

## TRANSCRIPTS FOR: MISC. ISSUES AND INFORMATION SECTION

5420

1 SO, YOU KNOW, I THINK IT GOES BACK TO WHAT  
2 I TOLD THE COURT ON THURSDAY, MR. MCALLISTER TOLD  
3 ME, WHICH IS THAT MS. ROSENFELD SIMPLY WAS OBSTINATE  
4 IN HER REFUSAL TO GO ALONG WITH ANY OF THE  
5 PROPOSALS.

6 HAVING SAID THAT, WE STILL OBJECT, AND WE  
7 BELIEVE THE COURT SHOULD HAVE NOTIFIED US SO THAT WE  
8 COULD BE PRESENT TO MAKE ANY OBJECTIONS, TO PERHAPS  
9 OFFER ALTERNATIVES TO WHAT ACTUALLY HAPPENED.

10 THE COURT: THANK YOU, MR. BRADLEY.

11 MR. MCALLISTER, WOULD YOU LIKE TO ADD  
12 ANYTHING?

13 MR. MCALLISTER: YOUR HONOR, I SIMPLY FEEL THAT  
14 THERE'S A PROBLEM -- I THINK I NEED TO SAY THIS FOR  
15 THE RECORD -- IN OPERATING UNDER AN ASSUMPTION THAT  
16 THE TAKING OF A VERDICT FOR ONE DEFENDANT WOULD HAVE  
17 ANY INFLUENCE WHATSOEVER OVER A PANEL DELIBERATING  
18 THE FATE OF OTHER DEFENDANTS.

19 I JUST DON'T THINK -- THAT'S A PREDICATE IN  
20 THIS WHOLE DISCUSSION, WHICH I DON'T THINK IS BORNE  
21 OUT. I BELIEVE THE COURT WAS OBLIGATED TO DO WHAT  
22 IT DID BECAUSE MS. ROSENFELD AND MS. ROSENFELD'S  
23 CLIENT, MR. HUHN, WOULD NOT MAKE ANY ACCOMMODATION  
24 AND WOULD NOT WAIVE THE TAKING OF THE VERDICT AS  
25 THEY ARE ENTITLED TO HAVE PURSUANT TO THE PENAL  
26 CODE.

27 MR. ROAKE: YOUR HONOR, I'M SORRY, MR. LEE WILL  
28 JOIN IN MR. BRADLEY'S ARGUMENT.

5421

1 THE COURT: THANK YOU, MR. ROAKE.

2 FOR WHATEVER IT'S WORTH AT THIS STAGE,  
3 MR. BRADLEY, YOU'RE CORRECT. WHEN I TOOK THE BENCH,  
4 I BASICALLY ASSUMED BOTH SIDES, AS LONG AS CERTAIN  
5 SPECIFIC NEEDS COULD BE SATISFIED, WERE WILLING TO  
6 WORK WITH THE COURT IN TAKING A VERDICT TO PROTECT  
7 THE PEOPLE'S INTEREST IN ENSURING THAT, IF THERE WAS  
8 A WEEK BETWEEN THE GOLD PANEL RETURNING A VERDICT  
9 AND, FOR EXAMPLE, THE LAVENDER, THAT THERE WOULDN'T  
10 BE A LOSS OF A JUROR, THAT THAT VERDICT WOULD STAND  
11 THE LOSS OF A JUROR.

12 AS IT TURNED OUT, THERE WAS NOT A MEETING  
13 OF THE MINDS, AND WITHOUT WHAT I CONSIDERED TO BE A  
14 WAIVER OF A RIGHT, IT APPEARED TO ME THAT THE COURT  
15 WOULD BE IN SOME JEOPARDY IN POSTPONING TAKING THE  
16 VERDICT.

17 AND I CITED PENAL CODE SECTION 11407 AND  
18 PENAL CODE SECTION 11409, THE LANGUAGE INDICATING  
19 THAT, ONCE THE COURT HAS BEEN NOTIFIED THAT THE JURY  
20 HAS AGREED ON A VERDICT, THEY MUST BE RETURNED TO  
21 THE COURTROOM, AND THE COURT MUST INQUIRE OF THE  
22 FOREPERSON AS TO WHAT THAT VERDICT IS.

23 MR. BRADLEY: I UNDERSTAND ALL THAT, YOUR HONOR.  
24 AND, YOU KNOW, IN GLANCING AT THIS TRANSCRIPT, IT  
25 DOES APPEAR TO ME THAT MR. MCALLISTER WAS RIGHT,  
26 MS. ROSENFELD BACKED EVERYBODY INTO A CORNER WITH  
27 RESPECT TO THAT ISSUE.

28 BUT, STILL, I THOUGHT WE HAD AN AGREEMENT

1 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
2 COURT OUTSIDE THE PRESENCE OF THE ANDERSON/LEE JURY  
3 PANEL.)

4 THE COURT: WE'RE IN RECESS, COUNSEL. THANK  
5 YOU, MR. LEE, MR. ANDERSON. WE'LL SEE YOU TOMORROW  
6 MORNING.

7 AND, MS. ROSENFELD, JUST FOR A MOMENT, I  
8 WOULD LIKE TO TALK TO YOU AND MR. MCALLISTER ON THE  
9 RECORD REGARDING ANOTHER NOTE, AND MAYBE TALK  
10 GENERALLY ABOUT THE ISSUE THAT YOU RAISED YESTERDAY  
11 OR THE DAY BEFORE ABOUT SEQUENCING, IF THERE ARE  
12 VERDICTS.

13 MR. BRADLEY: I WOULD LIKE TO SAY SOMETHING  
14 ABOUT THAT AS WELL, YOUR HONOR.

15 THE COURT: ALL RIGHT. AND DO YOU WANT  
16 MR. ANDERSON HERE?

17 MR. BRADLEY: YES, PLEASE.

18 THE COURT: ALL RIGHT. FIRST, CHRISTINE, YOU  
19 CAN GIVE THIS TO MR. MCALLISTER AND MS. ROSENFELD  
20 AND LET THEM TAKE A LOOK AT IT OVER ONE ANOTHER'S  
21 SHOULDER.

22 THERE'S BEEN A SEVENTH NOTE, JUST  
23 REGARDING, I THINK, A VERY CAUTIOUS FOREPERSON  
24 TRYING TO INFORM THE JURORS, IF THERE IS CONFLICTS,  
25 WHAT DAYS THEY WILL BE OFF AND THE FLEXIBILITY THEY  
26 MIGHT HAVE.

27 MR. MCALLISTER, ANY OBJECTION TO THE COURT  
28 RESPONDING AS PROPOSED?

START linked real

1 MR. MCALLISTER: NO, THAT'S FINE, YOUR HONOR.

2 THE COURT: MS. ROSENFELD?

3 MS. ROSENFELD: THAT'S FINE, YOUR HONOR.

4 IN TERMS OF THE GOLD JURY, I INQUIRED OF A  
5 JUDGE WHO HAS HAD SOME EXPERIENCE WITH THAT ISSUE OF  
6 SEQUENCING THE VERDICTS, AND, MR. MCALLISTER, THIS  
7 IS A MESSAGE THAT I RECEIVED, AND MS. ROSENFELD HAS  
8 ALREADY HAD A CHANCE TO LOOK AT IT.

9 FOR LACK OF ANY BETTER PROPOSAL, MY  
10 PROPOSAL RIGHT NOW WOULD BE TO ESSENTIALLY FOLLOW  
11 THAT GAME PLAN.

12 MR. MCALLISTER: WELL, YOUR HONOR, I HAVE THE  
13 SAME OBJECTION THAT I HAD THE OTHER DAY. I JUST  
14 DON'T THINK IT PRESERVES THE VERDICT IF SOMETHING  
15 WERE TO HAPPEN TO ONE OF THE 12 JURORS WHO REACHED  
16 THE VERDICT. UNLESS COUNSEL IS WILLING TO STIPULATE  
17 TO A WAIVER OF IN-COURT INQUIRY AS TO WHETHER OR NOT  
18 THIS WAS EACH INDIVIDUAL'S VERDICT, THEN I DON'T  
19 HAVE A PROBLEM WITH IT.

20 THE COURT: WELL, WE TALKED ABOUT TAKING IT A  
21 STEP BEYOND THAT, IN TERMS OF, WITHOUT ACTUALLY  
22 PUBLISHING A VERDICT, INQUIRING OF EACH INDIVIDUAL  
23 JUROR WHETHER THAT VERDICT THAT HAS BEEN SEALED, IN  
24 FACT, REPRESENTS HIS OR HER OWN VOTE. WE COULD TAKE  
25 IT TO THAT EXTENT.

26 I'LL DO A LITTLE RESEARCH AS TO THE  
27 FORMALITIES, WHAT, IN FACT, IS NECESSARY TO ENSURE  
28 THAT A VERDICT SURVIVES, IF THERE HAPPENS TO BE

option could  
have used

1 SOMEONE DELAYED OR, BY EMERGENCY, THEY WERE ILL AND  
2 COULDN'T ATTEND.

3 MR. BRADLEY, YOU WANTED TO BE HEARD  
4 REGARDING AN ISSUE THAT I THINK PERTAINS TO THE  
5 DISCUSSION WE'RE HAVING?

6 MR. BRADLEY: RIGHT. AND THE COURT IS REFERRING  
7 TO WHAT HAPPENS IF TWO JURIES ARRIVE AT THE SAME  
8 TIME INVOLVING THIS MATTER AND REACH VERDICTS AT  
9 DIFFERENT TIMES; IS THAT CORRECT? WHAT HAPPENS --

10 THE COURT: YES.

11 MR. BRADLEY: WE WOULD MAKE A REQUEST, READING  
12 BETWEEN THE LINES, IT APPEARING THERE IS A REQUEST  
13 TO SEAL THE FIRST JURY'S VERDICT UNTIL THE SECOND  
14 JURY REACHES A VERDICT, AND WE ASK FOR THE SAME  
15 PROCEDURE IN OUR CASE.

16 MS. ROSENFELD: YOUR HONOR, ACTUALLY, IT REALLY  
17 ISN'T A REQUEST BY ME, BECAUSE --

18 THE COURT: I KNOW.

19 MS. ROSENFELD: I MEAN, I CERTAINLY WOULD LIKE  
20 TO KNOW THE VERDICT WHEN IT'S REACHED, BUT ON THE  
21 OTHER HAND, IF THE LAVENDER JURY COMES BACK FIRST,  
22 THEN I WOULD BE IN THE POSITION OF REQUESTING SHOULD  
23 THAT VERDICT BE SEALED.

24 I THINK I'M IN A DIFFERENT KIND OF  
25 POSITION, WHERE I'M NOT SURE IT MATTERS TO ME THAT  
26 THE LAVENDER VERDICT BE SEALED BEFORE THE GOLD JURY  
27 VERDICT IS DELIVERED, BUT I CERTAINLY UNDERSTAND IT  
28 THE OTHER WAY. SO I BROUGHT UP THE ISSUE BECAUSE I

1 THINK IT IS AN ISSUE, AND I'LL SUBMIT IT TO THE  
2 COURT. WE WILL NOT BE WAIVING ANY POLLING OF ANY  
3 SORT.

4 THE COURT: MR. MCALLISTER, MS. ROSENFELD, LET  
5 ME THINK ABOUT THIS, AND MAYBE DELVE INTO IT A  
6 LITTLE MORE DETAIL AND POSSIBLY COME UP WITH A  
7 PROPOSAL THAT SATISFIES A LEGITIMATE CONCERN  
8 EXPRESSED BY THE PEOPLE.

9 IF THERE IS A VERDICT AND WE'RE GOING TO  
10 SEAL IT, HOW DO WE ENSURE THAT THAT BECOMES AN  
11 OFFICIAL VERDICT AT SOME POINT IN TIME, SHOULD THERE  
12 BE A LOSS OF A JUROR?

13 MR. MCALLISTER: IF THERE ISN'T A WAIVER OF THAT  
14 SORT, THEN, YOUR HONOR, I REALLY ASK THAT WE TAKE  
15 THE VERDICT -- WHETHER THAT MEANS -- THAT WE TAKE  
16 THE VERDICT IN A CLOSED COURTROOM, AND YOU PUT A  
17 PROTECTIVE ORDER ON THE RESULT, AND THAT THE  
18 VERDICTS ARE SEALED IN COURT.

19 THE COURT: THERE SEEMS TO BE CONCURRENCE BY THE  
20 PEOPLE THAT THE EFFORT TO ENSURE THAT THERE IS NOT  
21 DISSEMINATION OF A VERDICT BY ONE PANEL BEFORE THE  
22 VERDICT OF THE OTHER PANEL IS A GOOD OBJECTIVE, A  
23 REASONABLE GOAL. WE WILL TRY TO ACHIEVE THAT  
24 WITHOUT JEOPARDIZING THE RIGHTS OF EITHER PARTY.

25 OKAY. WE'RE IN RECESS, THEN, UNTIL  
26 NINE O'CLOCK.

27 MS. ROSENFELD, THANK YOU FOR BEING HERE.

28 MS. VANDENBOSCH: YOUR HONOR, THE COURTROOM WILL

UNTIL BOTH MR. ROAKE AND MS. VANDENBOSCH COULD BE PRESENT AND WE HAD THE TRANSCRIPT OF WHAT EXACTLY TRANSPIRED.

I WOULD LIKE TO FILE WITH THE COURT TWO DOCUMENTS. ONE IS THE ARTICLE ABOUT THE VERDICT THAT APPEARED ONLINE AT SIGNONSANDIEGO.COM ON THURSDAY AFTERNOON. THE DATE LINE SAYS JUNE 23RD, 4 P.M.

THE SECOND DOCUMENT IS THE COPY OF THE ARTICLE THAT WAS IN THE PAPER ON FRIDAY. I WOULD LIKE TO FILE BOTH OF THESE WITH THE COURT, IF I COULD.

THE COURT: YES.

MR. BRADLEY: DESIGNATED HOWEVER THE COURT DESIRES.

THE CLERK: DO YOU WANT THEM MARKED AS COURT'S EXHIBITS?

THE COURT: YES, WE WILL MAKE THOSE COURT EXHIBITS AS REQUESTED BY MR. ANDERSON.

(COURT'S EXHIBIT 52, VOL. 33, COPY OF UNION-TRIBUNE ARTICLE REGARDING HUHN VERDICT, DATED JUNE 24, 2005, MARKED FOR IDENTIFICATION.)

(COURT'S EXHIBIT 53, VOL. 33, COPY OF SIGN ON SAN DIEGO ARTICLE REGARDING HUHN VERDICT, DATED JUNE 23, 2005, MARKED FOR IDENTIFICATION.)

MR. BRADLEY: I'M NOT SURE OF THE POSITION OTHER LAWYERS MAY HAVE ON THIS, BUT I DID TAKE A FEW MOMENTS TO READ THROUGH THE TRANSCRIPT FROM

Verdict

\* 2 articles  
media

JUNE 23RD, WHERE THERE WAS A FAIRLY LONG DISCUSSION FROM PAGES -- FROM PAGE 6198 THROUGH 6207.

THERE IS A DISCUSSION AMONG THE COURT, MR. MCALLISTER, AND MS. ROSENFELD AS TO HOW THE VERDICT WAS GOING TO BE TAKEN AND WHAT PRECAUTIONS WERE GOING TO BE TAKEN TO ENSURE THAT OUR DELIBERATING JURY WOULD NOT BE TAINTED BY THE NEWS OF THE HUHN VERDICT, AND I WANT TO MAKE ONE POINT CLEAR.

WE OBJECT TO WHAT HAPPENED, THE FACT THAT WE WERE NOT NOTIFIED THAT A VERDICT HAD BEEN RENDERED, AND THUS WERE NOT IN A POSITION TO STATE OUR OBJECTIONS FOR THE RECORD TO THAT VERDICT BEING PUBLISHED IN THE FASHION THAT IT WAS, AND, SECONDLY, TO WHAT OCCURRED, WHICH WAS THAT THERE WERE NO PRECAUTIONS TAKEN TO ISOLATE OUR DELIBERATING PANEL FROM THE CHANCE OF BEING TAINTED BY PUBLICITY SURROUNDING THE HUHN VERDICT.

YOU KNOW, READING THROUGH THE TRANSCRIPT, I THINK OTHER COUNSEL HAVE HAD A CHANCE TO READ IT NOW, AND I'M SOMEWHAT AT A LOSS AS TO HOW IT ENDED UP IN THE WAY IT DID, BECAUSE IT SEEMS TO ME TO BE PRETTY CLEAR THAT THE COURT TOOK THE BENCH WITH THE FIRM RESOLVE TO NOT ALLOW THE VERDICT IN THE HUHN CASE TO BECOME WITHIN THE SPHERE OF KNOWLEDGE OF OUR PANEL, AND IT APPEARS TO ME THAT MR. MCALLISTER WAS AMENABLE TO JUST ABOUT ANY PROCEDURE THAT THE COURT COULD COME UP WITH TO PREVENT THIS FROM HAPPENING.

1 SO, YOU KNOW, I THINK IT GOES BACK TO WHAT  
2 I TOLD THE COURT ON THURSDAY, MR. MCALLISTER TOLD  
3 ME, WHICH IS THAT MS. ROSENFELD SIMPLY WAS OBSTINATE  
4 IN HER REFUSAL TO GO ALONG WITH ANY OF THE  
5 PROPOSALS.

6 HAVING SAID THAT, WE STILL OBJECT, AND WE  
7 BELIEVE THE COURT SHOULD HAVE NOTIFIED US SO THAT WE  
8 COULD BE PRESENT TO MAKE ANY OBJECTIONS, TO PERHAPS  
9 OFFER ALTERNATIVES TO WHAT ACTUALLY HAPPENED.

10 THE COURT: THANK YOU, MR. BRADLEY.

11 MR. MCALLISTER, WOULD YOU LIKE TO ADD  
12 ANYTHING?

13 MR. MCALLISTER: YOUR HONOR, I SIMPLY FEEL THAT  
14 THERE'S A PROBLEM -- I THINK I NEED TO SAY THIS FOR  
15 THE RECORD -- IN OPERATING UNDER AN ASSUMPTION THAT  
16 THE TAKING OF A VERDICT FOR ONE DEFENDANT WOULD HAVE  
17 ANY INFLUENCE WHATSOEVER OVER A PANEL DELIBERATING  
18 THE FATE OF OTHER DEFENDANTS.

19 I JUST DON'T THINK -- THAT'S A PREDICATE IN  
20 THIS WHOLE DISCUSSION, WHICH I DON'T THINK IS BORNE  
21 OUT. I BELIEVE THE COURT WAS OBLIGATED TO DO WHAT  
22 IT DID BECAUSE MS. ROSENFELD AND MS. ROSENFELD'S  
23 CLIENT, MR. HUNN, WOULD NOT MAKE ANY ACCOMMODATION  
24 AND WOULD NOT WAIVE THE TAKING OF THE VERDICT AS  
25 THEY ARE ENTITLED TO HAVE PURSUANT TO THE PENAL  
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27 MR. ROAKE: YOUR HONOR, I'M SORRY, MR. LEE WILL  
28 JOIN IN MR. BRADLEY'S ARGUMENT.

1 THE COURT: THANK YOU, MR. ROAKE.

2 FOR WHATEVER IT'S WORTH AT THIS STAGE,  
3 MR. BRADLEY, YOU'RE CORRECT. WHEN I TOOK THE BENCH,  
4 I BASICALLY ASSUMED BOTH SIDES, AS LONG AS CERTAIN  
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9 AND, FOR EXAMPLE, THE LAVENDER, THAT THERE WOULDN'T  
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20 HAS AGREED ON A VERDICT, THEY MUST BE RETURNED TO  
21 THE COURTROOM, AND THE COURT MUST INQUIRE OF THE  
22 FOREPERSON AS TO WHAT THAT VERDICT IS.

23 MR. BRADLEY: I UNDERSTAND ALL THAT, YOUR HONOR.  
24 AND, YOU KNOW, IN GLANCING AT THIS TRANSCRIPT, IT  
25 DOES APPEAR TO ME THAT MR. MCALLISTER WAS RIGHT,  
26 MS. ROSENFELD BACKED EVERYBODY INTO A CORNER WITH  
27 RESPECT TO THAT ISSUE.

28 BUT, STILL, I THOUGHT WE HAD AN AGREEMENT

1 THAT THERE WAS GOING TO BE SOMETHING DONE TO PREVENT  
2 THE FIRST VERDICT FROM TAINTING A SECOND PANEL THAT  
3 WAS STILL DELIBERATING. I THOUGHT WE HAD AN  
4 AGREEMENT THAT THAT WAS GOING TO BE DONE, AND I  
5 CAN'T SEE WHY WE WEREN'T NOTIFIED, WHY WE WERE NOT  
6 GIVEN AN OPPORTUNITY TO BE HEARD ON THE MATTER  
7 BEFORE THE VERDICT WAS TAKEN.

8 I THINK YOU CAN SEE -- IF THE COURT HAS NOT  
9 ALREADY REVIEWED THESE THINGS, LET ME SUMMARIZE THE  
10 ARTICLES THAT WE'VE JUST FILED WITH THE COURT.

11 BOTH THE ONLINE ARTICLE AND THE ONE THAT  
12 WAS PUBLISHED IN THE PAPER ON FRIDAY REFER TO OUR  
13 CLIENT IN PARTICULARLY DEMEANING TERMS, AGAIN USING  
14 THE "STRESSED ERIC" NOMENCLATURE.

15 AND THE ARTICLE THAT WAS IN THE PAPER, THE  
16 PUBLISHED EDITION FROM FRIDAY, IS PARTICULARLY BAD  
17 FROM OUR PERSPECTIVE BECAUSE IT REFERS TO  
18 MS. ROSENFELD'S DEFENSE, WHICH IS MR. HUHN ONLY  
19 PARTICIPATED BECAUSE HE WAS SCARED TO DEATH OF OUR  
20 CLIENT, WHO WAS CHARACTERIZED, IN QUOTATIONS, AS "A  
21 MANIAC WITH A GUN."

22 DEALING SPECIFICALLY WITH WHAT  
23 MR. MCALLISTER SAID, I DON'T THINK IT TAKES A LOT OF  
24 IMAGINATION TO UNDERSTAND HOW OUR JURY COULD BE  
25 INFLUENCED BY THE RENDERING OF A VERDICT AS TO  
26 MR. HUHN. THESE JURIES HEARD -- 90 PERCENT OF WHAT  
27 BOTH JURIES HEARD WAS THE SAME, AND I THINK THE  
28 DELIBERATING PANEL, OUR JURY, IF THEY HAVE KNOWLEDGE

*V. Huhn*

*Article  
in Paper  
Newspaper*

*7/8*

1 THAT MR. HUHN WAS CONVICTED BY ANOTHER 12 MEMBERS OF  
2 THE COMMUNITY, I THINK THAT LESSENS THE PEOPLE'S  
3 BURDEN; THAT INTERFERES WITH THE PRESUMPTION OF  
4 INNOCENCE; IT INTERFERES WITH THE BURDEN OF PROOF TO  
5 HAVE THEM KNOW THAT ANOTHER 12 PEOPLE, HEARING  
6 BASICALLY THE SAME CASE, HAVE CONVICTED ANOTHER  
7 INDIVIDUAL.

8 THE COURT: THANK YOU. COUNSEL, THANK YOU. WE  
9 WILL BE IN TOUCH IF THERE ARE ADDITIONAL QUESTIONS.

10 MR. ROAKE: THANK YOU, YOUR HONOR. AND I WANT  
11 TO THANK THE COURT FOR ITS COURTESY IN FILING THAT  
12 DOCUMENT.

13 THE COURT: NO THANKS NEEDED, MR. ROAKE. THANK  
14 YOU FOR PUTTING IT IN WRITING.

15 (THE PROCEEDINGS WERE ADJOURNED.)  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 COMMUNICATION FROM MS. ALISA BROWN, WHO, I BELIEVE, IS IN  
2 ATLANTA, GEORGIA, TO TIM TOMASELLO, WHO, I BELIEVE, IS IN  
3 CALIFORNIA, ASKING FOR HIS ASSISTANCE IN RESPONDING TO OUR  
4 REQUEST.

5 WE WERE NOT PRIVY TO THAT COMMUNICATION.  
6 THIS IS AN INTERNAL COMMUNICATION BETWEEN -- APPARENTLY  
7 BETWEEN ALISA BROWN AND TIM TOMASELLO, WHO IS AN ENGINEER.  
8 AND THEN SOME TIME AFTER THAT POINT, I BELIEVE IN EARLY  
9 OCTOBER, MR. TOMASELLO E-MAILED DIRECTLY SOME INFORMATION  
10 RELATED TO THOSE CELL SITES.

11 THE COURT: ALL RIGHT. IT SEEMS TO ME, IN TERMS  
12 OF ASSESSING THE EVENTS IN THAT FASHION, THAT SEQUENCE,  
13 THAT -- AND WHAT HAS BEEN PRESENTED IN TERMS OF THE  
14 DOCUMENTARY EVIDENCE OF THE TRANSACTION, THAT I REALLY  
15 CAN'T CONCLUDE THAT -- THAT THE DISTRICT ATTORNEY SET OUT  
16 TO HOODWINK THE COURT, MISLEAD THE COURT OR DECEIVE THE  
17 COURT. AND I DON'T BELIEVE UNDER THESE PARTICULAR  
18 CIRCUMSTANCES THAT I CAN CONCLUDE THAT THIS WAS AN ABUSE  
19 OF PROCESS.

20 FIRST, IT DOESN'T APPEAR THERE WAS ANY  
21 EFFORT TO CONCEAL WHAT WAS HAPPENING FROM -- FROM THE  
22 COURT. ALTHOUGH THE LANGUAGE ON THE SDT PORTION OF THE  
23 PACKAGE THAT WAS SUBMITTED TO THE COURT WAS NOT PROMINENT,  
24 THAT REFERENCE FACTS TO CONNIE JANSEN. IT WAS A FACT ON  
25 THE FACE OF THE SDT. AND IT IS CLEAR FROM THAT LAST  
26 SENTENCE ON THE DECLARATION IN SUPPORT OF THE 2703(D)  
27 ORDER AND THE SDT THAT THIS WAS A REQUEST TO COMPLY WITH  
28 THE RECORD HOLDER'S NEED FOR AN ORDER.

1 THUS, IT SEEMS TO ME IF THE RECORD HOLDER  
2 REQUESTED, THE DISTRICT ATTORNEY SAW IT AND THE COURT  
3 SIGNED, BECAUSE I DID SIGN A DOCUMENT THAT SAYS "2703(D)  
4 ORDER," THAT AUTHORIZES THE RELEASE OF THIS INFORMATION.  
5 AND I'M NOT ADDRESSING NOW THE DEFINITION OF CONTENT PHONE  
6 CALLS, SUBSCRIBER RECORDS, AND ELECTRONIC COMMUNICATION,  
7 BUT THE INFORMATION THAT IS DESCRIBED ON THE FACE OF THE  
8 SDT, THAT THAT 2703(D) ORDER, I'M NOT GOING TO SAY IT  
9 SUPERSEDES OR IT'S SUBORDINATE TO, BUT IT CERTAINLY IS A  
10 COMPANION OF AN SDT AND AUTHORIZES THE DIRECT RELEASE OF  
11 THIS INFORMATION TO THE INVESTIGATING AGENCY.

12 IN LOOKING THROUGH THIS, AND I NOW AGREE  
13 WITH MR. BRADLEY, THIS IS A COMPLEX SET OF FEDERAL  
14 STATUTES. I PREVIOUSLY INDICATED ON THE RECORD THAT I  
15 DISAGREE, I DIDN'T THINK IT WAS THAT COMPLEX. I AGREE  
16 WITH HIM NOW, BUT THERE IS 47 USCS 100, WHICH IS THE  
17 FEDERAL STATUTE INDICATING THAT THESE TELECOMMUNICATIONS  
18 CARRIERS HAVE AN OBLIGATION TO ASSIST LAW ENFORCEMENT  
19 UNDER CERTAIN RESTRICTIONS. AND THIS STATUTE OUTLINES THE  
20 METHOD BY WHICH LAW ENFORCEMENT IS TO OBTAIN THAT  
21 ASSISTANCE. AND MY CONCLUSION IS THAT THIS WAS A PROPER  
22 273 -- 2703(D) ORDER.

23 AS TO THE ARGUMENT THAT THERE'S BEEN SOME  
24 TYPE OF MISCONDUCT BY -- INCLUDING ON THE FACE OF THE SDT,  
25 FACTS DIRECTLY TO CONNIE JANSEN, I CERTAINLY AM NOT GOING  
26 TO SUGGEST THAT THIS BE MADE ANY TYPE OF -- OF CUSTOM OR  
27 HABIT IN THE -- IN OBTAINING INFORMATION. AND I THINK THE  
28 DISTRICT ATTORNEY IS CERTAINLY AWARE, AS DEFENSE ATTORNEYS

girlfriend, at least till 3/03. .... All crimes show intent to steal. No prejudice from joint trial

Defendants Misc. MIL - 4/1/05 [939] – bifurcate priors, exclude priors for impeachment, exclusion of improper opinion testimony, request daily transcripts, stipulation as to effect of MIL and reiteration rule exists, request that objections made on constitutional grounds, request hearing on excluding hearsay on statements of defendants made after incident

Defendant's Opposition to P Motion for Jury View of Crime Scene – 4/1/05 [946] House now in bad repair and jury will think defendants responsible. Also, object to test firing there.

Defendant's objections to Jury Q-aire, 4/1/05 [948] – objection to 1. Language that seeking dp against defendant only; makes defendant look more guilty. 2. Language that aggravating and mitigating factors means murder more or less serious; this is misleading and should use CALJIC. 3. On p. 16, words neutral and uncertain for No. 82; allows jurors not to answer. 4. Ask jurors' race and ethnicity. 5. Add question nos. 105, 106, 122 from proposed q-aire.

Defense MIL to Impeach Witness 4/1/05 [953] Perretti got reward money and family did not report it although getting public assistance – should use for impeachment to show dishonesty. [plus attachments]

Defense Opp. To Pros Motion to Admit 911 call 4/1/05 [1062] – not relevant.

Defense Exhibit supporting Mtn. to Strike Prior 4/1/05 [1063] –two pages

Defense Response to Pros Mtn to Exclude Third Party Culpability Evidence, 4/20/05 [1068] – defense is he did not participate in the robbery or shooting. Huhn and Handshoe acted on their own or with help from another.

Defense Mtn. for Joinder, 4/1/05 [1073] Join into Huhn's Pitchess Mtn.

Defendant's Joinder Request in Co-defendant Lee's Mtn. To Sever, 4/1/05 –Julio Navarette incarcerated with Lee. He disclosed Lee's statements in jail. Lee identified defendant as shooter, and killing was for Hells Angeles hit, not for burglary or robbery. [1080]. If Lee did not testify, his statements implicate defendant and violate Aranda Bruton. Separate trial will not help.

Attachment – interview of Navarette 1/26/05 [1082] – he said Lee said they were not supposed to kill anyone, just a robbery. He was there at wrong time. Picked him because he had more money. He said it was between him and Brandon. He was mastermind of it all. Randy offered Jason money to say Randy was innocent. [1095] Defendant is known as Stressed Eric and was the shooter. Brandon said defendant was shooter. [1107] Defendant is shooter and HA [Hells Angel]

\* Can't take for granted. Still  
from bad house snitcher – likely based on what Perretti. See 11/05 to show to shut