

FATHER XAVIER JAMES HARRIS, VOLUME II - 6/16/05

IN RE: THE CLERGY CASES I & III

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

Coordination Proceedings Special)	
)	
Title (Rule 1550(b)))	
)	
In Re)	
)	
THE CLERGY CASES I & III)	No. JCCP 4288
)	JCCP 4359
)	

VIDEOTAPED DEPOSITION OF FATHER XAVIER JAMES HARRIS
SAN FRANCISCO, CALIFORNIA
THURSDAY, JUNE 16, 2005
(Volume II - Pages 211 to 391)

Reported by Cynthia Manning, CSR No. 7645
PRS Job No. 43-270902

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Jocelyn Blumenthal

Livia Hsido

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Continued deposition of FATHER XAVIER JAMES
HARRIS, taken at One Sansome Street, San Francisco,
California, on Thursday, June 16, 2005, at 11:17 a.m.,
before Cynthia Manning, Certified Shorthand Reporter, in
and for the State of California.

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I N D E X

WITNESS: FATHER XAVIER JAMES HARRIS

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FATHER XAVIER JAMES HARRIS

IN RE CLERGY CASES I & III

Thursday, June 16, 2005

Cynthia Manning, CSR No. 7645

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EXHIBITS

MARKED

4 Excerpt from "Spiritual Homecoming,
A Catholic Priest's Journey to
Judaism," by [REDACTED], MA, JCL

375

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1 SAN FRANCISCO, CALIFORNIA

2 THURSDAY, JUNE 16, 2005; 11:17 A.M.

3
4 THE VIDEOGRAPHER: Good morning. We are on
5 video record on June 16th, 2005, and the time is 11:17
6 a.m.

7 I am Cyril Suszckiewicz, a notary public for
8 the County of Alameda, representing Cyril Video, 84-A
9 Harriett Street, San Francisco, California, 94103.
10 Telephone phone number 415-626-1212.

11 This is the beginning of tape one, Volume II,
12 in re the Clergy Cases, I and II, case number JCCP 4288
13 and JCCP 4359, in the Superior Court of California,
14 County of Los Angeles, Central District, for the
15 deposition of Father Xavier James Harris.

16 We are located at Lewis Brisbois Bisgaard &
17 Smith, San Francisco, California, and the video is being
18 taken on behalf of the plaintiff.

19 Counsel, will you please identify yourself and
20 your clients.

21 MR. DeMARCO: Anthony DeMarco with Kiesel
22 Boucher & Larson on behalf of numerous plaintiffs, as
23 well as plaintiffs' liaison counsel.

24 MR. HALE: Tim Hale, Nye, Peabody & Stirling,
25 on behalf of various plaintiffs.

1 MR. TISDALE: Jon Tisdale, Gilbert Kelly 11:18:09
2 Crowley & Jennett, for the Los Angeles Archdiocese. 11:18:09

3 MR. HABEL: James Habel, Hennigan Bennett & 11:18:14
4 Dorman for Archdiocese of Los Angeles and defendants' 11:18:15
5 liaison counsel. 11:18:15

6 MS. LYDDAN: Angela Lyddan, Carroll Burdick & 11:18:20
7 McDonough on behalf of Archdiocese of Los Angeles. 11:18:21

8 MR. BLUTHIUIS: Zach Bluthiuis, insurance 11:18:25
9 defense counsel for the Archdiocese of Los Angeles. 11:18:26

10 MR. HANCE: Brian Hance, Lewis Brisbois 11:18:30
11 Bisgaard & Smith for Defendant Franciscan Friars of 11:18:33
12 California and the deponent in Clergy I. 11:18:34

13 MR. MATIASIC: Paul Matiasic, Lewis Brisbois 11:18:36
14 Bisgaard & Smith, San Francisco, for the Franciscan 11:18:38
15 Friars and the witness. 11:18:41

16 I also have Brett Morris, Jocelyn Blumenthal 11:18:44
17 and Livia Hsido, summer associates from my office 11:18:45
18 sitting in today. 11:18:45

19 THE VIDEOGRAPHER: The reporter may swear in 11:18:46
20 the witness. 11:18:46

21 11:18:46

22 FATHER XAVIER JAMES HARRIS, 11:18:46

23 having first been duly sworn, testifies 09:17:57

24 as follows:

25

EXAMINATION

BY MR. DeMARCO:

Q. Good morning again, Father Harris.

A. Good morning.

Q. Are you feeling okay today?

A. Yes. Thank you.

Q. Let me see. I'd like to ask you one quick question just to make sure my recollection is correct. The years that you were at St. Anthony's, what years again?

A. 1964 to '74, that would be from the summer to the summer.

Q. Okay. And was there ever a period of time where you worked along with Father McKeon at St. Anthony's?

A. He left when Mario came, so it was a change.

Q. Was there any overlap?

A. No.

Q. But you were aware of what positions Father McKeon held immediately prior to leaving?

A. Yes.

Q. What were those?

A. He was the Prefect of Discipline.

Q. Anything else?

1 A. Faculty member. He taught. 11:20:05

2 Q. Anything else, any positions with St. 11:20:06

3 Anthony's? 11:20:08

4 A. Not official, nothing official. 11:20:11

5 Q. Were there any other regular sort of duties 11:20:16

6 that he had, maybe not official titles at St. Anthony's? 11:20:21

7 A. Well, all of us had clergy assignments, and on 11:20:24

8 weekends we were all involved in one way or another in 11:20:28

9 the operation of the school for different assignments of 11:20:29

10 that type, but those were the official ones. 11:20:40

11 Q. At that time do you have any understanding of 11:20:43

12 whether he operated as a Vocations Director? 11:20:49

13 A. I think you're quite correct. I think he 11:20:51

14 either was or became at that point. 11:20:51

15 Q. Okay. 11:20:54

16 A. So he did have to do with -- I remember that 11:20:54

17 now. 11:20:55

18 Q. Are you sure -- well, let me ask you this 11:20:58

19 question. Is it your understanding he was or he was not 11:21:01

20 a Vocations Director while he was at St. Anthony's? 11:21:08

21 A. I'm a little vague on that, but I can't say for 11:21:11

22 sure. He was for a period of time Vocations Director, 11:21:16

23 but I can't say if it coincided with his stay at St. 11:21:17

24 Anthony's.

25 Q. That's fine. Okay.

1 Did he have any duties in the infirmary at St.
2 Anthony's, Father McKeon?

3 A. Not to my knowledge.

4 MR. MATIASIC: Hold on. During what time
5 period?

6 MR. DeMARCO: Good question, Counsel.

7 Q. Immediately preceding his leaving, do you have
8 any understanding of whether Father McKeon had any
9 duties at the infirmary at St. Anthony's?

10 A. Not that I can recall.

11 Q. Are you aware of any time when Father McKeon
12 was at St. Anthony's, now I'm broadening it to whatever
13 your general awareness was, did he have any duties at
14 the infirmary?

15 MR. MATIASIC: Just going to object it's vague
16 and ambiguous, but go ahead.

17 BY MR. DeMARCO:

18 Q. Do you understand the question?

19 A. Yes, I do, but I can't answer it.

20 Q. That's okay.

21 There was an infirmary at St. Anthony's?

22 A. Yes.

23 Q. Where was it physically located? What was it
24 adjacent to?

25 A. Well, it's a little hard to describe. If I had

11:21:27

11:21:28

11:21:31

11:21:32

11:21:34

11:21:37

11:21:39

11:21:42

11:21:43

11:21:47

11:21:51

11:21:54

11:21:55

11:21:57

11:21:58

11:21:58

11:22:00

11:22:02

11:22:03

11:22:09

11:22:09

11:22:13

11:22:13

1 a diagram of the building, I could show you. But it was 11:22:23
2 on the backside of the seminary near the chapel, it's a 11:22:27
3 separate building, and adjacent to the Friars' chapel, 11:22:38
4 and it had both inside and outside entrances and exists 11:22:39
5 to it. 11:22:44

6 Q. Okay. Was it at all near the faculty housing? 11:22:46

7 A. No, it was separate from that. 11:22:49

8 Q. How about the student housing, was it at all 11:22:50
9 near to that? 11:22:54

10 A. No, it was some distance from the infirmary -- 11:22:56
11 from the dormitories. 11:22:58

12 Q. Were there any Friars that had, during your 11:23:01
13 time now, were there any Friars that had any sort of 11:23:03
14 regular duties at the infirmary? 11:23:09

15 A. Yes. Mario Cimmarrusti was the new Prefect of 11:23:14
16 Discipline and he also took charge of helping in the 11:23:16
17 infirmary. 11:23:19

18 Q. What sort of help would he render? 11:23:23

19 A. Well, it's -- the best of my knowledge, he 11:23:30
20 was -- he didn't have the official title of infirmarian, 11:23:34
21 because that always was given to a student. In the past 11:23:37
22 the major work in this infirmary was handled by 11:23:40
23 students, rather than by faculty, but there was a 11:23:44
24 faculty overseer, but the students did most of the
25 actual work in the infirmary. So when Mario came, he

1 assumed a lot of that responsibility of being also the 11:23:55
2 infirmarian. 11:23:57

3 Q. As well as a faculty overseer? 11:23:57

4 A. Yes. 11:24:01

5 Q. Were there any other -- during your time at St. 11:24:04
6 Anthony's, were there any other faculty or Friars that 11:24:06
7 had regular duties at the infirmary? 11:24:06

8 A. No. 11:24:12

9 Q. To your recollection, did Mario Cimmarrusti 11:24:15
10 during the entire time that you were there act as a 11:24:17
11 faculty overseer for the infirmary? 11:24:17

12 A. Yes. 11:24:20

13 Q. And also do these unofficial and infirmarian 11:24:22
14 duties? 11:24:22

15 A. Yes. 11:24:28

16 Q. What sort of things were treated at the 11:24:29
17 infirmary? 11:24:34

18 A. Well, historically it was mainly for short-term 11:24:39
19 illnesses. We were very close to a hospital, so if it 11:24:42
20 were more serious, we would take them to the hospital. 11:24:48
21 So this was only for colds or injuries in sports that 11:24:54
22 were temporary, things of that nature. Most often it 11:24:58
23 was people had indispositions of one kind or another 11:25:00
24 that were a very short time.

25 Q. Would people stay for any length -- let me

1 rephrase that. 11:25:06

2 Would any student stay overnight in the 11:25:06
3 infirmary? 11:25:07

4 A. Yes, that would happen. 11:25:11

5 Q. Was that a frequent occurrence? 11:25:13

6 A. It depends on which year you're talking about. 11:25:14
7 It would vary. Sometimes if it was like a flu season or 11:25:18
8 something, we would have several in the infirmary; other 11:25:21
9 times it would stand empty for long periods of time. 11:25:24

10 Q. Okay. There were beds I guess in the 11:25:25
11 infirmary? 11:25:26

12 A. About twelve, as I remember. 11:25:35

13 Q. Was there any ability to dispense any kind of 11:25:39
14 medications from the infirmary? 11:25:46

15 A. Aspirin, cold tablets, lots of alcohol for 11:25:53
16 rubbing, not for drinking, and things of that nature. 11:25:58
17 Nothing -- unless it were a student who had a 11:26:01
18 prescription, that needed a certain medication, but 11:26:05
19 other than that, it was only over-the-counter kinds 11:26:05
20 of... 11:26:08

21 Q. So if a student had a prescription, what role 11:26:10
22 would the infirmary play in that? 11:26:13

23 A. Most likely be in charge of it and the 11:26:18
24 dispensing of it.

25 Q. They would interact with the pharmacist or

1 something or the infirmary would interact -- 11:26:26

2 A. I'm trying to remember if there were any 11:26:30
3 instances if someone needed a special medication. Our 11:26:33
4 entrance requirements were pretty strict as far as 11:26:35
5 health was concerned, so we generally didn't take people 11:26:39
6 that had to have insulin or other kinds of medication. 11:26:44
7 So I don't believe that we, in my time there, that we 11:26:46
8 had much reason to do that. 11:27:00

9 Q. Do you have any idea as to how much time on a 11:27:05
10 consistent basis Father Cimmarrusti had to help in the 11:27:05
11 infirmary? 11:27:07

12 MR. MATIASIC: Object. It's vague and 11:27:09
13 ambiguous as to time. 11:27:10

14 BY MR. DeMARCO: 11:27:13

15 Q. Was this -- it wasn't a full-time position? 11:27:15

16 A. No, it was a sideline completely. 11:27:18

17 Q. And the amount of time he would spend there 11:27:20
18 would vary depending on the number of -- 11:27:21

19 A. Yes, depend -- 11:27:23

20 MR. MATIASIC: Father, let him finish his 11:27:24
21 question first. 11:27:26

22 MR. DeMARCO: Thank you, Counsel. 11:27:28

23 Q. When there were students that were in the 11:27:31
24 infirmary, what were some of the things that you would
25 have expected Father Cimmarrusti to have been doing?

1 A. To check on them to make sure that they were 11:27:45
2 feeling comfortable and that they were -- their meals 11:27:50
3 were brought to them, that they -- you just ask how they 11:27:54
4 were feeling, I guess. And if there were need, he would 11:27:59
5 call the school doctor, [REDACTED], [REDACTED], who was 11:28:04
6 very helpful, and he was near retirement at that point, 11:28:08
7 and so he came up on a moment's notice to take care of 11:28:10
8 anyone who was really seriously sick. 11:28:12

9 Q. How would you spell Dr. [REDACTED]? 11:28:15

10 A. [REDACTED] and the first time is [REDACTED]. 11:28:21

11 Q. Do you have any recollection of whether he is 11:28:21
12 still living? 11:28:23

13 A. No, he is deceased. 11:28:33

14 Q. Students having to spend the night in the 11:28:37
15 infirmary, anyone checking up on them during the evening 11:28:40
16 or early morning? 11:28:41

17 MR. HANCE: Counsel, I just want to make sure, 11:28:43
18 with all these questions, we're talking specifically 11:28:46
19 when Father Harris was Rector? 11:28:51

20 MR. DeMARCO: Absolutely. Absolutely. 11:28:52
21 Counsel, thank you. If you like, I can rephrase the 11:28:53
22 question. 11:28:54

23 Q. During your time there at St. Anthony's, 11:28:58
24 occasionally I guess there were students that would have
25 to spend the night in the infirmary for whatever reason?

1 A. Yes.

2 Q. Anyone checking up on them during the course of
3 the late evening, early morning?

4 A. It would be customary to do that, because we
5 had bed-check for all the dormitories. We had three
6 different dormitories, so it was treated like a
7 dormitory.

8 Q. Okay. Who would be doing the bed-check in the
9 infirmary?

10 A. Either the Prefect of Discipline or his
11 assistant.

12 Q. And did Mario Cimmarrusti have more than one
13 assistant --

14 A. No --

15 Q. -- during your time there?

16 A. -- only one at a time.

17 Q. And who was his assistant while you were there?
18 Or maybe I misunderstood. I think you said he only had
19 one at a time.

20 A. Yes. I am trying to remember.

21 MR. MATIASIC: And, Counsel, if I could help
22 you here. Are you speaking of Friar assistants or
23 student assistants or both?

24 MR. DeMARCO: Either.

25 MR. MATIASIC: Okay.

1 THE WITNESS: Well, there are always student 11:29:53
2 assistants. So that's one of the things the upper 11:29:55
3 classmen did. They were appointed to that position. 11:30:08
4 And then in my time -- I'm trying to think of his last 11:30:13
5 name. Father [REDACTED]. 11:30:17

6 MR. HALE: [REDACTED]? [REDACTED]? 11:30:18

7 THE WITNESS: [REDACTED]. Thank you. 11:30:18

8 BY MR. DeMARCO: 11:30:22

9 Q. So was he the only Friar assistant or Priest 11:30:23
10 assistant -- 11:30:24

11 A. Yes. Yes. 11:30:26

12 Q. Please wait until I finish asking. I think we 11:30:26
13 both -- 11:30:28

14 MR. MATIASIC: Make sure he finishes his 11:30:28
15 question before you give an answer. 11:30:28

16 BY MR. DeMARCO: 11:30:31

17 Q. We both know what I am going to ask and that's 11:30:34
18 great. The only reason we're going through this 11:30:36
19 exercise is otherwise the record is unclear later on. 11:30:42

20 So Father [REDACTED] -- 11:30:43

21 A. [REDACTED]. 11:30:45

22 Q. -- is it accurate to say he was the only Priest 11:30:54
23 assistant for Mario Cimmarrusti as Prefect of Discipline 11:30:58
24 during your time at St. Anthony's?

25 A. As best I can remember.

1 Q. There may have been others, but you don't
2 remember?

3 A. Right.

4 Q. To your knowledge, did Father Cimmarrusti have
5 any special training for assisting in the infirmary?

6 A. Not that I would know of as being -- you know,
7 other than his special interest in it and a desire to be
8 helpful, but I don't think he had any special training.

9 Q. How was he selected or was he -- how did he
10 come about being --

11 A. Well, it was a Provincial appointment.

12 Q. Well, okay. Let me back up.

13 It was a Provincial appointment to work in the
14 infirmary?

15 A. No, to be the Prefect of Discipline.

16 Q. Was working in the infirmary a natural duty of
17 the Prefect of Discipline?

18 A. It was assumed.

19 MR. MATIASIC: Father Harris, you have got to
20 wait until he finishes asking.

21 THE WITNESS: Sorry.

22 MR. MATIASIC: I know you can anticipate what
23 he is asking, but just so the record is clear.

24 THE WITNESS: Okay.
25

1 BY MR. DeMARCO:

2 Q. I think I asked you earlier whether you had any
3 understanding of whether Martin McKeon had any duties in
4 the infirmary before he left. Do you have any
5 understanding of that?

6 A. No.

7 Q. And Martin McKeon was the Prefect of Discipline
8 prior to Cimmarrusti?

9 A. Yes.

10 Q. I think you mentioned a moment ago that it was
11 sort of assumed as Prefect of Discipline Father
12 Cimmarrusti would have duties in the infirmary?

13 A. Yes.

14 Q. Why is that?

15 A. Well, the theory of our responsibility was that
16 life of the seminarians was sort of divided between the
17 faculty, responsible for their intellectual and cultural
18 and overall human development, and the physical aspects
19 of a seminarian's life, which were the responsibility of
20 the Prefect. So there was --

21 Q. Prefect of Discipline?

22 A. The Prefect of Discipline.

23 Q. Were there any other prefects at St. Anthony's
24 while you were there?

25 A. No.

1 Q. Were there any particular qualifications needed 11:33:08
2 for being a Prefect of Discipline? 11:33:14

3 A. That was not up to me to say. The Provincial 11:33:16
4 Definitorium made that decision. 11:33:19

5 Q. I think you mentioned when we were here maybe a 11:33:25
6 month ago part of your duties as Rector were supervising 11:33:26
7 also faculty? 11:33:27

8 A. Yes. 11:33:29

9 Q. And that would have also included supervising 11:33:33
10 whoever served as Prefect of Discipline? 11:33:34

11 A. Would you repeat the question? 11:33:39

12 Q. Part of your duties as Rector were supervising 11:33:39
13 faculty? 11:33:40

14 A. Yes. 11:33:42

15 Q. And also then that would include the Prefect of 11:33:42
16 Discipline? 11:33:43

17 A. Yes. 11:33:48

18 Q. What manner of supervision did you employ with 11:33:50
19 regards to the Prefect of Discipline? 11:33:55

20 A. Well, we had regular faculty meetings and the 11:33:59
21 Prefect would make a report, not only to me but to the 11:34:02
22 entire faculty, and so that was one of the ways that I 11:34:07
23 was aware of what was going on. As Rector, I felt a 11:34:11
24 certain responsibility to visit the infirmary, which I
25 did whenever I found out there was anyone there. My

1 office was adjacent to the secretary's office, and she 11:34:23
2 would have an attendance report, so I would check with 11:34:25
3 her each day to find out if anyone was in the infirmary. 11:34:29

4 Q. Those attendance reports, were they saved? 11:34:30

5 A. Would you repeat that? 11:34:34

6 Q. Were the attendance reports you just referred 11:34:35
7 to saved? 11:34:35

8 A. Yes. 11:34:35

9 Q. Where? 11:34:37

10 A. In the Rector's office. 11:34:38

11 Q. For how long? 11:34:44

12 A. They became ultimately a part of the student's 11:34:48
13 file. They were the summary of the attendance, not 11:34:52
14 individual reports, but the summary of attendance. 11:35:01

15 Q. I cut you off as to what manner of supervision, 11:35:04
16 excuse me, that you would employ with regard to the 11:35:05
17 Prefect of Discipline. 11:35:11

18 A. Well, I have indicated the report of the 11:35:14
19 Prefect to the faculty, and it would be particularly, 11:35:18
20 since we treated each individual student in our faculty 11:35:22
21 meetings, he would give any kind of report on the health 11:35:26
22 of the student or any need, special needs, that the 11:35:29
23 student might have, and so that would be part of his 11:35:32
24 regular report to the faculty.

25 Q. So his regular report, would it go student by

1 student?

11:35:36

2 A. Yes.

11:35:39

3 Q. For every student at the school?

11:35:41

4 A. Each individual student.

11:35:43

5 Q. So it would indicate, among other things, I
6 think you just mentioned whatever health concerns?

11:35:46

11:35:47

7 A. Right.

11:35:49

8 Q. Whatever other special needs?

11:35:50

9 A. Yes.

11:35:51

10 Q. Anything else?

11:35:54

11 A. That would be especially academic, if they were
12 falling behind and they needed tutoring, for example.

11:35:58

11:35:59

13 Q. Anything else?

11:36:03

14 A. If there was some behavior problem connected
15 with the student.

11:36:04

11:36:04

16 Q. Anything else?

11:36:09

17 A. Well, we had a whole check list of
18 qualifications we were looking for, or qualities in our
19 student, and they would go through those individually.
20 So then when I would meet with the students afterwards,
21 I would report back to them what the faculty had said,
22 summarize that.

11:36:13

11:36:16

11:36:21

11:36:24

11:36:25

11:36:28

23 Q. Let me make sure I'm understanding correctly.

11:36:29

24 There was a report that the Prefect of Discipline
25 prepared?

1 A. Yes. 11:36:35

2 Q. And this report would go student by student? 11:36:35

3 A. Yes. 11:36:39

4 Q. And it had all these various -- reflected these 11:36:40
5 various things you just mentioned? 11:36:40

6 A. Mm-hmm. 11:36:45

7 Q. Did that report also include a checklist? Did 11:36:48
8 the report of the Prefect of Discipline also include the 11:36:52
9 checklist of the various qualities you were looking for? 11:36:52

10 A. Yes. 11:36:56

11 Q. And then this was presented to the faculty? 11:36:57

12 A. Yes. 11:37:01

13 Q. Did the faculty create any separate documents? 11:37:05

14 A. Well, actually it was just the one document, 11:37:05
15 and -- 11:37:06

16 Q. The Prefect? 11:37:08

17 A. It would be filled out, yes. 11:37:10

18 Q. The report prepared by the Prefect of 11:37:10
19 Discipline? 11:37:11

20 A. Yes. 11:37:15

21 Q. Was it added to or somehow changed or -- 11:37:17

22 A. It was made part of the student's file. 11:37:22

23 Q. Let me finish -- let me be a little more 11:37:22
24 specific in the question.

25 Mario Cimmarrusti was the Prefect of Discipline

1 while you were there? 11:37:28

2 A. Mm-hmm. 11:37:34

3 Q. And he prepared reports for students, on the 11:37:34

4 students? 11:37:35

5 A. Yes. 11:37:38

6 Q. How often was the report prepared? 11:37:39

7 A. Every three months. 11:37:42

8 Q. So he prepared a report every three months on 11:37:44

9 all the students at the seminary? 11:37:45

10 A. Mm-hmm. 11:37:48

11 Q. Okay. Pretty voluminous report? 11:37:51

12 A. Usually not. Most often brief. 11:37:53

13 Q. Per student? 11:37:53

14 A. Yes. 11:37:55

15 Q. So it wasn't one big report? 11:37:55

16 A. No. 11:37:57

17 Q. It was a report by student? 11:38:00

18 A. Yes. 11:38:04

19 Q. And then he would forward that to the faculty? 11:38:06

20 A. It would be read to the faculty. 11:38:09

21 Q. It would be read to the faculty. They wouldn't 11:38:10

22 review it themselves? 11:38:11

23 A. No. 11:38:13

24 Q. Who would read it?

25 A. I would read it as Rector.

1 Q. So you did in fact see those reports? 11:38:20

2 A. Yes. 11:38:23

3 Q. After it was read by you, was any alteration 11:38:25
4 made to the reports? 11:38:28

5 A. There was discussion, anything the faculty 11:38:32
6 wished to contribute for, you know, on behalf of the 11:38:34
7 student or something to add to. 11:38:34

8 Q. Or against? 11:38:37

9 A. Or against, right. 11:38:40

10 Q. And those sorts of comments were noted on the 11:38:41
11 reports themselves? 11:38:41

12 A. Yes. 11:38:45

13 Q. It was relatively common to have faculty adding 11:38:46
14 notes to the reports or no? 11:38:48

15 A. Yes. 11:38:53

16 Q. And then those reports, after the faculty made 11:38:56
17 additions to it, was there anything else added to those 11:38:57
18 reports? 11:38:58

19 A. No. 11:39:01

20 Q. Okay. And then they were ultimately placed in 11:39:02
21 the student's file? 11:39:03

22 A. Yes. 11:39:07

23 Q. Any steps in between after faculty had made 11:39:10
24 whatever comments and placing it in the student's file?

25 A. No.

1 Q. Was that report utilized by you in meeting with 11:39:15
2 the students? 11:39:15

3 A. Yes. 11:39:15

4 Q. Did you have it in front of you when you were 11:39:15
5 meeting with them? 11:39:15

6 A. Yes. 11:39:17

7 Q. Would you go over it with them? 11:39:17

8 A. Yes. 11:39:19

9 Q. Did the students ever see it? 11:39:19

10 A. Yes. 11:39:21

11 Q. Did they regularly see those reports? 11:39:25

12 A. We didn't give them any written report. It was 11:39:27
13 all oral. They merely heard it. 11:39:31

14 Q. So how often did you have meetings with 11:39:36
15 students where you would -- back up. 11:39:38

16 The meetings with students, you were the only 11:39:41
17 one that conducted them with regard to these reports? 11:39:41

18 A. Yes. 11:39:44

19 Q. How often would you have meetings with 11:39:44
20 students? 11:39:46

21 A. Every grading period. 11:39:47

22 Q. Every what period? 11:39:48

23 A. Every grading period. 11:39:50

24 Q. Was it a semester system there?

25 A. Yes.

1 Q. So twice a year? 11:39:52

2 A. Yes. 11:39:59

3 Q. How about upon entry each school year? 11:39:59

4 A. (Witness shakes head.) 11:40:02

5 Q. So you only had these sorts of meetings twice a
6 year? 11:40:02
11:40:05

7 A. Unless it was an emergency, and I can't at this
8 moment remember one, but that would be provided. 11:40:08
11:40:12

9 Q. And when you would have these meetings with the
10 students, would you show them the document, the
11 documented report during the meeting? 11:40:17
11:40:18
11:40:18

12 A. No. 11:40:20

13 Q. Would you read off of it to them? 11:40:20

14 A. I would. 11:40:22

15 Q. So they would never see the physical document? 11:40:23

16 A. No. 11:40:25

17 Q. Or at least the contents of it? 11:40:26

18 A. No. 11:40:55

19 Q. Okay. Was this preparing of reports by the
20 Prefect of Discipline something that, to your
21 understanding, predated Mario Cimmarrusti at St.
22 Anthony's? 11:40:58
11:41:02
11:41:02
11:41:04

23 A. It did. 11:41:07

24 Q. Sort of the normal practice, as far as you were
25 aware? 11:41:07

1 **A. Yes.**

2 **Q. Have you ever talked with Mario Cimmarrusti**
3 **about his duties as Prefect of Discipline?**

4 MR. MATIASIC: Are you talking -- hold on,
5 Father.

6 Are you talking about other than outside the
7 faculty meetings that he already discussed?

8 MR. DeMARCO: I don't think he mentioned that
9 he discussed with Cimmarrusti the faculty meetings. I
10 mean, whatever conversations he had with Father
11 Cimmarrusti about his --

12 THE WITNESS: Well, we had a lot of personal
13 conversations, you know. We were a very close-knit
14 community, and so we had informal gatherings regularly,
15 before meals, and a lot of discussion took place at that
16 time, and so it was not a formal meeting, but informal.
17 BY MR. DeMARCO:

18 **Q. So I'm sure there would have been occasions**
19 **where you would have been discussing with him how these**
20 **reports were being filled out?**

21 **A. Exactly.**

22 **Q. What were some of the things you might expect**
23 **him to be reporting on?**

24 **A. The conduct of the students in the dormitories,**
25 **for example. There might be an occasion for telling us**

1 what went on, if there was a big pillow fight or what he 11:42:26
2 did to quell it, things of that nature that might be of 11:42:26
3 interest. 11:42:28

4 Q. How would you know about the pillow fight or 11:42:30
5 "things of that nature"? 11:42:32

6 A. He would bring it up. 11:42:34

7 Q. Okay. You wouldn't have an independent 11:42:34
8 awareness? 11:42:35

9 A. No. 11:42:39

10 Q. Did you ever tour the dormitories? 11:42:42

11 A. Not regularly, but at times I did, yes. 11:42:45

12 Q. How often would you say? 11:42:45

13 A. I would say -- 11:42:46

14 MR. MATIASIC: I'm going to object vague and 11:42:49
15 ambiguous in terms of -- what do you mean by the term 11:42:49
16 "tour"? I mean -- 11:42:52

17 MR. DeMARCO: I'll clarify. 11:42:54

18 Q. While school is in session. 11:42:58

19 A. Walk-through, yes, I did, mm-hmm. 11:43:00

20 Q. Generally speaking, how often would you do 11:43:02
21 those walk-throughs? 11:43:06

22 A. Well, as Rector I prowled around a lot, so it's 11:43:09
23 hard for me to say exactly how often, but it would be on 11:43:15
24 the average I suppose of maybe twice a month.

25 Q. And how long would you spend in the dormitory?

1 A. Just a short time. 11:43:21

2 Q. Kind of walk through, walk out? 11:43:22

3 A. Just to walk through. 11:43:24

4 Q. Stop to talk with anyone? 11:43:27

5 A. Well, sometimes I did it when the students 11:43:31

6 weren't there, just checking on the facilities, to see 11:43:34

7 if the beds were made, you know, that sort of thing, 11:43:36

8 kind of a routine inspection. 11:43:38

9 Q. So you would go into the rooms? 11:43:40

10 A. These were open dormitories. 11:43:40

11 Q. Understood. 11:43:43

12 So the answer is yes? 11:43:51

13 A. Yes. 11:43:57

14 Q. Did Father Cimmarrusti ever talk with you about 11:43:59

15 what his feelings were about being Prefect of 11:44:03

16 Discipline? 11:44:05

17 MR. MATIASIC: Vague and ambiguous as to the 11:44:07

18 term "feelings," but go ahead. 11:44:12

19 THE WITNESS: I could surmise that he enjoyed 11:44:16

20 it, that it was a pleasure for him, that he liked being 11:44:17

21 Prefect of Discipline. 11:44:17

22 BY MR. DeMARCO: 11:44:19

23 Q. What makes you surmise that? 11:44:21

24 MR. MATIASIC: Father, the question

25 specifically was did Father Cimmarrusti ever talk to you

1 about his feelings about being Prefect of Discipline. 11:44:28

2 Not your surmise. 11:44:31

3 MR. DeMARCO: I'll get -- it's fine. I'll go 11:44:32
4 however he wants to go with it. I mean, I think he is 11:44:35
5 talking about communicative conduct, so... 11:44:38

6 Q. What was it that made you come to that surmise 11:44:41
7 that he liked being Prefect? 11:44:50

8 A. Well, the fact that he enjoyed presiding at 11:44:50
9 meals, would be an example. 11:44:50

10 Q. He enjoyed presiding at meals with the 11:44:51
11 students? 11:44:56

12 A. Students. Strangely enough, the faculty had a 11:44:59
13 separate dining room and several times we brought up at 11:45:02
14 our faculty meetings would it be better if we all ate 11:45:07
15 together, and I brought that up specifically myself, and 11:45:09
16 he objected. He thought that was invading his 11:45:12
17 territory. That would be an example. 11:45:17

18 Q. You would be invading his territory if you came 11:45:17
19 over -- 11:45:21

20 A. If the faculty came to the meals, because he 11:45:23
21 was in charge of everything; he wanted that position of 11:45:25
22 being in charge. 11:45:29

23 Q. So he discouraged you from having meals with 11:45:30
24 him and the students? 11:45:30

25 A. Yes.

1 Q. Did you think that at all odd? 11:45:33

2 A. No. 11:45:46

3 Q. Anything else that led you to believe he 11:45:49
4 enjoyed being Prefect of Discipline? 11:45:56

5 A. Well, this is again maybe as a surmise, but one 11:46:00
6 of the previous Prefects of Discipline, Father [REDACTED] 11:46:08
7 [REDACTED], who is still living, had been a Prefect for 11:46:09
8 many, many years and was Prefect during Mario's time in 11:46:11
9 the minor seminary. And he admired him tremendously, 11:46:16
10 and so he sort of modeled on Father [REDACTED] and he tried 11:46:22
11 to run the same kind of ship that [REDACTED] ran. So that 11:46:25
12 would be a guess on my part, because I did not attend 11:46:26
13 the minor seminary. 11:46:28

14 MR. MATIASIC: Don't guess, Father. Only 11:46:31
15 testify to things you personally are aware of. 11:46:32

16 THE WITNESS: Thanks. 11:46:32

17 BY MR. DeMARCO: 11:46:34

18 Q. [REDACTED], how do you spell his last name? 11:46:38

19 A. [REDACTED]. 11:46:39

20 Q. I'm sorry? 11:46:46

21 A. [REDACTED]. [REDACTED], first name. 11:46:48

22 He is living in Los Angeles at this time. 11:46:49

23 Q. Still a Priest? 11:46:50

24 A. Yes.

25 Q. How old do you think he is?

1 A. He is 92.

2 MR. DeMARCO: I think counsel will almost be
3 willing to stipulate he is aged.

4 MR. HABEL: He is old.

5 BY MR. DeMARCO:

6 Q. Do you have any understanding of his health?

7 Do you have any understanding of how his health
8 is?

9 A. The last word?

10 Q. His health, do you have any understanding of
11 whether he is in poor health, good health, Father
12 [REDACTED]?

13 A. He was elected Secretary of the Province so he
14 came --

15 Q. Currently. Any understanding of whether Father
16 [REDACTED] is in poor health, okay health?

17 A. No, he is quite good, good health.

18 Q. All right. Have you had communications with
19 him over the years since leaving St. Anthony's?

20 A. On special occasions, but not much in the way
21 of...

22 Q. Did Father [REDACTED] come and visit St. Anthony's
23 while you were there?

24 A. No.

25 Q. How was it that you came to be aware that he

1 and Father Cimmarrusti had any kind of relationship? 11:48:10

2 A. The conversations I had and times that he would 11:48:14
3 speak about [REDACTED]. And [REDACTED] was sort of an 11:48:19
4 institution. We would talk about how the boys at night 11:48:22
5 would hear his rosary beads clicking, so they knew he 11:48:24
6 was coming, so they behaved themselves. And then when 11:48:27
7 he left, they would go back to doing whatever they were 11:48:30
8 doing. So, you know, he was well-known for his 11:48:34
9 strictness and made sure that everybody toed the line 11:48:38
10 and really did their jobs. Everyone had assignments and 11:48:41
11 he made sure they did those and were on the ball. 11:48:44

12 Q. And these are things that you gathered from 11:48:45
13 talking with Father Cimmarrusti? 11:48:46

14 A. And [REDACTED]. 11:48:47

15 Q. And [REDACTED]? 11:48:47

16 A. Yes. 11:48:49

17 Q. So while you were at St. Anthony's, did you 11:48:51
18 have communications with [REDACTED]? 11:48:53

19 A. From time to time. 11:48:54

20 Q. How frequently, would you say? 11:48:55

21 A. No. 11:48:58

22 Q. How frequently, would you say? 11:49:02

23 A. At chapters, meetings of the whole Province, 11:49:03
24 things of that nature.

25 Q. And at those meetings --

1 A. No. 11:49:06

2 Q. -- would you talk about his days at St. 11:49:06

3 Anthony's? 11:49:07

4 A. No. 11:49:07

5 Q. No? 11:49:14

6 A. Just kind of reminiscing. 11:49:17

7 Q. Did you have any reason to believe [REDACTED] 11:49:20

8 [REDACTED] and Mario Cimmarrusti maintained any kind of 11:49:23

9 relationship while Mario was at St. Anthony's? 11:49:23

10 A. No. 11:49:26

11 MR. MATIASIC: Object; calls for speculation. 11:49:27

12 THE WITNESS: I would guess not. 11:49:28

13 BY MR. DeMARCO: 11:49:31

14 Q. Mario never told you: Hey, I have had 11:49:32

15 conversation with him recently? 11:49:34

16 A. No. 11:49:35

17 Q. Got a letter from -- 11:49:36

18 A. No. 11:49:37

19 Q. Nothing of that nature? 11:49:37

20 A. No. 11:49:43

21 Q. But you didn't get any sense from your dealings 11:49:47

22 with Mario and with Father [REDACTED] that there was any 11:49:50

23 tension between Father Cimmarrusti and [REDACTED] while you 11:49:50

24 were at St. Anthony's?

25 A. No.

1 Q. Have you ever heard of Father [REDACTED] having any
2 allegations of abuse against him?

3 A. No.

4 Q. Do you know if Father Cimmarrusti sought anyone
5 out to help mentor him as to what the duties of a
6 Prefect of Discipline should be?

7 MR. MATIASIC: Vague and ambiguous as to the
8 term "mentor" and calls for speculation.

9 MR. DeMARCO: I'll rephrase. I'm not trying
10 to --

11 Q. Did he seek anyone else's advice, to your
12 awareness?

13 MR. MATIASIC: Again, calls for speculation,
14 but go ahead.

15 THE WITNESS: Well, during my stay at the
16 seminary, the ten years that I was there, we made a lot
17 of major changes in the way the seminary operated, and
18 these were all results of discussions with the faculty.
19 So nothing that I inaugurated on my own. But we
20 modified the whole system, for example, from having a
21 Prefect in charge of everyone, having a moderator, one
22 for each class, freshman through senior, and a lot of
23 the things that a Prefect formerly did were now taken
24 over by the moderators.

25 And the other thing that we did, this would

1 take a long time to explain, but we tried to make the 11:51:33
2 seminary a little bit more like a typical high school, 11:51:37
3 not completely so, but more typical of the kind of 11:51:40
4 experience that a student at that age would have. 11:51:40

5 BY MR. DeMARCO: 11:51:45

6 Q. When did these changes start being implemented? 11:51:57

7 A. In around '66, '67, and it was my personal 11:52:01
8 belief that we should more normalize the life of the 11:52:06
9 seminarians, and that was accomplished through a lot of 11:52:11
10 different changes that took place and so -- but that was 11:52:16
11 done with mutual just consultation and decision making. 11:52:22

12 Q. Was it also your belief that Brothers should 11:52:29
13 have more of a role in operating the seminary? 11:52:31

14 A. Correct. 11:52:33

15 Q. Did that ever conflict, to your understanding, 11:52:38
16 with Mario Cimmarrusti's views? Did you and Mario 11:52:42
17 Cimmarrusti ever come to loggerheads over that sort of 11:52:42
18 thing? 11:52:45

19 A. Not to my knowledge. 11:52:52

20 Q. You're not aware of him raising any objection 11:52:55
21 to Brothers having a greater role in running the 11:52:55
22 institution? 11:52:55

23 A. No. 11:53:04

24 Q. Was he happy to give up some of his duties to
25 the moderators?

1 MR. MATIASIC: Calls for speculation. 11:53:07

2 BY MR. DeMARCO: 11:53:09

3 Q. To your awareness. 11:53:10

4 A. Not that I'm aware of. 11:53:13

5 Q. You're not aware of him saying anything one or 11:53:13
6 the other? 11:53:14

7 MR. MATIASIC: Same objection. 11:53:14

8 BY MR. DeMARCO: 11:53:16

9 Q. You can answer, if you can. 11:53:16

10 A. No. 11:53:22

11 Q. Do you remember the names of any of the 11:53:24
12 moderators? 11:53:27

13 MR. MATIASIC: During his entire ten-year 11:53:27
14 period? 11:53:29

15 MR. DeMARCO: Yeah. 11:53:32

16 Q. Were there moderators prior to '66, '67? 11:53:33

17 A. No. 11:53:37

18 Q. So '66, '67, you remember any of the 11:53:38
19 moderators? 11:53:45

20 A. Brother [REDACTED] was a freshman moderator. I 11:53:50
21 think our present Provincial, Father Mel Jurisich, was a 11:53:55
22 moderator, sophomore, juniors; I can't remember exactly. 11:54:02
23 And [REDACTED], Redemptorist Priest, was also a 11:54:09
24 moderator of the seniors. At this moment, those are the
25 ones I remember.

1 Q. Is Father [REDACTED] still a Franciscan? 11:54:14

2 A. Lay Brother. 11:54:15

3 Q. I'm sorry? 11:54:16

4 A. Lay Brother. 11:54:17

5 Q. He is a lay Brother? 11:54:19

6 A. Nonordained. 11:54:20

7 Q. Do you know his full name? 11:54:29

8 A. [REDACTED]. 11:54:30

9 Q. Still living, I take it? 11:54:31

10 A. Yes. 11:54:35

11 Q. Any idea how old he is? 11:54:39

12 A. He would be [REDACTED]. 11:54:41

13 Q. Any idea where he resides? 11:54:45

14 A. Not at this moment, I don't remember. 11:54:54

15 Q. What sort of duties did they start assuming, 11:54:55

16 the moderators? 11:55:00

17 MR. DeMARCO: '66, '67? Exclusively that year, 11:55:02

18 right? Because he testified that the moderator started 11:55:06

19 in '66, and he was there until '74. So I'm just trying 11:55:06

20 to -- 11:55:09

21 MR. DeMARCO: I'm frame it. I appreciate that, 11:55:09

22 Counsel. 11:55:12

23 Q. You mentioned that the changes sort of started 11:55:16

24 around the school year '66-67, and then probably more

25 changes kept going?

1 A. Exactly.

2 Q. Well, I'll narrow it first, and then go on to
3 the later.

4 '66-67, to your understanding, what duties or
5 roles were given to the moderators that had previously
6 been the domain of the Prefect of Discipline?

7 A. Supervision of the dormitories would be one.

8 Q. Okay.

9 A. And having class meetings, which would not have
10 occurred before. That was sort of a new thing. It
11 wasn't really taking it away from the Prefect, it was
12 something new. The same thing with what we call class
13 masses; they would gather every week, and in the case of
14 [REDACTED], who was not ordained, he would have to ask one of
15 the other Friars to be the celebrant.

16 Q. Supervision of dorms, what duties were given to
17 the moderators in that school year that you're aware of?

18 A. Visitation, making sure that everything was in
19 order.

20 Q. And they lived themselves in the dorms?

21 A. No.

22 Q. Mario Cimmarrusti still lived in the dorms?

23 A. Yes.

24 Q. Any other Friar --

25 A. Not in the dorm, but in his office near the

1 dorm.

11:56:37

2 Q. Same building?

11:56:39

3 A. Yes.

11:56:42

4 Q. Was there anything separate -- other than the
5 door specifically to his office, was there any major
6 hallways separating his office from the dormitories?

11:56:45

11:56:49

11:56:52

7 A. It was one corner of an open dorm.

11:56:53

8 Q. Gotcha.

11:56:58

9 '66, '67, anyone other than students and Mario
10 Cimmarrusti living in the student dorm building?

11:57:01

11:57:11

11 A. I'm having to put together three different
12 dorms. So no.

11:57:15

11:57:18

13 Q. How about the year prior, anyone other than he
14 and the students living in the dormitories?

11:57:20

11:57:21

15 A. Repeat the question.

11:57:26

16 Q. Prior school year, '65-66, anyone other than
17 students and Mario Cimmarrusti living in the dormitory
18 buildings?

11:57:30

11:57:30

11:57:33

19 MR. MATIASIC: Counsel, I just wanted a
20 clarification. Are you saying a specific floor?
21 Because you say "dormitory buildings," and the buildings
22 are kind of interconnected there.

11:57:36

11:57:39

11:57:41

11:57:42

23 MR. DeMARCO: Thank you.

11:57:45

24 Q. The dormitory was part of another building
25 also?

1 A. Three different buildings, yes. 11:57:55

2 Q. When I -- there were floors, I take it, of 11:57:58
3 those buildings that were part of the dormitory? 11:58:00

4 Let me make sure I'm getting my understanding 11:58:03
5 correct then. You mentioned there is three different 11:58:06
6 buildings in which the dormitories were housed? 11:58:07

7 A. Yes. 11:58:09

8 Q. And any one of those buildings the dormitory 11:58:14
9 portion was not the only part of those buildings? 11:58:18

10 A. Yes. I can give you a specific example. 11:58:19

11 Q. Yes, thank you. 11:58:22

12 A. The senior dormitory was located above the 11:58:31
13 dining room. And in a three-story building, if you want 11:58:35
14 to imagine it, the basement floor was an art lab, the 11:58:38
15 second floor was the kitchen and dining room, and the 11:58:41
16 third floor was the dormitory, and the other dormitories 11:58:45
17 were similarly located as floors of buildings that had 11:58:52
18 other purposes besides dormitory. 11:58:54

19 Q. Okay. I'll go back to the question that 11:58:57
20 started us on that train of thought. For any of the 11:59:01
21 three dormitory buildings, buildings in which the 11:59:04
22 dormitories were located, were there residences for 11:59:07
23 anyone other than students and Mario Cimmarrusti? 11:59:07

24 A. No.

25 Q. And that same question for the '65-66 school

1 year?

2 A. Mm-hmm.

3 Q. Same answer?

4 A. Yes.

5 Q. Did you have any discussions with Father
6 Cimmarrusti about the moderators taking over some of the
7 supervision of the dorms?

8 A. No.

9 Q. Did anyone have conversations with him about
10 that, to your awareness?

11 MR. MATIASIC: Calls for speculation.

12 Go ahead.

13 THE WITNESS: I think I have answered the
14 question by saying that we did this collaboratively with
15 the whole faculty. So there was no opposition. It was
16 something we all agreed on.

17 BY MR. DeMARCO:

18 Q. As the changes you mentioned in '66-67, are
19 those the only changes in terms of increasing the
20 moderator duties -- well, strike that.

21 Are there any other duties they assumed, the
22 moderators, in the '66-67 school year that had
23 previously been the domain of the Prefect of Discipline?

24 A. Well, if I could clarify a little bit what a
25 moderator was supposed to do.

1 Q. Go ahead.

2 A. It was like a personal counselor for each of
3 the students in his particular class. So it wasn't
4 official counseling, but it was the idea that a student
5 could come to him with a particular problem or he was
6 available. The idea was to create a little more of a
7 family structure for each class, and then it was
8 unpredictable just what the moderator might be asked to
9 do. A student might want to see the moderator for
10 advice or consult with him for personal matters,
11 whatever. So they were kind of like a, to use an
12 expression, a big daddy for that particular class.

13 Q. So there was a moderator for each class?

14 A. Yes.

15 Q. So selected the moderators?

16 A. They were done -- this was by vote of the
17 faculty, nominated and then voted on.

18 Q. How was the vote taken?

19 A. Informally.

20 Q. Any ballots?

21 A. No.

22 Q. Nothing in writing then?

23 A. No.

24 Q. And did the moderators change by year, meaning
25 next school year were the same moderators in place?

1 A. I can't exactly answer it. I think that we
2 might have had one or two changes over the years, but I
3 can't at this moment recall them.

4 Q. So --

5 A. They pretty much stayed the same.

6 Q. So freshman moderators --

7 A. Yes.

8 Q. -- would be freshman moderator several years
9 running?

10 A. Right.

11 Q. He wouldn't be a moderator running that class
12 through?

13 A. No.

14 Q. Would it be accurate to say prior to the '66-67
15 school year the Prefect of Discipline then had some
16 responsibilities with regard to counseling students?

17 A. Unofficially, yes.

18 MR. MATIASIC: Counsel, we've been going for
19 about 45 minutes. Would this be a good time for a break
20 for five minutes?

21 MR. DeMARCO: That's fine, if you want.

22 MR. MATIASIC: Okay. Let's go off the record.

23 THE VIDEOGRAPHER: Just a moment please. Going
24 off the record. The time is 12:02 p.m.

25 (Recess taken)

12:02:08

12:02:09

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12:02:46

12:02:49

12:15:15

1	THE VIDEOGRAPHER: We're back on the record.	12:15:46
2	The time is 12:15 p.m.	12:15:47
3	BY MR. DeMARCO:	12:15:52
4	Q. Good afternoon, Father, again.	12:15:59
5	Father Harris, did Mario Cimmarrusti leave St.	12:16:02
6	Anthony's before, after, same time as you? Any	12:16:02
7	recollection?	12:16:04
8	A. We came at the same time.	12:16:05
9	Q. Okay.	12:16:06
10	A. 1964.	12:16:06
11	Q. Right.	12:16:08
12	A. But he left before I did.	12:16:12
13	Q. When did he leave, to your knowledge?	12:16:13
14	MR. MATIASIC: If you know.	12:16:14
15	THE WITNESS: I don't know.	12:16:15
16	BY MR. DeMARCO:	12:16:16
17	Q. Any general recollection as to when --	12:16:17
18	A. No.	12:16:18
19	Q. -- he was no longer there?	12:16:20
20	A. No. No.	12:16:22
21	Q. Before he left, did he talk with you about	12:16:23
22	leaving?	12:16:24
23	A. No.	12:16:26
24	Q. Did you have any warning before he left?	
25	A. No.	

1 **Q. Were you surprised?**

2 MR. MATIASIC: Vague and ambiguous as to
3 "surprised."

4 If you can answer that, go ahead.

5 THE WITNESS: It's a long time ago; I can't
6 remember. We're used to changes, that's one of our
7 things in the order. We take a vow of obedience. So we
8 just assume that the superiors, when they make a change,
9 had good reason to do so and we accept it. So when the
10 changes came out, we didn't speculate as to why or who,
11 just assumed that that was the right thing to do.

12 BY MR. DeMARCO:

13 **Q. But you have no idea whether he was anxious to**
14 **leave or not?**

15 **A. No.**

16 MR. MATIASIC: Calls for speculation.

17 BY MR. DeMARCO:

18 **Q. Do you have any recollection as to whether he**
19 **left during the school year, middle school year, after**
20 **school year?**

21 **A. It was after, because the changes always take**
22 **place at the end of a period of time.**

23 **Q. You're saying that because of the way things**
24 **are normally done?**

25 **A. Right.**

1 Q. Do you have a specific recollection? 12:17:24

2 A. No. 12:17:27

3 MR. MATIASIC: Only testify to what you 12:17:28
4 specifically know; okay. 12:17:28

5 THE WITNESS: Right. 12:17:31

6 MR. MATIASIC: So if you know that Father Mario 12:17:34
7 left after a school year, that's okay, but if not -- 12:17:37

8 MR. DeMARCO: And I appreciate Counsel's point. 12:17:38

9 Q. If you have reason to believe an answer to be 12:17:39
10 true, such as you were surmising when changes are 12:17:41
11 normally made, I have got no problem with you claiming 12:17:41
12 to know that. 12:17:41

13 MR. HALE: Can you read the last answer back? 12:17:41

14 (Whereupon the reporter read the record as 12:17:42
15 follows: 12:17:42

16 "Answer: It was after, because the changes 12:17:42
17 always take place at the end of a period of 12:18:06
18 time.") 12:18:06

19 BY MR. DeMARCO: 12:18:08

20 Q. When you say "end of a period of time," you 12:18:11
21 mean end of the school year? 12:18:13

22 A. Well, it just happens that way because it's in 12:18:18
23 July normally that that happens, so that's when the 12:18:19
24 changes were announced.

25 Q. Father [REDACTED], I think you mentioned

1 before was -- 12:18:25

2 A. Brother [REDACTED]. 12:18:29

3 Q. Brother [REDACTED] was Father Cimmarrusti's 12:18:31
4 assistant? No, that's inaccurate. 12:18:32

5 A. No. 12:18:33

6 Q. Who again did you mention -- 12:18:35

7 A. He was a moderator. 12:18:38

8 Q. Who was Cimmarrusti's assistant again? 12:18:40

9 A. [REDACTED]. 12:18:43

10 Q. Was this something -- how did he get selected 12:18:52
11 to be Father Cimmarrusti's assistant? 12:18:58

12 A. I cannot remember whether it was a Provincial 12:19:01
13 appointment or whether it was a faculty appointment. It 12:19:04
14 was one or the other. So it wasn't something that he 12:19:08
15 volunteered for; he was asked to do it, and I can't 12:19:12
16 remember exactly whether he was voted by the faculty or 12:19:14
17 whether he was appointed by the Provincial. 12:19:16

18 Q. Do you have any recollection as to what his 12:19:20
19 duties as Father Cimmarrusti's assistant were? 12:19:23

20 A. Like any assistant, he did whatever the boss 12:19:27
21 wanted him to do. So he took over a lot of the things 12:19:31
22 that Mario didn't have time for. I know he supervised 12:19:36
23 the sports program, which also fell to the Prefect, who 12:19:39
24 supervised it. He didn't have to do all the work, but
25 he was in charge of it.

1 Q. Anything else that he typically -- that [REDACTED]
2 typically did? 12:19:45
12:19:48

3 A. Some of the duties I mentioned before,
4 supervising the dorms, that sort of thing. 12:19:51
12:19:55

5 Q. When you say "supervising the dorms," what
6 duties did [REDACTED] have with regards to those, with
7 regards to supervising the dorms? 12:20:01
12:20:03
12:20:05

8 A. Well, they had to be there at bedtime and at
9 rising time, so those are the two major times that they
10 had to be in the dorms. 12:20:09
12:20:11
12:20:11

11 Q. Meaning? 12:20:14

12 A. When they went to bed at night and when they
13 got up in the morning. 12:20:15
12:20:19

14 Q. Meaning the faculty, those two, Cimmarrusti and
15 [REDACTED]? 12:20:21
12:20:22

16 A. [REDACTED]. 12:20:24

17 Q. [REDACTED]. All right. 12:20:28

18 And they did a bed-check at those times? 12:20:29

19 A. Yes. 12:20:32

20 Q. Sort of both of them doing it at the same time,
21 different places? 12:20:32
12:20:33

22 A. Yes. 12:20:38

23 Q. Did they keep written records of that? 12:20:41

24 A. No, I don't recall any records of that.

25 Q. Did Father [REDACTED] and Father Cimmarrusti

1 appear to have a friendly relationship with you? 12:21:05

2 A. Yes. 12:21:08

3 Q. Did Father Cimmarrusti appear to have any 12:21:11
4 friendly relationships with any of the other Friars 12:21:13
5 there at school, at the seminary? 12:21:16

6 A. I would hope with all of us. 12:21:18

7 Q. Just like in any group of people, there is 12:21:20
8 usually folks that we tend to talk with more than 12:21:24
9 others, or get along with better than others. Were 12:21:26
10 there any that you observed Father Cimmarrusti having 12:21:28
11 closer relationships with than others? 12:21:28

12 A. No. 12:21:33

13 Q. How about among student body, I mean, we're 12:21:36
14 talking a relatively long period of time, just about ten 12:21:38
15 years that he was there. During that time period, were 12:21:41
16 there any students that you saw that Father Cimmarrusti 12:21:43
17 appeared to get along well with? 12:21:45

18 MR. MATIASIC: Just object, vague and ambiguous 12:21:48
19 as to "get along well with." 12:21:50

20 If you can answer that, go ahead. 12:21:55

21 THE WITNESS: You know, it's hard to say 12:22:00
22 whether a given faculty member is popular or not. You 12:22:03
23 can base it on whatever evidence you have, and the 12:22:07
24 evidence that I have and the relationship that I saw,
25 day-by-day, was that Mario was well liked by the

1 students. 12:22:11

2 BY MR. DeMARCO: 12:22:15

3 Q. Understood. I wasn't intimating that he wasn't 12:22:17
4 anything other than popular. 12:22:19

5 But were there any particular students, I mean, 12:22:21
6 was there a student body president there, were there 12:22:23
7 students that he seemed -- and that was just 12:22:25
8 illustrative. I wasn't asking a question. 12:22:27

9 Were there any students that he seemed to get 12:22:32
10 along better with? I mean, we can all judge those sorts 12:22:35
11 of things. Did they spend more time, did they talk more 12:22:37
12 together, things of that nature? 12:22:38

13 A. Not that I was aware of. 12:22:49

14 Q. Did you ever go over to the dining hall where 12:22:51
15 the students would be eating while the students would be 12:22:52
16 eating? 12:22:55

17 MR. MATIASIC: At any time while he was at St. 12:22:55
18 Anthony's? 12:22:56

19 MR. DeMARCO: Yeah. 12:22:59

20 THE WITNESS: We had many times when we shared 12:23:01
21 meals together, on special feasts, special occasions. 12:23:05
22 So it wasn't that we never ate with them; it's just that 12:23:06
23 it was not a regular thing to do. 12:23:07

24 BY MR. DeMARCO:

25 Q. During the school year, how many times would

1 you estimate that sort of occurrence would happen? 12:23:13

2 A. Five or six times. 12:23:16

3 Q. During those five or six times, I take it some 12:23:19
4 students would just sit there eating and others had some 12:23:21
5 responsibilities during the dining time, or would that 12:23:24
6 be inaccurate? 12:23:27

7 A. Well, the students waited on the tables and 12:23:30
8 brought the food on and took it off, I mean... 12:23:33

9 Q. Were there particular students that were 12:23:36
10 assigned, you know, waiting on the tables? 12:23:41

11 A. We call them shifts. They had servants, 12:23:44
12 serving shift and dish shift; all of those things were 12:23:45
13 assigned. 12:23:49

14 Q. Did all students at some point occupy one or 12:23:50
15 the other of those shifts? 12:23:53

16 A. On a regular basis, yes. 12:23:55

17 Q. So were there any students that were excluded 12:23:57
18 from having to do that? 12:24:00

19 A. No. 12:24:05

20 Q. And were seating -- were there seating 12:24:10
21 arrangements or did students just sit wherever they 12:24:10
22 wanted? 12:24:17

23 A. I can't exactly remember that. It seems to me 12:24:22
24 that it was first-come, first-serve. So they just took
25 any table they wished.

1 Q. During these, you know, five, six occasions a 12:24:31
2 year, where would Cimmarrusti sit in relation to others 12:24:32
3 in the dining hall? 12:24:36

4 A. Well, there was an elevated platform at one end 12:24:40
5 or one side of the dining hall and he would sit there in 12:24:44
6 the center of the dining hall, and usually his assistant 12:24:47
7 or associate would sit with him there. So the two of 12:24:51
8 them would be on the platform with a table elevated on 12:24:52
9 the platform. 12:24:55

10 Q. And they would be the only two sitting at the 12:24:56
11 table? 12:24:57

12 A. Normally, yes. 12:25:00

13 Q. No students would ever sit with them, to your 12:25:01
14 awareness? 12:25:02

15 A. No. 12:25:05

16 Q. At any time while you were at St. Anthony's, 12:25:08
17 did any student ever come to you with any complaint 12:25:13
18 about Father Cimmarrusti, a complaint of any nature? 12:25:14

19 A. I can honestly say no. 12:25:20

20 Q. How about his assistant, any student ever come 12:25:23
21 to you and make a complaint about his assistant? 12:25:23

22 A. No. 12:25:26

23 Q. And when I ask using the word "complaint," 12:25:29
24 Father, you understand I'm not talking about a formal
25 written petition. That could include someone coming up

1 and just informally saying something to you. 12:25:38

2 A. I understand that, and the answer is no. 12:25:43

3 Q. Okay. Who was his successor as Prefect of 12:25:48
4 Discipline? 12:25:56

5 A. I'm sorry; I can't remember. 12:25:59

6 Q. Do you ever recall during your time at St. 12:26:03
7 Anthony's any student ever voicing any complaint or 12:26:08
8 concern to you about any member of the faculty? 12:26:09

9 MR. MATIASIC: When you are talking about 12:26:12
10 "complaint," the whole -- 12:26:13

11 MR. DeMARCO: This is as broad as it gets, 12:26:17
12 Counsel. You know, I don't like the grade he gave me. 12:26:18
13 As broad as it gets. 12:26:19

14 MR. MATIASIC: Just object it's vague and 12:26:20
15 ambiguous. 12:26:23

16 THE WITNESS: I cannot recall clearly any time 12:26:26
17 that any student complained to me about a faculty 12:26:27
18 member. 12:26:27

19 BY MR. DeMARCO: 12:26:30

20 Q. Do you think such ever happened? I understand 12:26:33
21 you are saying you don't have a particular memory, but 12:26:36
22 do you have a sense that any such complaints ever 12:26:38
23 occurred? 12:26:41

24 MR. MATIASIC: This is, once again, of any 12:26:41
25 kind? 12:26:41

1 MR. DeMARCO: Yes. 12:26:44

2 THE WITNESS: I cannot honestly remember any 12:26:48
3 time that a student complained to me about any 12:26:48
4 individual faculty member. 12:26:49

5 BY MR. DeMARCO: 12:26:53

6 Q. Okay. How about did Father Cimmarrusti ever 12:27:01
7 voice to you any complaint about any student? 12:27:03

8 A. Well, if you consider the things that we 12:27:07
9 discussed in faculty meetings, then the answer would be 12:27:07
10 yes. 12:27:09

11 Q. Okay. All right. 12:27:13

12 You mentioned some of the things that would be 12:27:16
13 on his report would be about behavior problems? 12:27:16

14 A. Yes. 12:27:20

15 Q. What sort of behavior problems do you recall? 12:27:25

16 A. Like boys always do, getting in fights on the 12:27:26
17 sports field. 12:27:28

18 Q. Okay. 12:27:35

19 A. Fits of temper, missing dish shifts, not doing 12:27:39
20 what they are assigned to do, things of that nature. 12:27:42

21 Q. Anything else you can think of? Any other 12:27:46
22 behavioral problems that he would have made comment 12:27:46
23 about? 12:27:59

24 A. I'm hard-pressed to say particular ones, but
25 usually Mario took matters into his hands right away, so

1 he didn't need any further help with them. So he was 12:28:11
2 pretty efficient in that respect. 12:28:20

3 Q. Part of his duties, at least up from '66 to 12:28:23
4 '67, were doing formal counseling for students? 12:28:23

5 A. Mm-hmm. 12:28:26

6 Q. Did he ever come and talk to you about any of 12:28:26
7 that? 12:28:29

8 A. I think he regarded those conferences that he 12:28:32
9 had as confidential. 12:28:37

10 Q. So he never came to you until -- prior to -- 12:28:40
11 prior to and including the '66-67 school year and said 12:28:43
12 something along the lines of: So and so is having 12:28:47
13 problems, I'm concerned about him, I have been 12:28:48
14 counseling him? 12:28:50

15 MR. MATIASIC: Counsel, let me object. Are you 12:28:53
16 talking about counseling outside of the context of a 12:28:58
17 penitent and clergyman? I mean, Father Cimmarrusti may 12:29:01
18 have been meeting with students in the context of 12:29:03
19 confession. I'm just trying to clarify your question 12:29:03
20 there. 12:29:05

21 MR. DeMARCO: I don't know that I'm making a 12:29:06
22 distinction. 12:29:06

23 MR. MATIASIC: Okay. 12:29:07

24 MR. DeMARCO: I don't know that, due to the
25 nature of my question, precisely what I'm asking. I'm

1 not asking about the content of a penitential 12:29:16
2 communication. That I'm not asking about. I'm asking 12:29:18
3 about whether or not Father Cimmarrusti ever 12:29:22
4 communicated to him, hey, such and such student is 12:29:25
5 having a problem, I have been counseling him, I'm 12:29:26
6 concerned about him. 12:29:27

7 THE WITNESS: That type of question would come 12:29:29
8 up only at faculty meetings. 12:29:31

9 BY MR. DeMARCO: 12:29:33

10 Q. Did he ever bring such up? 12:29:36

11 A. No. In faculty meetings, yes, if he was 12:29:36
12 concerned. 12:29:38

13 Q. Was he ever concerned? 12:29:46

14 A. Yes. 12:29:48

15 Q. Okay. Would he then give a description of 12:29:51
16 the -- what the nature of the concern was at the faculty 12:29:51
17 meeting? 12:29:53

18 A. Yes. 12:29:56

19 Q. Okay. And how many faculty would be in these 12:29:57
20 meetings? 12:30:01

21 A. Our faculty varied in size, but normally it was 12:30:02
22 about fifteen. 12:30:06

23 Q. Okay. Now, when you met with the students 12:30:10
24 yourself, would you ever communicate with them that the
25 faculty have a concern about you?

1 A. Definitely.

2 Q. So it would be accurate to say, then, that
3 those students would be aware that they're counseling
4 with Father Cimmarrusti, that you would become aware of
5 it?

6 MR. MATIASIC: Misstates his testimony.

7 THE WITNESS: It was the faculty who I would
8 report to them. I wouldn't specify which member of the
9 faculty.

10 BY MR. DeMARCO:

11 Q. Right. Was there -- other than Father
12 Cimmarrusti, did any other faculty counsel students
13 prior to '66, '67?

14 A. There was a school official counselor that was
15 a special office, and that was appointed by the
16 Provincial, the Definitorium, so that was separate from
17 my role.

18 Q. Anybody else?

19 A. And I might also indicate that because of the
20 confidential nature of his office, he did not vote on
21 students.

22 Q. Whose office?

23 A. The school counselor.

24 Q. Understood.

25 Did he actually --

12:30:18

12:30:21

12:30:23

12:30:23

12:30:25

12:30:27

12:30:30

12:30:31

12:30:31

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12:30:49

12:30:55

12:30:56

12:30:57

12:31:00

12:31:04

12:31:05

12:31:06

12:31:09

12:31:10

1 A. We called him Spiritual Director, but that's 12:31:15
2 the same thing as counselor. 12:31:17

3 Q. Did the Spiritual Director attend the faculty 12:31:18
4 meetings? 12:31:18

5 A. He did. 12:31:23

6 Q. Did he discuss his conversations? 12:31:26

7 A. He can speak on behalf of the students, but he 12:31:31
8 could not vote. It was sort of a split idea that he 12:31:34
9 contribute to the discussion, but he couldn't vote on 12:31:35
10 the student. 12:31:39

11 Q. Okay. Who did the students go to for 12:31:41
12 confession? 12:31:41

13 A. Excuse me? 12:31:43

14 Q. Who did the students go to for confession? 12:31:45

15 MR. MATIASIC: Calls for speculation. 12:31:47

16 Go ahead. You can answer. 12:31:52

17 THE WITNESS: To confession? 12:31:52

18 BY MR. DeMARCO: 12:31:54

19 Q. Yeah. Who would they give their confession to? 12:31:56

20 A. Well, we had regular times for confession in 12:32:02
21 the chapel and also they got to chose any confesser they 12:32:03
22 wished. That was their option. 12:32:12

23 Q. Did they have to make it known who they were 12:32:14
24 choosing as a confesser? 12:32:14

25 A. No.

1 Q. In your experience, did they normally chose
2 just one confesser?

3 A. No.

4 Q. In your mind, were Mario Cimmarrusti's
5 counseling duties different from hearing confession?

6 A. Yes.

7 Q. In what way were they different?

8 A. Well, I think it was oftentimes it would be
9 Mario who took the initiative; in other words, he would
10 call the student in to discuss a problem that he noticed
11 with a student, rather than a student going to him. So
12 he initiated the contact, in other words.

13 Q. How do you know he initiated the contact?

14 A. He would say so in our meetings.

15 Q. Any other distinctions between what he was
16 doing and hearing confession, to your awareness?

17 A. Well, traditionally there has been a separation
18 between the role of the Prefect and the role of the
19 Spiritual Director, and the normal role for the Prefect
20 is not to hear confessions, and for the Prefect -- and
21 for the -- and normally for the Spiritual Director to be
22 the one, rather than. So the jurisdiction is muddled
23 sometimes, but that's the normal expectation.

24 Q. I think the answer to my question may be
25 obvious, but I think I have got to ask it. Why would

1 the normal role of the Prefect be not to hear 12:33:50
2 confession? 12:33:56

3 A. I think because of the confidentiality. You 12:34:00
4 don't want the person responsible for your discipline to 12:34:05
5 be privy to your inner workings. I think it's just 12:34:11
6 natural human desire not to, you know, to confess to 12:34:13
7 your disciplinarian. 12:34:17

8 Q. It would also obligate the disciplinary not to 12:34:19
9 communicate to anyone else, right, about the nature of 12:34:20
10 the communication? 12:34:20

11 A. Right. 12:34:23

12 Q. That creates some difficulties in operating the 12:34:26
13 school if your Prefect of Discipline couldn't tell you 12:34:29
14 they were having problems with a student, correct, or 12:34:30
15 no? 12:34:33

16 Would it create problems, in your mind, running 12:34:38
17 the school if your Prefect of Discipline couldn't report 12:34:39
18 about problems he was having -- 12:34:42

19 A. Exactly, if they were made confessional matter, 12:34:42
20 yes. 12:34:44

21 MR. MATIASIC: Let him finish his question. 12:34:44

22 BY MR. DeMARCO: 12:34:54

23 Q. Okay. Did Father Cimmarrusti ever communicate 12:34:56
24 to you problems he was observing about students that
25 could in any way be viewed about the student's

1 sexuality?

2 A. Well, he told the faculty that his concern at
3 times was whether or not the person was developing
4 normally, so-called undescended testicle.

5 Q. Say that again. I'm sorry. "Undescended"?

6 A. "Undescended." I think that's a medical term.

7 Q. What did you understand it to mean?

8 A. That the person's voice was not changing, that
9 the person's sexual organs were not developing, no hair,
10 et cetera. Typical lack of pubescence that would
11 normally take place. It was chiefly with the ninth
12 graders, the freshman.

13 Q. Any others other than the ninth graders?

14 A. I suppose if there were a tenth grader, but I
15 can't imagine it being beyond that.

16 Q. How would he be aware about their testicles
17 or --

18 A. Initially, he asked Dr. [REDACTED] to perform an
19 examination to see if that were the case.

20 Q. Did he ever perform examinations himself,
21 Father Cimmarrusti?

22 A. That I don't know.

23 Q. Would there -- would the issue of whether a
24 student had an undescended testicle ever be something
25 that was part of a written report?

1 A. No. 12:36:48

2 Q. Did you have any understanding as to what this 12:36:56
3 related to in assessing whether a seminarian was doing 12:37:01
4 okay, had problems? I know I'm being very general. 12:37:02

5 MR. MATIASIC: Are you asking for what the 12:37:04
6 medical significance of that is? 12:37:06

7 MR. DeMARCO: What -- why -- why -- 12:37:10

8 Q. I assume that this was something that was a 12:37:12
9 frequent report, whether or not a student had an 12:37:14
10 undescended testicles or not? 12:37:16

11 A. I think that would be rare, not frequent. 12:37:18

12 Q. I see. 12:37:20

13 But you do recall specifically that reports 12:37:22
14 along that line were given? 12:37:25

15 A. That he reported to the faculty that he had 12:37:31
16 initiated this program with Dr. [REDACTED]. 12:37:40

17 Q. When did he make that report? When did you 12:37:42
18 first become aware of that program? 12:37:48

19 A. I can't exactly remember, but it was early on. 12:37:51

20 Q. And so it would be whether or not testicles had 12:37:53
21 descended, would be part of it; correct? 12:37:54

22 A. Yes. 12:37:58

23 Q. Whether or not the student had developed pubic 12:37:59
24 hairs, I think you mentioned?

25 A. Signs of maturity, change of voice, and such

1 things as go with changing from child to adolescent. 12:38:11

2 Q. But included within that would be whether or 12:38:13
3 not they had developed pubic hair? 12:38:14

4 A. That would be a factor. 12:38:18

5 Q. Best estimate, how many times was such a report 12:38:20
6 given? 12:38:22

7 A. Once. 12:38:24

8 Q. Only once. 12:38:25

9 A. It would happen at the beginning normally of a 12:38:26
10 school year. 12:38:29

11 Q. Let me make sure I'm being clear. 12:38:32

12 You mentioned that Father Cimmarrusti reported 12:38:37
13 to the faculty that he had initiated a program, correct? 12:38:39

14 A. With Dr. [REDACTED] 12:38:41

15 Q. With Dr. [REDACTED], correct? 12:38:41

16 A. Yes. 12:38:44

17 Q. And the program, was it your understanding that 12:38:48
18 part of this program was determining whether or not the 12:38:51
19 students were showing these physical signs of maturity? 12:38:52

20 A. Yes. 12:38:56

21 Q. So -- but your recollection is you recall only 12:39:01
22 one instance of such physical signs of immaturity being 12:39:04
23 reported, is that what your testimony is, Father? 12:39:07

24 A. We assumed it would happen each year.

25 Q. Okay. So let me ask this question: Was it

1 your understanding that all the students in the ninth 12:39:18
2 grade class would be assessed for this, would be part of 12:39:18
3 this program? 12:39:22

4 A. No. Only those that showed signs of not 12:39:23
5 developing. 12:39:25

6 Q. How would -- all right. 12:39:31

7 Did he give you -- did Father Cimmarrusti give 12:39:35
8 you any kind of written proposal about this program? 12:39:35

9 A. No. 12:39:40

10 Q. Was the -- when was the first time you ever 12:39:42
11 heard of it; was it a conversation with him, the 12:39:44
12 faculty, some other way? 12:39:46

13 A. In the faculty meeting. 12:39:53

14 Q. And did he mention during that faculty meeting 12:39:59
15 how the initial assessments would be made? 12:40:03

16 A. Yes, that he had talked it over with Dr. [REDACTED] 12:40:06

17 Q. What did he mention the initial assessments -- 12:40:09
18 how the initial assessments would be made, what did he 12:40:09
19 say? 12:40:12

20 A. Exactly that Dr. [REDACTED] would be invited to come 12:40:18
21 to the seminary and inspect certain individuals that 12:40:22
22 they thought perhaps were not developing. 12:40:28

23 Q. Okay. So there would already then be an 12:40:32
24 assessment made before Dr. [REDACTED] was called upon to
25 perform an examination; is that accurate?

1 A. Yes. 12:40:38

2 Q. Who would perform that initial assessment? 12:40:40

3 A. Mario. 12:40:42

4 Q. Did you have any understanding as to how he 12:40:44
5 would perform that initial assessment? 12:40:49

6 A. No. 12:40:52

7 Q. Were there any other elements to that 12:40:53
8 assessment that you're aware of? 12:40:56

9 You mentioned a few things so far: person's 12:41:01
10 voice, whether their testicles had descended, whether 12:41:04
11 they had pubic hairs. Any other things that would be 12:41:08
12 part of that assessment? 12:41:10

13 A. Well, part of it, too, has to do with stature; 12:41:15
14 they are not growing, they are not increasing in height, 12:41:16
15 for example. 12:41:17

16 Q. Anything else? 12:41:29

17 A. And another factor that he may have noticed is 12:41:35
18 that sometimes an individual is sort of soft and doesn't 12:41:40
19 take to sports too readily or is immature, however you 12:41:41
20 judge that. 12:41:42

21 Q. Effeminate? 12:41:51

22 A. Effeminate, that might be an indication. 12:41:54

23 Q. Any other factors that you were aware of? 12:41:56

24 A. I think that covers it. Those are most of the
25 factors.

1 Q. Now, to your recollection, did Father
2 Cimmarrusti only mention this program once?

3 A. To the best of my knowledge, yes.

4 Q. Do you remember who was there when he described
5 this program?

6 A. The entire faculty.

7 Q. Do you remember who was on the faculty at that
8 time?

9 A. I can remember a number of them, but I can't
10 remember all of them. [REDACTED]

11 Q. However many you can remember.

12 A. [REDACTED] would be one.

13 [REDACTED]. [REDACTED].

14 Q. Is he still living? [REDACTED], is he
15 still living?

16 A. Yes -- no. No, he is deceased. [REDACTED] is
17 still living, St. Elizabeth's in Oakland, I think.

18 Q. How old is he?

19 A. 96 I think.

20 Q. Anybody else that you can recall on the faculty
21 at that time?

22 A. He is known then as [REDACTED],

23 [REDACTED], and he is still living.

24 Q. How old do you think he is?

25 A. In his 80s.

1 Q. Anybody else in the faculty at that time? 12:43:23

2 A. At the time that we're talking about now, 12:43:32

3 [REDACTED] who we mentioned earlier. 12:43:37

4 Q. You started again, what you started at the 12:43:38
5 seminary again sixty -- 12:43:43

6 A. '64. 12:43:43

7 Q. Okay. 12:43:46

8 A. And I'm trying to think of the name now. He is 12:43:46
9 an artist. 12:43:48

10 Q. You know what, I think I'll try and simplify it 12:43:54
11 in a little bit. I have got a list of everyone year by 12:43:54
12 year. Maybe I'll just ask it that way. 12:43:55

13 A. Yeah. 12:43:59

14 Q. But is it your best estimate that this program 12:44:04
15 was initiated early on in your stay at St. Anthony's? 12:44:05

16 A. Yes. 12:44:07

17 Q. Would it have been -- is it your best estimate 12:44:10
18 it would have been the first year? 12:44:14

19 A. Probably not, probably the second year. 12:44:20

20 Q. Was this in response to anything, this program? 12:44:22

21 MR. MATIASIC: Calls for speculation. 12:44:23

22 If you know. 12:44:26

23 THE WITNESS: It's speculation, but if I may
24 estimate.

25

1 BY MR. DeMARCO:

2 Q. Well, you were the Rector there; you were in
3 charge of supervising students and faculty.

4 A. It just seemed like that was Mario's special
5 concern, about the proper development of students,
6 physical development, and it has a lot of other
7 repercussions: their manliness, their ability to play
8 sports, their acceptance by the other students. There
9 is a host of consequences if you remain undeveloped.
10 You know, that's -- it was out of concern for the proper
11 development of the students.

12 Q. So it was in response to Mario's concerns that
13 this program was initiated?

14 A. Yes.

15 Q. Are you aware of anyone else's concerns that
16 this was in response to?

17 MR. MATIASIC: Well, he already testified it
18 was also initiated by Dr. [REDACTED]. Excluding Dr. [REDACTED] as
19 well?

20 BY MR. DeMARCO:

21 Q. Let me ask it this way -- well, not excluding
22 Dr. [REDACTED]. Did Dr. [REDACTED] in the first year that you
23 were there at the seminary communicate to you some
24 concerns that would have prompted this program to be
25 initiated?

1 A. Not that I can remember. 12:45:35

2 Q. Did anybody else associated with the seminary 12:45:38
3 communicate any concerns or issues that would have 12:45:40
4 prompted this program to be initiated? 12:45:41

5 A. No. 12:45:45

6 Q. Anyone outside of the seminary but connected 12:45:48
7 with the Franciscans communicate an issue or concern 12:45:51
8 that would have prompted this program to be created? 12:45:52

9 A. No. 12:45:57

10 Q. Had you ever -- I know you went over your 12:45:59
11 history before. Had you ever been a Rector of a 12:46:04
12 seminary before, before coming to St. Anthony's? 12:46:05

13 A. Not of a seminary, no. 12:46:07

14 Q. Of a theologate? 12:46:10

15 A. Of high schools. I had been principal of two 12:46:16
16 different high schools, but not a seminary. The 12:46:21
17 similarity is that it's a seminary high school dealing 12:46:24
18 with this age, same age group. 12:46:26

19 Q. Were you aware of any other high schools that 12:46:33
20 you had worked at having any similar sort of program as 12:46:34
21 we've been discussing? 12:46:36

22 A. No, not where I was. 12:46:45

23 Q. While you were Rector, I would imagine you had 12:46:48
24 communications with other Rectors of other high
25 school --

1 A. No. 12:47:47

2 Q. Never? 12:47:50

3 A. Not prior to 1964. 12:47:56

4 Q. Okay. Did such communications start in 1964? 12:48:00

5 A. It was -- again, we formed the association I 12:48:02
6 think in '65. 12:48:04

7 Q. Okay. 12:48:07

8 A. And the official title of the association is 12:48:09
9 the West Coast Rectors Association. 12:48:12

10 Q. Were there any Rectors within that association 12:48:14
11 that you maintained closer ties with than others? 12:48:19

12 A. Yes. 12:48:20

13 Q. Who? 12:48:24

14 A. St. Joseph's in Mountain View. It's no longer 12:48:27
15 in existence, but it was a diocese and seminary. 12:48:30

16 Q. Who was the Rector there? 12:48:33

17 A. Isn't that sad; I can't remember. He later 12:48:36
18 came Provincial, but I can't now remember his name. 12:48:43

19 Q. Best estimate as to when he was a Rector at St. 12:48:43
20 Joseph's? 12:48:47

21 A. The same time that I was the Rector of St. 12:48:50
22 Anthony's obviously, but I don't know when his term 12:48:50
23 ended. 12:48:56

24 Q. Okay. Mountain View, is that in California?

25 A. Yes.

1 Q. Northern California? 12:49:01

2 A. Yes. 12:49:08

3 Q. Did you ever have occasion to talk with any of 12:49:11
4 the other faculty members about this program that Father 12:49:16
5 Cimmarrusti was initiating with Dr. [REDACTED]? 12:49:20

6 MR. MATIASIC: Outside of the faculty meetings? 12:49:26

7 MR. DeMARCO: No, either or, both in and out. 12:49:28

8 Okay. Let me rephrase the question. 12:49:31

9 Q. In the faculty meeting where this program was 12:49:34
10 first mentioned, was there much discussion? 12:49:38

11 A. My perception is that they accepted it as a 12:49:41
12 good thing to do, the faculty. They did not find any 12:49:42
13 objection to it. 12:49:47

14 Q. You went through a high-school-level seminary 12:49:49
15 yourself when you were a high school student? 12:49:50

16 A. No. 12:49:51

17 Q. You did not. 12:49:59

18 Okay. Did any of the other faculty members 12:50:02
19 indicate in that faculty meeting where this program was 12:50:06
20 discussed that, yes, they had had that sort of program 12:50:11
21 or inspection while they were seminary -- high school 12:50:11
22 seminary students? 12:50:13

23 A. No. 12:50:18

24 Q. So would it be fair to say that up until that 12:50:18
25 time, this is the first instance you had ever heard of a

1 program whereby the physical signs of maturity of a 12:50:29
2 student would be assessed? 12:50:31

3 A. Yes. 12:50:34

4 Q. Okay. Did you speak with any of your superiors 12:50:36
5 about this program? 12:50:36

6 A. No. 12:50:41

7 Q. Did you speak with any students about this 12:50:41
8 program? 12:50:42

9 A. No. 12:50:45

10 Q. Did any student at any time ever come up to you 12:50:49
11 and say, you know, I remember going through this 12:50:50
12 examination? 12:50:50

13 A. No. 12:51:02

14 Q. Do you have any understanding as to how Father 12:51:06
15 Cimmarrusti would have been made aware of whether or not 12:51:09
16 a students's testicles had descended? 12:51:11

17 A. That was Dr. [REDACTED] job. 12:51:12

18 Q. Exclusively? 12:51:12

19 A. Yes. 12:51:16

20 Q. How did you come to that awareness? 12:51:18

21 A. The way he described the program for us. 12:51:20

22 Q. Well, how did he describe it? 12:51:22

23 A. That Dr. [REDACTED] did the examination. 12:51:27

24 Q. That he would be the only one to do that
25 physical examination?

1 A. Yes. 12:51:28

2 Q. He said that? 12:51:32

3 A. Implicitly, yes. 12:51:34

4 Q. So he didn't say directly that Dr. [REDACTED] would 12:51:38
5 be the only one that conducted a physical exam of the 12:51:38
6 students? 12:51:39

7 A. I can't remember. 12:51:46

8 Q. But you did understand that Father Cimmarrusti 12:51:49
9 would be the one to inform Dr. [REDACTED] as to who to 12:51:51
10 perform such an exam on? 12:51:51

11 A. Yes. 12:51:56

12 Q. And did you have any awareness as to what 12:51:59
13 Father Cimmarrusti was looking for to determine whether 12:52:02
14 or not a student should be subject to that exam? 12:52:03

15 MR. MATIASIC: Asked and answered. 12:52:06

16 THE WITNESS: I think the criteria I have 12:52:08
17 given, about five of them. 12:52:08

18 BY MR. DeMARCO: 12:52:10

19 Q. Including whether a testicle had descended? 12:52:14

20 A. Not by inspection, but the other indications of 12:52:15
21 immaturity. 12:52:19

22 Q. How else would he have known that a testicle 12:52:23
23 descended except for physically examining? 12:52:24

24 A. That's the only way you know.

25 Q. Right.

1 And starting in '64, it's your recollection
2 that all ninth graders would at least be subject to
3 Cimmarrusti's initial assessment?

4 MR. MATIASIC: That misstates his testimony.

5 BY MR. DeMARCO:

6 Q. Is that accurate?

7 A. Not so sure '64. I said '65.

8 Q. Okay. So starting in '65. I mean, we've
9 already identified Cimmarrusti would tell Dr. [REDACTED] who
10 to do a physical exam on?

11 A. Yes.

12 Q. So Cimmarrusti was making an initial
13 assessment?

14 A. Yes.

15 Q. But it was your understanding that all ninth
16 graders, starting in '65, approximately, were subject to
17 Cimmarrusti's initial assessment?

18 A. Yes.

19 Q. All right. And, to your knowledge, Cimmarrusti
20 had no medical training?

21 A. No.

22 Q. So you don't know of any medical training he
23 had?

24 A. No.

25 MR. DeMARCO: I think I am doing double

negatives. I'm getting answers that I don't think make
a good record.

**Q. Are you aware of Father Cimmarrusti having any
medical training?**

A. No.

MR. DeMARCO: I think I got that right.

MR. MATIASIC: Counsel, it's just about 1:00.
Is this a good time for a lunch break?

MR. DeMARCO: That's fine. No objection.

MR. MATIASIC: Okay.

THE VIDEOGRAPHER: I'm going to end this tape.
This is the end of tape one, Volume II, in the
deposition of Father Xavier James Harris. Off the
record at 12:54 p.m.

(Lunch recess taken)

AFTERNOON SESSION

THE VIDEOGRAPHER: This is the beginning of tape two, Volume II, of the deposition of Xavier James Harris. On the record at 2:07 p.m.

BY MR. DeMARCO:

Q. Good afternoon again, Father Harris.

A. Thank you.

Q. Father Harris, when we got together a month or so ago, I think you detailed for us a little bit about the attrition rate at St. Anthony's of students, and I guess it changed a bit, or the number of students there changed as time went on, but my understanding, at all times there was a fairly high number of the number of ninth graders or freshman entering versus those that were graduated.

Would that be a fair statement?

A. Yes.

Q. And about what percentage drop-off would there be; was it only 50 percent of the students ended up graduating that started, was it higher or lower?

MR. MATIASIC: Which time period are you talking about, Counsel?

MR. DeMARCO: I'll lay a foundation. I'm sorry.

1 Q. Was there ever a time where -- I'm not talking
2 about how big the initial enrollment was. But was there
3 ever a time -- was it a fairly constant level of
4 attrition throughout your time period at St. Anthony's
5 or the rate of attrition?

6 A. I think the rate of attrition would have
7 increased, rather than decreased.

8 Q. Okay. So it did not remain constant?

9 A. No.

10 Q. So when you started there, the first couple of
11 years, what would you have estimated the number of ninth
12 graders that entered the first couple of years you were
13 there to graduation, what percentage of those folks
14 graduated?

15 A. I would say of 50 or so freshman, we would
16 probably graduate about 20.

17 Q. So less than 50 percent, maybe 40 percent
18 graduated?

19 A. Mm-hmm.

20 Q. And you conducted all the exit interviews at
21 the end of every school year?

22 A. Yes.

23 Q. And I take it some of the students would have
24 been informing you at that time that they weren't
25 planning on coming back?

1 A. Yes.

2 Q. First couple of years, what were the main
3 reasons kids were giving for why they didn't want to
4 come back?

5 MR. MATIASIC: Vague and ambiguous.

6 Go ahead, if you can answer it.

7 THE WITNESS: Quite a variety of reasons.

8 BY MR. DeMARCO:

9 Q. Okay.

10 A. Some were convinced that this was not their
11 vocation. Others had different career goals in mind.
12 Some felt that it had -- that they weren't able to keep
13 up with the studies.

14 Q. Okay. Did any of the students in these exit
15 interviews ever communicate to you any sort of conflict
16 or tension or problems they were having with faculty as
17 a reason why they wanted to not come back?

18 A. No.

19 Q. I remember when I was in high school, I can't
20 remember -- every student usually had a problem with
21 some teacher. In your experience, that was not true at
22 St. Anthony's?

23 A. No.

24 MR. MATIASIC: That misstaters -- that
25 misstates his testimony, but...

1 BY MR. DeMARCO: 14:10:35

2 Q. So that I am clear, in all the exit interviews, 14:10:40
3 and I'll broaden it to your entire tenure, in all your 14:10:45
4 exit interviews with students, no student at any time 14:10:46
5 communicated to you one of the reasons that they were 14:10:50
6 deciding not to come back to St. Anthony's was because 14:10:53
7 of any kind of conflict they had with a teacher? 14:10:54

8 A. Not that I can remember. 14:10:56

9 Q. Do you think it's possible that someone said 14:11:03
10 such but that you don't remember it now? 14:11:05

11 A. Possible? I'm sure it is. 14:11:07

12 Q. Let me ask you this: I mean, we're talking 14:11:09
13 about a fair number of years ago. 14:11:09

14 A. Yes. 14:11:13

15 Q. Are you competent that you remember 14:11:15
16 specifically that no one ever said that or just that you 14:11:17
17 don't have a specific recall now? 14:11:19

18 A. I do not have a specific recall. 14:11:21

19 Q. So it's possible that during those exit 14:11:23
20 interviews someone would have said something, but you 14:11:26
21 don't have a specific recall of such conversation now? 14:11:28

22 A. Yes. 14:11:32

23 Q. Would it also be possible, then, that students 14:11:35
24 would have communicated issues they had about Father
25 Cimmarrusti but that you don't recall it now?

1 A. I think if that had happened, I would remember
2 it.

3 Q. Okay. So if a former student were to come
4 forward to and say that they recall, or more than one
5 student, they recall telling you of inappropriate things
6 that Cimmarrusti was doing to them, that you would have
7 reason to suspect they are not telling the truth?

8 MR. MATIASIC: Vague and ambiguous,
9 argumentative, incomplete hypothetical.

10 THE WITNESS: Could you rephrase the question?

11 BY MR. DeMARCO:

12 Q. Sure.

13 If you were to hear a student, a former
14 student, come forward now and say that they remember
15 telling you when they were a student that Father
16 Cimmarrusti was doing inappropriate things with them,
17 you would believe them not to be telling the truth?

18 MR. MATIASIC: Same objections.

19 THE WITNESS: I don't think that I would accuse
20 them of not telling the truth. I would say I believe
21 that you have a wrong memory of what happened. I mean,
22 if you were one of those students sitting opposite me
23 now --

24 BY MR. DeMARCO:

25 Q. Yeah.

1 A. -- I would say to you, "Are you sure you
2 remember that or has something else happened to make you
3 think you remember that?"

4 Q. So if we were to say -- we'll assume for the
5 purposes of the question more than one student has come
6 forward and has said that they specifically recall
7 telling you that Mario Cimmarrusti was doing
8 inappropriate things with them. You would basically say
9 they are not remembering it right?

10 MR. MATIASIC: Same objections. And, Counsel,
11 I think you have asked and answered -- you have asked
12 and he has answered this question several times, but you
13 are getting down a real argumentative path.

14 But you can go ahead and answer it one more
15 time.

16 THE WITNESS: I would still say the same thing.
17 BY MR. DeMARCO:

18 Q. That they are not remembering it right?

19 MR. MATIASIC: Asked and answered.

20 THE WITNESS: (Witness nods head.)

21 BY MR. DeMARCO:

22 Q. That was a "yes" or "no"? I'm sorry, because
23 we don't get that on the record.

24 A. Yes, that's the answer, that they are not
25 remembering correctly.

1 Q. Is there some way that they could have been 14:13:44
2 misconstruing it if they were to say such a thing? 14:13:46

3 MR. MATIASIC: Object; lacks foundation. 14:13:47

4 THE WITNESS: I wouldn't know that. 14:13:49

5 MR. MATIASIC: Hold on, Father. 14:13:52

6 Lacks foundation, incomplete hypothetical. 14:13:54

7 You can answer, if you can. 14:13:56

8 THE WITNESS: I can't answer that. 14:13:56

9 BY MR. DeMARCO: 14:14:13

10 Q. Okay. Were there any sort of student 14:14:17
11 government positions while you were at St. Anthony's? 14:14:18

12 A. Yes. 14:14:21

13 Q. What were the nature of those positions, or 14:14:22
14 what were the titles? 14:14:25

15 A. We had a student body president, student body 14:14:30
16 vice president, secretary treasurer, and sort of an 14:14:35
17 advisory group, like a senate that would advise the 14:14:37
18 leaders. 14:14:40

19 Q. These positions were all elected by the student 14:14:41
20 body? 14:14:42

21 A. All elected. 14:14:43

22 Q. By the student body? 14:14:45

23 A. By the student body. 14:14:47

24 Q. Exclusively?

25 A. Exclusively.

1 Q. Faculty have any say in who could occupy those 14:14:51
2 posts? 14:14:54

3 A. I think they talked about having veto power, 14:14:58
4 but we never exercised it. 14:15:01

5 Q. I'm going to go over with you more than a 14:15:06
6 couple of names. I have pulled a bunch of names out of 14:15:10
7 the Catholic directories of folks that appear to have 14:15:15
8 been teaching at St. Anthony's during several of the 14:15:16
9 years that you were there. 14:15:19

10 I just want to ask you -- I'm going to tell you 14:15:22
11 what I'm asking now and maybe it goes a little faster. 14:15:25
12 I'm looking to find out do you know whether this person 14:15:29
13 is alive or deceased, and if they are alive do you have 14:15:32
14 any sense or understanding how old they might be, and 14:15:35
15 are they in fair or poor health, to your understanding 14:15:35
16 obviously. 14:15:40

17 So you've already spoken about [REDACTED] 14:15:43

18 [REDACTED], does that name ring a bell? 14:15:44

19 A. [REDACTED]. 14:15:45

20 Q. [REDACTED]. 14:15:45

21 A. [REDACTED]. 14:15:46

22 Q. [REDACTED]. 14:15:48

23 A. He was our treasurer. 14:15:50

24 Q. Do you know, he is still living? 14:15:50

25 A. Deceased.

1 Q. I think we already went over [REDACTED] -- 14:15:55

2 A. [REDACTED]. 14:15:59

3 Q. -- [REDACTED]. I can't recall, was he living or 14:15:59

4 deceased? 14:16:00

5 A. Deceased. 14:16:03

6 Q. [REDACTED]? 14:16:05

7 A. Very much alive in San Francisco. 14:16:06

8 Q. How old do you think he is? 14:16:09

9 A. He is in his 70s. 14:16:12

10 Q. Late, early 70s? 14:16:13

11 A. Early. 14:16:15

12 Q. How is his health? 14:16:16

13 A. Excellent. 14:16:18

14 Q. Marvin Woelfer? 14:16:22

15 A. No longer a Friar, but living in Sacramento. 14:16:23

16 Q. How old do you think he is? 14:16:26

17 A. He would be in his early 70s. 14:16:30

18 Q. [REDACTED]? 14:16:34

19 A. Deceased. 14:16:41

20 Q. We already went over [REDACTED]. 14:16:44

21 [REDACTED]? 14:16:45

22 A. Deceased. 14:16:49

23 Q. [REDACTED]? 14:16:50

24 A. Deceased.

25 Q. [REDACTED]?

1 A. Alive and well in Santa Barbara. 14:16:58

2 Q. How old do you think he is? 14:16:59

3 A. In his 70s. 14:17:01

4 Q. Early, late? 14:17:06

5 A. Middle. Good health. 14:17:08

6 Q. Bennet Sisk? 14:17:08

7 A. Deceased. 14:17:17

8 Q. Reynaldo Flores? 14:17:26

9 A. No longer a Friar, but Reynaldo -- still alive 14:17:27

10 in San Jose. 14:17:29

11 Q. Any idea of his age? 14:17:37

12 A. He would be early 70s. 14:17:39

13 Q. [REDACTED]? 14:17:42

14 A. Very much alive and living in San Francisco. 14:17:44

15 Q. And we went over him earlier, right? 14:17:45

16 A. Mm-hmm. 14:17:48

17 Q. [REDACTED]? 14:17:54

18 A. Alive and well and his late 60s, early 70s. 14:17:55

19 Q. Still a Friar? 14:17:56

20 A. Still a Friar. 14:18:06

21 Q. Did Father [REDACTED] and Father Cimmarrusti get 14:18:08

22 along, to your awareness? 14:18:09

23 MR. MATIASIC: Calls for speculation. 14:18:11

24 MR. DeMARCO: It's a broad question, I

25 understand.

1 MR. MATIASIC: Calls for speculation. 14:18:15

2 MR. DeMARCO: I can narrow it once we -- 14:18:17

3 Q. Did you ever notice any tension between the two 14:18:18
4 of them? 14:18:18

5 A. No. 14:18:20

6 Q. Any disagreements between the two of them? 14:18:22

7 A. No. 14:18:23

8 Q. [REDACTED]? 14:18:26

9 A. Alive and well in Santa Barbara. 14:18:26

10 Q. How old? 14:18:30

11 A. Mid-70s. 14:18:33

12 Q. How is his health, to your understanding? 14:18:34

13 A. Excellent. 14:18:38

14 Q. Anthony Turner? Anthony Turner? 14:18:44

15 A. No longer a Friar. And still alive, but I'm 14:18:46
16 not sure where. 14:18:47

17 Q. How old do you think he would be? 14:18:49

18 A. He would be in his 70s. 14:18:54

19 Q. Where was he when you were last aware of him? 14:18:56

20 A. Northwest. 14:18:58

21 Q. Like Oregon, Washington? 14:19:01

22 A. I think in Washington. 14:19:02

23 Q. How long ago was that? 14:19:05

24 A. 20 years.

25 Q. 20 years ago?

1 A. Yeah, something like that. 14:19:09

2 Q. Is that when he left the Friars? 14:19:10

3 A. Yes. 14:19:17

4 Q. [REDACTED]? 14:19:20

5 A. Alive and well in Portland, Oregon. 14:19:22

6 Q. How old do you think he is? 14:19:26

7 A. 70s. Good health. 14:19:27

8 Q. Late, early 70s? 14:19:29

9 A. Early 70s. 14:19:31

10 Q. [REDACTED]? 14:19:36

11 A. Deceased. 14:19:38

12 Q. Did you ever have occasion to speak with [REDACTED] 14:19:41

13 [REDACTED]? 14:19:42

14 MR. MATIASIC: At any time? 14:19:43

15 MR. DeMARCO: Yes. 14:19:47

16 THE WITNESS: I first met [REDACTED] when I was 14:19:53

17 stationed in Phoenix, Arizona, and he was very close to 14:20:00

18 the Friars and then -- so I knew him over a long period 14:20:02

19 of time. 14:20:02

20 BY MR. DeMARCO: 14:20:09

21 Q. And including when both of you were in Santa 14:20:09

22 Barbara? 14:20:09

23 A. Yes. 14:20:13

24 Q. Did you maintain much of an association with 14:20:13

25 him when he was in Santa Barbara?

1 A. Not special, no. 14:20:18

2 Q. How often would you say you would have talked 14:20:20
3 to him while the two of you were in Santa Barbara? 14:20:22

4 A. We would bump into each other maybe once a 14:20:23
5 month, something like that. 14:20:26

6 Q. Just coming and going? 14:20:29

7 A. Yeah, just coming and going. 14:20:31

8 Q. You would usually talk with each other when you 14:20:31
9 saw each other? 14:20:32

10 A. No. 14:20:32

11 Q. No. 14:20:43

12 Okay. Do you know a Donald Patrick Roemer? 14:20:47

13 A. Not a Franciscan. I think he was a Diocesan 14:20:47
14 Priest. 14:20:50

15 Q. Did you ever bump into him? 14:20:52

16 A. If I did, I can't remember. 14:20:55

17 Q. Did you ever talk with any other Franciscans 14:20:55
18 about him? 14:20:56

19 A. No. 14:20:58

20 Q. Not even when he was arrested? 14:20:59

21 A. No. 14:21:02

22 Q. You were aware back in the early '80s, I would 14:21:03
23 assume, about his arrest? 14:21:04

24 A. Yes.

25 Q. How did you learn about it?

1 A. I guess word of mouth, as best I can remember. 14:21:14

2 Q. Had you ever heard about anything regarding him 14:21:16
3 out of San Raphael's? 14:21:17

4 A. No. 14:21:21

5 Q. Did you ever visit San Raphael's? 14:21:24

6 A. On occasion I would say mass there, but not 14:21:24
7 often. 14:21:26

8 Q. What period of time would you have said mass 14:21:26
9 there? 14:21:30

10 A. That would have been in the mid-'60s. 14:21:31

11 Q. Any later? 14:21:31

12 A. No. 14:21:40

13 Q. Did you ever meet a Father Leo Rock? 14:21:43

14 A. Leo Rock. 14:21:47

15 Q. Jesuit. 14:21:50

16 A. No. I hear a bell, but it's a very distant 14:21:50
17 one. 14:21:54

18 Q. There was a Jesuit seminary somewhere 14:21:56
19 relatively near Santa Barbara. 14:21:58

20 A. In Montecito. 14:22:00

21 Q. Right. Did you ever have occasion to associate 14:22:01
22 with any of the folks there? 14:22:05

23 A. I visited the seminary on occasions, but I 14:22:06
24 didn't know very many people there.

25 Q. Do you have any recollection of whether you

1 recall Father Rock from there? 14:22:11

2 A. No, I don't. 14:22:22

3 Q. Did you ever meet a Liam Hoare. H-O-A-R-E. 14:22:24

4 A. First name? 14:22:25

5 Q. Liam. 14:22:30

6 A. Not that I can remember, no. 14:22:35

7 Q. How about a Father George Pausch? P-A-U-S-C-H. 14:22:36

8 A. No. 14:22:40

9 Q. How about a Father Gerald Fitzgerald? 14:22:41

10 A. First name? 14:22:42

11 Q. Gerald? 14:22:46

12 A. Fitzgerald. No. 14:22:51

13 Q. How about a Father Michael Foley? 14:22:57

14 A. These are not Franciscans. 14:22:59

15 Q. No, these not Franciscans. 14:23:00

16 A. I don't remember that name. 14:23:09

17 Q. Have you ever heard of a religious congregation
18 by the name of the Servants of the Paraclete? 14:23:15

19 A. Yes. 14:23:19

20 Q. When did you first hear of that congregation? 14:23:24

21 A. I can't remember exactly, but I know that they
22 were the ones who helped Priests who had alcohol
23 problems and other kinds of problems, and was kind of a
24 rehabilitation center for religious, I think, Brothers,
25 Sisters, Priests. 14:23:29
14:23:35
14:23:41

1 Q. When did you -- best estimate, when did you 14:23:48
2 first learn of it? 14:23:51

3 A. As I say, I don't remember exactly, but I have 14:23:52
4 known of them for some time. 14:23:55

5 Q. Do you think it was before or after you came to 14:23:56
6 St. Anthony's? 14:23:58

7 A. I think it was after I was in Santa Barbara. 14:24:00

8 Q. And you came to Santa Barbara? 14:24:02

9 A. '64. 14:24:03

10 Q. '64, right. 14:24:05

11 Did you have any understanding as to what other 14:24:08
12 sorts of problems they treat there when you first heard 14:24:12
13 about it, heard about this congregation? 14:24:16

14 A. Well, I understood that they helped Priests who 14:24:18
15 had sexual problems. 14:24:20

16 Q. When did you first learn that? 14:24:22

17 A. Again, I can't remember exactly. 14:24:24

18 Q. But it would have been around when you first 14:24:25
19 heard about them? 14:24:26

20 A. Yeah, probably. 14:24:29

21 Q. This isn't something that you have heard for 14:24:30
22 the first time in the last ten years? 14:24:30

23 A. No. 14:24:32

24 Q. Last twenty years?

25 A. Yes, approximately.

1 Q. About twenty years ago? 14:24:36

2 A. Mm-hmm. 14:24:40

3 Q. So somewhere around mid-'80s? 14:24:42

4 A. That would be right. 14:24:43

5 Q. Do you recall how you learned about them? 14:25:00

6 A. I can't remember the exact occasion, but I had 14:25:05
7 both read about them in America Magazine and also in 14:25:10
8 conversation with others, had heard about their work and 14:25:11
9 their special ministry. 14:25:16

10 Q. Do you recall if anyone representing the 14:25:20
11 Servants of the Paraclete ever came and gave 14:25:22
12 presentations at a location you were at? 14:25:24

13 MR. MATIASIC: At any time? 14:25:24

14 THE WITNESS: No. 14:25:25

15 BY MR. DeMARCO: 14:25:28

16 Q. Did you ever meet someone who was part of that 14:25:34
17 congregation? 14:25:36

18 A. Yes. 14:25:37

19 Q. Do you remember who? 14:25:41

20 A. I visited one of their establishments in New 14:25:48
21 Mexico. One of my friends happened to be living with 14:25:50
22 them at the time and I visited. 14:25:53

23 Q. Is that the facility in Jemez Springs? 14:25:55

24 A. Jemez Springs, right.

25 Q. Around when did you visit this person?

1 **A. Almost -- let's see. Perhaps the year 2000,**
2 **something like that.**

3 MR. DeMARCO: Counsel, I think you know the
4 next question I'm going to ask, and I understand a need
5 to not say anything if it is someone outside the scope
6 of the Clergy I or II proceedings, and I guess the
7 Clergy III proceedings, since we're here for that. I
8 don't know if you want to talk with him first.

9 MR. MATIASIC: Let's just go off the record for
10 a second.

11 MR. DeMARCO: Yeah.

12 THE VIDEOGRAPHER: Going off the record. The
13 time is 2:26 p.m.

14 (Counsel and witness confer)

15 THE VIDEOGRAPHER: We're back on the record.
16 The time is 2:31 p.m.

17 BY MR. DeMARCO:

18 **Q. Father, the individual that we've been talking**
19 **about I understand -- and I don't want to get into any**
20 **kind of exchange. I understand counsel will instruct**
21 **you not to answer any question whereby you are being**
22 **asked to divulge the name of this individual that we're**
23 **talking about.**

24 **Is that correct, Counsel?**

25 MR. MATIASIC: That's right.

1 BY MR. DeMARCO: 14:31:36

2 Q. Father, the person that we're talking about, is 14:31:40
3 it your understanding they were at the Jemez Springs 14:31:43
4 facility because of issues regarding sexuality? 14:31:46

5 A. I'm not sure of the reason. I just know that 14:31:46
6 he had been asked to go there. 14:31:50

7 Q. So you weren't aware if there were particular 14:31:52
8 incidents that generated the need for him to go there? 14:31:54

9 A. No. 14:31:57

10 Q. Is that the only -- this time you visited 14:32:00
11 around the year 2000, that's the only time you have gone 14:32:02
12 to the Jemez Springs facilities? 14:32:02

13 A. Yes. 14:32:05

14 Q. You mentioned I think that your best estimate 14:32:08
15 is sometime in the mid-1980s is when you first learned 14:32:11
16 of the Servants of the Paraclete? 14:32:12

17 A. Yes. 14:32:13

18 Q. And I think you mentioned a magazine you read 14:32:14
19 about them in? 14:32:15

20 A. The America. 14:32:16

21 Q. The America? 14:32:17

22 A. (Witness nods head.) 14:32:17

23 Q. Who publishes that; do you know? 14:32:20

24 A. The Jesuits in New York.

25 Q. And you also mentioned you heard about it from

1 talking with others? 14:32:23

2 A. Yes. 14:32:29

3 Q. The conversations you were having with others, 14:32:31
4 was that before or after this article, to your 14:32:32
5 awareness? 14:32:33

6 A. Probably about the same time. 14:32:36

7 Q. So you were discussing the article with various 14:32:36
8 people? 14:32:37

9 A. Yes. 14:32:39

10 Q. Do you recall some of the folks you were 14:32:40
11 discussing it with? 14:32:41

12 A. No. 14:32:43

13 Q. Were they Franciscans? 14:32:45

14 A. Some were, mm-hmm. 14:32:47

15 Q. Do you remember where you were when you were 14:32:50
16 having these conversations, generally, not what room? 14:32:53

17 A. No. 14:32:55

18 Q. Was it part of a conference, was it part of 14:32:58
19 your regular faculty meeting? I don't know. 14:32:59

20 A. I don't remember. 14:33:00

21 Q. Did you have a lot of conversations about it? 14:33:01

22 A. No. 14:33:03

23 Q. Couple? 14:33:04

24 A. Perhaps a couple.

25 Q. The folks that you talked with, did they appear

1 to have known about this religious order before the 14:33:14
2 article? 14:33:16

3 MR. MATIASIC: Object that's vague and 14:33:18
4 ambiguous as to -- 14:33:18

5 THE WITNESS: Some did, some didn't. 14:33:18

6 MR. MATIASIC: Hold on, Father. 14:33:21

7 -- which particular person we're speaking of, 14:33:25
8 but go ahead. 14:33:25

9 BY MR. DeMARCO: 14:33:27

10 Q. These folks that we don't know the names of 14:33:30
11 that you talked with sometime in the mid-1980s, in the 14:33:32
12 conversations that you had with these individuals, did 14:33:36
13 you see any outward signs that these folks had 14:33:39
14 previously heard of this order of Priests or 14:33:40
15 congregation of Priests? 14:33:42

16 MR. MATIASIC: Same objection. 14:33:42

17 THE WITNESS: I can't remember. 14:33:43

18 BY MR. DeMARCO: 14:33:51

19 Q. All right. Have you ever heard of a facility 14:33:59
20 out of Maryland called St. Luke's Institute? 14:34:02

21 A. Vaguely I remember that, yes. 14:34:07

22 Q. And an institution that also treats problem 14:34:07
23 Priests? 14:34:09

24 A. That's what I understand.

25 Q. And at least some of them for sexually-related

1 problems?

2 A. I guess; I don't know.

3 Q. You have no idea about that?

4 A. Not with certain knowledge, no.

5 Q. But you have a sense for it at least?

6 A. (Witness nods head.)

7 Q. Okay. When is the first time you heard about
8 the St. Luke's facility?

9 A. That I can't remember.

10 Q. More than a year ago?

11 A. Much more.

12 Q. More than 20 years ago?

13 A. Perhaps.

14 Q. About 20 years ago?

15 A. Maybe. I can't --

16 Q. It's hard to say.

17 Do you remember how you learned about it?

18 A. No.

19 Q. Father, do you recall there being an
20 independent Board of Inquiry regarding St. Anthony's?

21 A. Repeat that.

22 Q. Do you recall there being an independent Board
23 of Inquiry regarding St. Anthony's seminary?

24 A. Yes, I do.

25 Q. When was your first awareness of that Board of

1 Inquiry?

2 A. The late '80s, perhaps the early '90s.

3 Q. So either the late '80s or maybe the early
4 '90s.

5 How did you first become aware of it?

6 A. Well, I was in the Bay Area at the time, and so
7 I was on a faculty -- we had -- we called it renewal
8 program for Priests at the Old Mission Santa Barbara,
9 and I was the instructor in moral theology. And so
10 while I was there on one of the times that I was giving
11 lectures, I heard about it.

12 Q. Was hearing about the Board of Inquiry the
13 first time you had ever heard about possible issues
14 regarding sexual impropriety St. Anthony's?

15 A. No.

16 Q. When is the first time of such things?

17 A. That, again, I think would have been one of the
18 times when I was in Santa Barbara and heard about it
19 from one of the Friars that had told me.

20 Q. Was it much before? Was it more than a year
21 before you heard about the Board of Inquiry?

22 A. It was a short time before.

23 Q. A year?

24 A. A year perhaps.

25 Q. About a year?

1 A. Mm-hmm. 14:36:42

2 Q. Do you remember which Friar mentioned it to you 14:36:42
3 first? 14:36:50

4 A. To the best of my recollection, it was [REDACTED] 14:36:53

5 [REDACTED] 14:36:58

6 Q. And what did [REDACTED] tell you? 14:37:08

7 A. If I have the date right, he was at the Old 14:37:16
8 Mission at the time and he -- we got in conversation and 14:37:19
9 he told me some of the things that were happening. 14:37:20

10 Q. What did he tell you? 14:37:26

11 A. I think it was something to do with the St. 14:37:31
12 Anthony's boys choir and problems that existed within 14:37:32
13 that group. 14:37:35

14 Q. What problems? Did he describe the problems? 14:37:40

15 A. He told me that there was a sexual-abuse issue. 14:37:43

16 Q. Anything else? Did he tell you anything else 14:37:46
17 about that? Did he -- 14:37:48

18 A. Well, the allegations -- 14:37:50

19 MR. MATIASIC: Let him finish his question. 14:37:50

20 BY MR. DeMARCO: 14:37:53

21 Q. Who, what, where, when kind of stuff? 14:37:57

22 A. He was pretty closed-mouthed about it. He 14:37:58
23 didn't tell me much, no. 14:38:00

24 Q. Did he tell you who was being accused? 14:38:00

25 A. [REDACTED].

1 Q. Did he tell you anybody else? 14:38:07

2 A. No. 14:38:10

3 Q. So, to your understanding, the only person he 14:38:12
4 mentioned was [REDACTED]? 14:38:12

5 A. Yes. 14:38:15

6 Q. Did he tell you who any of the accusers were? 14:38:21

7 A. I can't recall their names now, but one of them 14:38:27
8 was a resident of Santa Barbara whose son was the one -- 14:38:28
9 it was one of the plaintiffs. 14:38:33

10 Q. Okay. Was that the first time you had ever 14:38:40
11 heard of [REDACTED] possibly engaging in sexual 14:38:41
12 inappropriate behavior? 14:38:47

13 A. Yes. 14:38:52

14 Q. Were you aware that he was criminally convicted 14:38:54
15 of sexual abuse? 14:38:57

16 MR. MATIASIC: At the time or at any time? 14:38:58

17 BY MR. DeMARCO: 14:38:59

18 Q. Are you aware? 14:39:01

19 A. The reason that I would have known about it is 14:39:05
20 because the period of time that I was the President of 14:39:10
21 the Franciscan School of Theology in Berkeley, that's 14:39:14
22 1985 to '88, his father, [REDACTED] father, 14:39:19
23 was our school treasurer, and it was from him that I 14:39:20
24 learned the details.

25 Q. So around 1985?

1 A. I think more like '86. Might have been '87,
2 somewhere in there.

3 Q. All right. Was the conversation you had with
4 [REDACTED] before or after you learned from [REDACTED]
5 [REDACTED] father?

6 A. At about the same time or maybe shortly after.

7 Q. So around 1985 or '86?

8 A. Yes.

9 MR. MATIASIC: He testified that it could also
10 be '87.

11 BY MR. DeMARCO:

12 Q. '87 also, I'm sorry.

13 A. It's somewhere in that.

14 Q. Not in the early '90s?

15 A. No.

16 Q. When was the first time you learned that other
17 Franciscan Priests were being accused of molesting at
18 St. Anthony's?

19 A. It would have been right about that same time.

20 Q. Which same time?

21 A. The '85, '86, '87 range.

22 Q. And what other folks were you hearing were
23 being accused?

24 A. Well, one we have already talked about. Mario
25 Cimmarrusti.

1 Q. Anybody else? 14:40:47

2 A. And at this particular moment I can't remember 14:40:53
3 names of anyone else that was accused, but there may 14:40:55
4 have been other accusations that I can't recall. 14:40:58

5 Q. Martin McKeon? 14:41:01

6 A. That I did not hear until much, much later. 14:41:08

7 Q. Father Pacheco? Father Pacheco? 14:41:09

8 A. No. 14:41:15

9 Q. Do you recall how you first heard of 14:41:22
10 accusations regarding Father Cimmarrusti, meaning who 14:41:25
11 was the first person who told you about such 14:41:26
12 accusations? 14:41:29

13 A. Again, I would -- best I can remember, I think 14:41:32
14 it was my visit to Santa Barbara and my talk with 14:41:34
15 [REDACTED]. 14:41:46

16 Q. I imagine subsequent to that the Board of 14:41:49
17 Inquiry at some point, or some members of it, contacted 14:41:50
18 you? 14:41:52

19 A. Surprisingly, no. 14:41:57

20 Q. Did you ever have occasion to speak with Father 14:42:04
21 Dismas Bonner about the inquiry? 14:42:08

22 A. No. He is not from our province. He is a 14:42:12
23 visiting Friar who is our Provincial visitor. 14:42:17

24 Q. How about Father [REDACTED], did you ever
25 speak with him?

1 A. Our former Provincial. I'm sure we did. We're
2 on the same faculty at Berkeley and I have had
3 conversations with him about this issue, so I'm sure we
4 did.

5 Q. Let me ask you a slightly different question.
6 Do you recall having conversations with Father [REDACTED]
7 while the inquiry was ongoing about the investigation?

8 A. Not that precise question, no.

9 Q. Nobody -- did anybody ever interview you as
10 part of that inquiry?

11 A. No.

12 Q. Do you know of any reason why you were not
13 interviewed?

14 A. Surprisingly, no.

15 Q. Did you ever attempt to volunteer information
16 to the inquiry?

17 A. No.

18 Q. When you spoke with Father [REDACTED]
19 subsequently, what did you talk about about the --
20 regarding the inquiry?

21 A. Well, I remember complimenting him on the way
22 that he was handling the situation, and the fact that we
23 were very forthright in our approach to the whole thing.
24 It was that type of conversation. It wasn't an inquiry
25 into exactly what happened, but I just from a distance

1 admired him.

2 Q. So you remember complimenting him personally
3 about the investigation?

4 A. Yes.

5 Q. Do you remember what specifics you gave him as
6 to why you were complimenting him?

7 A. Just the word of mouth that I had heard about
8 it, and then the fact that, you know, certain statements
9 made by him regarding policy of openness and so on, all
10 of those things.

11 Q. What were you hearing via word of mouth about
12 the inquiry?

13 A. Well, I was hearing that allegations were made,
14 some of which may have been true, and some of which may
15 not have been, and it was a very complex set of issues.

16 Q. Did you ever learn or hear from anyone else of
17 any faculty that were at St. Anthony's in the time that
18 you were there having been interviewed as part of the
19 inquiry?

20 MR. MATIASIC: Apart from anything you learned
21 from counsel obviously.

22 MR. DeMARCO: Yes, sorry.

23 THE WITNESS: No.

24 BY MR. DeMARCO:

25 Q. So you never heard of any -- again, except for

1 what you may have heard from counsel, so that I am clear 14:45:24
2 on the record, you have never heard of any other of the 14:45:27
3 faculty members that served while you were at St. 14:45:31
4 Anthony's being interviewed as part of the inquiry? 14:45:37

5 A. I am almost certain that our present Provincial 14:45:39
6 was one of those interviewed. 14:45:43

7 Q. And who is the present Provincial? Jurisich? 14:45:50

8 A. Melvin Jurisich. J-U-R-I-S-I-C-H. 14:45:51

9 Q. Are you aware of any others or have you heard 14:45:54
10 of any others, again aside from what you might have 14:45:55
11 heard from counsel, having been interviewed as part of 14:45:55
12 the board -- 14:45:58

13 A. I would think [REDACTED] also. 14:46:01

14 Q. Why would you think [REDACTED]? 14:46:03

15 A. Because he was at the seminary on the faculty. 14:46:07

16 MR. MATIASIC: Father, when counsel is asking 14:46:09
17 you did you hear, did you actually hear that Father 14:46:13
18 [REDACTED] had been interviewed, or did you think that he 14:46:15
19 should be interviewed? There is a difference. 14:46:15

20 BY MR. DeMARCO: 14:46:19

21 Q. I'm asking you if you have ever heard of any of 14:46:19
22 these folks -- 14:46:22

23 A. That's what I answered to you. 14:46:22

24 Q. -- being interviewed.

25 A. My answer was yes. I heard about it.

1 Q. So you believe [REDACTED] was interviewed? 14:46:27

2 A. Yes. 14:46:28

3 Q. Any others? 14:46:40

4 A. No, that I can explicitly remember, no. 14:46:44

5 Q. Ever hear whether Mario Cimmarrusti had been
6 interviewed as part of it? 14:46:44
14:46:45

7 A. No. 14:46:48

8 Q. How about [REDACTED], ever heard of him
9 being interviewed as part of it? 14:46:50
14:46:58

10 A. I'm not clear on that one. Might have, but I
11 don't remember. 14:46:59
14:47:04

12 Q. How about Martin McKeon? 14:47:05

13 A. It's "McKeon," by the way. 14:47:06

14 Q. I'm sorry. 14:47:07

15 A. That's okay. No. 14:47:17

16 Q. Have you ever seen the Board of Inquiry's
17 report? 14:47:21
14:47:25

18 A. No, not the actual report. We've heard about
19 it from the Provincial letters that he sends out, but
20 not the report itself. 14:47:29
14:47:35
14:47:38

21 Q. Have you ever spoken with anyone who has seen
22 the full report? 14:47:39
14:48:00

23 A. No. 14:48:03

24 Q. Did you ever speak with anyone who says they
25 were abused out of St. Anthony's? 14:48:03

1 A. No.

2 Q. Did you ever speak with any family members of
3 folks who say they were abused?

4 A. Back up would you, please, to the previous
5 question.

6 Q. Sure. Yeah.

7 A. There is a group of former seminarians, you
8 probably are aware of, who are working with fellow
9 seminarians who claim to have been abused, and they paid
10 me a visit, two of them, recently, and told me about
11 their work. And so that would have been an example of
12 someone who has talked to me about this.

13 Q. Who was that it came and spoke with you? Who
14 was it that came and spoke with you?

15 A. This has been some time ago, so I can't quickly
16 remember. I think one of them was [REDACTED] and the other
17 was -- I can't remember now.

18 MR. HALE: [REDACTED] [REDACTED]?

19 THE WITNESS: Good. Thanks. [REDACTED]

20 MR. HALE: Is the other one possibly McCord?

21 THE WITNESS: You're right. I was confusing
22 [REDACTED] with [REDACTED].

23 BY MR. DeMARCO:

24 Q. What did they tell you?

25 A. They didn't actually go into a lot of detail.

1 They just said that they had been victims and that they
2 were trying to help others who were in the same position
3 and to help them mentally with their recovery, but also
4 with a better attitude to what happened and so on, just
5 the kind of thing, the healing process, that they are
6 trying to instigate.

7 Q. Other than your counsel, has anyone ever asked
8 you before these depositions started whether you knew
9 anything about any abuse going on at St. Anthony's?

10 A. No.

11 Q. So, again, aside from anything counsel might
12 have asked you, and aside from what we've been asking in
13 these depositions, nobody has ever asked you if you knew
14 abuse was going on?

15 MR. MATIASIC: Asked and answered.

16 THE WITNESS: In private conversations with our
17 present Provincial, Melvin Jurisich, since he later
18 became Rector of the seminary, I have shared my own
19 nonmemory of any of this with his perception, so we
20 talked about what did you remember, and what did you
21 remember, that sort of thing.

22 BY MR. DeMARCO:

23 Q. Uh-huh.

24 A. So that would be the only other specific
25 instance that I can remember.

1 Q. When were these conversations or when did they 14:51:00
2 start? 14:51:03

3 A. While he was still secretary of the province, 14:51:06
4 before he was elected and that was in 2000. 14:51:09

5 Q. When is the most recent time you had such a 14:51:09
6 conversation with him? 14:51:14

7 A. Two or three months ago. 14:51:22

8 Q. Was that before or after you learned that you 14:51:23
9 might have to give a deposition? 14:51:25

10 MR. MATIASIC: Counsel, can you hold on one 14:51:27
11 second? 14:51:28

12 THE VIDEOGRAPHER: Off the record? 14:51:31

13 MR. MATIASIC: Yeah, one for one second. 14:51:32

14 THE VIDEOGRAPHER: Going off the record. The 14:51:35
15 time is 2:51 p.m. 14:53:15

16 (Counsel and witness confer) 14:53:33

17 THE VIDEOGRAPHER: Back on the record. The 14:53:35
18 time is 2:53 p.m. 14:53:36

19 BY MR. DeMARCO: 14:53:42

20 Q. Father, I think you have testified a moment ago 14:53:46
21 that the last conversation you had with Father Jurisich 14:53:50
22 about both of your remembrances was maybe two or three 14:53:51
23 months ago; correct? 14:53:51

24 A. Mm-hmm.

25 Q. Was that before or after you learned you might

1 have to give a deposition? 14:54:01

2 A. It would be both. I think I mentioned to him 14:54:04
3 that we didn't discuss anything in detail, but... 14:54:06

4 Q. Let me make sure you understand my question. 14:54:08
5 I'm not asking for what you discussed. 14:54:08

6 A. No. 14:54:11

7 Q. I'm asking for the very last time you spoke 14:54:14
8 with him about both of your remembrances, was that 14:54:18
9 before or after you learned you might to have give a 14:54:18
10 deposition? 14:54:21

11 A. After. 14:54:29

12 Q. Okay. Now, what did -- in that most recent 14:54:32
13 conversation, what did Father Jurisich tell you? 14:54:38

14 A. Actually, we didn't go into much detail. It 14:54:43
15 was a telephone conversation and I was talking about 14:54:48
16 some other business that we had, and I merely casually 14:54:51
17 mentioned that I had made a deposition, and I didn't go 14:54:51
18 into it. 14:54:54

19 Q. That you had already sat for a deposition or 14:54:55
20 that you had -- 14:54:57

21 A. I had made it. It was after. 14:55:00

22 Q. So since the time that we got together last? 14:55:02

23 A. Last, mm-hmm. 14:55:05

24 Q. So that would have been a matter of weeks ago? 14:55:05

25 A. Yes.

1 Q. Previous to the conversation a matter of weeks 14:55:13
2 ago, when was the last time that you spoke to Father 14:55:16
3 Jurisich again about your remembrances or his 14:55:19
4 remembrances at St. Anthony's regarding abuse? 14:55:21

5 A. That would have been perhaps a year or two 14:55:22
6 before. 14:55:24

7 Q. How many times would you say you have spoken 14:55:26
8 with him about this subject? 14:55:28

9 A. Probably three times in all. 14:55:36

10 Q. Any of those conversations of any length? 14:55:37

11 MR. MATIASIC: Vague and ambiguous. 14:55:40

12 MR. DeMARCO: True. 14:55:41

13 THE WITNESS: To be honest -- 14:55:41

14 BY MR. DeMARCO: 14:55:43

15 Q. Was it more than just passing references? 14:55:45

16 A. To be honest with you, this is a subject that I 14:55:50
17 chose not to talk about with anyone. I am very 14:55:54
18 tight-lipped on this, and have been from the beginning, 14:55:59
19 just my way of doing things. I'm supporting the efforts 14:56:03
20 that are being made to reconcile and all the other 14:56:08
21 positive elements in it, but I have made a policy of not 14:56:08
22 talking about it. 14:56:10

23 Q. Talking about what? 14:56:13

24 A. The abuse issue.

25 Q. I'm a little confused, and I apologize for my

1 confusion. Are you saying you don't want to talk about
2 the abuse issue at all; is that what you're saying?

3 A. I would prefer not to, yes.

4 Q. You understand that's why we're here today?

5 A. I know, and I'm here to help as much as I can
6 to understand it, but obviously I prefer not to. I'm
7 here freely. I'm not under duress.

8 Q. Well, that can be arranged.

9 MR. HALE: I think you're misunderstanding.

10 THE WITNESS: I'm under oath to tell the truth.

11 MR. DeMARCO: Okay. I hope I do. I hope I
12 misunderstand you.

13 MR. MATIASIC: Counsel, let me help you out.

14 MR. DeMARCO: Yes, sir.

15 Father, when you're speaking of not --

16 MR. HABEL: He means talking to other people
17 about it.

18 MR. MATIASIC: Let me see if we can clear up
19 the record.

20 Father, when you're talking about you're
21 tight-lipped about not talking about the abuse, you are
22 talking about outside the confines of this deposition?

23 THE WITNESS: Right.

24 MR. MATIASIC: And today you have given your
25 best testimony and freely answered all the questions?

1 THE WITNESS: Correct. 14:57:11

2 MR. MATIASIC: And you know that you're under 14:57:11
3 oath today? 14:57:11

4 THE WITNESS: I do. 14:57:13

5 MR. MATIASIC: And you testified truthfully 14:57:14
6 today? 14:57:14

7 THE WITNESS: I have. 14:57:16

8 MR. MATIASIC: All right. And the last time 14:57:18
9 you testified, you testified truthfully? 14:57:20

10 THE WITNESS: I did. 14:57:21

11 MR. MATIASIC: You okay? 14:57:22

12 MR. DeMARCO: No. 14:57:24

13 MR. TISDALE: You don't want to withdraw your 14:57:25
14 threat? 14:57:27

15 MR. DeMARCO: Well, let me ask the follow-up 14:57:31
16 question. I'll see if it's just an idle one. 14:57:33

17 Q. Father, you mentioned you spoke with Father 14:57:36
18 Jurisich at least three times about the abuse issue out 14:57:37
19 of St. Anthony's? 14:57:39

20 A. Mm-hmm. 14:57:41

21 Q. First time being around 2000? 14:57:41

22 A. Mm-hmm. 14:57:44

23 Q. And what did you two talk about? 14:57:47

24 A. This was not an extended conversation, it was
25 just in passing, and I said how are you handling this,

1 you know, now that you are a Provincial, something to
2 that effect. And he said it's been very, very
3 difficult, and he has made no secret of that, that it's
4 been, you know, a heavy burden for him and for those
5 that are responsible.

6 Q. Let me ask you a separate question.

7 Actually, let's go off the record for a second.
8 I would like you to go back into the record and find the
9 question --

10 THE VIDEOGRAPHER: Should we go off the record?

11 MR. DeMARCO: Yes.

12 THE VIDEOGRAPHER: Going off the record. The
13 time is 2:58 p.m.

14 (Pause in the proceedings while the reporter
15 read portions of the record)

16 THE VIDEOGRAPHER: Back on the record. The
17 time is 3:00 p.m.

18 BY MR. DeMARCO:

19 Q. Father Harris, in those conversations you
20 mentioned, what did Father Jurisich say he remembered?

21 A. Both of us said that we did not remember.
22 That's the whole point of it.

23 Q. Did not remember what?

24 A. Being unaware of abuse.

25 Q. So you both confirmed that you don't know

1 anything about the abuse; would that be a fair
2 statement?

3 MR. MATIASIC: Asked and answered.

4 THE WITNESS: At the time.

5 BY MR. DeMARCO:

6 Q. At the time?

7 A. At the time.

8 Q. And the first conversation was in 2000?

9 A. Yes.

10 Q. But you both remember Father Cimmarrusti?

11 A. Yes.

12 Q. And was Father Jurisich involved with any of
13 the faculty meetings?

14 MR. MATIASIC: At what time, Counsel?

15 MR. DeMARCO: While both of you were there.

16 MR. MATIASIC: Vague and ambiguous.

17 THE WITNESS: Repeat that question.

18 BY MR. DeMARCO:

19 Q. Father Jurisich was in faculty meetings with
20 you?

21 A. Yes, exactly, mm-hmm.

22 Q. Okay. What was the earliest time period that
23 Father Jurisich was in a faculty meeting?

24 A. He joined the faculty late in my tenure, so it
25 would have been about -- I left in '74, so it would have

1 been right around '70. 15:01:16

2 Q. So you have spoken at least three times, you 15:01:22
3 and Father Jurisich, about your memories of St. 15:01:22
4 Anthony's? 15:01:23

5 A. Yes. 15:01:25

6 Q. And specifically about the abuse? 15:01:25

7 A. Yes. 15:01:30

8 Q. And each time you said the same exact thing? 15:01:32

9 MR. MATIASIC: Misstates his testimony, 15:01:34
10 argumentative. 15:01:34

11 THE WITNESS: Similar. 15:01:35

12 BY MR. DeMARCO: 15:01:37

13 Q. So each time both of you said: I didn't know 15:01:40
14 anything about the abuse as it was happening? 15:01:41

15 A. Exactly, that's correct. 15:01:42

16 MR. MATIASIC: Asked and answered, Counsel. 15:01:43

17 BY MR. DeMARCO: 15:01:48

18 Q. If you said that the first time when you spoke 15:01:51
19 with him, why was there a need to repeat the same 15:01:51
20 statement? 15:01:59

21 MR. MATIASIC: Argumentative, lacks foundation. 15:02:02

22 You if you can answer, go ahead. 15:02:03

23 THE WITNESS: Well, the circumstances were 15:02:07
24 different. Time had passed and more accusations were
25 made and things were, you know, more out in the public,

1 so I guess it just was -- I was more compassionating him 15:02:20
2 because of the burden that he was carrying. That was 15:02:22
3 what was bothering me about it. 15:02:22

4 BY MR. DeMARCO: 15:02:25

5 Q. Before today's deposition, and other than 15:02:27
6 conversations with counsel, have you spoken with anyone 15:02:29
7 else about your testimony? 15:02:31

8 A. Not a word. 15:02:34

9 Q. And except obviously for Father Jurisich? 15:02:36

10 A. I didn't tell him anything about the 15:02:38
11 deposition. I just said that I had given it. 15:02:39

12 Q. I see. 15:03:01

13 Was Father [REDACTED] -- 15:03:01

14 A. [REDACTED]. 15:03:04

15 Q. -- [REDACTED], was he on the faculty when you first 15:03:05
16 arrived at St. Anthony's? 15:03:06

17 A. Yes. 15:03:08

18 Q. And he was there for a number of years 15:03:08
19 thereafter? 15:03:09

20 A. Yes. 15:03:12

21 Q. What other faculty members were there already 15:03:14
22 when you arrived that you can recall? 15:03:18

23 A. I think I have given that information once 15:03:20
24 before, but I can try to do it again.

25 MR. MATIASIC: Asked and answered.

1 MR. DeMARCO: Quick to the draw, I see. 15:03:30

2 Q. No, that's okay. 15:03:34

3 Do you remember a student by the name of [REDACTED] 15:03:35
4 [REDACTED]? 15:03:35

5 A. Somewhat. 15:03:37

6 Q. What do you remember about him? 15:03:40

7 A. I remember he had very nice parents, and that 15:03:46
8 they were very interested in the seminary and that they 15:03:52
9 came to visit quite often. I am trying to remember now 15:03:58
10 where they were in residence. It seemed like it was -- 15:04:01
11 where is that [REDACTED] all 15:04:01
12 the time? 15:04:02

13 Q. [REDACTED]? 15:04:05

14 A. [REDACTED]. Somewhere in that area. 15:04:06

15 Q. Okay. 15:04:10

16 A. And that's about the extent of my memory. 15:04:12

17 Q. Do you remember anything about [REDACTED] as a 15:04:12
18 student? 15:04:17

19 A. That he was not too sharp. 15:04:23

20 Q. Any behavioral problems noted regarding [REDACTED] 15:04:24
21 that you recall? 15:04:26

22 A. That I cannot recall. 15:04:29

23 Q. How about Vincent Perez, do you recall a 15:04:32
24 student by the name of [REDACTED]? 15:04:32

25 A. That's a little harder for me to recall. I

1 don't -- the name sounds familiar, but I can't remember. 15:04:40

2 Q. I am only asking for what you recall. 15:04:43

3 [REDACTED]? 15:04:44

4 A. Vaguely I remember him. 15:04:46

5 Q. What do you recall about him, sir? 15:04:51

6 A. I am trying to remember now whether he was one 15:04:55
7 of our own Franciscan seminarians or whether he was with 15:04:58
8 The Redemptorist. That's a little hard for me to 15:05:02
9 remember exactly, but that's the context in which I 15:05:02
10 remember him. 15:05:05

11 Q. Do you recall any issues regarding Mr. [REDACTED]? 15:05:06

12 A. No. 15:05:16

13 Q. How about -- that's not during your time. 15:05:29

14 You mentioned -- 15:05:31

15 MR. DeMARCO: Why don't we go off the record 15:05:31
16 for a moment. 15:05:32

17 MR. MATIASIC: Okay. 15:05:32

18 THE VIDEOGRAPHER: Going off the record. The 15:05:34
19 time is 3:05 p.m. 15:21:07

20 (Recess taken) 15:21:21

21 THE VIDEOGRAPHER: We're back on the record. 15:21:22
22 The time is 3:21 p.m. 15:21:22

23 // 15:21:22

24 //

25 //

FURTHER EXAMINATION

BY MR. HALE:

Q. Good afternoon, Father Harris.

A. Good afternoon.

Q. I want to ask some follow-up questions first regarding some of the things Mr. DeMarco asked you and you testified to.

You talked about the fact that during the Board of Inquiry, that the Provincial was sending letters out that kind of updated you on what was going on. How often did the Provincial send letters out; do you recall?

A. He sends them out after every Definitorium meeting, which is about five or six times a year.

Q. And what about during that year of the Board of Inquiry, were there more letters than usual that year?

A. No.

Q. In any of those letters did he identify any of the Franciscans who were identified by the board as perpetrators?

A. No.

Q. Did he talk about the board proceedings in any of those letters?

A. No. The main business was the financial burden

1 that it was and what was happening and just in general;
2 it wasn't specific.

3 Q. The financial burden on the board?

4 A. The burden on the Province, financial burden.

5 Q. Caused by the board doing its work?

6 A. Right.

7 Q. Okay. And do those letters go to every member
8 of the Province?

9 A. Yes.

10 Q. Brothers, Priests, the like?

11 A. Everyone.

12 Q. You mentioned that [REDACTED]'s Father
13 worked as the school treasurer for the FST in the '80s?

14 A. Correct.

15 Q. And for what period of time was he the
16 treasurer?

17 A. I think during my tenure, which was from '85 to
18 '88.

19 Q. So for that entire tenure he was the school's
20 treasurer?

21 A. For those three years.

22 Q. And was that your entire time on the FST?

23 A. I have been at FST for 30 years. Just during
24 the period that I was the president.

25 Q. During that when your term ended, did he

1 continue on as the treasurer or was that the only -- 15:23:33

2 A. No, he left at that point. 15:23:35

3 Q. Okay. And did you know him before he became 15:23:36
4 the treasurer? 15:23:39

5 A. Only casually. 15:23:42

6 Q. How did it come up -- how did it come about 15:23:46
7 that he told you about allegations involving his son? 15:23:51

8 A. I guess he was seeking consolation. He felt 15:23:53
9 very bad about the whole thing and wanted to talk about 15:23:53
10 it. 15:23:57

11 Q. Do you recall, did the conversation take place 15:23:58
12 in your office or in his office? 15:23:59

13 A. In my office. 15:24:01

14 Q. Did he come to see you? 15:24:01

15 A. Yes. 15:24:03

16 Q. And what exactly did he say? 15:24:07

17 A. I can't remember except that he was in kind of 15:24:12
18 a disturbed state and very anxious about it, like a 15:24:13
19 Father would be. 15:24:17

20 Q. Why did he -- why did he leave the FST as 15:24:17
21 treasurer? 15:24:19

22 MR. MATIASIC: Calls for speculation. 15:24:20

23 BY MR. HALE: 15:24:21

24 Q. Do you know why?

25 A. I happen to know that he had other obligations

1 that he felt were more pressing. 15:24:32

2 Q. Did his departure have anything to do with the 15:24:33
3 allegations against his son? 15:24:33

4 A. No. 15:24:39

5 Q. And when he brought those allegation up to you, 15:24:42
6 was it prior to the time that Father Van Handle was 15:24:44
7 actually prosecuted criminally in Santa Barbara? 15:24:49

8 A. I'm not clear on the dates of that prosecution, 15:24:53
9 so I would have to check it out. I know the time that 15:24:59
10 he was at FST, but I can't remember precise dates for 15:25:00
11 the prosecution. 15:25:03

12 Q. Are you confident about the times as far as the 15:25:07
13 three years Mr. Van Handle's father was at FST as the 15:25:08
14 treasurer? 15:25:08

15 A. Yes. 15:25:10

16 Q. And you're confident it was '85 to '88? 15:25:11

17 A. Yes. 15:25:14

18 Q. And you're confident that it was in that 15:25:16
19 three-year time frame that he came to you and talked 15:25:19
20 about the allegations against his son? 15:25:19

21 A. Yes. 15:25:22

22 Q. What did you say to him when he told you of his 15:25:23
23 concerns regarding his son? 15:25:29

24 A. I don't remember precisely, except that I tried
25 to offer him consolation and my prayers and it was about

1 all I could do. 15:25:40

2 Q. Did the two of you discuss whether Robert Van 15:25:42
3 Handle was going to be put into some kind of treatment 15:25:44
4 as a result of the allegation? 15:25:44

5 A. No. 15:25:49

6 Q. Did he tell you he thought Robert Van Handle 15:25:52
7 should be put into some kind of treatment because of the 15:25:52
8 allegations? 15:25:52

9 A. No. 15:25:58

10 Q. Did you he discuss with you whether Robert had 15:26:01
11 ever been abused himself as a child or minor? 15:26:01

12 A. No. 15:26:12

13 Q. Did he express surprise at the allegations? 15:26:18

14 A. Well, as best I can remember, yes. To the 15:26:21
15 extent of it, I think, he was shocked by that. 15:26:24

16 Q. Okay. How long did the conversation last for, 15:26:24
17 do you think? 15:26:28

18 A. I would say between 15 and 20 minutes. 15:26:35

19 Q. Was anyone else present during the 15:26:35
20 conversation? 15:26:35

21 A. No. 15:26:45

22 Q. When the conversation took place, was Robert 15:26:47
23 Van Handle still residing in Santa Barbara, to your 15:26:48
24 knowledge?

25 A. Again, where I'm a little vague, because of the

1 date of the trial, I'm not sure just what point that 15:27:01
2 was. 15:27:10

3 Q. Okay. I want to go back to the questions about 15:27:14
4 Jemez Springs. I know Mr. DeMarco asked you for the 15:27:19
5 identity of the friend who was treating at Jemez. 15:27:21

6 And this is actually directed more towards you, 15:27:23
7 Paul. I want to understand what exact right to privacy. 15:27:25
8 Are you talking about the sexual right to privacy that 15:27:28
9 you are claiming in instructing Father Harris not to 15:27:28
10 answer? 15:27:30

11 MR. MATIASIC: We're talking about the right, 15:27:33
12 the privacy right, that that individual has in seeking 15:27:36
13 treatment. 15:27:37

14 MR. HALE: Okay. 15:27:40

15 MR. MATIASIC: As I represented before, he is 15:27:43
16 not implicated in any way, shape or form by these cases. 15:27:46

17 MR. HALE: Okay. But I guess what I want to 15:27:52
18 make sure of is, you -- are you arguing there is a 15:27:53
19 sexual right to privacy involving a minor? 15:27:54

20 MR. MATIASIC: We certainly didn't say that. 15:27:58
21 And as Father Harris testified, he doesn't know what he 15:28:01
22 is there for. So I don't even know that he is there for 15:28:04
23 some type of sexual issue. Whatever treatment he is 15:28:07
24 seeking, he has a right to privacy and we're not going
25 to impinge upon a third party right to it.

1 MR. HALE: Okay. There is no right to privacy 15:28:12
2 in the sexual assault of a child. 15:28:14

3 MR. MATIASIC: Counsel, we can sit here and 15:28:16
4 argue about this all day. I am not claiming that there 15:28:20
5 is some type of inherent privacy right in terms of 15:28:22
6 sexual activity. I don't know what he was there for, 15:28:25
7 neither does Father Harris. And so we're talking about 15:28:28
8 whatever treatment this person has, we're protecting his 15:28:30
9 right to privacy. 15:28:32

10 MR. HALE: I'm just trying to understand the 15:28:33
11 basis for your objection so that when we get in front of 15:28:37
12 the court we can flush out whatever the issue is 15:28:37
13 clearly. 15:28:39

14 MR. MATIASIC: That's fine. 15:28:41

15 MR. HALE: Can you spell it out any more 15:28:41
16 clearly for me? 15:28:43

17 MR. MATIASIC: I think I already did. He 15:28:45
18 doesn't know what the extent of his treatment is and 15:28:47
19 what he was there for, and so you know we're not going 15:28:51
20 to sit there and get into the name of the person. 15:28:53

21 MR. HALE: I'm actually less concerned about 15:28:57
22 what Father Harris knows than what your basis for the 15:29:01
23 instruction not to answer is. Again, if it is a sexual 15:29:04
24 right to privacy, that's a different thing from --

25 MR. MATIASIC: Counsel, I'm not clairvoyant. I

1 have told you four times, and I can tell a fifth, if you 15:29:12
2 want. I don't know what type of treatment he has. 15:29:15
3 There are certain types of treatment that are protected 15:29:18
4 by privacy rights, and so we're not going to sit there 15:29:21
5 and impinge upon his privacy rights when we don't know 15:29:22
6 the nature of the treatment. 15:29:24

7 MR. DeMARCO: To make sure we're clear on the 15:29:29
8 record, Father Harris was not his employer. He was his 15:29:31
9 friend, I think the testimony was. 15:29:33

10 MR. MATIASIC: The testimony is what it is. 15:29:37

11 MR. DeMARCO: Okay. Well, if the testimony is 15:29:40
12 as I recollect, he is aware of this person being over at 15:29:42
13 Jemez Springs because they are friends with each other. 15:29:47
14 So whatever rights of privacy and 15:29:50
15 psychotherapist-patient privileges this individual may 15:29:54
16 have, he has waived it by disclosing it to a third 15:29:56
17 party. I just want to make sure it's on the record. 15:29:57

18 MR. HALE: Yeah, I don't think -- 15:29:59

19 MR. MATIASIC: Assuming that he disclosed it, 15:30:02
20 as opposed to someone else just finding out about it and 15:30:04
21 going to visit him. So there are many 15:30:04
22 different variances because -- 15:30:06

23 MR. DeMARCO: Well, that's part of just finding 15:30:07
24 out who this person was that went to this facility, but
25 you guys aren't willing to tell us the name of the

1 individual.

2 MR. HALE: I don't think you have a right to
3 withhold the name and we'll take it up with the court.

4 MR. HANCE: Move on.

5 MR. DeMARCO: That's fine. Let's move on.

6 BY MR. HALE:

7 Q. With regards to this unnamed person, Father
8 Harris, are you aware of any allegations of sexual
9 misconduct against this person?

10 A. No.

11 Q. I know last time we spoke we talked about [REDACTED]
12 [REDACTED], and I think you said you remembered [REDACTED]
13 [REDACTED]. What can you tell me about [REDACTED], [REDACTED]
14 as a student?

15 A. I think I told you at that time that he was
16 somewhat in the shadow of his [REDACTED] who had been
17 [REDACTED], and so he was a less able
18 student, for one thing, and that's the principle thing
19 that I remember about him, that he was sort of
20 overshadowed by [REDACTED].

21 Q. Did any of the faculty ever come to you and
22 complain about him about anything?

23 A. Never.

24 Q. Do you recall him leaving school early?

25 A. That's something I have thought about since you

1 first asked the question, and the answer is still no; I 15:31:20
2 don't remember. 15:31:29

3 Q. Let me ask you another question. Have you 15:31:32
4 ever -- we talked about attrition rates for St. 15:31:35
5 Anthony's. Have you ever done any research or read any 15:31:40
6 papers on attrition rates for Roman Catholic seminaries 15:31:41
7 on a national level? 15:31:44

8 A. Yes, I have and they are almost identical. 15:31:46

9 Q. To St. Anthony's? 15:31:46

10 A. Yes. 15:31:55

11 Q. And where did you read that? Do you recall the 15:31:58
12 name of the article or when it was published or where it 15:31:59
13 was published? 15:32:03

14 A. I think the information was derived from the 15:32:07
15 Catholic directory, which keeps stats on such things as 15:32:13
16 seminarians. And also the proceedings of the National 15:32:20
17 Catholic Education Association, their annual proceedings 15:32:24
18 has information like that; I believe that's where I 15:32:24
19 found it. 15:32:41

20 Q. Going back to the discussions regarding Mario 15:32:45
21 Cimmarrusti assisting in the infirmary, I think you 15:32:47
22 testified that Mario assumed a lot of the 15:32:50
23 responsibility. Why did this happen? Did he tell you 15:32:53
24 he wanted to? Did you ask him to? How did that come
25 about?

1 A. I think it just kind of happened. I think that
2 he just decided on his own that he would like to be more
3 helpful with the students in the infirmary, and so he
4 took it upon himself to extend his responsibilities.

5 Q. Did he need authority from you to do that?

6 A. No.

7 Q. Did he ask for permission from you to do that?

8 A. No.

9 Q. You referenced the fact that the,
10 quote/unquote, entrance requirements for the infirmary
11 were pretty strict. What did you mean by that?

12 A. Well, we are always afraid of malingering of
13 students, using an excuse that is not valid, so we make
14 sure that they really need to be in the infirmary.

15 Q. How did you go about doing that?

16 A. Taking their temperature and making sure they
17 didn't have bars of soap under their armpits when
18 they -- no. I mean finding out if they are sick or not,
19 you know, and really need bedrest.

20 Q. Would it ever have been appropriate -- you
21 referenced taking temperature. Would it ever have been
22 appropriate for Mario or any other faculty member to
23 take a student's temperature rectally?

24 MR. MATIASIC: I'm going to object, incomplete
25 hypothetical, lacks foundation.

1 Go ahead and answer. 15:34:23

2 BY MR. HALE: 15:34:24

3 Q. You can answer. 15:34:26

4 MR. MATIASIC: Go ahead, Father. 15:34:29

5 THE WITNESS: I would assume that that's 15:34:31
6 something anyone can do. 15:34:32

7 BY MR. HALE: 15:34:35

8 Q. But would it have been appropriate for that to 15:34:35
9 happen? 15:34:36

10 MR. MATIASIC: Same objection. 15:34:38

11 THE WITNESS: Take a temperature? 15:34:38

12 BY MR. DeMARCO: 15:34:38

13 Q. Rectally. Rectally. 15:34:40

14 A. Oh, rectally. Oh. No. 15:34:42

15 Q. That never would have been appropriate? 15:34:42

16 A. No. 15:34:48

17 Q. When you said that you were afraid of students 15:34:52
18 malingering, you mean using the infirmary as an excuse 15:34:53
19 to get out of class? 15:34:54

20 A. One of the reasons, mm-hmm. 15:35:13

21 Q. You were asked about whether Mario had any 15:35:17
22 training for assisting in the infirmary, and I think you 15:35:20
23 said that he had no training but that he had a special 15:35:25
24 interest in assisting. How did you know that he had a
25 special interest?

1 MR. MATIASIC: I'm going to object that it 15:35:26
2 misstates the testimony. I believe the witness 15:35:29
3 indicated that he didn't know whether he had training. 15:35:31
4 The question was do you know whether Father Cimmarrusti 15:35:34
5 had any medical training and the answer was, no, I don't 15:35:35
6 know. 15:35:36

7 MR. HALE: I'll rephrase. 15:35:38

8 Q. The point of my question is: You referenced 15:35:41
9 the fact you thought Mario had a special interest in 15:35:44
10 assisting in the infirmary. How did you know he had a 15:35:44
11 special interest? 15:35:46

12 A. He told us about it in the faculty meeting. 15:35:47

13 Q. What did he say? 15:35:52

14 A. He said that he was interested in the physical 15:35:58
15 welfare of the students and that he had done some things 15:36:01
16 that -- you know, sort of taken extra responsibility for 15:36:05
17 the infirmary. As I mentioned before, in the past the 15:36:09
18 infirmary was pretty much run by the student 15:36:14
19 infirmarians and so he just sort of took over for 15:36:15
20 himself. 15:36:20

21 Q. Did he explain to you why he had a special 15:36:24
22 interest? Was it because he had some sort of health 15:36:27
23 issue himself as a child or any other explanation? 15:36:33

24 A. Other than he just had that special interest in
25 things, healthcare, he just had a special concern about

1 that. 15:36:46

2 Q. We talked about the reports that Father 15:36:50
3 Cimmarrusti prepared regarding each student. Did anyone 15:36:53
4 else ever contribute to those reports or was it 15:36:57
5 something uniquely and only prepared by him? 15:36:59

6 A. Well, that was the basis, and the other faculty 15:37:02
7 members contributed orally to it and then I would take 15:37:05
8 notes on that and I would use that as my basis then for 15:37:06
9 interviewing the student. 15:37:08

10 Q. So the written portion of the report was 15:37:09
11 prepared only by Father Cimmarrusti? 15:37:11

12 A. That part of it, yes. 15:37:13

13 Q. Were there any other reports prepared other 15:37:16
14 than that report by Father Cimmarrusti? 15:37:18

15 MR. MATIASIC: As to what time? 15:37:20

16 MR. HALE: Anytime while you were Rector. 15:37:22

17 MR. MATIASIC: And you're also talking about on 15:37:24
18 any subject matter, not just -- 15:37:26

19 MR. HALE: These reports. 15:37:29

20 Q. When you are sitting in a faculty meeting 15:37:31
21 discussing students, were there any other reports that 15:37:33
22 were contributed to or -- 15:37:34

23 A. Other than the character report, no. 15:37:36

24 Q. What's the character report?

25 A. That's the list of all the qualities that are

1 expected. 15:38:02

2 Q. Okay. There was this testimony about the fact 15:38:04
3 that Father Cimmarrusti was transferred from St. 15:38:07
4 Anthony's at the end of the year, and correct me if I am 15:38:10
5 wrong, but I think you said that changes like that 15:38:13
6 always took place at the end of a school year. 15:38:14

7 Did I hear you correctly? 15:38:16

8 A. I think today I also corrected that by saying 15:38:19
9 that all the changes took place in the summer, sometime 15:38:23
10 in July. So it was just coincidental with the fact that 15:38:28
11 school went until the 15th of June, 14th of June. 15:38:29

12 Q. Okay. 15:38:32

13 A. And, I'm sorry, correct myself. 13th of June, 15:38:35
14 the Feast of St. Anthony's. So that was the last day of 15:38:39
15 school, so they always came out in July, so it was 15:38:39
16 subsequent to the end of the year. 15:38:42

17 Q. During your time as Rector at St. Anthony's, 15:38:44
18 was there ever a time when a faculty member was 15:38:46
19 transferred not at the end of the year? 15:38:47

20 A. Not that I can remember. 15:38:50

21 Q. What about [REDACTED], was he transferred in 15:38:52
22 the middle of a school year? 15:38:53

23 A. Not that I can remember. 15:38:55

24 Q. Would that have been highly unusual if that
25 happened?

1 A. It would have been. 15:39:08

2 Q. Do you know where [REDACTED] is now? 15:39:13

3 A. I had dinner with him a couple months ago. He 15:39:20
4 is at The Redemptorist Center in Oakland, Holy Redeemer 15:39:22
5 Center in Oakland. 15:39:24

6 Q. How old is he, do you think? 15:39:29

7 A. He is younger than I am. He is probably in his 15:39:29
8 mid-70s. 15:39:35

9 Q. Health okay? 15:39:38

10 A. He has had heart trouble, had open-heart 15:39:44
11 surgery, and the last time I saw him he was feeling 15:39:44
12 good. 15:39:47

13 Q. How long ago did he have the open-heart 15:39:47
14 surgery? 15:39:52

15 A. Now it's been probably five years. 15:40:05

16 Q. Have you ever discussed the scandal at St. 15:40:06
17 Anthony's with him? 15:40:07

18 A. No. 15:40:10

19 Q. When you had dinner with him, did you tell him 15:40:12
20 that you had been deposed? 15:40:13

21 A. No. 15:40:16

22 Q. Has he ever asked you if you observed anything 15:40:18
23 unusual while you were Rector at St. Anthony's? 15:40:18

24 A. No.

25 Q. You also testified about Mario sometimes

1 complaining about students. Who did he complain about? 15:40:34

2 MR. MATIASIC: Object that misstates his 15:40:37
3 testimony. 15:40:39

4 You can answer. 15:40:39

5 BY MR. HALE: 15:40:42

6 Q. Did Mario complain about students sometimes at 15:40:44
7 the faculty meetings or elsewhere? 15:40:46

8 A. I don't know if I would use the word 15:40:49
9 "complain." I think he reported on students. I don't 15:40:50
10 know if it was necessarily a complaint. 15:40:53

11 Q. Complaint or cited problems or something to 15:40:54
12 that effect? 15:40:55

13 A. Yeah, that would be true. 15:41:00

14 Q. Were there any repeat offenders, any students 15:41:01
15 who were particular problems? 15:41:03

16 MR. MATIASIC: Object; vague and ambiguous. 15:41:05

17 Go ahead and answer. 15:41:06

18 THE WITNESS: It's hard to remember exactly, so 15:41:07
19 I can't answer that. 15:41:07

20 BY MR. HALE: 15:41:13

21 Q. And when he did raise complaints or identify 15:41:16
22 problems, what were the nature of those problems? 15:41:19

23 MR. MATIASIC: Asked and answered. 15:41:23

24 THE WITNESS: Well, I think the normal thing
25 would be being inattentive in class, failing to do --

1 BY MR. DeMARCO: 15:41:28

2 Q. You know what, you are right. Your counsel is 15:41:32
3 right. You answered that already. That's my mistake, 15:41:35
4 I'm sorry. We don't need to have you repeat testimony. 15:41:44

5 There was some discussion of Mario's counseling 15:41:50
6 duties and that he often initiated counseling contacts 15:41:53
7 with students. How do you know that he initiated 15:41:57
8 counseling contacts with students? 15:42:00

9 A. It came out of his reports to the faculty. He 15:42:03
10 would say something like, I called so and so into my 15:42:11
11 office and we talked about it. 15:42:14

12 Q. When he initiated -- did he describe any other 15:42:17
13 manner of initiating a counseling contact with a student 15:42:20
14 other than calling that student into his office? 15:42:30

15 A. One of -- if I understand your question, would 15:42:35
16 he send for students, the answer to that would be yes, 15:42:39
17 but that would be during study hall, not during class. 15:42:52

18 Q. Speaking of study hall, were study hall rules 15:42:55
19 in place when you arrived or did you institute a new set 15:42:56
20 of rules? 15:42:59

21 A. The old set of rules were in place when I 15:43:02
22 arrived, and we started something new with the 15:43:08
23 assignment of carrels to the upper classmen. We gave 15:43:11
24 them study desks in different places where they could
25 have a little more privacy, and it was one of the

1 features of our kind of trying to make things a little 15:43:21
2 bit more homelike. 15:43:23

3 Q. Okay. What were the old rules? 15:43:28

4 A. The old rules were they all assembled in a 15:43:31
5 large lighted hall and stayed there until the end of the 15:43:32
6 study period. 15:43:33

7 Q. And did they essentially sit at a table -- 15:43:35

8 A. A large desk. 15:43:38

9 Q. And when you say "upper classmen," are you 15:43:40
10 referring to only juniors and seniors? 15:43:41

11 A. Yes. 15:43:45

12 Q. And was a carrel basically a desk with a kind 15:43:46
13 of a siding of some sort? 15:43:46

14 A. Yes. 15:43:50

15 Q. And freshmen and sophomores, where did they 15:43:50
16 sit? 15:43:53

17 A. They still had the traditional study hall. 15:43:53

18 Q. At a table? 15:43:54

19 A. Yes. 15:43:56

20 Q. Was this all in the same room, these carrels 15:43:58
21 and the table? 15:44:02

22 A. No. The carrels were scattered around in the 15:44:02
23 building different places. 15:44:11

24 Q. Were there rules for the study hall after you 15:44:11
25 became the Rector that were in writing?

1 A. I guess what you're asking is was there like a 15:44:24
2 student handbook or something of that nature? 15:44:24

3 Q. Sure, sure. 15:44:31

4 A. Again, my memory is not working too well, but I 15:44:35
5 think that during my tenure I actually worked on a 15:44:39
6 student handbook outlining some of the rules and 15:44:46
7 regulations and so on, but I can't now visualize it, but 15:44:47
8 I'm pretty sure I did that. 15:44:49

9 Q. Sounds like you didn't finish it. 15:44:51

10 A. I am not certain. 15:44:56

11 Q. What room was the study hall for the 15:44:58
12 underclassmen? 15:45:01

13 A. Well, at the time that I arrived, it was just 15:45:06
14 an auditorium and it was kind of a multiuse building 15:45:13
15 that we used for sports, as well as -- for basketball, 15:45:20
16 as well as for study hall. So the desks were removable 15:45:23
17 and so we use it for different purposes. 15:45:26

18 Q. So there was a desk placed in there and study 15:45:26
19 hall took place in there? 15:45:27

20 A. Excuse me? 15:45:30

21 Q. In this auditorium there was a table put in the 15:45:33
22 study hall and that's where the study hall occurred? 15:45:33

23 A. Yes. 15:45:36

24 Q. And were all the carrels within this auditorium
25 as well?

1 MR. MATIASIC: Let him finish his question. 15:46:38

2 BY MR. HALE: 15:46:38

3 Q. Can you pin down the year -- did you buy 15:46:43
4 carrels for the upper classmen your first year or did it 15:46:44
5 come a few years down the road? 15:46:50

6 A. A few years down the road. I think perhaps 15:46:53
7 came in '64 or so, so around '66, '67, something like 15:46:53
8 that. 15:46:56

9 Q. And how were the upper classmen in those 15:47:00
10 carrels supervised? How did the supervising Franciscan 15:47:02
11 keep track of those students? 15:47:04

12 A. For the most part, they trusted them to be on 15:47:05
13 their own. 15:47:08

14 Q. And you think that was around '66-67 school 15:47:10
15 year the carrels were instituted? 15:47:10

16 A. Yeah. 15:47:18

17 Q. Shift gears on you here for a second. I think 15:47:20
18 you testified last time that there were semi-annual -- 15:47:25
19 this time too -- semi-annual evaluations for students at 15:47:25
20 St. Anthony's? 15:47:26

21 A. Mm-hmm. 15:47:30

22 Q. Was the same thing in existence for FST 15:47:34
23 students in the '60s and '70s or was it a different 15:47:35
24 evaluation system?

25 MR. MATIASIC: Calls for speculation.

1 THE WITNESS: The form? 15:47:38

2 BY MR. HALE: 15:47:41

3 Q. Well, the fact that they were semi-annual 15:47:42
4 evaluations. 15:47:42

5 A. That remained. 15:47:46

6 Q. So it was the same frequency of evaluation? 15:47:46

7 A. Yes. 15:47:54

8 Q. Did the Province ever make a recruiting movie 15:47:56
9 for prospective seminarians? 15:47:56

10 A. Yes. 15:47:59

11 Q. Was it called, "It Takes A Man"? 15:47:59

12 A. Yes. 15:48:02

13 Q. Is that still in existence? 15:48:02

14 A. Yes. 15:48:06

15 Q. Where would I find a copy of that? 15:48:09

16 A. The Director of Vocations office in Sacramento. 15:48:15

17 Q. Okay. Would there be a copy in the archives in 15:48:16
18 Santa Barbara as well? 15:48:18

19 A. I would imagine, yes. 15:48:20

20 MR. MATIASIC: Don't speculate, Father. If you 15:48:20
21 know. 15:48:22

22 THE WITNESS: I don't know, but I would guess 15:48:24
23 that they still have it. 15:48:24

24 BY MR. HALE:

25 Q. Is that video still used?

15:48:33

15:48:36

15:48:37

15:48:43

15:48:47

15:48:57

15:48:59

15:49:07

15:49:07

15:49:15

15:49:18

15:49:21

15:49:26

15:49:28

15:49:34

15:49:38

15:51:10

15:51:14

15:51:17

15:51:19

15:51:23

15:51:25

15:51:27

15:51:32

15:51:36

15:51:40

15:51:42

15:51:46

15:51:52

15:51:53

15:52:03

1 MR. MATIASIC: Lacks foundation, incomplete 15:52:19
2 hypothetical. 15:52:20

3 Go ahead. 15:52:24

4 THE WITNESS: No. We had to approve the 15:52:28
5 students for the next step, which would be the third 15:52:32
6 year -- first year of college. So in order to go from 15:52:35
7 Santa Barbara to San Luis Rey College, they would need 15:52:37
8 our approval. 15:52:37

9 BY MR. HALE: 15:52:40

10 Q. And when you say "our," did anyone from the 15:52:41
11 faculty have to agree? 15:52:41

12 A. Yes. 15:52:45

13 Q. And if one person said thumbs down, was that 15:52:47
14 the end of the line for the student? 15:52:50

15 A. They would probably proceed to investigate 15:52:53
16 that, all the reasons and so forth, but then if it 15:52:57
17 became obvious that he was not qualified, then he would 15:52:58
18 not be recommended. 15:53:02

19 Q. Okay. And I assume as Rector you carried a 15:53:05
20 pretty big stick, so to speak. So if you did not 15:53:08
21 approve that student going forward, would that be as far 15:53:09
22 as the student progressed? 15:53:10

23 A. Most likely, yes. 15:53:22

24 Q. Do you know [REDACTED]? I may be
25 pronouncing his name wrong.

1 A. [REDACTED]. 15:53:24

2 Q. [REDACTED]. 15:53:26

3 A. Very well. 15:53:27

4 Q. How do you know him? 15:53:33

5 A. As a fellow Friar for many years and he was in 15:53:39

6 Santa Barbara during the time that I was Rector and he 15:53:46

7 ultimately left the Friars and is now of the Jewish 15:53:50

8 faith. He became Jewish. 15:53:52

9 MR. MATIASIC: You answered the question. 15:53:52

10 BY MR. HALE: 15:53:54

11 Q. Do you still communicate with him regularly? 15:53:55

12 A. No. 15:53:58

13 Q. When was the last time you spoke or wrote to 15:53:58

14 him? 15:54:05

15 A. I can't remember. Long ago. 15:54:06

16 Q. Within the last ten years? 15:54:08

17 A. No, even longer. 15:54:14

18 Q. I want to go back in time. You recall the 15:54:17

19 Archdiocese removing his faculties at some point? 15:54:18

20 A. Do I what? 15:54:23

21 Q. Recall the Archdiocese removing his faculties 15:54:23

22 at some point? 15:54:25

23 MR. MATIASIC: Which Archdiocese are you 15:54:26

24 speaking of?

25 MR. HALE: Los Angeles.

1 THE WITNESS: He was on the faculty of the Old 15:54:33
2 Mission Theological Seminary in Santa Barbara at the 15:54:36
3 time that I knew him, and I don't remember any event 15:54:37
4 such as you mentioned. 15:54:38

5 BY MR. HALE: 15:54:43

6 Q. Okay. Have you ever read anything he has 15:54:44
7 published? 15:54:45

8 A. No. 15:54:48

9 Q. Are you aware that he has written a book about 15:54:52
10 his transformation from a Franciscan to his current 15:54:53
11 status? 15:54:55

12 A. I heard about it, but I didn't read it. 15:54:58

13 Q. What did you hear about it? 15:55:03

14 A. A newspaper clipping from the Santa Barbara 15:55:05
15 News Press sent to me by a friend. 15:55:07

16 Q. Who is the friend who sent it to you? 15:55:15

17 A. Is that relevant? Personal friend. 15:55:17

18 Q. Is it Keith Forester? 15:55:17

19 A. No. 15:55:21

20 MR. MATIASIC: Don't answer. 15:55:23

21 Let's go off record one second. 15:55:25

22 THE VIDEOGRAPHER: Going off the record. The 15:55:28
23 time 3:55 p.m. 15:55:37

24 (Counsel and witness confer)

25 THE VIDEOGRAPHER: Back on the record. The

1 time is 3:55 p.m. 15:55:46

2 BY MR. HALE: 15:55:48

3 Q. Same question. Who is it that sent you the 15:55:48
4 article? 15:55:49

5 MR. MATIASIC: You can answer the question. 15:55:53

6 THE WITNESS: Okay. Gertrude Sutherland. 15:55:53

7 BY MR. DeMARCO: 15:56:00

8 Q. Are you familiar with the concept of not 15:56:05
9 wanting to, quote/unquote, offend pious ears of the 15:56:05
10 laity? 15:56:06

11 A. That expression? 15:56:06

12 Q. Yes. 15:56:14

13 A. It rings bells, but I can't identify exactly 15:56:18
14 when and where I heard it first. But it's sort of an 15:56:22
15 expression that you might run into in the old days. I 15:56:26
16 think there was kind of a conspiracy of silence that 15:56:30
17 would sometimes be imposed and it was part of that; but 15:56:32
18 not recently, I haven't heard that for years. 15:56:37

19 Q. What did it mean exactly? I think it's fairly 15:56:37
20 self-explanatory, but what was your understanding? 15:56:43

21 A. I guess it's something like the same axiom or 15:56:46
22 more like a maxim that what they don't know won't hurt 15:56:48
23 them or something like that. 15:56:49

24 Q. In reference to the laity?

25 A. Yes, to the laity.

1 Q. Do you know what the origin of the expression
2 is?

3 A. No.

4 Q. Is it something -- is it an expression that's
5 unique to the Province or unique to the Franciscans or
6 unique to the Roman Catholic Church?

7 A. I wouldn't really know, although I think it's
8 really more widespread than the Province.

9 Q. Is a reference to concealing church scandal
10 from the laity?

11 MR. MATIASIC: Calls for speculation.

12 THE WITNESS: Possibly. It could apply to a
13 lot of different things.

14 BY MR. HALE:

15 Q. Did you ever have an understanding of it to
16 mean concealing church scandal from the laity?

17 MR. MATIASIC: Just object vague and ambiguous
18 as to "church scandal," but go ahead.

19 THE WITNESS: It's very broad. It can just
20 mean that the pastor has a peculiar habit, or it could
21 mean that there is some financial malfeasance, or
22 something. It can mean a lot of different things. So
23 it's hard to say just how it might be used. It's kind
24 of an expression that, you know, like I say, it is not
25 used currently.

1 BY MR. HALE:

2 Q. It sounds like saying it could be applied to
3 many different circumstances?

4 A. Many different things.

5 Q. Okay. And what makes you say it's not used
6 currently?

7 A. Well, I just haven't heard it for years.

8 Q. When was the last time you think you heard it?

9 A. I have no idea.

10 Q. I want to talk to you a little bit more about
11 personality evaluations for candidates and students.
12 When I say "candidate," do you understand that to
13 include high school seminarians up through FST students?

14 A. Mm-hmm.

15 Q. Would a candidate who expressed interest in
16 participating in heterosexual sex be allowed to enter
17 the priesthood?

18 MR. MATIASIC: Objection; lacks foundation.

19 BY MR. HALE:

20 Q. Let me give you a time frame, too.

21 From your time as Rector at St. Anthony's up
22 through, say, 1980, would a candidate who expressed
23 interest in participating in heterosexual sex be allowed
24 to enter the priesthood?

25 MR. MATIASIC: Same objection.

1 MR. HANCE: And calls for speculation. 15:59:37

2 THE WITNESS: I'm not sure. Can you give us a 15:59:40
3 case, what you have in reference to? 15:59:40

4 BY MR. HALE: 15:59:42

5 Q. Just a hypothetical situation. 15:59:46

6 A. Because it is expected that a candidate for the 15:59:50
7 Franciscan order, both for vows and then later on for 15:59:58
8 orders, observe the vows of celibacy, and so it's 16:00:01
9 inconsistent with that. So that would not be tolerated; 16:00:05
10 it would be completely out of the question. 16:00:07

11 Q. Okay. So, in other words, that candidate would 16:00:11
12 not be allowed to enter the priesthood if he expressed 16:00:14
13 interest in heterosexual or, for that matter, homosexual 16:00:15
14 sex? 16:00:16

15 MR. MATIASIC: Objection. That misstates his 16:00:17
16 testimony. Same objections as before. 16:00:17

17 BY MR. HALE: 16:00:20

18 Q. I'll ask it exactly that way. If a candidate 16:00:24
19 expressed interest in heterosexual or homosexual sex, 16:00:27
20 would he be allowed to enter the priesthood? Same time 16:00:27
21 frame I referenced before. 16:00:31

22 MR. MATIASIC: Same objection. 16:00:31

23 BY MR. HALE: 16:00:35

24 Q. In your experience as both a Rector and faculty 16:00:35
25 member of the FST.

1 MR. MATIASIC: If you can answer that, Father,
2 you can go ahead and do it.

3 THE WITNESS: Well, he would not be allowed to
4 go on.

5 BY MR. HALE:

6 Q. If a candidate expressed such interest, and,
7 again, homosexual or heterosexual sex, what steps would
8 you have taken if you heard that in response?

9 MR. MATIASIC: Again, I'll object it lacks
10 foundation, calls for speculation, incomplete
11 hypothetical.

12 You can go ahead.

13 THE WITNESS: In a case like that, let me give
14 you an example. If a Friar was seriously desiring to
15 leave the order in order to get married, he would be
16 allowed to do that with proper dispensation. So that
17 the kind of question you raise means that if a person
18 finds that he no longer can live a celibate life, then
19 there is a out; he can ask for dispensation.

20 BY MR. HALE:

21 Q. Okay. But let me give you a different
22 hypothetical. What if this wasn't a situation where the
23 candidate wanted to leave the order, and the candidate
24 wanted to stay in the order while experiencing
25 homosexual or heterosexual sex of some sort?

1 MR. MATIASIC: Again, I'm going to object lacks 16:01:44
2 foundation, calls for speculation, incomplete 16:01:45
3 hypothetical, and it's vague and ambiguous. 16:01:47

4 If you can answer it, Father, you can go ahead. 16:01:48

5 BY MR. HALE: 16:01:52

6 Q. What steps would you take in response? 16:01:52

7 MR. MATIASIC: Same objection. 16:01:57

8 THE WITNESS: Again, would you give me an 16:01:57
9 example? 16:01:57

10 BY MR. HALE: 16:02:00

11 Q. Sure. Candidate says I want to go experience 16:02:05
12 heterosexual or homosexual sex but not in the context of 16:02:06
13 saying he wanted to leave. 16:02:09

14 A. He wants to eat his cake and have it too? 16:02:10

15 Q. Basically, that's a fair statement. 16:02:12

16 MR. MATIASIC: Same objections. 16:02:14

17 If you can answer that, go ahead. 16:02:16

18 THE WITNESS: He would not be allowed to do it. 16:02:16

19 BY MR. HALE: 16:02:18

20 Q. Would he be kicked out of the Province? 16:02:20

21 MR. MATIASIC: Same objections. 16:02:26

22 THE WITNESS: Steps would be taken. 16:02:27

23 BY MR. HALE: 16:02:29

24 Q. To what end?

25 A. You know, fish or cut bait.

1 Q. So, in other words, either get out of the 16:02:39
2 Province or be loyal and faithful to your vows? 16:02:39

3 A. Right. 16:02:45

4 Q. In your career as a Franciscan, has there ever 16:02:49
5 been a period where candidates were openly expressing 16:02:52
6 their interest in experiencing homosexual or 16:02:53
7 heterosexual sex? 16:02:55

8 MR. MATIASIC: Object; vague and ambiguous as 16:02:57
9 to time, incomplete hypothetical, lacks foundation. 16:02:58

10 BY MR. HALE: 16:03:01

11 Q. The whole scope of your career is the time, as 16:03:03
12 a Franciscan. 16:03:05

13 MR. MATIASIC: Same objection. 16:03:16

14 THE WITNESS: I guess what you want me to 16:03:19
15 answer is has there been a change in policy. Is that 16:03:20
16 what you are saying? 16:03:22

17 MR. MATIASIC: That's a different question. 16:03:22

18 BY MR. HALE: 16:03:25

19 Q. No. No. No. Did you ever hear of or 16:03:28
20 personally observe in your career as a Franciscan 16:03:30
21 candidates openly discussing the fact that they wanted 16:03:33
22 to experience either heterosexual sex or homosexual 16:03:35
23 activity? 16:03:36

24 MR. MATIASIC: Same objections.

25 THE WITNESS: It seems to me that's a privacy

1 issue that I do not answer. 16:03:43

2 BY MR. HALE: 16:03:45

3 Q. Your counsel is not instructing you not to 16:03:45
4 answer. 16:03:49

5 A. Because it isn't a question of abuse. It's a 16:03:52
6 question of sexual orientation and lifestyle, and I just 16:03:56
7 don't know that I would be able to answer it. 16:03:59

8 Q. Well, unless your counsel instructs you not to, 16:03:59
9 you're obligated. 16:04:01

10 MR. MATIASIC: Why don't you try to rephrase 16:04:04
11 the question, see if he can answer it another way. 16:04:05

12 MR. HALE: I'll state it again. 16:04:07

13 Q. In your career as a Franciscan, has there ever 16:04:11
14 been a period, and I'm talking about your entire career, 16:04:16
15 where you either heard and observed or were told by a 16:04:20
16 third party that Franciscan candidates were openly 16:04:24
17 expressing their interest in participating in homosexual 16:04:27
18 or heterosexual sexual conduct? 16:04:29

19 MR. MATIASIC: Object; lacks foundation, calls 16:04:32
20 for speculation, incomplete hypothetical. It's vague 16:04:36
21 and ambiguous in terms of the terms and the time. 16:04:39

22 Father, if you can answer the question the way 16:04:42
23 it's phrased, you are free to do so. 16:04:44

24 THE WITNESS: I guess I would have to say I
25 wouldn't answer it, or I couldn't answer it, because

1 it's not -- I can say not to my knowledge. 16:04:53

2 BY MR. HALE: 16:04:55

3 Q. Okay. Not to your knowledge, is the answer? 16:04:55

4 A. Yes. 16:05:13

5 Q. All right. If a Franciscan candidate had 16:05:17
6 expressed, again, interest in engaging in sexual 16:05:20
7 activity of any kind, would you have recommended over 16:05:23
8 the course of your career, would you have recommended 16:05:27
9 any restrictions on that Franciscan's ability to work 16:05:27
10 with minors? 16:05:28

11 MR. MATIASIC: Objection; once again, 16:05:30
12 incomplete hypothetical, lacks foundation, calls for 16:05:33
13 speculation. It's vague and ambiguous as to time, 16:05:36
14 Counsel. Are you talking about during his tenure as 16:05:38
15 Rector or -- 16:05:39

16 MR. HALE: His entire career. I don't think 16:05:39
17 it's vague and ambiguous at all. It's very specific. I 16:05:41
18 want to know his entire career. 16:05:42

19 Q. If that would have changed at some point in 16:05:44
20 your career, I would like to know when that would have 16:05:47
21 changed and why, if your recommendation would have been 16:05:47
22 different. 16:05:49

23 MR. MATIASIC: If you can answer the question.

24 THE WITNESS: Repeat the question, please.

1 BY MR. HALE:

2 Q. Sure.

3 If -- again, time frame is any point in your
4 career as a Franciscan. If at any point in that career
5 a Franciscan candidate was expressing to you or you
6 heard that that candidate was expressing interest in
7 participating in sexual activity of any kind, would you
8 have recommended any restrictions be imposed on that
9 Franciscan's ability to work with minors?

10 MR. MATIASIC: Again, same objection. Lacks
11 foundation that he had any ability to make any type of
12 recommendation. Vague and ambiguous as to time,
13 incomplete hypothetical, calls for speculation.

14 MR. HANCE: Compound.

15 MR. MATIASIC: And compound.

16 BY MR. HALE:

17 Q. You can answer.

18 THE WITNESS: What do you recommend?

19 MR. MATIASIC: If you can answer it the way
20 it's phrased, go ahead. If you need it rephrased, you
21 can ask counsel to rephrase it. If you can answer it as
22 it is, go ahead.

23 THE WITNESS: I would strongly discourage that
24 person from having such a position, if that's the
25 question. The question is somewhat vague. But I would

1 be strongly opposed to exposing innocent children to 16:07:05
2 this, so I would say I could not recommend that person. 16:07:05

3 BY MR. HALE: 16:07:13

4 Q. Would you have recommended they not be 16:07:13
5 ordained? 16:07:17

6 MR. MATIASIC: Same objections. 16:07:18

7 If you can answer it. 16:07:19

8 THE WITNESS: The same. 16:07:19

9 BY MR. HALE: 16:07:20

10 Q. So that's a yes? 16:07:21

11 A. Yes. 16:07:34

12 Q. I have actually got a copy of [REDACTED]'s book 16:07:37
13 with me, and I have copies of a couple of pages I would 16:07:40
14 like to show you and ask for your comment on, and I'll 16:07:47
15 give you a copy in a second. 16:07:52

16 I am afraid I don't have copies for all of you. 16:08:10
17 This is my last one. So -- 16:08:11

18 MR. HANCE: Any particular section? 16:08:14

19 MR. HALE: Yeah, if you look at -- 16:08:17

20 MR. MATIASIC: Well, let's let him read the 16:08:18
21 entire thing first. 16:08:18

22 BY MR. HALE: 16:08:21

23 Q. Well, the only real -- the bottom -- the last 16:08:25
24 paragraph of page 175 and the first paragraph of page
25 176.

1 MR. MATIASIC: Let's read the preceding
2 paragraphs first.

3 MR. DeMARCO: Want to go off the record?

4 MR. HALE: Sure.

5 MR. DeMARCO: Off the record. The time is
6 4:08 p.m.

7 (Pause in the proceedings)

8 THE VIDEOGRAPHER: Back on the record. The
9 time is 4:11 p.m.

10 MR. HALE: Let's mark as Exhibit 4 the excerpt
11 from a book entitled, "Spiritual Homecoming. The author
12 is [REDACTED]. [REDACTED]. And I have just handed
13 counsel the cover page and two other pages, pages 175
14 and 176.

15 (Deposition Exhibit No. 4 was marked for
16 identification)

17 BY MR. HALE:

18 Q. My first question is related to page 175, the
19 last sentence. It says, "I found it refreshing that --
20 well let me ask you this: Do you recall that Arman was
21 part of the Province until 1974?

22 A. Yes.

23 Q. And you recall he was a member of the FST
24 faculty from '68 until '74 in Berkeley?

25 A. Yes.

1 Q. And the FST faculty in Santa Barbara before 16:12:12
2 that? 16:12:12

3 A. Yes. 16:12:16

4 Q. Okay. My question is regarding that last 16:12:18
5 sentence. He writes, "I found it refreshing that gay 16:12:22
6 Franciscan students were finding it easier to come out 16:12:24
7 even though a painful dilemma now confronted them." 16:12:26

8 Do you have a recollection of there being a 16:12:29
9 period around that time when it was more common for gay 16:12:31
10 Franciscan students to come out? 16:12:33

11 MR. MATIASIC: Vague and ambiguous, document 16:12:35
12 speaks for itself. 16:12:36

13 MR. HANCE: Lacks foundation. 16:12:39

14 MR. MATIASIC: Go ahead. You can answer. 16:12:41

15 THE WITNESS: I do remember that, yes. 16:12:42

16 BY MR. HALE: 16:12:44

17 Q. How did you become aware of that? 16:12:47

18 A. Well, as he says in his book, they made a 16:12:48
19 public issue of it. 16:12:50

20 Q. How did they make a public issue of it? 16:12:53

21 A. By talking to their friends and telling 16:12:54
22 everyone. 16:12:56

23 Q. And where did that happen? Did it happen in 16:12:58
24 Santa Barbara? Did it happen in Berkeley?

25 A. It was in Berkeley and, as far as I can

1 remember, I don't have clear memories of every single 16:13:07
2 one, but they all decided to leave the order. 16:13:09

3 Q. Do you remember how many students actually did 16:13:10
4 that? 16:13:11

5 A. I can't exactly remember. 16:13:14

6 Q. Did any students stay in the order? 16:13:14

7 A. No. 16:13:24

8 Q. Let's skip down to page 176, the second 16:13:26
9 paragraph. The last sentence of the second paragraph, 16:13:30
10 it sounds like -- the sentence states: "The reality was 16:13:32
11 that no gay student was ever excluded from advancement 16:13:36
12 to the priesthood, nor were gay priests in any way 16:13:36
13 restricted." 16:13:37

14 Sounds like you don't agree with that sentence. 16:13:38

15 A. I don't. 16:13:44

16 Q. Do you have any recollection of a gay student 16:13:46
17 being allowed to advance to the priesthood? 16:13:48

18 MR. MATIASIC: Vague and ambiguous, lacks 16:13:50
19 foundation, incomplete hypothetical. 16:13:52

20 Go ahead, if you can answer. 16:14:00

21 THE WITNESS: Someone who is openly gay? 16:14:00

22 BY MR. HALE: 16:14:00

23 Q. Right. 16:14:11

24 A. See, there is a distinction that I should make
25 here between someone who is gay but a nonpracticing

1 homosexual, and an active sexual, homosexual. And I 16:14:29
2 would say that I am aware of openly gay nonpracticing 16:14:32
3 homosexual priests, yes. 16:14:36

4 Q. But then let's back up one paragraph, and the 16:14:43
5 last two sentences read: "Now many were convinced that 16:14:44
6 psychological and spiritual recovery required not only 16:14:49
7 that they openly acknowledge their sexual orientation 16:14:51
8 but that they explore every aspect of that life. For 16:14:54
9 some that might even include participating in gay sex." 16:14:56

10 Does this come -- 16:14:58

11 A. The issue -- 16:15:00

12 Q. Does this come as a shock to you, reading these 16:15:00
13 two sentences? 16:15:01

14 MR. MATIASIC: I'm going to object lacks 16:15:10
15 foundation, calls for speculation, vague and ambiguous. 16:15:12

16 Answer if you can. 16:15:14

17 THE WITNESS: I would say that this is an 16:15:18
18 example of someone who is not qualified, according to 16:15:21
19 present regulations, to go on to the priesthood and 16:15:23
20 should consider leaving the seminary. 16:15:24

21 BY MR. HALE: 16:15:28

22 Q. But I guess what I'm asking is: Do you have 16:15:34
23 any basis to dispute [REDACTED]'s memory of events during 16:15:36
24 this 1968 to '74 time frame?

25 MR. MATIASIC: Same objections.

1 THE WITNESS: Well, I would question him, were 16:15:50
2 he here with us today, how do you know this to be true. 16:15:55
3 "Now many were convinced," I'm not sure that that is 16:15:55
4 accurate. 16:15:55

5 BY MR. HALE: 16:16:02

6 Q. Okay. Were you ever aware of any that were 16:16:05
7 openly -- any Franciscans that were openly gay? 16:16:06

8 MR. MATIASIC: Object; vague and ambiguous as 16:16:09
9 to time. Are you speaking of the time reference in this 16:16:11
10 book or when? 16:16:11

11 BY MR. HALE: 16:16:13

12 Q. During your time as Rector. 16:16:16

13 MR. MATIASIC: Any Franciscans that were openly 16:16:18
14 gay at St. Anthony's or just in the order? 16:16:20

15 MR. HALE: In the Province. 16:16:22

16 MR. MATIASIC: Do you understand the question, 16:16:22
17 Father? 16:16:27

18 THE WITNESS: Am I aware of gay Franciscans in 16:16:29
19 our western Province? 16:16:29

20 BY MR. HALE: 16:16:31

21 Q. During your time as Rector, in other words, 16:16:34
22 from '64 to '74. That's when you stopped being Rector 16:16:36
23 of St. Anthony's, correct? 16:16:38

24 A. Yes, right. The answer to that would be no.

25 Q. Was Mario Cimmarrusti openly gay?

1 MR. MATIASIC: Calls for speculation. 16:16:50

2 THE WITNESS: I don't know. I know he is not 16:16:54
3 openly gay, but I'm not sure of his orientation. 16:16:54

4 BY MR. HALE: 16:16:58

5 Q. Is it safe to say that you never personally 16:16:59
6 experienced anything like that described in the first 16:17:02
7 two paragraphs of page 176? 16:17:05

8 A. That's not been my experience, no. 16:17:06

9 MR. MATIASIC: Lacks foundation. 16:17:06

10 BY MR. HALE: 16:17:10

11 Q. Do you ever recall there being any discussions 16:17:13
12 in the Province while you were Rector of facts similar 16:17:17
13 to that set forth in the two paragraphs on page 176? 16:17:18

14 MR. MATIASIC: Object; lacks foundation, vague 16:17:27
15 and ambiguous as to time and -- I'm sorry, and with 16:17:31
16 respect to the subject matter you are referencing. 16:17:33

17 THE WITNESS: Certainly the topic was 16:17:34
18 discussed. 16:17:34

19 BY MR. HALE: 16:17:38

20 Q. Of homosexual or sexually active priests? 16:17:43

21 A. Not necessarily active, but of homosexual 16:17:43
22 orientation. 16:17:45

23 Q. And what was discussed? 16:17:47

24 A. Well, I guess one of the things that came up
25 was the fact that homosexual orientation could be

1 accepted as being also consistent with celibacy, whereas 16:18:06
2 active homosexuality could not be. 16:18:12

3 Q. Who -- did you participate in any of those 16:18:13
4 discussions? 16:18:13

5 A. I did. 16:18:16

6 Q. And did those discussions take place in a 16:18:18
7 Definitorium meeting or where did they take place? 16:18:21

8 MR. MATIASIC: Counsel, why don't you narrow -- 16:18:23
9 vague and ambiguous as to time. Give a time frame. 16:18:23

10 BY MR. HALE: 16:18:26

11 Q. I don't know. When did the discussions take 16:18:26
12 place? 16:18:29

13 A. Well, one of my positions over the years has 16:18:33
14 been a Professor of Moral Theology, and so I have 16:18:37
15 discussed this in my classes with students and in 16:18:37
16 seminaries. 16:18:41

17 Q. But I'm only looking right now about 16:18:43
18 discussions in the Province. 16:18:45

19 A. That's while I am in the Province. 16:18:48

20 Q. In other words, with other Franciscans. 16:18:51

21 A. Many of my students were Franciscans. 16:18:54

22 Q. Let me put it this way: Discussions with the 16:18:56
23 hierarchy of the Province. 16:18:58

24 MR. MATIASIC: Lacks foundation, vague and
25 ambiguous.

1 THE WITNESS: I have not had discussions with 16:19:02
2 the hierarchy. 16:19:03

3 BY MR. HALE: 16:19:07

4 Q. He states in that second paragraph on page 176, 16:19:11
5 "We never managed to formulate a policy about this 16:19:12
6 serious issue." 16:19:14

7 Do you agree with that statement? 16:19:16

8 MR. MATIASIC: Object; lacks foundation, calls 16:19:17
9 for speculation, vague and ambiguous as to what the 16:19:24
10 author meant. 16:19:25

11 You can answer. 16:19:27

12 THE WITNESS: The answer to that was I was not 16:19:29
13 in a position to make policy at that time. 16:19:29

14 BY MR. HALE: 16:19:32

15 Q. I'm not accusing you of not formulating policy, 16:19:36
16 but do you agree with his statement that the Province 16:19:39
17 never formulated a policy regarding this issue? 16:19:42

18 MR. MATIASIC: Same objections. 16:19:44

19 THE WITNESS: To answer your question in the 16:19:48
20 only way I can think of, is that it has never been the 16:19:58
21 policy of the Province to accept as a policy actively 16:20:00
22 gay priests. 16:20:01

23 BY MR. HALE: 16:20:15

24 Q. Okay. To your knowledge, has there ever been a
25 candidate who expressed interest in participating in

1 homosexual or heterosexual sex who was actually stopped
2 from having access to minors?

3 MR. MATIASIC: Objection; lacks foundation,
4 calls for speculation, incomplete hypothetical, vague
5 and ambiguous.

6 THE WITNESS: The answer to that is no.

7 BY MR. HALE:

8 Q. Same question, but stopped from advancing to
9 the priesthood?

10 MR. MATIASIC: Same objections.

11 THE WITNESS: I do not know.

12 BY MR. HALE:

13 Q. So not to your knowledge?

14 A. (Witness nods head.)

15 MR. MATIASIC: Counsel, I think we're right
16 around the seven-hour mark.

17 MR. HALE: Sure, that's fine.

18 THE VIDEOGRAPHER: Should I end it?

19 MR. HALE: Let's not go off the record yet.

20 We're at seven hours. I understand you guys
21 are going to be opposed to us going any further?

22 MR. MATIASIC: Well, it just depends, Counsel.
23 How much longer do you have? If you -- well, why don't
24 you answer that question. How much longer do you have?

25 MR. HALE: I would say at least three or four

1 hours.

2 MR. MATIASIC: We don't think that that's fair
3 under the circumstances. I mean, we're willing to allow
4 a little bit of additional time today, if you need to,
5 while we're all here, but three or four hours seems to
6 be excessive under the circumstances.

7 MR. HALE: Well, the circumstances are that you
8 have got a gentleman who is the Rector of St. Anthony's
9 Seminary during a period of extreme abuse. He
10 supervised the most prolific abuser in the history of
11 that scandal, at least that we know of to date. He was
12 the Rector of a seminary that produced a ridiculous
13 number of perpetrators, who are perpetrators identified
14 in active lawsuits today: Van Handle, Crome, Johnson.
15 The list goes on and on.

16 So under the circumstances, I disagree with you
17 and I guess we can take that up with the court.

18 MR. MATIASIC: Okay. Fair enough. You made a
19 record.

20 MR. DeMARCO: Fair enough.

21 Let's take the approach, to be safe, that there
22 is no assurance we're going to get a second day, in the
23 sense of our stipulations regarding what to do with the
24 record, and we're not waiving our ability to go after
25 this, but -- so normally we have got -- obviously the

1 transcript can be used for any -- or a copy can be used 16:22:43
2 for any all purposes an original can be used for. 16:22:45

3 How long do you want the witness to have to be 16:22:46
4 able to review it? 16:22:52

5 MR. MATIASIC: It just -- you know, are you 16:22:55
6 intending on -- are you saying you are going to bring a 16:22:55
7 motion? 16:22:56

8 MR. HALE: Absolutely. Absolutely. 16:22:58

9 MR. MATIASIC: Then, you know, I think it 16:23:01
10 should be status quo that we shouldn't be using the 16:23:02
11 transcript for any purposes. 16:23:03

12 MR. DeMARCO: Well, no. I mean, we would 16:23:06
13 necessarily have to use if it we have to go into court 16:23:07
14 on a motion to compel. 16:23:10

15 MR. MATIASIC: Absent the motion. 16:23:12

16 MR. HALE: That's going to happen. 16:23:15

17 MR. HANCE: It's hard to stipulate. Obviously 16:23:18
18 we need 30 days, but it depends on when you bring the 16:23:18
19 motion. 16:23:19

20 MR. MATIASIC: Precisely. 16:23:21

21 MR. DeMARCO: All right. So you won't 16:23:24
22 stipulate that the transcript can be utilized if a 16:23:28
23 motion to compel is necessary, or a copy of it? 16:23:28

24 MR. MATIASIC: No, you can.

25 MR. DeMARCO: We got that. In terms of how

1 long you guys want to review this portion of the 16:23:36
2 transcript, that's what you are not able to figure 16:23:38
3 because -- whether we go for a motion or not? 16:23:39

4 MR. HANCE: Right. 16:23:45

5 (Counsel conferring) 16:23:48

6 MR. HABEL: While they are conferring, can we 16:23:51
7 agree that the clock doesn't start running on the motion 16:23:55
8 to keep it confidential at this point? 16:23:58

9 MR. HALE: Well, we want a reciprocal agreement 16:24:00
10 for our motion to compel. That's fine, but, you know, 16:24:04
11 there is a clock running on our motion to compel. I'll 16:24:05
12 talk to you about that. 16:24:05

13 (Simultaneous colloquy) 16:24:05

14 MR. HALE: It would be a waste of the court's 16:24:05
15 time to have to hear multiple motions to compel when we 16:24:12
16 have got a motion to compel in the first deposition and 16:24:18
17 now from this deposition as well. 16:24:20

18 MR. DeMARCO: Jim, the only reason I'm not out 16:24:23
19 of hand also just saying yeah, because it may be that 16:24:25
20 there is no agreement and, who knows, maybe the court 16:24:27
21 doesn't see it our way. 16:24:28

22 MR. HABEL: Because that's what we did on 16:24:29
23 Cordano. 16:24:30

24 MR. DeMARCO: Right.

25 MR. MATIASIC: Right.

1 MR. HABEL: And I asked if you file any portion
2 of the transcript with the motion to compel, you file it
3 under seal.

4 MR. DeMARCO: Absolutely. Under seal. Without
5 a doubt.

6 MR. MATIASIC: Exactly. That's what we're
7 interested in as well.

8 MR. DeMARCO: No, we're not going to frustrate
9 that.

10 MR. HABEL: So I don't have to bring a motion
11 within fourteen days from today, is what I'm saying.

12 MR. TISDALE: That's appropriate because it's
13 not the final transcript.

14 MR. DeMARCO: Well, that's the open issue,
15 whether it's the final transcript or not.

16 MR. TISDALE: It's not a final transcript until
17 you agree not to file a motion until the court
18 determines that it's a final transcript.

19 MR. HABEL: This was the deal we did on
20 Cordano. That's why I'm --

21 MR. HALE: In Cordano we didn't have
22 motion-to-compel issues, I don't think. Did we?

23 MR. DeMARCO: Well, let's just think about it.
24 We've got --

25 MR. HABEL: Motion to compel more time.

1 MR. HALE: Time, right. Right. That we 16:25:19
2 certainly have got. 16:25:22

3 MR. HABEL: That's what I have -- as far as I 16:25:23
4 can see, it's the same situation. 16:25:26

5 MR. DeMARCO: Tim, I don't -- I am trying to 16:25:29
6 think. We're going to get whatever issues we want 16:25:33
7 resolved regarding more time relatively soon anyway. 16:25:35
8 So, you know, until that agreement is reached, or the 16:25:38
9 court makes resolution, or we decide not to go for more 16:25:42
10 time, however, okay, we'll hold off on your need to file 16:25:42
11 your motion. 16:25:43

12 MR. HABEL: Appreciate that. 16:25:45

13 MR. DeMARCO: You know, we're not going to jam 16:25:48
14 you on it. It's not like after fourteen days I'm going 16:25:50
15 to say, all right, we didn't reach agreement, too bad. 16:25:52

16 MR. MATIASIC: That's what we're looking for. 16:25:53

17 MR. DeMARCO: All right. So, I mean, I think 16:25:57
18 you guys know we try to be as reasonable as we can. 16:26:00
19 We're not going to jam you in. We appreciate the 16:26:05
20 courtesies the other way also. 16:26:07

21 THE VIDEOGRAPHER: This concludes today's 16:26:10
22 deposition of Father Xavier James Harris. Total number 16:26:14
23 of tapes are two. All original videotapes will be 16:26:18
24 retained at Cyril Video, San Francisco, California,
25 94103.

Going off the record. The time 4:26 p.m.

(Time noted: 4:26 p.m.)

DECLARATION UNDER PENALTY OF PERJURY

I, FATHER XAVIER JAMES HARRIS, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on June 16, 2005; that I have made such corrections as appear noted herein in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.

DATED this _____ day of _____, 2005,
at _____, California.

FATHER XAVIER JAMES HARRIS

REPORTER'S CERTIFICATION

I, Cynthia Manning, Certified Shorthand Reporter,
in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn;
that the deposition was then taken before me at the time
and place herein set forth; that the testimony and
proceedings were reported stenographically by me and
later transcribed into typewriting under my direction;
that the foregoing is a true record of the testimony and
proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this
_____ day of _____, 2005.

Cynthia Manning, CSR No. 7645