

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:22-cr-20290-BB-1

UNITED STATES OF AMERICA,

Plaintiff,

November 27, 2023
9:01 a.m.

vs.

ERIC DEAN SHEPPARD,

Defendant.

Pages 1 THROUGH 231

TRANSCRIPT OF TRIAL DAY 1
BEFORE THE HONORABLE BETH BLOOM
UNITED STATES DISTRICT JUDGE
And a Jury of 12

Appearances:

FOR THE GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE

AIMEE C. JIMENEZ, AUSA
ANA MARIA MARTINEZ, AUSA
99 Northeast 4th Street
Miami, Florida 33132

FOR THE DEFENDANT: SALE & WEINTRAUB, PA

JAYNE C. WEINTRAUB, ESQ.
2 South Biscayne Boulevard, 21st Floor
Miami, Florida 33131

NELSON MULLINS

JONATHAN ETRA, ESQ.
CHRISTOPHER C. CAVALLO, ESQ.
2 South Biscayne Boulevard, 21st Floor
Miami, Florida 33131

COURT REPORTER:

Yvette Hernandez
U.S. District Court
400 North Miami Avenue, Room 10-2
Miami, Florida 33128
yvette_hernandez@flsd.uscourts.gov

ALSO PRESENT:

Special Agent Sarah Halleran

I N D E X

Certificate.....	231
Voir Dire	37
Jury Sworn	158
Preliminary Jury Instructions	165
Government Opening Statement	174
Defense Opening Statement	191

W I T N E S S

ON BEHALF OF THE GOVERNMENT:	PAGE
ALTHEA HARRIS	
DIRECT EXAMINATION BY MS. JIMENEZ	219

1 (Call to order of the Court, 9:01 a.m.)

2 THE COURT: Hi. Good morning to everyone.

3 Hope everyone had a nice holiday weekend.

4 Who are we waiting for?

5 Go ahead and have a seat.

6 MR. ETRA: Your Honor, I think Ms. Weintraub has
7 stepped out for a minute. She'll be back.

8 THE COURT: Okay. Let me just get into the computer
9 and we can get started.

10 (Pause in proceedings.)

11 COURTROOM DEPUTY: Calling Criminal Case Number
12 22-20290, United States of America v. Eric Dean Sheppard.

13 Counsel, please state your appearances for the record,
14 beginning with the Government.

15 MS. JIMENEZ: Good morning, Your Honor. Aimee Jimenez
16 on behalf of the United States.

17 THE COURT: Good morning.

18 MS. MARTINEZ: Annie Martinez on behalf of the United
19 States, Your Honor. Good morning.

20 THE COURT: Good morning.

21 AGENT HALLERAN: Special Agent Sarah Halleran, FBI.

22 THE COURT: Good morning.

23 MS. FONT: Arianna Font, paralegal for the United
24 States Attorney's Office.

25 THE COURT: I'm sorry. I didn't hear you.

1 Is that microphone not working?

2 MS. FONT: Arianna Font. Paralegal for the United
3 States Attorney's Office.

4 THE COURT: Good morning.

5 MS. FONT: Good morning.

6 THE COURT: On behalf of the Defendant.

7 MS. WEINTRAUB: Good morning, Your Honor. Jayne
8 Weintraub on behalf of Mr. Sheppard, with my co-counsel.

9 THE COURT: Good morning.

10 MR. ETRA: Jonathan Etra.

11 THE COURT: Good morning.

12 MR. STABILE: Renato Stabile. Good morning.

13 MR. CAVALLO: And Christopher Cavallo. Good morning,
14 Your Honor.

15 THE COURT: Good morning.

16 MS. WEINTRAUB: And my client, Mr. Sheppard, Your
17 Honor.

18 THE COURT: Good morning.

19 And the other two individuals at counsel table?

20 MS. PACHECO: Oh. Giselle Pacheco. I work with
21 Ms. Weintraub.

22 THE COURT: Good morning.

23 MS. PACHECO: Good morning, Judge.

24 MR. CUMMINGS: Brian Cummings.

25 THE COURT: Could we get to a microphone. And let's

1 have an agreement throughout this trial that any time that
2 you're addressing the Court, the jury, or a witness, that
3 you'll speak through a microphone. Thank you.

4 MR. CUMMINGS: Good morning. Brian Cummings.

5 THE COURT: Good morning.

6 MR. OROZCO: Good morning, Your Honor. Alfonso
7 Orozco, paralegal for the Defense team.

8 THE COURT: Good morning to you as well.

9 Is the Government ready to proceed to trial?

10 MS. JIMENEZ: The Government is ready, Your Honor.

11 THE COURT: Is the Defendant ready to proceed to
12 trial?

13 MS. WEINTRAUB: Yes, Your Honor.

14 THE COURT: The Court has before it the operative
15 charging document, which is the Superseding Indictment, Docket
16 Entry 60. Is that the operative charging document in this
17 case?

18 MS. JIMENEZ: It is, Your Honor.

19 THE COURT: And is the Government proceeding with each
20 of the 14 counts set forth in the Indictment?

21 MS. JIMENEZ: We are.

22 THE COURT: I will be reading the Superseding
23 Indictment to the jury to determine whether they have any
24 familiarity with the allegations, and given their experiences,
25 background, or opinions, whether the information contained in

1 the Indictment would affect their ability to be fair and
2 impartial. Is there any objection to that?

3 On behalf of the Government?

4 MS. JIMENEZ: There's no objection, Your Honor. I
5 would say that with respect to the aggravated identity theft
6 counts, the individuals who are identified there are identified
7 by their initials. I don't know if the Court would like to
8 state their actual names for the jury.

9 THE COURT: I think it is important, since I am also
10 going to ask the Government to set forth the names and a little
11 bit of the background of the individuals. So with regard to
12 Counts 10 through 14, if you can provide that information.

13 MS. JIMENEZ: Right now? Yes?

14 Yes, Your Honor. With respect to Count 10, the
15 initials are MS, it's Majed, M-A-J-E-D [sic], Salem, S-A-L-E-M.

16 Count 11 initials HS -- I'm sorry -- HB is Heimdal,
17 H-E-I-M-D-E-L [sic], Barrios, B-A-R-R-I-O-S.

18 And then the next three counts are for NC, and that is
19 Neal, N-E-I-L [sic], Cupersmith, C-U-P-E-R-S-M-I-T-H.

20 THE COURT: All right. Thank you, Ms. Jimenez.

21 Is there any objection by the Defendant --

22 MR. ETRA: No, Your Honor.

23 THE COURT: -- to the Court reading the Superseding
24 Indictment to the jury?

25 MR. ETRA: No, Your Honor.

1 THE COURT: All right. Early on in this case, when
2 the Court first scheduled this case for trial, it entered
3 Docket Entry 13, which was the Court's order regarding pretrial
4 procedures. That order specified that: "Should any plea offer
5 be made by the Government, but not accepted by the Defendant,
6 the Government shall attach to any such offer a cover sheet
7 with space for the Defendant and the Defendant's attorney to
8 certify that the Defendant has reviewed the plea offer.

9 "The cover sheet shall also include space for the
10 Defendant and the Defendant's attorney to certify the dates of
11 signature. This document shall be signed by the Defendant and
12 the Defendant's attorneys before trial. This document shall
13 not be filed with the Court or otherwise provided to the Court,
14 but shall be maintained within the Government's case file.

15 "The parties shall not advise the Court whether any
16 plea offer has been made or, if so, of the contents of any plea
17 offer that might have been made.

18 "Before trial begins, the Court will specifically
19 inquire as to whether the parties have complied with this
20 paragraph of this order. The parties shall respond with either
21 a yes or no, without further elaboration.

22 "If no plea offer has been made, or if a plea offer
23 has been made, and the requirements of this paragraph have been
24 satisfied, the answer shall be yes."

25 Has the Government complied with this Court's order?

1 MS. MARTINEZ: No, Your Honor.

2 MS. JIMENEZ: No. No, we have not, Your Honor.

3 MS. MARTINEZ: And I apologize for that.

4 THE COURT: Well, why not?

5 MS. MARTINEZ: I actually just did not see that, Your
6 Honor.

7 THE COURT: Well, it's part of the case.

8 MS. MARTINEZ: I agree, Your Honor. But I just -- I
9 completely missed that. I think it's an excellent provision.
10 I just missed it. I did not --

11 THE COURT: Well, it's an order that the Court
12 entered, excellent or not. So let's do that now, please,
13 before the trial begins.

14 (Pause in proceedings.)

15 THE COURT: Let me know when we've complied, so we can
16 move to some of the other issues.

17 (Pause in proceedings.)

18 MS. WEINTRAUB: Your Honor, it's now been executed by
19 myself and my client, and it was prepared by the Government.

20 THE COURT: Has the Government complied with this
21 Court's order?

22 MS. JIMENEZ: We have, Your Honor.

23 THE COURT: Has the Defendant complied with this
24 Court's order?

25 MS. WEINTRAUB: Yes, ma'am.

1 THE COURT: All right. Now, ordinarily, I would have
2 the Government read to the jury the list of witnesses that it
3 anticipates that it will call, but the Defendant has filed its
4 own amended witness list. So at the appropriate time, I will
5 ask the Government to list the names and a brief background of
6 the witnesses and then I will also ask the Defendant.

7 Is that acceptable to both sides?

8 MS. JIMENEZ: Yes, Your Honor.

9 MS. WEINTRAUB: Yes, Your Honor.

10 THE COURT: All right. There are two pending motions
11 that are before the Court. And I would like to address those
12 motions before we proceed.

13 Docket Entry 138 is the Government's Motion in Limine
14 to Exclude Testimony or Other Evidence of Illness or Medical
15 Condition. The Government argues that some of the financial
16 records indicate that some of the loan proceedings were used to
17 pay for medical expenses. And it's my understanding that the
18 Defendant is opposed to this motion.

19 Ms. Weintraub, can you advise the Court why this
20 information as to the specific medical condition would be
21 relevant.

22 MS. WEINTRAUB: Yes, Your Honor.

23 First of all, the case that the United States cited --
24 and forgive me, Judge, but my binder is on its way back here --

25 THE COURT: United States v. Masferrer.

1 MS. WEINTRAUB: I think it's --

2 THE COURT: It's United States v. Masferrer.

3 MS. WEINTRAUB: Yes. In that case, Your Honor, the
4 reason that it was excluded was because the time was
5 irrelevant. It had nothing to do with what was going on. In
6 this particular case before the Court, yes, Your Honor -- I
7 don't know how the Government found out, but yes, my client
8 suffers from cancer. Yes, he has been under treatment. Yes,
9 he has had surgery. And the reason that it is relevant is
10 because it happened during the period of time charged in one of
11 the counts in the Indictment. It completes the story. There
12 are people that will testify about it, of what was going on at
13 the time with my client. It is completely relevant to the case
14 and completely relevant to the intent of what was going on.

15 MS. JIMENEZ: Your Honor --

16 THE COURT: Ms. Jimenez?

17 MS. JIMENEZ: -- it bears on no issue in this case.
18 It bears on no issue in this case. It doesn't make anything
19 that happened with respect to the fraud or anything that
20 happened with respect to the aggravated identity theft more or
21 less likely. It is simply an effort to garner sympathy with
22 this jury. It is completely irrelevant, and frankly
23 prejudicial.

24 There is -- I mean, the fact -- and we -- yeah, the
25 only thing that I could conceive of was the fact that there are

1 proceeds from the accounts that went to medical expenses and
2 that's -- and it doesn't even seem like they're trying to argue
3 something based on that point. They're not trying to argue
4 that: "Well, we need to disclose what the medical issues
5 were -- the medical condition was because somehow it justifies
6 the expenditure from PPP proceeds or EIDL loan proceeds."
7 They're not even trying to make that argument. It's just
8 something that -- he was experiencing a health condition during
9 the time that he was committing a fraud. Well, certainly he
10 was healthy enough to commit the fraud. It didn't impede that.

11 THE COURT: Well, I think it's the issue with regard
12 to the expenses themselves. So if, in fact, those expenses are
13 going to be introduced by the Government to show that they were
14 used to personally enrich the Defendant and not for any lawful
15 purpose, then the question is: What was the purpose of these
16 funds being used?

17 And I'm not quite clear as to whether the Court should
18 on a wholesale basis exclude any testimony relating to those
19 expenses without quite knowing how the Government is going to
20 be submitting its evidence with regard to the personal
21 enrichment of certain funds.

22 MS. JIMENEZ: It's simply a summary witness who will
23 testify about what the bank records show in terms of the -- and
24 then there's categories. You know, some funds, X amount of
25 dollars, were used to pay individuals, certain amount of

1 dollars were used for medical expenses, certain amount of
2 dollars were used for personal expenses or paying the mortgage.
3 So it's categories. It's not even --

4 THE COURT: Well, I understand it's categories. But
5 those categories may bleed over to another category and not be
6 solely for an unlawful purpose. And I guess that's where I
7 don't know what the testimony is going to be that may allow the
8 Defense to somehow justify some of those expenses. So it's --

9 MS. WEINTRAUB: Judge, I don't want the Court -- may I
10 interrupt?

11 THE COURT: I'm just -- what I don't want to do is
12 have a mini trial here in terms of what's going to be
13 introduced.

14 MS. WEINTRAUB: I just want to clarify. I think the
15 Court is under a misunderstanding, so I don't want the Court
16 going further down that road by the Government -- although I'm
17 glad that they don't understand. But the reality is, is that
18 it's part of our defense. It's part of our story. He was
19 distracted. The Government is aware of the fact that he was
20 relying on others to do certain things. The reason he had to
21 rely on others to do those things was because he was undergoing
22 surgery and radiation treatment. It is exactly at that time.
23 It's part of our defense.

24 THE COURT: So it's not actually the source of funds
25 and the following of those funds.

1 MS. WEINTRAUB: Correct. I didn't mean to interrupt
2 the Court, but I didn't want the Court going on a wrong path.

3 THE COURT: Well, the reason I say that is it's the
4 Government's representation that the financial records indicate
5 that some of the loan proceeds were used to pay for medical
6 expenses. So it's not a justification as to why those expenses
7 were paid.

8 MS. WEINTRAUB: That's correct.

9 THE COURT: What the Defense is arguing is that there
10 may be certain circumstances with regard to actions or conduct
11 in this case.

12 MS. WEINTRAUB: Yes, Your Honor.

13 THE COURT: All right. Then, at this point, I have to
14 either reserve or deny on the motion in limine because I don't
15 quite know how it's going to be presented by way of the
16 Government's evidence or by way of an anticipated defense. So
17 I'll reserve on the motion in limine, and let me hear how the
18 testimony is presented.

19 MS. JIMENEZ: And, Your Honor, I would ask that it not
20 be mentioned in voir dire or opening statement by the Defense
21 until the Court rules on this issue.

22 MS. WEINTRAUB: Judge, I don't intend to use it in
23 voir dire or mention it in voir dire, obviously. But I do
24 intend to mention it in opening because it's part of the story,
25 and it's part of the testimony. It is a thread of the Defense

1 case that is essential.

2 THE COURT: Yeah. I'm not going to --

3 MS. WEINTRAUB: It is not to garner sympathy in any
4 way. It is part of what was going on, just like it was part of
5 COVID to be out of his office. It's the same thing. He asked
6 somebody to do something because he was in the hospital. He
7 asked somebody to do something, and who he asked, because of
8 what was going on with him --

9 THE COURT: I have confidence that the jury will
10 follow the Court's instruction with regard to sympathy and
11 prejudice, and at this point I am going to permit it if it is
12 part of the defense. I'm certainly not going to tie anyone's
13 hands at this early stage of the proceedings. So the motion in
14 limine would be denied without prejudice with regard to
15 bringing it up to the extent that it somehow is irrelevant to
16 the Government's case or the Defendant's defenses.

17 With regard to the second motion to exclude the
18 proposed expert witnesses, it would appear based on the
19 Government's motion that the Government certainly has a basis
20 for this Court to either require the Defendant to precisely set
21 forth the expert's opinions or to exclude testimony other than
22 the fact that money is fungible.

23 MR. ETRA: Your Honor, Jonathan Etra.

24 We thought -- we have been providing updated reports.
25 The most recent report specifically provided and identified

1 various opinions in there. It was just that money was fungible
2 and it included -- it included -- and I've got -- this is
3 filing -- this is Docket Number 135. And the first paragraph:
4 "Mr. Bouchner is expected to testify regarding sources and uses
5 of funds for the companies in the accounts. Mr. Bouchner's
6 opinion is that the companies collectively paid more for
7 workers, mortgage interest, utilities, insurance, and other
8 business expenses than they received in government loans."

9 Paragraph 2: "Mr. Bouchner" --

10 THE COURT: I can read it, Mr. Etra. I'm looking at
11 it, sir. So do you believe that Docket Entry 135 is
12 sufficient?

13 MR. ETRA: Well, we do. In addition, Your Honor, we
14 also provided the same day in an email examples of charts that
15 the expert's going to rely upon, which breaks down what the
16 expert opines -- it's not in the report. I have a copy. I can
17 hand it up to the Court. We emailed it to the Government the
18 same day that we filed the papers saying that -- that identify,
19 for example, what's business expenses, what's not, what the
20 companies he's looking at are.

21 And that's really one of the key issues, is the
22 opinion about what's spent on business expenses and what's
23 personal expenses, obviously, because there definitely is some
24 money going to personal expenses in these accounts. Our
25 opinion is that was from personal funds, and the chart

1 supplements that. I have a copy for the Court, if the Court
2 wants to see it.

3 THE COURT: Well, the chart was given before or after
4 the motion was filed?

5 MR. ETRA: The chart was given before, on
6 November 24th, the same day we filed our third -- the current
7 notice that I was reading too much of to Your Honor.

8 THE COURT: And Ms. Martinez, why is that
9 insufficient?

10 MS. MARTINEZ: Your Honor, November 24th -- it was
11 filed Friday afternoon, and these were sent to us Friday
12 afternoon after Thanksgiving before a Monday trial, number one.

13 Number two, to be clear, the United States does not
14 object to the witness testifying as a fact witness. In other
15 words, if the witness wants to look at bank records, wants to
16 summarize bank records, and from reliable evidence create
17 summaries that are factual, we have no objection to that.
18 Indeed that's what we're going to do in the Government's case.

19 What the objection is, is to bringing this witness as
20 an expert to express opinions that we still don't know what
21 they are.

22 THE COURT: Well, specifically with regard to the
23 expert opinions, why is the spreadsheet coupled with the
24 response, Docket Entry 135, insufficient?

25 MS. MARTINEZ: Oh, my goodness. First of all, Your

1 Honor, the -- the only opinions that are stated are that some
2 things, for example, are personal and some things are not. For
3 example, that opinion, like -- proposed as an expert opinion,
4 should you say, if you want to infer that from these charts,
5 which combine various accounts, Your Honor, he is proposing to
6 rely on hearsay, on conversations with Jeanette Gonzalez, the
7 employee of the Defendant, and conversations with the
8 Defendant. That was just stated to us on Friday afternoon.

9 And still, they have not provided one word, not even
10 one word of what supposedly Mr. Sheppard said to the expert, or
11 what Ms. Gonzalez said to the expert, or how the expert used
12 any of that information to impact the opinion. So --

13 THE COURT: I guess maybe I'm misunderstanding the
14 Government's argument, because it seems to me that
15 Mr. Bouchner -- is that how you pronounce it --

16 MR. ETRA: Yes, Your Honor.

17 THE COURT: -- that: "The companies collectively paid
18 more for workers, mortgage interest, utilities, insurance, and
19 other business expenses than they received in government
20 loans."

21 MS. MARTINEZ: Your Honor, that's a statement of fact.
22 That's not an expert opinion.

23 THE COURT: Well, if the expert is utilizing his
24 expertise, his knowledge, experience, and training, then it
25 certainly is consistent with the Court's instruction as to who

1 an expert witness is.

2 So in terms of the preciseness of the opinions, the
3 second one is that the companies paid more for workers,
4 mortgage interest, other business expenses than they received
5 in government loans -- I'm not quite clear. What is it that
6 you're seeking to have the Court impose upon the Defense?

7 I understand the period in terms of the notice. So
8 the notice was provided now on the 24th. But even if the Court
9 looks at the notice in terms of rebuttal testimony, you're
10 asking the Court to strike the witness?

11 MS. MARTINEZ: Yes, Your Honor, as an expert, not as a
12 fact witness. Understand --

13 THE COURT: But then again, I would question if he's
14 not being brought before this jury as an expert, and he's just
15 a fact witness, I don't -- I don't -- I don't quite see how
16 that would be helpful. It's his training, his expertise, that
17 he's looked at all of these documents; that's where his
18 testimony rises to the level of an expert.

19 MS. MARTINEZ: Well, there's two things that are
20 different about an expert that are very important in this
21 particular motion. One is the level of disclosure that both
22 sides must give to each other if it is an expert. It's not
23 required the same way if it is a fact witness but if as an
24 expert -- and the rules were just amended to require complete,
25 all opinions, and for it to be for fulsome. And I cited an

1 Eleventh Circuit court case where the Eleventh Circuit affirmed
2 a district court excluding a defense expert precisely because
3 of this late notice that was not complying with the new amended
4 rules.

5 So number one, they have fallen far short of what
6 would be required if they want to use the witness as an expert.
7 To give you an example, they do not say the time periods that
8 they're using for particular accounts or particular opinions.
9 Your Honor, I've looked at this in detail. It makes a
10 tremendous difference what account you're looking at.

11 Number two, another huge difference with respect to an
12 expert, Your Honor, is what an expert can rely on. And in this
13 case they are asking for the expert to rely on hearsay, Your
14 Honor, that has not been even disclosed, not one word that --
15 the hearsay, what he's relying on, those words, not even one
16 word has been disclosed to the United States, much less how
17 those words -- stated by whom -- how they -- how he is relying
18 on that and which of his many opinions do those words affect.

19 So we would --

20 THE COURT: Well, that, I'm in agreement.

21 MS. MARTINEZ: Yes.

22 THE COURT: And I've looked at United States v.
23 Caldwell. I think this case is much different. In United
24 States v. Caldwell there was no disclosure of a
25 multi-defendant, very complicated case. Here there has been a

1 disclosure, and it's inadequate. And I agree with you that
2 specifically with regard to relying on conversations with
3 individuals associated with the companies, that that's
4 insufficient.

5 So Mr. Etra --

6 MR. ETRA: May I be heard, Your Honor, on that?

7 THE COURT: Well, what I'm going to require -- because
8 certainly the Eleventh Circuit in United States v. Caldwell,
9 based on the current version of Rule 16, has given the Court
10 significant latitude to strike or curtail expert witness
11 testimony, and I'm going to require that the Government provide
12 notification in writing with regard to who this expert is
13 relying upon as the basis of his opinions.

14 MR. ETRA: Your Honor, I think we've already done
15 that. They had asked us in an email earlier.

16 THE COURT: Well, it's not before the Court.

17 MR. ETRA: I know, Your Honor. I understand, Your
18 Honor. I understand, Your Honor. And I apologize. But
19 there's a lot that goes back and forth with emails. I
20 didn't -- then I got their motion. In the email they asked us
21 on November 20th: "Who are the witnesses? Who were the
22 people? And give us your notes."

23 We told them who they are. It's Mr. Sheppard and
24 Ms. Jeanette Gonzalez, whose name will come up in this case,
25 who is the bookkeeper, who they know about because they put her

1 in the grand jury. They asked for interview notes. There are
2 no interview notes. The expert will testify he puts his
3 notes -- he makes them into the report.

4 We've complied with our obligations. If they want to
5 know the substance of what it is, I'm happy to tell them --

6 THE COURT: Well, Mr. Etra, I'm putting you in charge,
7 sir. So by the end of business today, you are to respond
8 pursuant to Rule 16 and specifically advise the Government of
9 the precise opinions that Mr. Bouchner is expected to testify
10 and the basis of those opinions. And if they include
11 conversations, then you are to list that in an amended notice,
12 and that's to be filed by today at five p.m. so the Court
13 doesn't have to rely upon emails that are not before the Court.
14 The Court can rely upon a notice, so at the time that the
15 individual is called to testify, if he strays from those
16 opinions, or strays from those conversations that's the basis
17 of his opinion, then the Court, pursuant to United States v.
18 Caldwell, can properly strike those opinions.

19 MR. ETRA: Understood, Your Honor. Could I ask that
20 because of the trial we have till -- the calendar ends at
21 midnight -- till the end of the day --

22 THE COURT: Certainly. Why don't we say by eight
23 o'clock tonight.

24 MR. ETRA: Thank you, Your Honor.

25 THE COURT: All right.

1 MS. MARTINEZ: Your Honor, may I -- if the Court would
2 allow, I must clarify something, because we have been asking
3 for supplements and we continue getting insufficient -- so I
4 would like to clarify one thing. We need to have the words,
5 some kind of idea what these folks --

6 THE COURT: Ms. Martinez, I think I'm very specific,
7 and that is whatever Fourth Amended Notice of Intent to Utilize
8 Expert Testimony that's going to be filed today by eight
9 o'clock p.m., that will set forth precisely Mr. Bouchner's
10 specific opinions that he's going to render at trial, and it
11 will include the basis of those opinions and the individuals
12 and the conversations that he's relied upon, and the names of
13 those individuals, as required by Rule 16.

14 So when he's testifying, and I get an objection that
15 it's outside the scope of his testimony and that the Government
16 is prejudiced, because he -- because the Defense hasn't
17 provided sufficient notice, I can look at that notice and I can
18 say you're right and that's excluded, or you're wrong and
19 that's contained within the fourth notice. Okay?

20 MS. MARTINEZ: Yes, Your Honor.

21 THE COURT: All right. Any other issues that we need
22 to address at this time?

23 On behalf of the Government?

24 MS. JIMENEZ: No, Your Honor.

25 THE COURT: On behalf of the Defendant?

1 MS. WEINTRAUB: No, Judge.

2 THE COURT: All right. Then I'm going to ask that
3 everyone -- you can certainly move your seats so that you're
4 facing the prospective panel.

5 As I did advise, we are bringing in 48 potential
6 jurors. I hope that soon we will have copies of their
7 questionnaires for you to review. But this way you will have
8 positioned yourself so that you are looking at the jury.

9 We will certainly need to take a lunch recess at or
10 around one o'clock. And as I stated, I do have a matter at
11 1:30 that I do need to handle in the courtroom. So that will
12 be around the time that we'll take our lunch recess.

13 (Pause in proceedings.)

14 THE COURT: While we're waiting for the
15 questionnaires, I do want to reconfirm our anticipated trial
16 schedule because that will be the trial schedule that I will
17 provide to the panel to see if there are any hardships.

18 Today we will proceed to five p.m. Tomorrow we will
19 proceed from nine to four, Wednesday from nine to five.
20 Thursday will be nine to five, although, unfortunately, we'll
21 need to take an extended lunch recess from 11:30 to
22 1:30 because I do have a couple matters that we'll need to
23 handle during that time.

24 COURTROOM DEPUTY: Judge, I have a case -- apparently,
25 it was reset for Thursday at four o'clock, a sentencing from

1 one that was on Niubis Garcia.

2 THE COURT: Oh, okay. That's right.

3 All right. So November 30th -- my apologies -- will
4 be until four p.m. And then Friday will be a full day from --
5 actually, it will be -- can we reset that ten o'clock so we
6 could just have the nine and 9:30?

7 COURTROOM DEPUTY: Yes.

8 THE COURT: So it will be from ten to five on Friday.

9 Then we'll pick back up on Monday the 4th, and that
10 will be from nine to five. Tuesday will be nine to five.
11 Wednesday will be approximately ten to five. And then we will
12 not be in session on the 7th or the 8th, and we will pick up
13 again on Monday, December 11th, which will be a full day from
14 nine to five. And then Tuesday, if we can move that from ten
15 to nine.

16 COURTROOM DEPUTY: Yes.

17 THE COURT: Will be from -- hopefully at nine. So
18 from nine to five.

19 But that's the schedule that I will be giving the
20 jury. That gives us 10 days, and we'll see where we are the
21 week of December 4th. Has that changed with regard to the
22 availability of your witnesses or any issues between the time
23 that we had our calendar call?

24 MS. JIMENEZ: I don't believe so, Your Honor.

25 THE COURT: On behalf of the Defendant?

1 MS. WEINTRAUB: No, Your Honor.

2 THE COURT: All right, then.

3 (Pause in proceedings.)

4 MS. JIMENEZ: Your Honor, we do have one minor issue
5 to bring up, if we could. In terms of reading our witness
6 names to the potential jurors, we just learned this morning
7 that one of our witnesses, the witness coming in from
8 Breezeline, he's got a very ill family member and it looks like
9 Breezeline might need to replace him with someone else.

10 THE COURT: All right.

11 MS. JIMENEZ: I don't have the name yet.

12 THE COURT: Which --

13 MS. JIMENEZ: He's listed at Number 19.

14 THE COURT: Oh, JR?

15 MS. JIMENEZ: John Rodenhuis is likely not going to be
16 a witness, but I don't have a new name right now.

17 THE COURT: Is it possible to get the name? Only
18 because I'd like the names to be read.

19 MS. JIMENEZ: Of course. Of course.

20 THE COURT: And in looking at Docket Entry 131, do we
21 need a records custodian for AT&T?

22 MS. JIMENEZ: We may. We may not.

23 THE COURT: Well, has there been a stipulation with
24 regard to the authenticity of the records?

25 MS. JIMENEZ: There has been -- well, we don't have a

1 stipulation. They've indicated that they will not object to
2 records -- to the authenticity of records for which we have a
3 custodian of records certification.

4 THE COURT: But do -- right, a certification. Do we
5 need to call in records custodians?

6 MS. JIMENEZ: No. We might need the witness to
7 clarify something on the actual records, but she's listed --
8 like I said, we may not call her.

9 THE COURT: I'm just trying to save time if we don't
10 need a records custodian.

11 So you have the name of MH.

12 MS. JIMENEZ: Yeah.

13 THE COURT: I don't know why --

14 MS. JIMENEZ: Yes. Monica Hasbun. Yes. I have the
15 names, Your Honor.

16 THE COURT: All right. So with regard to Number 26,
17 "Custodian of records for entities listed on Notice of Intent
18 to Seek Admission of Self-Authenticating Records," are any
19 individuals coming in?

20 MS. JIMENEZ: Strictly as custodians, I hope not. I
21 mean, they have represented that they will not object as to the
22 authenticity of records for which we have records custodian
23 certificates.

24 MR. ETRA: We've said it many times to the Government,
25 and we're happy to say it in court. If they have a business

1 records certification that deals with authenticity and the
2 business records requirements, we're not objecting on that. We
3 may have relevance objections or other arguments, but in terms
4 of authenticity, and that it meets the business records
5 exception, we've told them we're okay with the certification.

6 MS. JIMENEZ: Yes. So Your Honor, we provided a
7 physical copy of all the exhibits. I requested the Defense to
8 indicate as to -- I listed a number of business records, public
9 records, that I thought were not controversial. I asked for a
10 stipulation regarding their admissibility. I do not have one.

11 THE COURT: Well, could we try to get one now, so that
12 we don't have individuals coming in from these companies just
13 to testify that these records are business records?

14 MR. ETRA: We stipulated to that. The only issue is
15 issues of relevance or whether it needs to come in the case.
16 We've stipulated on authenticity, we've stipulated on the
17 business records exception being met for anything where there's
18 a certification.

19 THE COURT: All right. Then we don't have anyone
20 coming in on 26?

21 MS. JIMENEZ: No.

22 THE COURT: Okay. And we have MH coming in from AT&T
23 because there needs -- need to have some clarification --

24 MS. JIMENEZ: Potentially. Potentially. She may not
25 need to come.

1 THE COURT: All right. So just let me know with
2 regard to Breezeline who that individual might be.

3 (Pause in proceedings.)

4 MS. WEINTRAUB: Judge, may I just ask a procedural
5 question?

6 THE COURT: Certainly.

7 MS. WEINTRAUB: I assume that the jurors are filling
8 out the questionnaires. Are we going to get the questionnaires
9 before they are questioned? In other words, when they come in,
10 will we get them?

11 THE COURT: We're going to get them before.
12 Liz, how we doing?

13 MS. WEINTRAUB: And we'll make copies?

14 COURTROOM DEPUTY: They're finishing up making all the
15 copies and bringing them out.

16 MS. WEINTRAUB: Oh, that's great.

17 THE COURT: You'll receive a complete copy of the
18 jurors' answers to the 27 questions.

19 MS. WEINTRAUB: Okay.

20 THE COURT: And I'll give you some time to review
21 those before we bring them in.

22 MS. WEINTRAUB: Thank you.

23 (Pause in proceedings.)

24 MS. WEINTRAUB: Your Honor, may we be excused to go in
25 the conference room to confer and review these?

1 THE COURT: All right. So -- hold on. Let's go back
2 on the record. I just want to make sure everyone has the sets.
3 So just give us a moment.

4 Jackie -- yeah. If we can provide -- I think we need
5 two and I think we need three over here.

6 (Pause in proceedings.)

7 MS. JIMENEZ: Your Honor, we just wanted to ask the
8 Court -- I understand forfeiture is -- has been separated from
9 this portion of the trial. We have the forfeiture assistant
10 United States attorney here. I don't believe that we need him
11 for anything, correct?

12 THE COURT: Well, I think we have agreed that to the
13 extent that the jury finds Mr. Sheppard guilty of one or more
14 counts, then we would keep this jury here with regard to
15 forfeiture. Is that correct, Mr. Etra?

16 MS. MARTINEZ: Your Honor?

17 THE COURT: Or is there an agreement with regard to
18 forfeiture?

19 MS. MARTINEZ: The United States -- the assistant US
20 attorney who handles asset forfeiture filed a notice with the
21 Court advising the Court that we were not seeking to forfeit
22 the house as a specific asset.

23 MS. JIMENEZ: As a directly forfeitable asset.

24 MS. MARTINEZ: Right. We would seek it only as a
25 substitute asset. The rules provide that in such circumstances

1 where we are only seeking a money judgment, that that's not
2 something that goes to the jury. That's something that the
3 Court could determine at any time, including sentencing.

4 THE COURT: All right. So in looking at the
5 forfeiture allegations, you are not seeking forfeiture with
6 regard to the real property located at 180 Bal Cross Drive, Bal
7 Harbour?

8 MS. MARTINEZ: We will seek it as a substitute asset
9 but not a directly traceable asset such that the jury does not
10 have to make a finding. It would be after we have the money
11 judgment we will seek to forfeit it as a substitute asset. The
12 point is that it's not a finding -- we're just seeking -- from
13 this Court, we're only seeking a money judgment.

14 THE COURT: Mr. Etra, are you in agreement with that?

15 MR. ETRA: Yeah. I don't understand seeking a house
16 as a substitute. Substitute, you seek assets generally, not
17 directly to a property. So if by that they're saying they just
18 want a money judgment and they'll go by the substitute assets
19 method, if that's what the Government is saying, I actually
20 didn't research whether we need a jury for that because I'm
21 hearing this now.

22 MS. JIMENEZ: There was a notice that was filed by the
23 forfeiture AUSA. And in terms of the forfeiture proceeding
24 that happens afterwards, there would be evidence regarding the
25 connection between the asset that we're seeking to forfeit and

1 the illegal proceeds. And for the substitute asset there needs
2 to be no connection between the two. There needs to be no
3 tracing. And so there's no determination the jury makes as to
4 a forfeiture -- I mean as to a substitute asset.

5 And with respect to the money judgment, that is an
6 issue for the Court, not for the jury, as I understand it.

7 MR. ETRA: Your Honor, what they're saying makes
8 sense. If they're only going with substitute assets, and it's
9 a money judgment issue, I'm not in a position to say they're
10 wrong. I'm not going to demand two hours to research it
11 either.

12 MS. MARTINEZ: Just for the record, Mr. Hyman, Asset
13 Forfeiture AUSA is here, and as he filed -- I do believe his
14 notice --

15 THE COURT: It's Docket Entry 133, his notice on
16 forfeiture. So the question is, with regard to this notice,
17 whether that would eliminate any need for the jury, if the jury
18 finds the Defendant guilty of one or more of the counts.

19 MS. JIMENEZ: Correct. And we don't believe that the
20 jury would be needed.

21 THE COURT: All right. And you've cited a Fourth
22 Circuit case from 2006 with regard to substitute asset
23 forfeiture. And the question is whether the Defendant agrees
24 that there's no reason to keep the jury here for a
25 determination.

1 MR. HYMAN: Your Honor, Mitch Hyman on behalf of the
2 United States for forfeiture.

3 So under Federal Rule of Criminal Procedure 32.2,
4 Subsection (b) (5), big A, either party can retain -- or
5 sorry -- either party can request the jury be retained to
6 determine the forfeitability of specific property. In this
7 case we're no longer seeking to forfeit specific property so
8 the Court would determine a forfeiture money judgment, if
9 that's the route that we decided to take.

10 MR. ETRA: Your Honor, that's okay --

11 THE COURT: Yeah. I know that's the Eleventh Circuit
12 case of US v. Padron, and that's what the rule states. I'm
13 merely asking with regard to this substitute asset forfeiture
14 regarding the specific property, whether that would require a
15 jury finding.

16 MR. HYMAN: My understanding is that it does not
17 because the rule states that it's specific property. And with
18 a forfeiture money judgment, it's not specific property. So
19 generally the jury would determine the forfeiture nexus between
20 that specific property and the crime.

21 For example, if the Defendant paid a down payment on a
22 house today, and we were seeking to forfeit -- and he used
23 illicit proceeds for that down payment, and we would seek
24 forfeiture of that house. A personal money judgment is not
25 seeking a specific asset that's tied to the crime.

1 MR. ETRA: Your Honor, what he's saying makes sense to
2 me. I mean, if they're not seeking direct assets, only
3 substitute assets, as a money judgment, I would agree.

4 THE COURT: All right. Then there would be no need to
5 keep the jury here following its determination.

6 Both sides in agreement?

7 MR. ETRA: Yes.

8 MS. JIMENEZ: Yes, Your Honor.

9 THE COURT: All right, then.

10 Thank you. Thank you, Mr. Hyman.

11 All right. Both sides now have the completed
12 questionnaires. And why don't we take a 15-minute recess, give
13 you an opportunity to review them.

14 COURT SECURITY OFFICER: All rise.

15 MS. WEINTRAUB: Judge, may I be heard on that?
16 Fifteen minutes, Judge, that's like 20 seconds per
17 questionnaire to review it.

18 THE COURT: I think you're going to find based on the
19 questions -- I've just reviewed them now -- that you should
20 have sufficient time. And again, you'll have an opportunity
21 after I -- when I'm questioning the jurors, you'll still be
22 able to look at the questionnaires. But so as not to delay the
23 selection of our jury, I'll see you back here in 15 minutes.

24 (Recess from 10:06 a.m. to 10:19 a.m.)

25 THE COURT: Okay. Go ahead and have a seat.

1 If we can bring in the attorneys.

2 (Pause in proceedings.)

3 THE COURT: Are counsel in need of an extra chair? We
4 have an extra chair.

5 And let me advise, since the jury is outside, if you
6 do need to use the restroom, if I can ask you at this time to
7 just come through the jury room and use the restrooms here. We
8 have restrooms on the other side of the jury room.

9 MS. WEINTRAUB: May we go now before they come in?

10 THE COURT: Yes. Yes. Yes. Yes.

11 I'm waiting for you. So that --

12 MS. MARTINEZ: I think there's only one in there.

13 THE COURT: There's two. There are two. So if you
14 want to --

15 MS. MARTINEZ: Okay.

16 THE COURT: So let me ask the attorneys and staff --
17 you can use the restrooms over here, so that you're not using
18 the restrooms where the jury is.

19 (Pause in proceedings.)

20 THE COURT: Jackie, are they all lined up, ready to
21 go?

22 COURT SECURITY OFFICER: Yes.

23 THE COURT: All right. As soon as Mr. Etra comes
24 back, just a few moments.

25 MS. WEINTRAUB: Judge, before they come in, may I say

1 something?

2 (Court reporter interruption.)

3 THE COURT: You just need to speak into the
4 microphone.

5 Is that lavalier not working, Ms. Weintraub?

6 It's not working?

7 MS. WEINTRAUB: The what?

8 THE COURT: Oh. There we go. Okay. It's working.

9 MS. WEINTRAUB: Judge, before the jurors come in, I
10 wanted to address the Court, if I might.

11 THE COURT: Yes. Of course.

12 MS. WEINTRAUB: While of course I appreciate greatly
13 the opportunity to have the jurors fill out the questionnaires,
14 they are of no use if I can't read them. I am not a slow
15 reader. I am not doing this for purposes of delay, but I do
16 want to benefit from reading the questions. Like, on two of
17 the 12 that I have read, I missed something huge because I'm
18 skimming, and that's avoiding the whole process. So all I can
19 tell the Court is I've read 12 out of 44. And I would just beg
20 the Court for 15 more minutes.

21 We have divided them up -- that's not a way for me to
22 be responsible for picking a jury, for me to review with my
23 client, which I'm going to ask of course the opportunity to go
24 over with him before I make any strikes. I don't have the
25 information and I don't have the benefit from the

1 questionnaires. I'm begging the Court for 15 more minutes.
2 And I'll sit and do it right in front of the Court.

3 MS. JIMENEZ: I'll just say I did get to 15.

4 MS. MARTINEZ: I'm with Jayne. I only got to 12.

5 MS. JIMENEZ: They also wrote in pencil.

6 MS. WEINTRAUB: I guess I'm making a joint motion on
7 behalf of both parties.

8 THE COURT: All right. Just take another 10 minutes,
9 then, please.

10 MS. WEINTRAUB: Thank you, Judge.

11 (Pause in proceedings.)

12 THE COURT: Both sides ready to proceed?

13 On behalf of the Government?

14 MS. MARTINEZ: I will be proceeding, Your Honor.

15 THE COURT: On behalf of the Defendant?

16 MS. WEINTRAUB: No, Judge, we're not. We're not --
17 Judge, we're not ready. And I really don't want to risk the
18 ire of the Court, especially starting out. But the Court has
19 only given us less than one minute each. I know the Government
20 has not finished either. I'm on 21 of 44. And I'm not a slow
21 reader, honest, and I'm trying. I don't know what else to say.
22 But I have not been able or had the time to read the remaining
23 23.

24 THE COURT: It's --

25 MS. WEINTRAUB: That's why I asked for an hour to

1 begin with. I mean, we're at like 40 seconds per
2 questionnaire.

3 THE COURT: And I've given you now over 30 minutes.
4 And quite frankly, I'm going to be questioning the prospective
5 panel. You'll have an opportunity to review them as well, and
6 you'll also have an opportunity to follow up with questions.
7 So at some point -- it is now 10:35 -- we've got to get going.
8 This jury has been here since eight a.m., and they have the
9 right to either be selected or to be sent back to be selected
10 by another court.

11 So at this point, we are going to proceed. The
12 objection is noted. Let's bring in the panel.

13 MS. WEINTRAUB: Will the Court note my objection?
14 Because I think my client's due process rights trump the
15 jurors' impatience.

16 THE COURT: Of course. It's recognized on the record.

17 COURT SECURITY OFFICER: All rise for the jury.

18 (Before the Panel, 10:38 a.m.)

19 THE COURT: Good morning to everyone.

20 Welcome, Ladies and Gentlemen. And good morning.

21 Let me ask that each of you stand. You will be placed
22 under oath by the courtroom deputy.

23 (Panel sworn.)

24 COURTROOM DEPUTY: Thank you.

25 THE COURT: All answering in the affirmative.

1 Please be seated.

2 Welcome, Ladies and Gentlemen.

3 Thank you for your patience.

4 I know that many of you -- and go ahead and have a
5 seat, counsel -- many of you were summoned to be here at
6 eight o'clock this morning. So I want to thank you for
7 honoring your summons and being here today.

8 My name is Beth Bloom. I am a United States District
9 judge for the Southern District of Florida. And I will be
10 presiding over the jury selection, as well as the trial.

11 The right to a trial by jury is one of our most
12 cherished rights. It is recognized, preserved, and protected
13 by our constitution, and jury service is one of the most
14 important duties that you as citizens are called upon to
15 perform. So thank you for honoring your summons and being here
16 today. Because I am certainly aware, and all of us are aware,
17 that for some of you, probably most of you, you had to shuffle
18 many professional and personal obligations in order to be here
19 this morning. And for some of you, this may be your first call
20 to jury service, and these proceedings may be unfamiliar to
21 you.

22 I just would ask with a show of hands how many of you
23 have served on either a state or federal jury or even a grand
24 jury? Just with a show of hands.

25 Okay. So not too many of you.

1 Well, for those of you that have never served, please
2 don't feel apprehensive or feel inadequate. Certainly as we go
3 along I will advise you of the proceedings and your duty and
4 your role as a juror.

5 Now, I first and foremost want to thank you for
6 filling out this very lengthy questionnaire. This
7 questionnaire expedites the jury selection process. And gives
8 us an opportunity to get to know each of you. This jury
9 selection process will be to get to know each of you so that we
10 can select a fair and impartial jury.

11 Each of us comes into this courtroom not as a newborn
12 baby but with life's experiences. And it's those experiences
13 that we may have had, the opinions that we may hold, and the
14 relationships that we may have formed that may have an effect
15 on your ability to serve as a fair and impartial juror in this
16 case. And that's our duty, is to get to know you so that we
17 can select those jurors that we feel are most appropriate.

18 Please don't be offended if you're not selected. It's
19 just our job to select those jurors that we feel are
20 appropriate in this case. You may be well suited to serve as a
21 juror in another case.

22 So in order to get to know you, we will be asking some
23 questions to get to know each of you better. If there is a
24 question that's a little bit too personal, and you don't want
25 to respond within the earshot of your fellow jurors, it's

1 perfectly all right. All you need to do is just raise your
2 hand, let me know, and at the appropriate break we'll take your
3 response outside of the earshot of your fellow jurors and just
4 with the attorneys and the Defendant and myself.

5 So first of all, let me introduce the court personnel
6 with whom you'll be working with and their roles and
7 responsibilities. The courtroom deputies that you have already
8 met -- Liz Gariazzo, who is my courtroom deputy, and she
9 assists in the administration of the cases that comprise the
10 Court's dockets and coordination of our day-to-day operation
11 not only here in the courtroom but in chambers.

12 Our court reporter is Yvette Hernandez, and she
13 transcribes and takes down everything that is said in the
14 courtroom, including the statements that I'm making, the
15 answers that will be propounded to you -- and the questions
16 that are propounded and your answers. So it is very important
17 that when a question is asked either by me or the attorneys
18 that you answer verbally, not with a nod or a shake of the
19 head, but that you also identify yourself if you're not already
20 identified by your name, so that we have a record of what is
21 said and who is speaking.

22 Our courtroom deputy that will be here will also
23 assist if you have any questions throughout the course of the
24 trial.

25 We also have our court security officer, Jackie

1 Jerserum, and her job is to enforce the Court's orders and take
2 charge over you, the jury. If there's a matter that needs to
3 be brought to my attention, please let Officer Jerserum know
4 and she will make sure that it's brought to my attention and
5 certainly you'll be heard at the appropriate time.

6 Now, as I stated, I'm going to be asking you some
7 questions that touch on your qualification to serve as jurors.
8 And you were kind enough to complete these juror
9 questionnaires. I do want to let you know that copies of your
10 answers have been provided to the attorneys. This allows us to
11 expedite the jury selection process. But you may not have
12 realized that we would rely upon your complete and truthful
13 answers.

14 So I would ask at this time that you take out the
15 questionnaire from your purse, your pocket, your wallet --
16 raise your hand if you don't have a copy of your
17 questionnaire -- but please take the time to review each of the
18 answers that you provided to the questions that were given and
19 raise your hand if you want to change any of the answers that
20 you have given.

21 I would also ask that you be very patient and wait for
22 a microphone to come to you, and then you'll let me know.

23 So take the time and then raise your hand, if anyone
24 wants to change any of the answers you provided to each of the
25 27 questions.

1 (Pause in proceedings.)

2 THE COURT: Is there anyone that would like to change
3 an answer? If so, please raise your hand.

4 Okay. Seeing no hands raised.

5 Ladies and Gentlemen, is there anyone here that has a
6 driver's license from the State of Florida but you no longer
7 live in Miami-Dade County, that is, you've moved out of the
8 county? If so, please raise your hand.

9 Seeing no hands raised.

10 Is there anyone that has difficulty with the English
11 language, such as that you could not effectively serve as a
12 juror?

13 Okay. And if we can wait for the microphone.

14 Jackie, thank you.

15 And if we can begin right to my right. And we'll
16 first begin with Juror Number 5, Ms. Pinero Hernandez.

17 Is that correct?

18 PROSPECTIVE JUROR: Good morning.

19 THE COURT: Good morning.

20 PROSPECTIVE JUROR: I don't understand English very
21 well.

22 THE COURT: Okay. Now, have you understood everything
23 that I have said so far?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Okay. All right. Thank you, Ms. Pinero

1 Hernandez. That's Juror Number 5.

2 Anyone else, Ladies and Gentlemen?

3 Okay. Over here to my left.

4 PROSPECTIVE JUROR: Good morning.

5 THE COURT: Good morning.

6 Is this Mr. Bauta Acosta?

7 PROSPECTIVE JUROR: That's correct.

8 THE COURT: Yes, sir?

9 PROSPECTIVE JUROR: Yes. My English is not good.

10 THE COURT: All right. So now, sir, have you
11 understood everything I've said so far?

12 PROSPECTIVE JUROR: I'm sorry?

13 THE COURT: Okay. Not a problem. I recognize your
14 difficulty. Thank you, Mr. Bauta Acosta.

15 Anyone else?

16 Is that Juror Number 31, Mr. Hechavarria?

17 PROSPECTIVE JUROR: Armando, 31.

18 THE COURT: Mr. Mayeta, Armando Mayeta? Yes?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: Mr. Mayeta?

21 PROSPECTIVE JUROR: I'm learning English. I think I'm
22 not ready for this level of English. I'm learning, actually.

23 THE COURT: All right. So Mr. Mayeta -- and I do see
24 from your questionnaire -- are you understanding everything
25 that I'm saying so far, sir?

1 PROSPECTIVE JUROR: Partially. Some -- sometimes.

2 THE COURT: Okay. All right. Thank you, sir.

3 Anyone else, Ladies and Gentlemen?

4 PROSPECTIVE JUROR: Yes. Hi. My name is Yenisbel. I
5 no understand perfect English.

6 THE COURT: I'm sorry. What is your last name?

7 PROSPECTIVE JUROR: Perez Marti.

8 THE COURT: Yes. And Ms. Perez Marti, are you having
9 difficulty understanding what I'm saying?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Where do you work, Ms. Perez Marti?

12 PROSPECTIVE JUROR: DaVita Dialysis.

13 THE COURT: And you're having difficulty understanding
14 what I'm saying?

15 PROSPECTIVE JUROR: Yes. Sometimes. I think I not
16 understand everything.

17 THE COURT: Okay. When you say you think you haven't
18 understood everything --

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: -- were you able to read and complete this
21 questionnaire?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: So, so far, have you understood everything
24 that I've said in the courtroom?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: All right. So are you -- are you
2 concerned, Ms. Perez Marti, that there may be words said during
3 the course of this trial that you don't understand?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right. But you've understood
6 everything so far, correct?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: All right. So Ms. Perez Marti, can we
9 have an agreement that if at any time I say something, or the
10 lawyers say something, and you don't understand, just raise
11 your hand? But if you haven't raised your hand throughout this
12 jury selection process, can we agree that you have understood
13 everything so far?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: All right. Thank you, Ms. Perez Marti. I
16 appreciate that.

17 Anyone else, Ladies and Gentlemen?

18 All right. Seeing no hands raised.

19 Is there anyone here that has been convicted of a
20 felony offense that has not been set aside by a post-conviction
21 proceeding or a pardon by the Governor or the President? If
22 so, please raise your hand.

23 Seeing no hands raised.

24 Let me formally call the case. This is the case of
25 the United States of America v. Eric Dean Sheppard. And I'm

1 going to ask the attorneys to introduce themselves and to
2 introduce those at counsel table.

3 We'll first start on behalf of the Government.

4 MS. JIMENEZ: Good morning, Ladies and Gentlemen.

5 Oh -- good morning, Ladies and Gentlemen. My name is
6 Aimee Jimenez. I'm an assistant United States attorney here in
7 Miami. I represent the United States in this case. With me is
8 my colleague Ana Maria Martinez, also from the United States
9 Attorney's Office; Sarah Halleran, special agent with the FBI;
10 and Arianna Font, paralegal with the United States Attorney's
11 Office.

12 Thank you.

13 THE COURT: And Ms. Jimenez, is the Government ready
14 to proceed to trial?

15 MS. JIMENEZ: We are, Your Honor.

16 THE COURT: Thank you.

17 On behalf of the Defendant? Ms. Weintraub?

18 MS. WEINTRAUB: Thank you, Judge.

19 Good morning. I am Jayne Weintraub. I'm representing
20 Eric Sheppard, who is charged in this case as the Defendant,
21 who is right there.

22 Along with me are my colleagues Jonathan Etra, Renato
23 Stabile, Chris Cavallo, Bill Wenzel and Courtney McGinnis.

24 THE COURT: Thank you, Ms. Weintraub.

25 And is the Defendant ready to proceed to trial?

1 MS. WEINTRAUB: Yes, we are, Your Honor.

2 THE COURT: Thank you.

3 Now, Ladies and Gentlemen, you were introduced to the
4 attorneys, those at counsel table, including the Defendant,
5 Eric Sheppard. Do any of you know any of them? If so, please
6 raise your hand.

7 Okay. If we can have a microphone over here, please.
8 And this is -- is this Mr. Gandolfo?

9 PROSPECTIVE JUROR: Yes. Yes. So I met Eric Dean
10 Sheppard years ago at Canyon Ranch. I just wanted to disclose
11 that.

12 THE COURT: All right, sir. Now, do you have a social
13 friendly relationship with Mr. Sheppard?

14 PROSPECTIVE JUROR: No.

15 THE COURT: All right.

16 PROSPECTIVE JUROR: No.

17 THE COURT: And you just met each other, and that was
18 the beginning and the end of the relationship?

19 PROSPECTIVE JUROR: Yes. It was just visiting the
20 Canyon Ranch project development. I was working for another
21 developer at the time.

22 THE COURT: All right. Now, Mr. Gandolfo, the fact
23 that you have met Mr. Sheppard, do you believe that that would
24 have any effect on your ability to serve as a fair and
25 impartial juror in this case?

1 PROSPECTIVE JUROR: Not that I met with him, but I do
2 have under my employment now his former sales director, which
3 is now my sales director.

4 THE COURT: All right. So there is a relationship
5 because your sales director was his former sales director?

6 PROSPECTIVE JUROR: Correct.

7 THE COURT: Would that have an effect on your ability
8 to serve as a fair and impartial juror in this case?

9 PROSPECTIVE JUROR: It could.

10 THE COURT: Well -- and you would be in the best
11 position to know, Mr. Gandolfo. In other words, if you were
12 selected to serve as a member of the jury, do you believe that
13 the fact that your sales director used to be Mr. Sheppard's
14 sales director -- would that have any effect on your ability to
15 listen to the evidence, assess the evidence, and make a
16 determination as to whether the Government has met its burden?

17 PROSPECTIVE JUROR: I'm not certain.

18 THE COURT: Okay. Is there some hesitation on your
19 part, sir?

20 PROSPECTIVE JUROR: There is, because it's a small
21 development community.

22 THE COURT: So is there some hesitation that it might
23 have an effect?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: All right. Thank you, sir.

1 Now, Ladies and Gentlemen, you were introduced to me
2 and the court personnel. Do any of you know any of us? If so,
3 please raise your hand.

4 If we can have a microphone. And that is Ms. Waldron?

5 PROSPECTIVE JUROR: Waldron. Yes.

6 THE COURT: Yes.

7 PROSPECTIVE JUROR: I believe I know your clerk. I've
8 seen her at the Richard Gerstein building.

9 THE COURT: Octavia Green?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: All right. And so you've seen each other.
12 Do you believe that that would have an effect on your ability
13 to serve as a fair and impartial juror in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay. Is that the extent of your
16 relationship?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Okay. Thank you.

19 Anyone else, Ladies and Gentlemen?

20 All right. Seeing no further hands raised.

21 There are 48 of you that are seated here today. Do
22 any of you know any of you? I know you spent some time in the
23 jury pool and also outside when we were lining you up. Does
24 anyone else know anyone else on the panel? If so, please raise
25 your hand.

1 Okay. And over here -- is that Ms. Soto, Juror Number
2 2?

3 PROSPECTIVE JUROR: I know Albert Elbaz.

4 THE COURT: And how do you know Mr. Elbaz?

5 PROSPECTIVE JUROR: My mom works for him.

6 THE COURT: All right. Now, do you believe that if
7 you and Mr. Elbaz were both selected to serve on the jury --
8 would that make you feel uncomfortable if you disagreed with
9 Mr. Elbaz's opinion?

10 PROSPECTIVE JUROR: No.

11 THE COURT: All right. And Mr. Elbaz -- thank you,
12 Ms. Soto.

13 Mr. Elbaz, I'll ask you the same question. Is that
14 the individual that you know, Ms. Soto?

15 PROSPECTIVE JUROR: Yes, it is.

16 THE COURT: All right, sir. Now, if you and Ms. Soto
17 were both selected to serve on the jury, and you disagreed with
18 her opinion, would you feel uncomfortable expressing that?

19 PROSPECTIVE JUROR: I don't think I will.

20 THE COURT: Okay. When you say: "I don't think I
21 will," we as human beings, we speak in conditional terms
22 sometimes, but the question is: Is there any hesitation on
23 your part? Would you be unable or uncomfortable or otherwise
24 feel that perhaps your ability to independently evaluate the
25 evidence and make a decision would be compromised if Ms. Soto

1 was selected also to serve on the jury?

2 PROSPECTIVE JUROR: No, Your Honor.

3 THE COURT: All right. Thank you, sir.

4 Ladies and Gentlemen, anyone else that may know any
5 other member of the prospective panel?

6 Seeing no further hands raised.

7 I'm going to now ask the attorneys to read the names
8 of potential witnesses, that is, persons that may be coming
9 into the courtroom to testify during the course of the trial.
10 I'm going to ask that they read the names and give you some
11 background so that you may be able to gauge your familiarity
12 with these individuals. I'm going to ask that you listen
13 carefully, because on the other end I'm going to ask if you
14 recognize any of those individuals.

15 We'll first start on behalf of the Government.

16 MS. JIMENEZ: Thank you.

17 Okay. For the Government, these are the witnesses
18 whom we may be calling at this trial: Maria Del Pilar Ataca.
19 She's a part-time worker for the Defendant, Mr. Eric Sheppard.
20 She lives in Miami, Florida. Elva Jessica Baluarte also works
21 for the Defendant, Mr. Eric Sheppard. She works at his home,
22 and she's also a resident of Miami-Dade County, Florida.

23 Mr. Heimdal Barrios. He is formally an employee -- a
24 banker at what used to be SunTrust Bank, now Truist Bank.

25 Martin Joe Beirne. Mr. Beirne is a real estate

1 developer who moved to Florida from Ohio. He lives in Central
2 Florida currently.

3 Marlene Crispin is an employee of what is now Truist
4 Bank out of Doral, Florida.

5 Neal Cupersmith, an accountant out of Philadelphia.

6 Juliette Falcone. She's an auditor, a financial
7 auditor with United States Attorney's office.

8 Jeanette Gonzalez, the office manager, bookkeeper for
9 Mr. Eric Sheppard.

10 Mr. Jeffrey Graff, an accountant and developer who
11 worked with Mr. Sheppard for a number of years.

12 Carlos Granda. He is an electrical engineer out of
13 the Orlando, Florida area.

14 These names are in alphabetical order, by the way.
15 They're not the order in which these witnesses may be called at
16 trial.

17 Althea Harris. She's deputy director with the Small
18 Business Administration here in Miami.

19 Jammie Hutcheson works for PayPal and she resides in
20 Omaha, Nebraska.

21 We have Mr. Lavderim Hysa. He's a forensic accountant
22 with the FBI.

23 Spencer Lord. He works for the bank -- Cross River
24 Bank and he lives in Washington State.

25 Brent Motes. He's also with the US Small Business

1 Administration. He lives in Texas.

2 We have Ms. Tamara Och. She's with the Florida
3 Department of Revenue and she lives here in Miami, Florida.

4 Nelia Palancar. She was a loan broker with Nationwide
5 Lending Direct, here in Miami, Florida as well.

6 Mr. Philip Palmer. He is with the Internal Revenue
7 Service.

8 We have Mr. John Rodenhuis with Breezeline, who
9 unfortunately this morning advised us that he's got a family
10 member with a serious illness. He may not be here and we may
11 have someone else from Breezeline.

12 Mr. Maged Salem. He lives in Orlando. He is the
13 former owner of the Mattress1One retail stores.

14 Mr. Samuel Ciprich, a painter out of Winter Park,
15 Florida.

16 David Toye. He is a banker with Northeast Bank in
17 Portland, Maine.

18 Ian Zalewski -- Zaleski [sic] -- with ACAP SME, a loan
19 processor, and he lives in Chicago, Illinois.

20 Alex Zaslow an accountant also with Mr. Neal
21 Cupersmith's firm in, Philadelphia.

22 And then finally Monica Hasbun, AT&T in Miami Florida.
23 Thank you.

24 THE COURT: All right. Thank you, Ms. Jimenez.

25 Now, Ladies and Gentlemen, do any of you know any of

1 those individuals? If so, please raise your hand.

2 All right. On behalf of the Defendant?

3 MR. ETRA: First individual, Scott Bouchner. He's an
4 accountant here in Miami.

5 Vanessa Gonzalez, an individual who worked for
6 Mr. Sheppard's companies in Miami.

7 Glenn Sheppard, who is Eric Sheppard's brother, who
8 also does work for Mr. Sheppard's companies, and he lives in
9 Miami.

10 Kerby Kleef, a construction worker, who worked and
11 works for the Defendant's companies, and he's in the
12 Orlando/Central Florida area.

13 Mercedes Fonseca also worked with Defendant's --
14 excuse me -- Mr. Sheppard's companies in the Orlando area with
15 building permitting-type issues.

16 Robert Kallman, K-A-L-L-M-A-N. He lives -- he's from
17 New York, and he's involved in ownership of some of the
18 companies in the case.

19 Leon Wildstein, a businessman here in Miami.

20 And Ruben Salama, also a businessman here in Miami.

21 THE COURT: Thank you, Mr. Etra.

22 Ladies and Gentlemen, do any of you know any of those
23 individuals? If so, please raise your hand.

24 Seeing no hands raised.

25 Now, we are here because an Indictment was filed

1 informing the Defendant Eric Sheppard that he is accused of
2 certain crimes, and he is called upon to respond to the
3 Indictment. The Indictment is not evidence. The Defendant in
4 this case responded to the accusations contained in the
5 Indictment by saying four words: "I am not guilty." And those
6 words carry a great deal of weight because we are now beginning
7 a jury trial where the Government is required to prove beyond a
8 reasonable doubt that the Defendant is guilty before he may be
9 found guilty.

10 The fact that an Indictment exists does not mean that
11 which is alleged actually happened. That is what you, if you
12 are selected as a member of the jury -- you will determine.
13 And that is what the Government must prove to you beyond a
14 reasonable doubt.

15 At this time, I'm going to read the Superseding
16 Indictment, which are the allegations that the Government has
17 made.

18 The General Allegations refer to the Small Business
19 Administration, the COVID-19 emergency, and the CARES Act. It
20 describes the Paycheck Protection Program. It describes the
21 Economic Injury Disaster Loan program. And it states the
22 following: "The Coronavirus Aid, Relief, and Economic Security
23 (CARES) Act was a federal law enacted on March 27th, 2020, to
24 provide emergency financial assistance to Americans suffering
25 economic harms from the COVID-19 pandemic. To achieve this

1 goal, the CARES Act established new temporary programs and
2 expanded existing programs administered by the United States
3 Small Business Administration.

4 "One source of relief provided by the CARES Act was
5 the authorization of forgivable loans to small businesses for
6 job retention and certain expenses through a program referred
7 to as the Paycheck Protection Program, the PPP. Businesses
8 could apply for PPP loans by submitting a PPP loan application.
9 The PPP loan application required that these businesses
10 acknowledge through authorized representatives the program
11 rules and make certain affirmative certifications to be
12 eligible to obtain the PPP loan.

13 "In the PPP loan application, these businesses through
14 authorized representatives had to state their average monthly
15 payroll expenses and the number of employees. Because
16 independent contractors were able to apply for PPP loans on
17 their own, employers' payroll calculations and number of
18 employees were based on wages paid to W-2 employees, not
19 payments to independent contractors.

20 "The employers' payroll exceptions were used to
21 calculate the amount of money the applicant businesses were
22 eligible to receive under the PPP. In addition, these
23 businesses had to provide documentation evidencing their
24 payroll expenses. Typically, businesses would supply documents
25 showing the amount of payroll taxes reported to the IRS.

1 "A PPP loan application had to be processed by a
2 participating lender or the participating lender's delegee.

3 "If a PPP loan application was approved, the lender
4 funded the PPP loan using its own monies, which were fully
5 guaranteed by the SBA.

6 "Data from the application, including information
7 about the borrower, the total amount of the loan, and the
8 reports and documentation regarding the business's income and
9 expenses, were transmitted by the lender to the SBA in the
10 course of processing the loan.

11 "PPP loan proceeds were required to be used by the
12 business on certain permissible expenses: employee payroll
13 costs, interest on mortgages, rent, and utilities.

14 "The PPP allowed the interest and principal on the PPP
15 to be entirely forgiven if the business spent the loan proceeds
16 on these expense items within a designated period of time and
17 used a defined portion of the PPP loan proceeds on payroll
18 expenses.

19 "The Economic Injury Disaster Loan, the EIDL, program
20 was an SBA program that existed before the COVID-19 pandemic to
21 provide low-interest financing to small businesses, renters,
22 and homeowners in regions affected by declared disasters. The
23 CARES Act authorized the SBA to provide EIDLs to eligible small
24 businesses experiencing substantial financial disruptions due
25 to the COVID-19 pandemic.

1 "In order to obtain a COVID-19 EIDL, a qualifying
2 business was required to submit an EIDL application to the SBA
3 and provide information about its operations, such as the
4 number of employees, and gross revenues, and cost of goods sold
5 for the 12-month period preceding January 31st, 2020. The
6 applicant was also required to certify that the information in
7 the application was true and correct to the best of the
8 applicant's knowledge.

9 "EIDL applications were submitted directly to the SBA,
10 which processed the applications with support from a government
11 contractor. The amount of the loan, if the application was
12 approved, was determined based in part on the information
13 provided in the application concerning the number of employees,
14 gross revenues, and cost of goods sold. The SBA issued any
15 funds under an EIDL directly to the applicant.

16 "HM-UP Development Alafaya Trails, Alafaya Trails, was
17 a Florida limited liability company, with its principal address
18 in either Miami, Florida or Bal Harbour, Florida.

19 "HM Management and Development, LLC, HMMD, was a
20 Florida limited liability company with its principal address in
21 either Miami, Florida or Bal Harbour, Florida.

22 "HM Four, LLC, HM Four, was a Florida limited
23 liability company with its principal address the either Miami,
24 Florida or Bal Harbour, Florida.

25 "Defendant Eric Dean Sheppard was arrested in

1 Miami-Dade County. Sheppard was the manager of Alafaya Trails,
2 HMMD, and HM Four. Sheppard had access and control over the
3 bank accounts of Alafaya Trails, HMMD, and HM Four at SunTrust
4 Bank.

5 "Bank Processor 1 was a third-party company processor
6 based in San Jose, California that processed the PPP loan
7 applications for Bank 1. Bank Processor 1 processed PPP loan
8 applications at its offices in Wilmington, Delaware,
9 Conshohocken, Pennsylvania, and Timonium, Maryland. Bank 1 was
10 a financial institution based in Salt Lake City, Utah that was
11 insured by the Federal Deposit Insurance Corporation. Bank 1
12 was an approved SBA lender of PPP loans.

13 "Bank Processor 2 was a third-party company processor
14 based in Chicago, Illinois that processed the PPP loan
15 applications for Bank 2. Bank Processor 2 processed PPP loan
16 applications at its office in Chicago, Illinois. Bank 2 was a
17 financial institution based in Portland, Maine that was insured
18 by the FDC -- FDIC. Bank 2 was an approved SBA lender of PPP
19 loans.

20 "Bank 3 was a financial institution based in Fort Lee,
21 New Jersey and was insured by the FDIC. Bank 3 was an approved
22 SBA lender of PPP loans.

23 "Counts 1 through 9, Wire Fraud. From in or around
24 April 2020 through in or around March 2020, in Miami-Dade
25 County, in the Southern District of Florida and elsewhere, the

1 Defendant did knowingly, with the intent to defraud, devise,
2 and intend to devise a scheme and artifice to defraud and
3 obtain money and property by means of materially false and
4 fraudulent pretenses, representations, and promises, knowing
5 that the pretenses, representations, and promises were false
6 and fraudulent when made, and for the purpose of executing the
7 scheme and artifice, did knowingly transmit, and cause to be
8 transmitted by means of wire communication in interstate
9 commerce certain writings, signs, signals, pictures and sounds,
10 in violation of Title 18, United States Code, Sections 1343 and
11 2.

12 "It was the purpose of the scheme and artifice for the
13 Defendant and his accomplices to unlawfully enrich themselves
14 by, among other things, A, submitting and causing the
15 commission of false and fraudulent applications and supporting
16 documents for loans and grants made available through the SBA
17 to provide relief for the economic effects caused by the
18 COVID-19 pandemic, including PPP loans and EIDLs; and B,
19 diverting fraud proceeds for the Defendant's personal use, the
20 use and benefit of others, and to further the fraud.

21 "The manner and means by which the Defendant and his
22 accomplices sought to accomplish the object and purpose of the
23 scheme and artifice included, among other things, the
24 following: Eric Dean Sheppard and his accomplices submitted
25 and caused to be submitted false and fraudulent PPP loan and

1 EIDL applications on behalf of Alafaya Trails, HMMD, and HM
2 Four via interstate wire communications.

3 "The PPP loan applications submitted and caused to be
4 submitted by Eric Dean Sheppard masked payments to independent
5 contractors as wages paid to W-2 employees in order to qualify
6 for the PPP loans.

7 "The PPP loan and EIDL applications submitted and
8 caused to be submitted by Eric Dean Sheppard included falsified
9 documents, such as Internal Revenue Service and Florida
10 Department of Revenue forms. The applications also
11 misrepresented the type of business the borrowing entities were
12 engaged in, as well as revenues, monthly payroll, and number of
13 employees.

14 "Some of the falsified documents submitted and caused
15 to be submitted by Eric Dean Sheppard in support of the false
16 and fraudulent PPP and EIDL applications contain the names and
17 forged signatures of others without the knowledge or consent of
18 those individuals.

19 "Based on the false and fraudulent PPP loan and EIDL
20 applications submitted as part of this scheme, Bank 1, Bank 2,
21 Bank 3, and the SBA disbursed loan proceeds to bank accounts
22 controlled by Eric Dean Sheppard that were held by Alafaya
23 Trails, HMMD, and HM Four via interstate wire transmissions.

24 "Eric Dean Sheppard and his accomplices used the
25 proceeds from the fraud scheme for their own use, the use of

1 others, and to further the fraud.

2 "On or about the dates specified, as to each count
3 below, in the Southern District of Florida and elsewhere, the
4 Defendant Eric Dean Sheppard, for the purpose of executing and
5 in furtherance of the aforesaid scheme and artifice to defraud,
6 and to obtain money and property by means of materially false
7 and fraudulent pretenses, representations, and promises,
8 knowing that the pretenses, representations, and promises were
9 false and fraudulent when made, did knowingly transmit and
10 cause to be transmitted in interstate commerce by means of wire
11 communication certain writings, signs, signals, pictures, and
12 sounds.

13 "Count 1, October 22nd, 2020, electronic submission of
14 a false and fraudulent EIDL application on behalf of HM Four
15 from the Southern District of Florida to the SBA, resulting in
16 an EIDL payment of approximately \$150,000.

17 "Count 2, November 4th, 2020, electronic submission of
18 a falsified lease agreement on behalf of HM Four's EIDL
19 application from the Southern District of Florida to the SBA.

20 "Count 3, November 12th, 2020, electronic submission
21 of a falsified letter from a banker in support of HM Four's
22 EIDL application from the Southern District of Florida to the
23 SBA.

24 "Count 4, January 19th, 2021, electronic submission of
25 a false and fraudulent PPP second draw loan application on

1 behalf of Alafaya Trails from the Southern District of Florida
2 to Bank Processor 1.

3 "Count 5, February 11th, 2021, electronic submission
4 of false and fraudulent IRS Form 941s in support of Alafaya's
5 PPP second draw loan application from the Southern District of
6 Florida to Bank Processor 1.

7 "Count 6, February 26th, 2021, electronic submission
8 of a false and fraudulent IRS Form 1065 in support of Alafaya
9 Trails' PPP second loan draw application from the Southern
10 District of Florida to Bank Processor 1.

11 "Count 7, March 11th, 2021, electronic submission of a
12 false and fraudulent PPP second loan draw application on behalf
13 of Alafaya Trails from the Southern District of Florida to Bank
14 Processor 2, resulting in a PPP loan of approximately \$148,397.

15 "Count 8, March 11th, 2021, electronic submission of
16 false and fraudulent IRS Form 1065 in support of Alafaya
17 Trails' PPP second loan draw application from the Southern
18 District of Florida to Bank Processor 2.

19 "Count 9, March 12th, 2021, electronic submission of a
20 false and fraudulent PPP loan application IRS Form 1065 and IRS
21 Form 940 on behalf of HMMD from the Southern District of
22 Florida to Bank 3, resulting in a PPP loan of approximately
23 \$148,591, in violation of Title 18, United States Code, Section
24 1343 and 2.

25 "Counts 10 through 14, Aggravated Identity Theft.

1 "On or about the dates enumerated in each count below,
2 Eric Dean Sheppard, during and in relation to a violation of
3 Title 18, United States Code, Section 1343, wire fraud, as
4 charged in Counts 2, 3, 6, 8, and 9 of the Superseding
5 Indictment, did knowingly transfer, possess, and use without
6 lawful authority the means of identification of another person
7 as specified in each count below:

8 "Count 10, November 4th, 2020, name, signature, and
9 title of MS, used on a falsified lease agreement,
10 electronically submitted to the SBA in support of HM Four's
11 EIDL application.

12 "Count 11, November 12th, 2020, name, signature and
13 title of HB, used on a falsified bank letter electronically
14 submitted to the SBA in support of HM Four's EIDL application.

15 "Count 12, February 26th, 2021, name, employer
16 identification number, and preparer tax identification number
17 of NC, used on a falsified IRS Form 1065 tax return
18 electronically submitted to Bank Processor 1 in support of
19 Alafaya Trails' PPP second draw loan application.

20 "Count 13, March 11th, 2021, name, EIN, and PTIN of
21 NC, used on a falsified IRS Form 1065 tax return electronically
22 submitted to Bank Processor 2 in support of Alafaya Trails' PPP
23 second draw loan application.

24 "Count 14, March 12th, 2021, name, EIN, and PTIN of
25 NC, used on a falsified IRS Form 1065 tax return electronically

1 submitted to Bank 3 in support of HMMD's PPP loan application,
2 in violation of Title 18, United States Code, Section 1028A,
3 Subsection (a), Subsection (1) and (2)."

4 Ladies and Gentlemen, is there anyone that knows
5 anything about any of the allegations that I have just read to
6 you from the Superseding Indictment? If so, please raise your
7 hand.

8 Seeing no hands raised.

9 Is there anyone, just hearing about the nature of
10 these offenses charged in the Superseding Indictment, based on
11 an experience you may have had, a relationship you may have
12 formed, or an opinion that you may hold, that feels that you
13 could not serve as a fair and impartial juror? If so, please
14 raise your hand.

15 Seeing no hands raised.

16 Is there anyone that is taking any medication that may
17 make you sleepy or groggy? If so, please raise your hand.

18 Okay. If we can start to my right, Jackie.

19 Thank you.

20 PROSPECTIVE JUROR: Hi. How are you?

21 Anxiety pills.

22 THE COURT: And you are -- I'm sorry. Your last name?

23 PROSPECTIVE JUROR: Saywack.

24 THE COURT: Ms. Saywack. Yes?

25 PROSPECTIVE JUROR: Yes. I take anxiety pills and it

1 does make me a little sleepy.

2 THE COURT: All right. And Ms. Saywack, is there
3 anything that you can do during the course of the trial that
4 may allow you to focus on the testimony and the evidence
5 presented in the courtroom?

6 PROSPECTIVE JUROR: Just the thought of me coming here
7 my anxiety was up way high. So right now I'm still a little
8 sleepy. So I don't know how much it's going to take part in me
9 making a decision.

10 THE COURT: All right. But right now -- and I
11 understand you're nervous. It's the first time you've been
12 called to jury duty. But with regard to the anxiety
13 medication, is that -- I understand that you take that. And do
14 you take that over the course of each day? Did you take that
15 this morning?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: All right. And I assume you're going to
18 continue to take that anxiety medication?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And what do you do during the course of
21 the day, Ms. Saywack, that may assist you in staying focused,
22 even in light of taking the anxiety medication?

23 PROSPECTIVE JUROR: Just to be relaxed.

24 THE COURT: Okay. And what do you do to allow
25 yourself to relax during the course of the day?

1 PROSPECTIVE JUROR: Be with my pets.

2 THE COURT: Okay. When you're not with your pets.

3 Like I know you're not working at the moment.

4 PROSPECTIVE JUROR: Correct.

5 THE COURT: But you were working at Kohl's and
6 Walmart. So when you're not with your pets, what do you do to
7 assist yourself while you're taking the anxiety medication?

8 PROSPECTIVE JUROR: I'm with family, with someone
9 always.

10 THE COURT: Okay. All right. Now, Ms. Saywack, is
11 there any other medication other than the anxiety medication
12 that may make you sleepy or groggy?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Okay. All right. Thank you, Ms. Saywack.
15 And I think there was someone else that raised their
16 hand.

17 PROSPECTIVE JUROR: I did.

18 THE COURT: Is that Ms. Kennedy?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Good morning.

21 PROSPECTIVE JUROR: Good morning.

22 THE COURT: And Ms. Kennedy, is there anything that --

23 PROSPECTIVE JUROR: Yes. I take three medications for
24 immune suppression, and one of them makes me sometimes groggy.

25 THE COURT: All right. And --

1 PROSPECTIVE JUROR: I drink coffee for it.

2 THE COURT: You do -- what do you do for it?

3 PROSPECTIVE JUROR: Just coffee.

4 THE COURT: Okay. All right. Well, you can certainly
5 bring coffee into the courtroom. And if at any time -- if
6 you're selected as a juror, and you do need to take a break
7 just so that you will remain awake, just let the Court know.

8 All right. Thank you, Ms. Kennedy.

9 Anyone else, Ladies and Gentlemen, that's taking any
10 medication that may make you sleepy or groggy?

11 PROSPECTIVE JUROR: Good afternoon -- good morning.
12 I'm taking a cold medication. I've recently taken a pneumonia
13 and a flu shot, and I came down with a cold. And I'm having
14 trouble with my eyes because I can't -- sunlight is bothering
15 me.

16 THE COURT: All right. So Mr. -- is this Mr. Alford?

17 PROSPECTIVE JUROR: Excuse me?

18 THE COURT: Are you Mr. Alford?

19 PROSPECTIVE JUROR: Yes, I am.

20 THE COURT: All right. And so the sunlight is
21 bothering you because of the cold?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: All right. Now, here in the courtroom, is
24 there anything that's bothering you or you just feel like
25 you're coming down with a cold?

1 PROSPECTIVE JUROR: No. I been through it. This is
2 the best I've been in the last two, three days.

3 THE COURT: All right, sir.

4 PROSPECTIVE JUROR: I was coughing and sneezing. This
5 is the getting better stages, I guess.

6 THE COURT: All right. We don't want to make you any
7 sicker or anyone else around you any sicker. So do you believe
8 that you are feeling better or you're getting worse?

9 PROSPECTIVE JUROR: I don't think I'm getting worse,
10 but I'm not great.

11 THE COURT: All right. So Mr. Alford, do you believe
12 that you're able to serve given that you have a cold?

13 PROSPECTIVE JUROR: I don't know. I mean, I'm just --
14 I'm just trying to get it -- get it done, you know?

15 THE COURT: Right. I understand when you say you're
16 just trying to get it done. So you've been called to jury
17 duty, you're here in the courtroom, and the question is whether
18 you're taking any medication that may make you sleepy or
19 groggy, and you've told the Court that you have a cold.

20 So the question is -- and I understand the sunlight,
21 but hopefully we're going to make sure that the sunlight isn't
22 bothering you here in this building. So is there anything that
23 we can do to assist you? Are you getting better? Do you feel
24 that the medication -- and I'm not certain -- are you taking
25 any medication, sir?

1 PROSPECTIVE JUROR: I am taking medication.

2 THE COURT: All right. So do you believe that your
3 condition would affect your ability to serve as a juror?

4 PROSPECTIVE JUROR: I don't think so.

5 THE COURT: All right, sir. So in terms of the cold
6 medication, is there anything that you can do to assist so that
7 you are able to focus on the evidence? Are you taking -- if we
8 took more frequent breaks or -- I'm not certain if you're going
9 to continue taking the medication, since you're getting better.

10 PROSPECTIVE JUROR: I just know my eyes run -- I have
11 to use this tissue -- and my head hurts. But I don't know
12 what's going to -- the end result. So...

13 THE COURT: All right. Now, Mr. Alford, did you serve
14 in the military, sir?

15 PROSPECTIVE JUROR: Yes, I did.

16 THE COURT: Thank you for your service.

17 What branch did you serve in?

18 PROSPECTIVE JUROR: United States Air Force.

19 THE COURT: All right. Well, thank you for your
20 service, Mr. Alford. And I'm certain that you have given a lot
21 of yourself and you certainly deserve to be recognized.

22 Ladies and Gentlemen, in time of peace, service on a
23 jury is the most important service you can provide to your
24 country, but Mr. Alford has certainly given the ultimate
25 sacrifice. So thank you for your service, sir.

1 PROSPECTIVE JUROR: Thank you.

2 THE COURT: Anyone else, Ladies and Gentlemen, who is
3 taking --

4 (Gallery clapping.)

5 THE COURT: Yes. Of course. And that deserves --
6 that deserves certainly recognition. Thank you, sir.

7 Anyone else taking medication that may make you sleepy
8 or groggy?

9 Okay. All right, then.

10 Now, there are several concepts that I do want to
11 discuss with you that are at the heart of our criminal justice
12 system. They are the presumption of innocence, the
13 Government's burden of proof, and the Defendant's right to
14 remain silent.

15 Many of you have heard of a Defendant's presumption of
16 innocence. And let me say again that the Indictment in a
17 criminal case is only an accusatory paper which states the
18 charge or charges to be determined at the trial. It is not
19 evidence against the Defendant or anyone else. Indeed, as I
20 stated, the Defendant has entered a plea of not guilty and is
21 presumed by the law to be innocent.

22 Every person charged with a crime in this country is
23 presumed innocent. That right is guaranteed to each of us by
24 our constitution. In fact, if we were to send each of you into
25 the jury room to deliberate right now and render a verdict, the

1 only possible verdict that you could render would be a verdict
2 of not guilty.

3 Is there anyone that has any difficulty accepting this
4 as the law? If so, please raise your hand.

5 Seeing no hands raised.

6 The burden of proving the Defendant guilty rests with
7 his accuser, the United States Government, and the burden is to
8 prove the charges beyond a reasonable doubt. Now, the Court is
9 going to give you instructions at the conclusion of the trial
10 as it pertains to reasonable doubt. But let me state that it
11 is a heavy burden that rests on the Government.

12 The Government has the entire burden of proof, and
13 what that means is that there's nothing left for the Defendant.
14 There's nothing for the Defendant to prove to you or to
15 disprove to you.

16 Now, the Defendant has the right to remain silent.
17 The law does not require a defendant to prove innocence or to
18 produce any evidence at all. And if a defendant elects not to
19 testify, you cannot consider that in any way during your
20 deliberations. The Government has the burden of proving a
21 defendant guilty beyond a reasonable doubt. And if it fails to
22 do so, you must find the Defendant not guilty.

23 So if a Defendant does not testify, you cannot hold it
24 against him. And let me give you an example of how that could
25 happen. Let's say the case is over, you go back to the jury

1 room, and you don't believe that Government has proven its case
2 beyond and to the exclusion of every reasonable doubt. At that
3 point, you cannot say to yourself or your fellow jurors:

4 "Well, I don't believe the Government has proven its case, but
5 I'm going to find the Defendant guilty anyway because he did
6 not testify." You cannot do that and you cannot hold it
7 against the Defendant.

8 Does anyone feel that they would not be able to follow
9 the law on the Defendant's right to remain silent? If so,
10 please raise your hand.

11 Seeing no hands raised.

12 Now, as jurors, you are going to be the judges of the
13 testimony of witnesses, and to do so you'll use certain
14 common-sense guidelines. Now, you communicate with people
15 every day, and each time you communicate with someone you make
16 a determination whether that person who is speaking to you is
17 being sincere about what he or she is saying, and accurate.
18 Those same common-sense guidelines are the ones that you're
19 going to be required to use to judge the credibility,
20 sincerity, and accuracy of the witnesses that are going to be
21 brought before you, regardless of the witness's profession.

22 Now, you may be hearing from certain government
23 agents. The common-sense guidelines that I just went over in
24 terms of judging witnesses' credibility are the ones that
25 you'll need to apply to every witness, regardless of the

1 profession.

2 I also want to deal with the concepts of sympathy and
3 prejudice. We feel sorry for people in difficult situations.
4 Unfortunately, sometimes we can also feel prejudice. Neither
5 sympathy or prejudice may factor into your deliberations. You
6 are the trier of the fact, and if you allow emotions to cloud
7 your decision-making you will not be fulfilling your
8 responsibility.

9 Is there anyone here that cannot put aside feelings of
10 sympathy or prejudice or feel because of a religious,
11 philosophical, or other reason that you cannot sit in judgment
12 of another? If so, please raise your hand.

13 Okay. And that is Mr. -- is this Mr. Francis?

14 PROSPECTIVE JUROR: Yes. This is Julian Francis.

15 THE COURT: Yes. Mr. Francis, can you share that with
16 us.

17 PROSPECTIVE JUROR: Oh, no. I was just basically
18 agreeing with what you were saying, like religious beliefs and
19 philosophical beliefs as in not judging anybody, and you know,
20 judging anybody's life or anything like that.

21 THE COURT: And you understand, Mr. Francis, that your
22 role as a juror will be to determine what the facts are in this
23 case and to apply the facts to the law that I will explain to
24 you. Do you understand that that will be your role?

25 PROSPECTIVE JUROR: Yes. I understand that.

1 THE COURT: All right. So do you believe that you can
2 serve as a fair and impartial juror, sir?

3 PROSPECTIVE JUROR: I'm not sure. I feel like -- like
4 what you were saying, it's just -- I guess it's like mixed
5 emotions and stuff. Like, I don't want to be the person to --
6 I don't know -- decide somebody's judgment. That's basically
7 what I'm saying.

8 THE COURT: Okay. And so you feel a little uneasy?

9 PROSPECTIVE JUROR: Yeah. Somewhat. That's the word.

10 THE COURT: Okay. So I guess my question to you,
11 Mr. Francis, is: Can you try to serve as a juror? Is there
12 anything within your background that would -- would have an
13 effect on your ability to serve as a fair and impartial juror?

14 PROSPECTIVE JUROR: Oh, no. No. I can try. I'm just
15 being honest and giving my honest opinion.

16 THE COURT: Of course. But do you believe that you
17 can try?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: All right. Thank you, Mr. Francis.

20 Anyone else, Ladies and Gentlemen?

21 Now, moving forward, you may have some very real
22 concerns about the time that it will take to try the case and
23 to serve as a juror. So I am going to give you a schedule and
24 advise you that we do anticipate that this case should take
25 approximately 10 days to try.

1 We will break up the time so that you will have time
2 in which certainly you will be able to go about your personal
3 and professional matters, but we will anticipate working from
4 approximately nine to five p.m. each day. Although there may
5 be some days where we break early. For example, tomorrow we'll
6 break at four p.m. And then, on Friday, we'll ask you to come
7 in at ten a.m. But it will be approximately nine or ten
8 o'clock in the morning, and then we will break approximately
9 four or five o'clock p.m., depending where we are with a
10 witness. And that will be this week.

11 Then next week, December 4th, we will work only for
12 three days, and then we will not be working on that Thursday
13 and Friday. And then the following week will just be the first
14 two days, the Monday and Tuesday.

15 Now, does the schedule that I have given to you
16 present a great personal hardship for anyone -- and when I say
17 "personal hardship," I mean is there anyone that has been
18 designated as a sole caretaker, is there anyone that has
19 non-refundable airline tickets, or anyone that has a scheduled
20 surgery. And let me say that those are the great personal
21 hardships that the Court anticipates. And to that end, the
22 Court would require that you provide some information for the
23 Court to evaluate.

24 So is there anyone that has any reason, whether you
25 are a sole caretaker of an elderly individual or young

1 children, and there is no one else to care for them,
2 non-refundable tickets, or a scheduled surgery that would take
3 you away from your service as a juror? If so, please raise
4 your hand.

5 And we'll first begin on this side, Jackie.

6 Ms. Soto?

7 PROSPECTIVE JUROR: Yes. I have a one-year-old at
8 home, and I'm a stay-at-home mom.

9 THE COURT: Okay. And who is caring for your child
10 today?

11 PROSPECTIVE JUROR: Right now, his dad had to get off
12 of work for today to take care of him.

13 THE COURT: Okay. And who -- do you normally take
14 care of the one-year-old?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: And is it just you and your spouse?

17 PROSPECTIVE JUROR: Yes. My parents work, so they
18 can't take care of him.

19 THE COURT: Okay. So you're the only one that is able
20 to care for your one-year-old?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: All right. And there are no other family
23 members to care for your child?

24 PROSPECTIVE JUROR: They all work.

25 THE COURT: Okay. Thank you, Ms. Soto.

1 Anyone else, Ladies and Gentlemen?

2 PROSPECTIVE JUROR: Hi. Yes --

3 THE COURT: Is this Mr. Cordero?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Oh, yes.

6 PROSPECTIVE JUROR: So my daughter, she's seven years
7 old. Usually she's in school during the morning. And in the
8 afternoons, between me and my wife take care of her.

9 THE COURT: All right. So your daughter is seven
10 years old, and she is --

11 PROSPECTIVE JUROR: In St. Hugh's Catholic School. So
12 she gets out -- you know, between two and three. We got to
13 pick her up.

14 THE COURT: Okay. I'm sorry. So your spouse is
15 attending college?

16 PROSPECTIVE JUROR: No. No. No. She works. I work
17 as well, but we have to fluctuate who to pick her up. So
18 sometimes I pick her up and sometimes my wife picks her up from
19 school.

20 THE COURT: All right. So while you're being called
21 to jury duty, is there any reason why your wife can't pick up
22 your child?

23 PROSPECTIVE JUROR: Well, if it's 10 days, it might be
24 a problem because obviously she works in the afternoons. I'm
25 in real estate, so I can work with my schedule, so that

1 wouldn't be a problem. But if I'm here --

2 THE COURT: And where does your child go to school?

3 PROSPECTIVE JUROR: St. Hugh, Coconut Grove.

4 THE COURT: And does St. Hugh have an after-care
5 program that your child attends?

6 PROSPECTIVE JUROR: There is after care, but we don't
7 leave her there.

8 THE COURT: Okay. And she's seven years old?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: Is that your only child?

11 PROSPECTIVE JUROR: Yep.

12 THE COURT: All right. So you and your wife are --
13 you are each responsible for picking up your child at two p.m.?

14 PROSPECTIVE JUROR: Between two and three.

15 THE COURT: All right. So did you want to let me know
16 at the break, Mr. Cordero, whether your wife is able to pick up
17 your seven-year-old while you're called to jury duty? Because
18 as I stated, there will be some days, for example, next
19 Thursday and Friday, where you'll be able to pick up your
20 daughter because we will not be in session.

21 PROSPECTIVE JUROR: Yeah. I'll have to ask her and
22 we'll have to figure it out.

23 THE COURT: All right. Thank you, sir.

24 Anyone else?

25 And is that Ms. Lane?

1 PROSPECTIVE JUROR: Yes. I have a surgical procedure
2 scheduled for December the 8th.

3 THE COURT: All right. Is that here in Miami, Ms. --

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right. Is that where you will -- is
6 it an outpatient procedure?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: All right. Is that a procedure will
9 you'll be recovering for a significant period of time?

10 PROSPECTIVE JUROR: No. I will be coming home after
11 the procedure. It's an early-morning procedure.

12 THE COURT: Okay. And is that a procedure where
13 you'll be able to ambulate after?

14 PROSPECTIVE JUROR: I wouldn't be able to do anything
15 that day, that particular day, but the following day I can
16 resume.

17 THE COURT: Okay. So I'm going to -- because I
18 understand that that's obviously very personal to you, your
19 procedure, I don't want to ask you any more questions about the
20 procedure. But on December 8th, we're not going to be in
21 session, and that's a Friday. And then we would not come back
22 until that Monday. So let me ask you during the break, because
23 it might be that you could convalesce and be all right to come
24 back on that Monday, but I want to ask you a little bit about
25 the specifics and we'll do that during the break.

1 Okay? Thank you, Ms. lane.

2 Anyone else?

3 PROSPECTIVE JUROR: Hi.

4 THE COURT: Mr. Rosell?

5 PROSPECTIVE JUROR: Yes. This Friday I'm out of town
6 to Knoxville. I didn't book the flight. My wife did. But I'm
7 pretty sure it's non-refundable. But I could check on the
8 break and let you know.

9 THE COURT: And is this for a vacation?

10 PROSPECTIVE JUROR: My son plays basketball, and he
11 has a weekend -- we're going to watch him play. We get back
12 Monday morning.

13 THE COURT: All right. And do you believe that -- so
14 you would be leaving this Friday?

15 PROSPECTIVE JUROR: No. I know I'm leaving this
16 Friday.

17 THE COURT: I'm sorry?

18 PROSPECTIVE JUROR: The flight is booked for this
19 Friday.

20 THE COURT: Right. When is the flight booked?

21 PROSPECTIVE JUROR: Ten a.m. -- no. Noon. Around
22 noon. Between twelve and one.

23 THE COURT: All right. And then when would you be
24 back?

25 PROSPECTIVE JUROR: Monday -- the 4th of December.

1 THE COURT: Are you coming back that Monday or coming
2 back that Sunday?

3 PROSPECTIVE JUROR: No. I'm coming back Monday
4 because he has a game also Sunday evening. So we come back
5 first thing Monday morning around -- before noon I should be
6 here.

7 THE COURT: Okay. And you have some tickets that you
8 could show the Court?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: Okay. Thank you, sir.

11 Anyone else, Ladies and Gentlemen?

12 Okay. Is there anyone else on this side? Then we'll
13 move over here.

14 Yes. All right.

15 PROSPECTIVE JUROR: Well, Your Honor --

16 THE COURT: Is this Mr. Elbaz?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Yes?

19 PROSPECTIVE JUROR: Thank you.

20 So -- because you asked about medications and a couple
21 of other issues that are going on with me. As I'm sitting
22 here, I'm not really comfortable, and I don't want to give you
23 my -- well, in public here. Maybe I can sit with somebody
24 privately to just maybe discuss some of my own concerns or what
25 I may be prescribed by my physician.

1 THE COURT: All right. So you have -- you're on
2 certain medication and we'll talk about that during the break.

3 PROSPECTIVE JUROR: That would help me, actually.

4 THE COURT: All right. Certainly, sir.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Anyone else, Jackie, on this side?

7 Okay. We're over here to my left.

8 PROSPECTIVE JUROR: Hello. My wife, she's going
9 through chemotherapy.

10 THE COURT: Is this Mr. Cauthen?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Yes?

13 PROSPECTIVE JUROR: And her next session is
14 December 14th.

15 THE COURT: All right. And December 14th -- now, we
16 are not in session on December 14th. We anticipate that the
17 case will be concluded by then.

18 PROSPECTIVE JUROR: Okay. I was just -- because the
19 thing is I have to be there for the -- if anything happens.

20 THE COURT: Of course. Of course.

21 PROSPECTIVE JUROR: If she would be in the ER.

22 THE COURT: Thank you for sharing that, Mr. Cauthen.
23 And I've noted that December 14th is a date that you're not
24 available.

25 PROSPECTIVE JUROR: Thank you.

1 THE COURT: Thank you, sir.

2 PROSPECTIVE JUROR: Hi. I'm Roni Bennett.

3 On December 11th I have a doctor's appointment that I
4 have been trying to get for months. So I believe
5 December 11th --

6 THE COURT: What time is your doctor appointment?

7 PROSPECTIVE JUROR: 10:45.

8 THE COURT: And how long do you anticipate that
9 appointment --

10 PROSPECTIVE JUROR: Probably just two hours.

11 THE COURT: All right. So if we could accommodate and
12 work half a day, is that the only --

13 PROSPECTIVE JUROR: I could try again. But I'm saying
14 it took several months to -- you know how the medical industry
15 is. So --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: Do you want to share -- is that for a
19 procedure that you're anticipating having?

20 PROSPECTIVE JUROR: No. It's a wellness.

21 THE COURT: Oh. I see. All right. Understood. So
22 we'll -- let me make note of the December 11th doctor
23 appointment.

24 Anyone else?

25 Mr. Cuba?

1 PROSPECTIVE JUROR: Yes. I'll be out of state the
2 last two weeks of December.

3 THE COURT: Okay. The last two weeks of December,
4 which tells me that's the weeks of the 18th and the 25th.

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: All right. Thank you, sir.

7 PROSPECTIVE JUROR: Good morning.

8 My name is Yennifer Herrera.

9 THE COURT: Good morning.

10 PROSPECTIVE JUROR: I'm a single parent and I have to
11 pick up my daughter every day from school at 2:20.

12 THE COURT: All right. Is there anyone else that can
13 assist you, Ms. Herrera?

14 PROSPECTIVE JUROR: No, not really. My brother is
15 helping me out today, but he can't do it long-term and I don't
16 have anyone else that drives and can pick her up.

17 THE COURT: All right. So you are the only one that
18 is caring for your child?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And how old is your child?

21 PROSPECTIVE JUROR: She's 17.

22 THE COURT: Oh. Seventeen?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Oh.

25 PROSPECTIVE JUROR: She doesn't drive and she doesn't

1 use public transportation.

2 THE COURT: Is there anyone that your child can go
3 home with?

4 PROSPECTIVE JUROR: No. She doesn't have anyone from
5 school that she can come back home with.

6 THE COURT: Where does she go to school?

7 PROSPECTIVE JUROR: She goes to Southwest Miami High
8 School.

9 THE COURT: And do you pick up your 17-year-old every
10 day?

11 PROSPECTIVE JUROR: I do, at 2:20.

12 THE COURT: All right. And when is your child on a
13 break? She just got back from the Thanksgiving break. When --

14 PROSPECTIVE JUROR: She just did, yes.

15 THE COURT: -- do they have their Christmas break? Do
16 you know?

17 PROSPECTIVE JUROR: Excuse me?

18 THE COURT: When your child is on her Christmas break.

19 PROSPECTIVE JUROR: I think it's towards the end of
20 the month.

21 THE COURT: Okay. But -- so -- and you said it was
22 Southwest?

23 PROSPECTIVE JUROR: Southwest Senior High School,
24 uh-huh.

25 THE COURT: Thank you, Ms. Herrera.

1 PROSPECTIVE JUROR: Thank you.

2 Oh. I might add that my daughter is on the autism
3 spectrum disorder, so that's why also she doesn't use public
4 transportation. So I don't know if that's relevant.

5 THE COURT: Of course. Thank you, Ms. Herrera. I
6 appreciate you sharing that.

7 I think there was someone else behind Mr. Cuba.

8 Ms. Soto?

9 PROSPECTIVE JUROR: Hello. Perla Soto.

10 I have a trip that I'm scheduled to leave Friday and
11 return on Monday evening. This was scheduled a while ago. I
12 don't have the receipt because my friend made the reservations
13 at the hotel. I can request that receipt from her of the
14 non-refundable hotel.

15 THE COURT: When are you scheduled to leave?

16 PROSPECTIVE JUROR: Friday at four o'clock.

17 THE COURT: And is it on a flight or a cruise?

18 PROSPECTIVE JUROR: It's -- no. No. It's in a hotel.
19 I'm going to be -- it's in Orlando.

20 THE COURT: All right. So you're driving?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: So you're driving at four p.m?

23 PROSPECTIVE JUROR: Uh-huh.

24 THE COURT: And then you're coming back when?

25 PROSPECTIVE JUROR: I will be returning Monday

1 evening.

2 THE COURT: Monday evening, the 4th?

3 PROSPECTIVE JUROR: Correct.

4 THE COURT: Is this for pleasure or for work?

5 PROSPECTIVE JUROR: This is for pleasure. This has
6 been arranged, and it's non-refundable. So just --

7 THE COURT: When you say "non-refundable," you mean --

8 PROSPECTIVE JUROR: The hotel.

9 THE COURT: -- the hotel?

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: All right. And you could provide that to
12 the Court?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Thank you. Thank you, Ms. Soto.

15 Anyone else, Ladies and Gentlemen?

16 And is that Ms. Cole?

17 PROSPECTIVE JUROR: Yes, Your Honor.

18 My aunt in Chicago is opening a restaurant, and I have
19 plans to travel December 7th.

20 THE COURT: Okay. We will not be in session on
21 December 7th. So that shouldn't be an issue.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: Okay. Thank you.

24 Anyone else, Ladies and Gentlemen?

25 MS. MARTINEZ: Your Honor, she's traveling to

1 Chicago --

2 THE COURT: You're leaving December 7th. Let's give
3 Ms. Cole back the microphone. You're leaving --

4 PROSPECTIVE JUROR: I want to purchase the ticket for
5 December 7th because the event is the 10th.

6 THE COURT: Right. And we're not going to be in
7 session the 7th, 8th, 9th, and 10th.

8 Okay. So Ms. Martinez, is there anything else that
9 you had a concern about?

10 MS. MARTINEZ: I'm just not clear that she's going to
11 be back.

12 THE COURT: Are you going to be back on December 11th?

13 PROSPECTIVE JUROR: No. I plan to get back on the
14 15th.

15 THE COURT: On the 15th.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Oh, I'm sorry. I thought you were
18 coming -- all right. So you're going to be in Chicago from
19 December 7th to December 15th?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: And this is for an opening of a
22 restaurant?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: So you're making a vacation out of it?

25 PROSPECTIVE JUROR: Yeah. It's really a -- for

1 supporting my family, yes.

2 THE COURT: And Ms. Cole, is there a reason why you
3 can't come back on the 10th, so that you're here for the
4 continuation of the trial?

5 PROSPECTIVE JUROR: The 10th is a Sunday and the event
6 is a Sunday.

7 THE COURT: I'm sorry?

8 PROSPECTIVE JUROR: The event is a Sunday.

9 THE COURT: The event is on Sunday?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Oh, all right. I thought the event was
12 on -- so you're leaving December 7th for the December 10th
13 event.

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And are you able to come back for the 11th
16 trial?

17 PROSPECTIVE JUROR: No. It would be too early. I
18 would come back on the 15th.

19 THE COURT: Is there any reason -- if you were
20 selected as a member of the jury -- did you already purchase
21 your tickets?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Right. So is there any reason why you
24 couldn't come back earlier if the event is on December 10th?

25 PROSPECTIVE JUROR: Okay. So if it's on the 10th, the

1 earliest I could come back is a Tuesday, which maybe is the
2 12th.

3 THE COURT: On the Monday, December 11th.

4 PROSPECTIVE JUROR: Okay. I could come back on the
5 11th if I leave a little early before the Friday.

6 THE COURT: Okay. All right. Thank you. Thank you,
7 Ms. Cole.

8 And Mr. Alford?

9 PROSPECTIVE JUROR: I'd like to say that I take care
10 of my elderly wife. She's a dialysis patient. She goes
11 Monday, Wednesday, and Friday, and I do all the work. She
12 don't even drive anymore. So she went today, and I don't know
13 how she's going to get back home. I think her daughter is
14 going to take her. But her daughter works too, so I'm it for
15 her. So I'm only...

16 THE COURT: All right. So you take your wife to and
17 from the hospital every day, but your daughter is taking her
18 today?

19 PROSPECTIVE JUROR: To the dialysis clinic.

20 THE COURT: Right.

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: All right, sir. Thank you, Mr. Alford.

23 PROSPECTIVE JUROR: Your Honor, I don't have no
24 concern. I just need to --

25 THE COURT: This is Mr. Johnson?

1 PROSPECTIVE JUROR: Yes, ma'am.

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR: I need to take a break to the
4 bathroom.

5 THE COURT: Yes. Of course. All right. So you just
6 need to take a break.

7 All right. Ladies and Gentlemen, when we take a
8 break, we all take a break. So here are the rules: We cannot
9 get started unless all of you are here. So we're going to take
10 a recess. There are bathrooms at the opposite end. Please
11 remember who you were lined up in front of and behind because
12 we're going to line you up in precisely the same manner. That
13 assists the Court and assists the attorneys because we have you
14 lined up for a reason, because it corresponds with your
15 questionnaires and with our charts.

16 So we're going to take a 10-minute recess. As you can
17 see, it's ten to twelve. Let's take a 10-minute recess and
18 we'll see you back here in 10 minutes, so everyone can have a
19 comfort break.

20 COURT SECURITY OFFICER: All rise for the jury.

21 (Panel not present, 11:51 a.m.)

22 THE COURT: We're on a 10-minute recess. And you can
23 certainly use the restrooms in the jury room.

24 (Recess from 11:52 a.m. to 12:01 p.m.)

25 THE COURT: All right. Welcome back.

1 Back on the record.

2 Let me acknowledge the presence of the Defendant.

3 We're going to bring in Juror Numbers 7 and 9
4 individually. So Jackie, if we can bring in Juror Number 7,
5 Ms. Lane.

6 MS. JIMENEZ: And, Your Honor, we do have a
7 replacement now for our Breezeline witness. So when you have
8 all of the jurors --

9 THE COURT: Certainly.

10 (Panel Member Number 7 enters the courtroom.)

11 THE COURT: All right. This is -- go ahead and have a
12 seat, everyone.

13 This is Juror Number 7, Ms. Lane.

14 Ms. Lane, thank you. You had shared with the Court
15 that you were going to be having surgery on December 8th. Do
16 you believe that you -- we are not in session on December 8th.
17 Do you believe that you would be recuperated and ready to serve
18 with the trial continuing on Monday, December 11th?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: All right. And I thank you for that.
21 Thank you, Ms. Lane.

22 (Panel Member Number 7 exits the courtroom.)

23 THE COURT: Now if we can bring in Mr. Elbaz, Juror
24 Number 9, please.

25 (Panel Member Number 9 enters the courtroom.)

1 THE COURT: All right. Mr. Elbaz, you wanted to share
2 with the Court the medication you're taking and its effect on
3 you.

4 PROSPECTIVE JUROR: Sure. Thank you, Your Honor.
5 Well, I have a list over here.

6 THE COURT: You don't have to provide the list,
7 Mr. Elbaz. But let me ask you with regard to those
8 medications, do you believe that taking those medications would
9 have an effect on your ability to focus on the evidence and
10 testimony presented?

11 PROSPECTIVE JUROR: Well, firstly, am I coming in
12 clear?

13 THE COURT: Yes.

14 PROSPECTIVE JUROR: Okay. Thank you.

15 I have severe tinnitus on one side of my head, so the
16 ringing is tremendous, very hard for me to function. I also
17 take Klonopin for my anxiety. I have a hiatal hernia. So I
18 take -- I have it written -- I have like --

19 THE COURT: All right, sir. And you don't need to
20 give me a list of the prescriptions. But based on the medical
21 conditions and the medication you're taking, do you believe
22 that that would affect your ability to serve as a juror in this
23 case?

24 PROSPECTIVE JUROR: The most difficult thing for me is
25 I start to get like anxiety. I'm always afraid of saying --

1 like, I torment myself. I'm tormented. I function well, but
2 when I feel like I'm in a high-pressure situation or if I
3 feel -- like I wasn't maybe forthcoming when you asked about
4 drowsiness. I'm not necessarily drowsy. I'm used to what I
5 take, but it's just that my mind starts running. So that
6 creates the fear in my head.

7 THE COURT: All right. And would that be present
8 throughout the course of this trial?

9 PROSPECTIVE JUROR: It's been present -- when I --
10 when I go into things that are out of my familiar zones -- like
11 wherever I stay, I manage to maintain everything I do in a
12 small proximity. So it makes it much easier for me to function
13 within the world that I created for myself.

14 THE COURT: Of course. Thank you, Mr. Elbaz.

15 And if you'll join your fellow jurors and we'll bring
16 everyone back together. Thank you, sir.

17 (Panel Member Number 9 exits the courtroom.)

18 COURT SECURITY OFFICER: All rise for the jury.

19 (Before the panel, 12:05 p.m.)

20 THE COURT: All right. Welcome back, Ladies and
21 Gentlemen.

22 Please be seated.

23 Thank you for your patience.

24 The Government does have the name of the individual
25 from -- I believe it's Breezeline. So if you can state that

1 individual's name, please.

2 MS. JIMENEZ: Yes. Ladies and Gentlemen, our
3 replacement witness is Mr. Patrick McCaw, M-C-C-A-W. He works
4 for Breezeline, which is an Internet service provider out of
5 the Northeast.

6 Thank you.

7 THE COURT: Thank you.

8 Ladies and Gentlemen, does anyone know that
9 individual? If so, please raise your hand.

10 Seeing no hands raised.

11 All right. I do have some specific questions for some
12 of you, and thank you once again for completing your juror
13 questionnaires.

14 And Jackie, if we can give the microphone to Juror
15 Number 3, and that is Mr. -- Ms. Haynes. My apologies.

16 Ms. Haynes, you stated in Question 14 your law
17 enforcement background "makes me biased towards the police."
18 Now, as you heard from the Government's list of witnesses,
19 there will be some individuals testifying on behalf of the
20 Federal Bureau of Investigation, one from the Department of
21 Revenue. There will be some government officials. So let me
22 ask you: Based on that, obviously, you as the jury -- if you
23 are selected -- will need to gauge the credibility or lack of
24 credibility of the witnesses that come before you. But my
25 question to you is: Even before that witness opens his or her

1 mouth, would you have a bias towards law enforcement and may be
2 giving more weight to an officer's testimony than it may
3 otherwise deserve because of your law enforcement background?

4 PROSPECTIVE JUROR: Yes, Your Honor. I definitely
5 would lean towards believing what the officers have to say.

6 THE COURT: Okay. Is that before the witness even
7 testifies?

8 PROSPECTIVE JUROR: Yes. That's right.

9 THE COURT: All right. So you will tend to give more
10 weight to an officer's testimony than it may otherwise
11 deserve --

12 PROSPECTIVE JUROR: Absolutely.

13 THE COURT: -- because of your law enforcement
14 background?

15 PROSPECTIVE JUROR: Absolutely, Your Honor.

16 THE COURT: All right. And I thank you for your
17 candor, Ms. Thompson [sic].

18 (Pause in proceedings.)

19 THE COURT: Juror Number 13, Ms. Rosell -- I'm
20 sorry -- Teobaldo Rosell. Mr. Rosell. My apologies.

21 Mr. Rosell, you stated that -- on Question 14 that you
22 would have difficulty judging another person on religious
23 grounds. Is that correct, sir? And I want to make sure that I
24 understand --

25 PROSPECTIVE JUROR: Yeah. I did that. I wrote that.

1 And then I also wrote on 16 that even with my views I'll follow
2 the instructions on the law.

3 THE COURT: All right. But I guess my question is --
4 obviously, I would hope that everyone will follow the Court's
5 instructions on the law, but do you have some religious reason
6 why you could not serve as a member of this jury?

7 PROSPECTIVE JUROR: No. I didn't know what the case
8 was about. So I just answered the question. That's all I was
9 doing.

10 THE COURT: All right, sir. Now I've given you what
11 the allegations are.

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you believe that your religion --

14 PROSPECTIVE JUROR: No.

15 THE COURT: -- would affect your ability to serve as a
16 fair and impartial juror?

17 PROSPECTIVE JUROR: No.

18 THE COURT: All right. Thank you, sir.

19 Juror Number 14, Tatyana Josephs. Ms. Josephs, you
20 have beautiful handwriting. It is a little small, so I just
21 want to make sure that I have read this correctly. And that is
22 you stated on Question 15: "Do you feel you could not judge
23 another person for a criminal act," and you said: "Yes."

24 I just want to make sure -- the question is somewhat
25 inartfully worded. But do you believe there is something

1 within your background, whether religious, moral, personal,
2 that would affect your ability to serve as a fair and impartial
3 juror in this case?

4 PROSPECTIVE JUROR: No, there isn't. I think it was
5 just the way the question was --

6 THE COURT: Yeah. And the question is not worded --
7 because it can be interpreted in two different ways, the yes or
8 the no. So I just wanted to make sure that -- do you believe
9 that you could serve as a fair and impartial juror,
10 Ms. Josephs?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right. And beautiful handwriting.
13 Thank you.

14 Juror Number 20 -- and my apologies. Juror Number 19.
15 Patricia Kennedy.

16 All right. Ms. Kennedy, I know that -- and I'm sorry
17 to hear of the loss of certainly someone in your family. I
18 just want to make sure, given your answer to Question 14 and
19 15, do you believe that you could serve as a fair and impartial
20 juror in this case?

21 PROSPECTIVE JUROR: I do not feel currently I am in a
22 state of mind that allows me to do it.

23 THE COURT: Okay. You believe that because of the
24 loss of your family member that you are not in a position to
25 serve at this time?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: All right. Thank you, Ms. Kennedy.

3 And I'm sorry to hear of your loss.

4 Juror Number 20, Sydni Coro. Ms. Coro, you also state
5 in Question 14 you believe the justice system can be unfair.
6 You believe a family member was treated unfairly. And I just
7 want to make sure -- could you set aside that experience with
8 your family member and render a decision based solely on the
9 testimony and evidence presented in this courtroom?

10 PROSPECTIVE JUROR: I think it would be difficult for
11 me.

12 THE COURT: All right. And can you share with me why
13 you believe that would be difficult? Is that because of the
14 incident with regard to your family member?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Okay. All right. Thank you, Ms. Coro.

17 Okay. We are now on the other side.

18 Juror Number 28, Mr. Bauta.

19 Yes, Mr. Bauta, you did tell me about your difficulty
20 with the English language. So thank you, sir.

21 Juror Number 36, Javier Cuba.

22 Mr. Cuba, you stated you don't think the law is
23 applied fairly due to biases in the system. And I want to make
24 sure that that's not a bias that you hold that would affect
25 your ability to be fair and impartial.

1 PROSPECTIVE JUROR: No. I try to always judge
2 everybody equally, despite my own personal biases.

3 THE COURT: Okay. But do you have biases that you
4 believe would have an effect on your ability to serve as a fair
5 and impartial juror in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Okay. So when you stated: "I don't think
8 the law is applied fairly due to biases in the system," is that
9 an observation that you've made?

10 PROSPECTIVE JUROR: Yes. An opinion, an observation.

11 THE COURT: Okay. But would that have an effect on
12 your ability to serve as a fair and impartial juror?

13 PROSPECTIVE JUROR: I don't think so.

14 THE COURT: Okay. When you say: "I don't think so,"
15 we as human beings --

16 PROSPECTIVE JUROR: No.

17 THE COURT: Do you think it will, sir?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Okay. Thank you, sir.

20 And Juror Number 37. That is Juliana Gomez.

21 Ms. Gomez, you stated that there is something on
22 Question 14 in your background or personal feelings that would
23 affect your ability to be fair and impartial. Can you share
24 that with me?

25 PROSPECTIVE JUROR: Yes. Based on the questionnaire,

1 I assumed this case was about PPP loans. With my work
2 background in hospitality, I thought that it was -- I saw
3 some -- I witnessed some things that were unfair. So I think I
4 would be biased in my, you know, time period during COVID where
5 I saw certain businesses -- I think that they weren't treated
6 fairly, et cetera.

7 THE COURT: Could you set aside that bias?

8 PROSPECTIVE JUROR: I think I would have a hard time,
9 seeing that I saw personal friends and family struggle during
10 the pandemic.

11 THE COURT: All right. So do you believe that your
12 personal observations would have an effect on your ability to
13 serve as a fair and impartial juror?

14 PROSPECTIVE JUROR: Yes, Your Honor.

15 THE COURT: All right. Thank you, Ms. Gomez. I
16 appreciate your candor.

17 Juror Number 42. And that is Perla Soto?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Ms. Soto, you stated on your questionnaire
20 "not sure" if you feel that you could judge another person for
21 a criminal act, whether on religious, moral, or personal
22 grounds.

23 PROSPECTIVE JUROR: Well, ethically, we're not
24 supposed to judge. God's the only one. So you know, I guess,
25 you know, that's why I put maybe. You know, I would hate to

1 think somebody's going to have an adverse problem in their life
2 because of my judgment of them.

3 THE COURT: And you understand that your role,
4 Ms. Soto, will be the -- you'll be the judges of the facts.
5 You're going to determine what the facts are in this case. And
6 then you'll apply those facts to the law that I'm going to
7 instruct you on to determine whether the Government has met its
8 burden of proving all the elements of the offenses beyond and
9 to the exclusion of every reasonable doubt. So knowing that
10 that's your role as a juror, do you believe that your feelings
11 that only God is to judge would have an effect on your ability
12 to serve as a fair and impartial juror?

13 PROSPECTIVE JUROR: My concern would be more on my
14 understanding of what the information would be, because I
15 personally found it complex, the whole PPP thing and such. So
16 hopefully I would understand the information correctly.

17 THE COURT: Okay. So your concern is that there may
18 be a lot of information that you would have to absorb?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: Correct.

22 THE COURT: All right. But is there anything that the
23 Court needs to be aware of, any religious, moral, philosophical
24 reason why you could not serve as a fair and impartial juror?

25 PROSPECTIVE JUROR: No. That's just my answer to why

1 I put that.

2 THE COURT: Okay. Thank you, Ms. Soto. Appreciate
3 your time.

4 Juror Number 45 -- and actually, Mr. Alford, I
5 apologize. I did already speak with you and you already shared
6 with the Court.

7 So Juror Number 47, Iliana Caballero.

8 PROSPECTIVE JUROR: Yes, Your Honor.

9 THE COURT: Yes. Ms. Caballero, you stated on
10 Question 15: "I can't judge another person for moral reasons."

11 PROSPECTIVE JUROR: Yes. I've been in this position
12 before and the experience was not pleasant. I don't think I
13 can do it again.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: Sorry.

16 THE COURT: And is it just because you feel a little
17 anxious or is there another reason?

18 PROSPECTIVE JUROR: Yes. I don't feel like I can do
19 it.

20 THE COURT: And you did serve on a jury in state
21 court, correct?

22 PROSPECTIVE JUROR: (No verbal response.)

23 THE COURT: And were you able to arrive at a decision?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: All right. So you understand the

1 obligation of a juror and do you believe that you could serve
2 in this courtroom?

3 PROSPECTIVE JUROR: I don't believe so.

4 THE COURT: And can you share -- when you -- is it
5 just because it would be difficult --

6 PROSPECTIVE JUROR: Would be difficult for me, yes.

7 THE COURT: Is there any other reason other than it
8 might be difficult?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Okay. Is there anything the Court needs
11 to be aware of, any religious, philosophical, moral reason,
12 anything at all, Ms. Caballero?

13 PROSPECTIVE JUROR: No. That's it.

14 THE COURT: Okay. Thank you, Ms. Caballero.

15 All right. Ladies and Gentlemen, is there anyone that
16 has not told me, either in your questionnaire or in your
17 responses to my questions, as to why you believe you could not
18 serve as a fair and impartial juror? If so, please raise your
19 hand. Anything at all?

20 And that -- that has not already been provided to the
21 Court. And that is -- I want to make sure that I know who that
22 is. Is that Ms. Garcia?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Yes.

25 PROSPECTIVE JUROR: I have concerns with the

1 scheduling because I have a full-time job and a part-time job.
2 So I work more than 60 hours a week. And I also just got my
3 full-time job last Monday, and I have a 90-day grace period,
4 and I'm scared.

5 THE COURT: Have you told your employer that you
6 received a summons?

7 PROSPECTIVE JUROR: Yes. He knows I'm here today.

8 THE COURT: Okay. And you are concerned that you will
9 not have a job?

10 PROSPECTIVE JUROR: Yeah. I'm afraid of finance --
11 like my finances.

12 THE COURT: Is this with the construction company?

13 PROSPECTIVE JUROR: Correct.

14 THE COURT: All right. And how many employees are
15 part of that construction company?

16 PROSPECTIVE JUROR: Five.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: And I would be taking over the
19 office stuff, and the lady will no longer be there. So I'm
20 concerned about the transition and learning all the stuff that
21 I don't know yet.

22 THE COURT: Okay. Of course. Yes. That's a valid
23 concern. But other than -- I mean, obviously you've told your
24 employer, and your employer -- he or she has understood that
25 you were called to jury duty, correct?

1 PROSPECTIVE JUROR: Yes. I just don't know -- like,
2 obviously, they don't know how long it's going to take.

3 THE COURT: Right. Okay. So perhaps during the break
4 you can advise them what the anticipated schedule is.

5 PROSPECTIVE JUROR: Okay.

6 THE COURT: Okay. Thank you, Ms. Garcia.

7 All right. Ladies and Gentlemen, I did advise the
8 attorneys that they would have an opportunity to question you
9 individually. We'll first start on behalf of the Government.

10 (Pause in proceedings.)

11 MS. MARTINEZ: I should have practiced that. Sorry.

12 It's still -- no. It's afternoon.

13 Good afternoon.

14 Thank you.

15 How many of you work for a company that gives you a
16 W-2 Form?

17 PROSPECTIVE JUROR: I didn't hear the question.

18 MS. MARTINEZ: A W-2 Form. That gives you a W-2 Form.

19 I'm going to say roughly half of you.

20 Give me -- Ms. Cabrera, I believe you're a supervisor.

21 PROSPECTIVE JUROR: Yes.

22 MS. MARTINEZ: You receive a W-2, correct? So -- and
23 so you consider yourself an employee, correct?

24 PROSPECTIVE JUROR: Yes.

25 MS. MARTINEZ: And your employer withholds income tax,

1 meaning keeps it and does not pay it to you, correct?

2 PROSPECTIVE JUROR: Correct.

3 MS. MARTINEZ: And your employer also withholds
4 Medicare taxes and Social Security taxes, correct?

5 PROSPECTIVE JUROR: Correct.

6 MS. MARTINEZ: And your employer also contributes to
7 the IRS for their portion of Medicare and Social Security
8 taxes.

9 PROSPECTIVE JUROR: Correct.

10 MS. MARTINEZ: You work for a cruise company, correct?

11 PROSPECTIVE JUROR: Yes, I do.

12 MS. MARTINEZ: Is there some employees that -- let me
13 put it differently.

14 Are there payments that the cruise company makes that
15 are, for example, to an electrician who comes to fix something
16 at the office or something that is an outside company coming to
17 do something at the office?

18 PROSPECTIVE JUROR: Yes, they do.

19 MS. MARTINEZ: And that is like a vendor?

20 PROSPECTIVE JUROR: Correct.

21 MS. MARTINEZ: That person is not an employee.

22 PROSPECTIVE JUROR: No.

23 MS. MARTINEZ: Thank you.

24 (Pause in proceedings.)

25 MS. MARTINEZ: Mr. Gutierrez?

1 PROSPECTIVE JUROR: Yes.

2 MS. MARTINEZ: Yes. To ask you -- you did apply for
3 one of the Economic Injury Disaster loans?

4 PROSPECTIVE JUROR: Yes.

5 MS. MARTINEZ: And during that -- you did indicate
6 that you needed some assistance, but you were able to get the
7 assistance and get it approved, correct?

8 PROSPECTIVE JUROR: Yes.

9 MS. MARTINEZ: Is there anything about that experience
10 that would impact how you look at this case?

11 PROSPECTIVE JUROR: No. No.

12 MS. MARTINEZ: Thank you.

13 PROSPECTIVE JUROR: You're welcome.

14 MS. MARTINEZ: Your Honor, the jurors that indicated
15 that they had trouble with English are -- should I not inquire
16 further -- not about the English but other issues?

17 THE COURT: I don't believe it's necessary, but you
18 decide how to divide your time.

19 (Pause in proceedings.)

20 MS. MARTINEZ: Mr. -- let me see if I can do it --
21 Thanosorn. I understand that you're a second year in college.
22 What are you studying?

23 PROSPECTIVE JUROR: I'm a music student.

24 MS. MARTINEZ: Excuse me?

25 PROSPECTIVE JUROR: I'm a music student.

1 MS. MARTINEZ: Music?

2 PROSPECTIVE JUROR: Yeah.

3 MS. MARTINEZ: Thank you.

4 (Pause in proceedings.)

5 MS. MARTINEZ: Your Honor, may I ask for the jurors
6 that have flights and are going to be out of town, do we need
7 to inquire further?

8 THE COURT: You may.

9 MS. MARTINEZ: Excuse me?

10 THE COURT: You may inquire if you believe it's
11 necessary.

12 MS. MARTINEZ: Ms. Laila Garcia.

13 Hi. You indicated that you could not judge someone
14 else, and that was in part -- can you elaborate on that?

15 PROSPECTIVE JUROR: I said that I judge people by
16 their actions, and then I try to understand why they would do
17 the things that they did.

18 MS. MARTINEZ: Is there anything about -- is there
19 anything about your individual beliefs that would make it
20 difficult for you to serve on this case?

21 PROSPECTIVE JUROR: No.

22 MS. MARTINEZ: Okay.

23 Mr. Urbina. Hi.

24 PROSPECTIVE JUROR: Hello.

25 MS. MARTINEZ: I caught that your wife is a federal

1 public defender.

2 PROSPECTIVE JUROR: Yes.

3 MS. MARTINEZ: Do you-all talk sometimes about her
4 work?

5 PROSPECTIVE JUROR: No.

6 MS. MARTINEZ: Is there anything about that experience
7 that you think would affect you here today?

8 PROSPECTIVE JUROR: No.

9 MS. MARTINEZ: Can you tell me a little bit more about
10 your job? I'm not sure I understood it. It's --

11 PROSPECTIVE JUROR: So I'm a production manager for
12 multiple venues in Miami Beach and Brickell, and I'm
13 responsible for the production on all of them.

14 MS. MARTINEZ: Thank you.

15 PROSPECTIVE JUROR: Yeah.

16 MS. MARTINEZ: Can I ask you: Are you -- do you get a
17 W-2?

18 PROSPECTIVE JUROR: Yeah.

19 MS. MARTINEZ: Okay. Thank you.

20 Ms. Saywack, I just wanted to ask you about how you
21 feel medically. Do you feel like you could pay attention
22 throughout an eight-hour day?

23 PROSPECTIVE JUROR: I think I should. I would just be
24 very sleepy at some point. Because I'm kind of sleepy right
25 now because of the medication. And I haven't eaten, so that

1 plays a part.

2 MS. MARTINEZ: Excuse me?

3 PROSPECTIVE JUROR: I already had some medication
4 today, but I have not eaten yet, so that's --

5 MS. MARTINEZ: Sure.

6 PROSPECTIVE JUROR: Yeah.

7 MS. MARTINEZ: So this case is going to have a bit of
8 paper, in the sense of -- we'll show it on the screens, but
9 it's going to have a number of loan documents and papers. Do
10 you think you could pay attention to what is going on on the
11 papers? For example, comparing papers where there was one
12 thing stated and then another paper where something else is
13 stated and contrasting the two, see that one is true, and one
14 is false?

15 PROSPECTIVE JUROR: Honestly, I can't tell that right
16 now because I'm not in that situation right now. And based on
17 the amount of medication I take, obviously it's going to be
18 more harsh for me to pay attention to something like that.

19 MS. MARTINEZ: Thank you.

20 PROSPECTIVE JUROR: Okay.

21 MS. MARTINEZ: So I don't know if I can pronounce this
22 right, but Juror Number 41. So I have to confess, I was trying
23 to read all the questionnaires and I just didn't get to you.
24 Could you tell me what you do?

25 PROSPECTIVE JUROR: I'm a supply chain coordinator.

1 MS. MARTINEZ: Excuse me?

2 PROSPECTIVE JUROR: A supply chain coordinator.

3 MS. JIMENEZ: Supply chain coordinator. Are you
4 employed by a company?

5 PROSPECTIVE JUROR: I'm sorry?

6 MS. MARTINEZ: Are you employed by a company to do
7 that?

8 PROSPECTIVE JUROR: That's correct.

9 MS. MARTINEZ: And you also get a W-2, right?

10 PROSPECTIVE JUROR: Yes. Correct.

11 MS. MARTINEZ: Did you indicate you would have any
12 problems being fair and impartial in this case?

13 PROSPECTIVE JUROR: No, I did not.

14 MS. MARTINEZ: Thank you.

15 Can I ask you -- I notice a little bit of an accent.
16 Where are you from?

17 PROSPECTIVE JUROR: I grew up in Belgium. I speak
18 Dutch as my native language.

19 MS. MARTINEZ: On the Flemish side?

20 PROSPECTIVE JUROR: Correct. Yes.

21 MS. MARTINEZ: Thank you.

22 And I'm going to go to Mr. Johnson.

23 Mr. Johnson, I didn't get to your questionnaire. Did
24 you indicate that you had an issue in the case?

25 PROSPECTIVE JUROR: No.

1 MS. MARTINEZ: Okay. What do you do for a living?

2 PROSPECTIVE JUROR: I'm a security chief, Miami-Dade
3 Water and Sewer.

4 MS. MARTINEZ: Wow. Okay. So you get a W-2?

5 PROSPECTIVE JUROR: A big one.

6 MS. MARTINEZ: Yes. Did you indicate you had any
7 issues in the case?

8 PROSPECTIVE JUROR: You asked me that. I said no.

9 MS. MARTINEZ: Okay. All right. Thank you.

10 Mr. Dunlop, I apologize. I didn't get to your
11 questionnaire. What do you do for a living?

12 PROSPECTIVE JUROR: Construction management.

13 MS. MARTINEZ: And is that your own job? You're the
14 manager?

15 PROSPECTIVE JUROR: No. I work for a company.

16 MS. MARTINEZ: And what does that mean, construction
17 management? What do you do?

18 PROSPECTIVE JUROR: Superintendent for a restaurant
19 build.

20 MS. MARTINEZ: And so do you have employees?

21 PROSPECTIVE JUROR: I do not have employees. I am
22 employed.

23 MS. MARTINEZ: Okay. So you get a W-2.

24 PROSPECTIVE JUROR: Yes.

25 MS. MARTINEZ: Yes, sir. Did you indicate that you

1 had any issues?

2 PROSPECTIVE JUROR: No.

3 MS. MARTINEZ: Okay. Thank you.

4 (Pause in proceedings.)

5 MS. MARTINEZ: You know, Ms. Caballero --

6 PROSPECTIVE JUROR: Yes?

7 MS. MARTINEZ: Ms. Caballero, I wanted to ask you --
8 you indicated that you had prior jury service that was
9 difficult.

10 PROSPECTIVE JUROR: Yes.

11 MS. MARTINEZ: Can I ask, to the extent that you feel
12 comfortable telling, why was it so difficult?

13 PROSPECTIVE JUROR: Because the situation of the --

14 MS. MARTINEZ: Of that particular case?

15 PROSPECTIVE JUROR: Yeah.

16 MS. MARTINEZ: So -- and why was it difficult -- do
17 you think it would make it difficult in this case if it's a
18 different case?

19 PROSPECTIVE JUROR: I don't really know. But the
20 experience was not good for me, so I don't feel like --

21 MS. MARTINEZ: Was it the courtroom, the interaction
22 with the jury?

23 PROSPECTIVE JUROR: The case in general.

24 MS. MARTINEZ: Is there anything that you could do to
25 help me to see if you could be a fair and impartial juror in

1 this case, meaning if you could serve -- in this case, a juror
2 has the responsibility to pay attention to what is taking
3 place, to pay attention to the evidence, to hear both sides,
4 and to fairly apply the law to what evidence they hear, and
5 just make a decision about the facts. But you do have to pay
6 attention and you do have to make a decision together with your
7 other jurors.

8 PROSPECTIVE JUROR: Of course.

9 MS. MARTINEZ: Do you think you could do that?

10 PROSPECTIVE JUROR: I -- I can try, yeah.

11 MS. MARTINEZ: Thank you.

12 PROSPECTIVE JUROR: You're welcome.

13 THE COURT: Okay. Just a few more minutes.

14 MS. MARTINEZ: Thank you, Your Honor.

15 (Pause in proceedings.)

16 MS. MARTINEZ: Mr. Cuba -- oh, sorry. I got you.

17 You indicated that you are an accountant for a real
18 estate developer.

19 PROSPECTIVE JUROR: Yes.

20 MS. MARTINEZ: What does that mean? Are you in-house?

21 PROSPECTIVE JUROR: Yeah.

22 MS. MARTINEZ: Not like you have your own firm?

23 PROSPECTIVE JUROR: No. No. I'm a W-2. I'm an
24 employee.

25 MS. MARTINEZ: And you did say that you had not a

1 great experience with the IRS. We will have an IRS witness
2 here, mostly explaining the difference between W-2 and not W-2.
3 But is there anything about that experience at the IRS that
4 makes you think that maybe you wouldn't be able to be fair to
5 the United States?

6 PROSPECTIVE JUROR: No. No. No. I think I can be
7 fair to anybody. Yeah.

8 MS. MARTINEZ: Is there anything about your experience
9 working for a developer that would make it difficult for you to
10 find the Defendant guilty if the evidence is proven beyond a
11 reasonable doubt?

12 PROSPECTIVE JUROR: No, because I judge everyone by
13 the evidence. So...

14 MS. MARTINEZ: Thank you.

15 THE COURT: Okay. Ms. Martinez, have we concluded?

16 MS. MARTINEZ: Yes, Your Honor.

17 Very well, Your Honor. Thank you.

18 Thank you-all for your time.

19 THE COURT: All right. On behalf of the Defendant?

20 MS. WEINTRAUB: Thank you, Your Honor.

21 Again, my name is Jayne Weintraub, and I'm one of the
22 lawyers for Eric Sheppard.

23 So let me just start out --

24 (Court reporter interruption.)

25 MS. WEINTRAUB: Sorry. I'll start again.

1 Hi. My name is Jayne Weintraub, and I'm one of the
2 lawyers for Eric.

3 Now, can I just ask by a show of hands, just sitting
4 here knowing that he's charged with a crime or several crimes,
5 does anybody think: "Well, he must have done something because
6 he's sitting here and the Government brought him here"? And
7 it's okay to say you do think so. We just want to talk about
8 it. Is there anybody, by a show of hands, that would raise
9 their hand and say: "Yeah. He must have done something or he
10 wouldn't be here"?

11 Tell me -- and so your name is?

12 PROSPECTIVE JUROR: Gabriel Sanchez.

13 MS. WEINTRAUB: And you feel that just because he's
14 here, because they charged him with something, that he could be
15 guilty or should be guilty?

16 PROSPECTIVE JUROR: No. I think he's here because he
17 did something, but that doesn't mean that he's guilty.
18 Otherwise, he wouldn't be here.

19 MS. WEINTRAUB: Well, do you think that it's possible
20 that the Government may be charging somebody and they're wrong,
21 and they make a mistake or they got wrong information? Do you
22 think that's possible or not really?

23 PROSPECTIVE JUROR: Not -- possible, but he got to be
24 here for a reason. That's what I'm saying.

25 MS. WEINTRAUB: Okay. Does anybody else feel

1 differently -- thank you.

2 PROSPECTIVE JUROR: You're welcome.

3 MS. WEINTRAUB: Does anybody else feel differently or
4 want to say anything about that? Does anybody feel the same?

5 Tell me. You have a -- what is your juror number?

6 PROSPECTIVE JUROR: Juror Number 9.

7 MS. WEINTRAUB: And could you tell me your name again.

8 PROSPECTIVE JUROR: Rafael, last name Cordero.

9 MS. WEINTRAUB: Rafael -- and do you feel similar or
10 do you think that the Government can get it wrong?

11 PROSPECTIVE JUROR: I'm Number 8 then.

12 MS. MARTINEZ: You're definitely Number 8.

13 PROSPECTIVE JUROR: So -- well, I feel that -- like
14 basically what he was saying, that if he's here it's because
15 obviously something didn't go as planned or something.

16 MS. WEINTRAUB: Do you understand that the reason that
17 Mr. Sheppard is brought here and came here is because there was
18 a charge, there's an accusation? That's all it is. There's no
19 evidence. There's an accusation that brings him here.

20 PROSPECTIVE JUROR: Yes. Of course I understand that.

21 MS. WEINTRAUB: And do you understand that sometimes
22 the Government doesn't get it right?

23 PROSPECTIVE JUROR: It might happen. That's why we're
24 here, to figure out --

25 MS. WEINTRAUB: That's exactly why we're here.

1 Does anybody feel similar? Or Number 16, did you want
2 to say something? I'm sorry. I forgot your name. Could you
3 stand for me.

4 PROSPECTIVE JUROR: Laila. Yes.

5 Okay. Can you repeat your question, just so I can
6 answer properly?

7 MS. WEINTRAUB: Sure. Do you think because he was
8 brought here and he's accused of something -- do you believe
9 that he must have done something to get here, or do you think
10 that the Government could get it wrong and, you know, he was
11 charged and he's brought here, but it's just an accusation, as
12 Her Honor told you? How do you feel about it?

13 PROSPECTIVE JUROR: Well, I think the Government can
14 make mistakes. He's here on more than one accusation. And
15 even if it wasn't his intention, it was still done under him,
16 so he could still be at fault.

17 MS. WEINTRAUB: Okay. I notice that you -- on your
18 application you said something about social media.

19 PROSPECTIVE JUROR: Oh, yeah.

20 MS. WEINTRAUB: And I'm sure it's only because I'm so
21 old and you're not. So let me ask you this: Do you get your
22 news from social media?

23 PROSPECTIVE JUROR: Correct.

24 MS. WEINTRAUB: And you -- is there anything that's
25 going on -- and this will go for anybody, actually. But is

1 there anything that's going on in the world right now that's
2 particularly upsetting that would distract you?

3 PROSPECTIVE JUROR: The thing happening in Gaza.

4 MS. WEINTRAUB: Okay. Thank you for your candor.

5 And does anybody else feel the same way that Juror
6 Number 16 just expressed, or is distracted, or has very strong
7 feelings about what's going on in Gaza that would affect you or
8 distract you here? Let me ask it this way. Is there anything
9 about anybody in the courtroom that would distract you or lead
10 you to any conclusions about what's going on in the world or
11 can we keep the world out of this and just the evidence here?

12 I want to ask a couple of follow-up questions, if I
13 might -- oh. I'm sorry. I'm sorry.

14 PROSPECTIVE JUROR: I would definitely say that the
15 day-to-day activities of what's going on in the world does
16 affect the way I exist and function. And it's basically the
17 conflicts of the world. It's just -- it's very disturbing.

18 MS. WEINTRAUB: I agree with you. The conflicts are
19 very disturbing. But I guess the real question is -- I think
20 everybody's disturbed by what's going on. It's hard not to be.
21 But would you be able -- if you were selected as a juror in
22 this case, would you be able not to let that noise get in the
23 way or get in a jury room? In other words, would you be able
24 keep that away and know that it has nothing to do with Eric
25 Sheppard or what's happening here?

1 PROSPECTIVE JUROR: It's already affected what goes on
2 in my head at this time because it has to do with the survival
3 of my existence, I would say.

4 MS. WEINTRAUB: It has to do with the survival?

5 PROSPECTIVE JUROR: Of my existence.

6 MS. WEINTRAUB: Thank you. I appreciate that.

7 Does anybody else want to say anything about what we
8 were just talking about before I go on to something else?

9 Juror Number 5, Ms. Rivera [sic].

10 Yes? I'm sorry. What is your name?

11 PROSPECTIVE JUROR: Maria. Maria Pinero.

12 MS. WEINTRAUB: Pinero. I'm sorry. I can't read my
13 own handwriting.

14 You wrote on your questionnaire that you were not
15 feeling well. Have we addressed that or is there something
16 that -- did you want to speak privately with the Court?

17 PROSPECTIVE JUROR: I don't understand.

18 MS. WEINTRAUB: You don't understand? Are you having
19 a problem with English?

20 PROSPECTIVE JUROR: Yes.

21 MS. WEINTRAUB: Have there been things that have been
22 said here that you did not understand or do you think you are
23 understanding?

24 PROSPECTIVE JUROR: I understand very, very little.

25 MS. WEINTRAUB: You said that you were a lawyer in

1 your country. What country was that?

2 PROSPECTIVE JUROR: Venezuela.

3 MS. WEINTRAUB: And how long have you been here?

4 PROSPECTIVE JUROR: What?

5 MS. WEINTRAUB: How long have you lived in the United
6 States?

7 PROSPECTIVE JUROR: Citizenship, one year.

8 MS. WEINTRAUB: Okay. Is it fair to say that you are
9 not comfortable speaking in English fluently?

10 PROSPECTIVE JUROR: (No verbal response.)

11 MS. WEINTRAUB: Thank you. I appreciate your candor.
12 Number 12. Juror Number 12, Ms. Walden [sic].

13 PROSPECTIVE JUROR: Waldron.

14 MS. WEINTRAUB: Waldron. You are a corrections
15 officer?

16 PROSPECTIVE JUROR: Yes.

17 MS. WEINTRAUB: Is there anything about being a
18 corrections officer that would make you feel that you could not
19 be perfectly fair here? If there is, please tell us.

20 PROSPECTIVE JUROR: No.

21 MS. WEINTRAUB: Do you want to be on the jury or would
22 you rather not be?

23 PROSPECTIVE JUROR: I'd rather not be.

24 MS. WEINTRAUB: Your brother is also a Port St.
25 Lucie -- your brother is apparently a Port St. Lucie police

1 officer?

2 PROSPECTIVE JUROR: Yes.

3 MS. WEINTRAUB: Would that influence you at all if you
4 hear from law enforcement, FBI agents, or other police
5 officers? Would you -- would you believe them more than
6 someone, for example, that isn't in law enforcement, like
7 Ms. Lane was saying before? It's okay, because we really just
8 want honest opinions.

9 PROSPECTIVE JUROR: It depends, I guess.

10 MS. WEINTRAUB: Okay. So I hate to do this to you,
11 but saying "it depends" just makes me ask another question.
12 What would it depend on? I mean, if you're hearing a law
13 enforcement officer testify, my question, I guess -- and with
14 your background and your family, I guess what I'm really saying
15 is: Do you think that you might be leaning towards that
16 person's testimony as being credible more than somebody else's
17 because they're law enforcement and you think they tell the
18 truth?

19 PROSPECTIVE JUROR: Yes, I believe so.

20 MS. WEINTRAUB: Thank you. And I appreciate your
21 candor.

22 A defendant in a criminal case -- in every criminal
23 case in the United States, has the right not to testify. I'm
24 sure everybody has seen that on TV or heard about those rights.
25 "You have the right to remain silent." Everyone's heard that

1 in some form or another somewhere. Does anybody -- and it's
2 okay if you do -- does anybody think it's strange if Eric
3 doesn't get up here and tell his story and doesn't testify?
4 Would that bother you? How would you feel about it, only
5 because you're nodding your head?

6 PROSPECTIVE JUROR: I think if you don't have anything
7 to hide you should definitely speak up.

8 MS. WEINTRAUB: I'm sorry. Could you tell me your
9 Juror Number again. Eight, was it?

10 PROSPECTIVE JUROR: Eight.

11 MS. WEINTRAUB: Yes?

12 PROSPECTIVE JUROR: Yes. Eight.

13 MS. WEINTRAUB: And do you understand that there are
14 other reasons why somebody might not testify if they didn't do
15 it?

16 PROSPECTIVE JUROR: Yeah. Of course. It's their
17 choice. But I believe if you have nothing to hide you should
18 definitely give your opinion, even more when it's something
19 that it matters to you greatly.

20 MS. WEINTRAUB: Does anybody on this side feel
21 differently or does anybody have any specific thoughts about
22 it, about whether or not somebody testifies -- if they thought
23 that they didn't do it, and -- would you still expect them to
24 testify?

25 PROSPECTIVE JUROR: Yes.

1 MS. WEINTRAUB: And thank you for your candor. And
2 tell me why.

3 PROSPECTIVE JUROR: I think if you are innocent you
4 will tell the truth and the truth will set you free.

5 MS. WEINTRAUB: I'm sorry. Tell me the juror number.

6 PROSPECTIVE JUROR: I'm Number 6.

7 MS. WEINTRAUB: Okay. Francis?

8 PROSPECTIVE JUROR: Yes.

9 MS. WEINTRAUB: Okay. It's hard to remember so many.

10 PROSPECTIVE JUROR: But I'll agree with what she's
11 saying. The truth shall set you free. You're right. But I
12 also feel like sometimes when you're quiet or you're silent
13 about something it's because you're trying to protect yourself,
14 even if you know the truth. Because, you know, you might word
15 something wrong, or somebody might take your words wrong, and
16 that might not be the fact of the matter. In any instance, not
17 just in court, just as far as being quiet and not trying to
18 voice your opinion and trying to defend yourself. Sometimes
19 being quiet, it helps. It's a benefit. That's what I'm trying
20 to say.

21 MS. WEINTRAUB: Thank you.

22 THE COURT: Just a few more minutes, Ms. Weintraub.

23 MS. WEINTRAUB: I'm sorry?

24 THE COURT: Just a few more minutes.

25 MS. WEINTRAUB: Yes, Your Honor.

1 (Pause in proceedings.)

2 MS. WEINTRAUB: If I might have a moment, Your Honor.

3 (Pause in proceedings.)

4 MS. WEINTRAUB: Juror Number 23 -- oh, is that
5 Mr. Gandolfo?

6 MR. ETRA: Yes.

7 MS. WEINTRAUB: Okay.

8 Okay. So you said -- on your questionnaire it said
9 that you heard about the case, but now I got it. Thank you.

10 And when the Judge says: "Ms. Weintraub, just a few
11 more minutes," what she really means, I think, is that my time
12 is up. So if you'll just give me one second, Judge.

13 Based on that, I will sit down with the Court's --

14 THE COURT: All right. Thank you, Ms. Weintraub.

15 Ladies and Gentlemen, after listening to the
16 attorneys, do any of you have any feeling toward any of the
17 parties or attorneys that might affect your ability to serve as
18 a fair and impartial juror, or has anyone formed an opinion on
19 the merits of this case? If so, please raise your hand.

20 Seeing no hands raised.

21 You have each been extremely patient. I'm going to
22 ask for your patience for a little bit longer.

23 As you can see, it is five minutes to one. We are now
24 going to discuss the selection of the jury, but I do need you
25 to remain close at hand so that we can bring you back into the

1 courtroom and advise you of the individuals that we have
2 selected.

3 So we are going to take a 20-minute break, and I will
4 see you back here at 1:15. I promise you you will have an
5 opportunity to have a lunch recess, but I ask for your
6 patience. I'll see you back here at 1:15.

7 COURT SECURITY OFFICER: All rise.

8 (Panel not present, 12:54 p.m.)

9 MS. WEINTRAUB: Judge, can I bring something to the
10 Court's attention?

11 THE COURT: Yes. If you can speak through the
12 microphone.

13 MS. WEINTRAUB: Yes, ma'am. Sorry.

14 Judge, I just want to bring it to the Court's
15 consideration that Juror Number 16 and Juror Number 36 have
16 been very actively tweeting and very pro-Palestinian tweets, et
17 cetera. And I don't know how to say this, because I'm only
18 doing this 32 years. I don't want to be in the same room as
19 that person, and I don't want to use a challenge of my client
20 for those outrageous views that they have put on their personal
21 social medias.

22 I don't know if the Court wants to question them. I
23 don't know if I should question them about it. I was trying to
24 get there politely and hoping she would be stupid enough to say
25 something, but she didn't. But I'm very concerned about those

1 tweets, and I don't know what to say.

2 THE COURT: Well, I can tell you that if your
3 investigation has led you to uncover certain tweets that makes
4 you feel uncomfortable, there's one or two things you can do.
5 You can peremptorily move to strike that individual so they're
6 not part of the jury or you can make a personal decision with
7 regard to your involvement in the case. But I am not going to
8 inquire into someone's social media. You certainly have the
9 right and you have exercised that right to investigate into the
10 jurors themselves, but there's nothing further in terms of an
11 action that the Court can take, other than I will rule on the
12 striking for cause and the peremptory challenges.

13 So let me give you some time to confer and then we'll
14 begin to select our jury. So I'll see you back here in 10
15 minutes.

16 MS. JIMENEZ: Your Honor, I don't know if the Court
17 wants to go over potential jurors to be stricken for cause.

18 THE COURT: Well, I can look at the panel as a whole,
19 but I wanted to give you some time to confer so that we can
20 begin selection of the jury. As I stated at the calendar
21 call -- and I'm not certain if you had specific questions, but
22 we look at the panel as a whole, we'll address any challenges
23 for cause, and then we'll alternate with regard to peremptory
24 challenges.

25 MS. MARTINEZ: However, the -- even though we look at

1 them all for cause, when we start the peremptory challenges,
2 it's going to be one by one, correct?

3 THE COURT: No. It's going to be looking at the first
4 12, and then we'll alternate with regard to those 12.

5 Okay. So let me give you a few moments. Recall that
6 I have the jury outside, and I have 48 people that would like
7 to go to lunch, and we do need to select our jury.

8 (Recess from 12:58 p.m. to 1:06 p.m.)

9 THE COURT: Both sides ready to proceed?

10 MS. WEINTRAUB: We're ready to proceed with the cause,
11 Your Honor.

12 THE COURT: All right. Let us begin to select our
13 jury.

14 Addressing first all of the cause challenges, looking
15 at the panel as a whole, we'll first start on behalf of the
16 Government. If there is no objection on the other side,
17 there's no need to proceed with argument.

18 Any challenges for cause, looking at the jury as a
19 whole?

20 MS. MARTINEZ: Yes, Your Honor. I'm going to start --
21 and tell me if I miss anybody. So Number 2 --

22 THE COURT: Any objection?

23 MS. WEINTRAUB: Two. Yeah. I'd like to know the
24 basis.

25 MS. MARTINEZ: Oh. It's because she's a mom with a

1 one-year-old.

2 THE COURT: Based on the one-year-old, is there any
3 objection?

4 MS. WEINTRAUB: No.

5 THE COURT: The juror is stricken.

6 MS. MARTINEZ: Number 5.

7 THE COURT: Basis?

8 MS. JIMENEZ: English.

9 THE COURT: The language barrier.

10 Any objection?

11 MS. WEINTRAUB: No, ma'am.

12 THE COURT: Juror is stricken.

13 MS. MARTINEZ: Number 9.

14 THE COURT: Basis?

15 MS. MARTINEZ: Oh, Your Honor, I'm going to add
16 something from my own experience, from a family of
17 psychiatrists. This was a mental health issue.

18 THE COURT: Any objection to Number 9 based on his
19 anxiety and severe tinnitus?

20 MS. WEINTRAUB: I don't agree that it's a cause
21 challenge, Judge.

22 MS. MARTINEZ: Severe tinnitus?

23 MS. WEINTRAUB: He works full-time and doesn't have a
24 problem.

25 MS. MARTINEZ: Oh, my goodness.

1 MS. JIMENEZ: He's like talking about needing to be in
2 a confined or in a familiar space.

3 THE COURT: I believe Mr. Elbaz, who certainly was
4 willing to advise the Court of the list of medications that
5 he's taking, and has severe anxiety, coupled with his tinnitus
6 and the other medical issues, would certainly affect his
7 ability to focus on the evidence. The Defendant is objecting
8 to that?

9 MS. WEINTRAUB: I am, Judge. I think that's what a
10 peremptory could be used for. Because I think in -- and I will
11 tell you, I mean, he says the PPP was a very complicated
12 process. That's why they're looking to strike him for cause,
13 in my opinion. So that's why I object to it.

14 MS. MARTINEZ: I would be happy to show the Court my
15 notes, because I don't note anything about that. I note that
16 he feels extreme anxiety, he feels like he cannot be out of his
17 comfort space, and he was very hesitant in his speaking, more
18 than anyone else. I think it was evident --

19 THE COURT: I agree, and the challenge for cause is
20 granted.

21 Any further for-cause challenges?

22 MS. MARTINEZ: Yes, Your Honor.

23 For cause, Number 13, the individual that had a flight
24 from noon Friday to noon Monday. I think that is going to
25 impact his ability to serve.

1 MS. WEINTRAUB: Judge, we object. And I think that
2 the juror said that they could work around it.

3 THE COURT: Well, no. He said he needed to leave noon
4 on December 1st. So that would mean we would not be able to
5 work on December 1st. And he doesn't come back until Monday
6 December 4th. So he's traveling to Knoxville. So to the
7 extent that, you know, it certainly impacts the time that we've
8 given to the other jurors, I do agree that there's a hardship
9 on his end that would affect his ability to serve, and it would
10 more importantly affect our ability to finish this case on
11 December 12th.

12 So, at this point, I'm going to leave him open and
13 maybe we can work with him in terms of his hardship, and reject
14 the challenge for cause at this time -- and keep 13. But I
15 think it's going to certainly affect and curtail our ability to
16 try this case.

17 Next challenge?

18 MS. MARTINEZ: Yes, Your Honor.

19 Nineteen. This is the lady that had the immune
20 suppressant drugs and also a big loss in the family that made
21 her --

22 THE COURT: Any objection?

23 MS. WEINTRAUB: Judge, she seemed fine. I mean, you
24 know, I think it became contagious, this anxiety thing. She
25 seemed forceful in her speech. She understood everything. I

1 don't think it's a challenge for cause.

2 THE COURT: Did you read her questionnaire? "I
3 recently lost my 19-year-old cat. My parents are not doing
4 well health-wise and live abroad. There have been feelings" --
5 "somewhat overwhelmed and sad lately."

6 She stated that she's unable to serve. So I'm just
7 wondering -- you know, at some point -- I can't force an
8 individual to be here for 10 trial days and expect them to be
9 able to focus based on their expressed inability.

10 MS. WEINTRAUB: Respectfully, Judge -- respectfully --
11 and I caught the Court's verbiage, "a family member," and I am
12 an avid animal lover, as I think everybody knows. But it's a
13 cat.

14 THE COURT: And I'm not here to place value or
15 emphasis on one's loss. She is suffering a loss and she's
16 expressed that to the Court. So based on her statements to the
17 Court, I do have a concern as to whether she'll be able to
18 focus on the evidence in this case. So in terms of
19 Ms. Kennedy, as well as Mr. Elbaz, I think that she's expressed
20 it and the challenge for cause is granted.

21 Any further challenges for cause?

22 MS. MARTINEZ: Number 20.

23 THE COURT: Basis?

24 MS. MARTINEZ: The juror indicated that she could not
25 be fair, and I have it in capital letters. Apparently, she

1 emphasized it and the Court followed up also.

2 THE COURT: Oh. It was based on a family member's
3 arrest. Any objection?

4 (Pause in proceedings.)

5 THE COURT: Any objection?

6 MS. WEINTRAUB: Judge, again, I don't agree. I
7 think -- I don't agree that it's a cause challenge. I think
8 that, you know, maybe we should question the juror privately,
9 but...

10 MS. MARTINEZ: This is a juror that the Court followed
11 up on.

12 THE COURT: That's correct.

13 All right. Noting the objection, it's overruled. The
14 challenge for cause is granted.

15 Any further for-cause challenges?

16 MS. MARTINEZ: Twenty-two. This is a juror, Your
17 Honor, who in her questionnaire asked us please to question her
18 in private. She's the one that suffers from anxiety and takes
19 medications that makes her sleepy. And again, I do take
20 medical issues such as anxiety as serious, not something to be
21 taken lightly.

22 THE COURT: Any objection?

23 MS. WEINTRAUB: No, ma'am.

24 THE COURT: The challenge for cause is granted.

25 Any further for-cause challenges?

1 MS. MARTINEZ: Twenty-three, Your Honor. This is the
2 individual who has hired the Defendant's previous sales
3 director and said that he would have difficulty in this case
4 because it's a small developer community.

5 THE COURT: Any objection?

6 MS. WEINTRAUB: Yes. He said he could be fair.

7 THE COURT: No. He said --

8 MS. JIMENEZ: He said he could not be fair.

9 THE COURT: We must be -- he specifically said that
10 the fact that his sales director was Mr. Sheppard's former
11 sales director might have an effect on his ability to be fair
12 and impartial. Those were his words.

13 Based on the questions posed, the response given, the
14 Court certainly has a reasonable doubt as to whether this
15 individual can be fair and impartial. The challenge for cause
16 is granted.

17 Any further for-cause challenges?

18 MS. MARTINEZ: Your Honor, Number 35 -- did I miss
19 one? Oh. Because I'm going in the wrong order.

20 Okay. Twenty-eight, Your Honor, is an individual who
21 cannot speak English.

22 THE COURT: Based on language barrier, any objection?

23 MS. WEINTRAUB: No.

24 THE COURT: The juror is stricken.

25 MS. MARTINEZ: Thirty-five is a single parent -- did I

1 miss one?

2 MS. WEINTRAUB: For a 17-year-old?

3 MS. MARTINEZ: Oh, my goodness. I'm going -- I'm not
4 going in order, Your Honor.

5 Thirty-one also for Spanish.

6 THE COURT: Any objection to Mayeta Hechavarria based
7 on the language barrier?

8 MS. WEINTRAUB: No, Your Honor.

9 THE COURT: Juror is stricken.

10 MS. MARTINEZ: Now I'm going in order.

11 Number 35. This is a single parent of a 17-year-old
12 within the autism spectrum that she picks up every day at two.

13 THE COURT: Any objection?

14 MS. WEINTRAUB: Yes.

15 THE COURT: I have a concern. There are other family
16 members. She's not the only one that picks up her child, and
17 the child is 17 year old. I understand the child is on the
18 spectrum.

19 MS. MARTINEZ: She's a single mother with a child that
20 has autism and cannot take public transportation.

21 THE COURT: And I think she stated that there was a
22 family member that was picking up her child today.

23 MS. JIMENEZ: Today. And she did say that she did not
24 have someone else who could cover for her otherwise. She
25 seemed very adamant.

1 MS. MARTINEZ: Your Honor, I'm only asking for the
2 sake of the juror. I'm not asking for myself.

3 THE COURT: I understand. I'm looking to see whether
4 there are other family members.

5 (Pause in proceedings.)

6 THE COURT: All right. Well, she has expressed that
7 she has to pick up her child. And albeit even though 17, that
8 is a basis for cause. The juror is stricken.

9 Any further for-cause challenges?

10 MS. MARTINEZ: The individual -- what I have is that
11 she has a trip that would put her back here on Monday evening.

12 THE COURT: Which juror?

13 MS. MARTINEZ: This is 42.

14 THE COURT: I'm not willing to -- that's the one going
15 to Orlando. I'm not willing to strike for cause at this time.
16 We can certainly accommodate her schedule coming in on Monday.
17 The challenge for cause at this point is denied.

18 Any further for-cause challenges?

19 MS. MARTINEZ: Your Honor, again, I'm looking for
20 issues that the jurors had.

21 Oh. It's the Spanish speaker? Do I have Number 46
22 having an issue with English?

23 THE COURT: I specifically advised Ms. Perez Marti
24 that if she had difficulty to let me know and raise her hand,
25 and she did not do so. So the challenge for cause is denied.

1 MS. WEINTRAUB: Judge, I don't know if she understood,
2 to be honest.

3 THE COURT: She did understand.

4 MS. WEINTRAUB: Okay. Okay.

5 THE COURT: And certainly my evaluation of the juror's
6 responses indicate to me that she understood.

7 Any further for-cause challenges on behalf of the
8 Government, and then we'll move to the Defendant?

9 MS. MARTINEZ: No, Your Honor.

10 MS. WEINTRAUB: Yes, Your Honor.

11 THE COURT: All right. On behalf of the Defendant?

12 MS. WEINTRAUB: Your Honor, Number 3 stated that they
13 were biased in favor of the police and they would lean toward
14 the law enforcement testimony more than any other testimony.

15 THE COURT: Any objection?

16 MS. MARTINEZ: Your Honor, I think we could
17 rehabilitate her, honestly.

18 THE COURT: Well, we didn't rehabilitate her. She
19 specifically stated that she would give more weight to a police
20 officer's testimony.

21 Based on the question posed, the response given, the
22 challenge for cause is granted.

23 Any further for-cause challenges?

24 MS. WEINTRAUB: Yes, Your Honor.

25 Number 6 stated that he believes that the Defendant is

1 hiding something if he doesn't testify, and I tried twice to
2 rehabilitate him to no avail.

3 THE COURT: Response by the Government?

4 MS. MARTINEZ: No objection, Your Honor.

5 THE COURT: Well, I have an objection because
6 specifically Mr. Francis stated that there were other reasons
7 why the Defendant wouldn't testify; he could be quiet or he
8 could believe that he's saying something wrong. You were
9 asking him about whether they would expect the Defendant to
10 testify, and he was giving reasons why he wouldn't.

11 Based on the questions posed, the response given, the
12 challenge for cause is denied.

13 Any further for-cause challenges?

14 MS. WEINTRAUB: Yes, Your Honor.

15 Number 12 also stated -- she was the woman who was
16 sitting in the second row on the end -- very forcefully leaned
17 in favor of law enforcement testimony.

18 THE COURT: Any objection?

19 MS. MARTINEZ: Oh. We do object. She did not state
20 that.

21 THE COURT: She stated she might lean towards law
22 enforcement. That was specifically out of her mouth.

23 Based on the questions posed, the response given, the
24 Court has a reasonable doubt as to whether this juror can be
25 fair and impartial. Based on her answers, the challenge for

1 cause is granted.

2 MS. WEINTRAUB: Ms. Cole, Number 48. "He's obviously
3 here for a reason," no matter where I went. I went to two
4 other questions with her, and she said: "The truth will set
5 you free and he's here for a reason."

6 THE COURT: Response?

7 MS. JIMENEZ: Judge, there was nothing she said that
8 was objectionable.

9 THE COURT: "If you are innocent, you will testify and
10 you will speak the truth. The truth will set you free."

11 MS. JIMENEZ: Well, the Court didn't inquire and we
12 weren't permitted --

13 THE COURT: Well, what do I need to inquire about?
14 Based on her response, doesn't that evidence a reasonable doubt
15 as to whether she can be fair and impartial?

16 The challenge for cause is granted.

17 Any further challenges for cause?

18 MS. WEINTRAUB: Thirty-nine said -- Number 39,
19 Gabriel -- "He's here because he did something. He did
20 something."

21 THE COURT: Is that what he said?

22 MS. JIMENEZ: I mean, there was no follow-up. There
23 was no ability to ask him any questions.

24 THE COURT: Mr. Sanchez Gutierrez specifically said:
25 "He's here because he did something, but does not mean he's

1 guilty." That was exactly what he said.

2 Based on the response given, and the questions posed,
3 the Court does not have a reasonable doubt, believes this juror
4 can be fair and impartial. The challenge for cause is denied.

5 Any further for-cause challenges?

6 MS. WEINTRAUB: Judge, I would again, on Number 16 --
7 I would state, aside from the tweet, that she did say that she
8 is distracted by the situation in Gaza. I did not follow up
9 for the reasons I've already stated. But the fact that she
10 would be distracted and not giving her full attention to
11 Mr. Sheppard, and instead probably trying to think of ways to
12 annihilate Israel, I would move for cause.

13 THE COURT: Response by the Government?

14 MS. WEINTRAUB: "And he's here for a reason." And I
15 don't know if that's because he's Jewish or he's here and he
16 must have done something.

17 THE COURT: Response by the Government, if any?

18 MS. MARTINEZ: Your Honor, this young person is
19 impacted -- I haven't seen the social media posts, so I must
20 say I'm just reacting on what she said in court. And I'm just
21 saying the war could impact anyone, could distract anyone. I
22 don't think that is enough for a cause challenge.

23 THE COURT: Based on the questions posed, the response
24 given, the Court does not have a reasonable doubt and believes
25 this juror can be fair and impartial. The challenge for cause

1 to Juror Number 16 is denied.

2 Any further for-cause challenges?

3 MS. WEINTRAUB: No, Your Honor.

4 THE COURT: All right. Then let us look at the first
5 12 as our jury, and we will alternate with peremptory
6 challenges.

7 The first 12 consist of Cabrera, Burgos, Francis,
8 Lane, Cordero, McEkron, Suarez, Rosell, Josephs, Yates, Garcia,
9 Chaviano. Those are our 12.

10 Any peremptory challenges? First on behalf of the
11 Government.

12 MS. MARTINEZ: Okay. We have -- one second. Your
13 Honor, sorry for this. We have Cabrera. We have Burgos.

14 THE COURT: Francis, Lane, Cordero, McEkron, Suarez
15 Vidal, Rosell, Josephs, Yates, Garcia, Chaviano.

16 MS. MARTINEZ: We go one person at a time or the whole
17 panel?

18 THE COURT: Looking at the 12, are there any
19 challenges on behalf of the Government?

20 MS. JIMENEZ: We do one and one?

21 THE COURT: Yes, that's correct.

22 MS. JIMENEZ: Yes.

23 MS. MARTINEZ: Is there any back-striking, Your Honor?

24 MS. JIMENEZ: Is there back-striking?

25 THE COURT: Yes. The Court will allow back-striking

1 until the jury is sworn.

2 On behalf of the Government?

3 MS. MARTINEZ: Okay.

4 (Pause in proceedings.)

5 MS. MARTINEZ: Okay. We strike 21.

6 THE COURT: Twenty-one is not part of the panel.

7 We are up to 17.

8 MS. JIMENEZ: Up to 17.

9 MS. MARTINEZ: Okay.

10 THE COURT: Are there any peremptory challenges on
11 behalf of the Government?

12 (Pause in proceedings.)

13 THE COURT: On behalf of the Government?

14 MS. MARTINEZ: None, Your Honor.

15 THE COURT: Does the Government tender this panel?

16 MS. JIMENEZ: Government is striking Number 6.

17 THE COURT: Julian Francis. And Alexis Pelaez joins
18 the panel.

19 On behalf of the Defendant?

20 MS. WEINTRAUB: Number 1.

21 THE COURT: Tracy Cabrera. And Julio Urbina joins the
22 panel.

23 On behalf of the Government?

24 MS. MARTINEZ: Striking 21, Your Honor.

25 THE COURT: Julio Urbina is stricken. And Rebecca

1 Perez joins the panel.

2 On behalf of the Defendant?

3 (Pause in proceedings.)

4 MS. WEINTRAUB: Strike Number 4.

5 THE COURT: Daniel Burgos is stricken. And Roni
6 Bennett joins the panel.

7 On behalf of the Government?

8 MS. MARTINEZ: It's just as to Ms. Bennett?

9 THE COURT: It's as to the 12.

10 MS. MARTINEZ: Oh. I see.

11 Nothing from the Government.

12 THE COURT: Do you tender this panel?

13 MS. MARTINEZ: Yes.

14 THE COURT: On behalf of the Defendant?

15 MS. WEINTRAUB: Number 16.

16 THE COURT: Arturo Reboredo joins the panel.

17 On behalf of the Government?

18 MS. MARTINEZ: We tender.

19 THE COURT: All right. On behalf of the Defendant?

20 MS. WEINTRAUB: Judge, has Number 8 been stricken for
21 cause?

22 THE COURT: No.

23 MS. MARTINEZ: Your Honor, may I ask for just a review
24 of who we have currently on the panel and who is stricken? I
25 apologize.

1 THE COURT: The panel consists of Lane, Cordero,
2 McEkron, Suarez Vidal, Rosell, Josephs, Yates, Chaviano,
3 Pelaez, Perez, Bennett, and Reboredo. And no one struck Juror
4 8 for cause.

5 On behalf of the Defendant?

6 MS. WEINTRAUB: He's the one with the seven-year-old,
7 Your Honor. If I didn't move to strike him for cause, I
8 apologize. He was the one who said he has a seven-year-old and
9 that he will have problems getting her picked up because his
10 wife does work, and for 10 days it would be a problem.

11 THE COURT: Is there any objection to striking
12 Mr. Cordero for cause, Ms. Jimenez or Ms. Martinez?

13 MS. MARTINEZ: What's the number of Mr. Cordero?

14 THE COURT: Number 8.

15 MS. JIMENEZ: He said that he or his wife could pick
16 up their child.

17 THE COURT: I agree. The challenge for cause is
18 denied.

19 On behalf of the Defendant? We are now addressing
20 peremptory challenges to the panel.

21 MS. WEINTRAUB: Strike 8.

22 THE COURT: Madelin Marichal joins the panel.

23 On behalf of the Government?

24 MS. MARTINEZ: Okay. That's Number 27?

25 THE COURT: That's correct.

1 MS. MARTINEZ: Yes, Your Honor. We tender that.

2 THE COURT: I'm sorry?

3 MS. MARTINEZ: We tender.

4 THE COURT: All right. On behalf of the Defendant?

5 MS. WEINTRAUB: Judge, we would strike 11, Number 11.

6 THE COURT: Kyle Cauthen joins the panel.

7 On behalf of the Government?

8 MS. JIMENEZ: Your Honor, the Government moves to
9 strike 21 -- I'm sorry -- 29, Mr. Cauthen.

10 THE COURT: Yaileen Gonzalez joins the panel.

11 On behalf of the Defendant?

12 MS. WEINTRAUB: We strike Number 15.

13 THE COURT: David Mejia joins the panel.

14 On behalf of the Government?

15 MS. MARTINEZ: Tender.

16 THE COURT: On behalf of the Defendant?

17 MS. WEINTRAUB: We'll strike 17, Your Honor.

18 THE COURT: Erik Rivera joins the panel.

19 On behalf of the Government?

20 MS. MARTINEZ: We tender, Your Honor.

21 THE COURT: On behalf of the Defendant?

22 (Pause in proceedings.)

23 MS. WEINTRAUB: Judge, can I have a minute?

24 (Pause in proceedings.)

25 MS. MARTINEZ: Your Honor, I just want to review

1 again. We have Ms. Lane, Mr. Cordero --

2 THE COURT: No. Mr. Cordero was stricken by the
3 Defendant.

4 MS. MARTINEZ: Okay. That's right. Okay. So we have
5 Number 7.

6 THE COURT: Lane, McEkron, Rosell, Josephs, Pelaez,
7 Perez, Bennett, Reboredo, Marichal, Gonzalez, Mejia, and
8 Rivera.

9 On behalf of the Defendant?

10 (Pause in proceedings.)

11 THE COURT: On behalf of the Defendant?

12 MS. WEINTRAUB: Judge, we'll use a peremptory on 25.

13 MS. MARTINEZ: On who?

14 MS. WEINTRAUB: Twenty-five.

15 THE COURT: Naphat Thanoosorn joins the panel.

16 On behalf of the Government?

17 MS. MARTINEZ: Your Honor, I'm having trouble with the
18 names. What juror number is that?

19 THE COURT: Thirty-four.

20 (Pause in proceedings.)

21 THE COURT: On behalf of the Government?

22 MS. MARTINEZ: We strike 14 and 34.

23 THE COURT: You're only exercising one. Is it 14?

24 MS. MARTINEZ: Okay. Fourteen.

25 THE COURT: Javier Cuba joins the panel.

1 On behalf of the Defendant?

2 MS. WEINTRAUB: Judge, we strike 36.

3 THE COURT: Juliana Gomez joins the panel.

4 On behalf of the Government?

5 (Pause in proceedings.)

6 THE COURT: On behalf of the Defendant, I just want to
7 keep track of the numbers.

8 (Pause in proceedings.)

9 THE COURT: On behalf of the Government?

10 MS. MARTINEZ: We're striking 37, Your Honor.

11 THE COURT: Mirna Ochoa joins the panel.

12 On behalf of the Defendant?

13 The Defendant has one peremptory challenge left.

14 MS. WEINTRAUB: We'll accept the panel, Judge.

15 THE COURT: Okay. On behalf of the Government?

16 You have one peremptory challenge left. We are up to
17 Mirna Ochoa.

18 (Pause in proceedings.)

19 THE COURT: On behalf of the Government?

20 (Pause in proceedings.)

21 MS. MARTINEZ: Thirty-four. Strike 34, Your Honor.

22 THE COURT: Exercising the last peremptory challenge,
23 leaving -- Sanchez Gutierrez, Juror Number 39, joins the panel.

24 MS. WEINTRAUB: We strike 39.

25 THE COURT: Exercising the last peremptory challenge.

1 Evelyn Zaldivar joins the panel.

2 All right. We have now 12, and I would like to have
3 at least two, hopefully three, alternates. I will afford each
4 side one challenge for the alternates. And the alternates
5 would be Opdeweegh, Soto, and Dunlop.

6 I do want to advise that Soto we had addressed before.
7 This was the individual that was traveling to Orlando. So if
8 both sides are in agreement, I would skip over Soto -- strike
9 Soto due to her schedule, and it would be Opdeweegh, Dunlop,
10 and Johnson. Is there any objection to that?

11 First, let's address Soto. Any objection to the Court
12 striking her based on her Orlando trip?

13 MS. MARTINEZ: No, Your Honor.

14 THE COURT: On behalf of the Defendant?

15 MS. WEINTRAUB: Judge, didn't she say that she could
16 reschedule that?

17 THE COURT: No. She said she had non-refundable hotel
18 reservations. So we would need to adjust our schedule to
19 accommodate her on the back end on 12/4, when we're supposed to
20 be in session.

21 Is there any objection?

22 (Pause in proceedings.)

23 MS. WEINTRAUB: Yes, Judge.

24 THE COURT: All right. You want to exercise a strike
25 on Soto? And we'll go to Opdeweegh, Dunlop -- if you strike

1 Soto, then we'll get to Johnson.

2 I'd like to have at least three alternates, given that
3 we're going to be covering two weekends.

4 MS. JIMENEZ: So the Court is striking 42 for cause?

5 THE COURT: Well, the Defendant can challenge -- right
6 now, the three alternates are Opdeweegh, Soto, and Dunlop. Any
7 objection to either three? I'll afford each side one
8 peremptory challenge.

9 First on behalf of the Government.

10 MS. MARTINEZ: I thought we were going to accommodate
11 Soto's schedule.

12 THE COURT: Well, we will have to. I'd like not to
13 because we have a trial that needs some time. So if we
14 accommodate Soto, then we would most likely need to leave early
15 on December 1st because she needs to be in Orlando at four, and
16 then we would need to start late on December 4th, since she's
17 traveling back on that date.

18 MS. MARTINEZ: Your Honor, I thought the options were
19 41, 43, and 44, and that you were going to strike 42 for cause.

20 THE COURT: Well, I would if there was not an
21 objection. If there's an objection, then there's -- at this
22 point, we can accommodate the schedule.

23 So right now those are the three alternates. Is there
24 any objection?

25 MS. MARTINEZ: The Defense is objecting to --

1 THE COURT: Is there any objection by the Government
2 to Opdeweegh, Soto, or Dunlop? I will afford one peremptory
3 challenge per side. Any objection?

4 MS. MARTINEZ: We'll strike her, Your Honor.

5 THE COURT: Who?

6 MS. MARTINEZ: Forty-two.

7 THE COURT: Now it's Opdeweegh, Dunlop, Johnson.
8 Any objection by the Defendant?

9 MS. WEINTRAUB: Yes. We object to Johnson.

10 THE COURT: All right. Then now Jimmie Alford is now
11 our alternate.

12 MS. MARTINEZ: May I -- I realize that it's a
13 peremptory challenge; however, I have noted how many minorities
14 have been struck. So I'd like to hear the reason for the
15 striking of Mr. Johnson.

16 THE COURT: Hold on. Let me identify Mr. Johnson,
17 Aubrey Johnson, Juror Number 44.

18 Aubrey Johnson is an African-American male. Is there
19 a gender- and race-neutral reason for the strike?

20 MS. WEINTRAUB: His whole family are police officers,
21 Your Honor. He's a security guard and his family and close
22 family are City of Miami police, Miami Beach, chief of El
23 Portal.

24 THE COURT: The Court finds those reasons proffered as
25 race and gender neutral, and will allow the strike.

1 MS. WEINTRAUB: Judge, also his son and his wife, in
2 addition, for the record, are both police officers.

3 THE COURT: Now, that leaves -- my concern is with the
4 third alternate. It would be Jimmie Alford, who did express
5 that his wife is on dialysis -- or has diabetes, takes her to
6 the dialysis center every day. He's the one that has the cold.

7 Is there any objection to striking Jimmie Alford as an
8 alternate for cause?

9 MS. MARTINEZ: No objection.

10 THE COURT: Any objection by the Defendant?

11 MS. WEINTRAUB: No.

12 THE COURT: All right. Then that would leave us with
13 Perez Marti, who is the individual that did express some
14 questioning as to whether she could understand all of the
15 English, although she expressed that she was able to understand
16 moving forward and that she would raise her hand if she wasn't.

17 Is there any objection to Perez Marti as the third
18 alternate?

19 MS. WEINTRAUB: Hopefully, we won't get to a third
20 alternate, Judge. I'm concerned.

21 THE COURT: Well, we can leave on two alternates and
22 hope that both alternates --

23 MS. WEINTRAUB: Would they stipulate to -- Aimee, you
24 won't stipulate to 47 as the third alternate? Can we just
25 agree?

1 MS. JIMENEZ: Well, we're both out of challenges. The
2 question is whether we do two alternates or three.

3 MS. WEINTRAUB: Well, if we agree to cause for her not
4 being able to understand, or taking a chance, we'd get to 47.

5 THE COURT: Do you want to agree to Iliana Caballero?
6 She's the individual that served on another state jury, found
7 it difficult, but expressed that she would be willing to try.

8 Any objection or we can proceed with two alternates?

9 MS. JIMENEZ: I mean, she doesn't want to be here,
10 Your Honor.

11 THE COURT: All right. Then let's proceed with two
12 alternates. Our two alternates will be Lodewijk Opdeweegh and
13 John Dunlop.

14 All right. Let's line up the jurors. Let's bring
15 them in.

16 Our panel consists of the following: Ruth Lane,
17 Carlton McEkron, Teobaldo Rosell, Alexis Pelaez, Rebecca Perez,
18 Arturo Reboledo, Madelin Marichal, Yaileen Gonzalez, David
19 Mejia, Erik Rivera, Mirna Ochoa, Evelyn Zaldivar. Our
20 alternates are Lodewijk Opdeweegh and John Dunlop.

21 MS. JIMENEZ: Your Honor, I'm sorry. One question. I
22 thought Juror Number 46 had not been stricken. I don't know
23 why she could not be the third alternate.

24 THE COURT: That was the one I expressed that she had
25 a concern about Spanish.

1 MS. JIMENEZ: Spanish, but --

2 THE COURT: But she would be willing to try. She
3 didn't raise her hand.

4 MS. JIMENEZ: Right. So I thought we were talking
5 about Juror Number 47, who expressed --

6 THE COURT: Well, Ms. Weintraub had asked if you were
7 willing to stipulate to Juror Number 47. And since there
8 wasn't a stipulation, and my concern is keeping Perez Marti,
9 since she's the third alternate, with someone who has expressed
10 a concern about understanding the case, moving forward, based
11 on her limited English, we're going to go with two alternates.

12 MS. JIMENEZ: Your Honor, I apologize. I thought we
13 were talking about 47, who continually expressed her discomfort
14 from her previous experience.

15 THE COURT: That's the individual that Ms. Weintraub
16 asked for a stipulation.

17 MS. JIMENEZ: Right. So I thought she should be
18 released and I thought we were on number 47 instead of number
19 46.

20 THE COURT: Forty-seven is the individual that served
21 on a state jury.

22 MS. JIMENEZ: I understand. And that's who I think
23 should be released because she continually expressed
24 discomfort --

25 THE COURT: And then we're back to where we were,

1 Ms. Perez Marti, Juror Number 46.

2 MS. JIMENEZ: No objection. I mean, she seemed to
3 understand everything.

4 THE COURT: Is there any objection to Ms. Perez Marti
5 as a third alternate?

6 MS. WEINTRAUB: Yes, Your Honor.

7 THE COURT: And the basis for the objection?

8 MS. WEINTRAUB: I'm concerned about her ability to
9 understand the nuance of the language. It's a very complicated
10 case. There are over 50,000 documents that are going to be
11 introduced in evidence. I don't know that she's going to
12 understand or follow it, and I don't know that that's a juror
13 that I would want for my client if we get there.

14 THE COURT: Then we're going to proceed with two
15 alternates, because I do have a concern based on what she's
16 expressed in the beginning.

17 So we have a jury of 12 and two alternates. So let's
18 line up the jurors. Let's bring them in. I will advise
19 them -- we'll swear them in. I'll advise them that the Court
20 will give them preliminary instructions following our one-hour
21 lunch recess.

22 Okay. All right. Let's bring in the -- can we line
23 them up and we'll bring them in.

24 Both sides ready to proceed?

25 On behalf of the Government?

1 Both sides ready to proceed?

2 MS. JIMENEZ: Yes, Your Honor.

3 THE COURT: On behalf of the Defendant?

4 MS. WEINTRAUB: Yes, Your Honor.

5 THE COURT: All right. Then let's bring in the jury.

6 And if we can ask the individuals in the gallery if
7 you could just accommodate the jurors and please step to --
8 either the last row or the vestibule. I'm not sure if we're
9 using all the rows.

10 COURTROOM DEPUTY: We are using --

11 THE COURT: Okay. We're using all the rows. So if I
12 can ask you to please step outside.

13 (Before the Panel, 1:49 p.m.)

14 THE COURT: All right. Welcome back, Ladies and
15 Gentlemen.

16 Please be seated. Thank you for your extended
17 patience.

18 We have selected a jury to try the case of the United
19 States of America v. Eric Dean Sheppard.

20 I'm going to ask the following individuals to stand
21 and make your way to the jury box. You will then be sworn in
22 collectively as Members of the Jury:

23 Ruth Lane, Carlton McEkron, Sr., Teobaldo Rosell,
24 Alexis Pelaez, Rebecca Perez, Arturo Reboredo, Madelin
25 Marichal, Yaileen Gonzalez, David Rafael Mejia, Erik Rivera,

1 Mirna Ochoa, Evelyn Ramos Zaldivar, Lodewijk Opdeweegh, and
2 John Dunlop.

3 COURTROOM DEPUTY: Can you all please stand for me and
4 raise your right hand.

5 (Jury sworn, 1:54 p.m.)

6 THE COURT: With the exception of the Members of the
7 Jury that have been sworn, I am able to advise each of you that
8 you are free to leave the courtroom. You are not free to leave
9 the courthouse. I would ask that you return to the jury pool,
10 that will give you further instructions. I'm certain you will
11 take a lunch recess at the very least, but I want to thank you
12 for giving us the opportunity to get to know you.

13 Have a pleasant afternoon and a happy holiday season.

14 COURT SECURITY OFFICER: All rise.

15 (Panel excused.)

16 THE COURT: All right. Go ahead and have a seat.

17 Ladies and Gentlemen of the Jury, I know the hour is
18 late. You have not had your lunch recess. There are
19 instructions that I do need to give you and an explanation of
20 the course of the trial. That will begin after a one-hour
21 recess for lunch. But let me give some cautionary instructions
22 to you, and I will give further instructions at the return of
23 our lunch hour.

24 First and foremost, you must be prompt. We cannot
25 begin or continue until all of you are here. So it is very

1 important that if I give a time -- for example, we're going to
2 take a one-hour recess for lunch and I would ask that you be
3 back at three o'clock -- that you're in the jury room, ready to
4 come into the courtroom at three o'clock.

5 Second, you may see the attorneys, the Defendant, some
6 of the individuals that are seated at counsel table, or even
7 the witnesses through the course of the trial when you come
8 into the courthouse or when you leave the courthouse, and you
9 might see that they are not exchanging any pleasantries, they
10 are oftentimes not having any eye contact with you at all.
11 Please don't be offended. Please understand they are under a
12 direct court order not to have any contact with you. So please
13 understand that they are complying with my order.

14 And I also want to advise you of some of the comforts
15 of home. Certainly in the jury room we have snacks. We have a
16 refrigerator. We have a coffee maker. We have a refrigerator
17 to bring a lunch and we also have a microwave for your use. So
18 you're not required to go out to a restaurant during the lunch
19 recess, but at the same time you are free to leave the
20 courthouse. I would just ask that you be mindful of the time
21 and be here so that we can continue promptly.

22 As well, as I bring coffee and tea into the courtroom,
23 I would like you to be comfortable. So you can certainly bring
24 in a refreshment so that you are comfortable during the course
25 of the trial.

1 If you do need to take a comfort break earlier than I
2 anticipate, all you need to do is raise your right hand. But
3 please understand all of us will take a comfort break together.
4 But we will take appropriate breaks in the morning and
5 afternoon.

6 I will give you the schedule, as well as further
7 instructions. But at this point in time, we will have a
8 one-hour recess for lunch. If you'll look at your watch, I
9 will see everyone back here precisely at three o'clock. You're
10 going to come through the jury room, and the courtroom deputy
11 will give you further instructions.

12 So I'll see you at three o'clock. Have a pleasant
13 lunch.

14 COURT SECURITY OFFICER: All rise for the jury.

15 (Jury not present, 1:58 p.m.)

16 THE COURT: All right. I will see everyone back here
17 at three o'clock.

18 With the lateness of the hour, and both sides
19 requesting 45 minutes for opening statement, plus my
20 instructions on the law, I don't anticipate that we are going
21 to get to a witness's testimony today. However, I'm not
22 certain, on behalf of the Government, if there are short
23 witnesses that have made arrangements to be here that perhaps
24 we can get on and off the witness stand.

25 MS. JIMENEZ: We would like to start with our first

1 witness. She's not very long.

2 THE COURT: Who is that?

3 MS. JIMENEZ: Althea Harris from the SBA.

4 THE COURT: All right. Then let's see where we are.

5 We'll start promptly at three o'clock.

6 Have a pleasant lunch. And I'll see you back at that
7 time.

8 MS. JIMENEZ: Thank you.

9 MS. MARTINEZ: Your Honor, may we leave some of our
10 computers and some of our exhibits?

11 THE COURT: If you'll push everything to the side,
12 because we do have a hearing that we're conducting now.

13 (Recess from 2:00 p.m. to 3:04 p.m.)

14 THE COURT: All right. Welcome back. I hope everyone
15 had a nice lunch.

16 Go ahead and have a seat for a moment.

17 I was advised that one of our jurors, Juror Number 13,
18 had expressed that he needed to be away for his son's game.
19 And he is a member of our jury. So we can do one of two
20 things. We can either accommodate his schedule, which means we
21 would not be in session this Friday, and on Monday we would be
22 in session for half a day to accommodate his travel back to
23 Miami, or we can agree to strike him and bring in one of the
24 two alternates.

25 MS. JIMENEZ: The latter from the Government, Your

1 Honor.

2 THE COURT: I'm sorry?

3 MS. JIMENEZ: Strike him, and we move in one of the
4 alternates.

5 (Court reporter interruption.)

6 (Pause in proceedings.)

7 THE COURT: On behalf of the Defendant?

8 MS. WEINTRAUB: Yes, Your Honor?

9 THE COURT: Ms. Jimenez had suggested that we strike
10 Juror Number 13 and replace him with an alternate.

11 What is the Defendant's position?

12 MS. WEINTRAUB: That we want to keep him, Your Honor.
13 I mean, I'm happy ex parte to tell the Court why on the record,
14 if the Court wants me to, but there is a very specific reason.

15 THE COURT: Well, unless both sides are in agreement,
16 we've already sworn in the jury, and we will accommodate his
17 schedule, which means we will not be in session on Friday and
18 we will pick up at one p.m. on Monday, if that's what -- what
19 the --

20 MS. JIMENEZ: It's not.

21 THE COURT: -- the alternative is. But I am just
22 reminding you that after December 12th I'm going to have a hard
23 time accommodating this trial.

24 MS. JIMENEZ: Your Honor, we don't -- I mean, we would
25 ask the Court to strike him. There are two alternates. We can

1 replace him with one of them. Both alternates are acceptable
2 to both sides. The Court has already indicated that the trial
3 cannot last longer than the 10 days. We, you know, haven't
4 begun to put on our first witness. We're concerned about
5 missing another day and a half.

6 THE COURT: The parties have agreed that this is the
7 jury. Unless the parties both agree, then I can't strike him
8 because we already knew before he was selected that that was
9 the schedule. He was very clear. And for whatever reason, all
10 of us overlooked the fact that he is traveling to Knoxville and
11 will not be back -- he's not going to be here on Friday and
12 he's traveling back on Monday.

13 So we selected him. Neither party chose to challenge
14 him for cause, the Court overlooked that he is on the jury, and
15 we have to accommodate his schedule. So I'm not going to at
16 this point sua sponte strike a juror and bring in an alternate
17 when we can accommodate his schedule. We just won't be in
18 session on Friday and we will pick up Monday at one p.m. to
19 accommodate his schedule, unless both parties are in agreement.
20 Otherwise, we continue.

21 Is that the Defendant's position?

22 MS. WEINTRAUB: Yes, Your Honor.

23 THE COURT: Okay. Then we will not be in session on
24 Friday, and on Monday we will begin at one p.m.

25 Liz, if you'll let Juror Number 13 know, and then

1 we'll bring them back in. And let me adjust our schedule
2 accordingly.

3 COURTROOM DEPUTY: Judge, they also wanted to make
4 sure that they have the schedule for the trial once again
5 before they leave today.

6 THE COURT: I'm going to give them the schedule right
7 now.

8 COURTROOM DEPUTY: Okay. Perfect. Thank you.
9 Ready?

10 THE COURT: Yes.

11 COURTROOM DEPUTY: Okay.

12 COURT SECURITY OFFICER: All rise for the jury.

13 (Before the Jury, 3:08 p.m.)

14 THE COURT: All right. Welcome back, Ladies and
15 Gentlemen.

16 Please be seated.

17 I want to make sure that you understand that there are
18 no assigned seats, wherever you feel most comfortable. I'm not
19 certain if one of you on the second row wants to move. You're
20 certainly welcome to, to give yourself a little bit more room.

21 Welcome, Ladies and Gentlemen of the Jury.

22 You may have a seat.

23 Now that you have been sworn, I do need to explain
24 some basic principles about a criminal trial and your duty as
25 jurors. These are preliminary instructions, and at the end of

1 the trial I will give you more detailed instructions.

2 It will be your duty to decide what happened so that
3 you can determine whether the Defendant is guilty or not guilty
4 of the crimes charged in the Indictment. At the end of the
5 trial, I will explain the law that you must follow to reach
6 your verdict.

7 You must follow the law as I explain it to you, even
8 if you do not agree with the law.

9 You must decide the case solely on the evidence
10 presented here in the courtroom. Evidence can come from many
11 forms. It can be testimony about what someone saw, or heard,
12 or smelled, it can be an exhibit admitted into evidence, and it
13 can be someone's opinion.

14 Some evidence proves a fact indirectly, such as a
15 witness who saw wet grass outside and people walking into the
16 courthouse carrying wet umbrellas. Indirect evidence,
17 sometimes called "circumstantial evidence," is simply a chain
18 of circumstances that proves a fact. As far as the law is
19 concerned, it makes no difference whether evidence is direct or
20 indirect. You may choose to believe or disbelieve either kind
21 and should give every piece of evidence whatever weight you
22 think it deserves.

23 Certain things are not evidence and must not be
24 considered as evidence. I'm going to list them for you now.

25 Statements and arguments of the lawyers. In their

1 opening statements and closing arguments, the lawyers will
2 discuss the case, but their remarks are not evidence.

3 Questions and objections of the lawyers. The lawyers'
4 questions are not evidence. Only the witnesses' answers are
5 evidence.

6 You should not think that something is true just
7 because a lawyer's question suggests that it is. For instance,
8 if a lawyer asks a witness: "You saw the Defendant hit his
9 sister, didn't you," that question is no evidence whatsoever of
10 what the witness saw or what the Defendant did unless the
11 witness agrees with it.

12 There are rules of evidence that control what can be
13 received into evidence. When a lawyer asks a question or
14 offers an exhibit, and a lawyer on the other side thinks that
15 it's not permitted by the rules of evidence, that lawyer may
16 object. If I overrule the objection, then the question may be
17 answered or the exhibit received. If I sustain the objection,
18 then the question cannot be answered and the exhibit cannot be
19 received.

20 Whenever I sustain an objection to a question, you
21 must ignore the question and try not to guess what the answer
22 would have been.

23 Sometimes I may order that evidence be stricken and
24 that you disregard or ignore the evidence. That means that
25 when you are deciding this case you must not consider that

1 evidence.

2 Some evidence is admitted only for a limited purpose.
3 When I instruct you that an item of evidence has been admitted
4 for a limited purpose, you must consider it only for that
5 limited purpose and no other.

6 In reaching your verdict, you may have to decide what
7 testimony to believe and what testimony not to believe. You
8 may believe everything a witness says, or part of it, or none
9 of it.

10 In considering the testimony of any witness you may
11 take into account the opportunity and ability of the witness to
12 see, or hear, or know the things testified to, the witness's
13 memory, the witness's manner while testifying, the witness's
14 interest in the outcome of the case and any bias or prejudice,
15 whether other evidence contradicted the witness's testimony,
16 the reasonableness of the witness's testimony in light of all
17 the evidence, and any other factors that bear on believability.
18 I will give you additional guidelines for determining
19 credibility of witnesses at the end of the case.

20 As you know, this is a criminal case. There are three
21 basic rules about a criminal case that you must keep in mind.
22 First, the Defendant is presumed innocent until proven guilty.
23 The Indictment against the Defendant, brought by the
24 Government, is only an accusation, nothing more. It is not
25 proof of guilt or anything else. The Defendant, therefore,

1 starts out with a clean slate.

2 Second, the burden of proof is on the Government until
3 the very end of the case. The Defendant has no burden to prove
4 his innocence, or to present any evidence, or to testify.
5 Since the Defendant has the right to remain silent and may
6 choose whether to testify, you cannot legally put any weight on
7 a defendant's choice not to testify. It is not evidence.

8 Third, the Government must prove the Defendant's guilt
9 beyond a reasonable doubt. I will give you further
10 instructions on this point later, but bear in mind that the
11 level of proof required is high.

12 Our law requires jurors to follow certain instructions
13 regarding their personal conduct in order to assure a just and
14 fair trial, and I will explain and give those instructions to
15 you now.

16 Do not talk, either among yourselves or with anyone
17 else, about anything related to the case. You may tell the
18 people with whom you live and your employer that you are a
19 juror and give them information about when you will be required
20 to be in court, but you may not discuss with them or anyone
21 else anything related to the case.

22 Do not at any time during the trial request, accept,
23 agree to accept, or discuss with any person any type of payment
24 or benefit in return for supplying any information about the
25 trial. You must promptly tell me about any incident you know

1 of involving any attempt by any person to improperly influence
2 you or any other Member of the Jury.

3 Do not visit or view the premises or place where the
4 charged crime was allegedly committed, or any other premises or
5 place involved in this case. And you must not use the Internet
6 Maps, or Google Earth, or any other program or device to search
7 for a view of any location discussed in the testimony.

8 Do not read, watch, or listen to any accounts or
9 discussions related to the case, which may be reported by
10 newspapers, television, radio, the Internet, or any other news
11 media. And do not attempt to research any fact, issue, or law
12 related to this case, whether by discussions with others, by
13 library or Internet research, or by any other means or source.

14 In this age of instant electronic communication and
15 research, I want to emphasize that, in addition to not talking
16 face to face with anyone about the case, you must not
17 communicate with anyone about the case by any other means.
18 That includes by telephone, text messages, email, Internet
19 chat, chat rooms, blogs, social networking websites, such as
20 Facebook, Twitter, Instagram, any of the social networking
21 sites.

22 You must not provide any information about the case to
23 anyone by any means whatsoever. And that includes posting
24 information about the case or what you're doing in the case on
25 any device or Internet sites. And that includes blogs, chat

1 rooms, social websites, or any other means.

2 You must also not use Google or otherwise search for
3 any information about the case, or the law that applies to the
4 case, or to the people involved in the case, including the
5 Defendant, the witnesses, the lawyers, or the judge. It is
6 important that you must understand why these rules exist and
7 why they are so important.

8 Our law does not permit jurors to talk with anyone
9 about the case or to permit anyone to talk to you about the
10 case because only jurors are authorized to render a verdict,
11 only you've been found to be fair, and only you have promised
12 to be fair. No one else is so qualified.

13 Our law also does not permit jurors to talk among
14 themselves about the case until the Court tells them to begin
15 their deliberations, because premature discussions can lead to
16 to a premature final decision.

17 Our law also does not permit you to visit a place
18 discussed in the testimony. First, you cannot be sure that the
19 place is in the same condition as it was on the day in
20 question.

21 And second, even if it were in the same condition,
22 once you go to a place discussed in the testimony to evaluate
23 the evidence, in light of what you see, you have become a
24 witness, not a juror. As a witness, you may now have a
25 mistaken view of the scene that neither party may have the

1 chance to correct, and that is not fair.

2 Finally, our law requires that you not read or listen
3 to any news accounts of the case, and that you not attempt to
4 research any fact, issue, or law related to the case. Your
5 decision must be based solely on the testimony and other
6 evidence presented in this courtroom.

7 Also, the law often uses words and phrases in special
8 ways, so it's important that any definition you hear come only
9 from me and not from any other source. It would not be fair to
10 the parties for you to base your decision on some reporter's
11 view or opinion, or upon other information that you acquire
12 outside of the courtroom.

13 These rules are designed to help guarantee a fair
14 trial and our law accordingly sets forth serious consequences
15 if the rules are not followed. So I trust that you understand
16 and appreciate the importance of following these rules, and in
17 accord with your oath and promise I know that you will do so.

18 Now, moving forward, if you wish, you may take
19 notes -- I know that you were given a notepad and pen -- to
20 help you remember what the witnesses said. If you do take
21 notes, please keep them to yourself until you and your fellow
22 jurors go to the jury room to decide the case. Do not let
23 note-taking distract you so that you do not hear other answers
24 by witnesses.

25 When you leave the courtroom, your notes should be

1 left in the jury room. Whether or not you take notes, you
2 should rely on your own memory of what was said. Notes are to
3 assist your memory only. They are not entitled to any greater
4 weight than your memory or impression about the testimony.

5 Now we will begin the trial. First, the Government
6 will make an opening statement, which is simply an outline to
7 help you understand the evidence as it comes in.

8 Next, the Defendant's attorney may, but does not have
9 to, make an opening statement. Opening statements are neither
10 evidence nor argument.

11 The Government will then present its witnesses, and
12 counsel for the Defendant may cross-examine them.

13 Following the Government's case, the Defendant may, if
14 he wishes, present witnesses whom the Government may
15 cross-examine.

16 After all the evidence is in, the attorneys will
17 present their closing arguments to summarize and interpret the
18 evidence for you, and I will instruct you on the law.

19 After that, you will go to the jury room to decide
20 your verdict.

21 Now, before we do so, Ladies and Gentlemen, we have
22 modified our schedule to accommodate one of the jurors, so I do
23 want to give you the schedule as we move forward. And if it
24 changes, I will certainly let you know, but this is the
25 schedule that I have worked out with the attorneys.

1 Today, obviously, we'll proceed until about five p.m.,
2 or certainly at the appropriate break if a witness is on the
3 witness stand. Tomorrow will be a full day from nine, but we
4 will conclude at four p.m. Wednesday will be a full day from
5 nine, but we'll conclude one hour early, at four p.m.

6 On Thursday we'll begin at nine, and once again we'll
7 conclude at four p.m. We will not be in session on Friday.

8 On Monday we will accommodate one of our juror's
9 schedules and we will have a half a day, from one p.m. to five
10 p.m. So I expect that you have an early lunch so that you are
11 ready to get to work right at one p.m.

12 On Tuesday, December 5th, will be a full day from nine
13 to five. On Wednesday, December 6th, will be a full day from
14 nine to five. We will not be in session on Thursday,
15 December 7th, or Friday, December 8th. We'll pick back up
16 again on Monday, December 11th. It will be a full day from
17 nine to five. And on Tuesday it will be a full day, but we
18 will begin at ten o'clock, to accommodate another case, until
19 five p.m.

20 And that is the anticipated schedule. If it changes,
21 I will certainly let you know, but that is the schedule moving
22 forward.

23 All right. So at this point in time, we will begin
24 with opening statements.

25 On behalf of the Government.

1 MS. MARTINEZ: Good afternoon.

2 As you know, my name is Annie Martinez. I'm an
3 assistant United States attorney. And this is one of the few
4 opportunities that I will have to speak to you directly.

5 This is a case -- it is a crime that was done for
6 money. The Defendant, from May to the end of March, May 2020
7 to the end of March, managed to obtain \$900,000 in an 11-month
8 period, from about May 1, 2020, to about the end of March 2021.

9 During that time period, he obtained, through lies,
10 through forgeries, by taking the identity of his banker, taking
11 the identity of his accountant, taking the identity of one of
12 his tenants, using their names and signing their names without
13 their consent, sending these forgeries to lenders, to the Small
14 Business Administration, to private lenders, and the loan
15 processors that were processing the loans for the private
16 lenders. And he did that knowingly to push forward and to make
17 sure that he could obtain loans that were available only during
18 a time period that our country was in a disaster, in a disaster
19 like no other that we have seen.

20 So what were these programs? As you-all remember --
21 or you're going to be relying on the evidence that we present
22 to you here, but as you-all remember, in March of 2020, a
23 declaration was made that there was a disaster in the country.
24 And what was happening was nationwide. It was the COVID
25 pandemic. At that time, there was a concern for the economy,

1 and the legislators created a legislation that allowed for a
2 way to help small businesses that were eligible, truthfully
3 eligible.

4 Two programs became available. The first one,
5 sometimes we call it the PPP, but that's because it's the
6 Paycheck Protection Program. Paycheck Protection Program. The
7 purpose of this program was to protect paychecks. The idea was
8 to protect employees from being laid off. It was to help small
9 businesses to be able to make that payroll to keep these
10 employees during the pandemic.

11 The funding was limited. It ran out quickly the first
12 round. They had to reappropriate it again. And then again and
13 again it ran out quickly in 2020. There was a couple of rounds
14 of refunding. And in 2020 it finally closes out about August.
15 In other words, the Paycheck Protection Program was not
16 available at that point.

17 What became available was another program that had
18 also been created for the pandemic, but it had preexisted. As
19 we know, when there's hurricanes and other types of disasters,
20 there are declarations of disaster. Well, what you will learn
21 is that the Small Business Administration steps in in those
22 disaster areas where there's -- a geographic area, such as for
23 a hurricane, to provide what is called Economic Injury Disaster
24 Loans to businesses that are eligible.

25 What happened is that during the pandemic, with the

1 same legislation that created the Paycheck Protection Program,
2 that same legislation created the possibility that these
3 Economic Injury Disaster Loans, instead of being limited to one
4 geographic area, it was the entire nation. The entire nation
5 was under a declaration of disaster, if you were eligible.

6 Now, what was the Economic Injury Disaster Loan
7 program? The idea there is to provide working capital for a
8 business that actually has suffered an impact from the
9 disaster. Again, funds were not endless. They are meant for a
10 good purpose, so you're going to give them to the folks that
11 can show that it's needed.

12 The numbers that would be looked at here would be
13 money that would be needed -- what they call working capital to
14 cover fixed expenses that that business would not otherwise
15 have been able to cover except for the impact of the pandemic,
16 of the disaster.

17 These programs, which were intended for the benefit
18 and to help out people who were hurting, were obviously done in
19 a way that was advantageous. These loans had better terms,
20 better terms than any businessman could ordinarily get.

21 The Paycheck Protection Program, which was, again,
22 intended to help retain employees, had a one percent interest.
23 One percent. And the payment was deferred. And also it had
24 the possibility, if he used it according to the rules, to be
25 able to apply for actual forgiveness, which would have meant

1 that it was actually a grant. It had the possibility of
2 becoming like a grant, forgiveness. It would have been
3 something that you just outright received. And these are
4 hundreds of thousands of dollars that were available.

5 Take the Economic Injury Disaster Loan. Again, that
6 program preexisted the pandemic, but that program was also
7 intended to be beneficial to the small business. So they
8 actually go through the trouble every quarter determining what
9 the interest rates are in the market. And they make sure --
10 the Small Business Administration makes sure that the market --
11 that the interest rate that they're giving for these Economic
12 Injury Disaster Loans are lower.

13 In this case, the Economic Injury Disaster Loan
14 program interest rate at that time was 3.75. You didn't have
15 to put up a property or some kind of collateral like that. The
16 collateral was general, your business account payables, that
17 sort of thing -- thank you.

18 And for the record, I just said "thank you" because of
19 the windows -- the sun not coming in in my eyes.

20 What -- again -- like I said, the terms of the
21 Economic Injury Disaster Loan was that it was spread out over
22 30 years, a 30-year payment, as opposed to like a short-term
23 type of loan that a businessperson would otherwise get.

24 You will learn that the Defendant is a successful
25 developer, meaning he -- and an owner of commercial properties.

1 Even though he has a number of companies, what I want to help
2 you to keep track, so that you can keep track of what happened
3 in this case -- I'm going to tell you about just three of his
4 companies so that you can keep track. These three companies
5 are three companies that he used to obtain Paycheck Protection
6 Program loans and Economic Injury Disaster Loans.

7 So what are these companies? First, there's a company
8 that he calls -- I'm going to shorten these names, but let me
9 say the full name and then I'll give it a shortened name.

10 First, there's a company that he calls HM-UP Alafaya Trails.
11 What that is is a company that owns a shopping mall, a
12 commercial shopping mall in the Orlando area. There's actually
13 like a street that is called North Alafaya Trails, and that's
14 where that mall is. The Defendant's tenants include DICK'S
15 Sporting Goods, Burlington Coat Factory, rather large type of
16 tenants that pay large rents.

17 That company, which basically receives rents -- so
18 it's like -- the company is like a landlord company -- that
19 company is owned by another company of the Defendant's. So the
20 Defendant created basically like a corporation to hold an
21 ownership interest in the shopping mall company. So the
22 ownership company is called HM Four. They actually write it
23 out F-O-U-R, HM Four. That company does not have any business,
24 no operations, no employees, nothing like that. It is an
25 ownership entity. It's a company that just owns an interest in

1 the Alafaya Trails shopping mall company.

2 The Alafaya Trails company has a relationship with
3 another company owned by the Defendant called HM Management and
4 Development. My abbreviation of that is going to be HM
5 Management. I could give you initials, but I think initials
6 get difficult to remember. So the management company is the
7 only company that the Defendant had that at any time had had
8 employees, W-2 wage employees, only the HM management company.
9 The role of that company was to handle the affairs of the
10 company that owned the mall and do property management-type --
11 you need to direct something to happen related to the property,
12 et cetera.

13 It is that company that, prior to 2019, reported to
14 the Internal Revenue Service, reported to the Florida
15 Department of Revenue that they had employees. The management
16 company only ever had at most three employees. Those were
17 Jeanette Gonzalez, the bookkeeper for the Defendant; her
18 daughter, Vanessa, who provided some assistance in the
19 office -- these are the only folks who actually came to the
20 office of HM Management.

21 And the third person that was listed as an employee in
22 terms of W-2, and reported to the IRS and to the Florida
23 Department of Revenue, was a lady by the name of Elva Baluarte,
24 Elva Jessica Baluarte. She actually didn't come to the office.
25 She worked at home and took care of the kids and did other work

1 at the Defendant's personal home. But she was reported as an
2 employee.

3 The point is that you can see from the Defendant's own
4 reporting to the Internal Revenue Service, from the Defendant's
5 own reporting to the Florida Department of Revenue, that only
6 one of the companies that I referred to, the management
7 company, even historically had any employees.

8 In 2019, the year before the pandemic, a year -- that
9 the reason it becomes something to look at is because when
10 you're applying for a loan to retain employees in 2020,
11 everybody's looking back to 2019 to see what employees did you
12 have so that you can retain them in 2020. Well, by 2019 the
13 Defendant had not reported to the IRS that he had any employees
14 at any company and likewise had not done so to the Florida
15 Department of Revenue.

16 Let me just explain to you for one second why the
17 Florida Department of Revenue comes in. You'll have a witness
18 here. There's something called reemployment taxes. Basically,
19 in the old days, it used to be called unemployment
20 compensation. Whenever you have an employee, the employer is
21 responsible for paying a certain amount of taxes related to
22 funding the possibility that should that employee become
23 unemployed that then there's some way for that employee to get
24 some help after.

25 So the Florida Department of Revenue requires all

1 employers in Florida to report in who their employees are and
2 to provide a certain number of taxes. This ties into some of
3 the reporting that has to be done for the IRS. Some of the
4 reporting that has to be done for the -- and the only reason --
5 the only reason that we're discussing that here is to -- is,
6 number one, because it reflects what the Defendant considered
7 were his employees, because that's who he's reporting to the
8 IRS and to the Florida Department of Revenue.

9 But as you'll see, it also becomes important because,
10 in addition to the forged identities and forged documents that
11 I described that he submitted -- in addition to that, the
12 Defendant submitted, in support of his applications, completely
13 false, completely made-up, completely fabricated IRS forms,
14 lying and writing in them that he had employees that he didn't
15 have.

16 So let me stop now and show you an example. We're
17 going to have to zoom out.

18 Let's see if I can do this.

19 It will come.

20 There you go.

21 This is one of the false documents that was submitted.
22 But the reason in part that I want to make sure you see it is
23 because it also lets you know the responsibilities of an
24 employer and the costs that an employer has when they do have
25 someone that is a wage employee. As you can see from the top

1 line -- and this is really -- hopefully I can do this. Let's
2 see if I can set -- here we go.

3 There we go.

4 You see at the top -- maybe if I can do that -- "HM-UP
5 Alafaya Trails." That tells you that that is that particular
6 company. But what I want you to see is that he has to report
7 all the wages. He has to report Social Security taxes,
8 Medicare taxes, and he also has to report how much he pays. So
9 there you go. You see the signature -- let me clear that.

10 One of the important things about this form that you
11 can see in it is the additional costs. In addition to the
12 withholding of taxes of the employee, the Defendant not only
13 has to pay a Social Security portion for the employee that
14 he -- was withheld from them, but also the employer's portion
15 of the Social Security and the employer's portion for Medicare.

16 During the pandemic, the Defendant -- whoa, that
17 light.

18 During the pandemic, the Defendant went first for the
19 PPP, the Paycheck Protection Program, immediately. He actually
20 applied in the name of Alafaya Trails, but he wrote in the form
21 that it was doing business as HM Management, which HM
22 Management was a different company. When he actually succeeded
23 in getting that loan, he actually deposited it in the HM
24 Management account.

25 When he first submitted the first application,

1 obviously he lied about -- about the employees that he had and
2 the payroll that he had. The way that it worked is that the
3 loan would be based on two and a half times your monthly
4 payroll amount. The Defendant completely fabricated that
5 number. The result was a loan of close to 150,000.

6 He also lied about his employees. He actually said
7 that he had 80 employees. The Defendant did not have any
8 employees in Alafaya Trails. What you will hear is that the
9 Defendant's company made payments to individuals, payments to
10 individuals for a variety of things, be it maybe a construction
11 item, or another -- electrician work, some other type of work.
12 These were not employees. They never were.

13 In addition to that, which was a one percent loan that
14 he was able to get, after that, in the summer, the Defendant
15 turned -- because remember I told you the funding for the
16 Paycheck Protection Program was very limited -- the Defendant
17 turned to the Economic Injury Disaster Loan program.

18 During that time, he hired a company called
19 Nationwide, and they assigned someone to assist him with
20 respect to those submissions. The lady from Nationwide will
21 come and testify. The way that it worked was that Mr. Sheppard
22 would go online into the portal, answer certain questions,
23 those questions would go to the lady who was assisting. Her
24 name was Nelia Palancar. And she would -- if she had any
25 questions, she would contact Mr. Sheppard by phone or by text.

1 And they would both communicate, and she would get the approval
2 from him then for her to assist him in submitting it to the SBA
3 portal, because the Economic Injury Disaster Loan program was
4 submitted to the -- to that portal.

5 With respect to these loans, the Economic Injury
6 Disaster Loan, what you will see, both from Ms. Palancar as
7 well as from a Small Business Administration employee that will
8 come, whose name is Brent Motes, is that for these loans there
9 were two different ways that you could fill in the numbers.
10 Yes, he lied about employees. He did. He included again
11 employees that he didn't have in those loans.

12 But part of the way he did it as well is that he
13 didn't claim lost rents in the first couple of loans that he
14 applied to the Economic Injury Disaster Loans. What he did is
15 that he came up with some numbers to say revenues and cost of
16 goods sold. Because the way that they would calculate it was
17 going to be either that they would give you the revenues --
18 they would give you six months of a profit margin between the
19 cost of goods sold and the revenue, or you could get a loan for
20 your lost rents. It was capped out at 150,000, which is what
21 he got each time in any event. But what he did in the first
22 two loans that he applied for is that he did not say that he
23 had lost rents. He filled in these other numbers.

24 Now, these other numbers were really intended for like
25 a retail shop. A retail shop has gross revenues, has cost of

1 goods sold. They're selling, you know, pots and pans, and they
2 have inventory. So that's cost of goods sold, and then that's
3 where you would have a profit margin.

4 Someone in a business like his would have been more
5 appropriate to fill in the lost rents, but that's not what he
6 did. What you'll hear is that he actually tried -- he was
7 able, in that time period, to get one loan funded in August and
8 another loan funded at the end of September. These are
9 Economic Injury Disaster Loans. However, he did not -- that
10 was not the only two companies that he applied for. It turns
11 out that in July, when he was applying for these two loans that
12 he managed to get funded, he actually applied for four
13 different companies. He asked Ms. Palancar, through the
14 information he submitted, as well as through the conversations
15 with her, to submit applications on the same day for four
16 companies.

17 He also threw in another name that sounds similar.
18 It's Alafaya TRU. That's an abbreviation of the name. And he
19 also threw in another company called Sheppard Flagler; it
20 relates to another mall that he owned. Those two ultimately
21 were not funded. The reason I mention it is because it is part
22 of his scheme to try to get them funded, and he continues
23 trying. But let me turn to now --

24 THE COURT: Ms. Martinez, that's 45 minutes.

25 MS. JIMENEZ: Oh, no. I thought it was 30.

1 UNIDENTIFIED SPEAKER: I have a timer on from when she
2 started speaking.

3 THE COURT: I'm sorry. Actually, I agree. My
4 apologies. I had miscalculated.

5 MS. MARTINEZ: You would have scared me if I didn't
6 have my backup plan.

7 THE COURT: You started at 3:20. My apologies.

8 MS. MARTINEZ: Okay. All right.

9 So remember I told you that the PPP funds, the
10 Paycheck Protection funds, were limited. Well, they came back
11 around in the beginning of 2021. There was something that was
12 called a second round. And then the Defendant was on it again.

13 But now, in the second half of his effort is where you
14 really see him pushing with forgeries and false documents.
15 Because then, it is in October that he decides that he's going
16 to get an Economic Injury Disaster Loan. Without Nelly
17 Palancar to help him, he's going to get an Economic Injury
18 Disaster Loan for that company HM Four that I talked about,
19 that company that had no business. It was just a holding
20 company, had no operations. He decided that he was going to
21 get a loan.

22 He opens up a bank account just for this in October.
23 When they ask him to prove that it has some operations, he
24 deposits 60,000 from Alafaya Trails. And as soon as he pops
25 out that bank statement to deliver it to the SBA, the bank

1 statement showing that there's \$60,000 in there, then he pops
2 the money back out, back to Alafaya. Because it was only to
3 make a pretense -- to make a pretense that it had some
4 operations.

5 Made all kinds of false claims about what that company
6 had. But now the SBA is asking, and the SBA asks for more.
7 And what he submits at this point -- that's where he submits a
8 false lease. Because HM Four -- HM Four, I told you, it had no
9 operations. It didn't have tenants. It was Alafaya that had
10 the tenants. So he creates a false lease and he forges the
11 name.

12 So this is where -- and I just will show it to you.
13 You see the name? HM Four.

14 Here we go. There's the "Four." I just blocked it.
15 And there's the forged signature. There is also, right
16 there -- a little higher -- the name. You see how it says
17 "Majes," M-A-J-E-S? That's not the guy's name. He even
18 misspells it. That's without the consent of this tenant
19 because he has to make that false representation.

20 I'm going to give you more examples of things that he
21 submits with that application where he's trying to get an
22 Economic Injury Disaster Loan for a company that has no
23 operations.

24 Remember I told you about the bank account that was
25 opened up only for this? That banker's letter saying that they

1 had this account, completely forged without the consent of
2 Heimdall Barrios. Heimdall Barrios will come to testify that his
3 identity was taken without his consent.

4 But the Defendant doesn't stop there. When he goes
5 back to the lenders for the Paycheck Protection Program, at
6 this point, he also is sending in false tax returns and forged.
7 He takes his accountant's name without the permission -- the
8 accountant's -- you know, the accounting firm has like a tax ID
9 number, a special number for what they do, a preparer number,
10 all these things. He uses it without the consent of the
11 accountant and sends it in.

12 Now, what he's doing in these later loans is that
13 there was the possibility for a second round. So he goes to
14 PayPal, which is the one processing for the first loan, and he
15 tries to get the second round from that lender. They wind up
16 denying it. Part of the reason they deny it is because he
17 actually had -- the one true item that he had on the form was
18 his industry code that he had taken from the true tax return,
19 and it was not the type of industry code -- it was like a
20 passive business landlord, so he changes it.

21 So now -- there's several things -- there's several
22 false tax returns in this case, several forgeries, but I'm just
23 going to show you one. So here's Alafaya Trails's false tax
24 return for 2020. He goes to the trouble of -- let's see if I
25 can get this right.

1 There we go.

2 He goes to the trouble of forging his accountant's
3 signature. But in addition to taking the identity of his
4 accountant without his consent -- see if I can zoom in -- look
5 at this. You see right here? Let's see if I can point
6 correctly.

7 There we go.

8 The 815,000 of wages for Alafaya Trails: False. If
9 you look at the true tax return that was prepared by the
10 accountant, not there. No. It's zero. Blank line.

11 And you see this number up here? That number is also
12 false. That's -- the reason that's there is because one of the
13 ways of showing that you needed that second round of funding
14 was to show that you had a reduction, like things went a little
15 worse for you in 2020 than in 2021, than -- I'm sorry -- than
16 in the year before, in 2019. So he had to lower that number.
17 When you look at the true number, he actually did better in
18 2020 than in 2019, not like the false number that you see
19 there.

20 So one thing that you want to know is that every
21 single cent of this money was deposited by the Defendant,
22 again, close to \$900,000 -- every single cent was deposited
23 into accounts -- in bank accounts.

24 MS. WEINTRAUB: Excuse me, Ms. Martinez. Judge, I'd
25 like to reserve an objection.

1 THE COURT: All right. Certainly.

2 MS. MARTINEZ: Every single cent was deposited into
3 accounts that he was the sole signer. You know, you go to a
4 bank account, you sign -- the signer is the person -- not like
5 combined signer, not someone else, not part of the time. He is
6 the sole person. So one hundred percent of this money is
7 controlled by him to benefit him.

8 And we do look at what he does with it. What he does
9 with it includes paying for his home mortgage. \$11,000 a month
10 of a mortgage adds up to about 162,000 during this time period.
11 In addition, pays American Express cards, including the -- and
12 other cards, Discover, including the American Express cards of
13 his wife, his son, including things like \$5,000 at a jewelry
14 store in New York. This is how the money comes in.

15 He also uses some of the money to pay back a personal
16 business loan that he had taken during this time, sort of using
17 the program that was intended to benefit people who were hurt
18 or who needed to retain employees to pay off some of the
19 business debts that he had gotten at the regular rates that you
20 could get -- that you could get a business loan.

21 In addition, he used it to pay for the cars, like a --
22 that they had, and a variety of other things, other expenses.

23 One thing that you want to know is that he mixed the
24 money together. He mixed the money that was -- the proceeds of
25 the fraud with legitimate money. And one thing that you want

1 to know is that he didn't need this money. There's other
2 accounts that you will see that in addition to the PPP and
3 Economic Injury, EIDL, money, he was also depositing large
4 amounts of rents in another account at the same time.

5 The Defendant did not commit this crime because he
6 needed money. He did not commit this crime to make money. He
7 committed this crime because he wanted more money, and he
8 wanted more money at really, really good rates.

9 Thank you for your attention.

10 THE COURT: Thank you, Ms. Martinez.

11 On behalf of the Defendant? Do you wish to make an
12 opening statement?

13 MS. WEINTRAUB: Yes, Your Honor, I do.

14 May it please the Court, co-counsel, Mr. Sheppard,
15 Mr. Sheppard's family.

16 The most important thing, Ladies and Gentlemen, that
17 you need to remember, and you will hear about in this case over
18 and over, is that Eric Sheppard used every penny that his
19 company was given for the right reasons. Every penny went to
20 workers, went to supplies, went to materials that were used for
21 a project, just as it was applied for. That's what the money
22 was intended for, that's where the money went, and that's what
23 the money was used for.

24 Eric Sheppard was able to keep people employed when
25 COVID-19 hit. When others were being let go and shutting down,

1 Eric Sheppard was able to give people paychecks that they could
2 go home to and buy food, groceries, for their families. Let me
3 repeat that. Every penny that Eric Sheppard's company received
4 from the government went where it was supposed to go. It went
5 to pay workers. It went to pay supplies. It went where it was
6 supposed to go. There are no Lamborghinis in this case. There
7 are no Rolex watches. There's no fancy stuff that was bought
8 by Eric Sheppard after his company got the money. No trips.
9 The money went to workers for supplies and materials just like
10 it was supposed to.

11 And that was the entire goal by the SBA of what the
12 money was supposed to be used for, for the PPP and the EIDL,
13 keeping people employed. Because by the end of March there
14 were 10 million people in the United States alone in one month
15 that were unemployed. Eric Sheppard created jobs and he paid
16 the workers.

17 So you might be scrunching your head and said: "Boy,
18 didn't I listen to almost an hour of Ms. Martinez telling me
19 how Eric Dean Sheppard committed all this fraud and how he
20 spent hundreds of thousands of dollars on stuff?" You will see
21 yourselves the bank records. You will see yourselves the
22 paychecks. You will be able to see and hear from experts, and
23 summaries, and witnesses, and charts to make it easy for you to
24 understand exactly where the money came in and where the money
25 went out.

1 The Government has also charged our client with a
2 crime that's called aggravated identity theft. Each count of
3 the Indictment of which he is charged is a specific individual
4 crime. So it's important that we focus on every single count
5 because each count has different consequences, and you will
6 hear the evidence of why he's not guilty of each of them
7 shortly.

8 But before we talk about the specific facts of the
9 case, we need to time travel. And I know that sounds silly,
10 but sitting here in this comfortable sterile courtroom we're a
11 little complacent. We're complacent and we forget what it was
12 like in March 2020, when schools shut down and they were
13 virtually online, when these very courtrooms were shut down. I
14 remember the very first time I felt I was in a suit and able to
15 come back to court after over a year.

16 We forget sitting here now, but we have to go back.
17 It was horrible. It was a time that none of us could have ever
18 imagined, where going to a grocery store after a month we were
19 putting on gloves. We were washing down food. Everything that
20 came from Amazon or wherever we were ordering from had to be
21 washed, take off your clothes before you go in the house, take
22 a shower. Everybody was afraid. We were all in this together.

23 For most of us, our daily lives changed with new
24 schedules. Parents became teachers again. There was no day
25 care, but there were jobs remotely if you could. But that was

1 only true if you had a job where you could do your job remotely
2 sitting behind a desk. It wasn't true for people like Uber
3 drivers, or taxi drivers, or restaurant workers. They couldn't
4 do their jobs remotely. They couldn't sit on a computer. And
5 you will hear that Eric's wife, Jennifer, did not work outside
6 the home at the time. You will hear that she was the parent
7 that was tasked with supervising the children's schooling. At
8 the time, the kids were in eighth and eleventh grades,
9 respectively.

10 Like so many others, Eric Sheppard's business -- his
11 office was in flux. His workers didn't want to come to the
12 office. Heck, I don't think Eric wanted to come to the office.
13 It was a scary time, and that's what we have to remember. If
14 there's one word that this case is about, it's context, and we
15 must remember the context within which the activity charged
16 occurred.

17 Eric Sheppard was trying to keep his business afloat.
18 He was trying to keep his family together. And especially
19 because he's in the construction business -- I mean, you can't
20 do construction from home. Shopping centers and malls,
21 Mr. Sheppard's business, can't get done from your living room
22 couch. You have to be there, you have to be present, you have
23 to be at the site and you have to be working.

24 Now, you will hear from witnesses in this case that
25 have known Eric Sheppard for 20 years or more. You will hear

1 that by this time in his career when COVID broke out he was
2 used to an assistant being outside his door yelling, or maybe
3 raising your voice a little, and barking out orders, getting
4 what he wanted: "Give me this. Give me that. I need to see
5 that. Do we have this? Could you send this to me again?"

6 But working remotely didn't give rise to that.
7 Working remotely didn't align well with having to read
8 carefully emails that were really long on a computer screen,
9 especially if you're not a youngster. No offense, Eric. But
10 it was a difficult time for most people because we were
11 adjusting to a new way of life, a new way of doing business.

12 You will hear from people that know Mr. Sheppard, have
13 worked with him for over 20 years. And these people will tell
14 you he's driven, he is a go-getter, he has 10 balls in the air
15 at one time, he doesn't sit still, and he doesn't sit without
16 anything to do.

17 Like so many in the country, though, when this first
18 happened in March 2020, he was scrambling. He wanted to keep
19 his business going. He had to cope with some personal health
20 issues. But in order to understand what was going on, we have
21 to remember when this was happening, COVID, the pandemic, not
22 today.

23 When COVID hit, Eric Sheppard had been in business
24 over 20 years. Let me state three important things that you
25 will hear during the course of this trial. One, Eric Sheppard

1 didn't create any business or create any new business account.
2 These business accounts were valid. He didn't create a fake
3 business to get a loan. They were all in business. Number
4 two, he used every penny to pay the workers to pay for supplies
5 to pay for materials. He was paying people to do their jobs.
6 And three, you will see the evidence that just when they told
7 him he had to start paying it back, the loans had been started
8 to be paying back. That is the intent of Eric Sheppard.

9 So let's turn to: Who is Eric Sheppard? How did he
10 get into a courtroom? You've heard Eric Sheppard described as
11 a successful real estate business developer, but it wasn't
12 always that way. Eric is completely self-made. Eric was not
13 handed anything. Eric did not have a silver spoon by any
14 means. Eric came up on his own. He was 17 years old. He grew
15 up in Miami, went to Beach High, went off to FSU, worked in a
16 taco place at the local mall to support himself. He worked in
17 the other food court there as well.

18 Eric was 17, on his own, graduates college eventually
19 from FSU, and he knows that he wants to be in real estate. And
20 he was lucky enough to get an apprenticeship with a very, very
21 sophisticated real estate developer. And Eric soaked up all
22 the information he could from this man, and he was on his own.

23 Several years later, he met Phil Wolman. Who is that?
24 He, Phil Wolman, was the owner of a national eyeglass store
25 that I'm sure some of you have heard of, called For Eyes.

1 They're all over the country. He saw the potential in Eric
2 Sheppard. Mr. Wolman knew that Eric Sheppard had the eye, he
3 had the vision, and he was quick. He knew how he could get
4 things done. And Mr. Wolman thought that was terrific, and
5 they became partners. Partners because Eric Sheppard learned
6 quickly, and he worked hard.

7 He could envision developing land that his competitors
8 passed on. He knew how to get projects built, not just with a
9 GC, general contractor. He knew what had to get done. He knew
10 what studs had to be ordered. He knew what tiles for the
11 floor. He knew where to go. He knew how to get permits. He
12 knew what had to be inspected. Eric knew how to build
13 something.

14 But because Eric's doing 25 things at once, like any
15 CEO, of course, he relies on others to do things for him. He
16 couldn't literally do everything himself. No, he's not in back
17 keeping his financial books. He signs the checks, and he knows
18 what's going on, but he doesn't know every penny. He doesn't
19 do things like deal with a disgruntled person, or HR, or a
20 tenant or -- Eric doesn't do that. He does have a staff that
21 does that.

22 Eric Sheppard learned how to deal with banks because
23 he's a real estate developer. He needed loans. This didn't
24 just happen from COVID. In 2009 -- 2009 -- Eric saw an amazing
25 property, 44 acres. Forty-four acres. It was right near the

1 UCF campus, and it is off of a street called Alafaya Trails.
2 And Eric had a vision. He had a vision in this swampland of
3 his gorgeous shopping center that he wanted to build. He did
4 build it.

5 You will hear that Eric does have several different
6 companies, and they have different functions, and you will hear
7 how they got formed. You will hear that lawyers and
8 accountants and other professionals advise people in real
9 estate every project has a different company. Why? It's to
10 insulate liability, number one. It's as old as time. You
11 don't want to have a problem with everything; you want to limit
12 your liability, and for tax reasons.

13 It is common to have many different companies. And
14 only somebody who doesn't know that would say that certain
15 businesses were just created. But you will see and hear how
16 these businesses were formed, when they were formed, and what
17 their functions are. He did not create companies to get loans.
18 He had real companies that did real business.

19 In 2016, Eric Sheppard applied for and qualified for a
20 \$22 million loan. Banks don't hand those out. That wasn't
21 part of this deal that we're talking about. That was done with
22 a stack full of correct paperwork, done by a staff, by
23 gathering the proper documents to submit to the bank. Eric was
24 used to dealing with people at the bank. He was used to if
25 there was a question, they asked him a question, he gives them

1 an answer. The mortgage on the property, \$90,000 a month.
2 That's a lot of money. And he was able to do it because of his
3 vision.

4 Since 2016, every single month, Eric has been paying
5 that loan back. It was refinanced very recently, but it's
6 still around the same amount of money. It's a little more.
7 The Government wants you to think that this case is all about
8 three or four documents, and a couple of signatures, and fraud
9 this and fraud that. Well, they're wrong. They're wrong. The
10 Government got it wrong. That's not what this case is about.
11 It's not just about documents and how many each side has. This
12 is a case about a person. This is a case about Eric Sheppard
13 and his whole family, actually.

14 One year before COVID, the Alafaya Trails shopping
15 center was up and doing great. There were major national
16 tenants, which is what he's used to in his shopping centers
17 that were at the shopping center, DICK'S Sporting Goods, Toys
18 'R Us, just to name a couple. Unfortunately, Toys 'R Us, as
19 most of us know, went out of business and went bankrupt.
20 Actually, it was the other way around. They went bankrupt and
21 then they went out of business, and then that store closed in
22 2019.

23 Well, that store closing was 60,000 square feet.
24 Sixty thousand square feet. To give you an idea how big that
25 is, it's the size of a football field. That is a huge

1 property. It's all called an anchor store. Why? Because it
2 would attract people. It was one of the main stores. It would
3 attract people to come there that otherwise would not have.
4 And while they're there, they'll go next door to the little
5 boutique or another place to eat that wasn't so famous. It's
6 an attraction, but it's also a huge hole now without a tenant,
7 60,000 square feet.

8 So Eric spent a couple of months and he finds and
9 successfully negotiates with Burlington Coat Factory to take
10 the space. And not only that, they're going to take the whole
11 thing, all 60,000 square feet. Eric is thrilled, the company's
12 going to keep going, everything's great.

13 As is typical in real estate contracts, there was a
14 penalty clause. If it's not delivered on time, you're going to
15 be penalized and penalized big. Well, there was a rush on
16 this. The contract's reached in January of 2020. No problem.
17 They wanted it delivered in May 2020. Okay. It's going to be
18 tough, but we'll get it done. Because even though it was a
19 crunch, he wanted to get it done.

20 Burlington was in a crunch because they were about to
21 lose their lease at a store nearby. They wanted continuity for
22 the people that were used to finding the Burlington store right
23 near UCF. So they went very rigid, and they wanted it
24 May 20th.

25 Now, under normal circumstances it would be tough to

1 do. But these were not normal circumstances, Ladies and
2 Gentlemen. The world changed. In March 2020, COVID hits, the
3 work stops. Now what is he going to do? Because he couldn't
4 get a grace period because of COVID. He couldn't get released
5 from those penalties because of COVID. Eric Sheppard was
6 legally obliged. He had to get this property built out on time
7 or he would have gone under. The penalties were going to be
8 insane. As it was, he paid over a million dollars.

9 Now, let's talk about the loans that are charged here.
10 Three of the loans were approved. One of them wasn't.
11 Remember, we were waking up to news conferences, the governors
12 every day, Congress is enacting the CARES Act. One thing
13 that's consistent, nobody knew what was coming next. We were
14 all scared. We're all wearing masks. We didn't want to be
15 near anybody else. Eric Sheppard's office shut down, and that
16 is the backdrop of when these loans are submitted.

17 At the beginning of COVID, there Eric is -- and as
18 many of you might have gotten, there are a million pop-ups that
19 start coming on the computers. People are offering --
20 third-party vendors are offering loans, government loans. The
21 loans being offered say: "You might not even have to pay it
22 back. We'll give you forgiveness."

23 Now, under the CARES Act, the Small Business
24 Administration, the SBA, offered the opportunities for small
25 businesses under 400 employees, which Eric was, to get a PPP

1 loan, the Paycheck Protection Plan loan. They also already had
2 the EIDL loan in progress. The government did its best to rush
3 these loans out because we were in a hurry. We needed money.
4 People were shut down. People were not able to work. You
5 figured that you could call somebody when you apply for a loan,
6 ask for help, just like you did with big other bank loans. But
7 nobody was answering the phones, nobody was answering emails.
8 And when they did answer, they didn't even have the answer.

9 Let's talk about what happened in this perfect storm
10 of applications. First of all, the application isn't an
11 application, in my opinion. The application is a piece of
12 paper or a form that you fill out or even type out on the
13 computer and then submit. No. That's not what these were.
14 You had to go on a computer portal that they sent you a link
15 to, and each question -- you were asked a question, you popped
16 the answer. And not until it's all done and submitted, then
17 you get to see the whole application. This is not normal
18 times.

19 Now, the Government made a big deal and says that
20 these loans were only for W-2 employees. When you see the
21 applications in this case, Ladies and Gentlemen, ask
22 yourselves: Where does it say that? Gee, the lawyer said it's
23 not there. Looked everywhere. It's not in the application:
24 "Don't apply if you're a W-2." It's not in the application:
25 "If you have 1099 independent contractors doing construction

1 work, don't bother applying." Doesn't say that.

2 Most people just fill out an application, wait to see
3 if it's granted or denied, and they go forward. But language
4 on the application that you will see says the following, I
5 quote: "Employees for whom you pay salaries or independent
6 contractors whom you pay via 1099." It's right on the
7 application. So why did Eric think something's going on that's
8 wrong? Why would Eric think something's wrong when nobody's
9 telling him not to do it? The accountant's not telling him not
10 to do it. Lawyers aren't saying not to do it. He's getting
11 these offers on pop-ups.

12 Like most small business owners, Eric looks at all of
13 the workers as employees, period. He wrote on the paycheck for
14 years -- not just for COVID, for years: "Paycheck. Payroll."
15 That's what it is. He's paying people.

16 You will hear and see during the trial who these
17 third-party vendors are. Third-party vendors like PayPal -- so
18 they give you a pop-up, and they tell you all the wonderful
19 things they're going to do. And you wonder: Hmm. Why were
20 they doing that? Why? Because they had a financial incentive.
21 Every loan that these lenders gave out they got money for. So
22 that's why.

23 Let's look at the loans that you're going to hear
24 about. The first one is not charged, as the Government said --

25 MS. MARTINEZ: Objection, Your Honor.

1 MS. WEINTRAUB: -- but it was in April of 2020.

2 MS. MARTINEZ: An entire scheme is charged.

3 THE COURT: Is that an objection, Ms. Martinez?

4 MS. MARTINEZ: It's misstating what the charges are.

5 THE COURT: It's what the Defendant is stating that
6 the evidence will show. Overruled.

7 MS. WEINTRAUB: April 2020, PayPal solicits Eric
8 Sheppard on his email to apply for a loan. Eric is under
9 incredible stress to get Burlington Factory built. The
10 problem, he needed workers. Most of the workers that were
11 working on the project in January and February worked for
12 what's called a subcontractor, like an electrical company. And
13 that electrical company had 50 electricians, say. Well, they
14 all shut down and took the workers and left. They left. He's
15 got this big, huge project to get done.

16 He tells his project manager up in Orlando: "Get back
17 whoever you can. Find workers that are licensed and qualified
18 to do the job. We need to get this done." And that's what
19 happened. He needed electricians. He needed air-conditioning
20 people. He needed floor people. I mean, just two, three
21 blocks away the Port of Miami was closed. We all know that the
22 supply chains were broken. Everything was different back then.

23 Eric told his project manager: "Hire whoever you can
24 that's qualified," and that's what the loan money went to.
25 That's what the loans were for. The loans were created to keep

1 small businesses working, so small businesses did not go under
2 and people were able to get paychecks.

3 Yes, the Government is right that he put in his own
4 money. The project was about \$3 million to build Burlington,
5 and he got \$450,000 worth of loans, and the rest of it he had
6 to come up with. That's not a crime, Ladies and Gentlemen.

7 In April 2020, there was a formula in order to get the
8 loan. You had to fill out -- you had to figure out what the
9 payroll was, you had to multiply it by two and a half times --
10 I'm not good at math, but there was a formula. So what did he
11 do? Mr. Sheppard calls his longtime bookkeeper, Jeanette
12 Gonzalez, and says: "Send me the numbers. I need the numbers,
13 numbers to fill out applications." Obviously, he wasn't doing
14 his own books. He relied on other people. There's nothing
15 wrong with that. That's everyday business.

16 Now, in 2020, he fills out the application and then he
17 realizes after: "Oh, my god. Something's wrong. I made a
18 mistake. So I'll just call." Well, that was a joke. "I'll
19 write. I will type in -- I'll get back on the portal." He's
20 locked out of the portal. He can't get in. So he writes to
21 PayPal: "I have to add or change my application but the portal
22 won't let me in."

23 On April 27th, Salesforce acknowledges that he's
24 trying to send more information, and they blocked it because
25 they said: "There's already an application pending with your

1 email address," like, "good-bye," click.

2 Really? Now I'm talking to automated people? His
3 attempts to make the corrections were ignored. The banks
4 didn't read what he was writing. He was trying. But you know,
5 one of the other problems is banks weren't operating normally,
6 lenders weren't operating normally, nobody was operating
7 normally. The SBA wasn't operating normally. They had to hire
8 thousands of temporary workers. They did, but of course they
9 didn't have the training and didn't know the answers.

10 So Eric Sheppard is left with trying to make these
11 corrections. And what do you think happens? On May 1st,
12 without anybody caring about the mistakes, the loan was funded.
13 There is no dispute that Eric Sheppard tried to make the
14 corrections. The point is nobody was on the other end when
15 he's saying: "Wait a minute."

16 And that brings us to the first charged loan in
17 November 2020. It was an EIDL loan, and it was filled out for
18 Eric Sheppard's company that he owns with his wife, HM Four.
19 Now, first the Government charges him with fraud because they
20 say that he's acting like his wife when the loans were applied
21 for. Of course, the Government should have known that it was
22 owned with his wife. It wasn't new. And if they had done the
23 slightest bit of investigation, they would have realized that.

24 Eric Sheppard's wife completely consented and agreed
25 to Eric Sheppard responding to her email. As a matter of fact,

1 she asked him to. That's her husband of 22 years. It's a
2 pretty normal conversation. She gives him permission to reply
3 to the emails, and the Government makes it sound like Eric
4 Sheppard is impersonating his wife. Not true at all.
5 Mr. Sheppard was a legitimate owner of the company. She's not
6 the businessperson. Eric is. And Eric writing as his wife
7 with her knowledge and approval is not a crime.

8 Next, the Government claims that you're going to see
9 fraudulent documents that were submitted for the loan. The
10 Government claims that Eric Sheppard forged these documents.
11 Ask yourselves as you're seeing and hearing the evidence:
12 Where is that? Because it's not in there. There is absolutely
13 going to be no evidence, Ladies and Gentlemen, that Eric
14 Sheppard forged any documents.

15 On November 24th, the loan was funded for \$150,000.
16 Now, one of the Government's theories, which is incorrect, is
17 that HM Four is what's called a passive company, meaning it
18 doesn't have real business. That's not true. It's a real
19 company that has real business, that has real obligations, and
20 it's been in business for years. This was not a company that
21 was created to get a loan.

22 Now, another thing that's not on the application. But
23 just for argument's sake, the EIDL guidance simply said you had
24 to be a small business under 400 employees that suffered a loss
25 as a result of COVID. Well, as a result of COVID, every single

1 worker walked off his job. As a result of COVID, he was going
2 to have to go under and go bankrupt because he wouldn't be able
3 to finish this job, and these penalties were crazy. But HM
4 Four was just that. And there's nothing -- it was a real
5 business. But more importantly, you'll see it had real
6 obligations. Nobody said it didn't, except the Government, and
7 the Government is wrong.

8 The second loan was January 19th, 2021. Eric's
9 company HM-UP applies for what is now called a second draw PPP
10 loan from PayPal. And it was denied for reasons that just
11 aren't important for the moment. But, unfortunately, what was
12 important at the time was that Eric started to feel not well.
13 January, he's not doing well. He's not feeling well. He's
14 tired. And Eric is like the Energizer Bunny, which I was
15 trying to describe, with 10 balls up in the air always at the
16 same time. Finally, his wife persuaded him to go to a doctor,
17 and he was diagnosed with cancer.

18 Now, the problem, aside from having cancer, was -- and
19 I know he doesn't want me to say this, but I'm going to say it
20 anyway -- is that he also had COVID. Now, I don't know --
21 again, context. We have to pull ourselves back. We all should
22 remember the horrible pictures of people on ventilators and
23 what's going on in the hospitals at this time. It was truly
24 horrifying. Eric can't have the surgery until February 2021.

25 February 2021 he was trying to get another PPP loan.

1 There is nothing wrong -- did I say this? There's nothing
2 wrong with getting more than one loan at the same time for a
3 different company. There was nothing wrong with having two
4 companies. There was nothing wrong with having six companies
5 for different things. Successful businessmen had that. But
6 what was going on was he didn't feel well, and he's still
7 trying to juggle and keep his family afloat, and he's still
8 trying to juggle and keep the job going. Because one thing
9 you'll hear about Eric Sheppard is that he never not finished a
10 project. He has always finished a project he started.

11 By this time, when Eric was applying for the PPP loan
12 in the second round, and he's recovering from the surgery, and
13 before he has the radiation and feels worse, he just says: "I
14 can't handle this anymore. I've just got to give this up. I
15 just need to go back to pre-COVID and rely on people that are
16 working for me." And people that are working for him are
17 saying: "We got you. We're entitled to this money. We'll get
18 the money. We'll take care of the loan. We got you. You'll
19 get the money. We'll finish the project. It will all be
20 okay."

21 And as you will see and hear from witnesses, from the
22 evidence, Eric Sheppard never had any intent to defraud the
23 government, and the Government will not be able to prove
24 otherwise.

25 Eric Sheppard is charged with wire fraud and

1 aggravated identity theft. And I know it's long, and I know
2 it's 4:30, and it's late, and we're tired, but Eric's freedom
3 is at stake. Eric's livelihood is at stake. And I can't cut
4 it short for anything.

5 Eric is charged with nine counts of wire fraud. And
6 Her Honor Judge Bloom will give you the law. But just in one
7 sentence is a very oversimplified explanation and what to
8 listen for with the law is that the Government charges a scheme
9 to defraud, meaning he intended to cheat or deceive someone out
10 of money or property. During the case, you will hear, Ladies
11 and Gentlemen, there is absolutely no financial harm to anybody
12 in this case period, period. This is a case about a potential
13 maybe harm to an SBA policy. That's right, to a policy. He
14 didn't break a law.

15 The Government charges that Eric committed fraud on
16 the loan application, where he said he had employees because
17 they were 1099 employees, instead of W-2. Are you kidding?
18 It's not on the application. Nobody lost any money. The
19 Government got it wrong.

20 Eric Sheppard didn't commit wire fraud. Wire fraud
21 would be intentionally defrauding someone, or trying to, and
22 then sending it over the Internet, for example. But remember
23 all of the money went to pay Eric Sheppard's workers and for
24 supplies and materials, and he's been paying back the loan like
25 he's supposed to. That's what his intent was.

1 And aggravated identity theft? Very simply, what does
2 it mean? Well, identity theft means stealing somebody's
3 identification. It's kind of like if somebody was to take my
4 identification and then go to the store and buy a new car or
5 whatever, and they stole my ID and they bought something.
6 That's not what happened. For purposes of aggravated identity
7 theft, it means that someone used someone else's identity to
8 commit a crime and that identity theft was part of the fraud.

9 So what does that mean? It means that some of the
10 loans in this case that were applied for needed supporting
11 documentation, and the different lenders wanted different
12 support. They didn't all want the same thing and they weren't
13 all mandatory. The Government claims that Eric signed his
14 accountant's name to some of the business tax returns that were
15 submitted for loans. First of all, Eric didn't do that. There
16 won't be any evidence that Eric did that. But more
17 importantly, these loans would have been gotten without that
18 signature. Why? Not everybody even uses a CPA to file your
19 tax returns. You don't have to. And a tax return can be
20 prepared by many people. It doesn't have to be the CPA. So
21 the fact -- whether or not that's his signature didn't affect
22 whether the loan was given. So it's not going to be aggravated
23 identity theft. You have to have both prongs. One --

24 MS. MARTINEZ: Your Honor, is this closing argument or
25 opening statement?

1 THE COURT: Is that an objection?

2 MS. MARTINEZ: Yes, Your Honor.

3 THE COURT: And the legal basis?

4 MS. MARTINEZ: The legal basis is that the --

5 THE COURT: The legal basis would be?

6 MS. MARTINEZ: -- the lawyer is arguing the law.

7 THE COURT: The objection is sustained.

8 MS. WEINTRAUB: Both of the charges on the aggravated
9 identity theft that come after that on the EIDL loan -- the
10 forgery that the Government showed here as a forgery, is from
11 one of the tenants at Mattress1One at the shopping center.

12 Now, first of all, what the Government didn't tell
13 you, you will see evidence that Mattress1One stopped paying
14 rent and needed a new lease. But also what wasn't there when
15 the Government put up that lease here is, again, the SBA wrote
16 back -- this lease was supposedly submitted -- and said: "We
17 don't need this. What are you submitting this for?" It's not
18 the crux of anything. It's not the key to any room. And the
19 Government even put it up there.

20 They mentioned a banker that there was a forgery for.
21 She wanted you to see a forgery and now doesn't want me to tell
22 you that --

23 MS. MARTINEZ: Objection to what the United States --

24 MS. WEINTRAUB: -- the evidence will show -- excuse
25 me, Judge --

1 THE COURT: The objection is overruled. You may
2 continue.

3 MS. WEINTRAUB: -- that the evidence will show you
4 that banker did write the letter.

5 There's one last topic that I need to mention, and
6 that's called commingling. Because the Government brought it
7 up and said that he was mixing accounts and mixing money. This
8 is the evidence that will come in. The government required an
9 operating account for these loans. The loans came in to one
10 account. And that's right, his AmEx was paid from it, personal
11 expenses were paid from it, his car was paid from it.

12 What the Government didn't mention in its opening is
13 you will see the bank records that there was \$2 million more
14 than required to be in that account. All of the money being in
15 one account did not matter. It was not a violation of law at
16 all. And expert witnesses are going to come and explain it a
17 lot better than me.

18 But it's kind of like if I have two bank accounts, for
19 example, and you deposit -- if I deposited money in one bank
20 account because I got a tax refund, and then I get -- my health
21 insurance gives me a refund, and I put that in, and I go to
22 spend money. And by spending that same dollar, is it traced?
23 Does it have the serial number? I mean, the Government wants
24 you to think that money isn't fungible. That's not true.
25 Money is fungible.

1 If there's more money there, and you took money out,
2 there was no problem. The accountants always separated
3 personal from business. And you'll see the evidence and hear
4 from the accountants. But money is money. And when it gets
5 deposited in one account and it's mixed together, that's not a
6 crime. And the Government knows where the money went.

7 Two things to keep in mind: All of the money went to
8 pay the workers and the materials. Eric doesn't go out and buy
9 a boat or a yacht. He paid tuition before the loans. He was
10 paying tuition after he got the loan money. He paid his
11 American Express before. He paid it after. That is not a
12 fraud. That is not a scheme to defraud. The monies that were
13 paid before were paid after.

14 In conclusion, Ladies and Gentlemen, COVID hit us like
15 nothing ever before. None of us could have been prepared for
16 what happened in '21 and '20. Eric had been coping with the
17 cancer treatment and trying to come out of the pandemic, trying
18 to salvage his business to make this deal to get Burlington
19 built. And as schools reopened, and the courtrooms thankfully
20 reopened, as jurors came back, we all took a pause. But
21 context is how this case has to be viewed. This case is very
22 complex, but it's not a neat stack of documents tied in a bow.
23 This case is about a man, it is about his whole family, and it
24 is about what happened.

25 And if I might have one moment, Your Honor.

1 THE COURT: All right.

2 (Pause in proceedings.)

3 MS. WEINTRAUB: Ladies and Gentlemen, after you hear
4 all of the evidence in this case, you too will know the truth
5 and you too will be able to put on your verdict Eric Sheppard
6 is not guilty of wire fraud and he is not guilty of aggravated
7 identity theft.

8 Thank you for your attention.

9 THE COURT: Thank you, Ms. Weintraub.

10 Ladies and Gentlemen, we're going to take a 10-minute
11 recess.

12 COURT SECURITY OFFICER: All rise.

13 (Jury not present, 4:40 p.m.)

14 THE COURT: Ms. Jimenez, how much time do we need for
15 your first witness?

16 MS. JIMENEZ: Your Honor, I would need half an hour.

17 I don't know that I -- that we want to start.

18 THE COURT: And we need to get this witness on and off
19 today?

20 MS. JIMENEZ: No. She's local.

21 THE COURT: All right.

22 All right. So let's see how far we go. And Liz,
23 maybe we could see how long the jurors are able to stay today,
24 if we can get this witness on and off.

25 All right. I'll see you back here in 10 minutes.

1 MR. ETRA: Your Honor, I do have fairly substantial
2 cross-examination.

3 THE COURT: How long do you anticipate your
4 cross-examination to be?

5 MR. ETRA: I would think at least an hour, if not
6 longer.

7 THE COURT: Oh, all right. Then let's see how far we
8 get. And at the logical time, Ms. Jimenez, you'll let us know
9 and we'll break for the evening.

10 Okay. I'll see you back here in 10 minutes.

11 (Recess from 4:41 p.m. to 4:50 p.m.)

12 THE COURT: Back on the record.

13 Let me acknowledge the presence of the Defendant.

14 Do we need to wait for Ms. Martinez to address one
15 item?

16 MS. WEINTRAUB: I didn't hear what she said.

17 UNIDENTIFIED SPEAKER: She went to the restroom, Your
18 Honor.

19 THE COURT: I just want to advise -- because I
20 understand that, Ms. Jimenez, you will be directing this
21 witness -- that the jury does need to leave at five. Liz did
22 inquire, and we'll need to be respectful of their schedule.

23 MS. JIMENEZ: Are we going to do 10 minutes?

24 THE COURT: We're going to do 10 minutes. I'm just
25 waiting for Ms. Martinez.

1 MS. JIMENEZ: I would like to invoke the Rule. If
2 there's anyone that is going to be a witness in this case, we
3 would like them to step out of the courtroom.

4 THE COURT: All right. And this is throughout the
5 trial?

6 MS. JIMENEZ: Yes.

7 THE COURT: All right. A rule has been invoked that
8 requires that the witnesses remain outside until their names
9 are called to testify. They are not to discuss their
10 anticipated testimony, the testimony of any individual, or any
11 aspect of the case.

12 Since the Court is not familiar with the witnesses, I
13 would ask the attorneys to be mindful and advise your
14 respective witnesses to remain outside.

15 Okay. Both sides ready to proceed?

16 MR. ETRA: Your Honor, our expert witness is here. Is
17 the expert allowed --

18 THE COURT: Well, that would -- obviously that excepts
19 the expert. The expert witness is permitted to remain in the
20 courtroom.

21 MS. MARTINEZ: Your Honor, I have a concern with that
22 because we haven't finalized the expert disclosure.

23 THE COURT: Is this Mr. Bouchner, the one that we
24 talked about?

25 MR. ETRA: The one and only.

1 MS. MARTINEZ: Yes.

2 THE COURT: Okay. The expert is entitled to remain in
3 the courtroom.

4 Let's bring in the jury.

5 COURT SECURITY OFFICER: All rise for the jury.

6 (Before the Jury, 4:51 p.m.)

7 THE COURT: All right. Welcome back, Ladies and
8 Gentlemen.

9 Please be seated.

10 And if the Government will call its first witness.

11 MS. JIMENEZ: Yes, Your Honor.

12 The Government calls Althea Harris.

13 (Pause in proceedings.)

14 THE COURT: All right. Good evening.

15 If you'll come forward.

16 ALTHEA HARRIS, GOVERNMENT WITNESS, SWORN

17 COURTROOM DEPUTY: Thank you.

18 You can have a seat.

19 Could you please state your name and also spell it for
20 the record.

21 THE WITNESS: Sure.

22 Althea Harris. A-L-T, like Tom, H-E-A. Harris, H-A,
23 double R, I-S, like Sam.

24 MS. JIMENEZ: Thank you.

25

1 DIRECT EXAMINATION

2 BY MS. JIMENEZ:

3 Q. Good afternoon, Ms. Harris. Where do you work?

4 A. I work for the US Small Business Administration Office at
5 South Florida.

6 Q. How long have you worked for the SBA?

7 A. Twenty-three great years.

8 Q. What is your current position with the SBA?

9 A. I'm the deputy district director.

10 Q. What are your responsibilities in that role?

11 A. I manage the staff and I help propel our mission throughout
12 our 24 counties in South Florida.13 Q. And generally, over the years, and focusing on the most
14 recent years of your experience there, what sorts of
15 responsibilities have you had?16 A. Well, in 23 years I've done almost everything in the
17 office. But primarily, at the district level, we tell the
18 public who we are, what we do, and how we help them start,
19 grow, and succeed in business. We talk about our programs and
20 services, as I mentioned, in the 24 opportunity counties south
21 of Orlando.22 Q. All right. Are you familiar with the CARES Act passed by
23 Congress in March of 2020?

24 A. Yes.

25 Q. Are you familiar with the Paycheck Protection Program?

1 A. Yes.

2 Q. Was that a program that was funded under the CARES Act?

3 A. Yes. The Congress appropriated money for the Paycheck
4 Protection Program, and charged SBA and the Treasury with
5 getting that money out to the small businesses across the
6 country.

7 Q. And generally, what was the Paycheck Protection Program?

8 A. The Paycheck Protection Program was, again, a creation of
9 the CARES Act in Congress. And through the framework that
10 already exists at SBA to get money to small businesses -- the
11 Paycheck Protection Program used that framework, which includes
12 the lenders, to get money to business owners to help them pay
13 their employees who during the pandemic couldn't go to work.
14 Right? Because everything was pretty much shut down. So it
15 was a way to give business owners money that they could pass on
16 to their employees so they could pay their rent, or buy food,
17 just to conduct their -- to help them with their everyday
18 lives.

19 Q. Very generally, how did the Paycheck Protection Program
20 work?

21 A. Basically, a business owner would make application online
22 to the financial institution of their choice and give that
23 application, along with supporting documentation, to that
24 financial institution. The institution would review those
25 documents, ask SBA for a loan number. We would give it to

1 them. Then the lender would dispense the money to the
2 applicant borrower.

3 Q. When you say the lender would ask SBA for a loan number,
4 what does that mean? Did the SBA have to approve it?

5 A. What that means is when SBA gives a loan number to a
6 financial institution, we are saying that we will guarantee
7 repayment of the loan proceeds in the event the borrower
8 doesn't pay back the loan.

9 Q. What was the role of the SBA in connection with the
10 Paycheck Protection Program, in addition to providing the
11 guarantee?

12 A. Well, SBA worked with Treasury to promote the rules of the
13 program, essentially created the PPP program. And again, it
14 worked along the framework that we already have to help small
15 business owners get funding for their businesses. We promoted
16 the Paycheck Protection Program with the public.

17 Q. It created the rules --

18 A. Yes.

19 Q. -- for the lenders to follow; is that correct?

20 A. Yes. The United States Treasury and SBA worked together on
21 those loans -- I mean rules. Sorry.

22 Q. Now, what was the role of the private banks with respect to
23 those loans?

24 A. Well, the banks received those applications, scrutinized
25 them, and ultimately either made those loans or didn't.

1 Q. Would an applicant business need to have collateral for a
2 Paycheck Protection Program loan?

3 A. No.

4 Q. And generally what is collateral in the context of a loan?

5 A. Collateral is -- the way I describe it is what happens if
6 the loan goes bad. Right? What can we take from you, turn
7 into cash, and pay back the lender. So a lot of times real
8 estate is collateral, or a piece of equipment, or a car, your
9 retirement account, something that you put up that says: "I'm
10 willing to risk this if I don't pay back the loan."

11 Q. And so no collateral was needed for this type of loan,
12 correct?

13 A. That's correct.

14 Q. Were the PPP loans forgivable loans?

15 A. Yes. One hundred percent forgivable if the borrower used
16 the loan proceeds according to the rules of the program.

17 Q. And how would the lender be made whole if the borrower
18 could simply not pay it back?

19 A. Well, that's what SBA is in the marketplace to do, to
20 provide the guarantee to the lender. So in all cases, the SBA
21 endeavors to make the lender whole in the event that a borrower
22 doesn't repay a loan.

23 Q. So the SBA would pay the money that the borrower would owe
24 if that loan is forgiven, right? The SBA would pay that money
25 to the lender, correct?

1 A. That's correct.

2 Q. And where did the SBA get the money to pay off the loans on
3 behalf of borrowers who didn't have to pay it back?

4 A. Right. So that's what the appropriation from Congress is,
5 which is taxpayer money would be used to pay back the bank.

6 Q. Now, if the loan is not forgiven, what are the terms of a
7 PPP loan for paying it back?

8 A. If you don't pay -- use the proceeds properly, and the
9 government declines to make your loan a hundred percent
10 forgivable, then the loan becomes payable to the lender at a
11 term of five years at one percent.

12 Q. That's one percent interest?

13 A. One percent interest, yes.

14 Q. Okay. Now, with respect to your role at the district
15 office of the SBA, what did you do in connection with the --
16 administering the Paycheck Protection Program?

17 A. Our role at the local level was to promote the program with
18 the public, helping them to know it was available, answer their
19 questions, do trainings so that they could access the program.

20 Q. All right. Now, how could someone go about finding out
21 whether they qualify for a Paycheck Protection Program loan?

22 A. Well, I mean, if you happened to sign on to any of the
23 webinars that the 68 offices of SBA across the country were
24 having non-stop around the clock, we also had information on
25 our website. They could make application with a bank, and in

1 that process learn about the process. So there's lots of
2 information out there and available.

3 Q. How would someone go about applying for a PPP loan?

4 A. So if a borrower wanted a PPP loan, again, they would -- it
5 was an online application because, of course, everything was
6 closed down, so you couldn't walk into a branch and ask for a
7 PPP loan. So the banks stood up online portals, and you would
8 go into the portal of your lender of choice and make your
9 application that way, filling out the required form and
10 offering the documentation that was required to support your
11 application.

12 Q. Now, in April of 2020, who was eligible for a PPP loan?

13 A. Small businesses, sole proprietors, S corps, C corps, LLCs.

14 Q. Could an independent contractor apply for a PPP loan?

15 A. Yes. Independent contractors could apply for their own PPP
16 loans.

17 Q. And you mentioned an LLC. What is an LLC?

18 A. Oh. Sorry. A limited liability company.

19 Q. And that's a business?

20 A. It's a business type, yes.

21 Q. And a business of that type could apply if that business
22 had what, employees?

23 A. Well, in all cases the businesses had to have employees
24 whose paychecks they were attempting to protect. Right?

25 That's why it's called a Paycheck Protection Program.

1 Q. Now, in terms of business size, given that this was
2 supposed to be targeted to small businesses, was there a cap on
3 the number of employees a business could have?

4 A. Yes. Initially, the cap was 500 employees. And I think
5 most times people aren't aware of exactly what "small" means to
6 the SBA. And so, actually, small businesses are actually very
7 small and quite large. Right? So 500 employees doesn't sound
8 like a small business. Most people think it's the nail salon,
9 the restaurant, the mechanic. But it can be manufacturing
10 companies that have 500 employees, or very sophisticated
11 companies that have, you know, a number of employees.

12 THE COURT: Ms. Jimenez, would this be a good time for
13 us to recess for the evening?

14 MS. JIMENEZ: Yes, Your Honor. That's fine.

15 THE COURT: All right.

16 All right. Ladies and Gentlemen, we will be mindful
17 of your time, and I understand that we are recessing for the
18 evening. So at this point in time we will adjourn and I will
19 see you back tomorrow morning promptly at nine a.m. That means
20 that you need to be in the jury room, ready to come into the
21 courtroom, right at nine a.m.

22 Please remember that as we adjourn for the evening
23 you're not to discuss this case with anyone, nor permit anyone
24 to speak with you. Everything learned about the case is
25 learned within the courtroom.

1 Please place your juror notebooks in the jury room.
2 The jury room will be locked.

3 And have a pleasant evening. I'll see you tomorrow
4 morning at nine a.m.

5 COURT SECURITY OFFICER: All rise.
6 (Jury not present, 5:05 p.m.)

7 THE COURT: Thank you, Ms. Harris.

8 We are going to recess for the evening. Now, let me
9 advise you, since you are on the witness stand, you're not to
10 discuss your testimony or any aspect of the case with anyone.
11 I'll see you tomorrow morning right at nine a.m.

12 Have a pleasant evening.

13 All right. Go ahead and have a seat.

14 If I may have a list of the witnesses that the
15 Government anticipates it will call tomorrow, please.

16 MS. JIMENEZ: Yes, Your Honor.

17 MS. MARTINEZ: Take into account one hour of cross.
18 (Pause in proceedings.)

19 MS. JIMENEZ: Yes, Your Honor.

20 So we will finish up with Althea Harris from the SBA.
21 We have Philip Palmer from the IRS, Mr. Martin Joe Beirne,
22 Jammie Hutcheson from PayPal. We have Ian Zalewski from a
23 business entity called ACAP SME. We have David Toye from
24 Northeast Bank. We have a Mr. Carlos Granda.

25 I don't know that we will get through all of these

1 individuals.

2 THE COURT: All right, then.

3 Any issues with regard to any of the witnesses'
4 schedules?

5 MS. JIMENEZ: Not that I know of, aside from the
6 individual for Breezeline.

7 THE COURT: All right. But the individual for
8 Breezeline, does that include any of these individuals -- I
9 want to accommodate any out-of-district witnesses that may be
10 coming in to testify.

11 MS. JIMENEZ: We have several of these witnesses whom
12 I mentioned -- actually, after Mr. Palmer, everyone else who I
13 mentioned is from out of town.

14 THE COURT: All right. Then if there are one or more
15 that you want to accommodate and call earlier than the
16 schedule -- I'm not certain where they're from, but hopefully
17 we'll get through those witnesses.

18 All right. Any issues that we need to address with
19 regard to tomorrow's lineup?

20 On behalf of the Defendant?

21 MR. ETRA: Not with the lineup, Your Honor.

22 THE COURT: All right. Any issues that we need to
23 address before we adjourn for the evening?

24 MR. ETRA: Your Honor, it came up in sort of the
25 objection that Ms. Weintraub reserved. There's a pervading

1 issue here about the scope of the case, and we probably should
2 just talk about it, which is when this was first charged there
3 were six loans charged, starting with the first PPP loan in
4 April of '20, and then the first two EIDL loans. And then
5 those three got dropped in the Superseding Indictment, and then
6 they added an attempt.

7 We didn't argue that the early loans should be
8 completely excluded, given the case law on inextricably
9 intertwined, the story, and all that. Nevertheless, it's not
10 part of the charged conduct, and it seems to me that -- and
11 both sides are going to talk about these loans. I'm not making
12 it seem as if we're both not going to talk about it -- it seems
13 like some kind of limiting instruction -- and particularly, the
14 reason why Ms. Weintraub objected is because they were adding
15 up all the dollars from all the loans, including loans that
16 aren't charged.

17 And there's like a mismatch between the way the
18 Government is arguing and the way we're arguing it. And I just
19 want to make sure we have an understanding from the Court and
20 limiting instructions as appropriate, given that a lot of these
21 loans they're going to be talking about -- I mean, PayPal is
22 going to talk tomorrow about two loans, the one that was
23 successful that's not charged, and then the unsuccessful loan
24 that is charged.

25 MS. JIMENEZ: Your Honor, if I may, what is charged in

1 the Superseding Indictment, and similarly to some extent in the
2 original Indictment, is a scheme to defraud between
3 approximately April of 2020 through March of 2021.

4 And in that scheme to defraud, there are nine wire
5 fraud counts that are acts in execution of that scheme. I
6 could have charged 40 acts in execution -- 40 wire fraud acts
7 in execution of that scheme.

8 So these are certain acts that we chose to highlight.
9 There were a number of loans that were approved. There were a
10 number of loans that were denied. All of that evidence was
11 turned over in discovery from the very beginning of this case.
12 It's always been a part of the case, but I simply am not going
13 to burden the case with every false document. A wire doesn't
14 even have to be a false statement or document. But there were
15 many, many wires, and this is one scheme to defraud the lenders
16 and the SBA. So I don't know what sort of limiting instruction
17 would be appropriate.

18 THE COURT: Well, I don't know if a limiting
19 instruction will be helpful at this point, Mr. Etra. Why don't
20 we wait and see what the Government intends to introduce. And
21 as you've readily acknowledged, there may be other acts that
22 are inextricably intertwined.

23 So if the scope -- and I'm looking at the second
24 Superseding Indictment -- is from April 2020 through March of
25 2021, I'm not certain what the Government is going to be

1 introducing. But at the appropriate time at the conclusion of
2 the trial, the Court can certainly incorporate an instruction
3 that may be appropriate.

4 MR. ETRA: Okay. Because -- fair enough, Your Honor.
5 We'll take it as it comes, then.

6 THE COURT: All right. Are there any other issues
7 that the Court can address to prepare the parties for tomorrow?

8 MS. JIMENEZ: We can't think of any, Your Honor.

9 MS. MARTINEZ: We are still expecting disclosure as to
10 the statements by eight o'clock tonight or --

11 THE COURT: Well, the Court's order hasn't changed.

12 MR. ETRA: I'm under a court order.

13 THE COURT: Okay. All right, then. The courtroom
14 will remain -- or will be open at 8:30. As I stated, the
15 courtroom, once you-all leave, will remain locked until 8:30
16 tomorrow morning. So feel free to leave your items. No one
17 else is going to be in here.

18 Have a pleasant evening. I'll see you tomorrow
19 morning at nine a.m.

20 MS. WEINTRAUB: Thank you, Judge.

21 MS. JIMENEZ: Thank you, Your Honor.

22 COURT SECURITY OFFICER: All rise.

23 (Proceedings adjourned at 5:11 p.m.)
24
25

1 UNITED STATES OF AMERICA)

2 ss:

3 SOUTHERN DISTRICT OF FLORIDA)

4 C E R T I F I C A T E

5 I, Yvette Hernandez, Certified Shorthand Reporter in
6 and for the United States District Court for the Southern
7 District of Florida, do hereby certify that I was present at,
8 and reported in machine shorthand, the proceedings had the 27th
9 day of November, 2023, in the above-mentioned court; and that
10 the foregoing transcript is a true, correct, and complete
11 transcript of my stenographic notes.

12 I further certify that this transcript contains pages
13 1 - 231.

14 IN WITNESS WHEREOF, I have hereunto set my hand at
15 Miami, Florida, this 25th day of February, 2025.

16
17 /s/Yvette Hernandez
18 Yvette Hernandez, CSR, RPR, CLR, CRR, RMR
19 400 North Miami Avenue, 10-2
20 Miami, Florida 33128
21 (305) 523-5698
22 yvette_hernandez@flsd.uscourts.gov
23
24
25