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14 C O N T E N T S

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1 P-R-O-C-E-E-D-I-N-G-S

2 (9:30 P.M.; OPEN COURT.)

3 THE DEPUTY CLERK: This is Civil Case 03-749 and
4 Civil Case 08-505 and Civil Case 06-731 and 08-504. Patrick
5 Scott Baker, et al, Jackie Pflug, Certain Underwriters at
6 Lloyds London, et al versus Great Socialist Peoples of Libyan
7 Arab Jamahiriya, et al. Richard Heideman, Ed MacAllister
8 Tracy Kalik and Noel Nudelman for the Plaintiff. This is an
9 evidentiary hearing.

10 THE COURT: Good morning.

11 MR. HEIDEMAN: Good morning, Your Honor.

12 THE COURT: Please call your next witness.

13 MR. HEIDEMAN: Thank you very much. The Plaintiffs
14 call Michelle Holbrook.

15 THE DEPUTY CLERK: Raise your right hand, ma'am.

16 (WITNESS SWORN BY THE DEPUTY CLERK.)

17 THE DEPUTY CLERK: Thank you. Please be seated.

18 MICHELLE HOLBROOK,
19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. HEIDEMAN:

22 Q Good morning.

23 A Good morning.

24 Q I know you have a very soft voice and you're a very soft
25 person, so I'm going to ask you to speak, please, loudly,

1 clearly and slowly and right into the microphone that's in
2 front of you. It's a very sensitive microphone. It will pick
3 up everything that you say, and that's important so that the
4 judge can hear you and so the court reporter cannot only hear
5 what you say seated here in the witness chair but also so that
6 her equipment through the microphone can hear what you say,
7 okay.

8 So, if I ask you a question, you need to answer
9 "yes" or "no" or give whatever explanation you'd like. Do you
10 understand?

11 A Yes.

12 Q Thank you. I'm going to ask you again to speak a little
13 louder, and if I ask you that through your testimony, it's not
14 to be mean, it's just to make sure that the system can hear
15 you and the Court can hear you. Do you understand?

16 A Yes.

17 Q Thank you very much. Thank you for being here today. I
18 know it's hard for you; is that correct?

19 A Yes.

20 Q Please state to the Court your full name.

21 A Michelle Yvonne Holbrook.

22 Q And is Yvonne spelled Y-v-o-n-n-e?

23 A Yes.

24 Q And does Holbrook have an "e" at the end of it?

25 A No, H-o-l-b-r-o-o-k.

1 Q Thank you. And Michelle, where do you live?

2 A In Othello, Washington.

3 Q Can you spell your city for the court reporter, please.

4 A It's O-t-h-e-l-l-o.

5 Q And is that the state of Washington?

6 A Yes.

7 Q So, did you travel here especially to appear at this
8 trial on behalf of your sister Scarlett Rogenkamp and as a
9 Plaintiff in your own name?

10 A I did.

11 Q Thank you. How long have you lived in Othello,
12 Washington?

13 A Not very long, about a year-and-a-half.

14 Q And prior to that, where did you live?

15 A I lived in Wenatchee, Washington.

16 Q Would you spell that for the court reporter.

17 A W-e-n-a-t-c-h-e-e.

18 Q Would you give to the court reporter your exact address
19 in Othello, Washington.

20 A 796 South McKinney, M-c-K-i-n-n-e-y, Road.

21 Q And would you give to the court reporter, please, your
22 exact address where you lived in the city prior to moving to
23 Othello, Washington, if you remember it. If you're not sure,
24 it's all right.

25 A Oh, my gosh, I can't remember.

1 Q That's fine. Thank you. Let me ask you, Michelle, where
2 were you born?

3 A Fort Monroe, Virginia -- Hampton, Virginia. Fort Monroe
4 is the Army base in Hampton.

5 Q Thank you very much. Let me hand you what has been
6 marked for identification as Plaintiff's Exhibit 20 and ask if
7 you can identify that document to the Court.

8 A Yes, this is my birth certificate.

9 Q And does it indicate the name "Michelle Yvonne Peterson"?

10 A Yes.

11 Q And was that your maiden name before you became Holbrook?

12 A Yes.

13 Q And according to the birth certificate, it indicates that
14 your mother was Hetty Everdina Messink. I've mispronounced
15 that many times, and I apologize. How is it pronounced?

16 A Messink.

17 Q Thank you. And is that correct?

18 A Yes.

19 Q And it indicates your father is Vernon Willfred Peterson;
20 is that correct?

21 A Yes.

22 MR. HEIDEMAN: At this time, Your Honor, we will
23 move Exhibit 20 into evidence.

24 THE COURT: Be admitted. Thank you.

25 (PLAINTIFF'S EXHIBIT 20 ADMITTED.)

1 MR. HEIDEMAN: Thank you very much.

2 Q (BY MR. HEIDEMAN) And Michelle, would you tell the Court,
3 having been born in the United States as a U.S. citizen, have
4 you continually, throughout your life, remained a U.S. citizen?

5 A Yes, I have.

6 Q Let me hand you what has been marked as Plaintiff's
7 Exhibit 21 and ask if you can identify to the Court that
8 document.

9 A That is my United States passport.

10 Q And it indicates the name there of "Michelle Yvonne
11 Holbrook," and is that you?

12 A Yes, it is.

13 Q Thank you.

14 MR. HEIDEMAN: Plaintiffs will move Exhibit 21 into
15 evidence, Your Honor.

16 THE COURT: It will be admitted.

17 (PLAINTIFF'S EXHIBIT 21 ADMITTED.)

18 MR. HEIDEMAN: Thank you very much.

19 Q (BY MR. HEIDEMAN) Michelle, please tell the Court again,
20 even though we went over your birth certificate, where were you
21 born?

22 A Hampton, Virginia.

23 Q And how long did you live in Hampton, Virginia?

24 A I believe till I was 2 or 3.

25 Q Now, when you were born, were you the youngest of five

1 children born to your mother Hetty and your father Vernon?

2 A Yes, I was.

3 Q And tell the Court who are your older brothers and
4 sisters in order of who was the oldest and then coming down to
5 you as the youngest.

6 A Scarlett, Patricia, Kathy, Paul and then me.

7 Q And Scarlett is Scarlett Rogenkamp who was murdered as
8 you heard yesterday and as you well know; is that correct?

9 A Yes.

10 Q How -- can you keep your voice up and answer?

11 A Yes.

12 Q Thank you. I know that's hard for you. Tell the Court
13 how old was Scarlett when you were born.

14 A She was born March 26. I was born September 26. We were
15 exactly 18-and-a-half years to the day apart, so she was
16 18-and-a-half. No. Yeah.

17 Q She was 18-and-a-half when you were born?

18 A Yes.

19 Q And you're 18-and-a-half years apart to the day?

20 A Yes.

21 Q Thank you.

22 A Yes.

23 Q So she was really your big sister?

24 A Yes.

25 Q Did you have a warm relationship?

1 A From what I recall. I mean, she was my sister and I
2 loved her, but of course, we were definitely on two different
3 planes. Well, yeah.

4 Q So, did you have occasion, throughout her life, for the
5 two of you to spend time together, to be together, to talk
6 with one another by telephone?

7 A Oh, yeah. I mean, I would go visit her at her job when
8 she worked at -- I think it was in Holland when she worked at
9 the college there as a secretary and she would let me come and
10 type on her typewriter, and I remember her coming out when I
11 lived in Thailand to visit, as did my sister Pat, and just
12 walking on the beach and riding horses and just being in the
13 sun and having fun.

14 Q Do you have good memories of your sister Scarlett?

15 A Oh, yeah. She and I were alot alike.

16 Q And do you miss her?

17 A Very much.

18 Q Do you feel a sense of loss as a result of her having
19 been murdered?

20 A Oh, yes. I never got to know her.

21 Q How do you feel about not having had more time with her?

22 A I almost feel like my whole life might have been
23 different.

24 Q Can you repeat that so the Court can hear.

25 A I feel like maybe my whole life might have been

1 different.

2 Q Scarlett was 38 when she was murdered; is that correct?

3 A Yes.

4 Q And that would have meant you were about 20?

5 A I believe I had just turned 21.

6 Q Okay. And if you were to pick one word for the Court
7 about how you felt about Scarlett and your relationship and
8 how you feel about having lost -- lost her through the bullet
9 of a hijacker, what would be the one word?

10 A The one word about how I felt after it happened you mean?

11 Q Yes.

12 A I don't know that I can do one word. I guess numb at
13 first. It's just you don't believe it. I watched CNN for
14 hours with her passport picture being flashed on the screen.
15 I didn't go to work for two days. At the time I worked at the
16 Agency for International Development, and I don't know, I just
17 couldn't believe it. That's all I did was watch TV.

18 Q The one word I thought I heard you say was "numb"; is
19 that correct?

20 A Yes, initially.

21 Q Let's step back for just a quick minute. You were born
22 in Hampton, Virginia. Where did you grow up and where did you
23 go to school?

24 A Oh, my goodness. I moved to Holland when I was about 2
25 or 3, I'm not sure, and then when I was 5 we moved to Bangkok,

1 Thailand, and I lived there till I was 11. And then sixth
2 grade when I was 12, I went to a boarding school in Tacoma,
3 Washington for a year. Then in seventh and eighth grade I was
4 in Dhaka, Bangladesh.

5 Q In where, I'm sorry?

6 A Dhaka, Bangladesh.

7 Q Bangladesh?

8 A Bangladesh. Then for high school I was in Oceanside,
9 California, and then I went to college in Wilksburg,
10 Pennsylvania for two years but unfortunately was not
11 concentrating on my studies and did not get a degree and my
12 dad said he was not going to pay for anymore school, so I
13 moved to Washington, D.C. and moved in with my dad and he
14 helped me get a job at the Agency for International
15 Development.

16 And then a few years -- no, a year later is when my
17 sister was -- I like to use the word "executed."

18 Q It's an accurate word. Are your parents still alive?

19 A No.

20 Q You said you moved in with your dad here in Washington,
21 D.C.?

22 A Yes. For a short time I lived actually with my dad and
23 Valerie.

24 Q And that's Valerie Peterson who will testify next; is
25 that correct?

1 A Yes.

2 Q Thank you. Now, what was the work of your father? The
3 Court's already heard he was in the U.S. military, but what
4 was the work, to the extent that you knew, of your father and
5 did that cause the family to move around a lot?

6 A I exactly don't know what he did after he got out of the
7 Army. I think my sister and I chatted and I think she told me
8 that he worked for some moving company and just couldn't stand
9 that. And then when we moved to Holland, I don't know what he
10 was doing.

11 Again, I think I was 3. But when I worked with him
12 in the same office building when he got me that job, he worked
13 for the Department of Population, I think it was called, and
14 he distributed birth control to all the underdeveloped
15 countries.

16 Q So, did he also work for the U.S. Agency for
17 International Development?

18 A Yeah. We worked in the same building on different
19 floors.

20 Q And what do you recall about the time period when you
21 lived with your dad and you were here in Washington and you
22 learned about the hijacking? You started to tell the Court
23 about watching CNN and looking at her passport, Scarlett's
24 passport.

25 A I actually had moved out on my own at the time of the

1 hijacking. I had my own apartment. What was the question
2 again?

3 Q How did you learn about your sister being hijacked on
4 EgyptAir Flight 648 and then executed?

5 A Wow. Well, my dad used to call me every Sunday to make
6 sure that I wasn't spending too much money and checking on my
7 credit card balance and stuff, and this Sunday morning he
8 called very early and that's the first thing that went through
9 my head is, "Oh, my gosh, why is the phone ringing this
10 early," and it was my dad.

11 And I don't know if I put this in my head or if this
12 is really what he said, but I think first words he said to me
13 is -- and I don't know if he said "your sister has been
14 executed" or "your sister may have been executed," but those
15 were the first words out of his mouth, and I -- I mean, you
16 know that someone isn't going to joke about something like
17 that, but I didn't believe it. I just thought -- I just,
18 disbelief.

19 Q What did you do next?

20 A I have no idea.

21 Q You went numb?

22 A I really don't know. I remember just -- I don't know
23 what I did that day, but like I said, the next couple of days
24 was just CNN, CNN, CNN, because at that point I truly don't
25 know if they knew that it was her yet.

1 Q So you sat before the TV, you watched CNN, you saw your
2 sister's passport, you saw everything about the hijacking.
3 How did you feel about your sister at the time?

4 A You mean knowing that this may have happened to her?

5 Q Yes.

6 A I don't know. It's just really weird seeing someone in
7 your family just all over the news, and I -- I don't know how
8 I felt. I mean, it's been long ago and I probably just had
9 all kinds of different emotions.

10 Q Was it a shock?

11 A Yes.

12 Q Were you upset?

13 A Yes.

14 Q Was it hard to watch?

15 A Yes, yes.

16 Q How did you feel when you saw your sister's passport on
17 CNN, about the stories on the hijacking?

18 A Well, the first thing is how gorgeous she was and how she
19 was having this great life overseas, and I think she had just
20 met a new man that she was talking about and she was
21 adventurous enough to get on a plane by herself to go to Egypt
22 to see the pyramids is where I think she was going, and I just
23 think it's pretty sad what happened to her.

24 Q What do you remember about your sister?

25 A She was the only tall skinny one in the family, and my

1 mom would always say that, you know. I always felt like I
2 should have been taller and skinnier, but she was beautiful,
3 she was emotional, she was sensitive, she was daring, she was
4 a little bit neurotic, I think, but that made her her, that
5 made her special, and I loved her.

6 Q What was Scarlett's career, as you recall, where did she
7 work?

8 A She worked for the Air Force as a civilian, and she had
9 some big fancy title, and I honestly don't really know what
10 that job is, but it was an industrial property management
11 specialist.

12 Q And she was stationed at one time in California?

13 A Yes.

14 Q Did you see her when she was in California?

15 A Oh, yeah. That's where I learned how to ride a bike was
16 at her place on the beach, in Hermosa Beach.

17 Q Did you see her when she was stationed in Greece?

18 A No, I did not.

19 Q But you said that she came to see you or you were all
20 together, if I remember correctly, when you lived in Thailand?

21 A Yes.

22 Q And you saw her when she lived in Holland; is that
23 correct?

24 A We both lived there.

25 Q Both lived there?

1 A Yeah.

2 Q All right. And did you -- what kind of communication did
3 you have with Scarlett when she was stationed in California
4 and subsequently in Athens before the hijacking?

5 A Well, when I was in California and she was in California,
6 you know, she would call and my mom would put me on the phone
7 with her, and it wasn't a daily thing, I don't think, but
8 definitely we would talk once a week.

9 And then when she was in Greece, I mean, this was
10 way before cell phone days, it wasn't like people were, you
11 know, making international phone calls, so it was more
12 postcards and cards and she would send pictures of her
13 adventures and stuff like that.

14 Q Were you glad to get those cards from her?

15 A Yes.

16 Q Did they mean a lot to you?

17 A Probably still have some.

18 Q Regarding your dad who you said called you that Sunday
19 morning to tell you about the hijacking, what were your
20 observations about how your dad suffered over Scarlett having
21 been hijacked and executed?

22 A My dad was a pretty emotional guy. He would cry. I saw
23 him cry. I think he got so much into the logistics of taking
24 care of everything that had to be taken care of that that was
25 kind of his way of dealing with it. He just got busy. You

1 know, we would get all these condolence cards and he was busy
2 sending thank you notes for the condolence cards and --

3 Q Did you attend your sister's funeral?

4 A Yes.

5 Q Where was it?

6 A In Oceanside, California.

7 Q How did you get there?

8 A On a plane.

9 Q How did it feel to get on an airplane after knowing your
10 sister had been hijacked?

11 A You know, I wasn't so fearful. What has really affected
12 me is I always thought I wanted to go back to Thailand because
13 I loved it there so much. I think I would be petrified to get
14 on an international flight.

15 You know, I don't really think about it in the
16 states. I mean, I have to admit sometimes if -- and this
17 might sound terrible -- but if there is someone sitting close
18 to me at the same gate getting ready to go on the plane that
19 looks Middle Eastern, that kind of freaks me out.

20 Q Did the whole family gather together in California for
21 the funeral?

22 A Yes.

23 Q What do you remember about the funeral?

24 A Lots of press. We chose not to talk to the press. We
25 kind of wanted to keep it more of a intimate thing. Lots of

1 crying; lots of hand holding; it was a beautiful day.

2 Q Was your mom at the funeral?

3 A Yes.

4 Q Was your dad at the funeral?

5 A Yes.

6 Q Since they are both gone and they can't tell the Court in
7 their own words, except what they did in testimony during
8 their lifetimes, what were your observations about how the
9 murder of your sister affected your mom and affected your dad,
10 both of whom through their estates are Plaintiffs in this
11 case? So, my question is, what were your observations about
12 how the murder of your sister affected your mom, and
13 separately, affected your dad?

14 A My mom was a mess. I hope this doesn't sound repetitive
15 since I was in the courtroom yesterday, but my mom and
16 Scarlett were very close. They did so much together. They
17 both loved opera and the arts, and it was stuff that didn't
18 seem to interest the other kids, so they were like two peas in
19 a pod.

20 And when she lost Scarlett, I feel like she -- it's
21 almost like she just started being happy staying in her house,
22 and she would just piddle around the house and garden and
23 read, but she didn't have that same -- I don't know, she just
24 seemed to lose her sense of adventure, I think, that maybe she
25 might have gotten from Scarlett's sense of adventure.

1 Q Did your mom ever get over Scarlett's murder?

2 A Absolutely not.

3 Q What about your dad?

4 A Well, I know he did not get over her murder. I mean,
5 how? How do you get over something like that?

6 Q Have you gotten over Scarlett's murder?

7 A Obviously not.

8 Q How has it affected your life?

9 A I'm probably more angry of the person than I would have
10 been, a little bitter, a little resentful.

11 Q Resentful because?

12 A Because that guy had no right to take her life from us.
13 She had a big life. She wasn't just some, you know,
14 Dorito-eating couch potato. She lived life. I mean, that's
15 what makes it even sadder is that she really, really lived.

16 Q Thank you.

17 A Thank you.

18 THE COURT: You may call your next witness.

19 MR. HEIDEMAN: Valerie Peterson.

20 THE COURT: Ms. Valerie Peterson, please.

21 THE DEPUTY CLERK: Raise your right hand, ma'am.

22 (WITNESS SWORN BY THE DEPUTY CLERK.)

23 VALERIE PETERSON,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. HEIDEMAN:

2 Q Would you state your name, please, to the Court.

3 A Valerie Peterson.

4 Q And is Valerie, V-a-l-e-r-i-e?

5 A Yeah.

6 Q Ms. Peterson, what is your address today?

7 A 10121 Spinning Wheel Court in Fairfax, Virginia.

8 Q And how long have you lived there?

9 A Since 1990.

10 Q Where were you born?

11 A Saigon, Vietnam.

12 Q And what was your date of birth?

13 A 9/11/35.

14 Q 9/11?

15 A Yeah.

16 Q And the year?

17 A '35.

18 Q Thank you. Were you born a United States citizen?

19 A No.

20 Q Are you currently a United States citizen?

21 A Yes.

22 Q When were you naturalized?

23 A 1981.

24 Q And are you -- have you been a United States citizen

25 continually -- "continuously" is the word, from 1981 until

1 now? Have you remained a United States citizen?

2 A Yeah, yeah.

3 Q Thank you. And do you hold a United States passport?

4 A Yes.

5 Q Were you and Vernon Peterson married?

6 A Yes.

7 Q On what date did you get married?

8 A 31st of May, 1985.

9 Q So you and Mr. Peterson married on May 31, 1985, which
10 would have been prior to the time that Scarlett Rogenkamp, his
11 daughter, was murdered and executed on the hijacked airplane;
12 is that correct?

13 A Yeah.

14 Q Is your husband still alive?

15 A No, he passed away.

16 Q And when did he die?

17 A March 19, 1999.

18 Q March 17, 1999?

19 A March 17, yeah.

20 Q All right. So Vern Peterson, your husband, and you
21 married on May 31, 1985, and he died on March 17 --

22 A 1999.

23 Q -- 1999; is that correct?

24 A Yes.

25 Q Let me hand you what has been marked as Plaintiff's

1 Exhibit 26 and ask if you can identify this document for the
2 Court being the death certificate of your husband Vernon
3 Peterson. Is that your husband's death certificate?

4 A Yes.

5 Q And it says "Vernon Willfred Peterson" on the top line;
6 is that correct?

7 A Yes, correct.

8 Q And the second line, it indicates his date of birth was
9 August 7, 1924 and date of death was March 17, 1999; is that
10 correct?

11 A Yes.

12 MR. HEIDEMAN: We'll move at this time Exhibit 26
13 into evidence, Your Honor.

14 THE COURT: It will be granted.

15 (PLAINTIFF'S EXHIBIT 26 ADMITTED.)

16 MR. HEIDEMAN: Thank you.

17 Q (BY MR. HEIDEMAN) Now, have you been named by the court
18 in Virginia or some other state as the executor of your husband
19 Vernon Peterson's estate?

20 A Yes.

21 Q And can you tell the Court which state court has named
22 you the executor of your husband's estate?

23 A Fairfax, Virginia.

24 Q Let me hand you what has been marked as Plaintiff's
25 Exhibit 27 and ask if you can identify this document as a copy

1 of the court-issued appointment of you, being a letter of
2 qualification that you have been named the executor of the
3 estate of Vernon Willfred Peterson, deceased; is that correct?

4 A Yes.

5 Q And that was done on March 10, 2003, correct?

6 A Yes.

7 Q And do you remain the executor of that estate?

8 A Yes.

9 Q Thank you very much.

10 Now, you've already testified that your husband's
11 date of birth was August 7, 1924; is that correct?

12 A Yes.

13 Q And let me hand you what has been marked as Plaintiff's
14 Exhibit 24 and ask if you can identify this document as being
15 the birth certificate of your husband Vernon Peterson.

16 A Yes.

17 Q And does it indicate there that your husband Vernon
18 Peterson was born on August 7, 1924 in the State of
19 Washington?

20 A Yes.

21 MR. HEIDEMAN: We'll move Exhibit 24 into evidence
22 at this time, Your Honor.

23 THE COURT: It will be admitted.

24 (PLAINTIFF'S EXHIBIT 24 ADMITTED.)

25 MR. HEIDEMAN: Thank you.

1 Q (BY MR. HEIDEMAN) Was your husband a United States
2 citizen continually from the time of his birth until he passed
3 away?

4 A Yes.

5 Q And do you -- did you provide to us a copy of his United
6 States passport that he had during his lifetime for the period
7 from 1986 through 1996 being just the one copy that you have;
8 is that correct?

9 A Yes.

10 Q Now, let me hand you what's been marked as Plaintiff's
11 Exhibit 25 and ask if you can identify that document as being
12 the passport of your husband Vern Peterson.

13 A Yes.

14 Q Thank you. And what nationality does it indicate was
15 your husband's nationality? United States of America; is that
16 correct?

17 A U.S.A., yeah.

18 MR. HEIDEMAN: And I would now move exhibit -- I
19 believe I already did Exhibit 24. I'll move Exhibit 25 into
20 evidence at this time, Your Honor.

21 THE COURT: Be admitted.

22 (PLAINTIFF'S EXHIBIT 25 ADMITTED.)

23 MR. HEIDEMAN: Thank you. And I believe I may have
24 failed to move into evidence Exhibit 27 being the letter of
25 qualification of Ms. Peterson as executor of the estate of her

1 husband.

2 THE COURT: If that is so, it will be admitted now.

3 (PLAINTIFF'S EXHIBIT 27 ADMITTED.)

4 MR. HEIDEMAN: Thank you very much.

5 Q (BY MR. HEIDEMAN) To make it clear, because it is one of
6 the legal requirements, is it true that your husband Vern
7 Peterson, from the time of his birth until the time of his
8 death, was at all times and continuously a citizen of the United
9 States of America?

10 A Yes.

11 Q And did he actually work, as has already been testified
12 to by his daughter Michelle, as you heard this morning, did he
13 work for the United States Government?

14 A Yes.

15 Q And as best you know it, was he working for the United
16 States Government at the time that he died?

17 A He retired.

18 Q He retired from the U.S. Government?

19 A Yeah.

20 Q And prior to his retirement from all the time that you
21 knew him, did he work for the United States Government?

22 A Yes, yeah.

23 Q Thank you. Now, you and Vernon Peterson, you've already
24 testified, were already married in May of 19' -- 1985,
25 correct?

1 A Yes, yeah.

2 Q So you were together as husband and wife when Scarlett
3 was murdered; is that correct?

4 A Yes.

5 Q And can you tell the Court how -- what your observations
6 were about Vernon Peterson's relationship with his daughter
7 Scarlett prior to her murder?

8 A Very close.

9 Q And what did you observe about that closeness?

10 A Well, they write letters back and forth.

11 Q What else?

12 A Send birthday card to Vern.

13 Q What else? How else did they -- did he express to you
14 his relationship and what did you observe about his
15 relationship with his daughter Scarlett?

16 A Scarlett said that he's -- she's happy that he's
17 remarried and then have -- that she's happy that he's happy.

18 Q And how did Vern express his view of Scarlett to you?
19 How did Vern feel about Scarlett?

20 A When Scarlett died?

21 Q Before she died. How did -- what did you observe about
22 how he felt about his daughter?

23 A Oh, very close together.

24 Q And do you recall how Vernon Peterson learned about
25 Scarlett being on EgyptAir Flight 648?

1 A State Department. They phone from State Department.

2 Q And where were you and Vern living on November 23rd,
3 1985?

4 A Washington, D.C.

5 Q What were your observations about how your husband
6 reacted after he learned that Scarlett had been -- was on that
7 airplane?

8 A Well, he very sad and he cry.

9 Q What were your other observations about how your husband
10 reacted to learning that Scarlett was on the airplane?

11 A I don't remember.

12 Q Tell me, did he ever -- did he learn from the State
13 Department that she was on the airplane separate from learning
14 that she had actually been executed?

15 A I don't know.

16 Q You don't recall?

17 A No, I don't know.

18 Q All right. Did he express to you that he wanted to fly
19 to Malta after he learned about Scarlett being on the
20 airplane?

21 A Yes.

22 Q What did he say about that?

23 A He say he want to go there to bring the body back, but
24 the State Department advised him not to go.

25 Q And after Scarlett's death, how did Vernon act and how

1 did it affect him?

2 A He was very depressed, he cry, and then he was very sick,
3 too.

4 Q Was he able to sleep?

5 A No, I don't think so, no.

6 Q Did Vern go to Scarlett's funeral?

7 A Yes.

8 Q And did he ever discuss with you the funeral?

9 A Yes.

10 Q What did he tell you about the funeral of Scarlett?

11 A Well, he say that it's a good funeral and a lot of people
12 there, a lot of press and dignities.

13 Q Dignitaries?

14 A Dignitaries, yeah.

15 Q What else did he say about the funeral?

16 A I don't remember.

17 Q What did he express to you about how he felt about
18 Scarlett having been murdered?

19 A What did he say? I don't remember.

20 Q Did he actually come here to this courthouse and attend
21 the criminal trial in Washington of a Mr. Rezaq, a photograph
22 of whom is on Exhibit 3?

23 A Yeah. He went every -- every trial he went.

24 Q He came to the trial?

25 A He came to the trial every time here.

1 Q Was it a one-day trial or a multi-day trial?

2 A Multi.

3 Q And did Vern Peterson come to the trial of the murderer
4 of his daughter every single day?

5 A Every single day, yeah.

6 Q Did he, as you observed it, suffer from his daughter
7 having been murdered and did he miss her?

8 A Oh, yes, yeah.

9 Q Did he ever get over it?

10 A No.

11 Q Is there anything further you would like to say?

12 A He keep talking about Scarlett, yeah.

13 Q He kept talking about Scarlett?

14 A Yeah.

15 Q Did he ever get over Scarlett having been executed on
16 that airplane?

17 A No, he never did.

18 Q Is there anything further you would like to share with
19 the Court?

20 A I'm sorry, I don't understand.

21 Q Is there anything additional you would like to say to the
22 Court today?

23 A No.

24 Q And as the personal representative of your husband's
25 estate, do you ask the Court to award to your husband's estate

1 such sums as the Court deems appropriate?

2 A Yeah.

3 Q Thank you very much.

4 THE COURT: Thank you, Ms. Peterson.

5 THE WITNESS: Thank you.

6 THE COURT: You may stand down, ma'am.

7 Please call your next witness.

8 MR. HEIDEMAN: We'll call Patrick Baker to the
9 stand.

10 THE COURT: Mr. Baker, please.

11 THE DEPUTY CLERK: Raise your right hand, sir.

12 (WITNESS SWORN BY THE DEPUTY CLERK.)

13 THE DEPUTY CLERK: Thank you. Please be seated.

14 PATRICK SCOTT BAKER,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. HEIDEMAN:

18 Q Would you state your full name, please, sir.

19 A Patrick Scott Baker.

20 Q And Mr. Baker, what is your current address?

21 A 1124 East Beachview Place, Bellingham, Washington.

22 Q Can you spell the city for the court reporter.

23 A B-e-l-l-i-n-g-d-o-n.

24 Q How long have you lived there?

25 A Sorry, h-a-m. B-e-l-l-i-n-g-h-a-m.

1 Q Thank you. Are you nervous?

2 A I guess I am a little bit.

3 Q Well, you waited a long time for this day, haven't you?

4 A I have, yes.

5 Q Thank you for coming. You flew in yesterday to be here
6 especially today?

7 A Yes, I did.

8 Q Thank you. And I understand you, because of work, have
9 to fly back?

10 A Right.

11 Q Tell the Court how long you've lived in the State of
12 Washington.

13 A All my life. I'm 52.

14 Q What was your date of birth?

15 A July 13th, 1957.

16 Q Let me hand you what's been marked as Plaintiff's
17 Exhibit 28 and ask if you can identify this document for the
18 Court.

19 A That's my birth certificate.

20 Q I see you had to put your glasses on to see that.

21 A I'm 52.

22 MR. HEIDEMAN: We'll move Exhibit 28 into evidence
23 at this time, Your Honor.

24 THE COURT: Be admitted.

25 (PLAINTIFF'S EXHIBIT 28 ADMITTED.)

1 MR. HEIDEMAN: Thank you very much.

2 Q (BY MR. HEIDEMAN) And where actually in the state of
3 Washington were you born?

4 A White Salmon, Washington.

5 Q I didn't hear the words in the state of Washington.

6 A White Salmon.

7 Q White Salmon.

8 A Yes, like the fish.

9 Q Thank you. And are you a United States citizen?

10 A Yes, I am.

11 Q And have you continuously been a United States citizen
12 since the -- from the time of your birth until today?

13 A Yes, I have.

14 Q And do you have a United States passport?

15 A Yes, I do.

16 Q Let me hand you what has been marked as Plaintiff's
17 Exhibit 29 and ask if you can identify that document for the
18 Court.

19 A Yes, that's my passport.

20 Q And does your passport indicate that your name is Patrick
21 Scott Baker and that you were born in Washington, U.S.A., not
22 Washington, D.C., but the state of Washington, U.S.A.; is that
23 correct?

24 A That's correct.

25 MR. HEIDEMAN: At this time, Your Honor, we move

1 Exhibit 29 into evidence.

2 THE COURT: It will be admitted.

3 (PLAINTIFF'S EXHIBIT 29 ADMITTED.)

4 MR. HEIDEMAN: Thank you.

5 Q (BY MR. HEIDEMAN) Please tell the Court where in the
6 State of Washington, since you've already told us you've lived
7 there your whole life, where you grew up and the schooling that
8 you received, education.

9 A I grew up in White Salmon all my life in the same house,
10 and upon graduation from high school, I went to the University
11 of Washington State University in Pullman, Washington for five
12 years. I got a degree in biology from --

13 Q Okay. I'm going to ask you, please, although I can hear
14 you, it's important you speak slowly and clearly so that
15 everyone can hear you, especially the court reporter, because
16 some of the words, excuse me, if you don't mind my saying, are
17 sort of so fast that it's hard to get the exact word just like
18 Salmon, White Salmon, S-a-l-m-o-n, correct?

19 A Correct.

20 Q Now, tell us again what high school you went to.

21 A I went to Columbia High School.

22 Q And then you went on to which university?

23 A Washington State University.

24 Q Did you graduate?

25 A Yes, I did.

1 Q And what degree did you receive?

2 A I received a bachelor of science in general biology.

3 Q In biology. Did you say "general biology"?

4 A Yes, that was the degree, but I had a focus on cell
5 biology.

6 Q And at the time that you graduated from university --
7 Washington State University, how old were you, do you recall,
8 and what year was it?

9 A I was 22, and then the year 1980.

10 Q So five years before the hijacking?

11 A Yes.

12 Q Okay. And did you immediately go on for graduate school?

13 A No, I didn't.

14 Q Did you have plans to go on for graduate school and get
15 additional degrees, master's and potentially a doctorate?

16 A I was looking at a master's later on. Doctorate was
17 dependent on what I could do for research. My immediate plan
18 was first to pay for school, since I was paying my own way.
19 But my goal was to work in a lab first and see how it was with
20 doing research and then going on to graduate school and
21 getting my master's if that all worked out.

22 Q Did it work out?

23 A No, it didn't. No.

24 Q Did that hijacking stop you from getting that additional
25 degree?

1 A I believe it may have, yes. I mean, who can say, really,
2 what the future is, but it certainly put a crimp in my
3 long-term goals.

4 Q I'm going to come back to it, but you took a bullet in
5 the head from that hijacker, didn't you?

6 A Yes, I did.

7 Q Now, tell me about your family, if you would, before I go
8 on to the work that you did after college and before the
9 hijacking. What were the names of your parents?

10 A Jerry Brian Baker was my father.

11 Q Can you repeat it a little slower.

12 A Jerry Brian Baker is my father, and Lois Elaine Baker is
13 my mother.

14 Q And were both of them United States citizens throughout
15 their lives?

16 A Yes, they were.

17 Q Is your father still alive?

18 A Yes, he is.

19 Q Where does he live?

20 A He still lives in White Salmon, Washington as does my
21 mother.

22 Q So they're both alive, and are they together?

23 A Yes, they are.

24 Q All right. And they've both been United States citizens
25 throughout their life; is that correct?

1 A That's correct.

2 Q Thank you very much. And how many children were born of
3 the marriage of your parents?

4 A Four.

5 Q And who were the children, start with the oldest and then
6 each one?

7 A The oldest was my brother, David Brian Baker, then my
8 sister Stacie Ann Baker, and then me, Patrick Scott Baker and
9 my younger brother Craig Carnahan Baker, C-a-r-n-a-h-a-n.

10 Q Was David Baker born in the United States?

11 A Yes, he was.

12 Q Is he still alive?

13 A No, he's not.

14 Q When did he die?

15 A Geez, I always -- I always flub on this.

16 Q Approximately.

17 A 1994.

18 Q So your brother David Baker was alive at the time that
19 you were shot on EgyptAir Flight 648; is that correct?

20 A That's correct.

21 Q Who is the representative of your brother David's estate,
22 if you recall?

23 A My brother Craig.

24 Q And Craig is expected to testify in this case; is that
25 correct?

1 A That's correct.

2 Q On behalf of himself and on behalf of David; is that
3 right?

4 A That's right.

5 Q And your sister Stacie Ann Baker, was she born in the
6 United States?

7 A Yes, she was.

8 Q And is she still alive?

9 A Yes.

10 Q And has she continuously, since her birth, been a United
11 States citizen?

12 A Yes, she has.

13 Q And I believe I asked you this, but I want to be sure,
14 your brother David Baker, was he continuously a United States
15 citizen from the time of his birth until the time of his
16 death?

17 A Yes, he was.

18 Q And is Stacie living where today?

19 A She's living in Glenwood, Washington, G-l-e-n-w-o-o-d.

20 Q Thank you. And then you're the third child; is that
21 correct?

22 A Correct.

23 Q And you have a younger brother, you've already said,
24 Craig Baker; is that correct?

25 A Yes.

1 Q And obviously he's alive because he's going to testify in
2 this case. Tell the Court was he born a United States
3 citizen?

4 A Yes, he was.

5 Q And has he, to the best of your knowledge, been a United
6 States citizen continuously from the time of his birth until
7 today?

8 A Yes, he has.

9 Q Thank you very much. Now, after you graduated from
10 Washington State University, you indicated that although you
11 intended to get a master's degree, you needed to pay for
12 school because you had -- you were paying your own way; is
13 that correct?

14 A Correct.

15 Q And so what was your first job?

16 A After college, I went to work at an aluminum plant for
17 three years. It's a job that I'd been doing in the summer to
18 pay for college, but I still needed to pay more, so I worked
19 three years, paid off my college debts. It was a high paying
20 job at the time, probably more than I would probably be
21 getting if I found a job doing research in a lab.

22 MR. HEIDEMAN: Excuse me just one moment, please,
23 Your Honor.

24 (PAUSE.)

25 Q (BY MR. HEIDEMAN) So you worked at the aluminum plant for

1 three years; is that correct?

2 A Correct.

3 Q Do you recall how much you made there?

4 A I probably started out at around 8 or \$9 an hour and
5 ended up getting \$14 an hour when I quit.

6 Q And then what position did you work in after that?

7 A After that I did some travel because I'd always wanted to
8 travel. I just didn't have the opportunity to do that until
9 after I quit that job. I saved money after I paid my college
10 debts, so I had plenty to travel with.

11 Q And to what places did you travel, since you enjoyed
12 traveling so much?

13 A On that trip I was gone approximately two years, and I
14 started out in Russia in a climbing camp and explored the
15 Caucasus Mountains and saw some Russian cities, and then I got
16 a year rail and saw all the western European cities and cities
17 and countries, went to Morocco and spent 14 months in Israel
18 after that, and then I returned home.

19 Q What were the years that you traveled to Russia and then
20 by Euro rail and then on to Israel?

21 A 1983 -- July of 1983 until approximately March of '85.

22 Q Were you making money during any of those experiences of
23 traveling during those two years?

24 A Little bit, not very much. I worked on a moshav in
25 Israel which is like a farm except they tell you it's similar

1 to a kibbutz. You're paid a monthly wage.

2 Q And to help the court reporter, those two words are,
3 moshav?

4 A Moshav.

5 Q How is that spelled?

6 A M-o-s-h-a-v, I believe.

7 Q And kibbutz, how is that spelled?

8 A You're testing me. K-i-b-b-u-t-z.

9 Q Maybe even with two "b"s?

10 A Maybe with two "b"s, yeah, thank you.

11 Q So in March of 1985, after you had been in Israel for 14
12 months, where did you go next?

13 A I returned home and my brother --

14 Q Home to the State of Washington?

15 A Yes, in Seattle, Washington. I flew into Seattle. My
16 brother picked me up and he was working on a fish processor
17 for the summer and he got me a job on that fish processor.

18 Q So you were always a hard worker even when you were
19 traveling; is that correct?

20 A Well, yeah. Actually, one of the things that I missed
21 actually about traveling is I didn't have a regular job, but I
22 did, in Israel, find a job which didn't pay me anything, but
23 it was at a diving resort and I would take divers out, guided
24 dives and in Eilat, Israel.

25 Q And Eilat for the court reporter is E-i-l-a-t?

1 A Correct.

2 Q Thank you. Did you enjoy your time traveling in Russia
3 and Europe and Israel?

4 A Very much so, yes.

5 Q And then when you went back to Seattle in March of 1985,
6 you said your brother got you a job fish processing; is that
7 correct?

8 A Correct.

9 Q What was the position and what kind of work did you do as
10 a fish processor?

11 A That summer I was processing fish, which included
12 cleaning the fish and freezing them for market and packaging
13 them in the fresh frozen market.

14 Q And so that would have been the summer of '85, just some
15 months before the hijacking; is that correct?

16 A That's correct.

17 Q And do you recall how much money you made while you were
18 working there at the fish processing plant in Seattle?

19 A This was on a floating processor, which is a ship that
20 froze fish directly from the fishermen at the -- where the
21 fishing took place in the North Pacific or in the Bering Sea,
22 but I think I made approximately 5- or \$6,000 for the summer,
23 which is in the course of four months, four-and-a-half months.

24 Q All right. And did you then immediately return to school
25 for your master's degree before the hijacking?

1 A No, I didn't. When I was traveling, I couldn't get
2 enough of it really. I really enjoyed going from country to
3 country, learning about different cultures and I knew that I
4 wanted to do it again and there just seemed like there were so
5 many other places I wanted to explore, and so I returned to
6 traveling.

7 Q Before actually taking the trip abroad to Athens, Greece
8 in November of 1985, I would just like to cover a little more
9 of the work you did after the summer 1985 fishing job on the
10 floating processor. Tell the Court what else you did before
11 the time period of November '85.

12 A In that time period after I returned?

13 Q Yeah.

14 A Until the period 1985. I don't really remember. I think
15 I planned with some friends that I met on the boat to travel
16 further and made plans for travel.

17 Q Did you intend to remain in -- after your master's degree
18 in commercial fishing or to eventually return to do work based
19 upon your biology degree?

20 A I intended eventually on trying to find a job and
21 continue my goal in -- of working in a lab, but when I met
22 some friends on the boat, we decided to go traveling again and
23 it was a bug that I wanted to further, do some further travel.

24 Q Thank you. So, what was your next trip that you took
25 after the fishing job in the summer of 1985?

1 A I went back to Europe and saw more of Europe and went
2 through Italy and Greece and then explored Turkey for about a
3 month. And I was on my way to Asia, which brought me to
4 Athens for -- I brought a ticket to Bangkok which was Athens
5 to Cairo to Bangkok when I was -- when the hijacking took
6 place.

7 Q And what were you going to do in Bangkok had the
8 hijacking not taken place?

9 A Well, I always heard that it was a fascinating city and
10 my -- I was a backpack traveler at that time, and so I would
11 have explored Bangkok and the rest of Thailand and it made it
12 my launching place for seeing more of Asia.

13 Q Have you ever been back -- taken that Bangkok trip?

14 A I did, yeah. I went the following year after the
15 hijacking.

16 Q And I'm going to talk about the highjacking in a moment,
17 but how did it feel to take the trip that you had intended to
18 take before you were shot in the head?

19 A It felt good. I was -- I was a little tentative to get
20 back on a plane and go, but it was something I needed to do to
21 show that I was not, you know, victimized by this event.

22 Q Who did you need to show that you weren't victimized?

23 A Myself, pretty much. My whole -- my whole recovery, I
24 think, was trying to prove that I was not a victim.

25 Q Has that been hard?

1 A It has. It's -- it's been an inner struggle. I don't
2 think it's -- at least I don't think it's been too overt in my
3 behavior, but it was very hard at first. Back in those days
4 right after the hijacking, it was difficult.

5 Q Let's talk about the hijacking. Were you in transit when
6 you boarded EgyptAir Flight 648 destined from Athens to Cairo?

7 A Yes, I was.

8 Q So had you flown from somewhere to the Athens airport and
9 just were changing planes?

10 A Let's see.

11 Q Or had you been in Athens; do you recall?

12 A When I left Turkey, I believe I took a ferry to Rhodes in
13 Greece and I might have -- I might have -- I believe I did
14 take a flight from Rhodes to Athens, yes, where I intended
15 on -- it was -- Athens at the time was a pretty cheap hub to
16 fly out of, so my intention was to find a cheap ticket in
17 Athens and go to Asia.

18 Q And did you?

19 A Yes, I did. I found a ticket. It was only 250 bucks, as
20 I recall.

21 Q From Athens to Asia?

22 A From Athens to Bangkok, yeah, with a stay in Cairo in a
23 hotel, so...

24 Q So, when you arrived at the Athens airport on
25 November 23rd, 1985, what did you observe, if anything,

1 unusual about activity at the airport, if any?

2 A I remember it was very, very busy, and there was -- there
3 was pretty high security, and I believe it was an 8:00 o'clock
4 flight, but the flight was delayed for an hour or so. And I
5 remember getting together with other travelers before the
6 flight and talking and we had at least an hour to kind of get
7 acquainted. And the people there were -- there were two
8 Israeli girls that were on the flight. I got to know them
9 somewhat. And Tony Lyons from Australia and a girl named
10 Elizabeth from -- also from Australia, and so we just talked
11 until the -- until we boarded the flight.

12 Q Thank you. And can you tell the Court where you -- if
13 you recall, where you sat on the airplane before the hijacking
14 took place.

15 A Yeah, I sat in row six in the middle chair on the
16 starboard side of the plane.

17 Q And the plane took off at about 9:00 o'clock, I believe
18 it was, and I'm walking over to Exhibit 3, 9:05 time; is that
19 correct?

20 A That sounds right.

21 Q Okay. And the plane was bound Athens to Cairo?

22 A Yes.

23 Q All right. And what did you observe and when did you
24 observe it as to what happened after takeoff?

25 A I would say it was probably ten minutes after we leveled

1 off. I was reading a book and I looked up from my book and I
2 saw a man in the front of the plane holding a revolver in the
3 air and a grenade in the air. And I don't know how long he
4 was standing there, but I saw him put the revolver back in his
5 coat pocket and -- I'm sorry, he was trying to pull the pin
6 off of the grenade with his teeth and he couldn't do it, and
7 so he put the revolver back in his coat pocket and pulled the
8 pin and held the level of the grenade so it wouldn't explode
9 and then took his revolver back out of his pocket.

10 And I -- I bumped my -- the guy next to me is a guy
11 from France, he was reading a newspaper and he folds the
12 corner down the newspaper and looks at the hijacker and looks
13 at me and rolls his eyes and goes back reading his newspaper.
14 The whole scene was very surreal to me. I looked behind me
15 and saw there was another hijacker with a revolver and a
16 grenade in his hand, and those were the only two I saw.

17 But I got this real nervous pit in my stomach that
18 we were going to be in for a wild ride.

19 Q You weren't in the courtroom yesterday when Jackie Nink
20 Pflug testified, but the Court heard some testimony about the
21 hijacker trying to get the pin out of the -- the pin of the
22 grenade out.

23 Would you tell the Court a little more about what
24 you remember when you looked forward and saw the hijacker who
25 had a revolver in one hand and a grenade in the other hand,

1 please.

2 A I was in row six, so I wasn't as close as she was, but I
3 saw this gentleman in a suit coat who was of Middle Eastern
4 decent with a grenade in his right hand and -- I'm sorry, a
5 revolver in his right hand and a grenade in his left hand, and
6 he was trying to pull the pin out of the grenade with his
7 teeth, you know, like so, and -- sorry.

8 Q That's okay.

9 A And he couldn't do it. He couldn't pull out the pin with
10 his teeth, so he put the revolver back in his coat pocket and
11 pulled the pin and took his revolver back out. And so he had
12 a live grenade and a revolver standing in the front of the
13 aircraft, and as far as I know, he just -- he was standing
14 there waiting for everyone to notice, you know, that he was in
15 control of the aircraft, I suppose.

16 Q You actually saw him try to take the pin out with his
17 teeth?

18 A Yes, I did.

19 Q But he wasn't able to?

20 A No.

21 Q You saw him put the revolver then in his pocket and use
22 his other hand; is that correct?

23 A That's correct.

24 Q And did you see him take the pin out of the grenade?

25 A Yes, I did.

1 Q You knew then that the grenade was live?

2 A Yes. Yeah, it was -- it was frightening, and I just knew
3 that this isn't going to be a usual flight here.

4 Q At any time did you see him put the pin back in the
5 grenade?

6 A I didn't see him at that time put the pin back in the
7 grenade, but later on he was searching people, patting them
8 down and taking their passports and putting them in a
9 briefcase, and when I was searched, I noticed that the pin was
10 back in the grenade, so I know that he had put it back in at
11 some point or other.

12 Q All right. What -- after you saw the hijacker that you
13 just described and another hijacker behind you, describe in
14 your own words to the Court what you remember happening next.

15 A There's a third hijacker that came out of the cockpit and
16 he had some person in a flight uniform also of Middle Eastern
17 descent and he had him kneeling on the ground in the aisle and
18 he was screaming at him in Arabic, and I don't know what they
19 were saying but later on I found out there were four air
20 marshals on the plane and that he was likely one of them, and
21 he was, I don't know this for sure, but I'm sure he was trying
22 to find out who the other air marshals were on the plane, and
23 it was a very intense scene. I thought that he was going to
24 shoot him there on the plane.

25 Q You thought that the hijacker was going to shoot the

1 person that he made kneel down on the airplane?

2 A Correct.

3 Q Did he take a gun out and point it at him?

4 A He had a gun on him the whole time that I saw him.

5 Q How did that make you feel?

6 A Well, it didn't make me feel very secure. I don't -- the
7 whole time I was on the plane, I was -- I suppose at that
8 point I was still getting used to the idea that I might not
9 make it off the plane alive, you know. If a grenade went off,
10 then the whole plane would be doomed. If -- you know, if
11 there was gunshots on the plane, anyone can be killed, and so
12 it made me feel very insecure, you know. It's like anything
13 could happen on a plane. It was just a very, very intense
14 scene.

15 Q What happened next?

16 A The man didn't get shot, and I don't exactly know where
17 he went, whether it was back in the cabin or if he was seated
18 somewhere, but very shortly after that, the original man that
19 I saw with the gun and the grenade started searching the
20 plane. He seemed like he spoke the most English and he would,
21 one at a time, take the passengers, search them, pat them down
22 and then take their passport and put the passport in a brief
23 case.

24 And as he was searching up the aisles, he would
25 reseat them, there was always an empty aisle as he searched

1 people -- empty row, I'm sorry, of seats, and that way he
2 would know who he had searched and who he hadn't. And then he
3 would reseat people in front so that he would know who was
4 searched, and I was in row six and I was resealed in row three
5 on the port side of the plane.

6 I was seated with -- there were four of us sitting
7 in three rows, and so I was sitting with a Greek man to my
8 left and three French girls to my right. After -- after a
9 short while I was speaking to the Greek man to my left about
10 where we might be going, you know, since we're being hijacked,
11 and we were thinking we were going to Beirut. And shortly
12 after that conversation, I heard a single gunshot at first,
13 and then it was a like shootout at the Okay Corral.

14 An FBI forensics agent told me that there were 25
15 shots fired in that gun battle, and everyone put their
16 hands -- I'm sorry, their heads between their knees and got as
17 low as possible during the gunfire, and you could hear bullets
18 flying in the fuselage just ricocheting everywhere, and I
19 thought for sure there would be people injured in this.

20 And a couple of the bullets landed very close to us,
21 and I would actually pick one up, it was warm, and I could see
22 the caliber of the bullet and everything as my head went down,
23 and I also could hear hissing of the plane as though it
24 pierced the fuselage. They lost cabin pressure, and shortly
25 after that, the pilot put the plane in a very steep dive.

1 The whole thing took place fairly quickly, but after
2 we had leveled off at around 10,000 feet, I believe it was, I
3 looked over and the French girl on my far right on the aisle
4 side of my row, as we were looking down, our heads were like
5 at our knees, I could see that she had been grazed in the
6 forehead, almost like a shootout on a western movie, and she
7 was completely conscious, and I said -- I said to her, you
8 know, we were talking upside down, "Do you know how close that
9 came?"

10 And she said, "Yes, I know."

11 And for some reason we started laughing down below,
12 and I think it was just this huge adrenaline release because
13 now the bullets weren't flying. It was all quiet, and the
14 plane had leveled off, and so eventually I -- she asked me for
15 a napkin to sop up the blood, and I remember poking my head up
16 over the seats. I didn't have my daypack with me anymore so I
17 didn't have any bandanna to give her, so I pulled the cover
18 off the headrest of the chair and gave it to her.

19 Q And then what?

20 A When I poked my head up, it was very, very strange
21 because I couldn't see one passenger. It just looked like a
22 plane of empty seats. Everyone still had their heads below
23 their knees, and there was a -- what happened was they had
24 found a third air marshal and he had opened fire on the person
25 who was -- who had been searching the plane, and that hijacker

1 who was shot like five times from the air marshal at
2 point-blank range was lying in the aisle and I could hear him
3 breathing through his aspirating chest wounds in the aisle and
4 the air marshal was also in the aisle, and it seemed to me
5 there was also a handgun in the aisle. And it was within my
6 reach, and it was a very strange moment for me because I -- it
7 was a handgun and I could have picked it up and used it, but I
8 was just -- everything was going through my head about whether
9 there was any bullets in the gun, do I want to be a hero, the
10 guy had grenades, the pins were out.

11 And just as those thoughts were going through my
12 head, one of the hijackers came and picked it up, and after
13 that everyone started poking their heads up above the seats.
14 And the plane, when it descended, it was at 10,000 feet and
15 all the oxygen masks dropped and everyone was fitting their --
16 themselves with the oxygen masks, and I never did. I just --
17 I just realized the captain, if he leveled off, he would have
18 leveled off at an altitude that was breathable.

19 So, I remember that we descended into some very,
20 very turbulent air. I think there was thunderstorms going on
21 outside. So the plane was still being bounced around and it
22 was -- I just remember the atmosphere after that gun battle
23 was -- you could just slice the tension in the air with a
24 knife. It was so -- it was just chillingly quiet.

25 And shortly after the gun battle in the air, I don't

1 even know how much time went by, but we had the -- the
2 airplane took a turn to the right. I remember a sharp turn to
3 the right, and very soon after that, I don't remember if there
4 was an announcement or not, but we had landed in Malta and it
5 was a very, very, very rough landing.

6 I remember there was a -- the plane landed really
7 hard and I remember all the luggage rows being popped open. I
8 could see an actual wave of the plane as it was -- it hit so
9 hard that it sent a shock wave down that popped all the
10 luggage compartments open and a lot of luggage spilled out,
11 and the unstowed dishes in the galley just went flying
12 everywhere. It was a -- seemed very calamitous landing and it
13 was one of the hardest reverse thrusts I've ever experienced.

14 The whole plane just shook like crazy, and I didn't
15 understand at the time why we landed so hard but later on I
16 found out that the Maltese did not want us to land on that
17 runway and they turned the runway lights out, and so the pilot
18 didn't have any -- anything to go by except the reflections in
19 the runway lights. And I spoke to the pilot later. He said
20 it was just this blinking taillight that was making the
21 reflections in the runway lights that he could go by, and so
22 it was a really rough landing. He also set it down hard
23 because he wanted to shake up the hijackers, but I don't know.

24 So, we were taxiing down the runway, and the whole
25 cabin applauded. I think they were just so relieved that we

1 were down from -- we were actually on the ground after the gun
2 battle and the turbulence and everything else, that we landed
3 on the ground safely. And so we taxied off to an area of the
4 tarmac in Malta, and I realized, it seemed like I always seem
5 to know what was going to happen next, and so I thought,
6 "Okay, now is when the really bad part starts because they're
7 going to negotiate for flying out of here and..."

8 What I remember next after they had brought stairs
9 up to the plane was a medic coming on board and -- or a doctor
10 and he certified that the hijacker who was shot was now dead,
11 and that hijacker was in -- on the port side in the first row
12 of the seats, and he wanted to look at the air marshal who was
13 also shot and was in the row.

14 And I also spoke to the medic after the hijacking
15 and he told me that the hijacker who was in the cockpit, Rezaq
16 said, "Let him bleed," and so he didn't get to look at him.

17 And so he got dragged off the plane, and I heard a
18 gunshot as he was dragged off, and what I found out later,
19 that he was shot in the back as he was dragged off the plane
20 and then thrown off, but he survived his wounds and he was
21 actually speaking in the hospital when I got there.

22 Q Who is it that was shot in the back?

23 A The hijacker who opened -- I'm sorry, the air marshal who
24 opened fire on the hijacker was shot seven times and he
25 survived his wounds.

1 So that was -- that was the scene shortly after we
2 landed, and I don't really remember what all handed -- what
3 all happened after that immediately.

4 I remember that the air hostesses were handing out
5 meals when we were on the ground, and I was one of the only
6 ones that took a meal and actually ate it, and I did that
7 because I was reasoning that if I was going to be a hostage on
8 the ground, I wanted to be as strong as I could and I wanted
9 to get food in me even though it didn't -- it didn't go down
10 very well.

11 So, also I remember that shortly after that they
12 allowed the wounded -- there were two stewardesses that were
13 wounded in the gunfire, and they allowed them to leave the
14 plane. And shortly after that, they allowed the Egyptian
15 women to leave the plane and some women from the Philippines
16 to leave the plane. And the people in the plane were trying
17 to get the young children off the plane, too, but he wouldn't
18 allow it for some reason.

19 There was a Palestinian -- large Palestinian family
20 on the plane that he wouldn't allow to leave, and there was a
21 baby on the plane and he wouldn't allow it to leave either.

22 But shortly after he allowed the Philippine women to
23 leave the plane, he asked for -- it wasn't him. It was an air
24 hostess that he had delegated to ask for -- she would ask for
25 the people to come forward because she had the passports, and

1 so she asked for one Israeli woman to come forward, and this
2 was Tamar Artzi who I had spoken to earlier before the flight
3 started. And I just had a bad feeling about her going
4 forward.

5 And when she went forward, he took her and I heard a
6 gunshot shortly after, and I understand that he had thrown her
7 off the plane shortly after that. And Nitzan, who -- those
8 two were actually sitting right in front of me in row two, and
9 Nitzan looked back at me, she said, "Patrick, I think that
10 we're in trouble."

11 I said, "Yeah, I think so, but don't give up hope."
12 And I reached my hand through the seats in the crack and we
13 held hands for awhile. And after that, they asked for the
14 second Israeli girl to come forward, and Nitzan was just
15 almost paralyzed with fear, and she let go of my hand and put
16 her head in her lap and the hijacker demanded her to come
17 forward but she didn't.

18 And so eventually the air hostess came and
19 identified her and she was dragged forward by two guys who
20 were delegated to do that, and so the hijacker shot her
21 point-blank in the head while she was on the ground and threw
22 her off the plane.

23 So, after that I commented to these two French girls
24 I was sitting by that I was going to be next, and said, "No,
25 no, that's not true."

1 I said, "Yeah, because I know that they need someone
2 to negotiate with." And they had shot the two Israeli girls
3 without any negotiation. So, I don't know how long we sat
4 there, but about 15 minutes later they asked for the three
5 Americans to come forward. And before this time, I didn't
6 know that there were any other Americans on the plane, and I
7 didn't know whether I should come forward or not, but they --
8 I knew they had my passport. They could identify me.

9 So I stood up and went forward and behind me came
10 Scarlett and Jackie. And for us, they tied our hands behind
11 our backs with neckties and they sat us in the first row on
12 the starboard side of the plane. I was in the aisle and then
13 Scarlett was in the middle and Jackie was in the window seat,
14 and they tied us tight. When I say "they," I mean, I believe
15 there were air marshals who were delegated to do the chores of
16 the hijacker.

17 Since there were only two of them, he couldn't do
18 anything, so he delegated to a lot of people to do the chores
19 for them and so --

20 Q Keep your voice up, if you would, please.

21 A Yeah. Did you get that so far?

22 Q Yes.

23 A Okay.

24 Q You said they delegated it to air marshals, delegated it
25 to others?

1 A Right. So, as I was sitting in row one, I could hear
2 radio transmissions from the cockpit, and I couldn't
3 understand a lot, but eventually the hijacker pointed his gun
4 to me, you know, pointed at me with his gun, and so I stood.
5 The man who was delegated to do things, took me by the crook
6 of the arm, had me stand up and they opened the door, and I
7 knew that this is the time that I was going to be taken out to
8 be shot.

9 And as I was standing there, I heard a transmission
10 on the radio said, "There is to be no more killing. The fuel
11 is on its way."

12 And so they shut the door and I was reseated and so
13 I got a little stay of execution. So, I didn't really know
14 what I was going to do, my hands were tied behind my back. So
15 in my mind I thought I would go up next and kick at his gun or
16 kick at him and then run off the plane. And so a short time
17 later they opened the door again, and this time I was standing
18 up and Rezaq was standing next to the door going into the
19 pilot's cockpit, and he was -- looked relaxed.

20 He had a mask over his face, but his gun was down at
21 his side, and as I was standing up to go forward to him, we
22 locked eyes, and he looked at me and I looked at him and he
23 instantly put his gun to my face and he just -- I think he
24 just knew I was going to try something. And so I thought,
25 "Well, this isn't going to work," so I just took a right turn

1 and walked quickly out of the plane without anyone escorting
2 me, and I stood at the foot of the stairs, and just as I was
3 going to jump, I think I hesitated there a little too long,
4 Rezaq shot, and the next thing I know I was on the stairs in a
5 jumbled heap, maybe halfway down the stairs.

6 And I could hear footsteps coming down the stairs as
7 the -- my first inclination, and so two men grabbed me by the
8 crook of the arms and dragged me back up the stairs to the top
9 platform, and I wasn't really sure what to do. I was pretty
10 confused whether I should continue to play dead. And while
11 those thoughts were running through my head, I felt myself
12 weightless, being thrown down the plane. My eyes were closed
13 pretty much the whole time. So I found myself going face down
14 with my hands tied behind my back toward the tarmac, and
15 luckily my left elbow hit the mirror of the truck that brought
16 the stairs up and it flipped me over so that I didn't land
17 face forward and it was a very, very lucky thing because I
18 ended up being bruised and scraped with really no physical
19 harm to speak of other than just, I don't know, the concussion
20 and the scrapes and the battered. I had no broken bones.

21 As I lay on the tarmac, I -- after I collected my
22 wits, I probably was there like to me it seemed like two
23 minutes until I was pretty sure that the hijacker had gone
24 back inside the plane, and I was almost -- the relief was just
25 huge. And I found out that my reaction to an adrenaline

1 release like that is to laugh, and I had a hard time keeping
2 from, you know, playing dead on the tarmac because I was
3 laughing. I was -- it was like my victory over him that I was
4 still alive and laying on the ground alive instead of being
5 executed.

6 So, I planned my movements, you know, how to get up
7 off the ground, you know, and run underneath the tarmac so he
8 couldn't see me or throw a grenade at me, and that's what I
9 did. I got up as fast as I could and ran underneath the plane
10 and then down underneath the tail of the plane and just kept
11 on running on the tarmac. It was dark. I didn't know where
12 to go. I didn't know what country I was in. I was just
13 running.

14 And soon I looked over my left and there's a man who
15 had stood up from the weeds and he had a rifle trained on me
16 and following me with his gun as I was running. So, I didn't
17 want him to shoot me, so I turned around and showed him that I
18 was tied up with my hands behind my back, and he lowered his
19 rifle and flagged me to come over toward him, and so I ran
20 over. And the first thing he asked me is, "Where you from,
21 Mate?" And it was this clipped British accent, and for some
22 reason that was really, really comforting.

23 And I said, "Where am I?"

24 And he said, "Malta."

25 So I was really happy to be there. He -- I remember

1 him saying, "We're going in, Mate, we're going in. We're
2 going to get them."

3 And I said, "Okay, great."

4 And he's untying me and I was telling him everything
5 I could remember about the hijackers, what they were wearing
6 and where they were standing on the plane. And he got me
7 untied and we ran off to the nearest road, and there was an
8 ambulance waiting. He had a radio and he radioed for an
9 ambulance. So they stuck me in the ambulance and drove me to
10 the hospital, and that's the last I remember.

11 That's not the last I remember. It was the last --
12 I was off the plane and I was safe, so I was just very, very
13 anxious after that. I kept grabbing people from the hospital
14 and asking them for news of the plane. And eventually I heard
15 that there was this fury of activity in the hospital, and I
16 grabbed someone and asked them what happened, and they said
17 they blew up the plane, and I didn't know who blew them up or
18 what, but I understood that the plane had blown up. That's
19 all I knew.

20 And I later found out that the Egyptian commandos
21 had flown in and stormed the plane and there was a fire
22 started and an explosion and the smoke killed a lot of the
23 people, but that they were also firing on people on the ground
24 like Egyptians that they thought were hijackers because, from
25 what I understand, the pilot was telling the tower that there

1 were five to seven hijackers, and so that's what the commandos
2 were expecting because he was counting everyone who was
3 delegated by the hijackers who came in the cockpit, he counted
4 them as being a hijacker, and so there was a big
5 misunderstanding there, and I think maybe a lot of loss of
6 life because of it.

7 I remember that they wheeled me out of my hospital
8 room and I was wheeled through a lot of people who had -- were
9 just covered in smoke and soot from the plane, and there was
10 one fellow with his leg blown off and really blooded up, and
11 it was the triage area, from what I understand, and so I was
12 put in another room because they needed the room I was in for
13 injured people.

14 And I was -- I was in that room maybe for a day or
15 less. And in Michelle's testimony, she mentioned that she
16 heard that Scarlett may have been executed, and this just
17 jogged my memory. I don't think I even, I hardly ever spoke
18 about this, but they had me identify Scarlett because they
19 didn't know who she was, and that was like a day later. And
20 so they wheeled me in a wheelchair over to a place they were
21 keeping her, and I identified her as the other American. I
22 didn't really know her name. And she was -- she was very
23 pretty and she wasn't pretty then, and I'm really sorry to
24 your family.

25 I don't think I even -- whenever I told that story,

1 I think I've always kept that out and it's probably one of the
2 most painful things for me, other than holding Nitzan's hand,
3 as that.

4 So, after that, I was just kept in a hospital room
5 and kept under observation for concussions and signs of
6 concussions, and I was there with Tony Lyons who I met before
7 the flight, and some -- some of the Egyptians who were
8 injured, and there was a huge media frenzy. I remember maybe
9 on Day 3 I got to speak with my family because everyone was
10 protecting the hijackers, or maybe it was earlier, I don't
11 remember. I think that's when I spoke with my brother, but it
12 was a -- it was a huge frenzy with the media.

13 There were TV cameras, and the first time I got to
14 speak with my mother was -- there were maybe five TV cameras
15 on me and I was completely overwhelmed by it, and I could
16 hardly even speak to her because it just didn't seem like it
17 was private at all. And so I think I was kept at the hospital
18 for maybe four days.

19 And then a TV crew from CBS maybe wanted me for a
20 show in Rome. They had an office in Rome, so I hung with them
21 around Malta for maybe two more days, and I was staying --
22 after I was released, I stayed at the Phoenician Hotel. And
23 then I was -- I was so -- I didn't really know what I was
24 going to do next.

25 I was borrowing clothes from a man in the consulate

1 because the FBI took my clothing for a forensic test, and so
2 the only thing I had left were my shoes and my belt, and so
3 eventually EgyptAir came up with a ticket for me to fly home
4 and they gave me a little bit of money and about a half hour
5 to buy clothes in Malta, and I remember not finding anything
6 in my size and flying home shortly after that.

7 And my brother picked me up at the airport and took
8 me out to dinner, and I went to my brother's house and stayed
9 on his couch for about a week or so. But I was not -- I was
10 completely overwhelmed by the media. That was just pretty
11 much -- there was maybe a call every five to ten minutes on
12 his answering machine, and I didn't -- I didn't really feel
13 like talking to the media at all at that point. I didn't feel
14 like I was in a head space to do that.

15 So I -- after that, I went to see my parents and I
16 stayed at my parents house for about a week, and they also had
17 been inundated by the press. For about a week while I was in
18 Seattle, they were being bombarded by the press and they had a
19 list of maybe 80, 90 news agencies who wanted to give me
20 interviews, all the major morning shows and Larry King, you
21 know, everyone that wanted to have an interview.

22 I just wanted to escape from all that. I didn't
23 speak to anyone. I maybe gave two or three interviews at the
24 most to some local newspapers or something. And then a friend
25 asked me if I wanted to go rock climbing, and I was so

1 relieved to do that. I went down to the Red Rocks in Oregon
2 and climbed with him, and went back to my parent's house and
3 my friend Jeff, who was working on a isolated nature
4 conservancy area on the border of Mexico, I went down and
5 stayed with him and just to get out of the media frenzy, so...

6 THE COURT: All right. Let's stop there and take
7 our morning break, please.

8 MR. HEIDEMAN: Thank you.

9 THE COURT: Ten minutes. Do not discuss your
10 testimony. You're under oath, Mr. Baker.

11 THE WITNESS: Okay.

12 (A BRIEF RECESS WAS TAKEN.)

13 THE DEPUTY CLERK: Court is back in session. Please
14 be seated, everyone, and come to order.

15 Q (BY MR. HEIDEMAN) Patrick, was that exhausting for you?

16 A It was more emotional than I had thought, because -- I
17 mean, I told this story a thousand times, but I guess I didn't
18 really have that much emotion invested into it as I do here
19 because -- well, this is my chance to do it in court, I guess.

20 Q And you said two of the hardest things that you remember
21 were holding Nitzan's hand?

22 A Yeah.

23 Q Tell the Court about that, would you?

24 A I'm sorry. It is the point where her friend that she
25 traveled with, Tamar, was taken out and shot, and I mean, at

1 this point Tamar had gone out with the idea that she was going
2 to be released like the other women in the plane, and so she
3 bounded up there and then she was subsequently shot. And then
4 Nitzan's hope just left her, I think, and I didn't know what
5 to do about it.

6 It was -- I held her hand, and that's the only thing
7 I could think of to do and tell her not to give up hope. And
8 she was just completely distraught, and it was a feeling of --
9 I didn't feel like I had control, and she -- I didn't know
10 what to do to comfort her, and it was really difficult.

11 Q Have you reflected back often on the way she held your
12 hand and the strength she applied in holding your hand?

13 A Yeah. It's -- you know, it's one of those things that
14 never leave your memory. I think the thing that got me the
15 most is when they called her name and she let go of my hand
16 and then just put her head in her lap, you know, that she just
17 knew she was doomed, and I just felt helpless to help her,
18 so...

19 Q And after they called her name, you said they dragged her
20 forward?

21 A Yeah. She didn't -- she didn't walk up on her own. They
22 had to physically drag her forward.

23 Q And these were the two Israeli women you earlier
24 testified you had met while waiting at the airport lounge for
25 the one-hour delay; is that right?

1 A That's correct.

2 Q That's Tamar Artzi and Nitzan Mendelson?

3 A Correct.

4 Q And during your testimony, you told the Court that you
5 then said, I believe, to the French woman, that you would be
6 next; is that correct?

7 A That's correct.

8 Q Why did you say that? What were you thinking, and what
9 were your feeling, Patrick?

10 A Well, it didn't seem to me that the two Israeli girls --
11 they were subsequently shot after landing, I think just
12 because they were Israeli, and they didn't use them to bargain
13 at all for anything they wanted on the ground, and so I was
14 thinking, "Who would they bargain for next?" And of course I
15 thought they would bargain for American lives for whatever
16 they needed to do, what they wanted to do. And they wanted to
17 fly the plane, I think, into northern Africa somewhere, and
18 they didn't have the fuel to do it because when we landed, the
19 pilot said we might have had five minutes of fuel left because
20 the Maltese refused him landing, and he had to land and so he
21 did.

22 And so I just felt that they would use the Americans
23 next as a bargaining tool.

24 Q Where were you seated before they called you forward, and
25 I'm talking about at the moment when you thought you were the

1 next bargaining tool?

2 A I was seated in row three on the port side, like in the
3 middle.

4 Q And had the other two Americans, both Jackie Nink Pflug
5 and Scarlett Rogenkamp, been brought forward and seated with
6 you at that time?

7 A No. I didn't -- I didn't notice them until I had stood
8 up, gone forward, and then I saw two women coming down the
9 aisle after me because when they -- when they announced --
10 they didn't call my name. They just said, "Will the three
11 Americans please come forward."

12 Q Who said that?

13 A The air hostess who had been delegated by Rezaq.

14 Q At that time, were your hands tied?

15 A No. Our hands were tied when we got to row one, and then
16 they were tied by an air marshal who was delegated to do that
17 with neckties.

18 Q So the stewardess announces, "Will the three Americans
19 please come forward," and do you stand up?

20 A Not immediately, but yes, I did eventually, maybe after
21 ten seconds or so.

22 Q And that's when you saw the other two women, Jackie Nink
23 Pflug and Scarlett Rogenkamp, coming forward from behind you;
24 is that correct?

25 A Yes.

1 Q Then where were the three of you seated and what did the
2 hijackers do next in relation to the three Americans that were
3 called forward?

4 A Well, as we came forward, like I said, they tied our
5 hands behind our backs and they -- I took the aisle seat and
6 Scarlett took the middle seat and Jackie took the far seat,
7 and we were sitting there. I remember asking Jackie and
8 Scarlett where they were from, and Jackie said Texas, and I
9 think Scarlett said California, but she might have said it in
10 a way that she didn't really want to banter like small talk,
11 and so I didn't really ask anything else after that, but I
12 wish I had actually.

13 Jackie was complaining that her neckties were too
14 tight, and I said, "Just keep your -- keep your hands moving,
15 you know, keep the circulation going," and that's all the
16 conversation I recall having with them. Later on Jackie said
17 that she -- her neckties came off after moving her hands
18 continuously, so it worked.

19 Q When you say "neckties," what are you talking about, what
20 neckties?

21 A When the hijacker was searching and taking passports, he
22 also took some neckties from passengers and they all went into
23 the briefcase and with the passports, and the hijackers used
24 the neckties to tie us up and they also used them to tie down
25 the doors to the outside when the commandos stormed the plane.

1 So, I don't know if they were trained to do that or what, but
2 they definitely used them as a utility.

3 Q And earlier on, I failed to ask you, how is it they got
4 your passport and knew that you were one of the three
5 Americans on the plane?

6 A Well, they took everyone's passport as we were being
7 searched and put it into a -- into a briefcase. I remember
8 when he took my passport, he said, "Welcome," and I was just
9 thinking, "Yeah, right, welcome," but as I reflect on it, I
10 think he was saying welcome to the people that he had plans
11 for because I remember him saying "welcome" to the Israeli
12 girls, and one of them got cuffed by him, and I was just
13 thinking, "Yeah, welcome to my nightmare," and, yeah, that was
14 it.

15 Q Thank you. Now, after you were seated in the first row
16 and you were there with Ms. Rogenkamp and Ms. Pflug, what did
17 you see happen next?

18 A You mean --

19 Q You saw Rezaq come out of the cockpit?

20 A Okay. Yes. Rezaq come out of the cockpit and he points
21 his gun, indicating me, and indicating that he was going to
22 take me out and shoot me is what I think is what that
23 indication was.

24 The air marshal took me by the crook of the arm and
25 indicated to stand up, and he was escorting me forward. And I

1 heard a transmission on the radio that the fuels -- there was
2 to be no more killing, the fuel was on its way. I remember
3 when the door opened that I could just hear the whole cabin.
4 I mean, took a -- kind of a strange thing, they just took an
5 intake of breath at the same time and I could just hear the
6 whole cabin like inhaling hard just as an incidental thing.

7 But -- but once I heard the transmission "there was
8 to be no more killing, the fuel is on its way," they shut the
9 door and I was reseated, and I don't know how long it was
10 before they opened the door again and I heard another intake
11 of breath from the cabin and I was brought forward and
12 subsequently taken out and shot.

13 Q And Rezaq is the one who shot you?

14 A Yes, he was.

15 Q Let me hand you what has previously been moved into
16 evidence as Exhibit 3, a blowup of it is here. Can you
17 identify the person there as Omar Ali Rezaq on the top left of
18 Exhibit 3?

19 A Yes, I can.

20 Q Now, in relation to Mr. Rezaq, before he shot you, you
21 said the two of you locked eyes?

22 A Yes.

23 Q Why is that important to you to remember? When that
24 comes into your mind, what do you remember about the incident
25 with Rezaq?

1 A As I was going forward, I was maybe four feet away from
2 him or so. It just -- just out of reach of him. He was
3 standing by the cockpit door and he was -- he seemed relaxed,
4 you know. He was -- his gun was hanging at his side and he
5 was, you know, he just seemed all business and all confident.

6 And in my head I was going to kick at him and run
7 out the door, but I was a little bit too -- I think I
8 broadcasted my plan a little bit too much, and as I was going
9 forward, we locked eyes and I could just see a recognition in
10 his eyes that I was going to do something and that I might
11 have been a threat to him, and so he -- he instantly put his
12 gun up like -- after we locked eyes, he put his gun up quickly
13 and right at my face and held me there. Not held me there,
14 but I realized that kicking at him wasn't going to be a
15 possibility after that.

16 Q When he put that gun in your face, how did you feel?

17 A I felt like that was it, that he was going to shoot me,
18 and I was -- said, "Okay, let's just get this over with," and
19 I just walked to the stairs on my own, and the man who had me
20 by the crook of the neck just let me go.

21 And as I'm walking out, I look behind me and he
22 wasn't -- he wasn't right next to me. He was at least three
23 or four feet away. He was keeping his distance which I don't
24 know if it had anything to do with my being alive or not, but
25 I walked out to the foot of the stairs and I kind of waited

1 for the bullet, but in an instant, I go, I just should just
2 jump off, and so I was in the act of just turning to my left
3 and that's when he fired and it hit me in the back of the head
4 and I just -- it just reminded me of like what it must feel
5 like to be hit in the back of the head with a baseball bat.

6 I just went out, and I remember there just being
7 stars and floating and waking up on the stairs and in a heap.
8 I remember my leg, it was over the railing of the stairs, the
9 crook of my leg, so I somersaulted off the stairs and my leg
10 hooked it, and then I could hear the footsteps of two men
11 coming down and picking me up by the crook of the arms and
12 dragging me back up the stairs, and not knowing what I should
13 do, whether I should just break away and run or if I should
14 play dead or what.

15 But they had me and they were dragging me back up
16 the stairs, and so I just played dead. And I had long hair at
17 the time and I could just feel the blood running down my neck,
18 so I knew that I was bleeding fairly profusely, and so it must
19 have looked like I was shot in the head, and so I had my eyes
20 closed the whole time.

21 And the next thing I know, I don't know if they
22 picked me up or if there was a door that opened, but I just
23 know that I was weightless after that and they had thrown me
24 from the plane, from the top platform, and I knew I was going
25 the hit hard and I just had these nightmares of falling

1 10 feet face forward on the tarmac and just feeling how lucky
2 I was that my shoulder had hit that mirror and turned me over
3 before I hit so.

4 Q Do you reflect back over the last 25 years on this whole
5 description you've just given to the Court?

6 A It's really been the thread that's -- this continuous
7 thread on my life that's always been there, in my dreams and
8 part of my identity. I'm just pretty much known in my close
9 circle of friends as the guy that was on the hijacked
10 airplane, and so it's never really left me ever.

11 Q And the blood that was oozing out of the gunshot to the
12 back of your head, do you reflect back on the feel of the
13 blood gushing out?

14 A Yeah, yeah. Those are really intense memories that have
15 never left. The feeling of not knowing whether I was going to
16 be shot when I was dragged back up was -- just had this moment
17 of indecision about -- and I knew that what I did then would
18 be -- would determine whether I lived or not, and so luckily I
19 was okay that he didn't shoot me again, you know.

20 Q The bullet that you took into the back of your head, did
21 it cause you to suffer brain injuries that have subsequently
22 been diagnosed?

23 A Yes, it has.

24 Q And have you lived with that your entire life?

25 A Yes, I have.

1 Q And has this hijacking experience and the shooting to the
2 back of your head been something you have lived with every day
3 and reflect on every day and look back on every day for the
4 last 25 years?

5 A Yes, pretty much, yes.

6 Q And when you think back over what you experienced, how
7 does it make you feel, Patrick?

8 A Well, I don't like being a victim. It's one thing I
9 never really -- it makes me angry being a victim where I was
10 taken out and shot like a cow who was going to slaughter
11 without being able to fight or anything like that. It's
12 always rubbed me the wrong way, and I always swore that would
13 never happen again.

14 Other than being a victim, I pretty much just picked
15 up the pieces and went ahead with my life and just moved
16 forward. I'd never wanted just to blame circumstances out of
17 my control. I just wanted to move forward, and the only thing
18 I didn't like was being identified as that guy, you know, in
19 the hijacking and being the victim.

20 And it's a great story, it's a story of adventure
21 for a lot of people who want to hear about it, and it's -- but
22 it's -- it was hard at first to relive it every time I told
23 the story, but it kind of became also like a catharsis for me
24 to just get it out also. So in that way it was -- it helped
25 me move forward just telling the story over and over and over

1 again.

2 Q How did it feel to be targeted as an American by the
3 hijackers?

4 A Well, I didn't like the fact that I was being targeted as
5 a piece of someone else's political agenda. I mean, I know
6 how all the other victims feel and families feel in the world
7 of being targeted by senseless and meaningless violence to
8 themselves, being someone else's political agenda, and that
9 when you're just trying to live your life, it's not easy to
10 take.

11 Q You testified earlier about seeing the handgun from the
12 air marshal down on the ground when you were seated there in
13 the first row and you talked about considering reaching for
14 it.

15 A Yeah.

16 Q Is that something you have reflected back on, you
17 flashback to many times over the last 25 years?

18 A Yeah, quite often, yeah. I -- you know, on one hand I
19 could have endangered everybody on the plane; on the other
20 hand, you know, I could -- who knows, I could have ended it,
21 who knows. I'm not Clint Eastwood, so. I tell you one thing,
22 it was a relief to me when the hijacker picked it up, so...

23 Q How often do you think about that gun?

24 A Quite a bit. It's -- you know, it's -- it was a defining
25 moment in my character about whether or not I was the type of

1 guy to pick up a gun and shoot it at somebody else even though
2 he was a hijacker, and at that point, you know, I didn't know
3 what was going to happen, I didn't know that I was going to be
4 taken out and executed. I just -- I just saw it there and saw
5 that there was this handgun that was close to my reach. I
6 didn't know if there were bullets in it or not, and these
7 thoughts were going through my head.

8 And I'm probably -- you know, I just didn't know.
9 If I knew what the outcome of the hijacking was going to be,
10 that 60 people out of 96 were going to die, if I knew that
11 beforehand, I might have been more inclined to pick it up,
12 so...

13 Q When you reflect back on locking eyes with Rezaq before
14 he shot you, how often does that happen when you think back on
15 his eyes?

16 A That's one other thing that, you know, it was -- it was
17 like being pulled up after I was shot, whether I was going to
18 be shot again. This was a time when I knew at that point it
19 could mean my life, it could be life or death whether or not I
20 got a good kick at him and ran from the plane or what, and I
21 just -- it was my point where I had some control, where I
22 might have been able to make a difference in my life rather
23 than being taken out and shot like a cow, you know, to
24 slaughter or not, so that was another point where it does stay
25 in my memory and I do remember his eyes.

1 Q You've worked hard in your life not to be a victim even
2 though you were taken out and executed; is that correct?

3 A That's correct.

4 Q How do you feel about having survived?

5 A I feel great having survived. I know that I completely
6 overcame the odds. It was my -- it was my lottery that I won
7 in life and I'm grateful to have it. And on the other hand, I
8 don't like being a victim on the same score. I'm kind of
9 proud of the way I just picked up and went forward with my
10 life without, you know, seeing a counselor or whatever, but as
11 I reflect back, I know that I probably could have used one but
12 I was in denial that if I -- if I admitted to myself that I
13 needed one, then I -- in my mind it just felt like the
14 hijackers had won and I'd lost because they made an effect on
15 my life that, you know, I didn't have control of.

16 And so I pretty much just wanted to pick up the
17 pieces and move forward.

18 Q After they threw you down the stairs a second time and
19 you played dead down there at the bottom of the stairs and
20 you're bleeding, as you've already testified, and you
21 realized, I think you used the words, you saw -- you saw stars
22 and you were floating, when you woke up and you realized you
23 were still alive, how did you feel?

24 A It took me a few moments to realize where I was and my
25 situation, and then once I did, I heard footsteps coming down

1 the stairs and that was just this kind of a one-two punch of
2 realizing my situation and hearing the steps and made me
3 grateful to be alive.

4 And then I heard the footsteps and thought maybe I'm
5 not going to be alive much longer, and the real relief came
6 after they'd thrown me off the plane and I was on the tarmac
7 and then, then the release came that I realized I was probably
8 going to live and that's when I -- I was laughing on the
9 tarmac.

10 Q The footsteps that you've described to the Court, have
11 you reflected back on those footsteps so many times over the
12 last 25 years?

13 A Yeah, of course. I reflect on the whole thing really. I
14 mean, there has just been so many, so many points in that
15 hijacking that I just go, why did I -- how did I make it
16 through that, you know. It's just -- I just feel grateful
17 that I did and --

18 Q When you stood up and ran underneath the airplane and
19 then as you testified already ran out to the field, tell the
20 Court what you remember when as you ran into the grass
21 somebody stood up and pointed a rifle at you as you've already
22 testified?

23 A Yeah, I ran toward him because he -- as I was running
24 underneath the tail, I was running kind of perpendicular to
25 him, but I noticed him over there and he was following me with

1 his rifle and he saw that I was tied up and flagged me over,
2 and I was expecting Arabic in some other country other than
3 Malta, but the relief was great when I heard him say, "Where
4 you from, Mate?" You know, in this clipped British accent.

5 Q Was there a time when he thought you were one of the
6 hijackers and was there a time when you thought he was going
7 to take you out after surviving being shot in the head and
8 thrown down twice?

9 A Yeah. I thought there was a strong possibility. I mean,
10 he -- I don't know what he thought. I don't know if he was a
11 good guy or a bad guy. I didn't know -- I just knew that he
12 had a rifle trained on me, and I thought the best course of
13 action was to show him that I was no threat and I was tied up
14 and that I was a victim on the plane or a hostage.

15 And I was very happy to see that he lowered his
16 rifle and flagged me over instead of, you know, at that point,
17 you know, he could have shot or what have you. It was dark
18 and he was a shadow and I was probably a shadow to him, and so
19 yeah, it was another very good moment for me when I heard him
20 say, "Where you from, Mate?" It wasn't so much what he was
21 saying but how he said it. It was good.

22 Q "Where you from, Mate?"

23 A Yeah.

24 Q So you knew you were hearing English?

25 A Someone who had grown up with British English, and you

1 know, instead of someone who spoke Arabic and I wouldn't be
2 able to, you know, make him understand what was going on in
3 the plane, so...

4 Q You said that after that they took you to the hospital in
5 Malta. Let me hand you Plaintiff's Exhibit 30 and ask if you
6 can identify this document as being a copy of medical records
7 from the hospital in Malta to which you were taken from the
8 area of the hijacking and did we obtain those records pursuant
9 to your authorization?

10 A Yes, that's correct.

11 Q Did you receive treatment at St. Luke's Hospital in
12 Malta?

13 A Yes, I did.

14 MR. HEIDEMAN: Your Honor, we move Exhibit 30 into
15 evidence.

16 THE COURT: Be admitted.

17 (PLAINTIFF'S EXHIBIT 30 ADMITTED.)

18 MR. HEIDEMAN: Thank you.

19 Q (BY MR. HEIDEMAN) Now, while you were there at the
20 hospital, you earlier testified that there came a time when
21 there was all kinds of activity and people were brought in after
22 the Egyptian commandos stormed the aircraft; is that correct?

23 A That's correct.

24 Q And did you ever see or hear that any of the hijackers,
25 such as Rezaq, were brought to the hospital?

1 A I didn't get -- I didn't get news of that.

2 Q Okay. Now, while you were there at the hospital, you
3 earlier testified before the break that you were asked to come
4 and identify Scarlett Rogenkamp.

5 A Yes. Yes, I believe that was before the commandos
6 stormed the plane.

7 Q Before the commandos stormed the plane?

8 A Yes.

9 Q And so if you'll just look at Exhibit 3 for a moment,
10 just want to confirm the timeline that we've put into evidence
11 that at 9:05 Athens time the flight took off, hijackers,
12 including Rezaq shown on the top left, took control of the
13 aircraft at about 8:28, the shootout took place at about
14 9:00 o'clock; is that accurate so far?

15 A That rings true.

16 Q And then Flight 648 landed in Malta at 10:16. Is that
17 accurate so far?

18 A Yeah, it seems right.

19 Q And then the first person shot was Tamar Artzi who was
20 shot right at midnight; is that correct?

21 A Yeah, that seems --

22 Q And that's the first Israeli woman who was shot?

23 A Yes.

24 Q And 15 minutes later Nitzan Mendelson was shot; is that
25 correct?

1 A Correct.

2 Q And it's Nitzan who had held your hand?

3 A Correct.

4 Q One time you told me she held your hand so tight you
5 could still feel it today; is that true?

6 A Yes, I still remember her hand.

7 Q And then 15 minutes after Nitzan, you were shot, and that
8 would be four-and-a-half hours after the hijacking; is that
9 correct?

10 A That seems correct, yes.

11 Q And you were not on the airplane when Scarlett Rogenkamp
12 was shot, but you know she was shot and Jackie Pflug was shot
13 hours later, four hours later for Scarlett and another
14 five-and-a-half hours after that for Jackie; is that correct?

15 A Yeah, that sounds correct. In the hospital, I don't
16 really have a reflection of when they were shot, but from
17 afterwards it sounds like about the right timeline, yes.

18 Q And you met with the FBI and reviewed the report they
19 prepared; isn't that correct?

20 A Yes, I did.

21 MR. HEIDEMAN: We'll be marking that and moving that
22 into evidence now that it's been identified, Your Honor, as a
23 separate exhibit. It's not -- it's in the additional binder
24 the Court will be receiving.

25 THE COURT: All right.

1 Q (BY MR. HEIDEMAN) Now, as it relates to that FBI report,
2 on how many occasions did you meet with the FBI prior to the
3 criminal trial over Rezaq here in this courthouse?

4 A Boy, I don't know. They did a very, very intense
5 interview while I was in the hospital that I still remember it
6 was -- they were asking for details and I remember it was very
7 hard to remember everything at that point because it was still
8 very, very painful to recount everything. And after that, I
9 probably got questioned two or three times, I believe. I
10 don't remember.

11 Q Did you actually come and testify at the Rezaq trial?

12 A Yes, I did.

13 Q And you reviewed the FBI report to which I've referred,
14 and to the best of your knowledge, it's true and accurate; is
15 that correct?

16 A Yes.

17 Q Thank you very much.

18 Now, going back for a moment to the commando raid.
19 You, of course, were not there but you told the Court that you
20 believe that 96 people died separate from those who were shot
21 by the hijackers, 96 people died in the commando raid; is that
22 correct?

23 A No. 60 died of 96 total on the plane.

24 Q Thank you for correcting me. 60 people died?

25 A Yes.

1 Q 96 on the airplane. Now, let's go back to the hospital.
2 You said it was a few days before you were able to talk to
3 your mother; is that correct?

4 A Oops, excuse me. Yeah, I believe so. I don't really
5 remember exactly at what point I got to speak to my mother,
6 but I just remember that it wasn't comfortable because of all
7 the news media that was gathered around, and so I never really
8 got to have a good, you know, heart-to-heart talk with her
9 until later.

10 Q And how did your mother express to you that she felt as a
11 result of what you went through being executed but surviving,
12 thank God?

13 A Well, she was -- she was very relieved, of course, and
14 was happy to hear my voice, and I remember our conversation
15 being short, just because I was not comfortable with all the
16 cameras on me talking to my mom, but she was expressing how
17 glad she was that I was still alive, and that's about all I
18 probably got to talk about.

19 Q And did you -- do you recall the discussions with your
20 father, and what were your observations about how he felt
21 about you having been shot in this hijacking?

22 A He told me that, for one, he was really also very happy
23 that I was alive and he said the way he was told of my being
24 involved in this airplane, he just got a call from the State
25 Department saying, "Mr. Baker, you've got a son, Patrick." He

1 says, "Well, he's been shot in the head," and that he just
2 left it at that and hanging, and I think he realized what he
3 said, and he says, "Oh, but he's okay. He's still alive."

4 And my dad just had these -- he was telling me this
5 story on the phone, how he had all these thoughts of me being
6 a vegetable and he was very glad that I was talking to him and
7 I was, you know, seemingly, you know, okay, so...

8 Q And when you were able -- when you were given the ticket
9 by EgyptAir to then fly back to the United States, you said
10 you went to your mom's house. I assume that was your parent's
11 house and you just stayed on the couch for a week; is that
12 right?

13 A Yeah. I was picked up in Seattle by my brother and I
14 actually stayed on his couch for like a week before going to
15 my parent's house and then staying with them.

16 Q Which brother?

17 A Craig.

18 Q Craig. All right. And did you afterward ever go and
19 seek the kind of counseling that you earlier testified that
20 you -- that you needed but didn't go get?

21 A No, I never did.

22 Q In preparation for this trial, have you seen various
23 physicians who have examined you and have prepared reports and
24 have provided information and done testing on you,
25 psychologically and medically?

1 A Yes, I have.

2 Q And just one moment, please.

3 (PAUSE.)

4 Q (BY MR. HEIDEMAN) And is it your understanding that each
5 of those people have either -- each of those medical people have
6 either prepared reports or -- that are going to be filed as
7 exhibits in this case or they're coming to court to testify?

8 A Yes, that's my understanding.

9 Q Did you ever go back to the fishing that you talked
10 earlier about doing?

11 A Yes, I did, yeah. I continued with that for maybe 15
12 years later, but every year that I did it, I was saying,
13 "Okay, this is my last year. I'm going to -- I'm going to go
14 try and find a job and start a real career," because I never
15 considered fishing as something I was going to do for so long,
16 but as it turned out, that's -- it was in my comfort zone to
17 just stay in fishing.

18 Q And the comfort zone that you have just referenced, why
19 was it that you used those words? What does that say to you?
20 Explain it to the Court, please.

21 A Well, fishing is something that -- I found that it's, at
22 least immediately after the hijacking, that I couldn't stay
23 focused on any one thing for very long. I was -- I was very
24 erratic after I got home. I mean, for months or maybe a year
25 afterwards, I was -- I couldn't keep one thought in my head

1 for more than just a few minutes.

2 I was driving erratically, I couldn't obey traffic
3 signs, and immediately after the hijacking, all I wanted to do
4 was get on a boat and get away from someone so I wouldn't
5 cause an accident, which I actually did before I left, is I
6 ran a stop sign and was T-boned by another person and it just
7 confirmed my belief that I should get on that boat and get
8 away for awhile.

9 Q Was the boat to you a safe environment that you needed a
10 retreat to?

11 A It was very comforting, yeah. It was -- it was a
12 confined environment that, you know, I didn't have to deal
13 with the -- with -- I didn't have to deal with attention span
14 so much. You know, that type of work was -- didn't demand any
15 kind of attention span. It just demanded repetitive motion
16 and such.

17 There was no -- there was no staying focused on
18 different things. It was pretty much just -- at least working
19 on processors was just doing the same thing over and over
20 again.

21 Q When you got your degree in general biology at Washington
22 State University, were you a focused person?

23 A I think I was pretty focused during that time, yeah, for
24 sure.

25 Q Did you have an attention span?

1 A I had a better attention span, yes, I did.

2 Q Did you have the ability to concentrate on your work that
3 you wanted to do and in the laboratory?

4 A Yes, I did.

5 Q You earlier testified that you intended to get your
6 master's degree. Have you ever been able to go back and get
7 it?

8 A I never did do that, no.

9 Q And you earlier testified that you wanted to do research
10 in a laboratory in the, I assume, the biology field; is that
11 correct?

12 A That's correct.

13 Q Did that include marine biology?

14 A It could have. I -- you know, I never really sent
15 feelers out to see where the jobs were. I enjoyed marine
16 biology and I actually, you know, during the course of
17 fishing, I was glad I had a biology degree because there were
18 a lot of things coming off the ocean floor that I could
19 identify and see in vivo as such.

20 Q With you ever, since you took that bullet to the back of
21 your head, have you ever felt able to go back and get your
22 master's degree or go back and work in a laboratory and do the
23 things that you were trained to do and had intended to do?

24 A No. Like I said before, every year I intended to and I'd
25 always get back on that boat just because it was -- it was a

1 comforting environment for me.

2 THE COURT: Could you tell me about the boat? Is
3 it -- what body of water is it in?

4 THE WITNESS: There are actually many, many boats.
5 For the first three years I was on floating processors, which
6 are processors that actually process the fish. And then I got
7 on fishing boats, which is actually the catcher boats, and
8 these are -- I do saning which is persaning, gill netting and
9 I do long lining, and these are smaller boats like in the 50-
10 to 60-foot range and I would do that in the Prince William
11 Sound and the North Pacific and Southeast Alaska.

12 Q (BY MR. HEIDEMAN) Tell the Court, over the last 25 years,
13 what kind of work you have done and what kind of earnings you
14 had, although we'll be filing actual records with the Court.

15 MR. HEIDEMAN: And request leave at this time, Your
16 Honor, for him to identify those so that they can then be
17 moved into evidence.

18 THE COURT: Sure, that's fine.

19 Q (BY MR. HEIDEMAN) Go ahead.

20 A So, do you want records from the first point of my
21 fishing career?

22 Q Why don't you share with the Court what you recall about
23 your work over the last 25 years that you have been able to do
24 and the earnings that you made?

25 A Floating processors, they're long hours and not very much

1 pay, maybe \$6 an hour, but you can work 12 to 16 hours a day
2 when the fish are in, and when there's no fish, then you're
3 pretty much idle, so you're trying for the most hours of doing
4 the repetitive processing of the fish.

5 And on a fishing boat, it's -- you know, there is so
6 many vagaries to fishing. You know, there's price and there's
7 market and there's -- there is whether you can catch the fish
8 and/or being on a fishing boat that has a quota to catch the
9 fish. There is just so many different elements to fishing
10 that it's -- it becomes -- it becomes like a gambler, you
11 know. Every fishing season you think that you're going to
12 make a big hull and you may or may not. It may be a very good
13 season or a very bad season but you always have that hope that
14 it's going to be -- all the elements are going to align so
15 that you're going to make a lot of money.

16 And so I probably made between 5,000 and, I don't
17 know, 15,000, you know, doing four or five -- four or five
18 months of work on floating processors, and in the substantive
19 -- subsequent years, I've maybe -- I can't remember how many
20 years. There were maybe 15 years of commercial fishing. I
21 would make anywhere from 5- or 6,000 on a disaster year or up
22 to 60- or 70,000 on very good years. I made the most money
23 doing longlining, which is for halibut and black cod, and
24 those are very good markets in the Japanese market for black
25 cod and the domestic market for halibut, so they pay \$5 a

1 pound for it and I get 10 percent of the catch as a normal
2 crew share on the fishing boat, so...

3 Q Is that the nature of the work you've continued to do?

4 A Yes, until I got married.

5 Q And when was that?

6 A 1998.

7 Q And the name of your wife?

8 A Holly Hinman.

9 Q And are you still married?

10 A Yes, I am.

11 Q Any children?

12 A No.

13 Q Had you ever been married before?

14 A No.

15 Q And have you ever had any children?

16 A Never.

17 Q What was your emotional state in the years following the
18 hijacking and over the last 25 years?

19 A As an overall emotional state, it was -- I was angry
20 shortly after the hijacking and it was hard to release that
21 anger. I mean, I don't think I was overtly angry. I wasn't
22 angry at any -- I don't think I was angry at any one person or
23 any people. I was just angry at the situation I was in, that
24 I guess I was mostly angry at Rezaq who had done the shooting
25 and started all the hoopla.

1 And I don't think I could really have gone on with
2 my life until I released that anger and that took about a
3 year, and -- of introspection. I don't think I even
4 recognized that I had that anger until, you know, maybe eight
5 or nine months after it happened because I was -- I was
6 still -- I was still in kind of a lot of shock and I didn't
7 recognize the shock because I was in denial. I don't know,
8 everything just seemed to circle on itself.

9 And it's only, you know, as I live my life and look
10 at it in retrospect that I can even determine those things.
11 So I guess I started out angry and then I just wanted to get
12 on with my life. You know, like I say, I hated being a victim
13 and that seemed to be the central thread. Even though it was
14 a catharsis to tell my story over and over again, it was a
15 relief to get it out, but every time it reminded me that I was
16 a victim and that never really had gone away.

17 So, my emotional state in general, I suppose, as far
18 as everyone can see, is I'm a pretty happy guy, and I am a
19 happy guy and I enjoy life and I'm happy to be here and -- but
20 I do, especially with this testimony, still harbor feelings
21 and emotions that I didn't know that I had. And so I got to
22 say it's a relief to come up here and have my day in court and
23 tell my story finally. I just feel like having some bit of
24 closure, so...

25 Q Is there anything you'd like to say to the Court that you

1 haven't had in your mind the opportunity yet to say here?

2 A I would just like to reiterate what I just said in that I
3 appreciate having this time in court, even no matter what the
4 outcome is, just it's a relief to come up and tell the story
5 and get it out and have my day in court.

6 And it -- I think this will, further on, just
7 telling it, it's a further part of the -- my catharsis of
8 getting it out and just moving on. And so I realize that
9 this -- this is going to be with me the rest of my life and
10 that it does have an affect on me, but it's -- I do enjoy life
11 and I've moved on, I think, so I think that's it, yeah.

12 Q Are you doing the best you can?

13 A Sure, yeah, of course.

14 Q Are there things you wanted to do with life that you'll
15 never do as a result of this hijacking?

16 A Well, yeah. Of course there is. I mean, I'm sure it had
17 a complete effect on how my life would have been had I not
18 gone through the hijacking, but I try to make the best of
19 everything that happens to me and just move on from there, and
20 I think I did a good job of having a good happy life, and
21 that's my reward. That's my revenge also to the hijacker
22 Rezaq, I think.

23 Q Thank you.

24 MR. HEIDEMAN: Before we release this witness, Your
25 Honor --

1 THE COURT: I have a question. Mr. Baker, what are
2 you doing now?

3 THE WITNESS: I work for an engineering company in
4 the oil industry.

5 THE COURT: What's the name?

6 THE WITNESS: I work on site at a refinery in
7 Whatcom County where I live. I'm an NDE tech, which we're
8 responsible for -- it stands for nondestructive testing of the
9 piping.

10 MR. HEIDEMAN: Thank you, Your Honor.

11 Q (BY MR. HEIDEMAN) You had said -- I had asked you about
12 your work in fishing and you said you continued in that until
13 1998 when you got married, and I didn't ask you about --

14 A I did actually work while I was married a couple of years
15 but with every intention that I was going to drop it and I did
16 because I know that a lot of marriages don't survive fishing,
17 so...

18 Q So, since 1998, your work has been in the engineering oil
19 field?

20 A Yes.

21 Q All right. And have you been able to use some of the
22 things you learned in your undergraduate degree?

23 A Yeah, of course. The science, having had hard sciences
24 and physics and chemistry has definitely been a benefit, of
25 course.

1 Q But had you had your master's, you would have done much
2 better?

3 A Yeah, I suppose so. It's always good to have higher
4 education.

5 MR. HEIDEMAN: A couple of things, if I may, Your
6 Honor. One of the doctors he saw at the Malta hospital was
7 Dr. Angela Psaila, P-a- -- Angelo J. Psaila, P-s-a-i-l-a. His
8 notarized affidavit, Your Honor, is at Exhibit 31, would like
9 to introduce that and read quickly to the Court -- and by the
10 way, that exhibit attaches not only his curriculum vitae and
11 his expertise as Attachment A, but as Attachment B the very
12 St. Luke's hospital record that we have already put into --
13 into evidence as the previous exhibit.

14 As to Dr. Psaila, he indicates in pertinent part
15 that Mr. Baker was shot point blank at the back of the head,
16 thrown from the airplane to the tarmac two times. It further
17 indicates that he suffered concussion to the brain, he had a
18 laceration, wound head trauma to the right occipital region of
19 the head that he in addition suffered contusions, back,
20 abrasions to elbows and knees as a result of being thrown off
21 the airplane two times, that his treatment included the head
22 wound that was the shot to the back of the head, treatment of
23 the contusions and abrasions and monitoring the possibility of
24 internal brain injury, which another doctor will testify
25 about.

1 It indicates that he was there at the hospital for
2 four days; that upon discharge he was provided with a brief
3 summary, which is attached as Exhibit B and which we've put
4 into evidence, and he expresses his opinion that in addition
5 to suffering aforementioned physical injuries, Mr. Baker
6 suffered severe emotional distress as a result of the many
7 hours of the hijacking ordeal, witnessing other hijackers --
8 -- hostages being shot execution style, being called forward
9 himself and being shot and tossed from the plane like the
10 other victims.

11 The doctor expresses his opinion under the penalty
12 of perjury under the laws of the United States that his
13 physical injuries could have caused permanent mental
14 disturbances, including personality changes and long-term
15 depression, and accordingly, we would move Exhibit 31 into
16 evidence at this time.

17 THE COURT: It will be admitted.

18 (PLAINTIFF'S EXHIBIT 31 ADMITTED.)

19 MR. HEIDEMAN: Thank you. And Your Honor, in
20 addition.

21 Q (BY MR. HEIDEMAN) Patrick, you've seen Dr. Gary K.
22 Stimac; is that correct?

23 A That's correct.

24 MR. HEIDEMAN: Dr. Stimac's curriculum vitae, very,
25 very extensive, Your Honor, we introduce as Exhibit 32 to

1 qualify him as an expert. It's a 21-page resume. Rather than
2 taking the Court's time, since we do have Colonel Lang
3 standing by to testify, if we could, before the lunch break, I
4 would like to introduce and qualify Dr. Stimac in accordance
5 with his curriculum vitae, and I introduce Exhibit 32 and move
6 that the Court accept Dr. Stimac as an expert.

7 THE COURT: That will be admitted, and it will be so
8 ordered.

9 MR. HEIDEMAN: Thank you. Then we would move
10 Exhibit 32 into evidence.

11 THE COURT: Admitted.

12 (PLAINTIFF'S EXHIBIT 32 ADMITTED.)

13 MR. HEIDEMAN: Thank you. And as to Exhibit 33,
14 Your Honor, Dr. Stimac has prepared a report.

15 Q (BY MR. HEIDEMAN) You did, Patrick, see Dr. Stimac; is
16 that correct?

17 A That's correct.

18 Q And Dr. Stimac has prepared a report at Exhibit 33.
19 Dr. Stimac is in Bellevue, Washington; is that correct?

20 A Yes. Actually I never -- Dr. Stimac reviewed -- I never
21 saw him in person.

22 Q One moment, please.

23 A He reviewed my MRI and --

24 Q Yes, I'm sorry. Thank you. Dr. Stimac took an MRI scan
25 of you, which was performed on December 11, 2009 at the Nevada

1 Imaging Centers and then Dr. Stimac reviewed that; is that
2 correct?

3 A Correct.

4 Q Good.

5 MR. HEIDEMAN: So that the record is clear, since
6 the court reporter may still not have the sound, I'm not sure,
7 Exhibit 31 we're handing to the court reporter, which I
8 believe I've moved into evidence; Exhibit 32 being
9 Dr. Stimac's CV is with the court reporter, which we've moved
10 into evidence; and now we would move Exhibit 33 into evidence,
11 Your Honor, being Dr. Stimac's report.

12 In that report to Dr. Stimac, having been testified
13 and Dr. Stimac being both a Ph.D and an MD expresses the
14 following summary to the Court based upon his review of the CT
15 and the MRI -- of the DTI scan of Mr. Baker and the MRI scan
16 that I previously mentioned, and his opinion is as follows.

17 Summary 1, Mr. Baker suffered at least three
18 significant head injuries as a result of being struck by a
19 high speed bullet and two falls from great heights. These
20 injuries were each sufficient to cause closed head shearing
21 trauma to the brain.

22 2, the symptoms at the time of the injury included
23 loss of consciousness and disorientation. These are typical
24 symptoms of a closed head injury.

25 3, the long-term symptoms reflect a constellation of

1 abnormalities in diverse areas of brain function. This
2 pattern is typically seen as a result of closed head trauma
3 and DAI.

4 4, the MRI scan, performed 24 years after the
5 injury, shows a decrease in corpus callosum fiber tracts in an
6 anterior-and-posterior distribution. This distribution is
7 typically seen in association with closed head injury. The
8 pattern is not seen in association with other forms of brain
9 disease.

10 No. 5, the MRI findings reflect physical damage to
11 axons in Mr. Baker's brain. The damage is permanent.

12 6, based upon my review of the MRI findings,
13 available records of Mr. Baker, and my expertise, it is my
14 opinion to a reasonable degree of medical certainty that the
15 MRI abnormalities are the result of the physical injuries that
16 Mr. Baker sustained during the hijacking on November 23rd,
17 1985. Signed Gary K. Stimac, Ph.D., M.D.

18 And accordingly, Your Honor, we would move Exhibit
19 33 and this testimony into evidence.

20 THE COURT: It's admitted.

21 (PLAINTIFF'S EXHIBIT 33 ADMITTED.)

22 MR. HEIDEMAN: Thank you very much.

23 Q (BY MR. HEIDEMAN) Before we release you, Patrick, since I
24 repeat, we know that you're not going to be here in court
25 tomorrow due to your work obligations, is there anything --

1 first I want to thank you for going through this difficult
2 testimony and remembering all you remembered.

3 Is there anything further you would like to say to
4 the Court in support of your request that the Court hold the
5 Defendants responsible for the execution-style bullet which
6 you took to the back of your head from the hijacker Rezaq
7 pursuant to the EgyptAir Flight 648 hijacking?

8 A I'd just like to say that I'm really grateful to have my
9 chance to speak in court and reiterate that, and that I don't
10 know, I'm just hoping that this might do a little something to
11 prevent this from happening again and holding countries
12 accountable for harboring terrorists. That was my main focus
13 from the beginning and it still is, and so I'm really grateful
14 to have my say in court, and thank you very much.

15 EXAMINATION

16 BY THE COURT:

17 Q Mr. Baker, could you do me a favor. Could you go over
18 there and look at the picture of the airplane, that's the
19 second picture.

20 A Yeah.

21 Q And explain something to me. When they take you, the two
22 men, right.

23 A Yeah.

24 Q You're at that doorway and they fling you forward?

25 A When I was to be shot --

1 Q In other words, they've got you by both arms and your
2 hands are behind your back.

3 A Yes.

4 Q Now, in that picture there is separation between the
5 fuselage of the plane and the stairs. That's not right.

6 A It appears that way, but that's not right.

7 Q So that's flush with the fuselage.

8 A Yeah.

9 Q Now, the two men take you.

10 A Yes.

11 Q And you're facing looking down the stairs?

12 A Well, I'm flopped over the stairway here, and I know that
13 one leg is flopped over this side of the stairway and then
14 they take me and they drag me backwards -- I have my eyes
15 closed -- up to this top platform here.

16 Q All right.

17 A And the next thing I know I'm weightless, and I don't
18 think -- I don't know if they threw me over this rail and down
19 this way.

20 Q All right. But they didn't throw you back down the
21 stairs.

22 A No.

23 Q You didn't bounce along the stairs.

24 A No. When I first was shot, I bounced on the stairs.

25 Q All right. So you're first shot, then you're bounced

1 along the stairs and you go to the bottom.

2 A No, about halfway down.

3 Q About halfway down.

4 A Yeah.

5 Q Then the same -- the two men come and bring you back.

6 A Yes. They drag me back up the stairs.

7 Q And then you sense they're going to shoot you again.

8 A I did.

9 Q But you've got your eyes closed.

10 A Yes.

11 Q And you're assuming they think you're dead.

12 A I'm hoping, yes.

13 Q You're hoping they think you're dead.

14 A Yes.

15 Q And the next thing you feel is this feeling of
16 weightlessness, and you now infer they probably threw you over
17 the side as opposed to back down the stairs.

18 A Oh, yes. Oh, yes, they threw me over the side, and I
19 don't know if there's a door that opens here and they threw me
20 off or if they drew me over the rail. I don't recall that. I
21 just know that my shoulders struck this right there.

22 THE COURT: Okay. Thank you very much.

23 MR. HEIDEMAN: Thank you, Your Honor. And in that
24 regard, we have the materials from Boeing as it relates to the
25 height from the airplane to the tarmac, which we will -- which

1 will be in the additional materials the Court will be
2 receiving. And in light of this foundation, subject to the
3 Court receiving those matters, we would move those into
4 evidence as well with an exhibit number that we'll tender to
5 the Court. Is that acceptable to the Court?

6 THE COURT: Certainly. That's fine. Thank you.

7 MR. HEIDEMAN: Thank you very much.

8 THE WITNESS: Thank you.

9 MR. HEIDEMAN: Patrick, thank you.

10 THE WITNESS: Thank you.

11 THE COURT: Proceed.

12 MR. HEIDEMAN: Thank you very much. May we call
13 Colonel Lang to the stand.

14 THE COURT: Okay.

15 MR. HEIDEMAN: Thank you.

16 THE DEPUTY CLERK: Raise your right hand, sir.

17 (WITNESS SWORN BY THE DEPUTY CLERK.)

18 THE DEPUTY CLERK: Thank you.

19 COLONEL WALTER LANG, JR.,
20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. HEIDEMAN:

23 Q Colonel, thank you for waiting patiently today. I
24 appreciate it. Would you state your name, please, to the
25 Court.

1 A Walter Patrick Lang, Jr.

2 Q Thank you. And can you please tell the Court what was
3 your occupation and what is your occupation.

4 A Well, I served in the United States Army for 26 years and
5 retired as a full Colonel of military intelligence, and then I
6 was in the senior executive service of the Defense
7 Intelligence Agency for six years.

8 And then I was in business in the Middle East for
9 ten years, and now I am more or less retired except that
10 people keep asking me to do things for them.

11 Q Including me?

12 A Yes.

13 Q Thank you very much. Colonel, how -- let's see, although
14 I'm going to be introducing in a moment your resume, your
15 curriculum vitae --

16 MR. HEIDEMAN: As Exhibit 39, Your Honor.

17 Q (BY MR. HEIDEMAN) -- can you please give the Court a
18 chronology of your activities on behalf of the United States
19 Government from the beginning of work until now.

20 A Well, I graduated from the Virginia Military Institute in
21 1962 and was given a commission in the regular Army as an
22 infantry officer and I served in the infantry and then in Army
23 special forces, what civilians call the green berets and in
24 Latin America and in Southeast Asia and East Africa. And then
25 I was the professor of Arabic. I became a member of the Army

1 Specialty Training Program for Middle East trained officers
2 after the war in Vietnam ended, and I went to graduate school,
3 language school, and I was the first professor of the Arabic
4 language at the United States Military Academy at West Point,
5 New York and the head of the curriculum there in Middle East
6 studies for three years.

7 Then I went to North Yemen where I was a Defense and
8 Army attache' there for three years. I came back for a few
9 months, and then I went to Saudi Arabia where I was a Defense
10 and Army attache' for another couple of years. Then I went to
11 Army War College as a student, and along the way there I was
12 awarded a colonel. And while I was in the Army War College,
13 the director of the Defense Intelligence Agency, Lieutenant
14 General James Williams called me up and asked me if I would
15 take a job that was titled to be the Defense Intelligence
16 Officer for the Middle East, South Asia, and Counterterrorism,
17 which I accepted.

18 And it's -- it was a pretty good offer. So I -- in
19 that capacity, I was the head of all the business at the
20 Defense Intelligence Agency conducted with regard to the
21 Middle East, South Asia, and Counterterrorism for seven years.
22 First as a Colonel in the Army, and then when I retired, they
23 insisted I stay on in the senior executive service, which
24 Congress allowed.

25 So I did that until after the first Gulf War, and

1 then I went over, was the head of the Defense HUMINT. That's
2 all the collecting information around the world done by the
3 Defense Department using both overt means and also non-overt
4 means, and I did that for several years. And then I retired
5 from government service, went to work for the Arabic
6 acquaintance of mine. He owned a company that manufactured
7 building materials and had a dozen factories in the Gulf
8 region, on the Arabian Gulf region and other parts in the
9 Middle East and Europe, and I worked for him for ten years as
10 a corporate officer in government relations, business
11 development, and I built three factories here in the United
12 States for a period of time and I just quit.

13 That happened to be the week before 9/11, and my
14 attempt to retire was more or less unsuccessful because I've
15 been kept fairly busy ever since. I used to do a lot of
16 television, and I worked for CNN and the News Hour as a
17 talking head kind of person for a couple of years at the
18 beginning of the war and decided I didn't want to do that
19 anymore.

20 Q Have you written a number of books, including on
21 "Intelligence: The Human Factor"?

22 A Yes. I wrote a textbook on how to -- the craft and
23 business of espionage, how to do it, and that was published a
24 number of years ago. It was cleared by Department of Defense.
25 I've also written a couple of novels which are essentially a

1 spy story set in the American Civil War.

2 Q And have you participated in various symposia, giving
3 lectures as well as writing articles in the field of
4 intelligence and counterterrorism and related matters?

5 A Yes. I have written many, many articles. You have a
6 list of my CV, and they've been published all over the world,
7 including the United States on the Middle East, on the
8 intelligence business on counterterrorism on the Middle East,
9 indeed on special operations since I was a Special Forces
10 officer. And I've participated in many, many symposia and
11 boards. I belong to several boards.

12 I'm a director of the Harry F. Guggenheim Foundation
13 and a director of the Middle East Policy Council, and I'm a
14 member of the Board of Advisors of the International Relations
15 Department at the Virginia Military Institute. So I -- there
16 is a lot of things here.

17 Q Thank you. I've handed you a copy of Exhibit 39 being a
18 curriculum vitae. Is that in front of you?

19 A Yes.

20 Q And is that true and correct?

21 A Yes, it is.

22 MR. HEIDEMAN: We'll move Exhibit 39 into evidence,
23 Your Honor.

24 THE COURT: Be accepted.

25 (PLAINTIFF'S EXHIBIT 39 ADMITTED.)

1 MR. HEIDEMAN: Thank you very much.

2 Q (BY MR. HEIDEMAN) Now, you have already testified that
3 you're retired from the U.S. Government as well as the U.S. Army
4 having attained the rank of Colonel; is that correct?

5 A That's correct.

6 Q And are you currently an independent consultant with
7 expertise in the greater Middle East in intelligence matters
8 as well as in counterterrorism matters?

9 A Yes, that's correct.

10 Q And did I contact you or my -- one of my law partners
11 contact you to request that you render expert testimony with
12 regard to Syria's sponsorship of the Abu Nidal Organization?

13 A Yes, she did.

14 Q And do you have knowledge, information and expertise on
15 the question as to whether or not Syria is a -- listed by the
16 U.S. Department of State as a state sponsor of terror?

17 A Yes, that's a matter of public record, has been for some
18 time.

19 Q Thank you. And do you have knowledge and expertise on
20 the issue of Syria's sponsorship of the Abu Nidal
21 Organization?

22 A Yes, I certainly do.

23 Q And do you have knowledge and expertise on the issue of
24 the Abu Nidal Organization's commitment of the hijacking of
25 EgyptAir Flight 648 of November 23rd, 1985?

1 A Yes. I remember this incident with great specificity
2 since I was involved in the Washington end of it very
3 directly, and then I was in charge of the Defense Department's
4 investigation of all the evidence available as to what had
5 happened and who had done what and who had supported what,
6 yes.

7 Q And in addition, do you have knowledge and expertise on
8 the issue of other Syrian-sponsored acts of terrorism
9 committed by the Abu Nidal Organization, including but not
10 limited to the Rome and Vienna coordinated airport attacks of
11 one month later, December 27, 1985?

12 A Yes, I do.

13 Q And are you prepared to share your information, your
14 knowledge, your expertise and your findings on these issues
15 with the Court subject to the Court's acceptance of you as an
16 expert witness?

17 A Yes, I am.

18 Q In that regard, would it be accurate to say that
19 throughout your military career, your government career and
20 your consulting career you've specialized in both Middle East
21 and North African affairs in the area of intelligence,
22 terrorism and counterterrorism?

23 A Well, my involvement in the intelligence business started
24 in the mid '60s when I was still in Special Forces and has
25 been continuous ever since. I'm still a consultant to the

1 U.S. Government, to the Director of National Intelligence,
2 U.S. Army in intelligence matters, and my Middle Eastern
3 specialization started immediately after the war in Vietnam
4 and has continued ever since.

5 Q Thank you. And have -- did you receive your BA from the
6 Virginia Military Institute in English in 1962 and your MA in
7 Middle Eastern studies from the University of Utah in 1974
8 where you were inducted as a member of national honor Phi
9 Kappa Phi?

10 A Yes, that's correct.

11 Q And in addition, as your -- you've received various
12 specialized training involved in your area of expertise; is
13 that correct?

14 A Yes, there are a wide variety of academic and military
15 and other governmental courses and qualifying things, yes.

16 Q And did you attend the Defense Language Institute in
17 Monterey, California to study Arabic and completed courses of
18 the study -- of study at both the Armed Forces Staff College,
19 the U.S. Army Command, the General Staff College, and the U.S.
20 Army War College at Carlisle Barracks, Pennsylvania?

21 A That is all correct.

22 Q And you served in the United States Government for 32
23 years from June 1962 when you were commissioned as an officer
24 of the U.S. Army until your retirement from the Army as a
25 Colonel in October 1988, and subsequently as a member of the

1 Defense Intelligence Senior Executive Service and the Defense
2 Intelligence Agency until your retirement from the DIA in late
3 1994; is that correct?

4 A That is correct.

5 Q So, during the time period that I've just indicated, the
6 actual EgyptAir hijacking took place; is that correct?

7 A Yes. That occurred just a few months after I took over
8 the job in DIA as the chief officer for the Middle East.

9 Q Thank you. And in addition, by the way, you served as
10 the Defense and Army attache' in the U.S. embassies in Yemen
11 and in Saudi Arabia; is that correct?

12 A That's correct.

13 Q And you have received honors from the United States in
14 the Defense Intelligence Senior Executive Service,
15 specifically in 1992 you were awarded the presidential rank of
16 distinguished service, which has been said that to be the
17 American equivalent of a British knighthood given to a senior
18 civil servant for excellence of performance; is that correct?

19 A It's actually the presidential rank of distinguished
20 executive, but yes, all the rest of that is correct.

21 Q Thank you. And during your Army career, you served in
22 the infantry and Special Forces, the green berets, as well as
23 an officer of military intelligence for the Army. You served
24 in Vietnam, you became part of their management program that
25 trained and employed officers for duty in various parts of the

1 world for which a high level of expertise was needed, and the
2 program was and is called the Foreign Area Officer Program,
3 and as a member of that Army program, you actually became a
4 specialist in the Middle East and North Africa area while at
5 the same time retaining your membership in military
6 intelligence; is that correct?

7 A That's correct.

8 Q Thank you. And you became a specialist in Middle
9 East/North Africa area for the Foreign Area Officer Program by
10 being trained for that program which was lengthy and thorough,
11 including your attendance at the Defense Language Institute to
12 study Arabic, at which time you obtained a perfect 100 percent
13 score on the Department of Defense Language Test for Modern
14 Standard Arabic; is that correct?

15 A That is correct.

16 Q In addition, you studied at the Middle East Center of the
17 University of Utah in Salt Lake City where you received a
18 master's of arts degree in Middle East Studies with
19 specialization in Arab Literature, Modern Political History of
20 the Arab World and Social Anthropology of the Middle East; is
21 that correct?

22 A That's correct.

23 Q Your grade point in that program was a 4.0 out of a 4.0,
24 and at the University of Utah you were inducted into the
25 international honors fraternity of Phi Kappa Phi; is that

1 correct?

2 A Yes, it is.

3 Q And with the Defense Intelligence Agency, moving directly
4 now to the period of 1985, just being the same year as the
5 EgyptAir hijacking and the Rome and Vienna airport attacks, is
6 it true that you were designated to the official position
7 called Defense Intelligence Officer for the Middle East, South
8 Asia and Counterterrorism; is that correct?

9 A Yes, that's a job title, not a job description, and so
10 it's the Defense Intelligence Officer for.

11 Q And explain to the Court what were the responsibilities
12 of Defense Intelligence officers at that time in the Defense
13 Intelligence Agency?

14 A The direct -- at that time the director of the Defense
15 Intelligence Agency wanted to have a board of highly qualified
16 people, some civilians and some active duty officers, who were
17 responsible only to him and who would oversee all the
18 functions and operations of the Agency with regard to a
19 particular area of the world or function. For example, there
20 was a strategic forces defense intelligence officer as well as
21 one for South Asia, one for Europe, et cetera. And in that
22 regard, you had control of all -- of everything the Agency
23 produced or did with regard to that function or area of the
24 world and you oversaw the provision support to our principal
25 clients who were the Secretary of Defense, the Chairman of

1 Joint Chiefs Of staff, Unified Commander such as the
2 commanding -- commander in chief at that time of Central
3 Command, which is the Middle Eastern command and you do just
4 generally ran everything that had to do with your part of the
5 world or your business, and it was a very challenging job.

6 Q Thank you. And do I understand that each of the Defense
7 Intelligence officers were responsible for both the quality
8 and the content of all intelligence work done by the Defense
9 Intelligence Agency with regard to his or her area of
10 responsibility and that you reported directly to the director
11 of the Defense Intelligence Agency who was your boss, and is
12 all that correct, sir?

13 A Yes. The Three Star General was your only boss and
14 basically nobody else could interfere with you and they
15 couldn't publish anything or do anything with regard to your
16 function in your part of the world without your agreement.

17 Q So it would be accurate to say that no analytic
18 documents, briefings or other intelligence products could be
19 released to designated recipients within the U.S. Government
20 or other intelligence agencies without the personal approval
21 in your case of you as the Defense Intelligence officer for
22 the Middle East, Southeast and Counterterrorism; is that
23 correct?

24 A Yes, that's right. And anything they did with other
25 agencies of the government involving your part of the world

1 was also subject to your approval.

2 Q And I'm -- I've reviewed with you, in advance of this
3 testimony, various actual analytic reports and documents and
4 briefings, including intelligence briefings that were prepared
5 during the actual time period of 1985 relating to the EgyptAir
6 hijacking and also relating to the Rome and Vienna airport
7 attacks; is that correct?

8 A Yes, we looked at those.

9 Q And I'll come to those in a moment. Do I understand
10 correctly that the Defense Intelligence officers actually led
11 the analytic thinking of the Agency initiating projects,
12 prioritizing work for accomplishment and that all information
13 received from the field was then routed to the Defense
14 Intelligence officer for that particular responsibility and
15 then became part of the Defense Intelligence Agency's
16 collection along with other materials from other national --
17 U.S. National Intelligence agencies such as the CIA, the NSA,
18 et cetera, and that all of that information then, from all the
19 U.S. Intelligence agencies, came to your hands as the Defense
20 Intelligence officer for Middle East as well as counter- --
21 South Asian and counterterrorism in relation to the EgyptAir
22 hijacking, and separately, the Rome and Vienna airport
23 attacks; is that correct?

24 A Some very specifically in those cases, yes.

25 Q And in that regard, you as the Defense Intelligence

1 officer were the principal liaison for providing support and
2 information to both the joint chiefs of staff as well as the
3 Secretary of the Defense -- of Defense and his staff; is that
4 correct?

5 A Yeah. Actually in person with those specific
6 individuals. I was the personal liaison officer from the
7 director of DIA to those two individuals.

8 Q And you had a background, did you not, in the clandestine
9 services as a case officer, an agent handler, and you guided
10 closely the Human Intelligence Operations of the Defense
11 Intelligence Agency for your area and function; isn't that
12 correct?

13 A Yes. I was trained to be an espionage case officer in
14 1965 and was assigned in that capacity several times during my
15 career until I finally ended up running all of it for the
16 Defense Department.

17 Q The term "Human Intelligence" is HUMINT, H-U-M-I-N-T; is
18 that correct?

19 A Yes. That's the standard abbreviation, yes.

20 Q And you guided and led the HUMINT operations at the
21 Defense Intelligence Agency; isn't that correct?

22 A Yes, it is.

23 Q And now, for the time period from 1985 until --
24 August 1985 until October 1992, you were in service in the
25 position, as I understand it, both as a Defense Intelligence

1 officer as indicated but also as the head of HUMINT
2 Intelligence?

3 A No, that's not quite correct.

4 Q Correct me, please.

5 A From 1985 to 1992 I was the DIO, which is the way that
6 would be shortened for the Middle East, South Asia and
7 counterterrorism, and then from '92 until I left the Agency in
8 '95, I was the head of Defense HUMINT Worldwide.

9 Q And so the HUMINT responsibilities were from 1992 until
10 you retired; is that correct?

11 A As an executive, that's right, yeah.

12 Q Thank you very much. Now, as the Defense Intelligence
13 officer for Middle East, South Asia and counterterrorism, at
14 the time leading up to and including and following the
15 EgyptAir hijacking, the various analytic documents, briefing
16 and other intelligence products were personally reviewed by
17 you during the time period of 1985; isn't that correct?

18 A Yes. I started looking at the counterterrorism analysis
19 business of our agency as soon as I took over in the summer of
20 '85, and there had been an earlier hijacking operation that
21 ended up in Sicily, and I didn't think we had done a very good
22 job, so I really strengthened what we were doing. So we were
23 really focused on this kind of analysis by the time this
24 happened really.

25 Q I have not yet asked you about your opinions, although

1 I'm about to, because I'm required first to qualify you as an
2 expert. Before doing so, I want to confirm that one of the
3 books that you have actually published is on HUMINT operations
4 called "Intelligence: The Human Factor"; is that correct?

5 A Yes, that's correct.

6 Q And lastly, in relation to your area of expertise, you
7 have taught university level courses both in Arabic studies
8 and Middle East studies at the United States Military Academy
9 at West Point, New York, and you served as the first professor
10 of Arabic language in the Department of Foreign Languages at
11 West Point; is that correct?

12 A Yes. I also taught a course over at American University
13 in counterterrorism for senior police officers from overseas.

14 Q Thank you.

15 MR. HEIDEMAN: Your Honor, having previously moved
16 and the Court having accepted Exhibit 39 being the curriculum
17 vitae of Colonel Lang and along with Colonel Lang's testimony
18 thus far as to his qualifications, I have only one other
19 matter to ask Colonel Lang about and then would ask you to
20 accept and qualify him as an expert witness.

21 Q (BY MR. HEIDEMAN) And that one matter is, please tell the
22 court, Colonel, whether or not you have previously served as an
23 expert witness in courts in here in the United States District
24 Court for the District of Columbia.

25 A Yes, on one previous occasion that I remember

1 specifically. I was an expert witness in the court of Judge
2 Royce Lamberth here in a civil action about five years ago.
3 Your partner has the date on that case.

4 Q Yes. And is that the matter of *Kahani versus Islamic*
5 *Republic of Iran* before Judge Lamberth?

6 A Yes.

7 Q And were you accepted and qualified as an expert witness
8 and did you appear and testify in that matter in this
9 courthouse?

10 A I did.

11 Q Thank you very much.

12 MR. HEIDEMAN: At this time, Your Honor, we would
13 move Colonel Lang's qualifications before the Court and ask,
14 pursuant to Federal Rule of Evidence 702, that he be deemed
15 qualified as an expert in the field of terrorism,
16 counterterrorism, Middle Eastern affairs, politics and to
17 render opinions on the various matters in which he has
18 expertise, including but not limited to the sponsorship by
19 Syria of terrorism, its sponsorship of ANO, the Abu Nidal
20 Organization, and the commitment by the Abu Nidal Organization
21 with Syrian sponsorship of the hijacking of EgyptAir Flight
22 648, and separately the Rome and Vienna airport attacks.

23 THE COURT: So moved.

24 MR. HEIDEMAN: Thank you very much.

25 THE COURT: Now, before we go.

1 MR. HEIDEMAN: Yes, sir.

2 THE COURT: It's nearly 1:00 o'clock.

3 MR. HEIDEMAN: All right.

4 THE COURT: I've got to get these folks something to
5 eat.

6 MR. HEIDEMAN: I'm sorry?

7 THE COURT: I've got to get these folks something to
8 eat.

9 MR. HEIDEMAN: Yes, sir.

10 THE COURT: All of those folks out there as well, so
11 let's break till 2:00 o'clock, okay.

12 MR. HEIDEMAN: Thank you very much.

13 THE COURT: Please do not discuss your testimony
14 with anyone, Colonel, until you come back.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Thank you.

17 THE DEPUTY CLERK: All rise. This court is in
18 recess until 2:00 o'clock.

19 (A LUNCH RECESS WAS TAKEN.)

20 THE DEPUTY CLERK: Court is back in session. Please
21 be seated everyone, come to order.

22 THE COURT: Colonel, you're still under oath.

23 THE WITNESS: Yes, sir.

24 Q (BY MR. HEIDEMAN) Colonel Lang, before the break, you
25 testified that in August of 1985 you became the Defense

1 Intelligence Officer for Middle East, South Asia and
2 counterterrorism. In that capacity, did you become familiar
3 with the Achille Lauro hijacking which took place in August of
4 1985?

5 A Yes, I certainly did, yeah.

6 Q And what did you determine happened under that particular
7 event?

8 A Well, I thought that the -- from my point of view with
9 regard to the actions of the intelligence community, that we
10 had not done a very thorough job and not paid enough attention
11 to these groups in advance. And then I thought the outcome
12 was unsatisfactory, so I spent a lot of time for a couple of
13 months getting everybody organized to really look at these
14 groups in great detail, and so we were in good shape by the
15 time this incident took place to conduct an intensive analysis
16 of the facts and produce reports and participate in the
17 national deliberations over what the facts had done and
18 published papers, all that kind of thing.

19 Q And just briefly describe to the Court who -- what was
20 the Achille Lauro incident and who committed that and what
21 happened.

22 A Well, it's been 25 years or something, but as I recall,
23 it's -- the ship was hijacked by I believe it was a group for
24 the liberation of Palestine and several people were killed.
25 One of them was an elderly gentleman who was actually thrown

1 over the side in a wheelchair, and when the hijackers
2 eventually got ahold of an aircraft and ended up in Sigonella,
3 in Sicily and they surrendered to the Italians, the Italians
4 turned them loose within a fairly short period of time. I
5 believe that's the case.

6 Q And as a result of studying, as the Defense Intelligence
7 officer, that particular matter, what actions did you take as
8 a result of the conclusions you drew?

9 A Well, I told the director that we needed to have more
10 people working on the counterterrorism problem, that these
11 incidents involving aircraft and ships were becoming
12 increasingly destructive and violent and that we -- we went
13 out and found some more people who could be devoted full time
14 to this problem over the next two or three months. Until this
15 happened, we were engaged in compiling news studies of these
16 various groups, their leaders, their motivations, what their
17 ideology was, all that kind of business, so we were in pretty
18 good shape by the time this incident took place.

19 Q By this --

20 A My side of this thing in DIA at the time is entirely
21 analytical.

22 Q Excuse me, Colonel. I'm going to interrupt, which I
23 don't like to do. I'm sorry. I'm going to ask you to speak a
24 little slower for the court reporter because I'm watching her
25 fingers move very fast and --

1 A All right.

2 Q Besides, this is a system that electronically has a
3 monitor with it, so if you would, I'd appreciate it.

4 A Okay.

5 Q Thank you, sir.

6 A All right. Well, I -- my end of this at that time in DIA
7 was entirely on the analytic side, so it was my task to
8 prepare the Agency to deal with these situations in terms of
9 analysis as part of the National Intelligence Community of
10 which we were one agency.

11 Q In the aftermath of the Achille Lauro attack, did you
12 take special pains to ensure that if there were other
13 incidents, the DIA would be, in your view, more ready, and if
14 you did, tell the Court what you did.

15 A Well, as I said, I -- we didn't have enough people
16 working on this problem. It was an increasingly significant
17 problem, so I persuaded the director of the Agency to give me
18 some more people that could be put into the direct work of
19 analyzing terrorist organizations, their operations, and
20 playing a role in the reaction of the Government to such
21 incidents when it took place.

22 Q So, from the time -- and did the director approve your
23 recommendation and were additional people brought in under
24 your supervision?

25 A Yes.

1 Q And accordingly, in the time period following the Achille
2 Lauro incident and murder of Leon Klinghoffer, in the fall of
3 1985, August, September, October, and November, prior to the
4 hijacking, what did you, as the Defense Intelligence Officer,
5 and what did the people under your supervision and others with
6 whom you worked, what did you concentrate on specifically?

7 A Well, we needed to be able to have the people who worked
8 the 24-hour-a-day, seven-day-a-week watch and have a special
9 desk in the National Defense Watch Center in the Pentagon so
10 that any indications that would occur, that such an event was
11 going to take place would be immediately focused on and that
12 re-enforcements would be brought in so we would have a
13 sizeable task force working on a problem like this
14 immediately. In that context, when this happened, I was
15 contacted immediately.

16 Q Prior to the date of November 23rd, 1985 and in the
17 fall that I'm talking about, did this expanded team working
18 under you concentrate on gathering, reviewing and analyzing
19 and disseminating information about the various terrorist
20 organizations and the state sponsors of terror that were
21 sponsoring those terrorist organizations?

22 A Yes, this was seen as all one big problem, the fact that
23 there were state sponsors of terrorism and that -- and that
24 the kinds of support that they were providing to the various
25 organizations, that this kind of nexus of terrorist groups,

1 usually Palestinian and state sponsors who were supporting
2 them for reasons that had more to do with their own state
3 craft in the region than anything else, that had to be
4 thoroughly understood and mapped out, and that's what we did.

5 Q And in that work, can you tell the Court whether or not
6 you as the Defense Intelligence Officer and the people working
7 with you concentrated, among other things, on the sponsorship
8 of the government and by the government of Syria of terrorism
9 and sponsorship by the government of Syria of terrorist
10 organizations?

11 A Yes. It was -- I mean, my larger world of analytic work
12 had to do with all these countries, not just the terrorist
13 organizations, so Syria was an object of interest to us as an
14 entity in itself, not just in the context of its support of
15 terrorist organizations, but it was clear that it had been a
16 standing policy of the Syrian government for a long time to
17 use political violence and the sponsorship of politically
18 violent organizations as part of their state craft.

19 They considered this to be a -- they considered this
20 to be one of the instruments of their policy of negotiation
21 with regard to various international problems in the region.
22 It was just -- they thought that this was part of the process
23 of diplomacy really, and so it was a factor in the world of
24 Syrian diplomacy which was an attitude that was not unique to
25 them in the Middle Eastern Region.

1 Q What other countries, based upon your review as the
2 Defense Intelligence Officer, what other countries at the time
3 also like Syria were, to use your words, and I'll paraphrase,
4 "using and sponsoring terrorism as part of their standing
5 governmental policy"?

6 A Well, it was very clear that Libyans under Omar Qadhdhafi
7 had been following similar policies throughout his -- from the
8 time he took power and the emerging Iranian Islamic Republic
9 was very much inclined the same way, and it became a bigger
10 and bigger problems in places like Lebanon and around the
11 region. They're very quick to sponsor organizations if they
12 thought they could use sub rosa as instruments of state
13 policy.

14 Q And the government of Iraq, was it under your focus at
15 that time?

16 A Yes, it was. The government of Iraq at that time was
17 more inclined to -- it had, of course, a previous relationship
18 with the Abu Nidal Organization, but Saddam Hussein's
19 government tended to use its own security forces in the roles
20 overseas that we would consider to be terrorist activities as
21 much as giving help to these other organizations and they were
22 particularly active in bullying Iraqi immigrants to the United
23 States in the area of Michigan and things of that kind.

24 Q Did there come a time when the United States Department
25 of State actually created a formalized list of state sponsors

1 of terrorism?

2 A Certainly.

3 Q And was the government of Syria placed on that list, in
4 fact, on the very first list of, I believe, that was published
5 by the Department of State?

6 A Yes. Insofar as I know, they've never gotten off that
7 list since then.

8 Q Would it be -- do you recall the date on which the
9 government of Syria was designated as a state sponsor of
10 terrorism by the State Department?

11 A No, I don't.

12 Q I'll hand you something in a moment. Each of the
13 countries that you have referenced in your last testimony,
14 Syria, Libya, Iran and Iraq, were all four of those countries
15 placed at one time or another by the State Department on its
16 official list of state sponsors of terrorism?

17 A Yes, they have been. And the thing you have to remember
18 about this list is that this is not strictly a State
19 Department document. A document like that, that is to be
20 released as a major announcement of U.S. Government position,
21 is staffed around the Executive Branch in Washington here.
22 For example, it was staffed at my agency as well, so I
23 actually got to coordinate, as the same would be on this
24 particular list, and other such documents that the -- that
25 State would have published as a -- as an expression of U.S.

1 Government will.

2 Q Thank you. And in the time period from August 1985 when
3 you became the Defense Intelligence Officer, did you also
4 review, did you say, a number of different and concentrate on
5 a number of different terrorist organizations that were being
6 sponsored by one or more of the state sponsors of terrorism?

7 A Certainly. There were quite a few of them, usually
8 Palestinian but sometimes so completely anarchic and
9 nihilistic that connection with the Palestinians seemed
10 somewhat abstract.

11 Q And was the Abu Nidal Organization one of those terrorist
12 organizations that was reviewed under your responsibility as
13 the Defense Intelligence Officer for Middle East, South Asia
14 and counterterrorism at the Defense Intelligence Agency?

15 A Yes. They were right at the top of our list actually as
16 one of the most violent and brutal of these organizations, as
17 a kind of spinoff from the PLO in total rejection of any
18 possibility of negotiated settlements.

19 Q As the Defense Intelligence Officer for the Middle East
20 and for counterterrorism at that time, were you tasked with
21 personally reviewing and being the approving authority for the
22 Defense Intelligence Agency's collection and analytic effort
23 directed at and focused on the Abu Nidal Organization?

24 A Yes.

25 Q And in doing so, did you also concentrate on the Abu

1 Nidal Organization's relationships with the governments of
2 those states that sponsored it, including but not limited to
3 the government of Syria as well as its Syrian Air Force
4 Intelligence?

5 A Yes, because without that support from several different
6 governments, these organizations would have been relatively
7 powerless. I mean, they never had more than a handful of
8 people. Without state support and a variety of kinds of
9 things, they just couldn't have done the things they did.
10 They wouldn't have had any place to hide, for one thing.

11 Q In relation to the EgyptAir hijacking of November 23rd,
12 1985, and separately the Rome and Vienna airport attacks of
13 December 27, 1985, were you the responsible officer for the
14 Defense Intelligence Agency's participation in the
15 intelligence community and U.S. Government discussions
16 surrounding the EgyptAir case, the Rome and Vienna attacks,
17 and other similar cases in the fall of 1985 and the winter of
18 1985 into the -- also into 1986?

19 A Yes. In addition to our own internal papers and
20 briefings that we did on the subject, there were also some
21 community papers in which we participated in the writing,
22 staffing, approval of, and I was a participant, the chief
23 participant at DIA in all those.

24 Q Did you oversee and/or approve the papers and briefings
25 on analytical articles written at or that came through the

1 Defense Intelligence Agency for review as it related to state
2 sponsors of terror and as it related to the Abu Nidal
3 Organization's hijacking of EgyptAir Flight 648 and separately
4 the Rome and Vienna airport attacks of the following month?

5 A Yes. That was my function, yes.

6 Q And in that regard, can you tell the Court whether there
7 were various papers written and classified analytic articles
8 written at the Defense Intelligence Agency? And of course, if
9 there's anything classified that you may have reviewed at the
10 time that remains classified, we are not asking you about
11 classified materials, certainly don't answer anything about
12 classified materials, although you may feel free to tell the
13 Court whether or not there were classified materials and
14 whether or not you were also responsible for reviewing those.

15 A All of this material is classified, all of it, and it
16 would have been at various levels of classification since the
17 paper, whatever it was, would be classified itself overall at
18 the highest level of any element contained within the paper.
19 The paragraphs would be separately classified, and the overall
20 classification of the paper would be at the highest, whatever
21 the highest one was.

22 Now, what the classification of these papers remains
23 at this time, I don't know. I haven't seen any of these
24 papers in a very long time, but they were all classified, and
25 there are things every day -- I mean, this is a very hot

1 subject, so there were National Intelligence dailies, there
2 were Defense Intelligence daily briefing papers, there were
3 all kinds of briefings given to the Joint Chiefs of Staff and
4 to the -- to the National Security Council staff. There were
5 telegraphic reports sent overseas that were classified. There
6 were just all kinds of papers, you know. This went on and on.

7 Q And would it be accurate to say that you personally, in
8 your capacity as the Defense Intelligence Officer, reviewed
9 them all and approved the ones written in the Defense
10 Intelligence Agency?

11 A Yes. I mean, we had a large staff and so there were
12 occasions when I wasn't in the building when somebody else,
13 acting for me, would have done that. But as a general rule,
14 yes.

15 Q And in relation to the EgyptAir hijacking, did you review
16 all the U.S. Government intelligence that came through the
17 Defense Intelligence Agency either for authorship, for
18 release, or for review?

19 A Yes.

20 Q And are you familiar with that?

21 A Oh, yes, I'm familiar with all that stuff. The things
22 that we wrote, the things that other parts of the Government
23 wrote, it all would have come across my desk. It would have
24 come across my desk before it went to the Chairman of Joint
25 Chiefs, for example.

1 Q And as it relates, since it happened one month later to
2 the -- as it relates to the Rome and Vienna airport attacks,
3 did you also similarly review and approve all of those
4 materials?

5 A Yes, I certainly did.

6 Q Now, were there also briefings given on both the EgyptAir
7 attack and hijacking, and separately, the Rome and Vienna
8 airport attacks, to senior Defense Intelligence officials, as
9 well as others in the Department of Defense, as well as others
10 in the U.S. Government all the way up to the White House?

11 A Well, in the Pentagon, the Chairman of the Joint Chiefs,
12 the Chiefs, the senior officials of the Office of Secretary of
13 Defense are briefed every day, every day.

14 So, every day, during this period, there would be
15 material on this. The analysts are working at it 3:00 o'clock
16 in the morning through numerous rehearsals until finally it's
17 briefed to the principals, and then the products of our
18 analysis were going to the other parts of the Government,
19 including to the White House.

20 Q And can you explain to the Court what the term "holdings"
21 means in relation to intelligence materials?

22 A Well, analysts are like research scholars. When you're
23 in the intelligence business, you have collectors, people who
24 go out and vacuum up information, and then you have analysts
25 who are like scholars, basically. And like any group of

1 scholars, they wish to have a large number of background
2 documents, because they're -- what they do is based largely on
3 comparison of new events to old events and forming an opinion
4 as to probabilities and things like this.

5 You have to have a great deal of material to make
6 such judgments, both specifics and in your head, and so in
7 those days, especially, we had, you know, many, many, many
8 safes and filing cabinets full of paper. Nowadays it's all in
9 machines in a huge gigantic networked, you know, system of
10 computers all across this city that contain all these vast
11 holdings, as you would say, of information. These are, you're
12 talking about, the holdings of information.

13 Q And did you approve, on behalf of the Defense
14 Intelligence Agency, and review on behalf of the DIA all
15 papers and briefings that were based on the wide range of U.S.
16 intelligence communities in-depth data holdings in relation to
17 the Abu Nidal Organization?

18 A Well, every intelligence agency -- intelligence agency in
19 the national community share and always have shared probably
20 90 percent of everything that they hold in this sense.
21 Everybody has a few things they don't share.

22 So, I mean, I can't tell you what they may not have
23 given us from NSA or some place like that, but everything that
24 we got, which was a very vast sea of information, I would have
25 seen and been aware of, yes.

1 Q And similarly, did you, as the Defense Intelligence
2 Officer, review all information that came to you relating to
3 Syria and the other state sponsors of terrorism with
4 particular reference to their sponsorship of the Abu Nidal
5 Organization?

6 A Certainly.

7 Q In addition, was it your responsibility to have specific
8 knowledge and did you acquire specific knowledge from Signals
9 intelligence as well as human espionage and intelligence
10 sources both of the United States and of its allies?

11 A Yes, that's all of these different means of collection
12 come together in the hands of the analytic bureaus in which I
13 was the principal person in this case.

14 Q And in that capacity as the principal person relating to
15 the EgyptAir hijacking, as well as separately the Rome and
16 Vienna airport attacks, was there also intelligence reviewed
17 and briefings received as a result of information received
18 from defectors from the Palestinian revolutionary groups who
19 were debriefed with regard to their knowledge of the
20 operations of the Abu Nidal Organization and its sponsorship
21 by Syria?

22 A Yes. That was -- that was an evident part of all this.
23 This is what you call HUMINT, and on the overt side and people
24 like that are held in debriefing centers overseas and are
25 interviewed repeatedly until you finally got everything you

1 think you know that they know, and so that kind of material
2 went into our holdings in DIA.

3 Q In 1985, was Syria and has it remained through today, as
4 we are here in this courtroom, a United States Department of
5 State designated state sponsor of terrorism?

6 A Yes, I think that's undoubtedly true. They remain a
7 sponsor of organizations that we classified as terrorists.

8 Q In that regard, let me hand you what's been previously
9 placed into our evidence binder and identified as Plaintiff's
10 Exhibit 41 and ask you if you have seen that document, and can
11 you identify that document.

12 A Is there a date on this? Oh, I see it, yes. Yeah,
13 certainly. This is a standard list that the State Department
14 puts out with regard to state sponsors of terrorism.

15 Q And the date on the bottom right of this list is April 6,
16 2010; is that correct?

17 A No, it's April 22nd.

18 Q I'm sorry, the copy you have is April 22nd. Thank you.

19 And as of April 22nd, 2010, just days before the
20 commencement of this trial, was Syria listed under the country
21 categories of state sponsors of terrorism as indicated on
22 Exhibit 41?

23 A Yes, and it says the date that they were originally
24 designated.

25 Q And that date was?

1 A 29 December 1979.

2 MR. HEIDEMAN: At this time, Your Honor, we would
3 move Exhibit 41 into evidence.

4 THE COURT: It's admitted.

5 (PLAINTIFF'S EXHIBIT 41 ADMITTED.)

6 MR. HEIDEMAN: Thank you.

7 Q (BY MR. HEIDEMAN) And in your opinion, separate from
8 being listed on the State Department list being Exhibit 41, in
9 your expert opinion, was Syria factually, that is, in fact
10 sponsoring terrorism in the time period of August through
11 December 31, 1985 being from the time you became the Defense
12 Intelligence Officer in August of '85 through the entire
13 remainder of the year of 1985 and beyond?

14 A I think there's no doubt about that. I mean, the
15 multi-source information that we were receiving and the
16 general pattern of information in our holdings led all our
17 analysts involved in this, and me as well, to believe that
18 that was certainly the case.

19 Q In your expert opinion, as well as based upon the actual
20 hands-on knowledge that you had at the time in your capacity
21 as the Defense Intelligence Officer for the DIA responsible
22 for the Middle East, South Asian counterterrorism, did Syria,
23 as a state sponsor of terrorism, in fact, support terrorist
24 organizations such as the Abu Nidal Organization?

25 A Yes. Abu Nidal and several others as well, and it was --

1 it was support which was absolutely vital to their continued
2 existence and operational capability.

3 Q And with specific reference, not to the other
4 organizations, but with specific reference to the Abu Nidal
5 Organization, in your expert opinion and based upon your
6 expertise and your knowledge and your actual responsibility as
7 the Defense Intelligence Officer at the time of November and
8 December 1985, was the Abu Nidal Organization a terrorist
9 organization and was that terrorist organization sponsored by
10 Syria and Syrian Air Force intelligence?

11 A The Abu Nidal Organization was intended to reject any
12 idea that the Arab Israeli dispute could be settled by any
13 means other than continued violence on a model soon to be
14 modeled on Russian anarchists of the 19th Century or
15 something like that, and they were committed to, in fact,
16 pursuing this course of action and they had the direct support
17 of Air Force -- Syrian Air Force intelligence.

18 Q And did the Abu Nidal Organization have the direct
19 support not only of Syrian Air Force intelligence in November
20 and December 1985 and before and after as well as also the
21 government of Syria itself?

22 A Well, the Syrian Air Force Intelligence was not a rogue
23 organization. It was a -- it was under the tight control of
24 the Central Syrian Government, although the boss of the
25 organization was a pretty independent character, but he

1 understood very clearly that if he did not in fact follow the
2 wishes of the President Hafiz Assad, that in fact that his
3 days would probably be very limited. And you want me to spell
4 that? H-a-f-i-z and then A-s-s-a-d.

5 Q And while you're spelling, tell the Court, if you would,
6 what -- who was the person who was the head of the Abu Nidal,
7 that's N-i-d-a-l, Abu Nidal terrorist organization?

8 A Well, he was a man named Sabri Al-Banna.

9 Q Can you spell that for the court reporter.

10 A The first name is S-a-b-r-i, and then I would spell it
11 A-l, dash, B-a-n-n-a. Transliteration in Arabic is sometimes
12 the thing, you know.

13 Q Is what, sir?

14 A Transliteration in Arabic, there are many different
15 opinions on translating Arabic, so...

16 Q And tell the Court what was known to you at the time of
17 the fall and winter of 1985, at the time of these attacks and
18 that you know today, as you sit here, about this person known
19 as Sabri Al-Banna and also known as Abu Nidal and the Abu
20 Nidal Organization.

21 A Well, as I said, it was a splinter group that it
22 splintered off the named Palestinian organization, the Fatah
23 group, F-a-t-a-h, and they were absolutely committed to the
24 idea that there could not be any sort of dealings with the
25 Israelis or with people who were Israelis until victory had

1 been won in terms of breaking the opponent's will, typical
2 terrorist goal.

3 Q You previously said in your testimony a few minutes ago
4 that the Abu Nidal Organization was at the top of the list of
5 terrorist organizations and that you used the words, if I
6 wrote it down right, that they were the most violent and
7 brutal organization; is that correct?

8 A Yes, that's correct. That still remains my judgment.
9 They weren't a very large organization but they were extremely
10 violent, destructive and totally committed to acts of
11 nihilistic terrorism, and that is the best way I can describe
12 it.

13 Q And what, at the time, was and what is today the judgment
14 of, in your opinion and based upon your expertise, of United
15 States Intelligence and the United States Government in
16 relation to Syria under the Assad family and its relationship
17 with Sabri Al-Banna known as Abu Nidal and the Abu Nidal
18 Organization for the time period leading up to and even after
19 the EgyptAir hijacking and the Rome and Vienna airport
20 attacks?

21 A Well, speaking just about Syria, because as you know,
22 they had other state sponsors. In fact, we were absolutely
23 sure, and those of us who survived from that time, we're still
24 around, are still completely convinced of the fact that Syria
25 was, in this period, one of their two major state sponsors.

1 Q And did the sponsorship, in your expert opinion and based
2 upon your actual knowledge from your position at the time, run
3 not only up through Syrian Air Force intelligence, which is a
4 defendant in this matter, but directly also to the head of the
5 Syrian government being the Assad family?

6 A Oh, I don't see how it could possibly be any other way,
7 yes. It would be my expert opinion, since you put it that
8 way, in fact it couldn't be any other possible way. This was
9 not a group of disjointed actors in Syria. This was a pretty
10 tightly organized group of people who understood if they got
11 out of line, they were in big, big trouble.

12 Q And how would you describe, sir, the support which Syria
13 gave to the Abu Nidal Organization in the time period leading
14 up to and including the November 23rd, 1985 EgyptAir
15 hijacking and subsequently and separately the Rome and Vienna
16 airport attacks of December 27, 1985?

17 A Well, first of all, they gave them safe harbor. You
18 know, they allowed the Abu Nidal Organization to have offices,
19 excuse me, and facilities in Syria proper, and then across the
20 Anti-Lebanon Mountains in Lebanon, in the Baqaa Valley,
21 B-a-q-a-a, I guess, the -- they were training establishments
22 there which were tolerated and more or less protected by the
23 Syrian Army.

24 Syrian Army at that time had a very large number of
25 troops all over Lebanon and to include a presence in the Baqaa

1 Valley and there were camps there in which Abu Nidal
2 operatives were trained. There was a logistical establishment
3 which was tolerated by the Syrians who were in complete
4 control of that area. There was a Lebanese Army unit in the
5 area as well, but they were completely ineffective, and there
6 were specially constructed military roads that were not open
7 to the public, went back and forth from the Baqaa Valley into
8 Syria, and the Abu Nidal Organization was allowed by the
9 Syrians to use these roads so that their movements were
10 concealed from the general public along the main
11 Damascus/Beirut Highway, for example, would use that.

12 And then there was a question of supply. They were
13 supplied with weapons, they were supplied with passports and
14 other, you know, movement documents. The Syrians typically
15 have three classes of passports, diplomatic, service and
16 general tourist passports and these people were provided with
17 Syrian service passports so they looked like they were Syrian
18 government officials when they were in movement to some place
19 as, in this example, to Greece.

20 And then Syrian officials overseas provided them
21 with facilities in which they could assemble. It was just a
22 wide variety of things they did for them.

23 Q And in your opinion, and your expert opinion as well as
24 based upon your actual knowledge as the Defense Intelligence
25 Officer, in the position that you held, did Syria provide to

1 the Abu Nidal Organization, in relation to the EgyptAir
2 hijacking and also the Rome and Vienna attacks, the support
3 that you have just described to the Court and in each of the
4 elements that you just outlined?

5 A Yes. In all of those, all three of those operations, if
6 you want to view them as three separate operations, the Syrian
7 government, acting through Syrian Air Force Intelligence,
8 provided all of that kind of support to the organization, and
9 it would not have been possible to conduct the operation
10 without it.

11 Q And thank you. Let me hand you what has been previously
12 identified in the exhibit binder and which we will now
13 identify as Exhibit 43 and ask you if you can identify to the
14 Court this particular document.

15 A Well, it's a State Department document promulgated for
16 the -- as the agent of the U.S. Government for this function
17 announcing terrorist organizations so designated by the U.S.
18 Government in this year.

19 Q And is -- can you tell the Court whether or not the Abu
20 Nidal Organization is listed on this current list of
21 designated foreign terrorist organizations?

22 A Yes, they are No. 1.

23 Q Thank you very much.

24 MR. HEIDEMAN: We would move Exhibit 43 into
25 evidence, and in case I didn't move in, Your Honor, Exhibit

1 42, I would like to move in both at the same time.

2 THE COURT: 43 and 42 are admitted.

3 THE DEPUTY CLERK: 41.

4 MR. HEIDEMAN: Excuse me? I'm sorry, I meant to say
5 41, and separately, 43.

6 THE COURT: All right. 41 and 43 are admitted.

7 (PLAINTIFF'S EXHIBITS 41 AND 43 ADMITTED.)

8 MR. HEIDEMAN: Thank you very much.

9 Q (BY MR. HEIDEMAN) You described the various support,
10 logistical and otherwise, that the Syrian government and Syrian
11 Air Force Intelligence provided to the Abu Nidal Organization,
12 both in Syria but also over into the Baqaa Valley in Lebanon.
13 In that regard, let me hand you a copy of Exhibit 44 and ask you
14 if you can identify this document for the Court.

15 A This is a map of Lebanon and the surrounding countries.

16 Q Thank you very much. And could you take a look at this
17 blowup that I have here that I proffer to the Court is
18 identical to Exhibit 44 and ask if it appears to you to be the
19 same, sir.

20 A This is the same map.

21 Q Thank you. And placing it here on the easel so it's
22 easier to see, let me ask you if this appears to be the -- a
23 map of part -- part of Syria and all of Lebanon with Israel
24 below it and Syria then surrounding Lebanon on the map.

25 A Yes.

1 MR. HEIDEMAN: We would move this Exhibit 44 into
2 evidence, Your Honor.

3 THE COURT: It will be admitted.

4 (PLAINTIFF'S EXHIBIT 44 ADMITTED.)

5 MR. HEIDEMAN: Thank you very much.

6 Q (BY MR. HEIDEMAN) In relation to Exhibit 44, I would ask
7 you, Colonel, to step down. I believe I have some map pens
8 here, ask you to take them and I'm going to see if you can help
9 the Court understand how it is that the Syrian government,
10 Syrian Air Force Intelligence provided the support for the Abu
11 Nidal Organization over into Lebanon as well as in Syria itself,
12 further noting for the Court the location of the Baqaa Valley
13 and its relationship to Damascus; would you do so, please.

14 A Yeah.

15 Q And tell the Court what color you're using when you use
16 it.

17 A Okay. Lebanon is dominated by two ranges of mountains.

18 Q Excuse me just one second.

19 MR. HEIDEMAN: Can the court reporter hear the
20 witness, Your Honor? Can I take the microphone?

21 THE COURT: Sure, take the microphone.

22 A I have too many pens here.

23 Q (BY MR. HEIDEMAN) All right.

24 A Lebanon is dominated by two ranges of mountains. There
25 is the Lebanon range, runs like this as sort of the spine of

1 the country, and there is the Anti-Lebanon range between Syria
2 and the country of Lebanon in this area here, and in between
3 them in the northern part here is the Baqaa Valley, this big
4 deep valley with the term of Ba'labakk in the middle of it
5 here.

6 And at this time the Syrian Army was all over the
7 country of Lebanon because of its introduction of troops in
8 the response to an Arab league action during this Lebanese
9 civil war, so they controlled all of this area and there were
10 camps in the Baqaa Valley here between the two mountain ranges
11 here in which Abu Nidal trained their troops, their
12 operatives, people like that. And as I said, there were
13 private roads that ran back and forth across the Anti-Lebanon
14 range out of Syria into the Baqaa Valley over which these
15 people moved back and forth on training and things of that
16 kind, and they had the use of the Damascus airport down here
17 as well for international movements to various places in
18 Europe and other things of that kind.

19 I think that's what you wanted.

20 Q Yes, sir. And tell the Court, as best you recall, sir,
21 at the time, the volume of troops, of Syrian troops over into
22 the Baqaa Valley.

23 A Well, in the valley itself, I don't know. In all of
24 Lebanon at that time they had about 35,000 troops, which is a
25 very large number of men, lots of armor, artillery, lots of

1 their police, a couple thousand policemen and secret police
2 operatives. They pretty much saturated the country.

3 Q So, even though the Baqaa Valley and the Abu Nidal
4 training camps were in the Baqaa Valley in Lebanon, do I
5 understand correctly that it's your expert opinion and based
6 upon your actual knowledge that although it was inside
7 Lebanon, it was fully under the control of the Syrian
8 government, Syrian Air Force Intelligence, the defendants
9 herein and the Syrian military?

10 A The Lebanese did not have control of their country at
11 that time, the Syrians did, and there were various elements of
12 Lebanese government that were trying to resist this but quite
13 futilely, and that situation continued for many years. The
14 Syrians were all together in charge of what was going on in
15 the Baqaa Valley and most other parts of Lebanon at that time.

16 Q Thank you very much. You may retake your seat if you
17 would.

18 What was the distance from the Abu Nidal training
19 camps in the Baqaa Valley to Damascus being the central city,
20 capital city of Syria as best you recall?

21 A Well, it's about an hour's drive from Beirut to Damascus
22 on a good day, so I would say probably you're talking 50 to
23 100 miles, depending on how far north or south in the Valley.

24 Q That's from Beirut to Damascus?

25 A No. From Beirut to Damascus, as I say, it's about an

1 hour's drive on a reasonable day, but from Damascus to these
2 various places in the Baqaa Valley, anything between 1500
3 miles, depending on the location and place in the valley.

4 Q And you previously testified something about Syria having
5 three kinds of passports. One of those passports was you said
6 was a services passport?

7 A Service passport.

8 Q Service passport.

9 A It says on the thing, "service", you know, in Arabic, you
10 know.

11 Q Spell that for the court reporter.

12 A Well, it would be -- in English it would be
13 s-e-r-v-i-c-e, right.

14 Q Thank you. And based upon having a service passport in
15 the hands of the Abu Nidal terrorists who were trained in the
16 Baqaa Valley, what special status, if any, did that give the
17 Abu Nidal terrorists in terms of moving around in Syria or
18 moving around in and from the Baqaa Valley?

19 A It made it a lot easier for them because they were
20 documented as though they were in fact Syrian government
21 employees.

22 Q I have a note that you previously told me that there were
23 35,000 troops as well as additional 2,000 personnel in the
24 Baqaa Valley and these were Syrian troops. Did I write this
25 wrong?

1 A Yes. We discussed this and there were about 35,000
2 Syrian troops in all of the parts of Lebanon that they
3 occupied.

4 Q All right.

5 A How many there were in the Baqaa Valley, specifically, I
6 really don't know.

7 Q Fine. But so the record is clear, Syria had, in the fall
8 of 1985, 35,000 Syrian troops inside Lebanon; is that correct?

9 A Yes, that's correct.

10 Q Thank you very much. Tell the Court, please, what
11 additional support in Damascus was given to the Abu Nidal
12 Organization by the Defendant Syria and Syrian Air Force
13 Intelligence.

14 A Well, they provided protected facilities for them to run
15 their headquarters and their logistical operations,
16 communications, all of that kind of thing, warehousing for
17 supplies, and you know, sort of the -- a metropolitan area
18 that they could inhabit for their major operations while their
19 other stuff stayed out in the field.

20 Q And in addition to permitting the protected status for
21 headquarters, was -- did Syria provide intelligence support to
22 the Abu Nidal Organization at the time?

23 A Yes, they did. He had pretty specific information that
24 they were providing them with targeting data with regard to --
25 in their targeting process for various operations they were

1 planning.

2 Q And did they provide logistical support?

3 A Yes.

4 Q And did Syria provide a safe haven?

5 A Yes.

6 Q And did Syria provide for the Abu Nidal Organization
7 training support?

8 A I don't know about that. I don't recall ever seeing
9 Syrian military personnel took part in Abu Nidal training.
10 Their kind of training was pretty specific to what they did
11 which was to assassinate people and blow up airplanes, that
12 kind of thing. They could have gotten some demolitions
13 training from the Syrians, but I don't remember that
14 specifically.

15 Q But did the Syrian government provide support surrounding
16 and protective support surrounding the training camps that
17 you've already identified?

18 A Without a doubt, that's true.

19 Q Thank you. And did Syria maintain close contact with and
20 receive -- close contact with the Abu Nidal Organization?

21 A On an everyday basis.

22 Q Did Syrian Air Force Intelligence as well as its military
23 or Army intelligence provide support in the fall of 1985 to
24 the Abu Nidal Organization?

25 A Yeah. I understand that Syrian Air Force Intelligence is

1 the Defendant here, but I don't think that Syrian government
2 assistance to Abu Nidal is limited to their Syrian Air Force
3 Intelligence. I think Ali Duba over at general military
4 intelligence was equally responsive.

5 Q Could you spell the name of that particular general,
6 please.

7 A A-l-i, space, D-u-b-a.

8 Q Thank you. Did the Syrian defendants provide procurement
9 support for travel documents and other travel arrangements for
10 the Abu Nidal terrorists?

11 A Yes. As part of their standard operating procedure and
12 the way they supported what they considered power projection
13 operations, we consider to be terrorism, that they would
14 assist with travel arrangements and brokering tickets and
15 hotel rooms and things of that kind.

16 Q Did --

17 A And have somebody show up on the scene to brief on local
18 conditions, you know, in the assembly area for the operation.

19 Q Thank you. Did the Syrian Defendants provide to the Abu
20 Nidal terrorists and Abu Nidal operatives the assistance
21 allowing them to transit through airports that Syria
22 controlled?

23 A Yes, certainly. Airports in Syria are very controlled,
24 and so you don't get through these places unless you're -- if
25 there's anything odd about you, unless you're under state

1 sponsorship, really.

2 Q Did the Syrian government permit, in this time period,
3 Abu Nidal terrorists and operatives to travel through the
4 Damascus International Airport when departing on and returning
5 from terrorist planning and active missions?

6 A Yes.

7 Q And did Syria provide training and support that enabled
8 the Abu Nidal Organization to establish and operate active
9 training facilities?

10 A Well, as we've discussed, in their training facilities, I
11 don't think there's any way they could have existed without
12 active Syrian government protection and sponsorship.

13 Q In terms of access to and from these Abu Nidal training
14 camps and the Baqaa Valley, did the Syrian government provide
15 the essential assistance for the Abu Nidal terrorists and
16 their operatives to travel to and from those Abu Nidal
17 training camps?

18 A They often provided Syrian military vehicles in order to
19 move these people around.

20 Q Did the Syrian Defendants support and even augment the
21 Abu Nidal's significant capabilities in intelligence
22 techniques as well -- in relation to both arms, supports --
23 arms, explosives, and other techniques taught to Abu Nidal
24 terrorist operatives and recruits?

25 A I don't know about the actual training. That's something

1 that I don't remember ever having come up, but they certainly
2 provided them with the actual information that you would
3 describe as intelligence that is useful in the planning of
4 operations.

5 Q And did the Syrian Defendants also provide to Abu Nidal
6 terrorists and their operatives the ability to travel through
7 Lebanon to the Beirut airport for purposes of going overseas
8 for both planning and actual terrorist missions and
9 operations?

10 A Yes, he did that, and because of the pervasive Syrian
11 presence in the country, they could do that whenever the
12 Beirut airport was open, and that was intermittently.

13 Q In your expert opinion and based upon your actual
14 knowledge, Colonel Lang, was the EgyptAir hijacking and
15 separately the Rome and Vienna airport attacks, were they
16 committed by the Abu Nidal Organization with the active and
17 material support of Syrian defendants?

18 A Oh, that was very clear. I mean, our reconstruction of
19 the event showed that this was a joint operation up to the
20 point which the Syrians wished them well and on their way from
21 Athens and all.

22 Q Based upon your knowledge and expertise and your review
23 of all of the materials that you've previously identified,
24 would you tell the Court what you know about how the actual
25 EgyptAir hijacking of November 23, 1985 was sponsored

1 specifically by Syria and committed by the Abu Nidal
2 Organization?

3 A Well, it was effectively a joint operation really because
4 the Syrians contributed some elements of logistical
5 transportation, planning, equipment, support, and the Abu
6 Nidal people signed up to perform the actual operation because
7 it fit in with their ideology of absolute violence in the way
8 that they behaved toward the hostages, for example. It was
9 just -- there were no rules to the game, and the Syrians
10 absolutely provided the wherewithal to enable that to happen
11 up to the moment when the team went into action.

12 I don't recall what kind of passports they got on
13 the airplane with. I've been trying to remember what that
14 was, but typically the Syrians would take their service
15 passports away from these guys before they actually went into
16 action and they would carry something else, but I don't
17 remember in this case how they did that.

18 Q You previously described the Abu Nidal Organization as
19 violent and brutal.

20 A Yes.

21 Q Now, what is your assessment as to how they conducted
22 themselves under the sponsorship of Syria, specifically in
23 relation to the EgyptAir hijacking and as separately in
24 relation to the Rome and Vienna airport attacks of the
25 following month?

1 A They didn't do anything to try to restrain the behavior
2 of these people, you know, in the way that you might expect a
3 responsible state in the international scene, with the CPUN,
4 all that kind of business, to behave. Even if you thought
5 that political violence was a legitimate means of expression,
6 self-expression, they still didn't do anything to try to keep
7 these people from behaving the way they did toward the
8 hostages on this EgyptAir flight.

9 Q How would you describe the way the three Americans on the
10 EgyptAir flight were treated by the Abu Nidal terrorists under
11 the sponsorship of the Syrian Defendants?

12 A Well, as it was stated earlier here in court, I mean, the
13 two Israeli women were shot out of hand because -- merely
14 because they were Israelis. That was a foreordained outcome
15 given that this was the Abu Nidal Organization involved.

16 The three Americans, I'm sure, as I recall, there
17 was a process of bargaining going on conveyed through the air
18 crew as to what the hijackers, the surviving hijackers wanted,
19 and they were going to use these three Americans as bargaining
20 chips and kill them one at a time as necessary in order to get
21 what they wanted. This thing had not gone well from the
22 beginning. The gun battle in the air at 25,000 feet or
23 whatever it was, was certainly not part of the plan. This
24 operation had gone astray and they wanted to use these
25 Americans to get what they wanted, fuel and the ability to

1 leave, and killing them was not something that bothered them
2 the least.

3 Q There has been testimony received by the Court that the
4 terrorists shot in the head Plaintiff Jackie Nink Pflug, and
5 she has testified, and that the Plaintiff shot in the head and
6 murdered, executed was the word used, Scarlett Rogenkamp, the
7 American woman who was murdered, and Patrick Baker has
8 testified, I believe you were here in the courtroom.

9 Based upon the testimony that you have heard, what
10 is your assessment of the conduct of the Abu Nidal terrorist
11 organization under the sponsorship of Syria in relation to
12 this hijacking?

13 A It was -- it was even outside the norms really for how
14 these things were to be done in most situations. The clear
15 preference here on the part of the Abu Nidal operatives was to
16 do as much damage and inflict as much pain and suffering as
17 they could and many of the other Palestinian organizations had
18 more sophisticated political views, not always but sometimes.
19 But in the case of Abu Nidal, we're talking about people who
20 liked violence for the sake of violence and had reached the
21 kind of state of moral depravity in which none of this stuff
22 really bothered them at all.

23 Q Did you use the words "moral depravity"?

24 A I did.

25 Q Tell the Court, if you would, your assessment of the

1 government of Syria using an organization known as the Abu
2 Nidal Organization as, to use your words, an instrument of
3 state craft. What did you mean by that?

4 A Well, in the Middle East, people have had a tendency in
5 recent times to play by rules that we have tried to avoid
6 acknowledging in western European and American, North American
7 civilization for some time now. In fact, it is thought to be
8 quite normal to signal your intentions and your seriousness in
9 political disputes involving countries, things like this, by
10 acts of violence that indicate that you're not to be trifled
11 with, and they consider that, in many cases, to be part of the
12 normal business of government.

13 And until they are sufficiently discouraged from
14 doing that, they'll probably keep doing it. This has a long
15 history of this kind of thing in the Middle East. I mean,
16 people have been assassinating opposition politicians and
17 foreign dignitaries there for a long time, and this is in that
18 tradition. It just seems to have gotten a lot worse in the
19 period that we're discussing here today. But it continues
20 onto the present, I mean.

21 Q That was exactly my question. Since 1985, has Syria been
22 deterred, have they stood down from terrorism or not?

23 A Well, the organizations have changed, you know. Now
24 they -- they tend to sponsor groups that have actual armed
25 forces and they will go out and try to do battle against other

1 country's armies, but they also have -- these same
2 organizations have their functions that are throw-backs in the
3 period under discussion. If they don't like you, they will in
4 fact try to make sure you disappeared -- disappeared somewhere
5 in some way. It's unpleasant.

6 The assassinations continue in places like Lebanon.
7 The assassination of the late Prime Minister Rafik Hariri
8 remains an open case, and nobody has really established who
9 did it, but Syria is under very serious suspicion in this
10 regard, and this is a ongoing pattern of government.

11 Q Does -- it's already been established that Syria remains
12 on the State Department list of state sponsors of terror.
13 Share with the Court more, if you would, please, about the
14 nature of their sponsorship of terrorist organizations from
15 1985 through the present, also with specific reference to such
16 terrorist groups as listed by the United States of Hizballah
17 and Hamas and other organizations.

18 A Well, Syria is a major ally, and the region is of course
19 Iran. And the Iranian Islamic Government has been bent on
20 waging an ideologically driven war against the Israelis and
21 against foreign interests and to establish itself as the major
22 power in the region all along, and its instruments in the
23 region are Hizballah and various parties in Iraq as well as
24 Hamas in Palestine itself, and the Syrian government has been
25 quite happy to go along with this and to serve as a conduit

1 and a kind of protector on the eastern flank of places or
2 groups like Hizballah, and so they continue to be and active
3 in the business of terrorism.

4 Q Thank you. In the context of what you just said, in your
5 opinion, sir, should -- in the event this court finds Syria to
6 be responsible for sponsoring the Abu Nidal terrorist
7 organization and the EgyptAir Flight 648 hijacking, in your
8 expert opinion and based upon your expertise and your
9 knowledge, should this court also find it necessary, in your
10 opinion, to punish Syria for its continued sponsorship of
11 terrorism in an attempt to deter Syria and deter others?

12 A Well, Syria is not a rich country, you know. There are
13 rich Syrians, but Syria itself is not a rich country. Most of
14 the money in Syrian hands come from trade of one kind or
15 another.

16 In fact, if punitive damages of any size are
17 assigned to them, it will be very hurtful to the Syrian state
18 and to whatever it is that they are trying to do with their
19 economy, so I would think that if you're looking for a
20 deterrent, that would be quite -- it might be an effective
21 instrument, and in fact, there's no doubt in this case, in
22 this case of this EgyptAir hijacking, this was a willful and
23 deliberate act on the part of the Syrian government that they
24 back these Abu Nidal people in doing this.

25 Q So if this court were to choose to send a message to the

1 Syrian government in the form of a punishment or punitive
2 damages, it -- would it, in your opinion, get the attention of
3 the Syrian government?

4 A Oh, I think it certainly would, because this is not --
5 it's not like assigning punitive damages to Saudi Arabia or
6 some place. This money is -- money is not all that easy to
7 come by in Syria, and so they tend to make their money out of
8 things like downstream petroleum dealership distribution,
9 things of that kind, you know, or serving on foreign boards of
10 trade and things like that. I've known quite a few of those
11 guys.

12 Q Thank you. Earlier I asked you about Syria's sponsorship
13 of the Abu Nidal Organization generally, and I'd like to just
14 penetrate only one last issue on that. Knowing that the Abu
15 Nidal Organization was so violent and so brutal, what does it
16 tell you and what would you like to share with the Court about
17 the strategic support by the Syrian defendants of this
18 particular organization which then committed the particular
19 acts of terrorism we've discussed?

20 A Well, they were a favored group of theirs because they
21 were -- they could be used for the really, the most awful acts
22 of violence that the Syrian government might think was
23 desirable. And in fact, this kind of attitude on the part of
24 Syrians reflected generally in the way they acted in Lebanon
25 throughout the long period of their -- of the presence of

1 their troops there, and it was a very long time.

2 In fact, they behaved in a very callous way and the
3 streets of Beirut and places like that were a menace -- were
4 menaced by their presence on most occasions.

5 Q What does the term in Arabic "Abu Nidal" stand for?

6 A You know, it's something like the "Father of Darkness" or
7 the "Father of Chaos," something like that, I forget exactly.
8 Nidal is not a word that is on the top layer of my vocabulary
9 actually. It's something like that. It implies an
10 organization committed to anarchic terrorism.

11 Q In 1986, did the State Department release a document
12 called "Syrian Support for International Terrorism," and are
13 you familiar with that?

14 A Yes, I am.

15 Q Let me hand you what has been marked as Exhibit 47 and
16 ask if you can identify this document, sir, Exhibit 47.

17 A Yeah, I coordinated on this document.

18 Q And --

19 A That means I gave my agencies assent to it on an
20 inter-agency basis.

21 Q And did agree with the issuance of this document?

22 A Certainly.

23 Q And in your opinion and in accordance with this document,
24 did the Syrian government, as determined by this report
25 released by the U.S. Department of State, sponsor the Abu

1 Nidal Organization?

2 A You know, I was distracted for a moment there. Could you
3 say that again?

4 Q Yes. In relation to Exhibit 47, this document was
5 released by the U.S. Department of State in December 1986 and
6 it's a document that you coordinated on behalf of the Defense
7 Intelligence Agency; is that correct?

8 A That's correct.

9 Q And does this document make it very clear that
10 specifically the Abu Nidal Organization is referenced as
11 follows, and I quote, Syria continues to support the most
12 active and brutal international terrorist group operating
13 today, comma, Abu Nidal, end quote; is that correct?

14 A Yeah, it's on the second page here now.

15 Q Yes, on the second page. And in fact, listed on the
16 third page in the chronology of some of the events that were
17 sponsored is the December 27, 1985 Rome and Vienna terrorist
18 attacks where it's quoted, Abu Nidal terrorists simultaneously
19 attacked El Al ticket counters in the Rome and Vienna airports
20 killing more than 20 people, including five Americans and
21 wounding some 120 others, end quote; is that correct?

22 A I was trying to find my place here.

23 Q Bottom of page 3 in the chronology.

24 A Yes, it is correct.

25 Q Now, I note in this specific document the specific attack

1 of EgyptAir Flight 648 is not listed, but this chronology of
2 events, would you tell the Court whether or not it was
3 intended at the time of release of this document to be fully
4 comprehensive?

5 A It was, and I don't know why that isn't on the list. It
6 was certainly -- it was certainly clear that it was part of
7 this sequence of events, and it should have been included.

8 Q In your opinion, it should have been included and the
9 fact that it's not here, is that an error or omission?

10 A Yeah, it's some sort of error. It's meaningless really.

11 Q So, just to pin that one point down, is there any
12 question about, in your opinion, whether or not the Syrians
13 sponsored the Abu Nidal Organization and the Abu Nidal
14 Organization committed the terrorist attack of EgyptAir Flight
15 648 hijacking during the -- during December -- November 23,
16 1985?

17 A There is no doubt in my mind at all.

18 Q Thank you.

19 MR. HEIDEMAN: We would move Exhibit 47 at this time
20 into evidence, Your Honor.

21 THE COURT: It will be admitted.

22 (PLAINTIFF'S EXHIBIT 47 ADMITTED.)

23 MR. HEIDEMAN: Thank you. In that regard, one
24 moment.

25 (PAUSE.)

1 Q (BY MR. HEIDEMAN) In that regard, let me hand you what
2 has been marked in the exhibit binder as Exhibit 46. This is a
3 document from the United States Department of State and dated in
4 February 1989; is that correct?

5 A Yes.

6 Q And during that time period, were you remaining in
7 service with the Defense Intelligence Agency and in the
8 positions you've previously testified to?

9 A Yes, I had the same job.

10 Q And in that capacity, did you have the responsibility to
11 review this United States Department of State document being
12 Exhibit 46?

13 A Yes, I coordinated on this one as well.

14 Q And in this document, it references specifically the Abu
15 Nidal Organization; is that correct?

16 A Yes, it does.

17 Q And specifically, if you'll look, please, at page -- one
18 moment -- well, there's a chronology that runs in reverse
19 order, and it looks like on page 13 in the November -- in
20 1985; do you see that, sir?

21 A Yes.

22 Q And there, could you read to the Court what it indicates
23 in this document, which you approved on behalf of the U.S.
24 Department of Defense, Defense Intelligence Agency?

25 A (Reading) Three ANO terrorists seized an EgyptAir flight

1 en route from Athens to Cairo and forced it to land in Malta.
2 When their demands were refused, the terrorists began to shoot
3 selected passengers. At the end of the incident, which
4 followed the storming of the airplane by Egyptian commandos,
5 nearly 80 were dead or wounded.

6 Q Thank you very much. And is it your opinion that that
7 particular act of terrorism, as you've already said, and I
8 don't want to belabor it, was committed by the Abu Nidal
9 terrorist organization as were the Rome and Vienna attacks
10 listed in this same document being Exhibit 46?

11 A Without a doubt.

12 Q And that at the time the Abu Nidal Organization was
13 sponsored by the Syrian defendants; is that your opinion, sir?

14 A Yes.

15 MR. HEIDEMAN: We would move Exhibit 46 into
16 evidence, Your Honor.

17 THE COURT: It will be admitted.

18 (PLAINTIFF'S EXHIBIT 46 ADMITTED.)

19 MR. HEIDEMAN: Thank you very much.

20 Q (BY MR. HEIDEMAN) Now, pursuant to the sponsorship of
21 this particular hijacking, Colonel, were you on duty with the
22 Defense Intelligence Agency on the day of the November 23rd,
23 1985 hijacking?

24 A I was an Army officer, so I was on duty all the time.

25 Q Yes, sir. And in that capacity, did you have occasion to

1 be -- to go to the office of the chairman of the Joint Chiefs
2 of Staff?

3 A As I recall, this is on the weekend, right, and I was at
4 home in my residence in Alexandria, Virginia, and I was called
5 by the commander of the watch in the Defense Intelligence
6 Operation Center in the Pentagon, which is adjacent to the J3
7 Operation Center. So, in other words, they have all the
8 operators and intelligence guys together in one group.

9 And the watch commander asked me to come in. And
10 since he had a bunch of my people that I supervised working in
11 his place, and he told me that this event was in progress, I
12 had a secure telephone at home so you could do a good
13 conversation. So, I went in and I was in the -- it was in the
14 afternoon, and I remember that I was standing in the watch
15 center and it looks something like the movies, you know, with
16 all these screens and message traffic coming in everywhere,
17 and I was watching this happen, as best we understood it, and
18 the director of the Defense Intelligence Agency, Lieutenant
19 General Leonard Bruce came bustling into the place. He'd been
20 up in the Chairman of the Joint Chiefs of Staff's office,
21 Admiral William Crowe, and he looks around and he saw me, and
22 he said -- he says, "You speak Arabic, don't you?"

23 And I was a little surprised because I thought he
24 had known that, you know, but he was also very new in the
25 organization. He'd only been there about a month. So I said,

1 "Yes, I do."

2 So, he took me upstairs. We went into Admiral
3 Crowe's inner sanctum, and Crowe was in there with a few of
4 his personal staff and on -- the telephone on his desk was --
5 there's an open line to the airport in Malta and it was on
6 speaker phone, and you could hear a couple of conversations
7 going on on the phone. There were a couple of people from the
8 embassy -- our embassy in Malta. There was I think the Charge
9 D'Affairs and the defense attache' who was a naval officer,
10 and Crowe was talking to them to try to find out what was
11 going on.

12 And of course, I had sort of come into the middle of
13 this conversation and so the -- they were telling him, the two
14 Americans were telling him that they couldn't figure out what
15 the Egyptians were going to do, that a lot of Egyptian troops
16 had shown up and they were deployed all in the grass all over
17 one side of the airport, and also in the background there was
18 a conversation going on in Egyptian Arabic between an Egyptian
19 civilian official who I think was the Egyptian ambassador to
20 Malta and an Egyptian brigadier who was the commander of these
21 troops that had been flown in. And so Crowe wanted to know
22 what the Egyptians were saying to each other, so he said to
23 me, "Listen to this, will you, and tell me what they're
24 talking about."

25 So I listened for awhile and translated for him, and

1 so he said to me, "You ask the general," he meant the Egyptian
2 general, "what they're going to do."

3 And by this time they had already killed a bunch of
4 these people and thrown them off the airplane and things of
5 that kind. And so I asked this fellow in Arabic, I asked him,
6 "What are you going to do, sir?"

7 And he says -- he asked me who I was, and then he
8 says, "We're going to take back the airplane."

9 So I told Crowe that, and he says, "What does he
10 mean?"

11 And so I got back on the phone and I say, "What are
12 you going to do?"

13 And he -- about that time, the civilian said,
14 "They're going to assault the aircraft."

15 And I was -- I had just started to say that to
16 Crowe, and his eyes got as big as saucers, and then there was
17 this ripping, roaring, tearing noise in the background over
18 the telephone as the Egyptian attack took place. It was very
19 dramatic.

20 Q And tell the Court, please, the unfortunate result of
21 that Egyptian commando attack in an attempt to retake the
22 airplane?

23 A Well, you know, there are ways to do things and there are
24 ways not to do things, and this was the way not to do things.
25 And while the terrorists are certainly responsible for this

1 event and the government of Syria behind them, the Egyptians
2 did this in a most ham-handed way, and they just wrecked this
3 aircraft and killed a great many people inside it. Very
4 foolish. This isn't how things are done.

5 Q During the course of your review of everything, after the
6 hijacking and after you heard the Egyptian commandos begin to
7 take the aircraft --

8 A Yeah.

9 Q -- did you have the occasion to review information
10 regarding the condition of the aircraft after the attempt to
11 save these passengers?

12 A Well, the aircraft was a total loss. I mean, it had
13 suffered a lot of damage in the fight in the air itself, you
14 know, you can't -- can't do a lot of shooting inside a
15 pressurized aircraft. I'm surprised they got it down on the
16 ground as well as they did. But after the airplane was just
17 shot completely to pieces by the Egyptians, it was a total
18 loss.

19 Q And in relation to that aircraft, let me ask you if you
20 can identify Exhibit 45 as being information with which you
21 are familiar and reviewed in your position with the Defense
22 Intelligence Agency and if this photograph accurately depicts
23 the scene which it is intended to portray in relation to the
24 condition of the aircraft after the attempt to save the
25 passengers and retake control of the aircraft.

1 A I remember this picture, you know, as part of the
2 proceedings afterwards, and there were a number of other
3 pictures. This is a picture of what was left of the airplane
4 after the action had ended.

5 MR. HEIDEMAN: We would move Exhibit 45 into
6 evidence at this time, Your Honor.

7 THE COURT: Be admitted.

8 (PLAINTIFF'S EXHIBIT 45 ADMITTED.)

9 Q (BY MR. HEIDEMAN) You described the aircraft as being
10 completely destroyed; is that your opinion, sir?

11 A Well, it still had the shape of an airplane, but any
12 possibility of using it for anything with regard to aviation
13 again was gone. Of course, I'm not an aircraft damage
14 investigator, but it certainly -- that was our conclusion at
15 the time.

16 Q In relation to the issue of terrorist organizations
17 utilizing airplanes as a vehicle of terrorism sponsored by the
18 Syrian government or other state sponsors of terrorism, would
19 you please explain to the Court your view of the symbolism of
20 the use of an airplane, its hijacking as well as using it for
21 demands and negotiations?

22 A Well, this had started over here as well, if you
23 remember, back in the '60s. The fed for stealing airplanes
24 and taking them to Cuba and places like that, I think, really
25 got started in the western hemisphere, and then it spread as

1 an emblem of the powerfulness of a small group of dedicated
2 people to seize the property of a mighty corporation or
3 country and do with it what they will and use the unfortunate
4 passengers as instruments of blackmail really, or at the very
5 least, a symbol of our ability to destroy things on a large
6 scale.

7 So, it spread to the Middle East. That appealed to
8 their kind of nihilistic sense of drama, and this had gotten
9 more and more violent in the preceding years. A few years
10 before that, remember there was the Dawson field thing in
11 Jordan in which three aircraft were destroyed. That kind of
12 set the new standard for this, and so this kind of behavior
13 among the most violent groups, it becomes kind of the Gold
14 standard of what you did.

15 Q As the Defense Intelligence Officer for Middle East and
16 counterterrorism in 1985, would it be accurate to say that
17 your portfolio included the review of the aircraft hijackings
18 by terrorist groups that had taken place during that period,
19 including but not limited to the EgyptAir hijacking?

20 A Sure, absolutely.

21 Q And did your portfolio also include the study of
22 government counterterrorism response to aircraft hijackings?

23 A Yes, the thing got started steadily. The -- in the '70s,
24 counterterrorism units of commandos and things like this
25 became the rage and the U.S. Congress, for example, started

1 appropriating money for that, and the joint -- what is now the
2 Joint Special Operations Command came into being down at
3 Bragg, specifically designed to devise the tactics and the
4 methods for retaking aircraft from groups like this, and the
5 British had the SAS and the Germans had the Bruni gun
6 shutsnine [ph.] and they were all over the place, and these
7 units proliferated all over the world and they developed a lot
8 of very fancy equipment with pinhole mic cameras and
9 microphones with big long flexible leads you could insert into
10 aircrafts so you could see what was going on inside. There
11 was kinds of flash bombs that would stun terrorists while you
12 groove it in through a hole you punched through the roof or
13 something like this. That kind of thing had kind of already
14 developed into a pretty highly developed state-of-the-art kind
15 of thing by the time this occurred actually, so the Egyptian
16 thing was not on.

17 Q The Egyptian thing was what, sir?

18 A Is not on in terms of technique at all. I mean, this
19 was --

20 Q And the Egyptian commando attempt to retake the aircraft
21 obviously failed and cost lives.

22 A Yes. It wasn't done according to what was the
23 state-of-the-art.

24 Q You heard Patrick Baker testify about the way the
25 hijackers had shot him, thrown him, brought him back?

1 A Yeah.

2 Q Thrown him a second time?

3 A They wanted to make sure, I believe, listening to that,
4 they -- the reason they dragged him back up to the top and
5 then threw him off the top of the stairs again was to provide
6 a nice photograph for anybody who was there who was going to
7 take pictures, you know, the long drop to the tarmac. This is
8 all about psychological warfare and media campaigns and things
9 like that.

10 Q Could this hijacking, in your opinion, have taken place
11 and could those hijackers have done that to Patrick Baker and
12 to Jackie Nink Pflug or Scarlett Rogenkamp without the support
13 of the Syrian Defendants?

14 A No, I don't think they could have. The organization
15 would have been relatively powerless without the wherewithal
16 provided by state sponsorship.

17 Q And in relation to the counterterrorism attempt to retake
18 the aircraft, in your expert opinion, sir, is it foreseeable
19 to believe that separate from whatever damage an aircraft has
20 already suffered in the hijacking, that it might be even more
21 damaged or completely destroyed in the attempt to save the
22 passengers or retake the aircraft?

23 A Well, that would depend on how it was done.

24 Q But would it be -- is it foreseeable that there would be
25 property damage to the aircraft as a result of the hijacking?

1 A The hijacking itself and the events that had taken place
2 up to the time when the aircraft arrived on Malta had caused a
3 great deal of property damage to the owners of the aircraft.
4 In this case, I guess EgyptAir was probably, they were the
5 owners, I guess.

6 Q Yes, EgyptAir was the owners, and Certain Underwriters,
7 Plaintiffs in this action, were the underwriters and insurers.

8 A Yeah.

9 Q What, in your opinion, are the likely outcomes that
10 result from a terrorist hijacking as it relates to damage that
11 can reasonably be foreseen to be suffered by an owner or their
12 insurers?

13 A Well, in the course of my long career, I was around an
14 awful lot of aircraft in various circumstances and they are
15 all very delicate beasts, in fact, and are easily damaged,
16 easily -- you know, easily just damaged to the point of being
17 a total loss or requiring massive reconstruction.

18 So, if you're going to conduct an operation like
19 this, you have every reason to believe that you're going to
20 end up destroying this aircraft. It will be a useless piece
21 of junk afterwards.

22 Q Would the selection of a violent and brutal, to use your
23 earlier terms, terrorist organization such as the Abu Nidal
24 Organization to commit this hijacking on behalf of the
25 terrorist organization and the government of Syria and its

1 defendants, would that, in your opinion, affect the probable
2 outcome of the hijacking and the question of people's lives
3 being taken or maimed and the question of the owner of the
4 aircraft and its insurers suffering property damage loss?

5 A Oh, some of these groups were quite a lot worse than
6 others in terms of the -- their methodology and their whatever
7 sort of qualms they might have about some things. The Abu
8 Nidal group was known to be amongst the most violent, the most
9 destructive, the most nihilistic of all these groups, and so
10 to select them to cooperate with an operation like this is to
11 virtually insure that there was going to be a great deal of
12 damage and personal injury.

13 Q Would it be accurate for me to state, based upon what
14 you've just said, that the issue of property damage is
15 reasonably foreseeable from the act of state sponsorship of
16 terrorism by Syria when it selects the Abu Nidal violent and
17 brutal terrorist organization to commit the EgyptAir hijacking
18 as it's been described here?

19 A Yes, I think that's a reasonable conclusion, yeah.

20 Q Thank you very much. Let's talk for a moment. Before we
21 begin to wrap up your testimony, let's talk for a moment about
22 the hijacker itself -- himself, the surviving hijacker.

23 A Rezaq.

24 Q Rezaq. Are you -- tell the Court what you're familiar
25 with about Mr. Rezaq.

1 A Well, he's -- he was really a typical recruit for Abu
2 Nidal. I mean, he's a man who's -- nothing -- for whom
3 nothing had ever gone right in his life and who had reached
4 the kind of state of despondency about everything in which the
5 word "nihilism," which I've used several times here, begins to
6 become very appealing.

7 In fact, this is -- in the case of these Abu Nidal
8 people, although they talked a lot about Palestine, in fact,
9 they had reached a point, most of them, we concluded, in which
10 the violence had become an end in itself, really, and in fact,
11 that they lived for this kind of thing because there was
12 nothing else really left in their lives, and I think he's
13 fairly typical of that kind of character.

14 I mean, I don't think there is -- I don't think
15 you -- if you're looking around for somebody who's a, you
16 know, a fiercely patriotic Palestinian Freedom Fighter, I
17 wouldn't go looking amongst the ranks of Abu Nidal people.
18 They were way past that.

19 Q Are you familiar with the fact that Omar Ali Rezaq was
20 convicted in this courthouse during his criminal trial in the
21 United States District Court for the District of Columbia?

22 A Yes, I'm aware of that.

23 Q And are you familiar with any of his testimony that was
24 given in that particular trial?

25 A I have, at some point, read some summaries of it, yes.

1 Q And what conclusions can you share with the Court
2 regarding Mr. Rezaq's trial, the testimony?

3 MR. HEIDEMAN: Which, Your Honor, in pertinent part,
4 we're going to introduce in just a moment.

5 THE COURT: Thank you.

6 A Well, I think it illustrates what I just said, that this
7 is a man who had completely lost his bearings and had been
8 sucked up into a -- an organization which was far too violent
9 to be acceptable to the mainstream Palestinian organizations
10 like Fatah, F-a-t-a-h, and that they had -- they were kind of
11 the dregs of the Palestinian world. Even people like Saddam
12 Hussein didn't care for the Abu Nidal Organization too much
13 and he had continuing problems with them, as you know, and I
14 think that this man is a typical example of these kinds of
15 folks, and he's -- you know, it's the sort of person to whom
16 it meant nothing to kill people really in the way that he did
17 on this airplane.

18 MR. HEIDEMAN: In that regard, Your Honor, at this
19 time we would introduce and move into evidence Plaintiff's
20 Exhibit 34, which I represent to the Court, if I may approach.

21 THE COURT: Sure.

22 MR. HEIDEMAN: The first page of which is stamped by
23 the -- as a true copy by the Deputy Clerk of the United States
24 District and Bankruptcy Courts for the District of Columbia,
25 being a transcript of a jury trial before Honorable Royce C.

1 Lamberth, United States District Judge and a jury. This is
2 particularly Day 16, et seq., but if I may tender this to the
3 Court. I then give all the rest of the pages to the court
4 reporter so that this testimony may become part of the record
5 as Exhibit 34.

6 And we would move Exhibit 34 into evidence, Your
7 Honor.

8 THE COURT: It will be admitted.

9 (PLAINTIFF'S EXHIBIT 34 ADMITTED.)

10 MR. HEIDEMAN: Thank you very much. The Court has
11 the original of the first page of Exhibit 34.

12 THE COURT: Thank you.

13 MR. HEIDEMAN: Thank you. There are specific
14 sections in that transcript, Your Honor, that, with the
15 Court's permission, I will not take the time right now during
16 this witness or Professor Deeb, who's waiting -- Dr. Deeb is
17 waiting to testify, but rather do it during another part of
18 the trial because I believe it will focus -- we will assist
19 the Court in its review of Exhibit 34. May I have leave to do
20 that later during the trial?

21 THE COURT: Certainly.

22 MR. HEIDEMAN: Thank you very much.

23 Q (BY MR. HEIDEMAN) Colonel Lang, are you familiar also
24 with the affidavit of the convicted hijacker Omar Mohammed Ali
25 Rezaq which we obtained in this particular case, Patrick Scott

1 Baker, et al versus Socialist Peoples Libyan Arab Jamahiriya, et
2 al, and which I hand to you as Exhibit 35, and have you had an
3 opportunity to review Exhibit 35.

4 A Yes. I read this a couple of weeks ago.

5 Q And share with the Court, if you would, specifically in
6 relation to page 2, the essential points that conform
7 precisely with the opinions that you have expressed here about
8 Syria's sponsorship of the Abu Nidal Organization and the
9 training by this hijacker in the Baqaa Valley as indicated on
10 the page 2 of this Exhibit 35?

11 A Yeah, paragraph 3b. reads, (reading) Prior to the
12 hijacking, I was trained at an ANO terrorist camp located in
13 Baqaa Valley, Lebanon.

14 I think that's the part that specifically applies.

15 Q Yes, indeed. And in paragraph 3a., does it confirm
16 precisely under oath that on November 23rd, 1985, I, that
17 being Omar Mohammed Ali Rezaq, and other operatives of the Abu
18 Nidal Organization hijacked EgyptAir Flight 648, which was en
19 route from Athens, Greece and Cairo, Egypt?

20 A Yes, and since he says he was trained at an ANO terrorist
21 camp at the Baqaa Valley, that facility was under Syrian
22 government protection while he was being trained there.

23 Q Thank you very much.

24 MR. HEIDEMAN: We'll move Exhibit 35 into evidence
25 at this time, Your Honor.

1 THE COURT: Be admitted.

2 (PLAINTIFF'S EXHIBIT 35 ADMITTED.)

3 MR. HEIDEMAN: Thank you very much.

4 Q (BY MR. HEIDEMAN) Perhaps you've already indicated it,
5 but what did you learn about the victims of the -- and the
6 passengers following the Egyptian commando raid on trying to
7 recover EgyptAir Flight 648?

8 A Well, the Egyptian troops really shot the plane up
9 severely with a lot of ball ammunition, which means real
10 bullets, you know, and a -- they caused a great deal of
11 structural damage to the aircraft, injured a great many
12 people, killed quite a few, and there were fires started and
13 that's what I remember 24 years later. Is it 24 years?
14 Something like that.

15 Q Yes, sir. Given your firsthand experience observing an
16 Abu Nidal Organization terrorist operation, can you provide
17 any other conclusions concerning the method of operation
18 employed by the Abu Nidal Organization when carrying out
19 terrorist attacks in terms of how they operated and how Syrian
20 support for those operations and method of operations are
21 essential?

22 A All their attacks tended to be extremely violent and very
23 bloody and indiscriminate in the amount of personal injury and
24 damage that they inflicted. The other two attacks in Vienna
25 and Rome were quite similar in a way. They did a great deal

1 of damage. They were not concerned at all about being sort of
2 minimalist attack on property rather than people, and the
3 Syrians surely knew, after this first operation, in fact, that
4 they were going to behave that way, and the Rome and Vienna
5 operations took place a month or so later and they didn't,
6 obviously didn't do anything to try to restrain their
7 behavior.

8 Q What was the method of operation employed by the Abu
9 Nidal Organizations relating to surveillance and relating to
10 having registered resident agents and use of cut-outs, can you
11 just explain that to the Court so the Court gets a wider
12 understanding of how essential the support of the government
13 of Syria and the Syrian defendant was?

14 A Well, the Abu Nidal Organization was a fairly small
15 organization, as I said, and they weren't a rich organization,
16 and so they couldn't afford to outpost all these places that
17 they were going to conduct operations in. If you're going to
18 do something like this, operation like this, you have to place
19 the target under surveillance and keep it under surveillance
20 right up to -- until after you're done with attacking it, and
21 they didn't have the manpower for that kind of thing.

22 And so they often relied upon their state sponsors,
23 in this case, most particularly, the Syrian government and its
24 resident intelligence population in their embassies overseas
25 to supplement their own abilities with regard to surveillance

1 of targets and mission support. It takes a lot of people to
2 conduct an operation like this, because there are a lot of
3 support services in terms of security on the streets, security
4 of your rendezvous point, people moving you, people around,
5 and then, as I say, the target has to be maintained under
6 surveillance right up until the very last moment to make sure
7 something doesn't change.

8 So, the Syrians were very useful in doing all those
9 kinds of things. They tended to pick up the slack for what
10 Abu Nidal couldn't do.

11 Q In conclusion, what is your opinion to the Court as to
12 whether or not Syria was in 1985 and continues today as a
13 active state sponsor of terror?

14 A Well, I think they certainly are. I mean, in terms of
15 anything -- every way that the United States defines
16 international effective terrorism, the Syrians continue to do,
17 to support organizations of that kind as part of their foreign
18 policy, and in fact, the actors may have changed. I mean, Abu
19 Nidal is not around the way they were then, and he's moved to
20 his fate long ago, but there are new and substitute
21 organizations that the Syrian government continues to sponsor
22 as a matter of foreign policy.

23 Q And in conclusion, what is your opinion as to whether or
24 not Syria sponsored the Abu Nidal Organization at the time of
25 the EgyptAir hijacking of -- the hijacking of EgyptAir Flight

1 648 and separately, a month later, the Rome and Vienna airport
2 attacks?

3 A Yeah, they were -- they were amongst the most important
4 sponsors of the Abu Nidal Organization in all those
5 operations.

6 Q And in conclusion, what is your opinion, sir, as to
7 whether or not the Syrian sponsored Abu Nidal Organization
8 committed the EgyptAir hijacking of Flight 648 and a month
9 later the Rome and Vienna airport attacks?

10 A I think it's certainly true, and Rezaq has confessed to
11 that in writing here.

12 Q And, sir, in conclusion, what is your opinion as to
13 whether Syrian government -- official government policy is
14 to -- in relation to supporting terrorism and terrorist groups
15 to achieve the foreign policy objectives of the government of
16 Syria?

17 A They consider this to be a normal part of international
18 relations, something which they should be discouraged from
19 thinking.

20 Q And in conclusion, sir, are you able to provide any other
21 conclusions, based on your expertise in counterterrorism and
22 antiterrorism intelligence and the affairs of the Middle East,
23 based both upon your personal involvement of the time -- at
24 the time, your actual knowledge and experience and expertise
25 and your expert opinion regarding the matters here that I've

1 asked you about here today?

2 A Well, I would say that politically motivated violence of
3 this kind remains a feature of life in the Middle East to this
4 day.

5 Q And did you prepare and execute an affidavit and report
6 setting forth in even greater detail than we've done here
7 today, for which we thank you for your time, your expert
8 analysis regarding Syria's sponsorship of the Abu Nidal
9 Organization and the Syrian sponsorship of the Abu Nidal
10 Organization's perpetration of both the EgyptAir hijacking of
11 November 23rd, 1985, and the nearly simultaneous Rome and
12 Vienna airport attacks of December 27, 1985?

13 A Yes, I did.

14 Q And are you -- Let me hand you what has been marked as
15 Exhibit 40 and ask you if you can identify this document as a
16 copy of your expert report and analysis and affidavit setting
17 forth in even greater detail your conclusions and opinions, as
18 you've stated here today, and as you believe the Court should
19 rely.

20 A Yes, that is the affidavit and report.

21 Q Thank you very much. Colonel Lang, are there any --
22 before the Court asks you any questions it may have, are there
23 any additional matters relating to Syria as a state sponsor of
24 terrorism, Syria as a sponsor of the Abu Nidal Organization at
25 the time of the hijacking, Syria's sponsorship of the Abu

1 Nidal Organization's hijacking of EgyptAir and committing of
2 the Rome and Vienna airport attacks that you would like to
3 share with the Court here today?

4 A No, I think that's covered it.

5 Q Thank you.

6 MR. HEIDEMAN: At this time, Your Honor, I would
7 move Exhibit 40 into evidence.

8 THE COURT: Be admitted.

9 (PLAINTIFF'S EXHIBIT 40 ADMITTED.)

10 MR. HEIDEMAN: Thank you. I have nothing further
11 for this witness and turn the witness to the Court.

12 THE COURT: I have nothing for him. Thank you very
13 much, Colonel.

14 THE WITNESS: Thank you.

15 THE COURT: I will give our reporter ten minutes;
16 five minutes till 4:00, please.

17 MR. HEIDEMAN: Thank you.

18 (A BRIEF RECESS WAS TAKEN.)

19 THE DEPUTY CLERK: Court is back in session. Please
20 be seated everyone and come to order.

21 MR. HEIDEMAN: Plaintiffs call Professor Marius
22 Deeb, D-e-e-b, Your Honor.

23 THE COURT: Professor, please take a stand.

24 THE DEPUTY CLERK: Raise your right hand, sir.

25 (WITNESS SWORN BY THE DEPUTY CLERK.)

1 THE DEPUTY CLERK: Thank you. Please be seated,
2 sir.

3 MARIUS DEEB,
4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HEIDEMAN:

7 Q Would you state your name, please, sir.

8 A Marius Deeb.

9 Q Would you tell the Court your address.

10 A 106 --

11 Q You do not need to -- since this is a public record, you
12 do not need to give your home address if you prefer to give
13 your office address.

14 A That's okay.

15 Q All right. I'm letting you know how it is.

16 A 10626 Muirfield Drive, Potomac, Maryland 20854.

17 Q Thank you. And Professor Deeb, what is your occupation?

18 A I'm a professor in Middle East studies and Islamic
19 studies at John Hopkins University and the School of Advanced
20 International Studies in Washington, D.C.

21 Q And have we met previously in relation to this case?

22 A Yes.

23 Q And has my law firm asked you to provide an analysis and
24 a report and your opinions in relation to the issues before
25 the Court, including the government of Syria, Syrian Air Force

1 Intelligence and those defendants' sponsorship of terrorism
2 and sponsorship of the Abu Nidal terrorist organization in the
3 fall being November and also December of 1985?

4 A You did.

5 Q And, sir, have we asked you to report on, to the Court
6 also, on Syria's status as being a designated state sponsor of
7 terrorism as well as its ties to and history of support for
8 the Abu Nidal Organization during the mid 1980s?

9 A Yes, you did.

10 Q And subject to the Court accepting you as an expert
11 witness, are you prepared to discuss your findings with us?

12 A Yes.

13 Q First of all, let me ask you if you have a curriculum
14 vitae.

15 A I do.

16 Q And let me hand you a copy of that.

17 MR. HEIDEMAN: Which I believe, Your Honor, is at
18 Exhibit 49.

19 THE COURT: Yes, it is.

20 MR. HEIDEMAN: Thank you.

21 Q (BY MR. HEIDEMAN) Professor Deeb, could you please
22 identify this Exhibit 49 and tell the Court if it accurately
23 represents your current curriculum vitae?

24 A Yes, it does.

25 Q And so that, considering the hour, we don't have to waste

1 unnecessary time, although, of course, we want to take all the
2 time needed, could you, perhaps, rather than me asking you
3 questions, explain to the Court your education, your
4 background, your fields of study, your positions, the
5 publications you have published and books, articles, lectures
6 and your field of expertise, please, sir.

7 A Yes. I obtained my Ph.D. or D.Phil. from Oxford
8 University in politics with special reference to the Middle
9 East, which means reference to Arab and Islamic studies.

10 Before that, I got my master's of arts, M.A., from
11 American University in Political Theory and International
12 Relations, and also obtained my bachelor of arts, B.A., in
13 political science from American University of Beirut, too.

14 With respect to my publications, I've worked
15 extensively on terrorism and especially, in particular,
16 Syrian, Syrian terrorism in the last 27 years, and I published
17 extensively on proxies of Syrian which used for terrorism and
18 on Syria itself. The recent articles I've written on Syria,
19 one I write every year on Syria for various encyclopedias, but
20 one of the most recent ones was "Syria and the War in Iraq,"
21 which shows how Syria sponsors terrorism in that particular
22 dimension.

23 But the book which is most relevant to this court
24 would be the book which I published in 2003 and paperback
25 edition 2004 called, "Syria's Terrorist War on Lebanon and the

1 Peace Process" in which I mention the sponsorship of -- the
2 sponsorship of terrorism by Syria and mentioning in particular
3 the Abu Nidal Organization. And I think -- and I refer to the
4 operations we're talking about today.

5 So, I consider myself an expert on Syria and Syria's
6 terrorism, and when I teach every semester, there's a part of
7 my courses on that, on terrorism which is done by Syria and
8 its proxies. And Syria, to just give you an idea, is a regime
9 which is controlled by a small minority, religious minority
10 called "Alawites" and they control it through the intelligence
11 network and the military, and it's a police state. Everything
12 is controlled by them. Everything which takes place on Syrian
13 territory, they know about it, and this regime came to part
14 with the father of the present president of Syria, the father
15 came to part in 1970, Hafiz al-Assad, and in 2000 when he
16 died, his son Bashar al-Assad took over, but the regime has
17 not changed. In many ways, it's still controlled. Yes.

18 Q Thank you. Before you express any opinions to the Court
19 about Syria or its history, I want to be sure we have properly
20 qualified you as an expert, so just let me ask you a few
21 things, if I may.

22 Would you the tell the Court the various academic
23 institutions at which you have held teaching positions.

24 A Yeah, I taught at American University of Beirut and also
25 in the United States I taught at Indiana University in Indiana

1 and then Kent State University, Kent, Ohio, and I was visiting
2 professor at St. Anthony's College, Oxford University. And in
3 the Washington area, I taught at Georgetown University, George
4 Washington University, and at this time I teach at the School
5 of Advanced International Studies, which is part of the John
6 Hopkins University.

7 Q Have you or do you currently lecture on the subject of
8 the Syrian government, the family regime that heads that
9 government, its structure and its history dating back to the
10 period, including and even before the period of November and
11 December 1985?

12 A Yes, I do. In my courses as well in various conferences
13 which I attend, including conferences which we're not supposed
14 to talk about with certain government agencies in Washington,
15 D.C., and I think it's very important to realize that Syria
16 has been doing this since the mid '70s.

17 Q Thank you. In that regard, before you express opinions
18 about Syria's conduct, do you currently lecture and have you
19 lectured and written about the Syrian government's sponsorship
20 of terrorism?

21 A Yes, I've done so.

22 Q And do you currently teach classes about the Syrian
23 government at the Johns Hopkins University School of
24 International Studies and not only about the Syrian government
25 but its support, historically and including currently, of

1 terrorist organizations?

2 A Yes, I do.

3 Q And have you written academic and notes or articles about
4 the Syrian government and its support for terrorism, including
5 various articles that have been published in various places?

6 A Yes, numerous articles on Syria's terrorism and support
7 of terrorism through its proxies, yeah.

8 Q Thank you. And for the Court's information, what is the
9 most recent article -- before I ask you about your book --
10 what is the most recent article you've written on the topic of
11 Syria's sponsorship of terrorism?

12 A Written an article published by Bertelsmann Foundation
13 and --

14 Q Excuse me, can you explain to the Court the name of the
15 foundation so the court reporter can get it down.

16 A Bertelsmann Foundation is a publisher in Germany.

17 Q Bertelsmann Foundation?

18 A Yes, and it's a conference which was held in Bologna but
19 then published in Florence, the book, in which I talk about
20 Syria and the war on Iraq, which Syria sponsors terrorism, and
21 in that article I show a lot of the major characteristics of
22 the Syrian regime.

23 Q And the name of the foundation that published it you said
24 is Bertelsman, or two "n"s?

25 A I think it's two "n's".

1 Q Two "n"s. Thank you. Now, you mentioned it briefly and
2 quickly before, but let me make sure that we have it right.
3 Have you written any books, published any books on the Syrian
4 government's support and sponsorship of terrorism, and if so,
5 what is the name of the most relevant book you have written on
6 that subject?

7 A Title of the book is "Syria's Terrorist War on Lebanon
8 and the Peace Process."

9 Q Let me hand you a copy of this book which just --

10 MR. HEIDEMAN: Which since it's a published book, is
11 not being marked as an exhibit, Your Honor.

12 Q (BY MR. HEIDEMAN) But ask you if you can identify the
13 book that I am handing to you, and if so, would you tell the
14 Court the date of publication and the name of the publisher of
15 the book to which I believe you just referenced.

16 A Yes. That's the book, and it was published by Palgrave
17 Macmillan, the paperback edition, in 2004.

18 Q And the name just before "Macmillan," for the court
19 reporter, please.

20 A Palgrave.

21 Q Palgrave.

22 A P-a-l-g-r-a-v-e.

23 Q Thank you. Professor Deeb, far be it for me to ever ask
24 a professor something when they are delivering their opinions,
25 esteemed opinions; however, I'm going to ask you if you

1 wouldn't mind, please, to speak a little slower for the court
2 reporter. It's been a long day and it's her task to get
3 everything down, and if you could speak just a little slower.
4 I think everyone can hear you, but if you could speak a little
5 slower, it might be helpful.

6 A Sure.

7 Q Thank you very much. I hope you don't mind me asking.

8 A Not at all.

9 Q Thank you. Now, in your writings of books and articles
10 and the lectures that you do, do you include your analysis as
11 to the reasons for the Syrian government's support of
12 terrorism?

13 A Yes, I do.

14 Q In addition, have you given lectures outside of academia
15 regarding Syria and its support of terrorism?

16 A Yes. Yes, I do.

17 Q And are you a member or do you hold any positions in
18 professional associations in your field, and if so, what are
19 the most prominent ones?

20 A In my field, it's the American Political Science
21 Association, the Middle East Institute.

22 Q The American what, I'm sorry?

23 A The American Political Science Association, Middle East
24 Institute and Middle East Studies Association of North
25 America. These have been members for over 25 years.

1 Q And have you appeared on the press, in the press, been
2 quoted in various news organs relating to matters involving
3 Syria and matters involving Syria's sponsorship of terrorism
4 and terrorist organizations?

5 A Yeah, I've been quoted by newspapers and magazines over
6 the years. I stopped counting. TV programs as well as radio
7 shows over the last 25 years. I mentioned them in my CV, but
8 they are numerous.

9 Q Thank you. And have you previously served as an expert
10 witness in a United States District Court or in any state
11 court in the United States?

12 A Yes. Two years ago I appeared in this court as an
13 expert, January 2008. And January 2009 in a Boston -- federal
14 Boston court, I appeared as a expert.

15 Q Thank you very much.

16 MR. HEIDEMAN: May it please the Court, we would, if
17 I didn't already, move Exhibit 49 into evidence being the
18 curriculum vitae of Professor Marius K. Deeb.

19 THE COURT: It will be admitted, of course.

20 (PLAINTIFF'S EXHIBIT 49 ADMITTED.)

21 MR. HEIDEMAN: Thank you very much. And may it
22 please the Court, pursuant to Federal Rule of Evidence 702, we
23 would ask the Court to qualify and admit the testimony of
24 Professor Marius Deeb as an expert on the Syrian government,
25 Syrian government structure, Syrian government's foreign

1 policy, the Syrian government support for terrorism, including
2 but not limited to the Syrian government's support of the Abu
3 Nidal terrorist organization which committed the EgyptAir
4 Flight 648 hijacking, and separately the Rome and Vienna
5 airport attacks of one month later.

6 THE COURT: I certainly will.

7 MR. HEIDEMAN: Is this witness so admitted as a
8 qualified -- qualified and admitted as an expert witness?

9 THE COURT: Yes.

10 MR. HEIDEMAN: Thank you very much.

11 Q (BY MR. HEIDEMAN) Professor Deeb, could you tell the
12 Court why, in your expert opinion, Syria is interested in
13 sponsoring terrorism, and pursuant thereto, tell the Court
14 whether or not it does sponsor terrorism.

15 A Terrorism is an integral part of the Syrian regime. It's
16 part and parcel of the Syrian regime from the mid '70s. They
17 pursue their foreign policy through terrorism among other
18 things, and to them they can never give it up, and I think
19 this is -- this is a hallmark of the regime.

20 They sponsor various organizations, but Abu Nidal
21 loomed large from '81 to '87, 1987. The reasons for that is
22 they want to change the policies of the U.S. and the west on
23 various issues, and they also, I think, they continue to use
24 terrorism for, I'm sorry to say that, because they haven't
25 been punished, and I think this is very important to pursue

1 that course, because so far they haven't paid for their
2 crimes, and they continue to do so.

3 The most recent thing has been mentioned by an
4 earlier expert is there is a court in the Hague which has been
5 convened, a special court on Lebanon to investigate Syria into
6 the murder of Former Prime Minister Rafik Hariri, a Lebanese
7 Prime Minister, as well as many others, and I think it's
8 important to realize that Syria has continued the use
9 terrorism up to this very day.

10 Q For what main purpose, in your opinion, Professor Deeb,
11 has Syria supported terrorism in the past?

12 A Primarily to undermine the peace process between the
13 Arabs and Israelis. If we look at, for example, the targets
14 of Syrian terrorism, usually it's the moderate Arab states
15 like Jordan and Egypt, its prominent Lebanese politicians and
16 journalists who had opposed the Syrian domination of Lebanon,
17 the Arafat Palestinians and of course Israeli targets, as well
18 as U.S. nationals through, you know, using proxies to attack
19 them. And I think this is a way of pushing the west out as
20 well as undermining the peace process in the region.

21 Q In your opinion, does Syria have a long history of
22 providing support for terrorist organizations?

23 A Yes, from at least from the mid '70s up till now.

24 Q And when you say "up to now," does that include
25 currently?

1 A Yes.

2 Q Are you familiar with the State Department list of state
3 sponsors of terrorism, sir?

4 A Yes.

5 Q And are you familiar with the list prepared by the United
6 States Department of State back on December 29, 1979?

7 A Yeah. That's the day -- the date where Syria was put on
8 the terrorist list as a sponsor of terrorism.

9 Q And does Syria continue, right to this date, on the list
10 of the United States Department of State's state sponsors of
11 terrorism?

12 A Yes.

13 Q Let me hand you what previously has been admitted into
14 evidence as Exhibit 41 and ask you if you are familiar with
15 that document and if it -- if it references Syria there as a
16 state sponsor of terrorism.

17 A Yes, I'm familiar, and it references Syria as a state
18 sponsor terrorist state.

19 Q And in your expert opinion, not just what our State
20 Department says, but in your expert opinion, Professor Deeb,
21 has Syria sponsored terrorism from at least December 29, 1979
22 through today?

23 A Yes.

24 Q How would you describe, sir, Syria's sponsorship of
25 terrorism in relation to what it provides to terrorist

1 organizations, and if you choose to be specific now, I won't
2 have to ask you later, what it has provided and did provide to
3 the Abu Nidal terrorist organization in order to support and
4 provide material support for the hijacking of EgyptAir Flight
5 648 and the month later Rome and Vienna coordinated airport
6 attacks?

7 A It provides weapons, it provides money, it provides safe
8 houses, it provides training camps, and provides logistics for
9 the operation, and over and above that, it provides actually
10 it chooses the dates for operations. Because these proxies,
11 when they become proxies of Syria like Abu Nidal, they have no
12 power over the decision making. Syria makes the decision for
13 them and they just execute the operation.

14 Q When you say it provides money, let me ask you, do you
15 have an opinion as to the range of money that Syria provides
16 in terms of material support for terrorist activities back in
17 1985 and over the last 25 years and currently?

18 A Yeah. I mean, I would say it had -- it had provided in
19 1985 was a very active year in terrorism for Syria. It
20 provided hundreds of millions of dollars in the dollar value
21 of today in terms of providing Abu Nidal and other
22 organizations money and you can also talk about weapons, which
23 of course are worth money and the houses which are given free
24 and the training camps, all this, if you add all the bill, it
25 would be in hundreds of millions of dollars.

1 Q Have you studied and lectured on and are you considered
2 to be an authority on the issue of Syria as a state sponsor of
3 terrorism?

4 A Yes.

5 Q And in your opinion, sir, would you tell the Court what
6 types of terrorist organizations Syria has relied on in order
7 to support terrorism, both historically and in the fall of
8 1985, November and December 1985, and up to the present?

9 A It has tended to use non-Syrian organizations,
10 Palestinian, Lebanese, whatnot, and Jordanian who would -- it
11 would be used as proxies to undertake terrorist operations,
12 and this way it tries to say that it's not responsible, but we
13 know, no organization could operate without Syria's full
14 knowledge and full sponsorship, especially Abu Nidal during
15 that period we're talking about, 1985.

16 Q Tell the Court, please, why, in your opinion, the United
17 States Department of State -- tell the Court why in your
18 opinion the United States Department of State designated Syria
19 among the first countries that it designated as a state
20 sponsor of terrorism, and the date, I remind you, according to
21 Exhibit 41 when it was designated was December 29, 1979.

22 A I think, because the number of terrorist operations which
23 Syria has sponsored over the years already by 1979, it was the
24 first state to be put on that list and continues to be put on
25 the list, and I think the State Department is definitely right

1 in doing so.

2 Q When you say the number of terrorist acts to -- or you
3 mean how many -- that there were many terrorist acts even
4 prior to December 1979 sponsored by Syria?

5 A Yes, started in the mid '70s onwards, yes.

6 Q And how would you describe the number of terrorist acts
7 since 1979, and more particularly, since 1985 that have been
8 sponsored by the Syrian defendants up to the present?

9 A I think they have not diminished in terms of the number.
10 Syria has continued to sponsor terrorism through various
11 proxies, always through proxies, and I think this continues to
12 today. A lot of examples could be given on that.

13 And Syria, therefore, the designation of Syria as a
14 state who sponsors terrorism is absolutely right.

15 Q Why, in your opinion, does Syria use proxies, to use your
16 term, for its sponsorship of terrorism? And in answering that
17 question, could you please explain to the Court what you mean
18 by "proxies."

19 A Proxies are, you know, instruments in the hands of Syria
20 which uses them. For example, instead of the Syrian
21 intelligence operatives do the job like they -- like what
22 happened in 1985, they use Abu Nidal for that purpose, because
23 they would not have connections in Europe but also it's easier
24 to disown, say that I'm not responsible, but we know that Abu
25 Nidal, from the moment he was invited to come to Syria in

1 1981, everything he did was with full knowledge of Syria and
2 full sponsorship of Syria. So it's a way of trying to sort of
3 make Syria as though it's not responsible for terrorism.

4 But there are certain cases, of course, where Syrian
5 operatives did operations, but most of the time it uses
6 proxies who work for Syria.

7 Q Thank you. You indicated in your last answer that it was
8 approximately 1981 when Abu Nidal was invited to Syria and the
9 sponsorship began; is that correct?

10 A Yes.

11 Q Could you please explain more to the Court what you know
12 about that and what your opinions are in relation to Syria's
13 invitation to Abu Nidal, who extended the invitation and the
14 nature of the sponsorship that developed after that 1981
15 invitation.

16 A Yeah. Of course, Abu Nidal emerged in Bagdad. He was a
17 representative of Arafat, in fact, when he decided to go his
18 own way and establish what is known as Abu Nidal Organization,
19 really it's called Fath-Revolutionary Council.

20 Q Excuse me, what council?

21 A Fath, which is a -- it's the acronym of the organization
22 which Arafat established. Fath means -- it's actually an
23 acronym from an Arabic three words which are read in reverse
24 and mean, you know, like the Palestinian Liberation Movement,
25 and this Fath, which was Arafat, they decided to have this

1 splinter group called Fath, F-a-t-h, hyphen, Revolutionary
2 Council as his new organization. He stayed in Iraq until
3 1980, '81.

4 In 1981, the head of the Syrian intelligence, air
5 intelligence invited him to come, and the invitation was that
6 they come to Syria and then they become an instrument, a proxy
7 of Syria for terrorism.

8 Q Two quick things on your last point. You spelled
9 Fath-Revolutionary Council as Fa-t-h, dash, Revolutionary
10 Council, and in that regard you explained Fath as a shortened
11 acronym from the name Arafat; is that correct? Did I hear you
12 right?

13 A No. It is actually -- it's in Arabic, which probably for
14 the Court will be complicated. It means *harakat al-tahrir*
15 *al-watani al-filastini*, which means the Palestinian Liberation
16 Movement, but instead of using the acronym straight, he
17 reversed the acronym. He used the last word and the
18 middle and the -- so it becomes Fath. But Fath means, in
19 Arabic, conquest, literally, and it also means -- it has its
20 reference to the first area or the first chapter of the Quran
21 and Fatihah, which is the beginning, so there are a lot of
22 religious undertones.

23 But Fath means literally the acronym of the
24 Palestinian name of the movement of Arafat, which Abu Nidal,
25 when he split, decided that he's the real Fath and the other

1 guy is a traitor, and that's why he called it Revolutionary
2 Council and split from him.

3 Q When we hear in the news today of Fatah, F-a-t-a-h, is
4 that in English the same word or is it not the same word as
5 Fath, F-a-t-h, as you've just explained, sir?

6 A It's the same word; however, in Arabic there is no vowel
7 between the two, the "t" and "h," and therefore an "a" should
8 not be there, but doesn't matter. Transliteration is complex
9 and you can translate the way you want, you know.

10 Q Thank you for the explanation. The second thing about
11 your immediately prior testimony I wanted to ask about is I
12 thought I heard you say that it was the head of Syrian Air
13 Intelligence who invited Abu Nidal. Would that be the head of
14 Syrian Air Force Intelligence?

15 A Yes.

16 Q One of the defendants here along with the Syrian
17 government itself; is that correct?

18 A Yes.

19 Q And who was, Professor, the head of Syrian Air Force
20 Intelligence in 1981 when Abu Nidal was invited to come to
21 Syria?

22 A General Mohammed Khuli, K-h-u-l-i, the family name. Why?
23 Let me explain why the Air Force Intelligence was so important
24 for President Assad at that time. The father who was then in
25 power, Hafiz, was commander of the Air Force. So when he took

1 over power and made a coup, the Air Force became his domain,
2 and the most trusted people were in the Air Force.

3 So, the Air Force Intelligence became the most
4 powerful intelligence service in the country by virtue of
5 being that its own domain before he came to power, and that's
6 why the Supreme Intelligence Officer in the country, General
7 Mohammed Khuli was the one who invited Abu Nidal, not any
8 other, you see.

9 And this is -- meant that, you know, that the
10 President, Hafiz Assad himself, same president invited Abu
11 Nidal to come to Syria.

12 Q When that invitation was extended to Abu Nidal -- and by
13 the way, there is other testimony that Abu Nidal stands for
14 the -- is the name of a person who's real name was Sabri
15 al-Banna; is that correct?

16 A Yes. Sabri al-Banna is his real name, S-a-b-r-i,
17 al-Banna, a-l, hyphen, B-a-double n-a. Abu Nidal is a, you
18 know, the revolution name, and Abu Nidal literally means the
19 father of struggle, revolutionary struggle -- I mean, struggle
20 as such, and therefore, it's important to emphasize his
21 revolutionary credentials by giving him a name like that for
22 his people, you know.

23 Q Thank you. When Abu Nidal was invited in 1981 by Khuli,
24 the head of Syrian Air Force Intelligence, was that an
25 invitation to visit or was it more, and in your opinion, what

1 did it become after the initial invitation and when did it
2 become more than just a visit?

3 A Yeah. It was an invitation to come and stay and
4 become -- that's your home. He told the guard, the
5 delegation, Syria is your home, that's our leader, that's
6 President Assad at the time, decided that you should come to
7 Syria and stay, and to become the relationship between you and
8 us, you know, stronger and stronger over time. So, it's an
9 invitation to come and establish yourself. That means an
10 invitation that you can do your operations from here and we
11 have -- will tell you what to do. And that's exactly -- Abu
12 Nidal, of course, was happy as relations with Iraq
13 deteriorated at the time. Syria was a wonderful haven for his
14 organization.

15 Q Was, in your opinion, Professor, the Abu Nidal
16 Organization already a terrorist organization when Khuli, the
17 head of Syrian Air Force Intelligence, extended an invitation
18 to Abu Nidal to make its home and base in Syria?

19 A Yes. It was already a terrorist organization, but of
20 course, the moment the invitation was extended and the
21 organization moved to Syria, then of course Syria became the
22 full sponsor because the organization cannot do anything in
23 Syria without the knowledge of the Syrian government and the
24 Syrian intelligent services because Syria was and still is a
25 police state. In other words, nothing happens on Syrian

1 territory without the knowledge of the government. They have
2 informers everywhere, informants everywhere and also they have
3 intelligence officers all over the country.

4 Q Thank you. So, explain to the Court your opinion, based
5 upon your knowledge and expertise of the progression of the
6 Abu Nidal terrorist organization and its activities prior to
7 1981 when it was invited to make its home in Syria.

8 A Before 1981, it worked for Iraq. It made some operations
9 on behalf of Iraq, but then the invitation was -- the
10 invitation by Khuli to Abu Nidal to come to Syria was done in
11 January 1981, to be specific, and by the end of the year, more
12 or less, the organization was quite well established in Syria.
13 By 1982, definitely, and this is very important.

14 Q In your opinion, what type of terrorist activities had
15 Abu Nidal and his organization, his terrorist organization,
16 conducted prior to the time that it accepted the invitation to
17 move to Syria, and what, in your opinion, did Syria know about
18 Abu Nidal and the Abu Nidal Organization as a terrorist
19 organization when it invited Abu Nidal to move to Syria in
20 1981?

21 A Yeah, I think partly one can say about Abu Nidal that he
22 was a gun for hire, but on the other hand, ideologically was
23 against Arafat and the mainstream PLO, so he was targeting
24 Arafat people, targeting those who were against, you know,
25 against his ideology which is the -- he was definitely against

1 the peace process and also worked for Iraq for awhile
2 targeting enemies of Iraq abroad, in particular.

3 But when he came to Syria, it's known that he will
4 come to Syria to work for the Syrian government, and that's
5 what happened.

6 Q And when you say it was known that he would come to
7 Syria, that is, Abu Nidal would come to Syria and work for the
8 Syrian government, do you mean come as a terrorist
9 organization, be welcomed, be based, have its home and be
10 sponsored and supported by the Syrian government in pursuing
11 and doing terrorist activities and operations at the behest of
12 and on behalf of Syria?

13 A Yes, absolutely.

14 Q In the book you referred to earlier, which just for
15 identification purposes, although I am not intending to move
16 it in, Your Honor, but just for the record will identify,
17 since it's a published document as Exhibit 94, in Exhibit 94,
18 this is your book, "Syria's Terrorist War on Lebanon and the
19 Peace Process"; is that correct?

20 A Yes, that's correct.

21 Q You used the words, moments ago, that Abu Nidal was a gun
22 for hire; is that correct?

23 A That's right.

24 Q In fact, has a book called "Abu Nidal: A Gun for Hire"
25 been written?

1 A Yes. It's been written actually by a very famous British
2 journalist, Patrick Seale, and he did a lot of research
3 interviewing people of Abu Nidal. As a journalist he had
4 access to them, and he wrote that book. And to the extent the
5 book is very valuable and very full of information about Abu
6 Nidal.

7 Q Did Patrick Seale have access, in your opinion, your
8 expert opinion to the Al-Assad family in Syria in the time
9 period of the EgyptAir hijacking and the time period when Abu
10 Nidal was based in Syria?

11 A Yes. Yes, Patrick Seale, British journalist, but he was
12 raised in Syria because his parents were missionaries in
13 Syria, and then he managed to -- some friendship which he had,
14 to reach President Assad and meet him, and so he played a role
15 in that by sometimes relaying messages between Israel and
16 Syria, but Patrick Seale, on the whole, in this particular
17 book you mentioned, tried to be objective and tried to depict
18 Abu Nidal as an organization, as is a terrorist organization
19 involved in all kinds of terrorist operations, and I think
20 it's an enlightening book on the relationship of Syria and Abu
21 Nidal.

22 Q In your book marked as Exhibit 94, on page 234, a
23 footnote appears that relates to the time of Abu Nidal being
24 invited to come to Syria; is that correct?

25 A That's correct.

1 Q Would you read that footnote to the Court, and I hand you
2 Exhibit 94, please. And tell the Court, in reading it, if you
3 believe that to be accurate.

4 A I've never bored to read my book anyway. Earlier -- this
5 is footnote 168, page 234. (Reading) Earlier in the spring
6 of 1981 when Syria decided to invite Abu Nidal, General
7 Mohammed Khuli, the head of the Air Force Intelligence, told
8 an Abu Nidal delegation, quote, our leadership, meaning
9 President Assad, has decided that Syria should be your
10 country, so welcome to it. Let us hope that the relationship
11 between us will go from strength to strength, end of quote.

12 The quotation is taken from Patrick Seale's "Abu
13 Nidal: A Gun for Hire."

14 Q Thank you very much. Between 1981 and 1983, did the
15 terrorist activities of Abu Nidal Organization, as sponsored
16 by Syria, increase?

17 A Yes.

18 Q Earlier you mentioned that at some point the Abu Nidal
19 Organization and Abu Nidal himself had been sponsored by the
20 government of Iraq. That would have been in the time of
21 Saddam Hussein; is that correct?

22 A That's correct, yes.

23 Q Did there come a time when the relationship between Abu
24 Nidal and Saddam Hussein of Iraq changed and Abu Nidal's
25 relationship shifted from Iraq to Syria?

1 A That's correct. You know, Saddam was involved in a war
2 with Iran, so he was busy, and therefore, Abu Nidal, you know,
3 relationship with Saddam deteriorated by 19' -- definitely by
4 1982, and he decided to accept the invitation and to send all
5 his organization to Syria as a home base for the organization.

6 Q So in 1982, Abu Nidal and the Abu Nidal Organization
7 relocated to Syria as its main home base; is that correct?

8 A Absolutely.

9 Q Subsequently, did the Abu Nidal Organization also become
10 involved with other state sponsors of terrorism, without being
11 specific as to time frames because it's unnecessary for today.

12 A Yeah. It's later he was involved with Libya, yes.

13 Q Thank you. And after Abu Nidal in 1982 made the decision
14 to relocate it's home base from Iraq to Syria, tell the Court
15 whether or not in your opinion Syria then increased its
16 sponsorship of Abu Nidal and began to rely more heavily on
17 various terrorist groups to commit more and more terrorist
18 activities.

19 A Yes. It tried more Abu Nidal generally and other
20 terrorist groups, but Abu Nidal was useful for operations
21 outside the Middle East, or Turkey, which is part of the
22 Middle East or the edge of Middle East, Pakistan and in Europe
23 where he could operate. While terrorism in Lebanon and other
24 closer places, other terrorist organization were in charge,
25 but Abu Nidal was really increased his activity from 1982

1 onwards.

2 Q Thank you. And in that regard, did the Syrian government
3 support Abu Nidal in maintaining headquarters in Damascus?

4 A Yes, and provide his organization with homes, with
5 certain safe homes where they can stay, safe houses, and
6 the -- providing, of course, with training camps in Syria and
7 in Syrian-controlled Lebanon and therefore became part and
8 parcel of the Syrian intelligence network, especially in
9 particular the Air Force Intelligence network.

10 Q And was that the situation, as you've just described it,
11 not only in 1982 and 1983, but up into the fall of 1985 when
12 the Abu Nidal terrorists trained in the Baqaa Valley in
13 preparation for the Syrian supported hijacking of EgyptAir
14 Flight 648 and a month later the Rome and Vienna airport
15 attacks?

16 A Yes, absolutely.

17 Q Could you please explain to the Court what was the
18 governmental structure of Syria at the time it became a state
19 sponsor of terror and at the time that it sponsored the Abu
20 Nidal Organization in the EgyptAir hijacking and the next
21 month on the Rome and Vienna airport attacks.

22 A Yeah, I mean, the structure of Syria is simple in a way
23 because it has not changed over the years. It's a military
24 and intelligence dictatorship which controls the country
25 through controlling the most important military units which

1 have ammunition and everything, and intelligence offices.

2 Most of them are recruited from relatives of the
3 Assad family, the rulers, and also recruited from the
4 community of the Alawites which is a minority, which is only
5 11 percent of Syria, and this minority is very secretive in
6 its religion and this lends itself to be secretive about
7 everything else. They actually control Syria totally, and
8 this means that they have to keep an eye on everything -- on
9 everything which is happening in Syria, and the control is --
10 it appears as though sometimes it's not there but it's always
11 there because they have informers and they have intelligence
12 officers operating in the country, and that's the structure.

13 So, President Assad controls all the institutions,
14 all the institutions of the country and it controls it.
15 Actually he is not running the country by moving around the
16 country. He didn't. Actually control it by phone, and very
17 few people could phone him directly. One of the people who
18 could phone him all the time was Air Force Intelligence, head
19 of the Air Force Intelligence, that is, General Mohammed
20 Khuli, because only two or three people can phone him and tell
21 him because these guys are the closest to the President.

22 So, the country was run very smoothly, I mean,
23 controlled everything, very efficient in controlling the
24 country, but of course, it's a brutal -- it was a brutal
25 dictatorship, it still is very cruel. Any person who would

1 try to defy the rulers of Syria, whether the father then and
2 now his son, will end up in jail, if not dead, worse than
3 that.

4 So, I think this is very important to realize that
5 it is a police state, a dictatorship with -- willing to do all
6 sorts of things to stay in power. One of the brothers of
7 President Assad boasted in 1980 that he's willing to kill
8 1 million Syrians so the regime stays in power, so this regime
9 is very brutal, very -- its dictatorship is cruel with respect
10 to its own people, especially people who defy the regime or
11 try to make any, you know, any attempts to change it or to
12 influence those who are in power.

13 Q Thank you. Would you describe the Syrian government
14 which you've indicated was and is both brutal and a
15 dictatorship, as an authoritarian in the government whereby
16 all organs of the state were under President Assad's direct
17 control, and I'm referring to Hafiz Assad during his lifetime,
18 and if the answer to that is yes, my next question will be,
19 has it changed for this government since the passing of
20 leadership to his son Bashar Assad?

21 A Has not changed at all. It's still a very cruel regime
22 and very authoritarian regime, and it's interesting because he
23 passed it to the son who has no problem at all because the son
24 was groomed by his father for six years to take over, and you
25 know, when you have a tutor who is your father and a tutorial

1 for six years, I think it's very effective in learning all the
2 tricks of the trade.

3 So, despite the fact that he took power, he was
4 under 40, he managed to survive because the father taught him
5 and also because of the cohesiveness of the community from
6 which the father and the son come from.

7 Q Would you please explain to the Court for the time period
8 from the mid 1970s until now whether or not the Assad family
9 controls all top government posts and key jobs, including but
10 not limited to the military intelligence and those who work
11 with directly the terrorist organizations such as they did
12 with the Abu Nidal terrorist organization.

13 A Yes, especially organizations which are terrorists which
14 have to do with intelligence agencies and all that, and
15 security. These are very much in control.

16 Now, even cabinet -- members of the cabinet, members
17 of parliament are all chosen by the government, and I think
18 when it comes to terrorist organizations, even the control is
19 even stronger because here the terrorist organization have to
20 do certain jobs for this regime and controlling them is
21 essential for the execution of the terrorist operations and
22 the choosing of the timing and choosing the place and the
23 targets with respect to the Syrian rulers themselves.

24 Q In your opinion, did the Syrian defendants participate in
25 the selection of the timing and the methodologies and the

1 operations that were involved in both the EgyptAir hijacking
2 of Flight 648 and subsequently the next month in the Rome and
3 Vienna airport attacks?

4 A There is no doubt about it. You know, Arafat, the PLO
5 leader, made the declaration in Cairo in Egypt on the 7th of
6 November 1985 in which he says, terrorist operations against
7 civilians are condemned everywhere, everywhere. No terrorist
8 operation should take place anywhere in the world against
9 civilians.

10 The answer to that was the very symbolic, the
11 hijacking of EgyptAir, which is Egyptian. The declaration was
12 made in Egypt, and also to answer Arafat that, you know,
13 operations are going to continue, and Vienna and Rome made it
14 even clearer that terrorism abroad is going to remain and
15 against civilians it's going to remain. So, it's in answer to
16 Arafat and answer to Egypt who sponsored Arafat to make this
17 declaration and move with the peace process.

18 Q When was this Arafat declaration to which you've just
19 referred in your testimony?

20 A November 7th, 1985.

21 Q And is that referred to in the literature as the Cairo
22 Declaration?

23 A The Cairo Declaration, yes.

24 Q And explain to the Court what was the Cairo declaration,
25 and I trust that means it was made in Cairo, Egypt?

1 A In Cairo, Egypt, yes. Arafat said one should not do any
2 kind of terrorism or any kind of violent operation against
3 civilians anywhere in the world. In other words, civilians
4 should not be targets of violence, and therefore, Abu Nidal,
5 of course, Syria sponsoring him, answered that by saying,
6 "We're going to continue doing that." And in order to
7 embarrass Arafat, they did it on purpose in Egypt where his
8 declaration was made.

9 Q And at that time was the Abu Nidal terrorist organization
10 in November of 1985 already fully entrenched and based and
11 supported in Syria and Damascus and in the Baqaa Valley?

12 A Yes. They were already there fully established for
13 years, been there for at least three years, so any action by
14 Abu Nidal during that period, even earlier, would not be
15 possible without Syrian -- full knowledge of the Syrian
16 government, the Syrian president and full support and
17 sponsorship of the Syrian president.

18 Q How did the Syrian government treat the movement of Abu
19 Nidal terrorists in and out of Syria in November 1985 and
20 December 1985?

21 A Yeah, they freely moved out. They left -- some of them
22 left through Damascus airport, some through Beirut airport,
23 which is Syrian controlled, because they had Syrian troops in
24 Lebanon and dominated Lebanon then. They provided them with
25 the passports, with the travel documents. Some of the

1 passports, of course, are obviously forged Moroccan and
2 Tunisian passports, and provided them with the money. And the
3 communication, we know from one of the survivors mentioned in
4 this court, Omar Mohammed Ali, is that the communication
5 continued with Damascus with the leaders of the Abu Nidal
6 organization while operations were being, you know, prepared
7 for in Europe.

8 So here is the proof that Syria was doing all that
9 itself and Abu Nidal just an instrument, was just an
10 instrument in the hands of the Syrian regime.

11 Q Have you had the opportunity to review any of the
12 testimony of the person to whom you just referenced Omar
13 Mohammed Ali Rezaq, the convicted hijacker of the EgyptAir
14 Flight 648 hijacking?

15 A Yes, I did. I read it, yes.

16 Q And have you reviewed his affidavit and do you -- where
17 he indicates he was trained in the Syrian-controlled Baqaa
18 Valley, his affidavit being Exhibit 35 in evidence in this
19 matter?

20 A Yes, I reviewed the affidavit, absolutely, yes.

21 Q And where he states that he was trained in the
22 Syrian-controlled Baqaa Valley and that he committed the
23 hijacking; do you believe that to be true?

24 A Absolutely true.

25 Q Have you also had the opportunity, sir, to review any of

1 Mr. Rezaq's testimony, which is now in evidence as Exhibit 34
2 which he gave in this courthouse at the time of his criminal
3 trial, if you've had a chance the review any of that, I don't
4 recall.

5 A Yes, I did.

6 Q And in that testimony, which -- parts of which we'll go
7 over with the Court either now or tomorrow as the Court
8 prefers, but does he indicate there that he had a special card
9 that allowed him to, and I'm paraphrasing, move along special
10 highways that were under control only of the Syrian military
11 or intelligence of the Syrian government?

12 A Yes, he did. He did indicate that. He -- of course,
13 there are certain military roads which are used by the Syrians
14 only when they were controlled in Lebanon, and of course,
15 these roads are not -- are not seen by the public and
16 therefore the movements of Abu Nidal Organization members were
17 done without the knowledge of the civilians who were living
18 close by. The training camps were separate and the roads
19 leading to Damascus going and coming back were, you know,
20 things which were not known to the general public.

21 Q Thank you. The exhibit that is the map of Syria and
22 Lebanon that I'm putting back up that's blown up, and it's
23 Exhibit No. 44 in evidence, a copy of which I am handing you
24 as a small one.

25 A Yes.

1 Q Does this appear to be an accurate depiction of the scene
2 on the ground in Lebanon and Syria?

3 A Yes.

4 Q And I believe you told me when we met you actually were
5 born in Lebanon; is that correct?

6 A I was raised in Lebanon, yes.

7 Q So you're familiar with the area; is that correct?

8 A Absolutely.

9 Q And Colonel Lang, when he testified, indicated that the
10 Baqaa Valley is this area in between what he marked on the
11 acetate as these blue lines; is that correct?

12 A That's right.

13 Q And what's the distance from the Abu Nidal train- --
14 Strike that question.

15 Tell the Court, if you would, where within these
16 blue line areas the Abu Nidal terrorist camps were based in
17 the time period from 1981, '2, '3, and certainly in the time
18 period of 1985 and '6.

19 A They were closer to the Syrian border. The two blue
20 lines which were -- with are parallel to each other, in
21 between that, between Balabakk and Riyaq and also a bit to the
22 south, yes. And some camps are a bit to the southern where
23 the line goes down there, yeah, beyond that down.

24 Q One moment, please. Are you saying that the camps were
25 in between these two blue lines because if so, so that I'm

1 clear, in red, on the acetate, I'm going to mark --

2 A Yes.

3 Q -- the two --

4 A Actually, the red lines are even better. They are a bit
5 wider than the blue lines.

6 Q All right. So in between the red lines that's on the
7 acetate on this Exhibit No. 44, was that the area of the Abu
8 Nidal camp?

9 A Yes.

10 Q And was that the condition in the fall of 1985?

11 A Yes.

12 Q And in your estimation, sir, and your knowledge of the
13 area, could I trouble you to come to the map of being this
14 exhibit and take this, take this green marker -- take this
15 green marker and mark, if you will, the military roads that
16 you referenced where the Abu Nidal terrorists who committed
17 the EgyptAir attack and separately the Rome and Vienna airport
18 attacks after their training, where -- which military roads
19 did they use in order to be able to move in and out of Lebanon
20 and between Lebanon and Syria.

21 A I mean, the military roads, you don't need to get into
22 Lebanon then because the training -- the whole thing is the
23 training camps and Syria where the headquarters are of Abu
24 Nidal, so the camps were here and the military roads would be
25 like that, and also, there is also a camp -- a couple of camps

1 here, too.

2 These are -- if we take the distance between these
3 camps and Damascus, they are very close. You know, we're
4 talking about 20 miles, 25 miles maximum, and this is sort of
5 the distance between the camps and Damascus.

6 Now, if you go to Beirut, of course, it's longer,
7 but there is no need to do that because if the leadership of
8 Abu Nidal is here and the camps are here and then the
9 traveling most of it is from Damascus coming from Beirut, and
10 this is how they moved.

11 You don't need to have entry roads to go in this
12 region. It's from the camps to Syria.

13 Q Thank you. You may retake your seat. I'm paraphrasing
14 from Mr. Rezaq's testimony, which we have put into evidence, I
15 believe, as Exhibit 35 -- No, testimony, 34. Exhibit 34 from
16 his trial testimony. I've read it, so let me just paraphrase.

17 If he indicates in there that by traveling on the
18 military roads it would be perhaps 25 to 30 minutes to
19 Damascus, would that be accurate?

20 A Yes, but of course, these roads are a bit rough, you
21 know. It takes longer. They are a bit -- they are not really
22 paved roads, so maybe the distance is short but the time might
23 be longer.

24 Q I understand. And if the Abu Nidal terrorists were
25 permitted on these military roads, would they have been

1 permitted on roads only on which the Syrian government
2 permitted military intelligence and government officials to
3 travel?

4 A That's right.

5 Q And if in fact Mr. Rezaq, as he -- I proffer to the
6 Court -- testified in the previous trial had this special
7 card, what would be the use of the special card that Mr. Rezaq
8 had?

9 A It's in case he meets some people who would question, I
10 think the card would clear him completely. In other words,
11 it's a card which would -- the Syrians will give to those they
12 trust and they can pass through various roads.

13 Now, of course, he needs the card if he goes to the
14 Beirut airport to catch a plane, and therefore, he might use
15 it for that. But the idea that the Syrians provided documents
16 for them, yes, provided documents to travel between Syria and
17 Lebanon and of course provided passports to travel abroad, and
18 the card would be used for if any -- you know, because Syria
19 was in control, but there was a Lebanese army there, other
20 security forces, so it's not Syrian territory.

21 So if by accident he loses his way, the card would
22 help him and clear him completely to move on to go on to
23 whatever he wants.

24 Q Thank you. And just lastly, in that regard, if Mr. Rezaq
25 testified, as I proffered he did, and I'm paraphrasing, that

1 the card would allow him to, I believe the word is "avoid" or
2 maybe it means "not being stopped," I'm not sure because I
3 don't have the testimony verbatim in front of me, by either
4 Syrian customs or --

5 A Lebanese.

6 Q Lebanon customs, would that be in keeping, sir, with your
7 expert opinion as to how those cards were used and why the
8 Syrian government would have issued such a card to an Abu
9 Nidal terrorist?

10 A Yeah, I mean, even they have to issue them for their own
11 Syrian military because when he passes through military
12 outposts of the Syrian one, he has to show the Syrian that he
13 has that card and therefore clears him and he could move on.
14 So, this is to show that he's a bona fide guy, the Syrians
15 trust him, and therefore, he has access to all these roads,
16 you see.

17 So, it works both ways, for the Syrian military and
18 Lebanese military that the card is necessary to move around.

19 Q Thank you. One last question in this particular area and
20 then I'll move toward conclusion so we can finish and not keep
21 you or the court personnel unnecessarily late today.

22 Relates to the Syrian Air Force Intelligence.
23 You've already indicated certain things about it. Tell the
24 Court your opinion as to the importance of Syrian Air Force
25 Intelligence to President Assad and the government of Syria at

1 the time of and in relation to Syria's sponsorship of the Abu
2 Nidal Organization and its commitment of these terrorist
3 attacks, EgyptAir, and separately Rome and Vienna.

4 A Yeah. The Air Force Intelligence is not only Air Force
5 Intelligence because the domain of President Assad was the Air
6 Force, that's why it's so important. It's like a presidential
7 intelligence, the supreme intelligence agency in the country,
8 the most powerful. It has many intelligence agencies who
9 check on each other, but this is the top one, the most trusted
10 one, and therefore, the decision made by this Air Force
11 Intelligence are the decisions really of the president himself
12 totally. And therefore, because of this, what General
13 Mohammed Khuli decide at that time was really the decision of
14 his boss, President Assad himself.

15 Q Thank you. And I failed to ask you, but are you aware as
16 to whether or not the United States Department of State has
17 not only designated Syria as a state sponsor of terror but
18 separately and also designated the Abu Nidal Organization as a
19 foreign terrorist organization?

20 A Yes, I'm aware of that.

21 Q And do you agree with both designations in your expert
22 opinion?

23 A Yes, absolutely, I agree.

24 Q When General Al Khuli invited Abu Nidal Organization to
25 move to Syria, as you've already testified, could that have

1 been done without the direct approval, support, authorization,
2 knowledge and involvement of the President of the country
3 Hafiz Assad?

4 A Not at all. I mean, without -- General Mohammed Khuli
5 worked for the President Assad. He was the closest advisor,
6 the top intelligence officer of the country, and therefore,
7 all the decisions by General Mohammed Khuli were actually the
8 decisions of President Assad.

9 There is no such thing as someone working on his
10 own. I mean, this is a society which doesn't work that way.
11 Loners do not exist in Syria. You cannot be a loner. You
12 have to operate in a certain system, and this Air Force
13 Intelligence and the head of it is really the voice of his
14 master. What he's -- what he said, what he did, what he
15 decided to do was simply implementing what President Assad
16 himself wanted.

17 Q Did Abu Nidal Organization's move to Syria, in your
18 opinion, have any impact on their ability to carry out the
19 terrorist attacks abroad and outside the Middle East which you
20 indicated in earlier testimony was the area for which they
21 were supported?

22 A Yes. I mean, Abu Nidal had operatives abroad, or they
23 could move -- he can move his operatives abroad and this was
24 very useful. But of course, everything was done with Syria
25 sponsorship and Syria's foreknowledge of what Abu Nidal was

1 going to do because he worked for Syria, period.

2 Q And how did the Abu Nidal terrorist attacks, after it
3 moved to Syria, increase from that time through the time of
4 the EgyptAir hijacking and the Rome and Vienna airport
5 attacks?

6 A Yeah, they increased in number and also increased in
7 operations in various parts of -- not the close Middle East
8 but the further Middle East like Turkey, like Pakistan, and
9 also in Europe they increased in number. And I think,
10 obviously, it was a time where the Syrian leaders wanted to
11 sponsor as many terrorist operations as possible to serve the
12 foreign policy objectives.

13 Q Thank you very much. And do you have an opinion as to
14 whether, sir, the Syrian defendants sponsored terrorism in
15 1985?

16 A Yes. I mean, they did openly. That's -- the operations
17 were not Abu Nidal. Abu Nidal was just doing the operations
18 for them. The operations were decided by the Syrian leaders
19 and the timing was by them decided, and also the targets were
20 decided by them.

21 Q And do you have an opinion, sir, as to whether in 1985
22 the Syrian defendants sponsored the Abu Nidal terrorist
23 organization?

24 A Yes, they did, absolutely, I'm sure they did. They did
25 sponsor the Abu Nidal Organization.

1 Q And do you have an opinion, sir, as to whether or not in
2 November of 1985, the Abu Nidal Organization committed the
3 EgyptAir hijacking, and separately in December of 1985
4 committed the Rome and Vienna attacks?

5 A They were done on behalf of Syria. Abu Nidal was just an
6 instrument, a proxy for Syria, that's it. The whole thing was
7 done because Syria decided to do these operations for its own
8 foreign policy objective, for its own objective in the region.

9 Q And did the Abu Nidal terrorist organization on behalf of
10 Syria actually carry out those attacks being the EgyptAir
11 hijacking, and separately, the Rome and Vienna airport
12 attacks?

13 A Yes, they did, it's true.

14 Q Thank you. Let me ask you if you're familiar with the
15 United States Department of State Patterns of Global Terrorism
16 for 1985 which was issued the following year in October of
17 1986.

18 MR. HEIDEMAN: And we identified Exhibit 42 into
19 evidence, Your Honor.

20 Q (BY MR. HEIDEMAN) Are you familiar with this, Professor?

21 A Yes, I'm familiar, sure.

22 Q And is this a document that was issued by the United
23 States Department of State relating to terrorist activities
24 and sponsorship of terrorist activities by countries and
25 terrorist activities but terrorist organizations?

1 A Yes.

2 Q And if you'll look, please, on page 7 of this
3 particular -- Strike that.

4 If you'll look, sir, please, on this page 6 of this
5 particular document being Exhibit 42, does it reference on
6 page 6 Syria there?

7 A Yes.

8 Q I can't hear you. Perhaps the microphone is not on.

9 A Yes, I do. You want me to read it or not?

10 Q No, that's all right. I think it speaks for itself, but
11 I wanted to point it out to the Court. And does it indicate
12 there on page 6 under the section of "Syria" in the right-hand
13 column, and I quote the paragraph beginning "the number of
14 incidents." Do you see that, the third paragraph on the
15 right?

16 A Yes, I do.

17 Q And do you see there in the middle it says, quote, the
18 Abu Nidal group; do you see that?

19 A Yes.

20 Q Would you read just that one sentence to the Court.

21 A (Reading) The Abu Nidal group, despite its increased
22 ties to Libya, it remains Syria's major terrorist surrogate
23 and was responsible for some two-thirds of the Syrian
24 sponsored attacks in 1985.

25 Q Thank you very much. And lastly, as to this document, if

1 I could trouble you to look, please, at the page marked number
2 7 at the top left, does it indicate there a highlighted
3 section on the Abu Nidal group?

4 A Yes.

5 Q And in that paragraph does it indicate there specifically
6 a reference both to the EgyptAir -- Strike the word. Strike
7 the question.

8 Does it indicate in the last full sentence of that
9 Exhibit 7, do you see a sentence starting "the group" under
10 the section "The Abu Nidal Group"?

11 A Yes.

12 Q Would you read that sentence to the end of the paragraph
13 to the Court, please, so it's in the record.

14 A (Reading) The group, referring to Abu Nidal, claimed
15 credit for hijacking an EgyptAir jet to Malta in November,
16 killing two Israeli women and shooting three Americans, one
17 fatally in -- one fatally. In December, Abu Nidal terrorists
18 killed more than 20 persons and wounded about 120 in machine
19 gun and grenade attacks at the El Al ticket counters in the
20 Rome and Vienna international airports.

21 Q Thank you very much.

22 MR. HEIDEMAN: We move Exhibit 42 into evidence,
23 Your Honor.

24 THE COURT: Be admitted.

25 (PLAINTIFF'S EXHIBIT 42 ADMITTED.)

1 MR. HEIDEMAN: Thank you very much. Just a few
2 quick matters before I conclude with this witness, if I may.

3 Q (BY MR. HEIDEMAN) I've asked you some questions about it,
4 Professor, but I would like to get very specific.

5 After Syria sponsored the Abu Nidal Organization and
6 the hijacking of the EgyptAir flight and the Rome and Vienna
7 airport attacks the following month, from the time period of
8 those attacks in late 1985 until today, could you please
9 explain to the Court how Syria has continued to sponsor
10 terror, and include in your commentary, if you would, what
11 change, if any, there has been in Syria's sponsorship of
12 terrorism because of the death of Hafiz Al-Assad, the father,
13 and being replaced as the head of government by his son,
14 Bashar Assad, please, sir.

15 A Sponsoring terrorism by the Syrian regime, Syrian
16 government has not changed even after the son took over from
17 his father in June 2000. What has changed is that some
18 organization are -- have been dropped or they just became less
19 important for Syria. Other organization came and became the
20 proxies of the surrogates, using the term used in this
21 document, for Syria doing the terrorist operations. But
22 terrorism has remained the hallmark of the regime.

23 Terrorism has become -- is still and cannot be
24 actually separated from the regime. The regime has always
25 been, since the mid '70s, a terrorist regime and nothing has

1 changed.

2 Q In your opinion, Professor, does Syria and the Syrian Air
3 Force Intelligence and other arms of the Syrian government
4 continue to sponsor various terrorist acts, terrorism
5 generally, and terrorist groups today?

6 A Yes.

7 Q And do they do so directly or indirectly or both?

8 A Both, but mostly indirectly.

9 Q And how do they do that and what support does Syria
10 provide, in your opinion, to terrorist groups in terrorism and
11 terrorist activities up to and including today?

12 A Support is the usual thing, money, weapons, training,
13 logistics, and also coordination in such a way that the
14 targets are chosen by Syria, not by the surrogate proxy,
15 whatever organization which they use. It has remained the
16 same.

17 The son who took over the party in 2000 has followed
18 his father's policy. Terrorism remained as part and parcel of
19 the foreign policy objectives and needs to change the
20 situation in the Middle East or to keep the situation in such
21 a way that Syria remains a center in the Middle East.

22 Q What involvement of Syrian intelligence networks is there
23 in relation, in your opinion, sir, to Syria's sponsorship of
24 terrorism even through today?

25 A The intelligence networks are very, very important. They

1 might have changed in importance from one organization or
2 another because of the change of leadership, but basically
3 they are all the same. They still work with various
4 organizations, mostly non-Syrian, to continue to make -- to
5 use terrorism as a means to change the situation in the Middle
6 East in their favor.

7 Q Thank you. And could you please express to the Court
8 your opinion as to Syria's current budget for terrorism
9 related activities, sir?

10 A It's very difficult to give a figure because Syria, as we
11 know, is the closest ally of Iran. They are really an ally,
12 which they will never separate this alliance. Alliance is
13 absolutely inseparable, because both believe in terrorism,
14 both are against the peace process, so what money Syria puts
15 in into the terrorist operations we can guess now to be
16 definitely over 500 or \$700 million, but of course, Iran also
17 contributes to that, and therefore, you know, the budget
18 augments for terrorist operations and terrorist organization.

19 But Syria will not put a figure less than
20 \$500 million now, despite the help of Iran, despite the money
21 and weapons coming from Iran for terrorist organization and
22 for, you know, supporting terrorism in the Middle East and
23 beyond. So I will give a figure in hundreds of millions of
24 dollars as the budget for terrorism allocated by Syria for the
25 purpose of making or supporting, sponsoring terrorism and

1 sponsoring terrorist organizations.

2 Q Do I -- let me break down the last answer so I understand
3 it and so the Court has -- is clear.

4 Is it your opinion that Syria spends not less than
5 \$500 million per year presently sponsoring terrorism? Did I
6 hear you say that?

7 A That's right. This includes all organization they have,
8 you know, which control or use for terrorism.

9 Q And I want to be sure I'm clear as to the number.
10 500 million U.S. dollars per year is spent, in your opinion,
11 by Syria on terrorism and its support of terrorism; is that
12 your testimony, sir?

13 A Yes. It's a low estimate. I would put it more between
14 700 and 500, but 500 minimum, is the minimum amount spent on
15 terrorism.

16 Q Thank you very much. Professor, at our request, did you
17 prepare a report and then convert it to a sworn notarized
18 affidavit that sets forth your expert analysis regarding Syria
19 as a state sponsor of terrorism, regarding Syria's sponsorship
20 of the Abu Nidal Organization, and regarding Syria's
21 sponsorship of the Abu Nidal Organization's perpetration of
22 the EgyptAir hijacking of November 23rd, 1985, and
23 separately, the Rome and Vienna airport attacks of
24 December 1985?

25 A Yes, I did.

1 Q Let me hand you what has been marked as Exhibit 50 and
2 ask if you can identify this document.

3 A Yes, that's it. That's the document. That's my
4 affidavit. Yes, affidavit.

5 Q Thank you. And does that contain your opinions in
6 addition to those that you've expressed here in detail today?

7 A Yes.

8 Q And in conclusion, is it your opinion that Syria is a
9 state sponsor of terrorism?

10 A Absolutely, yes.

11 Q And is it your opinion that Syria was a state sponsor of
12 terrorism in the fall of 1985?

13 A Yes.

14 Q And is it your opinion that Syria sponsored in the fall
15 of 1985 the Abu Nidal Organization?

16 A Yes.

17 Q And is it your opinion that Syria sponsored the Abu Nidal
18 Organization's conducting and committing the EgyptAir
19 hijacking of November 23rd, 1985?

20 A Yes.

21 Q And is it your opinion that Syria sponsored the Abu Nidal
22 Organization's operations and committing of the Rome and
23 Vienna airport attacks of December 1985?

24 A Yes.

25 Q And is it your opinion -- two more things, last things --

1 is it your opinion, sir, that since the fall of 1985, Syria
2 has continued to sponsor terrorism in a cruel, brutal way as
3 an instrument of its governmental policy and foreign policy?

4 A Absolutely, that's true.

5 Q And is it your opinion that the minimum that Syria spends
6 today on the sponsorship of terrorism is \$500 million per
7 year?

8 A Yes.

9 Q Thank you very much for appearing here today. The Court
10 may have questions for you.

11 THE COURT: No, I don't. Thank you very much,
12 Professor. Pleasure to meet you, sir.

13 THE WITNESS: Pleasure. Thank you, Your Honor.

14 MR. HEIDEMAN: Excuse me one moment, Your Honor. I
15 thought -- I'm sorry, I thought I moved Exhibit 50 into
16 evidence. If I did not, may I do so at this time.

17 THE COURT: Hold on just a second. Lynn, did he do
18 it?

19 THE DEPUTY CLERK: It's in. Exhibit 50? No, you
20 didn't move it. You can move it in.

21 MR. HEIDEMAN: Thank you. We will move it in at
22 this time, Exhibit 50, the affidavit of Professor Deeb into
23 evidence.

24 THE COURT: I'll admit it into evidence.

25 (PLAINTIFF'S EXHIBIT 50 ADMITTED.)

1 MR. HEIDEMAN: Thank you very much.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Thank you, Professor. All right.

4 Tomorrow we have -- the logistics will be a little different.

5 As I understand it, we start with the Houston folks tomorrow,

6 with the Texans, 10:00 o'clock eastern time, which is

7 9:00 o'clock our time; is that right? I'm sorry, the other

8 way around. 10:00 o'clock our time, which is 9:00 o'clock

9 eastern time.

10 MS. KALIK: We start in Minnesota actually, Your
11 Honor.

12 THE COURT: I'm sorry, ma'am?

13 MS. KALIK: We start in Minnesota tomorrow morning
14 first, but we have a live witness before the Minnesota person.

15 THE COURT: So we are going to assemble here at
16 9:30?

17 MS. KALIK: Yeah.

18 MR. HEIDEMAN: Yes. The hearing tomorrow, if it's
19 still convenient for the Court, is noticed for 9:30. We can
20 start at any time the Court would like because the live
21 witness could be taken in between the video witnesses.

22 THE COURT: All right. Just a minute. We got a
23 call from John Cramer, and what was his concern?

24 (PAUSE.)

25 THE COURT: All right. So let's all agree here to

1 be here at 9:30 because John needs some time to make the call,
2 all right. So, we'll be here -- everyone assemble here 9:30
3 tomorrow morning, except you, Professor, you can go back to
4 teaching.

5 MR. HEIDEMAN: Thank you, Your Honor.

6 THE DEPUTY CLERK: Okay. All rise.

7 (PROCEEDINGS END AT 5:21 P.M.)
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13 **CERTIFICATE OF REPORTER**

14 I, Catalina Kerr, certify that the foregoing is a
15 correct transcript from the record of proceedings in the
16 above-entitled matter.
17
18
19
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21 _____
22 Catalina Kerr

_____ Date
23
24
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