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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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PATRICK SCOTT BAKER, ET AL           Docket No. CA 03-749  
  Plaintiff,  
  v.                                 Washington, D.C.  
  **May 5, 2010**  
  9:30 a.m.

GREAT SOCIALIST PEOPLES OF  
LIBYAN ARAB JAMAHIRYA, ET AL  
  Defendant.

-----X  
JACKIE PFLUG,                                 Docket No. CA 08-505  
  Plaintiff,

  v.  
GREAT SOCIALIST PEOPLES OF  
LIBYAN ARAB JAMAHIRYA, ET AL  
  Defendant.

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CERTAIN UNDERWRITERS AT LLOYDS     Docket No. CA 06-731  
LONDON, ET AL  
  Plaintiff,

  v.  
GREAT SOCIALIST PEOPLES OF  
LIBYAN ARAB JAMAHIRYA, ET AL  
  Defendant.

-----X

**EVIDENTIARY HEARING**  
*BEFORE THE HONORABLE JOHN M. FACCIOLA*  
*UNITED STATES MAGISTRATE JUDGE*

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

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

3 THE DEPUTY CLERK: This is Civil Case 03-749,  
4 08-505, 06-731 and 08-504. Patrick Scott Baker, et al, Jackie  
5 Pflug, Certain Underwriters at Lloyds London, et al versus  
6 Great Socialist Peoples of Libyan Arab Jamahiriya, et al.

7 The attorneys representing the Plaintiff are Richard  
8 Heideman, Ed MacAllister, Tracy Kalik, Noel Nudelman, and  
9 Steven Perles.

10 This is an evidentiary hearing.

11 THE COURT: Good morning.

12 MR. HEIDEMAN: Good morning, Your Honor. The  
13 Plaintiff will call -- the Plaintiffs will call Dr. Jack  
14 Spector to the stand, and he is here.

15 THE DEPUTY CLERK: Will you raise your right hand,  
16 sir.

17 (WITNESS SWORN BY THE DEPUTY CLERK.)

18 DR. JACK SPECTOR,  
19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. HEIDEMAN:

22 Q Would you state your name, please, sir.

23 A Sure. It's Jack Spector.

24 Q And I understand it's Dr. Spector; is that correct?

25 A That is correct.

1 Q And your field of expertise?

2 A I'm a neuropsychologist.

3 Q Would you please set forth to the Court your address so  
4 it's in the record.

5 A It's 1101 Saint Paul Street, Suite 401, Baltimore,  
6 Maryland 21202.

7 Q Thank you very much.

8 Where do you currently practice in the field of  
9 neuropsychology?

10 A In Baltimore; in Chevy Chase, Maryland; in Alexandria,  
11 Virginia; and in Greensboro, North Carolina.

12 Q Thank you.

13 (PAUSE.)

14 Q (BY MR. HEIDEMAN) Sorry. Could you please tell the Court  
15 about the nature of your specialty.

16 A Sure. Clinical neuropsychology is a subspecialty of  
17 clinical psychology. Clinical psychology is the applications  
18 of scientific principles of behavior to issues related to  
19 assessment and treatment and consultation and research and  
20 teaching.

21 Clinical neuropsychology is the application of those  
22 principles to issues of brain and behavior.

23 Q And what is the interface in clinical neuropsychology  
24 between diagnostic assessment and treatment of patients with  
25 brain injury or neuro-cognitive deficits?

1     A    You can't treat what you don't understand.  You don't  
2 know what to treat until you've assessed the wide range of  
3 potential functions on which intervention might need to be  
4 focused.

5     Q    Thank you.

6                 Have you specialized in any particular area of  
7 neuropsychology?

8     A    Neuropsychology is itself a specialty.  Within the  
9 subspecialties, I practice a split between adults and  
10 children.  So in that respect, no.  It's split between  
11 forensic and clinical application, so in that respect, no.

12                I have research -- I've published research in some  
13 areas and not in others, and those tend to cluster around  
14 traumatic brain injury, exaggeration of impairment and  
15 psychological factors contributing to the appearance of brain  
16 injury.

17     Q    Thank you.

18                What academic programs have you completed and what  
19 degrees do you hold?

20     A    I have a Ph.D in clinical psychology and I'm board  
21 certified in clinical neuropsychology.

22                In terms of undergraduate education, I received my  
23 bachelor's degree in psychology from Temple University in  
24 Philadelphia, and my master's and doctorate in clinical  
25 psychology with a specialization in clinical neuropsychology

1 from the University of Louisville in Louisville, Kentucky.

2 Q Thank you.

3 A My internship and advanced training in neuropsychology  
4 were at Walter Reed here in D.C.

5 Q Thank you very much.

6 And tell the Court about the nature of your Ph.D.  
7 program in clinical psychology at the University of Louisville  
8 and the nature of the school there at the University of  
9 Louisville.

10 A That's an awful broad question. Would you care to pin  
11 that down a little, sir?

12 Q Yes. Does the University of Louisville, with which I  
13 will share with you I am very familiar because I lived in  
14 Louisville for 15 years and practiced there and have family  
15 there and I know the people in the community have great pride  
16 in the University of Louisville and its schools, including but  
17 not limited to the psychology department.

18 So, could you share with the Court the nature of  
19 this special school that you attended and where -- and why you  
20 got your Ph.D. there?

21 A Sure. All right. It's an APA approved -- it was an APA  
22 approved program, American Psychological Association approved  
23 program.

24 Q And I'm going to ask you just to slow down a tad for the  
25 court reporter, please.



1 A This is slow, sir.

2 An American Psychological Association approved  
3 program in clinical psychology of which there were about a  
4 hundred or 150 at the time I attended graduate school in the  
5 late '70s to early '80s.

6 The program was behaviorally based, which was one of  
7 the reasons I attended there as opposed to, say, analytically  
8 based. It was assessment based. And it had an established  
9 track in clinical neuropsychology and brain behavior, which I  
10 was somewhat interested when I started and quite interested in  
11 once I got there.

12 The -- the -- I also had family in Kentucky, both in  
13 Louisville and Lexington, and that was part of the draw as  
14 well.

15 Q Explain to the Court, if you would, what is the  
16 interrelationship between neuropsychology and brain behavior?

17 A Neuropsychology is the application of those psychological  
18 principles, specifically as regards assessment and issues  
19 related to the functions of the brain.

20 Brain is -- expresses its functions in elements of  
21 behavior, in cognitive or thinking skills, and in  
22 sub-elements, intellectual, academic, motor and sensory,  
23 spatial and language, memory and attention and learning, that  
24 can be manifest in test performance through processes of both  
25 inductive and deductive reasoning. One uses patterns of test

1 performance on standardized tests as a way of drawing  
2 conclusions about the integrity of the brain.

3 Q And tell the Court, did you do a practica in  
4 neuropsychological evaluation and treatment?

5 A Multiple practica in neuropsychological assessment, both  
6 with adults and children, and multiple practica and treatment.

7 Q Thank you.

8 And what specialized training have you completed in  
9 your area of expertise?

10 A Within clinical neuropsychology, the third year of  
11 graduate school is actually spent at the University of  
12 Louisville Medical School completing the first-year medical  
13 students neurosciences sequence as well as the third-year  
14 medical students neurology rotations.

15 After I returned back to graduate school, my  
16 doctoral dissertation was in an area of neuropsychology, the  
17 application, the everyday functioning in neuropsych test  
18 performance in demented and community-living older adults.

19 I did a specialty internship then at Walter Reed  
20 Army Medical Center. It was a 2,000 hour -- actually, 2,500  
21 hour internship of which about 1,500 hours were spent in  
22 clinical neuropsychological assessment and practice.

23 And from there, went to my first job, which was at  
24 the Frankfurt Army Regional Medical Center in Frankfurt --  
25 what was then Frankfurt, West Germany, to work -- first

1 supervised and then independently as a clinical  
2 neuropsychologist.

3 Q You indicated that you did a program at Walter Reed Army  
4 Medical Center and that it was an internship in clinical  
5 neuropsychology.

6 Would you share with the Court the specialized  
7 training that you completed and the extensive number of hours  
8 of that neuropsychological training and practice that was  
9 included?

10 A Sure. Among the rotations were adult and child  
11 neuropsychological assessment, neuropsychological treatment of  
12 brain injured individuals through the neuropsychiatry service  
13 and a rotation in the exceptional family members program to  
14 evaluate individuals, children and adult dependents of service  
15 members with developmental disorders.

16 We did brain cuts through the pathology department.  
17 I was co-located with the neurosurgery department for three  
18 months and the neurology department for another three months.

19 There was, in addition, rotations in medical  
20 psychology and within that a stress disorders clinic.

21 Q What licenses do you hold in your field and in which  
22 states?

23 A I hold licenses in Virginia, North Carolina, and  
24 Maryland. And I hold board certification as a clinical  
25 neuropsychologist through the American Board of Professional

1 Psychology.

2 Q How long have you held your licenses?

3 A Maryland, since about '89; Virginia, just this year;  
4 North Carolina, since 2005; and board certification since  
5 two -- 1992.

6 Q And how long have you practiced in the field of clinical  
7 neuropsychology?

8 A Since my specialty internship in 1983, '84.

9 Q And you mentioned board certification, but I want to be  
10 sure, are you board certified as a specialist in this field?

11 A I am.

12 Q And do you hold a diplomat status in clinical psychology?

13 A In clinical psychology, no. In clinical neuropsychology,  
14 yes.

15 Q In clinical neuropsychology, thank you.

16 And with which organization do you have diplomat  
17 status?

18 A The umbrella organization is the American Board of  
19 Professional Psychology, ABPP, which is the umbrella  
20 organization recognized by the American Psychological  
21 Association for board certification of psychologists.

22 The membership organization associated with that is  
23 the American Academy of Clinical Neuropsychology.

24 Q Thank you.

25 How long have you been board certified?

1 A 1992, I believe.

2 Q Please list for the Court, in chronological order, the  
3 positions that you've held since completion of your formal  
4 education and the length of time in each position. And in  
5 order to -- while you're looking in your file there, I notice,  
6 let me hand you a copy of Exhibit 55 -- we'll give the  
7 original to the court reporter -- and ask if you can identify  
8 Exhibit 55 for the Court.

9 A That is the previous version of my resume.

10 Q Do we have a further updated one, or do you have one with  
11 you?

12 A I have one with me.

13 Q All right. Do you have one we'd be able to leave with  
14 the Court?

15 A Sure, but I -- if it's the same with you, I'd just as  
16 soon refer to it now and then leave it when I'm done.

17 Q Is Exhibit 55 accurate, except for the things that have  
18 been added to Exhibit 55?

19 A That's correct.

20 MR. HEIDEMAN: So, if you're telling the Court under  
21 oath that it's accurate but you have additional things to say,  
22 at this time, Your Honor, we'll move Exhibit 55 into evidence.

23 THE COURT: It's admitted.

24 (PLAINTIFF'S EXHIBIT 55 ADMITTED.)

25 MR. HEIDEMAN: Thank you.

1 Q (BY MR. HEIDEMAN) Please continue. My question was,  
2 please list in chronological order the positions you've held  
3 since completion of your formal education and the length of time  
4 in each position.

5 A I was at the Frankfurt Army Regional Medical Center in  
6 Frankfurt, West Germany in the Exceptional Family Member  
7 Department, which was the Department of Developmental  
8 Disabilities, and the Neuropsychiatry Department, which was an  
9 adult combined neurology and psychiatry department between  
10 January of '85 and January of '88.

11 In February of '88 through January of 1990, I was at  
12 the National Rehabilitation Hospital in Washington, D.C.  
13 where, among other things, I led a traumatic brain injury  
14 inpatient team and where I developed a neuropsychological  
15 fellowship program.

16 Between January of 1990 and January of 1997, I was  
17 at Walter Reed Army Medical Center, first as a GS13, then as a  
18 GS14, a program director for the clinical neuropsychology  
19 program. I was housed in the division of neurosurgery there.  
20 And while there, I directed the joint Georgetown/Walter Reed  
21 National Rehabilitation Program training programs.

22 I was also the co-principal investigator on the  
23 Defense and Veterans Head Injury Programs, which eventually  
24 grew into the Defense and Veterans Brain Injury and Spinal  
25 Cord Programs, which is the current set of joint service

1 organizations that manages and treats traumatic brain injuries  
2 as a consequence of the Gulf Wars.

3 In -- I was, between February of '97 and June of  
4 '97, still in the neurosurgery department at Walter Reed, but  
5 employed not by the U.S. Government, but by the Henry M.  
6 Jackson Foundation for the Advancement of Military Medicine.

7 While there, I was responsible for the same clinical  
8 activities as I was before and was analyzing data from the  
9 traumatic brain injury research programs that were conducted  
10 at Walter Reed under my watch.

11 Q Thank you.

12 A I've been in private practice since then in Maryland and  
13 elsewhere.

14 Q Is the nature of your private practice that of -- as a  
15 clinical neuropsychologist?

16 A It is. A certain portion of the cases referred to me are  
17 clinical psychologic more than clinical neuropsychologic in  
18 nature, but for the most part, yes.

19 Q Thank you. Just -- I'd like to go back for a brief  
20 moment to the Defense and Veterans Head Injury Program that  
21 you mentioned. Could you explain to the Court briefly what is  
22 that program, your role with that program and how the program  
23 has grown and how you have been involved with it?

24 A I first got exposed to the principles in that program,  
25 namely Jordan Grafman, G-r-a-f-m-a-n, and Andres Salazar at --

1 while I was an intern at Walter Reed, as they were tailing off  
2 the VHIF, Vietnam Head Injury Program, which was a study of  
3 individuals with penetrating missile wounds secondary to  
4 shrapnel or bullet-related -- projectile-related injuries from  
5 the Vietnam War.

6           When I returned to Walter Reed in the -- in 1990 and  
7 '91, the Gulf War, the first one was beginning to ramp up and,  
8 along with Andres Salazar and Deborah Warden, we developed a  
9 set of model treatment and assessment programs to evaluate the  
10 consequences of the head injuries that we would expect -- that  
11 we expected we would see from that first Gulf War.

12           That was a relatively small set of pilot studies  
13 that grew to a budget of only 1 or \$2 million by the time I  
14 left Walter Reed in the late 1990s.

15           That set of studies and the associated protocols  
16 were unfortunately required for the second Gulf War where  
17 traumatic brain injury and its consequences and post-traumatic  
18 stress disorder superimposed on that had become, in some ways,  
19 the signature injury of that war.

20       Q    You just mentioned the post-traumatic stress disorder.  
21 I'm going to ask you about that as soon as I finish qualifying  
22 you as an expert so that you may then testify about  
23 substantive issues --

24       A    So we'll call that a failed segue.

25       Q    I'll come back to it.



1           Have you taught or lectured in your field or have  
2 you -- and have you held academic affiliations?

3     A    I have held academic affiliations at the Uniformed  
4 Services University of the Health Sciences, at Georgetown  
5 University Medical School, and at the University of Maryland.

6           I am currently -- Georgetown was the last of the  
7 positions I gave up, that was last year, as I start to shift  
8 my focus both personally and professionally to North Carolina.

9     Q    Have you been published in journals or other publications  
10 that are focused in your field?

11    A    I have, but I am by no means a -- primarily a researcher.  
12 I have a couple of book chapters, including a recent one on  
13 blast injury in the handbook of *Military -- Military*  
14 *Neuropsychology*. I have some presentations at national  
15 meetings and a couple of articles and a check on a book in  
16 preparation, but by no means am I primarily a writer.

17    Q    Are you a member of any -- and your resume that is now in  
18 evidence as Exhibit 55 lists various information about  
19 numerous publications and presentations; is that correct?

20    A    I think numerous is generous, but yes, they are there.

21    Q    All right. Have -- are you a member of any professional  
22 societies, associations, and organizations currently?

23    A    Of course. The American Psychological Association and  
24 Division 40, which is its neuropsychology subdivision; the  
25 National Academy of Neuropsychology, and the International

1 Neuropsychological Society.

2 Q Thank you. Have you received any academic or  
3 professional honors?

4 A Promotions as faculty or adjunct faculty in the normal  
5 course of matters, but beyond that, no.

6 Q And did you receive a U.S. Army Health Professions  
7 Scholarship?

8 A I did. That's what brought me to Walter Reed after  
9 graduate school.

10 Q Did you receive a university fellowship?

11 A I did.

12 Q And were you elected to Phi Beta Kappa?

13 A As an undergraduate, yes, sir.

14 Q Thank you very much. In terms of your curriculum vitae,  
15 which we've already moved into evidence and the Court has  
16 accepted as Exhibit 55, you indicated that there were some  
17 matters about your background that were not included in that  
18 version.

19           Could you please briefly supplement those  
20 credentials for the Court.

21 A Sure. I don't know that I had a Virginia license yet at  
22 the time of the -- that my CV was submitted to you back in  
23 '09. No, I didn't. It would have just been earned.

24           And then a chapter that was in preparation in the  
25 '09 curriculum vitae is now in print.

1 Q Thank you very much. Have you previously served as an  
2 expert witness in court?

3 A I have.

4 Q And in what courts has your opinion been accepted as an  
5 expert witness?

6 A In federal court in Maryland and in Virginia; in state  
7 courts in West Virginia, Illinois, Ohio, Maryland, D.C.,  
8 Virginia, and North Carolina, and perhaps elsewhere.

9 Q Thank you very much.

10 MR. HEIDEMAN: Your Honor, pursuant to Federal Rule  
11 of Evidence 702, I'd like to ask the Court to accept the  
12 qualifications of Dr. Jack Spector and to accept him as an  
13 expert in the field of clinical neuropsychology and permit him  
14 to testify in this case.

15 THE COURT: Certainly.

16 MR. HEIDEMAN: Thank you very much.

17 Q (BY MR. HEIDEMAN) Dr. Spector, let me go back right to  
18 the issue I indicated I would come back to.

19 Tell the Court what post-traumatic stress disorder  
20 is, please.

21 A Post-traumatic stress disorder is -- describes a  
22 combination of psychological reactions to conditions of  
23 unusual and morbidly threatening stress that have both  
24 short-term and the potential for long-term effect on the  
25 afflicted individual.

1 Q And what have we learned, and I know this is a very broad  
2 question, but what have we learned about post-traumatic stress  
3 disorder, not only from people who have experienced military  
4 traumas, but translate that also over to what you have learned  
5 in your field of study generally about people who have been  
6 through terrorist attacks, hijackings, shootings?

7 A First, the pool of individuals who have been involved in  
8 terrorist attacks and hijackings is relatively small and  
9 rarely accessed in most clinical practices, including my own.

10 My experience, for the most part, deals with  
11 individuals who have been shot at or shot, blown up or  
12 threatened with being blown up, or otherwise exposed to  
13 horrific circumstances in combat situations. That is actually  
14 the most common way in which post-traumatic stress disorders  
15 are developed and that makes a certain level of sense in that  
16 the disorder was developed specifically from military  
17 populations.

18 The -- among the things I've learned is that the  
19 term is probably applied more generously than it should be to  
20 individuals who have experienced lower or less threatening or  
21 less severe levels of trauma. And one of the ways in which  
22 the literature has muddied is by the inclusion of individuals  
23 with relatively incidental threats to their person or property  
24 with those with much more severe and much more frightening  
25 experiences.

1           The diagnostic and statistical manual, which has  
2 included PTSD, post-traumatic stress disorder, for at least  
3 the last two iterations specifically requires that the events  
4 in question be extremely rare, extremely threatening and  
5 extremely horrifying, and that there be an imminent threat of  
6 death or maiming either directly experienced or witnessed for  
7 an individual to develop the set of rather well-defined --  
8 well, the set -- the large set of defined symptoms associated  
9 with the disorder.

10       Q    You indicated four prongs in your last answer. You  
11 referenced that the experience suffered by the victim be rare,  
12 threatening, horrifying and have been an imminent threat; did  
13 I get it right?

14       A    Correct. There actually is another condition which is  
15 that it be directly experienced or witnessed. So, hearing it  
16 described or seeing it on TV, while it's expanded somewhat  
17 into the lexicon of PTSD, are not sufficient.

18       Q    The Court has already received testimony from Jackie Nink  
19 Pflug, who you've examined, correct?

20       A    Yes, sir.

21       Q    And also from Patrick Scott Baker who you've examined,  
22 correct?

23       A    Yes, sir.

24       Q    The Court already, in receiving that testimony, is well  
25 aware that on November 23<sup>rd</sup>, 1985, these two people got onto

1 EgyptAir Flight 648 -- and I'm walking toward Exhibit 3, which  
2 is in evidence, and this flight, a normal flight from Athens  
3 to Cairo, which took off at 9:05 Athens time, then shortly  
4 thereafter, about 23 minutes later, had a situation where  
5 three hijackers took control of the aircraft.

6           The Court has also already received testimony that  
7 when at least the two surviving victims that are Plaintiffs in  
8 this case -- because Ms. Scarlett Rogenkamp was murdered and  
9 executed, to quote her sister, by the hijackers, but the two  
10 surviving victims, both of whom you have examined, Jackie Nink  
11 Pflug and Patrick Scott Baker, have testified to the Court  
12 that they saw a hijacker stand up with a gun in one hand, a  
13 grenade in the other, attempt to get the grenade out with  
14 their teeth and Patrick Scott Baker has testified that he  
15 actually saw the hijacker put the gun back in his pocket and  
16 pull the pin out of the grenade.

17           In addition, Jackie Nink Pflug has testified that  
18 she was hit with a gun in the back of her head by one of the  
19 hijackers. They've testified that they were moved around on  
20 the airplane, their passports were collected, that the  
21 hijackers had got neckties from peoples' briefcases or that  
22 were there in the aircraft, and then eventually, eventually  
23 there was also, by the way, a shootout between sky marshals  
24 and the hijackers.

25           I believe it was Patrick Baker that testified that

1 25 shots, he believes, according to the FBI, were fired, the  
2 plane took a big descent and finally landed in Malta. And  
3 then after landing in Malta at approximately 10:16, two  
4 Israeli women, who Patrick Baker had met while waiting for the  
5 aircraft to take off, two Israeli women known to be Israelis  
6 because all the passports were collected, were called forward  
7 and one Tamar Artzi was shot about midnight, now moving into  
8 the morning of November 24<sup>th</sup>, and the second one was shot 15  
9 minutes later.

10           And then Patrick Scott Baker testified that he was  
11 brought forth subsequently, which would be at about 12:30, 15  
12 minutes later, brought to the door of the aircraft, but  
13 overheard a radio transmission that said something like, "no  
14 more killings, the fuel is coming."

15           He was taken back to his seat. By the way, they  
16 were -- had their hands tied behind their back with the  
17 neckties. And Patrick Scott Baker has testified that, some  
18 time later, they brought him back to the door of the aircraft,  
19 he locked eyes with the hijacker, considered if he could go  
20 for him, having previously seen a gun after the shootout,  
21 considering if he could go for the gun, and that he was taken  
22 to the door of the aircraft, and as he jumped in an attempt to  
23 save himself, he was shot with a bullet right in the back of  
24 the head, gushing, went down and then heard footsteps as they  
25 came down to drag him back up and then threw him over. And he

1 was able, miraculously, to survive, he's testified, get under  
2 the fuselage of the airplane, run into the field, at which  
3 time, I believe, a British -- or a British-speaking person  
4 stood up in the weeds and pointed a rifle at him.

5 Patrick Scott Baker later was taken to the hospital,  
6 and while at the hospital, he testified that Scarlett  
7 Rogenkamp, who he had met on the airplane and who had been  
8 shot four hours later, that's eight-and-a-half hours into the  
9 hijacking, that he was wheeled from his room to identify her.  
10 And, indeed, she was dead, and he did identify her.

11 Let's stay for a moment with Patrick Scott Baker  
12 before going onto Jackie Nink Pflug.

13 Tell the Court the nature of the interview you had  
14 with Patrick Scott Baker. Tell the Court the nature of your  
15 assessment of what he suffered, the nature of the examination  
16 that you did and your findings, and I will ask you to please  
17 talk slowly, yes, loudly, but slowly for the court reporter.

18 A I will try.

19 Mr. Baker was actually interviewed twice, once by  
20 telephone on 11/9/09 --

21 Q A little louder, please, into the microphone.

22 A Sure. He was interviewed twice, once by telephone on  
23 11/9/09, and then at my office on 4/22/10.

24 The evaluation consisted of the administration of  
25 standardized psychological and neuropsychological tests to



1 assess a wide range of cognitive and emotional functions that  
2 may have been affected both by the brain injuries he was  
3 suspected to have sustained as a result of his shooting and  
4 subsequent falls from the height of the airliner's cabin door  
5 to the tarmac twice, as well as the emotional reactions that  
6 he may have experienced secondary to his persistent and  
7 appropriate, in my opinion, fear of being maimed or killed as  
8 a result of the process.

9           The evaluation itself took about seven or eight  
10 hours. The interviews combined took about two plus, maybe a  
11 little bit more than that. The -- tell me what else you need  
12 right now.

13       Q    What tests did you perform on Mr. Baker?

14       A    I can go through the set of procedures if you'd like.  
15 They are the lead paragraph in the report dated 5/3/10. Would  
16 you like me to do that?

17       Q    Before I do, let me just hand you a copy of two exhibits  
18 that I believe are now in the Court's exhibit binder, Exhibit  
19 57A and Exhibit 57B, and ask if you can identify these two  
20 documents, 57A and 57B.

21       A    The reports were written for two purposes. The one dated  
22 3 March 2010 is a brief letter to your colleague,  
23 Mr. Nudelman, which details my interview and results of review  
24 of records for Mr. Baker for the purpose of establishing  
25 whether indeed he sustained a physical brain injury as a

1 result of his shooting and its aftermath.

2 The report dated 5/3/10 is a comprehensive  
3 neuropsychological evaluation that collects that data and then  
4 includes the results of the more detailed neuropsychological  
5 evaluation that was completed at my office on 4/22/10.

6 Q Did you prepare both Exhibit 57A and 57B?

7 A I did.

8 Q And do they express, although differently -- when I say  
9 differently, I mean for the different purposes that you  
10 indicated, do they express your opinions in this case?

11 A They do.

12 MR. HEIDEMAN: We would move Exhibits 57A and 57B  
13 into evidence at this time, Your Honor.

14 THE COURT: They'll be admitted.

15 (PLAINTIFF'S EXHIBITS 57A AND 57B ADMITTED.)

16 MR. HEIDEMAN: Thank you very much.

17 Q (BY MR. HEIDEMAN) Please, without me interrupting you,  
18 explain to the Court the interview you did, the protocols you  
19 used, the tests that you performed on Patrick Scott Baker, your  
20 evaluation and conclusions and opinions regarding the brain  
21 injury that he may have suffered -- I'll defer that opinion to  
22 you -- and any other diagnoses, including putting in context for  
23 the Court your opinions as to how the scenario, as the Court has  
24 received it from Patrick Scott Baker himself in evidence, has,  
25 in your opinion, affected his life.

1     A     First off, the interview is a -- is a expanded clinical  
2 interview. It is, in many ways, the same interview I do with  
3 anyone else who's been sent to me for an evaluation of their  
4 emotional and cognitive status.

5             It involves a history, academic, personal,  
6 psychosocial, psychiatric, medical. It involves a assessment  
7 of essentially what they've done with their life and what they  
8 are doing at the time I'm seeing them.

9             It includes a mental status examination, a careful  
10 assessment of their emotional state at the time that I'm  
11 meeting with them; how well they're sleeping and eating; their  
12 energy level and drive state; their mood; their affective  
13 range; their integrity of thinking; their -- the presence of  
14 hallucinations or false beliefs; delusions or unusual sensory  
15 phenomena; their sleep and whether its troubled by nightmares  
16 or awakenings or difficulties falling asleep or staying asleep  
17 or whether its restorative; their history with regards to  
18 medications, both prescription and recreational; their history  
19 with regards to the use of alcohol or tobacco; their essential  
20 health history or fitness history, if you will; the nature of  
21 their relationships; the nature of those relationships that  
22 may no longer exist, and their -- an assessment of their  
23 aspirations and what they -- what they hope for in their  
24 future. Combined with this, an assessment of Frank's  
25 psychiatric symptoms and of suicidal and of homicidal thoughts

1 and intent, if any.

2           The assessment itself involves the administration  
3 through a technician of standardized tests of intellectual  
4 ability, of academic achievement skill, of sensory and motor  
5 functioning, of language and spatial functioning, of learning  
6 and memory skills, of executive or problem-solving skills, and  
7 of attentional capacities.

8           Intertwined through that are measures that are  
9 specifically designed to assess whether someone is trying hard  
10 or whether they are, in fact, attempting to exaggerate or  
11 fabricate symptomatology. Some of those are in free-standing  
12 tests of test-taking effort, so-called symptom validity tests.  
13 Some of those are embedded tests that are part and parcel of  
14 the standard evaluation but are more sensitive to effort than  
15 the brain impairment.

16           Over the course of the assessment, there are  
17 standardized psychological or personality questionnaires  
18 administered. In the case of both Mr. Baker and Ms. Pflug,  
19 also measures that are specifically sensitive to  
20 post-traumatic stress and to post-traumatic stress-related  
21 symptomatology.

22       Q    Thank you. In your report marked Exhibit 57B, which is  
23 the March 3, 2010 report that is in evidence, you state  
24 therein on page 1 and paragraph 3 that Mr. Baker has a vivid  
25 sequential hyper-real recollection of events leading up to the

1 moment of discharge of the -- I believe that's discharge of  
2 the gun, through to the time he was slumped near the ground.

3 Explain to the Court your assessment of his ability  
4 to, as he expressed here in the courtroom, recall those events  
5 and how those events have affected the rest of his life.

6 A This is a -- the nature of the question illustrates some  
7 of the differences between what you do and what I do, because  
8 there is the tendency to go immediately from the drama of the  
9 moment to the consequences for the life. There's a lot that  
10 occurs in between, and that's what I specialize in, which is  
11 the way that individuals experience the event and then  
12 integrate it into what becomes the rest of their life.

13 Everyone can get a stress disorder, but a  
14 post-traumatic stress disorder requires both an experience and  
15 then an attempt to deal with that experience and what  
16 sometimes is an aberrant and sometimes is a healthy matter.

17 Mr. Baker illustrates combinations of the two.  
18 First, to sort of dispense with the -- one of the questions I  
19 was asked, he is, at this point, neuropsychologically intact,  
20 that is to say that his intellectual, his academic, his  
21 sensory and motor, his language and spatial, his memory and  
22 attention, his learning and executive skills are within normal  
23 limits. That's not necessarily to say they are within the  
24 range that would have been predicted for him personally, but  
25 they are within the normal range insofar as I'm able to assess

1    them with the tools available to us.

2                    There is, in fact, some neuroradiographic evidence  
3    that he sustained an injury to his brain, and not just to his  
4    head, as a result of this accident. And I will leave that to  
5    the neuroradiologist to explain either in person or in a  
6    report.

7    Q    That report has already been received by the Court into  
8    evidence and is before the Court, which indicates the opinion  
9    of that expert that -- and I'm paraphrasing -- that Patrick  
10   Scott Baker suffered a brain injury as a result of the  
11   shooting to the back of his head by the hijacker.

12   A    Okay. The -- the -- I'm sorry, please --

13   Q    Yes, on page 2 of this Exhibit 57B, in the first report  
14   you prepared, you state in Paragraph No. 2 that Mr. Baker  
15   reports a number of unusual neuropsychological symptoms,  
16   including very diminished reading speed and accuracy, driving  
17   problems marked by neglect of road signs and numerous scrapes  
18   and near misses.

19                    What's your view of those?

20   A    That absolutely makes sense from a neuropsychologic  
21   perspective, given the point of impact of his injury in the  
22   posterior parts of the brain that are involved in visual  
23   integration and visual attention.

24                    Reading is very much -- requires visual as well as  
25   language processing elements, and it's those visual elements

1 that would explain in some ways why he's not the reader now  
2 that he was literally on the day before his injury.

3 That said, that's an enormously subtle set of  
4 symptoms with respect to our ability to detect them using  
5 standardized procedures. In many ways we're dependent upon  
6 self report, and paired with that, neuroradiographic or direct  
7 access to the functions of the brain or the structure of the  
8 brain. In this respect, Mr. Baker's complaints are consistent  
9 with the neuroradiologic findings found prior to my  
10 examination.

11 What is most noteworthy here is his description of  
12 post-traumatic stress-related symptomatology in the months and  
13 even years after he survived his assault and subsequent falls.  
14 His experience in the event, while the brain injury he  
15 sustained were, in our nomenclature, mild traumatic brain  
16 injuries, his awareness of events as they were occurring  
17 really predisposes him to a post-traumatic stress disorder.  
18 He didn't have the safety or protection granted were he  
19 rendered unconscious for longer periods of time.

20 Those post-traumatic stress symptoms were fairly  
21 classic, as he describes them, in the period of time after his  
22 injury. He re-experienced sensations associated with the  
23 event, he had nightmares, he had intrusive thoughts or  
24 recollections, he became choked up and particularly felt a  
25 certain sense of guilt over having survived where others did

1 not. He reported intrusive experiences and dissociative  
2 experiences, feeling as if he was transported or somewhere  
3 else at the time where he was wherever he was.

4 That set of symptoms is fairly classic for  
5 post-traumatic stress disorder, and if someone is treated  
6 quickly, proximately to where they were injured, and with the  
7 expectation that they'll survive, such as in combat  
8 situations, fairly amenable to treatment.

9 None of those things occurred here. Mr. Baker went  
10 to Malta and then was, in turn, evacuated back to the United  
11 States where, to the best of my knowledge, he never sought  
12 treatment for these issues again.

13 What he did in the ensuing months and years became  
14 clearer on the second evaluation than the first, which is that  
15 he disappeared away from friends and family and away from  
16 being reminded of or needing to speak about or describe the  
17 events that had occurred to him.

18 I was actually stationed in Germany, in Frankfurt at  
19 the time this occurred, and was at Landstuhl Army Medical  
20 Center for supervision on an almost weekly basis. However,  
21 while there, what I was not privy to was the degree to which  
22 Mr. Baker and Ms. Pflug became celebrities of a morbid sort  
23 and celebrated for surviving while at the same time the  
24 objects of media and, of course, family and friends'  
25 attentions.



1           Mr. Baker's solution in dealing with that unwanted  
2 attention was to leave and to leave for what turned out to be  
3 significant portions of every year in about as isolated an  
4 occupation as one can find.

5       Q    In your report, marked as Exhibit 57B in evidence, you  
6 indicate on the second page that Mr. Baker appeared to suffer  
7 several closed-head injuries, and the following paragraph  
8 refers to Dr. Stimac, whose report is before the Court, where  
9 it was determined that he had the brain injury as has already  
10 been mentioned.

11           I'd like to concentrate with you more on the other  
12 areas of what he suffered rather than the brain injury itself.  
13 For example, in your report marked Exhibit 57B, you do  
14 reference that he had this relatively isolated existence in  
15 the years following the hijacking. That's in paragraph 3 of  
16 page 2. Mr. Baker testified that he -- he looked for -- I  
17 think he used the words -- well, I know his term was "comfort  
18 zone," whether he said he'd retreated to a comfort zone or he  
19 found a comfort zone. Explain to the Court the impact of that  
20 and the -- your use of the term you just did of him  
21 disappearing for a prolonged period of time. Explain to the  
22 Court your assessment of all that as it relates to Mr. Baker.

23       A    Different people cope in different ways. For Mr. Baker,  
24 he did not seek treatment in part because I don't know what he  
25 believed his access to treatment might be, but also because he

1 believed and has stated a number of times that he thought that  
2 that would be a victory, that he would be admitting that there  
3 was some potential for lasting effect of the individuals who  
4 hurt him with regards to his future functioning.

5 At the same time, he said that he could not continue  
6 to deal with having to retell the story and re-experience the  
7 story through the retelling, and went to something that he had  
8 done before -- he had worked the previous summer on a fishing  
9 boat -- and that he found comforting and isolating.

10 Q You indicate in this report, 57B, that Mr. Baker appeared  
11 to have exhibited symptoms of post-concussion syndrome.

12 Explain to the Court what that is.

13 A Sure. There's a triad of symptoms associated with the  
14 period of time after even mild traumatic brain injuries, and  
15 those are marked by physical symptoms, usually headaches and  
16 insomnia; cognitive symptoms, usually memory and attention  
17 inefficiencies; and emotional symptoms, typically depression  
18 and irritability.

19 Q You also reference --

20 A They have a normal life span of weeks to months  
21 typically.

22 Q You also, in your 57B report, indicate he appears to --  
23 Strike that.

24 A If I can interfere. Instead of my having to remember  
25 which is 57A and B, can you refer to --

1 Q The first report.

2 A Thank you.

3 Q The first report. Thank you. I'm sorry.

4 You used the words, and I quote, he clearly  
5 exhibited symptoms of post-traumatic stress disorder, unquote.

6 A Yes, sir.

7 Q Would you explain to the Court your opinions on that  
8 issue, particularly in light of the subsequent  
9 neuropsychological testing and evaluation that you did.

10 A Well, with regards to his symptoms in the period of time  
11 after the injury, that's been asked and I think answered. He  
12 experienced nightmares, intrusive recollections, painful and  
13 intrusive and frightening recollections of the events in  
14 question. He experienced periods of derealization where he  
15 felt that things going on around him did not -- that he felt  
16 detached from events going on around him. He isolated himself  
17 from friends and family members. He experienced depressed  
18 mood and breakthrough expressions of depressions, such as  
19 crying or sobbing. And then he experienced feelings of guilt  
20 for surviving or for not having done more.

21 Q And are all of those indicators of someone suffering from  
22 post-traumatic stress disorder?

23 A Absolutely in a very classic sense of the type of PTSD  
24 that, that was with -- that harkens back to the day when the  
25 concept was developed with combat survivors.

1 Q And in this first report, you also referenced the words  
2 that he exhibited symptoms of a complex neurobehavioral  
3 disorder in the decades since the assault. What did you mean  
4 using that term, complex neurobehavioral disorder in the  
5 decade since --

6 A That he exhibited subtle but he says persistent problems  
7 in visual functioning and perceptual functioning and in  
8 reading and other higher order problem-solving associated with  
9 the posterior or more visually involved areas of the brain.

10 Q And in your testing?

11 A And again, at that time, that was by self-report and by  
12 description rather than by standardized collection of data.

13 Q And subsequently, then, you've already told the Court you  
14 saw him, you examined him, you interviewed him, and you did  
15 the neuropsychological evaluation and testing; is that  
16 correct?

17 A That's correct.

18 Q Tell the Court the nature of the neuropsychological  
19 evaluation and testing you did on Mr. Baker and what -- what  
20 your determinations were.

21 A For the sake of brevity, it will also be the same battery  
22 of procedures that were administered to Ms. Pflug. There are  
23 a set of standardized neuropsychological measures which  
24 included the Wechsler Adult Intelligence Scale, Fourth  
25 Edition; the Wide Range Achievement Test, Fourth Edition; the

1 Test of Memory Malingered and Word Memory Test, which are  
2 symptom validity procedures; the Lateral Dominance Test;  
3 Grooved Pegboard Test; and Finger Tapping test, which are  
4 measures of the psychomotor functioning; the Boston Naming  
5 Test and Thurstone Fluency Test, which are measures of  
6 language proficiencies; the Rey-Osterreith Complex Figure  
7 Test, and the -- also the Visual Form Discrimination Test,  
8 which are measures of visual spatial functioning; the  
9 recognition trials of the Rey complex figure test and the  
10 California Verbal Learning Test, Second Edition, which are  
11 visual and verbal memory measures respectively; the Trail  
12 Making Test and the Wisconsin Card Sorting Test; Conners'  
13 Continuous Performance Test, and the Auditory Consonant  
14 Trigrams Test, which are measures of attentional capacities  
15 and executive functioning; the Minnesota Multiphasic  
16 Personality Inventory, Second Edition, which is a  
17 psychological and personality measure, as well as the Trauma  
18 Symptom Inventory, which is the standard measure of  
19 PTSD-related symptoms and outcomes.

20 Q And what were your findings?

21 A In Mr. Baker's case, first Mr. --

22 Q And limit your opinion, if you would, to Mr. Baker's  
23 case, because at 10:30, we're scheduled to move to another  
24 courtroom to begin the testimony of a witness who's in another  
25 courthouse, and there's a linked connection. And before we do

1 that, I'd like to complete your testimony, if it's possible  
2 and agreeable to the Court, as it relates to Patrick Scott  
3 Baker. And then if your schedule permits, Dr. Spector, we  
4 would resume, with permission of the Court, your testimony to  
5 receive the evidence regarding Jackie Nink Pflug. Would that  
6 schedule for you --

7 A That schedule might be problematic. We are booked for  
8 the morning here from 9:00 to about 1:00, but I have a patient  
9 waiting for me this afternoon back in Baltimore.

10 Q Oh, no, no, no. The other linkup will not be terribly  
11 long, and then we would resume and you'll be finished this  
12 morning as we initially promised you. We're literally exactly  
13 on schedule as we indicated to the Court.

14 A Not a problem, of course.

15 Q Good. Thank you.

16 MR. HEIDEMAN: So, Your Honor, in light of that,  
17 shall we pause at this time or shall we go ahead and receive  
18 the rest of the opinions on Patrick Scott Baker?

19 THE COURT: Why don't we receive the rest of the  
20 opinion, and then we'll go forward.

21 MR. HEIDEMAN: Thank you.

22 A With regards to Mr. Baker first, he approached testing in  
23 a fully effortful manner. He passed symptom validity testing,  
24 both on standardized procedures and embedded procedures.

25 Testing found Mr. Baker to be of above average

1 intelligence with roughly commensurate academic achievement  
2 skills. There were at worst equivocal deficits in psychomotor  
3 skills, in speed and efficiency of motor movements.

4           There were no additional deficits in language,  
5 spatial, memory, learning, attention or executive reasoning  
6 skills. Within the limits available -- within the limits  
7 imposed by the procedures employed, he was  
8 neuropsychologically intact.

9       Q     (BY MR. HEIDEMAN) Thank you. And what additional  
10 findings did you make regarding Patrick Scott Baker?

11       A     Psychological and personality testing largely depicted  
12 him as emotionally healthy and largely free of sign or symptom  
13 of emotional disturbance. For the most part, he scored in the  
14 equivocal range, neither normally nor in the clinically  
15 elevated range on standardized test or scales that are  
16 sensitive to post-traumatic stress. Mr. Baker, nonetheless,  
17 reported higher than average levels of intrusive thoughts,  
18 painful recollections and dissociative experiences related to  
19 his assault and its aftermath. But for the most part, those  
20 had been well-integrated into his current state of emotional  
21 health and were not reported to be currently disabling for  
22 him.

23       Q     Thank you. Did you make a diagnoses of Mr. Baker?

24       A     I do believe Mr. Baker still suffers a post-traumatic  
25 stress disorder of a residual type and it is a mild severity.

1 He also presents with a cognitive disorder that is more  
2 readily apparent on self-report and verified by neuroimaging,  
3 but is of minimal to mild severity.

4           There was no diagnosis on Axis II, which is the Axis  
5 that is involved in the assessment of personality or  
6 developmental conditions.

7 Q Mr. Baker indicated to you that -- the severity of what  
8 he went through, did he not?

9 A He did.

10 Q And is it consistent with what I shared with you in  
11 summary, paraphrasing, as to what he testified to here in  
12 court?

13 A Certainly. And, in fact, his experience of it, his  
14 descriptions of it, in many ways makes it seem even more -- if  
15 it's possible, even more dramatic and frightening.

16 Q And as you look back, before I get to your conclusions,  
17 if you -- as you look back at what Patrick Baker experienced  
18 and everything we've already said, culminating in taking that  
19 bullet in the head and then his years of retreat in dealing  
20 with these issues, how would you rank the nature of this  
21 particular incident in the context of those five prongs that  
22 you discussed earlier in your testimony about people who were  
23 victims of terrorist attacks or other victims that suffered  
24 from post-traumatic stress disorder?

25 A Well, this is a gentleman who certainly earned his



1 post-traumatic stress disorder. And by that, I mean the level  
2 of experience, the expectation of harm, the period of time  
3 afterwards essentially waiting for the other shoe or bullet to  
4 drop, the -- paired with the combination of both a realer than  
5 real sensation of events as they occurred, quite common in  
6 individuals who are in emotionally intense situations that  
7 describe things becoming slower and then more vivid while  
8 they're occurring and when they're recollected, paired with  
9 the alternating periods of impaired consciousness because he  
10 was woozy from the head injuries, are more than sufficient to  
11 have created a situation where there would be the expectation  
12 of even more persistent emotional distress than appears to be  
13 the case now.

14 Q So, in addition to the physical brain injury determined  
15 by the other doctors, in addition to what you've indicated as  
16 it relates to the five prongs, the first one was rare, was  
17 this a rare experience that he suffered?

18 A By definition.

19 Q And the second one was threatening. Was this a  
20 threatening experience that he suffered?

21 A Of course.

22 Q And the third one was horrifying. Was it a horrifying  
23 experience?

24 A To listen to, much less to experience.

25 Q And the fourth one was an imminent threat?

1 A By definition again.

2 Q And, in fact, that threat became actual reality, did it  
3 not?

4 A It did.

5 Q The fifth one was directly experienced, and, in fact, he  
6 directly experienced it, did he not?

7 A Absolutely.

8 Q So would you say that it was not only -- not only more  
9 than classic, but very clear that his suffering of post- -- of  
10 both the physical injury as determined by other doctors, and  
11 the post-traumatic stress disorder has all very dramatically  
12 affected his life? And now I'm going to get to the  
13 conclusions in your report, but first answer the question.

14 A I believe it has. That he appears as emotionally healthy  
15 and cognitively intact that he does now, speaks really to a  
16 level of resilience that I really would not have expected  
17 based upon my own clinical experiences.

18 That said, it certainly appears to have taken its  
19 toll in the months and then years afterwards in a way that  
20 would be expected based upon my clinical experience, and in a  
21 way that, as I noted in my report, appears to have moved him  
22 from whatever career or personal course he was on and into  
23 something different for some significant period of time.

24 Q He testified about not wanting to be a victim. Could you  
25 explain that to the Court.

1       A     Sure.  He did not want to give the hijackers or their  
2 supporters the sense that they had in some way ruined him for  
3 life, so he would not permit himself to avail himself of  
4 medical services or psychiatric services, nor even to admit  
5 medical or psychiatric need, even when those around him appear  
6 to have believed that he required such care.

7       Q     Thank you.  In the second paragraph of your conclusions,  
8 which is on page -- which are on page 4 of Exhibit 57A, I'd  
9 like to walk those through with you, if I may.

10      A     Sure.

11      Q     And in the third line -- well, let's start with that  
12 second paragraph.

13                 Your information and belief is that Mr. Baker  
14 graduated from college, he was a biology major and he reports  
15 that he had planned to attend graduate school in the  
16 biological sciences, and that's consistent with what he  
17 testified to here in this court.  Is that your -- one of your  
18 conclusions?

19      A     It is.

20      Q     And you further next conclude that he clearly possessed  
21 the intellectual abilities to follow that career course; is  
22 that correct?

23      A     Appears to.

24      Q     And that's your opinion?

25      A     It is.

1 Q And is -- you next state it is my opinion, and I am  
2 asking you is it your expert opinion, based upon your  
3 knowledge and expertise in your field, the opinion I'm about  
4 to reference.

5 A I understand.

6 Q Yes. You state that it is your opinion that his 15-year  
7 pursuit of commercial fishing in the aftermath of his --  
8 aftermath of his attack was a direct response to the social  
9 discomfort and psychological distress he was experiencing as a  
10 post-traumatic response to his assault. Is that your opinion?

11 A It is my opinion.

12 Q Do you have anything further on that particular opinion  
13 to share with the Court that you haven't already explained?

14 A Not that I haven't already explained. That, of course,  
15 won't keep me from continuing to speak, but it's my  
16 understanding that -- consistent with the way that some  
17 individuals deal with prolonged or severe stress is that he  
18 actively avoided it and took steps to not just deal -- to not  
19 deal with situations where he might be more likely to  
20 re-experience the phenomenon.

21 Q And is that consistent with his use of the term here in  
22 the courtroom of going -- I'll use the word retreating to a  
23 comfort zone?

24 A You've -- the popular literature reflects the reality  
25 that the southern and western United States are filled with

1 combat vets who've booked out of mainstream society and into a  
2 more isolated lifestyle. In some cases, that thousand-yard  
3 stare of the isolated former vet has become a bit of -- has  
4 perhaps become a bit overdrawn as a dramatic device, but it  
5 occurs. And this was, I think, a more normal response -- a  
6 more normal but similar response, which is that Mr. Baker,  
7 faced with either staying in his normal circumstances and  
8 essentially reliving or retelling the events in question,  
9 chose something else.

10 Q And has that, in your opinion, dramatically affected his  
11 life, including his work and professional life?

12 A Well, to the degree that he was planning on a career in  
13 the life sciences as either an academician or as a technician,  
14 yeah, it looks like it put it off of a severe course for a  
15 certain period of time.

16 He has, as his life has normalized and as his social  
17 life has normalized, found his way back to what is essentially  
18 a white-collar and technical occupation, but there was a lot  
19 of time off there that probably represents a very different  
20 life and one that obviously did not contribute to his current  
21 career course.

22 Q So that retreat of 15 years or more into the safety zone  
23 was really lost productive time for him; would that be  
24 accurate?

25 A That would be -- and, again, now we're starting to get

1 into a venue that is out of my profession and that of a  
2 professional economist, but it would appear to be.

3 Q And your last opinions in the second half of that last  
4 paragraph on page 4, you've stated, in essence, Mr. Baker  
5 traded professional education and advancement for social  
6 isolation and respite as a way of coping with the after  
7 effects of his injuries, and is that your opinion?

8 A That is my opinion.

9 Q Would you just read to the Court the rest of your opinion  
10 as it relates there in those conclusions and set forth to the  
11 Court any additional opinions you have about Patrick Scott  
12 Baker for the Court to determine in making its determinations  
13 in awarding him damages after hearing from the economist who  
14 will be testifying in this case.

15 A Well, the rest of that section reads, while he is now  
16 working in a professional technical capacity, his  
17 injury-related time away from the white collar or academic  
18 workplace likely carried considerable costs with respect to  
19 professional training, credentialing, work experience and  
20 advancement, leaving him well behind his peers in earnings,  
21 savings, benefits, responsibilities and future prospects.

22 Q Thank you. Any further opinions as it relates to Patrick  
23 Scott Baker before we recess?

24 A Not that come immediately to mind.

25 Q Thank you. If you think of any during the recess, we'll

1 start there, with the Court's permission.

2 THE COURT: Doctor, if I may.

3 THE WITNESS: Of course, sir.

4 THE COURT: He strikes me, at least the early part  
5 of his life, as an adventurous person. He particularly loves  
6 the outdoors. It seems to me his dream is rock climbing and  
7 like so many people from the Pacific Northwest, thoroughly  
8 enjoying nature.

9 THE WITNESS: Sure.

10 THE COURT: Does he let that go for 15 years?

11 THE WITNESS: There's certainly nothing in the --  
12 well, did he let it go for 15 years, not completely. It was  
13 still a bit of an adventurous life. And what I did not  
14 understand the first time I spoke with him, but did the  
15 second, it was only about eight or so months a year, that when  
16 the Alaskan coast became ice-locked, while there were other  
17 deeper sea fishing opportunities available such as crabbing,  
18 for the most part he would return to the Washington area or  
19 elsewhere, perhaps travel some alone or perhaps isolate  
20 himself.

21 THE COURT: I see. Thank you very much, Doctor.

22 THE WITNESS: Yes, sir.

23 THE COURT: Shall we?

24 Next door. Excuse us, Doctor.

25 MR. HEIDEMAN: Your Honor, just so that we know what

1 you would like, after the video deposition -- testimony, will  
2 we be coming back here?

3 THE COURT: We'll come back here. Right, Lynn,  
4 we'll come back here?

5 THE DEPUTY CLERK: If you want, yeah.

6 THE COURT: Yeah, we'll come back.

7 (A BRIEF RECESS WAS TAKEN.)

8 THE COURT: Okay. Thank you. Please be seated.  
9 Proceed, Counsel.

10 MR. NUDELMAN: Your Honor, the Plaintiffs call Scott  
11 Pflug.

12 THE DEPUTY CLERK: Okay. Will you raise your right  
13 hand, sir.

14 (WITNESS SWORN BY THE DEPUTY CLERK.)

15 THE DEPUTY CLERK: Thank you.

16 SCOTT PFLUG,  
17 having been duly sworn, testified, through video conference,  
18 as follows:

19 DIRECT EXAMINATION

20 BY MR. NUDELMAN:

21 Q Please state your full name for the record.

22 A Scott Pflug.

23 Q Can you speak up, sir? It's a little difficult to hear  
24 you. Is there a microphone that you can sit a little closer  
25 to?



1 A Scott Vincent Pflug. Is that better?

2 Q Yes, that's better. Mr. Pflug, could you please provide  
3 the Court your current address?

4 A 7365 Bridlewood Curve, Eden Prairie, Minnesota.

5 Q Is that Eden Prairie? Could you spell that, please.

6 A E-d-e-n.

7 Q And how long have you lived at that address?

8 A Approximately 12 years.

9 Q And Mr. Pflug, what is your date of birth?

10 A 7/21/1959.

11 Q And where were you born?

12 A St. Louis Park, Minnesota.

13 Q My office had sent to you previously a document marked  
14 Plaintiff's Exhibit 58. Do you have that with you, sir?

15 A I do.

16 Q Okay. Could you look at that? I'm going to hand a copy  
17 to the court reporter.

18 Can you please identify that document.

19 A That is my birth certificate.

20 Q Okay.

21 MR. NUDELMAN: Your Honor, at this time, we move --  
22 we mark as Plaintiff's Exhibit 58 the birth certificate and  
23 also move it into evidence.

24 THE COURT: It will be admitted.

25 (PLAINTIFF'S EXHIBIT 58 ADMITTED.)

1 Q (BY MR. NUDELMAN) Mr. Pflug, in looking at your birth  
2 certificate, it indicates again that you were born in St. Louis  
3 Park, Hennepin County, and that again is in Minnesota, correct?

4 A Correct.

5 Q And at all times since then have you maintained your U.S.  
6 citizenship?

7 A Yes, I have.

8 Q I'd like to just talk a little -- a little with you about  
9 your education. We're not going to start all the way back to  
10 your elementary school, but let's talk about high school. Did  
11 you receive a high school degree?

12 A Yes, I did.

13 Q And where did you attend high school?

14 A At Hopkins Eisenhower.

15 Q And what year did you graduate?

16 A 1977.

17 Q And after high school, did you go onto college?

18 A Yes, I did.

19 Q And what college did you attend?

20 A I went to Normandale Community College for two years, and  
21 then I finished my degree in Mankato State University in  
22 Minnesota.

23 Q Could you spell the Mankato University?

24 A M-a-n-k-a-t-o.

25 Q And what year did you graduate college?

1 A 1982.

2 Q And with what degree?

3 A Bachelor of Science degree.

4 Q Did you go onto postgraduate school after you obtained  
5 your BS?

6 A For continuing education to maintain my teaching  
7 licensure, I did, yes.

8 Q So you became a teacher?

9 A Yes.

10 Q And when did -- where did you teach after your obtained  
11 your BS in 1982?

12 A I was an on-call substitute teacher in several districts  
13 in the Twin Cities area, Minneapolis, Saint Paul area.

14 Q And for how long did you maintain those on-call status?

15 A Till 1983 when I was hired for a full-time teaching  
16 position.

17 Q And where were you hired?

18 A In Stavanger, Norway.

19 Q Could you spell that for the Court, please.

20 A Stavanger, S-t-a-v-a-n-g-e-r.

21 Q And that was in Norway?

22 A Norway, correct.

23 Q And what sort of position were you hired full-time in  
24 1983?

25 A I was a physical education teacher and a high school

1 coach.

2 Q And was that at a university?

3 A It was an American school.

4 Q What was the name of that school?

5 A Stavanger American School.

6 Q Did there come a time when you were working at Stavanger

7 American School that you met a woman by the name of Jackie

8 Nink?

9 A Yes, there was.

10 Q And do you recall what year that was?

11 A That would be the fall of 1984.

12 Q And was Jackie, at that time, a student? Was she a

13 teacher?

14 A She was a teacher just hired that year.

15 Q Do you recall what she -- what sort of teacher she was

16 hired, in what capacity?

17 A A teacher for the learning disabled or special education

18 teacher.

19 Q And it is true, is it not, sir, that you and Jackie

20 became close and you developed a relationship with her?

21 A Yes.

22 Q And your -- in your tenure at Stavanger, your contract at

23 Stavanger, when did that -- how long was that contract for?

24 A My contract was for a two-year period starting in the

25 fall of 1983.

1 Q So it would be ending in the fall of '85?

2 A In the summer.

3 Q In the summer of '85?

4 A After the school year.

5 Q And do you recall what Jackie's contract was?

6 A Hers was also a two-year contract.

7 Q So hers would have run through, when, do you know?

8 A Hers would have run one year past mine. I was there a  
9 year before I met her.

10 Q Did there come a time when you and Jackie decided to  
11 marry?

12 A Yes.

13 Q And when was that?

14 A Oh, probably the spring, very early spring or late winter  
15 of '85 when we started to -- her school teaching position at  
16 the same school in another country.

17 Q Isn't it true that Jackie's contract ran another year at  
18 Stavanger, so how would that work?

19 A Well, we were going to be -- so I had to leave after my  
20 year, and we didn't want to separate, so we both pursued  
21 another school with an opening for both of our positions.

22 Q After your contract ended in the summer of '85, did you  
23 and Jackie remain in Norway?

24 A We came -- we both came back to the United States after  
25 we secured jobs.

1 Q And where did you secure subsequent jobs?

2 A In Cairo, Egypt.

3 Q Was that the Cairo American College?

4 A Correct.

5 Q So you came back to the United States. Were you married  
6 at that time, or did you marry in the United States?

7 A We came back to get organized and get married.

8 Q And do you recall, sir, where you got married?

9 A Yes, in Texas.

10 Q Okay. And when was that, what month, year?

11 A Month and year would be -- This kills me. I'm glad she's  
12 not listening. That would be probably in July or August of  
13 '85. Actually it was July, now I remember.

14 Q July of '85?

15 A Okay.

16 Q And you were married again in Texas, you said?

17 A Yes.

18 Q Did your family attend the wedding?

19 A Yes, my mother and father and a friend of mine, and my  
20 best man from Norway.

21 Q And what about Jackie's family, did they attend the  
22 wedding as well?

23 A Yes.

24 Q Do you recall who from her family attended? Did her  
25 mother and father attend?

1 A Mother and father and her sisters, and some friends of  
2 hers that I met.

3 Q So after you came back to the United States and you and  
4 Jackie married, and you have testified I think previously that  
5 you came back after you secured the jobs at Cairo American  
6 College, how much longer did you stay in the states before  
7 moving, I guess, to Cairo?

8 A I believe we were supposed to arrive in Cairo somewhere  
9 in early August, if I'm not mistaken. I think we had a couple  
10 week period to get acclimated and get ready to teach for the  
11 school year.

12 Q Now, the job that you obtained at Cairo American College,  
13 what was the position?

14 A I was a high school physical education teacher and a  
15 volleyball coach.

16 Q And do you recall what Jackie's position was?

17 A I know she was in the special ed department.

18 Q And what was the length of the contract that both you and  
19 Jackie obtained from the Cairo American College.

20 A I believe it was a two-year contract.

21 Q Running from August/September of '85 through the summer,  
22 I guess, of '87?

23 A Correct.

24 Q Okay. Could you please just describe a little bit more  
25 about your position at Cairo American College?

1 A I was responsible for the development of the physical  
2 education curriculum, along with another physical education  
3 person there, and we just were responsible for teaching all  
4 the kids physical education requirements, and also I was  
5 varsity volleyball coach for the girls.

6 Q In your capacity as the varsity volleyball coach for the  
7 girls' volleyball team, did you have the occasion to visit  
8 Athens, Greece in November of 1985?

9 A Yes, we did. We visited there culminating the tournament  
10 of our season. They played most tournaments that way.

11 Q And when, if you recall, was that tournament?

12 A That would have been in November of '85.

13 Q Was it around the third week of November?

14 A Yes.

15 Q Okay. And when did you travel to Athens, if you recall?

16 A I traveled to Athens, I believe, two or three days before  
17 the hijacking incident. Had our two days of games, and I had,  
18 the next day, scheduled a sightseeing tour before returning to  
19 Cairo.

20 Q Now, when you traveled a couple of days before the  
21 hijacking, did Jackie accompany you?

22 A Yes, she did.

23 Q Was she on the same flight as you?

24 A Yes.

25 Q How did the team do in the tournament?



1 A We won the tournament.

2 Q Now, did Jackie stay with you and watch the team play the  
3 entire tournament, if you recall?

4 A No, she missed the championship game.

5 Q Why did she miss that game?

6 A Well, as I stated earlier, we had the next day off to go  
7 sightseeing in Athens, and she had school the next day. And  
8 so she needed to get a flight back that night.

9 Q So she left on what -- what day did she then have to  
10 leave in order to -- did school run Monday through Friday, a  
11 Sunday through Thursday? What was the school week?

12 A It was more of a Sunday through Thursday.

13 Q So Sunday through Thursday?

14 A I believe. It's been awhile. I just know it was one day  
15 off somewhere.

16 Q So Jackie was going there for -- she needed to depart  
17 Athens to go back to Cairo for her work duties; is that  
18 correct?

19 A Correct.

20 Q Do you recall was she scheduled to leave at a certain  
21 time and hour on the 23<sup>rd</sup> of November, or what do you recall  
22 about her departure?

23 A There were only two flights to Cairo that day, one  
24 EgyptAir flight and the other one I'm not sure who the carrier  
25 was. We went back and forth for a few hours that day about

1 which flight she should take. I wanted her to stay for the  
2 championship. All the girls on the team were important to  
3 her, but she realized she had some things she needed to get  
4 done. So we went back. She actually booked a couple of ways,  
5 but ended up on the EgyptAir flight.

6 Q Do you recall what time that flight was scheduled to  
7 depart Athens time?

8 A I really do not. I know it was in the evening.

9 Q And what time was the championship game? Were you able  
10 to take Jackie to the airport, or did she leave on her own?

11 A No, she had left on her own prior to the championship.

12 Q So, prior to Jackie leaving, I trust you just said  
13 goodbyes and see you and good luck?

14 A See you tomorrow.

15 Q Do you recall anything specifically you said to her or  
16 she said to you?

17 A No, I don't.

18 Q What time do you recall the game was that evening, the  
19 23<sup>rd</sup> of November?

20 A I believe it was late afternoon.

21 Q And after the game, you indicated that the team had won?

22 A Yes.

23 Q What happened after the team had won? What did you do?  
24 Did the team celebrate? Did you go out?

25 A We went out and had a dinner and celebration. Then I

1 went back to the hotel, my hotel room.

2 Q And did you go to sleep?

3 A Yes.

4 Q And was there any -- did you sleep throughout the night  
5 or did you receive any calls? When did you learn that there  
6 was a hijacking and that Jackie was possibly on that flight?

7 A I wasn't aware that evening, no. I had met all the girls  
8 on the team the next morning to start our sightseeing tour of  
9 Athens, and one of the girls on my team had mentioned that we  
10 didn't have to worry about being hijacked because there was an  
11 EgyptAir plane been hijacked last night, and I knew that was  
12 my wife's flight.

13 Q How did you know it was her flight?

14 A That was the only one going to Cairo. It was the only  
15 EgyptAir flight out that night.

16 Q And when -- and do you recall the name of the student  
17 that told you this?

18 A No, I do not. I can picture her face, but I can't recall  
19 her name.

20 Q Okay. And when you learned about this hijacking, what  
21 did you do immediately thereafter?

22 A I turned to my athletic director who had accompanied us  
23 and said, "You take the girls; I got to go see what's going  
24 on."

25 Q And what were you feeling at that time?

1 A I just hadn't really -- I had a feeling -- I just -- my  
2 stomach was just in knots and I just had to go about trying to  
3 find the answer somehow, see what the status was.

4 Q Did you see any news reports on the TV or hear anything  
5 from anybody else at that time?

6 A No.

7 Q So what did you do to try to learn more information about  
8 the hijacking of Flight 648?

9 A I went to the airport, to EgyptAir.

10 Q In Athens?

11 A Yes.

12 Q And what did you learn when you arrived there?

13 A That she had been on the plane, but they had no other  
14 further information.

15 Q Did you stay at the airport or did you do anything else  
16 after that?

17 A I stayed at the airport for some time and then found  
18 myself at the Embassy sometime later that day.

19 Q The United States Embassy?

20 A Yes.

21 Q Did you -- how much time do you think passed from the  
22 time you learned about the hijacking from your student to the  
23 time that you went to the -- to the U.S. Embassy in Athens?

24 A Oh, I suppose four or five hours.

25 Q And during that four- or five-hour period, did you make

1 any phone calls to family or friends?

2 A At that point I had not, no.

3 Q Did you see any news reports on TV, CNN or other news  
4 broadcasting services?

5 A No, I did not.

6 Q Now, once you -- once you arrived at the U.S. Embassy in  
7 Athens, what did -- who did you speak with, if you recall, and  
8 what did you learn?

9 A I don't recall the person's name, but they said they  
10 would keep me updated on the situation. There had been a  
11 hijacking. And they told me that they thought that my wife  
12 had been shot in the face, and they weren't positive. And the  
13 stories changed as the hours went on.

14 Q Do you recall at what time of day that was that you  
15 learned that?

16 A I think that was that evening on the 23<sup>rd</sup>, 24<sup>th</sup>.

17 Q Sunday the 24th, the day after?

18 A Yeah.

19 Q What did you -- when you heard that -- when it was  
20 reported to you that they believed that Jackie was shot in the  
21 face, what were you thinking at that time?

22 A I just was blown away. I didn't know what to think. I  
23 was all alone in a country I had never been before and I was  
24 just devastated.

25 Q Did you think she was alive or dead?

1 A At that point, I didn't think she was alive.

2 Q After you learned about Jackie being apparently shot on  
3 the -- in the airplane during the hijacking and during this  
4 time, did you even stay at the U.S. Embassy?

5 A I was there for a period, and they told me that -- I  
6 think they updated me at that point about the status of the  
7 hijacking, that they were on the ground in Malta, and that  
8 they were placing demands and negotiating and that -- so I was  
9 -- they suggested I just go to a hotel, which I did.

10 Q So you left the embassy and went to a hotel in Athens?

11 A Yes.

12 Q And do you recall where this hotel was, was it close to  
13 the embassy or not?

14 A Yes, it was. It was walking distance to the embassy, I  
15 believe.

16 Q During that evening, did you speak to anybody, any family  
17 or any friends?

18 A Yes, I called my mother and father.

19 Q And what did you tell them?

20 A I just told them that I didn't know what to do, and  
21 that -- they were surprised and they supported me, and that's  
22 about it.

23 Q Did you speak to Jackie's family?

24 A No, I did not.

25 Q While you were in the hotel, did you watch any news

1 reports about the hijacking?

2 A No, I did not. I don't believe there was a TV in the  
3 room, or I probably would.

4 Q What else was going through your mind at that time?

5 A Just what I was going to do, wondering how this was going  
6 to end and if the reports I was getting were accurate or -- I  
7 just was really up in the air. I didn't know. I was  
8 completely helpless.

9 Q Did you ever hear any news reports during this period of  
10 time that Jackie was, in fact, killed during the hijacking?

11 A No, I did not.

12 Q So, when you were at the hotel, did there come a time  
13 when you heard back from the United States Embassy?

14 A Yes.

15 Q And do you recall when that was, was that the 24<sup>th</sup> or  
16 the 25<sup>th</sup>?

17 A I don't know, I'm not positive. I know I tried to sleep  
18 that night in the hotel. There was a big thunderstorm that  
19 woke me up. And I believe shortly after that is when I got a  
20 call from them. I don't believe I made it overnight in the  
21 hotel.

22 Q And when you received the call from the officials at the  
23 U.S. Embassy, do you recall what they told you and what you  
24 did?

25 A I believe they told me that they sent a car and they were

1 going to bring me back to the embassy. And they mentioned  
2 that the plane was still seized by the hijackers on the ground  
3 in Malta and that was it.

4 Q Did they give you any updates about Jackie or her  
5 condition?

6 A No, they did not.

7 Q Did you have any -- in your own mind, did you think if  
8 she was dead or alive at this time?

9 A Well, I remember they mentioned that they were executing  
10 Americans, all the Americans with passports and Israelis who  
11 had Israeli passports. So I knew things weren't good. I knew  
12 some people had been shot. I believe that's why they called  
13 me in because something had changed in the negotiations.

14 Q So, how did you learn that people were being shot, the  
15 hostages were being shot, who told you that?

16 A I can't recall their names.

17 Q But it was people from the United States Embassy?

18 A Yes.

19 Q Did there come a time that you actually learned that  
20 Jackie was indeed shot but survived?

21 A I learned that she had been shot. I learned that the  
22 plane had been stormed, that they had secured the airplane. I  
23 didn't know the status of Jackie at that point.

24 Q And when did you learn the plane was stormed? Was that  
25 while you were still in Athens, or was it when you were in



1 Malta?

2 A That was when I was still in Athens. We were actually on  
3 the way to Malta when I got that information.

4 Q Now, you said you were on your way to Malta. Who -- how  
5 did you get to Malta and was there anybody traveling with you?

6 A There was two pilots, and their last names were Haynes  
7 and Nordean [ph.], and I believe it was the ambassador's plane  
8 that they took me over in. I was kind of demanding it. I was  
9 a little aggravated and a little crazy at the situation, and I  
10 think they kind of felt a little empathy for me. And they  
11 talked to whoever got permission to bring me over there.

12 Q And do you recall when you actually landed in Malta?

13 A As far as the time, no, I don't.

14 Q Do you remember what day? Was it possibly Monday the  
15 25<sup>th</sup>?

16 A Yes, it would have had to have been, yes.

17 Q And when you arrived in Malta, what did you do?

18 A I was taken to the hospital.

19 Q Who took you to the hospital?

20 A Oh, boy. I remember when I got to the hospital, there  
21 was Maltese Secret Service, and I believe there was somebody  
22 from the State Department or the FBI, I'm not sure. But there  
23 was a lot of official titles that walked me to her room.

24 Q So, when you arrived at the hospital, you immediately  
25 went up to Jackie's room?

1 A Yes.

2 Q And was Jackie in her room at that time?

3 A Yes, she was in her room unconscious.

4 Q And can you describe what her condition looked like at  
5 that time?

6 A Not good. Her head was all bandaged up, and just -- I  
7 knew at that point it had been a head wound and nobody was  
8 sure what the damage was, whether she was going to wake, and  
9 then we'd know.

10 Q And was -- did you speak to a doctor at that time or any  
11 other hospital officials to learn about Jackie's condition?

12 A I did speak to a doctor. I can't remember his name. He  
13 was the one who performed the surgery.

14 Q Do you recall what the doctor said to you?

15 A Yes, he said that the bullet had penetrated Jackie's  
16 skull pushing bone fragments into her brain. Both bullets got  
17 actually lodged in the skull, pushed broken fragments in the  
18 brain and he went into detail as much as he could.

19 Q Did he give you a prognosis or a diagnosis at that time?

20 A Not really, no. He was -- he wasn't sure, because she  
21 hadn't woken from surgery, and he said he didn't know.

22 Q Did he indicate if she was in critical condition or her  
23 life was, you know, threatened at that time?

24 A I don't believe her life was threatened at that time,  
25 although there's always a chance, but there was concern more

1 of how she was going to come out and what level of  
2 functioning.

3 Q And when you saw Jackie lying there in bed with her head  
4 bandaged, what were you feeling and thinking at that time?

5 A Anger, a lot of anger. The people that had escorted me  
6 to the room told me the guy that shot her was in the bed next  
7 to her.

8 Q So Jackie was in a room with more than one bed?

9 A Yes. I believe there was three beds, and the surviving  
10 hijacker was on the one next to her.

11 Q Was that Mr. Rezaq? Did you learn that was Mr. Rezaq?

12 A Correct.

13 Q And did you see Mr. Rezaq lying there?

14 A Oh, yeah.

15 Q And was he awake?

16 A No, he had chest wounds, and he had tubes in him.

17 Q And how did that make you feel?

18 A Like I said, very angry. I was kind of also surprised  
19 that they told me that that was him. I had made a decision on  
20 what to do if Jackie didn't wake up and recognize me, I was  
21 going to kill him.

22 Q Did there come a time when Jackie then eventually did  
23 wake up? Was it about the same day or the next day?

24 A It wasn't long after I had those thoughts.

25 Q And did you -- please describe to the Court what happened

1 when she woke up. Did she recognize you? Did you speak to  
2 her?

3 A She looked up at me and said, "Baby, can you believe  
4 this?" And I took a big sigh of relief and gave her a hug  
5 without trying to hit her head.

6 Q How were you feeling at that time?

7 A I was very relieved. I had her back and that's all that  
8 mattered.

9 Q Did she ever know that Mr. Rezaq was lying in the bed  
10 right next to her?

11 A I don't know if she -- if she was aware, or it would have  
12 been through me at some point later. I don't remember at what  
13 point I told her. After we were apart from there, I'm sure.

14 Q And how long did Jackie -- how long was Jackie  
15 hospitalized in the hospital in Malta?

16 A I believe it was three or four days at the most. I know  
17 as soon as she was okay to fly, they wanted to get her to  
18 Landstuhl Army Base in Germany.

19 Q And during that hospitalization in Malta, was Mr. Rezaq  
20 in the bed the entire time next to Jackie?

21 A No.

22 Q They moved him?

23 A Yeah. Well, they had been overwhelmed by the hijacking  
24 and all the injuries. The hospital wasn't set up for that, so  
25 people were pretty much everywhere.

1 Q Did you -- did Mr. Rezaq ever awaken and you spoke to him  
2 or say anything to him?

3 A No.

4 Q During that three or four days in Malta, can you just  
5 describe, in general, your feelings, Jackie's condition during  
6 that period of time?

7 A I didn't know the extent of what was going on. It was so  
8 early that -- I mean, I was happy that she was alive and she  
9 looked at me and smiled and she seemed amazingly okay at the  
10 time.

11 Q Was she okay, though?

12 A No, things hadn't sunken in yet.

13 Q You were just happy she was alive?

14 A Yes.

15 Q So you testified previously that you were -- after the  
16 Maltese hospitalization, you were -- Jackie was transported to  
17 Germany. Where in Germany was she transported?

18 A To Landstuhl.

19 Q And is that a VA hospital?

20 A It's a military hospital.

21 Q And during the hospitalization there, how long was Jackie  
22 hospitalized?

23 A Well, I'm thinking two or three days more, maybe more,  
24 maybe four days.

25 Q Did Jackie undergo any other procedures during her

1 hospitalization in Germany?

2 A There was a lot of testing. They said the surgeon in  
3 Malta had done a very good job in cleaning it up. They were  
4 more checking -- checking out the work that had been done  
5 prior to them getting her.

6 Q Did you notice any changes in Jackie at this time or, you  
7 know, repercussions from her injuries at this time?

8 A I think she started to come out of the numbness a little  
9 more. She was a little more emotional, kind of asking me  
10 questions on what happened and why.

11 Q And do you recall any of those discussions specifically?

12 A Not specifically. I just remember that she started to  
13 cry, and she was wondering how did I get here, where am I, and  
14 that's when I realized that just because she saw me and smiled  
15 doesn't mean she's out of the woods.

16 Q And what were you feeling at this time?

17 A I was kind of taken back a step. I was kind of happy,  
18 like I had mentioned before. Just kind of made me -- jerked  
19 me back to reality from thinking that, you know, you talk  
20 about something like this happening and you go home and  
21 everything is great, but I knew it was going to be a lifelong  
22 deal that was going to affect her.

23 Q Did it affect you as well?

24 A Oh, yeah.

25 Q How is it affecting you at this time?

1 A Well, at this time, it was just affecting me as far as  
2 trying to feel what my wife was going through, what we were  
3 going to do, how was I going to help her.

4 Q After Jackie was discharged, or I assume she was  
5 discharged from the hospital in Germany, do you recall where  
6 you-all went next?

7 A We were flown to -- I believe it was Andrews in  
8 Washington, or another military hospital there. Everybody  
9 wanted to check her out. Each hospital that we -- they each  
10 wanted to check her out and give her the full testing.

11 Q So, Jackie was then hospitalized here in the Washington,  
12 D.C. area?

13 A Correct.

14 Q And do you recall how long she was hospitalized here in  
15 D.C.?

16 A I believe that was one night maybe. Wasn't more than two  
17 days. I believe it was only one night, though.

18 Q Do you recall what the results of the medical and other  
19 tests were?

20 A Not the results, but they were just agreeing with the  
21 last ones from Germany.

22 Q Was there any prognosis or diagnosis at that time?

23 A Not that I was aware of. We were going to wait till we  
24 got to our home doctors and try to figure out the long-term  
25 thing.

1 Q But at this time, did you notice any changes in Jackie?

2 A Just more -- either it -- it was either happy or sad.

3 There was really not a lot of -- happy to be back in the  
4 United States and now happy we were going to see our family  
5 and friends soon again, and also the lows of why we're coming  
6 back and the situation we were in.

7 Q Did she seem depressed to you?

8 A Oh, yeah.

9 Q Still a little in shock as well?

10 A High highs and low lows.

11 Q After the hospitalization here in Washington, D.C., where  
12 do you next go?

13 A Went to Minneapolis. I was in the Minneapolis  
14 International Airport and I can't remember the hospital we  
15 went to.

16 Q Was it University of Minnesota possibly?

17 A Yes. Yes, that's correct.

18 Q And was Jackie hospitalized at that time as an inpatient?

19 A Well, they admitted her and we left.

20 Q What do you mean "we left"?

21 A We had been through enough testing and everything and  
22 both felt confident that we could go home.

23 Q And how were you coping at this time with what was going  
24 on?

25 A Oh, I was just more in protection mode of her, I guess.



1 Upon arriving at the University Hospital, there was all kinds  
2 of cameras and stuff, and we went there by ambulance from the  
3 airport, and I was just kind of trying to protect her.

4 Q Was there a lot of media attention at this time?

5 A There was a barrage to get into the hospital. That's  
6 where they were all camped out. I was told the security  
7 wouldn't let them in or anything, but they did.

8 Q So Minnesota is home, though, or was home, correct?

9 A Minneapolis, yes.

10 Q Minneapolis. And where in Minneapolis did you and Jackie  
11 reside at this time, or did you not have a house? Where did  
12 you stay?

13 A We stayed in my parent's house in Hopkins, the home I  
14 grew up in.

15 Q And how long did you stay with your parents?

16 A Oh, I suppose it was three or four months, I think.

17 Q Were you working at this time?

18 A We got there in December -- no, I was not working. We  
19 got there in December. I believe we moved out to an apartment  
20 in spring, late spring maybe.

21 Q During this time, you said -- or previously you testified  
22 that you wanted to go to your own doctors so that they could  
23 assess prognosis and diagnosis. Did -- I assume you did that  
24 with Jackie while back in Minneapolis; is that correct?

25 A That's correct.

1 Q And do you recall the names of those doctors, those  
2 treating doctors?

3 A No, I do not.

4 Q And did there come a time, though, where there was  
5 actually a diagnosis or a prognosis of Jackie?

6 A I don't think there was ever one straight prognosis or  
7 diagnosis. They were just listing things that potentially she  
8 was going to have to deal with. Only time would tell.

9 Q And do you recall what those things were that the doctors  
10 were telling you?

11 A Well, as far as her vision, she had like what they called  
12 a left field cut. She couldn't see the left sides of certain  
13 objects. They were lower parts of those objects. It's kind  
14 of hard to explain, but... And just the depression, anxiety,  
15 and potential seizures.

16 Q And what did you notice at this time about Jackie? Was  
17 she the same person that you met back in Norway and married in  
18 Texas, or was she a different person?

19 A Oh, there was times where she was that exact same person.  
20 Like I said before, it was either like she was fine or she was  
21 really hurting.

22 Q And could you explain a little bit more about -- you  
23 know, you said she was fine, that's one way, but the other  
24 way, how did this affect her and how did it affect you?

25 A I guess an example I can use is we went to just a little

1 convenience store. We had just purchased a vehicle, and she  
2 was really excited about it. And we had just stopped and got  
3 some gas, and she went in, she wanted to buy us some snack  
4 item or something. And then I sat and I sat in the vehicle,  
5 and she came out and she was just balling and crying  
6 hysterically. And I asked her what's going on, and she said,  
7 "Well, the cashier asked me for \$2.40, and I didn't know how  
8 to count it."

9 Q Is there any other examples that you can give, at least  
10 with regards to other ways that her injuries affected Jackie  
11 during this period of time?

12 A Well, the fact that she wasn't supposed to drive really  
13 bothered her, because of her vision. And like I said, just  
14 all the mental aspects of being a victim like that and  
15 terrorized like that, I couldn't tell what mood she was in,  
16 which was more the physical injuries or the psychological  
17 ones. They were both taking a toll.

18 Q And let's talk specifically about the vision issues. How  
19 did that affect Jackie?

20 A Like I said, she had what they called a left cut. She  
21 had left field cut, so she could -- if I was staring at you  
22 right now, I wouldn't be able to see the left side of your  
23 face. I could see the right side.

24 Q And as a result of that, you indicated she was not able  
25 to drive, was that one of the --

1 A It was never forced upon her not to drive, but she knew  
2 better.

3 Q Was she able to read, do you know, at this time?

4 A Yes, with the same difficulty. I mean, now when she's  
5 focusing on letters or words and she only can see the right  
6 side of that letter or word. So it was basically down to a  
7 first grade level in reading.

8 Q Now, you also indicated seizures, possibility of  
9 seizures. Did Jackie suffer any seizures with you?

10 A Yes, she had multiple seizures.

11 Q Could you please describe those sort of seizures that she  
12 experienced.

13 A Her whole body would just go stiff and she would foam at  
14 the mouth and just be -- have a complete grand mal seizure.

15 Q And did -- was she on the floor at that time? She would  
16 just collapse on the floor at the time, I assume?

17 A Yes.

18 Q And how long did these seizures last?

19 A Several minutes.

20 Q And you experienced these firsthand yourself?

21 A Oh, yeah, many times.

22 Q And how did you feel when you witnessed this?

23 A Back to the helpless feelings.

24 Q Were you scared?

25 A Kind of scared. I wasn't really familiar. I was only 25

1 years old at the time. I really wasn't aware of what they  
2 were exactly. I was just learning about those things. So  
3 they were very, very frightening.

4 Q Was Jackie rushed to the hospital every time she suffered  
5 a seizure?

6 A For the first several times, yes.

7 Q And what about subsequent ones?

8 A Well, at some point they got some anticonvulsant  
9 medicines in her that reduced them greatly to the point where  
10 they would just be a small seizure. Some of them just  
11 visually with light and stuff, I'd know if she was having one.

12 Q So just describe, if you can, a small seizure.

13 A Well, it wasn't a full body that would go stiff and jerk.  
14 It was more -- it was more in her nerves and in her eyes she  
15 would see colors, and basically go blind with colors. And  
16 there would be some stiffening of the body, but no -- not the  
17 degree of the large ones.

18 Q During this period of time -- What period of time are we  
19 talking about right now? Is this -- I think you're back in  
20 Minnesota and the end of 1985, and what period of time are we  
21 talking about right now?

22 A This is probably in the summer of 1986.

23 Q And was Jackie under full-time medical care at this time  
24 for her injuries?

25 A Well, me and her medicines.

1 Q So she was taking prescription medication that was  
2 prescribed to her by her doctor?

3 A Yes.

4 Q And how often -- you know, was she taking this on a  
5 regular basis?

6 A Yes, on a daily -- I don't know how many times a day, and  
7 the anticonvulsant was a couple, two or three times a day.  
8 She was taking Dilantin. And I know there was some other  
9 medications, I'm not really aware of the specifics of those.  
10 It was more than one prescription.

11 Q And I think we talked about this a little earlier. Were  
12 you working at this time?

13 A No, I was not.

14 Q So how were you paying the bills and paying rent and  
15 everything?

16 A Cairo American College where we were teaching was kind  
17 enough to continue sending our checks.

18 Q So that was a two-year contract, if I recall, correct?

19 A Yes.

20 Q So they continued to pay you out the full contract for  
21 the remainder of the term?

22 A At that time, they were -- said they would continue  
23 paying, and they were going to have a meeting to see how they  
24 could help us out. And at one point they said they would pay  
25 us out for that first year, and then they would re-look at the

1 situation, depending on how Jackie was. If we were able to  
2 get an appointment, they would consider sending us back there,  
3 too.

4 Q Were there -- did -- how was Jackie's memory at this  
5 particular time? Did she -- her short-term memory versus her  
6 long-term memory, what did you notice at that time with  
7 regards to her memory?

8 A I just remember it not being very good. I mean, there  
9 was definitely issues with short-term memory.

10 Q Is there any examples you could provide?

11 A One time -- this is going forward a little bit, probably  
12 another year, but there was a time where we had talked about  
13 me finding work. I'd been staying and taking care of her. We  
14 knew our money was going to run out, and so I went and applied  
15 at a national health club chain. And she thought that was  
16 great and I went for my interview and I came home and I told  
17 her I got the job, and I was showing her all this stuff and  
18 all the things I'd be doing, and all of a sudden she didn't  
19 remember I was looking for a job and she was wondering where I  
20 was all day while I was gone.

21 Q So, during this period of time, were you basically taking  
22 care of Jackie every day, almost like, you know, full-time  
23 caregiver?

24 A Absolutely full-time.

25 Q And how -- and at one point you and Jackie divorced,

1 correct?

2 A Correct.

3 Q During -- from the date of the injury until your divorce,  
4 was this caregiving the same sort of caregiving, or did it  
5 slowly change over time?

6 A That was pretty intense for the first couple of years,  
7 and then she started to progress a little bit and was learning  
8 how to function with her new disability, her new brain injury,  
9 and so it slowly picked her up.

10 Q And so -- you just said that she had learned how to  
11 function with her new disability. What did she -- Jackie have  
12 to learn either new or over or differently than -- that you  
13 experienced?

14 A Pretty much had to re-learn everything, from the whole  
15 time that I was taking care of her, and then when she started  
16 to get better after she was learning -- relearning just life  
17 skills, basic things, reading, just how to absorb information  
18 and try to retain it and little tricks she would use, things  
19 like that.

20 Q What other examples can you give of different things that  
21 she had to re-learn?

22 A A lot of note-taking and a lot of writing things down so  
23 that she wouldn't forget.

24 Q Was she -- did she ever during -- well, during your  
25 marriage, go back to teaching?



1 A No.

2 Q You testified that you did, in fact -- you and Jackie did  
3 divorce at a particular time. When did you divorce?

4 A I just know it was three years after the incident. I  
5 don't remember the date.

6 Q And why did you divorce?

7 A Well, we had been through a lot. We were only -- we were  
8 young and to put that kind of pressure and things on a young  
9 marriage, you know, marriage is difficult enough as it is, and  
10 it just basically -- the incident really changed Jackie, not  
11 to a worse, not to a better, but just made her a completely  
12 different person, which is very understandable. And it just  
13 was not the person -- we weren't the same to each other as we  
14 were when we met. We had just different ideas and different  
15 things we wanted to do.

16 Q How did the hijacking and the injuries Jackie suffered  
17 change her that made her different, and was it just the  
18 physical and psychological, or were there other things?

19 A Well, it was more -- we were both on the same page prior  
20 to the hijacking as far as what we wanted. We wanted to live  
21 each overseas with each other for a long, long time, and we  
22 just wanted to see the world and teach, do the job we love and  
23 see the world we love.

24 And after that, it was just -- she wasn't interested  
25 in that. I obviously wasn't either. We were back in the

1 states. I was just wanting to pick up my career and run, but  
2 I -- it's really hard to put a finger on what changed her.  
3 She just -- had I met her after the hijacking, we probably  
4 wouldn't have clicked. We didn't have the same way of looking  
5 at things.

6 MR. NUDELMAN: One moment.

7 (PAUSE.)

8 Q (BY MR. NUDELMAN) Is this a difficult subject for you to  
9 discuss, Jackie's injuries and what you went through, and has it  
10 affected -- and how has it affected your life, these  
11 experiences?

12 A It's been a long time, but even today, when I bring it up  
13 with the questions you're asking me, it sure makes me feel  
14 like yesterday. I still think about her quite often. How  
15 it's affected my life, I'm not sure. All I know is back then  
16 it completely changed my life, took my direction of my life  
17 away from me.

18 MR. NUDELMAN: Okay. Your Honor, we're finished  
19 with this witness.

20 THE COURT: All right. Let's do this. I think it's  
21 easier to bring Dr. Spector in here, but we've got to give the  
22 reporter five minutes.

23 So five minutes, and Dr. Spector here. All right?  
24 Is that okay with you? Five minutes.

25 We can let Mr. Pflug go. Thank you, sir, very much.

1 We are going to cut off right now.

2 THE WITNESS: Thank you.

3 THE COURT: Five minutes, please. Can I see you a  
4 minute?

5 (A BRIEF RECESS WAS TAKEN.)

6 THE DEPUTY CLERK: Court is back in session. Please  
7 be seated everyone and come to order.

8 THE COURT: Please.

9 MR. HEIDEMAN: Thank you, Your Honor.

10 DR. JACK SPECTOR,

11 having been recalled as a witness, continued testifying as  
12 follows:

13 DIRECT EXAMINATION (CONT'D)

14 BY MR. HEIDEMAN:

15 Q Dr. Spector, you remain under oath. We took the recess  
16 to do what we had to do.

17 Is there anything on the subject of Patrick Scott  
18 Baker that we didn't cover with you or that arose that you'd  
19 like to comment on before I move to Jackie Nink Pflug?

20 A Yeah. And it may be apropos of nothing or it may be  
21 relevant here. But it --

22 Q Excuse me, louder and slower, because we are in a  
23 different microphone system for the court reporter.

24 A It may be apropos of nothing or it may be relevant here.  
25 I suspect it has some relevancy to his Honor's question right

1 before we broke, which is when you asked if Mr. Baker  
2 continued to engage in outdoor athletic-type activities.

3 It was actually when he came back to the States and  
4 started to get back into something resembling a routine that  
5 he went climbing with a friend, and I think the friend's  
6 spouse, but I'm not positive about that, and was actually on  
7 that trip and his sort of inability to tolerate either a  
8 friend's questions that he then made the decision to embark to  
9 Alaska.

10 THE COURT: Thank you, sir.

11 THE WITNESS: Yes, sir.

12 Q (BY MR. HEIDEMAN) Just one follow-up on that one issue.  
13 As a result of the trip, you said he made the decision to embark  
14 on Alaska, and in the context of the opinions and the  
15 conclusions that you've formed about Patrick Scott Baker, how do  
16 you interpret that in terms of how he was then handling and did  
17 handle his life?

18 A Well, even doing a once preferred activity, he wasn't  
19 able, by his report, to handle the social contacts involved in  
20 it. What was once enjoyable and collegial, if you will, was  
21 now somewhat distressing for him and he left.

22 Q And do you attribute that to the head wound and the  
23 experience of the hijack?

24 A There's nothing else to attribute it to.

25 Q Thank you very much. Then I'll move onto the second

1 victim/patient/plaintiff that you had the opportunity to  
2 interview and examine.

3 MR. HEIDEMAN: At this time, Your Honor, we'll  
4 tender for identification Plaintiff's Exhibit 56.

5 Q (BY MR. HEIDEMAN) Doctor, can you identify for the Court,  
6 please, Exhibit 56.

7 A That's my neuropsychological evaluation report on Jackie  
8 Pflug.

9 Q Thank you very much.

10 MR. HEIDEMAN: We'll move Exhibit 56 into evidence,  
11 Your Honor.

12 THE COURT: Be admitted.

13 (PLAINTIFF'S EXHIBIT 56 ADMITTED.)

14 MR. HEIDEMAN: Thank you.

15 Q (BY MR. HEIDEMAN) Could you please explain to the Court  
16 and either I can ask you or you can just walk it through as you  
17 prefer, Doctor, explain to the Court the nature of the  
18 examination you did, the case summary, the testing that you did,  
19 your findings, your diagnosis, and then ultimately your  
20 conclusions as well as other observations about this particular  
21 victim/plaintiff, Jackie Nink Pflug. And I just want to take  
22 one moment to indicate she is not present in the courtroom at  
23 the present time.

24 A That was by my request, yes, sir.

25 Q Thank you, Doctor.

1 A Well, first off, there's a certain redundancy in my  
2 answer. It's the same set of procedures, the same basic  
3 approach to evaluation as was the case with Mr. Baker. Do you  
4 need me to repeat that in full or are these records  
5 sufficiently joined that my previous answer can satisfy this  
6 one with regards to what I did in the course of my evaluation?

7 Q All right.

8 A I'm asking. Is --

9 THE COURT: That's fine for me. I understand,  
10 Doctor.

11 THE WITNESS: Great.

12 A So that's one. Secondly, then really what starts to mark  
13 the difference is are the conditions of the evaluation and  
14 the -- and my findings.

15 The conditions of the evaluation is that Ms. Pflug  
16 arrived and was a very different sort than Mr. Baker, much  
17 more emotionally effusive. But at the same time, much more  
18 emotionally labile. Her tears, and to a lesser degree  
19 laughter, were never far from the surface. And she would  
20 break down into tears sometimes in a very context  
21 inappropriate situation. That is to say, we'd be talking  
22 about something that was relatively innocuous, and she would  
23 choke up and acknowledge, in fact, that over the years, she  
24 would become tearful sometimes in response to the most mild of  
25 stimuli, or that she would lose control of laughter and really

1 not be able to stop.

2           It was my impression that that was what's called  
3 pseudobulbar affect. That is to say there's a disconnection  
4 between the excessive demonstration of weeping or mirth and  
5 the actual context in which it occurred or the subject matter  
6 that was being discussed. It results from a disconnection of  
7 cortical from sub-cortical and brain stem regions as a result  
8 of a brain lesion, typically a stroke, but certainly possible  
9 in cases of penetrating missile wounds.

10       Q     (BY MR. HEIDEMAN) And what is your assessment as the --  
11 as to the nature of the wounds and physical injuries based upon  
12 your review of information and materials and your examination of  
13 Jackie Pflug from which she suffered as a result of being shot  
14 in the head by the hijacker?

15       A     In this case, Ms. Pflug was shot in the -- to the right  
16 of the midline in the back of her head. The bullet lodged in  
17 her skull, on the right occipital parietal region and the  
18 inner table. The skull fragments pushed into the brain matter  
19 itself. The bullet itself did not, but the fragments of skull  
20 did get propelled like shrapnel into the brain matter in the  
21 posterior reaches of her brain.

22           The -- what developed then on top of that was a  
23 large hematoma or a collection of clotted blood in the right  
24 occipital parietal region with in-driven bone fragments and  
25 displacement into the occipital horn, that is to say into

1 those deep regions of the cerebral cortex and subcortex.

2           The area of the brain that was destroyed can be  
3 demonstrated well by virtue of its correlation with the  
4 anatomy that resulted in a left homonymous hemianopsia, which  
5 is to say a destruction of visual fibers affecting both the  
6 upper and the lower visual fields on the left side that  
7 results from a destruction of the arcuate fasciculus fibers  
8 that connect between primary visual and perceptual centers in  
9 the posterior regions of the brain.

10 Q Those are indeed very serious brain injuries and wounds,  
11 aren't they?

12 A Certainly.

13 Q Yes. And --

14 A But wait, there's more.

15 Q Yes.

16 A The -- what this also was, though, was a perfect model  
17 for the fixed head/moving object brain injuries that were the  
18 subject of research in the '50s and '60s. The -- if you put a  
19 pinpoint of force to an area in the posterior poles of the  
20 brain, there's a concillary [ph.] that continues forward to  
21 the front parts of the brain, the so-called frontal lobes.  
22 That -- that wave of injury may not be readily apparent on  
23 imaging studies, but in this case, seems to correlate well  
24 with some of the behavioral consequences that Ms. Pflug has  
25 suffered in the years since her brain injury.



1           It's the classic model of a so-called, coup,  
2 c-o-u-p, dash, contra, c-o-n-t-r-a, coup, c-o-u-p, brain  
3 injury where the force is propagated from one pole of the  
4 brain clear across to the other.

5       Q    Explain, if you would, just a little more to the Court as  
6 to how such an impact of a bullet into a brain causes the  
7 brain itself to, within the rest of the head that hasn't been  
8 penetrated by the bullet, to react?

9       A    The brain is jelly-like. It is incredibly soft and  
10 malleable, if you will. The structures within are somewhat  
11 stiffer, but prone to stretching or sheering. The brain holds  
12 its shape by virtue of pressure from the cerebral spinal fluid  
13 enclosed in what should be, under normal circumstances, a --  
14 enclosed -- perfectly enclosed vault, the skull. When the --  
15 and somewhat fixed in place by tough membranes, the dura.  
16 When there is a sudden force applied to the skull and when, in  
17 fact, that force is sufficiently severe as to interfere with  
18 the integrity of that vault, then the pressure waves are  
19 propagated forward from the back, point of impact, forward and  
20 then back again.

21       Q    You indicated that she had brain surgery to remove the  
22 bullet?

23       A    Actually, my understanding is she had surgery to remove  
24 the bullet and, where possible, the fragments.

25       Q    Yes. And, in fact, you've reviewed the records that

1 indicate that there were bone fragments in the brain that had  
2 to be removed and cleaned out; is that correct?

3 A Correct. And those are summary statements from a  
4 colleague, Michael Potter, a neurosurgeon at Landstuhl  
5 Regional Army Medical Center, rather than primary records from  
6 the neurosurgeons at St. Luke's in Malta.

7 Q Thank you. Yes, and we've put into evidence before the  
8 judge the records that we had been able to get from the  
9 various hospitals and the various doctors.

10 Your review of the records and your interview and  
11 testing of Jackie, did you -- is it your opinion that what you  
12 have found is consistent with the type of traumatic invasive  
13 experience of a bullet going into a brain and then having open  
14 brain surgery in order to remove the bullet and remove the  
15 fragments?

16 A First, I'm a neuropsychologist rather than a neurosurgeon  
17 or a physician. It's my sense that -- but I did work in the  
18 neurosurgery service as a neuropsychological consultant for  
19 about ten years.

20 It's my sense that the surgery was the least  
21 traumatic part of this process. The -- it's the penetration  
22 of the bullet and then the fragments riding on top of the  
23 bullet into the brain matter and then the force of that, the  
24 inertia of that dissipated through the brain itself and back  
25 again that produced the damage that has resulted in this

1 Ms. Pflug's neuropsychological deficits, her seizure disorder  
2 and her neuropsychiatric problems.

3 Q Thank you. And in that regard, would you explain to the  
4 Court your assessment of her neuropsychological deficits and  
5 her brain disorder?

6 A Again, she approached testing in an effortful manner,  
7 having adequately passed symptom validity testing that was  
8 administered in the course of this exam.

9 She was found to be of average to low average  
10 intelligence, with roughly commensurate academic achievement  
11 skills. These were a bit below levels I would have expected  
12 from her 18 years of education. There were noticeable  
13 deficits in elements of language, spatial memory, learning  
14 attention and executive reasoning skills.

15 What was most striking, in fact, besides the  
16 persistent visual perceptual problems well-documented  
17 elsewhere in her record, was the degree to which she had  
18 deficits in areas of the brain that were typically considered  
19 to be far removed from the point of impact, in particular her  
20 language skills and her executive reasoning skills were quite  
21 impaired in a manner that suggests that the deficits here are  
22 not just in the parietal occipital regions of her brain, but  
23 in those structures implicated in the frontal lobes and their  
24 connections to underlying structures.

25 Q Jackie, when she testified, indicated she -- one of the

1 challenges that she had faced is she looks okay to people.

2 A She looks okay to some people.

3 Q What's your assessment?

4 A I think she's emotionally labile. I think her judgment  
5 and her ability to integrate information rapidly and usefully  
6 leaves a bit to be desired. I think she -- her emotions are a  
7 bit too close to the surface. I met her exactly once, and the  
8 welcome hug I sort of reflexively turned away from here in the  
9 courtroom seemed a bit context inappropriate, all things  
10 considered.

11 Her -- her tendency during testing is to make a  
12 mistake and not to self-correct but to keep making the same  
13 mistake in a way to suggest that she's not benefiting from  
14 feedback. It's a dis-executive impairment.

15 Q Let's break those down. You indicated that she's  
16 emotionally labile. Would you define that for the Court.

17 A Sure. It means her emotions are a bit too close to the  
18 surface and they change rapidly and sometimes out of context.

19 Q And can that, in fact, be and is it, with her, disabling  
20 to an extent?

21 A It certainly can be disabling. Particularly in a -- in  
22 situations where one is required to react rather than control  
23 the platform, if you will.

24 Q You indicated that her executive judgment -- executive  
25 reasoning skills, and separately you commented about her

1 judgment are all deficient. Would you explain that further to  
2 the Court.

3 A It's my opinion that her ability to recognize the object  
4 of a task, change her behavior accordingly, to self-monitor  
5 errors and to change her behavior accordingly is impaired  
6 relative to other women her age and education.

7 Q She reported to you that she is largely in good spirits  
8 but troubled by affective instability, breaks into tears,  
9 laughter and, without provocation, feelings of sadness or  
10 elation.

11 Her husband has just testified to the Court that the  
12 highs were highs and the lows were lows. Is that all  
13 consistent with your finding?

14 A It is.

15 Q From a physical point of view, Jackie seems to be able to  
16 walk, to speak, but you indicated she has language deficits.  
17 Would you explain that.

18 A She may be able to speak, but she doesn't find words  
19 efficiently. She will circumlocute, or talk around a point  
20 rather than to it specifically. And when asked to rapidly  
21 name or identify objects, she'll sometimes fall short narrowly  
22 with malapropisms or other misstatements to suggest that she  
23 has the concept but can't find the word.

24 Q So when you look at her and one thinks she looks all  
25 right, the fact of the matter is, you're telling the Court

1 she's not all right?

2 A Well, of course not.

3 Q She also discussed in her testimony with the Court her  
4 problems with short-term memory. Could you comment on that,  
5 please.

6 A Yeah. Her memory skills are actually intact. People are  
7 generally not very good reporters about their own abilities in  
8 certain ways. Her attentional capacities are a problem. What  
9 I would suggest is that when she says she has trouble  
10 remembering things, what I'm going to suggest is that she has  
11 trouble paying attention to them in the first place, or  
12 picking out those things she's supposed to remember from  
13 things she's not, so that it never gets in in the first place  
14 rather than as a failure in recall.

15 Q On page 4 of your report, being Exhibit 56 in evidence,  
16 you used the words in findings, quote, there were noticeable  
17 deficits in elements of language, spatial, memory, learning,  
18 attention and executive reasoning skills. Are those your  
19 opinions?

20 A Those are my opinions. Now, you mentioned short-term  
21 memory.

22 Q Yeah.

23 A Long-term memory is a problem. Even after information  
24 has been shown to exist in shorter store, it does tend to  
25 dissipate after 30-minute or hour intervals.

1 Q So if she remembers something, after that, she'll then  
2 forget it?

3 A There's a good chance she will.

4 Q And do you attribute those matters that you've indicated,  
5 those deficits, to the shooting that she suffered in the  
6 EgyptAir hijacking of Flight 648?

7 A The shooting that she suffered, whatever head injury she  
8 might have sustained when she was pitched from the plane or  
9 fell from the plane, plus whatever additional complications  
10 might have arisen by this next issue I'm going to mention.  
11 Ms. Pflug had a history of uncontrolled seizures for a period  
12 of years after her surgery. They were eventually brought  
13 under control with carbamazepine, with Tegretol, and she's  
14 been seizure free now for going on a couple of decades.

15 But prior to that time, she was having breakthrough  
16 seizures, both generalized tonic clonic, so-called grand mal  
17 seizures, as well as partial complex seizures, seizures that  
18 were marked by alterations in consciousness but not  
19 necessarily by alterations in motor behavior.

20 Those types of seizures, both of them are very  
21 injurious to the brain. And the data is overwhelming, from  
22 epilepsy studies, that the more seizures you have, the worse  
23 your intellectual and higher cognitive functioning suffers,  
24 even if those seizures are eventually brought under control.

25 It is, to my mind, one of the explanations why she

1 looked like she was doing better in testing that was done in  
2 '86 rather than testing that was done in 2009 and 2010.

3 Q In fact, she's been treated by Dr. Leppik at the  
4 University of Minnesota Medical Center in their epilepsy  
5 center from very early after the shooting and the hijacking  
6 until present; is that correct?

7 A That's correct.

8 Q And you contribute, if I heard your last testimony right,  
9 those seizures that she suffered, including the grand mal  
10 seizures about which her husband just testified to the Court,  
11 you contribute those seizures to additional brain difficulties  
12 as a result of the seizures; is that correct?

13 A There's about three parts to that question, if I can get  
14 them in turn.

15 Q Please.

16 A The first one is, she was also having non-epileptogenic  
17 seizures, so-called pseudo-seizures, on top of what bona fide  
18 and documented seizures she was having. Those pseudo-seizures  
19 are frequently interpreted as being of physiologic origin or  
20 driven by psychologic stressors. And it's reasonable that  
21 both her neurogenic, neurological-caused, and psychogenic,  
22 psychiatrically-caused seizures would have stemmed from the  
23 same event, which was the frightening and injurious results of  
24 her shooting and its aftermath. That's one.

25 Secondly, her seizures could have been -- certainly



1 were caused by her penetrating missile wound. Penetrating  
2 missile wounds cause seizures in much greater frequency than  
3 head injuries without penetration of the cranial vault or of  
4 the brain matter or associated seizures.

5           However, the more seizures she's had, then the more  
6 likely her brain was to have been further injured. So her  
7 injury on the EgyptAir flight caused her brain injury and  
8 caused her seizures, but those seizures caused additional  
9 brain injury over time.

10       Q    Thank you. You drew various diagnostic conclusions as a  
11 result of your interview of Jackie, review of her records and  
12 the testing that you did; is that correct?

13       A    That is correct.

14       Q    Would you share those diagnoses with the Court.

15       A    It was my opinion that she exhibits cognitive and  
16 emotional consequences of her brain injury. Even after  
17 discounting her 2009 evaluation that was probably invalidated  
18 by acute emotional distress and invariable test-taking effort,  
19 my evaluation suggested that a degree of deterioration had  
20 occurred since Ms. Pflug's initial examination in 1986, and I  
21 attributed that to her ill-controlled seizures immediately  
22 after that.

23           I found her to be of average to low average  
24 intelligence with roughly commensurate academic achievement  
25 skills. And as I said, there were noticeable deficits in

1 elements of language, spatial, memory, learning, attention and  
2 executive reasoning skills. Performance was worse than was  
3 the case in '86 but better than in 2009.

4 Psychological testing was unexpectedly free of  
5 evidence of significant emotional disturbance, particularly  
6 that associated with PTSD, such as anxious arousal,  
7 dissociative experiences and intrusive ideation were endorsed.

8 However, Ms. Pflug's approach to testing was to deny  
9 or minimize emotional distress, more so than she denied or  
10 minimized cognitive distress, and that may have attenuated the  
11 clinical picture.

12 Q In the diagnosis section on page 4 at the bottom, you  
13 have listed a number of things. Would you explain each to the  
14 Court, please.

15 A Sure. I believe Ms. Pflug has a post-traumatic stress  
16 disorder, residual, mild. I believe she has a cognitive  
17 disorder, not otherwise specified attributable to her brain  
18 injury and its aftermath of mild to moderate severity. I do  
19 not believe she warranted a developmental or personality  
20 disorder diagnosis on Axis II.

21 Q And keep going, please, on the diagnosis.

22 A The Axis III, which is the medical factors, includes the  
23 penetrating missile wound sustained in the November 1985  
24 assault, and, of course, the seizure disorder that followed as  
25 well as colon cancer reportedly in remission.

1           I thought that there was a history of occupational  
2 problems secondary to her injury, and Axis V, which is ongoing  
3 disability was moderate by history and minimal to mild by her  
4 report at present.

5       Q    You earlier testified this morning about the five prongs  
6 in relation to your expertise involved in post-traumatic  
7 stress disorder. You indicated that the experience must be  
8 rare, and for Jackie Pflug, was this rare?

9       A    Absolutely.

10       Q    You indicated it has to be threatening, and was it  
11 threatening and indeed life-threatening?

12       A    By all reports.

13       Q    Horrible?

14       A    Certainly.

15       Q    It had to be an imminent threat?

16       A    Yes, sir.

17       Q    Directly experienced?

18       A    Very directly.

19       Q    In relation to post-traumatic stress disorder, explain to  
20 the Court, if you would, also, and put it into larger context  
21 of Jackie's ability -- Jackie's deficits in life from the  
22 experience of being hijacked, moved around, watching the  
23 Israeli women take bullets in the brain, watching Patrick  
24 Scott Baker take a bullet in the brain and being shoved off  
25 and brought back and pushed down again, then watching Scarlett

1 Rogenkamp, the second American executed there, and then Jackie  
2 waiting an additional prolonged period of time knowing, as an  
3 American and with her hands tied, she was next, explain to the  
4 Court your assessment, evaluation and opinions, Doctor, as to  
5 the impact of that experience on Jackie's life.

6 A You're asking the wrong question.

7 Q Please correct me.

8 A The question should be, why doesn't she manifest more of  
9 a post-traumatic stress disorder than she appears to? As I've  
10 already discussed, individuals cope in different ways,  
11 Mr. Baker's solution to attempting to deal with the avoidance  
12 of post-traumatic imagery and post-traumatic experiences was  
13 to leave, to leave not just -- to leave even those individuals  
14 who he cared for who were still a reminder of what he'd  
15 experienced.

16 In Ms. Pflug's case, her solution has been to engage  
17 in a life that essentially has focused on rehearsing and  
18 restating the events in question as a motivational speaker and  
19 as an author. And she has done nearly the opposite of what  
20 would have been advised with regards to her attempts to cope  
21 with the stimuli in question, which is that she has put  
22 herself before the public and essentially restated her story.

23 I think that that's been therapeutic for her in that  
24 it has given her her own level of mastery over the material.  
25 If you're always talking about it, you can't be surprised by

1 it. If you develop a litany for dealing with it, then you  
2 can't -- then you can set the occasion for how you deal with  
3 the post-traumatic imaginary.

4           However, just as if Mr. Baker would, I think, have  
5 been at significant risk if he'd come back from that boat too  
6 soon to deal with these issues before he was ready, I don't  
7 know that Ms. Pflug has shown that she can deal with these  
8 issues other than to keep rehearsing them, other than to deal  
9 with them almost as a liturgy, rather than to put them behind  
10 her. She's done the exact opposite of that.

11           I've heard of it but not seen it in others. You see  
12 it in the P.O.W community some. Folks who -- and to a lesser  
13 degree you see it in those guys who can't get past what  
14 happened to them other than to tell the story again and again  
15 in bar after bar.

16           But this is, I think, why we're not seeing more  
17 post-traumatic symptomatology than I would have expected, and  
18 that is that Ms. Pflug has formed a life in which she's  
19 essentially always working her therapy with regard to the  
20 post-traumatic events.

21       Q   And on page 5, in the last sentence of the conclusions,  
22 you used the words of, That said, quote, she cannot move past  
23 the telling of the story, lest it intrude upon her  
24 consciousness and dreams in a more insidious and destructive  
25 manner. And is that your opinion?

1 A Maybe more poetic than I'm usually inclined towards, but  
2 yeah, that is. I do think that's what's going on here, even  
3 in the course of the interview. Once Ms. Pflug got going, it  
4 was hard to divert her. It's one of the reasons why I asked  
5 that she not be here now. Some of this may be hard to hear,  
6 but she -- the only way she can deal with this material seems  
7 to be on her own terms.

8 Q So the motivational speaking she does is --

9 A I think the motivational speaking she does, while at some  
10 level well-intended, is also -- is at some -- is also designed  
11 to give her control over her story and indulge in her need to  
12 rehearse it in a very particular way.

13 Q And the telling of the story is in exchange for dealing  
14 with the real issues; is that correct?

15 A The telling of the story controls the anxiety. If the  
16 story is told to her rather than told by her, I suspect there  
17 would be consequences.

18 Q And that, too, as you said, is her escape; is that  
19 correct?

20 A Again, I'm actively not using the word "escape." I'm not  
21 exactly sure that's what I would have wanted to say.

22 Q What word would you use?

23 A Her way of controlling and in a controlled manner  
24 dissipating her anxiety.

25 Q Thank you. I only have two other things.

1           In page 5 of your Exhibit 56 in evidence, in the  
2 second paragraph, your first sentence in that second paragraph  
3 says, (reading) I do not believe that Ms. Pflug currently has  
4 the cognitive or emotional resources to return to the  
5 classroom at this time, even were she motivated to do so. In  
6 this respect, her teaching career was permanently derailed by  
7 her brain injury and its aftermath.

8           And is that your professional opinion?

9     A     It is.

10    Q     Are there any -- last point is, are there any additional  
11 opinions, conclusions, observations for the Court about this  
12 person who suffered such a traumatic injury that you would  
13 like to share with the Court today?

14    A     More so than Mr. Baker, I actually have some concerns  
15 about Ms. Pflug's risk for a reoccurrence of PTSD-related  
16 symptoms in the aftermath of this hearing and these events.  
17 If she -- she has intermittently engaged the services of a  
18 psychologist in the past. This would probably be a good time  
19 to reconnect.

20    Q     So you believe just the telling of the story in this  
21 context may well lead to the future deterioration you fear as  
22 it relates to post-traumatic stress disorder?

23    A     It's not just the telling of the story, but hearing it  
24 told. It's not just her control of the information, how it  
25 comes out and how it makes her feel, but being subject to it

1 from others.

2 Q Thank you. Any further opinion?

3 A Not that come immediately to mind.

4 MR. HEIDEMAN: Thank you, Your Honor.

5 THE COURT: Dr. Spector.

6 THE WITNESS: Yes, sir.

7 THE COURT: I've been married to a teacher for 40  
8 years. I teach. My son's a teacher. Teachers always amaze  
9 me in their organizational ability. My wife can tell you  
10 today what the children will be doing a month from today on a  
11 given day.

12 THE WITNESS: Yes, sir.

13 THE COURT: It appears to me that would be almost  
14 impossible for her. I organize lesson plans. The kids are  
15 here at 9:15, then they go here at 11:15 and they go here at  
16 2:00 o'clock. Am I right in that supposition?

17 THE WITNESS: I also have a teacher in the family,  
18 and he was not the most organized young adult until  
19 circumstances required. And with an intact brain, it's a  
20 challenge. I think that would be a tremendous problem,  
21 particularly in a special ed classroom where there are  
22 multiple children and multiple curricula that one needs to  
23 juggle at any one point in time.

24 THE COURT: Yeah. And this may explain what seemed  
25 to me the cruel complaints by the parents when she returned,



1 and having listened to you, I think I understand that better.  
2 It would be very difficult for a parent to handle her as a  
3 teacher of any child, let alone a child who's also suffering  
4 from learning disabilities.

5 THE WITNESS: I think that's true. I can also see  
6 her as a teacher being scapegoated among other teachers, the  
7 teacher who's always late with lesson plans, who never is --  
8 who always seems a little bit scattered and behind the curve,  
9 who doesn't have the wherewithal to help in other activities  
10 because she's always catching up, and the teacher who always  
11 seems to lose control rather than exert control when things  
12 really start to fly.

13 THE COURT: Thank you very much, Doctor.

14 THE WITNESS: Yes, sir.

15 MR. HEIDEMAN: Thank you, Doctor.

16 THE COURT: Don't get a speeding ticket on your way  
17 back to Baltimore. I can't do anything about that.

18 THE WITNESS: I hear you, sir.

19 THE COURT: Yes.

20 MR. HEIDEMAN: May it please the Court, from a  
21 scheduling point of view, we would like to suggest to the  
22 Court that this might be a good time for the lunch break.

23 THE COURT: Okay.

24 MR. HEIDEMAN: We all worked hard the last couple of  
25 days, and I want to apologize to the Court if each day I went

1 right up to that 5:30, shall we say, beyond the routine limit,  
2 but I knew that we -- I know that we have a lot we've all  
3 wanted to do, and I thank the Court for its time in allocating  
4 this week.

5 Two things. First, we resume, I believe, with a  
6 schedule at 1:30 with the next witness, which will be by video  
7 link here in this courtroom at 1:30, and I understand we are  
8 continuing for the rest of today and tomorrow in this  
9 courtroom because of the video matters.

10 With the Court's permission, as there are break  
11 times between those video-linked testimony -- live  
12 testimonies, I will either defer to the Court, we can either  
13 take recesses, or I can use some of that time to put in some  
14 evidence that may be short and easy in order to complete.

15 And the last point I wanted to share with the Court  
16 is we're right on schedule, right on schedule as we had  
17 anticipated it. I did tell the Court at the last status  
18 conference pretrial -- at the final pretrial that I was  
19 hopeful we might get done in four days rather than five, and  
20 of course we started at 1:45 on Monday. I just wanted, for  
21 scheduling purposes, to let the Court know this afternoon I  
22 have no anticipation that we need to go as late as we have,  
23 and we'll recess whenever the Court would like today.

24 THE COURT: You think we could recess at 4:35?

25 MR. HEIDEMAN: No question. As soon as that one

1 deposition -- video deposition is done, I don't know if there  
2 will be technical difficulties. It's at 3:45. So certainly  
3 4:30, 4:45, we'll be done today.

4 As it relates to tomorrow, I anticipate it will be a  
5 full day and certainly, for the Court's scheduling purposes, I  
6 do not anticipate we would be more than a half day on Friday.  
7 The Court, in my view, should be free for other things, and if  
8 I can get it done even faster, I'll keep --

9 THE COURT: Take your time. It's okay. I've got a  
10 train ticket at 6:05 on Friday night, so until then, I'm all  
11 yours.

12 MR. HEIDEMAN: All right. Thank you very much, Your  
13 Honor.

14 THE COURT: Good. 1:30 back here at the -- to see  
15 the video. Thank you very much.

16 Thank you, Dr. Spector. It was a pleasure meeting  
17 you, sir.

18 THE WITNESS: Thank you, Your Honor.

19 (A LUNCH RECESS WAS TAKEN.)

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

22 THE COURT: All right.

23 MS. KALIK: Okay. Plaintiffs will call Craig Baker.

24 THE COURT: Thank you.

25 (WITNESS SWORN BY THE DEPUTY CLERK.)

1 THE DEPUTY CLERK: Thank you.

2 CRAIG BAKER,

3 having been duly sworn, testified through video conference, as  
4 follows:

5 DIRECT EXAMINATION

6 BY MS. KALIK:

7 Q Thank you, Mr. Baker. I'm going to ask you to speak  
8 loudly and slowly so that the court reporter here in our  
9 courtroom can get everything that you're saying, okay.

10 A Okay.

11 Q Can you please state your full name for the record.

12 A Craig Carnahan Baker.

13 Q And could you spell your middle name.

14 A C-a-r-n-a-h-a-n.

15 Q Thank you. And what is your address, Mr. Baker?

16 A 2009 29th Place, Anacortes, Washington 98221.

17 Q How long have you lived at that address?

18 A Approximately three-and-a-half years.

19 Q Now, Mr. Baker, do you have with you today some documents  
20 which my office sent to you prior to your appearing to give  
21 your testimony?

22 A I do.

23 Q Okay. Can you take out the exhibit that is marked  
24 Exhibit No. 60?

25 A Yes.

1 Q And can you identify for the Court what Exhibit 60 is.

2 A That is a certified birth certificate from Klickitat  
3 County.

4 Q Could you say again what county.

5 A Klickitat County.

6 Q And is Klickitat spelled K-l-i-c-k-i-t-a-t?

7 A Yes.

8 Q Thank you. And this is your birth certificate; is that  
9 correct?

10 A Yes.

11 Q Who is your mother?

12 A Lois Baker.

13 Q And on this birth certificate, does it say that her  
14 maiden name was Lois E. Jones?

15 A Yes, that's correct.

16 Q And what is your father's name?

17 A Jerry Baker.

18 MS. KALIK: Okay. And Plaintiffs will now move  
19 Exhibit 60 into the record.

20 THE COURT: Admitted.

21 (PLAINTIFF'S EXHIBIT 60 ADMITTED.)

22 MS. KALIK: Thank you.

23 Q (BY MS. KALIK) Now, if you could look, Mr. Baker, at the  
24 exhibit that's been marked Exhibit No. 61.

25 A Yes.

1 Q And could you identify for the Court what Exhibit 61 is?

2 A That is a copy of my passport.

3 Q And what nationality does it show that your passport is.

4 A American, U.S.A.

5 Q And since your birth in Klickitat County, Washington,  
6 have you remained a United States citizen?

7 A Yes.

8 MS. KALIK: Okay. I would now move Exhibit 61 into  
9 evidence.

10 THE COURT: It will be admitted.

11 (PLAINTIFF'S EXHIBIT 61 ADMITTED.)

12 MS. KALIK: Thank you.

13 Q (BY MS. KALIK) Mr. Baker, where did you go to high  
14 school?

15 A Columbia High School in White Salmon, Washington.

16 Q And did you grow up in White Salmon, Washington?

17 A Yes.

18 Q And did you attend any schooling after high school?

19 A Yes, I graduated from Western Washington University.

20 Q That was Western Washington University?

21 A Yes. In Bellingham, Washington.

22 Q In Bellingham, Washington, is that what you said, sir?

23 A Yes.

24 Q And could you spell "Bellingham."

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

1 Q Thank you, sir. Now, you mentioned that your parents  
2 were -- are Lois and Jerry Baker; is that correct?

3 A That is correct.

4 Q And are your parents still alive today?

5 A Yes, they are.

6 Q Where do they live?

7 A They're in White Salmon, Washington.

8 Q Thank you. And did your parents have any children other  
9 than yourself?

10 A Yes.

11 Q And could you please name your siblings from oldest to  
12 youngest.

13 A Yes, I have a brother David Brian Baker who is now  
14 deceased. I have a sister, Stacie Ann Baker and a brother  
15 Patrick Scott Baker.

16 Q Okay. Do you have their -- what's been marked as Exhibit  
17 No. 62?

18 A Yes.

19 Q And could you identify for the Court what Exhibit 62 is.

20 A I believe that's a birth certificate. It's hard to read  
21 it on this copy. I think it's a birth certificate of my  
22 brother David.

23 Q That would be David Baker?

24 A Yes.

25 Q And what was his date of birth?

1 A December 31<sup>st</sup>, 1954.

2 Q Thank you. And does it show where he was born?

3 A He was born in White Salmon, Washington.

4 Q Thank you.

5 MS. KALIK: I will now move David Baker's birth  
6 certificate into the record.

7 THE COURT: What number is it, Counsel?

8 MS. KALIK: I'm sorry, Exhibit No. 62.

9 THE COURT: It will be admitted.

10 (PLAINTIFF'S EXHIBIT 62 ADMITTED.)

11 MS. KALIK: Thank you.

12 Q (BY MS. KALIK) Now, you said that your brother David  
13 Baker passed away; is that correct?

14 A That is correct.

15 Q When did your brother David Baker pass away?

16 A On July 23<sup>rd</sup>, 1991.

17 Q And, I'm sorry, you said 1991?

18 A Yes.

19 Q And where was he living at the time?

20 A Vancouver, Washington.

21 Q Thank you. Was your brother a United States citizen  
22 during his lifetime?

23 A Yes.

24 Q And what nationality does David's death certificate  
25 denote that he possessed?



1 A American, U.S.A.

2 Q Thank you.

3 MS. KALIK: I would now move Plaintiff's Exhibit 62  
4 into the record.

5 THE COURT: It will be admitted.

6 MS. KALIK: Thank you. I'm sorry, that was 63. I'm  
7 sorry. I would like to move 63 in.

8 THE COURT: It will be admitted.

9 (PLAINTIFF'S EXHIBIT 63 ADMITTED.)

10 MS. KALIK: Thank you.

11 Q (BY MS. KALIK) Now, do you have the exhibit that's mark  
12 Plaintiff's Exhibit 64.

13 A Yes.

14 Q Okay. And could you tell the Court what Exhibit 64 is?

15 A Yes. It's a letter from the administration of David's  
16 estate.

17 Q And it names you as the administrator of David's estate;  
18 is that correct?

19 A Yes.

20 Q And what state issued David -- issued the letters of  
21 administration?

22 A Washington State.

23 Q And are you currently still the administrator of your  
24 brother's estate?

25 A Yes.

1 MS. KALIK: We'd now like to move Exhibit 64 into  
2 the record.

3 THE COURT: It will be admitted.

4 (PLAINTIFF'S EXHIBIT 64 ADMITTED.)

5 MS. KALIK: Thank you.

6 Q (BY MS. KALIK) Now, you mentioned that you had an older  
7 brother Patrick; is that correct?

8 A Yes.

9 Q And how much older was Patrick than you?

10 A I think around 15 months.

11 Q And growing up, were the two of you close?

12 A Yes. Yes, very close.

13 Q Was your brother Patrick injured during a terrorist  
14 incident?

15 A Yes.

16 Q And what incident would that be?

17 A Hijacking on a plane from Egypt -- sorry, from Athens to  
18 Egypt.

19 Q That would be the hijacking of EgyptAir Flight 648; is  
20 that correct?

21 A That's correct.

22 Q Now, when you were growing up, what was your father's  
23 career?

24 A He's a school teacher.

25 Q Do you know for how long he taught?

1 A 29 years.

2 Q And what was your mother's career?

3 A She was a laboratory technician for approximately 25  
4 years, and then she started working for the school doing grant  
5 work and things for the school in student grant programs and  
6 things.

7 Q And is she still doing that today?

8 A No, she's retired.

9 Q Now, what was your brother David's relationship like with  
10 your father and mother when you-all were growing up?

11 A We were all very close.

12 Q Can you describe any particular memories of your family  
13 when you-all were growing up?

14 A Sure. I mean, my -- probably my best memories are always  
15 around Christmas or holidays because we always had holidays  
16 together, and it was always a really fun family time.

17 Q Would the family all gather together?

18 A Yes.

19 Q Were you-all living in the same city at that time?

20 A When I grew up, yes, but we'd still get together even  
21 after school, and we all went away.

22 Q And you'd come home together?

23 A Yes.

24 Q And how would you describe your relationship with your  
25 brother Patrick?

1 A Great. I've always had a really good relationship with  
2 my brother.

3 Q And does that continue today?

4 A Yes, it does.

5 Q Did you celebrate holidays with Patrick?

6 A Yes.

7 Q Now, did Patrick go to and graduate from college?

8 A Yes, he did.

9 Q Where did he go to college?

10 A Washington State University.

11 Q And while he was in college, did you communicate with  
12 your older brother?

13 A Yes, I actually went over there many times.

14 Q And -- I'm sorry, go ahead.

15 A I went over and visited him many times and went to see  
16 him at Washington State University.

17 Q Could you spell that?

18 A Washington State University?

19 Q No, the word before "Washington State University." I  
20 think you said "wet" -- I couldn't understand what you said.

21 A I went to visit him.

22 Q Oh, thank you. And what did the two of you do when you  
23 would go and visit him?

24 A You know, just hang out and do the college thing. We  
25 went out to some bars and played football, that kind of stuff.

1 Q And did you communicate with him by phone?

2 A Yes.

3 Q Did there come a time when you left your parents' house?

4 A Yes.

5 Q And where were -- where did you go?

6 A I went to the school in Bellingham, Washington.

7 Q And were you still communicating with your brother  
8 Patrick at that time?

9 A Yes.

10 Q And do you know whether your brother David would be in  
11 communication with Patrick during this time?

12 A Yes.

13 Q How did they communicate?

14 A Call him monthly, but then a trip down to my parents, we  
15 always stopped and -- I would always stop at my brother's  
16 house in Vancouver on the way.

17 Q Your brother was living where at that time, your brother  
18 David?

19 A Vancouver, Washington.

20 Q Thank you. Now, how would you describe Patrick prior to  
21 his involvement as a victim of the hijacking of EgyptAir  
22 Flight 468?

23 A Pat's always been a very laid back, easygoing person with  
24 a huge sense of adventure, meaning he liked to go out and  
25 travel and learn new things, and he used to do different

1 hikings and things like that.

2 Q So, where was your brother in late November 1985?

3 A He was in Athens. He had just gotten through traveling,  
4 I believe, in Turkey and a few areas with some friends and was  
5 on his way to Thailand, I believe.

6 Q I'm sorry, he was on his way where?

7 A I believe he was -- he was going through Egypt, and I  
8 think he was going to go eventually go to Thailand.

9 Q And he was traveling for pleasure?

10 A Yes.

11 Q Was Patrick always interested in travel?

12 A Pretty much, yes. We all have. Our whole family is kind  
13 of into that.

14 Q How did Patrick become so interested in travel?

15 A I can't really speak very much on -- I probably feel for  
16 the same reason I am, that my dad is a history and math major,  
17 and we visited a lot of historical sites when I grew up, and  
18 we liked to go visit, you know, all sorts of historical sites  
19 and learn different cultures and things.

20 Q Do you know who Patrick was traveling with at that time?

21 A On this flight, he was alone, but before that, he had  
22 been traveling with actually some friends of mine from  
23 college.

24 Q Did you introduce him to those friends?

25 A Yes, I did.

1 Q And where had they traveled together?

2 A I believe they traveled through Turkey -- Turkey, Greece  
3 and I don't know where else. Maybe -- I don't really remember  
4 at that time.

5 Q But they had been in Turkey together?

6 A I believe that was the trip, yes.

7 Q And did they go on with him to Athens?

8 A No, I believe Athens was where they split up.

9 Q Now, do you recall where you were living in November --  
10 on November 23<sup>rd</sup>, 1985?

11 A Yes, I was living in Kirkland, Washington.

12 Q Could you spell that?

13 A K-i-r-k-l-a-n-d.

14 Q And do you recall where your brother David was living on  
15 November 23<sup>rd</sup>, 1985?

16 A I believe he was in Vancouver, Washington still.

17 Q What were you doing in Kirkland?

18 A I was living with -- in an apartment with some friends  
19 and working in downtown Seattle.

20 Q And what was your job in downtown Seattle?

21 A I was a computer specialist for a real estate  
22 association.

23 Q And if you recall, what was your date -- your brother  
24 David doing while he was living in Vancouver?

25 A He was working for a plumbing warehouse wholesaler

1 company in the warehouse.

2 Q How did you learn of the hijacking of EgyptAir Flight  
3 648?

4 A My father phoned me.

5 Q And what did your father say when he phoned you?

6 A That Pat was in a hijacking, was shot in the head, and  
7 they knew he was alive, but they didn't know exactly what  
8 condition he was in.

9 Q Do you know how your parents learned of the hijacking?

10 A I believe someone from the State Department called them.

11 Q Did you know prior that your brother was scheduled to be  
12 on EgyptAir Flight 648?

13 A I didn't know the exact flight. I knew he was flying --  
14 I knew he was in Athens. I knew he was flying from Athens to  
15 Egypt, but I didn't know exactly what flight.

16 Q So when you learned that Patrick's flight had been  
17 hijacked, how did you feel?

18 A Terrified.

19 Q And did you have any information about your brother's  
20 condition?

21 A No.

22 Q Do you know how your brother David learned of the  
23 hijacking of EgyptAir Flight 648?

24 A My father phoned him.

25 Q And what was your father -- did your father have any



1 instructions as for you or your brother?

2 A No. They had no way to get through. They tried to  
3 telephone but nobody could get through because the lines were  
4 all busy.

5 Q Did you hear any conflicting reports concerning your  
6 brother Patrick?

7 A At that time, I mean, immediately after, we didn't hear  
8 any reports about his condition. We just knew he was hurt and  
9 in the hospital until about a day or so later.

10 Q And what did you learn a day or so later?

11 A I actually stayed up all night and finally got ahold of  
12 him on the telephone in the middle of our night.

13 Q And what did he say?

14 A That he was okay. That he was -- there was so many --  
15 there were so many injuries that they pretty much let him lay  
16 on a pillow because he was the least injured of all of them,  
17 but he was fine, and he was kind of waiting until he got  
18 released.

19 Q Now, how did your brother David react to hearing reports  
20 of the hijacking?

21 A We were all very scared because we didn't know exactly  
22 about his condition.

23 Q And what did you-all do next?

24 A We all phoned each other a lot. My parents -- I couldn't  
25 even get ahold of my parents at home, so I had to call our

1 neighbors to get ahold of my parents. But we just kept in  
2 phone contact until we found out -- until we found out more  
3 about what was going on with Pat.

4 Q And did there come a time when you found out that Patrick  
5 was going to be coming home?

6 A Yes, he phoned me.

7 Q And what did he say?

8 A He had -- he told me when he was coming in, and he talked  
9 to the media and gave them a 24-hour head start before they  
10 would wire that he was going home. And so I picked him up  
11 from the airport and brought him to my house.

12 Q And you say he got a 24-hour head start. Why did he need  
13 a head start?

14 A Well, that's the story he gave us, because the media was  
15 hounding everybody so much, and he didn't really want to talk  
16 to anyone at that time.

17 Q Was the media hounding members of your family as well?

18 A Absolutely.

19 Q And were you getting calls?

20 A Yes, a lot of calls.

21 Q Were your parents getting calls?

22 A Yes.

23 Q And did your brother David get calls?

24 A Yes.

25 Q Did any of you speak to the media at that time?

1 A My parents did some, and I did a couple of times, yeah, a  
2 few times actually.

3 Q Do you know how long it took for Patrick to come back to  
4 the United States following the hijacking?

5 A I believe he got back on December 30<sup>th</sup> -- sorry,  
6 November 30<sup>th</sup>, so about a week.

7 Q And you said you picked him up at the airport; is that  
8 correct?

9 A Yes.

10 Q And what was your brother like when you picked him up at  
11 the airport?

12 A He was the same old Pat for the most part, but I knew  
13 something was bothering him. And he stayed like that for  
14 about a week and actually he definitely was having nightmares.

15 Q I'm sorry, you said he definitely had nightmares?

16 A Yes, I could hear him groaning at night.

17 Q Was there anything else that you noticed about him?

18 A Yeah, he would get very quiet, very quiet and not want to  
19 talk, you know, at certain times and things, which is not  
20 necessarily like him.

21 Q Prior to the hijacking, had he been very talkative?

22 A Very open with people, yeah. I mean, yeah, it's not like  
23 him to kind of clam up.

24 Q Did he ever open up to you about the hijacking?

25 A Yes.

1 Q And what did he say then?

2 A For the first few weeks afterwards, he would have  
3 nightmares of violent attacks. There was a lot of blood and  
4 things, people attacking him. I'm guessing that's part of  
5 what I heard at night when he was at my house.

6 He would get very, very frustrated about that, said  
7 he took a hike and he had hit a tree with a stick once because  
8 he was so frustrated.

9 Q Now, he was staying with you, that's correct, right?

10 A That's correct.

11 Q Why was he staying with you at that time?

12 A I don't -- my parents were the ones getting most of the  
13 calls from the media, and I don't think he wanted to go down  
14 there and talk to anybody at that time. I think probably he  
15 was -- I don't even know if he wanted to talk to my parents at  
16 that time. And he and I were very close, so I think he felt  
17 more comfortable at my house.

18 Q Did he eventually go to your parents' house?

19 A He did.

20 Q And when was that?

21 A About a week after that, I believe around December 8<sup>th</sup>  
22 or 9<sup>th</sup>.

23 Q And how long did he visit with your parents?

24 A I think he was there about a week, and then he took off  
25 and went and stayed at some other friend's to get away from

1 everything again.

2 Q Was it difficult for him to be around people?

3 A Yes. I think it was difficult for him to be here around  
4 people who would -- wanted to talk about things, because I  
5 don't think he was ready to talk about things.

6 Q And after he went and stayed with friends, where did he  
7 go next, if you recall?

8 A He went back to my parents for a short time, and then  
9 came back to my house.

10 Q Now, you mentioned that he would have nightmares when he  
11 was staying at your house; is that correct?

12 A That is correct.

13 Q And do you recall him ever having problems sleeping  
14 before the hijacking?

15 A No. No, quite the opposite. He was a big sleeper.

16 Q And by "big sleeper," what do you mean?

17 A I mean that the alarm clock would go off a foot from his  
18 bed, and I would have to go turn it off because he wouldn't  
19 hear it.

20 Q And after the hijacking, how was this different?

21 A Well, for a long time, I mean for a long time, I don't  
22 know, I can't recall when it ended, but for a long time, he  
23 would not -- he would definitely be restless when he slept,  
24 and I could hear him tossing and turning for at least the  
25 first week. And then when he was back at my house, I could

1 actually hear moaning, unnh, at night.

2 Q How long did Patrick stay with you in this second time  
3 that he was staying at your house?

4 A About two or three months.

5 Q And was he able to work at that time?

6 A Yes, he was working on fishing boats to go to Alaska.

7 Q And then, after that, where did he go next?

8 A After Alaska?

9 Q Uh-huh.

10 A He went to Alaska on a fishing boat, so when he came  
11 back, I believe he traveled again.

12 Q And do you know where he went?

13 A I believe -- I think he actually went to Thailand after  
14 that. I could be mistaken.

15 Q Okay. And are you still in contact with Patrick today?

16 A Yes.

17 Q And with your sister Stacie today?

18 A Yes.

19 Q And does your family still have get-togethers?

20 A Yes. In fact, we have a family reunion in about two  
21 weeks or a week.

22 Q And how often would you say your family gets together?

23 A We're all just very busy, but we try and have a family  
24 reunion every year, we draw names, and we try to get together  
25 on holidays still.

1 Q All right. And in reflecting back, how has your  
2 brother's involvement as being a victim in the hijacking  
3 affected you?

4 A I mean, I would say we're probably all fairly healed now,  
5 but it made me not want to travel so much at that time, which  
6 I love traveling, too, and I've done a bit of traveling  
7 myself. And it's scary for him. I had never seen him have  
8 nightmares or be quite -- I've never seen him react that way.

9 Q Do you know if your brother still suffers from nightmares  
10 today?

11 A I don't know that. I mean, not that I know of, but I  
12 don't really know that. I haven't been -- he's been married  
13 and I haven't been living with him for a long time, so...

14 Q And you said you were sort of afraid to travel  
15 afterwards; is that correct?

16 A Yes.

17 Q And does that still -- fear come across when you get  
18 ready to travel?

19 A No.

20 Q Is there anything further that you would like the judge  
21 to know regarding how this has affected you or your family?

22 A No. I mean, we're not a family that, you know, blows off  
23 things. We probably always move forward. But at that time,  
24 it was very terrifying, especially not knowing his condition  
25 and things. So mostly around that incident or that time

1 period, that was the most -- you know, the most grief and the  
2 most terrifying.

3 Q Thank you, Mr. Baker.

4 MS. KALIK: Judge, did you have anything?

5 THE COURT: No. Thank you very much. Thank you,  
6 Mr. Baker.

7 MS. KALIK: All right. Then we'll be hanging up  
8 here with you.

9 THE WITNESS: Thank you.

10 MS. KALIK: Now we have to connect to the other as  
11 well.

12 (OFF-THE-RECORD DISCUSSION.)

13 MS. KALIK: Can you hear me, Mrs. Baker?

14 THE WITNESS: Yes, I can.

15 MS. KALIK: Okay. We're going to begin. The  
16 Plaintiffs will now call Lois Baker.

17 THE DEPUTY CLERK: Okay. Ma'am, would you raise  
18 your right hand.

19 (WITNESS SWORN BY THE DEPUTY CLERK.)

20 LOIS BAKER,  
21 having been duly sworn, testified, through video conference,  
22 as follows:

23 DIRECT EXAMINATION

24 BY MS. KALIK:

25 Q Good morning, Mrs. Baker.



1 A Good morning.

2 Q Can you speak a little bit louder. We're having a hard  
3 time picking you up. Hold on one moment. Can you speak now?

4 A Yes, I can. Can you hear me?

5 Q Yes. Thank you, Mrs. Baker. We'll ask you to keep your  
6 voice up during this time so that the court reporter here in  
7 our courtroom in Washington, D.C. can hear and record  
8 everything that you say, okay?

9 A Yes.

10 Q Thank you. Can you state your full name for the record?

11 A Lois Elaine Baker.

12 Q And Mrs. Baker, what is your address?

13 A 1165 Northwest Baker Drive in White Salmon, Washington.

14 Q How long have you lived in White Salmon, Washington?

15 A Nearly 56 years.

16 Q And Mrs. Baker, do you have with you some documents that  
17 my office sent to you in advance of your testimony?

18 A Yes, I do.

19 Q Okay. I'll ask you to look at the document that's been  
20 marked Exhibit No. 65.

21 A All right.

22 Q Mrs. Baker, what is this document?

23 A This is my birth certificate.

24 Q And what does it show as your date of birth?

25 A December 29, 1929.

1 Q And where were you born, Mrs. Baker?

2 A I was born in Wakefield, Kansas.

3 MS. KALIK: Okay. Plaintiffs will now move Exhibit  
4 No. 65 into evidence.

5 THE COURT: It will be admitted.

6 (PLAINTIFF'S EXHIBIT 65 ADMITTED.)

7 Q (BY MS. KALIK) Now, you were born you say in Kansas; is  
8 that correct?

9 A Yes, I was born in Kansas. Clay Center. I said  
10 Wakefield, but it was Clay Center, Kansas.

11 Q Clay Center?

12 A Clay Center, Kansas, yes.

13 Q Thank you. Do you have Exhibit No. 66 there?

14 A I do.

15 Q And can you identify for the Court this document.

16 A Yes, this was my passport.

17 Q And which country issued this passport?

18 A United States of America.

19 Q And what nationality does your passport denote you  
20 possessing?

21 A I --

22 Q Are you an American citizen, ma'am?

23 A Yes, I am.

24 Q From the time of your birth until today, have you  
25 remained a United States citizen?

1 A Yes, I have.

2 MS. KALIK: Plaintiffs will now move Exhibit 66 into  
3 evidence.

4 THE COURT: It will be admitted. Thank you.

5 (PLAINTIFF'S EXHIBIT 66 ADMITTED.)

6 Q (BY MS. KALIK) Now, Mrs. Baker, we are not going to go  
7 over all of your schooling, but where did you go to high school?

8 A Wakefield, Kansas.

9 Q And did you attend any university or technical school?

10 A I graduated from Kansas State University in Manhattan,  
11 Kansas.

12 Q What was your degree at Kansas State University?

13 A That was a bachelor's in biological science.

14 Q And did you ever attend graduate school?

15 A Yes.

16 Q And what graduate school degree did you receive?

17 A That was University of Kansas in Morris, Kansas.

18 Actually, I went to school in Kansas City, Kansas. It was a  
19 medical school.

20 Q And what degree did you get?

21 A A master's in medical technology.

22 Q Did you work in the field of medical technology?

23 A Yes, I did.

24 Q What did you do?

25 A I -- well, I set up a lab my first year in Kansas City,

1 Kansas, but after that, I worked in the hospital in White  
2 Salmon, Washington, Skyline Hospital for 27 years.

3 Q When did you move to Washington?

4 A We moved to Washington in 1954.

5 Q And when you say "we," who do you refer to?

6 A My husband and I. That should have been 1953 instead of  
7 '54.

8 Q Thank you, Mrs. Baker. Now, you said your husband. Who  
9 is your husband?

10 A Jerry Brian Baker.

11 Q And are you still married to Jerry Brian Baker?

12 A Yes, I am.

13 Q How long have you been married?

14 A 59 years, I think it is.

15 Q 59 years, that's wonderful. When did you and Jerry move  
16 from -- did you meet Jerry while you were living in Kansas?

17 A Yes.

18 Q And what was he doing then?

19 A He was -- when I met him, he was going to college, but he  
20 taught the year after I met him.

21 Q Where did he teach?

22 A Where?

23 Q Yes, ma'am.

24 A Oh, it was a very small town called Hughsom [ph.],  
25 Kansas.

1 Q Could you spell "Hughsom, Kansas"?

2 A Well, I'm sorry, it wasn't Hughsom. I'm not sure I even  
3 remember the name of the town. I don't remember the name of  
4 the town where he taught for one year.

5 Q Okay. That's all right.

6 A He was teaching --

7 Q What was he teaching?

8 A He was teaching several subjects. It was a very small  
9 town, in high school.

10 Q In high school?

11 A He was teaching.

12 Q And when you were living in Kansas, did you and Jerry  
13 have any children together?

14 A No.

15 Q And then you said you moved to Washington state; is that  
16 correct?

17 A That's correct.

18 Q And what did you do once you moved to Washington state?

19 A My husband, for one year or two years, worked for a  
20 furniture store in Ellensburg, Washington, and I worked for  
21 the Pollution Control Division in Ellensburg, Washington only  
22 two years.

23 Q And following your work at the pollution control center,  
24 what did you do next?

25 A We had moved to White Salmon, Washington at that time,

1 and we worked in the laboratory at that time until I retired.

2 Q Now, did you and Jerry have any children together?

3 A Yes.

4 Q And what are your children's names and -- from oldest to  
5 youngest?

6 A David Brian Baker who is deceased, Patrick Scott Baker,  
7 Craig Carnahan Baker, and Stacie Ann Baker.

8 Q Thank you. And were all of your children born while you  
9 were living in White Salmon, Washington?

10 A Yes.

11 Q Now, your son Patrick Baker, he was injured during a  
12 terrorist incident; is that correct?

13 A That is correct.

14 Q And what incident would that be?

15 A That would have been a hijacking between -- he was flying  
16 from Athens to Cairo, ending up on Malta in the Mediterranean.

17 Q Thank you. Now, I'd like to go back to memories of your  
18 family when your children were growing up.

19 Can you please describe your memories of your son  
20 Patrick.

21 A Well, yes, he was an all-around boy. He got along with  
22 everybody, I think. He had his own thoughts about things.  
23 If -- he did not follow a crowd. He could be in that crowd  
24 but he still wouldn't follow everything that they were doing.  
25 He thought for himself. He was a strong reader, he loved to

1 read, and I think we probably instilled in all four of them  
2 the love of travel, because they've all traveled to foreign  
3 countries. He was involved in school and sports and picking  
4 all his -- and so forth.

5 Q Did you travel together as a family?

6 A No, we traveled after the family was grown.

7 Q And how would you describe your relationship with your  
8 son Patrick when he was growing up?

9 A We've always been a very close family, all of us, and he  
10 was very typical, very open, and I was very close to him as he  
11 was to the rest of his brothers and sisters.

12 Q Did you-all celebrate holidays together?

13 A We did, Christmas, Thanksgiving, sometimes Easter in the  
14 earlier days, and we celebrate reunions together to this day.  
15 We're going next week, in fact.

16 Q Would you describe Patrick as adventuresome?

17 A Very definitely.

18 Q And would you describe him as very open and talkative  
19 growing up?

20 A Most of the time. If we asked him any question, he would  
21 always answer it truthfully. He didn't lie a lot.

22 Q Now, did Patrick attend college?

23 A Yes, he did.

24 Q Where did Patrick attend?

25 A Washington State University.

1 Q And did Patrick graduate from college?

2 A Yes, he did.

3 Q With what degree?

4 A Bachelor's in biological science.

5 Q And that's the same degree that you had; is that correct?

6 A That is correct.

7 Q Did Patrick talk to you about what he intended to do with  
8 his bachelor's degree?

9 A Not really. It's become so specialized. With just a  
10 biological science degree, it is hard to find a place to work  
11 without some specialization.

12 Q But did he enjoy the sciences?

13 A Definitely. Yeah, one time he thought he might go ahead  
14 into cell biology, but he didn't.

15 Q Do you know what stopped him from going into cell  
16 biology?

17 A Just the idea that he -- I think by this time he had  
18 formed the idea in his mind that he wanted to travel, and he  
19 worked in the summertimes in order to save enough money to  
20 travel.

21 Q Now, once he moved to Washington State University, did  
22 you communicate with your son Patrick?

23 A Yes, two or three times a year, holidays and so forth.  
24 It was about 600 miles away, so we didn't see him real often.

25 Q Did you speak to him on the phone?



1 A Oh, yes, uh-huh.

2 Q And did you write letters to him?

3 A Occasionally.

4 Q And how frequently would you say you spoke with him on  
5 the phone?

6 A Oh, about probably once every two or three months, I  
7 would say.

8 Q Okay. Now, where was Patrick in late November 1985?

9 A In late November in 1985, he was in Athens, Greece.

10 Q Why was he in Athens, Greece?

11 A He was traveling. He was on his way from Athens to Cairo  
12 to catch another flight on to Bangkok.

13 Q And where were you living at this time?

14 A In White Salmon, Washington, the same address.

15 Q Do you recall what you were doing then?

16 A What I was doing at that time?

17 Q Yes, ma'am.

18 A Oh, yes. I had retired from the hospital, and I was an  
19 instructional assistant at the White Salmon Henkle Middle  
20 School.

21 Q How long did you teach at that middle school?

22 A Fifteen years.

23 Q Now, how did you learn that there had been a hijacking of  
24 EgyptAir Flight 648?

25 A We received a phone call from the State Department about

1 10:30 in the evening of -- I think it was the 23<sup>rd</sup> -- yes, it  
2 was the 23<sup>rd</sup> of November 1985.

3 Q Prior to receiving that phone call from the State  
4 Department, had you heard that there had been a hijacking?

5 A We did. We saw it on the news, the 6:00 o'clock news.

6 Q And did you know Patrick was on that plane?

7 A Not at that time.

8 Q Did you know that he was set to travel, though, that day  
9 to --

10 A Not necessarily, no, we didn't know when he was going to  
11 go on to Bangkok. We knew that that was his plan, but we  
12 didn't know what flight or anything or when he was going to be  
13 going.

14 Q And when the State Department called you, what did they  
15 say?

16 A They told us that a plane had been hijacked, that our son  
17 was on it, and that he had been shot. And then at that time,  
18 I think I broke in and said something like, "Oh, is he alive  
19 or dead?" I couldn't stop myself at that time. And -- but I  
20 should have waited for her to continue because she said, "He  
21 has been shot in the head, but he's in the hospital in  
22 Valletta."

23 Q And so you believed then at that time that he was alive?

24 A I had to believe that he was alive. I just -- it was  
25 such an upsetting time. We didn't know if he was really alive

1 or dead because there was so much upset in Malta. We did --  
2 the lady from the State Department did give us a number where  
3 we could contact him, and when we talked to him, he was so  
4 shocky (sic). That's when I realized that he was really still  
5 alive is when we actually talked to him.

6 Q So when you learned that Patrick's flight had been  
7 hijacked, how did that make you feel?

8 A Oh, several emotions. I wasn't sure whether that was the  
9 whole truth or -- I just didn't know how to feel at that time.  
10 It was -- I suppose scared, mainly, upset and apprehensive.

11 Q How long was it before you were able to speak to Patrick  
12 and get more information?

13 A We spoke to him the night of the 23<sup>rd</sup> when he was in  
14 the hospital, and we did get information, and that's when I  
15 began to feel a little better about it. He said he'd been  
16 shot in the head, but everything was -- and the first thing we  
17 asked him is, "Do you want us to come?" And he said no, not  
18 now, everything is so upset over here, he didn't think it  
19 would be a good idea.

20 Q And earlier you testified that he was shocky, is that  
21 what you said, ma'am?

22 A Yes, that is what I said. That first time we talked to  
23 him, he didn't sound like Patrick at all, he just couldn't --  
24 I don't know how to say this. He was really upset and had to  
25 think a minute for what he was saying and so forth, like they

1 do when they are shocked about a certain situation.

2 Q And how did your -- the family then react in the  
3 immediate days following the hijacking?

4 A Well, we were all upset. We did not -- well, we called  
5 Pat the following day and he was somewhat better and more  
6 coherent than he was the day before. And the whole family, of  
7 course, was upset about the whole situation, and I couldn't  
8 truly tell you their feelings because they were not living at  
9 home at that time. They were on their own.

10 Q And you're talking about your other children?

11 A Yes, all three of them. Of course, I called them on the  
12 23<sup>rd</sup> to let them know what had happened.

13 Q And what did you say when you called them?

14 A Probably that he had been in a hijacking and had been  
15 shot, about the same thing the State Department had told me,  
16 but he was all right. He was in the hospital in Valletta.  
17 But I didn't know much more than that at the time.

18 Q How long did it take for Patrick to come back to the  
19 United States after the hijacking incident?

20 A He -- it was kind of a topical shot, but we always  
21 wondered if he was really all right, but it wasn't very long.  
22 I think it was about four days before he came back to Seattle.  
23 I believe that was about what it was.

24 Q Do you remember when he returned from Malta?

25 A He went directly to his brother's house, his apartment,

1 who was living in Seattle. We didn't see him again then for  
2 about four days because he stayed at his brother's for that  
3 length of time.

4 Q Do you know why he stayed with his brother during that  
5 time?

6 A No, except I think he was still somewhat in the state of  
7 shock, probably, and he was just trying to get rid of the  
8 memories. He knew that if he came home, we would have  
9 probably asked him about it, and I fully understand him not  
10 wanting to come home for a few days.

11 Q Was there any media at your house contacting you?

12 A Yes, lots and lots of media.

13 Q And did you speak to the media?

14 A Yes, I talked to most of the media. Once in awhile my  
15 husband would take a call. There was the national media and  
16 the local media and plus many, many friends and relatives and  
17 so forth. This was just the media, yeah, we did speak to the  
18 media.

19 Q And do you know, was the media contacting your other  
20 children as well?

21 A Yes, they were. Even some of our relatives in Kansas  
22 they found. Pat's grandfather lived in Kansas, and they  
23 called him, and his aunt lived in Kansas, and they called her.

24 Q And did Patrick speak to the media?

25 A He did some, but he didn't like to do that. That just

1 isn't Patrick's personality who liked to speak to all these  
2 people, and it was just too soon afterwards I think that he  
3 didn't want to take phone calls.

4 Q Now, you said that he did, after four days or so, come to  
5 your house; is that correct?

6 A No, he went to his brother's house in Seattle and --  
7 about four days afterwards. He was at his brother's house for  
8 several days. I don't know just how long it was before he  
9 came down to White Salmon.

10 Q So then he did come down to White Salmon?

11 A Yes, uh-huh.

12 Q And what was Patrick like when he came to White Salmon  
13 immediately following the incident?

14 A Well, he really wasn't quite himself. He was -- didn't  
15 like loud sounds on the television. He didn't want to take  
16 the phone calls. He was very nervous, you know, about the  
17 whole thing. He couldn't sit still. Probably -- it was just  
18 not Pat. He was not -- he was easily upset about things,  
19 easily angered, easily angered about little things, which he  
20 had never been before.

21 Q In your previous testimony, you said he had been sort of  
22 open and willing to talk. Was he open and willing to talk  
23 with you when he returned?

24 A Not that much, and we didn't push him because we just  
25 didn't feel like he was ready to talk yet.

1 Q How long did Patrick stay with you in White Salmon at  
2 that time?

3 A I don't know the exact length of time. He spent -- he  
4 left fairly soon to go to a very good friend's home in New  
5 Mexico who was managing a ranch at that time. And I think it  
6 was just to get away, to get his thoughts collected and just  
7 get ahold of himself a little bit.

8 Q And then after he went away to New Mexico, where did he  
9 go next?

10 A He came back to our house.

11 Q And how long did he stay with you in White Salmon?

12 A I don't remember these times because it's been 25 years,  
13 but very soon he moved back to Seattle, and I think all of  
14 this took a period of two or three months. Then he started  
15 looking for work at that time after about three months, I  
16 think, with the fishing industry.

17 Q And when he came back, did he still seem upset when you  
18 saw him again?

19 A Yes, somewhat, but not nearly as much so as right at the  
20 beginning.

21 Q And did he -- did you ever notice him experiencing any  
22 nightmares?

23 A No, I did not. I didn't see him do that.

24 Q Now, you said then he went out on a fishing boat; is that  
25 correct?

1 A I think that was the next thing that he did in Alaska.

2 Q And do you know how long he was on that fishing boat?

3 A Well, all summer, for he was on it that next coming  
4 summer, and he went back several years. I don't know how many  
5 years he spent on a fishing boat. Probably four or five  
6 maybe.

7 Q Now, have you been in contact -- are you in contact with  
8 Patrick today, I mean, recently?

9 A Yes, just the day before yesterday I think it was -- or  
10 no, it wasn't the day -- the last part of last week.

11 Q And do you still keep in touch with your other children  
12 today?

13 A Yes.

14 Q And you mentioned that your family is getting together  
15 for a reunion in the coming weeks?

16 A This coming week, yes.

17 Q And is Patrick expected to be there?

18 A He is the one that arranged it.

19 Q And the rest of the family will all be there as well?

20 A Yes, all expect the oldest son who passed away in 1991.

21 Q Yes, ma'am. Now, reflecting back, how has Patrick's  
22 being a victim of the hijacking affected your life?

23 A We're always wondering, every time we hear some little  
24 thing that might be wrong with Patrick, we are always  
25 wondering is this a result of that hijacking.



1           Right at first, it was very hard for me to accept  
2 that this is what had happened to this happy-go-lucky boy, but  
3 as the years went on, his life returned somewhat to normal,  
4 and I think Patrick protected us a lot -- tried to protect his  
5 parents or us a lot from what he was really feeling. I had  
6 that feeling many times. And even today when I -- when I was  
7 kind of preparing for this testimony and going through all of  
8 this again, I had feelings of how horrible it was for  
9 everybody on board, not just Patrick. I go through that all  
10 the time of thinking how lucky we were, I guess, and wondering  
11 if there is any, like, effects from it. Sometimes even  
12 dreaming about it, which I had nothing to do with it.

13       Q    Thank you. And how does that make you feel or --

14       A    Actually, it makes me feel very lucky that he is still  
15 alive, and it makes me -- it kind of upsets me again until it  
16 wears off. There were several years where Patrick's life went  
17 on pretty normally, and that was -- that was a time where we  
18 kind of relaxed. But it's always been there in the back of  
19 our minds, everything that's happened to him, was this a  
20 result of the hijacking.

21       Q    Is there anything further that you would like the judge  
22 or the Court to know regarding your son Patrick or your  
23 experiences as his mother?

24       A    I cannot think of anything. Just, again, the fact that  
25 we felt so lucky. We think of the others that were on the

1 plane, friends that he met there and became fairly close to,  
2 and we just think how lucky we are at this time, although we  
3 still think about the horribleness of it all the time.

4 MS. KALIK: Thank you, Mrs. Baker, for your time.  
5 I'll ask the judge if he has anything for you.

6 THE COURT: No, I don't, ma'am. Thank you very  
7 much, ma'am.

8 MS. KALIK: Thank you.

9 Now, Mrs. Baker, is your husband Jerry there?

10 THE WITNESS: He is in another room, but I can get  
11 him.

12 MS. KALIK: Okay. Can you let him know that we'll  
13 be taking his testimony next.

14 THE WITNESS: All right.

15 MS. KALIK: Thank you.

16 (PAUSE.)

17 THE COURT: Proceed, please.

18 MS. KALIK: Plaintiff will call Jerry Baker.

19 THE DEPUTY CLERK: Sir, will you please raise your  
20 right hand.

21 (WITNESS SWORN BY THE DEPUTY CLERK.)

22 THE DEPUTY CLERK: Thank you.

23 JERRY BAKER,  
24 having been duly sworn, testified, through video conference,  
25 as follows:

## DIRECT EXAMINATION

1  
2 BY MS. KALIK:

3 Q Thank you. Can you please state your full name for the  
4 Court.

5 A Jerry Brian Baker.

6 Q And is Brian spelled B-r-i-a-n?

7 A Correct.

8 Q And what is your address, Mr. Baker?

9 A 1165 Northwest Baker Drive, White Salmon, Washington,  
10 98672.

11 Q How long have you lived there in White Salmon?

12 A 55 years, almost 56.

13 Q Now, you have with you some documents that my office sent  
14 to you; is that correct?

15 A Correct.

16 Q Do you see the document that is marked as Exhibit No. 67?

17 A Yes.

18 Q And can you identify for the Court what Exhibit No. 67  
19 is.

20 A My birth certificate.

21 Q And what is the date of your birth, sir?

22 A November 10, 1925.

23 Q And where were you born?

24 A Junction City, Kansas.

25 MS. KALIK: Plaintiffs will now move Exhibit 67 into

1 evidence, Your Honor.

2 THE COURT: It will be admitted.

3 (PLAINTIFF'S EXHIBIT 67 ADMITTED.)

4 MS. KALIK: Thank you.

5 Q (BY MS. KALIK) You said you were born in Junction City,  
6 Kansas; is that correct?

7 A That's correct.

8 Q Do you have a document there that's been marked Exhibit  
9 No. 68?

10 A Yes, I do.

11 Q And could you please identify for the Court what Exhibit  
12 68 is.

13 A Passport.

14 Q And what country issued that passport?

15 A United States.

16 Q And is it your passport, Mr. Baker?

17 A It is.

18 Q And from the time of your birth until today, have you  
19 remained a citizen of the United States?

20 A Yes, I have.

21 MS. KALIK: Plaintiffs will now move Exhibit No. 68  
22 into evidence.

23 THE COURT: It will be admitted.

24 (PLAINTIFF'S EXHIBIT 68 ADMITTED.)

25 MS. KALIK: Thank you.

1 Q (BY MS. KALIK) Did you grow up in Junction City, Kansas?

2 A Yes.

3 Q And is that where you went to high school, sir?

4 A Yes, it is.

5 Q Did you attend university?

6 A Yes.

7 Q Where did you attend the university?

8 A Kansas State University.

9 Q And what degree did you get from Kansas State University?

10 A Bachelor of Arts.

11 Q And after graduating from Kansas State University, what  
12 was your job?

13 A I was a teacher, middle school.

14 Q Where did you teach middle school?

15 A White Salmon, Washington.

16 Q Now, prior to your moving to White Salmon, Washington,  
17 did you get married?

18 A Yes, I did.

19 Q And what is your wife's name?

20 A Lois Elaine Baker, or Jones at that time.

21 Q And you and Lois moved together to White Salmon,  
22 Washington?

23 A Yes, we did.

24 Q Now, the Court has just heard testimony from your wife  
25 Lois Baker; is that correct?

1 A Correct.

2 Q Okay. And you and Lois, together, did you have children?

3 A Yes, we did.

4 Q And what were your children's names from oldest to  
5 youngest?

6 A David Brian Baker, Stacie Ann Baker, Patrick Scott Baker,  
7 and Craig Carnahan Baker.

8 Q Where did you-all live when your children were growing  
9 up?

10 A White Salmon, Washington.

11 Q And you said your teacher there -- you were a teacher  
12 there in White Salmon; is that correct?

13 A Correct.

14 Q How long did you teach?

15 A In White Salmon, 27 years.

16 Q And what subjects did you teach?

17 A History and math and spelling and geography. Mainly  
18 history and math.

19 Q And were you always teaching in the middle school?

20 A Yeah. One year I taught two classes at the high school.

21 Q And then you retired from White Salmon School District;  
22 is that correct?

23 A Correct.

24 Q And have you done anything since then?

25 A After I went through teaching, I drove a school bus

1 part-time.

2 Q And do you still drive a school bus today?

3 A No, I don't.

4 Q You've retired from doing that as well?

5 A Yes.

6 Q Now, can you please describe your memories of your son  
7 Patrick when he was growing up.

8 A Patrick was a happy, outgoing child and was interested in  
9 a lot of different things, he liked to explore and find out  
10 about new things as much as he could. And he read a lot, as I  
11 remember, had a lot of friends and -- I don't know what else.

12 Q How would you describe your relationship with Patrick  
13 when he was growing up?

14 A It's always been very well, very good. We played games  
15 together, he and the other kids.

16 Q And did you do other things together; did you travel  
17 together?

18 A We traveled together. Our families lived in Kansas, so  
19 we traveled back and forth a number of times across the  
20 country. And so we did a lot of things. We went camping  
21 together. We did a lot of things together.

22 Q Did you celebrate holidays together?

23 A Yes.

24 Q Do you have any particular memories of holidays,  
25 celebrating with the family?

1 A Well, we always got together on Thanksgiving and  
2 Christmas, or tried to. And when they were growing up, why  
3 we -- we alternated Thanksgiving with another family that  
4 lived in another city, so we always drove back and forth to  
5 that. And he was -- we did that with an Army buddy of mine,  
6 so we always celebrated the main holidays together.

7 Q Now, did Patrick attend college?

8 A Yes, he did.

9 Q And where did he attend college?

10 A Washington State University.

11 Q And did he move out of your house at that time when he  
12 went to attend Washington State University?

13 A He was -- he was -- yes, he did, but he moved back in the  
14 summertimes to work, and he lived at our house in the  
15 summertime.

16 Q When Patrick was away at college, did you communicate  
17 with him?

18 A Yes, uh-huh.

19 Q And how did you communicate with him?

20 A Telephone calls quite often, and letters. Not very many  
21 letters; neither one of us write a lot.

22 Q You said he would come home for holidays and summer  
23 vacations; is that correct?

24 A Yes.

25 Q Did Patrick graduate from college?



1 A Yes, he did.

2 Q Do you know what degree he got?

3 A Biological science.

4 Q How would you describe Patrick prior to his involvement  
5 as a -- before the hijacking of November 1985?

6 A He was -- he was always very happy and outgoing and  
7 curious about almost everything, and adventurous and he tried  
8 to find out as much as he could about almost everything,  
9 seemed like. I don't know, he's just a normal person.

10 Q Would you describe him as adventurous?

11 A Yes, he was adventurous, uh-huh.

12 Q Now, did there come a time when Patrick decided to do  
13 some traveling abroad?

14 A Yes.

15 Q And when was that, sir?

16 A I can't remember the exact date. In the early '80s, but  
17 I think it was 1981 or 2, I'm not positive.

18 Q And where did he go then?

19 A He -- I think, as I recall -- I may be wrong, but the  
20 first time he went to Russia and climbed the highest mountain  
21 there at Mount Everest. And then he came back and worked a  
22 bit. And then he -- then he went to Europe and traveled  
23 through Europe. And then he also went to Israel and worked on  
24 a kibbutz there for a month or so. And then I think he spent  
25 about a year -- a year in Israel. He worked in a dive shop, I

1 remember, and, man, that was mostly what he did.

2 Q Where was Patrick in November of 1985?

3 A November of 1985, he was in Greece. He was in Europe and  
4 then he was in Greece.

5 Q And do you know what his plans were?

6 A Yes, he was planning on flying from Athens to Cairo and  
7 then taking a plane from there to Bangkok, as I remember.

8 Q And where were you living in November of 1985?

9 A In White Salmon.

10 Q Do you recall what you were doing on November 23<sup>rd</sup>,  
11 1985?

12 A Probably I was at home. I was driving a school bus at  
13 that time, so -- but I think they were out for Thanksgiving  
14 vacation, so I was probably at home.

15 Q Did there come a time that you learned about the  
16 hijacking of EgyptAir Flight 648?

17 A Yes. We were called about 10:30 at night by a person  
18 from the State Department, and they informed us of the  
19 hijacking. I didn't know he was going to be on that  
20 particular flight, but they called and told us about it.

21 Q And what did they say to you, sir?

22 A Said that Patrick had been shot, but he was okay,  
23 apparently -- I mean, he was alive. And that's pretty much  
24 it. And I think we got a phone number of where we could  
25 contact Pat at the hospital he was staying, and we called him

1 later.

2 Q And how did you feel when you learned that Patrick's  
3 flight had been hijacked?

4 A Well, mainly concerned about Pat, to see how he -- if he  
5 was okay. And -- well, I wondered how he got into that  
6 situation and what -- who was involved in that incident.

7 Mainly, I was concerned about Pat.

8 Q Did you see any news reports regarding the hijacking?

9 A Not until after we got a call from the State Department.

10 Q And what do you recall about those news reports?

11 A As far as what? I don't -- what do you mean?

12 Q Did you learn about the details of the hijacking?

13 A Yes, I -- you know, they told us about the large number  
14 of people that were killed after the -- from the fumes, from  
15 the fire that they set in the baggage compartment. And then,  
16 of course, some of the people that were on the flight, I  
17 think, they interviewed them like Tony Lyons, and so we  
18 learned about how he got out of there.

19 Q Did you get to speak to Patrick after hearing from the  
20 State Department?

21 A Yes, we did. We called him and he was in the hospital  
22 there in Valletta.

23 Q And what did Patrick say?

24 A He said -- he told me that -- he told us when he was  
25 shot, that it felt like somebody hit him in the head with a

1 baseball bat, and --

2 Q How did your family react in the immediate days following  
3 the hijacking?

4 A Well, mainly just concerned, at least as far as I'm  
5 concerned, mainly just about the concern for Patrick and how  
6 he's -- how that was going to affect him.

7 Q Now, did there come a time that Patrick returned to the  
8 United States?

9 A Yes.

10 Q And do you recall when Patrick returned to the United  
11 States?

12 A I believe it was -- I don't remember the -- how much  
13 time, but I think it was several days later, four or five days  
14 later. I think he was in the hospital for two or three days  
15 at least. I don't remember exactly how many. But he was back  
16 in the United States in -- I think around November the 25<sup>th</sup>  
17 or something like that.

18 Q And when he returned to the United States, did you see  
19 him right away?

20 A No. He spent some time with his brother in Seattle  
21 before he came down to our place.

22 Q And why do you think he stayed in Seattle first?

23 A I think he wanted to recover from -- somewhat. I don't  
24 know why. I always wondered myself. But I don't know why he  
25 spent that time there because I wanted to see him, you know,

1 really bad, but...

2 Q Did -- I'm sorry. Did you get a lot of calls from the  
3 press after the hijacking?

4 A Yes, we got a lot of calls from the press, and they sent  
5 reporters and so forth. It was kind of a hectic time.

6 Q How did Patrick react to all the press attention?

7 A He wanted to avoid them as much as possible, as I  
8 remember, and that's why I think he went to stay with his  
9 brother in Seattle, so he wouldn't be hounded by the press.

10 Q When you did see Patrick immediately, you know, after he  
11 had left Seattle, I guess, for a few days, do you remember if  
12 Patrick appeared his usual self?

13 A No, he wasn't his usual self. He was much more subdued,  
14 and Patrick normally is just a happy person. And he was  
15 very -- he wasn't his self, anyway. Just much more serious  
16 than before.

17 Q Do you recall if Patrick had any nightmares regarding the  
18 hijacking?

19 A He never would -- until years later, he never told us  
20 anything about that, but I know that he did. He didn't tell  
21 us that at the time, however.

22 Q Do you know why he didn't tell you at the time?

23 A I think he just didn't want us worrying about it.

24 Q Do you still -- are you in contact with Patrick today?

25 A Yes.

1 Q How often do you speak with him?

2 A It varies, depends on what we're planning to do. Like  
3 we'll have a family reunion here soon, so I've been talking to  
4 him several times here recently. But we talk on the phone  
5 probably, oh, two or three times a month maybe, I don't know.  
6 Maybe not quite that often sometimes. It depends.

7 Q And how has your son's involvement as a victim of the  
8 hijacking affected your life?

9 A Mainly just worried about how this whole thing was going  
10 to affect Pat as far as we don't know how much damage was done  
11 inside and it's something that might affect him years later,  
12 or maybe even shorten his life. And so this is -- just  
13 worrying about Pat mainly is the way it's affected me most.

14 Q And do you still worry about this today?

15 A Yeah, because we still don't know whether he's completely  
16 healed from that or has no -- no permanent damage in there  
17 somewhere that's going to show up later.

18 Q Thank you, Mr. Baker. Is there anything further that you  
19 would like the Court or the judge here to hear from you  
20 regarding Pat's being a victim of the EgyptAir hijacking?

21 A I guess I think that's it.

22 THE COURT: Thank you, sir.

23 MS. KALIK: Okay. Thank you. Mr. Baker is your --

24 THE WITNESS: Yeah.

25 MS. KALIK: Is your daughter Stacie there?

1 THE WITNESS: Yes, she is. Not here in the room.

2 MS. KALIK: Okay. Could you let her know that we'll  
3 be having her testify next?

4 THE WITNESS: Okay.

5 MS. KALIK: Thank you.

6 THE COURT: Would you like a break, ma'am?

7 COURT REPORTER: Yes.

8 THE COURT: Let's take ten minutes. 3:00 o'clock.

9 (A BRIEF RECESS WAS TAKEN.)

10 THE DEPUTY CLERK: Court is back in session. Please  
11 be seated everybody.

12 MS. KALIK: Okay. We are ready to begin.

13 Plaintiffs will now call Stacie Baker.

14 THE DEPUTY CLERK: Okay. Would you raise your right  
15 hand, ma'am.

16 (WITNESS SWORN BY THE DEPUTY CLERK.)

17 THE DEPUTY CLERK: Thank you.

18 STACIE BAKER,  
19 having been duly sworn, testified, through video conference,  
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. KALIK:

23 Q Good morning, Ms. Baker.

24 A Good morning.

25 Q I'll ask you to keep your voice up so that the court

1 reporter here in our courtroom can hear you and pick up  
2 everything that you're saying, okay?

3 A Okay. Is this fine?

4 Q This is fine, thank you.

5 Can you please state your full name.

6 A Stacie Ann Baker.

7 Q And Ms. Baker, what is your address?

8 A My physical address is 474 Lakeside Road. My P.O. box is  
9 127 in Glenwood, Washington 98619.

10 Q How long have you lived in Glenwood, Washington?

11 A For 33 years.

12 Q Ms. Baker, do you have with you the document that my  
13 office sent to you prior to your testimony today?

14 A Yes, I do.

15 Q And I'd ask you to take out the document that's been  
16 marked Plaintiff's Exhibit 69.

17 A Would that be my birth certificate?

18 Q That would be your birth certificate. Thank you,  
19 Ms. Baker.

20 A Okay.

21 Q What was the date of your birth?

22 A May 18, 1956.

23 Q And where were you born?

24 A I was born in White Salmon, Washington, Klickitat,  
25 County.



1 Q Can you spell the name of the county.

2 A Yeah, it's K-l-i-c-k-i-t-a-t.

3 Q Klickitat County; is that correct?

4 A Klickitat, K-l-i-c-k-i-t-a-t.

5 Q Thank you, Ms. Baker. And what was your mother's name?

6 A Lois Elaine Baker.

7 Q And your father's name?

8 A Jerry Brian Baker.

9 Q Thank you.

10 MS. KALIK: Plaintiffs will now move into evidence  
11 Exhibit No. 69.

12 THE COURT: It will be admitted. Thank you.

13 (PLAINTIFF'S EXHIBIT 69 ADMITTED.)

14 MS. KALIK: Thank you.

15 Q (BY MS. KALIK) Ms. Baker, you were born a United States  
16 citizen; is that correct?

17 A Yes, that is.

18 Q And from the time of your birth until today, have you  
19 remained a United States citizen?

20 A Yes, I have.

21 Q Now, you identified your parents as Lois and Jerry Baker;  
22 is that correct?

23 A Yes, that's right.

24 Q And do you have any brothers and sisters?

25 A Yes, I do.

1 Q What are your siblings' names?

2 A My oldest brother who has passed away, his name is David  
3 Baker. My next youngest brother is Patrick Scott Baker, and  
4 my youngest brother is Craig Carnahan Baker.

5 Q Now, what do you do as a profession in Glenwood,  
6 Washington?

7 A I work for the Bureau of Indian Affairs, and I'm a  
8 forester, timber sale officer.

9 Q Thank you. Where did you live while growing up?

10 A In White Salmon, Washington.

11 Q And can you describe your memories of your brother  
12 Patrick when you were growing up?

13 A Yes, they were very fond memories. My three brothers and  
14 I were close in age, so we did a lot of things together. He  
15 was well-rounded, high school, he was popular, he was  
16 athletic, always an adventurer. If you went out with Pat, you  
17 were getting an adventure. Intelligent, he was -- in  
18 school -- from high school, he was an officer in some of  
19 the -- I don't know -- I couldn't probably tell you what  
20 officer he was, but he was one of the class officers. It was  
21 so long ago. But he was just a well-rounded guy.

22 Q And what other memories do you have of your brother  
23 Patrick growing up?

24 A Other memories, like I said, we were close. We'd go out  
25 and play every day when we were little. I don't know how long

1 ago you're talking, but when we were little, we'd go out and  
2 play every day. We had a small neighborhood group. He was  
3 kind of the leader of our neighborhood group. He could think  
4 for himself. He wasn't really a follower unless he wanted to  
5 do something. I don't know how far up you want to go in time,  
6 but I know he also -- he also went to college after high  
7 school. That was in Pullman. And got a degree in biological  
8 science. And that's it.

9 Q Would you describe your brother as outgoing?

10 A Yes, I would. He was -- he was kind of that well-rounded  
11 guy who was outgoing. He was laid back. He was intelligent.  
12 He was -- he's just kind of that well-rounded guy. He was a  
13 good brother. We all got along well as kids, all of my  
14 siblings and I.

15 Q And you said then he went off to college; is that  
16 correct?

17 A Yes, he did.

18 Q And where were you living when he went off to college?

19 A Oh, gosh, I graduated -- I was probably in my second year  
20 in college, I was in Port Angeles.

21 Q Where did you go to college?

22 A I went to Peninsula College in Port Angeles.

23 Q I'm sorry, could you say that again?

24 A Peninsula College in Port Angeles.

25 Q Port Angeles, was that in Washington?

1 A Yes, it is. Washington State. And that was the first  
2 time I went to college. And I did two more years in '97, '98,  
3 right in there.

4 Q Now, when you had gone off to college in Port Angeles,  
5 did you stay in touch with your brother Patrick?

6 A Yes, I did. We had phone calls, and every once in a  
7 while we'd swap letters, but not very often do the letter  
8 writing. But we every once in a while we'd swap phone calls,  
9 yes.

10 Q And did that continue after he had gone off to college  
11 himself?

12 A Yes, it did. Because that's what I was -- the period of  
13 time that I was talking about was when he was in college and I  
14 was in college. We would call back and forth. When I got out  
15 of college, I went out to visit him at his college. And,  
16 yeah, it didn't end our relationship.

17 Q And what do you remember about visiting him when he was  
18 in college?

19 A About what?

20 Q Visiting him when he was in college?

21 A Oh, he was -- like I said, his -- the people, his group  
22 around him were just -- they were a fun group and Pat was --  
23 you know, he was studious, intelligent, and again, he's just a  
24 well-rounded guy. He could go with the flow and just be  
25 relaxed and -- but on the other hand, he knew when to study

1 and when to play.

2 Q Would you describe your brother as adventuresome?

3 A Yes.

4 Q And why would you describe him that way?

5 A From the time we were little -- I had three brothers and  
6 my brother Pat, when I went out with him, I knew there was  
7 going to be an adventure. And that continued on all through  
8 high school, and I didn't -- you know, of course, in high  
9 school, we kind of -- I did my girl things and he did his guy  
10 things, but even afterwards, he started traveling and went all  
11 over, a world traveler, and he was just always an adventurer,  
12 always looking for that -- see what was around that next  
13 corner.

14 Q Do you recall where your brother was in late  
15 November 1985?

16 A Late November, I don't recall exactly where he was, but I  
17 know of that flight that took place, because a lot of times he  
18 wouldn't call -- we couldn't track him because he was all over  
19 the place, and sometimes he wouldn't call when he was  
20 traveling from one spot to the other, so to say exactly where  
21 he was, I couldn't tell you that.

22 Q Was he traveling overseas?

23 A Yes, he was.

24 Q Did -- do you know if Patrick found himself to be in  
25 Athens in November of 1985?

1 A Yes.

2 Q And that would be Athens, Greece, correct?

3 A Yes.

4 Q Where were you living on November 23<sup>rd</sup>, 1985?

5 A I was in Glenwood, Washington.

6 Q And do you recall what you were doing?

7 A Yes, I do, I remember that night very well.

8 Q Tell me about that night.

9 A At about 11:00 o'clock at night, I got a phone call from  
10 my parents who had called to say that they had gotten a phone  
11 call from the state that Pat had been shot, but he was okay,  
12 he wasn't dead. And I just -- I guess I was in shock that I  
13 actually knew somebody -- because I knew there was a lot of  
14 terrorist activity going on in that era, and I was kind of  
15 shocked that I actually knew somebody that it was happening  
16 to.

17 The reason I remember that date is because I had two  
18 stepkids, one of mine and plus one biological first kid of my  
19 own. I was pregnant with another one. But that was the  
20 oldest set of the girls' 13<sup>th</sup> birthday the next day. I was  
21 making arrangements for a party for her when I got the phone  
22 call.

23 Q And you said it was your father who called you; is that  
24 correct?

25 A No, it was my mom.

1 Q Oh, I'm sorry. Your mother called you and you said she  
2 heard from the State, would that be the State Department?

3 A Yes, the State Department.

4 Q Now, did you know that your brother was on Flight 648 at  
5 the time?

6 A I didn't know that at that time, no. When he actually  
7 got hijacked, I did not know he was on 648. I knew when my  
8 parents had called me that he was on that flight.

9 Q And how did you feel when you learned that Patrick's  
10 flight had been hijacked?

11 A Well, again, I was in shock that he got shot. And  
12 another reason I remember that night is because my  
13 ex-husband -- husband at the time, but ex-husband now, we were  
14 just putting a Dish TV in, a satellite dish, and it was just  
15 that night that he was -- I was trying to get on CNN, I was  
16 trying to get him to get it just built in just right so I  
17 could get a clear picture of the hijacking, because I remember  
18 them showing the plane on TV. And, actually, when they blew  
19 the plane up, they called my parents. They hadn't known the  
20 plane had been blown up yet, but I could get enough fuzz from  
21 the TV to see that the plane had been blown up.

22 Q How did that make you feel?

23 A For one thing, I was -- it made me feel terrible for the  
24 people on the plane after hearing the circumstances, but also  
25 grateful that my brother wasn't on that plane.

1 Q Because you knew that he had already been released by --  
2 or thrown off by the hijackers?

3 A Yes, I knew that he was in the hospital at that time and  
4 was under good care.

5 Q Now, did you speak with your brother David or see him in  
6 the days following the EgyptAir hijacking?

7 A I don't recall that. No, I don't. He was in Portland at  
8 the time.

9 Q How did your parents react in the immediate days  
10 following the hijacking?

11 A Oh, they were extremely worried. But, again, they were  
12 also very grateful after they saw what happened to the plane.  
13 And after I called them, they were grateful that my brother  
14 was out, but very worried until they could actually physically  
15 see him, that he was okay.

16 Q Did you have an opportunity to speak to your brother  
17 Patrick after the hijacking?

18 A I did. I tried to call him. I got a phone number from  
19 my parents, and I tried to call him all that long day,  
20 couldn't get through. And I believe -- I'm not positive on  
21 the day I got -- I know I couldn't the first day. I believe  
22 it was the day after that, which would be the 25<sup>th</sup>, I got  
23 through to him in the hospital.

24 Q And when you were finally able to reach him, how did he  
25 sound?



1 A He sounded exhausted. He wasn't -- he was not himself.  
2 He didn't even have very much time to talk to me because of --  
3 well, the cell phone for one thing -- or the phone he was  
4 talking on. But I got to hear his voice, and it was a relief  
5 to know that, yes, I was talking to my brother and that he  
6 wasn't on that plane. But he was exhausted and he just -- I  
7 don't know, I don't know how to describe that. I'm not very  
8 good describing emotions, but you could tell he'd been through  
9 alot. My brother has a very level head, and he just wasn't --  
10 you know, he wasn't who he normally is. He wasn't my  
11 adventurous brother Pat that I knew. He was a subdued, tired  
12 person.

13 Q Now, do you remember when Patrick returned to the United  
14 States?

15 A I remember him coming back, and I believe it was -- I  
16 know he got to my parents' place in December, and I believe he  
17 came back about a week or two before that to Seattle. I think  
18 it was a week. Maybe not. I don't know. I can't remember  
19 the exact date he was in Seattle.

20 Q Did you have a chance to see him at that time?

21 A I did when he came down to my parents' house, yes.

22 Q And what do you recall about when you saw Patrick that  
23 first time?

24 A Again, he wasn't my vibrant, adventurous brother. He was  
25 subdued, quiet. And as a matter of fact, you know, I don't

1 typically ask a lot of questions, and I was asking him a lot  
2 of questions about the hijacking right afterwards, and he  
3 just -- he downplayed a lot of what he told me. But, in fact,  
4 my mom actually told me that I was worse than the reporters  
5 were.

6 Q Were there a lot of reporters there?

7 A When I was there, there were not. But, yes, I know there  
8 were, from what my parents told me, both before and after he  
9 was home.

10 Q Did Patrick like answering your questions?

11 A I don't think he was really ready for some of the  
12 questions I asked him, but I was -- you know, being the  
13 sister, he felt like, you know, he was okay answering for me,  
14 but, no, I don't think he really -- I think it bothered him  
15 quite a bit actually to answer some of the questions I asked.

16 Q How did it make you feel when you saw your brother  
17 Patrick subdued and not really willing to answer your  
18 questions?

19 A Well, knowing that he got shot in the head, I don't -- I  
20 couldn't even tell you if he got any brain scan, I'm sure he  
21 did. But, you know, you don't ever know the extent of the  
22 injury until -- I guess till time goes by, both  
23 psychologically and physically. And I guess it was just that  
24 real subdued attitude that just kind of -- you know, you  
25 just -- and what he'd been through, what he described he'd

1 been through was just -- it's hard to see your brother like  
2 that when you see a vibrant, adventurous person before and see  
3 the subdued person sitting before you, wondering if he's ever  
4 going to come out of that subduedness.

5 Q And do you recall what your brother did next?

6 A I know he went to Arizona for a little while with one of  
7 his friends. He stayed at my parents' place for a little  
8 while and then went down. The reporters pressure and the TV  
9 people wanted him to speak, I know that was a lot of pressure  
10 there. And he just wanted to get away from it all, be by  
11 himself. And I know the reporters were at my brother's house,  
12 Craig -- my brother Craig's house, they were at my parent's  
13 house, and he just wanted to get away from all that. So he  
14 went to Arizona to his friend's house.

15 Q And after Arizona, do you know what he did next?

16 A I think he went to -- that's when he started his fishing  
17 career. He started looking for something to do.

18 Q And he chose fishing, is that what you said?

19 A Yes, he went to Alaska to fish every season. Probably --  
20 oh, probably until, I'm guessing, 1997. I really don't know  
21 when he quit fishing. I can't remember that. But he fished  
22 for quite a few years, quite a few seasons.

23 Q Now, are you still in contact with your brother Patrick  
24 today?

25 A Yes, I am.

1 Q How often do you speak to Patrick?

2 A Probably -- of course, we have a family reunion coming  
3 up, so I've spoken to him more now than I typically do, just  
4 through arrangements and such, but probably once every two or  
5 three months.

6 Q And how has your brother's involvement as a victim of the  
7 hijacking affected your life?

8 A My brother -- it affected it a lot when he first came  
9 back. I just -- to look at him -- and he was pale, so I  
10 remember the color. He just -- he didn't have the color in  
11 his face that he typically would. To see him like that --  
12 when I first heard that he got shot, that impacted me a lot.  
13 And I did not go through with my stepdaughter's birthday the  
14 next day, the party. I was glued to the TV. I was extremely  
15 worried about him. And then seeing him when he got back and  
16 his attitude, it was -- it was really, really hard. And that  
17 lasted probably for, I don't know -- I called him afterwards,  
18 after he got back. And then he went fishing at this time, but  
19 after he got back from Arizona, I called him.

20 I guess as time went by, his attitude was -- he had  
21 to go back and testify in Washington, D.C. and then back to  
22 Malta again. And his attitude was that, you know, the  
23 terrorist's intent was to strike terror in people, and that he  
24 was not going to let that get to him. And once he told me  
25 that, that helped me a lot. Because our whole family is kind

1 of a traveling-type family here and there and not intimidated  
2 to travel before that, but I was more careful about where I  
3 was and who was around me. And I probably still am to this  
4 day. But once he said that, he was right. And I guess I  
5 changed my attitude right there when -- you know, he's right,  
6 we're not going to let that incident affect my life in such an  
7 impact to where I'm not going to live my life.

8 Q But do you still find it hard today?

9 A Not as hard. I do find it hard today, but not as hard as  
10 when I first saw him and talked to him and got the news from  
11 my mom.

12 Q Ms. Baker, is there anything else that you would like  
13 this court to hear from you regarding your experiences  
14 relating to your brother Patrick's being on that hijacked  
15 plane in November of 1985?

16 A I guess I just have to say that my brother was a very  
17 levelheaded, easygoing person, and -- to the point when he was  
18 on that plane, just from what he told me, but, you know, you  
19 get to a point where he was still in survival mode, what a  
20 level head he has. They offered them food on the plane. Most  
21 people wouldn't eat. He didn't feel like eating, but he ate  
22 for survival. He was trying to figure out where he was, where  
23 he was going under the plane. He showed them his bound hands  
24 before he ran out to get help. So he kept his level head in  
25 that, through that.

1           But to see him go from that survival moment to a --  
2 basically a subduedness, I don't know, it's just -- he's just  
3 so levelheaded and to see him in this state that he is in, it  
4 was really -- it was hard. It was just -- and as close as  
5 we -- our family itself, not just with my brother, my family  
6 is, that was hard, too, to watch my mom and dad go through  
7 that.

8           MS. KALIK: Thank you, Ms. Baker.

9           Judge, do you have anything further?

10          THE COURT: No. Thank you, Ms. Baker.

11          MS. KALIK: Thank you.

12          Okay, Judge, that's the last of our video testimony,  
13 but Mr. Heideman has some more.

14          MR. HEIDEMAN: May it please the Court. I note it's  
15 3:25 -- we don't have to go on the record unless you so  
16 instruct.

17          I know it's 3:25 so I can do as much or as little as  
18 you would like.

19          THE COURT: Let's keep going. We are going to try  
20 and quit at 4:30.

21          MR. HEIDEMAN: Yes, that will be fine.

22          May it please the Court, as the Court will recall,  
23 yesterday we introduced the affidavit, I believe, as Exhibit  
24 35 of Omar Ali Rezaq, the hijacker. And then, as Exhibit 34,  
25 we introduced the transcript.

1           May I step away from the podium for one moment?

2           THE COURT: Of course.

3           Thank you, Mr. Cramer.

4           MR. CRAMER: You're welcome, Judge.

5           MR. HEIDEMAN: Exhibit 34, the transcript, is  
6 already in evidence as is his affidavit, Exhibit 35.

7           Because of the voluminous nature of Exhibit 34 being  
8 the transcript of his criminal trial, we've attempted to  
9 synthesize just a few remarks down to assist the Court in its  
10 review. And with the Court's permission, I'll reference this  
11 summary.

12           It is not exclusive as to the many things in  
13 Mr. Rezaq's testimony that are supportive of our case, but  
14 it's the highlights, and I believe the words out of his own  
15 mouth will further confirm matters that had been said by  
16 certain of the experts and will be said by additional experts.

17           THE COURT: Go ahead.

18           MR. HEIDEMAN: May it please the Court, we would  
19 reference the Court, in relation to Exhibit 34, to the  
20 following specific pages. First, page 2750, lines 4 through 7  
21 and 2751, lines 1 through 6, where, and I'm paraphrasing,  
22 Mr. Rezaq testifies that, indeed, he was a member of the Abu  
23 Nidal Organization, and that it was the Abu Nidal Organization  
24 which gave him the specific order to get on the EgyptAir  
25 Flight 648 in Malta on November 23<sup>rd</sup> -- in Athens on

1 November 23<sup>rd</sup>, 1985.

2 Secondly, we would reference the Court to Pages  
3 2756, the entire page, and to 2757, lines 1 and 2, where  
4 Mr. Rezaq testified, and I'm paraphrasing, that he was in an  
5 Abu Nidal training camp in the Baqaa Valley immediately prior  
6 to committing the terrorist hijacking of EgyptAir Flight 648.

7 Third point, we'd reference the Court to Pages 2763,  
8 lines 19 to 25, and 2764, where Mr. Rezaq testifies, and I'm  
9 paraphrasing, that Abu Nidal terrorists freely used military  
10 roads to travel between Lebanon and Syria in 1985.

11 And now I will quote from Mr. Rezaq, from those  
12 pages, quote, When we're in the revolution, all -- every  
13 group, they have transport, military transport. And to go to  
14 Syria, you have to take the -- They give you a paper like  
15 this, your name. And this paper, you go with this transport  
16 for the group, and you go in the military road. You don't go  
17 normal road. You don't go from the Lebanese customs. You  
18 don't go from the Syrian customs. There is military group.  
19 All the groups, or the Syrian army, they go from one way.  
20 Nobody can check, ask you for passport or identify or  
21 something. And between Baqaa Valley and Damascus is nearly 25  
22 minutes, 30 minutes, end quote.

23 Citing to the same pages, after being asked a  
24 question in his criminal trial, the question being, quote, You  
25 had military identification to get you through? End quote.



1 Mr. Rezaq testified, and I quote, yes, end quote.

2           The fourth of five items that we wanted to highlight  
3 for the Court, page 2769, Lines 7 to 10, and Lines 17 to 18,  
4 where Mr. Rezaq testified, and I'm paraphrasing, that  
5 immediately prior to perpetrating the hijacking, Rezaq left  
6 from Beirut, traveled to Belgrade, and then on to Athens.

7 Mr. Rezaq testified and now I quote -- and I'm going to insert  
8 in bracket because there's brackets to put it in context. The  
9 brackets would be Abu Nidal, close brackets, because that  
10 gives the context for who's saying it. Gave me a ticket and  
11 they gave me a passport, end quote.

12           And of the fifth and last highlighted item, again  
13 nonexclusive, so many I could cite to the Court, page 2817,  
14 lines 4 to 9, where after being asked where the Abu Nidal  
15 Organization received its funding during the time Mr. Rezaq  
16 was associated with the Abu Nidal Organization, he testified  
17 and referenced that, in his criminal testimony, Syria -- and  
18 I'm paraphrasing, Syria was one of the countries that had  
19 relations with the Abu Nidal Organization and that was in the  
20 context of a question asked about funding.

21           Again, the entire exhibit is in the record for the  
22 Court. We would be happy if it would be convenient for the  
23 Court and the court reporter to provide a typewritten copy of  
24 what I just said with these highlights as well as additional  
25 highlights, if that would be helpful to the Court, because

1 we've gone through and dissected it completely. And we'd be  
2 happy to provide that aid to the Court, if you'd like it.

3 THE COURT: Thank you very much. I'd appreciate it.

4 MR. HEIDEMAN: Would you like us to do so?

5 THE COURT: Yes, please.

6 MR. HEIDEMAN: We will do so.

7 Now, yesterday we did move into evidence Exhibit 35,  
8 being his -- Omar Mohammed Ali Rezaq's affidavit, and a couple  
9 of points from that affidavit, being Exhibit 35, were read to  
10 you, but the second -- well, the first and second points  
11 weren't, although it's a short affidavit, the Court surely  
12 will look at it. I just thought, with your permission, I  
13 would highlight that Point 1 was, my name is Omar Mohammed Ali  
14 Rezaq. And Point 2, a blank, am serving -- it was supposed to  
15 be I am serving, but, blank, am serving a life sentence at the  
16 federal maximum security prison, ADX, Federal Bureau of  
17 Prisons in Florence, Colorado, having been convicted of air  
18 piracy as a result of my involvement in the EgyptAir hijacking  
19 that took place on November 23<sup>rd</sup>, 1985.

20 So that admission is in his affidavit filed now as  
21 Exhibit 35, separate from his conviction and separate from  
22 then on page 2 of his affidavit, Exhibit 35, as the Court  
23 already knows, he specifically admits the following to be  
24 true, and I quote, On November 23<sup>rd</sup>, 1985, I and other  
25 operatives from the Abu Nidal Organization hijacked EgyptAir

1 Flight 648, which was en route from Athens, Greece to Cairo,  
2 Egypt.

3 And Point B, quote, Prior to the hijacking, I was  
4 trained at an ANO terrorist camp located in the Baqaa Valley,  
5 Lebanon, end quote.

6 So that relates to Exhibits 34 and 35. I see that  
7 Ms. Kalik has given you a summary of the points I've made  
8 today, but we will provide the Court with additional citations  
9 for the convenience of the Court.

10 THE COURT: Thank you.

11 MR. HEIDEMAN: Thank you very much.

12 Next, and in that context, on our witness list, the  
13 Court may recall, is Mustafa Badra. Mustafa Badra's sworn  
14 notarized affidavit is at Exhibit 36, and we have the original  
15 of his affidavit marked as Exhibit 36 that carries all of the  
16 proper seals, because it was notarized and sealed in a foreign  
17 country, that we will tender to the court reporter, but if the  
18 Court and the court reporter would prefer, after it's admitted  
19 into evidence with the proper order of the Court, we would be  
20 happy to substitute a true and accurate copy and retain in a  
21 safety deposit box Exhibit 36 as the Court directs.

22 THE COURT: That's fine. Why don't you do that.

23 Thank you.

24 MR. HEIDEMAN: Then at this time we move Exhibit 36  
25 into evidence.

1 THE COURT: All right. 36 is admitted.

2 (PLAINTIFF'S EXHIBIT 36 ADMITTED.)

3 MR. HEIDEMAN: And we'll request to the Court  
4 permission to substitute it with a true and accurate copy and  
5 retain the original.

6 THE COURT: Permission granted.

7 MR. HEIDEMAN: Thank you very much.

8 To highlight for the Court the importance of Exhibit  
9 36, if I may, I will do it quickly. It's only four pages and  
10 I'm not going to read it verbatim. I have highlighted it so  
11 that I can help, with the Court's permission, focus on certain  
12 issues.

13 This is an affidavit of Mongi Ben Abdalla Saadaoui,  
14 which -- and that's all spelled in this exhibit, Madam Court  
15 Reporter.

16 In Item 1, Mr. Badra says, My name is Mustafa Badra,  
17 and then he goes on. I will tell the Court this affidavit was  
18 done with a proper translator and Mr. Badra says in his  
19 affidavit he can speak, read and understand German. There was  
20 a certified German translator there who did the translation  
21 verbally, and then did the translation of the document in  
22 writing, which then subsequently was notarized by him.

23 Point 2, Mr. Badra indicates he -- was then  
24 presently incarcerated when the affidavit was, I believe,  
25 executed, subscribed and sworn to on the 12<sup>th</sup> day of

1 December 2006. He indicates he's presently incarcerated, and  
2 I'm a paraphrasing it, at Stein Prison in Austria having been  
3 convicted in the Austrian criminal courts almost 21 years ago  
4 as a result of his participation in the attack upon the El Al  
5 Israel Airlines terminal at the Vienna International Airport,  
6 Schwechat, that's the name of the airport, which occurred on  
7 December 27, 1985.

8           From Point 3, the pertinent part indicates that --  
9 and I'm paraphrasing, he met with me and Mr. Nudelman,  
10 Mr. Jenkins, Mrs. Heideman, and assistant Anne Goode and the  
11 translator at the Stein Prison and, quote, discussed with them  
12 his involvement in the Vienna Schwechat Airport attack as well  
13 as, quote, events leading up to the attack itself, unquote.

14           During the course of the interview, he stated, among  
15 other things, the following, quote, all of which is true,  
16 unquote.

17           And then in paragraph 4, the operative section is,  
18 When I was 13 years old -- and I'm quoting, When I was 13  
19 years old, I went to Syria for three months for basic military  
20 weapons training. This is where I first saw Yassir Arafat in  
21 Syria at a camp in the village of Azra, A-z-r-a, in Syria.

22           Page 2, Item 5. In 1980, he moved -- I'm  
23 paraphrasing -- to Lebanon and joined Fatah, quote, one of  
24 several organizations of the Palestine Liberation  
25 Organization, unquote.

1           In Item 6, he explains that Fatah consisted of  
2 separate movements.

3           Item 7, quote, There was also an organization led by  
4 Ahmad Jabril, and another led by, quote, Abu Nidal.  
5 Continuing the quote, Each of these organizations had  
6 different attitudes, opinions and ideologies, end quote.

7           In paragraph 8, quote, In early 1985, I joined the  
8 Abu Nidal Organization and worked for Abu Nidal at the time of  
9 the Vienna-Schwechat, S-c-h-w-e-c-h-a-t, Airport attack in  
10 December 1985.

11           He continues in another line, he also, quote, worked  
12 for the secret service and the military, unquote. He  
13 continues in another line, he was paid in Syrian -- end quote.  
14 Syrian lira in cash on a monthly basis, end quote.

15           He continues in another line, quote, When I was with  
16 the secret service of the ANO, I worked in Syria for two  
17 months in March and April 1985 at the refuge camp Al Yarmuk,  
18 that's Y-a-r-m-u-k, end quote.

19           Then, I'm paraphrasing, he requested to be  
20 reassigned to a military group which was done from May '85  
21 until December '85, during which time he says, quote, I was  
22 selected to be the Abu Nidal -- to be in the Abu Nidal group  
23 that carried out operations and planned attacks, end quote.

24           Paragraph 9 on page 2, I quote, The Abu Nidal  
25 Organization had between 1,000 and 2,000 men working for it

1 and was supported by Libya, Syria, and Lebanon. Quote, I was  
2 based at the organization's operations in Baqaa, he spells it  
3 B-e-k-a-a, or the translator did, in Lebanon and also in  
4 Syria.

5 Continuing the quote, The border between Lebanon and  
6 Syria was open, and I went back and forth between Syria and  
7 Lebanon.

8 Item 10, In part, quote, The ANO was run like a real  
9 company with different departments, including secret service,  
10 military, archives, foreign relations, and others, end quote.  
11 Later he quotes, We had a city within a city, end quote.

12 And the last few items are on pages 3 and 4. Item  
13 11, quote, In October 1985, I was part of an ANO group that  
14 received special training for operations to be conducted in  
15 various places, end quote. He continues in another part, The  
16 overall purpose of the operations was to create a war between  
17 Israel and the Arab countries. That was the goal, end quote.  
18 He did mention, and I skipped over it by mistake, quote, I was  
19 not involved in the other operations, only in the attack at  
20 the Vienna Schwechat Airport, end quote.

21 Later, in paragraph 11, he indicates, quote, Libya  
22 provided money and weapons to the ANO and others. The money  
23 was sent to banks in Syria and elsewhere. The weapons were  
24 sent to Syria, which took part of the delivery, and the rest  
25 was given to Abu Nidal, end quote.

1           Item 12, quote, Our training lasted two or three  
2 months, end quote. He indicates various people in the group  
3 were trained. Then they left having been sent to different  
4 places.

5           Later he says, quote, I have identified the faces of  
6 four people from our group with whom we trained and who are  
7 involved in the Rome Fiumicino, F-i-u-m-i-c-i-n-o, Airport  
8 attack which occurred on the same day as the Vienna attack,  
9 end quote.

10           Item 13, In December 1985, he says he was, quote,  
11 sent to Damascus where he, quote, stayed for two or three  
12 weeks with three companions from his group in an apartment  
13 awaiting papers and instructions, end quote. He also states  
14 he received, quote, \$2,000, in U.S. dollars, as well as travel  
15 instructions from the ANO member who I had met in Syria. I  
16 bought a ticket and traveled with one of my accomplices from  
17 Damascus to Switzerland and then by train to Vienna arriving  
18 three days before the attack.

19           And lastly on page 4, as to this Exhibit 36, quote,  
20 Item 15, Our team had breakfast at the Hilton in Vienna with a  
21 person we had met before at the Abu Nidal Organization in  
22 Lebanon and Syria, and I returned to him 5- or \$600 of unused  
23 money and gave him my passport.

24           Lastly, he states, in paragraph 16, Our plan was to  
25 throw grenades, quote, to cause panic, quote, to kidnap,



1 quote, to demand an airplane, quote.

2 He then continues, quote, This plan was developed  
3 two months before the attack, quote. And at the end he says,  
4 quote, We were doing our job. This was the purpose of Abu  
5 Nidal, dot, dot, dot, end quote.

6 Exhibit 36 is in evidence, Your Honor. We thank you  
7 very much. I hope that's helpful to the Court.

8 THE COURT: It is, thank you.

9 MR. HEIDEMAN: Thank you. We'll now call, with the  
10 Court's permission, by De Bene Esse deposition, Khaled  
11 Ibrahim, whose deposition is found at Exhibit 37 for the Baker  
12 and Pflug cases and at Exhibit 38 for the Certain Underwriters  
13 cases.

14 Let me share with the Court that they are identical  
15 transcripts but with separate captions because the cases were  
16 being handled separately at the time, although they have now  
17 been consolidated for trial.

18 So, at this time, we would call Khaled Ibrahim by De  
19 Bene Esse deposition properly noticed, as I'll indicate. His  
20 lawyer was present, as I'll indicate in the transcript, and we  
21 would move Exhibits 37 and 38 into evidence.

22 THE COURT: They'll be admitted.

23 (PLAINTIFF'S EXHIBITS 37 AND 38 ADMITTED.)

24 MR. HEIDEMAN: Thank you. If I may, Your Honor, I  
25 believe I can move the Court through because there's a lot the

1 Court doesn't need to, at least today, take it's time on, but  
2 with the Court's permission, I can highlight some specific  
3 lines and pages.

4 THE COURT: That's fine.

5 MR. HEIDEMAN: On page -- I'm going from the page  
6 numbers that are at the bottom where it says the word "page."  
7 So on page 4, line 18 and 19, he confirms that his name is  
8 Khaled Ibrahim Mamhood, M-a-h -- which he spelled M-a-h-o-o-d,  
9 but then it was corrected to M-a-m-h-o-o-d.

10 On page 5, line 12, he indicates, and I'm  
11 paraphrasing, that he lives in different places at the jail  
12 and I proffer to the Court that we had previously, in a  
13 previous year, taken -- interviewed him for multiple days,  
14 secured an affidavit, which is an exhibit to his deposition,  
15 and that was done inside the prison and that will be  
16 referenced in the deposition.

17 Subsequently, however, when we met with him, I'm  
18 proffering to the Court, it was at his lawyer's office in  
19 Rome, and he further said at line 13, he lives in a house  
20 where detained people live and they're about to be freed live.  
21 And also his place of work.

22 The prison, on page 5, line 16, is Rebibbia,  
23 R-e-b-i-b-b-i-a prison. His lawyer listed on page 5, line 6  
24 is Mr. Mario Lana, L-a-n-a, in Rome. And that's where we met,  
25 Your Honor. And he's asked the question at line 12, did

1 anyone force him to come here or promise -- Strike that.

2 He's asked on line 10 if he was there of his own  
3 free will, and on line 13, did anyone promise him anything,  
4 and the answers were, nobody forced me to come here; yes, he's  
5 of his own free will; and no one promised him anything.

6 Relating to his sworn affidavit on page 6, he's  
7 asked the question at line 21: Did you provide to us a sworn  
8 affidavit of your testimony when we met in 2006? And the  
9 answer is yes. And prior to that on line 19, he was asked:  
10 Did you tell the truth? And he gave on line 20 the answer,  
11 yes.

12 I'll move forward. On page 7, there becomes an  
13 attachment of the notice of De Bene Esse deposition, which his  
14 lawyer, at line 22, confirms he received and that then became  
15 an attachment of Exhibit 1 to the deposition on line 12, page  
16 7.

17 Line -- page 8, we confirm that he had it in both  
18 Italian and English, and as his affidavit attached is in  
19 Italian and English.

20 We asked him on line 18, page 8, if it was his  
21 signature, and the answer was yes. And did he sign it before  
22 the assistant director of the prison, and the answer was yes.

23 Page 9, line 1, Was the affidavit true at the time  
24 he signed it. Answer, line 3, Yes. Does it remain true as  
25 you sit here today? Answer on line 6, yes. And is there a

1 stamp for the official translation? Answer on line 10, yes.

2 And was that stamp from the tribunal in Rome  
3 registered as his statement and affidavit? And the answer  
4 from the interpreter is yes.

5 Page 10, we reconfirm that the affidavit had his  
6 signature, and the answer is yes, on line 10.

7 We asked him on page 11, line 15, where he was born  
8 and he answered, line 18, in Quineitra in Syria. Quineitra  
9 was spelled there Q-u-i-n-e-i-t-r-a. And he was asked if that  
10 was the border area between Lebanon and Syria, and the answer  
11 was yes.

12 He did comment that there was official documents  
13 that say he was born in Al Hasbani, H-a-s-b-a-n-i, in Lebanon,  
14 but he confirmed on line -- page 12, line 4, that his birth  
15 date is December 15, 1967.

16 He then states on page 13, line 11, quote -- he  
17 answers yes to the question, quote, on Lines 11, At the age of  
18 12 or 13, were you selected into the Fatah Organization and  
19 you received weapons training, and he answered, yes. And then  
20 he was asked, And you were based both in Lebanon and, quote,  
21 in Syria, is that correct? And he indicated, with a long  
22 answer, yes.

23 He's asked at line 25 how old was he when he joined  
24 the Abu Nidal Organization, also known as the Revolutionary  
25 Council. The answer on page 13, line 2 at the bottom is,

1 Around 1982, I was 15 or 16.

2 Line 4, on page 13, After you -- quote, After you  
3 joined the Abu Nidal Organization, were you trained by the Abu  
4 Nidal Organization? Answer, on line 6, yes. Line 8, and --  
5 quote, And the training you received as a member of Abu Nidal,  
6 this was in the Syrian-controlled Baqaa Valley; is this  
7 correct? Answer on line 11, yes, it's in an area in Lebanon  
8 but it's controlled by Syria, end quote.

9 He's asked at line 20, The Syrian army protected the  
10 area of the camps; is that correct? And he answers at line  
11 23, quote, They were the army -- the official army in the  
12 area, the controlling army in the area. So if they didn't  
13 want someone to be there, they could get rid of this person,  
14 end quote.

15 Line -- page 14, line 2, question, So the Syrian  
16 army that was based there did not interfere with the  
17 activities of Abu Nidal training? Answer, No, they didn't.

18 Line 8, The Abu Nidal Organization provided food,  
19 weapons, money, and a monthly salary; is that correct? And he  
20 answers yes.

21 On page 15, line 17, before you joined Abu Nidal, is  
22 it correct your salary was paid by the PLO?

23 Answer, Yes.

24 Line 23, After you joined the Abu Nidal  
25 Organization, quote, your monthly pay came from them?

1           Answer, Yes, of course, because they were two  
2 different organizations.

3           Forward to page 16, talking about when Arafat left  
4 Lebanon to go to Tunisia, and the context is 1982 or 1983.

5 Question, line 21, When Arafat left, you did not go with  
6 Arafat to Tunisia? Answer, no, no, he left us, he left us  
7 there.

8           Page 16, line 6, after Arafat left, quote, Do I  
9 understand correctly the Abu Nidal Organization became the  
10 main Palestinian organization that remained in Syria and  
11 Lebanon?

12           Answer, yes.

13           Page 16, line 11, Is it true, quote, the Abu Nidal  
14 Organization had military bases in the Baqaa Valley located  
15 adjacent to the Syrian border and the Lebanon border?

16           Answer, line 14, Yes, they were in the Baqaa Valley.

17           Line 15, Question, And at the time, quote, the  
18 Syrian army and Syrian secret service controlled the Baqaa  
19 Valley.

20           Answer, line 18, continuing on to page 17, line 18  
21 is yes.

22           Line 19, quote, The Abu Nidal Organization and the  
23 secret -- and the Syrian secret service had a good  
24 relationship, a working relationship with also the Syrian  
25 army, which didn't interfere with Abu Nidal; is that correct?

1           Line 23, yes.

2           Page 17, then the numbering starts over, and it's  
3 line 1, quote, question, And Syria also provided other support  
4 and help for the Abu Nidal Organization, including you and the  
5 other people training there?

6           Answer, There were political -- they had some  
7 political agreements, on Lines 4 and 5.

8           Line 7, quote, What type of political agreements  
9 existed between Abu Nidal, Syrian intelligence and secret  
10 service and army?

11           Answer at line 10, Of course, I don't know the terms  
12 of the agreement, but, quote, in order to stay there in the  
13 Baqaa Valley, there must have been some kind of an agreement,  
14 end quote.

15           Line 14, quote, In Syria, Abu Nidal maintained  
16 apartments which were known as houses and were used by Abu  
17 Nidal Organization for training and meetings and offices and  
18 leisure.

19           Answer, Yes, they used them as offices for like  
20 civil purposes, not military.

21           Page 18, the offices of Abu Nidal -- line 21, The  
22 officers of Abu Nidal were in Syria; is this correct?

23           Answer, Yes.

24           Quote, line 24, And Syria knew about the existence  
25 of these Abu Nidal houses and you actually visited those

1 houses in Syria?

2 Answer, on line -- the numbering starts over again,  
3 on line 2, Yes.

4 Question, line 3, The houses were run by a foreign  
5 operations committee of Abu Nidal?

6 Line 5, answer, Yes.

7 This actually was the, quote, Abu Nidal committee  
8 called the Committee for Foreign Operations.

9 Answer on line 9, yes.

10 Line 11. This was the official committee of the Abu  
11 Nidal Organization located in Syria. Answer, in part, line  
12 14, I know they had these offices there, so we weren't afraid  
13 of being found there because we thought we were safe there.

14 Line 18, So the officers of the Abu Nidal  
15 Organization were in Syria?

16 Answer, Yes.

17 Line 21, And did you actually go to those offices  
18 and the safe houses of Abu Nidal inside Syria?

19 Answer, Yes, I was in two of those houses.

20 Line 24, Question, What city were they in?

21 Answer, Damascus.

22 Continuing onto the next page, the numbers again  
23 start over.

24 Question, line 3, Did they ask you to come to the  
25 ANO houses in Damascus -- Strike that.



1           Why did they ask you to come to the ANO houses in  
2 Damascus, Syria?

3           Answer, line 5, If we had to travel, quote, We  
4 couldn't travel straight from Beirut. Quote, We had to go to  
5 Damascus to get a visa, to get papers.

6           Line 17, And it's through the use of those Abu Nidal  
7 houses and offices in Damascus that you would obtain travel  
8 papers to go outside of Syria?

9           Line 20, Answer, yes.

10          Page 20, the -- line 5, Do you recall traveling from  
11 Damascus, Syria for Abu Nidal Organization, Foreign  
12 Operations, and going to different countries?

13          Answer, Yes.

14          Question, line 9, Were you given assignments for  
15 various foreign operations abroad?

16          Answer, Yes.

17          Line 13, different -- what different countries do  
18 you remember going to from Damascus?

19          Answer, Cyprus, France, Romania, Yugoslavia,  
20 Pakistan.

21          Question, line 16, And also Italy?

22          Because that, Your Honor, is the Rome airport  
23 attack.

24          And answer, Yes.

25          Question, line 18, Prior to going to these different

1 countries, did you receive special training in Syria as a  
2 member of the Abu Nidal Organization?

3 Answer, All the training took place in Lebanon, and  
4 he's previously said in Syrian-controlled Baqaa Valley.

5 Line 22, quote, The offices and the safe houses for  
6 transportation took place in Syria?

7 Answer, line 24, Yeah, those were the bases from  
8 where we departed to go to those countries.

9 Page 21, line 4, Operations for departing to go to  
10 commit foreign operations abroad was all done through Syria?

11 Answer, Yes.

12 Line 8, How many committees did the Abu Nidal  
13 Organization having -- and I'll skip that. He says there are  
14 four or five and he names them, one of which is the Committee  
15 for Foreign Operations.

16 And at line 24, he's asked the specific committee  
17 you were placed into was the Committee for Foreign Operations,  
18 and his answer on to the next page, line 2, is yes.

19 Page 22, he talks, and I'll paraphrase, about the  
20 Central Committee having its operations in the foreign -- and  
21 for foreign operations in Damascus, Syria.

22 Line 23, The committee for foreign operations had  
23 offices and a base of operations in Damascus, Syria?

24 Answer, line 1 onto the next page, Yes.

25 Question, line 3, Whenever you were sent out from

1 the ANO offices and you went out from Damascus, did you also  
2 return to Damascus?

3 Answer, Yes.

4 Question, on the next page, 23, line 14, What  
5 different type of operations were there that you were involved  
6 in in Syria and then went out and came back?

7 Answer, They could send you -- Sometimes, quote,  
8 they could send you to check the weapons, where they were  
9 hidden, dot, dot, dot, to maybe clean them up or keep them  
10 ready, dot, dot, dot. Sometimes we are sent to check people  
11 who were abroad, dot, dot, dot. So these operations were not  
12 always of a military nature.

13 And then we got specific, In 1985, did you receive  
14 special training for different assignments? On page 1 -- on  
15 line 1, page 23, Answer, Yes.

16 And were some of those special assignments with --  
17 relating to the Rome Fiumicino Airport attack of December 27,  
18 '85?

19 Answer, Yes.

20 Question, page 23, line 8, And did people train with  
21 you and your group in 1985 for the Vienna airport attack of  
22 the same day?

23 Answer on page 24, line 11, Yes.

24 Then he's asked about other attacks, and I'll come  
25 back -- and I'll move on through those.

1           And then on page 24, at the bottom where it  
2 starts -- the numbering starts over, Line, it says -- the  
3 question is, In fact, the EgyptAir Flight 648 hijacking of a  
4 flight from Athens to Cairo took place one month before the  
5 Rome and Vienna airport attacks; isn't that correct?

6           Answer, Yes.

7           Quote, line 8, And the people who committed that  
8 attack also were trained in the ANO camps, the Abu Nidal  
9 camps, in the Syria controlled Baqaa Valley; is that correct?

10          Answer, Yes.

11          Page 25, at the top, line 16, the Abu Nidal --  
12 Question, The Abu Nidal Organization took responsibility for  
13 these various attacks as Abu Nidal wanted people to know when  
14 these attacks were done by the Abu Nidal Organization; isn't  
15 that correct?

16          Answer, Yes. When they make an attack, they want  
17 people to know that it's them. So, you know, you can even  
18 read it in the papers and see it on TV that they take  
19 responsibility for these attacks, and they took responsibility  
20 for all these attacks that you mentioned.

21          Just a few more, Your Honor.

22          Page 26, line 23, Question, The Rome and Vienna  
23 attacks took place one month after the EgyptAir hijacking,  
24 also done by the Abu Nidal Organization?

25          Answer, line 1, because the numbering starts over,

1 Yes.

2 I believe there's only one other matter, one other  
3 page that I think might be helpful to the Court. It's page  
4 41. The context is his involvement in terrorism, and in  
5 pertinent part, he says on line 6 at the top of page 41, So  
6 when I joined the Abu Nidal Organization, we were like  
7 brainwashed. They always found like moral justification for  
8 terrorism. I know it's difficult to understand. So their  
9 moral justification was, you know, some types of conditions,  
10 some types of pain, you know, that people feel. And they did  
11 take advantage of it, whether or not it's justified. They  
12 take advantage of this in order to give their moral  
13 justification for what they do. That's the main point, you  
14 know, when you find the moral justification for something that  
15 you do, end quote, on page 41.

16 And thank you for letting me put into the record  
17 Exhibit 37, this deposition, and sharing these parts with you  
18 which I hope are helpful to the Court.

19 THE COURT: They were, thank you.

20 MR. HEIDEMAN: Thank you very much.

21 With the Court's permission, I'll proceed, unless  
22 the court reporter wants a quick break or the Court wants to  
23 break, to the testimony of Dr. David Long.

24 THE COURT: How do you feel?

25 COURT REPORTER: I'm fine.

1 THE COURT: Let's go to 4:30.

2 MR. HEIDEMAN: Thank you very much.

3 We'll mark for identification and submit to the  
4 Court exhibit -- Plaintiff's Exhibit 51, which is the  
5 curriculum vitae of Dr. Long. And while I'm -- and I asked  
6 him about it, but let me -- let me share quickly at 51 with  
7 the Court, because it's referenced in his notarized statement,  
8 which we will file as Exhibit 52. As to Exhibit 51, his  
9 curriculum vitae, we would move that into evidence, Your  
10 Honor.

11 THE COURT: Be admitted.

12 (PLAINTIFF'S EXHIBIT 51 ADMITTED.)

13 MR. HEIDEMAN: Thank you. As to Exhibit 52, which  
14 is the notarized statement with attachments of Dr. David Long,  
15 we would move that into evidence.

16 THE COURT: That will be admitted as well.

17 (PLAINTIFF'S EXHIBIT 52 ADMITTED.)

18 MR. HEIDEMAN: Thank you very much.

19 Turning now to Exhibit 52, there are portions that I  
20 believe would be helpful for the Court. In terms of  
21 background, and I'm paraphrasing, Dr. Long indicates that,  
22 from 1962 to 1993, he was a member of the U.S. Foreign Service  
23 specializing in the Middle East. He also indicates he taught  
24 at a number of American universities or on academic assignment  
25 from the Department of State. He indicates that he's written,

1 edited, or co-edited over a dozen books and published numerous  
2 articles on the public policy issues of the Middle East, dot,  
3 dot, dot, and on international terrorism.

4 He specifically says that, from 1984 to 1987, which  
5 is the time period we're dealing with, he served under  
6 Ambassador Robert Oakley as his Deputy Director for Regional  
7 Policies in the Office of Counterterrorism at the Department  
8 of State. At that time, quote, the State Department was  
9 designated the lead agency for countering international  
10 terrorism and coordinating U.S. international counterterrorism  
11 policy.

12 He continues, quote, Because of my background, I was  
13 particularly, though not solely, involved in the Middle East  
14 and South Asian terrorism. He continues, quote, During those  
15 years I followed closely the operations of the Abu Nidal  
16 Organization and the issues of foreign sovereign, that is  
17 state sponsorship of terrorism and support of terrorism and  
18 terrorist organizations.

19 Based on this experience, he says he provides this  
20 report and the opinions contained therein are based upon his  
21 unique experience, expertise, and qualifications.

22 And before I express his opinions, we would ask the  
23 Court to qualify and accept as an expert witness Dr. David  
24 Long, formerly of the U.S. Department of State.

25 THE COURT: I will.

1 MR. HEIDEMAN: Thank you very much.

2 At the bottom of page 1, in pertinent part, Dr. Long  
3 indicates, and I quote, On November 23, 1985, the Abu Nidal  
4 Organization carried out the hijacking of EgyptAir Flight 648.  
5 He continues, and I quote, On December 27, 1985, the Abu Nidal  
6 Organization carried out simultaneous terrorist attacks at the  
7 international airports at Rome, Italy and Vienna Austria.

8 He then continues, quote, Following the attacks, the  
9 United States acquired evidence confirming that both attacks  
10 were carried out by the Abu Nidal Organization with the, and  
11 quote, material assistance of the Syrian and Libyan  
12 governments, unquote.

13 He continues, quote, The evidence established, A,  
14 that the Abu Nidal Organization, which at the time was  
15 headquartered in Damascus, Syria, received major logistical  
16 and intelligence support from the Syrian government for all  
17 its operations, including the EgyptAir hijacking and Rome and  
18 Vienna airport attacks, end quote, dot, dot, dot -- or dot,  
19 dot, dot, end quote.

20 On page 2, in the section on the Abu Nidal  
21 Organization, Dr. Long, who has written a major book on  
22 terrorism -- what's the title of the book, please?

23 Dr. Long states, in pertinent part, the Abu Nidal  
24 Organization, quote, was led by Sabri al-Banna whose "nom de  
25 guerre" was Abu Nidal, unquote.



1           In the second paragraph on page 2, he indicates that  
2 one of the reasons that the Abu Nidal Organization, quote, was  
3 so effective, thank you, was the high level of internal  
4 security Abu Nidal achieved within his organization. Then he  
5 talks about the security. But at the end of the paragraph, he  
6 says, quote, the cover and protection, he, referring to Abu  
7 Nidal and the Abu Nidal Organization, quote, received from the  
8 Syrian and Libyan governments materially aided Abu Nidal and  
9 his organization in its secretive methods, end quote.

10           Next paragraph, one sentence, he says, quote, The  
11 Abu Nidal Organization became one of the most sophisticated  
12 terrorist groups of its day with a global network of  
13 operations, end quote.

14           Next paragraph, and I quote, A major strength of the  
15 Abu Nidal Organization's ability to gain and maintain  
16 substantial financial and material support -- I left off a  
17 word. Let me start over.

18           Quote, A major strength of the Abu Nidal  
19 Organization was Abu Nidal's ability to gain and maintain  
20 substantial financial and material support from host regimes.

21           Continuing the quote, In order for any terrorism  
22 organization to survive, it must have significant support from  
23 public constituencies who would never join a terrorist  
24 organization but would provide financial aid and safe haven  
25 and/or the support of sympathetic regimes.

1           Quote, What set the Abu Nidal Organization apart  
2 from other Middle East terrorist organizations was Abu Nidal's  
3 ability to acquire substantial support through the patronage  
4 of radical Arab states such as Syria, dot, dot, dot.

5           Page 3, at the top, he talks about Abu Nidal leaving  
6 Iraq and then he says, quote, Abu Nidal moved his headquarters  
7 to Syria under the patronage of President Hafiz al-Assad.

8           Next paragraph, quote, In 1985, Abu Nidal acquired  
9 additional patronage from Libya but maintained his base of  
10 operations in Damascus and the Syrian-controlled Baqaa Valley  
11 in Lebanon. By that summer, the ANO had begun a series of  
12 terrorist attacks against moderate Arab states, including but  
13 not limited to Egypt. Quote, These terrorist attacks included  
14 the EgyptAir hijacking and the Rome and Vienna airport attack.

15           He continues to another part, quote, dot, dot, dot,  
16 they were planned, supported and organized from ANO  
17 headquarters in Damascus, Syria. I am continuing the quote,  
18 Moreover, the actual terrorists who carried out the attacks  
19 were trained in the Syrian-controlled Baqaa Valley in Lebanon  
20 with full access into and protection and support in as well as  
21 freedom of exit from Syria, end quote.

22           The bottom of page 3, quote, When the ANO arrived in  
23 Syria in 1983, this new host state emerged as a principal  
24 source of financial and material support for Abu Nidal's  
25 terrorist organizations, unquote.

1           It was not a major departure for the Syrian regime  
2 to support terrorist groups. As of 1979, quote, Syria had  
3 already been among the first countries listed on the newly  
4 created U.S. State Department's state-sponsored terrorism  
5 list.

6           Next paragraph, quote, In addition to arranging for  
7 Abu Nidal to acquire a headquarters facility in Damascus and  
8 providing financial and material support to ANO, Syria also  
9 provided the ANO with intelligence support, logistics --  
10 logistic support, safe haven and training support.

11           And he continues, quote, The ANO maintained close  
12 contact with the Syrian Air Force intelligence and military,  
13 paren, army intelligence.

14           Quote, Syrian logistic support, in addition to  
15 procurement, included providing travel documents to ANO  
16 operatives and allowing them to transit freely through  
17 Damascus International Airport when departing on and returning  
18 from missions.

19           Quote, Syria provided safe haven to the Abu Nidal  
20 Organization and Syrian training and support enabled the Abu  
21 Nidal Organization to establish training facilities in  
22 Lebanon's Baqaa Valley, which was then controlled by Syrian  
23 armed forces.

24           Quote, Syria augmented the ANO's significant  
25 capabilities and intelligence techniques and the use of arms

1 and explosives taught to new recruits.

2 He then references the State Department special  
3 report entitled "Syrian Support for International Terrorism,  
4 1983 to 1986," which is an attachment to his Exhibit 52 here,  
5 however that's already been moved into evidence as Exhibit 41,  
6 and is in evidence.

7 He further indicates in the last paragraph, The U.S.  
8 Government was so concerned with the topic of the Abu Nidal  
9 Organization, that in February 1989, the U.S. Department of  
10 State issued a fact sheet on the Abu Nidal Organization, which  
11 is already in evidence as Exhibit 46.

12 However, he continues to reference something  
13 additional not yet in evidence in which I'll move in at this  
14 time. He says this fact sheet, quote, reinforced a  
15 December 28, 1985 Central Intelligence Agency National Daily,  
16 which he attaches to his report and which we will mark and  
17 move in in a moment, that the Abu Nidal -- and I quote, The  
18 Abu Nidal Organization was responsible for the EgyptAir  
19 hijacking and the Rome and Vienna airport attacks, and that  
20 Syria provided important logistical support and allowed ANO to  
21 maintain offices and safe houses in Damascus and training  
22 facilities in Syria, as well as the Baqaa Valley, end quote.

23 And in that regard, Your Honor, we will move Exhibit  
24 48 into evidence, being the Central Intelligence Agency  
25 National Daily document to which I've just referenced. Will

1 it be admitted?

2 THE COURT: Admitted.

3 (PLAINTIFF'S EXHIBIT 48 ADMITTED.)

4 MR. HEIDEMAN: Thank you.

5 He further indicates that, quote, The extensive  
6 support and infrastructure provided by Syria enabled the ANO  
7 to expand its scope of operations, end quote.

8 And lastly, in his conclusion, he says, It is my  
9 opinion, based upon my training, experience, and professional  
10 expertise, including my personal knowledge and review of facts  
11 and developments which occurred at the time, it is clear that,  
12 one, the hijacking of EgyptAir Flight 648, and two, the Rome  
13 and Vienna airport attacks were, A, two acts of terrorism  
14 perpetrated by the Abu Nidal Organization; B, the Syrian  
15 government provided direct and material support of both  
16 terrorist attacks; C, without the direct and material support  
17 provided by the Syrian government, quote, the Abu Nidal  
18 Organization could not have carried out the EgyptAir hijacking  
19 or the Rome and Vienna airport attacks, and this exhibit --  
20 end quote. And this Exhibit 52 is in evidence. And we thank  
21 the Court.

22 I notice that it's 4:20. I can do some more, but we  
23 can also save it for tomorrow.

24 THE COURT: Let's save it for tomorrow.

25 MR. HEIDEMAN: Thank you, sir. May I -- I'm sorry,

1 I apologize, Your Honor. I did reference the book of  
2 Dr. Long. I'm told its even out of print, so let me be  
3 specific so it's on the record. It's the "*Anatomy of*  
4 *Terrorism*" by David E. Long, and it was published by the Free  
5 Press, a division of MacMillan, Inc., with a copyright of  
6 1990, and we'd ask the Court to take note thereof.

7 THE COURT: Thank you very much. We'll be in recess  
8 till 9:30.

9 MR. HEIDEMAN: Thank you very much.

10 THE COURT: Thank you.

11 THE DEPUTY CLERK: All rise. Court stands adjourned  
12 till 9:30 tomorrow morning.

13 (PROCEEDINGS END AT 4:20 A.M.)

14 \*-\*-\*-\*

15 **CERTIFICATE OF REPORTER**

16 I, Catalina Kerr, certify that the foregoing is a  
17 correct transcript from the record of proceedings in the  
18 above-entitled matter.

19  
20 \_\_\_\_\_  
21 Catalina Kerr

\_\_\_\_\_ Date

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