

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 0:23-cr-60173-KMW

UNITED STATES OF AMERICA,

Miami, Florida

vs.

October 7, 2024

9:35 AM - 4:20 PM

CAROLYN DENISE WADE
TRACY D. WADE,

Volume 1

Defendants.

Pages 1 to 195

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:

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Adam Love, Esquire
DOJ-USA0
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FOR THE DEFENDANT:

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-and-
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1 STENOGRAPHICALLY REPORTED BY:

2 GLEND A POWERS, CRR
3 Official Court Reporter before:
4 The Honorable Donald L. Graham
5 United States District Court
6 James L. King Federal Justice Building
7 99 NE 4th Street
8 Miami, Florida 33132
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1 (Call to the Order of the Court.)

2 (Jury not present.)

3 THE COURT: Good morning, everyone. I am pleased that
4 we are all in place. I'm impressed given the weather scenario.
5 You may be seated at this time.

6 I know that Government counsel would like to remain
7 seated throughout the proceeding; is that correct?

8 MR. SNIDER: That's easier for me, Judge.

9 THE COURT: Yes, that's fine. So I'll give the defense
10 the option of handling it the way you would like.

11 Would you like for me to make an announcement, or do
12 you want to say something during your introduction?

13 MR. SNIDER: No.

14 Judge, I can stand. I'm going to stand for the
15 Government's opening statement.

16 I just meant my prolonged up-and-down. I mean, if I
17 could object without standing. Actually, I feel more
18 comfortable addressing the Court on my feet; so I'm going to
19 try to do that.

20 THE COURT: Well, make it comfortable for yourself.
21 You have the option of handling it any way you desire.

22 MR. SNIDER: I appreciate that, Your Honor. I am
23 feeling better than I was last week.

24 THE COURT: Fantastic.

25 There are a few preliminary matters I would like to

1 address.

2 Counsel, if you would turn to page 9 of the indictment,
3 I'm a little confused. On page 8, you make reference to Counts
4 II and III, the wire fraud counts.

5 MR. SNIDER: Yes.

6 THE COURT: And on page 9, it references Counts I and
7 II.

8 MR. SNIDER: So that table is misnumbered. It should
9 say II and III. And I'm glad the Court caught that. I was
10 going to bring it up as well. I'm not sure how the Court wants
11 to handle it, but the wire fraud counts are Counts II and III.

12 Count II charges Defendant Tracy D. Wade alone. Count
13 III charges defendants, Carolyn Denise Wade and Tracy Wade.

14 Maybe defense will stipulate to a hand annotation
15 noting II and III as opposed to I and II on the copy that goes
16 back to the jury.

17 THE COURT: I will take that as a motion to make a
18 ministerial change to the indictment on page 9, changing Count
19 I to Count II and then Count III.

20 MR. SNIDER: Correct.

21 THE COURT: Is there an objection?

22 MR. McCRAY: Not from the defense, Judge, no.

23 THE COURT: All right. So the indictment that goes to
24 the jury, let's make sure that it is corrected, and let's show
25 it to opposing counsel and the Court before it is submitted to

1 the jury.

2 A couple of items regarding voir dire; there is an
3 additional question that is not on the questionnaire.

4 MR. SNIDER: I'm sorry, Judge?

5 THE COURT: There is a question that is not on the
6 questionnaire that was submitted to the jury this morning for
7 filling out, and that question has to do with where they reside
8 within Miami-Dade County.

9 I'm concerned about the weather scenario, and I would
10 like to know where people live so that if we somehow find out
11 that there are extraordinary weather conditions in a certain
12 area, we'll be aware of it.

13 So what I may do is have the jurors stand and give us
14 their name and tell us what area of the county they live in,
15 and then the remaining questions and answers are on the
16 questionnaires, which you have access to.

17 Regarding the voir dire, I want you to take a quick
18 look at the Government's proposed voir dire. Of course, I'll
19 give you an opportunity to ask some questions.

20 With regard to Question 1, you can ask that general
21 question, or maybe not, whether punishment will be considered
22 is an instruction that I give the jurors, and so I'm not sure
23 that it's proper for this question to be asked the way it is
24 presented.

25 I suppose if you wanted to ask -- but I'm not sure you

1 want to waste your time on this question since it's going to be
2 covered; but if you wanted to ask if the Court gives you an
3 instruction that you cannot consider punishment in any way in
4 determining the facts in the case, could you follow that
5 instruction?

6 If you want to ask it that way, fine. The way it's
7 presented in your proposed voir dire, I am not going to allow
8 it as it is.

9 MR. SNIDER: I like the Court's suggestion.

10 Thank you.

11 THE COURT: All right. Question 4 is fine.

12 Question 5, I don't care for the question the way it is
13 presented: [As read] "Does anyone feel that any current events
14 or any knowledge on personal views that you have about police?"

15 I'm not going to allow the question the way it is
16 presented.

17 I do ask this very similar question, frankly.

18 MR. SNIDER: Okay.

19 THE COURT: 6, 7, 8, 9 are fine.

20 As to Question 10, if you want to ask generally about
21 impartiality, you may, but the way it's presented in
22 Question 10, I will disallow.

23 A lot of the witnesses on the Government's witness list
24 and the exhibit list appear as they may be addressing the
25 404(b) issue, I'm not sure, but I want to make sure that you

1 follow the Court's instruction and not go into any 404(b)
2 issues, as we discussed, until near the conclusion of the
3 defendant's case in chief, and then I can make a determination
4 as to the extent of which the 404(b) will be allowed.

5 MR. SNIDER: Yes. I understand the Court's ruling on
6 that, and the Government will not elicit any testimony
7 regarding EIDL loans. The Government's not going to touch upon
8 it in its opening statement.

9 And just so the Court has comfort, the only witness on
10 the Government's witness list who even has, I believe,
11 knowledge to testify about the EIDL loans that were noticed in
12 the 404(b) notice is Number 11, Rachel Dodd.

13 THE COURT: All right.

14 MR. SNIDER: The Witness Number 1, Althea Harris of the
15 SBA, her testimony is going to concern the Paycheck Protection
16 Program. She may say that EIDL was one of the other programs,
17 but she's not going to get into any substance about the 404(b)
18 that's been noticed.

19 THE COURT: Very well.

20 Just quickly regarding the instructions that the
21 defense proposed, the good faith defense, that can be an
22 appropriate instruction, but there has to be a factual basis
23 for it. So make sure you're familiar with the cases in that
24 regard. Usually, it requires some testimony from the defendant
25 before that instruction is given. So just keep that in mind.

1 Take a look at the cases. When we get to the instruction
2 phase, we can discuss it, and the Court can make a decision.

3 MR. SNIDER: Your Honor, one point on that. I will
4 address this in more detail at the charge conference, but it's
5 the Government's position that that instruction on good faith
6 as a defense, to the extent that there is a foundation for it
7 that's been established, would only be applicable to a -- would
8 not be applicable to the charge of making a false statement to
9 the SBA.

10 THE COURT: We can discuss all that later.

11 MR. SNIDER: Okay.

12 THE COURT: Once we know what the foundation is, then
13 we can go to Step 2 and see if it's still an appropriate
14 instruction or not.

15 MR. SNIDER: Okay.

16 THE COURT: 2 matters with regard to Mr. and Mrs. Wade.
17 Mrs. Wade has been explained this previously, but I'm
18 going to go over it again.

19 The first question I have is whether there were any
20 offers made to the defense.

21 Do not tell me the substance of any offers. The simple
22 fact, were there offers made? And if there were offers made,
23 defense counsel can then advise the Court if they were
24 communicated to the defendants.

25 Government, were any offers made?

1 MR. SNIDER: The United States made a plea offer to
2 Defendant Carolyn Wade prior to the grand jury returning the
3 superseding indictment.

4 THE COURT: All right.

5 MR. WILCOX: So it was made following the first trial,
6 which resulted in a mistrial, but before the grand jury
7 returned the superseding indictment, that there was a formal
8 plea offer extended.

9 The Government has not extended a plea offer to
10 Defendant Tracy Wade.

11 THE COURT: Defense, is that your understanding of the
12 status of any offers made?

13 MR. McCRAY: Yes, Judge, that's correct as relates to
14 Mrs. Wade, and no offer has been tendered regarding Mr. Wade.

15 THE COURT: And were the offers made for Mrs. Wade
16 tendered to her?

17 MR. McCRAY: Oh, yes, Judge. We sent her emails, and
18 we also discussed it.

19 THE COURT: All right. Fine.

20 The second issue is whether or not the sentencing
21 guidelines have been discussed in general with each defendant.
22 As you all know, none of us know what any guidelines will be,
23 if even applicable in the case, but just a general
24 understanding of how the guidelines function, has that been
25 explained to each defendant?

1 MR. McCRAY: Yes, Judge, they have.

2 THE COURT: All right. Thank you.

3 Now, we have some weather issues upon us, and so I will
4 decide at later -- I originally planned to be in session until
5 4:00 p.m. each day, and we may very well do that today.
6 Tomorrow we may be in session until 3:00 p.m. in case we have
7 some serious wind issues and flooding issues in our area. It's
8 pretty difficult to predict that at this time, but we'll handle
9 that back here.

10 And also, counsel, you likely are aware that if the
11 schools are closed, the courts are closed.

12 MR. WILCOX: Yes, Judge.

13 THE COURT: So that's usually public information on the
14 TV, radio -- et cetera. So keep that in mind until we begin
15 each day; and, hopefully, we get through our trial with no
16 interruptions.

17 As we discussed previously, we will not be in session
18 on Friday and Monday is a federal holiday. I think that's the
19 11th. So we will not be in session Friday or Monday. And
20 we're hopeful we can get the case completed in the two-week
21 period.

22 MR. SNIDER: Your Honor --

23 THE COURT: I'm advised that we are somehow missing two
24 jurors. I always fail to understand how we miss jurors from
25 the 7th floor up to the 13th floor, but they are searching for

1 them now; and, hopefully, they will be with us soon.

2 Yes, sir.

3 MR. SNIDER: It's just with respect to scheduling
4 tomorrow and the forecast, which none of us have a crystal
5 ball. It does seem like the weather -- well, that storm which
6 is predicted to hit the West Coast of Florida does seem like
7 it's going to hit sometime on Wednesday. So I think it's fair
8 to say that the weather is going to get worse as we get closer
9 to the middle of the week.

10 I bring this up just because out of the 12 witnesses on
11 the Government's witness list, seven are flying in from all
12 different parts of the country. We have a few witnesses from
13 California. We have a witness from Texas. We have a witness
14 from Denver, Colorado. We have a witness from Philadelphia.
15 And most -- some of those -- I think there's one witness that's
16 already arrived today -- or arrived yesterday. Most of the
17 witnesses are arriving today with anticipated testimony
18 tomorrow.

19 So to the extent that we can get as much of those
20 out-of-town witnesses completed tomorrow so that they can
21 hopefully fly get before the storm, that's the Government's
22 preference. If it's really bad tomorrow and we have to end
23 early, I understand, but to the extent that we can keep going
24 to at least get those out-of-town witnesses to finish with
25 their testimony, that will be helpful.

1 THE COURT: We will do the best that we can. Of
2 course, a lot of that may depend on how concise your questions
3 are.

4 MR. SNIDER: Very well.

5 THE COURT: We will try to get as much as possible
6 tomorrow; and if we can go to 4:00, I'm happy to do that.

7 MR. SNIDER: Okay.

8 THE COURT: If it's flooding downtown, then it creates
9 some problems for us.

10 MR. SNIDER: Okay.

11 THE COURT: All right. Is there anything else I should
12 be aware of this morning?

13 How much time are you requesting for your opening
14 statements?

15 MR. SNIDER: The Government would like 40 minutes.

16 MR. McCRAY: Your Honor, on behalf of the Wades, we
17 have a witness that's subpoenaed. We put on there the 7th, but
18 we've spoken with him several times. We told him that we don't
19 anticipate that our case will commence until maybe next Tuesday
20 because Monday's a holiday. He insisted on coming today. He's
21 in the courtroom.

22 We told him that the subpoena -- with the subpoena, he
23 needed to be here next Tuesday, but he insisted on coming into
24 the courtroom. He is here now. He's in the back, sir.

25 MR. PEREZ: Your Honor --

1 THE COURT: Just a minute, sir.

2 MR. McCRAY: I guess we're asking the Court if the
3 Court could explain to him that I can't give him a precise
4 time. We would like for him to be here on next Tuesday
5 morning. That's when we anticipate that this witness -- that's
6 when we said the defense's case will probably start around that
7 time.

8 I have his number. I've been staying in touch with
9 him.

10 THE COURT: Well, the Government indicated that it
11 wanted to finish its case on Thursday. Is that still your
12 understanding?

13 MR. SNIDER: It's my hope, desire, and my intention to
14 finish the Government's case in chief at some point on
15 Thursday.

16 THE COURT: Any ideas to what point? Like Thursday
17 morning or Thursday afternoon?

18 MR. SNIDER: Well, again, I guess there's so many
19 variables here, Judge. You know, obviously -- hopefully, the
20 Court stays open all week. If there's a closure because of the
21 schools, that's going to push us back. If we have to end early
22 tomorrow because of the weather, that's going to push us back.
23 If everything goes according to plan, then I would say we -- I
24 expect by midday, perhaps lunch on Thursday, but that's if
25 everything goes according to the plan.

1 THE COURT: I understand. So that may have some
2 impact. If they finish by noon, hypothetically, on Thursday,
3 then...

4 MR. McCRAY: We can have our witnesses lined up to be
5 here after lunch on Thursday, Judge.

6 THE COURT: All right. Now, do you want to confer with
7 your witness? He stood up and started to walk down. I don't
8 know if there's an issue or not.

9 MR. PEREZ: Your Honor.

10 Yes, sir. Your name, please?

11 Come forward and speak into the microphone. Good
12 morning.

13 MR. PEREZ: Good morning, sir. I was subpoenaed to be
14 here at 9:00 today.

15 THE COURT: Yes, sir.

16 MR. PEREZ: So I'm here.

17 THE COURT: Yes, that's the way subpoenas work, sir.

18 MR. PEREZ: Right.

19 THE COURT: The lawyers advise the witnesses that we
20 will let you know how the progress of the trial is going.

21 MR. PEREZ: Yes.

22 THE COURT: The trial starts on October 7th, which is
23 today, and the lawyers subpoena all of the witnesses for
24 October 7th, but they have some lead time to let the witnesses
25 know more precisely when they should be here.

1 MR. PEREZ: Okay.

2 THE COURT: So --

3 MR. PEREZ: The paper said 9:00.

4 THE COURT: I understand. You're here.

5 MR. PEREZ: And I came from Palm Beach.

6 Okay?

7 THE COURT: I think the attorney told you that you
8 didn't have to be here today; correct?

9 MR. PEREZ: No, he told me that, yes.

10 THE COURT: Yes. The attorney, Mr. McCray, told you
11 that --

12 MR. PEREZ: Just today, this morning.

13 THE COURT: Oh, you mean this morning?

14 MR. PEREZ: This morning, yeah.

15 THE COURT: All right. Did the witness know in
16 advance?

17 MR. McCRAY: Judge, we spoke to Mr. Perez extensively
18 on Friday. I think Mr. Smith spoke with him again. We told
19 him, but he says, "No, the subpoena says 7th; I'm going to be
20 here."

21 MR. PEREZ: Yes.

22 THE COURT: All right. But it's not --

23 MR. PEREZ: They served me, you know; so I'm here.

24 THE COURT: Listen to me. They served you, but then
25 they tell you, "You don't have to be here until a certain

1 time."

2 The subpoenas always have the starting date of a trial
3 because we never know how the case is going. Sometimes it's
4 fast. Sometimes there's no trial. There are all sorts of
5 eventualities. So they serve you. It says the 7th. You're
6 here, but it's not likely you will be testifying today.

7 It's likely you will be testifying when the attorneys
8 give you -- they try to give you at least a day or so advance
9 notice: "Okay. Your testimony's going to be on Friday,"
10 hypothetically, or "Your testimony is going to be on Tuesday,
11 please be" -- we do that to try to not inconvenience the
12 witnesses as much as possible so that you don't have to come in
13 every day.

14 MR. PEREZ: I was supposed to work today. I lost --

15 THE COURT: Yes. But you understand what I'm saying,
16 sir?

17 MR. PEREZ: Yes.

18 THE COURT: All right. All right. So we appreciate
19 you being here, but stay in touch with Mr. McCray and his
20 staff, and they will give you more guidance so that you don't
21 have to be inconvenienced and miss work.

22 Okay?

23 MR. PEREZ: Can I say something?

24 THE COURT: Yes, sir.

25 MR. PEREZ: But I don't even know these people. That's

1 what I'm saying.

2 THE COURT: You don't have to know them. They have
3 your phone number, and they have been in touch with you;
4 correct?

5 MR. PEREZ: Yes, because they subpoenaed me.

6 THE COURT: Right. So they don't misrepresent when you
7 should be here. So you don't have to know anyone, but they're
8 giving you the instructions, and they will let you know
9 specifically when you should be here.

10 If you want to come every day, that's up to you; but I
11 would suggest that you follow their instructions so that you're
12 not inconvenienced.

13 All right?

14 MR. PEREZ: Okay, Judge.

15 THE COURT: Thank you very much, sir.

16 MR. PEREZ: You're welcome.

17 THE COURT: Have a good day.

18 All right. I think we have everyone here, so we're
19 going to have jurors come in and be seated, and we'll get
20 started. Thank you.

21 (Prospective jurors entered courtroom at 10:00 a.m.)

22 COURTROOM DEPUTY: Everyone can be seated. Court is
23 back in session, the Honorable Donald L. Graham presiding.

24 THE COURT: Please raise your right hand, ladies and
25 gentlemen so you may be sworn.

1 COURTROOM DEPUTY: Do you and each of you solemnly
2 swear or affirm that you will truly answer all questions
3 propounded to you touching upon your qualifications to serve as
4 a juror in this case about to be tried?

5 PROSPECTIVE JURY PANEL: Yes.

6 THE COURT: Be seated, please. And good morning,
7 ladies and gentlemen.

8 My name, as you heard, is Donald Graham, and I will be
9 the United States District Judge presiding over this case.

10 This is a criminal case, and we are about to start the
11 process known as voir dire. That's a French term which means
12 to speak the truth, and that is exactly what we would like for
13 you to do this morning.

14 We will be asking several questions, and we ask you to
15 listen to the question and respond as directly as you can and
16 that you be forthright and honest with your responses.

17 Our goal is to select jurors who can be fair and
18 impartial to the Government and to the defense. And that's
19 what we would like for you to help us do -- pick individuals
20 who can be fair and impartial.

21 Most of you know that we have some recent weather
22 events upon us; so we are going to act accordingly so we can
23 keep everyone safe. So for your information, just at the
24 beginning, you should know that if the schools are closed, the
25 courts are closed.

1 So as you listen to the news, if you hear that the
2 Miami-Dade County schools are closed, then you know that we are
3 closed.

4 Now, we have several divisions in the Southern District
5 of Florida. This is the Southern District of Florida for
6 federal courts, and our jurisdiction is as far north as Vero
7 Beach and as far south as Key West. So each of those divisions
8 will have different rules.

9 So if the schools are closed in Key West, it doesn't
10 mean the schools are closed here. If the schools are closed in
11 Fort Pierce or Fort Lauderdale or West Palm Beach, the
12 Miami-Dade schools could be open. So listen carefully. The
13 Miami-Dade school is the guideline.

14 Now, we have a little authority ourselves as individual
15 judges; so we're going to monitor as well. And if there's any
16 particular flooding or anything that we think is dangerous,
17 then we may say, "Court is not in session," but we will have
18 everyone's phone number and email address and we will keep you
19 advised accordingly. Of course, again, and importantly, if the
20 Miami-Dade schools are closed, you know that the courts are
21 closed.

22 Now, for further information, not all of you will be
23 selected. Some of you will be. This Friday we will not be in
24 session. We'll be in session Monday through Friday --
25 Thursday, rather, hopefully, Monday through Thursday. So if

1 you have some appointments or something that you need to do on
2 Friday, you know you will have the full day.

3 The courts are closed also next Monday, which is a
4 federal holiday. So Friday and Monday we will not be in
5 session. So keep that in mind as you schedule your events.

6 Now, as I said, this is a criminal case and this case
7 involves two defendants. The defendants who you will be
8 introduced to momentarily are Mr. Tracy Wade and Mrs. Carolyn
9 Wade, and this case involves, obviously, two defendants.

10 The law allows more than one defendant to be tried at
11 the same time. However, there are really two trials going on,
12 and you will have to make your factual findings with respect to
13 each defendant and each count. So when you retire to
14 deliberate, you consider the counts and the defendants
15 individually. So as I stated, two trials occurring
16 simultaneously, so please keep that in mind.

17 Now, I am going to give you some general information
18 about what this case involves so that you will be aware
19 generally of what's involved.

20 The lawyers this morning or early afternoon will be
21 making opening statements, and they will tell you what their
22 various positions are with respect to the evidence that you
23 will entertain in this case, but I'm going to tell you a little
24 bit about the counts now and what they involve.

25 Count I charges a conspiracy to commit wire fraud. A

1 conspiracy is an agreement. That doesn't mean that you
2 actually committed the act. It means that there was a meeting
3 of the minds amongst two or more persons to do something the
4 law forbids. So Count I in this case is a conspiracy alleged
5 against both defendants. And this wire fraud alleges that
6 there was an agreement in the attainment of PPP loans. You may
7 have heard that term before.

8 PPP stands for Paycheck Protection Program loans.
9 These were loans and a loan program during the COVID period.
10 You'll hear more about that. But it's alleged that there was
11 an agreement amongst the defendants to obtain funds from the
12 PPP program by making false and fraudulent statements. That
13 would be Count I.

14 Count II alleges -- II and III, actually, allege what
15 we call substantive counts. That means it's not an agreement
16 to do something. It means that something was actually done.
17 So you have your conspiracy, and you have the substantive
18 counts. And Count II alleges that Mr. Wade obtained funds
19 fraudulently and Count III alleges that Mr. Wade and Mrs. Wade
20 obtained funds fraudulently.

21 So once again, you're going to consider each count and
22 each defendant, and we'll have a verdict form that you use to
23 indicate what your findings are once you complete your
24 deliberations.

25 Count IV alleges a conspiracy; that is an agreement to

1 make false statements in connection with loans. And Count IV
2 is as against both defendants.

3 Count V alleges false statements were made to the Small
4 Business Administration. That's Count V as against Carolyn
5 Wade.

6 Count VI charges false statements were made to the SBA,
7 but the defendant in this case is Mr. Tracy Wade.

8 Count VII alleges false statements made to the SBA
9 involving Mr. Tracy Wade.

10 Count VIII, false statements to the SBA as to defendant
11 Carolyn Wade.

12 Count IX, false statements as against Carolyn Wade.

13 And Count X false statements as to Mr. Tracy Wade.

14 So those are the substantive counts. So you have some
15 conspiracy counts and some substantive counts.

16 Now, at the end of the case, I will give you your
17 instructions on the law. I will tell you what the law is in
18 this case, and you have to follow that law whether you agree
19 with it or not.

20 You know, we all have our own opinions about what the
21 law ought to be. I'm bound by that, too. I have my own
22 personal opinions, but when we're in a court of law, we have to
23 follow the law as it is.

24 I always tell prospective jurors if you have a problem
25 with the law, you need to contact your congressmen because they

1 make the law that all of us are bound by; so please, keep that
2 in mind as we go through the process.

3 Now, at this time, ladies and gentlemen, I am going to
4 have the parties introduce themselves to you. First, you are
5 going to get introductions from the Government, that is counsel
6 and those who may be assisting the lead counsel. And in
7 addition, they are going to tell you the names of the witnesses
8 that may be called or may not be, but they will give you a list
9 and they will tell you who these witnesses are employed by.

10 Listen carefully because I will ask you if you know any
11 of the persons introduced, including the witnesses, and/or if
12 you have any close working relationship with any of the
13 employers referenced. So listen carefully to the introductions
14 from the Government; and then after their introductions, I will
15 allow the defense counsel to introduce themselves and their
16 clients to you as well.

17 MR. SNIDER: Thank you, Your Honor.

18 Good morning, prospective jurors. Here, my name is
19 David Snider. I'm an Assistant United States Attorney, and I
20 work for the U.S. Attorney's Office for the Southern District
21 of Florida. I represent the United States America in this
22 case.

23 With me are two other members of the prosecution team,
24 and I'm going to let them introduce themselves.

25 MR. LOVE: Good morning. My name is Adam Love. I work

1 here at the United States Attorney's Office for the Southern
2 District of Florida, and I am also an Assistant United States
3 Attorney.

4 AGENT DIPIETRANTONIO: Good morning, everyone. My name
5 is Kelly Dipietrantonio. I'm a special agent with the FBI out
6 of the Miami field office.

7 THE COURT: All right.

8 MR. SNIDER: Thank you, Your Honor. And as Judge
9 Graham just mentioned, the Government has a number of witnesses
10 that it may call in this trial, and I'm going to go through
11 that list with you right now just to see if anyone is familiar
12 with any of these individuals.

13 The first person, her name is Althea Harris, and she
14 works for the U.S. Small Business Administration, which is
15 commonly referred to as the SBA.

16 The second witness is a Aman Thakral. He was
17 previously employed by a company called Oto Analytics, which
18 does business as Wombly.

19 The third witness or potential witness is Lindsey
20 Bergh. She works for a company called Persona Identities, Inc.

21 The next possible witness is Megan Musil. She works
22 for a company called Harvest Small Business Finance, LLC.

23 The next witness is Michael Friedman. He works for
24 SmartBiz Loans.

25 The next witness is Renee McClain, and she works for

1 the Internal Revenue Service. It's called I.R.S.

2 The next witness is from AT&T, Linda Thomas. Linda
3 Thomas works for AT&T.

4 The next witness is Dion Morrow, and he works for
5 Verizon.

6 Next is Joanna Hely, and she works for Broward
7 Sheriff's Office.

8 Also from the Broward Sheriff's Office is Alexander
9 Rodriguez.

10 The next witness is Rachel Dodd. She works for the
11 U.S. Small Business Administration as well, the SBA.

12 The next possible witness is Haydee Rivero. Her name
13 is spelled H-A-Y-D-E-E, Haydee Rivero. And she was formerly
14 known before she was married as Haydee Granados.

15 And the last witness for the Government, potential
16 witness is as a Kelly Dipietrantonio from the FBI.

17 THE COURT: Thank you very much, counsel.

18 Ladies and gentlemen, I would like to ask you at this
19 time if you recognize the names of any of the persons mentioned
20 including counsel?

21 Do you recognize any of those names as someone you may
22 be familiar with?

23 I see one hand. All right.

24 We're going to pass the microphone to you.

25 THE COURT: Your name, please?

1 PROSPECTIVE JUROR: My name is Sara Saba.

2 THE COURT: Saba. I'm looking at my chart. Ms. Diaz
3 is to your right; correct? Is that Ms. Diaz?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right. Thank you. Just making sure
6 our chart is accurate.

7 Ms. Saba, who are you familiar with?

8 PROSPECTIVE JUROR: I think this -- the attorney, the
9 district attorney -- I mean, the U.S. Attorney.

10 THE COURT: U.S. Attorney. And his name?

11 PROSPECTIVE JUROR: Was it David?

12 MR. SNIDER: David Snider.

13 PROSPECTIVE JUROR: I do Federal qui tam work.

14 THE COURT: I'm sorry, you do?

15 PROSPECTIVE JUROR: I do federal qui tam work.

16 THE COURT: All right.

17 PROSPECTIVE JUROR: Yeah, so I'm a plaintiff's lawyer,
18 and sometimes I bring on qui tam, and I have to reach out to
19 the U.S. Attorney's Office. So I think -- I don't know if
20 he's -- I'm familiar with his name or if -- I just deal with a
21 lot of different attorneys, and I don't want there to be any
22 conflict.

23 THE COURT: Do you recognize him by looking at him?

24 PROSPECTIVE JUROR: He doesn't really look familiar,
25 but I don't usually see them in person. Usually it's emails

1 and phone calls for a decision.

2 THE COURT: And what is it that you do with the U.S.
3 Attorney's Office?

4 PROSPECTIVE JUROR: I'm a qui tam attorney,
5 whistleblower attorney.

6 THE COURT: Yes.

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: Do you want to explain that to the members
9 of the jury who may not know what qui tam is?

10 PROSPECTIVE JUROR: Well, whenever there's a crime
11 against -- a fraud or false claim against the Government, then
12 what, as a U.S. citizen, we can do is bring a case through a
13 civil lawyer on behalf of the United States of America to go
14 ahead and collect on that.

15 THE COURT: All right. So you represent individuals in
16 civil cases; correct?

17 PROSPECTIVE JUROR: Correct.

18 THE COURT: All right. Now, having a working
19 relationship with the U.S. Attorney's Office, do you feel that
20 you could be a fair and impartial juror in this case, or do you
21 think that that could create some issues for you?

22 PROSPECTIVE JUROR: I think it may create an
23 impartiality, just at least the view of one.

24 THE COURT: All right. Thank you. You know, this is
25 the busiest trial district in the United States. I think we

1 have five or six juries going on today; so there's plenty of
2 work here, and you're probably better suited for one of those
3 other cases. So at the appropriate time, we will excuse you.
4 Thank you.

5 Anyone else familiar with any of the parties mentioned
6 or have a close working relationship with any of the business
7 entities referenced? For example, the Small Business
8 Association? Oto Analytics? Persona Identities? Harvest
9 Business? SmartBiz Loans? The Internal Revenue Service?
10 AT&T? Verizon? The Broward Sheriff's Office?

11 Any of you have a working relationship with any of
12 those businesses, or whether or not you know any of the
13 witnesses or attorneys referenced?

14 If so, would you raise your right hand.

15 I see one hand. Do you want to pass the microphone and
16 have the gentleman give us a name.

17 PROSPECTIVE JUROR: My name is Lee Pivnik.

18 THE COURT: Yes, sir.

19 PROSPECTIVE JUROR: I don't have a current working
20 relationship with the SBA, but I did apply for -- the company I
21 was working at and also my family's company applied for
22 Paycheck Protection Loans. So I'm not sure if you want --

23 THE COURT: Say that again, please. I want to make
24 sure I'm clear.

25 PROSPECTIVE JUROR: I assisted in the application of

1 PPP loans, and I'm not sure if that would qualify as
2 relationship with SBA.

3 THE COURT: We appreciate you telling us that. Let me
4 ask this question: Having some familiar with the PPP loans, do
5 you think that that would cause a problem with you being fair
6 to both sides, the defense and the Government?

7 PROSPECTIVE JUROR: I do not believe it would be
8 problem. It was important just to close.

9 THE COURT: Do you think you can listen to the evidence
10 and make decisions that are fair to both sides?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right. Thank you very much,
13 Mr. Pivnik.

14 PROSPECTIVE JUROR: Thank you.

15 THE COURT: All right. Anyone else?

16 Yes, Ms. Diaz.

17 PROSPECTIVE JUROR: I have a problem to understand all
18 you speaking in English. My English is very, very little or
19 very, very bad.

20 THE COURT: All right. I'm going to ask that a little
21 later; so I'll have you respond a little later during the voir
22 dire process.

23 Let me ask the question now: Have you understood
24 everything I was said this morning so far?

25 PROSPECTIVE JUROR: Repeat.

1 THE COURT: Thank you. I think you answered my
2 question.

3 All right. Anyone -- all right. I see a hand in the
4 rear.

5 PROSPECTIVE JUROR: Hi. I'm Lisandra Alejo, and I have
6 the same problem as her. My English is not perfect. It's just
7 basic. In my work, I can understand, but I feel scared that I
8 cannot be, like, partial with all the information you provide
9 because I can not understand everything.

10 THE COURT: You know, nowadays no one speaks the King's
11 English anymore. And so far, have you understood what I have
12 said about two trials going on at the same time and that sort
13 of information?

14 PROSPECTIVE JUROR: I can say 50/50.

15 THE COURT: All right. We'll come back to you a little
16 later, and I want you to listen carefully and let me know if
17 you are understanding what's happening.

18 I think you speak pretty good English, frankly, but
19 we'll entertain again.

20 MR. WILCOX: Your Honor, the name of that prospective
21 witness, I missed it.

22 THE COURT: I was just getting ready to ask it. Your
23 name again, please.

24 PROSPECTIVE JUROR: Lisandra Alejo. I'm Number 45.

25 THE COURT: Somehow we have you in the wrong seat.

1 Ms. Miller, would you stand, please?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: All right, Ms. Miller. Ms. Guia. Raphael.
4 Varela. McCray. Giraldo.

5 All right. Ms. Alejo, I'm going to have you go to the
6 far right seat. Somehow we have you in the wrong seat and on
7 the end; so the others may have to move down.

8 Yes. All right. I hope -- we'll find out. I hope we
9 have everyone in the proper seat.

10 All right. Anyone else? We have -- well, wait, I
11 think I see one hand in the -- I see, two hands. Let's try the
12 two hands in the spectator area first. Your name, please.

13 PROSPECTIVE JUROR: Olga Bustamante.

14 THE COURT: All right. Thank you.

15 PROSPECTIVE JUROR: I just want to say that my husband
16 has an SBA loan, and I don't know if I'm supposed to disclose
17 that.

18 THE COURT: Just the fact that your husband has an SBA
19 loan, the first question, was it an PPP loan or a different
20 type?

21 PROSPECTIVE JUROR: I'm not sure.

22 THE COURT: All right. Because your husband had a
23 loan, do you think that that would affect your ability to be
24 fair and impartial juror?

25 PROSPECTIVE JUROR: No, not at all.

1 THE COURT: All right. Thank you. There was one
2 additional hand.

3 Yes, sir. Your name please.

4 PROSPECTIVE JUROR: My name is Michael Babitz. I'm
5 Juror 26.

6 THE COURT: Yes, sir.

7 PROSPECTIVE JUROR: I just wanted to say I'm an
8 attorney with USDIS. I have worked with many USAs previously.
9 Although, I have not worked with either of those two USAs.

10 THE COURT: All right. What relationship have you had
11 with other assistant U.S. Attorneys?

12 PROSPECTIVE JUROR: Been a subject matter expert in
13 immigration and worked closely with USAs making sure that they
14 understand the legal issues that are involved in cases that
15 they bring before the Court.

16 THE COURT: Are those immigration cases or --

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: All right. Now, you work with the U.S.
19 Attorney's Office. Do you believe that that would have an
20 impact on your ability to be a fair and impartial juror?

21 PROSPECTIVE JUROR: I think that over all the years
22 that I've worked for the U.S. Attorney's Office, I have a huge
23 amount of respect for the professionals that work with them,
24 and, you know, that would color how I view things.

25 THE COURT: All right. So you're a lawyer; right?

1 PROSPECTIVE JUROR: Correct.

2 THE COURT: So you know how the system works. So you
3 don't think you can put all of that aside and listen to the
4 evidence and make decisions based on the law independent of any
5 relationship with the U.S. Attorney's Office?

6 PROSPECTIVE JUROR: I would absolutely do my best to be
7 impartial and make decisions based on the specifics of the
8 case, but I just thought I needed to reveal my relationship.

9 THE COURT: Oh, no, you did the right thing. We want
10 to know, but I guess just delving a little further. If you
11 hear testimony presented only by the Government and you hear
12 testimony presented by the defense, even though you're going to
13 find out defense don't have to present testimony, but could you
14 listen to both sides and be fair to both sides? Or would you
15 be thinking, "Well, I work with the U.S. Attorney's Office, so
16 they get the tie vote?"

17 What are your thoughts in that regard?

18 PROSPECTIVE JUROR: I think I would -- honestly, I
19 would want to do the best that I could. I've had so many years
20 of working with the USAs, and I just believe that -- that I
21 have a huge amount of respect for them. I don't work directly
22 with the other side. So I would absolutely do the best that I
23 could to be impartial. I'm not a hundred percent sure that I
24 could.

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

1 MR. McCRAY: Judge, may we approach sidebar, please?

2 THE COURT: All right. Come forward quickly, please.

3 (Sidebar.)

4 MR. McCRAY: This is John McCray on behalf of Mr. and
5 Mrs. Wade. Judge, we're going to ask for a mistrial at this
6 point. I ask that we have these jurors removed and bring us
7 some more jurors. This gentleman has stated twice in the
8 presence of the other jurors about the huge amount of respect
9 that he has with the USAs. Also, we just feel as though that's
10 probably tainted the jury.

11 THE COURT: Yes, sir, I understand your objection.
12 Your objection is overruled. We're making inquiries as to
13 whether persons can be fair. And if you want to ask some more
14 questions in that regard, you may during your opportunity to
15 question them.

16 And if you request, I'll ask the other jurors is there
17 anyone that feels the same way or something in that regard.

18 MR. McCRAY: I would make that request, judge.

19 THE COURT: Anything else?

20 MR. McCRAY: No, Judge. Thank you.

21 (Sidebar concluded.)

22 THE COURT: Anyone else in the spectator area on this
23 subject? I know that there's one hand in the box. So let's go
24 to --

25 PROSPECTIVE JUROR: Hello. My name is Jimmy Rivera,

1 and I got -- I'm an accounting firm. I'm a partner. And I got
2 a partner in the office, and I applied for a PPP, and we got it
3 with the SBA. I just wanted to inform you of that.

4 THE COURT: So you applied for a PPP loan; so you're
5 familiar with the system?

6 PROSPECTIVE JUROR: Correct.

7 THE COURT: Is there anything about that that would
8 cause you to be unfair and not a person who can be impartial in
9 considering the evidence?

10 PROSPECTIVE JUROR: No. No.

11 THE COURT: You will listen to both sides?

12 PROSPECTIVE JUROR: Correct.

13 THE COURT: All right. Thank you. All right. We have
14 one -- go right ahead.

15 PROSPECTIVE JUROR: My name is Abigail Fisch. I as
16 well was independent at the time, and I had an SBA loan and
17 received a PPP. I can be impartial in that process. I also
18 want to be transparent. I'm not sure if I know Mr. Love or
19 just the name. So no personal relationship. Name sounds
20 familiar, but I just want to make sure.

21 THE COURT: You may know Mr. Love?

22 PROSPECTIVE JUROR: I don't know that I do. I just
23 know the name. I don't know -- I apologize, my husband is a
24 rabbi, and so oftentimes I'm exposed to a lot of names and a
25 lot of people, so I don't know if that's the case. That could

1 be.

2 THE COURT: Is there a particular temple that you
3 attend where you would see Mr. Love?

4 PROSPECTIVE JUROR: There are two potential synagogues,
5 yes.

6 THE COURT: All right. Mr. Love, could you possibly be
7 the person?

8 MR. LOVE: Your Honor, thank you very much. I do not
9 recognize Juror Number 9, Ms. Fisch. No familiarity. And I
10 don't attend any temples here in the Miami-Dade area.

11 THE COURT: All right. Thank you. We have one more
12 juror.

13 PROSPECTIVE JUROR: Hi. My name is Yusdaliencys
14 Osorio. I say, too, my English is not very good. Oh, it's
15 pretty important this moment, but I don't understand
16 everything.

17 THE COURT: All right. How long have you been here in
18 the United States?

19 PROSPECTIVE JUROR: 10 years.

20 THE COURT: 10 years?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: Do you work?

23 PROSPECTIVE JUROR: Yeah.

24 THE COURT: And where do you work?

25 PROSPECTIVE JUROR: I live in doctor office, but at

1 this moment, I'm working at the school.

2 THE COURT: Do you speak English at the school?

3 PROSPECTIVE JUROR: My English is a little good, but I
4 think that this moment important that I don't understand
5 everything.

6 THE COURT: All right. Have you understood our
7 interchange, me speaking to you?

8 PROSPECTIVE JUROR: A little.

9 THE COURT: Just a little?

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: Sounds pretty good to me, but --

12 PROSPECTIVE JUROR: Just a little. My English is a
13 little.

14 THE COURT: Have you served as a juror previously?

15 PROSPECTIVE JUROR: No.

16 THE COURT: All right. We'll come back to you. We'll
17 see -- listen carefully, and I may ask you a little later once
18 I explain some of the legal principles which are very
19 important.

20 All right. So, ladies and gentlemen, you heard one
21 prospective juror say that he would be a little concerned about
22 being fair to both sides because he has worked with some of the
23 attorneys at the U.S. Attorney's Office, for example.

24 So is there anyone else who feels that way?

25 So just a few pointers, you know. When we have trials

1 oft times there may be law enforcement officers who are
2 assisting the Government or sometimes assisting the defense,
3 and we advise jurors that just because of the status of a
4 person that doesn't make them any more believable than anyone
5 else.

6 You listen to the evidence. You compare the testimony
7 of the witnesses. And you use your common sense, and you make
8 your decisions about the veracity of a person in that regard
9 not because they may be a police officer or a doctor or a
10 lawyer or any other profession. We make decisions after
11 evaluating the testimony.

12 Now, I want to be sure that there is no one who thinks
13 that the U.S. Attorney's Office gets more credence than the
14 defense attorneys. Or some people may think I give more
15 credence to the defense attorneys compared to Government
16 counsel. We're trying to get referees who can call it right
17 down the middle.

18 So those of you who may have watched the Dolphin game
19 yesterday, you know when the referees make a call against the
20 home team, you hear a lot of boos in the spectator area, right?
21 That's because we're partisans. We want the home team to win.
22 We're not really too concerned if there's a foul or not. We
23 have an interest. That's being a partisan. We're trying to
24 pick referees. So that's the important point.

25 So just generally speaking, other than those we have

1 already talked to, is there anyone who thinks they could not be
2 a fair and impartial referee?

3 If so, would you raise your right hand.

4 So let me give you another example. You heard
5 something about a potential witness working with the Internal
6 Revenue Service.

7 Now, some of us have to write a check every April 15th,
8 right, and you may not like the I.R.S., but that doesn't
9 necessarily mean you can't be fair and impartial to the
10 Government because they call a witness who works for the I.R.S.
11 That's the point we're trying to make. Our goal is to pick
12 fair and impartial persons just as if you would want a fair and
13 impartial person sitting in judgment of a friend or relative
14 or you, yourself. You want to be fair. That's our goal to get
15 fair and impartial jurors.

16 So if you have an issue at all -- as I said, we've got
17 five juries going on today. We can have you go downstairs, and
18 maybe a civil case might be better for you. We won't be upset
19 if you're honest with us in that regard. So please keep those
20 pointers in mind.

21 So now, ladies and gentlemen, I would like to cover
22 some legal principles, and the first area is whether or not any
23 of you have served as a juror on a prior occasion. If you
24 served as a juror on a prior occasion, will you raise your
25 right hand. Okay, a few.

1 If you recall, did you serve on a civil case or a
2 criminal case? How many served on a civil case? So civil
3 cases: Car accident, medical malpractice, that sort of thing,
4 contract dispute, many civil cases. And most of our civil
5 cases in state court are downtown in the courthouse, the
6 Dade County Courthouse on Flagler Street. The State criminal
7 cases are generally over on 12th Avenue, all right.

8 And federal cases could be in this complex because we
9 handle criminal and civil cases. So that may give you a
10 reminder.

11 Let me ask: How many have served as the foreperson of
12 a jury? If so, would you raise your right hand.

13 All right. We have one former foreperson.

14 How many have served on the military courts-martial?
15 If so, would you raise your right hand.

16 And how many of you have served on a grand jury? If
17 so, would you raise your right hand.

18 So I ask these questions so that we can explain the
19 different burdens of proof we have in our judicial system. And
20 I'm going to give you an opportunity, those of you who have
21 actually served on a jury to give us a little information about
22 your service. But if you serviced on a civil case, there was a
23 burden of proof that you had to follow, and that burden of
24 proof was by a preponderance of the evidence.

25 The term preponderance of the evidence means more

1 likely than not. So the proponent or the plaintiff or the
2 person who's filing the civil lawsuit, they have to convince
3 you by a preponderance of the evidence in order to prevail more
4 likely than not.

5 Now, if we wanted to quantify that term, it would be
6 greater than 50 percent. They would have to satisfy you 50.1
7 percent or greater that their position is the correct position.
8 That's a civil case.

9 This is not a civil case. This is a criminal case.
10 And the burden of proof is much higher in criminal cases. Many
11 of you know the burden of proof in a criminal case is proof
12 beyond a reasonable doubt. That's the highest burden we have
13 in our judicial system, and that's because liberty is at stake.
14 So we want to have a higher burden of proof, and that's the
15 burden of proof that you will be utilizing in this case. And
16 during the instruction phase, I will give you specific
17 information as to how to define proof beyond a reasonable
18 doubt.

19 Now, I asked if some of you have served on a grand
20 jury? And Grand Juries utilize the lowest burden of proof.

21 Does anyone know what that burden of proof is in grand
22 jury service?

23 It's probably cause, something probably happened.
24 That's a lower burden than by a preponderance and substantially
25 lower than proof beyond a reasonable doubt. So keep that in

1 mind as we go through this case.

2 Now, those of you who have prior jury service, we're
3 going to pass the microphone from left to right in each row;
4 and if you have prior jury service, there's some questions I
5 would like for you to answer.

6 If you have no prior jury service, simply pass the
7 microphone to the next person. You don't have to say anything.
8 So I would like to know if you served on a civil case or a
9 criminal case; if it was in state court or federal court; if
10 the jury reached a verdict -- and we don't want to know what
11 the verdict was, just yes or no, we reached a verdict, or yes
12 or no, you didn't reach a verdict; and if you served as the
13 foreperson, as one gentleman raised his hand, tell us that you
14 served as the foreperson.

15 So we're going to pass the microphone down the line.
16 And do you remember -- do you want me to repeat the questions
17 again or you got it the first time?

18 PROSPECTIVE JUROR: Repeat them again just in case.

19 THE COURT: All right.

20 PROSPECTIVE JUROR: Well, my name is Jose Ramos. I
21 served on a civil court, civil case down on Flagler Street.

22 THE COURT: Yes, sir.

23 PROSPECTIVE JUROR: And we reached a verdict.

24 THE COURT: All right.

25 PROSPECTIVE JUROR: And I wasn't the foreman. Is that

1 it?

2 THE COURT: That's it, perfect. Next person. Anyone
3 else in the first row? Let's go now to the second row in the
4 box.

5 Anyone who has prior jury service? Anyone?

6 No.

7 All right. Let's go to the spectator area: First row,
8 anyone? No.

9 Your name first, please.

10 PROSPECTIVE JUROR: Yes, Olga Bustamante.

11 THE COURT: Yes.

12 PROSPECTIVE JUROR: I served in a civil, criminal,
13 and --

14 THE COURT: All right. Now, civil or criminal?

15 PROSPECTIVE JUROR: Civil once. Criminal in the state
16 criminal once, and in the federal criminal once.

17 THE COURT: All right. Welcome back.

18 PROSPECTIVE JUROR: And we had a verdict for all three.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR: My name is Hernan Vera. I served
21 as a juror foreman in a criminal case in state court Alachua
22 County.

23 THE COURT: And you arrived a verdict?

24 PROSPECTIVE JUROR: We reached a verdict.

25 THE COURT: Thank you. Anyone else in that row?

1 PROSPECTIVE JUROR: Good morning. Tammie Williams,
2 civil case, Flagler. We did reach a verdict. Not a
3 foreperson.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR: Hi. Good morning. My name is
6 Cesar Gonzalez. Civil case. We reached a verdict.

7 THE COURT: In State court or Federal?

8 PROSPECTIVE JUROR: Civil.

9 THE COURT: State or federal?

10 PROSPECTIVE JUROR: Oh, State.

11 THE COURT: Yes, sir. Thank you.

12 PROSPECTIVE JUROR: Francia Espinosa. I served on a
13 criminal case in Miami-Dade.

14 THE COURT: All right. You served on a criminal case
15 in --

16 PROSPECTIVE JUROR: Criminal case, yes. It was a
17 mother of the decedent. It was here case. State.

18 THE COURT: State court or federal court?

19 PROSPECTIVE JUROR. State.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR: Hello. Good morning. My name is
22 Sandra Miller. I served in State criminal court. We did not
23 reach a verdict because -- we did not reach a verdict.

24 THE COURT: Don't tell us why. Your name again,
25 please?

1 PROSPECTIVE JUROR: Sandra Miller, Juror 39. And also
2 civil State court. We did reach a verdict.

3 THE COURT: All right. And welcome back to you.

4 All right. Anyone else who has prior service who has
5 not had an opportunity to tell us about it?

6 Okay. All right. Let's go to some principles that
7 many of you are familiar with.

8 These are principles related to criminal cases. And
9 the first principle is that any person who is accused of a
10 crime is innocent, and you must presume innocence until you
11 start your deliberations at the very end of the case.

12 So as the defendants, Mr. Wade and Mrs. Wade, are
13 seated here today, you must presume that they are innocent of
14 the allegations in the indictment. And as stated, that
15 presumption of innocence remains in effect until you have heard
16 all of the evidence, received all of the instructions, and
17 listened to all of the arguments of counsel. At that time you
18 begin formulating innocence or guilt.

19 Now, is there anyone who believes they could not follow
20 that instruction on the law? If you think you cannot follow
21 that instruction, we want you to raise your right hand at this
22 time.

23 All right. The next principle, ladies and gentlemen,
24 is that a defendant -- they're called defendants. It's not
25 anything sinister. It's just the term we use to identify

1 people who are charged with having committed an offense. And
2 that guilt of a person cannot be found guilty -- or the person
3 can't be found guilty unless guilt is proved beyond a
4 reasonable doubt. I've mentioned that previously, and we will
5 discuss it in more detail during the instruction phase.

6 Is there anyone who cannot fully accept this principle
7 of law? That is, that a defendant can't be found guilty unless
8 guilt is proved beyond a reasonable doubt? Anyone who can't
9 follow that instruction, raise your right hand.

10 Seeing no hands.

11 In our criminal justice system, the constitution states
12 that a defendant does not have to testify on his or her own
13 behalf unless they elect to do so, and you can't draw any
14 inferences from that. In other words, you can't say, "Well,
15 one defendant didn't testify; I wanted to hear from that
16 person, so I'm going to hold that against him." You can't do
17 that.

18 Individuals elect not to testify for many, many
19 different reasons; and you may not speculate about why a person
20 elected not to testify. Just keep in mind you make decisions
21 based on that which is presented to you, not whether the
22 defendant took the stand or not.

23 Now, if a defendant elects to take the stand, you use
24 the same rules in judging credibility, which I will talk to you
25 about a little later, but keep in mind a person doesn't have to

1 testify. Is there anyone who believes they could not follow
2 that instruction on the law?

3 Now, in our system of justice a defendant can be found
4 guilty based upon evidence presented in open court. So a lot
5 of you may have had similar experiences. Some of you have been
6 involved with PPP loans on prior occasions. You can't consider
7 the outcome of that case or anything about another case, or
8 maybe you read something in the newspaper about PPP loans, or
9 maybe a television show or a movie or what have you, you can't
10 consider any of that. You have to block all of those things
11 out of your mind.

12 Now, I'm not saying you can't use your common sense,
13 but you must base your findings on evidence presented here in
14 open court in the presence of all of us and not something that
15 someone told you about a case or the other examples that I gave
16 you.

17 Is there anyone who thinks that they would not be able
18 to follow that instruction on the law?

19 We talked earlier about the law and the fact that we
20 have to follow the law as presented. We all have our notions
21 about what the law ought to be, and we talk to our friends
22 about it. When elections are coming up, some of the questions
23 are going to be about you think about a particular law, that's
24 perfectly fine; and in a democratic society, we should have
25 discussions about what the law ought to be and what Congress

1 should implement or not as the law.

2 But when you're in a formal courtroom setting in the
3 trial of individuals, you must follow the law as I present it
4 to you. There are two judges in this courtroom. There's a
5 judge of the facts; that will be you if you are selected to
6 serve.

7 And then there's a judge of the law; that would be me;
8 and I will tell you what the law is in this case. And this is
9 important. You follow the law as presented.

10 Is there anyone who has such strong notions about what
11 the law ought to be that you might be inclined to follow that
12 law rather than what I tell you the law actually happens to be?
13 Is there anyone who has such strong notions?

14 All right. Seeing no hands.

15 We've talked extensively about people being impartial,
16 and I want you to keep that in mind. We're trying to select
17 persons who can be fair and impartial to both the defendants
18 and to the Government. That's what our justice system is all
19 about.

20 Now, I have told you a little bit about what the case
21 involves just generally. Let me tell you what the case does
22 not involve.

23 The case does not involve your own personal opinions
24 about different laws. Especially in this case, on the PPP
25 loans or whether someone has made a false or fraudulent

1 statement. Those are all items that you must follow the law in
2 deciding. It has nothing to do about how I or you personally
3 think about any social problems or any laws or anything else.

4 Your job is as a referee to sit here and listen to the
5 evidence, the testimony of witnesses, the documents being
6 introduced, to review that, to listen to the witnesses and
7 determine their credibility. That's their believability. And
8 make a decision as a fair and just referee. That is your goal.

9 Now, this case will be tried this Monday, today,
10 through Thursday, and next week Tuesday through Friday. Now,
11 we may finish a little later. I don't think so. We may finish
12 a little earlier than those days. But we likely will take the
13 two week term. And hopefully we don't have any weather issues
14 which interrupts our schedule, but keep that in mind as I ask
15 whether anyone has any special or unique disabilities.

16 Sometimes we have individuals who have hearing issues,
17 and we have some special devices that we can provide. We can
18 try to resolve most problems. But some we need you to tell us
19 about, and we need you to tell us now. Do not wait until we
20 select jurors and then you raise your hand and say, "Oh, by the
21 way, I'm having a significant issue on Wednesday," because at
22 that time, it's too late for me to do anything about it after
23 you've been selected.

24 So if you have a special or unique problem, we want you
25 to tell us about it. Now, some of you told us earlier that you

1 thought language might be an issue. So you've heard me explain
2 some of the legal principles and other matters.

3 I'd like to see if anyone still feels that they're
4 language problem -- that is, the ability to understand clearly
5 the English language is an issue such that you couldn't be fair
6 to the parties, raise your hand again.

7 Some of you -- we talked about this earlier. You may
8 have listened. It's not going to get any more complicated than
9 I have explained to you. This is not a highly technical case
10 with scientific principles, et cetera. So is there anyone who
11 believes that they have a language issue, we want you to raise
12 your right hand at this time.

13 All right, seeing no hands. I'm pleased that you
14 understand because we really do want you to serve.

15 Now, jury service is important. It's a condition of
16 citizenship. We have certain obligations as citizens. We
17 should vote. We should serve as a juror. The country makes
18 certain demands on us. Now, fortunately, we don't have the
19 draft system anymore, and those who are in our military
20 services are there because they choose to be there.

21 There was a time when people just got picked to go to
22 Vietnam or your parents to World War II or the Korean War,
23 et cetera. We're not going to make that kind of demand on you.

24 But we are going to ask you to serve and serve
25 willingly for the next few weeks as one of the duties you have

1 as a citizen, and we want you to serve, and we want you to
2 serve willingly.

3 I know when you received the summons in the mail, some
4 of you probably hesitate, sigh and say, "Oh, my, we have to go
5 downtown; we're going to sit around."

6 You're not going to sit around. We start on time, and
7 we finish on time, and that's a promise I'll make to you. But
8 at the same time, we want you to be here on time so that you
9 can leave on time. So we want you to serve if selected.

10 Now, I see one hand. Yes, pass the microphone.

11 PROSPECTIVE JUROR: Good morning. Juror 14, Lourdes
12 Ermer. I may have an issue given the time that this jury might
13 take, the trial. I have a planned trip to attend a religious
14 retreat commencing next Friday, the 18th; and I would have to
15 leave by 3:00 at the latest. So if that's an issue then I --

16 THE COURT: All right. Your name again?

17 PROSPECTIVE JUROR: Lourdes Ermer.

18 THE COURT: All right, Ms. Ermer.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: You must be out by 3:00 p.m. on the 18th,
21 and I'm -- if there's a problem, we'll be able to resolve it.
22 I don't think that's going to be a problem. I'm a little
23 concerned about the weather, but we'll see how that works out.

24 All right. I see one more hand in the box and then
25 we'll go to the spectator area, maybe two hands here. Yes.

1 PROSPECTIVE JUROR: Good morning. I'm Juror Number 4,
2 Carolina Cuarezma. I might have an issue, too, this week
3 because I have family coming over today. They actually --
4 they're coming over from abroad, and we have plans this week to
5 go on vacation. Unfortunately, there's the weather, but we
6 already have plans, and I have family coming over today. As a
7 matter of fact, they're at the airport from where they're
8 coming from right now.

9 THE COURT: So I think what you're telling me is that
10 you would like to serve at a different time than this week?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right.

13 PROSPECTIVE JUROR: Please. Thank you.

14 THE COURT: All right. We will look forward to seeing
15 you soon.

16 PROSPECTIVE JUROR: And no, because I would like to
17 speak to him in private.

18 THE COURTROOM DEPUTY: She wants to speak in private
19 afterwards.

20 THE COURT: We hear you; and if we need to address that
21 further, we will have you come sidebar, all right.

22 Anyone else with a special -- remember your obligation
23 is to serve for next two weeks but special or unique issues,
24 we're willing to listen.

25 PROSPECTIVE JUROR: Juror Number 2, Israel Aragon

1 Bravo. The only thing I have is just a doctor's appointment
2 today at 3:30; so I might sneak out by 3:00. That's the only
3 thing for the next two weeks.

4 THE COURT: Where is your appointment?

5 PROSPECTIVE JUROR: It's in Miami Beach. It's about
6 20 minutes away.

7 THE COURT: All right. We will keep that in mind. So
8 that means you would have to leave here by 3:00?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Do you know how long your doctor's office
11 is open? In other words, do we have 4:00 or 4:15 or 4:30
12 appointments?

13 PROSPECTIVE JUROR: I think they might be open as late
14 as 5:00 perhaps.

15 THE COURT: All right. So here's what we will do.
16 During our break which we will take in a few minutes. Who is
17 ready for a restroom break?

18 Okay. Just one hand is enough. So give us your
19 doctor's name and office, and we will see if we can get a
20 little later appointment; but if we can't, then we'll work with
21 you. All right.

22 So we're going to oh -- I'm not sure if I should take
23 the break now or we'll entertain the questions. Some of you
24 look pretty serious when you raise your hand. Let's take a
25 short break now, use the facilities, come back as quickly as

1 you can. And look at the seat you're in now. Be sure you come
2 back and sit in the seat that you're in now, and we will resume
3 as quickly as we can.

4 We are in recess.

5 (Prospective jurors exited courtroom at 11:17 a.m.)

6 (Recess taken from 11:17 a.m. to 11:36 a.m.)

7 (Prospective jury entered courtroom at 11:36 a.m.)

8 COURTROOM DEPUTY: Everyone can be seated. Everyone
9 can be seated. Court is back in session.

10 THE COURT: Please be seated. We are going to
11 continue. I was asking if anyone had a special or unique
12 situation that you should tell us about.

13 And we contacted your doctor's office, and we'll give
14 you some more particulars, but you're all set. You have to be
15 there by 4:30, and we're going to make sure you're there by
16 4:30.

17 All right. Any special -- I'm seeing too many hands.
18 All right. What's up?

19 PROSPECTIVE JUROR: Your Honor, just in case this trial
20 prolongs, extends more than two weeks, I have a trip planned
21 out for the 24th --

22 THE COURT: 24th?

23 PROSPECTIVE JUROR: -- just in case. Yes.

24 THE COURT: We're all in trouble if that happens.

25 PROSPECTIVE JUROR: I just thought I would ask. Thank

1 you.

2 THE COURT: You're going to be fine, yes, sir.

3 Give us your name.

4 PROSPECTIVE JUROR: Abigail Fisch again. Next week is
5 another Jewish holiday, Sukkot. It begins on sundown on
6 Wednesday, the 8th, and goes until Thursday. My issue is my
7 children's school.

8 THE COURT: Wednesday night through --

9 PROSPECTIVE JUROR: Through Thursday would be the
10 issue.

11 THE COURT: So Wednesday is not a problem. It's
12 Thursday that's the problem. Not problem but other
13 obligations.

14 All right. Thank you. We'll work on that.

15 PROSPECTIVE JUROR: My issue is childcare. I drop off
16 my daughter and pick her up, and I have to be at her school at
17 3:00 every day.

18 THE COURT: No one else who can help you out?

19 PROSPECTIVE JUROR: No. My husband has patients and he
20 ends around 6:00.

21 THE COURT: Well, tell him your jury service is more
22 important.

23 All right. Thank you very much. Where is your child
24 or children in school? Is it nearby.

25 PROSPECTIVE JUROR: In South Miami.

1 THE COURT: South Miami, all right. Thank you.

2 Yes.

3 PROSPECTIVE JUROR: Hi. Carla Trinidad -- similar. My
4 husband's traveling next week; and normally, my backup is my
5 mother-in-law, but she's in Texas until the 15th.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR: So I'm stuck.

8 THE COURT: Thank you, Ms. Trinidad.

9 PROSPECTIVE JUROR: Jimmy Rivera.

10 THE COURT: Just one moment. I will be right with you.
11 All right, yes, sir.

12 PROSPECTIVE JUROR: Yeah, I'm working at an accounting
13 firm, and I'm the owner, I'm a partner. And the due date of
14 taxes is the 15th for extensions, and that would be a conflict
15 for me. The 15th is the due date for the companies, 11-20s and
16 personal taxes.

17 THE COURT: The 15th of this month?

18 PROSPECTIVE JUROR: Yeah, we've got some appointments
19 for some customers.

20 THE COURT: All right. We'll get back with you. Thank
21 you for bringing that to our attention.

22 Yes.

23 PROSPECTIVE JUROR: Hi. My name is Samantha Loynaz.
24 I'm Number 6. Mine was also in case it gets extended. I'm
25 leaving the 24th, but that's -- I you said that probably

1 wouldn't happen. So...

2 THE COURT: So the 24th is the issue?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: All right. And what is the problem?

5 PROSPECTIVE JUROR: I'm leaving on a trip. We have a
6 preplanned trip.

7 THE COURT: Vacation or --

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: All right. We'll see what we can do.

10 Anyone else in the box?

11 Stand and give us your name.

12 PROSPECTIVE JUROR: Adrian Arvesu. I'm Number 29.

13 THE COURT: Yes, sir.

14 PROSPECTIVE JUROR: I will be joining the U.S. Army
15 Officer Program sometime by the end of year. If this case
16 extends beyond two weeks, I fear that I may not be able to
17 attend due to the fact that I have two physical fitness exams
18 for the Army scheduled this week.

19 THE COURT: We're not going to interfere with that for
20 sure.

21 PROSPECTIVE JUROR: Well, I also don't know when I'm
22 going to be called.

23 THE COURT: I understand.

24 PROSPECTIVE JUROR: I'm signing for my contract.

25 THE COURT: So if, at some point in time, an issue

1 arises, bring it to our attention as soon as you possibly can.

2 PROSPECTIVE JUROR: Thank you.

3 THE COURT: Anyone that wants to go into the Army,
4 we're going to let you go.

5 Yes, sir.

6 PROSPECTIVE JUROR: It's no Army or children, but I'm a
7 working artist and that means my income is incredibly
8 unpredictable, but next week is the show I've been working
9 towards for a year and I've invested \$10,000 towards it and
10 it's not done yet. So I slept about four hours this weekend.
11 And I fear that both the financial obligations of the show next
12 week and the fact that I am not in a great mental place for
13 myself right now, let alone taking the care this case needs, I
14 would like to request a postponement of service.

15 THE COURT: Where is your art show?

16 PROSPECTIVE JUROR: It's in the design district.

17 THE COURT: All right. And that's next week. Is there
18 a particular day or days?

19 PROSPECTIVE JUROR: It opens next Thursday and supposed
20 to begin installing it Monday.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR: Thank you, Your Honor.

23 PROSPECTIVE JUROR: Mike Babitz. I have a similar
24 issue to the young lady that spoke previously next Thursday and
25 Friday is the Sukkot holiday, and I would be expected to be

1 part of a religious service during those days.

2 THE COURT: All right, Mr. Babitz. Thank you.

3 Next.

4 PROSPECTIVE JUROR: Good morning, Your Honor. My name
5 is Susy Gomez, Juror 25. My only concern is I have a doctor's
6 appointment next Thursday at 8:30 a.m. I have rescheduled it
7 three times already, so that's my only concern.

8 THE COURT: All right. 8:30 next Thursday. And do you
9 know how long the appointment will be?

10 PROSPECTIVE JUROR: No more than an hour, half an hour
11 tops.

12 THE COURT: Where is it location-wise?

13 PROSPECTIVE JUROR: Kendall.

14 THE COURT: In Kendall. Kendall is a long journey
15 nowadays. I remember when it was 30 minutes. Not the case
16 anymore.

17 PROSPECTIVE JUROR: Thank you.

18 THE COURT: All right. Thank you. If you're selected,
19 be sure you keep us aware of your Thursday appointment. We can
20 handle that.

21 PROSPECTIVE JUROR: Hi. My name is Sheila Chung, 37.
22 I had plans to be away out of town next week, Friday, the 18th.

23 THE COURT: And is this vacation or --

24 PROSPECTIVE JUROR: Well, it's my granddaughter's first
25 birthday, so I had planned to be away for that.

1 THE COURT: And will you be leaving on the 18th or --

2 PROSPECTIVE JUROR: I would be leaving Thursday night,
3 so I had planned not to be here on Friday.

4 THE COURT: And how far away are you traveling?

5 PROSPECTIVE JUROR: Melbourne. Hopefully, they're not
6 blown away.

7 THE COURT: All right. Thank you.

8 PROSPECTIVE JUROR: Good morning, Your Honor. Juror
9 Number 42, Jack Varela. I work for the Miami-Dade Aviation
10 Department, and I'm under a critical role, which is
11 communications. I handle communications for the airport. And
12 with the storm coming and facing all the flight delays and
13 cancellations, I -- it's going to be tough for me to stick
14 around for this.

15 I also have two boys, 12 and 13 that I drop-off in the
16 morning, two different schools across town. One Belen Jesuit
17 and the other at Miami Middle. I also care for my 95-year-old
18 mother who's in delicate condition right now, so that's my
19 situation.

20 THE COURT: All right. And your work-regulated issues
21 are this week, correct?

22 PROSPECTIVE JUROR: This week and -- well, for the most
23 part, yeah. A lot of flights get redirected. When the flights
24 up north get affected, we get affected down here; and it causes
25 a major problem at the airport, and I handle a lot of that.

1 THE COURT: Do you know Mr. James St. Louis?

2 PROSPECTIVE JUROR: He sound familiar, yes.

3 THE COURT: Mr. St. Lewis was our former IT director
4 whom you-all took away from us.

5 PROSPECTIVE JUROR: We have Mr. Maurice Jenkins there.
6 I report to the director's office.

7 THE COURT: I have think about this one, but thank you.

8 PROSPECTIVE JUROR: Okay, thank you.

9 PROSPECTIVE JUROR: Good morning. Sandra Miller, Juror
10 Number 39. I'm currently working in a project for a company in
11 Mexico, in Mexico City. And I do have a flight to go back on
12 Saturday, the 12th. It's kind of important that I go back
13 because we're in the middle of a public tender that I do have
14 to finish paperwork for, and they are expecting me to be back
15 on Monday.

16 THE COURT: Cannot be back on Monday is what you said?

17 PROSPECTIVE JUROR: On Monday, yeah. So I booked a
18 flight to go back on Saturday, the 12th, I do have a flight.

19 THE COURT: Make sure you check with Mr. Varela to see
20 if you can actually get out on a plane.

21 PROSPECTIVE JUROR: Hopefully.

22 THE COURT: Okay, thank you.

23 PROSPECTIVE JUROR: My name is Laura Fernandez, Juror
24 Number 38. I have a preplanned trip for Monday that I had
25 planned for awhile.

1 THE COURT: Is this vacation?

2 PROSPECTIVE JUROR: Yes. It's for three days. It's
3 not until Wednesday.

4 THE COURT: All right. We will take a look at that. I
5 have to tell you personal vacations go a little further down
6 the line, but we will see if we can accommodate you.

7 All right. Do we have anyone else who has an issue?
8 So let me tell you what our goal is.

9 We're going to try to finish this selection process by
10 1:00 so that those who are not selected I can excuse you, but
11 we'll have to see how we do. That's sort of my signal to the
12 lawyers to pick it up a little bit but do the best you can.

13 We are going to have the attorneys ask questions at
14 this time, ladies and gentlemen. Listen carefully to their
15 questions and try and respond as directly as you possibly can.
16 Keen in mind, we're trying to select those who can be fair and
17 impartial.

18 Government.

19 MR. SNIDER: Thank you, Your Honor. And good morning
20 again to all of the prospective jurors.

21 My first question is this: Does anyone have any
22 beliefs or convictions whether moral, religious, philosophical
23 or otherwise that you think would prevent you from being a fair
24 and impartial juror in this case, or that would make it
25 difficult for you to render a verdict based solely on the

1 evidence that you hear in this case? Does anyone feel that
2 because of some particular belief they have that they wouldn't
3 be able to follow the Court's instruction and listen to the
4 evidence and render a verdict just based on the evidence?

5 Yes, ma'am. Can you identify yourself by your name.

6 PROSPECTIVE JUROR: Juror 40. Yes, it's just based off
7 ethical beliefs. So after hearing the case and hearing whether
8 there is evidence or not, I just believe ethically what was
9 done, whether it was predetermined or actually done itself, I
10 just don't think that that is the right thing to do. Me being
11 a business owner as well knowing the process that it takes, I
12 just don't feel like -- some people do it fairly. Some people
13 don't. So I don't think ethically I would be able to give a
14 correct answer.

15 MR. SNIDER: So you're saying you don't think based on
16 your own experiences in the business -- you said you're a
17 business owner?

18 PROSPECTIVE JUROR: Yes.

19 MR. SNIDER: So based on your experience as a business
20 owner, you don't think you will be able to put your personal
21 feelings aside to render an impartial verdict based on the
22 evidence?

23 PROSPECTIVE JUROR: That's correct.

24 THE COURT: Go ahead, I'm sorry.

25 MR. SNIDER: Is there a particular -- is there a way

1 that you are -- you would mean one way or the other that makes
2 it difficult -- what is the way you think your beliefs --

3 PROSPECTIVE JUROR: Yeah, I believe it's wrong if
4 that's what you're asking me.

5 MR. SNIDER: What do you think is wrong?

6 PROSPECTIVE JUROR: The act of fraudulent and/or
7 misinformed information.

8 MR. SNIDER: Okay.

9 PROSPECTIVE JUROR: That was applied and also just the
10 act of fraud in general. I believe that as a business owner
11 when you're applying or when you're seeking a loan, in my own
12 experience, just providing the most honest information as
13 possible, whether you're able to obtain or not obtain, that's
14 what I would be having difficulty.

15 MR. SNIDER: You understand that the allegations and
16 the charges that the Court read are simply allegations.

17 PROSPECTIVE JUROR: Yes.

18 MR. SNIDER: And that all the defendants are presumed
19 innocent, and they remain innocent unless and until the
20 Government proves its case beyond a reasonable doubt. Do you
21 understand that?

22 PROSPECTIVE JUROR: I understand that.

23 THE COURT: Can you follow that instruction? In other
24 words, can you listen to the evidence and make a decision based
25 on the evidence, not on what with the charges are?

1 PROSPECTIVE JUROR: I will try my best; but, ethically,
2 that's where I was coming from. Just knowing where I stand
3 personal reasons and my beliefs that will, I know, sway my
4 decision; but I will try based off the evidence. I just know
5 ethically I will be swayed.

6 THE COURT: Well, when you say ethically, ethically
7 means being fair to both sides.

8 PROSPECTIVE JUROR: My beliefs, my own ethical beliefs.

9 THE COURT: One moment, ma'am. Because someone is
10 charged with an offense doesn't mean they committed the
11 offense. As we discussed, the Government has to prove its case
12 beyond a reasonable doubt. Can you hold the Government to that
13 standard, or do you think you have some predetermined beliefs
14 because a person is charged?

15 PROSPECTIVE JUROR: I will try, but I -- I have
16 expressed my beliefs on the situation, but I will try as my
17 duty as a citizen, I understand.

18 THE COURT: Counsel.

19 MR. WILCOX: Your Honor, that was Juror Number 44?

20 PROSPECTIVE JUROR: I'm Number 40.

21 THE COURT: You may continue.

22 MR. SNIDER: Does anyone else have any very strong
23 moral, religious, philosophical beliefs that they don't think
24 they will be able to put aside and listen to the evidence and
25 follows the Court's instructions in order to reach a verdict?

1 Okay. I see no other hands.

2 Has anyone ever themselves or a family member, someone
3 close to you been involved in a lawsuit or a court proceeding
4 before that a may include -- yes. Why don't we start over
5 here.

6 PROSPECTIVE JUROR: Sorry. I threw out my back this
7 morning. I'm an attorney, so I've been involved in many cases,
8 lawsuits. I've also been sued before, and I've also sued,
9 civilly.

10 MR. SNIDER: Anything about your career that you think
11 would affect your impartiality or ability to be impartial?

12 PROSPECTIVE JUROR: No.

13 MR. SNIDER: Let me just preface that by saying does
14 anyone who had any experience in the court, whether they were a
15 plaintiff, whether they were a defendant, based on your
16 experience, do you think that that would make it difficult for
17 you to be impartial in this case? That's really the gist of
18 what I'm asking.

19 Does anyone think you couldn't be impartial because of
20 their experiences with the court system?

21 Okay. Now, I'm going to ask whether you or a spouse of
22 yours or a close relative has had any deals with the following
23 agencies: The Federal Bureau of Investigation, the Broward
24 County Sheriff's Office, the U.S. Department of Justice, or any
25 other federal, state or local law enforcement agency? And my

1 question is if you have had dealings -- and I know you provided
2 some information in response to this question, so you don't
3 have to repeat that. But anyone else who has had dealings with
4 those agencies, and I can read them again, that you think might
5 affect your impartiality?

6 Yes, ma'am.

7 PROSPECTIVE JUROR: My name is Carolina, Juror
8 Number 4. I used to work for the Department of MasterCard
9 International, and I used to deal with Secret Service and all
10 law enforcement. I was an agent regarding credit card fraud.

11 MR. SNIDER: How was your experience with that federal
12 agency, U.S. Secret Service?

13 PROSPECTIVE JUROR: They used to contact me to get
14 information and try to find -- to figure out who the owners of
15 the credit cards were in reference to the frauds that they
16 discovered that they were investigating.

17 MR. SNIDER: Sure.

18 PROSPECTIVE JUROR: So it was like a very close
19 relationship.

20 MR. SNIDER: And do you think because of that prior
21 experience and your relationship with the Secret Service that
22 you would not be able to be impartial in this case?

23 PROSPECTIVE JUROR: Probably, because of my cases, 99
24 or 100 percent, what they were doing, it was fraud. Actually,
25 what was done was actual fraud. It was like here that

1 they're --

2 MR. SNIDER: Well, you understand that the two
3 defendants are presumed innocent.

4 PROSPECTIVE JUROR: Yes, I understand that.

5 MR. SNIDER: And they will prevail as innocent unless
6 the Government meets their case.

7 PROSPECTIVE JUROR: Right, but in my case both of them
8 are guilty.

9 MR. SNIDER: Right, but that doesn't affect -- has
10 nothing to do with this, does it?

11 PROSPECTIVE JUROR: I guess my brain is already...

12 MR. SNIDER: And you don't think you can follow the
13 Court's instructions?

14 PROSPECTIVE JUROR: It will be really hard because I've
15 dealt with that for many years. Like every time they send me a
16 list, you already know it was fraud.

17 MR. SNIDER: All right. How about anyone else? Again,
18 it's the FBI, Broward County Sheriff's Office. Anyone who
19 works for Broward County Sheriff's Office or a member of their
20 family?

21 Yes, sir.

22 PROSPECTIVE JUROR: Juror Number 42, Jack Varela. My
23 wife was a former prosecutor. I don't know if that's what
24 you're asking or if you're asking me if that's going to affect
25 the case.

1 MR. SNIDER: I'm going to ask if whether your wife as
2 former prosecutor, would that render you impartial?

3 PROSPECTIVE JUROR: No, but originally you were asking
4 if we had any relationship to the FBI or agencies. My wife is
5 a former prosecutor in Lakeland, Florida.

6 MR. SNIDER: Where?

7 PROSPECTIVE JUROR: Lakeland, Florida. She's now a med
8 mal attorney. She's a partner with a major firm here in town.

9 MR. SNIDER: How long ago was your wife a prosecutor?

10 PROSPECTIVE JUROR: 20.

11 MR. SNIDER: You think that notwithstanding that you
12 could still be impartial?

13 PROSPECTIVE JUROR: Yeah, I guess.

14 MR. SNIDER: We want to make sure.

15 PROSPECTIVE JUROR: I think so, yes.

16 MR. SNIDER: You think so?

17 PROSPECTIVE JUROR: I was just letting you know because
18 you were asking if any family members or have relationships to
19 that, so I'm communicating to you that my wife was a former
20 prosecutor.

21 MR. SNIDER: I do appreciate that. Thank you.

22 THE COURT: You're 42, Mr. Varela, correct?

23 PROSPECTIVE JUROR: 42.

24 MR. SNIDER: Judge Graham referenced the Internal
25 Revenue Service when he was speaking earlier and noted that

1 everybody usually around April 15th files taxes or pays some
2 taxes. So I'm assuming that most of you have had some
3 interaction with the Internal Revenue Service generally.

4 Has anyone had an experience with the Internal Revenue
5 Service that was so negative that they don't think that that
6 would allow them to be impartial in the case or that would
7 affect their ability to render a verdict just based on the
8 evidence?

9 Show of hands: Who owns maybe a small business?

10 And show of hands whether -- I don't know whether I
11 said small business. But is it a business with less than 25
12 employees?

13 For those small business owners, raise your hand if
14 anyone applied for an PPP loan?

15 PROSPECTIVE JUROR: Spouse as well?

16 THE COURT: I guess if you or your spouse, yes.

17 MR. SNIDER: Okay. Does your owning a small business
18 and having applied for an PPP loan, do you think that that
19 would make it difficult for you to be impartial in this case
20 and render a verdict just knowing that?

21 Does anyone have a difficult time with the Paycheck
22 Protection Program in applying for a loan? What was your
23 experience?

24 PROSPECTIVE JUROR: It was my first time filing --

25 THE COURT: One moment.

1 PROSPECTIVE JUROR: -- for loans like this.

2 THE COURT: One moment.

3 PROSPECTIVE JUROR: Juror 28. It was my first time
4 having to file for a loan, but I was doing it for the nonprofit
5 I was the operations manager at and -- which I was new to that
6 role, but was able to figure it out. And then once I navigated
7 the program once successfully, I assisted my father in his
8 small business as well. Mine business is much too small. I
9 don't have employees, so I didn't apply for my own business.

10 But it was a complicated thing to read and understand.
11 Luckily, we were at the smaller price point. There was like
12 moments where it becomes more complex for higher loan amounts,
13 and we were in the smaller ones.

14 MR. SNIDER: You were in the smaller ones?

15 PROSPECTIVE JUROR: Yes.

16 MR. SNIDER: Was there something about -- were these
17 loans funded, do you remember?

18 PROSPECTIVE JUROR: Yes.

19 MR. SNIDER: Something about that experience that would
20 make you not be fair and impartial in this case?

21 PROSPECTIVE JUROR: No this would not effect my
22 impartiality.

23 MR. SNIDER: Has anyone else received, actually receive
24 PPP money, you or your spouse?

25 Did anyone go through the forgiveness process for these

1 loans?

2 Anything about that process you think that would make
3 it difficult for you to be impartial in this case?

4 Has anyone else applied for any other form of relief
5 from the Government during the pandemic? Yes, ma'am.

6 PROSPECTIVE JUROR: I --

7 THE COURT: One moment.

8 PROSPECTIVE JUROR Sara, I think it's 19, Saba.

9 MR. SNIDER: Yes, ma'am.

10 PROSPECTIVE JUROR: Just the SBA, small business loan,
11 the emergency one.

12 MR. SNIDER: Was it the Economic Injury Disaster loan?

13 PROSPECTIVE JUROR: That's the one.

14 MR. SNIDER: Did you get a loan through that program?

15 PROSPECTIVE JUROR: Yes.

16 MR. SNIDER: Was there anything about the process that
17 you went through that you think would make it difficult for you
18 to be impartial in this case?

19 PROSPECTIVE JUROR: No, not at all.

20 MR. SNIDER: A show of hands: For those who have
21 applied for PPP loans, did anybody sign their loan applications
22 without reading them first?

23 Again, let's just go back to the tax question. It
24 seems like most everyone here has filed taxes at least once
25 before in their life. Has anyone every file their tax returns

1 or having prepared them yourselves and haven't had a preparer
2 assist them with their tax returns, has anyone filed their tax
3 returns and signed them without reading them?

4 That's all from the Government.

5 Thank you.

6 THE COURT: Thank you. Defense?

7 MR. McCRAY: Thank you. I just have a few questions.
8 Let me introduce myself. I don't think the defense introduced.
9 So my name is Johnny McCray, Junior. I represent both the
10 accused in this case, Mr. Tracy Wade and also Ms. Carolyn Wade,
11 and this is my cocounsel, Mr. Daryl Wilcox, and our legal
12 assistant, Mr. Henry Smith. How are you-all doing today?

13 Okay. Just a few questions. I know counsel asked if
14 you-all ever filled out loan papers and didn't read them. Have
15 any of you-all ever signed legal documents and didn't read
16 everything? Be truthful with us now. Raise your hand.

17 Okay. So I see at least -- I think I saw at least six
18 hands. So what else?

19 Anyone here -- how many of you-all have ever signed a
20 lease and didn't read everything on the lease? Be truthful
21 now. The Judge said we're here to just to speak the truth.
22 Nobody's going to get in trouble, okay.

23 Now, let me go to Mr. Pivnik. How are you doing, sir?
24 You said you prepared PPP loans for your father, am I correct?

25 PROSPECTIVE JUROR: Yes.

1 MR. McCRAY: And for a company that you work with?

2 PROSPECTIVE JUROR: Yes. A nonprofit that I was the
3 operations manager at. It was a team of two people, myself and
4 the director.

5 MR. McCRAY: Do you know if the director looked at all
6 of the documents that you prepared?

7 PROSPECTIVE JUROR: Yes. I also -- to that question
8 about signing and not reading, I didn't sign them either. I
9 would help them understand the process and navigate it, so...

10 MR. McCRAY: Okay. And you did your fathers?

11 PROSPECTIVE JUROR: Yes, helped him.

12 THE COURT: Would you agree that your father trusted
13 you?

14 PROSPECTIVE JUROR: We worked together on it. He's
15 more of a businessman than myself, but programs like this, he
16 wasn't familiar with and didn't know it existed.

17 MR. McCRAY: Okay. And he relied on your --

18 PROSPECTIVE JUROR: In finding it and knowing it, yes.

19 MR. McCRAY: You can have a seat. Thank you.

20 PROSPECTIVE JUROR: Of course.

21 MR. McCRAY: Now, I'm trying to find the name of the
22 gentleman who indicated that he had served on a jury in Alachua
23 County. Yes.

24 You stated today that it was a criminal jury. I
25 believe in the packet in the sheet that the Judge has given you

1 previously you indicated it was a civil trial. Which was it?
2 Was it a criminal or civil trial?

3 PROSPECTIVE JUROR: It was civil.

4 MR. McCRAY: It was criminal. It wasn't civil.

5 PROSPECTIVE JUROR: Correct.

6 MR. SNIDER: Thank you. Now, several of you -- and I
7 don't want to go through each and every one of you, but let me
8 see by hands -- by your hand which of you actually served on a
9 criminal jury?

10 Okay. No one in the first.

11 Now, anything about that experience having served on a
12 jury, on a criminal jury, anything about that experience that
13 would affect your ability to be fair and impartial in this
14 case?

15 Hearing nothing, I guess nothing would affect your
16 ability.

17 What about the civil jurors? Who served on a civil
18 jury. Several of you, I saw you. Anybody about here?

19 Okay. Anything about that experience, those that
20 served on the civil jury that would affect you to be fair and
21 impartial in this case?

22 I believe it was Juror Number 40, Ms. -- was it Guya?
23 Guia? Yeah. Let's talk for a second. You talked about an
24 ethical belief. Do you -- and the Judge just talked this, but
25 do you understand that we have a constitution in this country?

1 PROSPECTIVE JUROR: I understand.

2 MR. McCRAY: Do you understand that an individual who
3 is accused of a crime has the absolute constitutional right to
4 be presumed innocent? Do you understand that?

5 PROSPECTIVE JUROR: Yes, I do.

6 MR. McCRAY: What do you feel about the presumption of
7 innocence?

8 PROSPECTIVE JUROR: Can you reword the question?

9 MR. McCRAY: Yeah. Under the constitution individuals
10 have the right to be presumed innocent. Actually, they remain
11 innocent unless and until, as counsel has indicated, they prove
12 guilty beyond and the exclusion of a reasonable doubt. What
13 are your feelings about that?

14 PROSPECTIVE JUROR: I completely understand. I think
15 the Judge mentioned that before we went on the break. About,
16 you know, your civil duty as a citizen here in America.
17 However, just with my own internal belief and instinct, it's
18 just the way that I felt about the case, and I felt that I
19 should voice my opinion. That I will try my best to remain
20 flux -- or fair, I should say. However, I do have this
21 internal ethical believe in me that feels as though it's
22 swaying more one way than the other.

23 MR. McCRAY: I feel you, okay. Now, my question to
24 each of you is, is there anyone here who really -- you just
25 have a problem with the presumption of innocence? Is there

1 anyone here who kind of waivers and vacillates when it comes to
2 the presumption of innocence? You just believe that it
3 shouldn't be that way? Anyone here?

4 No one.

5 There's several of you who have relatives and friends
6 and family members -- family members and relatives are the
7 same, but any of you-all here -- you all have indicated that
8 there are law enforcement officers that you know very well.
9 Anything about the relationship there that would put the Wades
10 at a disadvantage, that a law enforcement officer would be more
11 believable than, say, a civilian witness? Anyone here who
12 believes that?

13 I know Mr. Babitz talked about his -- he has a huge
14 respect for the U.S. Attorneys, I guess, who he knows, but
15 anyone here who would have a similar feeling with respect to
16 law enforcement officers? What about FBI, FBI agents are such
17 a higher level than regular state police or local police?
18 Anybody here who would tend to give a member of the FBI greater
19 weight, that person's testimony greater weight than that of a
20 civilian? Anyone?

21 Don't be bashful, please.

22 Okay. Anyone else here who may have prepared PPP loans
23 for other persons, be it family, friends, or others?

24 Okay. And that is Mr. Rivera, yes, sir.

25 PROSPECTIVE JUROR: Yes, sir.

1 MR. McCRAY: Tell us about it.

2 PROSPECTIVE JUROR: I started paying about -- the first
3 five or six PPPs, and I received a phone call from the PPP
4 saying that I was conscious, I was preparing that, and that
5 scared me a little bit, and I started reading more about it,
6 but on the first when I started filling out all this paper, it
7 was really simple, really easy.

8 MR. McCRAY: Tell us about the phone call. I didn't
9 quite follow you.

10 PROSPECTIVE JUROR: Yeah. I received a phone call
11 because I applied for my company. I was a partner of a dental
12 office, and we applied for PPP there with the two W2 employees,
13 and the rest was contractors. And they called me and they
14 asked me if I applied for that, and I told them yes. And then
15 they asked me, Are applying for another persons or another
16 company. Yes, I prepare taxes, too. And they told me are you
17 sure about what you're doing, and that was --

18 MR. McCRAY: They didn't tell you not to do it?

19 PROSPECTIVE JUROR: No. Just to make sure write down
20 the correct, you know, answers, and the amounts. They were
21 concerned about the amounts.

22 MR. McCRAY: Okay. Anything about that experience that
23 would affect your ability to sit in this case?

24 PROSPECTIVE JUROR: No.

25 MR. McCRAY: Thank you, Mr. Rivera.

1 Anyone else?

2 Now, the Court -- you heard use the word instructions.
3 Every understand what the word instruction means just in our
4 daily lives? Will somebody tell me? When somebody gives an
5 instruction, what is that?

6 Basically it's a directive or they want you to do
7 something, is that correct?

8 Well, an instruction in this context, in the Court
9 is -- basically, it's points of law. It's the law that the
10 Court will give you. Does everyone understands that you're
11 bound to follow that law? Everybody understand that?

12 Now, if I were to tell you that you are all jurors,
13 would you-all disbelieve that -- I'm sorry, that you-all are
14 judges, would you disbelieve that?

15 You-all are judges of the facts. Jurors are judges of
16 the facts. And basically, what you all would do is listen to
17 the everyday and you would determine what evidence to believe,
18 if any, who you want to believe, who you don't want to believe.
19 That's solely within your province.

20 Does everybody understand?

21 Judge, Judge Graham is the judge of the law. He is
22 going to give you the law. And it's the law that applies to
23 there case. You cannot invade his province, and he's not to
24 invade your province as the trier of fact in this case?

25 Does everybody understand that?

1 Mr. Gonzalez, how you doing, sir?

2 PROSPECTIVE JUROR: Yes.

3 MR. MCCRAY: In your response to one of the questions
4 about family members who had been charged with a crime, I
5 believe you indicated that there was someone in your family, I
6 believe, who may have been a victim of fraud or charged with
7 fraud?

8 PROSPECTIVE JUROR: No. It was one person. He's --

9 MR. McCRAY: My writing is pretty bad. I know I saw
10 that. Thank you, I'm sorry. My apologies.

11 It was someone who indicated that a family member had
12 been -- first of all, let me just ask generally. Any of you or
13 your family members ever been a victim of fraud?

14 Let's start in the back. Anybody over here first?

15 PROSPECTIVE JUROR: Credit card, yeah.

16 MR. McCRAY: Credit card, okay. I hate walking, but
17 we'll start over here.

18 Is that Ms. Trinidad?

19 PROSPECTIVE JUROR: Yes, Uh-huh.

20 MR. McCRAY: Tell us about that, please.

21 PROSPECTIVE JUROR: Yes. So credit card more than
22 once. And then, actually, someone did file a fraudulent tax
23 return of my husband's social security number one year, so that
24 was fun.

25 MR. McCRAY: Anything about those experiences that

1 would affect your ability to be fair in this case?

2 PROSPECTIVE JUROR: No.

3 MR. McCRAY: Anybody else over here? Over here? Yes,
4 Ms. Ermer.

5 PROSPECTIVE JUROR: Same thing, credit card fraud,
6 identity was stolen and charged up our cards, but I think I can
7 be impartial.

8 MR. McCRAY: You think you can?

9 PROSPECTIVE JUROR: Yeah, I'm sure I can.

10 MR. McCRAY: All right. Thank you, ma'am. What about
11 over here? Is it Mr. Gutierrez?

12 PROSPECTIVE JUROR: Yes, Armando Gutierrez.

13 MR. McCRAY: Okay, yes.

14 PROSPECTIVE JUROR: Credit card fraud and my sister got
15 her ID stolen. They opened up, I believe took out a loan and
16 another credit card, and I saw how all the suffering she went
17 through just trying to get that solved. No government entity
18 could help her. It seemed like all her resources were
19 dead-ends. So she had to just wait it out until -- I don't
20 know what agency was able to clear her name, help her credit
21 score come back.

22 MR. McCRAY: Anything about that unfortunate experience
23 that would affect your ability to serve in this case if you're
24 selected?

25 PROSPECTIVE JUROR: I mean, I'm not -- when it comes

1 back to that kind of identity stuff, I -- it's so frustrating
2 that I'm so against it that I -- I would be leaning towards,
3 like, the person not committing the fraud.

4 MR. McCRAY: It's sad, but people sometimes do play
5 games. Do you agree with that?

6 PROSPECTIVE JUROR: Yeah.

7 MR. McCRAY: Thanks. Yes, Ms. Saba.

8 PROSPECTIVE JUROR: Gomez.

9 MR. McCRAY: Oh, Gomez, I'm so sorry.

10 PROSPECTIVE JUROR: I was also a victim of someone
11 filing taxes in my name twice actually, but it won't affect my
12 ability to be impartial.

13 MR. McCRAY: You can be fair and impartial?

14 Thank you.

15 PROSPECTIVE JUROR: Hi, Nicholas Mandri. Juror Number
16 27. Credit card fraud, and I don't know if it counts, but my
17 grandmother was once tricked into believing that I was somehow
18 in danger; and with my information, they sort of sent her into
19 a panic and she called me like 23 times to make sure I was safe
20 and then tried to take her money. I don't know if that counts
21 as fraud.

22 MR. McCRAY: Well, it's a form of fraud.

23 Thank you.

24 PROSPECTIVE JUROR: Just -- I had a family member that
25 had a financial advisor steal a lot of money from them.

1 MR. McCRAY: Okay. Thank you, sir. Anything about
2 that that would affect you?

3 PROSPECTIVE JUROR: No.

4 MR. McCRAY: Were there arrests made in connection with
5 that?

6 PROSPECTIVE JUROR: No. There were not but there was
7 recovery.

8 MR. McCRAY: Okay. Thank you.

9 PROSPECTIVE JUROR: Good morning. Juror Number 33,
10 Geraldine Velarde. I also had the incident of somebody filing
11 tax returns under my name and my husband's.

12 MR. McCRAY: How long ago was that?

13 PROSPECTIVE JUROR: That was this year actually.

14 MR. McCRAY: This year? Has it been resolved? Was
15 there an arrest?

16 PROSPECTIVE JUROR: Yes.

17 MR. McCRAY: Did you-all find out who did it?

18 PROSPECTIVE JUROR: My husband was the one leading
19 everything. I don't have all the information.

20 MR. McCRAY: Anything about that unfortunate experience
21 that would affect your ability to sit on this jury?

22 PROSPECTIVE JUROR: No.

23 MR. McCRAY: Okay, thank you. Anybody else?

24 Now, in any criminal case, credibility is usually an
25 issue. What does the word "credibility" mean? Let's start

1 over here. I will just ask: What does the word "credibility"
2 mean to you?

3 Someone other than a lawyer. Can you tell me what
4 "credibility" means?

5 PROSPECTIVE JUROR: Believable.

6 MR. McCRAY: Okay. Does anyone know what the word
7 "motive" means? Anybody? Motive? Yes, back in the back.

8 PROSPECTIVE JUROR: To have reason for.

9 MR. McCRAY: To have an underlying reason for
10 something?

11 Okay. Is there a correlation -- let me go to,
12 Ms. Ermer. Let me ask Ms. Ermer, so we can speed it up just a
13 little bit, do you believe there's a correlation between motive
14 and credibility?

15 PROSPECTIVE JUROR: Motive and credibility?

16 MR. McCRAY: Can motive affect one's credibility?

17 PROSPECTIVE JUROR: Yes, definitely.

18 MR. McCRAY: How do you believe?

19 PROSPECTIVE JUROR: Well, if you have a motive, let's
20 say to commit murder, that would affect your credibility to say
21 you didn't do it or you did do it or -- you know, to serve as
22 any other type of witness in that type of situation if you had
23 a motive.

24 MR. McCRAY: All right. Thank you. Now, one other
25 thing the Court is going to tell you and the Court at some

1 point will give you an instruction on your duties as the trier
2 of fact. When the Court gives that to you, is there anybody
3 here who believes they will able to follow that? And that's
4 one of the things the Court is going to talk about, a witness's
5 interest in the case. Does everybody understand that? Would
6 you-all be able to follow that instruction when the Court gives
7 it to you?

8 Excuse me, Judge, I beg the Court's indulgence.

9 Thank you, Judge.

10 THE COURT: Thank you all very much. Ladies and
11 gentlemen, I am going to give the attorneys approximately seven
12 minutes or so to confer with one another, and then I'm going to
13 have them come into the jury room, which is in the corner of
14 the courtroom, and we will start the challenge process, which
15 means they will be able to give me their suggestions about
16 jurors, and we'll go through the list and make a decision as to
17 who the jurors will be, and at that point, I will excuse those
18 who have not been selected.

19 So while they confer and while we're in the back, I
20 will give you an opportunity to take a break and go outside and
21 refresh yourself, if necessary. And at some point in time, my
22 courtroom deputy will come and tell you to come back in and be
23 seated so that I can explain to you the list of those who will
24 serve.

25 So at this time, if you would like you may step outside

1 or relax where you are, and we will be with you probably in
2 about 20 to 25 minutes. Thank you. We are in recess.

3 (Prospective jurors on recess at 12:28 p.m.)

4 THE COURT: All right. Counsel, at 12:35 I am asking
5 you to come into the jury room along with your clients if they
6 elect to come back. We are in recess.

7 (Recess taken at 12:29 p.m.)

8 THE COURT: All right. Ladies and gentlemen, we are
9 going to start the challenge process.

10 There are quite a few that, I think, are subject
11 challenges for cause. I'm going to go through these and have
12 you agree or not, and then I will have you exercise any
13 additional challenges for cause, and then we will look at those
14 that remain. The first two rows, Government first, defense
15 second; and we'll do the next two rows, defense first,
16 Government second; and then the last two rows, so Government,
17 defense, Government, as far as exercising your challenges.

18 Once we leave a two-row segment, there's no
19 back-striking; so those will be the permanent jurors if you
20 have not exercised a challenge.

21 So with regard to the first two rows, as far as
22 challenges for cause, I think Mr. Ramos -- no, Mr. Aragon had
23 the doctor's appointment on the beach, and we've had his
24 appointment rescheduled for 4:30 which means we need to leave
25 by 3:55 so that he can get over there, so just for your

1 information.

2 Your thoughts about Mr. Ramos? Any challenges for
3 cause as to Ramos, Number 3?

4 All right, Mr. Cuarezma had issues being fair and
5 couldn't serve this week; so my thought is we should challenge
6 him, have him excused.

7 Any objection?

8 MR. SNIDER: That's Number 4.

9 MR. McCRAY: Not from the defense.

10 Ms. Loynaz has an issue on October 24th.

11 MR. SNIDER: I don't see that being an issue.

12 MR. McCRAY: I don't think so.

13 THE COURT: Number 9, Ms. Fisch has the Jewish holiday.
14 I'm inclined to excuse her.

15 MR. WILCOX: No objection.

16 MR. SNIDER: Next Thursday. Well, I thought we would
17 be finished by then.

18 MR. McCRAY: Are you serious?

19 MR. SNIDER: By next Thursday.

20 THE COURT: So what are you suggesting? That we not
21 excuse her for cause?

22 This is all we're doing now.

23 MR. SNIDER: Okay. We would like her on the jury.

24 THE COURT: So we will leave her alone.

25 Number 10 has childcare issues; so my thought is she

1 should be excused.

2 Any objection?

3 MR. McCRAY: Not from the defense, Judge.

4 THE COURT: Ms. Trinidad, same issue, childcare. Any
5 objections?

6 MR. SNIDER: Not from the Government.

7 MR. WILCOX: We like her.

8 THE COURT: What am I going to do about her childcare
9 problem?

10 MR. WILCOX: What was exactly the nature of it?

11 THE COURT: She has to pick up her kids at what time?
12 Does anyone recall?

13 I'm sorry?

14 MR. SNIDER: She had childcare, and I wrote down she
15 has a mother that she's taking care of.

16 THE COURT: Do you want me to have her come in?

17 MR. MCCRAY: The mother's the backup.

18 MR. SNIDER: Quite right. The mother is in Texas which
19 is why the mother can't help out, and the Court said, "Why
20 can't we just get her?"

21 THE COURT: I'm proposing we excuse Ms. Trinidad.

22 MR. SNIDER: No objection.

23 THE COURT: Mr. Rivera is the accountant who has the
24 tax preparation issues. It says Wednesday is the tax deadline.
25 Your positions?

1 MR. SNIDER: No objection as to cause.

2 MR. McCRAY: Judge, we're not agreeing to cause.

3 THE COURT: All right. I can have him come in, and the
4 primary question is whether or not this is a financial issue.
5 In other words, if he works for the county, he can stay. If
6 he's in a private accounting business where his income is
7 dependent upon being present, then I'm likely going to excuse
8 him.

9 Let's have Mr. Rivera come in, please.

10 Let's jump on over to Ms. Diaz. Ms. Diaz didn't say
11 anything about having the problem with Spanish the second time
12 I addressed it but she looked like -- I'm not sure she was all
13 there and whether she understood enough to even respond to the
14 question the second time around.

15 MR. SNIDER: I agree.

16 MR. McCRAY: I agree, Judge.

17 THE COURT: I'm inclined to excuse her.

18 MR. McCRAY: I think 13 has the same issue in terms of
19 not -- having an English problem.

20 MR. LOVE: Hers was stronger. Her ability to
21 understand was stronger, yeah.

22 THE COURT: I thought she understood what I was saying,
23 and she didn't express any issues the second time they were
24 given an opportunity to respond.

25 (Prospective Juror Rivera entered the courtroom.)

1 THE COURT: We would like to ask you a few questions,
2 Mr. Rivera. You indicated that you have a tax business. Is
3 this a private business, or do you work for a corporation?

4 PROSPECTIVE JUROR: It's private. It's private. I'm a
5 partner.

6 THE COURT: So you receive your salary based upon your
7 clients; is that correct?

8 PROSPECTIVE JUROR: That's correct.

9 THE COURT: Do you think you could have enough time in
10 the afternoon to resolve your issues?

11 PROSPECTIVE JUROR: It's hard because I got -- like for
12 the corporations, most of them wait for the last minute, and
13 I'm really behind. I'm really behind.

14 THE COURT: All right. Thank you very much, sir.

15 (Prospective Juror Rivera exited.)

16 MR. SNIDER: Judge -- go ahead.

17 THE COURT: I'm going to excuse Mr. Rivera for cause.

18 MR. SNIDER: Judge, I want to ask, Number 9 who has the
19 Jewish holiday, I wanted to know whether she's unable to serve
20 on Thursday. If she is, then I have no objection to because
21 I'm concerned about the storm. What if we miss a day because
22 the Court is closed? I don't want to --

23 THE COURT: Actually, when I wrote it down, I was
24 thinking of this Thursday. Now you're telling me the holiday
25 will be the following Thursday.

1 MR. SNIDER: I know for a fact it is because -- yeah.
2 So the question is whether -- I don't want to run into problems
3 next week certainly having gone through several days of trial.

4 THE COURT: I respect people wanting to take their
5 holiday. So if she remains on the jury, we're not going to be
6 in session on Thursday if we are in session.

7 MR. SNIDER: Okay. That's fine.

8 THE COURT: Next Thursday. So we would respect her
9 holiday and we just wouldn't be in session. We wouldn't be in
10 session on that day, which means we won't finish on that day.

11 If we were at the end of the case and the jury has to
12 deliberate -- now, there's one alternative. I can move her to
13 the end, as I'm going to, subject to another juror and she can
14 potentially be an alternate juror.

15 MR. SNIDER: That's fine, too.

16 THE COURT: Anyone disagree with that?

17 In other words, Shelby, Number 46, and if we get to
18 that point and we need a juror, then she could remain. That's
19 an alternative way, or we can be off Thursday. It's up to you
20 all. I want to finish by Friday. That's all I'm concerned
21 about.

22 What's your position?

23 MR. McCRAY: Judge, we will go with moving her back to
24 46.

25 THE COURT: We're going to move Number 9 to number --

1 we will create a Lot Number 46 for Ms. Fisch so she's not to be
2 considered until the end.

3 Ms. Ermer has a problem with 3:00 p.m. on the 18th,
4 Number 14.

5 MR. McCRAY: She has a religious retreat, also, she
6 said.

7 THE COURT: I'm sorry.

8 MR. McCRAY: I wrote down she has a religious retreat.

9 MR. LOVE: Yeah, that was the 18th.

10 MR. SNIDER: She had to leave by 3:00. I don't think
11 that should be an issue if the Court wants to be done by them.

12 MR. McCRAY: We're okay with it, Judge. I don't think
13 it's for cause.

14 THE COURT: You don't have a problem with me excusing
15 her is what you're saying?

16 MR. McCRAY: Oh, no. I'm saying we should keep her.

17 THE COURT: All right. We talked about Ms. Diaz.
18 We're excusing her.

19 Ms. Saba, Number 18, what are your thoughts there? She
20 said, "I may have a bias."

21 MR. McCRAY: Judge, I think there's a reasonable doubt
22 about her ability to be fair just based upon her
23 representations. She said something about she represents
24 whistleblowers. I wrote down cause.

25 MR. SNIDER: Qui tam attorney.

1 THE COURT: She's the qui tam. She said she may have a
2 biased. I'm inclined to excuse her.

3 MR. SNIDER: She also said she may know me but she
4 wasn't sure. I have no idea who for the record --

5 THE COURT: Maybe not personally.

6 MR. SNIDER: No.

7 THE COURT: Do you do qui tam work?

8 MR. SNIDER: No.

9 THE COURT: All right.

10 Next person, Ms. Gomez, who has a doctor's appointment
11 on Thursday morning -- I think we can work around that. We
12 would have to just start a little later. Number 25.

13 What's your position?

14 MR. WILCOX: Doctor's appointment 8:30 next Thursday.

15 THE COURT: It means we would have to start late.
16 What's your position? We should or --

17 MR. WILCOX: No, no.

18 THE COURT: -- should not excuse her?

19 Okay.

20 Mr. Babitz said he cannot be fair. I'm going to excuse
21 Mr. Babitz unless there's some objection.

22 Hearing none, let's go to Number 28, Mr. Pivnik, who
23 has the art show, and he's concerned about employment; so I'm
24 inclined to excuse him.

25 MR. SNIDER: Agree.

1 MR. WILCOX: We liked him.

2 THE COURT: I'm sorry?

3 MR. WILCOX: Yes, we liked him.

4 THE COURT: You said you liked him. Well, does that
5 mean you don't have any objection to him being excused or you
6 do have an objection?

7 MR. WILCOX: I have an objection of him being excused
8 for cause.

9 Mr. McCray.

10 MR. McCRAY: Go ahead.

11 THE COURT: He's not disagreeing with you, but I'm
12 going to excuse him. It's an employment issue, and I'm
13 electing not to keep him here.

14 Ms. Chung -- I'm inclined to move her to a 47 spot.
15 She wants to be with her granddaughter in Melbourne on the
16 18th, which is the last day of the calendar.

17 Chung, Number 37 -- I either excuse her or move her to
18 the last slot to be considered an alternate.

19 What's your pleasure?

20 MR. WILCOX: I'm fine with that, Judge, making her 47.

21 MR. SNIDER: That's fine. No objection.

22 THE COURT: All right. So we will move her and make
23 her 47.

24 Ms. Miller has a work project, Number 39.

25 MR. WILCOX: Travel plans or something. That's what I

1 have.

2 MR. McCRAY: Mexico City for a job.

3 THE COURT: Yes, a work project; so I'm inclined to
4 excuse Ms. Miller.

5 MR. SNIDER: No objection.

6 THE COURT: Defense?

7 MR. McCRAY: No objection.

8 THE COURT: I don't know what Ms. Guia is talking about
9 with her ethical issues, but I'm inclined to excuse her.

10 MR. McCRAY: Please.

11 THE COURT: I'm going excuse Ms. Guia.

12 Mr. Varela, who works at the airport, says he has an
13 important position with the flights, and given the weather, I'm
14 inclined to excuse Mr. Varela.

15 Any objection?

16 MR. McCRAY: No objection.

17 MR. SNIDER: No objection.

18 THE COURT: All right. Any additional challenges for
19 cause?

20 MR. SNIDER: Yes.

21 THE COURT: Yes, sir.

22 MR. SNIDER: Number 16, Judge. Number 16 is
23 Mr. Livette. Question Number 11 on his juror questionnaire
24 asked if you or your family has a close friend who's ever
25 worked for a law enforcement agency, and he wrote that he has a

1 nephew that works for BSO, which means --

2 THE COURT: All right.

3 MR. SNIDER: I asked specifically that question during
4 my opportunity to voir dire, and he didn't disclose that he had
5 a family member that works for BSO. I'm concerned about the
6 veracity of that answer.

7 THE COURT: But you have to follow-up then if there's
8 something that causes you a problem. That's why I give you all
9 an opportunity to conduct voir dire.

10 MR. SNIDER: Sure. I didn't -- perhaps I didn't make
11 the connection at the time.

12 THE COURT: He says he has a nephew who works for BSO.

13 MR. SNIDER: No. It's the lack of -- when I asked the
14 question, he didn't say that he had a family member. It's
15 inconsistent with --

16 MR. McCRAY: Can we bring him in, Judge?

17 THE COURT: He had the same issue with a prospective
18 juror who had a conflict between the question on the
19 questionnaire and what was being asked you, and he followed up
20 and the witness responded.

21 MR. SNIDER: Understood.

22 THE COURT: You know, really, this -- I know you all
23 think that there may be some biases that float one way or the
24 other, but on that one, I don't know.

25 So you want me to bring him in?

1 MR. SNIDER: Okay.

2 THE COURT: All right. Let's have Mr. Marceau Livette
3 come in.

4 MR. McCRAY: What was the exact question you asked?

5 MR. SNIDER: I was asking if anyone has any family
6 member -- it was one of the voir dire questions in front of me.
7 I was asking whether he had family or a close friend who's ever
8 worked for a law enforcement agency, and Broward Sheriff's
9 Office is one of the agencies.

10 THE COURT: All right. Any others? We're waiting.

11 MR. LOVE: Judge, we were talking a lot about travel.
12 38 also has a preliminary planned trip on Monday, Monday
13 through Wednesday.

14 THE COURT: Ms. Fernandez.

15 MR. LOVE: Yes, Judge.

16 THE COURT: I think that was the personal vacation.

17 MR. LOVE: I did want to highlight that because we were
18 talking about --

19 THE COURT: What was your --

20 MR. WILCOX: Had travel plans for Monday.

21 MR. McCRAY: What was the date?

22 MR. WILCOX: Monday.

23 MR. LOVE: Judge, I propose moving to 48.

24 THE COURT: All right. Let's take care of Mr. Livette.
25 (Prospective Juror Livette entered.)

1 THE COURT: Mr. Livette, in your questionnaire, you
2 responded that you have a nephew who works for the Broward
3 County Sheriff's Office, is that correct or not?

4 PROSPECTIVE JUROR: He's a police officer.

5 THE COURT: I'm sorry?

6 PROSPECTIVE JUROR: He's a police officer.

7 THE COURT: We're trying to find out if the Broward
8 Sheriff's Office is somehow an issue in this case or even if
9 you find out that maybe one of the defendants or both work for
10 BSO, would that create a problem with you in fairness and
11 impartiality for both parties?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Any follow-up questions?

14 MR. SNIDER: No.

15 (Mr. Livette exits.)

16 MR. WILCOX: Judge, I want to ask him one more
17 question.

18 THE COURT: There's no more challenges for cause to
19 entertain.

20 MR. WILCOX: I do want ask Mr. Livette one question,
21 and we'll let him go.

22 THE COURT: I just asked if you had any questions.

23 MR. WILCOX: I know, Judge.

24 THE COURT: He said he could be fair and impartial.
25 What is it that you want to ask?

1 MR. WILCOX: I want to know why did he not hear
2 Mr. Snider when he asked the question.

3 THE COURT: All right. We're going to move on.

4 MR. WILCOX: All right.

5 THE COURT: If that's a request for further voir dire,
6 that request is denied.

7 MR. WILCOX: That's what it was.

8 THE COURT: All right.

9 Any other challenges for cause, either side? If not,
10 we're going to look at those that remain, 1 through 16, which
11 includes Mr. Livette.

12 Preemptory challenges, Government.

13 MR. SNIDER: Judge, I guess for Number 6, we would --
14 if it's not struck for cause, a preemptory on the same basis
15 that we just articulated.

16 MR. WILCOX: 16, Mr. Livette; right?

17 THE COURT: I'm sorry. I'm not following you. You
18 want to exercise a challenge for a preemptory challenge?

19 MR. SNIDER: Yes, Judge.

20 THE COURT: All right.

21 MR. WILCOX: I will make a Batson challenge to that.

22 THE COURT: What is the issue with Mr. Livette? Why do
23 you think he's being singled out? Based on race?

24 MR. WILCOX: Because he's the only African American I
25 believe in the first 16 people.

1 MR. MCCRAY: African Haitian. He's a black person.

2 THE COURT: Okay. Let's just say it correctly.

3 MR. WILCOX: Well, okay.

4 THE COURT: Your basis?

5 MR. SNIDER: My basis is the same basis that I
6 articulated when I made the objection for cause. I'm concerned
7 about his truthfulness and his responses to the questionnaire
8 and not answering my question, so that's the race-neutral basis
9 in which I'm objecting.

10 THE COURT: The objection is overruled.

11 Additional peremptory challenges?

12 MR. MCCRAY: In the first two rows?

13 THE COURT: Yes, sir.

14 Government?

15 MR. SNIDER: 7.

16 THE COURT: Number 7 is Mr. Garcia. All right. Any
17 others as to 1 through 16, that remain, of course?

18 MR. SNIDER: No, Judge.

19 THE COURT: Defense, peremptory challenge 1 through 16?

20 MR. WILCOX: Number 2.

21 THE COURT: Number 2, Aragon is excused.

22 Any others?

23 MR. WILCOX: Your Honor.

24 THE COURT: Yes, sir.

25 MR. WILCOX: About Number 13, she had some problems.

1 THE COURT: Number 13.

2 MR. WILCOX: Yes, Mrs. Osorio.

3 THE COURT: Number 13, peremptory. All right. So that
4 leaves Infante.

5 MR. SNIDER: Wait.

6 MR. WILCOX: I want to strike Lourdes Ermer.

7 THE COURT: Give me a number, please.

8 MR. McCRAY: Yes, Judge, Number 14.

9 THE COURT: All right. Excuse for peremptory. All
10 right.

11 Any others?

12 MR. SNIDER: Juror 1 is still in?

13 THE COURT: Yes.

14 Any additional peremptory challenges by the defense?

15 I need a decision, gentlemen.

16 MR. WILCOX: Your Honor, we're going to use our fourth
17 peremptory on Number 1.

18 THE COURT: Number 1. Okay.

19 Defense, 17 through 30.

20 Judge, we will strike Juror Number 22.

21 THE COURT: 22, Sebastian Ohanian, Number 22.

22 Additional peremptory challenges 17 through 30?

23 MR. WILCOX: 19.

24 THE COURT: 19 is Mr. Gutierrez.

25 MR. McCRAY: Judge, we are going up to 30; right?

1 THE COURT: Correct.

2 MR. McCRAY: Number 29 for cause. Your Honor I
3 neglected to mention this. I know he's awaiting to be -- to
4 hear something from the military, and I'm just concerned about
5 whether or not he's going to be able to focus.

6 THE COURT: If he's called during the session, I'm
7 going to excuse him and an alternate would fill in that slot.

8 Government, 17 through 30.

9 MR. SNIDER: We will use a peremptory on 20, Judge.

10 THE COURT: 20, Esquia.

11 Any others?

12 MR. SNIDER: No.

13 THE COURT: We have 11 permanent jurors. Let's now go
14 31 through 45, but when we get to the first one you don't
15 challenge, that's going to be Number 12.

16 So peremptory challenges, Government?

17 MR. SNIDER: 35, Judge.

18 THE COURT: So you don't challenge Bolufe, that's 31?

19 MR. WILCOX: Number...

20 THE COURT: Both you of, are there any challenges to
21 31, Government?

22 MR. SNIDER: No.

23 THE COURT: Defense?

24 MR. McCRAY: Yes.

25 THE COURT: So defense exercises a peremptory as to 31.

1 Let's look at 32.

2 Government?

3 MR. SNIDER: No.

4 THE COURT: Defense, Espinosa.

5 MR. McCRAY: Strike, Judge.

6 THE COURT: 32. All right.

7 33, Government?

8 MR. SNIDER: No objection.

9 THE COURT: Defense?

10 MR. McCRAY: Judge, we strike 33.

11 THE COURT: All right.

12 34, Gonzalez, Government?

13 MR. SNIDER: No objection.

14 THE COURT: Defense, Gonzalez?

15 This will be your last peremptory now, by the way.

16 MR. McCRAY: Judge, we strike Juror Number 34.

17 THE COURT: All right. Number 34. So you exercised
18 all of your peremptories.

19 Government, 35.

20 MR. SNIDER: We will use our peremptory.

21 THE COURT: I'm sorry.

22 MR. WILCOX: I raise another Batson challenge.

23 THE COURT: You exercised a challenge as to 35;
24 correct.

25 MR. WILCOX: Yeah, he did.

1 THE COURT: I thought you said --

2 MR. SNIDER: Peremptory. He's challenging it.

3 THE COURT: That's as to 35.

4 MR. SNIDER: We're exercising a peremptory based on we
5 don't think that the prospective juror can be partial based on
6 her response to Question 9, which states that brother-in-law is
7 serving time in prison. She also indicated in Number 10 that
8 she has a close family member who's been a victim of robbery.
9 What else?

10 THE COURT: I'm not excusing her for those reasons. Is
11 that --

12 MR. SNIDER: Those are our race-neutral reasons.

13 THE COURT: See, the questionnaire allows you to get
14 information to further peruse it. So just on those statements,
15 I'm not going to excuse Juror Number 35. So, Juror Number 35
16 will be the 12th juror. All right.

17 Now, let's take a look at those that remain, and we'll
18 give you two challenges. Let's pick three alternates. The
19 first three that are not challenged will be our alternate
20 jurors. So we're going to start with Number 36.

21 Defense, what's your position to 36?

22 MR. McCRAY: Accept.

23 THE COURT: Government, 36?

24 MR. SNIDER: Accept.

25 THE COURT: All right. That's our first alternate.

1 Now, to Laura Fernandez, Government?

2 MR. SNIDER: Judge, she's the one who has the trip
3 planned.

4 MR. LOVE: Can we move her to 48.

5 MR. McCRAY: Right. We did.

6 MR. LOVE: She's been moved.

7 THE COURT: We moved her to 48.

8 Next is Emmanuela Raphael.

9 Government?

10 MR. SNIDER: No objection.

11 THE COURT: Defense?

12 MR. WILCOX: No objection.

13 THE COURT: All right. That's Alternate 2.

14 Now, let's go to McCray.

15 Defense?

16 MR. McCRAY: Accept, Judge.

17 THE COURT: Government?

18 MR. SNIDER: No, we wanted to exercise a peremptory on
19 43.

20 THE COURT: I'm sorry, on 43? Okay.

21 44, Giraldo.

22 MR. WILCOX: Your Honor, now, Number 43, I believe
23 another African, we make a Batson challenge. I don't know if
24 you do them all --

25 THE COURT: Well, I do if there's a basis.

1 MR. SNIDER: We don't know the race of the person. I
2 don't.

3 MR. McCRAY: You don't see out there?

4 MR. SNIDER: I have no idea what race this person is.

5 MR. McCRAY: Judge, she's of African descent.

6 MR. SNIDER: How do you know that? I don't write down
7 people's races.

8 MR. McCRAY: I didn't write it down either.

9 MR. SNIDER: And to memorize 40 some odd faces.

10 MR. WILCOX: What did she say here?

11 MR. SNIDER: I don't think this is an appropriate
12 Batson challenge, but if it is, I will give my reason.

13 THE COURT: What is the reason? They say it's based on
14 race. You say it's based on?

15 MR. SNIDER: On her having someone who works in
16 corrections. We don't think that person can be impartial.

17 THE COURT: She has someone who works in --

18 MR. SNIDER: A family -- I don't know if it's hers or
19 someone else. She says me, correction, health and services,
20 mother is even a corrections officer.

21 THE COURT: Let me look at 43.

22 MR. McCRAY: It appears she's a pharmacy tech.

23 THE COURT: Few family members have ever worked for law
24 enforcement. So she's saying she has, and correctional, health
25 service, which means --

1 MR. LOVE: Her mother is a correctional officer.
2 That's how I read that.

3 THE COURT: It says "and mother."

4 MR. McCRAY: Mother's a correction officer.

5 MR. SNIDER: We can bring her in and ask her for
6 clarification.

7 Can we bring her in?

8 THE COURT: This is a Batson challenge. How many other
9 persons of African descent are on the jury?

10 MR. WILCOX: I believe the only person of
11 African American decent is Mr. Marceau Livette, Juror Number
12 16. And he's Haitian. I don't know.

13 MR. SNIDER: He's been struck.

14 MR. WILCOX: I'm sorry, that's right. We did strike
15 him. I'm sorry. I have to look.

16 MR. MCCRAY: Juror Number 30, I think her name is Veda
17 Ferris. She's of African descent, Judge.

18 THE COURT: Do we have all the persons on the jury who
19 were affiliated or worked for law enforcement who were not
20 challenged?

21 MR. SNIDER: I didn't think so.

22 MR. McCRAY: Yes, Judge, Juror Number 15, Mr. Schaffer.
23 His brother-in-law is captain with the Miami-Dade Police
24 Department, Stephen Schaffer, 15.

25 MR. LOVE: I think that was chaplain, though.

1 THE COURT: I'm sorry?

2 MR. LOVE: Did you say captain or chaplain?

3 MR. MCCRAY: It says captain. Someone else is a
4 chaplain.

5 MR. WILCOX: Number 21.

6 MR. McCRAY: In addition, Judge, Ms. Bustamante's
7 either husband or -- I think her husband is with the City of
8 North Miami Police Department.

9 THE COURT: I'm not going to excuse her. She's the
10 15th juror, the third alternate. All right.

11 So when we go back out, I'm going to excuse everybody
12 for lunch, and announce those who have not been selected.
13 We'll come back in an hour, and we'll have our preliminary
14 instructions and opening statements.

15 (Prospective Juror Panel enters.)

16 THE COURT: Quickly, please. You can stand in the
17 area. I'm beginning to call names, quickly, please.

18 I am going to call those who have been selected, and
19 the courtroom deputy will show you where to be seated, and then
20 I'm going to excuse you for lunch.

21 Those who are not selected, I will be excusing in just
22 a moment.

23 So once we get everyone in:

24 Mr. Jose Ramos, please sit in Number 1, Seat Number 1.

25 Mario Aulicino, Number 2.

1 Samantha Loynaz, Number 3.

2 Infante, Viviane Andreotti, Number 4.

3 Number 5, Stephen Joseph Schaffer.

4 Number 6, Olga Bustamante.

5 Number 7, Gabriel Sanchez.

6 Number 8, Hernan Vera.

7 Number 9, Susy Gomez.

8 Number 10, Mandri, Nicholas Mandri.

9 Number 11, Veda Ferris.

10 Number 12, Tammie Williams.

11 Next, Dimercurio, Dangela.

12 Emmanuela Raphael.

13 And Cachee McCray.

14 All right. Ladies and gentlemen, those of you who are
15 standing, I'm going to excuse you at this time.

16 Thank you very, very much for your service.

17 Please go to the 7th floor -- no, the 5th floor, and
18 they will give you further instructions. I suspect since it's
19 1:30, they probably are going to excuse you, but let them give
20 you directions.

21 Thank you very much, ladies and gentlemen, for
22 participating. Have a great afternoon. You're all excused.
23 Be safe, everyone.

24 (Prospective jurors are excused at 1:32 p.m.)

25 THE COURT: Ladies and gentlemen, I'm going to have you

1 go into the jury room, and then the courtroom deputy will tell
2 you how to get downstairs to the cafeteria. We're going to
3 resume at 2:30 p.m.

4 I will give you instructions when you return. You will
5 be sworn, and the lawyers will present their opening
6 statements. We'll break at 4:00 p.m. So please go into the
7 jury deliberation room. You will see where you are. They will
8 show you how to get out and return here and be ready to proceed
9 at 2:30 p.m.

10 Thank you.

11 (Prospective jurors exited courtroom at 1:33 p.m.)

12 THE COURT: All right. Are there any additional
13 matters we should address before breaking for lunch?

14 MR. SNIDER: Your Honor, at the start of the first
15 trial, the Government moved into evidence all the exhibits to
16 which there was no objection. That moved things along very
17 nicely.

18 THE COURT: All right.

19 MR. SNIDER: And we are proposing to do the same for
20 any exhibits if there's no objection.

21 THE COURT: All right.

22 Defense, your position as to the exhibits except -- the
23 only thing that concerns me a little bit is with regard to the
24 exhibits related to the 404(B) witness.

25 MR. SNIDER: Yes.

1 THE COURT: I'd rather not receive those until --
2 unless they are duplicative.

3 MR. SNIDER: I should have been clearer. With the
4 exception of the exhibits that the Government has noticed as
5 404(b) evidence that the Court has reserved ruling on -- and I
6 can tell you what those exhibit numbers are.

7 THE COURT: Well, why don't you tell the defense what
8 they are, and I will have you all return at 2:25, and then I
9 can receive those for which there are no objections.

10 MR. SNIDER: Thank you.

11 THE COURT: All right. Thank you, all. We are in
12 recess.

13 (Luncheon recess was taken from 1:35 p.m. to 2:25.)

14 (Jury not present.)

15 COURTROOM DEPUTY: All rise. Court is back in session.
16 2:33 p.m. Back on the record.

17 THE COURT: Be seated, please.

18 With regard to the witnesses, what have you all
19 decided?

20 MR. SNIDER: I'm sorry, the exhibits?

21 THE COURT: With regard to the exhibits, excuse me,
22 what have you all decided?

23 MR. SNIDER: Your Honor, the Government is moving into
24 evidence without objection from the defense all of the exhibits
25 with the following exceptions:

1 Exhibits -- there is an objection, which I would like
2 the Court to take up now. I'm ready to address it. An
3 objection to Government Exhibits 165 --

4 THE COURT: 165.

5 MR. SNIDER: -- through 171. And --

6 THE COURT: One moment. 165 through 171.

7 Okay. This does appear to be SmartBiz records for --
8 looks like Wade Funeral Home --

9 MR. SNIDER: It's a PPP loan application for Wade
10 Funeral Home.

11 THE COURT: And is this the subject of the case in
12 chief --

13 MR. SNIDER: It is.

14 THE COURT: -- related to the indictment?

15 MR. SNIDER: Yes. The indictment, Your Honor, alleges
16 two things. The purpose of the conspiracy was for the
17 defendants and their coconspirators to unlawfully enrich
18 themselves by, among other things, making false statements to
19 obtain PPP loans and forgiveness of such loans from the SBA
20 lenders and submitting and causing the submission of PPP loan
21 applications that contained false and fraudulent information.
22 That was the purpose. And then the manner and means in
23 paragraph 24 --

24 THE COURT: Okay. One second. Which loan is 6781674?

25 MR. SNIDER: It is a PPP loan application submitted

1 during the period of the conspiracy on behalf of Wade Funeral
2 Home that the Government is alleging contained false and
3 fraudulent statements.

4 THE COURT: And is this the loan that the Government
5 paid? Is this the \$28,000?

6 MR. SNIDER: This is an unpaid loan. So we have --
7 there's two paid loans, each in the amount of \$20,833. This is
8 an application that was declined seeking a PPP loan of
9 approximately \$700,000 based on false and fraudulent
10 statements.

11 THE COURT: Is this loan referenced in particular in
12 the indictment?

13 MR. SNIDER: Not the loan number.

14 THE COURT: No, no, just -- the loan, the \$700,000 loan
15 you said?

16 MR. SNIDER: We do -- it doesn't allege that level of
17 specificity. What we're alleging is a conspiracy to obtain
18 fraudulent --

19 THE COURT: Okay. Is it a hundred loans, or is it --
20 do you refer to the other loans specifically like loan number
21 or not?

22 MR. SNIDER: In the substantive counts, yes. This one
23 is not a substantive count. It is just evidence of the
24 conspiracy.

25 THE COURT: Let me hear the -- see, you have to put

1 people on notice. That's what it's all about. So if you say a
2 conspiracy involving loans, it should indicate what loans we're
3 talking about.

4 MR. SNIDER: So just -- can I bring to the Court's
5 attention the Government -- I mean, in the 404(b) notice -- we
6 are not offering this as 404(b); but in that notice, what the
7 Government said was that the 404(b) that it was offering is
8 evidence that would be admissible to prove this charged
9 conduct; and we specifically said this loan, the loan number,
10 and the false information that was in this --

11 THE COURT: In the 404(b) notice?

12 MR. SNIDER: Yes, but not as 404(b). As --

13 THE COURT: One moment. One moment, sir.

14 MR. SNIDER: Sorry.

15 THE COURT: Is it in the 404(b) notice? That's the
16 question I'm asking.

17 MR. SNIDER: Yes, as to charged conduct.

18 THE COURT: Well, if it's in the 404(b) loan notice,
19 that would lead me to believe it's the 404(b). How would I
20 know otherwise?

21 MR. SNIDER: May I read?

22 THE COURT: Yes, sir.

23 MR. SNIDER: This is page three of Docket Entry 35:
24 The PPP loan applications related to Carolyn and Tracy Wade,
25 which defendants submitted and caused to be submitted in

1 furtherance of one or more of the offenses alleged in the S1,
2 superseding indictment, include the following. It lists number
3 one, the \$20,000 loan to Tracy Wade. Number 2, the \$20,000
4 loan to Carolyn Wade. Number 3, the PPP loan application
5 created May 6th 2021, and assigned SmartBiz application number
6 6781674, hereinafter the Wade Funeral Home PPP application.

7 In the next paragraph, it states: The materially false
8 and fraudulent representations in the Tracy Wade PPP
9 application and Carolyn Wade PPP application and the Wade
10 Funeral Home PPP application include but are not limited to the
11 following. And in the paragraph -- the bullet relating to the
12 Wade Funeral Home PPP application states: The Wade Funeral
13 Home PPP application falsely represented, among other things,
14 that in 2020 Wade Funeral Home had 45 paid employees and gross
15 payroll of 3.3 million dollars.

16 The Wade Funeral Home PPP application was supported by
17 several fictitious documents, including a fake I.R.S. 941,
18 purportedly for the first quarter of 2020, and three fake
19 payroll documents. Based on these and other false
20 representations, the Wade Funeral Home PPP application
21 requested a PPP loan in the \$701, 873.

22 The Wade Funeral Home PPP application was conditionally
23 approved by the SBA on May 26th, 2021, but ultimately declined
24 on June 6th, 2021. This is in the background of the 404(b)
25 notice.

1 THE COURT: All right. May I see the document
2 because -- how is it captioned? Is it captioned 404(b)? Is
3 the caption of the pleading you're reading captioned 404(b)?

4 MR. SNIDER: Yes.

5 THE COURT: All right, may I see it, please?

6 MR. SNIDER: Mr. Love will hand it up.

7 MR. LOVE: Your Honor, may I approach?

8 THE COURT: Yes, sir.

9 (Documents tendered.)

10 THE COURT: Defense.

11 MR. WILCOX: Oh, I'm sorry, Your Honor.

12 THE COURT: May I hear from you on this subject?

13 MR. WILCOX: Yes, sir, Your Honor.

14 We did discuss this after the last status conference,
15 Mr. Snider and myself. And I raised the same concern as the
16 Court had. You make no reference of the \$700,000 PPP loan. It
17 was an attempt -- allegedly an attempt by Mr. Wade to get a
18 \$700,000 PPP loan. There's no specific reference in the
19 indictment.

20 When he filed his 404(b) notice, I sent him an email.
21 I asked him precisely which -- what evidence do you plan to
22 introduce pursuant to 404(b). He referenced the two EIDL
23 loans, which are those there and nothing else.

24 So I assumed that he wasn't bringing in the \$700,000
25 back when I asked him about it pursuant to 404(b). After the

1 status conference last week, he said, Oh, no, it's part of the
2 conspiracy.

3 I said, What do you mean it's part of the conspiracy?
4 There's no overt act. There's nothing mentioning his attempt
5 to get a \$700,000 loan. So I told him we'd be objecting to
6 these exhibits, and we'd address it at trial.

7 THE COURT: All right.

8 MR. SNIDER: May I respond?

9 MR. WILCOX: May I --

10 THE COURT: Listen, I've heard enough, all right.

11 The notice makes reference to the 404(b). And if I
12 just read it and didn't know any better, I would think this is
13 the 404(b), and it's not referenced in the indictment. And so
14 for those reasons, at this time, I am sustaining the objections
15 to 165 through 171.

16 Bring the jury in, please.

17 All this other -- there's a way to resolve it. Put
18 them in the indictment to put them on notice what they're
19 charged with. That's one way of handling it. But this is --
20 this is how I interpret it, all right.

21 MR. SNIDER: Okay. Can I -- can I respond or no?

22 THE COURT: You can respond later. We have the jury
23 coming in.

24 MR. SNIDER: Okay.

25 THE COURT: But the ruling is the objection is

1 sustained.

2 COURTROOM DEPUTY: All rise for the jury.

3 (Jury entered courtroom at 2:45 p.m.)

4 THE COURT: Have them sworn while they're standing.

5 COURTROOM DEPUTY: Please remain standing.

6 THE COURT: Please raise your right hands, ladies and
7 gentlemen.

8 COURTROOM DEPUTY: Do you and each of you solemnly
9 swear or arm that you will well and truly try the issues in
10 this case and render a true verdict according to the evidence
11 charged of this Court?

12 JURY PANEL: I do.

13 THE COURT: Be seated, please.

14 Members of the jury: Now that you have been sworn, I
15 would like to give you some preliminary instructions to guide
16 you in your participation in the trial.

17 It will be your duty to find from the evidence what the
18 facts are. You and you alone are the judges of the facts. You
19 will have to apply those facts to the law that I give you at
20 the very end of the case. And keep in mind, you must follow
21 that law whether you agree with it or not.

22 Nothing that I say during the course of the trial is
23 intended to indicate to you what the facts are. You and you
24 alone are responsible for making that determination.

25 If I make a comment to the lawyers or otherwise, I'm

1 not trying to suggest to you what your verdict should be.

2 That's your responsibility.

3 The facts from which you will find the evidence in this
4 case and the facts that you will determine the case will
5 consist of the testimony of witnesses, documents received in
6 evidence, and other items that the Court receives, and any
7 facts that the lawyers may agree are, as we say, stipulate to.

8 Sometimes the lawyers stipulate to certain facts or
9 testimony to save time; and if there are stipulations, I will
10 announce them to you and then you may consider them.

11 Keep in mind, those stipulations will be produced.
12 Sometimes they are in writing included with the exhibits.
13 Certain things are not evidence and must not be considered by
14 you in any way.

15 In the very going of the case in just a few moments the
16 lawyers will present to you their opening statements. They are
17 going to tell you what they think the evidence is going to be,
18 and you will consider that. It's like a preview of what they
19 expect the evidence will be. But the actual evidence in the
20 case is the testimony and the exhibits received, not the
21 opening statements. You may consider them as guidance, so to
22 speak.

23 And at the closing of the case, the lawyers will
24 present what we call closing arguments. They will tell you
25 what they think the evidence was; but keep in mind, you make

1 that determination. You're not to consider the closing
2 evidence nor the opening statements as the evidence in the
3 case.

4 And of course, the lawyers have to ask questions of
5 witnesses. It's not the question that's the evidence. It's
6 the answer to the question.

7 So if a lawyer asks, Is the sky blue; and the witness
8 says, No, the sky is red; it is not the question that's the
9 evidence. It's the witness's answer to the question.

10 Now, I'll tell you a little bit about credibility of
11 witnesses. So it's up to you the extent to which you believe a
12 witness. Just because a witness says something, that's not
13 necessarily how you will decide the issue. That is a question.
14 It's an answer. And you determine the credibility of the
15 witnesses.

16 When the lawyers pose objections to questions, it's
17 because they've made a determination that they think that this
18 is not a proper question.

19 If I overrule the objection to a question, it means
20 I've decided that the question is a proper one and there would
21 be a forthcoming answer.

22 If I sustain an objection to a question, it means I've
23 determined that's not a proper question; and, therefore, there
24 will be no answer to that question. A lawyer will go to the
25 next proper question.

1 You should not be influenced by any ruling that I make
2 on an objection. I'm simply carrying out my responsibility as
3 the judge of the law. So don't count lawyer A had three
4 objections sustained, and lawyer B had six objections
5 sustained. That's not the point. And you must follow my
6 instructions.

7 Occasionally, sometimes items are received for a very
8 limited or specific purpose. If that occurs, I will give you
9 have an instruction telling you how to consider the evidence.

10 Anything that you see or hear outside of the courtroom
11 is not evidence. Your past experiences, as we discussed
12 earlier, is not evidence. The evidence will come on the
13 witness stand to my left and the documents that are received in
14 evidence.

15 Now, for your information, the lawyers have agreed that
16 certain items should be received as exhibits, and I'm receiving
17 them. Technically, a foundation has to be laid for each
18 exhibit.

19 So, for example, if an exhibit comes from a record of
20 an agency, they would have to call witnesses for the witnesses
21 to testify that these documents are kept in the ordinary course
22 of business, et cetera.

23 Rather than having to call these types of witnesses,
24 they have already agreed that many exhibits should be received,
25 because they've already done the background and they agree that

1 the exhibits have been received; and I am receiving them
2 without the necessity of having to lay a foundation.

3 It saves us an inordinate amount of time, and I
4 certainly appreciate when lawyers can reach those agreements.

5 So when an exhibit is referred to as Exhibit 1, that
6 means it's in evidence because it has an exhibit and it's
7 Number 1, or 2, or 3. If an exhibit is marked for
8 identification, it hasn't been received and will not be before
9 you until it is received.

10 So if the Government refers a witness to Exhibit 10,
11 it's an exhibit. I've received it. It's Exhibit 10. But if
12 it's Exhibit marked for identification 10, I haven't received
13 it; and until such time as I do receive it, it will not be in
14 all of the exhibits that will be provided to you at the end of
15 the case.

16 We'll give you an exhibit list of all of those that
17 have actually been received in evidence.

18 Keep in mind, anything you see or hear outside of the
19 courtroom is not evidence and must not be considered by you.

20 There are two kinds of evidence: Direct evidence and
21 circumstantial evidence.

22 Direct evidence is direct proof of an assertion or a
23 fact, such as the testimony of an eyewitness, all right.

24 Circumstantial evidence is proof from facts in which
25 you may infer or conclude that other facts exist. So, for

1 example, the lawyers like to use the example of you walking
2 outside and you see the grass is wet and the sidewalk is wet.
3 Well, you can infer that it rained, or maybe it was the
4 sprinkler. So that's an example of circumstantial evidence.
5 You may infer from certain facts that other things exist, but
6 you've got to decide whether you should make that inference.

7 Now, we talked a little about the credibility of
8 witnesses. This has to do with the believability of a
9 witness's testimony and how much of the witnesses' testimony
10 you should accept or reject.

11 At the very end of the case during the instruction
12 phase, I will give you some instructions to determine the
13 credibility. That is, the believability of the witness's
14 testimony. And I'll give you certain considerations. Like how
15 long did the witness have to observe what they testified about?
16 Do they have any personal interest in the outcome of the case?
17 I'll give you several tests, about seven, or eight, or nine to
18 help you determine the credibility of witnesses.

19 As you know, this is a criminal case; and there are
20 some rules that you must keep in mind.

21 First: The defendants are presumed innocent until
22 proven guilty beyond a reasonable doubt. An indictment
23 contains only accusations. Nothing more. The defendants start
24 out with a clean slate. The indictment itself proves nothing.

25 Second: Burden of proof is on the Government to prove

1 its case beyond a reasonable doubt. The defendants have the
2 right to remain silent; and if they elect not to testify, then
3 the law prohibits you from considering that fact that they
4 didn't testify in reaching your determination.

5 And you know the Government has the burden of proving
6 its case beyond a reasonable doubt. Those are three important
7 factors for you to keep in mind.

8 Now, a few words about your conduct as jurors. First,
9 I instruct you that during the trial or after each day you are
10 not to discuss the case with each other or family members or
11 friends when you go home. Of course, they're going to want to
12 know what you're doing in downtown Miami. You're going to
13 simply tell them: I'm serving as a juror, and I can't discuss
14 the case at this time. Because the problem is, if you start
15 talking to people about the case, then you're not going to
16 remember who said what or when.

17 So just avoid talking about the case. This is not a
18 very lengthy case, and you'll have plenty of time to talk about
19 your experiences after the jury has reached a verdict. So keep
20 that in mind when we break for lunch or have a break during the
21 morning or afternoon session. Do not go in the jury room and
22 talk to each other about what you heard or saw.

23 The time to deliberate, as the term is referenced, is
24 after all of the evidence has been presented, all of the
25 arguments have been presented, and I've told you what the law

1 happens to be. So please keep that in mind.

2 I have instructed the attorneys and the parties to have
3 no contact with you whatsoever. So if you happen to be coming
4 up on the elevator tomorrow morning and there's an attorney on
5 the elevator or maybe a witness from the prior day that you
6 recognize, that person will not speak to you or greet you.

7 They're not being rude. They have been told to have no
8 contact with you whatsoever. Because if someone sees you
9 talking to a witness, the first thing they're going to want to
10 know is what are you talking about, because you're not supposed
11 to have talking with others. So now, when that's reported to
12 me, I have to call each one in: What did you see? What did
13 you hear? It takes an inordinate amount of time.

14 So simply put, they will not be speaking to you and you
15 will not speak to them during the trial. This is very
16 important.

17 Do not read or listen to anything regarding this case.
18 We don't expect any pre-trial or post-trial or during-trial
19 publicity. As you know, in some cases they're highly
20 publicized, and there's news reports and radio reports and a
21 lot of information during the trial itself.

22 So if by chance -- which we don't anticipate; but if by
23 chance there was an article in the newspaper and you saw the
24 heading, do not read it. Radio, as you're driving in, if your
25 radio is on and there happens to be a report about this case,

1 turn the radio off or change the station, or the television
2 news in the evening or morning. So keep this in mind. Don't
3 read or listen to anything regarding this case.

4 If anyone attempts to contact you or to talk to you
5 about this case, bring it to my attention at your first
6 available opportunity: The following morning, during the trial
7 after lunch, whatever the occasion may be.

8 Do not read or listen to anything which relates to this
9 case. In this new technological world with the internet and
10 iPhones and iPads and computers, there's all sorts of
11 information out in cyber world. Now, a lot of it's not even
12 true, all right. So don't try to do any investigation on your
13 own by looking up the names of witnesses or defendants or
14 lawyers, et cetera. Please, none of that relates to this case.

15 Everything you need to know we will tell you here in
16 open court. So no research or investigation on your own. This
17 is a big problem. We've had instances, not in this district in
18 particular, but some jurors blogging from the jury room. And
19 we did have an instance in this district where a juror brought
20 in a dictionary and started giving the jurors the definitions.
21 And of course, that case was deemed a mistrial after about six
22 or seven weeks of trial, which means that it has to start all
23 over again and a large waste of time and effort. So no
24 investigation, no Googling or use of devices, et cetera. This
25 is very, very important.

1 Don't communicate with each other by email or otherwise
2 concerning this case. I can't emphasize these rules enough.

3 Now, if you are unsure about whether to engage in some
4 activity or not, that means there's a question about whether
5 it's proper, so don't do it. Bring it to my attention at your
6 first available opportunity, and I will give you some guidance
7 in determining whether or not you should proceed with the
8 information.

9 Do not form any opinion until all of the evidence has
10 been received, the closing statements, and my instructions to
11 you on the law.

12 Really until you know what the law is you really can't
13 make any decisions. You've heard evidence, but what's the law?
14 One without the other doesn't help, and that's why we both have
15 jobs in this case. You're the judges of the facts, and I will
16 serve as the judge of the law. Equally important.

17 If you would like to take notes, you may. I think you
18 have been provided with pads and pencils. So don't try to
19 write everything down; but if something significant or
20 important to you occurs, feel free to take a note. We will
21 preserve your notes in the jury room overnight. They will be
22 secured. No one will read them. And returned to you the
23 follow day. So if you want to take notes, feel free to do so.

24 Now, the trial is going to begin in just a few moments;
25 and the first thing that will happen is that the lawyers are

1 going to present to you opening statements. They're going to
2 tell you what they expect the evidence is going to be.

3 As you know, it's not the actual evidence. Thereafter,
4 the Government will present what we call its case in chief.
5 And after the Government's case in chief, the defense have an
6 opportunity to present a case in chief, but they don't have any
7 burden of proof, so they don't have to present a case. They
8 don't have to present any evidence. As you know, they don't
9 have to testify. That will be their determination.

10 During each case in chief, the lawyer presenting their
11 case -- Government first, defense second -- they will ask
12 questions of witnesses, which we call direct examination,
13 followed by cross-examination from the opposing side, and
14 thereafter redirect examination to go over those matters raised
15 in the initial direct examination. Those are the three phases
16 for each witness. In some jurisdictions, they have direct and
17 cross and redirect and re-recross and on and on and on.

18 So in federal court, there are three stages: Direct,
19 cross, redirect. That ends the inquiry for each witness and
20 then the witness may be excused.

21 After each side has presented their case in chief, you
22 will hear the attorney announce they are resting their case.
23 That means they have concluded all of the evidence that they
24 want you to consider.

25 This is important because at the end of each case, I

1 will entertain legal issues from the lawyers. So I will excuse
2 you while I entertain their arguments about these legal issues.
3 And after all of the legal issues have been presented, the
4 lawyers will present closing arguments. Government first,
5 defense second, and then the Government may give a closing
6 argument which is referred to as rebuttal argument reference
7 the defense. So Government, defense, Government. They each
8 will have a maximum number of minutes. And any time that the
9 Government may -- say, for example, if each side has a maximum
10 of 30 minutes and the Government's initial argument is 20
11 minutes, they would have ten minutes for their rebuttal. So
12 that's the way the process works.

13 Then after all the arguments, I will give you your
14 instructions on the law. I will give you a copy of those
15 instructions to read along and follow along with me as they are
16 presented.

17 Now, we have seating charts. I'm not sure everyone is
18 in the correct seats. So we have Mr. Ramos. We have
19 Ms. Aulicino. You should be in the Number 2 seat,
20 Ms. Aulicino. So I'm going to ask you to switch with Ms. --
21 Mr. Aulincino, all right. You're in the right seat.

22 Ms. Loynaz.

23 Ms. Infante.

24 Mr. Schaffer.

25 Ms. Bustamante.

1 Ms. Sanchez -- Mr. Sanchez.

2 Ms. Rivera.

3 Ms. Gomez.

4 Mr. Mandri.

5 Ms. Ferris.

6 Are we missing, Ms. Williams?

7 JUROR: I'm Williams.

8 THE COURT: All right, I will have you move over one.

9 Then Dimercurio, move over one.

10 Raphael, and Ms. McCray.

11 Okay. I see a seat missing, I get nervous. We have
12 everyone here.

13 All right. Counsel, are you requesting any additional
14 instructions?

15 MR. SNIDER: No, Your Honor.

16 THE COURT: Defense, any additional preliminary
17 instructions?

18 MR. McCRAY: No, Judge.

19 THE COURT: Government, you may begin.

20 MR. SNIDER: Thank you, Your Honor.

21 **GOVERNMENT'S OPENING STATEMENT**

22 MR. SNIDER: May it please the Court.

23 THE COURT: Yes, sir.

24 MR. SNIDER: Members of the jury, good afternoon.

25 This case is about two law enforcement officers who

1 lied to get loans from the Paycheck Protection Program during
2 the COVID 19 pandemic.

3 Those two law enforcement officers are the defendants
4 in this case: Mr. Tracy Wade and Mrs. Carolyn Wade. Carolyn
5 Wade and Tracy Wade are married. They have been for about nine
6 years.

7 In 2021 when this country was industrial grappling with
8 the effects of the COVID 19 pandemic on the economy, Carolyn
9 and Tracy Wade were employed full-time as deputy sheriffs with
10 the Broward Sheriff's Office, commonly known as BSO.

11 They were sworn officers in BSO's department of
12 detention, which operates the county jails and provides
13 security to its courthouses.

14 The evidence will show that from approximately May
15 through August of 2021, Carolyn and Tracy Wade applied for and
16 received Paycheck Protection Loans based on false information.
17 Specifically, Carolyn and Tracy Wade each received a PPP loan
18 in the amount of \$20,833 for businesses that did not exist and
19 were based on income that was made up out of thin air.

20 A total of \$41,666 went into the defendants' bank
21 account all based on lies.

22 Now, let's talk for a minute about the Paycheck
23 Protection Program. I know it came up during the voir dire
24 process, but I want to go through it again.

25 The Paycheck Protection Program, or PPP as it was

1 commonly known, was a federal program. It was a federal
2 program that began at the start of the COVID pandemic, and it
3 had one objective; and that was to, as the name suggests,
4 protect paychecks. It was designed to put money in the hands
5 very quickly of small business owners so that those small
6 business owners could keep their employees employed during the
7 pandemic.

8 Now, PPP loans, the amount of the loan, that was
9 determined based upon the business's payroll, what the business
10 paid its employees because if a business was applying for a
11 loan to get money to keep its payroll going. It was designed
12 to protect paychecks.

13 Now, self-employed business owners -- for example, a
14 sole proprietor that is in business for himself or herself,
15 they could also apply for PPP loans. And when a sole
16 proprietor applied for a PPP loan, the amount of the loan was
17 based on what the sole proprietor paid themselves. Sole
18 proprietors pay themselves based on their income. So loans for
19 sole proprietors were based on the sole proprietor's or
20 self-employed person's income, and there was a maximum. The
21 maximum was \$20,833. And you'll hear in this case why that was
22 the maximum.

23 It was a formula that was based on a maximum income of
24 100,000. If you have at least 100,000, you have no more, you
25 can get a loan for 23,833 if you were self-employed, had your

1 own business.

2 Now, the SBA partnered with private lenders to
3 administer this program, and many of those private lenders
4 partnered with third-party service providers. And what the
5 service providers did was they would host websites where a
6 small business owner could go to apply for a loan. And that
7 service provider would collect all the information through its
8 website and documents that were needed, and they would package
9 it all together for the lenders and the SBA to approve. And
10 the service provider that you're going to hear about in this
11 case was called Womply.

12 PPP loans were forgivable, but that was a separate
13 application process. If you received a PPP loan, you could
14 apply to have that loan forgiven if you spent the money on
15 payroll. You had to spend approximately 60 percent of the PPP
16 money on payroll in order for it to be eligible to be forgiven.
17 And if you apply and the SBA forgave the loan, you didn't have
18 to pay it back.

19 The PPP was a trust-based system. That's how it
20 worked. It relied on the truthfulness of the borrower to
21 supply truthful and accurate information in the PPP application
22 and any supporting documents. And the reason you will learn
23 that it was trust-based was because the SBA was trying to get
24 money out as quickly as possible to small businesses. So they
25 relied on the business owners to certify that all the

1 information was true.

2 Tracy Wade and Carolyn Wade violated that trust when
3 they certified as true in their PPP loan applications that all
4 the information was true and all the supporting documents were
5 true when they knew it wasn't.

6 You will see in this case that each defendant made
7 multiple false certifications both to get the loans in the
8 first place and then to apply for forgiveness.

9 Let's talk a little bit more about these two loans.
10 Tracy Wade's PPP loan, again, \$20,833. That was the maximum
11 that a sole proprietor could get.

12 His application was based on a business that didn't
13 exist. It was for a sole proprietor named Tracy Wade. The
14 business name was Tracy Wade. There was no business name Tracy
15 Wade, and it was based on income of \$112,430 in 2019.

16 The evidence will show that was false, and Tracy Wade
17 knew that was false. He knew he didn't have a business named
18 Tracy Wade, and he knew there was no business named Tracy Wade
19 that made over \$100,000 in 2019.

20 Tracy Wade's PPP loan application also included a false
21 tax document. That false tax document was called an I.R.S.
22 Form Schedule C. And in his application, the I.R.S. Form
23 Schedule C, which you will see, was for a business that didn't
24 exist named Tracy Wade and claimed income of over \$100,000.
25 We're going to talk more about that fake Schedule C in a

1 moment.

2 Carolyn Wade's PPP loan. She also got a loan for
3 \$20,833, the maximum for a sole proprietor. That was based on
4 an application that she certified that the business name was
5 Carolyn Wade, and that that business made over \$100,000 in
6 2019.

7 The evidence will show that was false and Carolyn Wade,
8 knew that was false. She knew she didn't have a business named
9 Carolyn Wade, and she knew there was no business named Carolyn
10 Wade that made over \$100,000 in 2019. And just like Tracy
11 Wade's PPP loan application, Carolyn Wade's PPP loan
12 application also included a fake tax document, a fake Schedule
13 C for a fake business named Carolyn Wade with made up numbers
14 of over \$100,000.

15 Now, after the defendants received their PPP loans in
16 approximately June of 2021, they applied to have those loans
17 forgiven. And in those forgiveness applications, they made
18 additional false statements and certified those false
19 statements as being true, including how they spent the money
20 and that they were entitled to the loans in the first place.

21 Let's talk for a moment about the charges in this case,
22 which are alleged in the indictment. The indictment charges
23 the defendants with four crimes:

24 Conspiracy to commit wire fraud; wire fraud; conspiracy
25 to make false statements to the SBA Administration, the SBA;

1 and making false statements to the SBA.

2 The evidence will show that Carolyn Wade and Tracy Wade
3 committed those crimes together. A conspiracy is an agreement
4 between two or more persons to do something illegal, to do
5 something the law forbids. It is an agreement to carry out an
6 unlawful plan. And in this case, the defendants' plan was to
7 get PPP loans based on false information.

8 The evidence will show that Tracy and Carolyn Wade
9 participated in a conspiracy to get PPP loans based on false
10 information and a conspiracy to make false statements to the
11 SBA.

12 In addition to conspiring to commit those offenses, the
13 indictment alleges that the defendants carried out their plan
14 in what is called a scheme to defraud using interstate wires to
15 carry out that plan. And that is why the defendants are
16 charged with wire fraud.

17 Finally, the defendants are charged, each of them with
18 making false statements both in their PPP loan applications and
19 in the forgiveness application. Defendants made those false
20 statements in an SBA form and certified that the information
21 was true and then signed those forms through an electronic
22 signature called DocuSign.

23 In addition to the defendants working with each other
24 to commit these crimes, the evidence will show that Carolyn
25 Wade and Tracy Wade committed the crimes alleged in the

1 indictment with other people, and those other people are called
2 co-conspirators. A co-conspirator whom Tracy Wade and Carolyn
3 Wade agreed with to obtain fraudulent PPP loans was a woman
4 named Haydee Rivero. And before she was married, she was known
5 as Haydee Granados.

6 Ms. Rivero and her husband, Edward Rivero, they know
7 the ways through the funeral home business. The Riveros own a
8 funeral home called Edward Funeral Home, and Mr. Wade owns a
9 funeral home called Wade Funeral Home.

10 2021, the Riveros and the Wades were friendly. They
11 socialized together, including at gathering at the Riveros'
12 home.

13 Haydee Rivero is not an accountant. Haydee Rivero has
14 no accounting background. You will hear she's not good at
15 math. She's not good at crunching numbers.

16 Since 2020, since they've owned the Rivero Funeral Home
17 she's worked at the funeral home doing administrative tasks;
18 and before that, she was a Spanish interpreter.

19 But in 2021, Haydee Rivero was involved in fraudulent
20 PPP loans for herself and many other people, including the
21 defendants, Tracy Wade and Carolyn Wade.

22 Now, Ms. Rivero is going to testify in this case as a
23 witness for the Government; and Ms. Rivero's testimony and
24 documents that you will see will establish that she is the
25 person who created the fake Schedule Cs that were included in

1 the defendants' PPP loan applications.

2 Ms. Rivero's testimony and documents will also
3 establish that the defendants knew that Ms. Rivero created fake
4 Schedule Cs for them and uploaded them into their PPP loan
5 applications. Because the evidence is going to show that the
6 defendants engaged Ms. Rivero for that purpose. Specifically,
7 they paid her. They paid Ms. Rivero each \$1,000, and they paid
8 Ms. Rivero -- Tracy Wade paid Ms. Rivero \$1,000 via Zelle the
9 same day that he got his PPP loan money; and a few days later
10 when Carolyn Wade got her PPP money, she sent the Zelle to
11 Ms. Rivero for \$1,000.

12 We expect that Ms. Rivero will explain how she created
13 these fake Schedule Cs for the defendants. And in so doing,
14 she will explain that the defendants never provided her with
15 any of their real tax information.

16 She will also explain the process through which she
17 uploaded these fake documents that she made into the PPP loan
18 applications -- remember, all done online -- for the
19 defendants.

20 And the way that that was done, the way that Ms. Rivero
21 got access to their PPP loan application on the Womply website
22 was through a one-time code auto generated that had to be sent
23 to her within ten minutes. And the reason that it had to be
24 sent to her, Womply sent that code you will hear to either the
25 phone number or the email in the application. So for Tracy

1 Wade's application, that one-time code if you wanted to log in
2 either went to his email, Tracy Wade's email, or to his cell
3 phone number. And when you wanted to log into Carolyn Wade's
4 application, the one-time code got sent to Carolyn Wade's cell
5 phone or her email.

6 Many of these codes and the other information that
7 Ms. Rivero was taking from the defendants that was transmitted
8 from the defendants to Ms. Rivero was over the phone, and you
9 will see records of phone calls in this case. There were
10 approximately 28 phone calls between Mr. Wade and Ms. Rivero
11 during the period of the conspiracy. And you won't see in
12 those records any calls before May of 2021 or after August of
13 2021. 28 phone calls between Tracy Wade and Haydee Rivero.
14 And there were a few phone calls, a few between Carolyn Wade's
15 cell phone number and Ms. Rivero's cell phone number; but
16 primarily Mr. Wade you will hear was the point of contact.

17 In addition to explaining what Ms. Rivero did for the
18 defendants, Ms. Rivero is expected to testify that she was
19 involved in PPP loan applications for about 18 other people.
20 Some of those individuals that she was involved with were
21 members of her own family and some were friends, and you will
22 hear that Ms. Rivero created fake Schedule Cs for many of those
23 applications just as she did for the defendants.

24 Now, not all of these 18 applications that she was
25 involved with actually went through, okay. And for the ones

1 where they weren't going through because they, for example, ran
2 into a technical issue, Ms. Rivero did not create a Schedule C.
3 But for the ones that were going to go through, she created a
4 Schedule C, and she was paid to do that. And just like Carolyn
5 and Tracy Wade paid her \$1,000 each, Ms. Rivero received about
6 \$1,000 or \$2,000 for every other Schedule C that she
7 fraudulently created.

8 Ms. Rivero's testimony will also establish that with
9 respect to those other Schedule Cs that she created, again, out
10 of thin air, making up the numbers, every single one of the
11 individuals for whom she was doing that knew the Schedule Cs
12 were fake.

13 You will learn in this case that Ms. Rivero has pleaded
14 guilty. She has pleaded guilty to conspiracy to commit wire
15 fraud and make false statements to the SBA, and she pled guilty
16 to that crime for the fake Schedule Cs that she prepared for
17 Carolyn Wade and Tracy Wade and the others we just mentioned.

18 You will learn that Ms. Rivero pleaded guilty this last
19 month pursuant to a plea agreement with the United States. And
20 that plea agreement includes an agreement by Ms. Rivero to
21 cooperate with the Government. Part of her cooperation as set
22 forth in the plea agreement requires her to testify at trials
23 like this.

24 Now, it is up to you, members of the jury, the judge of
25 the facts, to evaluate and make the determination about

1 Ms. Rivero's credibility.

2 It is true that Ms. Rivero has not been truthful
3 before: Making up fake tax documents to put in a Schedule C
4 application, that is not being truthful. It is also true that
5 Ms. Rivero got PPP loans for herself based on false information
6 that she knew was false. And you will hear that Ms. Rivero
7 once before met with the attorneys for Carolyn and Tracy Wade.
8 And at that meeting, she denied her involvement in this
9 conspiracy. She wasn't truthful with the attorneys for Carolyn
10 and Tracy Wade when she met with them.

11 But in this trial, you are not going to have to take
12 Ms. Rivero's word alone because you are going to have all of
13 the documents, all of the records that show that Carolyn Wade
14 and Tracy Wade were directly involved in their own PPP loan
15 applications and that Tracy Wade was also involved in his
16 wife's PPP loan application.

17 There is a digital record that you will see of
18 everything that happened online, and that evidence will show
19 beyond a reasonable doubt that Carolyn Wade and Tracy Wade knew
20 exactly what they were doing when they applied for these PPP
21 loans.

22 Let's talk about that evidence for a moment.

23 First, you are going to see records from Womply, the
24 service provider that had the website where these PPP loans
25 were applied for. Womply kept a digital record of all the

1 activity on its website and, specifically, all the activity in
2 PPP loan applications, including the PPP loan applications for
3 the defendants.

4 These records will show you, among other things, every
5 time Carolyn Wade or Tracy Wade logged into Womply, made
6 changes to their application or uploaded documents, like bank
7 statements or linked a bank account so the lender would know
8 where to send the money to.

9 You're not going to see them uploading the fake
10 Schedule Cs because that was done by Ms. Rivero.

11 There are two-ways when you look at these records that
12 you can tell who is logging in and who is conducting the
13 activity on the website. One of those ways is by an IP address
14 and the other way is by the model of the device that was being
15 used, the model of the computer or the model of the cell phone
16 that was logging in. Because Womply kept track of both. It
17 kept track of IP address that were accessing this website.
18 They kept track, was able to keep track of the device that was
19 being used, the type of computer, the type of cell phone.

20 You're going to hear in this case what an IP address
21 is, but you can think of it like a landline number for a house.
22 The landline number identifies the location of a certain house.
23 IP is just sort of caller ID for Internet. It identifies a
24 particular internet connection that's being used to access a
25 website.

1 You will see in this case that these IP addresses in
2 the PPP loan applications for Carolyn Wade and Tracy Wade,
3 those IP addresses are directly attributable, many of them,
4 directly attributable to the defendants.

5 You will see the defendants' IP address from their home
6 where they resided in 2021 together. You will see the IP
7 address from the Wade Funeral Home, Mr. Wade's business, and
8 you will see multiple IP addresses for Verizon wireless, which
9 was their cell phone carrier in 2021.

10 You will see activity in the PPP loan applications for
11 Carolyn and Tracy Wade from those IP addresses directly
12 attributable to the defendants. You will see them logging in,
13 making changes, uploading documents.

14 It shows, for example, that the PPP loan applications
15 for Tracy Wade's loan and Carolyn Wade's loan were started from
16 the IP an address that was then assigned to the Wade Funeral
17 Home.

18 As I mentioned, the cell phone devices, you will also
19 see in this data, you will learn what device Carolyn Wade had
20 at the time; you will learn the device that Tracy Wade had at
21 the time; and from the data, you will be able to see the
22 activity from those models in their respective PPP
23 applications.

24 Why does this matter?

25 It matters for a few reasons. One of which is that you

1 are going to hear from a witness from Womply who worked at
2 Womply during the PPP and wrote a lot of the code for its
3 website. And that witness is expected to say that every time
4 there was a log-in to a PPP application, all of the information
5 that has been previously entered is visible to the person
6 who logged in. And in this case, you will see that the
7 defendants logged into their PPP loan applications before
8 Ms. Rivero uploaded the Schedule C and afterwards.

9 Another reason that the defendants logged into their
10 PPP loan applications on the Womply website was to verify their
11 identity. And you will see records of that process.

12 That process includes the defendants taking selfies of
13 themselves from the left, from the center, from the right.
14 There's six pictures of Carolyn Wade doing that. There's six
15 pictures of Tracy Wade doing that. They also had to upload a
16 photo of their driver's license so that Womply using persona
17 services could verify the identify of the person who was
18 submitting the application.

19 You will see in that data, too, the device that was
20 used, model and the device that they held in front of their
21 face to take the selfies. The same device that you will see
22 logged into Womply's website.

23 Now, after the application process was completed on
24 Womply's website and after the identity was verified, the last
25 step in this process was signing the PPP loan applications.

1 And part of that signing process was the initialing of
2 the certification that all the information was true, and that
3 process was done through DocuSign.

4 This was yet another point where the defendants saw
5 their PPP loan applications and the false information was in
6 there. Because when you sign a document via DocuSign, the
7 document you're signing is visible on the screen that you're
8 using. This didn't happen on the Womply's website. The way a
9 DocuSign, you're going to hear in this case begins is that the
10 documents you sign get e-mailed to the email of the applicant.
11 In this case, Tracy Wade or Carolyn Wade.

12 Now, Womply kept a copy of each PPP loan application
13 that the defendants submitted. And with those PPP loan
14 applications is a certificate from DocuSign. That certificate
15 shows who it was sent to, when it was sent, when it was viewed,
16 when it was signed, and the IP address that was used to view
17 and sign the PPP loan application.

18 Now, with respect to Tracy Wade, he viewed and signed
19 three separate PPP loan applications for his one loan.

20 Each one of those PPP loan applications had the false
21 information, the income over \$100,000 and the fake business
22 named Tracy Wade. The reason he had to sign those three times
23 is because Womply had to send that application to three
24 different lenders. Every time it went to a different lender,
25 you had to sign the application again.

1 DocuSign records will show you that the IP address that
2 Mr. Wade used to sign those all three times was a Verizon
3 wireless IP address. His cell phone provider at the time.
4 DocuSign records will show that Mr. Wade viewed the application
5 before he signed it and after he signed it.

6 The DocuSign records will show that Mr. Wade actually
7 received a copy of his executed PPP loan application with the
8 false information in it.

9 With respect to Carolyn Wade, she signed two of these
10 PPP loan applications via DocuSign because her application had
11 to go to two different lenders. Same thing.

12 You will see that Ms. Wade signed one of those on the
13 Verizon wireless network and the other one was signed at home.
14 Each time she signed it was, the document she was signing with
15 the false information was visible on her screen, including all
16 the certifications.

17 Same was true for the forgiveness. That was also
18 signed per DocuSign. So when the forgiveness applications with
19 the false information for the defendants to sign, that was on
20 their screens.

21 You also have in this case records from the Internal
22 Revenue Service, the I.R.S. You will have the defendants' tax
23 returns for certain years. And with respect to Carolyn Wade,
24 you will see in her 2019 tax return that she actually had filed
25 with the I.R.S. a Schedule C, but it wasn't for the business

1 named Carolyn Wade. And it didn't represent over \$100,000 of
2 income. It was for a business named One Step Ahead, and it
3 reported in 2019 on a Schedule C approximately \$6,800. That is
4 not the Schedule C that Carolyn Wade used for her PPP loan
5 application.

6 You will see in Tracy Wade's individual tax return that
7 he had no Schedule C in 2019 or any other year for which we
8 have the records for him, because there was no business named
9 Tracy Wade.

10 You're also going to see tax returns from Wade Funeral
11 Home, and those will show you that there was no employment
12 taxes filed with the I.R.S. for that business, and there was no
13 expenses and salaries claimed in those tax returns for the
14 years 2018 or '19 or '20.

15 Finally, you're going to see bank records in this case,
16 and the bank records are going to show you three things.

17 Number one, they will show you, again, there was no
18 income from a business in Carolyn or Tracy Wade of over
19 \$100,000 from either one in 2019.

20 Number two, they're gong to show you that \$1,000 Zelle
21 payment the defendants made to Haydee Rivero on the date that
22 they received their PPP loan. You will see the PPP loan coming
23 in, then you will see the \$1,000 Zelle going out to Haydee
24 Rivero from Mr. Wade and from Carolyn Wade.

25 The bank records are also going to show you what the

1 defendants did with the money, the PPP money when they received
2 it, how they spent it.

3 The Paycheck Protection Program was designed to protect
4 paychecks. The evidence will show that the defendants knew
5 this. The evidence will also show that they didn't have
6 paychecks to protect.

7 The evidence in these bank records will show you that
8 because they didn't have paychecks to protect, they wrote phony
9 salary checks. They made them up.

10 Carolyn Wade wrote ten -- you will see, ten --
11 approximately ten salary checks to herself and to her husband
12 with the memo salary in the -- with the word "salary" in the
13 memo.

14 And you will see checks that Tracy Wade wrote not from
15 Wade Funeral Home to any employees, but from his personal joint
16 account with Carolyn Wade writing to Wade Funeral Home with the
17 word "payroll" in the memo.

18 The only time you will see in the bank records the
19 defendants wrote checks like this was after they received their
20 PPP loans. You will not see checks like this before and after
21 those loans were forgiven in August 2021, there were no other
22 checks like this.

23 Members of the jury, after you have considered all of
24 the evidence in this case, you are going to be instructed by
25 the Court on the law and the elements that the Government has

1 to prove beyond a reasonable doubt.

2 And at that time we are going to ask you to return the
3 only verdict that is consistent with the evidence in this case,
4 and that is a verdict of guilty for Tracy Wade and a verdict of
5 guilty for Carolyn Wade.

6 Thank you.

7 THE COURT: Thank you. Defense?

8 **DEFENDANTS' OPENING STATEMENT**

9 MR. McCRAY: Good afternoon.

10 About three months ago Mr. and Mrs. Wade were indicted,
11 and eight or nine charges were brought against them. At that
12 time Mr. Wade and Ms. Wade entered pleas of not guilty; and as
13 a direct result of that, we're here today. This is their day
14 in court.

15 We talked about the presumption of innocence. We
16 talked about the Government having the burden of proving. Now
17 we're going to talk about what the evidence in this case will
18 show and perhaps what it won't show.

19 The Government's pivotal witness in this case, ladies
20 and gentlemen, is a lady by the name of Haydee Rivero -- Rivero
21 formerly known as Haydee Granados. You're going to hear
22 evidence that Haydee Granados entered into a fraudulent
23 relationship with a young man by the name of Jamel Hunter.

24 You're going to hear that she knowingly applied for two
25 PPP loans knowing that they were fraudulent, and she's --

1 you're going to hear her say that. I expect she's going to say
2 that, Well, I did so because \$20,000 was not a lot of money,
3 and I didn't think anybody would catch me. This is what you're
4 going to hear. This is the person whom the Government wants
5 you to believe.

6 You're also going to hear, ladies and gentlemen, that
7 Haydee, although she wasn't an accountant, that she was fluent.
8 She learned the tricks of the trade -- she's going to tell you
9 this. She learned the tricks of the trade from an
10 individual -- and I have given you his name already,
11 Mr. Hunter, told her how to apply for these loans.

12 You're going to hear that he taught her, he told her to
13 go onto Womply's website, download some Schedule Cs, and you've
14 got to put some numbers in. You've got to have at least
15 \$100,000 in there so that the recipients, the applicants can
16 receive the money.

17 And Haydee's payment was contingent upon her producing.
18 And you're going to see from the evidence that she didn't care
19 about anybody else. She just wanted to get the loan at all
20 costs.

21 The pivotal issue in this case and the evidence is
22 going to show you is there's only one fraudulent document, and
23 it's a Schedule C. And for those of you who don't know, you'll
24 learn during the trial, but a Schedule C basically is a tax
25 form which it lists the profits and the losses of a business.

1 There was a fraudulent Schedule C in this case. There was.
2 Undisputed.

3 But who prepared it? Who uploaded it? You're going to
4 hear that it came from IP address 179. Whose device or
5 computer was it? It was Haydee. She's going to tell you this.
6 She is going to tell you that I prepared it, but she also is
7 going to tell you, Oh, but they knew about it.

8 You're not going to see any confessions or any text
9 messages -- and by the way, she's going to tell you that, Oh,
10 Mr. Wade and I had conversations over the phone and there was
11 text messages.

12 You're going to hear again, and the judge has already
13 told you, that the burden of proof is not on us. It's on the
14 FBI and the Department of Justice.

15 You're going to see -- or you're not going to see where
16 the FBI ever subpoenaed any text messages from those 18 other
17 people whose applications were completed or filled out or
18 attempted by Haydee Granados Rivero.

19 You're going to hear, ladies and gentlemen, that she
20 never asked Mr. Wade or Mrs. Wade for any tax information. She
21 ended up getting the login information. She had their
22 passwords to their computers. She had access to this
23 information. And so you're going to see that she filed this.
24 There's no question about this.

25 The question in this case is whether or not the

1 Government can prove beyond and to the exclusion of a
2 reasonable doubt that Mr. Wade and Ms. Wade knew what this lady
3 was doing. Well, let me tell you something, what the evidence
4 is going to show.

5 You're going to see an email that was sent from
6 Ms. Wade to Haydee Granados giving her the information, the
7 legal, truthful, lawful information of a business that she had.

8 She had a side business. You're going to hear that
9 this lady was a deputy for 22 years, and she did side work.
10 She didn't make a lot of money, but she tried to help herself
11 and help her family. What you're going to hear, ladies and
12 yes, that she gave her an email and she gave her a check which
13 had "void" on it. We're going to introduce this into evidence.
14 Telling her the corporation of what she's supposed to file the
15 PPP loan, but unbeknownst to Ms. Wade and Mr. Wade, Haydee
16 Granados went on a frolic of her own. And what does she do?

17 Unbeknownst to them, she put in those documents
18 Ms. Wade, Carolyn Wade, as though she's a business. There's no
19 such business. It's never been a business.

20 But what's interesting about this case, the evidence is
21 going to show that in 2019, Ms. Wade filed her taxes. She did
22 a Schedule C. In that Schedule C, she admitted that she only
23 made six or seven thousand dollars. She had filed this with
24 the I.R.S. The I.R.S. has never challenged that because it was
25 legal.

1 So it's going to be up to you to believe whether or not
2 you think this woman who's a police officer of 22 years is now
3 going to sometime later file a fraudulent Schedule C when a
4 good one is on file. You're going to hear I.R.S. has all kinds
5 of equipment. They could easily -- if two people claim a
6 child, the I.R.S. is going to find out about it.

7 So the Government is going to want you believe that she
8 filed a legitimate when she did, but she's going to go back
9 during the pandemic and file a bogus one when she has a
10 legitimate one on file. She's told this lady file this under
11 One Step Ahead Beauty Salon.

12 Haydee Granados, you're going to hear her say she
13 didn't like doing these PPP loans under business names.

14 You're going to hear her say that that's not what she
15 learned from Jamel Hunter. But you're also going to hear,
16 ladies and gentlemen, that Mr. Wade gave her the information
17 regarding his business, Wade Funeral Home. Unbeknownst to
18 Mr. Wade, what does Tracy Grenada (as spoken), what does she
19 do? She turns around and she files it in his name. He doesn't
20 have a business called Tracy Wade Funeral Home.

21 Well, ladies and gentlemen, what else is interesting
22 about this case?

23 The Government is going to talk about it. You're going
24 to have people from the SBA. You're going to have people from
25 Womply. Oh, this was basically a program to help business that

1 was struggling, which it was. But we had thieves out there.
2 We're now trying to recoup the money.

3 Ladies and gentlemen, Haydee Granada (as spoken) is an
4 admitted thief. There were at least 18 other individuals with
5 whom she did business, or tried to do business. And what does
6 the Government do for her? The evidence is going to show this.
7 They charge her with one count, one count of conspiracy. But
8 these people who applied for a loan without the knowledge of
9 what this lady was doing, they got ten counts against them, but
10 they give their witness a sweetheart deal. The evidence is
11 going to show this. The evidence is going to show that
12 probably a month ago she went up, she raised her hand, Okay, I
13 lied.

14 She's charged with one count of conspiracy. Not 18
15 counts times the number of individual counts against those
16 individuals or regarding those individuals who she defrauded.

17 And you're not going to hear one shred of evidence from
18 the Government that they ever subpoenaed the phone records or
19 the business records of those other 18 people to see if Haydee
20 was telling them the full truth about those people. It's their
21 burden of proof, ladies and gentlemen.

22 You're going to hear, ladies and gentlemen, that Haydee
23 Rivero, all she wanted was money. You're going to hear that
24 her husband, Eduardo, was really the strong arm. You're going
25 to hear that Eduardo, although he wasn't actually doing the

1 loans, they were out submitting business initially for Jamel
2 Hunter, and that's how the Wades applied for the PPP loans,
3 because they simply came and said, Listen, we just got two
4 loans, man, this guy, Jamel Hunter. At least that's what
5 they're going to say. That's what you're going to hear her
6 say.

7 But I'm going to tell you now that Mr. Wade is going to
8 take the stand and Wade is going to say that he never was told
9 anything about a Jamel Hunter doing PPP loans. That the only
10 thing that he was told was that Haydee, my wife, can do a loan
11 because, I guess they figured, the evidence will show that,
12 they could make mope because Jamel was making money. And
13 Mr. Wade trusted these people, because he knew -- he knew
14 Eduardo, the husband. He only knew Mrs. Granados Rivero
15 because of Eduardo.

16 You're going to hear her say that they -- Carolyn
17 didn't really know them and they didn't really know Carolyn.
18 They had a party at their home one time that Carolyn was there
19 because of her daughter, Carolyn brought her daughter. But she
20 had no involvement with these people. She didn't really know
21 these people.

22 Mr. Wade, you're going to hear him testimony that I
23 trusted them. They came and told me that they had gotten money
24 legitimately, and that's what I believed. All they wanted was
25 his passcode. They end up giving his -- the password to his

1 computer and some other information. And as a result, later
2 on, a fake C -- Schedule C was prepared.

3 And you're going to hear the evidence. You're going to
4 hear that Mr. Wade found out about a fake Schedule C after his
5 wife's arrest. After his wife's arrest, that's the first time
6 when Mr. Wade ever heard that.

7 And ladies and gentlemen, you're going to hear us,
8 counsel has said, Oh, you're going to see activity on
9 computers. That still does not address the question of whether
10 or not Mr. and Mrs. Wade knew that Haydee Granada was a crook,
11 an admitted crook. She was a thief.

12 Ladies and gentlemen, in this particular case -- and
13 I've said it already -- conspiracy -- there are two counts of
14 conspiracy in this case, an agreement to do something unlawful.
15 There was no agreement to do anything unlawful. There was an
16 agreement for Ms. Haydee Rivero, Ms. Rivero to file PPP loans,
17 not to file a fake Schedule C.

18 There was never an agreement for -- and evidence is
19 going to show this -- that the Wades ever authorized them or
20 knew they were putting down fictitious business names. Well,
21 there are no fictitious business names when these people are
22 law enforcement officers and knew that something like that
23 could easily be determined or found out by the authorities.

24 Ladies and gentlemen, the Wades have entered a plea to
25 each of those counts, and I have them written out. I can't

1 find them, but the Judge is going to go over each of those
2 counts with you, and I just wrote something out as to what the
3 evidence is going to show. It's very short, and then I'm going
4 to be seated.

5 And summarized as the way I see it. Eduardo Rivero
6 told Tracy Wade to create the account. The evidence is going
7 to show this, the Womply account. And give him -- being
8 Eduardo -- the username and password.

9 There was absolutely nothing fraudulent about Tracy and
10 Carolyn Wade creating an account and seeking a PPP loan. The
11 evidence is going to show that.

12 The sole fraudulent act in this case was the creation
13 of a fake Schedule C document and uploaded -- the uploading of
14 that fake Schedule C documents. Haydee Rivero, ladies and
15 gentlemen, has confessed to the FBI that she did both.

16 The only question is whether the defendants knew. Now,
17 what you're going to hear, I expect, from that witness stand,
18 is that Haydee Rivero doesn't want to go to prison. Haydee
19 Rivero doesn't want to have to pay back all this money that
20 she's made and that she's stolen.

21 What you're going to hear is that Haydee Rivero has to
22 testify in a fashion that pleases the Government. Because when
23 you look at this plea agreement -- and I expect you're going to
24 see a copy of it -- this contract that the Government has
25 entered into with Ms. Haydee Granada is that they -- the

1 Government -- are the sole determiners of whether she's telling
2 the truth.

3 If they don't like the way she testifies, perhaps she's
4 going to prison. She may not with one count against her. You
5 never know.

6 But ladies and gentlemen, I expect that you're going to
7 receive an instruction from the jury (as spoken) that talks
8 about a person who is testifying under a plea agreement. You
9 must cautiously -- or you should cautiously scrutinize their
10 testimony.

11 So, ladies and gentlemen, jury duty is so important
12 because it affords the ordinary citizen the opportunity to come
13 in and serve as judges: Judges of the facts.

14 The constitution talks about a jury of your peers in a
15 cross-section of the community. Ladies and gentlemen, you are
16 that. We're asking you to listen to this evidence. You, as
17 the trier of fact, make that decision whether or not the
18 Government has excluded each and every reasonable doubt in this
19 case, and the Court is going to at the appropriate time read to
20 you the instruction on reasonable doubt.

21 Ladies and gentlemen, I thank you very much for your
22 attention in this case.

23 Thank you.

24 THE COURT: Thank you for your opening statements,
25 counsel.

1 Ladies and gentlemen, we have just been advised that
2 the Dade County Public Schools will be closed on Wednesday,
3 which means that we are not in session on Wednesday. We will
4 be in session Tuesday and Thursday, hopefully, and back next
5 Tuesday, so you may plan accordingly.

6 Remember my instructions not to discuss the case in any
7 way, and I'll probably remind you at the end of each day not to
8 discuss the case, opening statements or otherwise, with anyone.

9 Thank you very much for your attention. We are in
10 recess up until 9:30 tomorrow morning. Now, for those of you
11 who don't travel in the downtown area that much, there's a lot
12 of traffic. So please plan to arrive 15 to 20 minutes early.
13 Say, like, around 9:10. We'll have coffee other light
14 refreshments for you. Tea and that sort of thing, I think.
15 Years ago they cut out the donuts and all of that, so as to
16 liquid beverages. And again, thank you for your attention, and
17 we look forward to seeing you tomorrow morning sharp at 9:30.

18 Have a great evening.

19 COURTROOM DEPUTY: All rise for the jury.

20 (Jury exited courtroom at 4:07 p.m.)

21 THE COURT: Be seated, please. So counsel, as you are
22 aware, our starting time is at 9:30.

23 MR. WILCOX: Yes.

24 THE COURT: So if you have an issue that needs to be
25 addressed, you need to let your opposing counsel know, and you

1 need to be here about 9:10 or 9:15 so I can address the issue.
2 Because when we say we start at 9:30, that means the jury
3 should be walking through the door at 9:30. Not addressing
4 matters. I would like for you to raise those matters at the
5 end of the day so that we don't have to do it the following
6 morning. But if something occurs overnight, then let your
7 opposing counsel know and get here 10 or 15 minutes early so
8 that we can address those issues and be ready to start
9 promptly.

10 Are there any additional matters that we should
11 entertain?

12 MR. SNIDER: Yes, Your Honor. I just wanted some
13 clarity on the record here that the Court has received into
14 evidence all of the exhibits on the Government's list with the
15 exception of 165 to 171, which is --

16 THE COURT: Let us be very precise and clear.

17 MR. SNIDER: Okay.

18 THE COURT: So why don't you tell me -- I'm looking at
19 your exhibits list, Docket Entry 159.

20 MR. SNIDER: Yes.

21 THE COURT: And tell me what exhibits have been
22 received. And if you can, you could say page 1001 through 105
23 received and so on and so forth --

24 MR. SNIDER: Okay.

25 THE COURT: -- so that we are all clear.

1 MR. SNIDER: So on page 2 of Docket Entry 159, the
2 Government's exhibit list.

3 THE COURT: How about page 1 first?

4 MR. SNIDER: Page 1 is a cover sheet.

5 THE COURT: Well, page 1 is one and page -- at least
6 mine has no number at the bottom of one and then it starts with
7 2.

8 MR. SNIDER: I'm looking at the ECF header, page 2 of
9 11, Docket Entry 159 at the top.

10 THE COURT: All right. Well, I'm a little unclear
11 because page 2 has page 3 of 11 at the top. So when I say
12 until --

13 MR. SNIDER: I think I can -- I'll clear this up.

14 THE COURT: Okay.

15 MR. SNIDER: On page -- on the first page of
16 Government's Exhibit list, which is -- the first page is page 2
17 of 11 on Docket Entry 159. I'm on Exhibits 100 through 105,
18 which include 102.1, 102.1E, 102.2, and 102.2E.

19 THE COURT: So let's look at the first page of the
20 exhibits themselves with 001 down to 105.

21 MR. SNIDER: Correct.

22 THE COURT: All right. Received. Those are offered?

23 MR. SNIDER: Offered.

24 THE COURT: Received without objection.

25 (Government's Exhibits 1 through 105, documents, were

1 received into evidence.)

2 MR. SNIDER: Thank you.

3 THE COURT: Let's go to page 2.

4 MR. SNIDER: Page 2 of Government's Exhibit list,
5 Docket Entry 159, Government is offering Government's
6 Exhibit 106 through 117.1.

7 THE COURT: Received without objection.

8 (Government's Exhibits 106 through 117.1, documents,
9 received into evidence.)

10 MR. SNIDER: I'm now on page 3 of the Government's
11 exhibit list, Docket Entry 159, the Government is offering
12 Exhibits 118 through 132.

13 THE COURT: Received without objection.

14 (Government's Exhibits 118 through 132, documents,
15 received into evidence.)

16 MR. SNIDER: I'm now page 4 of the Government's witness
17 exhibit list filed with Docket Entry 159. The Government is
18 offering 133 through 148.

19 THE COURT: Received without objection.

20 (Government's Exhibits 133 through 148, documents,
21 received into evidence.)

22 MR. SNIDER: I'm now on page 5 of the Government's
23 Exhibit list, Docket Entry 159, the Government is offering
24 Exhibits 149 through 159.1.

25 THE COURT: Received without objection.

1 (Government's Exhibits 149 through 159.1, documents,
2 received into evidence.)

3 MR. SNIDER: Now, on page 6 of Government's exhibit
4 list filed with Docket Entry 159, offering Government's
5 Exhibits 160 through 164E.

6 THE COURT: Received without objection.

7 (Government's Exhibits 160 through 164E, documents,
8 received into evidence.)

9 MR. SNIDER: Now, on page 7 of the Government's exhibit
10 list, Docket Entry 159.

11 THE COURT: Well, how about 200 to 202?

12 MR. SNIDER: I didn't see those, thank you.

13 So I'm offering Government's Exhibits 200, 201 and 202
14 on that page.

15 THE COURT: Received without objection.

16 (Government's Exhibits 200 through 202, documents,
17 received into evidence.)

18 MR. SNIDER: I'm now on page 7, offering Government's
19 Exhibits 203 through 307.

20 THE COURT: 203 to 307, received without objection.

21 (Government's Exhibits 203 through 307, documents,
22 received into evidence.)

23 MR. SNIDER: Now, on page 8 of the Government's exhibit
24 list, Docket Entry 159, offering Government's Exhibit 300
25 through 408E.

1 THE COURT: Received without objection.

2 (Government's Exhibits 300 through 408E, documents,
3 received into evidence.)

4 MR. SNIDER: I'm now on page 9 of the Government's
5 exhibit list, Docket Entry 159, offering Government Exhibits
6 804 through 808E.

7 THE COURT: Received without objection.

8 (Government's Exhibits 804 through 808E, documents,
9 received into evidence.)

10 MR. SNIDER: I will note for the record that Government
11 Exhibits 900 through 907 are the -- is the evidence that the
12 Government set forth in its 404(b) notice, and the Court has
13 deferred ruling on the admissibility of those exhibits.

14 THE COURT: All right.

15 MR. SNIDER: I'm now on page ten of the Government's
16 exhibit list, Docket Entry 159, the -- at this time I'm going
17 to offer Government Exhibits 2000, 2001 and 2002. The summary
18 will wait until --

19 THE COURT: So 2000, 2001 and 2002?

20 MR. SNIDER: Correct.

21 THE COURT: All right.

22 MR. SNIDER: The summary we will wait until the
23 summary's prepared as we did in the last trial.

24 THE COURT: All right. Received that without
25 objection.

1 MR. SNIDER: Thank you.

2 (Government's Exhibits 2000 through 2002, documents,
3 received into evidence.)

4 THE COURT: So when you get to your 1000.1, you can
5 show it to opposing counsel, and you can let me know your final
6 decision.

7 MR. SNIDER: Okay. Your Honor, I wanted to just
8 briefly be heard. I know the Court made a ruling before the
9 jury came in in the afternoon session on Government Exhibits
10 165 through 171. Here's my point, Judge.

11 I understand that -- that the loan relating -- the PPP
12 loan application relating to Wade Funeral Home, that loan
13 number was not set out in Count I, but neither was any other
14 loan in Count I.

15 What Count I alleges is that --

16 THE COURT: Other loans are referenced in the
17 indictment.

18 MR. SNIDER: Yes, in substantive counts, and I do --

19 THE COURT: All right. Substantive or otherwise, they
20 are in the indictment.

21 MR. SNIDER: Correct.

22 THE COURT: Your notice refers to 404(b). And the
23 common sense misunderstanding is this relates to 404(b), so
24 that's why I did not receive it.

25 MR. SNIDER: Well, I think either -- but the Government

1 wasn't offering it as 404(b), but if the Court is treating it
2 as 404(b), then it was properly noticed, and the Government
3 should be allowed to offer it as 404(b).

4 THE COURT: I understand your argument, sir.

5 MR. SNIDER: I guess there's --

6 THE COURT: I've ruled.

7 MR. SNIDER: So that's not coming in and I can't --

8 THE COURT: Wait until I rule on the 404(b) issue.
9 That's when it becomes relevant.

10 MR. SNIDER: Okay, I see. So the Court -- okay. So I
11 understand now. The Court is treating Government Exhibits 165
12 through 171 as 404(b).

13 THE COURT: Yes, sir, as you caption in your notice to
14 the defense, so I have to rule on all 404(b) issues at the time
15 that we have discussed.

16 MR. SNIDER: Okay. All right. Very well.

17 THE COURT: All right.

18 MR. SNIDER: Yeah. I will just say the two witnesses
19 that would testify to those records, you have one set relating
20 to EIDL, which we addressed previously. That way this is
21 coming in from Denver, Colorado. And the witness that would
22 testify about the records in Government's Exhibits 165 through
23 171, which is the PPP application for Wade Funeral Home, that
24 witness is coming in from Texas.

25 We're not in court on Wednesday now. I guess the

1 Government has no choice but to fly them in and then await the
2 Court's ruling.

3 THE COURT: Well, that's your decision. I don't have
4 anything to do with that.

5 MR. SNIDER: Okay, Judge, thank you.

6 THE COURT: We now have learned that we're out on
7 Wednesday, so we all have the schedule; and we lost a day. So
8 we'll make it up if we have to the following week, but,
9 hopefully, not. We shall see.

10 MR. SNIDER: Obviously, the Government's schedule in
11 its case in chief now is affected, and it's not clear that
12 we're going to be able to finish.

13 THE COURT: Well, of course. Of course. None of us
14 knew this was going to happen and -- so I'm not going to tell
15 you you have to shorten your time period for this instance of
16 us being out on Wednesday. We will just handle it as we best
17 can.

18 Yes, sir.

19 MR. WILCOX: Yes, Your Honor. One other thing. And I
20 don't suggest that Mr. Snider did not forward this when he said
21 he forwarded it.

22 But the grand jury's testimony of FBI Agent
23 Dipietrantonio -- we don't have it. At least I don't have it.
24 I can't retrieve it. I checked my emails. So I'll ask if we
25 can get that, that could be sent. Apparently, it gets encoded.

1 I could probably figure out how to get into the encryption.

2 THE COURT: I'm not sure what that means. I'm not all
3 that technically savvy, Judge.

4 MR. WILCOX: I just need the transcript of the grand
5 jury testimony.

6 THE COURT: Oh, well, I don't know how to respond to
7 that because that was the *Jencks* Act that controls.

8 MR. WILCOX: Yes.

9 THE COURT: But what I do do if it's not produced in a
10 timely fashion, then I just continue the trial and say, "Put
11 the witness on direct and then cross, and then we'll come back
12 the next day." So he knows the *Jencks* Act. You know the
13 *Jencks* Act. And hopefully, you all will cooperate and get it
14 revealed timely.

15 MR. SNIDER: Your Honor, I just have to say this for
16 the record. The United States produced the transcript
17 Dipietrantonio's grand jury testimony on September 5th, 2024,
18 by email. That email was encrypted because the grand jury
19 testimony contains personal identifiable information. It has
20 to be encrypted or will not leave the DOJ server.

21 And I spoke with members of the defense team earlier
22 today when they told me that they weren't able to -- or they
23 don't have a copy of it, and I said I would print it. So I'm
24 not sure why they're raising it with the Court. I've complied
25 with the *Jencks* Act. I told them I would print them another

1 company.

2 THE COURT: Thank you. Have a good day, everyone. We
3 will see you tomorrow morning not later than 9:30. You are
4 excused.

5 COURTROOM DEPUTY: All rise.

6 (Proceedings adjourned at 4:20 p.m.)

7
8 C E R T I F I C A T E

9
10 I hereby certify that the foregoing is an
11 accurate transcription of the proceedings in the
12 above-entitled matter reported by Glenda Powers and
transcribed by Patricia Bailey-Entin using Glenda Power's
stenographic notes.

13
14 DATE: 5/27/2025

/s/Patricia Bailey-Entin
PATRICIA BAILEY-ENTIN, RPR, FRP
Official Court Reporter
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