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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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 DARIUSH ELAHI, as next-of-kin :
 and representative of the :
 Estate of Cyrus Elahi, deceased :
 :
 Plaintiff, :
 :
 v. :
 :
 THE ISLAMIC REPUBLIC OF IRAN, :
 and THE IRANIAN MINISTRY OF :
 INFORMATION AND SECURITY, :
 :
 Defendant. :
 :
 ----- X

Docket No.
1:99CV02802

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**Clerk, U.S. District Court
District of Columbia**

VOLUME I

Washington, D.C.
November 8, 2000
9:40 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JOYCE HENS GREEN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:

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1 representative of the estate, legal representative. He is
2 here from Paris.

3 If at some point if he wanted to be at counsel
4 table, would that be all right, Your Honor?

5 THE COURT: Of course.

6 MR. HIRSCHKOP: Thank you.

7 If Your Honor please, we'd like permission of the
8 Court to amend the addendum or leave at this time to amend
9 the addendum to \$50 million. It's set at 20 million. We
10 have, in viewing the other opinions of the courts, seen how
11 they've handle damages on this. And in the course of
12 gathering evidence in a very short time period realize there
13 is much more to it than we had originally pled.

14 THE COURT: It does come at a very late stage. I
15 will allow you to amend it. This doesn't necessarily mean
16 you will receive it or any portion of it. We will have to
17 wait and see what we hear. But I will allow you to amend
18 it.

19 MR. HIRSCHKOP: If Your Honor please, we have
20 filed with the clerk an exhibit list and a witness list and
21 sent a copy up for Your Honor and a copy to the court
22 reporter. We would ask rather than moving the complaint in
23 evidence that the Court take cognizance of the complaint in
24 this matter. Since it is a default, the complaint is taken
25 as admitted or the facts are admitted.

1 We still must show evidence satisfactory to the
2 Court as the standard. No one knows really what that is.
3 The cases say we can file affidavits. The cases say that we
4 can't just say here is the complaint and sit down.

5 THE COURT: Exactly. As long as you appreciate
6 that you can't just say that and sit down and that you are
7 going to prove whatever the points are that you believe are
8 essential to making your case and that will be satisfying to
9 the Court, I have no objection to it coming it. But it
10 can't stand on its own. Just so that the record is
11 abundantly clear in that regard.

12 MR. HIRSCHKOP: Indeed. So, Your Honor,
13 therefore, where we're going -- I think we'll save time by
14 just telling you to begin with. We have trimmed this to
15 seven witnesses from what we first filed. We will put out
16 four or five today and probably not take all day tomorrow.

17 We are cognizant of the schedule but have not
18 sacrificed anything in doing that. We also have prepared
19 two sets of documents. One is the originals to be filed
20 with the Court. We will put them on the witness stand with
21 the witnesses based on my discussion. We have a set for the
22 court here. There are 106 exhibits.

23 Many of them are newspaper articles which you will
24 see the purpose of them as we go long. A number of them are
25 large reports of the French court and prosecutions there.

1 Some are from a German court and prosecutions there.

2 THE COURT: Are they there with translations?

3 MR. HIRSCHKOP: They are all translated, Your
4 Honor. To be doubly safe we had the originals -- even where
5 the translations are just excerpts, we put the full original
6 behind it in the book so the record will be complete. We
7 will show two videotapes, one today and one tomorrow
8 morning. We have provided in the exhibits a translation of
9 each videotape.

10 Would you want us to leave the video with the
11 Court also? We have made extra copies if you want that.

12 THE COURT: Yes.

13 MR. HIRSCHKOP: With this copy I'm providing to
14 Your Honor there are many, like, the Global Terrorism
15 Reports of the United States State Department but we really
16 are only referring to one paragraph out of several pages.
17 If Your Honor would like, ours is highlighted. I didn't
18 highlight yours. I didn't want to be presumptuous and do it
19 in advance. We could take these back sometime today and
20 just mark them up and save someone a lot of work.

21 THE COURT: The answer is yes. I would like it
22 highlighted while I'm required to really read everything
23 that is tendered to me. I obviously give the greatest
24 scrutiny to that which counsel is asking me to focus on.
25 So, yes, I would appreciate it if you will highlight it

1 because sometimes within a volume there is one paragraph
2 that counsel wishes me to look at. I always ask this in
3 every case.

4 MR. HIRSCHKOP: I will just pass these up to you
5 now.

6 THE COURT: Thank you.

7 MR. HIRSCHKOP: I'm not going to make an opening
8 statement of any length, Your Honor. The pleadings are
9 self-evident. The proof conforms very much to the
10 pleadings. There is very little different what is not in
11 the pleadings perhaps. There is a lot of the personal
12 details of the life of Dariush Elahi but you will hear that
13 and expect that coming.

14 So in the interest of the judicial economy, I will
15 call Kenneth Timmerman to the stand.

16 THE COURT: Fine. Mr. Timmerman.

17 MR. HIRSCHKOP: He may have stepped out. He was
18 here one moment ago.

19 THE COURT: We'll wait a moment if you believe
20 this is more coherent to have him first. But if he doesn't
21 come, then we'll move to the next one.

22 MR. HIRSCHKOP: The next one isn't here yet.

23 THE COURT: Then we'll move to the third one.

24 MR. HIRSCHKOP: He is an expert. He publishes an
25 Iran newsletter and he gives you the structure of what we'll

1 be talking about.

2 THE COURT: He is Mr. Timmerman. I'm just reading
3 he is an investigative journalist and founder of the
4 Foundation for Democracy in Iran.

5 MR. HIRSCHKOP: Yes. He was a newspaper reporter
6 for a number of years in Western Europe. He speaks Farsi.
7 He speaks French.

8 THE COURT: He didn't get lost in our fire drill,
9 did he?

10 MR. HIRSCHKOP: No. He was here.

11 THE COURT: All right. We'll take a moment.

12 (Pause.)

13 KENNETH ROGERS TIMMERMAN, PLAINTIFF WITNESS, SWORN

14 MR. HIRSCHKOP: May I approach the witness, Your
15 Honor?

16 THE COURT: You may, sir, and you may continue to
17 do so as appropriate.

18 MR. HIRSCHKOP: Thank you.

19 DIRECT EXAMINATION

20 BY MR. HIRSCHKOP:

21 Q State your full name, please.

22 A Kenneth Rogers Timmerman.

23 Q Would you briefly give the Court your background?

24 A I'm a professional reporter and I've lived and
25 worked for 18 years in Europe and the Middle East between

1 1982 and 1993 as a reporter.

2 I spent many -- much of that time investigating
3 Iranian state terrorism, the assassination of dissidents
4 overseas.

5 I have written on that in Newsweek Magazine, in
6 Time Magazine. I've worked also for ABC news, for CBS news
7 and a variety of publications around the world. I came back
8 here in the United States in 1993 to work as a professional
9 staff member at the House Foreign Affairs Committee because
10 of my expertise in the Middle East and also in area of arms
11 control which I've written on extensively.

12 After leaving the House, I've gone back to my work
13 as a reporter and I continue to do that today.

14 Q What degrees do you hold?

15 A I have a bachelor's degree in liberal arts and a
16 master's degree in liberal arts from Brown University.

17 Q At any time while you were abroad were you ever a
18 hostage yourself?

19 A Yes, I was. I was -- in fact, I began my
20 journalist career in the Middle East in an underground cell
21 in Beirut in 1982. I was taken hostage by Arafat's faction
22 of the PLO. This was during the most intense period of the
23 Israeli bombings of Beirut in July of 1982.

24 I was in an underground room for three and a half
25 weeks which was about 16 feet by 20 feet square. No light,

1 one candle a day, no ventilation, no fresh air, no water, no
2 food to speak of and constant bombardments from the air,
3 from the sea and from land.

4 When I went into that building it was an eight
5 story building. When I got out it was one floor and a half
6 and pancakes on top.

7 Q How many hostages were there with you?

8 A In the room where I was, that 16 by 20 foot room,
9 there were about 16 people.

10 Q What nationality were these hostages?

11 A Besides myself, I was the only American. There
12 was one French person who was brought in and out of the room
13 with me. But the majority were either Serians, Egyptians,
14 Lebanese or Palestinians.

15 Q You have been a reporter for USA Today and at
16 Atlanta Constitution. When you worked for those papers or
17 those publications, what area did you cover?

18 A I covered primarily the Middle East and I went
19 back and forth between France and Beirut. I went back to
20 Beirut after being released by the grace of God and covered
21 Arafat's PLO again.

22 THE COURT: How shortly thereafter did you go
23 back?

24 THE WITNESS: I went back to the Middle East in
25 late 1982 and I went specifically at that point to the West

1 Bank which is a Palestinian area. It was then under Israeli
2 occupation. I felt very strongly that I did not want to let
3 my experience as a hostage color my reporting or my ability
4 to see the facts on the ground.

5 I spent about two months on the ground living with
6 Palestinians in the West Bank under Israeli occupation. I
7 came out of that experience with a view that there are no
8 sides in the Middle East conflict who have an entirely clear
9 or pristine record and that ones needs to be very careful
10 and also attentive to human beings and individuals before
11 judging what is going on.

12 BY MR. HIRSCHKOP:

13 Q Just so we're clear when you say there are no
14 sides or the pristine record, one of the exhibits I'll put
15 before you is a chart you have prepared of assassinations.
16 You're not saying those people --

17 A I'm referring specifically to what's called the
18 Arab Israeli conflict, the Arab side the Palestinian side
19 and the Israeli side.

20 Q I noticed you've worked for Newsweek. You've been
21 a contributor to the Wall Street Journal, to ABC news, to 60
22 Minutes. You've worked for Time Magazine. All of those,
23 was your specialty in reporting on Mideast affairs?

24 A Yes.

25 Q Do you publish something called the Iran

1 Newsletter.

2 A The Iran Brief. Yes, sir.

3 Q How long have you published that?

4 A I launched that shortly after leaving Time
5 Magazine in December of 1994. It was a monthly
6 investigative newsletter.

7 Q And how does that differ from the Middle East
8 Defense Newsletter?

9 A Middle East Defense News was a predecessor which I
10 published after leaving Newsweek in 1987 and I left Newsweek
11 because there was simply no room -- I was in Paris at the
12 time. There was no room for all of the information I had on
13 the Middle East and Middle East arms deals. So I set up my
14 own investigative newsletter.

15 Q Have you published any books?

16 A I've published four books. The first one on the
17 Iran-Iraq conflict, on arm sales to Iran and Iraq called
18 "Fanning the Flames." It was syndicated by the New York
19 Times, published in several languages.

20 Then a book which I wrote in French on Soviet high
21 tech espionage which is the other half of my journalistic
22 career is looking at intelligence and high tech espionage.

23 A third book came out from Holt Nifland in 1991
24 called "The Death Lobby, How the West Armed Iraq." And it
25 was the story of western arm sales to Iraq. How we built up

1 Saddam Hussein's war machine. And then the most recent book
2 is a book on U.S. policy and communist China.

3 Q With regard to Middle Eastern matters, have you
4 published articles in both Le Monde and the Express, the
5 Paris newspapers?

6 A Yes. While I was working out of France, I
7 traveled frequently to Iraq as a reporter, published front
8 page stories in Le Monde on, particularly on how Iraqis were
9 using French weaponry or failing to use it. I also
10 published cover stories for the French news weekly, LEX
11 PRESS (phonetic) which is roughly the equivalent of Time
12 Magazine here and also their competitor LA PRA (phonetic),
13 the newsweek of France.

14 Q In the past years in addition to publishing your
15 newsletter, the brief, the Iran Brief, how have you stayed
16 current of affairs concerning the Republic of Iran?

17 A Well, one of the things that I feel very strongly
18 about and it came out of my experience as a hostage in
19 Lebanon, I think freedom is an important guiding principle
20 in my life and it's something, I think, that America has --
21 it is one of the most important things about America and
22 it's what attracts people to us around the world.

23 I established in 1995 with two Iranian friends and
24 two American friends, former administration officials, a
25 nonprofit foundation called the Foundation for Democracy in

1 Iran here. And we began with a grant from the National
2 Endowment for Democracy which is a nongovernmental agency
3 but funded by the United States Congress. And it is funded
4 in particular to promote democracy overseas.

5 THE COURT: What is it called again?

6 THE WITNESS: It's called National Endowment for
7 Democracy.

8 They fund projects in Burma. They fund projects
9 in China, around the world to promote democracy. And in the
10 beginning they funded my foundation. We were doing human
11 rights monitoring and democracy development, trying to. It
12 was a very difficult thing to do.

13 THE COURT: Mr. Hirschkop, just so I'm certain.
14 We are getting daily copy, aren't we?

15 MR. HIRSCHKOP: Yes, Your Honor.

16 THE COURT: Wonderful. Then I don't have to take
17 notes and I can really focus on --

18 MR. HIRSCHKOP: I apologize. In my list of
19 administrative things to tell you I forgot.

20 BY MR. HIRSCHKOP:

21 Q So you stay current on Iranian matters?

22 A Yes, I do.

23 Q Are you knowledgeable of Iranian terrorist activities
24 over the last 20 years?

25 A Yeah. I've spent a lot of time studying that and

1 investigating that. Yes, sir.

2 MR. HIRSCHKOP: If Your Honor please, another
3 administrative matter. The 106 exhibits, rather than move
4 each one in, I don't think it's any necessity to move an
5 exhibit in in this type of hearing. It's whatever is
6 satisfactory to you.

7 I will just submit all the exhibits. But in the
8 course the next two days we will identify and show the
9 relevance of each and where it came from.

10 THE COURT: And at the end of the day today you
11 will take them back and highlight for me.

12 MR. HIRSCHKOP: We will even grab them at noon and
13 get it done quicker.

14 THE COURT: With pleasure.

15 MR. HIRSCHKOP: Thank you, Your Honor. Exhibit
16 18, Your Honor, is --

17 THE COURT: But I do like it when you call the
18 exhibits to my attention as we go so I can take a quick
19 perusal.

20 MR. HIRSCHKOP: I'm sorry. Exhibit 97 is his
21 resume and I just identified it.

22 THE COURT: That's fine. Go right ahead.

23 BY MR. HIRSCHKOP:

24 Q I'd you to, if you would, turn to Exhibit 29 in
25 the books that you have there. Can you tell me what Exhibit

1 29 is, sir?

2 A This is a compilation of Iranian government
3 terrorist attacks against dissidents which I have put
4 together based on accounts in the press, also from court
5 cases around the world. I have been very careful because
6 there are many such lists like this floating around. Some
7 of them credible and some of them not.

8 I have been very careful in compiling this list to
9 be sure that there is a clear chain of evidence leading back
10 to Iranian government involvement and responsibility for the
11 terrorist attack.

12 THE COURT: Could you give me some background very
13 briefly as to how you decide which one should be included in
14 the list and which one doesn't have enough background and
15 information to satisfy you that it should be?

16 THE WITNESS: Yes, Your Honor.

17 MR. HIRSCHKOP: Perhaps I can assist Your Honor
18 with that. I was going to ask him questions about the
19 structure leading up to the list.

20 THE COURT: Fine.

21 BY MR. HIRSCHKOP:

22 Q Now with regard to the list, does this include all
23 of the assassinations in the country of Iran?

24 A No, it does not.

25 Q Does it include all assassinations in Iraq and

1 Turkey.

2 A No, it does not.

3 Q Okay. So the Court may understand, keep the list.
4 We're not going to talk about it for a moment. But let's go
5 to the general structure of the terrorist activities. Who
6 is in charge of the Iranian government?

7 A At the head of the Iranian government is the
8 supreme leader who is a religious figure. Ayatollah
9 Khomeini today. He took over from Khamanei whose name, I'm
10 sure, is familiar to the Court. Beneath him there are
11 elected officials.

12 There is a president of the Republic and then
13 there is a cabinet as we have and many other countries have.
14 But ultimate authority for everything is with the supreme
15 religious leader. He has the ability to veto laws. He has
16 the ability to -- he has his own private budget. He has a
17 series of parastatal foundations which he can use to promote
18 his own activities whether it's religious activities or his
19 operations overseas.

20 Q And Ayatollah Khomeini left Paris when the
21 revolution first occurred in 1979; is that correct?

22 A That's correct. Ayatollah Khomeini who overthrow
23 the Shah left Paris where he was sheltered.

24 Q And is that the time when our embassy was seized
25 in Teheran?

1 A The embassy was seized. After he arrived back in
2 early February of 1979 the embassy was seized on my
3 birthday, November 4th, 1979.

4 Q Now immediately before the Ayatollah Khomeini
5 having come back to head up the revolution, had the
6 revolution actually taken power before his arrival?

7 A Yes. The Shah had left in early January of 1979
8 and they were pretty much in control. But there was a key
9 event and it took place right after Khomeini came back.
10 There was a key event which was the night of February 11 to
11 12, there interim government in power still lead by Shahpour
12 Bakhtiar, the last prime minister appointed by the Shah.

13 And Khomeini's forces led by the People's
14 Mojahedin of Iran at that time that was allied with the
15 revolution and there is reason to believe some of the
16 radical Palestinian groups, as a military spearhead, in the
17 night of February 11 to 12 they carried out a military coup
18 d'etat. They seized the air base in Teheran and air bases
19 around the country and basically scattered the last of the
20 military forces that were still loyal to the Shah and to the
21 Bakhtiar government.

22 And on the morning of February 12th it was all
23 over. And that military coup, that was the end of the
24 interim government. Shahpour Bakhtiar went into hiding and
25 then there was a price put on his head.

1 Q We are going to talk about Mr. Bakhtiar a lot in
2 the next two days. How long was he prime minister for?

3 A Thirty days.

4 Q Was that an interim government to try and
5 establish a republic?

6 A Shahpour Bakhtiar had been a historic leader of
7 the nationalist movement in Iran. He had been an opponent
8 of the Shah. By appointing him in late December 1978 it was
9 the Shah's last effort, basically, to keep power and to keep
10 the government from falling.

11 Q And after the Ayatollahs took over control of the
12 country, did a pattern of terrorism start around the world
13 of assassinating dissidents to the Iranian regime?

14 A That began almost immediately as well as an effort
15 to export the revolution. This was the term that they used
16 very early on. Ayatollah Khomeini wanted to export the
17 Islamic revolution around the world. He launched a number
18 of subversive attacks against neighboring governments
19 including an assassination attempt on the Amir of Kuwait and
20 began to assassinate dissidents, potential opposition
21 leaders overseas.

22 Q Let's deal with just that first year or two, say,
23 1980. Was there an assassination right here in Bethesda of
24 an Iranian official?

25 A Yes. It was Ali Tabatabai who had been an

1 official in the Iranian embassy under the Shah.

2 Q Was a well-known official among ambassadorial
3 circles here in Washington?

4 A Yes. He was the spokesman. He was the point man
5 for the embassy. Yes.

6 Q Was he considered an opponent to the Khomeini
7 regime?

8 A He was a very vocal opponent to the Khomeini
9 regime after the takeover.

10 Q In that same period had Mr. Bakhtiar moved to
11 Paris and established a dissident organization there?

12 A In which period, sir?

13 Q In the 1980 period.

14 A In 1980, yes. But it was later on in the year.
15 Yes.

16 Q And was there a serious attempt on his life in
17 France?

18 A Yes. In fact, he was really the first big named
19 target that they went after. He was living at that point in
20 an apartment in the suburbs of Paris and the Iranian
21 government sent a hit team to kill him. They did not
22 succeed.

23 They wound up killing the French woman who lived
24 next door and I believe a policeman, if my memory is
25 correct. The French police did capture the hit man who

1 turned out to be a Lebanese Christian who had converted to
2 Islam and then became one of the faithful of Ayatollah
3 Khomeini. His name was Anise Nacosh (phonetic).

4 Q We will get to it later. But was, in fact, Mr.
5 Bakhtiar successfully murdered some ten years later?

6 A Yes, indeed.

7 Q After the Khomeini regime took over, did a series
8 of groups grow up outside of Iran and get established
9 outside of Iran seeking to overthrow the Khomeini or
10 democratize or make a Republic of Iran again?

11 A Yes. That's correct.

12 Q Let's go through so the Court can understand who
13 they were. First, let's start with Mr. Bakhtiar's group.
14 What was their political philosophy?

15 A Mr. Bakhtiar was a nationalist. He grew up in
16 opposition to the Shah in the fifties, the sixties, the
17 seventies. He was a well respected figure in Iran. He, as
18 I mentioned earlier, when the Shah appointed him he thought
19 this was really his last best chance of maintaining power,
20 of maintaining some semblance of order in Iran.

21 And, of course, when that failed, Mr. Bakhtiar had
22 to go into hiding. The importance of Bakhtiar is that his
23 brand of Persian nationalism was directly at odds with the
24 clerics who believed not in Persian nationalism but that
25 their power came directly from God. And they did not have

1 to obey any temporal hierarchy or temporal authority.

2 At the very beginning of the revolution they saw
3 the nationalist movement of Mr. Bakhtiar as a very major,
4 very strong opponent that had to be defeated.

5 Q His organization was NAMIR, N-A-M-I-R?

6 A Yes. We call it the national --

7 Q Resistance movement?

8 A Yeah. It's in French. Yes. The movement -- the
9 Iranian resistance.

10 Q I don't know about the Court but my French is very
11 minimal. So I'll just avoid it if I can.

12 Now with regard to Bakhtiar, did he have a deputy
13 Mr. Boroumand?

14 A Yes, he did.

15 Q And the second witness will be Mr. Boroumand's
16 daughter, Ladan Boroumand.

17 Was Mr. Boroumand also executed in Paris?

18 A Yes, he was.

19 Q Did they represent the leadership of the national
20 resistance movement?

21 A Mr. Boroumand who I knew personally, as I also
22 knew Mr. Bakhtiar personally, Mr. Boroumand was the treasury
23 of the movement and he was Mr. Bakhtiar's right-hand man.

24 Q I'm going to get to individual assassinations a
25 little later on.

1 A Okay. .

2 Q But the national resistance movement was a major
3 dissident movement outside of Iran against Iran; is that
4 correct?

5 A Mr. Bakhtiar's movement was one of the major
6 movements against the Islamic Republic.

7 Q Was there also a movement the Flag of Freedom
8 Organization?

9 A Yes, there was.

10 Q What do you know of that?

11 A The Flag of Freedom Organization was headed by Dr.
12 Ganji who --

13 MR. HIRSCHKOP: Just for the Court Dr. Manouchehr
14 Ganji. Dr. Ganji, could you rise.

15 Thank you, sir.

16 BY MR. HIRSCHKOP:

17 Q Could you tell the Court, do you recall, what Mr.
18 Ganji's position was in the Iranian government prior to the
19 revolution?

20 A Mr. Ganji had been minister of higher education.
21 He had been one of those people in the entourage of the
22 leadership in Iran under the Shah who was trying to convince
23 the Shah through his wife that changes were necessary if
24 they didn't want the country to explode and the regime to
25 collapse.

1 Q Had he, in fact, liberalized education as to women
2 and dress as to women and the admission of women into
3 education in Iran?

4 A The situation of women in Iran progressed by leaps
5 and bounds in the 1970s, in the final years of the Shah.
6 There was a woman head of the customs service. There were
7 women professors who worked in the universities. Dr. Ganji
8 had female assistants. All of that was setback greatly
9 after the Islamic revolution.

10 Q Do you recall Dr. Cyrus Elahi, the victim in this
11 case, that this case principally about, was Dr. Ganji's
12 deputy, when he was minister of education?

13 A That's correct.

14 Q Now the Flag of Freedom Organization, was that
15 located in Paris also as was NAMIR?

16 A Dr. Ganji was primarily based in Paris. But the
17 Flag of Freedom Organization like Mr. Bakhtiar's group had
18 people inside Iran. They had networks inside Iran,
19 resistance networks. They had resistance networks in
20 Turkey. Turkey which is neighboring Iran has a very large
21 Persian speaking community and is frequently used as a
22 penetration point where you can get people inside the
23 country, infiltration point.

24 Q Did they participate in circulating millions of
25 fliers inside Iran, printed material?

1 A Yes.

2 Q Did they have a radio program set up in Egypt that
3 broadcast like Radio Free Europe and Radio Free America into
4 Iran from Egypt?

5 A Yes, they did. And that was a very important
6 effort and it was something that the regime in Iran was very
7 upset about. They tried to, and I think successfully from
8 what I've understood, they tried to scramble, to jam the
9 broadcasts.

10 Q Are you familiar that when the revolution first
11 occurred a list of 200 people were posted around the mosques
12 in Iran to be murdered?

13 A Yes.

14 Q And are you familiar that Dr. Ganji and Dr. Elahi
15 were both on that list?

16 A That is my understanding. Yes, sir.

17 Q Are you familiar with whether or not a Fatwa was
18 issued for Dr. Gangi after the revolution took over?

19 A I became aware of the Fatwa, first, from Dr.
20 Ganji, himself, in Paris and later through the French
21 investigating magistrate whose name was Jean- Louis
22 Bruguiere. It's B-R-U-G-I-E-R-E. Mr. Bruguiere who I
23 interviewed many times as a reporter. And we had a tendency
24 to pick each other's brains from time to time and he spoke
25 about the Fatwa against Dr. Ganji and against a number of

1 other people, Dr. Elahi as well and a number of other
2 opposition leaders.

3 Q Turn to Exhibit 105, please.

4 MR. HIRSCHKOP: Your Honor, just so you're clear.
5 Dr. Ganji will identify this later as the official Fatwa
6 issued against him by the Iranian regime.

7 BY MR. HIRSCHKOP:

8 Q Looking at the language of the Fatwa, is that the
9 language that it used when they issue a Fatwa?

10 A The key words are in italics at the bottom of that
11 English translation. This man is an apostate and corrupt.
12 The Iranian regime liked to use the notion of hypostasy for
13 going after people and they would call those -- its
14 opponents corruption on earth.

15 Q Just so the record is clear, what is a Fatwa?

16 A A Fatwa is a religious edict issued by a religious
17 leader authorizing a faithful Muslim to commit murder in
18 this case.

19 Q In fact, it's a direction that the object of Fatwa
20 was to be murdered by any Muslim that can pull it off?

21 A Yes. Whereas murder is against the tenants of
22 Islam as a religion, the Fatwa is then required by faithful
23 Muslims to absolve them, if you wish, from what would
24 otherwise be a crime.

25 THE COURT: Excuse me. It says within this

1 document, Plaintiff's Exhibit 105, that it's strictly
2 confidential, urgent and yet it was placed in all of the
3 mosques?

4 MR. HIRSCHKOP: If I may explain that since I
5 asked that question. There was a list prior to this Fatwa
6 of 200 dissidents that were published in all the mosques
7 immediately when the revolution began. And Dr. Ganji will
8 testify about how they escaped on mule back through northern
9 Iran.

10 THE COURT: My question is whether this entire
11 document was published or just the names of the individuals
12 who were the subject of the Fatwa?

13 MR. HIRSCHKOP: Let me see if the witness knows
14 that.

15 BY MR. HIRSCHKOP:

16 Q Have you ever seen a written Fatwa like this
17 before?

18 A Well, actually, I have seen the Persian copy of
19 this because Judge Bruguiere showed it to me in France years
20 ago.

21 Q It's a attached --

22 A To answer your question, Your Honor, the list was
23 really an arrest list. It was, you know, like ten most
24 wanted. Well, this was the 200 most wanted criminals and
25 friends of the Shah, cronies of the Shah. That was posted

1 every where to help inform the citizenry to arrest these
2 people.

3 The Fatwa was something else and that was not
4 published to my understanding. It was not published and it
5 was obtained through intelligence sources and I believe that
6 the French intelligence service was in particular
7 instrumental in obtaining this.

8 Q In fact, once a Fatwa is accomplished the document
9 dictating it is destroyed in Iran, is it not?

10 A That I don't know.

11 Q We have other witness on that.

12 And in addition to Dr. Ganji and Mr. Elahi, were
13 there not Fatwas on a number of other people including Mr.
14 Boroumand and Mr. Bakhtiar?

15 A Yes. It is my understanding that this type of
16 murder could not be carried out unless there was a Fatwa
17 authorizing it.

18 Q We've digressed from the resistance organizations.
19 But just so I can clear up something you said when we raised
20 it, Mr. Bruguiere. In France when there is a criminal
21 offense the supreme court appoints a judge as an
22 investigating magistrate; is that correct?

23 A Can I cut to the chase and explain exactly how
24 this works?

25 Q I will have Mr. Boedels do it in detail.

1 A He will do it in detail. But basically what the
2 French has got is a separate section of their court which is
3 called the 14th section of the court which is specifically
4 -- which specifically focuses on terrorism cases. And they
5 set this up, I believe, in the early 1980s because of the
6 important number of terrorism cases.

7 And the investigating magistrates would carry out
8 the functions of a grand jury. And then they would present
9 the evidence to the court and then the prosecutor would
10 actually prosecute based on that evidence.

11 Q In Paris there were three magistrates who were
12 famous for doing these terrorist investigations; is that
13 correct?

14 A I knew two of them personally very well.

15 Q And Mr. Bruguiere is the most senior of these; is
16 that correct?

17 A Yes.

18 Q He heads the investigation of the Elahi murder?

19 A That is correct.

20 Q And he headed the Boroumand investigation?

21 A Correct.

22 Q And the Bakhtiar investigation?

23 A Yes, sir.

24 Q Okay. We'll come back to Mr. Bruguiere.

25 Let's go back to these dissident groups. In

1 addition to the Flag of Freedom Organization and the NAMIR,
2 the national resistance movement, there is also the
3 democratic Kurdish party, the DKPI or KDPI.

4 A The KDPI.

5 Q What is that?

6 A The KDPI, the Kurdish democratic party of Iran, it
7 began as a successionist movement for Kurds in Iran. There
8 is very large minority of Kurds and they go across borders.
9 The Kurdish areas of Iran abut the Kurdish areas in Iraq and
10 there is a part of Turkey in there as well.

11 So for the past 70 years there has been a Kurdish
12 independence movement that cuts across all three of those
13 countries and they have been trying to unite and succeed
14 from the different countries. Obviously they have not been
15 successful.

16 The KDPI in Iran, early on in the revolution, the
17 Islamic revolution, they realized that they were not going
18 to succeed with this effort to pull out of Iran and they
19 became an important force if only because of the numbers of
20 Kurds -- the millions and millions of Kurds -- within the
21 opposition against the Islamic Republic. And they were
22 rallying support for a secular form of government, a secular
23 democracy.

24 Q And were there numerous assassinations of leaders
25 and higher officials of the Kurdish democratic party?

1 A Yes, sir. And I knew several of those who were
2 assassinated personally?

3 Q Again, I'll get to the individual ones later so
4 the Court can get them in sequence. Where was the KDPI
5 headquarters located?

6 A That's a very good question. I met with KDPI
7 leaders in Paris. I met with them in other cities in
8 Europe. They were able to travel around Europe. But they
9 also came and went into northern Iraq and northern Iran. So
10 the borders were porous and the regime was not always in
11 full control.

12 THE COURT: Mobile headquarters?

13 THE WITNESS: Yes, ma'am.

14 BY MR. HIRSCHKOP:

15 Q You mentioned the Kurdish populous in northern
16 Iran and northern Iraq and southern Turkey. Was there a
17 very large Iranian population in the Turkey in the Istanbul
18 area?

19 A Approximately one million Iranians live in
20 Istanbul out of a population of several million, about 25
21 percent of the city.

22 Q When did Ayatollah Khomeini die?

23 A In 1988.

24 Q And upon the death of Ayatollah Khomeini who took
25 over for him?

1 A After it was Ayatollah Khamanei.

2 Q Who is Mr. Rafsanjani?

3 A Rafsanjani is a well-known figure here in America
4 because he was mentioned in Iran contra. He was a
5 right-hand man to Ayatollah Khomeini. He is a minor cleric.
6 He comes from a big trading family, a very wealthy trading
7 family. They own pistachio farms in the eastern part of
8 Iran, very wealthy.

9 And he has become filthy wealthy since being in
10 power. For the first period of the Islamic Republic he was
11 the speaker of the parliament. Then in 1989 he ran for
12 president and was elected and was elected to a second term
13 in 1993. Today he heads a thing called the expediency
14 council which would be very complicated to go into and I'm
15 not sure that we need to for the purpose of this.

16 Q And I'm mainly concerned about this period from
17 the late eighties through the early nineties.

18 A The period of the late eighties into the early
19 nineties he was the president of the Islamic Republic of
20 Iran.

21 Q Who is Mr. Fallahian during that period?

22 A Mr. Fallahian was the head of the ministry of
23 information and security, was the official title MOIS in
24 English which is their intelligence apparatus.

25 Q And in some of the cases did Mr. Bruguiere

1 actually have witnesses who identified Mr. Fallahian as
2 giving the order to assassinate people in Paris and other
3 places in the world?

4 A Yes, sir.

5 Q In fact, there is a warrant issued for him by a
6 German prosecutor in a German court from Berlin in the
7 Mykonos killing?

8 A Yes, there was.

9 Q And just so the Court is clear because we're going
10 to refer to it a number of times. What was the Mykonos
11 killing in 1992?

12 A The Mykonos, the name comes from the Mykonos
13 restaurant which was a Greek restaurant where the second
14 Kurdish leader in three years to be killed by the regime was
15 gunned down in cold blood by a hit team from Teheran. His
16 name was Sharaf-Kindi.

17 Q And were three people assassinated with him?

18 A Three other people were assassinated with him.

19 Q Has that warrant ever been executed against Mr.
20 Fallahian?

21 A No, it was not. If I could add just for a second,
22 Your Honor. Judge Bruguiere has also implicated Mr.
23 Fallahian in a number of the terrorism cases in France.

24 Q Judge Bruguiere also found that Mr. Fallahian got
25 his authority for a number of assassinations directly from

1 Rafsanjani; right?

2 A Yes.

3 Q Now you've identified three of the major dissident
4 groups -- the NAMIR, the FFO and the Kurdish democratic
5 party. What is the National Council of Resistance and how
6 does it relate to the Mojahedin?

7 A The National Council of Resistance is supposed to
8 be an umbrella organization of four or 500 different groups
9 that is dedicated to freedom and democracy in Iran. In
10 fact, it is a fiction which is dominated by one group called
11 the People's Mojahedin of Iran. And I can say this with
12 authority because the state department has said this on the
13 record. My own investigations --

14 THE COURT: Our state department?

15 THE WITNESS: Our state department, yes, Your
16 Honor, has said this on the record. As a congressional
17 staffer, I had quite a bit of correspondence back and forth
18 with the state department on this as well.

19 There is really no doubt in my mind that the
20 People's Mojahedin of Iran are the same thing as the
21 National Council of Resistance. The People's Mojahedin of
22 Iran are considered to be a terrorist group by our state
23 department even though they are opposed to the regime in
24 Teheran. I think I can explain this to you very simply in
25 about two sentences because sometimes we get lost with all

1 these different groups.

2 When Khomeini overthrow the Shah, he was allied
3 with the Mojahedin who was anti-American, anti-imperialist.
4 They were a Marxist group. The Shah called them Islamic
5 Marxists. And I think that was probably a very accurate way
6 of depicting them.

7 They were part of the revolution that overthrow
8 the Shah in 1979, 1978, 1979. But they were seeking total
9 power. They engaged in a power struggle with Khomeini.
10 They had cells all across the country. It came to a head in
11 June 1981 when they had a massive demonstration in Teheran.
12 Khomeini basically opened fired, drove them out of the
13 government and drove them underground and began to round up
14 Mojahedin militants, put them in jail, tortured them and
15 killed them.

16 So they were part of the regime until they had a
17 power struggle. They lost the power struggle. They went
18 into opposition.

19 I used to use as an image for this -- the head of
20 the Mojahedin is a man named Rajavi and you will hear his
21 name later on because one of the people assassinated by the
22 regime is his brother named Rajavi.

23 Rajavi and Khomeini were like two heads of a coin.
24 They were both working to together for the same goal which
25 was to get rid of the Shah. They had a power struggle, a

1 falling out and now Rajavi and the Mojahedin is in
2 opposition.

3 BY MR. HIRSCHKOP:

4 Q They did, in fact, try to assassinate Rajavi
5 himself, did they not?

6 A I do not know specific attempts but they certainly
7 succeeded in assassinating his brother.

8 Q And his brother had been what relationship to Iran
9 prior to the revolution?

10 A The brother of Rajavi?

11 Q Yes.

12 A I cannot testify to that.

13 Q Did he have a relationship to the U.N. at some
14 point?

15 A Well, he was working at the U.N. in Geneva for the
16 Mojahedin after the revolution. He was their sort of
17 spokesman at the U.N. to deal with human rights questions
18 and things like that.

19 Q In addition to those groups, there is one other
20 group I'll ask you about. The National Liberation Army of
21 Iran, what is that?

22 A The NLA, the National Liberation Army was the
23 military wing of the Mojahedin. They are based in Iraq.
24 They are armed and equipped by the regime of Saddam Hussein.
25 They have been there since the mid-1980s. Their goal is a

1 military assault on Iran to force a change of government.

2 They have conducted one major attack in April of
3 1988 in the last days of the Iran-Iraq war. They crossed
4 the border. They said we're going to march to Teheran.
5 They marched about, I don't know, 50 or 100 miles inside the
6 border and every mother, child, grandfather came with cycles
7 to drive them back because they were more terrified -- the
8 Iranian people were more terrified of these people than they
9 were even of the -- it was quite extraordinary.

10 Q Have there been numerous assassinations of people
11 in this group and the Mojahedin group in Iraq?

12 A Yes.

13 Q And you've said before there were numerous
14 assassinations in Turkey of the community there. Was there
15 a fear by the regime in Iran after the death of Ayatollah
16 Khomeini that there might be an overthrow from the outside
17 of the regime?

18 A I think the real fear was that the opposition
19 living in exile would, first of all, be able to coalesce
20 around a single leader. And so it was important for the
21 regime to get rid of the leaders and any leaders in
22 particular who had charisma, who were able to unify other
23 groups. And they were afraid that those opposition groups
24 in exile would then have their links inside Iran and be able
25 to stir things up and to gain momentum.

1 Q Is this just your surmise of what you've read or,
2 in fact, are there documents showing this fairly clearly?

3 A Well, Counselor, this is my opinion. And it is
4 based on many years of investigating the specific
5 assassination campaigns, of working with investigative
6 magistrates such as Mr. Bruguiere in France, Judge SHAT-LA
7 (phonetic) in Switzerland and others. There is a pattern
8 here.

9 The regime always goes after the leaders. Why do
10 they go after the leaders of the opposition? They go after
11 the leaders of the opposition because they are afraid that
12 one of those leaders will emerge and manager to successfully
13 unite the various opposition groups.

14 Q Were there also many assassinations in Iran of
15 leaders of the education, writers, people like that all
16 through these 20 years?

17 A Yes. And that, by the way -- this is kind of
18 interesting. In the past two years under a so-called
19 moderate president the repression inside Iran has picked up.
20 And they have gone after writers, intellectuals as well as
21 political -- the remaining political leaders.

22 There is one remaining political leader of the
23 opposition in Iran. His name was Darioush Forouhar. He had
24 been, early on in the regime, he had been a minister of
25 labor up until 1981 and then he broke with the regime and

1 went into opposition. They tolerated him but they would not
2 let him speak out.

3 He was murdered in November of 1998 brutally in
4 his home in Teheran with his wife. Both of them were
5 sexually mutilated. And the regime has now admitted that
6 their own intelligence ministry carried out this murder.
7 There was rogue elements within the intelligence ministry,
8 of course.

9 It is an important event because he was beginning
10 to gain international notoriety, Mr. Forouhar. I can tell
11 you that my organization in the United States, the
12 Foundation for Democracy in Iran, and others were beginning
13 to broadcast his statements. He was being noticed and he
14 was gaining a foothold inside Iran and they were afraid of
15 that. And that was a pattern, again, part of this pattern
16 to decapitate the opposition so the opposition could not
17 move against them.

18 Q I neglected to ask you before but have you
19 qualified as an expert in other courts testifying on matters
20 concerning Iran?

21 A Yes, I have, Counselor.

22 Q And have you testified at the Congress on matters
23 concerning Iran?

24 A Several times.

25 MR. HIRSCHKOP: I don't know if it's necessary to

1 tender him as an expert. I don't think it's needed in this
2 type of a case.

3 THE COURT: You do whatever you wish, Mr.
4 Hirschkop.

5 MR. HIRSCHKOP: Thank you, Your Honor.

6 BY MR. HIRSCHKOP:

7 Q Getting back to the Court's question with all this
8 background of how you compiled this list. What selection
9 did you use in this list? And this is Exhibit 29.

10 A We're back to the list of the victims?

11 Q The assassination. Yes, sir.

12 A Basically I used several criteria. I wanted to
13 make sure that the individual assassinated, that there were
14 multiple sources, both public source information and from
15 some of the opposition groups. I took the opposition
16 groups' list with great care because sometimes this group or
17 that group might exaggerate the evidence. It might falsify
18 the evidence.

19 I started with their list. I looked for public
20 source information. What really clinched it was when I was
21 able to get testimony from either a judge or a court case on
22 the record. Now I eliminated a lot of names from this list.
23 My list is smaller than many of the other lists.

24 THE COURT: Did you always find the testimony of
25 the judge credible?

1 THE WITNESS: Well, Your Honor, do you see the
2 volumes of documents here on this table? Jacques Boedels
3 will testify later, I'm sure, in the volumes that was
4 presented in the French courts. I have dealt with judges in
5 France and in Switzerland and investigative magistrates in
6 Turkey as well on this.

7 Frankly, there is no doubt of the evidence of an
8 Iranian government assassination effort. The only thing
9 that defies the imagination, defies understanding is how
10 they have gotten away with it for so long.

11 BY MR. HIRSCHKOP:

12 Q I pointed you to five major dissident groups.
13 They represent all the major dissident groups outside of
14 Iran, do they not?

15 A The Kurds, NAMIR, FFO and the Mojahedin and the
16 monarchist. You forgot the monarchist, the CMO, the
17 constitutional monarchist.

18 Q Has Iran successfully murdered practically every
19 major leader of these groups except for Dr. Ganji who is
20 sitting here in court today?

21 A Well, I'd like to say I lost three notches on my
22 belt in Beirut. I don't know how many notches on Dr.
23 Ganji's belt have been lost in Paris evading killers from
24 the regime. I know of several attempts against Dr. Ganji's
25 life. And I am sure he will tell you about the

1 extraordinary precautions he has had to take to protect
2 himself.

3 Q And from your knowledge dealing with Mr. Bruguiere
4 and Mr. Bakhtiar and Mr. Boroumand, was there extreme
5 security surrounding both Dr. Bakhtiar and Dr. Ganji and
6 other leaders of each movement?

7 A Yes, sir. Because it was very clear to the French
8 authorities that the Iranian government was going to go
9 after these leaders. They knew it. And so they tried to
10 protect them as best they could.

11 Q And when you say protect, they were given French
12 body guards?

13 A Oh, yes.

14 Q I mean, had armored cars? These people have lived
15 in armored compounds?

16 A Mr. Bakhtiar was assassinated in a protected
17 compound. There were French riot police outside at all the
18 time. They guarded the entry. They took everybody's
19 identification. You had to phone in ahead of time and be
20 approved by Mr. Bakhtiar to come into his residence. I went
21 there on several occasions. And I can tell you it was not
22 an easy thing to get in.

23 The same with Mr. Ganji and other leaders. They
24 had French police protection because they were at risk.

25 THE COURT: Has your life been threatened?

1 THE WITNESS: I was told by the French equivalent
2 of the FBI in 1992 that I should reframe from parking my car
3 on the street and I should look underneath it every morning
4 before I went out.

5 THE COURT: And yet here you are testifying.

6 THE WITNESS: By the grace of God.

7 BY MR. HIRSCHKOP:

8 Q You claim you knew Mr. Bruguiere, Judge Bruguiere.
9 Did you ever receive any documents from him concerning Mr.
10 Bakhtiar's murder?

11 A Counselor, as a reporter, I would rather not
12 answer whether I have received documents from a judge.

13 Q Okay.

14 Did you ever go to Turkey --

15 THE COURT: Let the record be clear you're
16 speaking about someone else other than the judge who is
17 seated here.

18 MR. HIRSCHKOP: I will withdraw the question.

19 BY MR. HIRSCHKOP:

20 Q Did you ever go to Turkey to investigate the
21 assassination of Mr. Bakhtiar?

22 A Yes, I did.

23 Q What did that consist of, if you can tell us?

24 A Among the people that I met in Turkey was a
25 gentleman named Necdet Menzir. N-E-C-D-E-T, first name,

1 Menzir, M-E-N-Z-I-R, who is the head of police intelligence
2 in the city of Istanbul, Istanbul being the largest city in
3 Turkey and also being the most violent city, criminal
4 elements but also this large Iranian population.

5 Mr. Menzir had decided for his own reasons that he
6 wanted to cooperate with my journalist investigation. I
7 went there as a reporter for Times Magazine heading up a new
8 investigative journalism unit. He showed me telephone
9 records that they had had -- they had traced the telephone
10 calls from the back-up team of the Bakhtiar assassination.

11 They used a safe house in Istanbul. He had the
12 telephone calls coming in from various public phone booths
13 in France which he had been given by the French judge. So
14 he then traced them back to the safe house in Istanbul. He
15 showed me also videotape of confessions of Turkish Islamists
16 who had been paid and trained by the Islamic Republic to
17 kill Turkish secular intellectuals in Turkey on the orders
18 of the Islamic Republic.

19 This is off of our subject but it's also kind of
20 interesting. The Iranians saw Turkey as a secular
21 democracy, as a threat in the same way as they saw the
22 secular politicians as a threat to their clerical regime.
23 So they tried to -- they assassinated a number of Turkish
24 secular leaders as well. He gave me access to a lot of
25 documents from the investigate.

1 Q And in various countries where these
2 assassinations occurred was the embassy or consulate
3 officials of Iran implicated very often in these things?

4 A In almost every case that I can think of the
5 consulate or the embassy was directly involved providing
6 safe houses, providing cars, providing money, providing
7 passports, providing escape routes in some cases.

8 Q And in the Ghassemlou murder were the consulate
9 officials directly involved in the murder?

10 A There were Iranian officials directly involved and
11 consulate officials involved as well, yes, in protecting one
12 of the murderers in the Ghassemlou murder in Vienna which
13 was another one of these that I investigated extensively.

14 THE COURT: What period of time?

15 THE WITNESS: This is in 1989, Your Honor.

16 I'll just answer your question very briefly for
17 the sake of time.

18 BY MR. HIRSCHKOP:

19 Q I'm going to go through a number of individual
20 assassinations and we will get to that.

21 A Okay. But very briefly, one of the murderers --
22 and I say that we know that he was one of the murderers.
23 The Austrian police know that he was of the murderers was
24 sheltered for months in the Iranian embassy in Vienna.

25 Q Is it correct that murders are accomplished

1 through several different organizations stemming from Iran
2 support?

3 A Yes. That's correct. It is not just the
4 intelligence ministry. They have many other organizations.
5 In fact, they use -- one of the things Judge Bruguiere found
6 out they used the entire apparatus of the state.

7 In the Bakhtiar murder one of the key offices used
8 was in the telecommunications ministry back in Teheran.
9 Another one was the Iranian state television, the
10 broadcasting service. So they used the entire apparatus of
11 the state to support their goal of assassinating,
12 decapitating the opposition.

13 Q Are you familiar with the cases that have recently
14 been won here in Washington, D.C., under the Anti-Terrorist
15 Act, the Anderson case and the Higgins case and the Flato
16 case and the Sasippio case and some of the others?

17 A Yes, I am.

18 Q All those were carried out by terrorist
19 organizations that are supported by Iran; is that correct?

20 A That's correct.

21 Q This is the first case where it's directly
22 attributable to MOIS who gave the order kill Dr. Elahi?

23 A In the United States this is the first case to my
24 knowledge. Yes, sir.

25 THE COURT: Did you testify in any of those other

1 cases here in this courthouse?

2 THE WITNESS: No, I did not, ma'am.

3 MR. HIRSCHKOP: Dr. Patrick Clawson who has been a
4 witness in most of them will be testifying tomorrow morning,
5 Your Honor.

6 BY MR. HIRSCHKOP:

7 Q Now let's talk about those groups briefly so the
8 Court can realize how terrorism is sent abroad by the
9 country, the Republic of Iran.

10 With regard to Helbollah, what is that?

11 A Helbollah is a Lebanese Shiite organization which
12 was established specifically by the Iranian government in
13 1983 and 1984 to resist the Israeli occupation of southern
14 Lebanon. By the way, one of the Iranian government figures
15 who was key to setting up Helbollah was a minor figure at
16 the time named Hatami who is now the president of the
17 Islamic Republic. He is said to be a great moderate.

18 Q What is Hamas?

19 A Hamas is the Islamic resistance. The acronym in
20 Arabic means Islamic resistance. They operate primarily in
21 Gaza and the West Bank. They are a Palestinian group. They
22 are an out growth really of the Muslim brotherhood which has
23 a long history in Egypt and that area. They, also, are
24 dedicated to killing any hopes of peace between Arabs and
25 Israelis, any co-existence between Arabs and Israelis and

1 they are funded and trained by the Islamic Republic of Iran.

2 Q As is Helbollah?

3 A As is Helbollah.

4 Q The other major group, the Islamic Jihad, what is
5 that?

6 A It's a Palestinian Islamic Jihad, PIJ. It's a
7 small splinter group that began as part of Hamas and then
8 became a separate splinter group, more radical yet they have
9 -- Hamas has a certain popular support in Gaza. And, again,
10 I've seen this personally on the ground in Gaza. I've
11 interviewed one of their suicide bombers two days before he
12 blew himself up. That's another extraordinary story.

13 PIJ has really no popular basis. It's a very tiny
14 group. They receive their only support from the Islamic
15 Republic of Iran. Whereas Hamas has some popular support
16 and funding that comes from the United States and from
17 Muslims of the United States who believe that they're
18 helping social causes in Gaza.

19 Q Now I'm finally going to get to your chart,
20 Exhibit 29. The murders here, the assassinations here, are
21 these principally MOIS-sponsored and carried out
22 assassinations?

23 A It is my belief that the vast majority of these,
24 if not all of them, are sponsored and carried out by the
25 MOIS. Yes.

1 Q The list you have here really differs from the
2 victims we've seen before this Court previously in these
3 other cases which are all victims of Helbollah, or Hamas or
4 the Jihad?

5 A That's correct. This is a list of assassination
6 victims not just victims of terrorism.

7 Q You mentioned Mr. Tabatabai. What exactly was his
8 position?

9 A He was No. 2 at the embassy and press spokesman
10 and, again, was very vocal in the opposition after the
11 revolution.

12 Q Was an American citizen, an ex-soldier recruited
13 by Iran to murder Mr. Tabatabai?

14 A Yes. He has confessed to it. David Belfield.

15 Q Have you viewed the 20/20 confession, the program
16 20/20?

17 A I saw a transcript of it when it came out. Yes,
18 sir.

19 THE COURT: Wasn't there a trial in the Superior
20 Court of the District of Columbia concerning this case?

21 THE WITNESS: Yes, there was, Your Honor. And to
22 my recollection he was convicted in absentia.

23 MR. HIRSCHKOP: Your Honor, at this time we'd like
24 to show the video.

25 THE COURT: All right.

1 (A videotape was shown.)

2 THE COURT: We are going to take a five-minute
3 recess at this time.

4 (Recess.)

5 BY MR. HIRSCHKOP:

6 Q Mr. Timmerman, Tabatabai, you heard the murderer
7 testify or was asked about it being cold-blooded. Describe
8 the Bakhtiar killing to the Court?

9 A When the murderers entered Mr. Bakhtiar's house,
10 first, they apparently stunned him by a blow to the throat.
11 At that point they went into the kitchen and got several
12 kitchen knives and stabbed him repeatedly.

13 I forget whether it's 30, 40 or 50 separate times,
14 so violently that one of the knives actually broke.

15 THE COURT: Are you reporting this, sir, from the
16 advantage point of having been told this or by the
17 investigation that ensued as a result of that? I take it
18 you weren't present?

19 THE WITNESS: No, Your Honor. This is from the
20 investigating magistrate and from the autopsy.

21 BY MR. HIRSCHKOP:

22 Q Was there, in fact, a trial and seven or eight
23 people convicted of the murder of Mr. Bakhtiar?

24 A Yes. That's correct.

25 THE COURT: Did you attend the trial?

1 THE WITNESS: I did not attend the trial but I did
2 talk to the investigative magistrate many, many times about
3 this.

4 In addition to the very brutal knife attacks, they
5 sexually mutilated Mr. Bakhtiar in a way which I won't
6 describe to the Court but in a very brutal manner which has
7 been repeated in murder after murder after murder.

8 BY MR. HIRSCHKOP:

9 Q In these MOIS-sponsored murders?

10 A Yes. In these MOIS-sponsored murders.

11 Q Was his head severed?

12 A His head was severed and he was sexually
13 mutilated.

14 Q With regard to these murders, is there a history
15 of very cold-blooded action in a spectrum of these murders?

16 A I mentioned earlier Mr. Forouhar who was murdered
17 with his wife. He was the opposition -- the last remaining
18 opposition leader inside Iran at that time. He also was
19 sexually mutilated. His wife was sexually mutilated as well
20 and they were repeatedly stabbed and left in their
21 apartment.

22 Q Referring to Exhibit 29, in 1980 they murdered Mr.
23 Tabatabai and they attempted to murder Bakhtiar. Let's go
24 to the period right after Ayatollah Khomeini died. Let's
25 look at 1989, Mr. Rajavi's murder in Vienna. You mentioned

1 Rajavi. Which group was he with?

2 A He was with the People's Mojahedin of Iran and
3 he's the brother of their leader.

4 Q Who they tried to assassinate?

5 A Yes.

6 Q Mr. Rajavi himself was the U.N. representative for
7 that group for some time, was he not.

8 A Yes. He was their U.N. representative.

9 Q With regard to that murder did they directly
10 attribute it to MOIS agents and were able to name them and
11 show how they got passports and everything?

12 A Yes. When I spoke to the Swiss investigating
13 magistrate Judge Chatelain. That's C-H-A-T-E-L-A-I-N. He
14 showed me the passenger lists which they had taken from the
15 Iran air flight that left for Teheran from Geneva just hours
16 after the murder.

17 And they had identified something, like, nine
18 people on that one aircraft and ultimately identified
19 thirteen individuals by name who had taken part either in
20 the actual physical assassination -- this was a man who was
21 driving on the streets. A car swerved in front of him to
22 block him. Another one came up from behind. The murderers
23 came out from the cars.

24 First, they sprayed him with machine gun bullets
25 and then they gave him the coup de grace, I think, three or

1 four times.

2 These thirteen people that they identified were
3 involved either directly in the murder. They were involved
4 in procuring the automobiles that were used, the weapons
5 that were used. All of them arrived in Switzerland on
6 what's called service passports, just like our red
7 passports. They're government passports. Their passports
8 had been issued in a series and had all been freshly issued.

9 They were government passports. And these people
10 went back to Teheran either directly on that Iran air flight
11 or via Austria via Vienna.

12 Q As a reporter, you've interviewed a number of
13 these victims prior to that death, have you not?

14 A That's correct.

15 Q And many of them knew there was a sentence of
16 death upon them from Iran as Mr. Elahi knew that for 11
17 years there was a sentence of death on him. How did they
18 deal with the fear of the terror? What did they express?

19 A These are very brave people. These are people who
20 have lived with the knowledge that they could be killed any
21 time, with the knowledge that they have enemies who are
22 powerful and determined. And yet they woke up every morning
23 with that knowledge and they made it through the days and
24 they performed what I think are heroic acts of resistance.

25 Q But it placed great emotional strain on them, did

1 it not?

2 A It certainly did. Yes.

3 Q And did it place a lot of curtailment on their
4 lives, the why they can go to restaurants or go to public
5 places or meet with people?

6 A Well, let's just take the case of Mr. Bakhtiar.
7 Mr. Bakhtiar did not go to restaurants. Mr. Bakhtiar did
8 not go to meet people. He stayed in his small villa in a
9 suburb of Paris guarded by French riot police.

10 Dr. Ganji would sometimes go to restaurants with
11 three or four armed guards. I remember many times when we
12 would go to eat lunch together. He would never tell me
13 where we were going. We would meet at some area at the last
14 minute and then go some place else and there would be three
15 or four armed guards who would book a separate table and
16 there were a lot of security precautions.

17 Q Let's go back to your list, page 5 of your list.
18 Shortly before -- let me start with that. Let's start at
19 the top of Page 5. The murder in Dubai of Colonel Attaollah
20 Bay-Ahmad. Excuse me if I don't get the names pronounced
21 correctly. Sometimes it's a little foreign to me.

22 The Flag of Freedom Organization, was he, in fact,
23 one of the leaders of Flag of Freedom?

24 A Yes. He was an emissary of Dr. Ganji who my
25 understanding was sent to meet with people inside Iran who

1 were helping their organization.

2 Q In Dubai he was murdered by a direct employee of
3 MOIS, was he not?

4 A Yes. That is my understanding.

5 Q And he worked closely with Mr. Elahi in Paris?

6 A Yes. Again, Dr. Elahi was really Dr. Ganji's
7 right-hand man and so they together made the decision to
8 send him to Dubai is my understanding?

9 Q His murder received some publicity, did it not?

10 A Some publicity, yes, but not that much.

11 Q But it was clearly known by Dr. Elahi and the Flag
12 of Freedom people?

13 A It was definitely. It sent a shock wave through
14 the organization. These murders, when I say only limited
15 publicity, they don't reach the American press. They don't
16 meet our sensibilities but they send a shiver through the
17 Iranian community. Iranians understand exactly what is
18 going on when they see a prominent dissident leader who is
19 gunned down by a machine, in this case a machine pistol with
20 a silencer on it in Dubai. Dubai is, again, one of those
21 ports sort of like Turkey. It's one of those ports of entry
22 into Iran.

23 Q Look at the next one on July 13, 1989, Abdel
24 Rahman Ghassemlou. Who was Mr. Ghassemlou?

25 A Mr. Ghassemlou was a Kurdish leader. He was a

1 polyglot, a bon vivant. I got to know Mr. Ghassemlou in
2 Paris before his murder. And he was somebody who believed
3 that there was a future for Iran as a democratic social --
4 secular -- excuse me.

5 Q Was he the secretary general of the KDPI?

6 A Yes. He was the secretary general of the KDPI.

7 Q Would that be the director in charge of KDPI?

8 A He was the top man and it was his charisma which
9 made his organization prominent.

10 Q And, again, did the authorities of Vienna directly
11 trace this to Iranians who came there from Iran with
12 passports and directly back to MOIS?

13 A This is a similar method of operation. The
14 Iranians sent officials to Vienna assassinate him. They
15 came in on service passports. I learned that from some of
16 the prosecutors who were involved in the case in Vienna.
17 They've identified the individuals and in the case of one of
18 the murderers he took refuge in the Iranian embassy for
19 months and months and months and finally the Austrian
20 government caved and let him go.

21 Q The next page, Page 6 on April 24, 1990, that's
22 Mr. Radjavi concerning, as we spoke, of the Mojahedin; is
23 that correct?

24 A That's correct.

25 Q So in that one year period, that several month

1 period they killed three major leaders of three of the four
2 resistance groups outside of Teheran?

3 A Yes. 1989, 1990, '91, '92. These were very, very
4 active times for the Iranian government hit squads.

5 Q And then in 1990, October 23, 1990, they killed
6 Cyrus Elahi and you said he was deputy director of FFO, the
7 Flag of Freedom; is that correct?

8 A That's correct.

9 Q And after that in April '91 they killed Abdel
10 Rahman Boroumand and he was deputy of NAMIR?

11 A That is correct. He was Mr. Bakhtiar's deputy.

12 Q And shortly after him, they kill Mr. Bakhtiar on
13 the top of Page 7?

14 A Uh-huh.

15 Q Then in 1992 they killed Mr. Sharaf-Kindi --

16 A Also the successor to Mr. Ghassemlou as their
17 secretary general at the Kurdish democratic party.

18 Q So by this point, in this two-year period they had
19 assassinated either the leader or the second-in charge of
20 every major resistance group outside of Iran?

21 A Yes. With one exception of the Constitutional
22 Monarchist and they were going after them. And I know that
23 from personal experience as well.

24 Q And in all these cases the prosecutors, the local
25 authorities found Iran directly responsible, did they not?

1 A That's correct.

2 Q In fact, in the Elahi case, Mr. Mashadi, the
3 person who arranged the murder, was convicted of conspiracy
4 to murder both Dr. Elahi and Dr. Ganji, was he not?

5 A That's correct.

6 Q He received a seven-year sentence in the French
7 courts?

8 A That's correct.

9 Q And you mentioned that in Bakhtiar there were
10 several people convicted of murder also.

11 In Mykonos, the Mykonos restaurant in Berlin in
12 1992, were they also convicted of murders there?

13 A Yes, they were. And the ties were directly linked
14 back to the MOIS, to the Iranian government. And, as you
15 mentioned earlier, there was an arrest warrant, an
16 international arrest warrant for the head of Iranian
17 intelligence.

18 Q Now did these murders continue beyond 1992?

19 A Yes. They continue to.

20 Q Turning to 1996, was Mr. Mazlouman murdered?

21 A Reza Mazlouman, he was a writer and a, my
22 understanding, as a monarchist he was murdered in Paris in a
23 very similar circumstance to Mr. Bakhtiar. In other words,
24 a friend introduced the murderer into his apartment to allay
25 suspicions.

1 Q You may have misspoken. Look at the bottom of
2 Page 10. He was a major official of Flag of Freedom
3 Organization, was he not, Mr. Mazlouman?

4 A He was affiliated with the FFO. I do not know his
5 specific --

6 Q Well, Dr. Ganji --

7 A Dr. Ganji will do better to tell you that.

8 Q During this same period, throughout this whole
9 period there was a Fatwa pending against Solomon Rusdi
10 (phonetic), was there not?

11 A That is correct.

12 Q Who is Solomon Rusdi (phonetic)?

13 A Solomon Rusdi (phonetic) is the author of Satanic
14 Verses. It was a novel which aroused the eye of Ayatollah
15 Khomeini. He claimed that it defamed Islam and he put a
16 price on his Solomon Rusdi's (phonetic) head of about \$2
17 million and issued a very public Fatwa in this case. It was
18 a very public Fatwa authorizing Muslims around the world to
19 kill Solomon Rusdi (phonetic).

20 Q And that Fatwa is still --

21 A The Fatwa appears to be still in effect. My own
22 Islamic cleric friends would have told me that they believed
23 that the Fatwas die with the death of the issuing cleric, in
24 this case Khomeini, but the Iranian government has
25 reaffirmed the Fatwa and the foundation which reports to the

1 government has reaffirmed the Fatwa and upped the bounty to
2 more than \$2 million.

3 Q Mr. Solomon Rusdi (phonetic) now resides in the
4 United States, remains under the threat even today of murder
5 by the Iranian government?

6 A That's correct.

7 Q And the state department has in their reports
8 declared it to be a state sponsoring terrorism; is that
9 correct?

10 A That's correct. And that has specifically legal
11 ramifications.

12 Q And are they still on the state department
13 declaration a state sponsoring terrorism?

14 A Yes. The government of Iran is still considered a
15 state sponsor of terrorism.

16 Q With regard to the Flag of Freedom Organization,
17 were you able to determine from your investigation over the
18 years that it, in fact, was an organization sponsored and
19 supported in many ways by the United States Government?

20 A My understanding is that the Flag of Freedom
21 Organization did have very close ties to the U.S.
22 Government. And Dr. Ganji would come to the United States
23 frequently. He certainly was working in cooperation with
24 certain elements of our government and establishing the
25 transmitter that he used in Cairo, in Egypt.

1 Q And what the Flag of Freedom Organization did
2 directly aided our policy towards Iran, did it not?

3 A Again, my understanding, and this is not from the
4 court cases, but from my understanding and interviews with
5 U.S. intelligence officials and others, the United States
6 Government considered the Flag of Freedom Organization as
7 one way of continuing to put pressure on the regime in
8 Teheran by broadcasting their newspaper reports into Iran to
9 de-stabilize the government.

10 THE COURT: Why would our intelligence agents
11 speak so freely to you about these situations? What was the
12 eventual goal or purpose?

13 THE WITNESS: To be frank -- this one I can be
14 much more clearer about. At a certain time, and if my
15 memory is correct, it was 1995 or so. The CIA cut the
16 funding for the radio broadcasts and that became an issue in
17 Congress. And I was no longer working in Congress at that
18 time. I was working as a reporter but I had many friends
19 who were still working in Congress. This became an issue.

20 And there were many members of Congress and the
21 senate who argued that we should not have cut the funding to
22 the Flag of Freedom Organization because they were
23 performing outstanding work on behalf of America. And in
24 addition to the work as Iranian freedom fighters they were
25 also furthering the interests of the United States in Iran.

1 And so that's how I got access to that is that
2 there was a debate. There was a semi-public debate on this
3 in 1995.

4 BY MR. HIRSCHKOP:

5 Q In the record in this matter we've put in Exhibits
6 No. 89 through 95. They are copies of the Iran -- I guess
7 through 96 -- published by you; is that correct?

8 A Which numbers?

9 Q Eighty-nine is the first one.

10 THE COURT: Do you have bylines in these cases?
11 Sometimes they're without.

12 THE WITNESS: The Iran Brief, I did not publish as
13 a byline because I was the publisher of the newsletter.

14 BY MR. HIRSCHKOP:

15 Q But during this same period you've been a
16 contributing writer to many national publications, have you
17 not?

18 A That's correct.

19 Q With regard to these several documents, 89 through
20 96, these are published by either the Iran Brief?

21 A 89 is published by me, the Iran Brief. 90 is an
22 action memorandum from the Foundation for Democracy in Iran
23 of which I am the executive director.

24 Q And you published that also?

25 A Yes, I did.

1 And the others are, indeed, from the Iran Brief
2 for which I am responsible.

3 Q Without going through them individually, they in
4 ways capitulate what you've said here, the testimony as the
5 assassinations and the responsibility you mentioned, Mr.
6 Fallahian directly as being responsible, for instance, in
7 Exhibit No. 90 in the third paragraph?

8 A Yes, sir. These articles that you have -- the
9 articles that you have included which I wrote directly
10 treats the subject that we're discussing today which is the
11 Iranian government involvement in these assassinations. The
12 Mazlouman assassination, the Cyrus Elahi assassination in
13 particular.

14 Q I'd ask you to look at No. 93, if you would, sir.
15 You say there the Islamic Republic has launched a major
16 effort to establish new networks of agents and sympathizers
17 in the United States to gather strategic intelligence,
18 penetrate opposition organizations and then to provide
19 logistics of possible terrorist attacks.

20 This is still ongoing, this terrorism exported by
21 Iran?

22 A Yes, it is.

23 Q It's ongoing with Helbollah and Hamas and the
24 others in the Mideast?

25 A We've seen that repeatedly just in the beginning

1 of October. President Hatami of Iran met in Teheran
2 publicly with the leaders of Helbollah, the Palestinian and
3 Islamic Jihad and Hamas. And he said we've got a solution
4 for the middle east crisis and the solution is Israel should
5 cease to exist. This is on the record, recorded by voters
6 on October 2nd of this year.

7 Q In 1999 did MOIS actually admit in Iran that
8 agents of MOIS were responsible for many murders inside of
9 Iran?

10 A Yes, they did. It's called the serial murders
11 case and it came out of the murder of Mr. Forouhar and his
12 wife.

13 Q We covered that in Exhibit 94.

14 Now, sir, from your knowledge of Iran, have they
15 taken cognizance of these large punitive damage awards that
16 have been awarded by the courts in the United States?

17 A It's a very interesting and I think important
18 question. They have not showed up in court. They have --

19 THE COURT: You mean they haven't shown up
20 formally in court?

21 THE WITNESS: Thank you, Your Honor. I did not
22 want to have to say that.

23 They have not shown up formally in court and
24 instead they have hoped that they would get off the hook
25 from the punitive damages through diplomatic channels and

1 diplomatic negotiations.

2 Once the new bill was passed and signed into law
3 by the President October 10th through October 15th, just
4 this past month, the Iranians turned around and within days
5 themselves ran through their parliament a similar piece of
6 legislation allowing the Iranian citizens to sue the United
7 States in Iranian courts for damages of alleged crimes that
8 America might have committed against them.

9 So not only are they paying attention, they are
10 ~~paying very, very close attention and they are very scared.~~
11 They're very worried that they're going to pay a lot of
12 money for damages.

13 BY MR. HIRSCHKOP:

14 Q Would continued punitive damages award have any
15 use? Would they suffice to say to the Iranians it's time to
16 stop?

17 A The Iranian economy is in a very bad straight.
18 They need that money. Large punitive damages would have a
19 chilling impact, I believe, on the regime. It would show
20 the people of Iran the culpability of this regime in these
21 brutal murders around the world.

22 Q What kind of punitive award in a case like this
23 would be necessary to catch their attention?

24 A Personally, I think that Iran has one major source
25 of income. It's oil. And if you can in some way, and I'm

1 not an expert on this, but if you can in some tie punitive
2 damages to Iranian oil exports I think you have really got
3 their attention.

4 Q Would a billion be the minimum it would take given
5 they are already quarter billion dollar awards?

6 A Well, I think that would get their attention.
7 Yes, sir. I think more awards of the same level that
8 they've received before. They would perhaps just say, well,
9 this is one more of the group.

10 Q And you spoke about the new Act which pays,
11 although this case is not covered by the new Act. They
12 specify just certain cases. But what would it take in
13 compensatory damages to get their attention?

14 A To get the attention of this regime you have to
15 hit them hard. You must hit them hard. They are used to
16 negotiating their way out, of sliding out or finding a
17 solution where they do not have to pay or take
18 responsibilities for their action. I believe that you have
19 to hit them very hard whether it's a billion dollars or \$2
20 billion. I don't know what an exact figure would be but you
21 must hit them hard.

22 Q That's for punitive. What about these
23 compensatory now being paid by the American government?
24 They can negotiate against Haige case. There have been
25 already been 20, 30, \$40 million verdicts. Should the

1 American courts have to necessarily keep increasing those to
2 get Iran's attention to finally stop murdering people
3 outside of Iran?

4 A The problem with the compensatory damages, as I
5 understand it, Counselor, is that the new law basically
6 restricts payment to the compensatory damages. So the
7 Iranian government thinks that, well, it's only going to be
8 up to \$400 million because that is the amount that the
9 Americans have admitted is in the American FMS account, the
10 foreign military sales agreement. And they can shrug that
11 off.

12 I think it's very important that that cap of the
13 \$400 million in the FMS account be broken and that they
14 understand that there is no cap. There will not be a cap,
15 that there is not a cap on their responsibility, that they
16 must take responsibility for these murders.

17 MR. HIRSCHKOP: Thank you. Nothing further.

18 THE COURT: Thank you for your testimony.

19 (Witness excused.)

20 THE COURT: Your next witness.

21 MR. HIRSCHKOP: Your Honor, we will leave the
22 videotape shown this morning with the Court. We call Ms.
23 Boroumand to the stand, please.

24 LADAN BOROUMAND, PLAINTIFF WITNESS, SWORN

25 DIRECT EXAMINATION

1 BY MS. MERRITT:

2 Q Can you please state your name for the record?

3 A My first name is Ladan, L-A-D-A-N, and my last
4 name is Boroumand, B-O-R-O-U-M-A-N-D.

5 Q Are you a resident of Washington, D.C.?

6 A Yes.

7 Q Are you the daughter of Abdolrahman Boroumand?

8 A Yes.

9 Q And your father was assassinated in Paris in April
10 of 1981?

11 A Yes.

12 Q I'm going to get back to talking about your father
13 in a little while. Can you please let the Court know a
14 little bit about yourself. Did you grow up in Iran?

15 A Yes. I finished high school in Iran and then I
16 went to France for my higher education. And I stayed there.
17 I became political refugee and then I got naturalized. I
18 have French citizenship now.

19 Q What did you study while you were in Paris?

20 A Political sociology and history.

21 Q And you received a lower degree and a doctorate as
22 well in both?

23 A Yes. My master is in political sociology and my
24 Ph.D. in history.

25 Q What schools did you attend while you were in

1 Paris?

2 A The first part of my study was at the University
3 of Nanterre, Paris Ten and then my Ph.D. studies were in
4 Ecole des Hautes Etudes en Sociales and I worked with a very
5 famous French historian.

6 Q Ms. Boroumand, will you please turn to Exhibit No.
7 98. There are two books in front of you and I'll point your
8 attention to a number of exhibits in there.

9 Ms. Boroumand, can you identify this to the Court?

10 A This is my CV.

11 Q Your resume?

12 A My resume.

13 Your Honor, I would like you to forgive me. My
14 English is not very good.

15 THE COURT: I understand you perfectly. Your
16 English is very good.

17 BY MS. MERRITT:

18 Q And as part of your studies, did you study the
19 politics of Iran?

20 A Yes. From the very beginning I was interested in
21 the political history of Iran.

22 Q In 1979 when the Islamic revolution occurred, were
23 you in Paris in school?

24 A Yes. And then I seized the opportunity to go back
25 to Iran during the revolution as an observer and researcher.

1 Q And what did you observe while you were in Iran
2 during the revolution with respect to how it was treating
3 its citizens?

4 A Well, you know, when you are young and
5 inexperienced you have lots of ideals and the reality of a
6 revolution is quite a violent and difficult reality.

7 I went back with, not a lot of hope because
8 already in Paris things were, you know, seemed to be not
9 very promising even though I knew and I had the chance of
10 reading Ayatollah Khomeini's political writings. So I was
11 reserved already when I went back to Iran and I was seeing
12 how the public opinion was manipulated by the revolutionary
13 elite and they were against reform and democracy.

14 But when I was there I saw the first executions
15 for the first time and I realized when they killed the first
16 people who were executed they published the pictures in the
17 newspapers. And that was the first time I could realize how
18 a new government elite is sending a message to its own
19 people saying that do not think that this is going to be a
20 democracy or you are going to have the sovereignty by
21 disposing arbitrarily of the life of the citizen and
22 violating their rights. They were sending a clear message
23 to the population that this is not going to be a free and
24 democratic country.

25 And the personal feelings was, since most of us

1 were in favor of a change and democratization, so partially
2 or completely they were involved in the movement. It were a
3 feeling of guilt that we had accompanied to some extent a
4 movement that led to such violent and totalitarian regime.

5 Q So when you returned to Paris, you began your
6 studies of the Iranian revolution; is that correct?

7 A Yes. I was puzzled. And I wanted to understand
8 why things went wrong. And I am still want to understand
9 why we went so wrong.

10 Q And you're still studying the politics of Iran at
11 this current time?

12 A Yes.

13 Q Are you writing a book right now on --

14 A Yes. We have a research project on the political
15 history of the Iranian revolution and the Islamic Republic
16 of Iran.

17 Q Are you going to address any issues regarding
18 political violence in your --

19 A Yes. I mean, one of the points is the interaction
20 between the government and the society and the main access
21 -- violence is the main access of this interaction. So we
22 will study violence not as something only morally bad or
23 reprehensible but also as a phenomenon that developed the
24 way of thinking that prevails in Iran. It has an
25 anthropological basis and we want to try to understand this.

1 Q And you published articles on the politics in
2 Iran?

3 A Yes.

4 Q And those articles are reflected in your resume in
5 front of you?

6 A Yes. These are recent articles.

7 Q On Page 2 of your resume I would note under No. 2
8 a publication called "In Defense of Human Rights." Is this
9 a copy of that publication?

10 A Yes. I was part of Dr. Bakhtiar's movement and
11 this is a very long time ago and we were young. And when
12 the terror, I mean, the terror became very important in Iran
13 in the early eighties, 1981, '82, '83 as a young student and
14 young human rights activist we didn't know what to do. So
15 the main thing was to try to, again, to denounce what was
16 going on and this was a report that I supervised but it was
17 a collective work with other fellow companion in the
18 movement.

19 Q In this report there are a list of individuals
20 executed in Iran over a number of years?

21 A Yes. This is not an exhaustive list. We want it
22 to be there symbolically as a sort of homage to the victims
23 and regardless of their political background, religion and
24 ethnic background.

25 MS. MERRITT: Your Honor, we do not have a copy of

1 this in the file. It was sort of voluminous. I didn't know
2 if Your Honor would be interested in seeing this but I'm
3 happy to make a copy of it for you if you're interested.

4 THE COURT: You can move whatever you may wish and
5 I'll make a ruling on it. It's entirely up to you. If you
6 believe that that is important for me to consider as part of
7 this case, I will be pleased to do so. Otherwise you can
8 present me an abstract of a portion of it that you may be
9 particularly interested in.

10 MS. MERRITT: Thank you, Your Honor.

11 I would note that there are several pages that
12 detail about over 3,200 names of individuals who were
13 executed in this which just means that obviously that Ms.
14 Boroumand worked upon.

15 BY MS. MERRITT:

16 Q Ms. Boroumand, did you testify before the United
17 States Congress Human Rights Caucus on issues involving the
18 assassination of dissidents?

19 A Yes.

20 THE COURT: When was that?

21 THE WITNESS: If my memory is correct, in '97.

22 MS. MERRITT: We're going to get back to that,
23 Your Honor. I just wanted to lay the predicate that Ms.
24 Boroumand certainly has many years of study and experience
25 behind her on these particular issues.

1 BY MS. MERRITT:

2 Q Ms. Boroumand, I'd like to turn a bit now to talk
3 about your family. Do you have any siblings?

4 A Yes. I have a sister who lives here and two
5 brothers. One is living in Paris. He's a lawyer and
6 another is living in Switzerland. He is a mechanical
7 engineer.

8 Q And this sister here in the United States, have
9 you been working her with respect to some of the
10 publications on Iran?

11 A Yes. Our new project on Iran is a common project.

12 Q Going back to Iran before the revolution and to
13 talk about your father. What did your father do in Iran?

14 A My father was a lawyer. He was in the liberal
15 opposition to the Shah's regime. And so he was not involved
16 in public affairs during this period, I mean, during his
17 life in Iran. He in the sixties when we had a small
18 democratic opening when Kennedy administration was here in
19 office he was candidate from national front political
20 formation to be elected for the parliamentary elections.

21 Unfortunately, the elections got cancelled and he
22 was arrested very little while, very well treated actually.
23 There is no common, you know, it's not comparable the way
24 this regime treats its opponents and the way the Shah's
25 dictatorship was treating its opponents. It was much milder

1 in a way.

2 He was arrested. And after three months he was
3 freed but on the condition of leaving his home town and
4 somehow he was internally exiled. He came to Teheran, the
5 capital, and he lived there. From then onward they were
6 somehow exiled from the public affairs of their country and
7 his fellow friends of the national front, some of them. But
8 he had private activities.

9 Q Your father worked closely with Mr. Bakhtiar; is
10 that right?

11 A Yes. They were very good friends and they're old
12 friends.

13 Q And they worked closely together for several
14 years?

15 A Bakhtiar was one of the leaders of the national,
16 result kind of national fronts and so they were like a club
17 of disillusioned democrat, keep seeing each other and hoping
18 for a better future.

19 Q And at one point Mr. Bakhtiar was appointed to the
20 Shah's government; is that right?

21 A Yes. That was when the Shah thought that he had
22 no chance and he had to, you know, he had to organize the
23 transition. So he looked in his opposition and he -- after
24 a lot of negotiation he picked Dr. Bakhtiar because he
25 thought he's a very determined and firm democrat and would

1 not give in to the Ayatollahs.

2 Q And did your father continue to work with Mr.
3 Bakhtiar after --

4 A Yes. He helped him closely. He was somehow his
5 personal counselor and he picked him for sensitive missions.
6 You know, the opposition at the time was a small group.
7 They knew each other. For instance, my father knew Khomeini
8 or part of this group of, quote, unquote, liberals and then
9 part of them joined Khomeini's movement.

10 So he knew also some of his friends were taking
11 the other path. So he was a very central figure for
12 negotiating. Dr. Bakhtiar sent him twice to France to
13 negotiate with Khomeini.

14 Q In fact, when Mr. Khomeini come to Teheran did
15 your father remain in Paris?

16 A My father stayed there.

17 Q So Mr. Khomeini obviously knew very well who your
18 father was?

19 A Yes.

20 Q Who he was affiliated with?

21 A Yes.

22 Q After Khomeini went become to Teheran, what did
23 your father do after that while he was in Paris?

24 A Well, he was very worried for his friend Dr.
25 Bakhtiar. And he -- we had all a very bad period because

1 after the fall of Bakhtiar's government, Bakhtiar
2 disappeared and we had rumors that he was arrested. He was
3 killed and so on. But actually he was hiding in the house
4 of a very good friend for six months. And then he was
5 provided French passport and he just let his beard grow and
6 went out of the country somehow legally with a phony
7 passport or wrong passport.

8 THE COURT: I don't know if he went out legally
9 with a phony passport but nonetheless we will continue.

10 BY MS. MERRITT:

11 Q And before the revolution did your families
12 socialize together? Did you know Mr. Bakhtiar?

13 A Yes. They were very good friends.

14 Q When Mr. Bakhtiar appeared in Paris after the
15 revolution, did he live with your family?

16 A My father provided him his own apartment in Paris.
17 But he lived in our house.

18 Q At some point was there an assassination attempt
19 against Dr. Bakhtiar?

20 A Yes. 1980, the first terrorist commando sent by
21 the regime to kill Bakhtiar actually attacked the apartment
22 which was my father's apartment.

23 Q They were obviously was not successful. Can you
24 please describe the attack to the judge?

25 A Yes. These were Palestinian commando who were

1 sent by the regime. At the time the Palestinian gorilla was
2 in very good terms with Khomeini. Later they split. I
3 mean, Mr. Arafat and Khomeini split and had problem.

4 But at the time they sent these -- the commando
5 was led by a man named Anise Nacosh (phonetic) and he had
6 the press card of the communist daily in France. When he
7 was coming in the police who was guarding the apartment was
8 -- became suspicious. He stopped the man and wanted to ask
9 him questions and the guy shot at the police.

10 I don't remember if they killed one policeman and
11 they injured very severely another one and then they got
12 near the door of the apartment. They rang the wrong door in
13 front of Bakhtiar's apartment. And a poor innocent French
14 woman opened the door and they just killed the woman. Then
15 they rang the other door and Dr. Bakhtiar's cousin was there
16 and he was very clever.

17 As soon as -- before opening, he put the chain.
18 And he just open a little bit the door and this commando put
19 his machine gun and start shooting. But when he shot,
20 because of the counter, the machine gun came back and the
21 cousin closed the door. And the door was a very strong
22 door. So they couldn't get in.

23 And the result was that they killed one French
24 woman and one policeman and injured another policeman.

25 Q And even in the face of this attack did your

1 father continue his political work?

2 A Yes. I'm always puzzled by the courage -- as Mr.
3 Timmerman was mentioning, these people are extremely brave.
4 Maybe it's their tradition and also they have -- they must
5 be also the mystical culture. We have to die for the
6 beloved one and that didn't bother them.

7 Now I'm an activist but I'm quite careful for my
8 life. And if I want to give my life for my country, I
9 hesitate. For them it was a spontaneous reaction.

10 Q And your father worked with Dr. Bakhtiar in NAMIR?

11 A Yes.

12 Q Can you please describe to the Court what NAMIR
13 was?

14 A NAMIR is national movement of Iran resistance. It
15 was a political organization that aimed at the establishment
16 of democracy in Iran, the rule of law, democracy. And their
17 ultimate goal was democratic referendum through which
18 Iranian people would freely choose the kind of regime they
19 wanted.

20 Q And what was your father's position within NAMIR?

21 A My father had several different type of positions.
22 He was one of the founder of NAMIR. Then he was a member of
23 the council, the council of NAMIR which is small little
24 parliament of the organization. And for awhile he also was
25 the executive director of NAMIR. By the time of his

1 assassination he was the execute director.

2 Q Was he basically the right-hand man of Dr.
3 Bakhtiar.

4 A Kind of. Yes.

5 Q Very close confidant?

6 A Yes.

7 Q Do you know whether or not a Fatwa had ever been
8 issued against your father?

9 A Since these Fatwas are not public, I don't have
10 any evidence for that. But the day after his assassination
11 we went through the official press of Iran and they were
12 mentioning the name and the incident although they were
13 saying it was an internal liquidation. They love to say
14 this.

15 They all the time say, for instance, Dr. Bakhtiar
16 killed my father and then the friends of my father in Iran
17 went to revenge my father and killed Dr. Bakhtiar. That is
18 the official scenario the regime presents to explain the
19 killing of its opponents.

20 But in the official newspaper of the regime, when
21 they gave the news they qualified my father as a corrupter
22 on earth. And to be a corrupter on earth in Islamic cannon
23 law is to deserve death penalty.

24 If -- it means, it implies that there has been a
25 Fatwa against him.

1 Q Do you understand whether Dr. Bakhtiar had a Fatwa
2 issued against him as well?

3 A I think so.

4 Q He is also a corrupter on earth?

5 A I think so. Yes.

6 Q After the assassination attempt and as your father
7 continued to work in Paris, did the police warn him about
8 his personal safety?

9 A Yes. During the eighties a few times the police
10 had warned my father to be careful. But, of course, at the
11 time there were a lot of Iranian -- Paris was the center of
12 Iranian opposition. And I guess the French government
13 couldn't provide protection for all of them.

14 So the most important one had police protection
15 but the other were just warned. My father was one of those
16 who was warned and he was issued a permit to own and to
17 carry gun for awhile.

18 And then he had always the permit of owning a gun
19 at home.

20 Q And with the issuance of those permits, were they
21 very rare in Paris at that time?

22 A The French state is a very centralized and strong
23 state. So it's not like in America that citizens are
24 allowed to carry gun in their pockets. It's a very
25 exceptional permit.

1 Q In addition to the fact that your father obtained
2 a permit and a firearm, did he take any other precautions --

3 A He had also -- I don't know in English. I should
4 have looked in the dictionary. The anti-bullets -- the
5 jacket.

6 Q Bullet proof vest?

7 A Yes. Bullet proof vest.

8 Q You, in fact, also obtained a permit to carry --

9 A Yes. After his death I presented -- we had this
10 gun at home although I hate these things. But my brother
11 advised me to ask for a permit. So this gun is in my name
12 now but I even don't know where it is in the house.

13 Q So it was a concern not just about your father but
14 your entire family's safety?

15 A Maybe me. But I'm not sure. I'm not that
16 important.

17 THE COURT: Perhaps I shouldn't say this. But it
18 doesn't genuinely help your own protection by telling us and
19 the world that you don't know where the gun is. So you
20 might look today.

21 THE WITNESS: But in D.C. I don't have the permit.

22 THE COURT: Good point.

23 MS. MERRITT: Moving on away from the permit
24 issue.

25 BY MS. MERRITT:

1 Q Your father was killed in April of 1991; is that
2 correct?

3 A Yes.

4 Q I'll get into the details of that later, Mr.
5 Boroumand. But after your father was killed how long did it
6 take for the French terrorism police to get solved?

7 A Immediately. The case was almost immediately
8 referred to -- we didn't even see the, you know, the
9 ordinary criminal police. In a matter of 45 minutes the
10 special anti-terrorist criminal police was in our house.

11 Q And the regular local police were taken off the
12 case?

13 A Yes. I think they were not even given the case,
14 referred the case.

15 Q Did you talk to the terrorism police?

16 A Yes. Extensively.

17 Q And what did the police tell you?

18 A They were puzzled because my father -- Dr. Elahi
19 who was just the case preceding my father was killed with
20 guns. Up until then most of the opponents were killed with
21 guns, you know, firearms. And this was the first case with
22 knife. And they couldn't understand because they said this
23 is too risky for them. They could be, you know, caught. It
24 can take no time. It can take -- it's not as easy as doing
25 it with gun from a distance. You have to be very close.

1 And all these elements were to them were very
2 unusual. So they were hesitating as to what was going on.
3 But three weeks later the Japanese publisher or translator
4 of Solomon Rusdi's (phonetic) novel was killed in the same
5 circumstances. And in the time period between the death of
6 my father -- the assassination of my father and the Japanese
7 assassination the police had time to go around, you know,
8 trying to explore other explanation, family, whatever. You
9 know, they looked through everything.

10 We became suspect for a little while which was
11 quite painful I must say. But then at the time they had
12 abandoned all other possibilities and with the Japanese
13 killing they realized that there is a new style of
14 assassinating opponent and that has also a religious
15 meaning. The knife has a religious meaning and also it's --
16 Iran traditional culture killing with knife is more
17 insulting.

18 Q What is the religious meaning of killing with a
19 knife?

20 A It goes back to the history of the assassins.
21 They were killing with knives and has sort of a religious
22 meaning.

23 Q After your father was killed did you publish an
24 article in Le Monde newspaper?

25 A Yes.

1 Q Can you please turn to Exhibit No. 26. It's in
2 the other binder I believe.

3 MS. MERRITT: Your Honor, this is one article we
4 did not have translated from the original French. But I'm
5 going to ask Ms. Boroumand to describe what she wrote in
6 this.

7 BY MS. MERRITT:

8 Q Do you have it there?

9 A Yes. I wrote this article as a victim and
10 activist at the time because French government had changed
11 its diplomatic -- I mean, they were in the middle of
12 diplomatic issues with the Iranian regime and the president
13 in July '90 had a great -- pardoned the Palestinian criminal
14 who killed the two French citizens in the eighties as a
15 gesture of goodwill.

16 The result was the assassination of Dr. Elahi.
17 And after the assassination of Elahi we heard nothing from
18 the French authorities as a protest, you know, not official
19 or public but we knew that they had said nothing to their
20 Iranian counterparts.

21 So the Iranian said obviously it doesn't bother
22 them. So they went on with my father. And when my father
23 was killed I looked into the list of people who were killed
24 all during that period in two years. And I wrote that
25 article to warn French authorities and also to warn the

1 French public opinion about what was going on at the expense
2 of Iranian exiled life.

3 Q So basically your point was that the French policy
4 ignored or didn't pay proper enough attention to the
5 assassinations that were occurring right in Paris or in
6 France?

7 A Yes.

8 Q Shortly after you published this article was Dr.
9 Bakhtiar assassinated?

10 A Yes. Dr. Bakhtiar was -- that was in June and in
11 early August Dr. Bakhtiar was assassinated. So some
12 journalists had still that in mind because somehow they told
13 me that that was pathetic because I was asking if you don't
14 react we will perish one after the other with a knife in our
15 back. And this had obviously an impact on some of the
16 journalists who were working on this and then they came
17 after me after that, Dr. Bakhtiar's assassination.

18 Q Can you please describe to the Court the
19 circumstances of Dr. Bakhtiar's assassination?

20 A As Mr. Timmerman said, Dr. Bakhtiar, one of the
21 member of the movement was recruited by the regime. And he
22 told Dr. Bakhtiar that two person are coming to visit him
23 from Iran and they are very important and they don't want to
24 be seen by any body in the house. So he asked Dr. Bakhtiar
25 to choose a time for them so that the house is not crowded.

1 Since he was coming and going very often to Dr.
2 Bakhtiar house, he knew his schedule. And he knew that his
3 secretary would be playing tennis at that time. So he asked
4 a very precise time when almost no one was in the house.
5 And I think Dr. Bakhtiar couldn't believe that they would
6 dare to kill him, you know, literally under the nose of the
7 police, the anti-riot police, French police and he trusted
8 him.

9 So he brought the two criminals in the house.

10 Q And the French police, in fact, didn't find Dr.
11 Bakhtiar's body for about 36 hours?

12 A Yes. That was suspicious. What seems somehow a
13 very sad situation is that Dr. Bakhtiar was not enough aware
14 of the danger he represented for the regime. So he might
15 have been killed but what was never explained was that his
16 body was left almost 48 hours without these huge number of
17 police downstairs in the house realizing.

18 The TV was on for 36 hours. The light was never
19 turned on and the groceries stayed at the door for awhile.
20 So that was a very -- for us, I mean, we cannot explain this
21 and --

22 THE COURT: When you say the huge number of
23 police, are you referring to his body guards?

24 THE WITNESS: Yes. Not huge but at least four or
25 five very strong policeman, heavily armored were downstairs.

1 BY MS. MERRITT:

2 Q Did the French police make any arrests in that
3 case?

4 A Yes. Two. They had three person suspect were
5 arrested. Two were condemned and the third one was freed.

6 Q And did you testify in the Bakhtiar trial?

7 A Yes.

8 Q And on whose behalf did you testify?

9 A The family asked me to talk, to testify.

10 Q And would you explain to the Court how it came
11 about that the family asked you to testify?

12 A Actually I don't know exactly why they did so.
13 Probably they thought I was -- Dr. Bakhtiar liked me or they
14 thought I might well explain or I don't know. But they
15 liked me. I don't know or I was the daughter of my father
16 and they wanted me to be there.

17 Q And what did you tell the court when you
18 testified?

19 A What I wanted to explain to the court was the
20 political dimension of these killings. What I wanted to --
21 because the French authorities wanted very much to, you
22 know, somehow to mask the political dimension of these
23 trial. And what I explained to the jury who was
24 professional -- they were all judges.

25 It's a special court and we don't have popular

1 jury. I explained that there was no personal amenity
2 between the ruling people in Iran and Dr. Bakhtiar. So if
3 they killed him because they wanted to kill his ideas, what
4 he represented and that was a mere political action. And if
5 there is no reaction from -- somehow they stop democracy
6 through the body of an old man.

7 Q Ms. Boroumand, would you please turn to Exhibit
8 No. 30. This is a document entitled report on the Islamic
9 Republic's terrorism abroad.

10 Can you please explain to the Court what this
11 document is?

12 A This is a document we prepared to list and
13 document the killings of the extrajudicial execution abroad
14 of Iranian political activist aboard because we realized
15 that no one is putting all these together at the time when
16 we started. And we wanted these to be ready for the trial.

17 So when the trial of Dr. Bakhtiar was held, we
18 distributed these among the journalists so that they could
19 see that this is a trend. This is a pattern. And if there
20 is no reaction from the democratic countries, it will
21 continue.

22 Q How did you decide who should be put on this list?

23 A Whoever was political -- whoever is killing is
24 politically motivated and the regime was involved was here.
25 And in my knowledge there are not many crimes among

1 Iranians, you know, among the Iranian community aboard.
2 This is a very highly educated, quite successful community.
3 And this is not the sort of, you know, under privileged or a
4 criminal community.

5 So almost whoever has been killed abroad has been
6 killed for political reason.

7 Q I see throughout the document you have footnoted
8 sources from which you've obtained information connecting
9 these killings to Iran. Were you very careful about that
10 while you were preparing this report?

11 A Yes. It's the same criteria in academic work. I
12 used the same methods.

13 MS. MERRITT: Your Honor, I'd just like to point
14 out a couple of documents, quotes in this. On Page 13 of
15 this report there is a notation on the top paragraph that it
16 is, in fact, the transit from Incara of units of
17 revolutionary guards a few days before the assassination of
18 Cyrus Elahi that alerted western secret services of the
19 imminence of terrorist attempts in Europe.

20 So right before Dr. Elahi was killed they were hit
21 teams going out.

22 BY MS. MERRITT:

23 Q Ms. Boroumand, on Page 22 you have a notation of
24 Boroumand's case. And you reference an interview with the
25 prosecutor Mr. Bruguiere asserting that the cases of

1 Bakhtiar and Boroumand were inextricably connected. Was
2 that interview with you and other members of your family?

3 A Yes.

4 Q And what did Mr. Bruguiere tell you?

5 A Well, he said he personally absolutely can assure
6 that these two are linked because that was the follow-up of
7 our first meeting. We didn't have a lot of meeting with
8 Judge Bruguiere.

9 Our first meeting was, as I told you, he was
10 puzzled about the techniques used for the killing of my
11 father. And our second meeting he recognized, acknowledged
12 that, well, his doubt were not founded and now he has no
13 doubt that these killings are linked.

14 Q During the Bakhtiar trial were any statements made
15 by the government or by the court that linked your father's
16 assassination --

17 A The indictment explicitly mentions the two cases
18 were linked because the regime knew that if they want to get
19 rid of the whole movement, if Bakhtiar were killed and my
20 father survived him, my father had enough prestige to keep
21 the movement together. So if they wanted to be very
22 efficient, they had to exterminate them both.

23 Q I'd like to draw your attention to Page 15 of this
24 report. On Page 15 there is a notation from an
25 investigative report that says according to the French

1 police, quote, for 90 percent the key to the assassination
2 of Boroumand is in Teheran. Is that consistent with what
3 Mr. Bruguiere told you?

4 A Yes.

5 Q Let me just draw your attention as well to Exhibit
6 No. 27.

7 A Yes.

8 Q Is this the report from which the 90 percent --

9 A Yes. The investigative journalist Daniel
10 Snerberman (phonetic).

11 Q The title to that report is the killers came from
12 Iran. Before the murder of Shahpour Bakhtiar, several
13 criminal investigations had already led to Teheran?

14 A Yes.

15 Q Is there anything else in this article that you
16 would like to highlight for the Court?

17 MS. MERRITT: Again, Your Honor, this is one of
18 the documents that we didn't translate.

19 THE WITNESS: In this article Snerberman
20 (phonetic) goes back to all the killings preceding Dr.
21 Bakhtiar's killing. He mentioned Dr. Elahi. He mentioned
22 Tabatabai and the brother of Mr. Rajavi in Switzerland, the
23 cases. And he summarized the result of the investigation
24 which all point to the Iranian regime.

25 BY MS. MERRITT:

1 Q During this entire time period to the present
2 you're still working on behalf of NAMIR, your father's
3 organization?

4 A I'm a member of the council but NAMIR has strongly
5 suffered from the loss. And I think perhaps by the -- is it
6 the time? Do you want me to talk about the change of form
7 of political --

8 Q Say what you --

9 A By killing all these heavy weight of the
10 opposition, I mean, Dr. Ganji is one of the rare persons who
11 survived this generation and I hope he will. But the form
12 of political activities is changing slowly.

13 A new generation is coming up who is completely
14 integrated in the life of the countries where they are
15 living now abroad. But they are also very much involved in
16 their countries of origin, problem and situation.

17 So you have a huge body, very active almost with
18 no head and trying to Internet. There is a very strong
19 activity and solidarity between Iranian who even they don't
20 know each other but they collaborate with each other and
21 this is a big problem for the Iranian regime.

22 They don't know exactly whom they should kill.
23 They see hundreds of E-mail received by the Japanese
24 authorities against the, you know, all the honor they're
25 doing to President Hatami and they remind the Japanese

1 authorities of the atrocities or the human rights violation
2 in Iran but they don't exactly know who they should kill for
3 that.

4 Q So you characterize this as a body without many
5 heads. We have Dr. Ganji who is sitting with us today. Is
6 part of that the fact that there is this large body without
7 many heads, is that because of the concerns of Iranian
8 citizens? They don't want to put themselves out there
9 because of the violence that may --

10 A I think it's both things and also a new generation
11 and a new situation and the political context of the world
12 has changed. So possibly the one who is working here is not
13 the one who wants to go back and be the leader but he wants
14 to do something for his country. So he send E-mails. He
15 collaborates with things.

16 Anyway, if the democratic change is to take place,
17 it should -- we need leadership. And this is not possible.
18 But for the time being the difficulty the regime has to
19 fight and to identify these whole body of Iranians abroad
20 who are actively opposing them without showing or, you know,
21 trying to distinguish themselves.

22 I am necessary. I mean, I try to avoid any
23 contact with Iranian coming from Iran. An I prefer working
24 through E-mail Internet and I don't want them to know what
25 I'm doing, you know.

1 Q But in part it's definitely attributable to
2 concerns about personal safety in light of what happened to
3 all the heads of all the organizations; is that right?

4 A Yes. Definitely.

5 Q Let me draw your attention please to Exhibit No.
6 17. This is a document entitled Iran State of Terror, An
7 Account of Terroristic Assassinations by Iranian Agents.

8 A Yes.

9 Q This was a report that was put out by the
10 parliamentary human rights group in Britain. It's members
11 have increased to a current level of 130 parliamentarians
12 from both the house of commons and the house the lords. Ms.
13 Boroumand, does this document come from your files?

14 A Yes.

15 Q And have you used this document in your work on
16 this issue?

17 A The document we prepared was prepared before I get
18 this. But I have in this form and I use the information --

19 Q And this document also contains a listing of
20 victims of the Iranian government; is that right?

21 A Yes.

22 Q And is your father in this document?

23 A Yes. I think he's mentioned.

24 MS. MERRITT: Your Honor, I draw your attention on
25 Page 35. There is a mention of Mr. Bakhtiar.

1 On Page 40 and 41 there is a discussion about Mr.
2 Boroumand and Elahi is also mentioned on Page 41. I'd also
3 note in terms of how thorough the Iranian government also
4 is, just to point out to Your Honor, there is a notation
5 above Mr. Boroumand of Hashem Abdollahi who was the son of
6 the major witness in the Bakhtiar trial who was killed in
7 his father's apartment. And I guess this is something that
8 has been linked back to Iran as well.

9 BY MS. MERRITT:

10 Q This is another listing of victims that you find
11 to be a very valuable source to you in your work?

12 A Yes.

13 Q Is Iran, in the current day -- you mentioned
14 there's a large democratic movement. Is there also a
15 democratic movement within Iran?

16 A Yes.

17 Q Is Iran at the current time trying to suppress
18 that, the government trying to suppress this movement?

19 A Strongly. There is a very strong wave of
20 repression inside Iran pro-democracy. Student movement has
21 been savagely repressed. A lot of young students are kept
22 in jail without trial, without the assistance of the
23 counsel. And we know well that they are being tortured and
24 pressured inside prisons.

25 Q Are they doing any -- you mentioned the use of

1 drugs in keeping some students --

2 A Yes. We have interviewed one of the young student
3 leaders who recently fled from Iran with two bullets in his
4 body. And we had a chance of interviewing him and he was
5 the person who revealed to us that they have a small gas
6 chamber.

7 So they did keep their political prison in small
8 gas chamber until they are suffocating and just before they
9 die they bring them back. They hang them -- but this is
10 already documented -- but they hang them from their feet for
11 a long time as a torture method. The worse thing is they --
12 they have heroin -- how do you say that?

13 Q Inject?

14 A Yes. They inject the heroin to destroy them and
15 to make them drug addicts.

16 Q Have human right organizations in your experience
17 taken note of the abuses within Iran as well as
18 extrajudicial killings?

19 A Yes. Amnesty International and to some extent
20 Human Rights Watch but in less detailed way. Every now and
21 then they come up with an alarming report on that.

22 Q I'd like to draw your attention to Exhibits 20
23 through 21. Have you done any work with Amnesty
24 International on this issue?

25 A We are in contact with their representative here.

1 And we exchange information.

2 Q Do they consult with you from time to time?

3 A Yes.

4 Q And are these reports that come from your files?

5 A Yes.

6 Q And you use these reports in your work?

7 A Yes.

8 Q And what do these documents reveal?

9 A Every where amnesty has a report on the situation
10 in Iran torture, imprisonment for opinion offense or
11 extrajudicial, extra-terroritorial offense -- execution. I'm
12 sorry.

13 MS. MERRITT: Your Honor, I would point out that
14 in the January 1992 report which is Exhibit 20 there is a
15 mention -- there is a discussion about extrajudicial
16 killings and Mr. Boroumand is noted along with Mr. Bakhtiar
17 as one of the victims of these killings.

18 BY MS. MERRITT:

19 Q Have you testified on this issue before the United
20 States Congress?

21 A Yes, in '97.

22 Q Is that before the Congressional Human Rights
23 Caucus?

24 A Yes.

25 Q Can I draw your attention please to Exhibits 23

1 and 24. Were you invited to testify?

2 A Yes.

3 Q And by whom?

4 A By the Human Rights Alliance. It's Mrs. Porter, I
5 think, the wife of Congressman Porter. I don't remember
6 very well. She is the head of Human Rights Alliance.

7 THE COURT: In California?

8 THE WITNESS: Yes, I think so. Mr. Timmerman was
9 there, too.

10 BY MS. MERRITT:

11 Q Did Mr. Timmerman testify?

12 A Yes, as an expert.

13 Q Exhibit 24, can you please describe to the Court
14 what this document is? It's entitled Iranian Terrorism by
15 Ladan Boroumand.

16 A This is my talk.

17 Q What did you tell, in general from this statement,
18 what did you tell the Congressional Human Rights Caucus?

19 A I thank them because this is the first time we
20 were provided with a tribute to speak as victims because
21 most of the time as Iranian exiled victims we are
22 transparent. We are nonentities.

23 So I was very grateful to be provided, you know,
24 with the possibility to speak as human being and what I
25 wanted to tell them is that there is a warfare going on

1 between us and the regime and this warfare is an ideological
2 and psychological warfare. We want and we preach democracy
3 and democracy is universal.

4 But to prove that democracy is universal requires
5 that democratic countries behave consistently in accord with
6 their own principles. And if all the democratic countries
7 do not consider us as human being who have rights and
8 dignity, then all enemies are victorious ideologically
9 because they tell us and they tell their own people and
10 that's what they told already when they killed Dr. Bakhtiar
11 that you see the idea of universal principle of human rights
12 is just an illusionary idea. This is not true because these
13 democratic countries they think of their own interests,
14 their economic interests and they do not respect you as a
15 human being. So you have no chance. We will deal with
16 them. That's what they did.

17 So I was thanking the caucus and saying if the
18 democratic countries respect their own principles and defend
19 us as human being, then it will shatter the safe confidence
20 of the ruling elite over there and this is a way of helping
21 us and strengthening us.

22 We don't need your money. We won't need your
23 arms. We need you just to be faithful to your own
24 principle. And from this faithfulness we will draw all our
25 strength and we wouldn't ask you for anything more but

1 please be consistent.

2 Q And another individual who testified was Kejal
3 Abdouli. That's Exhibit No. 23.

4 A Yes.

5 Q Is this a copy of her testimony before that?

6 A Yes.

7 Q And this is the wife of an individual who was
8 assassinated in the Myconos Restaurant?

9 A Iranian woman who lost her husband.

10 MS. MERRITT: Your Honor, I would draw your
11 attention to part of the testimony in Ms. Abdouli's
12 submission to the Human Rights Caucus talking about the
13 Iranian regime has repeatedly and openly said it would do
14 everything possible to physically eliminate all KDPI leaders
15 and then obviously talks about her personal loss and the
16 loss to her son and her family.

17 Let me draw your attention to Exhibit No. 25.

18 THE COURT: No translation?

19 MS. MERRITT: No translation, Your Honor. Again,
20 one more of the few documents we don't have entirely
21 translated.

22 BY MS. MERRITT:

23 Q Ms. Boroumand, I left this for last because I know
24 this is sort of difficult for you. But can you walk the
25 Court through what happened the day that your father died?

1 A My brother called me and said there has been an
2 attempt against our father and --

3 Q I'm sorry. Can you please, continue.

4 A And so I went -- I took a cab. And I went to my
5 father's house. And when I arrived, a medical team was
6 there and after a while they said --

7 Q Your brother found your father?

8 A Yes.

9 Q And your brother at the time was about 19 years
10 old and he was living with your father?

11 A Yes.

12 Q And your sister lived in the United States at the
13 time and she flew over?

14 A Yes.

15 Q And you had your own apartment in Paris?

16 A Yes.

17 Q And your mother, she lived there also with your
18 father and your brother?

19 A She was -- at the time my older brother was
20 injured. He needed help. My mother was in Switzerland with
21 my brother. So she came from Switzerland.

22 Q So when you arrived there you were, in essence,
23 the head of the family at the time. And so you dealt with
24 the police and all those details?

25 A Yes. The police -- it's a very strange experience

1 because they, well, the first police who are from them, your
2 neighbors police they come and they don't see this. They
3 see just an assassination and everyone around is a suspect
4 and you are also a suspect.

5 Q And your father was actually found in your
6 apartment building?

7 A Yeah. By the elevator in the entrance hall.

8 Q Can you please describe to the Court what Exhibit
9 25 is?

10 A The Exhibit 25 is each year to commemorate our
11 father. It's a kind of political ad in the exile weekly
12 which is published in London. Each time we remind the
13 anniversary of his death. We use that to honor the memory
14 of all the victims.

15 Q And every year when you place this ad in there, do
16 you add the additional names of the other victims of the
17 government?

18 A Yes.

19 Q Ms. Boroumand, you were in the courtroom when Mr.
20 Timmerman talked about the damages that are being sought in
21 this case. And you also mentioned previously that you feel
22 that people like yourself, like your father were considered
23 transparent or nonentities.

24 We're asking for a billion dollar in damages and
25 punitive damages. Is this something that you think that the

1 Iranian court will take note of if the United States court
2 issued that kind of an award?

3 A As I told before, this is a psychological and
4 ideological warfare and the number you are mentioning has
5 symbolic values.

6 It means that somewhere in the democratic states
7 especially the judiciary because we had this experience with
8 Mykonos and had a tremendous effect in Iranian internal
9 politics, the effect which must be studied really. And it
10 means that part of these democratic states will react
11 against terrorist acts regardless of the nationality,
12 religion, race of the victims. And Iranians are valuable
13 being as human being, just simply as human being.

14 So far for the most cases we have expanded the
15 opposite and that has, again, strengthened the regimes
16 activity. Each time there is a precedence in court or, you
17 know, officially it will have shaken the certitude of the
18 ruling regime in Iran and by doing so it will help the
19 democratic movement.

20 I strongly support the highest amount of punitive
21 or whatever damage you want but it's important that an
22 America judge will issue a verdict for an Iranian
23 pro-democracy activist and say as a judiciary of a
24 democratic state we stand by these people. Their life is as
25 valuable as any other life in the world.

1 MS. MERRITT: Thank you. No further questions.

2 THE COURT: We thank you for your testimony. We
3 will take a luncheon recess and we'll be back in an hour and
4 15 minutes. So that will be quarter of two.

5 (Whereupon, at 12:34 the above-entitled matter
6 recessed for lunch.)

1 A F T E R N O O N S E S S I O N

2 THE COURT: Good afternoon. All right.

3 MR. HIRSCHKOP: Your first book is all
4 highlighted.

5 THE COURT: Mr. Hirschkop, you must not have had
6 luncheon, or somebody on your staff must not have had
7 luncheon.

8 MR. HIRSCHKOP: My greatest skill as a lawyer is
9 hiring good staff.

10 THE COURT: All right. We are ready to proceed,
11 thank you.

12 MR. HIRSCHKOP: I call Jacques Boedels to the
13 stand.

14 THE COURT: Sir.

15 JACQUES BOEDEL, PLAINTIFF WITNESS, SWORN

16 THE COURT: Good afternoon.

17 THE WITNESS: Good afternoon, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. HIRSCHKOP:

20 Q Bonjour, Mr. Boedels.

21 A Bonjour.

22 Q You are here from France?

23 A I'm here from France, yes.

24 Q You live in Paris?

25 A I do live in Paris, yes.

1 Q What is your profession?

2 A I'm what you call in the United States a lawyer,
3 but what we call in France an "avocat."

4 Q An avocat, you're a lawyer who goes to court and
5 tries cases; is that correct?

6 A Yes, right.

7 Q Thank you. And how long have you practiced law?

8 A Almost 30 years.

9 Q Where did you go to school?

10 A In Paris.

11 Q Which university?

12 A University of law and political science at the
13 same time.

14 Q When did you get your initial degree?

15 A In '60--'66.

16 Q And when did you get your law degree?

17 A In '71, because in between I entered the
18 diplomatic service.

19 Q Do you have both a Master's degree and a law
20 degree?

21 A Yes, I do.

22 Q Okay. The Master's degree, is that a DES in
23 France?

24 A It's a DES, right.

25 Q And in the diplomatic service, where were you

1 stationed?

2 A I was stationed in Nigeria.

3 Q What did you do?

4 A I was cultural attache.

5 Q How long were you in Nigeria?

6 A Three years.

7 Q In 1972, did you enter the full-time practice of
8 law?

9 A Yes.

10 Q Have you practiced consistently ever since?

11 A Yes.

12 Q Have you been with your present partner since
13 1981?

14 A Yes.

15 Q What type of work--

16 A (Adjusting microphone.) It looks like a snake
17 against me.

18 THE COURT: It isn't. It's not a snake, but
19 sometimes if people are not careful with their words might
20 describe it as such.

21 THE WITNESS: It will not bite me.

22 BY MR. HIRSCHKOP:

23 Q Mr. Boedels, the system of courts is much
24 different in France than in the United States, is it not?

25 A It's true because I'm not used to sit in the

1 Court. I stand where you are, and I face the Court. I'm not
2 sitting next to the Court.

3 THE COURT: Sir, I may tell you that any lawyer
4 who has ever sat in that seat, or any judge who has ever sat
5 in that seat, feels extremely uncomfortable. It is an
6 unusual position to be in, but relax as best you can, and
7 I'm just here to listen to what you have to say and to
8 absorb it.

9 THE WITNESS: Thank you, Your Honor.

10 BY MR. HIRSCHKOP:

11 Q In Paris or in France, are the judges involved in
12 the same way in a trial as they are here in the United
13 States?

14 A No, not at all. The judges interfere much more
15 than an American judge does, for instance. Let us say--

16 THE WITNESS: Excuse me, Your Honor, but I think
17 that here you remain silent, you listen to what is going on,
18 but in France the judges interferes or has direct action and
19 say, Well, I heard enough; well, it's not necessary out of
20 the purpose. Well, the judge interferes every time.

21 THE COURT: Some judges do in this country also,
22 and it also depends on the case, the disposition of the
23 judge, the interest the judge has in the case, and whether
24 there's a jury or nonjury, as this case is.

25 Counsel?

1 BY MR. HIRSCHKOP:

2 Q I will point out there is a major difference of
3 why that causes that in great part, is in France everything
4 is submitted in writing in advance of the trial, is it not?

5 A Yes. In France, the judge has a file which
6 contains the whole story of the case, and when the case
7 comes to court, we review the evidences, but we don't
8 present evidences to the judge before the court because
9 everything has been contained in the file which is on the
10 desk of the judge.

11 Q So, it's done principally in prior writings as
12 opposed to live witnesses, which we favor more in this
13 country?

14 A Yes. The live witnesses come to the court only to
15 confirm what they said before.

16 Q And an average trial in France takes about how
17 long?

18 A Well, it's very short. Let's say that the trials,
19 such as your type, Your Honor, will last, let us say,
20 maximum two hours, maximum.

21 Q What type of work have you mainly done in law
22 practice?

23 A Well, by test, I'm a litigator, but in France we
24 don't have the same system as you do in the United States.
25 People who are writing contracts and litigators, but

1 old-fashioned lawyer and litigator. Mainly, I'm litigator.

2 Q You say you're an old-fashioned lawyer, and I'm
3 going to get to that in a minute. You do commercial work.

4 Have you written any books?

5 A Yes. Well, as a hobby, I wrote books on mainly on
6 the history of judicial costumes, costumes of lawyers and
7 judges, the origin of these costumes and the reason why the
8 judges and lawyers are wearing costumes--or maybe the reason
9 why they don't wear costume--and the history of judicial
10 traditions.

11 Q And have you had a particular interest in helping
12 refugees, people who come from other countries to France,
13 over the years?

14 A Yes. For personal--as personal action, I help
15 refugees and people who are seeking asylum in France.

16 Q Is this a cultural commitment that you feel for
17 your generation?

18 A Yes. Well, it was traditional in old-fashioned
19 lawyers to have what you call "pro bono" cases and helping
20 people who are coming to you without any help, without any
21 money, and help them and give them the assistance they are
22 requiring.

23 Q And do you find that many of the people who come
24 to France, Paris, which is such an international city, have
25 difficulty with the language very often, don't have the

1 economic means for legal help, require such help from
2 lawyers?

3 A Yes, they do, because we don't have a system,
4 legal help, legal assistance, as do you in the United
5 States. It's not so widespread, not so developed.

6 Q Do you find the young lawyers, the younger
7 generation, doing the same thing?

8 A Unfortunately, no, because they don't want to be
9 involved in old-fashioned cases there. They're much more
10 concentrate on business law.

11 Q In the beginning of your practice in France, do
12 you have to have an apprenticeship, five years of practice,
13 to be an advocate?

14 A When we are sworn in, we become an advocate, but
15 for tax reasons, because there are some taxes--we are not
16 liable to some taxes, when we try to extend the delay of our
17 apprenticeships as long as possible, and the maximum is five
18 years.

19 Q And during the first five years of practice, how
20 many pro bono cases involving foreigners and mostly
21 foreigners and multilingual problems that do you?

22 A When I was appointed, I made a statistic for
23 myself: 300 times.

24 Q How many languages do you speak?

25 A One more than my father.

1 Q He spoke five, I understand?

2 A Yes.

3 Q Which six languages do you speak?

4 A Well, I speak French; I speak Russian; I tried to
5 speak English, although I have a French accent; Spanish;
6 Dutch; and German.

7 Q In 1990, did you meet with Dr. Ganji?

8 A Yes.

9 Q And what did he ask you to do?

10 A Well, he asked me to handle a case for his
11 organization, and he wanted me to assist his organization in
12 a case which was under investigation by Judge Bruguiere for
13 the assassination of his deputy, Cyrus Elahi.

14 Q Have you undertaken that representation for the
15 last ten years?

16 A Yes.

17 Q In those ten years, have you become familiar with
18 the type of protection that Dr. Ganji has had to experience
19 to stay alive in Paris?

20 A Well, I think that life of Dr. Ganji is a miracle
21 because it was under the close control of secret agents of
22 the Republic of Iran who wanted to eliminate him, to kill
23 him. So, he had to live with extreme caution, avoid all the
24 traps which were in all the plans which were elaborated
25 against him in order to kill him.

1 So, when I met him, I met him, it was under
2 protection--under police protection, and he couldn't lead a
3 normal life, and he couldn't leave, for instance, his car
4 without at least having three bodyguards, Frenchmen these
5 men, bodyguards with him. When he met me in my office, one
6 bodyguard was waiting downstairs, one bodyguard was coming
7 to my office, and the other one was waiting in the street.

8 Q Does he always travel in an armored car?

9 A Yes, he had armored car.

10 Q Are you familiar with the special training, the
11 French police, the German place, and the American
12 authorities, have had to give him so he could stay alive?

13 A Yes, because I think that French police
14 realize--maybe a little bit too late--that it was necessary
15 to give special protection to freedom fighters because they
16 were systematically assassinated by agents from the Republic
17 of Iran.

18 Q All right.

19 MR. HIRSCHKOP: You have been patient in me asking
20 him questions about the French system, and there is a method
21 to my madness. In order to understand the documents from
22 Judge Bruguiere, and it is necessary now to go into that, so
23 if you could bear with me I will get it done quickly.

24 BY MR. HIRSCHKOP:

25 Q I understand there are three kinds of offenses in

1 the French system; is that correct?

2 A Yes, criminal offenses, yes, there are three
3 kinds.

4 Q And what are they?

5 A The first one, let us say, I will use words maybe
6 they could be confusing for you, but each time I try to be
7 as specific as possible.

8 First-class offenses concerns, well, petty traffic
9 offenses and, well, backpacking. They are judged by one
10 judge, which is called the tribunal de police--police
11 tribunal. The police tribunal can sentence people to a fine
12 or the maximum to two months imprisonment, but in 30 years I
13 have never heard of somebody who has been sentenced to two
14 months imprisonment by the tribunal police. It's purely
15 theoretical.

16 Then we have second-class offenses. Second-class
17 offenses concerns, for instance, robberies, embezzlements,
18 prostitution, where they are judged by tribunal
19 correctional--correctional tribunal, which can normally
20 award up to five years' imprisonment, with the exception of
21 some important derelicts such as "foot" traffic or
22 association of conspiracy, where the sentence can be up to
23 20 years.

24 Then you have third-class offenses, which are
25 called here in the United States "crimes," and crimes are

1 judged by a criminal code with a jury. And, of course, the
2 sentence can be up to life sentence.

3 Q Does France have the death penalty?

4 A We don't have death penalty since 1981.

5 Q And these serious offenses, is this the Court of
6 Assizes, I think you said?

7 A Yes, the Court of Assizes is in charge of these
8 offenses, but they are two Courts of Assizes. Normal one
9 with a jury, but for special cases--for instance,
10 terrorism--there is a special Court of Assizes which is
11 composed of professional judges only in order to avoid the
12 pressure on the jurors. And this court is composed of nine
13 professional judges without a jury.

14 Q Why is that?

15 A In order to avoid pressure on the jurors because
16 you know the jurors, the names are known of the accused
17 because it knows the name because it can recuse some of the
18 jurors because it knows the names and addresses of the
19 jurors.

20 To avoid such convenience (sic), the court
21 appoints professional judges.

22 THE COURT: Do the judges sit separately on the
23 case, or do all nine or groups of them sit on the individual
24 cases?

25 THE WITNESS: No, Your Honor. They sit--

1 THE COURT: One at a time?

2 THE WITNESS: No, no, no. All of them at the same
3 time.

4 MR. HIRSCHKOP: That's a panel, Your Honor.

5 BY MR. HIRSCHKOP:

6 Q Now, when Mr. Elahi was murdered, how did the
7 investigation get started within the judicial system?

8 A In the French judicial system, the investigation
9 starts with, well, reporting by the police to the state
10 attorney, and then the state attorney asked the President of
11 the Court to appoint a judge who will be in charge of the
12 investigation of the case.

13 Q President of which court?

14 A Of the Paris court, where the crime took place.

15 And the President of the Court was a sitting
16 magistrate because in France we make the difference between
17 sitting magistrate and standing magistrate. Standing
18 magistrates are the equivalent of state attorneys in United
19 States. Sitting magistrates are equivalent, well, to
20 professional judges sitting in court. Sitting magistrate
21 cannot be removed. They cannot be displaced because they
22 are appointed for life. A standing magistrate can be
23 removed upon government's request.

24 So, the state attorney asked the President of the
25 Court, which is a sitting magistrate, to appoint a

1 judge--what we call the juris instruction--who will be in
2 charge of the investigation of the case. Juris instruction
3 is also a sitting magistrate, and the juris instructional
4 opens the five and is in charge of collecting all
5 information.

6 Q For the Court Reporter, is that judge of
7 instruction?

8 A Judge of instruction.

9 Q Thank you. Now, in the Elahi case, was someone
10 appointed?

11 A Yes, there was someone appointed, but you know,
12 once again, there is an exception in the law. For terrorism
13 and for terrorist cases, the President of the Court appoints
14 three--well, he has a choice between three different judges,
15 specialize in terrorist cases, and Judge Bruguiere is one of
16 the most ancient and most famous one. And these judges have
17 jurisdiction over the whole territory, over France--the
18 whole of France. Normally, the judge has jurisdiction over
19 the precinct where he works where he's appointed, but it's
20 different for the judges in charge of terrorist cases.

21 And Judge Bruguiere was appointed at the juris
22 instructional in this case.

23 Q Has Judge Bruguiere handled many famous terrorist
24 cases nationally in France?

25 A Yes. Judge Bruguiere is a very famous and started

1 his career when I started to become a lawyer, and we had the
2 same seniority; not in the same way, but the same seniority.

3 Q Now, what does Judge Bruguiere do once he's
4 appointed?

5 A Judge Bruguiere will sense normally--he sends
6 interrogatory commission to the police, which means he
7 appoints police officers in order to make investigation on
8 this spot, and then police officers are collecting
9 information, send a report to the judge, and then the judge
10 decides to hear witnesses, or to indict somebody when you
11 think somebody could be guilty of the facts which are under
12 investigation.

13 Q Is that similar to the grand jury's action in the
14 United States, if you can draw a parallel?

15 A To a certain level, yes. The judge, when he
16 thinks that somebody could be implicated or involved in
17 criminal matters, has the duty to indict him and inform him
18 that he will be under his investigation, and he has to
19 appoint a lawyer to defend himself.

20 Q Does Judge Bruguiere recommend a prosecution, or
21 does he send a report that has pros and cons? In other
22 words, information favorable to the defendants and
23 information negative to the defendants.

24 A Well, Judge Bruguiere, as all judges in juris
25 instruction, is an independent judge, so he has to collect

1 information, but this information could be in favor of the
2 accused or against the accused. He has to collect them.
3 After, when he thinks that the file contained sufficient
4 evidence, he may either dismiss the accusation or send the
5 file to the state attorney in order to receive his
6 instruction.

7 When the state attorney decides that this file
8 should be brought to the criminal court, Judge Bruguiere has
9 to send the file to court of appeal, to a special section of
10 the court of appeal, chamber of accusation, where the case
11 is once again pleaded in order to know whether the case has
12 to be sent to the court of assizes, or whether the case has
13 to be--the accusation has to be dismissed.

14 Q Now, with regard to the Elahi matter, did Judge
15 Bruguiere open two files?

16 A Yes, he opened two files. The first one was the
17 assassination of Cyrus Elahi, and the second one was for
18 "association de manufacture," which is conspiracy, but if I
19 want to translate into English, I would say that the exact
20 translation would be association of wrongdoers. But I think
21 that the crime is equivalent to what you know as a
22 conspiracy.

23 Q And, in fact, is that a class-two offense?

24 A It's a class-two offense, which shows by the
25 correctional tribunal.

1 Q By three judges?

2 A By three judges.

3 Q Now, dealing with that, was a man named "Mashhady"
4 and another man charged with that offense and tried by three
5 judges?

6 A Yes.

7 Q Who was the other gentleman?

8 A Yazdenseta.

9 Q Now, as a result of that trial, was Mr. Mashhady
10 and Mr. Yazdenseta convicted of the conspiracy to murder Mr.
11 Elahi and Dr. Ganji?

12 A Yes. They were--their file was sent to the
13 correctional tribunal, and the correctional tribunal
14 sentenced Yazdenseta to seven years imprisonment--I'm
15 sorry--Mashhady to seven years' imprisonment, and Yazdenseta
16 to three years of imprisonment.

17 Q You have two books there, sir. Would you be kind
18 enough to turn Exhibit 58.

19 A Yes.

20 Q You have the public prosecutor's referral to the
21 Criminal Court of Paris?

22 A Right.

23 Q Is that Judge Bruguiere's referral to the criminal
24 court for the prosecution of Mr. Mashhady and Mr.
25 Yazdenseta, Y-A-Z-D-E-N-S-E-T-A, for the conspiracy to

1 murder Dr. Elahi and Dr. Ganji and others?

2 A Well, I know this document because I translated it
3 myself into English. This document was prepared by the
4 state attorney on the basis of the file which was
5 made--prepared by Judge Bruguiere. And in this document,
6 the state attorney recommends to Judge Bruguiere to send the
7 file for judgment to the correctional tribunal.

8 Q Does the document include statements from
9 depositions taken from various witnesses who came forward in
10 that case?

11 A In this document, the state attorney mentions, as
12 a support of his accusation, the different evidence
13 collected by Judge Bruguiere and the deposition made by
14 different witnesses.

15 Q All right. I refer you then--I will come back to
16 58, but number 59. Would you look at the next document in
17 sequence.

18 Would this be the document relative to the second
19 file that Judge Bruguiere opened up? Is this the referral
20 to the Court of Assize for the murder--

21 A Yes. This is the document which was prepared by
22 the state attorney by the accusation for--sorry. It's the
23 document which was the judgment which was rendered by the
24 court of appeal section--chamber of accusation for sending
25 Mashhady to the criminal court.

1 Q So, this comes from the Court of Appeals to the
2 Court of Assize, laying out the basis for the murder charges
3 against Mr. Mashhady.

4 A Yes.

5 This document will be read by the court--by the
6 registrar of the Court of Assizes, and contains the
7 accusation against Mashhady.

8 THE COURT: And you were the attorney for Mr.
9 Elahi; is that correct?

10 THE WITNESS: Yes.

11 MR. HIRSCHKOP: And Your Honor, if you please, I
12 will clear that up.

13 THE COURT: It's on page three.

14 MR. HIRSCHKOP: Yes, but it's the wrong Mr. Elahi.
15 It's a strange proceeding. We are in a criminal case, and
16 you seek civil relief.

17 BY MR. HIRSCHKOP:

18 Q Let me ask you about that, please, Jacques. The
19 papers list you as representing Mr. Elahi's younger brother.
20 Do you recall?

21 A Yes.

22 Q You entered on behalf of the family--is that
23 correct--the Elahi family.

24 A Yes, I do.

25 Q And what is your purpose--your role--in this

1 criminal prosecution?

2 A As I represent the family of the victim, nothing
3 can be done without my presence or the presence of the
4 family. So, therefore, no prosecution can take place
5 without the presence of the family because on this occasion
6 I can speak to the court--speak to the court and explain the
7 reason why the family wants this case to be sent to the
8 Court of Assizes, and why the family wants Mr. Mashhady to
9 be sentenced for murder.

10 Q Going back to the first case, the class-two where
11 Mr. Mashhady got seven years, Mr. Yazdenseta was also
12 sentenced, was there an appeal of that conviction?

13 A Yes. An appeal was made against that conviction,
14 and the appeal was rejected by the Court of Appeals.

15 Q And did he appeal to the Supreme Court of France?

16 A Yes, and the appeal was rejected again.

17 Q And did you participate in both of those appeals?

18 A No, because--well, for certain reason, technical
19 reasons, the conspiracy is a crime against society and not
20 against an individual; so, therefore, there is no plaintiff.

21 Q But in the murder case there is?

22 A Yes, because it's a crime against a person, an
23 individual; so, therefore, there must be somebody who
24 represents either the individual or his family.

25 Q Now, in the murder case, did you consult

1 repeatedly with Judge Bruguiere in his investigation?

2 A Yes, of course, because I have a permanent access
3 to the file.

4 And as what we call plaintiff representing the
5 family, I can ask Judge Bruguiere to make some special and
6 particular investigations. It's my right or my duty.

7 Q So, for instance, in the murder case, did you
8 secure articles from Germany and translate that and give
9 them to Judge Bruguiere?

10 A Yes, because I thought that the interest of this
11 case was not only to concentrate on the murder which took
12 place in Paris, but I wanted to connect all the murders
13 which took place in Europe against opponent to the Iranian
14 regime. For that reason, reading the German press, I
15 realize that the same case was being tried in Germany; and,
16 therefore, I informed Judge Bruguiere of this trial in
17 Germany, in Berlin.

18 Q And did you take articles from Stern and other
19 major publications and translate them for Judge Bruguiere?

20 A Yes, and I translated for the Mykonos case
21 articles so that Judge Bruguiere could add them to the file.

22 Q This Mykonos case that the Judge now has heard
23 about several times where the leader of the KDPI was
24 assassinated and the German authorities convicted people who
25 were directly linked to Mr. Fallahian, the head of MOIS--

1 A Right.

2 Q --did you determine that from those documents?

3 A Well, what was important for me in the Mykonos
4 case, that according to the newspapers in Germany, there was
5 a weakness, a secret weakness, a defector, and Iranian
6 defector, and nobody knew his name because he wanted to
7 remain secret.

8 Q Is he called Witness C in the documents?

9 A He's Witness C in the documents.

10 And I wanted Judge Bruguiere to have a connection
11 with him and send an interrogatory commission because this
12 witness was under protection, and it was protected by the
13 German police. And, of course, he didn't want to enter
14 France. Nobody knew his name. Later on, I knew that it was
15 difficult for him to enter France because it was before
16 working with the Iranian embassy, and he was expelled from
17 France for having spying activities in France.

18 Q He had been a high-ranking Iranian official, had
19 he not?

20 A Yes, he was high-ranking official. He was in
21 charge of terrorist actions outside Iran.

22 Q Just so--because the Court will see this record,
23 the Court is clear, was this Mr. Mesbahi?

24 A He's called Mesbahi, but at that time it was only
25 known as Witness C, and it was traveling between Germany and

1 Canada, protected by CIA in Canada, protected by the German
2 police in Germany.

3 Q And to the best of your knowledge, is he now under
4 our witness protection program unavailable to us?

5 A I think he's unavailable to us for two reasons:
6 First, I think that he will fear to come without special
7 protection. Second, that we do not know how to contact him.
8 If he has to be contacted, it should be done through secret
9 or intelligence services, and I doubt that Secret Services
10 will cooperate for any kind of cases, open-court cases.

11 Q Mr. Boedels, who is Bruno Jost, J-O-S-T?

12 A Bruno Jost is the state attorney in charge of the
13 Mykonos case in Berlin.

14 Q Did he secure the convictions in Berlin?

15 A Yes, he did his best, and he brought all evidence
16 for the German court.

17 Q As part of your inquiry into the Mykonos matter to
18 get the information on Mr. Mesbahi, did you have
19 communications with Mr. Jost directly?

20 A Yes. I spoke with him twice on the phone, asking
21 for information, and asking for--well, for the outcome of
22 the Mykonos case, and asking him whether it would be
23 possible to investigate and ask questions to Witness C.

24 Q And were you denied that?

25 A He said that it was possible, but, of course, it

1 had to--he will do his best. He will recommend to Witness C
2 to answer the questions, but, of course, it had to be done
3 through interrogatory commission. That's the reason why I
4 went to Judge Bruguiere and made a formal request for
5 interrogatory commission to investigate Witness C.

6 Q When you made this request of Judge Bruguiere, is
7 that when you gave him the translations you had made from
8 the German press to convince him that he should do this?

9 A Yes, I gave him evidence, the German press, so
10 that he knew that an important witness could give important
11 information for the case he was investigating.

12 Q And, in fact, did Dr. Ganji testify in the trial
13 in Berlin of the Mykonos case?

14 A Yes, he did.

15 Q And did he give depositions as an expert in the
16 Mykonos case?

17 A Yes, he did.

18 Q Now, did Judge Bruguiere follow your
19 recommendation to have letters of interrogatory sent to
20 Germany to take a deposition of Mr. Mesbahi?

21 A Yes, he did. He did it twice. The first one, he
22 sent interrogatory commission to the German police, and the
23 German police asked questions to Witness C. And then he sent
24 French policemen--police officers--who met Witness C in
25 Germany with the assistance of the German police, and

1 questions were asked to Witness C.

2 Q In your role in representing the plaintiff in the
3 criminal case--little different from what we do--did you get
4 to read the deposition of Witness C in the Elahi case?

5 A Yes, of course. As I told you, I have permanent
6 access to the file. And I read the deposition made by
7 Witness C in Germany.

8 Q And did Witness C testify that MOIS and Iranian
9 intelligence specifically ordered the assassination of Dr.
10 Elahi?

11 A Yes. Witness C said that the assassination was
12 determined, planned, organized, and executed under the
13 instruction of high-rank officials in Iran.

14 Q Was this consistent with other evidence given in
15 these two documents we now referred to, Exhibits 57 and 58,
16 the referrals to the criminal courts? Witness C testified
17 the responsibility of the Iranian MOIS and government.

18 A Yes.

19 Q Was it consistent with other evidence?

20 A Yes.

21 Q Let's talk about that other evidence.

22 In the two referral documents, there are
23 interviews with Mr. Mashhady. Did Mr. Mashhady admit that
24 he was approached by Iranian intelligence to start a plan to
25 assassinate Dr. Ganji?

1 A Well, Mr. Mashhady knew what he was doing. He was
2 representing the Iranian Secret Services in France, so, in
3 this position, he was in charge of selecting people for
4 assassinations. For this job, he has two possibilities.
5 The first one he gave to people some money. He offered them
6 money.

7 Q To whom did he offer money?

8 A Well, he offered money to, for instance, somebody
9 who is Ghorbanifar and Yazdenseta.

10 Q G-H-O-R-B-A-N-I-F-A-R.

11 Did Mr. Ghorbanifar go to the French Secret
12 Service and say, I have been given such an offer at some
13 point?

14 A Yes, he did. He did, because Ghorbanifar became a
15 drug addict because Mashhady gave him drugs, heroin, for his
16 own use and for dealing heroin.

17 Q Was this common practice for the intelligence
18 people from Iran involved in assassinations to bring heroin
19 to give to people to get them to do things for them?

20 A Yes, I realize from other cases that is common
21 practice. They give heroin to drug addicts of people who
22 are dealing with errands; therefore, they get the money, and
23 they are linked with the people who give them heroin. And
24 that's what Mashhady did.

25 Q Just so we are clear, was the original plot to

1 assassinate Dr. Ganji?

2 A The original plot was to assassinate three people:
3 First, Dr. Ganji; second, Cyrus Elahi; and third Princess
4 Ashraf.

5 Q Was there a time Dr. Ganji was warned that his
6 assassination would be imminent and he left and went to
7 Egypt?

8 A Yes, Dr. Ganji was informed by the French police
9 that his assassination was imminent.

10 Q Was it shortly thereafter that Dr. Elahi was, in
11 fact, assassinated?

12 A Right. They couldn't get Dr. Ganji, they decided,
13 I think, that they had to kill somebody else, and they
14 spotted Cyrus Elahi.

15 Q In fact, didn't he specifically--Yazdenseta
16 specifically testify to that?

17 A Yes, Yazdenseta testified that he was approached
18 by Mashhady in order to take picture of Dr. Ganji--of Cyrus
19 Elahi. And then after having taken picture, it could get
20 more money if he decided to kill him.

21 Q Did Mr. Mashhady promise or say to Mr. Ghorbanifar
22 that he would provide him with a gun and a silencer to
23 commit the crime?

24 A Yes, he offered him to supply him with a gun and
25 silencer.

1 Q Was Dr. Elahi assassinated with a gun and a
2 silencer?

3 A Dr. Elahi was assassinated by a gun which was
4 determined by the French police as a Romanian gun, caliber
5 7.65, and with silencer.

6 Q And did they also trace--the French
7 authorities--that that type of gun was used by certain
8 Iranian factions?

9 A Yes, they did.

10 Q Did they trace that the material in that type of
11 silencer was used in other assassinations?

12 A Yes. It's common practice.

13 Q Did Mr. Ghorbanifar further testify that Mr. Elahi
14 told him at one point that he had been to Iran and met with
15 Mr. Fallahian?

16 A Yes.

17 I think Mr. Mashhady wanted to stress to
18 Ghorbanifar that he has very high connections. And, of
19 course, if he was doing what Mashhady was waiting for him,
20 he would be grateful, and people--high-ranking officers in
21 Iran would be grateful to him. He said that to impress him.

22 Q Did Mr. Ghorbanifar go to Orly Airport at one
23 point with Mr. Mashhady?

24 A Yes, he went to Orly Airport, but this meeting was
25 observed by the French intelligence service, and he met with

1 Mashhady, and Mashhady met the Iranian ambassador. And the
2 manager of Iran Air in Paris was a member of the Iranian
3 Secret Services.

4 Q Was that Mr. Anquizi?

5 A Yes, right.

6 Q A-N-Q-U-I-Z-I?

7 A Yes.

8 Q Did he also meet with Mr. Bagheri?

9 A Yes, with high-ranking official in Iran in charge
10 of special operations outside Iran.

11 Q Did Mr. Yazdenseta also testify that he was told
12 by Mr. Mashhady that he had received directions from Bagheri
13 and directly from Mr. Fallahian to accomplish these
14 assassinations?

15 A Yes.

16 Well, I think that the Iranians wanted to put
17 pressure on him, and to assure him that the orders were
18 coming from high-ranking officials.

19 Q In addition to these--

20 THE COURT: That's what he said, that the others
21 had come from the high-ranking officials?

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: And specifically included Dr. Elahi?

24 THE WITNESS: Specifically Dr. Elahi, Dr. Ganji,
25 and Princess Ashraf.

1 BY MR. HIRSCHKOP:

2 Q And the princess was the sister of the Shah?

3 A She's the sister of the Shah, yes.

4 Q All of this you're saying about what Ghorbanifar
5 testified and Yazdenseta testified was completely consistent
6 with what Mr. Mesbahi, Witness C, had come and given a
7 deposition about; isn't that true?

8 A Yes. Witness C confirmed that the decision to
9 kill these three people was taken by official--high-ranking
10 officials in Iran.

11 Q And indeed, was there another witness named Mr.
12 Miandoab?

13 A Yes.

14 Q And he's a friend of Mr. Mashhady's over 20 years,
15 30 years, he said?

16 A Yes.

17 Q And did Mr. Mashhady confess to him that he was
18 responsible for the assassination of Cyrus Elahi?

19 A Yes, right.

20 MR. HIRSCHKOP: I was going to go through the
21 depositions, which I highlighted. I will highlight them and
22 hand them to you tomorrow. It will repeat what he testified
23 to.

24 BY MR. HIRSCHKOP:

25 Q Now, in your investigation, did you also review

1 documents, official documents, from the Mykonos case?

2 A Yes, I did.

3 Q I would ask you to look at Exhibits 45 through 48.

4 Do you recognize them all as official documents
5 with translations on the top--the German documents have been
6 included--from the Mykonos case?

7 A Yes, I do.

8 Q If you look at Exhibit 45, please--

9 A Yes.

10 Q --was this a document, public broadcast by
11 Minister Fallahian, the head of MOIS, upon which the German
12 prosecutor relied, in part, to get a warrant for Mr.
13 Fallahian's arrest for the murders in Mykonos?

14 A Yes, it is, yes.

15 Q And document number 46, did they also identify in
16 Mykonos the type of weapon and trace it to the Iranian Army?

17 A Yes, exactly.

18 Q Did they also trace the murderers in Mykonos who
19 they were able to catch in other countries as being trained
20 in Iran?

21 A Yes, as frogmen.

22 Q Look at document number 47, sir.

23 Do you recognize this as Mr. Jost's preliminary
24 investigation where he requested the warrant against Mr.
25 Fallahian?

1 A Yes, I do.

2 MR. HIRSCHKOP: Your Honor, there again we will
3 provide the highlight of the document. It very much speaks
4 for itself.

5 BY MR. HIRSCHKOP:

6 Q And lastly, sir, document number 48 in this group,
7 the verdict of the court, did the judges specifically find
8 that the Government of Iran was responsible for the planning
9 and execution of the murders of the four men at Mykonos,
10 including the leadership of the Kurdish Democratic Party?

11 A Yes. Well, the German utai--German
12 verdict--points out what is behind the murderers, there is
13 the government of Iran and high0ranking official of Iran.
14 It was the first time that judicial document expressively
15 mentioned the complicity of Iranian regime.

16 Q What is the present status of the murder charge in
17 France?

18 THE COURT: In our case?

19 MR. HIRSCHKOP: In the Elahi matter. I'm sorry,
20 Your Honor, you're correct.

21 THE WITNESS: The case is going to be judged by
22 the court, the special Court of Assizes. It should be
23 judged, let us say, at the beginning of next year, maybe
24 March or April.

25 THE COURT: Sir, what has taken so long? We are

1 talking close to ten years, not quite, and what has taken so
2 long, if you know, for the forces of the law in France to
3 develop the case, investigate it, get information from the
4 other countries that might have been relevant, and come to
5 this final conclusion, after going through certain levels of
6 appeals?

7 THE WITNESS: Let us say, Your Honor, that normal
8 crime case in France takes between--in Paris takes between
9 three to five years.

10 THE COURT: The normal crime case?

11 THE WITNESS: The normal crime case, for the Court
12 of Assizes.

13 THE COURT: For the normal terrorist cases?

14 THE WITNESS: No, the terrorist is a little bit
15 longer for two reasons. First is there are international
16 interrogatory commissions, and then--and then it was
17 difficult at the beginning to discover who was--well, could
18 be indicted in this file.

19 And little bit by little bit, Ghorbanifar started
20 to speak, Yazdenseta started to speak out and to confess
21 that they were approached by Mashhady for killing Iranian
22 opponents.

23 But without these depositions, without these
24 confessions, it would have been very difficult for the judge
25 could reach a file that would be presented to the Court of

1 Assizes.

2 BY MR. HIRSCHKOP:

3 Q In the criminal investigation in which you had
4 full access to, did you also see the autopsy report?

5 A Yes.

6 Q What did the police find under the fingernails of
7 Mr. Elahi, Cyrus Elahi?

8 A Well, the police found flesh and pieces of cloth,
9 which means that there was a fight and that Elahi didn't
10 want to--well, to be slaughtered without fighting back.

11 Q Does the file also disclose that one of the
12 perpetrators--one of the criminals was seen leaving with
13 blood on his jacket?

14 A Yes, one witness mentioned that he saw perpetrator
15 leaving the scene of the crime with the blood on his jacket.

16 Q Did the police in their investigation look for
17 possible suspects who had scrapes on their faces as a result
18 of all the evidence they saw?

19 A Yes, of course. The police thought at the
20 beginning that it could have been--well, international
21 conflict inside the organization of Dr. Ganji, and Dr. Ganji
22 was suspected, and the police met him in order to see
23 whether he had scratches on his face.

24 Q And did the police conclude that, in fact, from
25 their investigation Mr. Elahi fought with his assailants,

1 and he was alive and saw them before being shot or at least
2 before passing away?

3 A Yes. Of course--well, Mr. Elahi was killed with
4 seven bullets--seven bullets--and the charge--well, the
5 pistol contains eight bullets. So, therefore, there was a
6 fight, a terrible fight, and he fought with the murderers
7 before being killed, but he had no chance.

8 THE COURT: Was there anything indicated in the
9 police report, in the autopsy report, or from any other
10 source that you know of, sir, that indicated how long it was
11 from the time that any one or all of these seven bullets
12 struck him to the time that he actually died? What was that
13 interval? Are we talking hours? Are we talking seconds?
14 Are we talking minutes? If so, how long? Anything that
15 tells us that?

16 THE WITNESS: No, there is no evidence, Your
17 Honor, there is no evidence. But I must say that it would
18 have taken, let us say, at least something like 30 seconds,
19 to my opinion. And 30 seconds with people who are willing
20 to kill you, it's a very long delay.

21 BY MR. HIRSCHKOP:

22 Q We don't know how long he may have fought with
23 them before he was fatally shot, though.

24 A Well, he was shot twice in the head, and the rest
25 of the bullets were shot in his body.

1 So, therefore, if he was shot in his body, it
2 seems that there was a fight, but not only because there was
3 flesh under his nails, but also because there were five
4 bullets in his body.

5 Q Did you find out from your investigation after a
6 period of almost ten years Dr. Elahi would not have eaten in
7 the restaurant if he had to sit in front of the window?

8 A Yes, it's true, they knew that they were under a
9 permanent threat, but meeting Iranian opposition, I have the
10 impression that they don't care at a certain level.

11 Q And were you aware of the degree of training it
12 took in Germany, from German secret police, about being
13 followed and how to detect people following them?

14 A Yes, there were many reports from different
15 sources mentioning and confirming the threats against
16 Iranian opponents.

17 Q With regard to Dr. Elahi, he lived with the
18 sentence of death for almost 11 years.

19 From your investigation, were you able to
20 determine whether or not during those 11 years he had to
21 take special security precautions during the great part of
22 that period?

23 A Yes. Well, he lived with the permanent threat of
24 assassination, so they could not--well, move, go to another
25 place without having a special protection, without taking

1 care, without being cautious. They could not open the door
2 to drive the car, live a normal life, without the permanent
3 threat of being assassinated.

4 Q With regard to Dr. Elahi, the evening he was
5 assassinated, was that unusual that he was alone that
6 evening?

7 A No, normally he was always living with somebody
8 else in order to protect him.

9 Well, just for--

10 Q Had he forgotten his briefcase somewhere and went
11 to get his briefcase?

12 A Yes. For instance, opponents cannot open the door
13 to a postman because they could be killed, as we saw this
14 morning. They cannot drive a car because, well, they could
15 be--the car could be--it could blow up. The car can blow
16 up. They cannot stand near a window because somebody can
17 shoot them. And they are under permanent watch of the--of
18 people who are only willing to kill them.

19 Q With regard to Mr. Bakhtiar, did you also take
20 part in his case, reviewing the file in his case?

21 A Yes, because the colleagues in charge of
22 Bakhtiar's families called me in order to receive
23 information and help from my knowledge I had from Elahi's
24 case.

25 Q Did you review the police documents and the

1 prosecutor's report in that case?

2 A Yes. As you know, Bakhtiar was assassinated one
3 year after Cyrus Elahi, and I gave them all the information
4 they were in need of.

5 Q And were nine out of ten people charged for that
6 murder convicted?

7 A Yes.

8 Q Did they find in the Bakhtiar case a direct link
9 for MOIS in the central Iranian government giving orders for
10 Dr. Bakhtiar's death?

11 A Yes. The decision was taken in Iran, and people
12 came especially from Iran to kill Dr. Bakhtiar. They
13 received more money. They received weapons. They received
14 fake passports. They received assistance. And they knew
15 that they were supposed to do after the killing.

16 Q The Court asked you about the length of time on
17 these prosecutions.

18 Did the Iranian government put a lot of pressure
19 on European governments to not have these prosecutions or to
20 release the people?

21 A Yes, of course. There was a permanent pressure
22 against the French government in order to avoid the case to
23 come up in court, and in order to release the accused when
24 they have been sentenced.

25 Q And the form of that pressure was in barrels of

1 oil, was it not?

2 A Not only barrels of oil, but, of course, many
3 barrels of oil--

4 THE COURT: Would you tell me from whom the
5 pressure came or from where the pressure came to not
6 sentence them, but to release them.

7 THE WITNESS: From the Iranian government.

8 THE COURT: Not other governments?

9 THE WITNESS: No. Of course, there were two kinds
10 of pressure: Oil and contracts with Iran; that's the first
11 one.

12 And second one, which is also important, that Iran
13 can also operate in other countries such as Lebanon in the
14 Middle East such as Hamas and Hezbollah. Hezbollah and Hamas
15 can detain French journalists, like the did, for instance,
16 American journalists; and they can detain French citizens.

17 Now, while also bombing which took place in
18 France, and bombing can be attributed in the Metro and
19 Champs Elysee, and this bombing can be attributed to Iranian
20 extremists.

21 BY MR. HIRSCHKOP:

22 Q Were witnesses actually threatened? Mr.
23 Ghorbanifar was threatened with violence if he testified
24 against Mashhady.

25 A Yes, of course.

1 Q And was this traced to Iranian diplomats and
2 Iranian representatives?

3 A Yes. The French government at a certain level
4 had, well, a difficult time with the Iranian diplomat called
5 Gordgi, and Gordgi was supposed to be presented to a judge
6 in charge of the investigation of a terrorist case. And
7 Gordgi returned to the Iranian embassy, and during one
8 month, day and night, anti-riot police were surrounding the
9 embassy in Paris in order to obtain the release of Gordgi so
10 that he could be brought to the judge and that the judge
11 could receive his deposition. So, sometimes there was very
12 strong conflict between the two governments, and--

13 Q I apologize. I don't have Mr. Gordgi's name.
14 Could you do your best to spell that one for us.

15 A G-O-R-D-G-I.

16 Q Now, Let's go back to the economic coercion.
17 Europe operates in what we call "sweet oil," does
18 it not?

19 A Yes.

20 Q And sweet oil is low sulphur oil that's near the
21 ground that's produced. Iran has a lot of sweet oil, and
22 Libya has a lot of sweet oil.

23 THE COURT: Is that right?

24 THE WITNESS: Yes.

25 THE COURT: I realize we are abbreviating the

1 time, and that's fine.

2 MR. HIRSCHKOP: And looking ahead, actually Dr.
3 Clawson is an economist with knowledge in these areas, and
4 he's going to testify specifically on this. That's why I'm
5 doing that.

6 THE COURT: But since the question was asked, I
7 want to make sure the witness agrees with your statement.

8 All right.

9 BY MR. HIRSCHKOP:

10 Q And was there not bargaining between the Iranian
11 and European governments on the use of sweet oil and the
12 availability of sweet oil in order to put an end to Iranian
13 prosecutions, and not only in France, but in Switzerland and
14 Austria also, in murders there?

15 A Yes, they are permanent--permanent bargaining with
16 Iranian Government.

17 Q In the course of your work in the Bakhtiar case
18 and this case, the Elahi case, would it be fair to say the
19 files that were reviewed, the Bruguiere files, were several
20 feet thick?

21 A It's true.

22 Q And you just picked out a few documents that you
23 sent to us that are the key documents showing the evidence?

24 A Yes.

25 Q And reviewing those documents, did you also review

1 the pattern of killings of other Iranian nationals in
2 France, in Germany, in Austria, in Switzerland, and others
3 related to Iran and Norway? Did you have a look at many of
4 those cases?

5 A Yes. As personal point of view, as personal
6 investigation, but for the first time--first time--in
7 history of killing of Iranian opponent, there is somebody
8 who is collecting all this evidence together and putting
9 them to court. You are doing that work, and you are the
10 first one who did that. No one did that before.

11 And it was--it's very important to show that it
12 was not a single assassination, but it was a whole strategy
13 to kill opponents not only in one country, but in all the
14 countries where they are: United States, Switzerland,
15 Austria, Germany, France, Belgium, everywhere. It's a whole
16 strategy. It is not just one killing. It's a system of
17 government.

18 Q Without making light of the loss of life involved
19 in the assassinations themselves or the impact on the
20 families of the victims, the countries themselves are
21 victims, are they not?

22 A Yes, of course. The countries are victims because
23 it's against their sovereignty, it's against their
24 reputation. We know asylum is a normal practice in
25 civilized countries, but when people seeking asylum are

1 killed and assassinated, it's against the tradition of the
2 country.

3 Q And the economics are great. France had to
4 provide special police, and this is not everyday local
5 constabulary; right? This is not a gendarme, but the
6 special police, the riot police.

7 A Yes.

8 Q They had to provide full 24-hour protection--

9 A Yes.

10 Q --for Dr. Bakhtiar, Dr. Ganji, and numerous others
11 from other countries subject to terrorist activities.

12 A Yes.

13 Q There is a section that does that just in Paris
14 alone.

15 A Yes.

16 Q And that's in other places in France; is that
17 correct?

18 A No. They live and consult in Paris or in the
19 suburbs.

20 Q From your investigation in these cases and your
21 work over the years with many expatriates, did you find that
22 when one person is murdered like this, terror is spread to
23 the whole community, the whole Iranian community?

24 A I agree with you. I agree with you. The terror
25 was to be extended to the whole Iranian community.

1 Q And I don't mean to pick on France today. We saw
2 today the videotape of Bakhtiar, happened right here in this
3 community--I'm sorry, of Tabatabai--happened in this
4 community.

5 Were you familiar with the press and the findings
6 of the Iranian bombings of a synagogue in Argentina where
7 many people were killed?

8 A It's true, yes.

9 Q And did you see this in your investigation as part
10 of the pattern of Iranian terrorism abroad?

11 A Certainly.

12 Q And is it true of many countries? Did you see
13 reports of hundreds of killings in Turkey directly
14 attributable to the Iranian Government of dissidents?

15 A Of course, yes.

16 Q Having reviewed the Bakhtiar files, the Mykonos
17 documents, and the Elahi files, is there any question in
18 your mind from that investigation that the Iranian
19 Government gave orders directly for all three of those
20 assassinations, including multiple assassinations in
21 Bakhtiar and Mykonos?

22 A There is no doubt that the order came from the
23 Iranian Government, from the minister in charge of these
24 matters.

25 Q You have come a long way, Mr. Boedels. I thank

1 you for doing that.

2 A Thank you very much.

3 MR. HIRSCHKOP: Nothing further. Your Honor.

4 THE COURT: Thank you.

5 (Witness steps down.)

6 MR. HIRSCHKOP: We have an expert economist coming
7 up.

8 THE COURT: We have to be out of here at 4:30
9 today.

10 DARIUSH ELAHI, PLAINTIFF WITNESS, SWORN

11 THE COURT: Good afternoon, Doctor.

12 DIRECT EXAMINATION

13 BY MR. HIRSCHKOP:

14 Q What is your name?

15 A Dariush Elahi.

16 Q What is your relationship to Cyrus Elahi?

17 A He was my older brother.

18 Q What is your profession?

19 A I'm a clinical investigator.

20 Q Are you an endocrinologist?

21 A I'm an endocrinologist specializing in diabetes.

22 Q Where do you work?

23 A I work at Mass General Hospital, which is major
24 teaching hospital of Harvard Medical School.

25 Q How long have you been with the Harvard Medical

1 School?

2 A About 15 years.

3 Q And Dr. Elahi, have you ever testified before?

4 A I have not.

5 Q I finally found a doctor who has never testified.
6 Sorry, sir, it's a lawyer joke.

7 THE COURT: Doctors are in a special position
8 here. He's a relative of the decedent.

9 BY MR. HIRSCHKOP:

10 Q Now, Doctor, what was your father's position?

11 A He was a physician.

12 Q Was he a cardiologist?

13 A Cardiologist.

14 Q And when did he come to the United States?

15 A I believe he came to the United States in 1948 or
16 early '49.

17 Q At the time where was his family?

18 A In Iran.

19 Q How many children were born at that time?

20 A At that time there were three of us.

21 Q Was Cyrus the oldest?

22 A He was the oldest.

23 Q And he was born in 1943?

24 A '43.

25 Q What year were you born, sir?

- 1 A '45.
- 2 Q And the next child?
- 3 A '48.
- 4 Q And what is her name?
- 5 A Elahe, "Eli" for short.
- 6 Q Elahe is the same as Elahi, but an "E" on the end?
- 7 A Exactly.
- 8 Q Do you have a youngest brother?
- 9 A I do.
- 10 Q What is his name?
- 11 A His name is Elham, E-L-H-A-M.
- 12 Q And are both your younger brother and sister still
- 13 alive?
- 14 A They are.
- 15 Q I will get back to them in a while.
- 16 Now, when your father came here, where did you
- 17 three children--you and Cyrus and your sister--live?
- 18 A We lived in an extended family with my uncle,
- 19 grandmother, great grandmother, and my other uncle in a big
- 20 household.
- 21 Q And your uncle's wife and cousin?
- 22 A My uncle's wife and cousin.
- 23 Q Okay. And at that time what did your mother do?
- 24 A My mother had two jobs in the morning. She was at
- 25 the school of dentistry, I believe in some associate

1 capacity or something like that, and afternoon she was a
2 midwife.

3 Q And your uncle, what did he do, the one with whom
4 you lived?

5 A He was engineer, and he worked for Iranian
6 Government.

7 Q Why did your father leave the family and come to
8 the United States?

9 A He father came here to further his education, as I
10 was told, for one or two years internship residency after he
11 was a physician in Iran.

12 Q And he came here in 1948; is that correct?

13 A That's correct.

14 Q Was that the year your sister was born?

15 A I believe she was two or three months old when he
16 left.

17 Q Did your mother and you kids follow him here after
18 a while?

19 A No, my mother came for a visit approximately in
20 '52 just for a short visit that lasted for a short time,
21 about two years. She became pregnant, and at that time, as
22 I was told, they were planning--they, my mother and
23 father--were planning to return to Iran to set up joint
24 practice, so they wanted the youngest child unborn yet,
25 Elham, to be born on the soil of Iran, so she came back to

1 deliver.

2 Q Soil of Iran is very important to Iranian people,
3 is it not?

4 A It certainly is.

5 Q Many of us feel that way about our native
6 countries, but Iranians particularly have a bond to the
7 Persian soil in the Persian country.

8 A I believe so.

9 Q Is this what you found in your years of
10 involvement with Iranian culture?

11 A Extremely so, I believe so.

12 THE COURT: When your mother came here to visit in
13 1952, four years after your father came here--is that right?

14 THE WITNESS: Correct.

15 THE COURT: --did the children who were then in
16 existence come with her?

17 THE WITNESS: No, came alone. We lived with our
18 extended families.

19 THE COURT: In Iran?

20 THE WITNESS: In Tehran.

21 BY MR. HIRSCHKOP:

22 Q During those years, your brother Cyrus was nine to
23 eleven or twelve years old, was he not?

24 A Correct.

25 Q Did there come a time when Cyrus took over as

1 father of the family later in life?

2 A Yes. Shortly after we came to the United
3 States--I mean shortly, 18 to 20 months--my parents
4 divorced. Age difference between the oldest and youngest is
5 11 years, so my elder brother Cyrus assumed the role of
6 friend, advisor, confidante, father.

7 Q In those years when your father and mother were
8 gone, Cyrus being the older brother, even at that young age,
9 did he tend to take care of you kids?

10 A Especially me. I was youngest--I was closest to
11 age with him, so he tried to include me in all his
12 activities.

13 Q This special bond between you and your brother,
14 did that pass over when you went to college and lived with
15 him in Washington, D.C.?

16 A Absolutely.

17 Q I will get on to that.

18 In 1954, your mother returned, and Elham was born
19 in Iran; is that correct?

20 A Correct.

21 Q Your brother Elham is not here today. He's a very
22 sensitive human being, I understand?

23 A Extremely so.

24 Q And do you think he's able to testify about these
25 things?

1 A I believe he would stutter to the extent that you
2 would not understand him.

3 Q Okay. He lives in California now?

4 A San Francisco.

5 Q Okay. And you and I spoke about this and made a
6 conscious decision he wouldn't be able to testify?

7 A Yes.

8 THE COURT: How old is your brother now?

9 THE WITNESS: Forty-five, forty-six.

10 THE COURT: What does he do as an occupation?

11 THE WITNESS: He has injury and is not working
12 right now. He has severe limp in his leg, which was due to
13 some kind of work-related injury. I'm not exactly sure.
14 But he had many jobs: scientist, reporter.

15 BY MR. HIRSCHKOP:

16 Q In 1958, did your mother bring you four kids back
17 to the United States?

18 A We came here as landed immigrants, if that's the
19 right term. I'm not sure. My father became a citizen, and
20 there was some kind of petition in the whole family,
21 extended family, the four kids and the wife. My mother
22 came.

23 Q Your brother was naturalized in the United States
24 as a citizen in 1961; is that correct?

25 A All kids under 18, which is all four of us were

1 naturalized in one day.

2 Q When I said your brother, I mean Cyrus.

3 A Cyrus, myself, and my sister and my younger
4 brother.

5 Q When you came here in 1958, was that like meeting
6 your father for the first time?

7 A Certainly for me, and I believe for my sister, and
8 definitely for my younger brother. I don't remember my
9 father when--he left when I was less than two. My sister,
10 as I said earlier, was three to four months, and my younger
11 brother never met my father. So, for me, it was the first
12 time.

13 Q Did your father practice medicine in Long Island?

14 A He did.

15 Q And did you kids go to school in Long Island?

16 A We did.

17 Q And Cyrus, did he graduate from high school in
18 Long Island?

19 A Yes, Cyrus and myself and my sister graduated from
20 Long Island.

21 Q About the time your brother was graduating high
22 school in 1962, the year after he was naturalized, did your
23 parents determine to get married--to get divorced?

24 A Absolutely.

25 Q And what kind of ultimatum did your father give

1 you children?

2 A Well, I don't know if "ultimatum" is the right
3 term, but he called us in and said, We are getting divorced,
4 and by law I have to support you until you are 18. This is
5 the United States. You have a choice with which parents you
6 choose to live. If anybody goes with your mom, I will stop
7 supporting you upon--at that time 18 I guess is legal
8 age--when you became of age.

9 Q What did your brother Cyrus tell you children?

10 A Well, then we met with my mother, and my brother
11 explained to my mother that he was about to go to college,
12 and there was no way my mother could afford the tuition even
13 at that time. So, he chose to stay with my father for
14 financial reason, and he stated that to my father face.

15 Q How did your father deal with that?

16 A I don't believe he ever forgave him until he was
17 assassinated.

18 Q And did your brother Cyrus stay with your father?

19 A He did.

20 Q He then went to college, and your father helped
21 him?

22 A He did.

23 Q All right. Where did your brother Cyrus go to
24 college?

25 A In Washington, D.C., American University.

1 Q Did Cyrus tell you other kids--you kids, I'm
2 sorry, Doctor.

3 A Sure.

4 Q At the time his younger brothers and sister, to
5 stay with his mother?

6 A He advised us. He did not tell us anything. He
7 always advised.

8 Q Did you three look to him as the older brother at
9 that time as partly a father figure to give advice?

10 A I believe I was closest to him than I was to my
11 father at any time in my life.

12 Q When you then children turned 18, did your father
13 cut all of you off as he said he would do?

14 A I can only speak for myself. Yes.

15 Q And after that, did your brother Cyrus help
16 support you?

17 A Yes.

18 Q Did he always help support your mom?

19 A Always. Not just me. He helped support the
20 entire family.

21 Q Did there come a time when you determined to go to
22 American University to get your Bachelor's degree?

23 A Yes. I consulted my brother, and I had several
24 acceptances. It was a purely economic decision. When I
25 went to American University, I could live with him, and

1 there was no rent, so I went to American University.

2 Q Did he help pay for your tuition?

3 A He did.

4 Q Did he take all his money and put it in a joint
5 checking account with you?

6 A We both had one account. You only use your
7 initials. Sometimes they thought we were husband and wife.

8 Q And did you routinely send whatever money you had
9 left over in that account to your mother?

10 A All the time. Weekly basis.

11 Q When your sister turned 18, did your mom then
12 determine to return to Iran?

13 A Again, it was based on consultation, financial
14 reason. My sister obtained a scholarship from American
15 University of Beirut, so my mother took my younger brother,
16 Elham, went back to Tehran, and my sister went to American
17 University of Beirut.

18 Q Is Elham E-L-H-A-M?

19 A It is.

20 Q When did you graduate college?

21 A I graduated college in '67.

22 Q Did you then go for a Master's degree?

23 A I did.

24 Q Where did you go for the Master's degree?

25 A Went to American University.

1 Q Okay. Did there come a time that you went to
2 Tufts?

3 A Yes. I went to medical school at Tufts initially
4 and transferred to Dalhousie University, faculty of medicine,
5 in Nova Scotia.

6 Q Did your brother Cyrus continue to help you with
7 funds throughout that entire period?

8 A Yes.

9 Q In 1967 or '68, your brother got his Ph.D.; is
10 that correct?

11 A Correct.

12 Q And he stayed at American University and taught
13 for four or five years there?

14 A He did.

15 Q Then where did he go?

16 A I don't know the exact events, but he went back to
17 Iran to teach at I believe it was called Mellee University.
18 I'm not hundred percent sure.

19 Q Were you aware that there were problems with SAVAK
20 about his getting a job in Iran?

21 A Yes. I was aware that my brother was, through the
22 last two years of his Doctorate, involved with some kind of
23 secret organization, and he kept his confidentiality, but
24 there were hints. I was living with him. And when he
25 called me to told me that he was thinking of going to Iran,

1 he said he was not sure that there may be people who would
2 call me to ask me questions, and he was going to teach, and
3 he was going to get--he was getting difficulty getting some
4 kind of clearance.

5 At this time, as I testified earlier, we were
6 American citizens, and I was concerned that if you're an
7 American citizen, you can't work for the government of some
8 other country, and he told me that he have dual citizenship,
9 and that's okay, and I should answer truthfully to whoever
10 calls me up.

11 Q After he taught for a while in Iran--strike that
12 for a moment.

13 I asked you about SAVAK. SAVAK was the
14 predecessor to MOIS.

15 A Yes.

16 Q That was the group under the Shah that handled the
17 intelligence and things like that.

18 A Yes.

19 Q Now, after your brother taught for a while in
20 Iran, did he become the assistant to Dr. Ganji who was the
21 minister of education?

22 A Yes.

23 Q And did he remain the assistant minister of
24 education until the revolution?

25 A Correct.

1 Q You described your brother as someone very caring
2 and a family and taking care of his younger sister and
3 brothers.

4 Was he someone you described always that had a
5 loftiness of human spirit?

6 A My brother was very concerned about humanity, even
7 when he was in Iran during the Shah, especially with respect
8 to freedom for women, and afterwards he was even more
9 concerned about what he felt the government--the
10 fundamental--injustices for fundamental human rights, and he
11 very much wanted to do something about that.

12 Q Have you recently asked your younger brother in
13 Los Angeles to put in writing what he felt your brother
14 believed in?

15 A Yes. As you know, I was asked to write a very
16 short synopsis in the last 24 or 48 hours, and I had to
17 cancel many things because this came to me and wasn't aware
18 how fast this was happening, so I asked my brother to--if he
19 could help me out by composing this. We had discussed this,
20 and he did, and I believe I have given you his version.

21 Q Do you have a copy with you?

22 A I do.

23 Q Okay. Could you take that out, sir.

24 Now, this version, did lawyers have any input in
25 what went into this document at all?

1 A Not only I spoke to them, I asked them, could you
2 please write something for me that I would edit. When I
3 received it, there was no room for me to do any editing. I
4 thought it was very nicely done, so I forwarded it to you
5 without any changes.

6 Q This is your brother's view and your view of what
7 your brother Cyrus believed; correct?

8 A Yes, except my younger brother put it in much
9 nicer language than I could have.

10 Q Read it to the Court.

11 THE COURT: Do you adopt what your brother has
12 written there?

13 THE WITNESS: Absolutely.

14 THE COURT: All right.

15 BY MR. HIRSCHKOP:

16 Q Read it, if you like.

17 A I could read parts of it, if you like.

18 THE COURT: Do you want to read all of it?

19 MR. HIRSCHKOP: Except where it says "comma" and
20 "deleted," but I want to show the whole thing to the Court.

21 BY MR. HIRSCHKOP:

22 Q Read what in there explains what your brother was,
23 what you people thought he was.

24 A Well, it starts out, I think I can--

25 THE COURT: Tell me again the age differential

1 between your brother Cyrus and the one who is writing that
2 document.

3 THE WITNESS: Eleven years.

4 THE COURT: All right.

5 THE WITNESS: Before reading it, if I could say,
6 the person who probably most regarded my older brother Cyrus
7 as a father figure would be my youngest brother.

8 My youngest brother first describes some
9 educational background which we have already gone through,
10 so if you don't mind, I will skip that.

11 BY MR. HIRSCHKOP:

12 Q All right.

13 A Then it goes on saying something like this,
14 (reading):

15 Cyrus's outlook was a progressive one, and he
16 championed woman's rights, taking good care of the
17 environment, and the pre-eminence of individual
18 responsibility in personal and social matters long before
19 they became cliché. The last book he was rereading was The
20 Case of Modern Man by Charles Frankel.

21 I want to say that Cyrus's life and work, it was
22 the loftiness of what the human spirit and its endeavors
23 could do that was both the fuel and destination of Cyrus's
24 energies and efforts, in spite of the predominant darkness,
25 weakness and cruelty of the conflict of man. Cyrus believed

1 he had the obligation to pursue first the study of and then
2 to bring to reality social and political conditions
3 affording people more dignity, respect, opportunity and
4 freedom, to get to the places where everyone could rightly
5 feel themselves as respected and contributing members of
6 society.

7 These are not just words. Cyrus was the kind of
8 person that the African-American students would come to his
9 university office and cry and bare their sole because no one
10 had before acknowledged and respected them the way Cyrus
11 did. Cyrus was the kind of person who would encourage the
12 university janitor to continue the education and take
13 classes while writing position papers for the government. By
14 all this I mean say Cyrus was the kind of person who would
15 latch on to people sense and hope and responsibility they
16 themselves often were not in touch with and stimulate them
17 to go higher in life and spirituality. I can comfortably
18 say he inspired many, many students and policy makers and
19 everyday people intersecting his life to do better. And
20 would do this better than most priests and politicians, more
21 like a big brother.

22 Cyrus's approach to fighting for rights in Iran
23 was one of revelation and inspiration. He tried very hard to
24 bring stories of the everyday people in Iran to light and
25 illuminate how the current government abrogated rights of

1 fundamental human dignity and freedom in Iran by making
2 publicity known numerous violation of human rights in Iran
3 by the government and how the government threatens friends and
4 foe by espousing obedience to the human rights charter and
5 giving people hope that things do not have to be the way
6 they presently are short of physical coercion. Cyrus thought
7 he could do the most for the people of Iran. Again, he
8 strove for honor and dignity for everyone, both at a
9 personal and institutional level.

10 As our parents were divorced when the children
11 were young, Cyrus being the oldest child, adopted many of
12 the father's responsibility to his siblings. He encouraged
13 all of us to be and do better. He financially and
14 emotionally supported us, but his example had been each of
15 us with college tuition as college advisor, even as he was
16 working as a student himself. He was always there for us as
17 an older brother and turned to for help as a father would
18 be. These actions, combined with optimistic nature even in
19 the face of something--sometimes sorry circumstances,
20 carried us forward individually and as a family. He was
21 also very, very cool in style and taste in college, always
22 without being pretentious. Given all the strengths and all
23 he did and how he loved us, he can only imagine what a
24 wonderful brother and central hub to my family, including my
25 mother and my father, aunt, cousin (all of whom grew up

1 together in the same household), Cyrus was to us. My
2 mother chose not to marry because she wished to devote
3 herself to her children. She was destroyed by Cyrus's
4 assassination.

5 No matter how bad a situation, Cyrus always tease
6 out positive and constructive path to pursue.

7 In graduate school, he had copy of Picasso's
8 Guernica in his apartment wall, displaying closely with man
9 can do so readily. Cyrus was not a star-eyed dreamer. He
10 had a very good tap on the world history, which is why he
11 strove so hard to improve people's lot and respect of human
12 rights. His political hopes for Iran was a country
13 tolerance and everyone's right in pluralistic democracy.
14 Cyrus had many efforts to enhance woman's rights in Iran.

15 Finally, he would also say people cannot expect to
16 be better government and conditions until they came better
17 themselves personally. He would say before you criticize the
18 government, make sure that you are doing right yourself.

19 Not because he was my brother, but because of who
20 he was, Cyrus was very special and inspiring. He left a
21 long trail of people who live--whose life he positively
22 touched, and he had so much more to offer. It wouldn't make
23 sense for others to understand, but in Cyrus's case, for his
24 family, the brightness of the day, the shine of everything
25 around us has darkened in a way that can't come back, and

1 the stars and the moon and the sheen seems often invisibly
2 stained by the acrid smoke of hate and abomination, but no
3 matter how it passes, still burns you.

4 That's my brother's.

5 Q And just so I'm very clear, I have never
6 spoken--had any communication with your brother or anyone in
7 my office.

8 A Not as far as I know.

9 Q This was solely something you asked him to put his
10 thoughts about his brother on paper?

11 A He did this within six hours of me asking him to
12 do this.

13 Q And you say you agree with it, when the Court
14 inquired. There is one thing in here about your mother,
15 (reading) My mother chose not to marry because she wished to
16 devote herself to her children. She was destroyed by
17 Cyrus's assassination.

18 Was your mother able to attend Cyrus's funeral?

19 A My mother had a very severe heart condition, and
20 the fact that my brother was assassinated was judged by my
21 sister, who was in Iran at that time, to be withhold from my
22 mother's knowledge. And when she learned that this
23 happened, I'm told that she had a second heart attack.

24 Q Your brother mentions the picture of Picasso's
25 Guernica on the wall.

1 Was that the picture you two shared when you lived
2 together?

3 A He had taken me to show it to me, and he did it
4 with such passion that I bought it for him as a present.

5 Q And last time he left, when he was divorced--I'm
6 going to get to this a little later--in L.A., did he give
7 you a present? One thing he treasured.

8 A Well, he wasn't getting divorced at that time. I'm
9 sorry if I led you to believe that.

10 Q That was probably my error, sir.

11 A He called me up and asked me to come out because
12 he was about to make a major decision, and he was asked to
13 rejoin Dr. Ganji in Paris.

14 THE COURT: This is approximately when?

15 THE WITNESS: '82, '83, possibly '84. I can't be
16 a hundred percent sure.

17 So, I was at NIH at that time. I flew over the
18 weekend, and we had long discussions, and his wife did not
19 wish to go to Paris. And I'm only telling you his side
20 because I have not spoken to her about it, and he said that
21 she gave him ultimatum that if do you this, that means you
22 are leaving me, and he was very uncomfortable with that
23 ultimatum. We discussed the pros and cons, and I advised
24 him at that time that I'm not someone who could render good
25 advice because I was having my own family problems.

1 Nevertheless, we discussed this at length, and he
2 said he really wants to do this, and if he has to lose his
3 family over it, he would, and that there were certain items
4 that would be--were personal, were work-related that would
5 not be appropriate to live in the house because it would be
6 cumbersome, so he asked me if I could pack those and send it
7 and save it in my basement or give them away. They were
8 mainly political posters and stuff like that, which I did.

9 Then he took a book out which was a pencil
10 charcoaled etching, I want to say, of the poorest villages
11 of Iran. So, I treasured this book, and I don't know what's
12 going to happen to me. I want this to stay in the family,
13 so I want you to promise me that you will keep this for me
14 until I ask you for it. I still have it.

15 Q That was the book your brother left you?

16 A Yes.

17 Q Now--

18 THE COURT: Excuse me. Did Cyrus have children?

19 THE WITNESS: He did not.

20 BY MR. HIRSCHKOP:

21 Q And your father and mother are now both deceased?

22 A They are both deceased.

23 Q Cyrus went to Iran. Did he marry in Iran?

24 A Sorry. This is now going back in time?

25 Q I'm sorry, prior to the revolution.

1 A Prior to revolution, he went back--when he first
2 went to teach at Iran, he subsequently got married to the
3 wife that we were just speaking about. He only married once.

4 Q And when he was in Iran, did you keep close
5 communication with your brother?

6 A Very much so. Initially, it was by phone and
7 letters which I still have cherish.

8 Subsequent, when he joined Dr. Ganji as assistant
9 minister--I'm not sure what the title was--he would visit
10 the United States at least twice a year for variety of
11 reasons, and he would make it a point to come and visit me.
12 He would not ask me to go to visit him. He would come and
13 visit me. And at that time I was doing fellowships and
14 training, so he would come to my--where I was.

15 Q Did he visit you in Boston and NIH here and Canada
16 and Louisiana?

17 A Absolutely, in all those places.

18 Q And did you speak with him regularly on the phone
19 while he was in Iran?

20 A I would say at least once a month, possibly twice
21 a month.

22 Q In 1979, did you become aware that there was a
23 notice of death sentence passed on your brother by the
24 revolution?

25 A My mother called me and told me that, and asked me

1 if I could speak to my brother. I believe he wanted to
2 protect me. At first he denied it, and he told me that it
3 was, and I should not worry. It was just propaganda.

4 Q Did your brother delay leaving Iran for any
5 reason?

6 A Yes, I had spoken to him consistently, and he told
7 me that things were in turmoil, and that he was worried
8 about his friend, Dr. Ganji, and he told me that I couldn't
9 speak on the phone, take my word for it, he will leave as
10 soon as he can.

11 Q Did you subsequently find out that he actually hid
12 Dr. Ganji in his house?

13 A Subsequently, I found out that he hid Dr. Ganji in
14 his basement, I believe, moving possibly twice, finally
15 driving with a third party to northern border of Iran, and
16 putting Dr. Ganji, I believe, on a mule or a donkey--I'm not
17 sure which--and crossing the Turkish border.

18 Q When he got home, was his house was ransacked?

19 A His house was ransacked because by now they
20 figured out he was hiding someone.

21 Q Did he and his wife then flee Iran to the United
22 States?

23 A That's when they fled.

24 Q After he fled to the United States, did he teach
25 at Michigan State University for a while?

1 A Yes, he went to the University of Michigan. I
2 want to say Ipsewich, but I'm not sure that's the right
3 city. It came to me.

4 Q Did your sister also return to the United States
5 at that time to go to the University of Michigan?

6 A Yes. She transferred to the University of
7 Michigan at Ann Arbor, and I believe that one of the reasons
8 that he went to Michigan was to be close to my sister, so he
9 could visit her on the weekend and help her out.

10 Q Did your brother Cyrus take care of your sister?

11 A Absolutely.

12 Q Did he help pay for her college education at
13 University of Michigan?

14 A Almost exclusively single-handedly.

15 Q After teaching for a while in Michigan, did he
16 then go to Dallas to work with Dr. Ganji sometime in the
17 early eighties?

18 A Yes.

19 I'm sorry. I forgot to tell you something. I
20 believe my younger brother also graduated from the
21 University of Michigan, and Cyrus helped him with his
22 tuition.

23 Getting back to your last question, yes, he
24 subsequently went to Dallas, and again was working with Dr.
25 Ganji.

1 Q Did they have work for some pro bono outfit in
2 Dallas?

3 A I'm under that impression that they were doing.

4 Q Did they run a bakery?

5 A They ran a fancy French bakery that I read about
6 in the New York Times.

7 THE COURT: Can I see you up here for a moment?

8 (Bench conference.)

9 THE COURT: I suspect your economist has
10 arrived--I'm not sure--and somebody has been going in and
11 out and escorting these gentlemen, so it seems to me that
12 this may be the moment where you want to interrupt the
13 testimony and put on the economist. But it may not be the
14 economist, so you are going to have find out.

15 (End of bench conference.)

16 THE COURT: Premature?

17 MR. HIRSCHKOP: You're exactly correct, Your
18 Honor. If I may finish one little line of questioning, then
19 I will interrupt this witness.

20 BY MR. HIRSCHKOP:

21 Q After he ran a bakery for a while in Dallas, did
22 Dr. Ganji then go to Paris to start the freedom--or take
23 part in a freedom organization with regard to Iran?

24 A I will very quickly tell you that during this
25 interval, my brother brought his in-laws to the state, and

1 the in-laws had moved to California.

2 Q Los Angeles?

3 A Los Angeles in particular.

4 And he called me up and says Dr. Ganji is going
5 back to Paris, and his wife did not want to do that, so they
6 have decided to move to be closer to the parents of the
7 wife, and they were moving to Los Angeles.

8 Q Did your brother then move to L.A. and run a
9 grocery store?

10 A In-laws had purchased a grocery store, and he went
11 and became the manager of a grocery store.

12 Q And is that when after a short period you went to
13 Los Angeles to talk to him, as you were testifying a little
14 earlier this afternoon--

15 A That's precisely the case.

16 Q --about his desire to go to Paris, to join a
17 government in exile?

18 A That's precisely the case.

19 Q He had the choice of leaving his wife or going to
20 Paris?

21 A Right.

22 MR. HIRSCHKOP: Now would be a good time to
23 interrupt.

24 THE COURT: We are going to interrupt your
25 testimony at this time, sir. I understand a witness has

1 arrived, and it's important that we complete that witness
2 today.

3 THE WITNESS: Of course.

4 THE COURT: Thank you. We will come back to you
5 as soon as we can. If it's today, fine. If not, tomorrow
6 morning.

7 (Brief recess.)

8 THE COURT: The danger of taking a recess is
9 people hear about it, and they come to ask questions and
10 have solutions to their problems in my so-called recess.

11 We are ready. Good afternoon.

12 MR. MOOK: Good afternoon, Your Honor. Jonathan
13 Mook for the estate of Cyrus Elahi.

14 THE COURT: All right.

15 MR. MOOK: I would like to call Jerome Paige to
16 the stand.

17 JEROME S. PAIGE, PLAINTIFF WITNESS, SWORN

18 THE COURT: Good afternoon, Dr. Paige.

19 THE WITNESS: Good afternoon, Judge.

20 DIRECT EXAMINATION

21 BY MR. MOOK:

22 Q Dr. Paige, if you could state for the record your
23 full name and address.

24 A Jerome, J-E-R-O-M-E. Last name is Paige,
25 P-A-I-G-E. And my address is 1691 Tamarack Street,

1 Northwest, T-A-M-A-R-A-C-K, Street, Northwest, Washington,
2 D.C.

3 Q And Dr. Paige, what is your present occupation?

4 A I'm here today in the capacity as an independent
5 forensic economist to provide expert testimony.

6 In addition to providing expert testimony in
7 forensic matters on a part-time basis, I'm on the faculty of
8 the National Defense University in Washington, D.C., in the
9 Information Strategies Department.

10 Q Before that, what was your occupation?

11 A Okay. I have been at the National Defense
12 University for about a little over four years. Prior to
13 that, I was with the University of Baltimore from 1990 to
14 1996. In that capacity, I was academic administrator. The
15 title I had on the campus was Associate Provost,
16 P-R-O-V-O-S-T. And I had the responsibility for campus-wide
17 planning issues such as academic planning, curriculum
18 planning, and other areas that focused on campus-wide
19 issues.

20 Q And Dr. Paige, if you could just briefly state to
21 the Court your education after high school.

22 A Okay. After school, I have an undergraduate
23 degree in economics from Howard University. I received that
24 in 1971. In 1974, I received a Master's degree in economics
25 from American University in Washington, D.C. And in 1982, I

1 received a Doctorate degree in economics from American
2 University.

3 Q Okay. And do you have any professional
4 certifications?

5 A I don't have any professional certifications
6 beyond the degree. I'm a member of economic organizations,
7 member organizations, the American Economic Association, the
8 National Economic Association, and the Association of
9 Forensic Economists.

10 Q And Dr. Paige, within the last five years, have
11 you authored any articles or made any presentations in the
12 area of economics?

13 A In the last five years, most of my areas have been
14 in the area of public policy in areas related to strategic
15 planning. Nothing related specifically to items that I'm
16 testifying to today, and background of forensic economics.

17 Q And how long have you been--dealt with the area of
18 forensic economics?

19 A I have been providing expert testimony in forensic
20 economics since 1982.

21 THE COURT: Is forensic economics a subspecialty
22 of economics?

23 THE WITNESS: Yes, it's the application of
24 economic principles to civil litigation matters.

25 THE COURT: Does that require a separate degree,

1 or by experience is sufficient to establish your credentials
2 in that regard?

3 THE WITNESS: By experience, education and
4 experience.

5 THE COURT: All right.

6 BY MR. MOOK:

7 Q Okay. And Dr. Paige, I would like you to turn
8 your attention--there are some books in front of you.
9 There's one book that I think has Exhibits 50 to 100 or
10 over.

11 A Right.

12 Q If you could take a look at Exhibit 99.

13 A Yes.

14 Q And do you recognize that exhibit?

15 A Yes, I do.

16 Q And what is that?

17 A That's a brief summary of my professional
18 background.

19 Q Okay. And do you also have a more extensive CV?

20 A With me?

21 Q No. Have you prepared one--

22 A Yes.

23 Q --in the past?

24 A Yes, I have.

25 MR. MOOK: Your Honor, if we could offer to the

1 Court Exhibit 99-A, which is a six page--I'm sorry, a
2 seven-page CV of Dr. Paige.

3 THE COURT: That's a separate document? It's not
4 in the book?

5 MR. MOOK: It is not in the book as Exhibit 99-A.

6 THE COURT: So, we should read them both together?

7 MR. MOOK: Right.

8 THE COURT: I take it there is no objection.

9 MR. MOOK: I will ask this be admitted.

10 THE COURT: They're in evidence. I have agreed to
11 take all the exhibits in evidence, and then I will determine
12 what relevance and materiality and weight to give to them.

13 BY MR. MOOK:

14 Q Dr. Paige, have you previously prepared economic
15 analyses on the loss of income and fringe benefits of
16 individuals?

17 A Yes, I have.

18 THE COURT: Could I see that Exhibit 99-A.

19 MR. MOOK: Yes. Exhibit 99-A.

20 THE COURT: One will go to my clerk, and one will
21 go to me, and you may continue.

22 BY MR. MOOK:

23 Q Thank you, Your Honor. Have you presented
24 testimony before as an expert witness?

25 A Yes, I have.

1 Q Have you ever presented any testimony in cases
2 involving claims against the Government of Iran for
3 terrorist actions?

4 A Yes, I have.

5 Q Do you recall which cases in which you have
6 presented that testimony?

7 A The plaintiff's names, the last names, one was
8 Flatow, F-L-A-T-O-W. The second one was Eisenfeld. I'm not
9 quite sure how that's spelled there.

10 THE COURT: Those were before Judge Lamberth?

11 THE WITNESS: Yes.

12 The third one is Duker, D-U-K-E-R.

13 MR. MOOK: And I would submit to the Court and
14 move Dr. Paige to be qualified as an economic expert to
15 testify in this case on the issue of loss of income and
16 fringe benefits for Dr. Elahi.

17 THE COURT: Based on his experience, his education
18 and his educational credentials, he shall be so qualified.

19 MR. MOOK: Thank you, Your Honor.

20 BY MR. MOOK:

21 Q Dr. Paige, did you prepare an analysis pertaining
22 to the economic losses stemming from the death of Cyrus
23 Elahi?

24 A Yes, I did.

25 Q If I could turn your attention to Plaintiff's

1 Exhibit 100.

2 A Yes.

3 Q And Dr. Paige, is this the report that you
4 prepared on those economic losses?

5 A Yes, it is.

6 Q And again--

7 MR. MOOK: Again I seek the admission of this
8 document into evidence, along with just as the other ones
9 are being submitted.

10 THE COURT: All right.

11 BY MR. MOOK:

12 Q Dr. Paige, based upon your education, experience,
13 analysis you performed, do you have an opinion within a
14 reasonable degree of certainty within the standards of the
15 economic profession what the losses, the economic losses,
16 stemming from the death of Cyrus Elahi are?

17 A Yes, I do.

18 Q And based upon your education, experience and
19 standards within the economic profession, could you tell the
20 Court what that opinion is.

21 A Well, the opinion was divided into two parts.
22 Since the economic losses were estimated from a period
23 starting in 1999 up until the year 2008, we had to make some
24 estimation of what the losses--potential income and fringe
25 benefit losses would be for Dr. Elahi.

1 THE COURT: 1999?

2 THE WITNESS: 1990. I'm sorry. 1990 to the year
3 2008.

4 BY MR. MOOK:

5 Q Dr. Paige, in preparing this analysis, what
6 factual information did you use in making the analysis of
7 the economic losses?

8 A Well, I had some information on Dr. Elahi, his
9 age, his educational background, and his work history.

10 Q Okay. And Dr. Paige, you mentioned that you made
11 two different calculations; is that correct?

12 A That's correct.

13 Q And what is the basis for making two calculations
14 of the economic losses?

15 A Well, the basis for that fundamentally is that we
16 needed to come up with a number of options that would have
17 been available to Dr. Elahi. At the time of his death, he
18 was working or heading to work in humanitarian field, and
19 the economic losses would be associated with employment in
20 that type of work. But also Dr. Elahi had educational
21 background, training, and had been employed as a college
22 professor.

23 So, since we are trying to estimate economic
24 losses over a period of time, we did two scenarios, one
25 assuming that he would have stayed in the humanitarian

1 field, and the other assuming that he would have attained
2 the status of a college professor and worked in that field.

3 So, the two options are, one, based on his
4 immediate employment prior to death; and then the other was
5 based on his training and his experience and his work
6 history on campuses.

7 Q And Dr. Paige, did you have factual information as
8 to what Dr. Elahi's income was at the time of his death,
9 working in the humanitarian field?

10 A Yes, I did.

11 Q And what was that information?

12 A That information was that he was earning
13 approximately \$4,000 a month.

14 Q Okay. And then in terms of pursuing a career in
15 the academic world, is there a way you came up with the
16 figure for how much he might be earning in that capacity?

17 A Yes. I relied on studies, particularly the report
18 that's published by the Bureau of Labor Statistics called
19 the Occupational Outlook Handbook, and in that it describes
20 the earnings of various professions, and there I was able to
21 obtain what the average would be for university professor.

22 Q And based upon that information, did you arrive at
23 a conclusion as to what the total lost earnings and benefits
24 would be for the estate of Dr. Elahi, first were he to
25 followed a career in the humanitarian field?

1 A Right. The estimates that we came up with would
2 be estimates, the total estimates less adjusted for a number
3 of factors, and adjusted for inflation or cost-of-living
4 increases, adjusted for taxes, and adjusted for personal
5 consumption. And then we have to adjust those down where we
6 call the "present value" where we could get in and talk
7 about that later.

8 Q Are those results specified in your report?

9 A Yes.

10 Q That is, Exhibit 100?

11 A Right.

12 Q I would like you to turn your attention to page
13 two of that report.

14 A Yes.

15 Q In the box of the top half of the page.

16 A Yes.

17 Q Does that present--does that box present a summary
18 of your analysis?

19 A Yes, it does.

20 Q And then what is the figure that your analysis
21 arrived at if Dr. Elahi continued in the humanitarian
22 profession?

23 A The adjusted figures for a number of--would be the
24 earnings losses would be \$447,866, and the fringe benefit
25 losses would be \$277,493, for a total loss of \$725,359.

1 Q And that is if he had pursued the humanitarian
2 career?

3 A That's correct.

4 Q And did you come a similar type conclusion with
5 respect to the losses had Dr. Elahi pursued a career as a
6 college professor?

7 A Yes. Assuming a U.S. college professor, the
8 earnings losses would have been \$561,504, and the fringe
9 benefit losses \$406,123, for a total of \$967,626.

10 Q Now, Dr. Paige, what I would like to do is take a
11 few minutes to go through with you the methodology that you
12 used to arrive at these figures. And I guess, first, is that
13 methodology explained in greater detail in your report?

14 A Yes, it is.

15 Q Okay. In terms of the factors that went into
16 these conclusions that you have reached, the first would be
17 the life expectancy of Dr. Elahi; is that correct?

18 A Yes.

19 Q And what conclusion did you reach with respect to
20 the analysis of life expectancy?

21 A The life expectancy figure or age would be 75.5
22 years.

23 Q And from where did you obtain that assumption?

24 A That's assumption--that would be the typical life
25 expectancy for all males in the United States.

1 Q Okay. In terms of how long Dr. Elahi would work,
2 what is the basis? Did you make any analyses or assumptions
3 there?

4 THE COURT: Is this in the humanitarian field, or
5 is this as a professor?

6 THE WITNESS: These assumptions would be for both
7 situations.

8 THE COURT: Same assumptions as to how long he
9 would work?

10 THE WITNESS: Yes.

11 THE COURT: Okay.

12 THE WITNESS: We assumed through age 65 based on
13 U.S. model that if he were working as--and contributing to
14 Social Security, he would have been available for full
15 Social Security benefits at age 65.

16 THE COURT: Excuse me, but he wouldn't get Social
17 Security benefits if he were working in the humanitarian
18 field as he was.

19 THE WITNESS: That's correct.

20 THE COURT: In his particular chosen area.

21 THE WITNESS: That's correct. We assume
22 retirement age is 65 in both scenarios in the humanitarian
23 field and the U.S. college professor.

24 THE COURT: But the benefits would only be if he
25 were a professor?

1 THE WITNESS: Well, it's my understanding that he
2 was--

3 THE COURT: I'm asking as a question.

4 THE WITNESS: I'm sorry, Your Honor. It's my
5 understanding that Dr. Elahi was receiving benefits in the
6 humanitarian field as well, such things as life insurance,
7 health insurance.

8 THE COURT: But not Social Security?

9 THE WITNESS: Not Social Security, but access to
10 other types of retirement programs, yes. He's using Social
11 Security largely as a retirement type of program.

12 THE COURT: Okay.

13 BY MR. MOOK:

14 Q With respect to lost earnings, I think you kind of
15 briefly just touched on that in terms of your testimony.
16 Lost earnings, what type of factors go into a calculation of
17 lost earnings?

18 A Well, if you turn to table two of six on the
19 report, I will walk you through that.

20 Q I got it.

21 A If you look at column three there, for the
22 humanitarian work, the assumption was that he was making
23 \$4,000 a month, and so twelve times four is 48,000, so that
24 the earnings losses are estimated to be on an unadjusted
25 basis of \$48,000 a year.

1 And then we assume, since this is international
2 work, there would be no U.S. taxes associated with it.

3 And then the economic losses in a case like this
4 is not the total income that an individual earns, but it's
5 the amount of income that would be available after the
6 individual took care of his own personal consumption needs,
7 so we have to reduce the earnings losses by the amount the
8 individual would have spent on himself in this case, and
9 that is represented in column five there.

10 Q And what did you use as a basis for determining
11 what the amount of consumption would be?

12 A Well, there are a number of studies. The Federal
13 Government publishes something called a "Consumer
14 Expenditure Survey," and that's how much people spend on
15 food, clothing, shelter, and how much they save typically on
16 average. And there have been other economists who have
17 taken that consumer expenditure data and adjusted it to come
18 up with what individuals would spend--what an individual
19 would spend on himself at various income levels.

20 And I relied on the studies of a set of authors by
21 the name of Patton and Nelson to estimate the personal
22 consumption adjustment in this particular case.

23 Q Is the Patton and Nelson study one that is
24 generally used by economists in making this type of
25 analysis?

1 A Yes, it is.

2 THE COURT: Did you have anything other than those
3 studies on which to base how much you believed Dr. Elahi was
4 spending on rent in Paris, food, and whatever else goes into
5 that equation, personal needs, fun, vacation, if he took a
6 vacation--I haven't heard that yet, but if he took a
7 vacation, savings, how much he put aside regularly for
8 savings or made contributions in? Did you have any of that
9 information?

10 THE WITNESS: No, not specifically, that's
11 correct. No, I did not.

12 THE COURT: Okay.

13 BY MR. MOOK:

14 Q Would it be correct the general assumptions or
15 general figures for an average that economists have come up
16 with?

17 A That's correct.

18 Q And you mentioned you had gone through this
19 procedure with respect to Dr. Elahi's work in the
20 humanitarian field. Did you do a similar type of
21 calculation had Dr. Elahi pursued a career as a college
22 professor?

23 A Yes, I did.

24 Q And is that reflected in your report?

25 A Yes, it is.

1 Q And where is that reflected?

2 A Look on table four of five.

3 Q And in making the adjustments for Dr. Elahi,
4 assuming he had followed a career as a professor, the
5 adjustments in table four of five for personal consumption
6 is in column five?

7 A That's correct.

8 Q Did you also make any adjustments for taxes--

9 A Right.

10 Q --in this area?

11 A Right. This would be an assumption he would be
12 working in the United States, so we made an adjustment for
13 Federal, state and local income taxes.

14 Q And by making that adjustment, that lowered his
15 net earnings?

16 A That's correct.

17 Q Okay. Now, in addition to lost income, did you
18 also take into account loss of fringe benefits of
19 employment?

20 A Yes, I did.

21 Q And how did that factor into your analysis?

22 A Well, that factored in analysis that it would be
23 registered as a separate source of either income and/or
24 savings that would have been available to Mr. Elahi or his
25 estate.

1 Q Okay. And what is the basis that you used for
2 determining the amount of lost fringe benefits?

3 A Okay. There is a Federal study put together again
4 by the Bureau of Labor Statistics called the Employment Cost
5 Index, and what that study outlines is the average
6 percentages that individuals in various lines of work
7 normally receive as benefits associated with employment.

8 Q Okay. So, you used generally accepted data for
9 the percentage of fringe benefits for various levels of
10 income?

11 A That's correct.

12 Q Okay. Did you have any factual information as to
13 whether or not Mr. Elahi, in pursuing his humanitarian work
14 with the Flag of Freedom organization, had fringe benefits?

15 A It was my understanding that there were some
16 fringe benefits available related to insurance, time off,
17 vacation, and some modest retirement types of investments,
18 contributions available to him.

19 Q Okay. So, your calculations for both Mr. Elahi
20 pursuing a humanitarian career or pursuing a career as a
21 university professor, included the lost benefits?

22 A That's correct.

23 Q Is that correct?

24 A Yes.

25 Q Now, were there any adjustments made in your

1 calculations with respect to either your growth or discount
2 factors?

3 A Yes.

4 Q Maybe if you could explain to the Court why it may
5 be necessary to make such adjustments in the calculations.

6 A Okay. Some of the losses had Mr. Elahi been
7 alive, we assume, say, if we take, for example, the
8 humanitarian example of \$44,000 a year, we assume that his
9 earnings would have kept up with inflation or cost-of-living
10 increases from 1990 through the year 2008 when he retired,
11 so that that would be the adjustment of taking into
12 consideration the increase in earnings over the course of
13 his remaining time in the labor market, so that the earnings
14 would increase from \$48,000 on an annual basis up until he
15 retired at age 65.

16 Q Okay. And similarly--

17 THE COURT: But increase to what? I mean, I'm
18 looking at the chart, and I may be reading it wrong, but
19 under "Earnings" it looks like from it went from 1990 at
20 8,000 to 1991 consistently through 2008 at 48,000. Am I
21 missing something there?

22 THE WITNESS: It would be working over the column,
23 but column three assumes no growth in earnings. Then column
24 four is the adjustment for taxes. Column five is the
25 adjustment for personal consumption. And then column six

1 is--would, in essence, be the economic loss had no growth
2 taken place. And column seven combines two factors: The
3 growth rate and the discount rate all into one factor to
4 adjust the base figures to come up with what are referred to
5 as the present-value figure.

6 So, in column seven, the earnings grew from 1990,
7 since we are in 2000, to the year 2000, and then beyond the
8 year 2000. There are two factors that come into play.
9 There was a growth because it will continue to go up, but
10 also since these losses would take place in the future, we
11 would have to adjust them to what we call "present value."
12 So, the percentages in column seven after 2000 combines both
13 the growth rate and the discount rate.

14 THE COURT: So, what would that mean that you
15 anticipated he would be earning in the year 2000--let's just
16 pick that year--which has the combined effect of growth and
17 discount factors, column seven as 130.50 percent?

18 THE WITNESS: I don't have what he would be
19 earning, the value economic loss would be. If you look in
20 column eight on the year 2000 line, it would be \$27,499.
21 So, that 27,499 would be after taxes, after personal
22 consumption, and after growth.

23 THE COURT: All right.

24 THE WITNESS: Then, if you go down to the next
25 figure which is beyond the year 2000, that would be after

1 taxes, after consumption, after growth, and after discount.
2 So, the future numbers are reduced partially because of the
3 discounting or what we refer to as the present-value
4 factors. So, the numbers up until the year 2000 account for
5 the past losses, which include only the increases due to
6 cost of living, and the losses beyond 2000 include the
7 cost-of-living increases adjusted down for the present
8 value.

9 BY MR. MOOK:

10 Q And does your report reflect what range of growth
11 of percentage you used for these calculations?

12 A Yes, I did. Yes, it does.

13 Q And do you recall what that percentage is or where
14 it's reflected in your report?

15 A Okay. If you look on table one of six--I'm sorry,
16 table one of five, on line forty, that the growth rates
17 vary, depending on the year, depending on the estimates for
18 that period, the actual growth rates and the projected
19 growth rates, they vary between 1.3 and 4.1 percent.

20 Q Rather low inflation?

21 A Well, the earlier years 1990 and so forth, the
22 inflation rates would be around three to four percent. More
23 recently, the inflation rates have been lower. The projected
24 inflation rates over the long term based on the studies that
25 we have looked at would be in the three to four percent

1 range.

2 Q Okay. Now, Dr. Paige, you also mentioned in
3 addition to the growth rate, the discount rate.

4 A Yes.

5 Q Maybe if you could explain what the discount rate
6 is and why that is a factor.

7 A Sure. Some of the losses take place after the
8 year 2000. They take place into the future. So, if we,
9 say, hypothetically assume that Mr. Elahi would lose \$40,000
10 five years from now, we would not want to award his estate
11 the \$40,000. We would want to award the estate something
12 less than \$40,000 because we would award an amount that, if
13 invested today, five years from now, the principal plus the
14 interest would be \$40,000. So, that interest factor was
15 what we referred to as the discount rate, so the future
16 losses are taken and discounted such that if somebody is
17 awarded an amount today, the principal plus interest in the
18 future would equal the actual level of the loss that would
19 occur in the future years.

20 Q And Dr. Paige, does your report reflect what
21 discount rates were used?

22 A Yes. In table one of five, the discount rates are
23 listed on line 41.

24 Q Okay. And those discount rates, I think it's 5.67
25 percent to 5.98 percent.

1 A That's correct.

2 Q How did you arrive at those figures?

3 A Those are rates that we use on an investment with
4 which we referred to as the state and local government bond
5 rate. So, the basic assumption would be that the state and
6 local government bond rates would be an appropriate type of
7 investment for someone who would receive an award, if that
8 were the case.

9 Q And is that a discount rate that's generally used
10 in the economic profession in making analyses as to lost
11 income or benefits?

12 A Yes, it is.

13 Q Okay. And Dr. Paige, then, in summary, is it
14 true, then, that based upon your education and experience in
15 performing these types of calculations, that to a reasonable
16 degree of certainty had Dr. Elahi continued to pursue the
17 humanitarian profession, a career in the humanitarian
18 profession, the present value of the losses to his estate
19 would have totaled \$725,359?

20 A That's correct.

21 Q And Dr. Paige, is it correct that, again based
22 upon your education and experience in performing these types
23 of analyses, that to a reasonable degree of certainty within
24 the economic profession, that had Dr. Elahi pursued a career
25 as a professor, the present value of the economic losses to

1 his estate would have totaled \$967,626?

2 A That's correct.

3 Q Dr. Paige, your calculations merely reflect the
4 monetary losses to Dr. Elahi's family and estate; is that
5 correct?

6 A That's correct.

7 Q The analyses you have done does not incorporate at
8 all any of the emotional losses or the pain and suffering
9 that Dr. Elahi's heirs or relatives may have felt; is that
10 correct?

11 A That's correct.

12 MR. MOOK: I have no further questions.

13 THE COURT: All right. Thank you, Doctor, for
14 your testimony. We appreciate it.

15 THE WITNESS: Thank you very much. Thank you for
16 your questions.

17 (Witness steps down.)

18 THE COURT: I think it might be appropriate to
19 stop at this time. We only have ten more minutes today, and
20 in any event we will pick it up tomorrow morning 9:30.

21 Tell me how we are doing progress-wise. I can
22 count the number of witnesses, but I don't know what they're
23 going to say.

24 MR. HIRSCHKOP: Dr. Elahi is about another half
25 hour to finish, and Dr. Clawson probably an hour. You have

1 the background. Dr. Clawson has a different economic
2 viewpoint, as an economist. And then Dr. Ganji will take a
3 little longer, probably a couple of hours, I think, because
4 you heard so much about him; he's central to this thing. He
5 lived with Dr. Elahi, not in the same apartment, but they
6 were day to day together for many years.

7 THE COURT: We will readily finish this tomorrow?

8 MR. HIRSCHKOP: Yes, Your Honor. If we get your
9 book, too, we will highlight it for tomorrow morning.

10 THE COURT: That's the second book, whichever. I
11 believe we gave you the earlier book. This is the later
12 book. Yes, you're welcome to it.

13 MR. HIRSCHKOP: We have a short videotape. It's a
14 videotape made by Dr. Ganji on the life of Dr. Elahi.

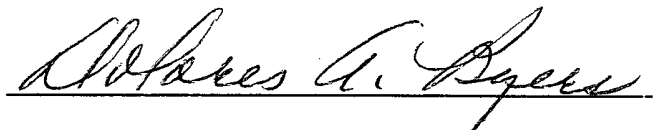
15 THE COURT: Fine. That would be very helpful.

16 Have a good evening. As far as your materials are
17 concerned, you're welcome to leave them. We never lost
18 anything yet; we never guarantee. And there is a closet
19 back there, if that's helpful to you. And I do have one
20 case preceding yours tomorrow morning at nine, but I don't
21 think they will be interested in your materials, as long as
22 they are off the counsel table. Otherwise, have a good
23 evening.

24 (Whereupon, at 4:20 p.m., the hearing was
25 adjourned until 9:30 a.m., the following day.)

CERTIFICATE OF NOTARY PUBLIC

I, DOLORES A. BYERS, CSR, the officer before whom the foregoing deposition was taken. do hereby testify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me stenographically and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto nor financially or otherwise interested in the outcome of the action.



DOLORES A. BYERS, CSR

Notary Public in and for
the District of Columbia

My commission expires: December 14, 2001