court indicated the questions could be asked. That's
24 all I have to say.

01:31:25 25 JUDGE JAMESON: They are in the area of

01:31:26 1 impeachment of the witness, so some limited inquiry
2 would be permitted.

3 MR. CALLAHAN: Okay.

4 MR. MANLY: Okay. Thank you, Your Honor.

01:31:34 5 BY MR. MANLY:

6 Q Bishop Brown, have you ever seen any of these
7 documents before?

8 A I saw these documents, most of them,
9 yesterday.

01:31:43 10 Q Have -- did you abuse [REDACTED]

11 A I've never abused any person sexually or any
12 other way.

13 Q In 1997 -- have you ever been accused of
14 abusing anybody?

01:31:55 15 A Yes. I was accused of sexually molesting

16 [REDACTED]

17 Q Have you been accused of molesting anybody
18 else?

19 A I've never been accused of molesting anybody
20 except for that one accusation.

01:32:07

21 Q Have you ever been accused of sexual
22 misconduct in your official capacity of either a priest
23 or a bishop?

24 A I've never been accused of sexual misconduct
01:32:18 25 at any time during my life.

01:32:19 1 Q Okay. Have you ever engaged in sexual
2 misconduct with a seminarian at Saint John's Seminary?

3 A I've never engaged in sexual misconduct with
4 any seminarian.

01:32:30 5 Q Okay. In July of 1997, were you contacted by
6 Bishop Steinbock?

7 A Bishop Steinbock called me in Boise, Idaho.

8 Q And what did he say?

9 A Bishop Steinbock told me that he had a
01:32:42 10 complaint about a priest in Idaho who had molested a
11 young man in the Diocese of Fresno. And when he said
12 that, I began to wonder who could that possibly be. And
13 then he told me that I was the one who was accused.

14 Q Okay. And what happened?

01:33:03 15 A I went -- I was shocked by the accusation.

16 Q Did he tell you who the accuser was?

17 A Yes, he did.

18 Q Do you know the boy? Did you know that boy?

19 A I have a vague recollection of [REDACTED].

01:33:19 20 Q Okay. Okay. Did they put you on
21 administrative leave during the investigation?

22 A No, they did not put me on leave.

23 Q What was -- so how long was the -- how many
24 times were you interviewed about [REDACTED] allegation?

01:33:37 25 A I was never interviewed about [REDACTED]

01:33:40 1 allegation.

2 Q Okay. So, basically, what happened is Bishop
3 Steinbock called you and asked you if it was true?

4 A He told me about the accusation, and I told
01:33:50 5 him immediately that I was not -- that had never
6 happened.

7 Q Okay. And that was it?

8 A That was it. And then periodically, we would
9 have phone contact in terms of the ongoing investigation
01:34:05 10 being conducted by the Diocese of Fresno.

11 Q Okay. What -- did anybody from the Diocese
12 of Fresno interview you?

13 A Not to my recollection.

14 Q Okay. And [REDACTED] was a parishioner when
01:34:16 15 you were a priest in Bakersfield?

16 A He was a parishioner, yes. I believe so.
17 Yes, he was.

18 Q Now, in reviewing these documents, do you see
19 anywhere where they tell [REDACTED] that they do not
01:34:30 20 believe this event occurred?

21 MR. CALLAHAN: Objection. It calls for a
22 conclusion. The documents may speak for themselves if
23 it's addressed to anyone.

24 JUDGE JAMESON: Sustained.

01:34:38 25 BY MR. MANLY:

01:34:42

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Q Did you ask to speak with [REDACTED]

2

A No, I did not ask to speak with [REDACTED]

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4

Q Okay. Do you know who from the Diocese of Fresno investigated the allegations?

01:35:00

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A I don't know who the -- I'm not sure who the -- who Bishop Steinbock -- who -- what -- what panel or what group of people he dealt with in terms of investigation. I believe that the H.R. person was involved in that.

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Q How do you -- sorry. Go ahead, Bishop.

A I'm not sure what his name is. I think it's here someplace.

MR. CALLAHAN: Okay. Wait. Just tell him what you remember.

01:35:26

THE WITNESS: I think the -- the H.R. person was involved, and I think there were two or three priests who were involved in that investigation also.

BY MR. MANLY:

01:35:38

Q Okay. Now, did -- did Craig Cox or anybody from Cardinal Mahoney's office ever call you and advise you they had received an allegation?

A No one called me from Los Angeles about the allegation.

01:35:49

Q When the allegation occurred, did you alert the papal nuncios office?

01:35:51 1 A No, I did not.

2 Q In a previous deposition, Bishop Braum told
3 us that when he received an allegation, that's what he
4 did because that was protocol.

01:36:01 5 MR. CALLAHAN: I would object to that. It states
6 facts not in evidence.

7 BY MR. MANLY:

8 Q Well, have you ever heard anything like that
9 before, that there's a protocol when a bishop is
01:36:08 10 accused?

11 A I'm not aware of a protocol, but I would have
12 expected that if there was a report to the papal
13 nuncios, it would have been done by one of the other
14 bishops.

01:36:19 15 Q Did you call Cardinal Mahoney as the -- as
16 the metropolitan and advise him of the accusation?

17 A I called Cardinal Mahoney and spoke to him
18 about the accusation.

19 Q When did you do that?

01:36:29 20 A The night that I received the phone call from
21 Bishop Steinbock.

22 Q And what did you tell him?

23 A I told him about the telephone call and
24 obviously told him this never happened.

01:36:37 25 Q Obviously, this must have been very

01:36:39 1 distressing to you.

2 A Extremely distressing.

3 Q And did you ever ask to speak to the young
4 man?

01:36:45 5 A No. I didn't want to speak to [REDACTED] I
6 wanted to let the investigation continue without any
7 interference from myself.

8 Q Why didn't you make the allegation public?

9 A At that time, I didn't make the allegation --
01:36:59 10 it wasn't up to me to make the allegation public.

11 Q Well, have you heard -- have you seen where
12 Cardinal Mahoney was accused, he says falsely, and -- on
13 two occasions, and he immediately made them public?

14 A I know about those occasions.

01:37:15 15 Q So why didn't you make this allegation
16 public?

17 A I didn't make the allegation public because I
18 knew it was not true.

19 Q Well, do you have any reason to believe that
01:37:28 20 Cardinal Mahoney knew his allegations were true or
21 untrue?

22 MR. CALLAHAN: Objection; calls for speculation.

23 JUDGE JAMESON: Sustained.

24 BY MR. MANLY:

01:37:33 25 Q Now, you promised to be open and transparent

01:37:36 1 in your communications with people of this diocese,
2 correct, about sexual abuse?

3 A That is correct.

4 Q Have you ever disclosed to the public that
01:37:43 5 you were accused?

6 A No, because the accusation about me was
7 judged not to be credible.

8 Q By who?

9 A By the investigation conducted by the Diocese
01:37:54 10 of Fresno.

11 Q Do you think the Diocese of Fresno has a good
12 record on disclosing sexual abuse?

13 MR. CALLAHAN: Objection; calls for speculation.

14 JUDGE JAMESON: Sustained.

01:38:02 15 BY MR. MANLY:

16 Q Well, the -- are you familiar that the -- are
17 you aware that the Diocese of Fresno has investigated
18 numerous accusations of sexual abuse?

19 MR. CALLAHAN: Objection; irrelevant and not

01:38:13 20 calculated to lead to --

21 JUDGE JAMESON: Yeah. I'll allow it since it has
22 some bearing on the allegation made against the bishop.

23 MR. CALLAHAN: Okay.

24 THE WITNESS: May I have the question again,
01:38:27 25 please?

01:38:27 1 THE REPORTER: "Question: Are you aware that the
2 Diocese of Fresno has investigated numerous accusations
3 of sexual abuse?"

4 THE WITNESS: I know the Diocese of Fresno's been
01:38:49 5 involved in some suits, and I would presume those
6 involved recitation of sexual abuse suits. I presume
7 that involved investigations.

8 BY MR. MANLY:

9 Q Okay. And do you have any information one
01:38:58 10 way or the other whether they're a credible agency to
11 investigate sexual abuse?

12 A I presume they are a credible agency to
13 conduct investigations.

14 Q Did anybody from the Diocese of Fresno notify
01:39:12 15 the police?

16 A Not to my knowledge.

17 Q Did anybody from the Diocese of Fresno, to
18 your knowledge, ask ██████████ whether -- I'm sorry.

19 Did anybody, to your knowledge, from the
01:39:29 20 Diocese of Fresno advise the alleged victim in the case
21 that you were not in a position with access to children?

22 A According to the correspondence I looked at,
23 someone did.

24 Q According to what?

01:39:42 25 A The correspondence I looked at, someone did.

01:39:44 1 Q Okay. Was that an accurate statement?

2 A I presume that had to do with the fact that I
3 was in -- in administration.

4 Q Did anybody from the Diocese of Fresno tell
01:39:55 5 [REDACTED] you were a bishop?

6 A I believe that they did tell [REDACTED] that
7 I -- eventually told him I was a bishop, yes.

8 Q Can you look at letter -- or Exhibit D in
9 Exhibit 1, Bishop?

01:40:07 10 MR. CALLAHAN: My concern about these is that
11 we've been given different packets that might be in a
12 different order and so --

13 MR. MANLY: No. Actually, let me -- let me go
14 through and -- and I'll go through and tell you what is
01:40:22 15 what.

16 JUDGE JAMESON: If you identify it by address,
17 author, and date, it won't make any difference what
18 order we're in.

19 MR. MANLY: Yeah. Just for the record, I can
01:40:33 20 hear the witness talking to you.

21 JUDGE JAMESON: Good.

22 MR. MANLY: And he said, "Should I mention the
23 D.A.?" And you just said, "Get it in somewhere."

24 MR. CALLAHAN: Get it in.

01:40:39 25 MR. MANLY: I don't want to hear that kind of

01:40:40 1 advice on the record, so I would ask you to please tone
2 it down.

3 MR. CALLAHAN: I'll try to keep my voice down,
4 but I think we should, in fairness to the witness,

01:40:48 5 expand that previous answer. But --

6 MR. MANLY: Well, that's fine.

7 MR. CALLAHAN: I'm sure we'll get it in
8 somewhere.

9 MR. MANLY: Okay. So I have Exhibit -- the only
01:40:58 10 thing I think that is incorrect in this packet -- what's
11 that? Yeah. I know. I took that one out. So I took
12 out -- okay. Exhibit F is a -- or page F is a duplicate
13 of page B. So if you just pull F out of your packet.

14 MR. CALLAHAN: I don't know which F is.

01:41:35 15 What's -- I guess can you give us the date, maybe, or --

16 MR. MANLY: Sure. It's July 11, 1997.

17 MR. CALLAHAN: Now, I haven't ABC'd these things
18 yet because I think we're going to do that when you
19 identify them.

01:41:58 20 BY MR. MANLY:

21 Q Okay. So, Bishop, can you tell me where you
22 saw -- actually, let me show you a document that --
23 that's labeled D, and it's a September 29th, 1997,
24 letter, from R. Patrick Gordon to [REDACTED]

01:42:22 25 A What was the date again, please?

01:42:24 1 Q September 29th, 1997.

2 A Yes.

3 Q And it says, "Dear Mr. ████████, I have
4 completed my investigation as part of our pastoral
01:42:31 5 response to your July 3rd, 1997, letter.

6 "In regards to Father Brown, no records of
7 inappropriate behavior have been found from the time of
8 his ordination to the present day with the exceptions of
9 your statements in your July 1997 letter.

01:42:47 10 "His life, as we know it, has been an
11 extremely public one and subject to scrutiny and
12 investigation. We are confident that should there have
13 been any other complaints similar in nature to your
14 memory, they would have been discovered and addressed.

01:43:02 15 "As far as -- as far -- as part of our
16 concern for your well-being and peace of mind, I would
17 like to extend an invitation for you to come in and
18 visit with me so I may review the results of my research
19 with you." And then he says "Please call me" and gives
01:43:16 20 his phone number.

21 Do you note he says "Father Brown"? Do you
22 note that in the document? Did you look at it, sir?

23 A Yes, I did. At the time that the alleged
24 allegation occurred, I was Father Brown.

01:43:30 25 Q Well, I understand that. But at the time

01:43:32 1 this letter was written, you were Bishop Brown, correct?

2 A I was Bishop Brown when the letter was
3 written, yes. But I think -- my guess is for [REDACTED]
4 I was Father Brown.

01:43:43 5 Q Okay. Do you know if anybody ever advised
6 [REDACTED] that you were the sitting bishop of Boise,
7 Idaho?

8 A My understanding is that someone from the
9 Diocese of Fresno told him that.

01:43:56 10 Q In or around 1997, as I understand it, the
11 procedure in most diocese in that country was to remove
12 a priest from ministry who was accused and have him
13 evaluated by a psychologist. Is that accurate?

14 A I don't think that was universally the case.

01:44:13 15 Q You've heard of that practice before?

16 A I've heard of the practice in some places.
17 Each -- again, I don't really know the context. That
18 would have to be addressed to a specific case, I
19 believe.

01:44:22 20 Q Okay. Well, have you ever heard of a
21 situation in your time as bishop where the victim was
22 evaluated by a psychologist besides this one upon the
23 accusation?

24 A I can't answer that question. I don't know.

01:44:38 25 Q Well, you can only tell me what you know,

01:44:39 1 Bishop, and that's all I'm asking.

2 A I'm not aware of a case where that was done.

3 Q Are you aware that that was done in this
4 case?

01:44:46 5 A I understand that from reading the
6 correspondence.

7 Q Okay. Did anybody show you [REDACTED]
8 psychological report?

9 A No, I've not seen [REDACTED] psychological
01:44:55 10 report.

11 Q Do you have any correspondence regarding this
12 matter?

13 A I have no correspondence regarding the
14 matter.

01:45:00 15 Q So did you want to work in what Mr. Callahan
16 discussed with you about the D.A., Bishop, now?

17 MR. CALLAHAN: Did you want to complete an answer
18 you gave previously now?

19 THE WITNESS: I'll be happy to, yes. This is
01:45:11 20 regard to law enforcement, that Bishop Steinbock told me
21 sometime later that the district attorney from the Kern
22 County had asked the bishop, Bishop Steinbock, to send
23 him files of any priests who were accused of sexual
24 molestation of minors in Kern County. And so the bishop

01:45:31 25 told me he had sent my case down to the district

01:45:34 1 attorney.

2 BY MR. MANLY:

3 Q So you've spoken to Bishop Steinbock about
4 this matter since?

01:45:42 5 A About the case going to the district
6 attorney?

7 Q No. About this case, in general, about the
8 accusation against you.

9 A I spoke to Bishop Steinbock when the -- he
01:45:52 10 knew about the matter of the publication in the "Orange
11 County Weekly," and that was my last conversation with
12 Bishop Steinbock.

13 Q What did you talk to him about?

14 A Well, simply, that -- I told him that this
01:46:06 15 had been published and -- or was going to be published
16 and that I believe the Diocese of Fresno prepared a
17 press release.

18 Q You believe they published a press release?

19 A No. They prepared a press release.

01:46:20 20 Q What did the press release say?

21 A I don't -- I can provide a copy of that
22 later. But basically, the press release said that after
23 a thorough investigation, that they had found that the
24 allegation was not credible.

01:46:34 25 Q What was not credible about it, as far as you

01:46:36 1 know, Bishop?

2 A That I had never molested [REDACTED]

3 Q No, I'm sorry. I understand. And
4 respectfully, I recognize this must be difficult for
5 you.

01:46:44

6 A Yes.

7 Q But what I'm asking is what -- what did they
8 find not to be credible about the allegation? Do you
9 know?

01:46:54

10 A Well, I think what they said was that they
11 found out that the allegation against me had no basis.

12 Q Well, I mean there must have been some
13 factual basis upon which they made that conclusion?

01:47:10

14 A They just said after a thorough investigation
15 using their procedures. I don't think they gave
16 details.

17 Q Okay. Did you tell the bishop that you knew
18 [REDACTED]

19 A Yes, I did.

01:47:19

20 Q Okay. And you knew his family?

21 A I only remember his mother.

22 Q Okay. And do you know where he alleges
23 you -- do you know where he says you allegedly abused
24 him?

01:47:32

25 A It was -- my understanding was on the church

01:47:36 1 grounds.

2 Q How do you know that?

3 A Because in the letter I just looked at, he
4 said he was abused in -- during confession. And earlier

01:47:46 5 I had been told that he alleged that he was abused by me
6 during the time he was coming to catechism classes.

7 Q Okay. Did you teach catechism?

8 A No, I did not. I might have taught a class
9 off and on.

01:48:05 10 Q Okay.

11 MR. CALLAHAN: I'm sorry. I couldn't understand
12 the last --

13 THE WITNESS: I may have taught a class off and
14 on, but I was not a regular teacher.

01:48:11 15 BY MR. MANLY:

16 Q Okay. Did you hear his confession -- well,
17 you can't answer that. Never mind.

18 Did -- did Bishop Steinbock at the time of
19 the allegation -- and I recognize it may be difficult to
01:48:22 20 separate this out. But did Bishop Steinbock ever tell
21 you at the time what he specifically alleged you did?

22 A No, not the details.

23 MR. CALLAHAN: And I would ask you, Bishop, to
24 pause briefly because somewhere along the line here I'm

01:48:46 25 going to put in an objection that we've been beating

01:48:48 1 this to death. But pause slightly, if you can, before
2 answering so that if I want to object, I have a second
3 to get in there.

4 BY MR. MANLY:

01:48:58 5 Q So did the L.A. Archdiocese -- did Cardinal
6 Mahoney do any investigation?

7 A I do not know.

8 Q Okay. And Bishop Steinbock was for a period
9 of time the Ordinary of the Diocese of Orange, correct?

01:49:12 10 A Bishop Steinbock was the administrator for a
11 period of time between Bishop Johnson's death and Bishop
12 McFarland's arrival.

13 Q Okay. He functioned as the effective --
14 effectively, the bishop, correct?

01:49:24 15 A That is correct.

16 Q Do you have any idea why [REDACTED] would make
17 up such a thing?

18 MR. CALLAHAN: Objection; that misstates --
19 that's an argumentative question regarding "make up."

01:49:42 20 JUDGE JAMESON: Sustained.

21 BY MR. MANLY:

22 Q Do you have any information or has anybody
23 provided you information as to what might motivate
24 somebody to make up an allegation such as this?

01:49:49 25 MR. CALLAHAN: Calls for speculation.

01:49:50 1 JUDGE JAMESON: Overruled.
2 THE WITNESS: I answer the question?
3 MR. CALLAHAN: Yes. If he says "overruled," then
4 answer it.
01:50:00 5 THE WITNESS: I consulted a clinical psychologist
6 explaining the situation, asking him how could this
7 happen, and he explained to me what oftentimes does
8 happen. And so at least it gave me some understanding
9 of what may have happened.
01:50:16 10 BY MR. MANLY:
11 Q Who was that?
12 MR. CALLAHAN: Wait.
13 JUDGE JAMESON: Excuse me. I think the question
14 pertains to the motive of the individual here. We can
01:50:25 15 get into esoteric psychological reasons why somebody
16 would do that.
17 But could the boy have mistaken another
18 priest for you, did the family -- did you have contact
19 with the family and there would be some inducement,
01:50:40 20 anything about the logistics and environment in
21 Bakersfield that you can find a motive for?
22 MR. CALLAHAN: Answer the judge's question.
23 THE WITNESS: Oh, I'm sorry. I never visited the
24 family. My only contact with the family was [REDACTED]
01:50:59 25 when he came for catechism, and his mother would -- as I

01:51:03 1 recall, oftentimes pick him up.

2 BY MR. MANLY:

3 Q Okay. Did you ever contact the NCCB about
4 this allegation?

01:51:13 5 A No, I did not.

6 Q So other than what you told the judge, you
7 just don't have any information as to why he would make
8 this up, if he made -- well, let me -- let me be fair.

9 I have no idea, Bishop, whether you did this
01:51:33 10 or not, and I'm not accusing you of it. I just want to
11 know why it wasn't disclosed. That's the purpose of my
12 questions.

13 So my question is -- is that you were alone
14 with him or -- well, you had contact with him, anyway,
01:51:46 15 you know the family, and he made this allegation.

16 Did you ever consider at any point, given
17 those facts, making a public disclosure so if it came
18 out, it wouldn't look like you were hiding something?

19 MR. CALLAHAN: Objection. That question, as
01:52:02 20 asked, contains a number of elements, including contact,
21 being alone. Some of those things were dropped and the
22 question was changed, and I'd like to have a nice clean
23 question so I can decide whether I need to object or
24 not.

01:52:15 25 JUDGE JAMESON: Sustained.

01:52:15

1 BY MR. MANLY:

2 Q Okay. Bishop, did you ever consider
3 making -- you know, given that you've asserted your
4 innocence and given that you say that Baker-- -- or

01:52:24

5 Fresno did an investigation, did you ever consider
6 simply making this allegation public a la Cardinal
7 Mahoney so if it ever came out, you wouldn't look like
8 you were trying to hide something?

01:52:43

9 A No, I never made a decision to divulge the
10 allegation.

11 Q Why?

12 A Because it was very embarrassing, and very
13 painful. And to be very honest, I think that kind of an
14 allegation is difficult to deal with regardless of how
15 innocent a person may be.

01:52:59

16 Q Can you see where in 2004 you settled a bunch
17 of cases and met with 90 victims, at least many of them,
18 and you wrote letters of apology to them. Were you at
19 all concerned when you did that that if this allegation
20 came out, it might do tremendous harm to them?

01:53:17

21 MR. CALLAHAN: Objection, Your Honor. It calls
22 for speculation.

23 JUDGE JAMESON: Sustained.

24 BY MR. MANLY:

01:53:33

25 Q Did you ever discuss with your closest

01:53:36 1 advisers in the diocese, nonlawyer advisers, the fact
2 that you had been accused?

3 A Yes, I did.

4 Q When?

01:53:42 5 A When I came to the diocese -- when I -- I
6 don't recall exactly when.

7 Q Well, can you give me your best estimate?

8 A I think -- let me think for a second about
9 that. Some years ago.

01:54:11 10 Q When you arrived at the Diocese of Orange,
11 was it your expectation that if the human resources
12 director was aware of -- of laypeople who were working
13 for the diocese that were abusers, that you would be
14 told?

01:54:25 15 MR. CALLAHAN: Objection. It calls for
16 speculation and recreation of -- assumes there is some
17 sort of expectation.

18 JUDGE JAMESON: Well, overruled.

19 Do you have the question in mind?

01:54:42 20 THE WITNESS: I think so, yes.

21 I -- I think I would expect to know about any
22 persons who were actively employed in the diocese who
23 had a history of that kind of -- proven history of that
24 kind of problem.

01:54:57 25 BY MR. MANLY:

01:54:57 1 Q Was there any policy in existence when you
2 arrived here that prevented molesters from working in
3 the Diocese of Orange, priest, religious, or layperson?

4 A I can't speak about laypeople. But
01:55:11 5 obviously, with regard to clergy, they would not be
6 allowed to enter the diocese.

7 Q Well, I didn't ask you about entering the
8 diocese.

9 A Oh.

01:55:19 10 Q I said was there any policy in effect in the
11 Diocese of Orange that prevented people who had molested
12 children from working in the Diocese of Orange, whether
13 that person be a priest, religious, or layperson.

14 A I know that priests would not be allowed to
01:55:37 15 minister in the Diocese of Orange if they were -- had a
16 history of child molestation. I'm not sure what the
17 policy was with regard to laypeople. I presume that
18 they would not be allowed to work in the diocese.

19 Q Did you ever adopt a policy against -- well,
01:55:57 20 let me ask you this.

21 Was there a policy in the diocese that
22 allowed persons who had been previously asked to
23 resign -- let me ask it a different way.

24 Was there any policy or procedure in effect
01:56:13 25 in -- when you came to the diocese that prevented

01:56:15 1 persons who had been asked to resign for molesting
2 children to come back and work as a vendor?

3 MR. CALLAHAN: I would object unless there's some
4 specificity of what's meant by a "vendor."

01:56:34 5 MR. MANLY: Somebody who worked with children.

6 MR. CALLAHAN: So if somebody works with children
7 is a vendor? Is that the definition we're going to use,
8 Your Honor?

9 JUDGE JAMESON: Repeated doing business within
01:56:47 10 the diocese.

11 BY MR. MANLY:

12 Q You can answer, Bishop.

13 A I'm not aware of a policy. I didn't come
14 across that kind of a case.

01:56:53 15 MR. MANLY: All right. Let's take a break.

16 THE VIDEOGRAPHER: The time is 1:56, and we're
17 going off the record.

18 (Recess taken from 1:56 p.m. until
19 2:03 p.m.)

02:03:22 20 THE VIDEOGRAPHER: The time is 2:03, and we're
21 back on the record.

22 BY MR. MANLY:

23 Q Bishop, let me read something to you and ask
24 if you agree with it.

02:03:29 25 "Connected to incest is any sexual abuse

02:03:32 1 perpetrated by adults on children or adolescents --
2 adolescents entrusted to their care. The offense is
3 compounded by the scandalous harm done to the physical
4 and moral integrity of the young, who will remain
02:03:44 5 scarred by it all of their lives, and the violation of
6 responsibility for their upbringing." Do you agree with
7 that?

8 MR. CALLAHAN: Objection, Your Honor. I don't
9 think it's appropriate to read long technical matters
02:03:54 10 and then ask the witness to agree. He doesn't have it
11 in front of him. It's --

12 MR. MANLY: I'd be happy to show it to him.

13 MR. CALLAHAN: That's up -- that's up to the
14 judge.

02:04:02 15 JUDGE JAMESON: Tell me where we're going,
16 Mr. Manly.

17 MR. MANLY: This is from the catechism of the
18 Catholic church, Your Honor.

19 JUDGE JAMESON: Objection sustained.

02:04:10 20 BY MR. MANLY:

21 Q Do you agree, Bishop, that adolescents and
22 children who are molested are scarred by it for the rest
23 of their lives?

24 MR. CALLAHAN: Objection; assumes --

02:04:23 25 JUDGE JAMESON: Sustained.

02:04:25 1 BY MR. MANLY:

2 Q Bishop, during the transition between the
3 McFarland administration and yours, was there any policy
4 or procedure in effect that would have allowed speakers
02:04:45 5 to come speak to Catholic educators?

6 A I think that speakers who came to
7 see Catholic educa- -- or speak to Catholic educators, I
8 think they were all vetted.

9 Q Okay. In other words, they made sure they
02:05:00 10 didn't say anything outlandish, inappropriate, or
11 inconsistent with the way the diocese did business,
12 right?

13 MR. CALLAHAN: Objection. Argumentative as to
14 what "vetted" means. We don't -- most of the people, we
02:05:09 15 can't control what they might say.

16 JUDGE JAMESON: Sustained.

17 MR. MANLY: I didn't say "vetted." He did.
18 What's objectionable about my question, Your Honor?

19 JUDGE JAMESON: Well, somebody needs to define it
02:05:19 20 for me so I can --

21 MR. MANLY: Well, I didn't say "vetted." The
22 bishop did.

23 MR. CALLAHAN: The objection is not the word
24 "vetted." The -- he says, "Did you check with
02:05:25 25 speakers?"

02:05:26 1 Bishop says they're vetted.

2 He says "And so that means you -- they're not
3 going to say anything outlandish."

4 We cannot control what somebody's going to
02:05:32 5 say. If there's a specific question about it, that's
6 one thing. But I think the question, as posed, was
7 objectionable.

8 BY MR. MANLY:

9 Q Okay. Well, how did you vet the speakers?

02:05:44 10 A Well, ordinarily, someone would check on
11 where the person has spoken, other locations, and
12 seen -- if they came from a particular diocese, you
13 check with the authorities of that diocese and make sure
14 that the speaker was somebody who was acceptable to
02:06:03 15 them.

16 Q Based upon what you know about that time
17 period, would the diocese have allowed a speaker to come
18 and speak who was going to opine that children or
19 adolescents can contribute to their own injury by having
02:06:25 20 sex with a teacher?

21 MR. CALLAHAN: The question -- could I have the
22 question read back?

23 THE REPORTER: "Question: Based upon what you
24 know about that time period, would the diocese have

02:06:30 25 allowed a speaker to come and speak who was going to

02:06:30 1 opine that children or adolescents can contribute to
2 their own injury by having sex with a teacher?"

3 MR. CALLAHAN: Okay. Do you know the answer,
4 if -- if that was something that was looked into?

02:06:57 5 THE WITNESS: Well, I think that that -- I can't
6 imagine someone saying that, but --

7 MR. CALLAHAN: That's not the question. The
8 question is --

9 MR. MANLY: Well, he -- I think he's answered it.

02:07:06 10 MR. CALLAHAN: All right. Try to answer the
11 question he asks and not give your own opinion about the
12 subject matter.

13 BY MR. MANLY:

14 Q And you can't imagine someone saying that
02:07:14 15 because that view is repugnant, correct?

16 A Correct.

17 Q Have you received any information outside of
18 your lawyers that that is the position of the diocese in
19 this case?

02:07:28 20 MR. CALLAHAN: Objection. That question assumes
21 that the diocese has asserted a position. In fact, the
22 diocese has retained experts, psychologists, and
23 psychiatrists who have reached their own conclusions,
24 school experts. And these are matters of litigation,
02:07:43 25 not adoption of any particular policy.

02:07:46 1 There are experts who have testified about
2 the facts in this particular case, and they're also
3 prepared to testify at the time of trial regarding the
4 facts of this particular case.

02:07:55 5 Go ahead.

6 JUDGE JAMESON: May I have the question back,
7 please?

8 THE REPORTER: "Question: Have you received any
9 information outside of your lawyers that that is the
02:07:58 10 position of the diocese in this case?"

11 JUDGE JAMESON: Do you have the question in mind,
12 Bishop?

13 THE WITNESS: I'm still not clear about the
14 question. I'm sorry.

02:08:24 15 BY MR. MANLY:

16 Q Have --

17 JUDGE JAMESON: I think the problem is we had --
18 we had an objection, and the question incorporates the
19 previous information which may have gotten lost in
02:08:36 20 the -- in the transition here.

21 So if you can, Mr. Manly, why don't we start
22 over.

23 MR. MANLY: Sure.

24 BY MR. MANLY:

02:08:45 25 Q Bishop, have you received any information,

02:08:49 1 other than from your lawyers, that the diocese is going
2 to assert that [REDACTED] somehow caused or
3 contributed to her own abuse by not refusing to have sex
4 with Mr. Andrade?

02:09:03 5 A No.

6 Q And does the Diocese of Orange as far as you
7 know, have a policy on whether 14-, 15-, 16-,
8 17-year-old girls or boys can -- can somehow -- are
9 somehow at fault if they're being sexually abused by a
10 teacher?

11 A There's no diocesan policy that addresses
12 that.

13 Q What is your personal view, please?

14 A I think --

02:09:34 15 MR. CALLAHAN: Objection; calls for expertise.
16 He's not a psychologist, psychiatrist, school expert, or
17 anything else that would have an expertise in that area.

18 JUDGE JAMESON: His personal view is irrelevant
19 unless it's somehow published. So --

02:09:47 20 MR. FINALDI: Well, he's got his personal
21 opinion. He's the one that's in charge of setting the
22 practices, policies, procedures, and protocol for
23 dealing with lay employees regarding sexual abuse.

24 JUDGE JAMESON: Objection's sustained.

02:09:58 25 BY MR. MANLY:

02:09:58 1 Q Okay. Would you permit a diocesan agency to
2 espouse such a view?

3 A No, I would not.

4 Q Why?

02:10:10 5 A Because I think adults are the primary
6 responsible agent in any kind of misconduct with
7 vulnerable people.

8 Q And you would agree that adolescents, 15-,
9 16-, 17-year-olds, fall in the vulnerable category?

02:10:32 10 A Yes.

11 MR. CALLAHAN: Objection. That's a very large
12 class, 15-, 16-, 17-year-old adolescents. It's going to
13 vary from individual to individual. And we haven't seen
14 a foundation, so it's lacking foundation --

02:10:41 15 MR. MANLY: He just answered the question. He
16 said "yes."

17 MR. CALLAHAN: Let me just finish.

18 -- that all -- all people are going to fit
19 into a particular category.

02:10:50 20 JUDGE JAMESON: Well, we got an answer. Let's go
21 forward.

22 MR. CALLAHAN: Okay.

23 BY MR. MANLY:

02:11:05 24 Q Bishop, when is the first time you are aware
25 of the diocese adopted a zero tolerance policy on

02:11:10 1 allowing people to work in the Diocese of Orange who
2 were known to be sex abusers?

3 MR. CALLAHAN: Objection; no foundation of any
4 zero tolerance policy that's been adopted on anything.

02:11:22 5 JUDGE JAMESON: Sustained.

6 BY MR. MANLY:

7 Q Bishop, is there a zero tolerance policy in
8 the diocese preventing credibly accused abusers from
9 working?

02:11:31 10 A Yes, there is.

11 Q Okay. And when was that adopted?

12 A That was adopted, I believe, in the early --
13 early part of this decade.

14 Q And was that as a result of the DiMaria
02:11:37 15 settlement?

16 A I think that was one of the factors involved
17 in that policy.

18 Q So prior to that time, there was no zero
19 tolerance policy on that; is that correct?

02:11:46 20 A That -- I believe that's correct.

21 Q Bishop, did you ever get the opportunity to
22 look at the secret archive files on employees in the
23 chancery office during the transition period?

24 MR. CALLAHAN: Objection; assumes that there are
02:12:06 25 secret archive files regarding employees, period.

02:12:11 1 JUDGE JAMESON: Sustained.

2 BY MR. MANLY:

3 Q Do you have files that are sometimes called
4 the secret archives of the Diocese of Orange?

02:12:16 5 A No. We don't have any files called secret
6 archives.

7 Q Does Canon Law make reference to something
8 called a secret archive?

9 A I believe it does.

02:12:25 10 Q Okay. Do you have something like that there?

11 A We have files that are kept under lock and
12 key.

13 Q Okay. And are -- is that where the abuse
14 records are kept?

02:12:38 15 A I presume so.

16 Q Haven't you looked?

17 A I have had no reason to look at those files.

18 Q So your sworn testimony here today is at no
19 point have you ever looked at the abuse files in the
02:12:53 20 Diocese of Orange; is that correct?

21 A I -- I can't say I've never looked at abuse
22 files, but I haven't -- if a file was brought to me
23 regarding that issue, yeah, of course I saw it.

24 Q Okay. So -- I'm sorry. Were you done, Your
02:13:08 25 Excellency? Forgive me. Were you done, Bishop?

02:13:11

1

A Yes.

2

3

Q Okay. Have you -- have you ever of your own volition gone to the files and reviewed them yourself?

4

A No, I have not.

02:13:22

5

Q Why not?

6

7

A I would not do that unless I had a reason to do it.

8

9

Q Well, would -- how about 90 lawsuits? Would that be a good reason?

02:13:30

10

A The -- the files have been examined by our diocesan attorneys, as well as other diocesan personnel. So I did not have to look at them.

11

12

13

14

Q So you left it to your lawyers to look at the files?

02:13:48

15

A I left it to my staff and my attorneys, the diocesan attorneys.

16

17

18

19

Q So you left it to your staff and to your lawyers to look at the files regarding abuse; is that accurate?

02:14:00

20

A I think that's accurate, yes.

21

22

Q Where is your personnel file, Excellency -- I'm sorry -- Bishop?

23

24

A I presume my personnel file is with all the other personnel files in the pastoral center.

02:14:15

25

Q Okay. Were you aware in 2001, during the

02:14:20 1 pendency of the DiMaria action, that Bishop Ziemann had
2 been accused of abusing a boy in Orange?

3 MR. CALLAHAN: Objection; beyond the four areas
4 of inquiry.

02:14:30 5 JUDGE JAMESON: Sustained.

6 BY MR. MANLY:

7 Q Was there a policy -- was there ever a policy
8 during the transition period from your administration to
9 the -- to your administration from the McFarland
02:14:43 10 administration of keeping these matters regarding abuse
11 secret?

12 MR. CALLAHAN: Objection to the form of the
13 question, "these matters." And simply by referencing
14 the transition period does not make it subject to
02:14:58 15 inquiry.

16 JUDGE JAMESON: Well, why don't you rephrase it.

17 BY MR. MANLY:

18 Q Was there a policy that you became aware of
19 during that transition period between Bishop McFarland
02:15:08 20 and yourself that there was a policy in existence at the
21 Diocese of Orange to keep the identity of abusers secret
22 from law enforcement?

23 A No. I am not aware of any policy.

24 Q Bishop, did you conspire with Monsignor Urell
02:15:25 25 and Bishops McFarland and Bishop Driscoll to keep these

02:15:32 1 identities of abusers secret from law enforcement?

2 A I conspired with nobody.

3 Q Okay. When did you first become aware that
4 there were people working for you who had credible
02:15:46 5 allegations of child molestation against them?

6 MR. CALLAHAN: Your Honor, that's a classic "When
7 did you first" -- "Are you still beating your wife?"
8 The question assumes a loaded --

9 MR. MANLY: Well, let me -- I'll ask the
02:15:57 10 prefatory question.

11 BY MR. MANLY:

12 Q Were -- have there ever been people working
13 for you in the Diocese of Orange who are credibly
14 accused of sexual abuse?

02:16:05 15 A Yes, there have been.

16 Q Okay. And when did you first become aware
17 that there were people working for you in the Diocese of
18 Orange who were child molesters?

19 A I would become -- I did become aware on
02:16:19 20 single cases and -- when they were brought to my
21 attention.

22 Q My question, Bishop, is regards timing. My
23 question is when did you first become aware that there
24 were people working for you in the Diocese of Orange who
02:16:33 25 were child molesters?

02:16:34 1 A I think when Bishop McFarland spoke of it
2 during the transition.

3 Q And you took no action at that time to remove
4 them, did you?

02:16:42 5 A One person had already been removed, and the
6 other person I -- simply a decision made by Bishop
7 McFarland to continue on.

8 Q So my statement is correct. You took no
9 action against the first person you found out about who
02:16:59 10 was a molester to remove him, did you?

11 A No. The first person I found out about had
12 already been removed.

13 Q All right. But the other person we're
14 talking about is Father Lenahan, is it not?

02:17:10 15 A That's correct.

16 Q Okay. You let Father Lenahan stay in a
17 parish for, what, four or five years?

18 A I don't recall the exact time element.

19 Q Did you know the parish he was working in had
02:17:22 20 a school?

21 A Yes, I did.

22 Q Did you know that he was involved in the
23 founding of a high school in South Orange County?

24 A No, I was not.

02:17:32 25 Q You never learned that Father Lenahan was

02:17:34 1 involved in founding Junipero Serra High School; is that
2 correct?

3 A Oh, I think that he might have been
4 consulted. I'm just not quite sure. I think there was
02:17:43 5 some -- some support from him for that project.

6 Q Were you ever photographed with Father
7 Lenahan in connection with the founding of Junipero
8 Serra High School?

9 A I don't recall.

02:17:59 10 Q Did it ever occur to you, Bishop, during that
11 transition period it might not be a good idea to let
12 somebody who had allegedly raped a 15-year-old girl to
13 be in charge of a parish that had an elementary school?

14 MR. CALLAHAN: Objection; assumes --

02:18:13 15 JUDGE JAMESON: Sustained.

16 BY MR. MANLY:

17 Q Did it ever occur to you, Bishop, that --
18 well, did you know how old the girl was that he had
19 molested?

02:18:21 20 A I thought she was in her -- I believe I was
21 told she was in her -- maybe 15.

22 Q Okay. Did you think it was a good idea,
23 Bishop, to let somebody who had molested a 15-year-old
24 girl to remain in a parish that had a school?

02:18:36 25 A I relied on the judgment of Bishop McFarland,

02:18:39 1 who knew all the particulars of the case and the
2 circumstances, which I did not.

3 Q Can you think of a circumstance where it
4 would be appropriate, whether in 1998 or whenever, in
02:18:51 5 your lifetime, to allow someone who had molested a
6 15-year-old girl to remain in that -- in a position in
7 charge of a school?

8 A I think earlier on with regard to molestation
9 cases, that a lot of bishops, including myself, were not
02:19:10 10 fully aware of the seriousness of the problem in terms
11 of putting other people at risk.

12 This, of course, all changed during these
13 past few years, and we've become much better educated
14 and aware of the situation. So I think that I relied,
02:19:27 15 as I said, on my predecessor's judgment.

16 Q Did Brother William Carriere or anyone else
17 at the Superintendent of Schools office ever tell you or
18 discuss with you the Andrade matter?

19 A I'm not aware of that.

02:19:42 20 Q How many molesters are you aware of that have
21 molested at Mater Dei High School since you became
22 bishop?

23 A I'm only aware of the Andrade case.

24 Q Would you expect, given that you are the
02:19:59 25 bishop of Orange that if there was a molestation

02:20:01 1 incident, that you would be contacted?

2 MR. CALLAHAN: Objection. It's too vague as
3 asked.

4 MR. MANLY: Let me -- let me rephrase it.

02:20:08 5 BY MR. MANLY:

6 Q Would you expect that if a teacher had
7 molested a child at Mater Dei during your tenure as
8 bishop, that you would be called?

9 MR. CALLAHAN: That -- Your Honor, that assumes
02:20:21 10 that -- are talking about an allegation? Are we talking
11 about the teacher admits it? There's too many
12 variations there.

13 MR. MANLY: Any --

14 JUDGE JAMESON: Just an accusation, even if it
02:20:32 15 were false, would it -- would it go up the food chain to
16 reach Bishop Brown?

17 THE WITNESS: I would expect that if there was an
18 accusation made against one of the teachers, that
19 information would be shared with me.

02:20:45 20 BY MR. MANLY:

21 Q And you were -- the only accusation that you
22 are aware of, as you sit here today, at Mater Dei from
23 199- -- well, are you aware of any allegations between
24 the time you became bishop and present that occurred at

02:21:01 25 Mater Dei?

02:21:01 1 A No, I'm not. Not that I can think of as I
2 sit here, no.

3 Q Have you ever spoken with Patrick Murphy
4 outside the presence of your lawyers regarding the [REDACTED]
02:21:29 5 matter?

6 A No, I have not.

7 Q How many allegations of sexual misconduct
8 with minors are you aware of that occurred at other
9 Catholic high schools in the diocese besides Mater Dei
02:22:02 10 since you became bishop?

11 MR. CALLAHAN: Your Honor, I'm going to object.
12 I believe that's beyond the scope of the line of
13 questions.

14 MR. MANLY: Judge, I think I'm well within my
02:22:13 15 rights to ask that one. It's calculated to lead to the
16 discovery of admissible evidence.

17 JUDGE JAMESON: Well, what could it lead to?

18 MR. MANLY: It could lead to other alleg--

19 JUDGE JAMESON: He came here after --

02:22:22 20 MR. MANLY: Came after --

21 JUDGE JAMESON: -- the [REDACTED] case was --

22 MR. MANLY: No. He came here --

23 JUDGE JAMESON: Established.

24 MR. MANLY: Sorry, Your Honor.

02:22:30 25 No. He came here in '98, and the judge has

02:22:32 1 ruled that the time period we're allowed to get into is
2 all the way up to January 1, 2002. So I'd be happy to
3 limit it to that, if you'd like.

4 JUDGE JAMESON: Well, and you've explored that
02:22:44 5 with a lot of people. And with respect to the bishop, I
6 ruled otherwise. So the objection's sustained.

7 BY MR. MANLY:

8 Q If Ms. Schinderle, as human resources
9 director, became aware of an allegation of abuse by a
02:23:00 10 layperson, would you have anticipated that she would
11 report that to you?

12 A I would think so.

13 Q Bishop, have you ever met -- have you ever
14 spoken to Bishop McFarland and expressed disappointment
02:23:55 15 that he did not share the identities -- well, I don't
16 want to put words in your mouth.

17 Have you ever spoken with Mr. McFarland and
18 expressed disappointment of his handling over abuse
19 cases?

02:24:07 20 A No, I have not.

21 Q Have you ever discussed the matter with him?

22 A We've talked about particular cases.

23 Q Which ones?

24 A I can't tell you all, but I think the ones
02:24:15 25 that the -- the ones that I already mentioned to you.

02:24:20 1 And I think that subsequent ones that have come to light
2 I've made a point of mentioning the matter to the
3 bishop.

4 Q Which ones?

02:24:30 5 A Well, for example, I can't think of them all.
6 I think all of the ones that -- any -- anything that's
7 public in terms of priests being accused of misconduct
8 in the area and being put on leave or whatever the case
9 may be. These things is information, out of a courtesy,
02:24:51 10 I share with Bishop McFarland.

11 Q Okay. Well, have you ever been critical of
12 him at all with regard to that to his face?

13 A No, I have not.

14 Q Did you know Monsignor Richard Loomis?

02:25:08 15 A I've met Monsignor Loomis.

16 Q And did Monsignor Loomis have the same job in
17 the Archdiocese of Los Angeles that Monsignor Urell had
18 in Orange with regard --

19 MR. CALLAHAN: Objection.

02:25:21 20 MR. MANLY: Could I finish?

21 MR. CALLAHAN: I'm sorry.

22 BY MR. MANLY:

23 Q -- with regard to handling abuse cases?

24 A I don't --

02:25:24 25 MR. CALLAHAN: Objection. I think that's been --

02:25:24 1 wait. Remember? You're supposed to take a breath.

2 THE WITNESS: Sorry.

3 MR. CALLAHAN: I'm supposed to speak up if I want
4 to.

02:25:32 5 And I don't think Loomis and Los Angeles are
6 relevant to the scope of the questioning for this
7 witness.

8 JUDGE JAMESON: I tend to agree, Mr. Manly.
9 Where are we going?

02:25:41 10 MR. MANLY: Monsignor Loomis was in the same
11 position as Monsignor Urell, Your Honor, and Monsignor
12 Loomis has now been removed for credible allegations of
13 abuse.

14 And the -- the significance is that Monsignor
02:25:53 15 Loomis and Monsignor Urell worked together in the time
16 frame -- precise time frame at issue in this case on not
17 only the Harris case, but others, as well. Because
18 there was an overlap between the Archdiocese of L.A. and
19 the Diocese of Orange.

02:26:08 20 MR. CALLAHAN: Absolutely no connection, although
21 I can see --

22 MR. MANLY: What -- Pete, he was at the
23 settlement conference.

24 MR. CALLAHAN: I'm going to talk only to the
02:26:16 25 judge.

02:26:17 1 JUDGE JAMESON: You don't need to talk to the
2 judge because I just don't see the -- how that relates
3 to this case here so the objection's sustained.

4 BY MR. MANLY:

02:26:36 5 Q Do you -- have you ever spoken to Monsignor
6 Urell about his handling of abuse allegations?

7 A No, I don't think so. Except issues that
8 came up during my time, we've always discussed those, of
9 course.

02:26:53 10 Q You've never talked to Monsignor Urell about
11 how he handled --

12 A Past cases?

13 Q Right. That's okay. That's what I was going
14 to ask.

02:27:01 15 A No, I have not.

16 Q Why not?

17 A I had no need to.

18 Q Do you think he did a good job?

19 A As far as I know, he did a very wond- -- an
02:27:09 20 excellent job.

21 MR. CALLAHAN: Bishop, I want to caution you try
22 to draw a breath between answer --

23 THE WITNESS: Okay.

24 MR. CALLAHAN: -- the question and answer because
02:27:18 25 that one I would have objected to. I think it's

02:27:21 1 irrelevant.

2 MR. MANLY: Judge, I would ask Mr. Callahan to
3 stop saying that. It's really -- it's really obvious at
4 this point he's trying to coach the witness. Every time
02:27:28 5 he gets an answer he doesn't like, he says that.

6 JUDGE JAMESON: I don't think -- it didn't sound
7 like he's coaching the witness.

8 Mr. Callahan, either object or not. You said
9 this several times. If you have a problem with what you
02:27:39 10 perceive to be the bishop's quick answer, at the next
11 break, you can take him by the ear to the wood shed.
12 But in the meantime, please, let's go forward.

13 MR. CALLAHAN: I promise not to do that, Your
14 Honor. But I've been also accused of interrupting the
02:27:54 15 question when Mr. Manly wasn't finished. So I don't
16 want to step on his questions, but I do want to get an
17 objection when appropriate.

18 JUDGE JAMESON: Well, be as artful as you can.
19 Let's go.

02:28:06 20 MR. CALLAHAN: Okay.

21 BY MR. MANLY:

22 Q All right. So I take it because you think he
23 did an excellent job, you've never taken him aside and
24 said "You should have been honest with victims. You
02:28:16 25 should have done things differently," anything like

02:28:17 1 that?

2 MR. CALLAHAN: Objection.

3 JUDGE JAMESON: Stained.

4 BY MR. MANLY:

02:28:19 5 Q Do you have any information that Monsignor
6 Urell misled victims as a matter of custom and practice?

7 MR. CALLAHAN: Objection.

8 JUDGE JAMESON: Overruled.

9 THE WITNESS: No, I have no such knowledge.

02:28:27 10 BY MR. MANLY:

11 Q Have you ever heard that accusation made?

12 A No, I have not.

13 Q Did [REDACTED] ever tell you personally that
14 he felt he was misled by Monsignor Urell and others

02:28:41 15 regarding the handling of the [REDACTED]

16 A I do not recall that.

17 Q Do you know why [REDACTED] and [REDACTED]
18 [REDACTED] resigned from the sexual misconduct committee?

19 MR. CALLAHAN: Objection; assumes facts not in
02:28:57 20 evidence that they were on something called the sexual
21 misconduct committee.

22 MR. MANLY: You know what I mean. I don't know
23 your bureaucratic names.

24 MR. CALLAHAN: If you're talking to me, don't.

02:29:05 25 Talk to the judge.

02:29:07 1 MR. MANLY: I don't want to talk to you.

2 JUDGE JAMESON: Hey.

3 MR. MANLY: Let me talk to you, Your Honor. I
4 don't know the bureaucratic names.

02:29:12 5 JUDGE JAMESON: Well, why don't you ask a couple
6 foundational questions, then. Because out of the blue,
7 that --

8 MR. MANLY: How many -- sorry, Your Honor.

9 BY MR. MANLY:

02:29:20 10 Q How many sexual misconduct committees does
11 the diocese have?

12 A There was a sensitive claims committee when I
13 first came, and that later was replaced by the sexual
14 misconduct oversight review board.

02:29:35 15 Q So which one did [REDACTED] serve on?

16 MR. CALLAHAN: Objection; assumes she served on
17 either one.

18 JUDGE JAMESON: Ask if she served on one.

19 BY MR. MANLY:

02:29:44 20 Q Did she serve on one?

21 A I believe she served on the first -- on the
22 sensitive claims committee.

23 Q Okay. And was she a victim of abuse?

24 A I understand she was.

02:29:54 25 Q Okay. And you appointed her?

02:29:56 1 A Yes, I did.

2 Q And did she resign?

3 A She did resign.

4 Q Why did she resign?

02:30:04 5 A I'm not quite sure why she resigned. She was
6 unhappy with something with regard to the board, and she
7 resigned. But I can't give you the particular reason.

8 Q Have you ever accused her publicly of making
9 false and misleading claims?

02:30:19 10 A I don't recall doing that.

11 Q And how about [REDACTED] Which of the two
12 committees was he on?

13 A [REDACTED] was also on that same committee.
14 I believe that's correct.

02:30:35 15 Q And why did he resign?

16 A My recollection is when he came to see me,
17 that he just felt that being on the committee was a
18 great emotional strain for him, that he was -- it was
19 just making everything -- making him relive his whole --

02:30:54 20 make him relive his abuse experience.

21 Q Did he ever tell you that one of the reasons
22 he was resigning is because Monsignor McKiernan would
23 show -- or Father McKiernan would show at the meetings
24 drunk?

02:31:08 25 A No, he did not.

02:31:09 1 Q Your sworn testimony is that never occurred?
2 A He never told me that, and I was never aware
3 of that.
4 Q I don't mean whether or not Monsignor
02:31:18 5 McKiernan was drunk. I mean -- is it Father or
6 Monsignor, Bishop?
7 A Father. Father. Father.
8 Q Okay. My question, and I apologize because
9 it was confusing.
02:31:27 10 My question -- I want to be very clear about
11 this. Did Mr. [REDACTED] ever tell you that he felt that
12 Monsignor -- sorry -- that Father McKiernan was coming
13 to the sexual review meetings in a -- in an intoxicated
14 state?
02:31:40 15 A I do not recall that.
16 Q Does that mean it didn't happen or you just
17 forgot?
18 A I don't -- I don't think it happened.
19 Q Was Father McKiernan living with you at that
02:31:52 20 time?
21 A Yes, he was.
22 Q Did you ever discuss the sexual abuse cases
23 with him?
24 A Yes, we did discuss them sometimes.
02:32:01 25 Q And do you recall anything you said?

02:32:03 1 A No, I do not.

2 Q How long did you live with Father McKiernan?

3 A We were together about -- about roughly seven

4 years.

02:32:24 5 MR. MANLY: Okay. Can we take a short break?

6 I'm going to try to wrap up.

7 THE VIDEOGRAPHER: The time is 2:32, and we're

8 going off the record.

9 (Recess taken from 2:32 p.m. until

02:32:37 10 2:34 p.m.)

11 THE VIDEOGRAPHER: The time is 2:34, and we're

12 back on the record.

13 BY MR. MANLY:

14 Q Bishop, when you got to the diocese, did you

02:34:52 15 learn that the diocese had something that is called

16 particular law, also known as local statutes?

17 A I -- I don't recall.

18 Q When you arrived at the diocese, did you

19 learn or hear from any source that there was any policy

02:35:11 20 against teachers spending the night alone with children?

21 A I'm not -- I'm not aware of a policy, but

22 I --

23 Q At any point, have you changed the local

24 statutes of the diocese?

02:35:27 25 A Yes, I have.

02:35:28 1 Q When did that occur?

2 A That occurred, I think, around the time --
3 around 2000 -- at the time of the charter. Possibly
4 before that.

02:35:41 5 Q Okay. In or around June of 2002?

6 A I think so. Maybe -- might have been earlier
7 than that. I think, actually, the policy I'm thinking
8 of was put into effect shortly after the DiMaria suit.

9 Q What policy was that?

02:35:55 10 A Well, it was with regard to the -- the policy
11 dealt only with the clergy that I'm thinking of right
12 now and that the clergy were not to be in the company of
13 any person under 18 alone.

14 Q Bishop, when you arrived at the diocese
02:36:13 15 and/or later, did you learn there was a custom and
16 practice in the Diocese of Orange to use lawyers to
17 shield members of the hierarchy from information or
18 liability regarding sexual abuse?

19 A No.

02:36:28 20 Q So that's never happened?

21 A I'm not aware of that.

22 Q Did the policy you put in place in 2001 apply
23 to nonclergy personnel or all diocesan employees?

24 A The policy I put into effect I think dealt
02:36:54 25 only with the clergy.

02:36:58 1 Q Has the diocese disclosed all allegations of
2 abuse against its employees?

3 MR. CALLAHAN: Objection, Your Honor. I think
4 that goes beyond the four areas that this witness has
02:37:11 5 been --

6 JUDGE JAMESON: Yeah. And I -- it's a loaded --
7 kind of like "Do you still beat your wife" question.
8 You can ask about if it has been disclosed.

9 BY MR. MANLY:

02:37:21 10 Q All right. All right. has there -- are
11 there -- are there allegations of sexual misconduct
12 against people who work for you at the Diocese of Orange
13 that you have not disclosed?

14 A I'm not aware of any, credible accusations.

02:37:32 15 Q Well, that's not what I'm asking.

16 A Oh.

17 Q Thank you for making the distinction. I
18 appreciate it, Bishop.

19 I'm asking are you aware of any allegations
02:37:41 20 against people who work for you at the Diocese of Orange
21 who have been accused of -- who have -- let me rephrase
22 it.

23 Are you aware of allegations against persons
24 who have been accused of sexual abuse that have not been
02:37:54 25 made public?

02:37:55 1 A Oh.

2 MR. CALLAHAN: Objection. I don't find that in
3 the four areas of legitimate inquiry of this witness.

4 JUDGE JAMESON: Well, I'm going to allow the
02:38:07 5 question. But answer it very directly, Bishop, because
6 subsequent questions may well go outside the parameters
7 that I've set forth. So I'm going to allow the answer,
8 but we'll deal with it question by question from this
9 point on.

02:38:28 10 MR. CALLAHAN: Could we have the question read
11 back, then, to make sure that the witness has it in
12 mind?

13 THE REPORTER: "Question: I'm asking are you
14 aware of any allegations against people who work for you
02:37:43 15 at the Diocese of Orange who have been accused of -- who
16 have -- let me rephrase it.

17 "Are you aware of allegations against persons
18 who have been accused of sexual abuse that have not been
19 made public?"

02:38:59 20 THE WITNESS: I'm only aware of any credible
21 accusations being made that have not been disclosed.

22 MR. MANLY: Can I have the answer read back,
23 please?

24 (Whereupon, the record was read.)

02:39:21 25 BY MR. MANLY:

02:39:21 1 Q Okay. Let me -- let me be clear. I want to
2 know are there -- are there people that have come
3 forward and said "This person molested me" that the
4 Diocese of Orange is aware of that you have not
02:39:33 5 disclosed publicly, whether you believe they're credible
6 or not?

7 MR. CALLAHAN: Objection, Your Honor. This calls
8 now for rumor, you know, speculation, everything else.
9 And I don't think that rumors and speculation should
02:39:49 10 wind up in a transcript and then wind up in public.

11 MR. FINALDI: Rumors are the exact allegations in
12 the complaint. There were rumors all over the school
13 about this person, and that's what we've been dealing
14 with.

02:40:00 15 MR. MANLY: I asked about accusations, not
16 rumors. So let's just have the -- if I could, just get
17 the answer to the question.

18 MR. CALLAHAN: Well, there's -- I think there's a
19 danger here, and that's why I raised the question.

02:40:10 20 JUDGE JAMESON: There is a danger here, and I'm
21 concerned about it. But let me have the question back.

22 THE REPORTER: "Question: I want to know are
23 there people that have come forward and said 'This
24 person molested me' that the Diocese of Orange is aware
02:40:14 25 of that you have not disclosed publicly, whether you

02:40:14 1 believe they're credible or not?"

2 JUDGE JAMESON: Let's answer that "yes" or "no,"
3 please.

4 THE WITNESS: I'm not aware.

02:40:48 5 BY MR. MANLY:

6 Q You don't know one way or the other?

7 A I know about credible accusations. I don't
8 know about the others.

9 Q Okay. Are you aware whether there are other
02:41:00 10 allegations -- well, wait a minute.

11 Who determines at the Diocese of Orange
12 whether allegations are credible or not?

13 A Usually it's the sexual misconduct oversight
14 review board.

02:41:13 15 Q Okay. So is what you're -- I want to be
16 clear. Are you telling me, Bishop, that there may be 20
17 other allegations that the board deems not credible that
18 you may not know about?

19 MR. CALLAHAN: Objection, Your Honor. The
02:41:30 20 question "Do you know about things that you don't know
21 about" is argumentative.

22 MR. MANLY: Well, I'm not trying to ask that.
23 I'm just trying to figure out are -- are there -- is
24 it -- are there other allegations -- I mean do -- let me
02:41:42 25 ask it a different way.

02:41:42 1 BY MR. MANLY:

2 Q Is it your directive to the board only to
3 send allegations they believe are credible to you?

4 A No. All accusations that come to the diocese
02:41:54 5 are given to the board. And the board makes that
6 further determination, and I receive their
7 recommendation.

8 Q Okay. Do you get the accusations, as well,
9 or only the board's recommendations?

02:42:08 10 A No. I get the -- I'm told about the
11 accusation.

12 Q Okay. So are you aware, as you sit here
13 today, of allegations of sexual abuse against a diocesan
14 personnel, priest, religious, or layperson, that have
02:42:22 15 not been disclosed publicly?

16 A As I sit here right now, there may be some
17 accusations. I can't think of any specifically which
18 were determined not to be credible, but I can't think of
19 anything right now myself.

02:42:37 20 Q Is every allegation that comes to the diocese
21 reported to the police?

22 MR. CALLAHAN: Objection, Your Honor. Because
23 that calls for speculation as to what would constitute
24 an allegation that -- so I'm going to object to the form
02:42:58 25 of the question. It's a loaded question.

02:43:00 1 JUDGE JAMESON: Well, it doesn't help much. I
2 mean some things aren't -- may be inappropriate but not
3 something you report. There may be other reasons that
4 they have been reported or would be reported. You need
02:43:15 5 to narrow it down for us, Mr. Manly.

6 BY MR. MANLY:

7 Q Is it your policy as the bishop of Orange
8 that every allegation of sexual abuse must be reported
9 to the police immediately?

02:43:24 10 MR. CALLAHAN: Objection, Your Honor. The --
11 the -- that calls for speculation as to what would be
12 considered sexual abuse. There's a law, the reporting
13 law, that talks about reasonable suspicion of child
14 endangerment, but --

02:43:40 15 MR. MANLY: You know what?

16 MR. CALLAHAN: But if somebody says "I'm
17 concerned these priests hug people too much, too much of
18 this abrazo," well, now, no person, no particular
19 priest, but is this an allegation of sexual misconduct?
02:43:51 20 Some guy that stops the bishop and says "I think priests
21 hug people too much," is he supposed to report this to
22 the police?

23 MR. FINALDI: He's just asking if it's a policy.

24 MR. CALLAHAN: Yeah. Is there a policy that he
02:44:03 25 should report something like that to the police?

02:44:06 1 MR. MANLY: Maybe there should be.

2 MR. CALLAHAN: Maybe there should be, maybe there
3 shouldn't. But I think it's too vague the way it's
4 asked, so we'll never know. It makes a great sound
02:44:10 5 bite, but it doesn't necessarily shed light on the
6 issues of this case.

7 JUDGE JAMESON: Is there a protocol -- excuse me.
8 Was my attempt at the question --

9 MR. MANLY: No. I was laughing at Mr. Callahan,
02:44:23 10 Your Honor.

11 JUDGE JAMESON: Well, okay. I'm trying to help
12 out here.

13 And I think that the relevant question is,
14 Bishop, is there a protocol or policy as to when or when
02:44:38 15 not -- in other words, is there a policy upon which a
16 judgment would be made to contact the police or not?

17 THE WITNESS: Yes, there is.

18 JUDGE JAMESON: All right.

19 BY MR. MANLY:

02:44:49 20 Q And what's that policy?

21 A Well, I think that that policy deals with the
22 same policy that's incorporated into the mandated
23 reporting law.

24 Q What law is that?

02:45:10 25 A There are mandated reporters who -- for

02:45:15 1 example, clergy, who if they learn about -- have a
2 reasonable concern about the sexual abuse of a minor,
3 then that needs to be reported to Child Protection
4 Services and/or the police.

02:45:34 5 Q So is the Diocese of Orange policy that if
6 you have a reasonable concern, you must report?

7 A Oh, yes. I believe that's correct.

8 Q And when was that policy first adopted?

9 A I presume it was adopted at the same time
02:45:56 10 that the state legislation regarding mandated reporters
11 came into law.

12 Q Okay. And has the diocese on your watch
13 always followed that?

14 A To my knowledge, they have.

02:46:28 15 MR. CALLAHAN: Your Honor, it's -- I think this
16 was a four-hour deposition. We're into four hours and
17 20 minutes. Are we about to light up --

18 JUDGE JAMESON: Well, we've had lunch and several
19 breaks. We're in -- Mr. Manly said he was about to wind
02:46:42 20 up, so --

21 MR. MANLY: Yeah. I'm getting there.

22 JUDGE JAMESON: So we'll -- we'll go for a few
23 more minutes before we get the stopwatch out.

24 BY MR. MANLY:

02:46:55 25 Q Bishop, was there ever a policy -- have you

02:47:01 1 ever had a discussion with your superintendent of
2 schools as to when parents should be called and when
3 not?

4 A No, I have not.

02:47:13 5 Q Do you believe if a school under your
6 jurisdiction is investigating a student -- is
7 investigating whether or not a teacher is molesting a
8 student, it would at all times be proper for the school
9 to contact the parents?

02:47:27 10 A Are we talking about an elementary school or
11 a high school?

12 Q Does it matter?

13 A It could matter in terms of how it's dealt
14 with at the local level. The --

02:47:38 15 Q Can you --

16 A I would leave that decision about contacting
17 the parents to the principal because he or she would be
18 familiar with the context and the circumstances, which I
19 am not.

02:47:53 20 Q You would expect that if a school was
21 investigating an allegation of sexual abuse by a teacher
22 against a student, that the first person that would be
23 notified was the school's president and/or principal,
24 correct?

02:48:05 25 A Would you --

02:48:06 1 MR. CALLAHAN: Objection; calls for speculation,
2 which would vary on the specific facts of any particular
3 case.

4 JUDGE JAMESON: May I have the question back,
02:48:15 5 please? Maybe the one before that, also.

6 THE REPORTER: "Question: Do you believe if a
7 school under your jurisdiction is investigating a
8 student -- is investigating whether or not a teacher is
9 molesting a student, it would at all times be proper for
02:47:25 10 the school to contact the parents?

11 Answer: Are we talking about an elementary
12 school or a high school?

13 "Question: Does it matter?

14 "Answer: It could matter in terms of how
02:47:35 15 it's dealt with at the local level. The --

16 "Question: Can you --

17 "Answer: I would leave that decision about
18 contacting the parents to the principal because he or
19 she would be familiar with the context and the
02:47:51 20 circumstances, which I am not.

21 "Question: You would expect that if a school
22 was investigating an allegation of sexual abuse by a
23 teacher against a student, that the first person that
24 would be notified was the school's president and/or
02:48:03 25 principal, correct?"

02:49:17 1 MR. CALLAHAN: And my objection is that doesn't
2 fit any of the four categories. We're into school
3 affairs now and school procedures. I've allowed him to
4 give preliminary --

02:49:26 5 JUDGE JAMESON: Well, we've left what was a
6 pivotable question in the middle there. Was -- is there
7 a difference between grammar school and high school. I
8 heard something about the circumstances being left to
9 the principal, but I didn't hear that there was a
02:49:44 10 difference.

11 So I guess, going back to the center of that
12 question, is there a different protocol for grammar
13 school and high school, or -- or your answer dealt with
14 the discretion of the principal?

02:50:01 15 THE WITNESS: Well, I think, Your Honor, the
16 answer left the discretion of the principal. I don't
17 think it would be a difference in the sense of what
18 should be done. But -- but how it's done and what
19 process is used can be different at the school, whether
02:50:17 20 it's at an elementary school or high school.

21 BY MR. MANLY:

22 Q Okay. And my next question is do you -- you
23 would think it appropriate that at all times when a
24 school is investigating whether a teacher had sex with a
02:50:31 25 child, that the principal and/or president of the school

02:50:35 1 would be notified?

2 MR. CALLAHAN: Objection. It's argumentative, it
3 calls for speculation, and most importantly, it has way
4 too many variables. It's -- it lacks foundation and

02:50:46 5 most -- and it doesn't fit into one of the four
6 categories that this witness was called to address.

7 JUDGE JAMESON: May I have the question back
8 again? I'm sorry.

9 THE REPORTER: "Question: And my next question
02:50:55 10 is do you -- you would think it appropriate that at all
11 times when a school is investigating whether a teacher
12 had sex with a child, that the principal and/or
13 president of the school would be notified?"

14 JUDGE JAMESON: You may answer that.

02:51:19 15 THE WITNESS: Yes. I would expect the principal
16 and/or president would be notified.

17 BY MR. MANLY:

18 Q Bishop, can you tell me the current corporate
19 entities that you are affiliated with in your capacity
02:51:33 20 as bishop of Orange?

21 A The Roman Catholic Bishop of Orange.

22 Q Are they a corporation sole?

23 A A corporation sole.

24 The Education and Welfare Corporation, the

02:51:54 25 Orange Catholic Foundation, and the Christ Our Savior

02:52:00 1 Cathedral.

2 Q And what type of entity is that?

3 A Of which entity?

4 Q I'm sorry. Christ Our Savior Cathedral?

02:52:10 5 A It's a parish which is incorporated.

6 Q Okay. And what about Catholic Charities?

7 A Pardon me. I -- I forgot Catholic Charities.

8 Q Okay. Are you the sole officer of the Roman

9 Catholic Bishop of Orange, a corporation sole?

02:52:25 10 A Yes, I am.

11 Q What portions do you hold in the Education

12 and Welfare Corporation?

13 MR. CALLAHAN: Your Honor, I think we're beyond

14 the scope of the permissible inquiry.

02:52:33 15 JUDGE JAMESON: No.

16 MR. CALLAHAN: Okay.

17 JUDGE JAMESON: No. That -- if that wasn't

18 clear, the -- that was one of the bases for the

19 inquiry --

02:52:42 20 MR. CALLAHAN: Okay.

21 JUDGE JAMESON: -- of the bishop was because we

22 have multiple defendants, and the delineation of the

23 boundaries and structure of those corporations is

24 relevant.

02:52:55 25 So go ahead. Is there a question on the

02:52:58 1 floor, or do you have it in mind?

2 BY MR. MANLY:

3 Q Do you want me to repeat it, Bishop?

4 A I think -- I think I'm the chairman.

02:53:03 5 Q Okay. Who else is on it?

6 A I'm not quite sure of the membership. I'd
7 have to look that up.

8 Q Okay. And the Orange Catholic Foundation,
9 what is your relationship with that entity?

02:53:17 10 A I'm simply a member.

11 Q Okay. When was that entity founded?

12 A I believe that was founded three or four
13 years ago.

14 Q After you became bishop?

02:53:27 15 A Yes.

16 Q Okay. And was that founded in response to
17 the cases filed against the diocese?

18 A No. It was respond -- it was filed --
19 rather, it was incorporated to set up a separate entity
02:53:41 20 to fund various activities in the diocese. I -- pardon
21 me.

22 MR. MANLY: Okay. And --

23 MR. CALLAHAN: Objection. Move to strike. I
24 couldn't get a word in there fast enough. His answer

02:53:51 25 came too fast. But that's not a defendant in this case,

02:53:53 1 and it's not relevant to any --

2 MR. MANLY: Well, there are alter ego
3 allegations, Judge, and they very well may be a doe.
4 So --

02:54:01 5 JUDGE JAMESON: It also helps distinguish what is
6 and what isn't. So let's go forward.

7 BY MR. MANLY:

8 Q Okay. And does the Diocese of Orange own
9 Mater Dei High School?

02:54:12 10 A Yes, it does.

11 Q Okay. And does the Diocese of Orange own its
12 parishes?

13 A Yes, it does.

14 Q And it owns the schools not owned by
15 religious orders, correct?

02:54:25 16 A Yes. In civil laws, yes.

17 Q Correct? Sorry, Judge. Sorry, Bishop.

18 A All of that is in civil law.

19 Q Okay. And except it does not -- it does not
20 own Junipero Serra; is that correct?

02:54:36 21 A Junipero Serra is a private Catholic high
22 school.

23 Q Okay. Not owned by the diocese, correct?

24 A That is correct.

02:54:44 25 Q Okay. And it owns Christ Our Savior

02:54:50 1 Cathedral, the land and improvements?

2 A There is no improvements, but it owns the
3 land.

4 Q Well, I haven't been to mass in a while. I'm
02:54:57 5 sorry.

6 MR. CALLAHAN: You are forgiven.

7 BY MR. MANLY:

8 Q Okay. Who is the most knowledgeable person
9 at the diocese regarding its financial affairs besides
02:55:12 10 yourself?

11 A Mr. Phil Ries.

12 Q And does Randy Redwitz have any relationship
13 to the diocese?

14 A Randy Redwitz, I think, is on our school
02:55:24 15 board, and I think his GDR company provides us with
16 computer services.

17 Q How -- so he's a vendor for the diocese?

18 A Could be a vendor for the diocese.

19 Q Now, has it come to your attention, Bishop,
02:55:44 20 that he remains in business -- do you know whether or
21 not he remains in business with Michael Harris?

22 A I do not know.

23 Q During the transition period, did Bishop
24 McFarland give you his personal files?

02:56:05 25 MR. CALLAHAN: Objection; lack of foundation,

02:56:06 1 indicates that there are such things.

2 MR. MANLY: You know what? That's fair.

3 BY MR. MANLY:

4 Q Did Bishop McFarland leave his personal --
02:56:12 5 did Bishop McFarland have personal papers like every
6 other bishop?

7 MR. CALLAHAN: Objection; assumes a fact not in
8 evidence, lacks foundation.

9 JUDGE JAMESON: Sustained.

02:56:21 10 BY MR. MANLY:

11 Q Did Bishop McFarland have personal papers?

12 A I don't know. I presume so.

13 Q Okay. It's normal for bishops to keep
14 personal papers, correct?

02:56:31 15 A I would think it's normal for bishops to keep
16 personal papers, but I wouldn't know what those papers
17 are.

18 Q Okay. Do you have any information from any
19 source that Bishop McFarland took documents with him
02:56:42 20 from the diocese when he left?

21 A No, I do not.

22 Q As far as you know, Bishop, he left them --
23 left what he had there?

24 A I don't know what he took with him when he
02:56:53 25 left.

02:56:54 1 Q Okay. Have you heard from any source that
2 Patrick Murphy says he was not informed -- let me strike
3 that.

4 Have you heard from any source that Patrick
02:57:10 5 Murphy -- actually, let me -- who is Patrick Murphy?

6 A Patrick Murphy is the president of Mater Dei
7 High School.

8 Q Okay. Have you heard from any source other
9 than your lawyers that Patrick Murphy claims that when
02:57:24 10 the allegations involving Mr. Andrade first came to the
11 attention of Mater Dei and then there was an
12 investigation of March -- in March 1996, that he was not
13 informed of such an investigation?

14 MR. CALLAHAN: Objection, Your Honor. That
02:57:41 15 assumes facts without foundation that there was -- March
16 '96 involving an investigation as opposed to looking
17 into an analysis of these allegations, this rumor.

18 JUDGE JAMESON: Overruled.

19 You may answer, sir.

02:57:57 20 THE WITNESS: No, I do not.

21 BY MR. MANLY:

22 Q Would you have expected if Mater Dei had an
23 allegation involving sexual misconduct that they were
24 investigating involving a teacher, that Mr. Murphy would
02:58:11 25 have been informed?

02:58:12 1 MR. CALLAHAN: Objection.

2 JUDGE JAMESON: Sustained.

3 BY MR. MANLY:

4 Q Did the Diocese of Orange under your -- has

02:58:33 5 the Diocese of Orange under your direction ever prepared

6 a report about the sexual abuse of priests and laypeople

7 that includes the period 199- -- I'm sorry -- 1988 to

8 January 1st, 2001?

9 A Would you repeat that question, please?

02:59:00 10 Q I'm sorry. 2002.

11 THE REPORTER: "Question: Did the Diocese of

12 Orange under your -- has the Diocese of Orange under

13 your direction ever prepared a report about the sexual

14 abuse of priests and laypeople that includes the period

02:59:01 15 199- -- I'm sorry -- 1988 to January 1st, 2001?"

16 MR. CALLAHAN: Objection. This -- the -- your

17 order is that this witness can be inquired of with

18 respect to lay employees. But since he arrived after

19 the fact, there's no questions of Bishop Brown regarding

02:59:38 20 clerics or priests in this diocese or anywhere else. I

21 think we're mixing --

22 JUDGE JAMESON: We'll deal with that after we get

23 the answer.

24 MR. CALLAHAN: Okay.

02:59:45 25 JUDGE JAMESON: Please answer, and then we'll

02:59:46 1 break it down, if necessary.

2 THE WITNESS: What kind of report?

3 BY MR. MANLY:

4 Q Any report.

02:59:50 5 A Well, I think the diocese released the names
6 of clergy against whom there were credible accusations.

7 Q And did it release the names of laypeople, as
8 well?

9 A I don't recall.

03:00:06 10 Q So you have no knowledge whether the diocese
11 has released the names of laypersons allegedly accused
12 of sexual abuse during the time period specified; is
13 that correct?

14 A That is correct. I don't recall anything.

03:00:20 15 Q Have you prepared -- has the diocese prepared
16 any report to the John Jay School of Criminal Law
17 regarding this matter?

18 A We provided the John Jay Criminal Law entity
19 with all of the information that we were asked to
03:00:39 20 provide by them.

21 JUDGE JAMESON: What was the nature of that?

22 THE WITNESS: Your Honor, they -- the Bishops --
23 Catholic Bishops Conference contracted with the John Jay
24 College to study, first of all, how did this whole thing
03:00:59 25 of sexual abuse happen in our country, our Catholic

03:01:04 1 priests. Then there's been a second study about the
2 causes of the -- of the abuse. And I think now there's
3 a third study under way, which the results of the first
4 study, I think, are a matter of public record.

03:01:26 5 It's interesting to me -- I think it was a
6 surprise to a lot of bishops -- that the John Jay study
7 indicated that most of the priests who offended minors
8 with sexual -- by sexual abuse, they were just one
9 person.

03:01:47 10 JUDGE JAMESON: Well, let me -- the thrust of
11 this question, and I think what is possibly relevant
12 here, is what was the nature of the information given
13 over? Was it lawsuit depositions and declarations? Was
14 it a summary from someone in the front office of -- of
03:02:13 15 your office? What -- what did John Jay have to review
16 from Orange County to help with their study?

17 THE WITNESS: Well, first, I know that they --
18 they had information in terms of numbers of alleged
19 perpetrators, the age of -- I think ages of victims,
03:02:37 20 ages of the perpetrators. That was information
21 provided. There may be some others, but that's what
22 comes to mind to me now.

23 JUDGE JAMESON: And when would this have been
24 provided?

03:02:49 25 THE WITNESS: Oh, I would think in -- I'm not

03:02:53 1 sure. Maybe around 2003, 2004, somewhere in there.

2 JUDGE JAMESON: You can have the floor back,
3 Mr. Manly.

4 MR. MANLY: Thank you, Judge. I was just ready
03:03:06 5 to sit back and listen. Okay.

6 BY MR. MANLY:

7 Q Now, who was in charge of providing that --
8 gathering that data for the John Jay school?

9 A I believe that was handled by our chancellor,
03:03:23 10 Cheryl Giacomi.

11 MR. CALLAHAN: G-i-a-c-o-m-i.

12 BY MR. MANLY:

13 Q Did you review during the transition period
14 the report prepared by Bishop McFarland and sent to the
03:03:35 15 Holy See?

16 A I believe I did.

17 Q Do you have a copy of that?

18 A There is -- would be a copy in the file.

19 Q Do you remember anything about sexual abuse
03:03:46 20 in that report?

21 A No, I do not.

22 Q If Bishop McFarland had knowledge of abusers
23 working in the diocese based on your knowledge of the
24 workings of transition from bishop to bishop, should
03:04:00 25 that have been included in the report?

03:04:05 1 A I don't know. It depends on the questions
2 that were asked by the Holy See, and I don't -- I don't
3 know. I would -- I don't know that it would.

4 Q Do you know where that document is today?

03:04:21 5 A I presume -- I think the document you're
6 referring to is the Quinquennial Report given every five
7 years. Is that what you're talking about?

8 Q No, sir. I appreciate you mentioning that.

9 Bishop McFarland said -- when he left the diocese, he
03:04:37 10 told us this Saturday he prepared a detailed report and
11 sent it to the Holy See. And I believe he said,
12 although I can't swear to it, he gave you a copy.

13 MR. CALLAHAN: Just to clarify, he was talking
14 about the Quin- -- whatever it is, the five-year report.
03:04:50 15 That's what he was talking about.

16 MR. MANLY: Well, that's not what he -- that's
17 not what he --

18 JUDGE JAMESON: At least I remember that
19 discussion, and I don't remember any -- there was
03:05:01 20 something left behind as a reference for the bishop --

21 MR. MANLY: Maybe -- all right. Maybe I've got
22 it wrong. So if I do, my apologies.

23 BY MR. MANLY:

24 Q Did you ever see anything in the Quinquennial
03:05:15 25 Report -- I'm sorry. How many Quinquennial Reports have

03:05:17 1 you prepared, Bishop?

2 A In the Diocese of Orange, I've prepared, I
3 believe, one.

4 Q Have you read the prior -- did you read the
03:05:26 5 prior one?

6 A I think I looked at it. I'm not sure. I
7 don't think I studied it.

8 Q Did the Quin- -- does the Quinquennial Report
9 you prepared touch on the issue of sexual abuse and
03:05:37 10 claims of sexual abuse in this diocese?

11 A No, it did not.

12 Q Never mentioned it?

13 A I don't believe it did.

14 MR. MANLY: Anything else?

03:05:48 15 Okay. I'm done. Thank you, Bishop.

16 MR. CALLAHAN: Why don't we enter into a
17 stipulation that -- we have been saying that --

18 MR. MANLY: Oh, you know, there's one thing I
19 want to say.

03:05:59 20 MR. CALLAHAN: What?

21 MR. MANLY: I've mentioned a number of victims'
22 names in this deposition and the others, and I'd like a
23 protective order -- some of them are public, some of
24 them are not -- to keep those names private.

03:06:10 25 MR. CALLAHAN: I would join in that and suggest

03:06:11 1 that this entire -- you asked me before. You want the
2 entire transcript -- and I said we'll have to wait to
3 the end to see. And I think now you've raised a very
4 good point that there is a lot of stuff in here that
03:06:23 5 would be and should be kept confidential.

6 MR. MANLY: Judge --

7 MR. CALLAHAN: That's all.

8 JUDGE JAMESON: Well, I think the simplest thing
9 is since I've already made a preliminary ruling as to
03:06:33 10 some of it, that it -- it be temporarily sealed,
11 especially since its use might be just days from now,
12 except for litigation, in the context of the court
13 proceedings.

14 MR. MANLY: Judge, I have no problem with that
03:06:55 15 order. I just want to tell you that in all the cases
16 I've been involved with, this is -- entering the
17 confidentiality of victims is standard procedure. And
18 it's very simple. The victims' names is simply redacted
19 before portions of deposition are on file. I have no
03:07:11 20 problem with the short stay so we can work this out,
21 but --

22 JUDGE JAMESON: Yeah. Because I guess my --
23 there have been a lot of names, and many of them were
24 familiar to me because I've heard them before --

03:07:26 25 MR. MANLY: Yeah.

03:07:26 1 JUDGE JAMESON: -- through other depositions in
2 this case. So it's hard for me to separate in my mind
3 which might be confidential and which shouldn't.

4 So to be on the safe side, I'd say they all
03:07:41 5 are until there's reason that you either agree or
6 there's a reason for them to be -- become public.

7 MR. MANLY: Could I have go off the record for a
8 minute?

9 MR. CALLAHAN: No. Let me state this for this --
03:07:50 10 and I think the easiest way to avoid this whole problem
11 is to seal the whole record. We're talking about a
12 matter of days. And that way, it's not "Oh, I didn't
13 know I couldn't leak that" or "I didn't know that was
14 supposed to be privileged" or wasn't.

03:08:01 15 MR. MANLY: As far as I'm concerned, I can't
16 discuss the deposition. I think that's his order. I --
17 that he --

18 JUDGE JAMESON: Yeah. And I --

19 MR. MANLY: -- you know, for the next few days.

03:08:06 20 JUDGE JAMESON: Yeah. That was the earlier --
21 the earlier order, so --

22 MR. MANLY: If anybody asks me, I'm going to tell
23 them the Court's entered an order at your request.

24 So --

03:08:17 25 MR. CALLAHAN: Do we want to do a stipulation on

03:08:18 1 the record or not?

2 MR. MANLY: Well, I want to say something off the
3 record before I do a stipulation. I don't want to put
4 this on the record.

03:08:24 5 THE VIDEOGRAPHER: The time is 3:08, and we're
6 off the record.

7 (Discussion held off the record from
8 3:08 p.m. until 3:12 p.m.)

9 THE VIDEOGRAPHER: The time is 3:12, and we're
03:12:23 10 back on the record.

11 MR. CALLAHAN: I'm going to suggest that we agree
12 to the basic same stipulation we've agreed on the
13 others, and that is that the transcript will be prepared
14 as soon as possible, the witness will read it as soon as
03:12:33 15 possible. If he makes any changes, he will Xerox the
16 page of the change and then get it to me by either fax
17 or e-mail or some -- some method. And then as soon as I
18 get it, I'll pass it on to you.

19 But in the event that we are not notified of
03:12:48 20 any changes -- in the event that you are not notified of
21 any changes, within 24 hours or 48 hours of when he goes
22 on the stand, we tell you whether -- what the status is.

23 MR. MANLY: Okay. And that a certified can be
24 used as an original if its lost, stolen, or otherwise
03:13:03 25 misplaced.

03:13:05

1

MR. CALLAHAN: Right.

2

MR. MANLY: Okay. Fine.

3

THE WITNESS: Thank you.

4

THE REPORTER: And where do I send the original?

03:13:12

5

MR. CALLAHAN: Probably me, and that's probably

6

the easiest way to do it. And we're going to need an

7

expedite. That's different about this one.

8

THE VIDEOGRAPHER: The time is 3:13, and this is

9

the end of today's deposition.

03:13:25

10

(Whereupon, Exhibit 1 was marked for

11

identification by the Certified Shorthand Reporter, a

12

copy of which is attached hereto.)

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(End of videotaped deposition at 3:13 p.m.

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Declaration under penalty of perjury attached hereto.)

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I do solemnly declare under penalty of perjury that the foregoing is my deposition under oath; that these are the questions asked of me and my answers thereto; that I have read same and have made the necessary corrections, additions, or changes to my answers that I deem necessary.

In witness thereof, I hereby subscribe my name this _____ day of _____, 20__.

WITNESS SIGNATURE

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Certificate
of
Certified Shorthand Reporter

The undersigned certified shorthand reporter of the State of California does hereby certify:

That the foregoing proceedings was taken before me at the time and place therein set forth, at which time the witness was duly sworn by me;

That the testimony of the witness and all objections made at the time of the proceedings were recorded stenographically by me and thereafter transcribed, said transcript being a true copy of my shorthand notes thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

In witness whereof, I have subscribed my name this date, September 12, 2007.

Janet M. Taylor
Certified Shorthand Reporter
Certificate Number 9463