

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

COORDINATION PROCEEDING SPECIAL) JUDICIAL COUNCIL
TITLE RULE 1550(b)) COORDINATION PROCEEDING
) JCCP No. 4359
<u>THE CLERGY CASES III</u>)
JOHN DOE 39,) Alameda No. RG03 134157
)
Plaintiffs,)
)
vs.)
)
FRANCISCAN FRIARS OF CALIFORNIA,)
INC.; JAMES ROE 2; and ROES 3)
through 10, inclusive,)
)
Defendants.)

Phoenix, Arizona
December 8, 2005
10:00 a.m.

DEPOSITION OF [REDACTED]

LEA, SHERMAN & HABESKI
Registered Professional Reporters
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Certified Reporter
Certificate No. 50320

I N D E X

EXAMINATION

PAGE

BY MR. HALE

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DEPOSITION OF [REDACTED]

taken at 10:06 a.m., on December 8, 2005, at the law offices of Lewis Brisbois Bisgaard & Smith, 2929 North Central Avenue, Suite 1700, Phoenix, Arizona, before LINDA BLACKMON, RPR/RMR, a Certified Reporter in the State of Arizona.

APPEARANCES:

For the Plaintiffs:

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and [REDACTED]:

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BY JAMES P. HABEL, ESQ.

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1 [REDACTED]
2 called as a witness herein, having been first duly sworn,
3 was examined and testified as follows:
4

5 EXAMINATION

6 BY MR. HALE:

7 Q. Good morning, Father, my name is Tim Hale, could
8 you state your full name and spell it for the record.

9 A. [REDACTED]
10 [REDACTED]

11 Q. Have you ever had your deposition taken before?

12 A. No.

13 MR. HALE: At the outset let me clear up
14 one thing, Paul, I am not sure if this deposition is one
15 of those notices that inadvertently identifies the
16 witness.

17 MR. MATIASIC: It is.

18 MR. HALE: For the record the notice
19 incorrectly identifies this witness as a Category I and II
20 witness and actually he is only a Category II witness, so
21 I apologize for the error regarding Category I, we did not
22 get a chance to amend the notice before it went out.

23 Q. BY MR. HALE: Have you ever had your deposition
24 taken before?

25 A. No.

1 Q. I assume your attorney has had an opportunity to
2 explain the process to you, but I want to go over some of
3 the ground rules so we are on the same page before we go
4 forward today. You understand your testimony today has
5 the same force and effect as if we were in a court of law
6 before a judge and jury?

7 A. Yes.

8 Q. Do you understand you were placed under oath by
9 the court reporter?

10 A. Yes.

11 Q. Have you consumed any drugs or alcohol in the
12 last 24 hours that might somehow impair your ability to
13 give good testimony today?

14 A. No.

15 Q. Is there any other reason why you can't give
16 your best testimony today?

17 A. No.

18 Q. You are doing a great job of allowing one person
19 to speak at a time. As you can see, the court reporter is
20 taking down everything I say and she is doing the same
21 thing with regards to what you say. If you and I are able
22 to throughout this depo wait for each other to finish our
23 questions or our answers, we will have a much clearer and
24 cleaner transcript and it just will make for a much better
25 use of these proceedings. Do you understand that?

1 A. Yes.

2 Q. If I ask you a question and you answer it, I am
3 going to assume you understood what I meant by the
4 question. If I ask you a question and you are not sure
5 what I mean, please feel free to speak up and ask me to
6 explain the point or to rephrase or whatever is necessary
7 to clarify that question for you. Do you understand that?

8 A. Yes.

9 Q. If I ask you a question today we don't want you
10 to guess to any of the answers to those questions, but we
11 are entitled to your best estimate. I assume you
12 understand the difference between a guess and an estimate?

13 A. No.

14 Q. Okay, I will give you an example. If I asked
15 you to estimate the size of this table here, you could at
16 least give me an estimate because the table is sitting in
17 front of you. Conversely, if I asked you to tell me the
18 size of the desk in my office back in Santa Barbara, that
19 would be nothing but a guess because you have never been
20 in my office. Do you understand that?

21 A. Yes.

22 Q. Great. At the end of this deposition your
23 testimony is going to be placed into a typed booklet, you
24 will have a chance to make any changes you think are
25 necessary, but you need to keep in mind if you do make any

1 changes, either myself or another attorney in this matter
2 will be free to comment on those changes at the time of
3 trial so it's very important to give your best testimony
4 today. Do you understand that?

5 A. Yes.

6 Q. You are also doing a great job of answering
7 questions affirmatively. What we want to avoid so we have
8 a clear record is as I told you before is speaking over
9 each other and also we want to avoid responding to
10 questions with uh-huh and huh-uh and nods of the head and
11 that sort of thing. Do you understand that?

12 A. Yes.

13 Q. Great. Do you have any questions?

14 A. No.

15 Q. If you need to take a break at any time today,
16 just let me know.

17 A. Okay.

18 Q. Did you review any documents in preparation for
19 today's deposition?

20 A. No.

21 Q. I would like to first go over your educational
22 and employment background. Can you tell me where you were
23 born, Father?

24 A. Chicago, Illinois.

25 Q. And where did you attend high school?

1 A. At St. Anthony's Seminary.

2 Q. And was it a four-year or a five-year program at
3 that time or something else?

4 A. It was a five-year program.

5 Q. Did you attend for all five years?

6 A. They changed the program from five to four years
7 while I was there.

8 Q. So you did four years at St. Anthony's?

9 A. Yes.

10 Q. What year did you graduate from St. Anthony's?

11 A. I believe 1958 or '57, I'm not sure.

12 Q. It's been a while, I know you may not be exact
13 on all your dates, don't worry about that. After you
14 finished at St. Anthony's what did you do next?

15 A. I went to San Luis Rey college near Oceanside in
16 California.

17 Q. And how many years were you there?

18 A. I was there four years.

19 Q. And so that would have been approximately '57,
20 '58 to '61, '62?

21 A. Not quite.

22 Q. Okay.

23 A. In between the four years of college we had a
24 year of novitiate.

25 Q. So you did two years first at San Luis Rey?

1 A. Yes.

2 Q. And then the novitiate?

3 A. Yes.

4 Q. So from approximately '57, '58 to '59 or '60 you
5 were at San Luis Rey?

6 A. That's right.

7 Q. And then you went in the novitiate program and
8 was that at San Miguel or where was that at?

9 A. It was at San Miguel, California.

10 Q. And one year of that?

11 A. Yes.

12 Q. Who was the novice master at San Miguel?

13 A. Reginald McDonough.

14 Q. And how many, I don't know what you would call
15 it, how many fellow novices did you have in the novitiate?

16 A. I believe there were 12.

17 Q. Do you recall who they were?

18 A. I can recall a few.

19 Q. Okay.

20 A. Alvin Rosen, Mark Day, Glen Selion, S-e-l-i-o-n,
21 Paul Quinter.

22 Q. Any others you can recall?

23 A. Not by name.

24 Q. Do you still have contact with Mark Day?

25 A. No.

1 Q. When was the last time you spoke to Mark?

2 A. In the '90s when I was in Los Angeles.

3 Q. Have you ever talked to Mark about the clergy
4 abuse scandal?

5 A. No.

6 Q. Did Father McDonough have any Franciscans
7 assisting him?

8 A. Yes.

9 Q. Who assisted him?

10 A. Regis, R-e-g-i-s, Rohder, R-o-h-d-e-r.

11 Q. Anyone else?

12 A. There were two other friars but they didn't have
13 anything to do with the novitiate.

14 Q. They were working at the parish?

15 A. Jail.

16 Q. And who were those other friars?

17 A. Marcus Cabrera and I don't remember the name of
18 the other one.

19 Q. And what did you do during that one year of
20 novitiate, what kind of tasks did you perform?

21 A. We prayed, we studied, we worked.

22 Q. What kind of work?

23 A. Making adobes.

24 Q. Manual labor type stuff?

25 A. Yes.

1 Q. So you think that was sometime around '60, '61
2 that you were in the novitiate?

3 A. Yes. '59, '60 I think.

4 Q. And then you returned to San Luis Rey after
5 that?

6 A. That's correct.

7 Q. And you did two more years at San Luis Rey?

8 A. Yes.

9 Q. So approximately '60 to '62 or '63?

10 A. I don't know.

11 Q. But one of those two?

12 A. Uh-huh.

13 Q. And did you receive a degree from San Luis Rey?

14 A. Right, a B.A.

15 Q. Did all of the novice candidates who were with
16 you at San Miguel go on with you to San Luis Rey?

17 A. I don't remember.

18 Q. Do you recall any not making it or being asked
19 not to continue?

20 A. By whom or when?

21 Q. I don't know. At any time.

22 A. Any time from where to where?

23 Q. From when you left St. Anthony's to when you
24 finished up at San Luis Rey.

25 A. There were many that were asked to leave over

1 that period.

2 Q. Of that group of 12 how many actually went on to
3 become priests?

4 A. I believe there were eight of us.

5 Q. Do you know why the remaining four did not go on
6 to become priests?

7 A. No.

8 Q. And you said you received a B.A. from San Luis
9 Rey. What was the degree in?

10 A. Two majors, in Philosophy and Liberal Arts.

11 Q. After you finished at San Luis Rey did you go to
12 School of Theology next?

13 A. Yes.

14 Q. And was that in Santa Barbara at the time?

15 A. Right.

16 Q. And how many years did you attend the School of
17 Theology?

18 A. It was four years.

19 Q. So in either '63 or '64 you commenced those
20 studies?

21 A. It was '66, the end of the year '66 in June that
22 we completed the theological studies.

23 Q. So around 1962 to '66 you were at the School of
24 Theology?

25 A. Yes.

1 Q. What year were you ordained?

2 A. 1965.

3 Q. And was there an ordination ceremony at the
4 Mission for that event?

5 A. No.

6 Q. Where did that take place at?

7 A. The ordination took place at San Roque Church in
8 Santa Barbara.

9 Q. Were there other Franciscans who were ordained
10 with you at San Roque?

11 A. Yes.

12 Q. Some of your classmates, some of those 12?

13 A. Yes.

14 Q. And did you receive Faculties in 1965 as well?

15 A. To be honest I'm not -- I don't know.

16 Q. But at some point you did receive Faculties I
17 assume?

18 A. I would have had to.

19 Q. And that year after you were ordained you were
20 just continuing your studies at the School of Theology?

21 A. Yes.

22 Q. Did you receive a degree from the School of
23 Theology?

24 A. We didn't have an official degree, no.

25 Q. What was your -- well, let me ask you this:

1 While you were studying at the School of Theology did you
2 have any involvement in the St. Anthony's Seminary?

3 MR. MATIASIC: Vague and ambiguous.

4 Q. BY MR. HALE: I mean did you teach classes
5 part-time? Did you have any interaction with the students
6 for any reason?

7 MR. MATIASIC: Same objection.

8 A. I can't remember to be honest.

9 Q. BY MR. HALE: Okay. And a similar question
10 regarding that time when you were at the School of
11 Theology, did you have any assignments outside of simply
12 being a student and attending school?

13 A. We worked as sort of a part-time little ministry
14 with the students at UCSB.

15 Q. At St. Mark's?

16 A. It was at St. Mark's.

17 Q. And what did you do out there?

18 A. Mainly just interfaced with college students.

19 Q. While you were studying at the School of
20 Theology were you aware of any Franciscans who were in
21 residence at the Mission but were working at
22 St. Anthony's?

23 A. No.

24 Q. Was there any education beyond your time at the
25 School of Theology?

1 A. You mean the rest of my life?

2 Q. Yes.

3 A. I had summer courses at UCSB in Art.

4 Q. What years did you do that roughly, it doesn't
5 have to be exact?

6 A. It was during those four years of theology.

7 Q. Any other education beyond that or certificates
8 or anything like that?

9 MR. MATIASIC: Counsel, you are talking
10 about formal education?

11 MR. HALE: Yes.

12 A. Many summer schools and lectures that were very
13 formal.

14 Q. BY MR. HALE: And where did those take place at?

15 A. Depending where they were.

16 Q. And what kind of subject matter would they
17 involve?

18 A. Usually Scripture.

19 Q. Anything in particular about Scripture that you
20 recall?

21 A. No.

22 Q. What was your first assignment after you
23 finished at the School of Theology?

24 A. We were assigned to -- or I was assigned to
25 St. Mary's parish in Stockton, California.

1 Q. So that would have been in '66, '67?

2 A. Yes.

3 Q. Was that for one year?

4 A. One year.

5 Q. Who else was assigned there with you?

6 A. The other eight or seven who were ordained with
7 me.

8 Q. Was there a title for that year?

9 A. It was called pastoral year.

10 Q. And what did that involve, that year?

11 A. The purpose was to give each friar/priest a
12 taste of high school teaching, working with migrants and
13 the dispossessed, working with parish activities, hospital
14 work, we were to get a taste of all of those things.

15 Q. Who supervised the pastoral year during your
16 year there?

17 MR. MATIASIC: Counsel, are you talking
18 about from the Franciscans or at the Archdiocese of
19 Stockton -- I mean at the Diocese of Stockton, I'm sorry?

20 Q. BY MR. HALE: Was the Diocese of Stockton
21 involved in your pastoral year in any way?

22 A. No.

23 Q. Did someone from the Franciscans supervise your
24 pastoral year?

25 A. Yes.

1 Q. Who?

2 A. Father [REDACTED].

3 Q. Did anyone assist Father [REDACTED]?

4 A. I don't remember.

5 Q. And what were Father [REDACTED]'s duties in his
6 capacity as supervisor for your pastoral year? Did he
7 dole out assignments as far as where you were going to go?

8 A. He was a mentor, someone to guide us in the
9 future, to critique our ministry.

10 Q. How were you aware of him critiquing your
11 ministry? Were there written evaluations? Did he have
12 meetings with you where you sat one-on-one with him?

13 A. If I remember correctly we had the -- most weeks
14 we had a meeting every day and it was verbal.

15 Q. And did all of the, I don't know, all of the
16 Franciscans who were going through this pastoral year meet
17 with him collectively or was it on a one-on-one basis?

18 A. Collectively.

19 Q. Were there any kind of written evaluations
20 during that pastoral year by Father [REDACTED]?

21 A. Not that I remember.

22 Q. Do you recall there being any criticism levied
23 at you or any of your fellow Franciscans going through
24 that pastoral year?

25 A. Well, I am not sure what you mean. If you are

1 saying -- he gave critiques so he criticized.

2 Q. Right. So what were the critiques regarding,
3 what subject matter?

4 MR. MATIASIC: Of Father [REDACTED] or
5 everyone?

6 MR. HALE: Of everyone.

7 Q. BY MR. HALE: What did you hear?

8 A. I can't remember anything specific.

9 Q. Was anyone not allowed to continue beyond that
10 pastoral year of that group that you were there with?

11 A. No.

12 Q. And were there any Franciscans that were
13 assigned to St. Mary's who were not participating in that
14 pastoral year either by supervising it or actually
15 participating in it?

16 A. There were three Franciscans working in
17 residence there that were not part of the pastoral
18 program.

19 Q. Who were they?

20 A. Isidor Yoldi, Y-o-l-d-i.

21 Q. Okay.

22 A. An older friar who was working at the jails but
23 I can't remember his name.

24 Q. Okay.

25 A. And another friar who was the cook, I don't

1 remember his name.

2 Q. Anyone else, any other Franciscans who were
3 assisting or in residence there?

4 A. No.

5 Q. What was your next assignment after St. Mary's?

6 A. St. Anthony's Seminary.

7 Q. So your first year at St. Anthony's Seminary was
8 the '68 to '69 school year?

9 A. '67 to '68 school year.

10 Q. And how many years were you at St. Anthony's?

11 A. I was there five years.

12 Q. So your last year was the '72 to '73 school
13 year?

14 A. I think I ended in '72 middle of the year. I
15 only was assigned there four years, but I lived there
16 another six, eight months.

17 Q. So you left in the middle of the '72 to '73
18 school year?

19 A. Uh-huh. Yes.

20 MR. MATIASIC: Counsel, actually I think he
21 testified that he left around the middle of '72.

22 MR. HALE: Maybe I misunderstood.

23 A. Somewhere in the middle of '72.

24 Q. BY MR. HALE: So it wasn't the 72-73 school year,
25 it was more like around June or July of '72 you left?

1 A. I don't remember exactly --

2 Q. Okay.

3 A. -- but it had nothing to do with the school
4 year.

5 Q. So it was more of the calendar year, it was the
6 middle of the calendar year you left, okay. And do you
7 recall finishing the '71 to '72 school year?

8 A. Yes.

9 Q. And your departure did not involve or the end of
10 your assignment at St. Anthony's did not involve you
11 leaving during the middle or not at the end of a school
12 year at St. Anthony's?

13 A. I don't understand.

14 Q. In other words school was finished by the time
15 your assignment ended?

16 MR. MATIASIC: Counsel, I think he already
17 said that it wasn't tied to the school year at all.

18 Q. BY MR. HALE: Let me ask you this, would it have
19 been unusual for a faculty member to leave St. Anthony's
20 in the middle of a school year before a school year ended?

21 A. Not in my case.

22 Q. And during your time there as a student or as a
23 faculty member were you ever aware of a faculty member
24 leaving St. Anthony's before the school year ended other
25 than you?

1 A. No.

2 Q. Why did you remain there for six to eight months
3 after you finished your assignment at St. Anthony's?

4 A. I needed a car to go to work in the Franciscan
5 Communications Center in L.A. I was living in Pasadena,
6 needed a car to drive those 18 miles a day, and the
7 Provincial said you need a car, work for it, so I made a
8 mosaic for nine months for the hospitals.

9 Q. And you did that at St. Anthony's?

10 A. Yes.

11 Q. And you lived in the St. Anthony's campus?

12 A. Yes.

13 Q. Have you ever lived at the Old Mission or been
14 in residence at the Old Mission in Santa Barbara?

15 A. The four years of theology.

16 Q. Right. Other than your four years of theology?

17 A. No.

18 Q. And so those six to eight months were spent
19 creating this mosaic?

20 A. Yes.

21 Q. Did you have any other assignments during those
22 six to eight months?

23 A. I'm not sure. I'm not sure.

24 Q. Did you have any involvement in St. Anthony's at
25 all during those six to eight months?

1 A. I would say no.

2 Q. What was your first assignment after you
3 finished the mosaic?

4 A. Franciscan Communications Center in Los Angeles.

5 Q. So was that still in '72 or was that in '73?

6 A. '72.

7 Q. How many years were you there?

8 A. I am guessing four or five years.

9 MR. MATIASIC: Don't guess, Father.

10 A. Okay. I am not sure.

11 Q. BY MR. HALE: Do you recall when your next
12 assignment was?

13 A. Not the year.

14 Q. Can you estimate that it was around four or five
15 or six years that your assignment lasted at the Franciscan
16 Communications Center?

17 A. It wasn't I know in the '80s.

18 Q. Okay. All right. Where is the Franciscan
19 Communications Center located?

20 A. It's a parking garage now.

21 Q. Okay, where was it located?

22 A. Santee and 12th Street in the garment district
23 of L.A.

24 Q. What exactly was the Franciscan Communications
25 Center?

1 A. It was a place of film and other media to
2 present the values of Christ in a modern contemporary way
3 for television and school and parishes.

4 Q. And when did it cease to exist?

5 MR. MATIASIC: If you know, Father.

6 A. In the '90s I think.

7 Q. BY MR. HALE: What happened to it? Why did it
8 cease to exist?

9 A. I couldn't give you any accurate reasons.

10 Q. And this was run by the Province of
11 Santa Barbara?

12 A. Yes.

13 Q. Who else was in assignment with you or residence
14 or assigned with you at the Franciscan Communications
15 Center?

16 A. Anthony Scannel, S-c-a-n-n-e-l, who was a
17 Capuchin friar. There was a Brother [REDACTED],
18 [REDACTED]. The majority of people there were
19 professional laymen and laywomen.

20 Q. Were you in residence there?

21 A. No.

22 Q. Where were you in residence while you were
23 working at the communications center?

24 A. I lived in an old house in Pasadena.

25 Q. Were there other Franciscans there?

1 A. One other friar.

2 Q. Who?

3 A. Named Richard Marusich.

4 Q. And were you in residence at that old house the
5 entire time you were assigned to the communications
6 center?

7 A. Yes.

8 Q. Did you assist anywhere other than the
9 communications center during that period?

10 A. Assist how?

11 Q. Parish work or --

12 A. I must have, that's all I can say.

13 Q. But you don't have a specific recollection of
14 doing that?

15 A. No.

16 Q. What were you doing at the communications
17 center?

18 A. Art Director.

19 Q. Did you produce videos?

20 A. Everything.

21 Q. Have you ever produced any videos regarding
22 St. Anthony's Seminary?

23 A. No.

24 Q. Did you ever try and market St. Anthony's
25 Seminary?

1 MR. MATIASIC: Vague and ambiguous as to
2 "market."

3 A. No.

4 Q. BY MR. HALE: What was your next assignment after
5 the Franciscan Communications Center?

6 A. I worked for a couple years with gangs in
7 East L.A, Mexican gangs.

8 Q. And where were you in residence during that
9 period?

10 A. I lived in a little apartment in the Chicano
11 district.

12 Q. Did you live with any other Franciscans?

13 A. No.

14 Q. It was just you?

15 A. Yes.

16 Q. Were you renting the apartment?

17 A. Yes.

18 Q. And what about that house in Pasadena, was that
19 a rented house as well?

20 A. Yes.

21 Q. It wasn't owned by the Province?

22 A. No.

23 Q. In your work with the gang members did you have
24 a workplace, did you have an office somewhere or something
25 like that?

1 A. Yes.

2 Q. And where was that at?

3 A. I can't tell you the address.

4 Q. Okay. I don't need the address. In other words
5 was it an office building, was it a parish?

6 A. It was a room, an old store that we rented.

7 Q. And did you have a desk there, a work space of
8 some sort?

9 A. A work space, and two Franciscan sisters and I
10 worked together.

11 Q. Who were the Franciscan sisters?

12 A. I can't remember their names.

13 Q. Any other Franciscans there?

14 A. Huh-uh.

15 Q. Any Franciscans who assisted there?

16 A. No.

17 Q. And how many years did that assignment last?

18 A. Two to three years.

19 Q. So sometime in the late '70s, early '80s into
20 the early '80s; is that a fair statement?

21 A. Yes.

22 Q. Do you know what year that assignment ended?

23 A. No.

24 Q. What was your next assignment?

25 A. I went to St. Joseph's Church which was across

1 the street from the Franciscan Communications Center in
2 Los Angeles.

3 Q. While you were working at the communications
4 center did you interact much with the Franciscans and
5 residents who were assigned at St. Joseph's?

6 A. Some.

7 Q. Do you recall who was there?

8 A. There were approximately 18 so I can remember
9 one or two names.

10 Q. Okay, what are those names?

11 A. [REDACTED], [REDACTED], and [REDACTED]
12 [REDACTED]

13 Q. Okay.

14 A. Richard Marusich. The other names escape me.

15 Q. Did you eat meals over there while you were at
16 the communications center or did you have any other basis
17 for interacting with those Franciscans?

18 A. Usually had lunch.

19 Q. Was Father Austin at St. Joseph's while you were
20 there?

21 A. Austin?

22 Q. Edmond Austin.

23 A. No.

24 Q. And what about when you were assigned to
25 St. Joseph's, who was the pastor?

1 A. Luis, L-u-i-s, Baldonado, B-a-l-d-o-n-a-d-o.

2 Q. And did that assignment begin sometime in the
3 early to mid-'80s?

4 A. Roughly.

5 Q. How many years did that assignment last?

6 A. It's getting fuzzy, I can't remember.

7 Approximately two years.

8 Q. And were you an assistant there or what exactly
9 was your assignment there?

10 A. An assistant.

11 Q. What other Franciscans were either in residence
12 or assigned there while you were there during those two
13 years?

14 A. The ones I just told you.

15 Q. The same group?

16 A. Yeah.

17 Q. Did Father [REDACTED] ever discuss with you his
18 duties as Secretary of the Province?

19 A. No.

20 Q. Did you work anywhere else while you were
21 assigned to St. Joe's other than at St. Joe's?

22 A. I probably said Mass at some other parishes, I
23 am sure I did, but which I don't remember.

24 Q. What was your next assignment?

25 A. I am going to have to take a moment to think

1 about this.

2 Q. Okay. Would it help if we worked our way
3 backwards from where you are now?

4 A. No.

5 Q. All right.

6 A. My dad had -- my mother and father were living
7 in Prescott, they were aged, he had to have his leg cut
8 off because of smoking and my mother couldn't take care of
9 him and I got permission to go to Prescott and take care
10 of him for about six, eight months.

11 Q. Did you have any kind of parish assignments
12 while you were doing that?

13 A. No.

14 Q. And what was your next assignment?

15 A. Then I was sent to Spokane, Washington to a
16 parish as pastor there, at St. Ann's Church.

17 Q. And you were the pastor?

18 A. The pastor, right.

19 Q. Do you recall what year that was?

20 A. No.

21 Q. Was it late '80s or mid-'80s?

22 A. '82 now that I remember. '82.

23 Q. How long did that assignment last for?

24 A. Four years.

25 Q. So '82 to '86?

1 A. Yes.

2 Q. Who else was assigned or in residence with you
3 there?

4 A. It was a friar named Michael Dallmeier,
5 D-a-l-l-m-e-i-e-r I think.

6 Q. Okay.

7 A. There was another younger friar and I can't
8 remember his name.

9 Q. Anyone else?

10 A. No. Yes, Irvin Beers.

11 Q. B-e-a-r-s?

12 A. B-e-e-r-s.

13 Q. What was your next assignment?

14 A. For a year and a half -- my dad had a stroke in
15 Prescott and he got worse so I got permission to be there
16 to lift him, change diapers, et cetera, for a year and a
17 half.

18 Q. During your four years in Spokane did you have
19 any contact with Father [REDACTED]? [REDACTED]

20 A. No.

21 Q. And the year and a half you cared for your
22 Father did you have any assignments anywhere else other
23 than caring for your Father?

24 A. No.

25 Q. What was your next assignment after that?

1 A. This would have been 1986 I think.

2 Q. Okay.

3 A. I was sent to St. Joseph's to renovate an ugly
4 church. That was in L.A.

5 Q. Did you have any parish responsibilities other
6 than renovating the church?

7 A. I helped out on Sundays there and in other
8 places.

9 Q. How long did that take?

10 A. I think to '89, '90.

11 Q. Who was the pastor when you returned to
12 St. Joseph's?

13 A. Luis Baldonado.

14 Q. Do you recall which other Franciscans were
15 assigned or in residence there?

16 A. Not any more than I have given you already,
17 pretty much the same group.

18 Q. What was your next assignment?

19 A. The Serra Retreat in Malibu.

20 Q. How many years did that last?

21 A. I don't remember, two or three years.

22 Q. Around '89, '90 to '91, '92, '93?

23 A. Yes.

24 Q. And what was your assignment there?

25 A. A retreat master giving retreats.

1 Q. Was there more than one retreat master?

2 A. Yes.

3 Q. Who were the other retreat masters?

4 A. [REDACTED]. There was a diocesan priest who I
5 can't remember.

6 Q. From the Archdiocese of Los Angeles?

7 A. I don't know where he was from.

8 Q. So there were three retreat masters?

9 A. That's right.

10 Q. And what ages of individuals came and attended
11 retreats at Serra Retreat while you were there?

12 A. Basically middle age and older.

13 Q. Were there other Franciscans who were either
14 assigned or in residence at Serra Retreat while you were
15 there?

16 A. Yes.

17 Q. Who were they?

18 A. Samuel Cabot and [REDACTED].

19 Q. Anyone else?

20 A. No.

21 Q. Do you recall what Brother Cabot's duties were
22 while you were at Serra Retreat house?

23 A. Maintenance.

24 Q. Anything else?

25 A. No.

1 Q. What about Brother [REDACTED]?

2 A. He was I guess you call the director not in the
3 religious sense but in an everyday books and buying
4 things, keeping the place.

5 Q. Kind of the facilities guy?

6 A. Yes.

7 Q. During the time that you were there was there
8 some sort of renovation or work done at Serra Retreat
9 House?

10 A. Yes.

11 Q. Do you know Bob Bodecker?

12 A. I have met him.

13 Q. Do you remember if he was involved in any of
14 that construction work?

15 A. I don't know.

16 Q. Do you recall ever seeing him at Serra Retreat
17 House?

18 A. No.

19 Q. Do you recall Cabot being involved in work --

20 A. No.

21 Q. -- of that sort at Serra?

22 A. No.

23 Q. Did Franciscans sometimes come and stay
24 overnight at Serra Retreat house while you were there just
25 to visit or to vacation or maybe participate in a retreat?

1 A. Yes.

2 Q. Was that common or an uncommon occurrence?

3 A. I am not sure what "common" means, but it's
4 traditional for friars to if they are at a different area
5 to stay at a friary rather than a motel.

6 Q. Well, let me ask you this: Would you see
7 Franciscans from other communities come in and stay
8 overnight on a weekly basis or on a monthly basis?

9 A. Monthly.

10 Q. So during your period there were only four
11 Franciscans assigned to Serra Retreat House or did I
12 misunderstand you? Cabot, [REDACTED], [REDACTED] and yourself?

13 A. Yes.

14 Q. During that period did any other Franciscans
15 take up residence there or were they assigned there?

16 A. Not that I remember.

17 Q. Did you and Brother Cabot and Brother [REDACTED] and
18 Father [REDACTED] all live on the same floor?

19 A. There were various floors, I don't remember
20 where our rooms were.

21 Q. Do you remember if any of those men were your
22 neighbors, in other words had a room next door to yours?

23 A. No.

24 Q. Did you ever spend any time in Brother Cabot's
25 living quarters?

1 A. At the door.

2 Q. Did you ever see through the door any photo
3 albums in Brother Cabot's living quarters?

4 A. No.

5 Q. Did he ever show you any photo albums that he
6 had?

7 MR. MATIASIC: While at Serra Retreat?

8 MR. HALE: At any time.

9 A. No.

10 Q. BY MR. HALE: Have you ever been aware of
11 Brother Cabot having photo albums?

12 A. No.

13 Q. What was your next assignment after Serra
14 Retreat?

15 A. Went to a shanty town in Guatemala, Guatemala
16 City.

17 Q. You said a shanty town. Was there a parish
18 there?

19 A. It was a parish without a church.

20 Q. When there is a parish without a church does the
21 parish have a name?

22 A. Dios Con Nosotros.

23 Q. Can you spell that?

24 A. D-i-o-s, new word C-o-n, new word
25 N-o-s-o-t-r-o-s. "God with us."

1 Q. And was this kind of missionary work or --

2 A. Yes.

3 Q. And how many years were you there?

4 A. A year and a half.

5 Q. Any other Franciscans with you there?

6 A. Yes.

7 Q. Who was that?

8 A. Josef Prochnow. And then there were four or
9 five friars who entered the Order late and after the
10 novitiate had to go to a Third World country to experience
11 a different reality.

12 Q. Okay.

13 A. I don't remember their names.

14 Q. And so was this around '94, '95 that you were in
15 Guatemala City?

16 A. Let me think. No, it would be have to be
17 somewhere, I don't remember, early '90s.

18 Q. Okay.

19 A. I would say '93 is when either I came there or I
20 left.

21 Q. Going back to Serra Retreat briefly, who was the
22 Guardian at Serra Retreat while you were there or was
23 there a guardian?

24 A. I think [REDACTED] was the Guardian.

25 Q. So a brother can be a guardian?

1 A. Yes.

2 Q. And does there have to be a certain number of
3 Franciscans at a community for there to be a guardian? In
4 other words if there is too small a number will there be
5 no guardian?

6 A. I believe so.

7 Q. When you were assigned to Guatemala City do you
8 recall whether the Board of Inquiry had already gone
9 through its investigation initiatives report?

10 MR. MATIASIC: Lacks foundation.

11 Q. BY MR. HALE: Are you familiar with the Board of
12 Inquiry?

13 A. Yes.

14 Q. Do you know whether by the time you were
15 assigned to Guatemala whether the Board's report had been
16 issued?

17 A. No.

18 Q. Did you attend a meeting of some sort where
19 Father Prochnow stood up and acknowledged having abused a
20 child?

21 A. Yes.

22 Q. Was that before the assignment in Guatemala
23 City?

24 A. No.

25 Q. That came after the assignment in Guatemala?

1 A. Much later.

2 MR. MATIASIC: Counsel, you are speaking of
3 his assignment in Guatemala City?

4 MR. HALE: Yes.

5 A. Much later.

6 Q. BY MR. HALE: Do you know whether Father Prochnow
7 was identified as one of the perpetrators by the Board of
8 Inquiry?

9 A. I didn't know before he mentioned that.

10 Q. You said "he" mentioned that.

11 A. Before Father [REDACTED] made that statement.

12 Q. You are talking about Father [REDACTED]?

13 [REDACTED].

14 A. Something like that.

15 Q. Okay.

16 A. It's Italian.

17 Q. Did he make an announcement to a group of
18 Franciscans or was it discussed with you one-on-one?

19 A. Neither.

20 Q. Okay. How did he make the announcement then?

21 A. I had come back from Guatemala and was assigned
22 to the Franciscan Renewal Center in Scottsdale and I was
23 there perhaps a few weeks and we heard on CNN Joe Chinicci
24 and others in the Province explaining what had happened in
25 the Province.

1 Q. And did he identify Father Prochnow --

2 A. No.

3 Q. -- during that?

4 MR. MATIASIC: Father, let him finish his
5 question.

6 A. Okay.

7 Q. BY MR. HALE: But you did hear him identify
8 Father Prochnow at some other time as one of the accused
9 or one of the perpetrators identified by the Board of
10 Inquiry?

11 A. No.

12 Q. But you have heard that Father Prochnow was
13 identified as a perpetrator in the Board of Inquiry
14 report?

15 A. Yes.

16 Q. And how did you first hear that?

17 A. I don't remember.

18 Q. What was the nature of the assignment in
19 Guatemala City? What were you doing exactly?

20 A. Just living with the Board.

21 Q. And what does that involve?

22 A. Helping them dig a tree, trying to bring
23 somebody to a clinic a few miles away.

24 Q. Do you perform Mass?

25 A. Yes.

1 Q. And Father Prochnow, was he there the entire
2 time you were assigned in Guatemala City?

3 A. Not the whole time.

4 Q. Did he get there after you got there?

5 A. He got there -- we came together.

6 Q. So you said you arrived there together?

7 A. Yes.

8 Q. And did he leave after you did or before you
9 did?

10 A. Before.

11 Q. And then you said your next assignment was at
12 the renewal center in Scottsdale?

13 A. Yes.

14 Q. How many years?

15 A. I think it was '94 I think.

16 Q. Just one year?

17 A. '94 to '97.

18 Q. What was your assignment there?

19 A. I was head of ministry.

20 Q. What was the ministry there?

21 A. Basically -- well, it was retreats and probably
22 the thing I was involved with the most was the worshipping
23 community that was not a parish so it was not involved
24 under the Bishop.

25 Q. Was Mass performed at this worshipping community?

1 A. There would be about 4 or 5,000 every Sunday.

2 Q. Were there other Franciscans assigned there with
3 you?

4 A. Yes. Alonso Deblas. A-l-o-n-s-o and
5 D-e-b-l-a-s.

6 Q. Okay.

7 A. Mario, I can't think of his last name.

8 Q. But not Father Cimmarrusti?

9 A. No. [REDACTED].

10 Q. Okay.

11 A. And there were one or two of the other ones that
12 would come and go during that time.

13 Q. Any Brothers?

14 A. Mario.

15 Q. What kind of retreats were held there?

16 A. Dealing with people and their aging.

17 Q. Have you ever been assigned anywhere where
18 retreats were held for adolescents or younger?

19 A. No.

20 Q. I could probably rephrase that question. Have
21 you ever been assigned anywhere where retreats were held
22 for minors?

23 A. No.

24 Q. What was your next assignment after Scottsdale?

25 A. I went to San Carlos Apache Indian Mission.

- 1 Q. Is there a parish there?
- 2 A. Yes.
- 3 Q. What is the name of the parish?
- 4 A. San Carlos Apache Indian Mission.
- 5 Q. And were you the pastor there?
- 6 A. Yes.
- 7 Q. How long has that assignment lasted?
- 8 A. About eight and a half years.
- 9 Q. Are you still assigned there?
- 10 A. Yes.
- 11 Q. And have you been the pastor there the entire
- 12 time?
- 13 A. Yes.
- 14 Q. Any other Franciscans assigned there with you?
- 15 A. No.
- 16 Q. Any other Franciscans ever assisted you there?
- 17 A. Yes.
- 18 Q. Who?
- 19 A. Luis Baldonado.
- 20 Q. Okay.
- 21 A. [REDACTED].
- 22 Q. Okay.
- 23 A. That's it.
- 24 Q. Any Brothers?
- 25 A. No.

1 Q. Any other assignments other than what we have
2 already talked about so far?

3 A. No.

4 Q. Have you ever held any elected positions within
5 the Province?

6 A. No.

7 Q. Ever served on any Province boards like the
8 vocations board or anything like that?

9 A. Not vocations, it was a program we had in the
10 '70s for young men who were in college and lived in a
11 community with us and we had a board of Franciscans who
12 tried to develop this program.

13 Q. Do you know what the board was called?

14 A. No.

15 Q. And where were you assigned while you were on
16 this board?

17 A. At Pasadena.

18 Q. And how long were you on this board for?

19 A. I guess about five years.

20 Q. Who else was on the board with you?

21 A. All dead ones, I don't remember their names.

22 Q. Was there a chairman or a leader of the board?

23 A. Yes. The chairman is the one I'm trying to
24 think of, he is dead. Jeffrey Bridges.

25 Q. What was the purpose of the board?

1 A. The purpose was to have a new approach. It
2 looked like more vocations were coming from college and
3 post-college students than from high school years and so
4 we had a program to try to have college students go to
5 public universities mixed with many different religions
6 and styles of life and have a ministry and how to support
7 themselves, including the friars, and we would have kind
8 of a house to live in community life where we shared
9 cooking and all the tasks and so forth.

10 So it was basically a new way to deal with
11 the change where people were interested in the Franciscan
12 Order.

13 Q. So were these people that were candidates for
14 the Order or were they just considering it?

15 A. Considering it.

16 Q. So was the purpose of the Board to kind of give
17 them advice as to what they could expect if they became a
18 Franciscan?

19 A. It was basically you could say is Gino's house
20 doing well, how is the house over here doing, so forth and
21 so on.

22 Q. And these houses were places where these
23 students would live?

24 A. Right. Near universities.

25 Q. Would they perform any kind of ministry of any

1 sort?

2 A. Work with kids and gangs.

3 Q. Did you have a house that you were responsible
4 for?

5 A. Yes.

6 Q. And was that in Pasadena?

7 A. That's right.

8 Q. And how many students were at that house?

9 A. Over the years it varied, I would say anywhere
10 from eight to four -- four to eight.

11 Q. Did any of those students who you were
12 supervising go on and become Franciscans?

13 MR. MATIASIC: I am just going to object,
14 it misstates his testimony. He didn't say he was
15 supervising them.

16 Q. BY MR. HALE: Correct me if I am wrong, were you
17 supervising those students in some way if they were living
18 at the house you were living at? Is "shepherding" a
19 better word?

20 A. Yeah, because they were older, more mature kids,
21 and it wasn't the seminary in Santa Barbara.

22 Q. But did any of those students go on to become
23 Franciscans?

24 A. Yes.

25 Q. Do you recall who?

1 MR. MATIASIC: These are specifically
2 students living with Mr. [REDACTED] at the house in Pasadena?

3 MR. HALE: Yes.

4 A. No, none of the ones I was with.

5 Q. BY MR. HALE: Were there any of those students
6 who you spoke with anyone from the Province about the fact
7 they should not go on to become Franciscans?

8 MR. MATIASIC: Again you are talking about
9 the students at the house with Father [REDACTED]?

10 MR. HALE: Yes.

11 A. That I thought that they should not?

12 MR. HALE: Should not.

13 A. I think I -- I tried to dissuade one or the
14 other.

15 Q. BY MR. HALE: And what prompted you in those
16 situations to try and dissuade, what did you observe that
17 prompted you to try and dissuade those students from going
18 on to become Franciscans?

19 MR. MATIASIC: Well, Father, the initial
20 question was did you talk to anybody about the Province
21 about one of them not going on.

22 MR. HALE: Thanks, Counsel, you are right.

23 MR. MATIASIC: That's what Tim is asking
24 about, so if you had a conversation with somebody at the
25 Province regarding one of the people that lived in the

1 house with you in Pasadena not going on, that's the
2 question.

3 A. Yes.

4 Q. BY MR. HALE: And who was it you had the
5 conversation with?

6 A. I have no idea.

7 Q. And what did you tell that person?

8 A. I have no idea what -- somehow they didn't fit
9 into what I thought a Franciscan's life would be.

10 Q. Do you recall any specific instances that led
11 you to conclude that about their behavior?

12 A. No, because I can't remember the individuals
13 right now.

14 Q. How many of these houses were there in the
15 Province where potential candidates or candidates were --

16 A. Four or five.

17 MR. MATIASIC: Father, you need to let him
18 finish his question.

19 A. I am sorry.

20 Q. BY MR. HALE: And in what cities were those
21 located? Pasadena was one of them obviously.

22 A. I think Scottsdale.

23 Q. What about Oakland?

24 A. I think there was one in Oakland.

25 Q. Okay.

1 A. I don't know the rest.

2 Q. And it sounded like this was not a program that
3 continued. Is this program still in place?

4 A. No.

5 Q. Was caused its termination if you know?

6 A. I can't give you an exact answer for that
7 question.

8 Q. Did you have any sense that the program was not
9 working?

10 A. I would say some felt that way, yes.

11 Q. Do you know why they felt that way?

12 A. No.

13 Q. Do you know why the program was created?

14 A. Yes, as I mentioned to you before.

15 Q. I am sorry.

16 A. Students were more likely to come to the Order
17 at an older age.

18 Q. And you said this was started sometime in the
19 early '70s, mid-'70s?

20 A. Yes.

21 Q. Do you know [REDACTED]?

22 A. Yes.

23 Q. Have you read Father [REDACTED]' book?

24 A. No.

25 Q. Have you discussed with anyone other than your

1 attorneys a portion of the book where he describes a time
2 in the School of Theology in Berkeley where candidates
3 were openly discussing their interest in participating in
4 sexual activity?

5 A. No.

6 Q. Do you have any idea if circumstances like that
7 at the School of Theology in Berkeley prompted the
8 creation of this board and these houses?

9 MR. MATIASIC: Lacks foundation, vague and
10 ambiguous.

11 A. Actually all I could say is that you are in the
12 wrong -- you have got things mixed up here.

13 Q. BY MR. HALE: How do I have things mixed up?

14 A. That board was not dealing any with Berkeley or
15 theology, it was just dealing with college kids.

16 Q. All right.

17 A. It had nothing to do with [REDACTED].

18 Q. Have you ever discussed [REDACTED]'s book with
19 anyone?

20 A. I haven't read it or discussed it, no.

21 Q. Any other boards or committees you served on
22 while you were in the Province?

23 A. I can't remember.

24 MR. HALE: We have been going for about an
25 hour and 15, do you want to take a break?

1 MR. MATIASIC: Good idea.

2 (Recess.)

3 Q. BY MR. HALE: Back on the record. Father, going
4 back to Serra Retreat House, was there a kitchen at Serra
5 while you were assigned there?

6 A. There was a kitchen, yes.

7 Q. In other words was there a kitchen staff that
8 prepared meals for you guys?

9 A. Yes.

10 Q. Who worked in that kitchen?

11 A. Laypeople.

12 Q. Were some of those laypeople, do you recall any
13 of them being Hispanic?

14 A. I don't remember.

15 Q. Do you know if any of the people that worked in
16 the kitchen, do you recall if any of them were young
17 males?

18 A. No.

19 Q. Do you recall if Brother Cabot lived in the
20 basement at Serra Retreat House?

21 A. No.

22 Q. That was a bad question. Did Brother Cabot live
23 in the basement at Serra Retreat?

24 A. No.

25 Q. He had a room?

1 A. Yes.

2 Q. Was there a Brother Henry at Serra Retreat House
3 while you were there?

4 A. No.

5 Q. Do you know who Brother Henry is?

6 A. No.

7 Q. When you were at San Luis Rey was Father Lyons
8 on the faculty?

9 A. Yes.

10 Q. Were you aware of Father Lyons examining
11 students' genitals to determine if they were circumcised?

12 MR. MATIASIC: While he was at San Luis
13 Rey?

14 MR. HALE: While you were at San Luis Rey.

15 A. Yes.

16 Q. BY MR. HALE: Did it happen to you?

17 A. Yes.

18 Q. What were the circumstances where that happened?

19 A. I don't understand the question.

20 Q. How did it come about? Did he tell you to come
21 to his office?

22 A. Yes.

23 Q. And what did he tell you the purpose of coming
24 to his office was?

25 A. To check if we were circumcised.

1 Q. Did he explain why it was important that he know
2 whether you were circumcised?

3 A. I can't remember.

4 Q. Did you have any understanding as to why -- did
5 you believe that the Province was concerned as to whether
6 you were circumcised?

7 MR. MATIASIC: Lacks foundation, calls for
8 speculation.

9 MR. HALE: You can answer.

10 MR. MATIASIC: You can answer if you can,
11 Father.

12 A. I would have no way of knowing if the
13 Province -- who in the the Province we are talking about,
14 you know.

15 Q. BY MR. HALE: Was there any discussion with your
16 classmates about the Province being concerned about
17 whether you guys were circumcised?

18 A. We wouldn't think that way.

19 Q. Did you think it was unusual? Well, how did
20 Father Lyons communicate to you that he wanted you to come
21 to his office to check to see if you were circumcised?

22 A. Come to my office.

23 Q. He told you that?

24 A. Yeah.

25 Q. And did he tell you it was specifically for the

1 purpose to check and see if you were circumcised?

2 A. I can't remember.

3 Q. Did he tell you that when you were in the
4 company of any other students or faculty members?

5 A. I don't remember.

6 Q. Were you aware of some of your other classmates
7 being told to come to his office so he could check if they
8 were circumcised?

9 A. Yes.

10 Q. Did you ever discuss that happening with any of
11 your classmates?

12 A. Yes.

13 Q. How did you become aware -- well, how did it
14 come up in the discussion?

15 A. I can't really remember how it came up.

16 Q. Do you recall what the tone of the general
17 discussion was? In other words was there disapproval, was
18 there objection, was there it's no big deal?

19 MR. MATIASIC: Vague and ambiguous.

20 A. It seemed ludicrous.

21 Q. BY MR. HALE: Did anyone discuss going and
22 reporting it to another faculty member or to someone
23 higher up in the Province?

24 A. I don't think none of us saw it as a sexual
25 thing.

1 Q. But did you think it was inappropriate though?

2 A. I thought it was stupid.

3 Q. When you went to his office what took place?

4 A. You went in, he asked you to lift your habit and
5 lower your shorts and he would look, he didn't touch or
6 anything.

7 Q. So he did not touch your genitals?

8 A. Huh-uh.

9 Q. How long did the examination go on for?

10 A. A minute.

11 Q. I mean was there a line out into the hallway
12 behind his office of students waiting to come in or how
13 exactly did this take place?

14 MR. MATIASIC: This is specifically in
15 reference to when Father [REDACTED] was examined?

16 MR. HALE: Yes.

17 MR. MATIASIC: Go ahead.

18 A. I was the only one.

19 Q. BY MR. HALE: Did you ever hear from anyone that
20 he had actually touched their genitals during the
21 examination?

22 A. No.

23 Q. Did you ever report to anyone during your career
24 as a Franciscan what happened with you and Father Lyons?

25 MR. MATIASIC: Report as opposed to told?

1 MR. HALE: Sure.

2 MR. MATIASIC: Vague and ambiguous what
3 "report" is.

4 A. Yeah, I am not sure what you mean by "report."

5 Q. BY MR. HALE: Did you ever tell anyone during
6 your career as a Franciscan what happened about this event
7 with Father Lyons?

8 A. Yes.

9 Q. Who did you tell?

10 A. I don't remember.

11 Q. Did you tell anyone on the faculty possibly?

12 A. What faculty?

13 Q. At San Luis Rey.

14 A. I don't remember.

15 Q. At some time did you become aware that those
16 examinations by Father Lyons were stopped? In other words
17 he was prevented from doing that?

18 A. No.

19 Q. Was Father Lyons transferred while you were
20 attending San Luis Rey?

21 A. No.

22 Q. In your time as a Franciscan have you ever heard
23 of any other Franciscan examining either visually or --
24 well, actually just visually a student's genitals for any
25 reasons?

1 MR. MATIASIC: Vague and ambiguous,
2 overbroad as to time.

3 Q. BY MR. HALE: Other than Father Lyons?

4 A. No.

5 Q. Did he say anything to you during the
6 examination?

7 A. I can't remember.

8 Q. But it sounds like as you sit here today you
9 find the memory of the examination as simply humorous?

10 A. Yes. Not pleasant but humorous.

11 Q. Were you ever aware of anyone reporting this
12 conduct by Father Lyons to anyone in the Province?

13 MR. MATIASIC: Vague and ambiguous as to
14 the term "reporting" and overbroad as to time. Go ahead,
15 you can answer if you can.

16 A. No.

17 Q. BY MR. HALE: Was there a Prefect of Discipline
18 at San Luis Rey while you were there?

19 A. I don't remember. There must have been.

20 Q. So it was standard for there to be a Prefect of
21 Discipline at San Luis Rey as well as at St. Anthony's?

22 A. Yes.

23 Q. Do you recall who was the Prefect while you were
24 a student at St. Anthony's?

25 A. [REDACTED]

1 Q. And was there a Vice Prefect.

2 A. I don't remember.

3 Q. Do you recall, was there an Infirmarian while
4 you were a student at St. Anthony's?

5 A. Yes.

6 Q. And do you recall who that was?

7 A. It was one of the fellows in the fifth class, I
8 forget his name.

9 Q. What about while you were on the faculty, was
10 Father Cimmarrusti the Prefect the entire time while you
11 were on the faculty at St. Anthony's?

12 A. I am not sure.

13 Q. Do you recall there being an Assistant Prefect
14 of Discipline while you were on the faculty at
15 St. Anthony's?

16 A. No.

17 Q. What about do you recall was Father Cimmarrusti
18 the Infirmarian while you were on the faculty at
19 St. Anthony's?

20 A. Yes.

21 Q. Did that strike you as unusual at all for a
22 faculty member to be the Infirmarian?

23 MR. MATIASIC: Vague and ambiguous as to
24 the term "unusual."

25 A. No.

1 Q. BY MR. HALE: Did you have any understanding as
2 to whether the Infirmarian was normally a position that
3 was filled by a member of the student body?

4 A. Repeat that.

5 Q. Have you ever had an understanding as to whether
6 the position of Infirmarian was a position that was
7 normally filled by someone who was a member of the
8 St. Anthony's student body?

9 A. I really don't understand.

10 Q. You are saying -- well, in other words for
11 instance while you were a student at St. Anthony's I think
12 you said that there was a fifth year student who served as
13 the Infirmarian?

14 A. Yes.

15 Q. And was it your understanding that it was
16 standard practice at St. Anthony's for a student to serve
17 as Infirmarian?

18 MR. MATIASIC: Vague and ambiguous as to
19 what "standard practice" means.

20 A. In those days.

21 Q. BY MR. HALE: Do you have an understanding that
22 that practice had changed by the time you reached the
23 faculty, became a member of the faculty at St. Anthony's?

24 MR. MATIASIC: Counsel, he has already
25 testified that Cimmarrusti was the Infirmarian while he

1 was there.

2 MR. HALE: You can answer.

3 A. You know, I don't know. I have never heard of a
4 policy, all I know is that he was Infirmarian.

5 Q. BY MR. HALE: During your time as a student or as
6 a faculty member of St. Anthony's did you ever observe or
7 hear or learn about a St. Anthony's student having what
8 appeared to be an emotional breakdown of some sorts?

9 MR. MATIASIC: Vague and ambiguous, lacks
10 foundation.

11 A. I don't remember.

12 Q. BY MR. HALE: Have you ever heard anyone say that
13 they observed what appeared to be a student having an
14 emotional breakdown?

15 A. No.

16 Q. Do you know what a Quinquennial Report is? And
17 I believe it's Q-u-i-n-q-u-e-n-n-i-a-l.

18 A. Every five years.

19 Q. And what is contained in that report?

20 A. I have no idea.

21 Q. Have you ever participated in the preparation of
22 such a report?

23 A. No.

24 Q. Do you know who Anton Samario is?

25 A. No.

1 Q. Never heard that name before?

2 A. Never.

3 Q. While you were at St. Anthony's did you hold any
4 positions other than as a faculty member?

5 A. When I was a friar?

6 Q. Yes.

7 A. Yes.

8 Q. What other positions did you hold?

9 A. It would be like a class moderator.

10 Q. And what year did you become class moderator?

11 A. It was the year that Mario left the seminary.

12 Q. Was it 1971?

13 A. I can't remember.

14 Q. And were you moderating specific class years or
15 the entire groups of students at St. Anthony's?

16 A. A class.

17 Q. What year did you moderate?

18 A. I don't remember the years but it was roughly
19 two years.

20 Q. But in other words were you moderating the
21 Freshman class or the Sophomore class?

22 A. The Junior class.

23 Q. What were your duties as class moderator?

24 A. To build community among the class, to be an ear
25 for kids who were confused, hurting, to discipline kids

1 who had messed up.

2 Q. Anything else?

3 A. Give permissions for going off grounds.

4 Q. Anything else?

5 A. No, that's it.

6 Q. Did you hear Confessions in that role as class
7 moderator or was that separate?

8 A. That's separate.

9 Q. So if a student came to you as class moderator
10 it wouldn't be in the context of the confessional?

11 A. Unless he at that time said can I tell you my
12 confession.

13 Q. And if that happened would you then take off
14 your class moderator hat and put on your priest hat or can
15 you explain?

16 A. Probably wear both hats.

17 Q. At the same time?

18 A. Yeah.

19 Q. Was this a new position that was created at
20 St. Anthony's while you were there?

21 A. Yes.

22 Q. Was it created when Mario left?

23 A. Yes.

24 Q. And was it kind of a replacement for the Prefect
25 of Discipline?

1 A. Yes.

2 Q. And was the Prefect position eliminated at that
3 time?

4 A. Yes.

5 Q. Do you know why the Prefect position was
6 eliminated?

7 A. One reason, we didn't feel one man could
8 actively personally help a hundred students.

9 Q. Any other reason?

10 A. That's the main reason.

11 Q. During your four years at the seminary did the
12 class size, total class size for the whole school, you
13 referenced a hundred students, go up or go down?

14 MR. MATIASIC: This is while he was on the
15 faculty?

16 MR. HALE: Yes.

17 A. The 100 students is purely out of the air, I
18 have no idea.

19 Q. BY MR. HALE: Was there a faculty meeting where
20 there was a discussion of eliminating the Prefect position
21 and replacing the Prefect with class moderators?

22 A. Eventually.

23 Q. Did Xavier Harris lead that discussion?

24 A. He was part of it.

25 Q. Who came up with the idea of class moderators?

1 MR. MATIASIC: If you know.

2 A. I am not sure.

3 Q. BY MR. HALE: You referenced being an ear for
4 confused or hurting kids. Do you have a recollection of
5 kids coming to you and expressing something that made you
6 believe they were hurt or confused?

7 A. Sure.

8 Q. And what kind of things did they express under
9 those circumstances that led you to reach that
10 conclusion?

11 MR. MATIASIC: And obviously since before
12 he testified that sometimes there was a possibility of
13 hearing Confession, you are talking about anything outside
14 of the context of Confession?

15 MR. HALE: Yes. Right.

16 A. Normal teenager stuff any father of a family
17 would deal with.

18 Q. BY MR. HALE: Can you give me any specific
19 examples?

20 A. Drugs, girls, movies, rap music. It wasn't rap
21 music but, you know, that sort of stuff.

22 Q. Did any of the problems that you heard from
23 these kids strike you as being different from what you had
24 experienced while you were a student --

25 A. Yes.

1 MR. MATIASIC: Father, you have got to let
2 him finish.

3 A. I am sorry.

4 Q. BY MR. HALE: -- at St. Anthony's?

5 A. Yes.

6 Q. What was the difference? What struck you?

7 A. Society had changed.

8 Q. How so?

9 A. When we were at the seminary when I was a young
10 kid the seminary seemed -- the rigidity in deportment or
11 discipline seemed natural because our brothers were in the
12 Army and it was that kind of thing so it seemed normal to
13 have this very rigid kind of system. The '60s were vastly
14 different.

15 Q. And do you think that created an environment
16 that resulted in these different problems I take it?

17 MR. MATIASIC: I think that calls for an
18 expert opinion as to what resulted in these different
19 problems. Go ahead, Father.

20 A. I don't know.

21 MR. HALE: Okay.

22 A. All I know is that -- well, that's it.

23 Q. BY MR. HALE: Who were the other class
24 moderators?

25 A. [REDACTED] and [REDACTED].

1 Q. And [REDACTED]?

2 A. That's right. He wasn't a friar.

3 Q. A redeptorist?

4 A. Yes.

5 Q. Was there one other for the --

6 A. There was but I don't remember.

7 Q. Do you recall during your time -- well, let me
8 ask you this: Did Father [REDACTED] stay on the faculty
9 during your entire period at St. Anthony's?

10 A. Yes.

11 Q. And do you recall what year the class moderator
12 was introduced? Was the class moderator introduced while
13 Father Cimmarrusti was still on the faculty?

14 A. I don't remember.

15 Q. Do you recall being aware of any objections
16 raised by Father Cimmarrusti to the idea that perhaps a
17 Franciscan brother might be serving as a class moderator
18 as opposed to a Franciscan priest?

19 A. No.

20 Q. Do you recall Father Cimmarrusti raising any
21 objections to the concept of a Franciscan brother serving
22 as some kind of school counselor for a student as opposed
23 to a Franciscan priest?

24 A. No.

25 Q. Do you recall anyone on the faculty raising

1 objections like what I just described to you?

2 A. Specific people, no.

3 Q. But do you recall discussions in that regard as
4 to whether a brother should be in that position as opposed
5 to a Franciscan priest?

6 A. Yes.

7 Q. What were their concerns exactly?

8 MR. MATIASIC: If you know, Father.

9 A. It was a model of church.

10 Q. BY MR. HALE: What do you mean by a "model of
11 church"?

12 A. Is the church a church for all people or is it a
13 church where you have bishops, priests who dictate
14 everything, that's basically the issue.

15 Q. Was it a case of "old school Franciscans
16 objecting to the idea that there would not be this kind of
17 hierarchy in place?

18 A. Yes.

19 Q. While you were on the faculty do you recall
20 whether the Difinitorium exercised any control over the
21 St. Anthony's curriculum?

22 MR. MATIASIC: Object as to vague and
23 ambiguous as to the term "exercise control," calls for a
24 legal conclusion.

25 A. I don't know.

1 Q. BY MR. HALE: What about the Provincial, same
2 question?

3 MR. MATIASIC: Same objections.

4 A. I don't know.

5 Q. BY MR. HALE: Did you have any understanding as
6 to whether curriculum decisions; i.e., what the curriculum
7 would be, were made by the Rector?

8 A. I don't know.

9 Q. During your time at St. Anthony's, and if I
10 refer to the St. Anthony's community during your time
11 period there what would you understand me to be referring
12 to?

13 A. Primarily the faculty and students.

14 Q. Did you ever refer to -- at some point were
15 members of the Santa Barbara community attending Mass at
16 St. Anthony's Chapel while you were on the faculty?

17 A. Say that again.

18 Q. At some point while you were on the faculty at
19 St. Anthony's were there members of the Santa Barbara
20 community, just laypeople, attending Mass at the
21 St. Anthony's Chapel?

22 A. Yes.

23 Q. Have you ever heard them refer to those
24 parishioners -- would it be fair to call them
25 parishioners?

1 A. Technically, no.

2 Q. What would you call them?

3 A. Catholics.

4 Q. Okay. Fair. Did you ever hear them referred to
5 as the St. Anthony's community?

6 A. Yes.

7 Q. So if I refer to the St. Anthony's community --
8 strike that. I will be specific.

9 While you were on the faculty did you
10 become close with members of the community who attended
11 Mass at the St. Anthony's Chapel?

12 MR. MATIASIC: Vague and ambiguous as to
13 "become close with." Go ahead.

14 A. What do you mean by "close"?

15 MR. HALE: Develop a close relationship
16 perhaps outside of simply the Mass ceremony.

17 A. Yes.

18 Q. BY MR. HALE: For instance Ken and Marci
19 Hendrickson, do you know them?

20 A. Yes.

21 Q. And were you close with them?

22 A. Yes.

23 MR. HALE: Hendrickson is
24 H-e-n-d-r-i-c-k-s-o-n. And Marci is M-a-r-c-i I believe.

25 Q. BY MR. HALE: Did you spend a lot of time at

1 their house?

2 MR. MATIASIC: Vague and ambiguous.

3 A. No.

4 Q. BY MR. HALE: Did you ever store anything at
5 their house?

6 A. I think I did.

7 Q. What did you store at their house?

8 A. I have no recollection.

9 Q. Did you consider them good friends?

10 A. Yes.

11 Q. What about Ray and Dyanne Munana, D-y-a-n-n-e
12 M-u-n-a-n-a, were you close with them?

13 A. Yes.

14 Q. And were they close with you and your family?

15 A. Yes.

16 Q. Did they visit you and your family in Arizona at
17 least once?

18 A. Yes.

19 Q. And did they spend the night at your parents'
20 home?

21 A. Yes.

22 Q. Do you recall your parents ever spending the
23 night at the Munanas' home in Santa Barbara?

24 A. No.

25 Q. Do you consider the Munanas to be good, honest

1 people?

2 MR. MATIASIC: Vague and ambiguous as to
3 what the term "good and honest people" means. You can
4 answer, Father.

5 A. Well, you know, at times I have and at times I
6 haven't.

7 Q. BY MR. HALE: At what times have you not?

8 MR. MATIASIC: Counsel, I am also going to
9 object to this line of questioning that this is not
10 reasonably calculated to lead to the discovery of
11 admissible evidence. What he thinks about some laypeople
12 in Santa Barbara I don't think is relevant to this
13 litigation. With that being said, I will let him answer
14 the question.

15 MR. HALE: Okay.

16 A. No, I think I am going into not strictly
17 Confessional things, but I don't think it's appropriate
18 for me to say feelings I had here and there about them.

19 Q. BY MR. HALE: Do you feel they have been
20 dishonest with you at some point?

21 MR. MATIASIC: Vague and ambiguous as to
22 "dishonest."

23 A. How would you -- what is dishonest? In what
24 way?

25 Q. BY MR. HALE: I think the word speaks for itself,

1 I could pull the Webster's Dictionary definition of it if
2 you want.

3 MR. MATIASIC: Again, Counsel, I am going
4 to reiterate the objection. Father Piccoli has indicated
5 that there may have been Confessional contact as well, so
6 to the extent that you are asking questions and also
7 lending to that purview as well, I think Father Piccoli
8 can't answer any of those type of questions.

9 MR. HALE: I certainly don't want anything
10 related to Confessional communications.

11 A. I think in a nutshell they had great qualities
12 and weak qualities that every human being has.

13 Q. BY MR. HALE: Were those weak qualities related
14 to their attitudes towards the clergy abuse scandal in
15 your opinion?

16 MR. MATIASIC: Vague and ambiguous.

17 A. That's not -- primarily, no. If I am talking
18 about weakness in their character, it's not having do with
19 that.

20 Q. BY MR. HALE: What does it have to do with?

21 A. I really can't say.

22 Q. If it's not related to a Confessional we are
23 entitled to that information. We don't want any
24 Confessional communication, that's for certain.

25 MR. MATIASIC: Counsel, let's take a break

1 and I will talk to the witness.

2 MR. HALE: Sure.

3 (Recess.)

4 MR. MATIASIC: Let's go back on the
5 record.

6 MR. HALE: Back on the record.

7 MR. MATIASIC: Counsel, do you have a
8 question pending?

9 MR. HALE: I think we did. If you can find
10 it and whatever the last one was.

11 (Record read.)

12 MR. MATIASIC: Counsel, I spoke with the
13 witness off the record here and I am going to instruct the
14 witness not to answer on the basis that there may be some
15 areas that dealt with confidential communications in the
16 context of a clergyman-penitent, and also on the basis
17 that it may impinge upon the privacy interests of third
18 parties not including the people that you just mentioned.

19 MR. HALE: But I think he testified, I know
20 he testified earlier, that it did not come up in the
21 context of -- whatever caused him to question their ethics
22 or character or whatever did not come up in the context of
23 a penitential communication.

24 MR. MATIASIC: We have talked about the
25 issue in more exhaustive detail regarding specifically

1 what the communications were and I believe under the
2 California evidence code that some of the communications
3 that Father [REDACTED] had with the individuals you
4 identified would come within the protection of that
5 evidence code section.

6 In addition he indicated to me that also
7 some of the weaknesses stemmed from issues that these
8 witnesses may have had with third parties and that that
9 would impinge upon their privacy rights. So on that basis
10 I am instructing him not to answer.

11 MR. HALE: But what if we don't identify
12 the names of the third parties? I don't want him to
13 identify the names of any third parties, that's between
14 him and the third parties, but I am just looking for
15 information regarding why he would question the ethics or
16 the character or whatever of the Munanas.

17 MR. MATIASIC: I think based upon my
18 discussion with Father [REDACTED] even without using the
19 specific names of third parties just the issues that may
20 have led Father [REDACTED] to form an opinion regarding
21 potential weaknesses was -- if he were to speak about that
22 it would be very clear whom he may be speaking of. And
23 so, you know, I don't think he can testify to that without
24 impinging upon those privacy rights.

25 If there are other questions you have that,

1 you know, don't fall within that category, you know, we
2 can take it on a question-by-question basis. I will have
3 a continuing objection to this whole line of questioning
4 anyway, I don't know how this is reasonably calculated to
5 lead to the discovery of admissible evidence.

6 MR. HALE: I can answer that for you.
7 Obviously these are going to be important witnesses to our
8 case and if you guys are going to attack their credibility
9 based on this information he is now refusing to provide,
10 we definitely are not going to sit back and accept that at
11 trial. That's what the concern is, that there is going to
12 be an attack on their credibility that you are not going
13 to share with us now and you are going to spring on us at
14 trial.

15 MR. MATIASIC: If there are areas that
16 Father [REDACTED] can get into that wouldn't involve the
17 privacy rights of third parties, not the individuals that
18 you are bringing up, and also, Counsel, I am assuming that
19 you are willing to represent on the record that these
20 individuals -- that you are okay with talking about the
21 privacy issues with these individuals?

22 MR. HALE: We can get them on the phone
23 right now.

24 MR. MATIASIC: Listen, Counsel, I will take
25 your representation but --

1 MR. HALE: I got their number just in case
2 I needed it.

3 MR. MATIASIC: That's fine, I will take
4 your word, Counsel, I don't have a problem with that. I'm
5 just saying if you could ask questions that don't impinge
6 upon third-party privacy rights and don't fall within the
7 context of some type of confidential communication with
8 Father [REDACTED] protected under the evidence code, I will
9 let him answer it. But that particular question that you
10 last asked he's not going to be able to answer that.

11 MR. HALE: Can you specify what privacy
12 rights you are worried about impinging on so that I can
13 avoid -- are we talking sexual privacy, are we talking
14 financial privacy?

15 MR. MATIASIC: We are talking about all
16 kinds of privacy rights, but for purposes of putting it on
17 the record how about the privacy rights as protected in
18 the 14th Amendment of the United States Constitution, and
19 then Article I, Section I of the California Constitution,
20 so we will leave it at that.

21 MR. HALE: But I want to ask for any kind
22 of specificity so I can avoid it.

23 MR. MATIASIC: I am not going to talk about
24 the specific category of issues because I think the
25 category is protected as well.

1 MR. HALE: Well, if we are not identifying
2 the witness and we are not identifying what the specific
3 conduct is, I don't know if that's protected. I'm just
4 trying to get an idea of areas I can avoid and get an
5 answer to these questions.

6 MR. MATIASIC: You know, Counsel, I think
7 the best approach probably would be to take it on a
8 question-by-question basis and if he can answer without
9 impinging upon the privacy rights of third parties other
10 than the two individuals Ray and Dyanne Munana, and if he
11 can testify as to issues that was not communicated to him
12 in a confidential context as protected under the
13 California evidence code, then he can answer those
14 questions.

15 Q. BY MR. HALE: Father, did you ever hear
16 Confession from Ray or Dyanne Munana?

17 A. I don't know.

18 Q. Whatever was discussed that resulted in you
19 questioning their character, was it related to the
20 seminary?

21 MR. MATIASIC: Father, I am going to
22 instruct you not to answer.

23 MR. HALE: On what grounds?

24 MR. MATIASIC: Well, on the grounds that it
25 may impinge upon the privacy rights of third parties.

1 MR. NYE: That was a "yes" or "no"
2 question, that doesn't impinge upon anybody's rights.

3 MR. MATIASIC: Let me consult with the
4 witness again.

5 MR. HALE: Sure.

6 (Recess.)

7 MR. MATIASIC: Let's go back on the
8 record. Counsel, actually I think that is asked and
9 answered, I think he already testified that it wasn't
10 related to St. Anthony. Or maybe that is a different
11 question, you can answer that question. You asked before
12 about the clergy abuse scandal.

13 MR. HALE: Yes.

14 MR. MATIASIC: That's right, I apologize.
15 Go ahead, you can answer that question.

16 A. No.

17 Q. BY MR. HALE: So it wasn't related to any
18 St. Anthony's students in other words?

19 A. No.

20 Q. We talked about members of the community who
21 attended Mass at St. Anthony's, was it ever related to
22 another member of the community who attended Mass?

23 A. No.

24 Q. Was it related to a layperson or to a member of
25 the Province?

1 MR. MATIASIC: And when you say was "it"...

2 Q. BY MR. HALE: Whatever the event was that
3 resulted in you questioning the character or the ethics of
4 the Munanas?

5 MR. MATIASIC: It misstates his testimony
6 in that it wasn't necessarily just one event. If you can
7 answer that question, go ahead.

8 Q. BY MR. HALE: Or events, Father?

9 A. Well, it wasn't related to in a way either, it
10 was a very personal thing.

11 Q. And it was something you discussed with the
12 Munanas about a third party?

13 MR. MATIASIC: Well, Counsel, again I am
14 going to reiterate that we are objecting and instructing
15 him not to answer on two bases: One, third-party privacy
16 rights and, two, any confidential communications made to
17 Father [REDACTED] as protected under the clergyman-penitent
18 privilege and the California evidence code.

19 MR. HALE: Right. And I certainly don't
20 want anything that's considered a penitential
21 communication. But with that said...

22 A. I think it falls in that regard.

23 Q. BY MR. HALE: It falls within the penitential
24 communication?

25 A. I think so.

1 Q. Where did the communication take place?

2 MR. MATIASIC: Father, I am going to
3 instruct you not to answer.

4 MR. HALE: I am absolutely entitled to find
5 out where it took place and try and determine whether or
6 not it qualifies as a penitential communication.

7 MR. MATIASIC: I am going to instruct him
8 not to answer. Quite frankly, you know, if somebody else
9 wants to talk about where they may have had confidential
10 communications, that's fine, but Father Piccoli is
11 invoking the privilege. It's a two-way privilege so he is
12 not going to testify whether he heard it in a conference
13 room or whether he heard it on the couch in the family
14 room.

15 MR. HALE: But I think we are entitled to
16 try and determine whether it qualifies as a penitential
17 communication. There are going to be certain
18 circumstances where it couldn't possibly qualify as a
19 penitential communication, if there were other people
20 around or depending on the context.

21 MR. MATIASIC: That's a different
22 question. Where it took place, I think that's protected.

23 MR. HALE: Okay.

24 MR. MATIASIC: I don't think that helps you
25 at all, Counsel, in determining whether or not it falls

1 within the clergyman-penitent privilege.

2 MR. HALE: For instance, if it took place
3 at McDonald's at a table in a room full of people, I think
4 it absolutely helps me.

5 MR. MATIASIC: Like I said before, I think
6 if you want to ask the question, you know, would it be
7 confidential communications that you are speaking to,
8 Father, were there other people around at the time, that's
9 a fair question, and if he was at McDonald's I am sure
10 other people were around. So that's why I am assuming
11 there is a distinction between where it actually took
12 place and whether other people were around, the latter is
13 a valid question.

14 Q. BY MR. HALE: How many of these confidential
15 communications were there?

16 A. A couple.

17 Q. And during these conversations was there anyone
18 present other than Ray or Dyanne Munana?

19 A. No.

20 Q. And was it just Ray or was it just Dyanne or was
21 it both of them?

22 A. I can't remember.

23 Q. Are you familiar with the doctrine of mental
24 reservations?

25 A. Yes.

1 Q. And is the doctrine of mental reservations
2 something that is motivating you not to answer these
3 questions right now?

4 A. No.

5 MR. MATIASIC: Vague and ambiguous.

6 Q. BY MR. HALE: During these communications you
7 don't recall if it was Ray or Dyanne; is that correct?

8 MR. MATIASIC: Asked and answered.

9 A. No.

10 Q. BY MR. HALE: Do you recall one of them
11 expressing to you their intent for you to hear their
12 Confession?

13 MR. MATIASIC: I am going to instruct him
14 not to answer that question as well.

15 MR. HALE: I think I have got a right to
16 know, I'm trying to figure out if this actually qualifies
17 as a penitential communication.

18 MR. MATIASIC: How they approached the
19 situation, whether they said, you know, Father, I need to
20 speak with you about something in confidence that's on my
21 conscious or whether they said, Father, I expressly intend
22 this to be a confidential communication protected by the
23 evidence code is privileged and he's not going to answer
24 any questions along those lines.

25 MR. HALE: Well, what if I get the Munanas

1 on the phone right now and they say they never had a
2 penitential communication with him?

3 MR. MATIASIC: However they want to
4 approach it, that's fine. You can have them testify as to
5 whatever you want, but it's a two-way privilege as you
6 know, Counsel, and he is invoking it and I am instructing
7 him not to answer.

8 MR. HALE: So are you taking the position
9 that any communication they made to him he has the right
10 to qualify as a penitential communication?

11 MR. MATIASIC: Absolutely not. Any
12 communication made in confidence in his role as a
13 clergyman.

14 MR. HALE: Well, but it sounds like, Paul,
15 what you are saying is if they say it to him he has got a
16 unilateral right to say, yes, this is a penitential
17 communication even if I get them on the phone right now
18 and they say we never had a penitential communication with
19 him.

20 MR. MATIASIC: We can broach -- you know,
21 if you want to bring whatever motion, Tim, you are welcome
22 to and, you know, we can broach the issue later. But
23 first of all, I have no way of knowing who -- I don't have
24 their Social Security numbers, I don't know who is going
25 to be on the other line saying, no, I never had a

1 confidential communication so I'm not going to let him
2 answer, it's just not going to happen.

3 MR. HALE: I understand that.

4 MR. MATIASIC: I understand what you are
5 trying to do. And, for example, I think you already asked
6 questions trying to determine whether it falls within the
7 privilege and, you know, were there other people present,
8 I mean that's okay, but what was said is not going to be
9 discussed.

10 MR. HALE: I just want to make sure I
11 understand your position. Your position is he has a
12 unilateral right to determine whether communication with a
13 third party is a penitential communication? Is that your
14 position?

15 MR. MATIASIC: My position again is that I
16 am instructing him not to answer based upon privacy rights
17 of third parties and upon confidential communications
18 protected by the clergy-penitent privilege. And I believe
19 that privilege is two ways, that either party can invoke
20 the privilege. So if the other party wants to waive that
21 privilege and testify about things, that's their right.
22 He is invoking -- he has a right to invoke the privilege,
23 he is invoking it, and he will not answer. That's my
24 position.

25 MR. HALE: All right. And just to be

1 clear, if I get the Munanas on the phone right now and
2 they say to the extent we never had any kind of
3 penitential communications with Father [REDACTED], we are
4 waiving any right we had to the confidentiality of that
5 communication, that is not going to change your response
6 to these questions in any way, shape or form?

7 MR. MATIASIC: No phone call from some
8 outside source is going to in any way change our position
9 today.

10 Q. BY MR. HALE: Father [REDACTED], if you heard the
11 Munanas' voice I assume you would recognize those voices
12 on the phone?

13 A. Probably.

14 MR. HALE: And I will offer right now to
15 get them on the phone and have them waive their
16 penitential communications. You are still refusing to let
17 him answer the question if we do that, correct?

18 MR. MATIASIC: Either way, Counsel, like I
19 said before, if he were to recognize their voices, I don't
20 know that they are who they say they are. Sometimes
21 family members can sound alike so that doesn't really help
22 us here.

23 Secondly, as I have said I think three
24 times, so I will say it a fourth time, my understanding is
25 that it's a two-way privilege, either party can invoke

1 it. So just because they are waiving it doesn't mean that
2 Father [REDACTED] then has to testify. He is invoking that
3 privilege. If they want to testify to things they
4 communicated to him in confidence, they can do so, he is
5 not going to testify to that.

6 MR. HALE: I just want to make sure we have
7 got a clear record. My question is if they are on the
8 phone right now and we put them on speaker and he confirms
9 that it's the Munanas, you are still going to instruct him
10 not to answer any questions that they discussed with him
11 if they say we waive any confidentiality rights we have
12 regarding those discussions?

13 MR. MATIASIC: My position again is he is
14 incapable of authenticating who is on the phone, first of
15 all, even if he were to testify that it sounds like the
16 Munanas. So your question was even if he confirms, so I
17 don't think that can happen.

18 Secondly, as I have said four times, now
19 for the fifth time, it is a two-way privilege, either
20 party can invoke it, he is invoking it. If at trial or in
21 deposition the Munanas want to testify as to what they
22 told Father [REDACTED] in confidence, then that's fine, but
23 he is not going to testify about it. It's a two-way
24 privilege. Merely because the penitent may be waiving it
25 doesn't mean that the clergyman has to waive it.

1 MR. HALE: Okay. I just want to make it
2 clear. It's hard for me to imagine a situation where we
3 are not going to file a Motion to Compel under this
4 circumstance. I would like to avoid that, I don't want to
5 trouble the Court with this, I don't think you are acting
6 in bad faith, but I just disagree in light of the offering
7 I am willing to make you regarding getting these witnesses
8 on the line. So more than likely there's going to be a
9 Motion to Compel out of this.

10 MR. MATIASIC: Counsel, that's fine. Like
11 I said before, if the Munanas or whatever other party
12 wants to testify as to those communications, that's fine,
13 but he is just not going to testify.

14 MR. HALE: The other circumstance is when
15 we get to trial in this matter and if testimony is offered
16 from the Munanas and then testimony is offered in response
17 attacking their credibility related to what is now
18 being -- you are not allowing him to answer to, we are
19 going to object to that and ask the Court not to allow
20 that testimony because I don't think it's fair for you to
21 surprise us with this testimony I am asking for right now
22 and then to wait until trial and then try and force it on
23 us.

24 MR. MATIASIC: With all due respect,
25 Counsel, I don't know what types of attacks you'd try to

1 levy on whatever witness and so, you know, I can't respond
2 to that one way or another. And I have no idea what they
3 are going to say or what they are not going to say and so
4 I'm not going to make any representations in that regard.
5 If you feel you need to file a motion, you are free to do
6 so, but at this point, you know, I think the record is
7 pretty clear so we should just move on.

8 MR. HALE: I'm not asking you to make any
9 representation, I'm just trying to make it clear that and
10 what he did say was that he questioned either their
11 character or their ethics or whatever it was, but it was
12 clearly going to be an attack on their credibility, and if
13 such an attack is attempted at trial based on questions
14 that I'm trying to elicit information about right now and
15 you are saying he can't answer, we will ask the judge not
16 to allow this. And I am just making my -- you don't have
17 to respond to that, I am just making my record so you
18 understand.

19 MR. MATIASIC: That's fine.

20 THE WITNESS: Can I have a meeting with
21 you?

22 MR. MATIASIC: Sure.

23 (Recess.)

24 MR. MATIASIC: Counsel, I will say this for
25 the record with respect to, you know, your representation

1 about what may happen at trial one way or another, as
2 Father Piccoli testified to he believes that the things
3 that he is referring to regarding the weaknesses and
4 character issues were things made in confidence and so,
5 you know, if those issues aren't brought up then obviously
6 they wouldn't be brought up at -- if they don't waive the
7 confidences then those issues won't be brought up at
8 trial, but we have no way of knowing what they will say
9 and what they won't. So with that being said, just move
10 on.

11 I am saying we are not going to break the
12 clergyman-penitent privilege unless -- he is invoking it
13 now and wouldn't then not invoke it just by virtue of the
14 fact we are at trial if something is -- if they testify as
15 to certain things one way or another, you know.

16 MR. HALE: That's what I'm trying to
17 understand and I want to be clear that whatever this issue
18 is it is not related in any way to the scandal at
19 St. Anthony's Seminary.

20 MR. MATIASIC: He has already answered
21 those questions. His answers stand, we are not going to
22 have any more questions on it.

23 MR. HALE: And if I ask him as to whether
24 the Munanas ever identified these communications as
25 confidential or penitential, you are going to instruct him

1 not to answer, correct?

2 MR. MATIASIC: Yes.

3 Q. BY MR. HALE: Do you know who [REDACTED] is?

4 A. Yes.

5 Q. How do you know who [REDACTED] is?

6 A. He studied in Psychology.

7 Q. When was that, when did he study?

8 A. When I was at San Luis Rey.

9 Q. Do you recall there being some training for the
10 Franciscans at the Serra Retreat house regarding [REDACTED]
11 [REDACTED] in the 1960's?

12 A. No.

13 Q. Are you familiar with the concept of sensitivity
14 training?

15 A. Yes.

16 Q. How are you familiar with that concept?

17 A. A lot of people were using some techniques in
18 those days.

19 Q. Were you ever a part of any sensitivity training
20 that involved the students at St. Anthony's Seminary?

21 A. I wouldn't call it sensitivity training.

22 Q. What would you call it?

23 A. I would call it group discussion.

24 Q. Was it related to the teachings of [REDACTED] ?

25 A. I don't know the teachings of [REDACTED] that

1 much, all I know is he was trying to help kids.

2 Q. Who led the group discussions?

3 A. I don't remember.

4 Q. Did these group discussions involve any kind of
5 physical contact between St. Anthony's Seminary students?

6 MR. MATIASIC: Vague and ambiguous as to
7 "physical contact."

8 A. There was one -- the only thing I can think of
9 is, and we still do it today, not we, people in your
10 world, you tell a kid to close his eyes and let himself
11 fall and then people grab him, so it's an idea of trust.
12 That's about the only thing I can remember.

13 Q. BY MR. HALE: How many of these group discussions
14 did you attend?

15 A. I don't remember.

16 Q. But you did attend at least one?

17 A. Oh, yeah.

18 Q. And did they take place at the seminary?

19 A. I think one at the seminary, yeah.

20 MR. MATIASIC: I am sorry, Counsel, when
21 you are saying "seminary" are you saying St. Anthony's?

22 MR. HALE: St. Anthony's.

23 A. Yes.

24 Q. BY MR. HALE: Do you recall whether
25 Father Cordano, C-o-r-d-a-n-o, was ever the moderator for

1 any of those group discussions?

2 A. No.

3 Q. Do you recall being aware that they were somehow
4 at least related to [REDACTED] ?

5 A. I would say no.

6 Q. During these sessions did you ever observe
7 students hugging each other?

8 A. What do you mean "hugging"?

9 Q. Hugging.

10 A. Well, I mean --

11 Q. One student hugging another?

12 A. When two Italian men hug each other they kiss,
13 are you talking about that kind of hugging?

14 Q. Sure.

15 A. Yeah. No kissing.

16 Q. No kissing, okay. Did you observe students
17 holding hands during these discussions?

18 A. No.

19 Q. Did you observe students hugging Franciscans?

20 A. Yes.

21 Q. Did you ever observe anything that seemed to
22 have, conduct that seemed to have a sexual overtone during
23 these discussions?

24 MR. MATIASIC: Lacks foundation, vague and
25 ambiguous.

1 Q. BY MR. HALE: Was that a no?

2 A. That's a no.

3 Q. Did you ever observe any behavior during these
4 group discussions that you thought was inappropriate by a
5 Franciscan or by a student?

6 MR. MATIASIC: Same objections. You can
7 answer.

8 A. No.

9 Q. BY MR. HALE: Do you know who William Coulson
10 is? C-o-u-l-s-o-n.

11 A. I think he is a psychologist. I am not sure.

12 Q. Have you ever heard anyone blame the clergy
13 abuse scandal within the Province on Rogerian training?

14 MR. MATIASIC: Lacks foundation, vague and
15 ambiguous.

16 A. No.

17 Q. BY MR. HALE: Have you given any thought to what
18 caused the scandal involving the Province at
19 St. Anthony's?

20 MR. MATIASIC: Vague and ambiguous.

21 A. I have given thought.

22 Q. BY MR. HALE: Do you think it might be related to
23 the fact there were perpetrators on the faculty at a time
24 when future perpetrators were students at the seminary?

25 MR. MATIASIC: Vague and ambiguous, calls

1 for speculation, lacks foundation. I think this calls for
2 an expert opinion.

3 A. I don't know.

4 Q. BY MR. HALE: Have you ever formed any opinions
5 as to what caused the scandal?

6 MR. MATIASIC: Same objections.

7 A. No.

8 Q. BY MR. HALE: Do you recall discussing with the
9 Munanas the sensitivity training?

10 A. No.

11 Q. Do you recall telling them that you liked the
12 openness of the [REDACTED] teachings?

13 A. No.

14 Q. Do you recall telling them about students
15 sometimes getting in trouble at St. Anthony's?

16 A. I'm not sure what that means.

17 Q. For instance like what you described earlier,
18 perhaps a student getting caught with drugs or being
19 unhappy about something?

20 A. Can I say I specifically remember a specific
21 time, no.

22 Q. But do you have a vague recollection of
23 discussing those things with them, the Munanas?

24 MR. MATIASIC: Vague and ambiguous.

25 A. Again I can't answer.

1 Q. BY MR. HALE: Do you recall ever sending students
2 from the seminary who had gotten into some kind of trouble
3 to spend time with the Munanas?

4 MR. MATIASIC: Vague and ambiguous.

5 A. Not specifically, no.

6 Q. BY MR. HALE: How about not specifically?

7 A. It was our policy to try to have the kids have a
8 home life. If there was a family that was a good family,
9 send them there for the weekend to have a home ambiance.

10 Q. While you were a student at St. Anthony's
11 Seminary did any Franciscan engage in what you considered
12 to be inappropriate conduct with you?

13 MR. MATIASIC: Lacks foundation, vague and
14 ambiguous.

15 A. No.

16 Q. BY MR. HALE: The same question while you were a
17 student, did another student engage in what you considered
18 to be inappropriate conduct with you?

19 MR. MATIASIC: Same objections.

20 A. When?

21 MR. HALE: While you were a student at
22 St. Anthony's.

23 A. No.

24 Q. BY MR. HALE: Did you ever hear of or somehow
25 become aware of a Franciscan engaging in what you

1 considered to be inappropriate conduct with a
2 St. Anthony's student?

3 MR. MATIASIC: Same objections.

4 A. No.

5 Q. BY MR. HALE: Did you ever supervise study hall?

6 MR. MATIASIC: While he was on the faculty
7 at St. Anthony's?

8 MR. HALE: Right. I would imagine that
9 would be the only time he would have supervised study hall
10 but maybe not.

11 Q. BY MR. HALE: You didn't ever supervise study
12 hall while you were a student at St. Anthony's, did you?

13 A. Not that I can remember.

14 Q. What about while you were on the faculty?

15 A. I can't remember.

16 Q. Did you ever go to study hall and pull a student
17 out to meet with you?

18 A. I can't remember.

19 Q. Did you ever send another student to retrieve a
20 student from study hall to meet with you?

21 A. I can't remember.

22 Q. Was your office space at St. Anthony's separate
23 from your living quarters?

24 MR. MATIASIC: Lacks foundation.

25 A. Yes.

1 Q. BY MR. HALE: Where was your office?

2 A. In the tower.

3 Q. Did you have neighbors? Were there offices next
4 to you?

5 A. No.

6 Q. Just your office in the tower?

7 A. Yes.

8 Q. How did you end up with an office in the tower?

9 MR. MATIASIC: Calls for speculation.

10 A. I was the low man on the totem pole.

11 Q. BY MR. HALE: And was your office space in the
12 tower for your entire time on the faculty at
13 St. Anthony's?

14 A. Yes.

15 Q. And where were your living quarters while you
16 were on the faculty?

17 A. In the Friary.

18 Q. And who were your neighbors in the Friary?

19 A. A bathroom and a guest room.

20 Q. Who would stay in the guest room?

21 A. Friars.

22 Q. That were visiting from out of town?

23 A. Yes.

24 Q. Was that a common occurrence for friars from out
25 of town to stay in the guest room at the faculty while you

1 were on the faculty?

2 MR. MATIASIC: Vague and ambiguous.

3 A. At every Friary it's common.

4 Q. BY MR. HALE: Have you ever heard of something
5 called faculty confrontation?

6 A. Yes.

7 Q. What was that?

8 A. A student seemed incorrigible and was brought
9 before the faculty so that many could give their
10 assessment of him at the same place at the same time.

11 Q. How many times did that happen while you were on
12 the faculty at St. Anthony's?

13 A. I have no idea.

14 Q. More than five, more than ten?

15 A. I really can't say.

16 MR. MATIASIC: Lacks foundation.

17 Q. BY MR. HALE: Do you recall specific students who
18 participated in the faculty confrontation?

19 A. No.

20 Q. When you say students seemed incorrigible, what
21 behavior resulted in a student being considered
22 incorrigible?

23 A. Attitudes, you know, authority problems.

24 Q. Any specific conduct?

25 A. I'm trying to think. I can't think of any

1 specific conduct.

2 Q. Was faculty confrontation something that was in
3 place while you were a student at St. Anthony's?

4 A. No.

5 Q. Was it something that was at St. Anthony's when
6 you were assigned to the faculty there or was it created
7 after you were assigned?

8 MR. MATIASIC: If you know, Father.

9 A. It was created when I was there.

10 Q. BY MR. HALE: Do you know, why was it created if
11 you know?

12 A. So that students, young men, can realize that it
13 isn't just a moderators' opinion but that other people on
14 the faculty who we admired had similar opinions.

15 Q. So in other words others shared their
16 experiences or observations regarding that particular
17 student?

18 A. Yes.

19 Q. When these faculty confrontations occurred were
20 meeting minutes kept of those confrontations?

21 A. I don't know.

22 Q. Do you know if there was any kind of written
23 record of those confrontations?

24 MR. MATIASIC: While he was on the
25 faculty?

1 MR. HALE: Right.

2 A. I don't know.

3 Q. BY MR. HALE: Did you ever take notes while the
4 faculty confrontations were occurring?

5 A. No.

6 Q. Do you recall if there were any students who
7 were called more than once to a faculty confrontation?

8 MR. MATIASIC: While he was on the
9 faculty?

10 MR. HALE: Yes.

11 A. No, I don't remember.

12 Q. BY MR. HALE: Would these students be disciplined
13 in some way after the faculty confrontation?

14 A. I can't remember a specific instance one way or
15 the other.

16 Q. Do you recall any discipline occurring while you
17 were on the faculty at St. Anthony's whether it was
18 detention or extra assignments or --

19 A. Yes.

20 Q. What kind of discipline do you recall taking
21 place?

22 A. Can't go out for the weekend.

23 Q. Anything else?

24 A. It's been so long ago that's all I can remember.

25 Q. Do you recall there being any corporal

1 punishment for discipline?

2 MR. MATIASIC: While he was on the
3 faculty?

4 MR. HALE: Yes.

5 A. No.

6 Q. BY MR. HALE: Do you recall there being any
7 corporal punishment while you were a student at
8 St. Anthony's?

9 A. No.

10 Q. Do you recall any other forms of punishment
11 while you were a student at St. Anthony's other than --
12 actually any other forms of punishment?

13 A. The same sort of thing, you can't leave the
14 grounds. Or that's certainly not corporal, but you can't
15 leave the grounds, you can't watch the movie tonight.

16 Q. Did you participate in evaluating students on a
17 yearly basis, on a semester basis? Well, actually did you
18 ever participate in evaluating students?

19 MR. MATIASIC: In what context?

20 MR. HALE: Just in the performance at
21 St. Anthony's.

22 MR. MATIASIC: So in terms of how they
23 performed on tests?

24 MR. HALE: Yes.

25 A. Yes.

1 Q. BY MR. HALE: Did you ever participate in a
2 faculty, kind of a group evaluation of a student?

3 A. That's what I am saying yes to.

4 Q. And how often did those occur?

5 A. I don't remember.

6 Q. Were those done in writing?

7 A. No.

8 Q. Was there a person who would take the lead on
9 the evaluation of a student?

10 MR. MATIASIC: Vague and ambiguous.

11 A. All I can remember is the name probably was
12 announced and any comments.

13 Q. BY MR. HALE: Were there any criteria for
14 evaluating a student in this context?

15 A. The Gospels, good curriculum, study habits --

16 Q. Okay.

17 A. -- how a person would interface with other kids.

18 Q. Anything else?

19 A. Home problems. Anything that you would deal
20 with at a home with your child we would deal with there.

21 Q. With regards to interfacing with other kids,
22 what criteria or what things were looked for to evaluate
23 the student?

24 MR. MATIASIC: Can I have that question
25 read back, please.

1 (Record read.)

2 MR. MATIASIC: Vague and ambiguous.

3 A. It's really so broad I don't know how to answer
4 that.

5 Q. BY MR. HALE: Do you recall there were any things
6 with regards to a student's interfacing with other
7 students that resulted in a negative evaluation of a
8 student?

9 MR. MATIASIC: Same objection.

10 A. If a kid was smoking as a Freshman I guess there
11 would be a negative reaction.

12 Q. BY MR. HALE: Do you recall that happening?

13 A. No.

14 Q. Do you have any specific recollection of
15 anything, any conduct, resulting in a --

16 A. Too long ago.

17 MR. MATIASIC: Let him finish, Father.

18 Is this a good time for a lunch break?

19 MR. HALE: Let me see. I will be cutting
20 off here soon.

21 Q. BY MR. HALE: Were there ever any discussions of
22 a candidate's or a student's sexual maturity?

23 MR. MATIASIC: Vague and ambiguous.

24 A. I can't remember any.

25 Q. BY MR. HALE: Do you have a recollection of

1 sexual maturity being one of the criteria, though, for
2 evaluating a student?

3 A. I don't know what you mean by sexual maturity
4 for a teenager. What do you mean by that?

5 Q. Well, I can represent to you that there are
6 Franciscan evaluation forms where sexual maturity is
7 identified as a criteria. Unfortunately the criteria is
8 not defined so I was hoping you could define what exactly
9 the Franciscans were looking for.

10 MR. MATIASIC: And this is while he was on
11 the faculty?

12 MR. HALE: Uh-huh.

13 A. I think, you know, I am just guessing --

14 MR. MATIASIC: Don't guess.

15 A. So I mean no, I mean I think we took what we
16 felt were valid positive values that society seems to take
17 for sexual identity and sexual maturity.

18 MR. HALE: Okay. All right. This is a
19 good place.

20 (Recess.)

21 Q. BY MR. HALE: Father, are you aware of the
22 Province running orphanages or an orphanage in Mexico?

23 A. Yes.

24 Q. One or more than one?

25 A. One.

1 Q. Are you familiar with something called Casa De
2 Los Pobres in Tijuana?

3 A. No.

4 Q. Do you know a Sister Armeda? A-r-m-e-d-a.

5 A. No, I am not sure of that.

6 Q. What about Sister Maria Uegenia?
7 U-e-g-e-n-i-a.

8 A. No.

9 Q. How about Casa De Cuna? C-u-n-a.

10 A. I have heard the title but I don't know anything
11 about it.

12 Q. While you were at Serra Retreat House were you
13 aware that Brother Cabot was going to Mexico to visit an
14 orphanage?

15 A. No.

16 Q. Have you ever heard that before?

17 A. No.

18 Q. While you were at Serra Retreat House did word
19 break that there were allegations against Brother Cabot?

20 A. No.

21 Q. Do you recall Brother Cabot being transferred
22 from Serra Retreat House?

23 MR. MATIASIC: Vague and ambiguous, lacks
24 foundation.

25 A. I don't know what you mean by "transferred."

1 Q. BY MR. HALE: Sent to another assignment.

2 A. No.

3 Q. Or sent anywhere else whether it be for an
4 assignment or just to live or for treatment or anything?

5 A. No.

6 Q. Are you familiar with the White Dove of the
7 Desert in Arizona?

8 A. Yes.

9 Q. What exactly is that?

10 A. It's San Xavier Mission.

11 Q. And where are you in relationship to that? I
12 honestly don't know.

13 A. I am in the boonies.

14 Q. How far away?

15 MR. MATIASIC: The question was in relation
16 to the White Dove of the Desert?

17 Q. BY MR. HALE: How far away from the White Dove
18 are you?

19 A. Two and a half hours.

20 Q. Okay.

21 A. Three hours.

22 Q. Has Brother Cabot ever come to visit you on the
23 Reservation?

24 A. No.

25 Q. While you were at Serra Retreat House did you

1 know two lay employees, a married couple named Susan and
2 Miguel?

3 A. Doesn't ring a bell.

4 Q. I will see if I can refresh your recollection.
5 They actually lived on the property and they had two
6 daughters who were around the ages of 3 and 4 years old.

7 A. No.

8 Q. While you were at Serra Retreat House were you
9 aware of Brother Cabot baby-sitting any children?

10 A. No.

11 Q. While you were at Serra Retreat House or
12 actually at any time have you ever been aware of
13 allegations that two boys who were working in the kitchen
14 at Serra Retreat House were sexually assaulted by a
15 Franciscan? And when I say "boy" I mean minors.

16 MR. MATIASIC: Vague and ambiguous.

17 A. No.

18 Q. BY MR. HALE: Were you ever aware of
19 Brother [REDACTED] sending two minor illegal aliens back to
20 Mexico? Boys that is?

21 A. Sending them back?

22 Q. Yes.

23 MR. MATIASIC: Lacks foundation, vague and
24 ambiguous.

25 A. No.

1 Q. BY MR. HALE: Have you ever been aware of or
2 heard some way of allegations of child and sexual abuse at
3 Serra Retreat House by a Franciscan?

4 A. Are you saying while I was there, after I was
5 there?

6 Q. At any time have. Have you ever come to be
7 aware for some reason, whether you heard it or you heard a
8 rumor or anything like that?

9 A. No.

10 Q. Do you know a gentleman named Vince Matarrese?
11 M-a-t-a-r-r-e-s-e. I may be pronouncing his name
12 incorrectly.

13 A. Yes.

14 Q. How do you know Vince?

15 A. He was I think the first class I had as a
16 coordinator or moderator.

17 Q. So he was a student at St. Anthony's while you
18 were on the faculty?

19 A. Yes.

20 Q. And did he go on to continue as a priest
21 candidate beyond St. Anthony's Seminary?

22 A. I don't remember.

23 Q. When was the last time you spoke with him?

24 A. I don't know.

25 Q. Do you recall him leaving the Province at some

1 point?

2 A. Leaving the Province?

3 Q. Yes. In other words not being a member of the
4 Province any longer.

5 A. I am confused. He is not a friar?

6 Q. That's correct.

7 A. So when you say being part of the Province?

8 Q. Do you recall him going through the process and
9 as he was about to become a friar electing not to become a
10 friar?

11 A. No.

12 Q. When you arrived at St. Anthony's as a faculty
13 member was anyone other than the Prefect of Discipline
14 authorized to discipline students?

15 MR. MATIASIC: Vague and ambiguous as to
16 "authorized."

17 A. Not that I know of.

18 MR. MATIASIC: And calls for speculation.
19 Go ahead.

20 A. Not that I know of.

21 Q. BY MR. HALE: Have you ever been aware of any
22 limitations on how a Prefect of Discipline could
23 discipline students?

24 MR. MATIASIC: Vague and ambiguous.

25 A. No.

1 Q. BY MR. HALE: Were you ever aware of any
2 limitations being placed on how Mario could discipline
3 students? Mario Cimmarrusti that is.

4 MR. MATIASIC: Same objections.

5 A. No.

6 Q. BY MR. HALE: Was there a rec room for the
7 Franciscans on the faculty when you were at St. Anthony's
8 Seminary?

9 A. Yes.

10 Q. Do you recall an instance where
11 Father Cimmarrusti entered into the recreation room and
12 announced that he had punished a class of students by
13 making them take an exam in their underwear?

14 A. No.

15 Q. Did you ever hear about Father Cimmarrusti
16 having a class of students take an exam in their
17 underwear?

18 MR. MATIASIC: Other than from your
19 attorneys.

20 A. Yeah, that's what I was going to say.

21 Q. BY MR. HALE: Did you know Father [REDACTED] ?

22 [REDACTED]

23 A. Yes.

24 Q. Have you ever heard from him that he recalls
25 being in the rec room when Father Cimmarrusti walked in

1 and announced that he forced a class to take an exam in
2 their underwear?

3 A. No.

4 Q. Can you think of any circumstance where it would
5 have been appropriate in your experience on the faculty at
6 St. Anthony's for a faculty member to instruct the class
7 to take an exam in their underwear?

8 MR. MATIASIC: Vague and ambiguous, lacks
9 foundation, calls for speculation and incomplete
10 hypothetical.

11 A. You know, you would have to repeat the question.

12 Q. BY MR. HALE: Sure. Can you think of any
13 circumstance where it would be appropriate for a
14 St. Anthony's faculty member to instruct a class of
15 St. Anthony's students to take an exam in their
16 underwear?

17 MR. MATIASIC: Same objections.

18 Q. BY MR. HALE: And, Father, if you need a break,
19 we can take a break.

20 A. No. I guess I would say no.

21 Q. If you had learned of such an event taking place
22 would you have taken any action?

23 MR. MATIASIC: Same objections.

24 A. Yes.

25 Q. BY MR. HALE: What would you have done?

1 A. I would have talked to those in authority.

2 Q. Such as the Rector?

3 A. Yes.

4 Q. During your time on the faculty at St. Anthony's
5 or as a student did you ever see students walking through
6 the hallways of St. Anthony's in their underwear?

7 A. No.

8 Q. Did you ever see students, same question, but
9 did you ever see students in a classroom in their
10 underwear?

11 A. No.

12 Q. Does it surprise you that -- and I will
13 represent to that you Father [REDACTED] testified about two
14 weeks ago that Father Cimmarrusti came into the rec room
15 and announced that he had done that. Does it surprise you
16 that that announcement was made and you weren't aware,
17 didn't become aware of that somehow?

18 MR. MATIASIC: Vague and ambiguous. And
19 also object that it misstates Father [REDACTED]'s testimony,
20 so therefore it's an incomplete hypothetical and lacks
21 foundation.

22 MR. HALE: You can answer it.

23 A. First of all, I am not sure I was there when
24 [REDACTED] heard this. No, I must have been there, I am
25 sorry.

1 Q. BY MR. HALE: Well, I am not asking you if you
2 were there, I am saying does it surprise you, because if I
3 understand your testimony correctly, aside from your
4 attorneys is this the first time you have ever heard of
5 that event taking place?

6 A. Yes.

7 MR. MATIASIC: Father, let him finish his
8 question.

9 Q. BY MR. HALE: So my question is: In light of
10 that fact that this is the first time other than from your
11 attorneys you've heard of that event taking place does it
12 surprise you that Father [REDACTED] testified a few weeks
13 ago something to the effect of Father Cimmarrusti walked
14 into the rec room and announced that he had a class take
15 an exam in their underwear?

16 MR. MATIASIC: Same objection. And I don't
17 think it's relevant or likely to lead to the discovery of
18 admissible evidence. You can answer, Father.

19 A. Yeah.

20 Q. BY MR. HALE: That's something you would have
21 expected to have been discussed by the faculty if that had
22 taken place?

23 MR. MATIASIC: Same objections.

24 A. Yes.

25 Q. BY MR. HALE: In your time at St. Anthony's were

1 you ever aware of an examination being given to a class of
2 students outside of normal school hours, in other words
3 not during study hall -- or strike that. In other words
4 not during when classes normally would be in session but
5 perhaps during a study hall session or perhaps during when
6 a meal would normally take place?

7 A. No.

8 Q. Were you aware that Father Cimmarrusti's office
9 space also was his living quarters?

10 MR. MATIASIC: Lacks foundation. This is
11 while he was on the faculty at St. Anthony's?

12 MR. HALE: Right.

13 A. I never gave it a thought.

14 Q. BY MR. HALE: But in other words did you ever
15 walk into his room and see maybe a desk that was his
16 office space and then his bed on another part of the room?

17 A. No.

18 Q. Do you recall ever seeing a fish tank in his
19 room?

20 A. No.

21 Q. Did you ever go in his room?

22 A. No.

23 Q. Did you ever open the door to his room?

24 A. No.

25 Q. Did you ever have a conversation with

1 Father Cimmarrusti where you were standing in the doorway
2 and he was in his room?

3 A. I can't remember.

4 Q. I think the answer to this is obvious but I have
5 to ask the question anyways: Did you ever walk in on
6 Mario with a student in his room?

7 A. No.

8 Q. Did you ever hear of anyone walking in on Mario
9 with a student in his room?

10 MR. MATIASIC: That's an incomplete
11 hypothetical, vague and ambiguous, lacks foundation. Go
12 ahead, Father.

13 A. If I would have, I would have reported that to
14 whoever it needed to be reported to.

15 Q. BY MR. HALE: Were you ever aware that
16 Father Cimmarrusti was having students in his room?

17 MR. MATIASIC: Counsel, just so I am clear,
18 when you are saying "in his room" are you saying his
19 personal quarters or his office space?

20 MR. HALE: Well, I think my understanding
21 is that his office space was his personal quarters, it was
22 one room.

23 MR. MATIASIC: I am just asking what the
24 scope of the question is.

25 MR. HALE: Just so you understand, my

1 understanding is that Father Cimmarrusti's living quarters
2 served both as his living quarters and his office space,
3 so when I ask you were you ever aware of a student being
4 in Father Cimmarrusti's room I mean living quarters/office
5 space.

6 MR. MATIASIC: This is while he is on the
7 faculty?

8 MR. HALE: Yes.

9 A. Yes.

10 Q. BY MR. HALE: And did you have any understanding
11 as to what purposes those students were in
12 Father Cimmarrusti's room?

13 A. I would say something regarding scholastics.

14 Q. How is it you became aware of students being in
15 Father Cimmarrusti's room?

16 A. Well, I would walk down the corridor and I could
17 see somebody go in.

18 Q. And do you recall that happening more than once?

19 A. I have no idea.

20 Q. Do you recall whether the student would close
21 the door behind him when a student went in
22 Father Cimmarrusti's room on the times when you saw this?

23 A. No.

24 Q. You don't recall, you just don't know?

25 A. No.

1 Q. Did you ever see Father Cimmarrusti sitting in
2 his room with a student with his door open so you could
3 just walk by and see that they were sitting in there?

4 A. I am not sure of that.

5 Q. Did any Franciscan ever tell you that they
6 observed a St. Anthony student on another Franciscan's bed?

7 A. No.

8 Q. Have you ever been aware of a Franciscan stating
9 that they observed a student on another Franciscan's bed?

10 A. No.

11 Q. Can you think of any circumstances where it
12 would have been appropriate for a student to be on a
13 Franciscan's bed?

14 MR. MATIASIC: Vague and ambiguous, lacks
15 foundation, incomplete hypothetical.

16 A. I can think of a thousand reasons.

17 Q. BY MR. HALE: Can you name some of them?

18 A. One would be if the kid broke his leg and he
19 needed to put him up somewhere to take care of him.

20 Q. Any other reasons?

21 A. I think that's sufficient.

22 Q. But can you think of anything specific for
23 instance maybe that you encountered?

24 A. No.

25 Q. Did you know a student named [REDACTED]?

1

2 A. Yes.

3 Q. How did you know [REDACTED]?

4 A. He was a student.

5 Q. Was he a Junior or Senior during your first year
6 there?

7 A. He was a Junior.

8 Q. Did you ever observe [REDACTED] on Mario's bed, Father
9 Cimmarrusti's bed that is?

10 A. I never saw anybody.

11 MR. MATIASIC: Counsel, I think he already
12 testified he didn't see anybody on any Friar's bed. With
13 that being said, if you want to ask that specific
14 question, go ahead.

15 MR. HALE: I think it's been answered.

16 Q. BY MR. HALE: Do you recall ever seeing [REDACTED] in
17 Mario Cimmarrusti's room?

18 A. No.

19 Q. Did you ever observe any inappropriate conduct
20 by Father Cimmarrusti towards [REDACTED]?21 MR. MATIASIC: Lacks foundation, vague and
22 ambiguous.

23 A. What's inappropriate?

24 MR. HALE: Inappropriate sexual conduct.

25 A. No.

1 Q. BY MR. HALE: What about inappropriate physical
2 conduct such as a beating?

3 MR. MATIASIC: Vague and ambiguous.

4 A. No.

5 Q. BY MR. HALE: Have you ever been aware of or
6 heard that Father Cimmarrusti engaged in inappropriate
7 physical conduct towards [REDACTED]?

8 MR. MATIASIC: Lacks foundation, vague and
9 ambiguous. Other than from your attorneys.

10 Q. BY MR. HALE: Other than from your attorneys?

11 A. No.

12 Q. Did you ever see any bruises on [REDACTED]'s
13 body?

14 MR. MATIASIC: While he was on the faculty?

15 MR. HALE: Yes.

16 A. No.

17 Q. BY MR. HALE: Was there any circumstance where --
18 tell me what the shower situation was like at
19 St. Anthony's. Was it communal?

20 MR. MATIASIC: On the faculty?

21 MR. HALE: No, for students.

22 MR. MATIASIC: I am sorry, I am saying when
23 he was on the faculty as opposed to --

24 MR. HALE: Yes.

25 A. I really can't remember. I never was up there

1 when the kids were showering.

2 Q. BY MR. HALE: What I am getting at is I recall
3 for instance at my high school the showers were in a
4 location where the coaches' office kind of looked out over
5 the showers and the coaches could kind of monitor what the
6 kids were doing that way. Was there any kind of setup
7 like that at St. Anthony's?

8 A. When they first built the place there were a
9 marble slab between each compartment and there was no way
10 you could look in and there was a curtain in front of the
11 stall.

12 Q. Was there ever anyone who supervised the
13 students while they showered during your time on the
14 faculty?

15 MR. MATIASIC: Vague and ambiguous.

16 A. I have never heard of any.

17 Q. BY MR. HALE: Did you ever hear anyone say that
18 they saw any kind of bruising on [REDACTED]?

19 A. No.

20 Q. Have you ever been aware or heard of anyone
21 saying they had observed any kind of bruising on any
22 St. Anthony's student?

23 MR. MATIASIC: Overbroad as to time.

24 A. No.

25 Q. BY MR. HALE: Has anyone ever told you that they

1 observed Father Cimmarrusti assaulting any St. Anthony's
2 student?

3 MR. MATIASIC: Vague and ambiguous.

4 Q. BY MR. HALE: Other than your attorneys?

5 A. No.

6 Q. Have you ever been aware of or heard of someone
7 saying that they had observed Father Cimmarrusti
8 assaulting a student?

9 MR. MATIASIC: Same objection.

10 A. No.

11 Q. BY MR. HALE: Obviously we are talking about
12 adolescent boys here, were there times where there would
13 be screaming and yelling in the hallways at St. Anthony's
14 when you were on the faculty or was that unacceptable
15 behavior?

16 MR. MATIASIC: Vague and ambiguous as to
17 "screaming."

18 A. Unacceptable but it happened.

19 Q. BY MR. HALE: So it was unacceptable but it did
20 happen?

21 MR. MATIASIC: You have to answer audibly.

22 A. It was unacceptable but it happened.

23 Q. BY MR. HALE: Do you personally recall hearing
24 screaming and yelling occasionally in the halls while you
25 were on the faculty?

1 MR. MATIASIC: Vague and ambiguous.

2 A. No specific time.

3 Q. BY MR. HALE: If you heard screaming or yelling
4 would you go and investigate what the source of that
5 screaming and yelling was?

6 MR. MATIASIC: Lacks foundation, vague and
7 ambiguous, incomplete hypothetical.

8 A. I would have to know more of the situation. I
9 mean there's screaming and there's screaming.

10 Q. BY MR. HALE: Were loud voices common or
11 uncommon?

12 A. Common when you have all boys.

13 MR. MATIASIC: Let him finish his question.

14 Q. BY MR. HALE: Did you ever tell any students to
15 you know, hey, keep it down?

16 A. Sure.

17 Q. Did you ever hear loud voices coming from behind
18 a closed office door?

19 MR. MATIASIC: Vague and ambiguous as to
20 loud voices.

21 A. No.

22 Q. BY MR. HALE: If you had would you have gone to
23 investigate?

24 MR. MATIASIC: Incomplete hypothetical,
25 lacks foundation.

1 A. I don't know.

2 Q. BY MR. HALE: What if you heard beyond loud
3 voices, what if you heard yelling from behind a closed
4 office door?

5 MR. MATIASIC: Lacks foundation, vague and
6 ambiguous, incomplete hypothetical.

7 A. Again I don't know.

8 Q. BY MR. HALE: Did anyone ever tell you that they
9 had heard screams coming from behind an office door at
10 St. Anthony's?

11 A. No.

12 Q. Did anyone ever tell you they heard screams
13 coming from the Casa?

14 MR. MATIASIC: And this is while he is on
15 the faculty?

16 MR. HALE: Yes.

17 A. No.

18 Q. BY MR. HALE: Do you know what the Casa is?

19 A. Yes.

20 Q. And what was the Casa used for while you were on
21 the faculty?

22 A. Library, recreation rooms for different
23 classes.

24 Q. Were there any beds in the Casa while you were
25 there?

1 A. No.

2 Q. Have you ever heard of or been aware of anyone
3 stating that they heard screams coming from behind closed
4 doors at St. Anthony's Seminary?

5 MR. MATIASIC: Vague and ambiguous,
6 overbroad as to time.

7 A. No.

8 Q. BY MR. HALE: Did you spend much time in the
9 Infirmary while you were on the faculty?

10 A. No.

11 Q. And I don't mean as a patient but just in the
12 Infirmary?

13 A. No.

14 Q. Was there a shower in the Infirmary?

15 A. Yes.

16 Q. Did you ever see anyone using that shower?

17 MR. MATIASIC: While he was on the
18 faculty?

19 MR. HALE: Yes.

20 A. I can't remember.

21 Q. BY MR. HALE: Did you ever see Father Cimmarrusti
22 in that shower?

23 A. No.

24 Q. Did you ever see any faculty member in any
25 shower at the same time as a St. Anthony's student?

1 A. No.

2 Q. Can you think of any circumstance where that
3 would be appropriate?

4 MR. MATIASIC: Lacks foundation, vague and
5 ambiguous, incomplete hypothetical.

6 A. No.

7 Q. BY MR. HALE: Did you ever observe a student with
8 a bruising injury to his upper thigh or buttocks?

9 MR. MATIASIC: Vague and ambiguous.

10 A. No.

11 Q. BY MR. HALE: Were you ever aware of or hear of
12 someone observing a student with an injury to his upper
13 thigh or buttocks?

14 MR. MATIASIC: Same objection.

15 A. No.

16 Q. BY MR. HALE: If you had seen such an injury
17 would you have taken any such actions such as reporting
18 that to a superior?

19 MR. MATIASIC: Same objection. And lacks
20 foundation, incomplete hypothetical.

21 A. I'm not sure how to answer that question.

22 Q. BY MR. HALE: Well, in other words if you saw a
23 black and blue bruising on a student's buttocks or upper
24 thighs, would that have been a cause for concern for you?

25 A. It could be. I mean I don't know when I would

1 see their buttocks.

2 Q. Right. But if you did?

3 MR. MATIASIC: Lacks foundation, again
4 incomplete hypothetical, vague and ambiguous. If you can
5 answer, Father, go ahead.

6 A. You know, I just don't know. I mean I would
7 probably talk to the child first, what happened and, you
8 know, go from there.

9 Q. BY MR. HALE: While you were on the faculty was
10 there any program in place wherein Father Cimmarrusti
11 assessed students' physical maturity or development?

12 MR. MATIASIC: Vague and ambiguous.

13 A. I never heard of it.

14 Q. BY MR. HALE: Were you ever aware of
15 Father Cimmarrusti examining students similar to what you
16 experienced with Father Lyons?

17 MR. MATIASIC: Other than anything you have
18 ever heard from your attorneys?

19 MR. HALE: Right.

20 A. No.

21 Q. BY MR. HALE: Did you ever hear that before you
22 joined the faculty at St. Anthony's Father Cimmarrusti had
23 been utilizing a program where he assessed students'
24 physical maturity or development by examining their
25 genitals?

1 MR. MATIASIC: Vague and ambiguous.

2 A. No.

3 Q. BY MR. HALE: Do you remember a seminarian named
4 Bennie Silba?

5 A. No.

6 Q. While you were on the faculty did students ever
7 put on productions where they parodied faculty behavior?
8 In other words plays, that kind of thing?

9 MR. MATIASIC: Vague and ambiguous.

10 A. What is the part of the question you are asking
11 me, that they put on plays or they parodied the faculty?

12 MR. HALE: Plays where they actually
13 parodied the faculty behavior.

14 A. No.

15 Q. BY MR. HALE: Do you recall any students ever
16 being expelled for something they performed in a play?

17 MR. MATIASIC: While he was on the faculty?

18 MR. HALE: Yes.

19 A. No.

20 Q. BY MR. HALE: Did you ever hear students had been
21 expelled for performing something in a play?

22 A. No.

23 Q. Aside from your attorney have you ever heard of
24 a skit being performed by students wherein they parodied,
25 the students that is, Father Cimmarrusti spanking

1 students?

2 A. No.

3 Q. Did you stay on campus during summers when you
4 were on the faculty?

5 A. Partly.

6 Q. When you say "partly" do you mean some years you
7 stayed and some years you didn't or during part of the
8 summer you stayed and part of the summer you didn't?

9 A. The second.

10 Q. Safe to say that every summer you were at
11 St. Anthony's you were not there for the entire summer?

12 A. Yes.

13 Q. Where did you go?

14 A. Home, Prescott.

15 Q. How long would you go for? Would it just be
16 like a little vacation, two weeks, a week?

17 A. Two weeks.

18 Q. When you were at St. Anthony's in the summertime
19 were there other students staying overnight on the campus
20 to your knowledge?

21 A. I can't remember any specific case, no.

22 Q. Was there ever summer school classes?

23 MR. MATIASIC: While he was on the
24 faculty?

25 MR. HALE: Yes.

1 A. No.

2 Q. BY MR. HALE: Were there any kinds of retreats
3 held at St. Anthony's while you were on the faculty?

4 A. I can't remember any.

5 Q. What about maybe some kind of athletic camp or
6 anything like that at St. Anthony's?

7 A. It sounds familiar but I can't place it.

8 Q. Can you think of any circumstance where during
9 the summer months a minor would spend the night at
10 St. Anthony's Seminary? And again I am asking based on
11 your experience while on the faculty.

12 MR. MATIASIC: Lacks foundation, calls for
13 speculation, incomplete hypothetical.

14 A. No.

15 Q. BY MR. HALE: If during those summer months you
16 had observed a Franciscan with a minor and that minor
17 ended up spending the night would that have been a cause
18 for concern for you?

19 MR. MATIASIC: Same objections.

20 A. In those days, no.

21 Q. BY MR. HALE: Why do you say "in those days, no"?

22 A. Because I just couldn't conceive of sexual
23 stuff.

24 Q. Did you perform Mass at the chapel sometimes?

25 A. Uh-huh, yes.

1 Q. And after Mass sometimes would there be kind of
2 a social event of some sort, just, you know, people walk
3 out of Mass and everyone stands around and talks? Was
4 that a common occurrence?

5 A. On Sundays, yes

6 MR. MATIASIC: Vague and ambiguous.

7 Q. BY MR. HALE: When that would happen would the
8 congregation just be kind of in little scattered groups
9 outside the chapel doors talking until everybody went
10 their separate ways?

11 A. Yes.

12 Q. Did you ever hear a Confession during those
13 circumstances where everyone is socializing after a
14 chapel?

15 A. No.

16 Q. After Mass, I am sorry.

17 A. Let me amend that.

18 Q. Go ahead.

19 A. There are times when people will not say they
20 are going to Confession but they are and there may have
21 been times, and I can't think of a specific time and I
22 should be telling you specific times, but there have been
23 times when people say, Father, you know, my husband is
24 having an affair.

25 Q. Okay.

1 A. And I would never reveal that by name about
2 somebody. It wasn't with a stole around my neck but it
3 was a confession, yes.

4 Q. And you recall that happening after a Mass was
5 performed outside of the chapel --

6 A. Yes.

7 Q. -- and people congregating?

8 A. Yes.

9 Q. Do you recall that ever happening with Dyanne
10 Munana outside of the chapel after a Mass was performed?

11 MR. MATIASIC: You are talking about that
12 specific circumstance?

13 MR. HALE: Yes.

14 A. No.

15 Q. BY MR. HALE: During your time on the faculty did
16 you ever receive any reports of harassment by one student
17 against another?

18 MR. MATIASIC: Vague and ambiguous as to --

19 A. I can't remember any.

20 Q. BY MR. HALE: You never were aware of or heard of
21 any reports of someone else receiving reports of
22 harassment by one student against another?

23 MR. MATIASIC: Same objection.

24 A. No.

25 Q. BY MR. HALE: Same questions but regarding sexual

1 harassment, did you ever receive any reports of sexual
2 harassment or inappropriate sexual behavior by one student
3 against another while you were on the faculty at
4 St. Anthony's?

5 MR. MATIASIC: Same objection.

6 A. No.

7 Q. BY MR. HALE: Were you ever aware of anyone
8 saying that they had received a report of sexual
9 harassment or inappropriate sexual behavior by one student
10 against another while you were on the faculty at
11 St. Anthony's?

12 MR. MATIASIC: Same objection.

13 A. No. And I would have raised hell if I had.

14 Q. BY MR. HALE: Do you remember [REDACTED]?

15 A. Yes.

16 Q. What do you remember about [REDACTED]?

17 MR. MATIASIC: Vague and ambiguous and it
18 calls for a narrative.

19 Q. BY MR. HALE: It sounds like you knew him fairly
20 well?

21 A. He was a student in my class.

22 Q. Did you serve as a spiritual advisor?

23 A. No, not really.

24 Q. Did you ever hear a Confessions from him?

25 A. I can't remember.

1 Q. Did you ever hear of him reporting misconduct by
2 another student?

3 MR. MATIASIC: Vague and ambiguous.

4 A. I can't remember.

5 Q. BY MR. HALE: And you do recall him being in some
6 of your classes, though, or at least one of your classes?

7 A. Yes.

8 Q. Did you ever counsel him on anything?

9 A. I am sure I did but I can't remember any
10 specifics.

11 Q. Have you ever told anyone that you thought that
12 he had mental problems?

13 A. No.

14 Q. Have you spoken with him since he graduated from
15 St. Anthony's?

16 MR. MATIASIC: Lacks foundation.

17 A. I can't remember.

18 Q. BY MR. HALE: Did you ever participate in
19 evaluating him as a student?

20 A. Yes.

21 Q. And what was the result of that evaluation?

22 A. You know, I can't remember. The result of the
23 evaluation?

24 Q. Yes.

25 A. Well, he was never kicked out.

1 Q. Do you recall any problems being raised with
2 regards to [REDACTED]'s evaluation? In other words problems [REDACTED]
3 was having?

4 A. I would say every kid that was there had
5 problems and I can't specify his now. I mean then I
6 could.

7 Q. Are you aware that he says he was abused by
8 Father Cimmarrusti?

9 MR. MATIASIC: Other than from your
10 attorneys?

11 MR. HALE: Other than from your attorneys.

12 A. I have heard that, yes.

13 Q. BY MR. HALE: How did you hear that other than
14 from your attorneys?

15 A. Just gossip.

16 Q. Do you recall from who? Anyone in particular?

17 A. No.

18 Q. The chapel, does it have kind of big front
19 doors?

20 A. Yes.

21 Q. Do you recall an instance in either the late
22 '70s or the early '80s, and it was probably 1979 but I
23 will give you just a little time frame, the '70s or '80s,
24 where Dyanne Munana approached you after Mass while you
25 were standing in front of those chapel doors and told you

1 that [REDACTED] had come to see her?

2 A. No.

3 Q. You don't recall that. Do you ever recall

4 Dyanne telling you she was very worried about [REDACTED]

5 in around 1979?

6 A. No.

7 Q. Did anyone ever tell you that they were very
8 worried about [REDACTED]?

9 A. I think I was worried about [REDACTED].

10 Q. Why were you worried about [REDACTED]?

11 MR. MATIASIC: Father, he asked you whether
12 anybody ever told you that they were worried about [REDACTED]
13 [REDACTED] so answer the question that Tim asked you.

14 A. Say that again.

15 Q. BY MR. HALE: Did anyone ever tell you that they
16 were worried about [REDACTED]?

17 A. I can't remember any specifics.

18 Q. And you said you were worried about [REDACTED].
19 When were you worried about [REDACTED]? While he was a
20 student or was this after you were on the faculty?

21 A. As a student.

22 Q. Why were you worried about [REDACTED]?

23 A. All I could remember is being sort of a needy
24 kid.

25 Q. Okay. What about [REDACTED]'s conduct gave you that

1 impression?

2 A. I can't remember right now.

3 Q. Do you recall, did you talk with [REDACTED] about those
4 concerns that you had for him?

5 A. I must have because we had to see each kid every
6 quarter.

7 Q. And did you share your concerns with anybody
8 else on the faculty?

9 A. I don't know.

10 Q. Did you ever ask [REDACTED] what was bothering him?

11 A. I am sure I did.

12 Q. You don't have a recollection of doing that
13 though?

14 A. No.

15 Q. Do you have any recollection of him saying
16 anything to you about that?

17 MR. MATIASIC: About?

18 MR. HALE: What was bothering him.

19 A. No.

20 Q. BY MR. HALE: Going back to that 1979 scenario --

21 A. I wasn't there at that time, was I?

22 Q. I can't answer that for you. But that's a good
23 question actually. I know you left St. Anthony's in '72
24 but did you continue to go back to Santa Barbara
25 occasionally after you left St. Anthony's?

1 A. It was a period of I think about six, eight
2 months where I helped them do some work in the chapel on
3 the sideline, but that was it.

4 Q. Do you recall, and again around 1979, being with
5 Dyanne in front of the chapel doors after a Mass and her
6 telling you that [REDACTED] had told her he was very upset over
7 something that had happened to him at St. Anthony's?

8 A. No.

9 Q. Do you have a recollection of her ever telling
10 you that at any time?

11 A. No.

12 Q. Do you have a recollection of anyone telling you
13 that [REDACTED] was very upset over something that had
14 happened to him at St. Anthony's?

15 A. No.

16 Q. Do you remember a student named [REDACTED]?

17 A. Yes.

18 Q. What do you remember about [REDACTED]? Well, do you
19 remember [REDACTED] was expelled from school?

20 A. No.

21 Q. Do you remember, was [REDACTED] a good student or a bad
22 student?

23 A. I don't know. I don't remember.

24 Q. Do you remember [REDACTED] having any problems while he
25 was at St. Anthony's?

1 A. I can't remember any.

2 Q. Did you ever counsel [REDACTED]?

3 A. No.

4 Q. Do you recall if he was in any of your classes?

5 A. No. He wouldn't be.

6 Q. Do you remember [REDACTED]?

7 A. Yes.

8 Q. And do you recall [REDACTED] having any problems as a
9 student at St. Anthony's?

10 A. No.

11 Q. Did you ever counsel [REDACTED]?

12 A. No.

13 Q. Have you spoken with [REDACTED] since he graduated
14 from St. Anthony's?

15 A. No.

16 Q. Aside from your counsel are you aware he says he
17 was abused by Father Cimmarrusti?

18 A. No.

19 Q. Have you ever discussed [REDACTED] with
20 anyone other than your counsel?

21 A. No.

22 Q. Do you recall his brother [REDACTED]?

23 A. Do I what?

24 Q. Do you recall his brother [REDACTED]?

25 A. I recall him.

1 Q. What do you recall about [REDACTED]?

2 A. His face, that's about it.

3 Q. Do you recall him having any problems at school?

4 A. Nothing significant.

5 Q. Do you recall ever counseling [REDACTED]?

6 A. No.

7 Q. Do you recall ever seeing [REDACTED] in the Infirmary?

8 A. No.

9 Q. Do you recall Father Cimmarrusti ever discussing
10 treating [REDACTED] in the Infirmary?

11 A. No.

12 Q. Do you recall Father Cimmarrusti ever discussing
13 treating any student in the Infirmary?

14 MR. MATIASIC: Counsel, just to clarify,
15 are you saying any student, just treating students in the
16 Infirmary or treating a particular student?

17 MR. HALE: A particular student.

18 A. Not a particular one.

19 Q. BY MR. HALE: Do you recall Father Cimmarrusti
20 talking about treating students for Poison Oak in the
21 Infirmary?

22 A. No.

23 Q. Do you recall Father Cimmarrusti talking about
24 treating students for athletic injuries in the Infirmary?

25 A. No.

1 Q. Do you recall Father Cimmarrusti talking about
2 treating students in the Infirmary for any other reason?

3 A. No.

4 Q. Do you remember a student named [REDACTED]?

5 [REDACTED]

6 A. I have heard the name.

7 Q. Have you heard the name from anyone other than
8 your attorneys?

9 A. Members of the faculty.

10 Q. What do you recall hearing about [REDACTED]?

11 A. He was there as a student.

12 Q. Do you recall hearing that he quit the school?

13 A. No.

14 Q. And he was never in any of your classes?

15 A. I wasn't there when he was there.

16 Q. How was it that you heard about him given that
17 you --

18 A. Well, I only remember --

19 MR. MATIASIC: Father, you have got to let
20 him finish his question.

21 Q. -- given that he was not attending St. Anthony's
22 while you were on the faculty, how did his name come up?

23 A. It was normal, I think, people would talk about
24 problems they had or kids that were here the last year,
25 it's just conversation.

1 Q. Were there any discussions about there being
2 problems with [REDACTED]?

3 A. Not that I know of.

4 Q. Do you remember a student named [REDACTED]?

5 A. No.

6 Q. While you were on the faculty was it common for
7 a Senior seminarian to start the day by reading in
8 meditation?

9 MR. MATIASIC: Vague and ambiguous.

10 A. I can't recall.

11 Q. BY MR. HALE: Were there morning prayers?

12 MR. MATIASIC: While he was on the
13 faculty?

14 MR. HALE: Yes.

15 A. I don't remember.

16 Q. BY MR. HALE: Did you ever hear that during a
17 morning prayer a student had launched into a tirade
18 against the Franciscans as a whole?

19 MR. MATIASIC: Vague and ambiguous.

20 A. No.

21 Q. BY MR. HALE: Did you ever hear that any students
22 were expelled from St. Anthony's for speaking out against
23 the Franciscans?

24 A. No.

25 Q. While you were on the faculty was it common for

1 students to be expelled?

2 MR. MATIASIC: Vague as to the term
3 "common."

4 A. Common, what do you mean "common"?

5 Q. BY MR. HALE: Did it happen?

6 A. Oh, sure.

7 Q. How many times do you think it happened in your
8 40 years?

9 A. I have no idea.

10 Q. Was it something where if it happened it was
11 shocking because it didn't happen frequently or was it
12 something that was so common you were used to it and it
13 was no big deal?

14 MR. MATIASIC: Vague and ambiguous.

15 A. It didn't happen that much.

16 Q. BY MR. HALE: So when it did happen it was an
17 unusual circumstance?

18 MR. MATIASIC: Misstates his testimony.

19 A. I can't remember.

20 Q. BY MR. HALE: Do you recall circumstances that
21 resulted to a student's expulsion?

22 A. You are asking me do I remember any particular
23 circumstances?

24 Q. Yes.

25 A. No.

1 Q. Do you recall the names of any students who were
2 expelled?

3 A. No.

4 Q. When you conducted these evaluations of students
5 was the purpose to evaluate them only with regards to
6 their performance as a seminarian or was it also to
7 evaluate them with regards to their candidacy for the
8 priesthood?

9 A. You are making a distinction I don't quite
10 understand, seminarian and candidacy for the priesthood
11 are the same thing.

12 Q. In other words were there times where it was
13 simply an academic evaluation versus whether someone was
14 qualified to be a priest or were those all mixed together?

15 A. No. It would be most specifically on academic
16 and interpersonal relations.

17 Q. You mean as far as evaluating a student for the
18 priesthood?

19 A. No. We didn't stress -- we didn't think they
20 were that cognizant at that point in their life, mature
21 enough to really talk strongly about the priesthood, we
22 talked about just growing up.

23 Q. So they weren't necessarily being evaluated when
24 you guys were evaluating them for their candidacy for the
25 priesthood, it was just their performance at the seminary,

1 am I correct? I am trying to understand your testimony
2 here.

3 MR. MATIASIC: I think it misstates his
4 testimony. Go ahead, Father.

5 MR. HALE: Feel free to correct me.

6 A. I would say basically it would be trying to see
7 is this kid studying, is he interacting with people, his
8 peers well, that's basically what we would be talking
9 about.

10 Q. BY MR. HALE: Was there any kind of psychological
11 screening?

12 A. Not that I know of.

13 Q. Are you aware that later psychological screening
14 of some sort was instituted at St. Anthony's?

15 A. No.

16 Q. You had two cousins who attended St. Anthony's,
17 didn't you?

18 A. Nephews.

19 Q. Nephews, sorry. Did they ever tell you about
20 whether they went through any kind of psychological
21 screening processes to join St. Anthony's?

22 A. No.

23 MR. MATIASIC: Vague and ambiguous.

24 Q. BY MR. HALE: Did you ever discuss with them the
25 possibility of them becoming Franciscan priests?

1 A. Sure.

2 Q. And did they express to you their desire to
3 become a Franciscan priest?

4 MR. MATIASIC: Counsel, I don't know what
5 Father Piccoli's nephews' desire whether or not they are
6 going to join the Order, how that is in any way, shape or
7 form reasonably calculated to lead to the discovery of
8 admissible evidence, so I will let him answer the question
9 if he wants to.

10 MR. HALE: I think you will see where I am
11 going.

12 MR. MATIASIC: If it has some kind of
13 relevance, that's a different story. Go ahead and answer,
14 Father.

15 A. As much as a kid at that age would have a solid
16 objective in his life they might have said, gee, it would
17 be nice to be a Franciscan.

18 Q. BY MR. HALE: And neither of them went on to
19 become Franciscans, correct?

20 A. No, correct.

21 Q. Do you know if that was the result of any kind
22 of psychological screening that they participated in?

23 A. They never mentioned it.

24 Q. Did you ever discuss with anyone why they did
25 not go on to become priests?

1 A. I never thought they would be priests.

2 Q. But did anyone ever tell you that they were not
3 qualified to be priests?

4 A. No.

5 Q. Were you ever asked to comment on whether a
6 priest was qualified to be ordained?

7 MR. MATIASIC: Whether a priest was
8 qualified?

9 Q. BY MR. HALE: I am sorry, a priest candidate was
10 qualified to be ordained? Thank you, Counsel.

11 A. You mean in any capacity as a friar Franciscan?

12 Q. Sure.

13 A. Whether it was at the seminary or not? Do you
14 mean just anywhere?

15 Q. Uh-huh.

16 A. I can't think of a specific time, but I must
17 have been. It's common to do.

18 Q. And would that report have been to the
19 Provincial?

20 MR. MATIASIC: Well, I think it's
21 misstating his testimony. The initial question was have
22 you ever commented on it and now it's a report, so it
23 misstates his testimony.

24 Q. BY MR. HALE: Did you ever file a report with the
25 Provincial commenting on regarding whether a candidate

1 should become a priest?

2 A. No.

3 Q. Did anyone that who to your knowledge was about
4 to file a report with the Provincial ask for your comment
5 on whether a candidate should become a priest?

6 MR. MATIASIC: Lacks foundation, calls for
7 speculation.

8 A. I can't remember.

9 Q. BY MR. HALE: You talked about the guest room at
10 St. Anthony's Seminary. To your knowledge when a guest
11 would stay in that guest room was he required to check in
12 with the Guardian before that happened?

13 MR. MATIASIC: Is that at any time?

14 MR. HALE: While he was on the faculty.

15 A. No.

16 Q. BY MR. HALE: He could just come right in, go to
17 the room and he would be set, that's all he needed to do?

18 A. No.

19 Q. Did he need a reservation?

20 A. No.

21 Q. What did he need? Was there a process that he
22 needed to go through?

23 A. He needed to just ask a friar.

24 Q. Any Franciscan?

25 A. Yes.

1 Q. But whether it was the Guardian or another
2 Franciscan a guest would have to inform somebody; is that
3 correct?

4 A. Yes.

5 MR. MATIASIC: While he was on the
6 faculty?

7 MR. HALE: Yes.

8 A. Yes.

9 Q. BY MR. HALE: Do you know if that rule was ever
10 changed?

11 MR. MATIASIC: Lacks foundation.

12 A. It wasn't a rule, it just was the way we did it.

13 Q. BY MR. HALE: Kind of a common courtesy type
14 thing?

15 A. Uh-huh.

16 Q. And would that common courtesy be true at any
17 Franciscan community where there was a guest room to your
18 knowledge?

19 A. Sure. He couldn't get in the door.

20 Q. Literally?

21 A. Literally.

22 MR. MATIASIC: Counsel, we have been going
23 for almost an hour, can we take a five-minute break?

24 MR. HALE: Why don't we go seven more
25 minutes.

1 MR. MATIASIC: Father, are you all right
2 for another seven minutes?

3 A. That's fine.

4 Q. BY MR. HALE: I'm trying to press through this
5 thing. While you were on the faculty at St. Anthony's
6 were you ever aware of a Franciscan being disciplined by
7 the Province?

8 MR. MATIASIC: Vague and ambiguous.

9 A. No.

10 Q. BY MR. HALE: What about reprimanded?

11 MR. MATIASIC: Same objection.

12 A. No.

13 Q. BY MR. HALE: While you were on the faculty were
14 you ever aware of a faculty member buying a student a
15 gift?

16 MR. MATIASIC: Vague and ambiguous.

17 A. No.

18 Q. BY MR. HALE: If you had learned that a faculty
19 member had bought a student a gift would that have been a
20 cause for concern?

21 MR. MATIASIC: Vague and ambiguous, lacks
22 foundation, incomplete hypothetical.

23 A. Depends on the situation.

24 Q. BY MR. HALE: What if it was a camera, an
25 expensive camera?

1 MR. MATIASIC: Same objections.

2 A. Well, it never happened that I know of.

3 Q. BY MR. HALE: But if it had, would that have been
4 cause for concern?

5 A. Again --

6 MR. MATIASIC: Same objections.

7 A. Again it depends on the situation.

8 Q. BY MR. HALE: Are there circumstances where it
9 would have been okay for a Franciscan to buy one student,
10 just one student, a relatively expensive gift like a
11 camera?

12 MR. MATIASIC: Same objections.

13 A. I would have to know the whole situation.

14 Q. BY MR. HALE: If [REDACTED] bought [REDACTED]
15 an expensive camera while [REDACTED] was a student at
16 St. Anthony's Seminary can you think of any circumstance
17 where that would have been appropriate?

18 MR. MATIASIC: Vague and ambiguous, lacks
19 foundation and incomplete hypothetical.

20 MR. HALE: [REDACTED] is [REDACTED].

21 A. I would say probably not.

22 Q. BY MR. HALE: If you learned of that would you
23 have reported that to anyone?

24 MR. MATIASIC: Same objections.

25 A. I would have talked to Brother [REDACTED].

1 Q. BY MR. HALE: Would you have talked to anyone
2 other than Brother [REDACTED]?

3 A. I don't know.

4 Q. What would have determined whether you talked to
5 anyone other than Brother Kevin?

6 MR. MATIASIC: Same objections. It's an
7 incomplete hypothetical and vague and ambiguous and lacks
8 foundation.

9 A. Depends on what we talked about, depends on what
10 I found out.

11 Q. BY MR. HALE: What would lead you not to report
12 that conduct after you talked to [REDACTED]? In other
13 words what could he have told you that would have led you
14 not to report it?

15 MR. MATIASIC: Same objections.

16 A. I have no idea. There would be a thousand
17 reasons.

18 Q. BY MR. HALE: Is there anything that he would
19 have told you that would have led you to report it?

20 MR. MATIASIC: Same objections.

21 A. If I felt that somehow it was leading to
22 something illicit, yeah.

23 Q. BY MR. HALE: Do you know [REDACTED]?

24 [REDACTED].

25 A. Sounds familiar but I can't remember.

1 Q. Have you ever been aware of any priest having
2 his Faculties removed?

3 MR. MATIASIC: Overbroad.

4 Q. BY MR. HALE: Any Franciscan I should say?

5 A. In the history of the Church or the history of
6 the Province?

7 Q. In the history of your time as a Franciscan.

8 MR. MATIASIC: Overbroad.

9 Q. BY MR. HALE: I can narrow it down even more if
10 you want.

11 A. Sure.

12 Q. Let's say from 1955 to the present have you ever
13 heard of a Franciscan having his Faculties removed?

14 MR. MATIASIC: Overbroad.

15 A. I can't remember.

16 Q. BY MR. HALE: Would that have been shocking if
17 you had?

18 MR. MATIASIC: Incomplete hypothetical,
19 lacks foundation.

20 A. I would have remembered.

21 Q. BY MR. HALE: Have you ever been aware of any
22 punishment or reprimand by any Diocese or Archdiocese
23 against any Franciscan from 1955 to the present?

24 MR. MATIASIC: Vague and ambiguous.

25 A. Not that length of time, no.

1 MR. HALE: Actually we can stop here, this
2 is fine.

3 (Recess.)

4 Q. BY MR. HALE: Back on the record. Father, did
5 you know a former Franciscan brother named [REDACTED], I am
6 going to screw up the pronunciation of his last name, [REDACTED]
7 or [REDACTED]? It's [REDACTED].

8 A. Yes.

9 Q. And when was the last time you spoke with him?

10 A. I don't remember.

11 Q. Have you ever discussed the clergy abuse scandal
12 with him?

13 MR. MATIASIC: Vague and ambiguous.

14 A. No.

15 Q. BY MR. HALE: Let me give you some scenarios and
16 ask for your opinion. Can you think of any circumstance
17 where it would be appropriate for a priest to give a
18 student a massage?

19 MR. MATIASIC: Vague and ambiguous, lacks
20 foundation, incomplete hypothetical.

21 A. It would depend what you mean by "massage."

22 Q. BY MR. HALE: Placing his hands on a student's
23 body and rubbing.

24 MR. MATIASIC: Vague and ambiguous, lacks
25 foundation, incomplete hypothetical.

1 A. "Massage" to me doesn't mean that, it means
2 something else.

3 Q. BY MR. HALE: Okay. Well, what does "massage"
4 mean to you?

5 A. It has a more kind of sexual overtone. Sexual
6 or just comfort, body comfort.

7 Q. Based on your understanding of the meaning of
8 "massage" can you think of any circumstance where it would
9 have been appropriate for a faculty member or for a
10 Franciscan to give a student a massage?

11 A. In that context, no.

12 MR. MATIASIC: Same objections belatedly.

13 Q. BY MR. HALE: Were you ever aware of any
14 Franciscan giving a seminary student a rubdown with
15 alcohol while you were on the faculty at St. Anthony's?

16 MR. MATIASIC: Same objections.

17 A. No.

18 Q. BY MR. HALE: What about while you were a student
19 at St. Anthony's?

20 MR. MATIASIC: Same objections.

21 A. I can't remember.

22 Q. BY MR. HALE: Can you think of any circumstance
23 where it would have been appropriate for a Franciscan to
24 place his hands on a student's thighs?

25 MR. MATIASIC: Same objections.

1 A. Outside of for some medical reason, no.

2 Q. BY MR. HALE: While you were on the faculty were
3 there any Franciscans with medical training?

4 MR. MATIASIC: Calls for speculation, vague
5 and ambiguous.

6 A. Not that I know of.

7 Q. BY MR. HALE: Can you think of any circumstance
8 where it would be appropriate for a Franciscan to take a
9 student's temperature rectally?

10 MR. MATIASIC: Vague and ambiguous, lacks
11 foundation, incomplete hypothetical.

12 Q. BY MR. HALE: And this is while you were on the
13 faculty at St. Anthony's?

14 A. I know that the local doctor was very good to
15 the guys at the seminary and would ask I think the
16 Infirmarians to do things so he wouldn't have to come. So
17 in that context, I mean I have never done that myself, I
18 don't know how exciting that would be, but if a doctor
19 said, hey, would you do this for me so I don't have to
20 come down, I guess it would be all right.

21 Q. Are you talking about Dr. Munch?

22 A. Yes.

23 Q. But you have no knowledge of that ever
24 happening?

25 A. No.

1 Q. And if Dr. Munch did not make a request can you
2 think of any circumstance where it would be appropriate
3 for a Franciscan to take a student's temperature
4 rectally?

5 MR. MATIASIC: Same objections.

6 A. I would say in the majority, no.

7 Q. BY MR. HALE: What about the minority, what
8 circumstances would that be okay?

9 A. Gee, I am not a doctor, I don't know, I am
10 looking for hypothetical situations that I don't know all
11 the facts to so I don't know.

12 Q. Can you think of any circumstance where it would
13 be appropriate for a Franciscan to be standing while a
14 student who was kneeling is hugging the Franciscan?

15 MR. MATIASIC: Same objections.

16 A. No.

17 Q. BY MR. HALE: Can you think of any circumstance
18 where it would be appropriate for a minor to sit on a
19 Franciscan's lap?

20 MR. MATIASIC: Same objections.

21 A. Yeah.

22 Q. BY MR. HALE: What circumstances would those be?

23 MR. MATIASIC: Same objections and it lacks
24 foundation.

25 A. 15 kids in a car for 10.

1 Q. BY MR. HALE: What if it's just the minor and the
2 Franciscan?

3 A. No.

4 MR. MATIASIC: Same objections.

5 Q. BY MR. HALE: It wouldn't be appropriate?

6 A. No.

7 Q. Can you think of any circumstances where it
8 would be appropriate for a Franciscan to examine a
9 student's genitals to see if they could be in the choir?

10 MR. MATIASIC: Lacks foundation, vague and
11 ambiguous, incomplete hypothetical.

12 A. No.

13 Q. BY MR. HALE: Can you think of any circumstances
14 where it would be appropriate for a Franciscan to examine
15 a student's genitals to confirm whether they were growing
16 pubic hair?

17 MR. MATIASIC: Same objections.

18 A. No.

19 Q. BY MR. HALE: Can you think of any circumstances
20 where it would be appropriate for a Franciscan to examine
21 a student's genitals to determine whether they had an
22 undescended testicle?

23 MR. MATIASIC: Same objections.

24 A. No.

25 Q. BY MR. HALE: Did you ever hear or were you ever

1 aware of any discussions while you were on the faculty
2 about concerns that a student had an undescended
3 testicle?

4 MR. MATIASIC: Same objections.

5 A. No.

6 Q. BY MR. HALE: Can you think of any circumstances
7 where it would be appropriate for a faculty member or for
8 a Franciscan to wrestle with a student?

9 MR. MATIASIC: Same objections.

10 A. No.

11 Q. BY MR. HALE: There wasn't a wrestling team at
12 St. Anthony's, was there?

13 A. No.

14 Q. Do you recall any circumstances while you were
15 either a student or a faculty member where a Franciscan
16 from the Mission pulled a student from the St. Anthony's
17 Seminary out of class?

18 MR. MATIASIC: Vague and ambiguous,
19 incomplete hypothetical.

20 A. I don't know.

21 Q. BY MR. HALE: You are not aware of any
22 circumstance like that?

23 A. Huh-uh.

24 Q. If you had observed that or learned of that
25 would that have caused you any concern?

1 MR. MATIASIC: Same objections and it lacks
2 foundation.

3 A. No.

4 Q. BY MR. HALE: Would you have inquired to that
5 Franciscan about the purpose of pulling a student out of
6 class?

7 MR. MATIASIC: Same objections.

8 A. If I was responsible.

9 Q. BY MR. HALE: What do you mean if you were
10 responsible, for supervising that student?

11 A. Yes.

12 Q. In other words if it was your class; is that
13 what you mean?

14 A. Yes.

15 Q. While you were on the faculty was it common for
16 seminarians to spend time at the old Mission?

17 MR. MATIASIC: Vague and ambiguous.

18 A. I don't think so.

19 Q. BY MR. HALE: Did you ever hear of or observe
20 that happening?

21 A. I don't remember.

22 Q. Would that have been unusual?

23 MR. MATIASIC: Vague and ambiguous, lacks
24 foundation, incomplete hypothetical.

25 A. I don't know whether it would be unusual.

1 Q. BY MR. HALE: When a priest hears Confession is
2 it normal for the priest hearing the confession to
3 commiserate with the confessor? And if that's not clear I
4 can give you an example of what I mean. Would you like me
5 to do that?

6 MR. MATIASIC: Lacks foundation, vague,
7 ambiguous and it's an incomplete hypothetical. Go ahead,
8 Father, you can answer if you can.

9 A. Sure.

10 Q. BY MR. HALE: For instance let's say the
11 confessor admits he or she has a problem with eating too
12 much of a certain food and the priest hearing the
13 confession says, yes, I have had a similar problem in that
14 I found myself eating too much of this kind of food, would
15 that be normal conduct in the course of a Confession, in
16 other words the commiseration, or is that not something
17 that normally happens during a Confession?

18 MR. MATIASIC: Is this in his experience?

19 MR. HALE: Yes, right.

20 A. In my experience I think it could be normal.

21 Q. BY MR. HALE: So Confession can become a
22 conversation?

23 A. It always has been.

24 Q. While you were at St. Anthony's on the faculty
25 was San Roque still being operated by the Franciscans?

1 A. For most of the time, yes. When I was a student
2 or what?

3 Q. A faculty member.

4 A. Yes.

5 Q. Did you ever assist at Our Lady of Guadalupe?

6 A. Yes.

7 Q. Did you know Father [REDACTED]?

8 A. Just a name to me.

9 Q. When did you first meet Father Cimmarrusti?

10 A. When I became part of the faculty.

11 Q. Have you ever been assigned anywhere else with
12 him?

13 A. I was just coming out of studies.

14 Q. After your time with him at St. Anthony's were
15 you ever assigned anywhere else with him?

16 A. No.

17 Q. Were you friends with him?

18 MR. MATIASIC: At any time?

19 Q. BY MR. HALE: Did you become friends with him?

20 MR. MATIASIC: At any time?

21 MR. HALE: While he was he was on the
22 faculty.

23 A. I wouldn't say close friends.

24 Q. BY MR. HALE: When was the last time you spoke
25 with Father Cimmarrusti?

1 A. About three years ago.

2 Q. Did you discuss the allegations of childhood
3 sexual abuse against him?

4 A. No.

5 Q. While you were on the faculty did you ever
6 observe any behavior by Father Cimmarrusti that you
7 thought was inappropriate?

8 MR. MATIASIC: Vague and ambiguous.

9 Do you need to speak with me, Father?

10 THE WITNESS: Yes.

11 MR. MATIASIC: Let's take a break.

12 (Recess.)

13 MR. MATIASIC: We are back on the record.
14 If you can read the question, the Father will give you a
15 response.

16 (Record read.)

17 A. No.

18 Q. BY MR. HALE: Did you ever hear anyone say that
19 they had observed behavior by Father Cimmarrusti they
20 thought was inappropriate?

21 MR. MATIASIC: While he was on the faculty?

22 MR. HALE: At any time.

23 A. At any time?

24 MR. HALE: Yes, other than your attorneys.

25 A. After news got out.

1 Q. BY MR. HALE: You mean around '92, '93 when the
2 Board of Inquiry was formed?

3 A. Whenever that was, yeah. It would have to be --
4 I came to the Casa in '97 so it would have to be after '97
5 sometime.

6 Q. What were you doing at the Casa in '97?

7 A. I was there four years of retreat work.
8 Remember we talked about how all the people would come on
9 Sunday, I was the head of ministry, et cetera, et cetera.

10 Q. Oh, you mean in Scottsdale?

11 A. Scottsdale.

12 Q. They called that the Casa?

13 A. Yeah.

14 Q. I thought you were referring to the Casa in
15 Santa Barbara.

16 And did someone say that in hindsight they
17 had observed something that was inappropriate?

18 A. I think some of the things you mentioned, kids
19 in his room, that kind of thing.

20 Q. Who was it you had that discussion with?

21 A. I have no idea.

22 Q. Was it someone that you were assigned with at
23 the Casa?

24 A. I really don't remember.

25 Q. Was there more than one Franciscan that you had

1 discussion with?

2 A. Probably.

3 Q. And aside from --

4 MR. MATIASIC: Hold on, Father, are you
5 guessing?

6 A. No. I know that there were other friars who had
7 said did you hear about Mario.

8 MR. HALE: Okay.

9 MR. MATIASIC: But that wasn't Tim's
10 question. Tim's question was did you have discussions
11 with any other friars regarding conduct in hindsight that
12 would have seemed inappropriate.

13 MR. HALE: Thanks.

14 A. I am lost.

15 Q. BY MR. HALE: Okay, I will ask it again. Did you
16 have any discussions with any other Franciscans --

17 A. Yes.

18 Q. -- where they said, you know what, in hindsight
19 some of the things I saw should have triggered, you know,
20 a red flag or something or a warning signal?

21 A. I don't remember.

22 Q. And you referenced some of the things like for
23 instance kids in the office. Any other specific things
24 like that?

25 A. Maybe the amount of time he spent in the

1 Infirmary.

2 Q. Anything else?

3 A. Well, certainly what we heard later about this,
4 what I heard later about this class in their underwear.

5 Q. Right. Anything else?

6 A. Not right now.

7 Q. Anything about particular friendships between
8 Father Cimmarrusti and any students?

9 A. No.

10 Q. And these discussions you had were with other
11 Franciscans who had been on the faculty from that time
12 period with Father Cimmarrusti; is that correct?

13 A. No.

14 Q. They were not on the faculty?

15 A. No.

16 Q. They just had heard about these things?

17 A. Yes.

18 Q. Do you know who they heard about these things
19 from?

20 A. It was in the newspapers and radio.

21 Q. Did you ever personally receive any complaints
22 from seminarians about misconduct by Father Cimmarrusti?

23 A. As I said before, if I would have I would have
24 done something.

25 Q. Did anyone ever tell you that they had received

1 complaints of misconduct from seminarians about
2 Father Cimmarrusti?

3 MR. MATIASIC: Vague and ambiguous.

4 A. No.

5 Q. BY MR. HALE: Did you ever hear, were you ever
6 aware, of someone saying that they had received complaints
7 of misconduct from seminarians about Father Cimmarrusti?

8 MR. MATIASIC: Same objection.

9 A. Never.

10 Q. BY MR. HALE: I know I asked you about students
11 being expelled, but what about students quitting, was it
12 common for students to quit St. Anthony's while you were
13 on the faculty?

14 MR. MATIASIC: Vague and ambiguous.

15 A. If he was sent to the male boarding school, it
16 would be common.

17 Q. BY MR. HALE: Did it happen a couple times a
18 semester?

19 A. I have no recollection.

20 Q. Did you ever have the opportunity to ask a
21 student why they were quitting?

22 A. Girls.

23 Q. Any other circumstances?

24 A. No.

25 Q. Did you ever ask [REDACTED] why he was

1 quitting?

2 A. No.

3 Q. Did you ever hear that [REDACTED] had explained why he
4 was quitting?

5 A. No.

6 Q. Did you ever hear about a student -- well, did
7 you know [REDACTED]? [REDACTED], two
8 words.

9 A. No.

10 Q. Did you ever hear about a student who had run
11 away from the school and stowed away on a plane?

12 A. Yes.

13 Q. And how did you hear about that aside from your
14 attorneys?

15 A. From [REDACTED].

16 Q. And what did Father [REDACTED] tell you?

17 A. That his sister was the infamous Manson gang and
18 that's it.

19 Q. That the student who had run away had a sister
20 who was in the Manson gang?

21 A. Right.

22 Q. Did it come up while you were on the faculty at
23 St. Anthony's?

24 A. I just got there.

25 Q. But in other words your discussion with

1 Father [REDACTED], did that happen while you were on the
2 faculty with St. Anthony's?

3 A. Yes.

4 Q. And did Father [REDACTED] say anything other than
5 his sister was a member of the Manson family?

6 A. Well, any kid that would do that we can't be
7 responsible for and has to go home.

8 Q. Did you have any discussion with Father [REDACTED]
9 about why he ran away and stowed away on a plane?

10 A. No.

11 Q. Did Father [REDACTED] or any other Franciscan
12 express any opinion to you as to why the student had run
13 away and stowed away on a plane?

14 A. No.

15 Q. Have you ever been aware of any Franciscan
16 investigating what prompted the student to run away and
17 stow away on a plane?

18 MR. MATIASIC: Lacks foundation, vague and
19 ambiguous.

20 A. No.

21 Q. BY MR. HALE: While you were on the faculty was
22 the Prefect of Discipline position eliminated?

23 MR. MATIASIC: I think we already asked and
24 answered this before, but go ahead.

25 Q. BY MR. HALE: By the class moderator?

1 A. Uh-huh. Yes.

2 Q. Do you recall Father Cimmarrusti being
3 transferred to Guaymas, Mexico while you were on the
4 faculty?

5 MR. MATIASIC: Lacks foundation.

6 A. What do you mean do I recall?

7 Q. BY MR. HALE: Were you aware of it happening?

8 MR. MATIASIC: Same objection.

9 A. Well, papers come out from the Provincial that
10 says you are going here, you are going here.

11 MR. HALE: Okay.

12 A. I mean there was nothing particular.

13 Q. BY MR. HALE: But you were aware of it happening?

14 A. Yeah.

15 Q. Did you have any conversations with
16 Father Cimmarrusti about his transfer?

17 A. No.

18 Q. Did you ever hear that he had expressed
19 dissatisfaction about his transfer?

20 MR. MATIASIC: Lacks foundation.

21 A. No.

22 Q. BY MR. HALE: Did you ever hear any discussions
23 about why Father Cimmarrusti was being transferred or were
24 you ever aware of any?

25 MR. MATIASIC: Same objection.

1 A. No.

2 Q. BY MR. HALE: Do you know why Father Cimmarrusti
3 was transferred from St. Anthony's to Guaymas?

4 MR. MATIASIC: Lacks foundation that he was
5 transferred.

6 A. No.

7 Q. BY MR. HALE: Have you ever heard that
8 Father Cimmarrusti was accused of child sexual abuse while
9 he was in Guaymas?

10 A. I heard gossip about that, yes.

11 Q. When did you first hear that?

12 A. It might have been when all of this stuff came
13 out, I am not sure.

14 Q. Do you recall who you heard it from?

15 A. No.

16 Q. What exactly did you hear about the allegations
17 in Guaymas?

18 A. That he had perhaps inappropriate relations with
19 the Infirmary there, the hospital or whatever.

20 Q. And was that with adolescents or minors?

21 A. I don't know.

22 Q. Did you hear that the Mexican authorities were
23 seeking to prosecute Father Cimmarrusti?

24 A. No.

25 Q. Did you ever hear that he was being investigated

1 by the Mexican authorities?

2 A. No.

3 Q. Did you ever hear that the Province was forced
4 to transfer him from Guaymas to avoid his prosecution by
5 the Mexican authorities?

6 MR. MATIASIC: Vague and ambiguous, lacks
7 foundation.

8 A. No.

9 Q. BY MR. HALE: To your knowledge did
10 Father Cimmarrusti have any medical training?

11 MR. MATIASIC: Vague and ambiguous.

12 A. I don't know.

13 Q. BY MR. HALE: Were you ever aware of
14 Father Cimmarrusti requiring all Freshman students to come
15 to his office for a physical exam?

16 MR. MATIASIC: Same objection.

17 A. No.

18 Q. BY MR. HALE: Were you ever aware of students
19 talking about being required to go to Father Cimmarrusti's
20 office for a physical exam?

21 A. No.

22 Q. Do you know Dave Johnson?

23 A. Yes.

24 Q. When was the last time you spoke to Dave
25 Johnson?

1 A. More than eight years ago.

2 Q. When did you first meet him?

3 A. When I taught at the seminary, when I was
4 transferred there.

5 Q. He was a student there?

6 A. Yes.

7 Q. Do you know his parents?

8 A. No.

9 Q. Have you had any contact with him since he left
10 the Province?

11 A. No.

12 Q. Have you ever been assigned anywhere with him?

13 A. No.

14 Q. Have you ever been in residence anywhere with
15 him?

16 A. No.

17 Q. Have you ever been assigned or in residence
18 anywhere where he was assisting?

19 A. No.

20 Q. Did you evaluate him as a student?

21 A. I am sure I did.

22 Q. Do you recall whether there were any concerns
23 regarding his performance as a student at St. Anthony's?

24 A. No.

25 Q. Did you ever discipline Johnson ever?

1 MR. MATIASIC: Vague and ambiguous.

2 A. I really don't know what that would mean. You
3 mean couldn't go to the movies or something?

4 MR. HALE: Sure.

5 A. I don't know. I can't remember.

6 Q. BY MR. HALE: Were there any problems with his
7 interaction with other students that you were aware of?

8 MR. MATIASIC: Vague and ambiguous.

9 A. No.

10 Q. BY MR. HALE: Do you recall any faculty members
11 raising any problems regarding Johnson?

12 MR. MATIASIC: Same objection.

13 A. No.

14 Q. BY MR. HALE: Outside of your time on the faculty
15 have you ever supervised Johnson?

16 A. No.

17 MR. MATIASIC: Same objection.

18 Q. BY MR. HALE: Outside of your time on the faculty
19 did you ever evaluate his performance as a Franciscan?

20 MR. MATIASIC: Same objection.

21 A. No.

22 Q. BY MR. HALE: At any time have you ever reported
23 Johnson to a supervisor?

24 A. I had no reason to.

25 Q. Did you ever praise him to a supervisor in the

1 Province?

2 MR. MATIASIC: Vague and ambiguous.

3 A. I can't remember.

4 Q. BY MR. HALE: Have you heard he has been accused
5 of childhood sexual abuse other than from your counsel?

6 A. Vaguely.

7 Q. When did you first hear that?

8 A. I would say in the last three years.

9 MR. HABEL: Tim, are there Clergy III
10 claims against Johnson?

11 MR. MATIASIC: No.

12 MR. HABEL: Cabot?

13 MR. HALE: No.

14 MR. HABEL: Kelly?

15 MR. HALE: No.

16 MR. HABEL: [REDACTED]?

17 MR. HALE: No.

18 MR. HABEL: I guess my concern is I think
19 we are violating the discovery stay in Clergy I. You
20 know, I will put it on the record.

21 MR. HALE: I hear you. The thing is we are
22 going to file our punitives motion within the next four
23 weeks and I think the pattern of conduct with regards to
24 each one of these perpetrators, and I think we are going
25 to be able to establish a pattern from 1937 all the way up

1 to the present, and I think how they have managed these
2 perpetrators is going to be highly relevant to that
3 punitives motion because I think one of the things they
4 are going to argue once they get to trial is that they are
5 going to have to argue just like the defendants did in
6 Clergy III in the cases that went to trial, they are going
7 to have to argue we have changed, we don't conduct
8 business the same way, things are different. And we are
9 going to encounter that with this pattern of conduct for
10 each one of these perpetrators showing it hasn't changed,
11 if anything it's continuing and children are continuing
12 and still being put at risk by this ongoing pattern of
13 conduct.

14 So I am not necessarily trying to explore
15 the specific damages claims regarding any of those
16 perpetrators, but definitely with regards to how they
17 managed those perpetrators I think it's highly relevant to
18 the punitive damages claim.

19 MR. HABEL: My objection wasn't based on
20 relevance at all. My objection was just based on, you
21 know, this is a Clergy III depo and in Clergy I we have a
22 discovery stay and my concern is that we are violating
23 that.

24 MR. HALE: I am saying it's relevant to the
25 Clergy III punitive damages claim, not the Clergy I

1 punitive damages claim. And I don't know what the answer
2 to that is.

3 MR. HABEL: I guess it would be more
4 relevant if your motion is granted than it is today I
5 guess I would offer.

6 MR. HALE: I understand that, but I'm not
7 going to tell you how confident I am that the motion is
8 going to be granted.

9 MR. MATIASIC: Just for the record I am
10 going to join in the objection, I also think it violates
11 the current order in Clergy I. And, you know, I am not
12 going to instruct him not to answer on these other friars
13 who have been implicated in this case, but I join, I think
14 it's violative of the order and therefore inappropriate.

15 MR. HALE: Okay. I think we have all made
16 our record.

17 MR. HABEL: Maybe we will get, you know,
18 after the hearing on the 16th, you know, maybe we will get
19 some guidance from the judge.

20 MR. TISDALE: Plus we don't have any
21 agreement at this point that this deposition or anything
22 that is said here is usable at any Clergy I case anyway.

23 MR. HALE: Right. Exactly. That's not the
24 purpose of us asking these questions, it's strictly -- and
25 granted, the punitive damages motion has not been granted

1 yet, much less filed, but that's the reason I am asking.
2 I certainly don't want to take this deposition and have to
3 come back and do this all over again assuming the punitive
4 damage motion is granted.

5 (Off-the-record discussion.)

6 Q. BY MR. HALE: Did you know David Carriere?
7 C-a-r-r-i-e-r-e.

8 A. Did I know him?

9 Q. Yes.

10 A. Yes.

11 Q. When did you first meet him?

12 A. In Minor Seminary.

13 Q. Were you students together?

14 A. Yes.

15 Q. Were you in the same class year?

16 A. No.

17 Q. Have you ever been assigned anywhere with him?

18 A. No.

19 Q. While you were in the seminary with him did you
20 ever observe any conduct by him that you thought was
21 inappropriate?

22 MR. MATIASIC: Vague and ambiguous.

23 A. No.

24 Q. BY MR. HALE: Were you ever aware of anyone
25 complaining of conduct by him while you both were students

1 that you thought was inappropriate?

2 MR. MATIASIC: Same objection.

3 A. No.

4 Q. BY MR. HALE: I am sorry, I know I asked this,
5 you have not been assigned anywhere with him?

6 A. No.

7 Q. Have you ever been in residence anywhere with
8 him?

9 A. No.

10 Q. Have you ever --

11 A. Except in Studies.

12 Q. Right. Have you ever been assigned or in
13 residence anywhere with him where he was simply assisting?

14 A. No.

15 Q. Do you recall him ever being disciplined while
16 you were a student at St. Anthony's?

17 MR. MATIASIC: Vague and ambiguous.

18 A. No.

19 Q. BY MR. HALE: You are aware there are allegations
20 of childhood sexual abuse against him, right?

21 A. No.

22 Q. Do you know whether he was identified as a
23 perpetrator in the Board of Inquiry report?

24 MR. MATIASIC: Lacks foundation.

25 A. No.

1 Q. BY MR. HALE: Do you know if Johnson was
2 identified as a perpetrator in the Board of Inquiry
3 report?

4 MR. MATIASIC: Same objection.

5 A. I have never read the inquiry report.

6 Q. BY MR. HALE: Never seen a copy of it?

7 A. No.

8 Q. Ever talked to anyone who has other than your
9 counsel?

10 A. I don't know.

11 Q. Has anyone ever told you that they have read the
12 unredacted version of the Board of Inquiry report?

13 A. Not that I remember, no.

14 Q. Are you aware there are two versions of the
15 Board of Inquiry report?

16 A. No.

17 Q. Were you a party to any discussions about
18 whether names of alleged perpetrators should be included
19 in the Board of Inquiry report?

20 A. No.

21 Q. Are you aware of Father Carriere ever being sent
22 to the Servants of the Paraclete, P-a-r-a-c-l-e-t-e,
23 Center in Jemez Springs, New Mexico?

24 A. No.

25 Q. Have you ever had any discussions with [REDACTED]

1 [REDACTED] regarding allegations of childhood sexual abuse by
2 Father Edmond Austin?

3 A. No.

4 Q. Have you ever heard allegations of childhood
5 sexual abuse by Father Edmond Austin?

6 MR. MATIASIC: Other than from counsel?

7 MR. HALE: Other than from counsel.

8 A. No.

9 Q. BY MR. HALE: Did you ever hear Father Carriere
10 had treated at the House of Affirmation?

11 A. Isn't that what that Paraclete place is?

12 Q. I can't answer that question. You have got to
13 answer that question based on whatever knowledge you
14 have.

15 MR. MATIASIC: If you can answer the
16 question he has asked you answer it.

17 A. No. No.

18 Q. BY MR. HALE: What is your understanding of the
19 purpose, if any, of the Servants of the Paraclete?

20 MR. MATIASIC: Vague and ambiguous.

21 A. All I know is they work with people with
22 addictions.

23 Q. BY MR. HALE: Do you know what kind of addictions
24 that covers?

25 A. No.

1 Q. Do you know if it includes sexual dysfunction of
2 any kind?

3 A. I would imagine.

4 Q. When did you first hear of the Servants of the
5 Paraclete?

6 A. I have no idea.

7 Q. Do you recall ever reading any articles about
8 Servants of the Paraclete?

9 A. I don't remember.

10 Q. Did you ever visit Father Carriere when he was
11 assigned in Fresno?

12 A. No.

13 Q. Were you aware he was assigned in Fresno?

14 A. I am not sure.

15 Q. Do you know [REDACTED] or did
16 you know him?

17 A. I have met him.

18 Q. Have you ever heard that he was complaining
19 about Father Carriere not staying away from students at
20 the seminary?

21 A. No.

22 Q. Have you ever heard anyone say that
23 Father Carriere was making inappropriate sexual comments
24 around students?

25 MR. MATIASIC: Vague and ambiguous.

1 A. No.

2 Q. BY MR. HALE: Have you ever personally heard
3 Father Carriere make inappropriate sexual comments?

4 MR. MATIASIC: Same objection.

5 A. No.

6 Q. BY MR. HALE: Have you ever heard anyone say that
7 they had heard Carriere do that?

8 A. I don't remember.

9 Q. Do you know who Robert Van Handel is?

10 A. Yes.

11 Q. How do you know Father Van Handel?

12 A. We were in the Order together.

13 Q. When did you first meet him?

14 A. Sometime after my ordination, '70s, '80s, I
15 don't know.

16 Q. Have you ever been assigned anywhere with him?

17 A. No.

18 Q. Were you ever in residence anywhere with him?

19 A. No.

20 Q. Were you ever assigned or in residence anywhere
21 where he assisted?

22 A. No.

23 Q. Are you familiar with the Santa Barbara Boys
24 Choir?

25 A. Yes.

1 Q. How are you familiar with that?

2 A. I saw them.

3 Q. You saw them perform?

4 A. Yes.

5 Q. Where did you see them perform at?

6 A. Seminary.

7 Q. How many times do you think you saw them
8 perform?

9 A. Probably once.

10 Q. Did you ever attend one of their practices?

11 A. No.

12 Q. When was the first time you heard allegations of
13 childhood sexual abuse by Father Van Handel?

14 MR. MATIASIC: Other than from counsel?

15 MR. HALE: Right.

16 A. I know I visited him in prison, but I don't know
17 when that was.

18 Q. BY MR. HALE: Do you know who Pat McKinley is?
19 M-c-K-i-n-l-e-y.

20 A. I have heard the name.

21 Q. How many times did you visit Father Van Handel
22 in prison?

23 A. I can't remember.

24 Q. Did you ever discuss with Father Van Handel that
25 he was abused by Father McKeon, M-c-K-e-o-n, as a student

1 at St. Anthony's?

2 A. No.

3 Q. Have you heard that allegation before other than
4 from your attorneys?

5 A. No.

6 Q. Have you ever heard any allegations of childhood
7 sexual abuse by Martin McKeon?

8 MR. MATIASIC: Other than from your
9 attorneys.

10 A. No.

11 Q. BY MR. HALE: And I know I am mispronouncing his
12 name. When I say Martin McKeon do you understand me to be
13 saying Martin McKeon?

14 A. Right.

15 Q. Have you ever seen Sam Cabot in the company of
16 children under the age of 12?

17 MR. MATIASIC: Overbroad.

18 A. No.

19 Q. BY MR. HALE: Do you recall when you first heard
20 allegations of childhood sexual abuse by Brother Cabot?

21 MR. MATIASIC: Excluding anything you heard
22 from your attorneys?

23 MR. HALE: Right.

24 A. I am getting all fuzzy thinking here, excluding,
25 no.

1 Q. BY MR. HALE: While you were at Serra Retreat
2 House were you aware of Brother Cabot returning to
3 Santa Barbara to visit his friends in Santa Barbara?

4 A. Yes.

5 Q. Was that a pretty common occurrence?

6 MR. MATIASIC: Well, Cabot returning to
7 visit friends or a friar returning to visit friends?

8 Q. BY MR. HALE: No, Cabot returning to visit
9 friends?

10 A. He seemed to be part of their family.

11 Q. Are you talking about the [REDACTED]?

12 A. Yes.

13 Q. What makes you say he was part of their family?

14 A. They all seemed to love him.

15 Q. Did you observe them interacting with him that
16 led you to feel that way?

17 A. At various times, yeah.

18 Q. Where at? Was that in Serra or Santa Barbara?

19 A. Both.

20 Q. What did you observe at Santa Barbara that led
21 you to believe that?

22 A. Well, [REDACTED] would help him out with
23 maintenance and the old man who was a doctor would be
24 solicitous about Sam. It seemed the mother loved him.

25 Q. Did you know [REDACTED]?

1 A. No.

2 Q. What about [REDACTED]?

3 A. No.

4 Q. Did you ever hear that Sam had helped the
5 [REDACTED] adopt Maria from Mexico?

6 A. No.

7 Q. Did you ever see Sam in the company of any of
8 the [REDACTED] children while you were in Santa Barbara?

9 A. No.

10 Q. What about while you were at Serra Retreat
11 House?

12 A. No.

13 Q. When did you first meet [REDACTED]?

14 A. I was a theology student.

15 Q. And was he assigned at St. Anthony's at the
16 time?

17 A. He was a printer at St. Anthony's.

18 Q. And how did you guys come to meet?

19 A. We were secluded in the seminary, the old
20 Mission, and it was a chance to get out.

21 Q. And was [REDACTED] living at the Mission at the
22 time?

23 A. No.

24 Q. Was there some kind of social event at
25 St. Anthony's?

1 A. No.

2 Q. How did you get out together?

3 A. With my ability in art I had to have things
4 printed.

5 Q. He was doing the printing for you?

6 A. Yes.

7 Q. Are you and he friends?

8 A. I would say best friends.

9 Q. When was the last time you spoke with him?

10 A. I called him three or four times since I have
11 been at the Indian Mission but he never either responded
12 or was there.

13 Q. Have you heard about him having any medical
14 difficulties?

15 A. Somebody said to me that they thought he was
16 getting what do you call it, not amnesia.

17 Q. Alzheimer's?

18 A. Alzheimer's.

19 Q. Have you heard that he has been diagnosed with
20 Alzheimer's?

21 A. No.

22 Q. It sounds like it's been a little while since
23 you last spoke with him?

24 A. Well, it's been at least five years.

25 Q. Did he ever tell you that he was one of the

1 perpetrators identified in the Board of Inquiry report?

2 A. No.

3 Q. Did you ever discuss with him the fact there are
4 allegations of childhood sexual abuse against him?

5 A. No.

6 Q. Have you heard there are allegations of
7 childhood sexual abuse against him?

8 MR. MATIASIC: Other than from counsel?

9 MR. HALE: Other than from counsel.

10 A. Yes.

11 Q. BY MR. HALE: How did you first hear that?

12 A. I don't remember.

13 Q. Have you ever asked him about their veracity?

14 A. No.

15 Q. In hindsight have you looked back on your time
16 with him on the faculty at St. Anthony's and can you
17 recall behavior that you now consider should have been a
18 red flag?

19 MR. MATIASIC: Vague and ambiguous, lacks
20 foundation.

21 A. No.

22 Q. BY MR. HALE: Did you know [REDACTED], do you
23 remember [REDACTED] when you were on the faculty?

24 A. Yes.

25 Q. Did you know him as a student?

1 A. Somewhat.

2 Q. Did you ever observe anything in his conduct
3 that made you suspicious that there was something
4 inappropriate going on between him and Brother [REDACTED]?

5 A. Never.

6 Q. Do you ever recall Brother [REDACTED] taking [REDACTED]
7 [REDACTED] out for dinner?

8 A. Not specifically, no.

9 Q. Do you have a vague recollection of that
10 possibly happening though?

11 A. I really don't know.

12 Q. Do you have a recollection of any Franciscans
13 ever smoking cigarettes with students while you were on
14 the faculty?

15 A. No.

16 Q. During your time at the faculty were you ever
17 aware of any Franciscans taking any students, and when I
18 say "any students" I mean a single student, out for
19 dinner?

20 A. I did.

21 Q. Just one?

22 A. Took my nephew out.

23 Q. But any students in other words who are not
24 family members out?

25 A. I don't know of any.

1 Q. Do you think it would have been appropriate for
2 a faculty member to take a student out to dinner if it was
3 just the faculty member and the student and the student
4 was not related to the faculty member?

5 MR. MATIASIC: Vague, ambiguous, lacks
6 foundation, incomplete hypothetical.

7 A. It would just depend if I knew all the facts.

8 Q. BY MR. HALE: So there would be circumstances in
9 your mind where that could be appropriate?

10 A. Could be.

11 Q. Can you think of what circumstances would make
12 that event cross the line from appropriate to no longer
13 appropriate?

14 MR. MATIASIC: He never testified that it
15 would be inappropriate, but go ahead.

16 A. These are just hypothetical things we are
17 talking about?

18 MR. HALE: Yes.

19 A. Whoever gets the highest grade in Latin is going
20 to be able to go out to dinner and the Latin teacher takes
21 him and they go to Jack-in-the-Box.

22 Q. BY MR. HALE: Did you ever hear that
23 Father Cimmarrusti was abused as a child sexually?

24 A. No.

25 Q. Is today the first time you heard

1 Father Van Handel had claimed he had been abused by
2 Father McKeon?

3 A. Yes.

4 Q. Have you ever heard of any other Franciscan
5 claiming that they have been abused or have been the
6 victim of childhood sexual abuse?

7 A. No.

8 Q. Did you ever hear Father Johnson say that he had
9 been the victim of childhood sexual abuse?

10 A. No.

11 Q. What about Father Krumm? K-r-u-m-m.

12 A. No.

13 Q. When did you first meet Father Krumm?

14 A. He was in class with David Johnson.

15 Q. In your class with David Johnson?

16 A. When I was a faculty member he was in the Junior
17 year I guess.

18 Q. Were you ever assigned anywhere with him?

19 A. With Krumm?

20 Q. Yes, aside from your time when he was a student?

21 A. No.

22 Q. Have you ever been in residence anywhere with
23 him?

24 A. No.

25 Q. Have you ever been assigned or in residence

1 anywhere with him? I am sorry, I am getting tired,
2 assigned or in residence anywhere where he was assisting?

3 A. I would come from Serra Retreat in Malibu and
4 say Mass at Huntington Beach where he was an assistant
5 occasionally.

6 Q. At St. Jude?

7 A. Right.

8 Q. What year was that?

9 A. '90s.

10 Q. Have you heard that he has been accused of
11 childhood sexual abuse other than from your counsel?

12 A. Yes.

13 Q. When did you first hear that?

14 A. I would say the last couple years.

15 Q. Before or after you assisted at St. Jude's?

16 A. Oh, after.

17 Q. Did you evaluate him as a student?

18 A. I must have.

19 Q. Do you recall yourself or any other Franciscan
20 raising any objections to his performance as a student?

21 MR. MATIASIC: Vague and ambiguous.

22 A. No.

23 Q. BY MR. HALE: Do you recall any Franciscan ever
24 raising any concerns as to him becoming a Franciscan?

25 MR. MATIASIC: Vague and ambiguous.

1 A. No.

2 Q. BY MR. HALE: Did you ever supervise Krumm?

3 A. I was his moderator.

4 Q. You were his moderator, his class moderator,
5 okay. Did you ever discipline him?

6 A. He was a good kid, I doubt it.

7 Q. Do you know if he was identified in the Board of
8 Inquiry report?

9 A. I never saw the Board report.

10 Q. But did you ever hear anybody say that he had
11 been identified?

12 A. No.

13 Q. Have you ever talked with him about the
14 scandal?

15 MR. MATIASIC: Vague and ambiguous.

16 A. No.

17 Q. BY MR. HALE: When was the last time you spoke
18 with him?

19 A. I really can't say, quite a while.

20 Q. Are you aware that [REDACTED] filed reports
21 with the Oakland Police Department regarding childhood
22 sexual abuse by Father Krumm?

23 A. No.

24 Q. Never heard that?

25 A. No.

1 Q. Were you ever involved in any discussions
2 regarding whether that should be done?

3 MR. MATIASIC: If [REDACTED] should file a
4 report with the PD?

5 MR. HALE: Yes.

6 A. No.

7 Q. BY MR. HALE: Do you know Father [REDACTED]?

8 A. Yes.

9 Q. When did you first meet him?

10 A. I think it was one of the times that I was
11 helping out at Huntington Beach.

12 Q. Was he assigned down there at that time?

13 A. Yes.

14 Q. And were he and Gus Krumm assigned to
15 Huntington Beach at the same time to your knowledge?

16 A. I don't think so.

17 Q. Anywhere else that you have ever assisted with
18 or been in residence with or been assigned with
19 Father [REDACTED]?

20 A. No.

21 Q. Are you aware he has been accused of childhood
22 sexual abuse?

23 MR. MATIASIC: Other than from your
24 attorneys?

25 MR. HALE: Other than from your attorneys.

1 A. No.

2 Q. BY MR. HALE: You have never heard that until
3 today other than from your attorneys?

4 A. That's right.

5 Q. Have you ever been in residence anywhere where a
6 Franciscan was under restrictions on his ministry as a
7 result of allegations of childhood sexual abuse?

8 MR. MATIASIC: Vague and ambiguous.

9 A. No.

10 Q. BY MR. HALE: Have you ever been assigned
11 anywhere where a Franciscan was under restrictions on his
12 ministry as a result of childhood sexual abuse
13 allegations?

14 MR. MATIASIC: Same objection.

15 A. No.

16 Q. BY MR. HALE: And have you ever assisted anywhere
17 under those circumstances?

18 MR. MATIASIC: Same objection.

19 A. No.

20 Q. BY MR. HALE: Did you know Father Phillip Wolfe?

21 A. Yes.

22 Q. Were you ever assigned anywhere with
23 Father Wolfe?

24 A. I taught him.

25 Q. Were you ever in residence anywhere with

1 Father Wolfe other than at St. Anthony's?

2 A. No.

3 Q. Do you recall when Father Wolfe was arrested
4 around 1989?

5 A. Vaguely.

6 Q. After Father Wolfe was arrested did you ever
7 talk to the Hendricksons about the charges against
8 Father Wolfe?

9 A. No, not that I can remember.

10 Q. Let me see if I can refresh your recollection.
11 Do you recall going over to their home after the charges
12 and talking to them about what had happened to
13 Father Wolfe?

14 A. I remember being at their home and discussing
15 the situation in general, I don't remember talking about
16 him.

17 Q. You mean the clergy abuse situation?

18 A. Yes.

19 Q. Do you recall them telling you about how upset
20 they were about the scandal, about the situation regarding
21 the Franciscans?

22 A. Of course.

23 Q. Did you ever say to them something to the effect
24 of that if you had to choose between supporting victims of
25 childhood sexual abuse and supporting your Franciscan

1 brothers who had abused the victims, you would choose to
2 support your Franciscan brothers?

3 MR. MATIASIC: Vague and ambiguous.

4 MR. HALE: And you can read that back if
5 you want to hear that again.

6 A. Okay.

7 (Record read.)

8 MR. MATIASIC: Same objection. Go ahead.

9 A. I don't remember saying that, but I remember the
10 context.

11 Q. BY MR. HALE: Do you recall ever saying that to
12 anyone?

13 MR. MATIASIC: Same objection.

14 A. No.

15 Q. BY MR. HALE: Do you recall ever feeling that
16 way? Is that a statement that would support something you
17 believe or consistent with something you have ever
18 believed?

19 MR. MATIASIC: Lacks foundation, vague and
20 ambiguous?

21 A. Not in those words.

22 Q. BY MR. HALE: Can you paraphrase it in a way that
23 more accurately reflects how you felt about the
24 situation?

25 MR. MATIASIC: Felt about the situation in

1 the clergy sexual abuse scandal?

2 MR. HALE: Yes.

3 MR. MATIASIC: You can answer if you can
4 answer the way it's phrased, Father, go ahead.

5 A. I would feel sorry for the victim, I would hate
6 the actions of the perpetrator, but I guess I have been
7 taught by the Gospel to love those who have sinned and
8 support them not in any way where they are endangering
9 others but just as a human being on this Earth.

10 Q. BY MR. HALE: Did you ever tell the Hendricksons
11 that you could be, you know, "counted with the
12 predators"?

13 MR. MATIASIC: Vague and ambiguous, lacks
14 foundation.

15 A. I don't think so, no.

16 Q. BY MR. HALE: Do you recall a Franciscan, a
17 pre-novitiate candidate, named Ed Byrom? B-y-r-o-m.

18 A. Yes.

19 Q. Have you ever been assigned anywhere with Ed
20 Byrom?

21 A. He was helping out at Serra Retreat when I was
22 there occasionally.

23 Q. Have you heard he has been accused of childhood
24 sexual abuse?

25 MR. MATIASIC: Other than from counsel?

1 MR. HALE: Other than from counsel.

2 A. No.

3 Q. BY MR. HALE: What about Tom Thing? Do you know
4 a pre-novitiate candidate name Tom Thing? T-h-i-n-g.

5 A. Yes.

6 Q. Have you ever been assigned anywhere with him?

7 A. I taught him. I was there at the seminary when
8 he was there, that's all. As a faculty, no, I have not
9 been assigned anywhere.

10 Q. In residence anywhere with him?

11 A. No.

12 Q. What about Gerald Chumik, do you know him?

13 A. Yes.

14 Q. And how do you know him?

15 A. He was the jail chaplain in Los Angeles when I
16 was living in Highland Park. Highland Park, Pasadena,
17 it's the same place.

18 MR. MATIASIC: Counsel, if I may, I am just
19 going to reiterate the objections previously stated by
20 counsel for the Archdiocese and I rejoin that this whole
21 line is violative of the order in Clergy I.

22 MR. HALE: Sure.

23 Q. BY MR. HALE: Have you heard that Brother Chumik
24 has been accused of sexual abuse?

25 MR. MATIASIC: Other than from counsel.

1 A. No.

2 Q. BY MR. HALE: Never heard that before until I
3 just said it right now?

4 MR. MATIASIC: Argumentative, Counsel,
5 asked and answered.

6 MR. HALE: You can answer.

7 A. Pardon?

8 MR. HALE: You can answer.

9 A. I am just saying from what you are asking me
10 other than counsel, no.

11 Q. BY MR. HALE: Have you ever been aware of any
12 member of the Province warning a member or members of a
13 parish or a community that a Franciscan who had been
14 accused of sexual abuse of a minor was assigned or in
15 residence at that location?

16 MR. MATIASIC: Vague and ambiguous, it
17 lacks foundation.

18 A. No.

19 Q. BY MR. HALE: Have you ever heard or been aware
20 of any discussions within the Province regarding whether a
21 warning should be provided to a member or members of a
22 parish or a community where a Franciscan who had been
23 accused of sexual abuse of a minor was assigned or in
24 residence?

25 A. No.

1 MR. MATIASIC: Same objections.

2 Q. BY MR. HALE: Have you ever seen any written
3 communications regarding that subject matter?

4 MR. MATIASIC: Same objections.

5 A. No.

6 Q. BY MR. HALE: Were you ever interviewed by the
7 Board of Inquiry?

8 A. No.

9 Q. Were you involved in any discussions regarding
10 whether it should be created?

11 A. No.

12 Q. Do you know anyone who was?

13 A. Joe Konishe I would imagine.

14 Q. Don't guess.

15 A. Okay. No, I don't know.

16 Q. Have you ever heard of any Franciscan being sent
17 for treatment for pedophilia?

18 MR. MATIASIC: Vague and ambiguous, lacks
19 foundation.

20 A. I am not sure.

21 Q. BY MR. HALE: Do you suspect that some have
22 been?

23 MR. MATIASIC: Don't guess, Father.

24 A. No.

25 Q. BY MR. HALE: Well, why are you unsure?

1 A. I don't know whether they are pedophiles.

2 Q. Have you ever heard of any Franciscan being sent
3 for medical treatment for sexual problems of any kind?

4 MR. MATIASIC: Vague and ambiguous.

5 A. Yes.

6 Q. BY MR. HALE: Okay. And how many times? How
7 many different Franciscans have you heard that about?

8 MR. MATIASIC: Same objection.

9 A. To my knowledge one.

10 Q. BY MR. HALE: And who was that?

11 A. Josef Prochnow.

12 Q. Do you know where he was sent for treatment?

13 A. No.

14 Q. Was that after he made the announcement about
15 his admission regarding childhood sexual abuse?

16 MR. MATIASIC: If you know.

17 MR. HALE: If you know.

18 A. I don't know.

19 Q. BY MR. HALE: Was there a parapet outside the
20 St. Anthony's Chapel?

21 A. Yes.

22 Q. After the scandal broke in the late '80s or
23 early '90s do you recall Dyanne Munana approaching you
24 after Mass near the parapet --

25 A. Is this the same thing with the doors?

1 MR. MATIASIC: Father, let him finish his
2 question.

3 MR. HALE: No, this is a different
4 question.

5 Q. BY MR. HALE: -- and telling you something to the
6 effect of how upset she was about the charges of childhood
7 sexual abuse involving the Franciscans?

8 MR. MATIASIC: Vague and ambiguous.

9 A. If I remember her saying that to me, no.

10 Q. BY MR. HALE: Do you remember her saying to you
11 at that location that she wanted to talk to you about the
12 scandal?

13 A. No.

14 MR. MATIASIC: Same objection.

15 Q. BY MR. HALE: Do you recall ever telling her not
16 to worry about the scandal?

17 MR. MATIASIC: Same objection.

18 A. I have no idea.

19 Q. BY MR. HALE: Do you recall, did you ever tell
20 her something to the effect of that the abuse of children
21 by Franciscans has been going on for thousands of years?

22 MR. MATIASIC: Vague and ambiguous, lacks
23 foundation.

24 A. We are only 800 years old. I am sorry, no.

25 Q. BY MR. HALE: Have you ever said anything like

1 that to anyone?

2 MR. MATIASIC: Same objections.

3 A. No.

4 Q. BY MR. HALE: Have you ever heard anyone said
5 that?

6 MR. MATIASIC: Same objections.

7 A. No.

8 Q. BY MR. HALE: And I will take it from your prior
9 response that you do not believe that to be the case?

10 MR. MATIASIC: Same objection.

11 A. No.

12 Q. BY MR. HALE: Did you ever tell Dyanne Munana
13 that childhood sexual abuse was like a woman being raped
14 and that the victim just gets some counseling and gets on
15 with their lives?

16 MR. MATIASIC: Lacks foundation, vague and
17 ambiguous.

18 A. Absolutely not.

19 Q. BY MR. HALE: Have you ever said anything like
20 that to anyone?

21 MR. MATIASIC: Same objections.

22 A. Absolutely not.

23 Q. BY MR. HALE: Have you ever heard anyone say
24 anything like that?

25 MR. MATIASIC: Same objections.

1 A. No.

2 Q. BY MR. HALE: And I will take it you do not
3 believe that to be true?

4 MR. MATIASIC: Same objection.

5 A. Absolutely.

6 Q. BY MR. HALE: Father DaSilva was not on the
7 faculty while you were a student at the seminary, was he?

8 A. No.

9 MR. HALE: I want to take a brief
10 five-minute break and then we will get out of here.

11 (Recess.)

12 Q. BY MR. HALE: Father, just a couple more
13 questions. We have had a long lengthy discussion about
14 the Munanas and is the third party you were concerned
15 about protecting their daughter?

16 MR. MATIASIC: We are going to have to take
17 a quick break, Counsel.

18 MR. HALE: Okay.

19 (Recess.)

20 THE WITNESS: Say the question again.

21 Q. BY MR. HALE: Was the third party you were trying
22 to protect with the objections and the confidentiality,
23 was it the Munanas' daughter?

24 A. It was more than that.

25 Q. The daughter and the person she was involved in

1 a relationship with?

2 A. I can't specify more than that, I will just say
3 more than that.

4 Q. But am I going down the right track in that it
5 was the daughter? The daughter was at least involved in
6 the issue?

7 MR. MATIASIC: Father, don't answer any of
8 the questions. He has answered the question already and
9 said that there are multiple third parties' privacies that
10 we were trying to protect and referenced earlier and he
11 won't answer any other questions in that respect.

12 MR. HALE: I thought I did get the answer
13 that the daughter was confirmed to be one of the third
14 parties. Did I misunderstand?

15 MR. MATIASIC: I believe that Father
16 testified that there were multiple people, that it was
17 more than one person.

18 Q. BY MR. HALE: Okay. And was it just this one
19 instance with the Munanas that led you to call into
20 question their ethics or character or whatever it was?

21 MR. MATIASIC: Asked and answered, don't
22 answer it. I am instructing him not to answer. You've
23 already asked him how many instances.

24 MR. HALE: I will represent to you on the
25 record that I just spoke to Dyanne Munana, there was no

1 penitential communication and there was no confidentiality
2 issue either, she said the entire community knew about
3 this issue so this is a complete fabrication that there is
4 any confidentiality related to this issue. I don't want
5 to be, you know, sandbagged and just bushwhacked with this
6 thing at trial if there is going to be some kind of
7 question or challenge regarding this witness'
8 credibility.

9 If there is something other than that,
10 that's another issue. But if that's the issue, this was
11 not a confidential matter, the entire community knew about
12 what was going on with this family and with those people.

13 MR. MATIASIC: Let me say this, Counsel, so
14 we don't revisit everything all over again. As we said
15 before it's a two-way privilege. If the Munanas want to
16 testify as to whatever, they are free to do so, he is not
17 going to waive any type of privilege. He already
18 testified that in terms of the third parties' privacy that
19 we referenced earlier this morning that he is speaking of
20 more than one person.

21 MR. HALE: This is not a question about
22 what the Munanas are going to testify to, this is a
23 question about how your clients are going to attack their
24 credibility and you are not allowing us to know what that
25 tactic is going to be by instructing him not to answer on

1 issues that those witnesses have already declared was not
2 confidential and was public knowledge, not just between
3 the witness and them but between the entire community.
4 It's inappropriate.

5 MR. MATIASIC: Tim, with all due respect,
6 in terms of attacking people's credibility, we have no
7 idea what the Munanas are going to say one way or
8 another. I have no way -- I mean with all due deference
9 to my clairvoyant and everybody else's clairvoyant
10 capabilities here, I have no idea what anybody is going to
11 say.

12 MR. HALE: I know you don't, but the
13 witness did testify earlier that he had reason to question
14 their character as a result of whatever this incident
15 was. Perhaps you are going to turn that around and try
16 and use that to call their character in question and
17 question their credibility as a result, that's why I think
18 this is an important issue.

19 MR. HABEL: I hesitate to jump in but that
20 sounds like a Motion in Limine matter at trial, not
21 forcing someone to give up a privilege.

22 MR. HALE: Okay, well, then I want to make
23 the record that there will be a Motion in Limine filed if
24 we get to the point where if there is any attempt to
25 attack their credibility, we are going to argue that it's

1 completely inappropriate because you did not allow us to
2 explore this issue with this witness.

3 MR. MATIASIC: I don't think that we would
4 be precluded from attacking any witness' credibility
5 exclusively on the basis of what happened here today.
6 That being said, I think that Father [REDACTED] has done as
7 much as he possibly can here in describing the nature of
8 the communications. The record from this morning speaks
9 for itself.

10 MR. HALE: I do disagree that you can
11 attack a witness' credibility, but if you try to attack on
12 the grounds regarding this circumstance that you will not
13 allow us to discuss despite the fact that you have got
14 statements from a witness who says it's public knowledge,
15 I think that's inappropriate.

16 MR. MATIASIC: Quite frankly, Counsel, it
17 just all depends as well if someone else is willing to
18 waive the privilege at trial or somewhere else, that's a
19 different story. I am sorry, but Mrs. Munana is not here,
20 I do not know what she is going to say or what she is not
21 going to say, so I am not going to sit here and instruct
22 him to answer questions that may violate a privilege on
23 the basis of what she may or may not say.

24 MR. HALE: Okay, we are done.

25 We will relieve the reporter of her duties

1 under the code. Send the original to Mr. Matiasic, he can
2 maintain custody of the original. Once you get it,
3 forward the original over to the witness, and then if
4 Father [REDACTED] could review the transcript -- is 30 days
5 enough?

6 MR. MATIASIC: Sure.

7 MR. HALE: Review the transcript in 30
8 days, make any changes known to Mr. Matiasic. If he would
9 then inform all of us of any changes made as soon as
10 possible and if a signed original is not available at the
11 time of trial, an unsigned certified copy can be used for
12 all purposes.

13 MR. MATIASIC: So stipulated.

14 (3:59 p.m.)

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3

4 BE IT KNOWN that the foregoing deposition was
5 taken before me, LINDA BLACKMON, a Certified Reporter in
6 the State of Arizona; that the witness before testifying
7 was duly sworn by me to testify to the whole truth; that
8 the questions propounded to the witness and the answers of
9 the witness thereto were taken down by me in shorthand and
10 thereafter reduced by computer-aided transcription to
11 print under my direction; that the deposition was
12 submitted to the witness to read and sign; that the
13 foregoing 209 pages are a true and correct transcript of
14 all proceedings had upon taking of said deposition, all
15 done to the best of my skill and ability.

16 I FURTHER CERTIFY that I am in no way related to
17 any of the parties thereto nor am I in any way interested
18 in the outcome hereof.

19 DATED at Phoenix, Arizona, this 19th day of
20 December, 2005.

21

22

23

24

25

Linda Blackmon, RPR/RMR
Certified Reporter
Certificate No. 50320