

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

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SUHAIL NAJIM ABDULLAH AL : Civil Action No.:  
SHIMARI, et al., : 1:08-cv-827  
Plaintiffs, :  
versus : Wednesday, October 30, 2024  
: Alexandria, Virginia  
CACI PREMIER TECHNOLOGY, : Day 1  
INC., : Pages 1-287  
Defendant. :  
-----x

The above-entitled jury trial was heard before the  
Honorable Leonie M. Brinkema, United States District Judge.  
This proceeding commenced at 10:08 a.m.

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P R O C E E D I N G S

THE DEPUTY CLERK: Civil Action  
Number 1:08-cv-827, Suhail Najim Abdullah Al Shimari, et al.  
versus CACI Premier Technology, Inc. This case comes on for  
trial by jury.

Would counsel please note their appearance for the  
record, first for the plaintiffs.

MR. MOLSTER: Good morning, Your Honor.  
Charles Molster on behalf of the plaintiffs. With me at  
counsel table is Muhammad Faridi, Bonita Robinson, Alex  
Mahler-Haug, Michael Buchanan back in the back, Scott Kim,  
also in the back, and Andrew Haddad. They're all from  
Patterson Belknap, Your Honor. Baher Azmy from the Center  
for Constitutional Rights. And then I have a couple of  
paralegals and some other members of our staff. Would you  
like me to introduce those as well?

THE COURT: We'll do that later during the voir  
dire.

MR. MOLSTER: Very well, Your Honor. Thank you.

THE COURT: Thank you, Mr. Molster.

For the defense.

MR. O'CONNOR: Good morning, Your Honor.  
John O'Connor for CACI. I'm joined by my co-counsel  
Linda Bailey, Nina Ginsberg and Joseph McClure.

THE COURT: Good morning.

1           And good morning, ladies and gentlemen. Thank you  
2 for being here today. You're here to be considered for  
3 service on a jury. This is going to be a civil trial that I  
4 anticipate I hope will not last more than two weeks. We are  
5 not going to hold court on next Tuesday, November 5, which  
6 is Election Day. So those of you who have not yet voted and  
7 want to vote in person can do so. But that Tuesday, you  
8 will not be -- we will not be in session. So we will be  
9 working the rest of this week, Wednesday, Thursday and  
10 Friday, and Monday, Wednesday, Thursday and Friday of next  
11 week.

12           Quite frankly, I am reasonably optimistic, unless  
13 we have some logistical problems, that we will finish all of  
14 the evidence Wednesday or Thursday of next week. But then  
15 we will have to leave time for the jury to what we call  
16 deliberate, to decide the case. And because the following  
17 weekend, Monday the 11th, is a Federal holiday, that could  
18 push deliberations into that week into that Tuesday or  
19 Wednesday.

20           So as you think about your ability to serve on  
21 this jury, we are going to need to have people whose  
22 calendars are sufficiently clear that they could be here for  
23 the full two weeks, I think at the outset would be the  
24 longest this case would go.

25           Now, in a minute, we're going to call attendance.

1 morning, folks. I want to thank the rest of the pool, but  
2 we have now chosen the eight people who will serve as the  
3 jury. The rest of you may leave. Thank you for your  
4 attendance. I'm going to ask you to be as quiet as you can  
5 because I want to give you all two minutes of instructions  
6 and then the morning break. All right.

7 I have longer instructions to give to you. I will  
8 do those after the lunch break. So we're almost on our  
9 normal schedule. We'll start again at five after 2.

10 The main thing is at this point, don't start  
11 thinking about this case at all. You've got an hour to have  
12 lunch. Relax a little bit. If you eat together, get to  
13 know each other. There's several places around here. If  
14 you want to go out, the weather is supposed to be quite nice  
15 today. There is a small cafeteria on the second floor where  
16 there are vending-machine-type things. But we want you back  
17 here promptly at five after 2 so we can begin the trial. I  
18 will give you some instructions at that point. We're going  
19 to give you some notebooks for taking notes. I'll instruct  
20 you about how to handle the note-taking, and then we're  
21 going to have the opening statements of counsel.

22 So I'm going to let our jury go now. And  
23 obviously make sure you don't overhear anything in the  
24 courthouse about this case. I don't think you'll bump into  
25 any of the lawyers, but if you should be in like an elevator

1 and you see a lawyer, if he or she does not make friendly  
2 eye contact with you, they're not trying to be rude; they're  
3 trying to to avoid any appearance of an out-of-court contact  
4 with a juror, because, at this point, they want to make sure  
5 that there is no problem in that respect.

6 All right. You're not to conduct any  
7 investigation about this case. So during the lunch break,  
8 please do not get on your phones and try to look anything  
9 up. You have to decide this case solely on what you see and  
10 hear inside of this courtroom. That's how our system works.

11 We will make this case go as quickly as possible.  
12 I know it's been a long morning. I will never make you sit  
13 this long again. But if you go with my court security  
14 officer, he'll show you where the jury room is. And if  
15 you'll just be back here by five after 2, we'll be in good  
16 shape. Thank you.

17 Counsel, you're staying for a minute.

18 THE COURT SECURITY OFFICER: Rise for the jury.

19 (Jury not present at 1:09 p.m.)

20 THE COURT: All right. So there was some issue,  
21 Mr. Molster, that you had wanted to raise before we got the  
22 jury in place?

23 MR. MOLSTER: Briefly, Your Honor.

24 I have a hearing on Friday. It was originally  
25 last Friday and Judge Porter moved it to this Friday at

1 10:00. It's in a cybersquatting case where I'm counsel for  
2 Discover Financial.

3 THE COURT: That's fine. There's so many lawyers  
4 in this case --

5 MR. MOLSTER: You don't think we need more?

6 THE COURT: That applies to you as well,  
7 Ms. Ginsberg. You're both local counsel. So if any lawyer  
8 has to be away, as long as there's one attorney per side and  
9 it doesn't slow the case down, you don't have to ask me for  
10 leave.

11 MR. MOLSTER: I may be a few minutes late on  
12 Friday.

13 THE COURT: That's fine.

14 Is there anything else?

15 Now, when we get back, as I said, I'll have my  
16 standard opening instructions I'll give the jury, and then  
17 each side has 20 minutes for opening statements. And then I  
18 assume we'll be ready to start with testimony; right?  
19 Anything else we need to address right now? No?

20 MR. MOLSTER: Not for us, Your Honor.

21 THE COURT: Then we're on recess until five after  
22 2.

23 (Court recessed for lunch at 1:10 p.m.)

24 AFTERNOON SESSION 2:07 p.m.

25 THE COURT: All right. Any issues before we bring



1 the jury in?

2 MR. O'CONNOR: No, Your Honor.

3 THE COURT: All right. Let's bring the jury in.

4 THE COURT SECURITY OFFICER: Yes, Judge.

5 (Jury present at 2:08 p.m.)

6 THE COURT: I'm going to ask you all to just move  
7 down a little bit. I like to be able to see my jurors'  
8 faces. If you're all hunkered down at that end, I can't  
9 watch you, just to make sure you're not going to sleep.

10 Very good. I mean, you can sit anywhere in the  
11 box, really. But, again, I do -- and I think sometimes you  
12 like to be able to make eye contact with me as well.

13 All right. Folks, now that you've had your lunch  
14 break, we're going to start the trial itself, and the first  
15 thing I want to caution you on is note-taking. So I think  
16 you all have your notebooks now.

17 There's no requirement that jurors take notes. In  
18 fact, many judges don't let jurors take notes. I think,  
19 especially for a multi-day trial, it can be helpful. If you  
20 like to take notes, if it helps you concentrate, feel free  
21 to do so, but you don't have to take notes.

22 If you do take notes, remember that they're only  
23 your own individual memory aid. They will not be evidence,  
24 and you're not to share them with each other. After each  
25 day's session, you have to leave the notebooks here, and

1 we'll get them back to you the next day.

2           You are eight co-equal judges, and each of your  
3 own individual memories about the evidence and opinions  
4 about the evidence is worthy of consideration and respect by  
5 all the other jurors. The fact that some of you may have  
6 taken a lot of notes and others of you may have taken very  
7 few or no notes doesn't mean that the person who took lots  
8 of notes that his or her memory is any better or opinion is  
9 any better than a juror who took no notes or very few. And  
10 as long as you don't let your note-taking skew your approach  
11 to the case, then you're welcome to take notes.

12           Now, in terms of the trial structure, after I stop  
13 talking, we're going to have the opening statements of  
14 counsel. The plaintiff has the burden of proof on most of  
15 the issues in this case, and so the plaintiffs will go first  
16 at each stage of the trial. So the plaintiffs will make the  
17 first opening statement. Now, we've limited the time for  
18 that to 20 minutes per side.

19           And an opening statement is basically a preview of  
20 what that side believes the case is going to show. If any  
21 of you do jigsaw puzzles, you would know that the cover of  
22 the jigsaw puzzle box has the picture of all the pieces put  
23 together. And many times in a trial, what you're getting is  
24 two different box covers, two different pictures. At the  
25 end of the day, you all have to decide how you put the

1 pieces together and what the final picture will look like.

2 After the plaintiff has made -- they have made  
3 their opening statement, then defense makes an opening  
4 statement on behalf of the CACI defendant. After that,  
5 we'll begin the evidence portion of the trial.

6 Now, in this case -- and I can't recall, are there  
7 stipulations?

8 MR. O'CONNOR: There are stipulations, Your Honor.

9 THE COURT: All right. Fine.

10 So there are basically three categories of  
11 evidence that you're going to have in this case. The first  
12 would be stipulations. Now, when the parties stipulate to a  
13 fact, that means that there's not going to be any actual  
14 evidence presented as to that fact. The parties have agreed  
15 that that fact is the case.

16 You, as the jurors, are the fact-finders. You  
17 don't have to accept a stipulation. Most jurors do, but you  
18 don't have to. But it does mean that there will not be any  
19 evidence presented to support that particular fact.

20 Then we have the testimony of witnesses. Now,  
21 again, because the plaintiff has the burden of proof, the  
22 plaintiffs will call their witnesses first. So after the  
23 opening statements are done, counsel for the plaintiffs will  
24 call a witness, and they will ask that witness all the  
25 questions that they have. That's called the direct

1 examination. When they have finished with that, then on  
2 behalf of the defendant, Mr. O'Connor or one of his  
3 colleagues will ask questions of the witness. That's called  
4 cross-examination.

5 If issues came up during the cross-examination  
6 which the plaintiffs want to clarify, they can't repeat, but  
7 if there's additional information that they feel is needed  
8 to clarify what came out on cross, they are allowed what is  
9 called redirect examination. And if something comes out in  
10 redirect examination that the defense wants to clarify, they  
11 are allowed to have a recross.

12 There often isn't cross-examination. There's no  
13 requirement for cross, there's no requirement for redirect  
14 or for recross, but that is the most that that witness would  
15 be exposed to. I call it two rounds of questioning. Then  
16 that witness sits down and plaintiffs' counsel will call the  
17 next witness and it goes on like that until all the  
18 witnesses from the plaintiffs' side of the case have been  
19 called.

20 Now, I mentioned to you earlier, most of the  
21 witnesses will be here in this courtroom testifying from the  
22 box over here, that's the witness box. We call them live  
23 witnesses. Then our two -- two of our three plaintiffs will  
24 be testifying live, but remote by -- over cable or satellite  
25 transmissions.

1           We will also have testimony that's been  
2 prerecorded of other witnesses. So those witnesses will not  
3 be in the courtroom, and their testimony was taken at some  
4 previous time during the course of the proceedings, and you  
5 will have that testimony.

6           Some of the witnesses in this case are going to  
7 have -- you will not get their names, and you will not be  
8 able to see them; you will only be able to hear them, and  
9 that's because there are some state secrets involved with  
10 some of the witnesses, so we'll get to that. But your job  
11 will be to evaluate the testimony of the witnesses.

12           Then the other type of evidence we have is  
13 physical evidence. Now, there's going to be a fair number  
14 of exhibits. I know there are going to be some contracts,  
15 there are going to be some manuals, there are going to be  
16 photographs, there may be some videotapes. That's what we  
17 call physical evidence.

18           Once the plaintiff has presented all of the  
19 testimonial and exhibits, you will hear the plaintiff say  
20 that they are resting. At that point, we would then turn to  
21 the defense, and we now reverse the order of things. So the  
22 defense counsel will then call their witnesses, and they  
23 will conduct the direct examination. Counsel for the  
24 plaintiffs will conduct any recross -- I'm sorry, any cross.  
25 If counsel for the defense feels that something came up in

1 cross with that witness that needs to be clarified, there  
2 will be a redirect, and then again counsel for the  
3 plaintiffs can do recross if something came up in the  
4 redirect. And we'll go that way until all the witnesses and  
5 all the physical evidence which the defense wants to enter  
6 into evidence has been entered.

7 At that point, there may or may not be a rebuttal  
8 case by the plaintiffs, which is permitted. It's very  
9 seldom in the case that we have a surrebuttal case. I can't  
10 tell whether that will happen or not in this case. But, at  
11 that point, the evidence portion of the trial is over.

12 The next phase of the trial will be the closing  
13 arguments of counsel, and this is the time when the lawyers  
14 for each side will try to sum up the evidence which they  
15 feel has been presented during the trial, and they'll argue  
16 to you the ultimate conclusion they want you to reach.

17 Plaintiff, again, because they have the burden,  
18 they'll go first with their closing argument. Then on  
19 behalf of CACI, counsel will make the closing argument for  
20 the defense. And, again, because the party with the burden  
21 has that extra burden, the plaintiffs are allowed a brief  
22 rebuttal closing argument. And then it's my job to give you  
23 the actual legal instructions. And I will read them to you.  
24 So you'll get them orally like this, but you will have  
25 physical copies of the instructions to take back with you to

1 the jury room.

2           When you go to deliberate, you will have with you  
3 your collective memories, your notebooks, all the physical  
4 evidence that's been entered into the record and my  
5 instructions.

6           We cannot give you transcripts of the trial  
7 testimony, so that's why we always warn jurors at the  
8 beginning, make sure that you're paying careful attention.  
9 It's not possible to turn a case around that quickly, and it  
10 also creates some other legal problems to start giving  
11 snippets of transcripts to jurors. So we do rely on a  
12 juror's memory in a case like this that's going to take a  
13 little bit of time. So that's why getting a good night  
14 sleep every time is the best thing you can do to be a good,  
15 well-prepared juror.

16           Now, during the course of a trial, a lawyer may  
17 object if the lawyer believes that something is going on  
18 that violates some rule of evidence or procedure or some  
19 earlier ruling in the case. It's my job to rule on an  
20 objection. If I think the objection is well made that there  
21 is, in fact, a problem, you will hear me either say  
22 sustained or granted, and those words mean the exact same  
23 thing. On the other hand, if I don't think there's a  
24 problem, I'll say denied or overruled. And, again, those  
25 two words mean the same thing.

1           Now, you should not draw any inference against a  
2 side because that side has filed an objection, and you  
3 should not try to make -- draw any inference from how I rule  
4 as to whether I think that side should win or lose the case.

5           Think about how an umpire or referee in a sporting  
6 events calls, like if it's baseball, balls and strikes.  
7 That's done to keep the operation going by the rules; it's  
8 not done to help one side or to hurt the other.

9           So the last thing is a little bit of a repeat what  
10 I told you earlier, but I just want to caution once again  
11 how important it is for juniors to very carefully follow the  
12 instruction about proper juror behavior. And that is, you  
13 must decide this case solely on what you see and hear in  
14 this courtroom. So you have to avoid any outside influence.

15           Now, I don't think there will be any media  
16 coverage about the case, but if there were to be, you have  
17 to immediately get away from it. So, you know, if it's in  
18 the newspaper or if it's on TV, turn it off or close the  
19 paper.

20           And you're not being sequestered, you go home  
21 tonight. You can tell your family members or your business  
22 colleagues that you're going to be in court for the next few  
23 days in a federal court. You're not to talk at all about  
24 the case, because I guarantee that if you start talking  
25 about what you're hearing in court, whoever you're talking



1 with will start giving your their 2 cents worth about the  
2 issues. And they're not sitting here. They're not going to  
3 see everything, they're not going to have all the  
4 information that is part of the case.

5 It's also extremely important these days with  
6 social media, do not -- if you have, you know, a Facebook  
7 page or whatever, you should not be on the Facebook page  
8 telling folks, oh, I'm sitting on this trial at the  
9 courthouse. Just stay away from any social media.

10 And as I said earlier, if you should feel that you  
11 bumped into somebody who might be chatting about the case in  
12 the hall or you see one of the lawyers, you know, you get  
13 away from any kind of a situation where it might appear as  
14 though there's been an improper contact with a juror.

15 My court security officer, Mr. Hendrick, is here.  
16 He works with jurors all the time. If you have any concerns  
17 or questions, let him know, and he'll bring that to my  
18 attention.

19 Counsel, any objection to the preliminary  
20 instructions?

21 MR. O'CONNOR: No, Your Honor.

22 THE COURT: All right.

23 MR. FARIDI: None, Your Honor.

24 THE COURT: All right. Then we're ready for  
25 opening statements.

1 Who is going to represent the plaintiffs for that?

2 MR. AZMY: I am, Your Honor.

3 THE COURT: All right. We'll give you a  
4 three-minute warning and a one-minute warning.

5 MR. AZMY: Three and one?

6 THE COURT: Yes. Three and one.

7 OPENING STATEMENT ON BEHALF OF THE PLAINTIFFS

8 MR. AZMY: Good afternoon, Your Honor. May it  
9 please the Court.

10 Ladies and gentlemen of the jury, this case is  
11 about securing justice for victims of one of the most  
12 disturbing and shameful episodes in recent American history.

13 Twenty years ago, the world learned of shocking,  
14 brutal and unlawful abuses perpetrated on Iraqi men held by  
15 the United States military in a notorious prison facility  
16 called Abu Ghraib. Men there were beaten, sexually  
17 assaulted, religiously humiliated, degraded and, yes, even  
18 tortured by U.S. soldiers working in the Abu Ghraib prison.

19 But these U.S. soldiers were not working alone.  
20 They worked hand-in-hand with employees of a large  
21 government contractor, CACI or C-A-C-I, the defendant in  
22 this case, who had a lucrative contract with the United  
23 States government to provide interrogators.

24 Now, everyone, including then President George W.  
25 Bush, and military leadership condemned the abuses at Abu

1 Ghraib and demanded accountability. Abu Ghraib betrayed  
2 American values, it violated military law and policy and  
3 U.S. and international law, and it left a lasting stain on  
4 America's reputation in the world. Our clients are three  
5 individuals who endured and survived the torture and  
6 mistreatment at Abu Ghraib.

7 My name is Baher Azmy, and along with my legal  
8 team, I'm very proud to represent these courageous men. Let  
9 me introduce them to you now.

10 Sitting here at counsel table is Salah Al-Ejaili.  
11 He is a journalist who lives in Sweden with his wife and  
12 three teenaged children. He will be testifying today live.

13 Next, if you look at the screen in the middle, is  
14 Asa'ad Al-Zuba'e. He runs a fruit and vegetable grocery in  
15 Iraq.

16 And next, Suhail Al Shimari, he's an educator and  
17 middle school principal in Iraq.

18 I need to stress that it is very painful for them  
19 to talk about what happened to them. It's very difficult.  
20 It brings back feelings of pain and shame. But they are  
21 also very grateful that they have the opportunity to tell  
22 you their story directly and the opportunity to seek justice  
23 from an American court of law.

24 You'll recall what I said about President Bush  
25 condemning the abuses and military leaders, so after the Abu

1 Ghraib scandal hit, they launched a number of  
2 investigations, and through a separate military process,  
3 unlike a civil process called a court-martial process, they  
4 found many military personnel, military police, responsible,  
5 and they were held accountable through this court-martial  
6 process. Some of them spent time in military prison.

7 Now, these military police were the ones working  
8 hand-in-hand with the CACI employees to abuse detainees, and  
9 some of these military police will testify for plaintiff to  
10 say that it was CACI interrogators that told them to abuse  
11 detainees.

12 So now despite the military -- other military  
13 investigative reports implicating CACI's employees in the  
14 scandal, did CACI ever punish or discipline their employees?  
15 No. And despite weeks into being sent to Abu Ghraib,  
16 CACI -- despite CACI management hearing about warnings of  
17 mistreatment there, did they investigate? No. They turned  
18 a blind eye and collected ultimately on a \$31 million  
19 contract.

20 So we are here, to determine whether CACI also  
21 bears legal responsibility for what happened to our clients  
22 at Abu Ghraib, and we submit the evidence will show that it  
23 does, that CACI not only knew of the abuses at Abu Ghraib,  
24 but they were willing and active participants in it.

25 So let me tell the story from a starting point.

1 You may recall in 2003, the U.S.-led coalition and invaded  
2 Iraq and toppled the military dictator there, Saddam  
3 Hussein. In the ensuing months, some chaos came about, and  
4 thousands of Iraqi men were swept up and detained by U.S.  
5 forces. Some of them were detained in what was a notorious  
6 prison under Saddam Hussein, Abu Ghraib, which the United  
7 States repurposed for a military prison. Our three clients  
8 were held at Abu Ghraib.

9 Now, the United States lacked sufficient personnel  
10 in light of these developments to conduct interrogations, so  
11 they entered into a lucrative contact with CACI to provide  
12 interrogation service. And let's look at the contract.  
13 It's an important document in this case.

14 Among other things, the contract was very specific  
15 about who was to do what. CACI was to provide resident  
16 experts to the military, and it was CACI, the contractor in  
17 this case, that was responsible to provide all supervision  
18 of their own employees.

19 Why did the military insist on that? A couple of  
20 reasons. First, the military didn't have time or capacity  
21 to train or supervise employees. And as we'll see later,  
22 military law required strict separation of military command  
23 from civilian command. They were mandated to be kept  
24 separate.

25 So CACI, even though it was a large military

1 contractor, had not been in the interrogation business in  
2 2003, so they sort of scrambled to find the "resident  
3 experts" to fulfill their contracts within weeks, and the  
4 evidence will show that CACI management knew they were not  
5 sending over real experts.

6 Let me talk to you about three of the employees  
7 that are at the heart of this case, CACI employees. There  
8 is Steve Stefanowicz, who's commonly known throughout Abu  
9 Ghraib as Big Steve. He had a commanding presence in  
10 interrogations at Abu Ghraib, but he had no prior experience  
11 interrogating detainees. His job before being sent to Abu  
12 Ghraib was selling jet skis in Florida. CACI management  
13 thought him "crafty." And two military investigative  
14 generals found his testimony dishonest.

15 There's Dan Johnson, commonly known as DJ. He was  
16 22 when he was sent there, and he's shown in a picture that  
17 shows the abuse of detainees. Tim Dugan is another employee  
18 similarly unqualified. So they were all sent as resident  
19 experts to Abu Ghraib.

20 Now, let me tell you a little bit about the  
21 facility there. Abu Ghraib is a sprawling facility. The  
22 black square is a part of Abu Ghraib called the hard site,  
23 but we're talking about a much smaller place where the  
24 atrocities happened in Tier 1, the red box. And let's go  
25 inside the prison.

1           These are pictures from inside Tier 1. You can  
2 basically see it's two floors with cellblocks on either  
3 side, and the second picture gives you a good scale, which,  
4 to us, suggests that no one -- that no abuse could happen  
5 there without people knowing about it.

6           So CACI employees and interrogators were sent to  
7 Abu Ghraib in about late September 2003 and then started  
8 working hand in hand with military police there in "a joint  
9 mission" to carry out interrogations.

10           A little word about terminology. We're going to  
11 talk about military intelligence, sometimes called MI. That  
12 includes CACI, largely interrogators. And MPs, sometimes  
13 called military police. These were largely low-level U.S.  
14 soldiers who were operating mostly as prison guards in the  
15 facility, and they had what they called a brotherhood.

16           Our clients arrived to Abu Ghraib soon after and  
17 were soon subject to the system of abuse that the  
18 brotherhood was implementing. So -- and even from the first  
19 night you will see, they endured torment that lasted  
20 throughout their time there.

21           Now, how did this brotherhood work? Well,  
22 testimony will show from the military generals and from the  
23 military police who were part of the brotherhood, that it  
24 was CACI who took control and ordered the MPs, these  
25 low-level prison guards, to treat detainees "like shit." To

1 "soften them up" for interrogations. To set the conditions  
2 for interrogations. Basically to break these human beings  
3 psychologically and morally so they become susceptible to  
4 interrogations that CACI and the MIs would want to  
5 undertake. That's what the evidence will show.

6 Now, there's a particular kind of evidence in this  
7 case, which is kind of remarkable. One bizarre piece --  
8 part of the Abu Ghraib scandal is that pictures were taken.  
9 Hundreds of pictures were taken, almost casually reflecting  
10 a casual attitude to the abuses there. They wound up on  
11 screen savers of employees in Abu Ghraib. And I'm going to  
12 show you some pictures of the kind of abuses that the  
13 brotherhood was engaged in.

14 Now, these pictures themselves don't -- in these  
15 pictures don't show our clients, but they are representative  
16 of all the sorts of things our clients suffered. And it  
17 brings me no pleasure to show you these photographs; they're  
18 very disturbing. They're hard to look at, let alone  
19 understand, but we have to.

20 This is one very common technique, forced nudity.  
21 You can see the fear on the detainees. All our clients were  
22 subject to this. Salah says he was kept naked at the hard  
23 site 75 to 80 percent of the nearly two months he was there.

24 This is use of unmuzzled dogs to scare detainees,  
25 another common practice. And this is very important, and



1 you have to look a little bit carefully. This depicts what  
2 we call a stress position. Notice the detainee's arms are  
3 stretched across his body vertically in a contorted and very  
4 painful position while he's hooded.

5 We will have an expert, a human rights expert,  
6 Dr. Jens Modvig, talk to you about what constitutes torture  
7 and cruel, inhuman and degrading treatment, which is a  
8 question you have to answer.

9 So when the military found out about the Abu  
10 Ghraib scandal, they acted very quickly and conducted two  
11 comprehensive military investigations. The first was  
12 undertaken by Major General Antonio Taguba, who will testify  
13 for us this week. He traveled to Iraq and found  
14 incontrovertible evidence of abuses and the kind of abuses  
15 our clients suffered. Let's look at what he found.  
16 Punching, slapping, kicking detainees. Forcing detainees to  
17 remove their clothing and keeping them naked for days at a  
18 time. Forcing naked male detainees to wear women's  
19 underwear. Using military working dogs to intimidate and  
20 frighten detainees.

21 He interviewed CACI employee Big Steve, Steve  
22 Stefanowicz. He made a recommendation for a reprimand, and  
23 here's what he found. Big Steve allowed and/or instructed  
24 MPs to facilitate interrogations by "setting conditions,  
25 which were unauthorized. He clearly knew his instructions

1 equated to physical abuse." He's talking about CACI  
2 employee Big Steve. And he found that Big Steve lied, made  
3 a false statement about -- to the interrogator about what he  
4 was doing.

5           After that, another investigation was ordered by  
6 Major General George Fay, who will testify through a video  
7 recording. He was sent there to look specifically at the  
8 role of MI, military intelligence. He interviewed 170  
9 personnel, who reviewed 9,000 pages of documents, and this  
10 is what he found, similar to Major General Taguba. These  
11 are the kinds of abuses he found. Physical abuse, slapping,  
12 kicking, twisting the hands of a detainee. Use of dogs  
13 prevalent to threaten and terrify detainees, which is a  
14 violation of law. Nakedness comes up over and over. Common  
15 practice of keeping detainees in the state of undress. Male  
16 detainees were naked in the presence of female soldiers.  
17 The nakedness was clearly degrading and humiliating. Other  
18 forms of humiliating and degrading treatments that were  
19 intended to degrade. That was the point, to soften them up,  
20 to set the conditions that were prohibited by the Geneva  
21 Conventions, Army policies and the Uniform Code of Military  
22 Justice.

23           Major General also made findings specifically  
24 about CACI employees. This is what his investigation  
25 revealed. This is anonymous in the report, but we all agree

1 that Civilian Number 5 is Tim Dugan. So he finds that Tim  
2 Dugan grabbed a detainee, handcuffed the detainee and  
3 dropped him on the ground and dragged him into an  
4 investigation room.

5 What about DJ? He encouraged Staff Sergeant  
6 Frederick, who will testify in this case, to abuse an Iraqi  
7 police detainee. He threatened the use of dogs saying to a  
8 detainee, if you see that dog there, if you do not tell me  
9 what I want to know, I'm going to get that dog on you, and  
10 he placed the detainee in an unauthorized stress position.

11 What about Big Steve? Lots of findings about Big  
12 Steve from multiple sources. Inappropriate use of dogs  
13 during an interrogation, pushed or kicked a detainee into  
14 the cell with his foot. He lied to Major General Fay's  
15 staff as well and he bragged that he had shaved the hair and  
16 beard of a detainee and put him in red women's underwear.  
17 These are what the reports will reveal.

18 And CACI will testify, of course, and they will  
19 likely say a few things in their defense. First, I expect  
20 they'll say, well, you'll never see a CACI interrogator who  
21 actually laid a hand on a detainee, and you won't see a CACI  
22 interrogator in a lot of these pictures. That is a  
23 distraction, what we call in the law a red herring, made to  
24 make you look the other way.

25 What is important here, and all we need to show is

1 an agreement, a conspiracy, and we will show that through  
2 the evidence because CACI MPs -- sorry, CACI interrogators  
3 told MPs to abuse detainees, soften them up, and then the  
4 MPs agreed and carried it out. That's what we need to show.

5 And the Court will instruct you on our two  
6 theories of liability. One, that CACI conspired with MPs to  
7 abuse detainees; and, two, that CACI aided and abetted MPs  
8 in abusing detainees.

9 CACI might rely on the defense that deflects  
10 responsibility to the Army and basically says we were just  
11 following orders of the Army. I expect you might hear CACI  
12 say something like we knew nothing, we saw nothing, we heard  
13 nothing, and that we lost all power to control any of our  
14 employees and gave up all responsibility to control our  
15 employees to the Army. The evidence shows just the  
16 opposite.

17 Now, remember, we looked at the contract before.  
18 The contract makes that legally insufficient or impossible.  
19 CACI supposedly -- CACI is supposed to supervise them. Why  
20 is that in the contract I mentioned? Because the military  
21 authorities require it. Let's look at two authorities in  
22 this case. One is what's called a field manual that's basic  
23 Army policy. AR refers to an Army regulation. We'll talk a  
24 lot about that in this case, and you will have an  
25 opportunity to review these in deliberations.

1           This is what the Army requires. It must be  
2 clearly understood that commanders, military commanders, do  
3 not have direct control over contractor employees. Bolded  
4 in the original text: Contractor employees are not  
5 government employees. Only contractors directly manage and  
6 supervise employees. It is the contractor who must take  
7 direct responsibility and action for his employees' conduct.  
8 And then affirmed by the contract, provided support services  
9 must provide necessary supervision and management functions.

10           So, what that reality reflects is that the Army --  
11 there are two sets of rules. The Army supervises its own  
12 soldiers through a chain of command. Civilians are not in  
13 the chain of command and supervised through the contract  
14 through their own supervisors, and never the two shall meet.

15           And, in fact, CACI operationalized this, as you  
16 will see. They operationalized the contract by sending, for  
17 example, a site lead in Abu Ghraib named Dan Porvaznik, and  
18 he was a supervisor there. He had the power to review  
19 interrogations, the power to hire and fire and discipline  
20 employees, to conduct performance reviews.

21           Now, you'll also hear something that also shows  
22 that CACI has something backwards. You'll hear this term  
23 command vacuum from the generals. Abu Ghraib and Iraq were,  
24 in some ways, disorganized, in some ways chaotic. And what  
25 the military generals observed is there was a command vacuum

1 in Abu Ghraib. Leadership wasn't there allowing people to  
2 sort of do whatever they want. And in that command vacuum,  
3 particularly on the night shift where commanders were  
4 absent, it's CACI interrogators that took control, and not  
5 the other way around, and ordered MPs to abuse detainees.

6 And of course you're going to hear from our  
7 plaintiffs, our clients, and they will describe in detail  
8 all the MP -- all the torment the MPs subjected them to. In  
9 very palpable ways, they are depicted in the pictures that  
10 you will see.

11 The evidence is going to show that Salah, Asa'ad  
12 and Suhail were victims of cruel, inhuman and degrading  
13 treatment and torture. It's going to show that CACI  
14 interrogators directed and encouraged these abuses.

15 Now, for Salah, Asa'ad and Suhail, the emotional  
16 pain of what they went through is lasting. They suffer from  
17 depression, anxiety, nightmares, irritability, particularly  
18 with family members, and social isolation. Everything we  
19 all know to expect from people who go through trauma.

20 So Salah, Asa'ad and Suhail are courageous  
21 individuals who have been waiting a long time to share what  
22 they endured in an American court of law. We ask you to  
23 listen to their story, and we will ask you to return a large  
24 monetary verdict against CACI for what our clients endured.  
25 And in so doing, we know that you all cannot cure the stain

1 of Abu Ghraib, but in so doing, you would have the power to  
2 provide a small measure of justice to individuals that have  
3 come to this court to seek it.

4 Thank you.

5 THE COURT: All right, Mr. O'Connor.

6 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

7 MR. O'CONNOR: Good afternoon. We met this  
8 morning. My name is John O'Connor, and along with the rest  
9 of our team, it's my privilege to represent CACI in this  
10 case.

11 I want to start with a couple of things that we  
12 wholeheartedly agree with the plaintiffs about. Abu Ghraib  
13 was a stain on this country. Those of you of a certain age  
14 remember, probably, when those news reports came out and the  
15 horrific pictures came out. We think they're horrific, too.  
16 But that's -- you know, you're going to see a lot of those  
17 pictures. They showed you some during their opening  
18 statement. We're going to show you a couple during our  
19 opening and they're going to show you a lot during the  
20 trial.

21 The object of the plaintiffs is to make this an  
22 emotional decision by you and not to look at the fact of  
23 what's actually the case, because most of what the  
24 plaintiffs said about the way things actually were run at  
25 Abu Ghraib prison is not going to be supported by the

1 evidence. They're pulling things out of context, and when  
2 you hear from the witnesses and when you look at the  
3 documents, you will see that the fact is, there is no  
4 connection between my clients and any abuse that any of  
5 these plaintiffs might have suffered. And I say "might  
6 have" because their stories are basically uncorroborated.

7           We do have a whole bunch of interrogators who --  
8 they're going to be pseudonymous, you're not going to know  
9 their names, I'm not going to know their names, the judge  
10 isn't going to show their names. And they're going to  
11 testify by tape recording, and they're going to say, hey,  
12 what they say happened never happened in any interrogation  
13 that I participated in. That's what you're going to hear  
14 from the interrogators.

15           And I also hope that when you evaluate the  
16 plaintiffs, you will look at -- two of the three made  
17 statements back in 2003 and 2004. Compare those and what  
18 they say about civilians -- hint, basically nothing -- with  
19 what they say now that they're suing a civilian contractor.

20           Mr. Azmy talked about securing justice. Justice  
21 is not secured by holding an entity that was not responsible  
22 for anything that might have happened to these plaintiffs  
23 liable to these plaintiffs.

24           So here's my client, CACI. It's a large  
25 government contractor. It's been around for about 60 years.



1 Its headquarters was in the Ballston area of Arlington  
2 forever, and then a few years ago, they moved out to Reston.  
3 It mostly does IT work and things like that for the  
4 government. A lot of work for the Defense Department, a lot  
5 of work for the intelligence agencies and other agencies  
6 mostly in the IT area.

7 Now, let's go back to 2003 then. Judge Brinkema  
8 took you back to the beginning of the case when she  
9 explained what this case is about.

10 The United States invaded Iraq. The soldiers who  
11 invaded Iraq were under attack, and the United States Army  
12 detained thousands and thousands of Iraqis that it believes  
13 may have intelligence value and should be questioned. The  
14 big problem they had is they had thousands and thousands of  
15 Iraqis, and they didn't have enough soldiers to interrogate  
16 them.

17 You're going to hear that before CACI came on the  
18 scene, the Army was using -- they were using  
19 non-interrogators to conduct interrogations. Two of the  
20 people -- two of the soldiers who interrogated the  
21 plaintiffs in this case, they were radar technicians.  
22 Because in a war, the Army's got to fight with the Army it  
23 has, not with the one it wants. So they were grabbing  
24 anybody who they thought was smart enough and able enough to  
25 conduct interrogations and having them conduct those

1 interrogations.

2           Mr. Azmy talked about two government reports. He  
3 didn't talk about Vice Admiral Church's report. This came  
4 after all the events and summarized the findings of Taguba,  
5 Fay and about ten other investigations. And you're going to  
6 see an exhibit that has significant excerpts from the Church  
7 report. And it talks about that the Army didn't have enough  
8 interrogators, so it had to go out and get interrogators.

9           So how did that happen? So 2003, Army invades  
10 Iraq. CACI has a couple of intel analysts, their desk job.  
11 They're in Germany with the Army units they're supporting,  
12 and their contracts don't even call for them to deploy. But  
13 one team one flight what happened when the unit deployed?  
14 They got on the plane and deployed to Iraq. So all of a  
15 sudden, CACI had a couple of intel analysts, not  
16 interrogators, intel analysts in Iraq.

17           So a CACI executive named Chuck Mudd, he flew out  
18 to Iraq because he wanted to check in on the welfare to make  
19 sure that the employees knew that we cared about them and  
20 the company was going to look after their needs, and when he  
21 was there, he went to the contracting office, made sure  
22 everything was set and the analysts made sure they were  
23 doing what they were supposed to do. And being there, he  
24 said, is there anything else the Army needs to fight this  
25 war. And they told him they need two things, Porta Johns

1 and interrogators. This case is not about the Porta Johns;  
2 it's about the interrogators. And Chuck Mudd said we don't  
3 have -- they're not in the interrogation business, but if  
4 you need interrogators, let's get a contract, we will get  
5 you interrogators.

6 Now, Mr. Azmy showed you a couple of snippets from  
7 the contract. If you look at the whole contract, the whole  
8 contract says you're going to get interrogators over here at  
9 CACI, and they're going to get integrated into the military  
10 chain of command. That's how it's going to work, and that's  
11 exactly what happened. CACI was basically a hiring agency.  
12 It went out and it found interrogators. And the Army  
13 approved those interrogators. Looked at the resumes and  
14 approved them when they came in.

15 Mr. Azmy said, oh, they're sending unqualified  
16 people. What he didn't tell you is he said, oh, Tim Dugan,  
17 Steve Stefanowicz, they weren't qualified. Steve  
18 Stefanowicz was a jet ski salesman, which is a misleading  
19 characterization. You'll hear from him by videotaped  
20 deposition.

21 But those people didn't even go over as  
22 interrogators; they were sent over as screeners, not  
23 interrogators. And what did the Army do when they got there  
24 and they've got tens of thousands of people they need to  
25 interrogate? They came up to Steve Stefanowicz, and they

1 came up to Tim Dugan and said, guess what, you're now going  
2 to work over there, you're now going to be an interrogator,  
3 and that's how it worked. And if the Army wants to have  
4 them interrogate, we're going to have them interrogate.

5 But the important thing -- and we'll get to why  
6 it's important, and the Judge has hinted at it a little  
7 bit -- the Army controlled all aspects of CACI  
8 interrogators' work. Everything. They were completely in  
9 control. They had all the information. I mean, the control  
10 was so complete that CACI's management, they knew basically  
11 where in Iraq their interrogators were, and that was kind of  
12 a list. They didn't know what intelligence the Army was  
13 trying to obtain. They didn't even know who their  
14 interrogators were being assigned to interrogate. They  
15 didn't know what interrogation approaches or plans the  
16 interrogators sought to use in interrogations.

17 The CACI interrogators, just like the military  
18 interrogators, they had to take their interrogation plan.  
19 And who did they take it to? Did they take it to CACI? No.  
20 They took it to the United States Army, and they had an Army  
21 section chief who looked at it, said, yeah, this is good; or  
22 no, we need to change this, and then it went up another  
23 level to Captain Wood, who was in the interrogation control  
24 element, and she approved it. CACI didn't even know what  
25 was authorized. There's a chart of lists of the approaches

1 and interrogation techniques that are approved. It was  
2 classified. CACI was not permitted to know that. 20 years  
3 later, today, CACI is not allowed to know who its employees  
4 were interrogating.

5 So you're going to hear later from a bunch of  
6 pseudonymous interrogators, two of whom are CACI employees.  
7 CACI's not allowed to know who they are. Its own employees.  
8 The people who the plaintiffs say should be the source of  
9 liability for CACI.

10 So you're going to hear from all of the  
11 interrogators that the Army could find who interrogated any  
12 of these plaintiffs. And, to be clear, the United States  
13 says only two of the three were subjected to an intelligence  
14 interrogation. They have no record of Mr. Al-Ejaili being  
15 subjected to an interrogation.

16 But for the two that they could find, they rounded  
17 up every interrogator that the records showed that  
18 participated in interrogations of these two plaintiffs, and  
19 they all say, well, the things they're saying happened, that  
20 did not happen. And you don't have to decide who you  
21 believe about that. But the interrogators have no reason to  
22 lie. They're entities that are protected. They have no  
23 benefit from lying about that.

24 Contractor compliance. And the level of  
25 contractor experience was generally good. As I said, the

1 folks that plaintiffs are complaining about that they  
2 thought were unqualified to be interrogators, they weren't  
3 hired as interrogators. CACI sent them over as screeners,  
4 and they were promoted by the Army because they needed more  
5 interrogators.

6           Let's look at the chain of command. This is how  
7 it worked. This is the Abu Ghraib interrogation chain of  
8 command as it existed before CACI had a contract. If you  
9 look at the top, it's the intelligence brigade. It's headed  
10 by Colonel Thomas Pappas. You're going to hear from him by  
11 videotaped testimony. He was the head honcho, and he had an  
12 executive officer named Lieutenant Colonel Steve Jordan.  
13 And then underneath them was the ICE, the Interrogation  
14 Control Element. That was Captain Carolyn Wood, who was  
15 Major Carolyn Holmes by the time she was deposed. You're  
16 also going to hear from her by videotaped deposition.

17           Underneath Captain Wood, there were a series of  
18 about five sections, and each one of them had a section  
19 leader. What do they all have in common? They were  
20 soldiers, too. They were either sergeants or staff  
21 sergeants, and each of those section leaders had a series of  
22 Tiger Teams underneath them, which was basically an  
23 interrogator, a translator, and if they had one, an analyst,  
24 but not always.

25           So the chart here, I've just put them underneath

1 the middle section, but every one of those sections would  
2 have all the different interrogators underneath them. And  
3 so when an interrogation was going to go on -- oh, the  
4 interrogators. They were junior soldiers, or -- well, they  
5 were junior soldiers who were either school-trained  
6 interrogators, you know, corporal, specialists; or they were  
7 people like radar technicians that the Army said we need  
8 interrogators, you're now going to interrogate.

9           So they would make an interrogation plan. They'd  
10 send it up to their section leader. It would go from there  
11 to Captain Wood, and Captain Wood had to approve it  
12 100 percent before the interrogation could go forward.

13           What happened when CACI starts providing people?  
14 What did they do? They just slotted right into the various  
15 sections. The section leaders just had more sections now,  
16 so those CACI interrogators, they had to send their  
17 interrogation plans to the sergeant or staff sergeant who  
18 would approve it or not. If it approved it, it would go up  
19 to Captain Wood who would approve it or not, and if it was  
20 approved, they would conduct the interrogation.

21           The Army also required that for every  
22 interrogation, a report be prepared by the interrogator, and  
23 that was put into a classified database that the Army  
24 maintained of all the interrogations that were conducted at  
25 Abu Ghraib prison.

1                   Now, you heard from Mr. Azmy, oh, CACI had an  
2 employee who was the site lead, his name was Dan Porvaznik.  
3 His job was administrative. He was over there as an  
4 interrogator, but he actually didn't interrogate much  
5 because he had so many administrative duties, which  
6 involved, like, getting housing for the interrogators,  
7 dealing with getting people in and out of country when they  
8 were coming on the contract or going off the contract.  
9 Dealing with vacation, leave, family issues, pay issues. He  
10 had -- it was all administrative, and everyone you're going  
11 to hear from is going to say that.

12                  Mr. Azmy said Mr. Porvaznik, and he had access to  
13 the interrogation reports and interrogation plans. Why?  
14 Were they sent through him? No. Because he was an  
15 interrogator. Every interrogator had access to those.  
16 Because as an interrogator, you needed to know what other  
17 people are telling other interrogators, that's how you  
18 develop intelligence.

19                  So Mr. Azmy will stand there and say, oh  
20 Mr. Porvaznik, he had access to that. It's not because he  
21 was in a supervisory position; it is because he was an  
22 interrogator just like everybody else over there.

23                  And what else did Admiral Church find? Very few  
24 instances of abuse involving the contract. This is after --  
25 you know, he's taking into account the Taguba report and the



1 Fay report. And that's the truth. If you go through the  
2 Taguba report and the Fay report, there is a lot of  
3 misconduct at the Abu Ghraib prison, and we are not here to  
4 defend that. They found very few instance that military  
5 intelligence was involved in at all. Most of it was MPs  
6 behaving criminally, and they were rightly punished for  
7 that. But they found some that involved military  
8 intelligence personnel and a few that involved CACI  
9 personnel.

10 So let's start with the investigations. General  
11 Taguba. You're going to hear from him, I'm going to guess  
12 tomorrow. He was sent to investigate the MP brigade, not  
13 military intelligence. He was actually denied access to  
14 military intelligence personnel, he was denied access to the  
15 military intelligence records. He didn't have any of that.  
16 He was there to investigate the MP brigade, which had a lot  
17 of problems.

18 Major General Taguba was allowed to interview four  
19 people from the military intelligence side. Colonel Pappas,  
20 Colonel Jordan, Steve Stefanowicz, a CACI employee, and a  
21 guy named John Israel, who was a civilian translator who  
22 worked for a company named Titan.

23 In his report, General Taguba finds he has reasons  
24 to suspect that all four of those individuals had some  
25 involvement in some of the detainee abuse that occurred at

1 Abu Ghraib prison. But his purpose -- and he'll testify to  
2 this tomorrow or whenever he's called. His purpose was not  
3 to make definitive findings; it was he knew he had a limited  
4 insight into military intelligence. It was to flag things  
5 so they could be investigated by somebody who was appointed  
6 for that purpose, and that was Major General Fay.

7 And, in fact, of the four people that General  
8 Taguba said he suspected on the MI side, none was ever  
9 convicted of a crime relating to detainee abuse. Lieutenant  
10 Colonel Jordan was actually charged with detainee abuse. He  
11 was found not guilty. The other three were never charged  
12 with any detainee abuse.

13 General Fay, he found a whole bunch of instances.  
14 He tried to catalog every instance of detainee abuse that he  
15 could substantiate at Abu Ghraib prison, and he found a  
16 whole bunch. He found 44 instances, but only 16 were tied  
17 in any way to military intelligence.

18 Most, though not all of the violent or sexual  
19 abuses, were separate from scheduled interrogations and did  
20 not focus on people being held for intelligence purposes.  
21 It was just -- it was MPs being abusive and criminal and  
22 rightly punished for that.

23 To give you a few examples, I'm going to go  
24 through these are unpleasant pictures, but they're some of  
25 the famous ones for those of you of a certain age might

1 remember. Guy on the box. No military intelligence  
2 involvement at all. That was just MPs being abusive with a  
3 CID, not a military intelligence person.

4 The naked pyramid. No involvement of a military  
5 intelligence or CACI. Lindy England, MP right there with a  
6 leash, no involvement of military intelligence. This is the  
7 only picture. Thousands of pictures. There's the picture  
8 of a CACI employee. That's Dan Johnson. That's an Iraqi  
9 policeman who's being asked because he was believed to have  
10 smuggled a pistol into a detainee. That's it.

11 Tim Dugan. Found one instance in General Fay's  
12 report that had to do with dragging someone off the back of  
13 a Jeep. Not these plaintiffs. No indication he had any  
14 interaction with these plaintiffs.

15 Dan Johnson. Everything relates to that Iraqi  
16 police officer who was questioned after the shooting in the  
17 Abu Ghraib prison.

18 Steve Stefanowicz. All the evidence is that  
19 anything that he allegedly did wrong was done with detainees  
20 he was assigned to interrogate. He was only assigned to  
21 interrogate about five detainees. None of them were these  
22 plaintiffs.

23 Plaintiffs have three hurdles, and I'm going to go  
24 through them quickly because I have three minutes left.

25 One, were plaintiffs subjected to torture or CIDT

1 at Abu Ghraib prison? They're going to tell you compelling  
2 stories. They're going to testify, and it's going to be  
3 compelling, and it's probably going to be emotional. It  
4 conflicts with some of what they said 20 years ago. It also  
5 certainly conflicts with what the interrogators say  
6 happened, and some of it conflicts with Army records.  
7 You'll have to make your own decision. We have no way to  
8 definitively show what did or did not happen to those  
9 plaintiffs.

10           The second hurdle. If they were subjected to  
11 torture or CIDT, were individual CACI employees involved?  
12 We've got conspiracy claims and aiding and abetting. Where  
13 is the agreement? Ask yourself that throughout the trial.  
14 Where did CACI people agree that they were going to be --  
15 you know, to do anything with MPs that was going to extend  
16 to mistreating these plaintiffs? There's no evidence of  
17 that at all. They just want you to say that three people  
18 did discrete bad acts as found by General Fay, so let's just  
19 make it up that they probably agreed to abuse these other  
20 people who they didn't even interrogate. Aiding and  
21 abetting. There's no evidence of that either.

22           All right. The third hurdle. Even if CACI  
23 employees had engaged in conspiratorial or aiding and  
24 abetting contact with these plaintiffs, is CACI liable? And  
25 that's where the Judge mentioned there's a thing called the

1 borrowed servant doctrine. Employers are often liable for  
2 things their employees do, but they're not if you loan them  
3 to someone else who controls and directs their activities.  
4 And, remember, the interrogators, they went up through the  
5 Army chain of command. CACI didn't have any information  
6 about what they're doing, what they're allowed to do,  
7 anything like that.

8           And, you know, the funny thing is, a lot of times  
9 in these borrowed servant cases, you have people pointing at  
10 each other. You have a loaning employer saying I didn't  
11 direct and control these guys, so the borrowing employer  
12 should be liable. And the borrowing employer says, oh, no,  
13 it's not me, it should be you.

14           No. To its credit, the United States agrees.  
15 This is Colonel Pappas who had operational control. The  
16 United States Army had operational control over the CACI  
17 interrogators. Captain Wood says the same thing. Same  
18 chain of command as the military.

19           The official position of the United States in  
20 connection with -- this is about Interrogator A's  
21 interrogation. The Army's in charge. Now, they're subject  
22 to the direction of the military chain of command from the  
23 section leader to the NCOIC all the way up.

24           Next page. No CACI personnel were in this chain  
25 of command. That's what -- that's the evidence you're going

1 to hear. And the evidence is the United States and CACI  
2 agree that the Army, as you could expect in a war, they're  
3 pretty jealous about controlling activities in the theater  
4 of war, and that's what happened here.

5 And so at the end of the case, we ask you to use  
6 reason, analysis and listen to the evidence and not be  
7 swayed by emotion, and you should return a verdict for my  
8 client.

9 Thank you.

10 THE COURT: All right. If you could call your  
11 first witness.

12 MR. AZMY: Actually, Your Honor, could we have a  
13 sidebar briefly?

14 THE COURT: Yes.

15 (Bench conference.)

16 MR. AZMY: Your Honor, I'm not sure if I heard  
17 things correctly, but what I heard from Mr. O'Connor is  
18 this: The judge hinted at it a little bit, but the Army  
19 controlled all aspects of interrogation at Abu Ghraib. And  
20 that seems to suggest that you were sort of hinting at their  
21 ultimate defense, and so --

22 THE COURT: I don't think I did that. But  
23 anyways, it's opening statements. We're not going to get  
24 into it on a sidebar.

25 MR. AZMY: No. Understood, Your Honor. Just

1 maybe --

2 THE COURT: No.

3 MR. AZMY: Okay. Thank you.

4 (Open court.)

5 THE COURT: Counsel, from our previous discussions  
6 about getting ready for this trial, there is a rule on  
7 witnesses; right? Everybody's going to be following that.

8 So no witness who is scheduled to testify may be  
9 in court while any other witness is testifying other than  
10 the plaintiff and the representative from CACI; right?

11 MR. FARIDI: That's correct, Your Honor.

12 MR. O'CONNOR: Yes, Your Honor.

13 THE COURT: And once a witness is excused, he or  
14 she may stay in the courtroom, but then you cannot re-call  
15 that witness. All right.

16 Who's your first witness?

17 MR. FARIDI: Your Honor, before we call our first  
18 witness, I want to read a few paragraphs from the parties'  
19 stipulation of facts.

20 THE COURT: All right. Do you have an exhibit  
21 number or a document number for that?

22 MR. FARIDI: Yes. This is coming from PTX 226.  
23 That is the stipulation of uncontested facts. And I will  
24 read, Your Honor, paragraphs 1 through 3 and then  
25 paragraphs 19 and 20.

1 THE COURT: All right.

2 MR. FARIDI: Paragraph 1: Abu Ghraib prison is a  
3 prison facility located in Abu Ghraib, Iraq.

4 Paragraph 2: Between mid 2003 and August 2006,  
5 the United States used the Abu Ghraib facility to hold  
6 detainees.

7 Paragraph 3: The United States housed thousands  
8 of detainees in different parts of the Abu Ghraib facility,  
9 including within the prison building. The prison building  
10 was often referred to as the hard site.

11 Paragraph 19: Plaintiff Salah Hasan Nusaif Jasim  
12 Al-Ejaili was detained at Abu Ghraib from approximately  
13 November 9, 2003, until on or about December 20 or 21, 2003.  
14 Mr. Al-Ejaili was assigned ISN 152735.

15 At this time, Your Honor, plaintiffs called Salah  
16 Al-Ejaili.

17 THE COURT: All right.

18 THE COURT SECURITY OFFICER: Sir, come over. Face  
19 the deputy clerk. Raise your right hand.

20 Thereupon,

21 SALAH AL-EJAILI,  
22 having been called as a witness on behalf of the plaintiffs  
23 and having been first duly sworn by the Deputy Clerk, was  
24 examined and testified as follows:

25 (Time noted: 3:03 p.m.)



1 THE DEPUTY CLERK: Thank you.

2 THE COURT: And we'll have the interpreter  
3 affirmed as well.

4 (Interpreter sworn in open court.)

5 THE COURT SECURITY OFFICER: Sir, you may be  
6 seated.

7 MS. MAHLER-HAUG: Your Honor, may I hand up copies  
8 of binders?

9 THE COURT SECURITY OFFICER: I'll take them.

10 DIRECT EXAMINATION

11 BY MR. AZMY:

12 Q Good afternoon, Salah.

13 A Good afternoon.

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

15 A My name is Salah Hasan Nusaif Jasim Al-Ejaili.

16 Q How old are you?

17 A I am 53 years old.

18 Q Where do you currently live?

19 A I currently live in Sweden.

20 Q And with whom do you live?

21 A I live with my family, my wife and three children.

22 Q How old are your children, and where are they in  
23 school?

24 A My oldest daughter is 22 years old. She's about to  
25 finish university. My middle son, Mustafa, just enrolled in

1 university, he's 18 years old. And my son, Ghaith, is 16  
2 years old. He's in high school.

3 Q Do you have any other children?

4 A Yes. I have a son whose name is Saif from a previous  
5 wife, and he lives in Iraq, and he works in a communication  
6 company.

7 Q Where were you born and raised?

8 A I was born in Iraq in the Governorate of Diyala, and I  
9 grew up in Diyala.

10 Q Do you practice a religion?

11 A I am Muslim.

12 Q What level of schooling did you achieve, and in what  
13 areas?

14 A I finished my university studies in Iraq. History.

15 Q And did you have a professional career in Iraq? What  
16 was it?

17 A Yes. I worked for a few years in an electrical  
18 company. After that, I worked for Al Jazeera channel.

19 Q Okay. Can you tell the jury what Al Jazeera is?

20 A It's a satellite media channel that mainly broadcasts  
21 news, and it's well known in the Arab world.

22 Q And what was your role at Al Jazeera?

23 A So I got up the ladder in my work at Al Jazeera. In  
24 the beginning, I was a journalist and a photographer. After  
25 that, I became a reporter. After that, I became a news

1 producer at the Al Jazeera channel in Qatar.

2 Q And about how long did you work for Al Jazeera?

3 A About 11 years, or a bit more. Perhaps 14 years.

4 14 years.

5 Q Okay. And what year did you leave Iraq?

6 A I left Iraq in 2005.

7 Q And you mentioned that your family now resides in

8 Sweden.

9 Can you briefly explain how that came to be?

10 A After 2003, after the collapse of the security in Iraq,  
11 I was pondering a safe place for me and my family. And this  
12 idea lasted on my mind for quite some time.

13 In 2005, I went to work in Jordan, and I remained  
14 there for two years. After that, I went to Qatar. And then  
15 in 2017, me and my family, we settled in Sweden.

16 Q Okay. Do you have legal status there?

17 A Yes, we have legal status. We got nationalized, me and  
18 my family.

19 Q Are you currently employed in Sweden?

20 A I still work in journalism on a freelance basis.

21 Q Salah, I'd like to focus your attention on the fall of  
22 2003.

23 Where were you living in fall 2003?

24 THE INTERPRETER: Where were you living?

25 MR. AZMY: Living. Yeah. In fall.

1 THE WITNESS: I was living in the Governorate of  
2 Diyala. It is north of Baghdad.

3 BY MR. AZMY:

4 Q In Iraq; yes?

5 A Yes, in Iraq, correct.

6 Q And what were you doing for a living at that time?

7 A I was working for Al Jazeera channel as a journalist  
8 and photographer.

9 Q Did there ever come a time in the fall of 2003 when you  
10 were detained at the Abu Ghraib prison?

11 A Yes. That was in the month of November on the 8th or  
12 the 9th of November.

13 Q And how was it that you remember that date?

14 A It was a significant day in my life. My life prior to  
15 that date was completely different from my life after that  
16 date. It affected tremendously my social relationships and  
17 my psychological status.

18 Q And were you familiar with the Abu Ghraib prison before  
19 you arrived there?

20 A Yes.

21 Q Okay. What was its reputation?

22 A So prior to 2003, Abu Ghraib was a detention center  
23 used by the prior -- by the former Iraqi government. It was  
24 a detention center of a bad reputation.

25 And then after 2003, what we got to know is that

1 Abu Ghraib became a major detention center for the united  
2 forces in Iraq. The United States forces in Iraq. And we  
3 also got to know that people received bad treatment at Abu  
4 Ghraib, and it's a bad prison.

5 Q So eventually I want to focus on the first night you  
6 arrived at Abu Ghraib.

7 But tell us where you were first taken when you  
8 arrived at Abu Ghraib.

9 A At the beginning, I remember they put us in tents known  
10 by the temporary tents.

11 Q And where were you taken after the temporary tents?

12 A They took us to a big hall called the computer hall.

13 Q And can you describe what that looked like and who was  
14 there?

15 A So it was quite the big hall. It had many computers  
16 there on which Americans worked. And then they would let us  
17 in two or three at a time, and then they would take our  
18 personal information.

19 Q And then where were you taken after this computer room?

20 A After that, an American soldier came, and he took me to  
21 a small room that was adjacent to the computer hall.

22 Q Okay. And what happened in that small room?

23 A In that room, there were three individuals, two of  
24 which were military uniforms. The third one wore civilian  
25 clothing.

1 Q Can you describe the civilian clothing as best as you  
2 remember?

3 A So the civilian clothing are what we call safari or  
4 khaki.

5 Q And what happened after that?

6 A One of the military people started to interrogate me.  
7 The other person wearing the military uniform was  
8 interpreting. The third person who was wearing the civilian  
9 clothing was silent during the whole interrogation.

10 Q Okay. And then did there ever come a time where you  
11 were taken out of this place and transferred someplace else?

12 A After about half an hour or more came another  
13 individual, an American one. He had the bag on my head, and  
14 he handcuffed my hands. And then he got me to get in a car.  
15 The car drove about five minutes or a bit more. We arrived  
16 to a different location, I believe another building. He got  
17 me out of the vehicle, and I remained in that location. He  
18 handed me to two other individuals who were also American.

19 Q Okay. And did those individuals do or say anything to  
20 you?

21 A Straightaway, as soon as they got ahold of me,  
22 something that resembles an interrogation, but it was more  
23 of screaming. One of them was screaming in my right ear;  
24 the other one interpreting in my left ear. He was screaming  
25 confess, confess. And I was asking him what he wanted me to

1 confess to. He said, you know. Speak up. This lasted for  
2 a few minutes, the screaming. And I remember I was right by  
3 a wall. And they were very near to my face with the  
4 screaming in my face. They told me we will let you be for a  
5 few minutes and then we'll come back to you. By then, think  
6 well about what you're going to tell us. And then they came  
7 back a second time, but the second time was not as long as  
8 the first time.

9 Q And then what happened when they came back?

10 A After that, another individual came and took me from  
11 them.

12 Q A different one than the first -- the two we're talking  
13 about?

14 A Yes. Yes. A different individual.

15 Q Okay. And what did he -- what did he do to you, and  
16 where did he take you?

17 A So the bag was on my head. He led me walking about  
18 five to seven minutes. And then we got to a place. I felt  
19 that place was full of people. And in that place, he  
20 started to give me military commands.

21 Q Okay. I want to ask you, did you ever have a chance to  
22 see that place maybe when your hood was off?

23 A Yes. Yes, I did.

24 Q Okay. Okay. Can you in your binder turn to the second  
25 tab labeled PTX 13.

1 THE COURT: Is there any objection to this  
2 exhibit? There shouldn't be.

3 MR. O'CONNOR: No, there shouldn't be, Your Honor.  
4 No objection.

5 THE COURT: It's in.

6 (Plaintiffs' Exhibit Number 13 admitted into evidence.)

7 BY MR. AZMY:

8 Q Can you describe what you see here?

9 A So this is the hall that has the individual cellblocks  
10 in Abu Ghraib. It has a lower level and a higher level.  
11 The cells are distributed on the lower level as well as on  
12 the higher level. As far as I recall, I was in one of the  
13 corners in this place.

14 Q Okay. So you believe that's where you were taken that  
15 night?

16 A Yes. Yes.

17 Q And you mentioned the person who brought you there  
18 started giving you commands.

19 Can you tell the jury what he told you to do?

20 A So the command was by screaming, and it was take off  
21 your clothes.

22 Q What did you do?

23 A So I thought that they would give me a jumpsuit or  
24 something, so I took off the pants and the shirt. And then  
25 after that, he continued with the military command. He



1 commanded me to take off all my clothes. I refused at the  
2 beginning, and then he started to command me again, if you  
3 don't take off your undershirt and underwear, I will take  
4 them off with my own hands. And, therefore, I had to take  
5 them off.

6 Q Okay. Did he do anything to you after commanding you  
7 to take your clothes off?

8 A After I took off my clothes, he got a piece of fabric,  
9 as far as I remember at that time, and he tied my hands up  
10 behind my neck.

11 Q Okay. Can you show the jury again what that looked  
12 like?

13 A It was in this manner.

14 MR. AZMY: Let the record reflect that  
15 Mr. Al-Ejaili has his hands poised behind his head.

16 THE COURT: All right.

17 BY MR. AZMY:

18 Q And you -- do you still have the hood on at that time?

19 A Yes. The bag was still on my head, but during the  
20 moment that I was taking off my undergarments, my underwear,  
21 he took off the bag, and then the bag came off my head, and  
22 then it came back on.

23 Q Okay. And when you were tied with your hands behind  
24 your head and naked, how long were you in that position?

25 A I was shackled from the nighttime until the day after

1 in the morning.

2 Q Were you able to move or sit?

3 A Not at all. All movement was forbidden. At times, I  
4 would get tired, and I would try to sit down. He would  
5 scream at me get up.

6 Q So you were forced to stand in this manner overnight?

7 A Yes.

8 Q Were you able to sleep?

9 A Not at all.

10 Q Were you given food or water?

11 A No, not at all.

12 Q What was the temperature like?

13 A It was very cold. And the fans in the hall were turned  
14 on at the high speed.

15 Q Can you describe to us how it felt physically for you  
16 to be tied with your hands behind your back overnight and  
17 forced to stand?

18 A I felt like my body was falling apart all together. I  
19 felt pain in all my bones and my joints in my shoulders. My  
20 legs were shivering. A few times I would fall to the  
21 ground, but the same individual would come and force me to  
22 get up. One of the times he tried to get the fabric that  
23 was tying my hand to have it anchored to something behind.

24 Q Can you describe how it felt emotionally or  
25 psychologically to be naked for so long in front of others?

1 A It was very difficult. I would have hoped to die and  
2 not go through this. It is very difficult to have all your  
3 social values and all your values all together be broken.

4 Q Were there any particular cultural or religious reasons  
5 this was all so difficult?

6 A I am Muslim, and according to my religion, it is  
7 forbidden by God for us to be naked in front of men or  
8 women. We have been taught this since we were children.  
9 Also, socially and morally it is considered shameful for a  
10 man to get naked in front of people.

11 Q Did anyone approach you that night when you were tied  
12 and naked?

13 A Yes. I felt two American females get near me from  
14 behind in a very close distance. I remember one of them  
15 tried to pull a hair from my back, and I was able to hear  
16 their breath near my body.

17 Q And what was that experience like at that time? How  
18 did that feel?

19 A I felt like all my will has been taken away, and I had  
20 no way to defend myself in any shape, way or form.

21 Q And that night, did you ever hear anything from that  
22 area, from that cellblock that was concerning?

23 A That night around midnight I started to hear Americans,  
24 men and women, singing in English, happy birthday, Al  
25 Jazeera.

1 Q Was it your birthday?

2 A No.

3 Q Did you have any health problems that night?

4 A After that, my health deteriorated majorly. I felt my  
5 whole stomach boiling. After that, a black liquid started  
6 to coming out of my -- after that, a black liquid started to  
7 come out of my mouth, despite my will, and it started to  
8 fall on my body and on the ground.

9 Q Can you say a little bit more about the sensation, how  
10 that felt physically?

11 A It was very painful. I felt something burning me  
12 inside. In addition, my body was in a collapsing state and  
13 my bones were hurting.

14 Q Okay. Salah, if you can look at tab 1 -- turn to tab 1  
15 of your notebook. Look at PTX 1, marked for identification.

16 THE COURT: Is there any objection to one?

17 MR. O'CONNOR: No, Your Honor.

18 THE COURT: All right. It's in.

19 (Plaintiffs' Exhibit Number **1** admitted into evidence.)

20 BY MR. AZMY:

21 Q Okay. What do you believe is depicted in this photo?

22 A I believe that person is I.

23 Q Why do you believe that?

24 A All the context present in this picture applies to me  
25 in that night. The red jumpsuit, the fabric that they used

1 to tie my hand behind my neck, the black bag on top of my  
2 head, the black liquid that I vomited out of my stomach and  
3 it was on the floor, and I was by a wall.

4 Q Did you receive any medical attention that night?

5 A No, not at all.

6 Q Did anyone come to clean the bile up?

7 A No, not at all.

8 Q Salah, sitting here now, how does it make you feel to  
9 see yourself in this picture and know that it's public?

10 A It is difficult to describe my feelings. It reminds me  
11 of all the pains that I went through during these moments.  
12 At times, I wish that none of this happened and that I never  
13 witnessed it. But the problem is it's engraved in my  
14 memory, and I could never forget it.

15 Q So in the morning, did anyone come to you?

16 A In the morning, the same individual who brought me  
17 there came. He opened my hands from the fabric and from the  
18 jumpsuit. He pulled the bag from my head. And another time  
19 he started to give me military commands.

20 Q One question, why do you believe it was the same man  
21 from the night before?

22 A Because he had got me to this place in the beginning,  
23 and then I was able to see him, and I was able to hear his  
24 voice. The day after in the morning also when he took the  
25 bag off my head, I was able to see him, and I also heard his

1 voice.

2 Q Okay. And you said he gave you another command.

3 What did he tell you to do?

4 A He commanded me to clean the floor with the red  
5 jumpsuit from that black bile.

6 Q Did you?

7 A Yes.

8 Q Okay. Can you describe what this person looked like?

9 A He was white. He was American. He had a mustache. He  
10 wore glasses. His eyes were protruding.

11 Q And what was he wearing, if you remember?

12 A He was wearing military pants and a military T-shirt.

13 Q Did there ever come a time when you learned the name of  
14 this person?

15 A After I was released from the jail of Abu Ghraib, and  
16 after the pictures of the scandal of Abu Ghraib came onto  
17 the media, I saw the picture of that man, and I recognized  
18 him. Later on after he was put to trial, I found out his  
19 name.

20 Q And what was his name?

21 A Graner.

22 Q Graner.

23 Okay. Salah, I'm showing you -- please open  
24 tab 3. I'm showing you what's been marked PTX 193.

25 THE COURT: Any objection to 193?

1 MR. O'CONNOR: No, Your Honor.

2 THE COURT: All right. It's in.

3 (Plaintiffs' Exhibit Number 193 admitted into evidence.)

4 BY MR. AZMY:

5 Q Do you recognize anyone in this picture?

6 A Yes. The one who's present on the right side of the  
7 picture.

8 Q Who is that?

9 A Graner.

10 Q Graner. Okay.

11 A Also the man who is on the left, but I don't know his  
12 name.

13 Q You had interactions with the man on the left also?

14 A Correct.

15 Q Okay. Okay. So after you complied with the order and  
16 cleaned up this bile with your uniform, what happened next?

17 A Once again, they came, and they put the black bag on  
18 top of my head. And then he led me to the higher floor  
19 where the cellblocks are. He opened one of the cells, got  
20 me inside and then locked me in.

21 Q Okay. When you were being transported to the upstairs  
22 cellblock, did you have any clothes on?

23 A No, not at all.

24 Q And the person who took you to the cellblock was who?

25 A Graner.

1 Q Okay. Just to be clear, Graner was the person who  
2 brought you overnight to the cellblock; yes?

3 A Correct.

4 Q And Graner was the one who told you to take off your  
5 clothes?

6 A Yes.

7 Q And who forced you to clean up your own vomit?

8 A Yes.

9 Q Okay. When you arrived to the upstairs cellblock, were  
10 you given any fresh clothes?

11 A No, not at all.

12 Q Okay. Did you try to put it on -- sorry.

13 Did you have any clothes with you? Sorry.

14 A I only had the jumpsuit, but it was dirty, it was  
15 soiled with the black bile, so it was difficult for me to  
16 wear.

17 Q Okay. Did you try to put it on right away?

18 A No. I tried to clean it. There was a water source  
19 inside the cell. After I cleaned it, it was damp, it was  
20 wet. So I put it aside in the cell thinking that it would  
21 eventually dry and then I could wear it.

22 Q And in the meantime you were naked?

23 A Yes.

24 Q Okay. What was the temperature like in the room?

25 A So it was very cold. The fans were working on the high



1 speed in that hall.

2 Q Okay.

3 A And inside the cells, it was even colder outside the  
4 cells. I was trying to wrap myself up around myself in  
5 order to get a little bit warmer. There was a source of  
6 light of sunrays that was coming through the cell, a small  
7 amount of it, and I was trying to stand in a location where  
8 that light would hit in order to get warmer. My body was  
9 very cold, and I was shivering.

10 Q Did you ever ask anyone that morning to bring you fresh  
11 clothing?

12 A An American woman, I believe she worked in the jail, I  
13 asked her to give me clothes because it was very cold, and I  
14 felt like I could get sick and die. She said, yes, I'll get  
15 you clothes.

16 Q Did she bring you any clothes?

17 A Yes.

18 Q What did she bring you?

19 A She brought me two pieces of female underwear.

20 Q Did she tell you to do anything with it?

21 A No. She just handed them to me in that manner.

22 Q Just dropped it in front of you?

23 A Yes.

24 Q Did she tell you to wear them?

25 A Yes. She said here, put those on.

1 Q Did you wear them?

2 A No.

3 Q From where you were in your cellblock, could you see  
4 any other men detained there?

5 A Yes.

6 Q What did you notice about them?

7 A I was able to see three or four other prisoners in the  
8 cells facing mine that were also naked. And if I get near  
9 the door a little bit more, I was able to see two or three  
10 others in the lower level. Some of them were naked as well.

11 Q Were you eventually able to wear the uniform that day?

12 A So I remained from the morning all the way to a late  
13 time during the night, and then at that time, I felt the  
14 dampness of the jumpsuit was becoming less, just enough for  
15 me to be able to wear it.

16 Q Okay. Did there come a time when you were taken out of  
17 the cell?

18 A Yes, in the day that followed.

19 Q Okay. Can you describe anything about the person who  
20 came to get you, how was he dressed?

21 A He was wearing military pants and a T-shirt. And I  
22 believe he's also present in the picture that had Graner in  
23 it.

24 Q Where do you believe he's pictured?

25 A All the way on the left. He's the person on the left.

1 Q Okay. And before he took you out of the cell, what, if  
2 anything, did he do to you?

3 A So before he got me out of the jail cell, he opened the  
4 cell door, and he commanded me to take off all my clothes.  
5 After that, he kept the black bag on top of my head. He  
6 handcuffed my hands, and he led me walking to a different  
7 place on the same higher level.

8 Q Okay. And can you describe a little bit what you  
9 perceived about that place?

10 A So it's as if he handed me to a different group.

11 Q Okay.

12 A So those people, two or three of them, started an  
13 interrogation session with me.

14 Q Okay. Were you restrained at this time?

15 A My hands were handcuffed. The black bag was on top of  
16 my head. But when he handed me to those two or three  
17 individuals, they took off the cuffs from my hands, and then  
18 they tied my hands, each one on one side. So there was a  
19 pipe in the hallway that's on the higher level. They tied a  
20 hand to this side and the other hand to the other side.

21 Q Can you please show the jury how you were restrained?

22 A In this manner.

23 Q Were you sitting or standing?

24 A My legs were dangling to the ground.

25 MR. AZMY: Let the record reflect that he

1 described having his arms outstretched and handcuffed to a  
2 pole.

3 BY MR. AZMY:

4 Q Was this painful?

5 A It caused me dislocation in my two shoulders in the  
6 bones.

7 Q Okay. How were you treated during this interrogation  
8 session?

9 A To start with that day and every day it was terror amid  
10 the cellblocks. We would hear the screams of the detainees  
11 everywhere. So they were getting us mentally accustomed  
12 that we're also going to be exposed to the same screaming.  
13 After a minute or two, I felt that I'm being struck,  
14 different strikes on the head, on the back, on the abdomen.

15 Q This was during this interrogation session when you  
16 felt being hit?

17 A Right before their interrogation started.

18 Q I see. Okay.

19 And then during the interrogation, how did you  
20 feel?

21 A So during the interrogation, they asked me many  
22 questions, some of which were personal. And much of the  
23 interrogation was related to Al Jazeera channel.

24 Q And how were you feeling at that moment? Were you --  
25 you know, describe your feelings during the interrogation.

1 A So the morning of that day, like every day, it was  
2 terror. You hear the screaming everywhere. People  
3 screaming from pain. So the fear was instilled inside me.  
4 I would expect something would happen to me, perhaps I would  
5 die, because the screams we would hear were illogical.

6 Q Were you ever able to get a look at the person who was  
7 mostly asking you the questions during this interrogation?

8 A Right before the interrogation was finished, he pulled  
9 the black bag off my head so I was able to see that man.

10 Q What did he look like?

11 A He was of big stature, white. I believe he had a  
12 goatee or a beard. I don't particularly recall if he was  
13 bald or not bald, but his general characteristic, he was a  
14 man of a big stature.

15 Q Okay. Do you believe you were ever interrogated by him  
16 again after this first time?

17 A At least two or three times after.

18 Q Is there anything about his appearance or his attitude  
19 that you remember in particular?

20 A So I remember this one time I was standing on something  
21 that was a bit high, perhaps it was a step, one or two steps  
22 high. And he was on the ground, and he still felt like he  
23 was bigger than I. So the way he would talk to me was  
24 humiliating. He would laugh at me and say, yes, as soon as  
25 you're released, you're going to go back and work for Al

1 Jazeera. Of course they pay you, you have to work for them.

2 Q Okay. What was he wearing when you saw him?

3 A He was wearing civilian clothing, safari.

4 MR. AZMY: Okay. Let's zoom out a little bit.

5 BY MR. AZMY:

6 Q About how long do you think you were held at Abu  
7 Ghraib?

8 A About two months.

9 Q And during that time, about how many times do you think  
10 you were interrogated?

11 A So I don't remember exactly how many times, but not two  
12 or three days would pass without one interrogation. At  
13 times, I wouldn't even call it an interrogation, I would  
14 call it a torture party.

15 Q Where would the interrogations occur generally?

16 A Mostly on the higher floor. There were a few rooms.  
17 The -- at other times, it would be on the lower level in the  
18 middle hallway.

19 Q You already explained your -- the terror you felt on  
20 your way to interrogations.

21 Can you tell us how you were treated during  
22 interrogations?

23 A Physically, it was very painful, of course. All of a  
24 sudden, they would pour hot water, hot tea on you. Or they  
25 would throw cold water on you. Or at times they would strip

1 us completely naked, keep the black bag on top of our head,  
2 and they would get dogs very near our bodies. That was  
3 terrifying, and it was scary. Especially when you're  
4 defenseless, you cannot defend yourself in any way. You  
5 have no freedom, you have no will.

6 Q And when you were not in interrogations, where were you  
7 held?

8 A In the cellblocks.

9 Q And what were the conditions like in the cellblocks?

10 A Not much different from outside the cells. The cells  
11 were small. Most of the time we were naked inside these  
12 cells. We would get exposed to punishment for the slightest  
13 simplest reasons, and the simplest punishment is they  
14 forcefully strip you naked. And then they tie your hands to  
15 the door of the cell for hours, perhaps a full day.

16 Q Can you estimate how often you were kept naked?

17 A I would say 75 to 80 percent of the whole time I was  
18 there.

19 Q Were you able to sleep?

20 A It was difficult to sleep. First, it was very cold.  
21 Lights, high-beam lights were on at all times. Fans turned  
22 on at high speed all the time. In addition, they would play  
23 loud music all night.

24 Q And when you were in the cellblocks or otherwise, were  
25 you able to see other detainees?

1 A Yes, I was able to see them, yes.

2 Q What do you remember most about seeing them?

3 A It was very painful. It's difficult for you to look at  
4 a person in front of you who's completely naked. We would  
5 avoid looking at each other.

6 Q During your time in Abu Ghraib, did you have any  
7 contact with your family?

8 A No, not at all.

9 Q How did that feel?

10 A It was saddening, and it was painful. My family knew  
11 nothing about me, and I knew nothing about them. I would  
12 think they were really worried for me, and I would wonder do  
13 they know that I'm in this place. It was quite a difficult  
14 and painful situation.

15 Q So after being held at Abu Ghraib, did you eventually  
16 leave the prison?

17 A Yes. After that, I was released.

18 Q And did you eventually reunite with your family?

19 A Yes.

20 Q What was their immediate reaction when they saw you?

21 A It was a mix of happiness, joy, pain and sadness. They  
22 were happy that I was released from jail. They had lost  
23 hope regarding that. But they were sad and in pain  
24 regarding how I was and what I looked like.

25 Q What did you look like to them?



1 A Emaciated. Thin.

2 Q And after your first few weeks or months after being  
3 released from Abu Ghraib, how did you feel psychologically?

4 A I went through a period of isolation. I was refusing  
5 to meet with anyone. Even there were people who would come  
6 to congratulate and bless that I was released from jail, but  
7 I would refuse to meet with them. I would make excuses, and  
8 I would ask them to tell them he's sleeping, he's tired, or  
9 anything of the sort.

10 Even my family in the household, my mother, my  
11 siblings, my wife, I was not speaking with them. At times,  
12 they would try to ask me what is it, and I would close the  
13 subject all together. My thoughts were if I don't talk  
14 about that subject, it would be better for me not to reopen  
15 the wounds yet again. I also majorly lacked  
16 self-confidence.

17 Q It's been 20 years, Salah. How does the experience at  
18 Abu Ghraib affect you?

19 A As for the pain and the sadness regarding what  
20 happened, any time that I see any picture of Abu Ghraib, it  
21 flashes my memory. Perhaps people can see me as a strong  
22 person who works as a media -- as a news producer and a  
23 journalist, but one picture destroys everything.

24 Q So why did you bring this case, Salah? What do you  
25 hope to get out of this?

1 A A form of remediation. Justice. And that is something  
2 that's very important. Perhaps if justice is achieved in  
3 this case -- and I do have hope that justice will be  
4 achieved -- perhaps that will ease and end all the pains  
5 that I suffer from. Perhaps if we could reach a resolution  
6 that's convincing and fair to me, perhaps I can fold this  
7 chapter all together and say it was something from the past.

8 Q And how does it feel being here testifying?

9 A It's very difficult for me to be here and testifying to  
10 this testimony. But it's a big deal. I am someone who  
11 comes all the way from Iraq to America for them to present a  
12 case and have it be accepted by a federal court. And all  
13 these people being present here to witness justice be  
14 achieved. I think that's a big deal, and it cannot even be  
15 valued.

16 MR. AZMY: Thank you, Salah.

17 No further questions for now, Your Honor.

18 THE COURT: All right. I think this is a good  
19 time to take the afternoon break, and then we'll start with  
20 the cross-examination.

21 Who's going to do that, Mr. O'Connor?

22 MR. O'CONNOR: I'm going to do it, Your Honor.

23 THE COURT: All right. We'll be in recess until  
24 20 after 4. Okay.

25 (Jury not present at 4:01 p.m.)

1 (A brief recess was taken.)

2 THE COURT: All right. My understanding is we  
3 have to do a matter at the bench; yes?

4 MR. ELLIOTT: Please.

5 (Bench conference.)

6 MR. ELLIOTT: Thank you for your indulgence.

7 Plaintiffs elicited testimony from the plaintiff  
8 about the physical description of one of his interrogators.  
9 I don't want to speculate about where that line of  
10 questioning could be going, but the description could be  
11 viewed as similar to someone who's played a prominent role  
12 in this case. And I just want to remind both sides that we  
13 cannot identify a specific interrogator with a specific  
14 detainee.

15 MR. AZMY: Since I'm the guilty party, this is  
16 exactly the set of questions we asked last time. This is  
17 almost verbatim from the prior transcript. It's on the  
18 public record.

19 MR. ELLIOTT: I'm not asking it to be stricken; I  
20 apologize. I just don't want them to attempt to identify  
21 that interrogator by name.

22 MR. AZMY: Could I ask sort of my own ignorance  
23 question? If it's our own plaintiffs and not a government  
24 witness, what is the problem? I mean, if our own clients  
25 overheard this person being called something, why can't our

1 client testify to that? Why do we cede to the government's  
2 interest there with their own former employees? Just to  
3 help me understand.

4 MR. ELLIOTT: Sure. The state secrets privilege  
5 assertion was upheld for linking a specific interrogator  
6 with any of the plaintiffs or the specific interrogator with  
7 any detainee. That was upheld by Your Honor.

8 THE COURT: Well, I mean, as I recall, the  
9 government has agreed to some of this; right? Did they not?

10 MR. O'CONNOR: I don't know what you mean by  
11 "this," Your Honor.

12 THE COURT: In some of the representations that  
13 were made by the government, they did indicate that none of  
14 the three named people that are at issue in this case, the  
15 three CACI people, interrogated any of these plaintiffs. I  
16 think you said that in your --

17 MR. AZMY: There's no record of it.

18 MR. O'CONNOR: They're pseudonymous interrogators,  
19 but ...

20 THE COURT: Yeah. Yeah. Look, there's been no  
21 name, and a vague description of a big tall guy that is not  
22 specific is not a problem.

23 MR. ELLIOTT: Perfectly fine.

24 THE COURT: Okay. I don't see any problem at all  
25 of the testimony that came in.

1           So I'm not requiring that any -- you said it was  
2 in the last transcript that was stricken from the  
3 government?

4           MR. ELLIOTT: No. No.

5           MR. AZMY: No. No. It's been -- so we have no --

6           MR. ELLIOTT: We're just asking that we don't --  
7 if there's any --

8           THE COURT: Anything further.

9           MR. ELLIOTT: Anything further.

10          THE COURT: Okay. Well, look, if, in fact, a  
11 question is asked, you should raise the objection  
12 immediately, and then we'll approach the bench and take care  
13 of it.

14          MR. ELLIOTT: Absolutely. Or any other evidence  
15 that they're attempting to link to that description, if that  
16 makes sense. A description of the individual.

17          THE COURT: I would be surprised if something more  
18 comes up with this case than in the previous case. All  
19 right.

20          MR. O'CONNOR: Your Honor, we're going to -- we  
21 have a brief issue with the next live witness they're going  
22 to call.

23          THE COURT: Well, aren't you going to  
24 cross-examine?

25          MR. O'CONNOR: I am, but this might be the only

1 break.

2 THE COURT: Go ahead.

3 MR. O'CONNOR: Well, I don't need to do it quiet.  
4 I don't need to do it at the bench; I can do it back there.  
5 I just wanted to alert the Court.

6 THE COURT: Okay. That's fine. All right.

7 (Open court.)

8 THE COURT: All right. Mr. O'Connor, you said  
9 there was one other issue before we continue?

10 MR. O'CONNOR: It is, Your Honor. The plaintiffs  
11 noticed two -- of the eight witnesses they listed for today,  
12 two of them are live witnesses, Mr. Al-Ejaili and then Torin  
13 Nelson.

14 Last night, plaintiffs, for the first time,  
15 identified exhibits what I assume are for Mr. Nelson's  
16 direct. They said in their filing last night that they  
17 relate to the borrowed servant defense, which is not exactly  
18 a new defense in this case. And the justification was,  
19 well, it was in CACI's production, as if I should be ready  
20 to handle any document pulled from our tens of thousands of  
21 pages that was never listed on plaintiffs' exhibit list  
22 until 6:00 last night.

23 So we object. We object to the new exhibits that  
24 they want to use. These are not rebuttal; these are for  
25 their own witness' direct exam.

1 THE COURT: What's good for the goose is good for  
2 the gander. All right. And that is, unless the exhibits  
3 were properly listed ahead of time the way the rules  
4 require, they can't come in now.

5 So, you know, if those exhibits were not listed by  
6 the plaintiffs in the original exhibit lists or reasonably  
7 refined, you know, like a couple of weeks ago so you would  
8 have time to prepare a response, and the same thing is going  
9 to happen to you all. If you have exhibits that you didn't  
10 give sufficient notice to the plaintiffs about, you can't  
11 use it either.

12 MR. O'CONNOR: In principle, I agree with that,  
13 Your Honor. I hope that we're not making an illusion to the  
14 one regulation that we want to use because the Court ruled  
15 on that --

16 THE COURT: We'll worry about that --

17 MR. O'CONNOR: -- in a different context.

18 THE COURT: Very quickly.

19 MR. FARIDI: Could I just be heard on this, Your  
20 Honor?

21 THE COURT: This is your witness.

22 MR. FARIDI: Yes.

23 If they are going to be allowed to put in a new  
24 regulation that they had never disclosed in the 16-year  
25 history of this case, that one regulation, then we should

1 also be allowed to put in -- put before a witness documents  
2 from their own file. That document, Your Honor -- there's  
3 two documents there. One is this gentleman's employment  
4 agreement with CACI, a document from their file, and the  
5 other one is a 2003 code of conduct.

6 The 2004 code of conduct was already on the  
7 exhibit list. The 2003 code of conduct is effectively --  
8 it's basically the same exact thing as the 2004 code of  
9 conduct, but the 2003 code of conduct was not on the exhibit  
10 list. So we're asking to put these two documents before  
11 this witness who's going to testify.

12 If Your Honor is not going to allow that --

13 THE COURT: Hold on a second.

14 In terms of Mr. Torin's employment contract,  
15 you're saying, with CACI?

16 MR. FARIDI: Yes.

17 THE COURT: You asked him some of that. Maybe you  
18 didn't use the exhibit, but you did ask a bit about his  
19 relationship and his position with CACI last time.

20 MR. FARIDI: We did, Your Honor. And that  
21 contract actually undermines the borrowed servant defense.

22 THE COURT: We'll see whether that is the case or  
23 not. But, in any case, all right, then you can use the FAR,  
24 and they can use these two exhibits. I don't think that's  
25 going to be all that devastating. All right.



1 MR. O'CONNOR: Deal.

2 THE COURT: All right. There you go.

3 MR. O'CONNOR: Thank you, Your Honor.

4 THE COURT: Let's bring the jury in.

5 THE COURT SECURITY OFFICER: Yes, Judge.

6 (Jury present at 4:22 p.m.)

7 THE COURT: Again, folks, you can sit anywhere in  
8 the box. All right.

9 We're going to start the cross-examination of  
10 Mr. Al-Ejaili at this point.

11 Mr. O'Connor, we may be having a problem with the  
12 screen in the witness box, so I don't know how many exhibits  
13 the witness is going to have to look at. All right.

14 MR. O'CONNOR: I think it will be few, and if they  
15 are, I think using the binder that we've handed up to him is  
16 going to work just fine for the witness.

17 THE COURT: Fine. All right.

18 MR. O'CONNOR: Could we put up Exhibit 193,  
19 please.

20 CROSS-EXAMINATION

21 BY MR. O'CONNOR:

22 Q Mr. Al-Ejaili, you were asked about this picture during  
23 your direct examination.

24 The soldier on the left, that's Ivan Frederick;  
25 isn't it?

1 THE INTERPRETER: Can you repeat the name?

2 MR. O'CONNOR: Ivan Frederick.

3 THE WITNESS: I do not know his name.

4 BY MR. O'CONNOR:

5 Q Do you remember Ivan Frederick is one of the MPs that  
6 you interacted with at Abu Ghraib prison?

7 A No.

8 Q Okay. So you were arrested by U.S. soldiers on  
9 November 3, 2003 in Diyala, Iraq; correct?

10 A Correct.

11 Q And you were released by the Army from Abu Ghraib  
12 prison on December 20 or 21 of 2003; right?

13 A As far as I remember, yes.

14 Q And so the events you're testifying about today all  
15 occurred more than 20 years ago?

16 A Correct.

17 Q But shortly after you were released, your employer, Al  
18 Jazeera, they asked you to write a report of your experience  
19 in U.S. custody?

20 A Correct.

21 Q And you wrote that report within a few weeks of being  
22 released from Abu Ghraib prison?

23 A Correct.

24 Q I'm going to ask you to take the binder that you've  
25 been provided and turn to Exhibit PTX 224.

1 THE COURT: And there's no objection to that;  
2 correct?

3 MR. AZMY: Correct.

4 THE COURT: All right. Then it's in evidence.

5 MR. O'CONNOR: Thank you, Your Honor.

6 (Plaintiffs' Exhibit Number 224 admitted into evidence.)

7 THE COURT: And this, for the record, folks, is an  
8 English translation of an Arabic script.

9 MR. O'CONNOR: Well, the exhibit is both, Your  
10 Honor. We have the Arabic script with the English  
11 translation behind.

12 THE COURT: Right.

13 BY MR. O'CONNOR:

14 Q And this is the report that you wrote for Al Jazeera;  
15 right?

16 A Correct.

17 Q And the first three pages are your drafting of your  
18 report in Arabic?

19 A Correct.

20 Q And after that is a translation of your report into  
21 English; correct?

22 A Yes. Correct.

23 Q And this report was intended to be a complete report of  
24 your time in U.S. custody; right?

25 A No.

1 Q No.

2 In 2014, did you appear on a podcast called  
3 Democracy Now?

4 A Yes.

5 Q Do you remember stating on that podcast that the report  
6 you drafted after you were released was a complete report?

7 A No, I don't recall that.

8 MR. O'CONNOR: Okay. Your Honor, we would like to  
9 play about a two-minute clip from the Democracy Now  
10 interview.

11 THE COURT: Is there an exhibit number for that  
12 for the record?

13 MR. O'CONNOR: The exhibit -- well, it's a video,  
14 Your Honor.

15 THE COURT: Well, we still put a number on it so  
16 it makes sense in the record.

17 MR. O'CONNOR: What's next in line?

18 MR. AZMY: Your Honor, we have not seen anything  
19 about this.

20 THE COURT: Was this listed on the exhibit list  
21 ahead of time?

22 MR. O'CONNOR: No, Your Honor. This is an  
23 impeachment exhibit that I actually pulled off Mr. Azmy's  
24 website.

25 THE COURT: All right. But we still need a number

1 on it for the record.

2 MR. O'CONNOR: 75, Your Honor.

3 THE COURT: All right. Defense 75. It's in.

4 MR. O'CONNOR: Can you play the clip that runs  
5 from -- I'm sorry, Your Honor, 93. Defense Exhibit 93.

6 THE COURT: Exhibit 93. All right.

7 (Defense Exhibit Number 93 admitted into evidence.)

8 MR. O'CONNOR: Can you play the clip that runs  
9 from 3020 to 3240.

10 (Video played.)

11 BY MR. O'CONNOR:

12 Q Do you remember having your deposition taken in this  
13 case in 2013?

14 A Who deposed me?

15 Q You came to my office in Washington and we sat for a  
16 question-and-answer session in 2013.

17 A Yes, I remember. Yes. Correct.

18 Q And in that deposition, you referred to the report you  
19 wrote for Al Jazeera as a full report; didn't you?

20 A Sir, you tell me it's a complete report. If I want to  
21 write a complete report, I could perhaps write 200 pages.  
22 The report that I wrote was what I observed and what I  
23 experienced regarding the topic, and it was brief, but it's  
24 not every single thing.

25 Q Well, it was you that referred to it as a complete

1 report; right?

2 A Perhaps I was not aware of all the details and I was  
3 not recalling them.

4 Q Okay. You're a professional reporter by trade; aren't  
5 you?

6 A The two or three months following my release from Abu  
7 Ghraib, I was not in my full power, I was not  
8 psychologically, or my consciousness was not all there. My  
9 abilities were not all there. So I was going through a very  
10 difficult time psychologically, so I cannot say for sure all  
11 my abilities were all there at that time.

12 Q And you're college educated?

13 A Correct.

14 Q And you know it's important when you write a report to  
15 cover all the important facts; right?

16 A The report was not for the sake of the media or  
17 journalism. It was solely a report handed to my supervisor  
18 in order for them to be aware of what happened to me in  
19 jail.

20 Q And you drafted this report about five years before you  
21 met up with lawyers who wanted to have you sue a defense  
22 contractor; right?

23 A I believe so.

24 Q So let's go through your report.

25 Your report first addresses your arrest by

1 American soldiers near Ba'Quba Stadium in Iraq; correct?

2 A What was the town called?

3 Q Ba'Quba.

4 A Correct.

5 Q And there were no civilians involved in your arrest;  
6 right?

7 A No.

8 Q And according to your report, you were next taken to a  
9 joint station for the Iraqi police and American forces;  
10 right?

11 A Correct.

12 Q And while you were there, you were interrogated once by  
13 a U.S. soldier; right?

14 A Correct.

15 Q And during your time at the police station, you had no  
16 interaction at all with American civilians; right?

17 A Correct.

18 Q And then your statement goes on to say you were  
19 transferred to Al Faris Airport in Ba'Quba; is that right?

20 A Yes.

21 Q And according to your statement, the treatment of the  
22 American soldiers was very bad?

23 A Correct.

24 Q And you were put into a room with dirty bedding for  
25 days?

1 A One day, as far as I recall.

2 Q Okay.

3 A Yes.

4 Q And then --

5 A Yes, a day or two.

6 Q I'm sorry?

7 A Yes, a day or two.

8 Q Then according to your statement, you were flown by the  
9 U.S. Army to Tikrit; right?

10 A Yes.

11 Q And CACI didn't have anything to do with your  
12 transportation to Tikrit; did it?

13 A I do not know CACI.

14 Q So you have no reason to believe that CACI was involved  
15 in -- to move you by helicopter to Tikrit?

16 A I do not know.

17 Q Okay. And all the people that were involved in  
18 actually transporting you by helicopter, they were U.S.  
19 soldiers?

20 A I believe they were U.S. soldiers, but I cannot tell  
21 100 percent because I had a bag on top of my head and my  
22 hands were handcuffed.

23 Q And during the helicopter trip with the U.S. soldiers,  
24 there was no soundproofing, so you suffered headaches for  
25 several days after the flight?



1 A Yes.

2 Q And you describe the helicopter flight as terrifying;  
3 right?

4 A Correct.

5 Q You were afraid that the soldiers were going to throw  
6 you out of the helicopter?

7 A Correct.

8 Q And the helicopter was tilting from side to side during  
9 your flight?

10 A This is what I felt because I had that black bag on top  
11 of my head.

12 Q Thank you.

13 According to your statement, your treatment in  
14 Tikrit was worse than at Al Faris airport; right?

15 A Yes.

16 Q You were kept in solitary confinement for two days?

17 A It was not solitary confinement; it was a room, and it  
18 was open.

19 Q And you -- during the time that you were held in  
20 Tikrit, you had -- you were held for two days with handcuffs  
21 on your hands?

22 A Yes, but I was able to move. So there was space  
23 between the handcuffs and enough space on the hands and also  
24 on the feet, so I was able to move, even though I was  
25 handcuffed.

1 Q And you were not interrogated at Tikrit; were you?

2 A Not an interrogation. They took personal information.

3 Q And there was no civilian involvement with you and your  
4 time at Tikrit; was there?

5 A I don't particularly recall.

6 Q And after Tikrit, you were brought to Abu Ghraib prison  
7 on about November 8, 2003?

8 A Correct.

9 Q And you were first brought to a temporary tent called  
10 the reception; right?

11 A Correct.

12 Q And on the second day, you were brought to a computer  
13 room where there was a group of American soldiers; correct?

14 A Correct.

15 Q And they were friendly and joked around with you;  
16 didn't they?

17 A Correct.

18 Q And then an American in civilian clothes came up to you  
19 and the soldiers, and that civilian didn't believe you were  
20 an Al Jazeera reporter until he saw your file; right?

21 A Correct.

22 Q And you weren't mistreated in the computer room; were  
23 you?

24 A No.

25 Q And then your statement says that the American civilian

1 took you to another room where an American interrogator  
2 asked you questions; right?

3 A The room had more than one individual and not just one  
4 individual, but yes, correct.

5 Q But the person asking you questions was an American  
6 soldier; right?

7 A He wore military clothing.

8 Q And there was an American civilian present while you  
9 were being questioned, but he never spoke; right?

10 A Correct.

11 Q And you weren't mistreated during that questioning  
12 session; were you?

13 A Correct.

14 Q And after the soldier questioned you in the  
15 interrogation room, he said you would be investigated by  
16 other interrogators; right?

17 A They did not tell me anything. They said they would  
18 transport me to a different location.

19 Q And then soldiers handcuffed you and put a bag on your  
20 head?

21 A Correct.

22 Q And they took you by car to another building?

23 A Yes.

24 Q And you were met at the building by an American soldier  
25 and an interpreter; right?

1 A Okay. I do not know if they were soldiers or not.

2 Q Do you remember testifying about your interaction with  
3 these two people at your 2013 deposition?

4 A I remember there was a deposition; I just don't recall  
5 all the details.

6 Q Okay. Do you recall testifying that when you were  
7 brought to the two people, they pulled the bag off my head,  
8 there were --

9 MR. AZMY: Where are you?

10 MR. O'CONNOR: 52, one.

11 BY MR. O'CONNOR:

12 Q They pulled the bag off my head. There were two  
13 persons, one of them in a military person, and the other his  
14 interpreter. They asked me to get strip naked. I asked, I  
15 refused to obey. They said you, yourself, will get naked,  
16 or we will get you naked by ourselves. So I had no choice  
17 but to take off all my clothing. I gave -- they put the  
18 bag -- again, they put the bag on my head, they handcuffed  
19 me, and it was something like also interrogation with me.

20 MR. AZMY: Your Honor, I'm not sure how this is a  
21 prior inconsistent statement. It appears to be improper  
22 impeachment.

23 THE COURT: It appears to be fairly consistent  
24 with what he said before.

25 MR. O'CONNOR: Well, he said he didn't know if it

1 was a soldier or civilian, and he did say it was an American  
2 in military uniform and an interpreter, Your Honor. That's  
3 the only inconsistency I'm talking about here is the  
4 soldier. It's also an admission.

5 THE COURT: All right. Ask the question again.  
6 See if this refreshes his memory.

7 THE INTERPRETER: Before you ask, can you please  
8 say which page this is on?

9 MR. O'CONNOR: Sure. It's on page 52, line 1 of  
10 his deposition, which is --

11 THE COURT: The first exhibit. It's the first one  
12 in the book.

13 THE WITNESS: It is possible I could read what I  
14 wrote in Arabic and perhaps the interpreter could interpret  
15 it now?

16 MR. O'CONNOR: Okay. Please.

17 THE WITNESS: Maybe the interpretation and  
18 translation is not accurate.

19 MR. O'CONNOR: Please read 52, line 1, to 52,  
20 line 4.

21 THE COURT: Are you in the deposition? It's the  
22 first exhibit. It's the first exhibit in the book.

23 MR. O'CONNOR: If he can't do English, it doesn't  
24 do any good being at the page.

25 THE COURT: All right. This is taking too long.

1 It's a subtle point. I don't think it's that important.

2 Let's move.

3 MR. O'CONNOR: Very well, Your Honor.

4 BY MR. O'CONNOR:

5 Q Do you know if you testified in 2013 that it was an  
6 American soldier and an interpreter who greeted you at the  
7 building?

8 A Yes. But I was not aware that they were soldiers. I  
9 had a bag on top of my head. But we referred to everybody  
10 present in the jail as Americans.

11 Q After they finished questioning you, two soldiers tied  
12 your hands over your head to a pole; isn't that right?

13 A That was later on. In the report that's written in  
14 Arabic, I mention that there's another soldier who took me  
15 from those two soldiers.

16 Q Okay. So you had a soldier take you from the first two  
17 to two more soldiers; right?

18 A One that's different from the other two. And when I  
19 found out later, it was Graner.

20 Q Right. And one of those two soldiers was Charles  
21 Graner, a U.S. Army MP; right?

22 A No. There was a person who was on his own. He's  
23 not -- he's not one of the two who worked together.

24 Q But it was a soldier?

25 A He wore a military uniform.

1 Q When's the first time you interacted with the person  
2 that you now know to be Charles Graner?

3 A What do you mean by the question?

4 Q The first time that you had any interaction with  
5 Charles Graner.

6 A He got ahold of me from those other two, and then he  
7 took me to the cellblock, and he commanded me to take off my  
8 clothes.

9 Q That was Graner who did that?

10 A Later on I found out it was Graner.

11 Q And what did Graner do after you were completely  
12 unclothed?

13 A He's the one who pulled my arms behind my head, had the  
14 bag on my head and then kept me all the way to the morning.  
15 He's the one who commanded me to clean the black vomit that  
16 I vomited on the ground.

17 Q So the next morning, again, Soldier Charles Graner  
18 commanded you to clean up the vomit with your jumpsuit?

19 A Yes.

20 Q And then Graner took you to a cell that was about one  
21 and a half meters by 3 meters; correct?

22 A Correct.

23 Q And according to your statement, you asked a female MP  
24 for clothes and a blanket; right?

25 A I do not know if she was an MP. She was present in the

1 building.

2 Q You asked a female in the building to bring you a  
3 blanket and clothes?

4 A Correct.

5 Q Do you know if CACI had any female interrogators at Abu  
6 Ghraib prison?

7 A I do not know anything regarding that.

8 Q And your statement goes on to say that the female  
9 soldier -- or the female came back to your cell and brought  
10 you women's underwear; correct?

11 A Correct.

12 Q And your statement goes on to say after that, you were  
13 interrogated every two to three days?

14 A Correct.

15 Q You're aware that the Department of Defense has not  
16 located any record that would formally document any  
17 intelligence interrogation of you; right?

18 MR. AZMY: Objection, Your Honor.

19 THE COURT: Wait. Wait. Wait.

20 What's the basis for the objection? What's the  
21 basis for the objection?

22 MR. AZMY: Lacks foundation, Your Honor.

23 MR. O'CONNOR: I'm asking if he's aware.

24 THE COURT: Now, what I want the jury to  
25 understand is when a lawyer asks the question, unless the



1 witness says yes, that's what happened or acknowledges it,  
2 if the witness says I don't know, you must disregard the  
3 question of the lawyer. The lawyers can't testify. All  
4 right.

5 So you're asking a question. You've asked it.  
6 And what's the answer?

7 THE INTERPRETER: Can you please repeat it?

8 MR. O'CONNOR: Should I ask it again?

9 THE COURT: Go ahead.

10 BY MR. O'CONNOR:

11 Q You're aware that the Department of Defense has not  
12 located any record that would formally document any  
13 intelligence interrogation of you; right?

14 A I'm not aware of that.

15 THE COURT: All right. You have to erase that  
16 question. There's no evidence at this point in this record  
17 that such a statement was ever made. Okay.

18 BY MR. O'CONNOR:

19 Q You were also mistreated by Ivan Frederick; correct?

20 A I do not know that person.

21 Q Did you testify in your 2013 deposition that you were  
22 abused by Army MP Ivan Frederick?

23 A No, I am not aware of that. What I know is there was a  
24 man that he would lead me from inside the jail to outside  
25 the jail, and later on I found out that it was that person.

1 Q You later on found out it was Ivan Frederick?

2 A Through you, the attorneys.

3 Q Sure. But later on you learned that that person was  
4 Ivan Frederick?

5 A At that time, and even a few years after, I was  
6 completely unaware of who that person was.

7 Q No, I understand that.

8 Sitting here today, you know that person was Ivan  
9 Frederick; right?

10 A Only two days ago.

11 Q Okay. And you didn't see the faces of your  
12 interrogators because you had a bag on your head; right?

13 A At times the bag was on my head, and other times they  
14 would remove the bag from my head.

15 Q In fact, in your statement to Al Jazeera, you said that  
16 I did not see their faces in most cases because of the bag  
17 placed on my head; right?

18 A That is the big picture; however, there are details.  
19 Not all of them are mentioned in that report.

20 Q In your 2014 appearance on the Democracy Now podcast,  
21 did you say, but of course all the interrogations were  
22 conducted while you were kept naked and hooded, and they  
23 would ask you questions to which you would answer?

24 A Yes.

25 Q And in the same interview when you were asked who

1 interrogated you, didn't you answer: As for the  
2 interrogators, I did not know who they were. I was hooded  
3 throughout the interrogations, so I could not tell who they  
4 were. Were they American Army personnel? Were they from  
5 outside the Army? Were they affiliated with security  
6 companies?

7 A I was subjected to many interrogations. I was  
8 subjected to more than 20. Some of which the bag was on my  
9 head all together and I was not able to see anyone. And  
10 other times I was able to see, but though there were seldom  
11 times. Therefore, what I'm mentioning is the big picture, I  
12 did not see them.

13 Now, if I'm trying to remember all the details,  
14 I'm trying to recall my memory and push to remember, yes,  
15 perhaps some of those pictures can come back to my memory.

16 Q And so now it's more than 20 times that you were  
17 interrogated while you were at Abu Ghraib prison?

18 A Yes. On the premise that every two to three days I was  
19 subjected to these interrogations, and I spent 50 days about  
20 in the cell, if you do simple math, it's about 20 or such.

21 Q And in this exhibit, Plaintiffs' Exhibit 224, which you  
22 wrote a three-page Arabic summary for Al Jazeera; right?

23 A Correct.

24 Q And in that summary, you made exactly two references to  
25 civilians; right?

1 A I don't recall exactly.

2 Q Well, you mentioned the civilian in reception who  
3 didn't believe you were a reporter until he saw your file;  
4 right?

5 A I don't remember exactly.

6 Q Okay. And your report also mentioned the civilian in  
7 the interrogation room who didn't speak; right?

8 A Yes. That, I remember.

9 Q And that civilian didn't mistreat you in any way; did  
10 he?

11 A No, he didn't.

12 Q But you do believe that U.S. Army soldiers wrongfully  
13 arrested you; don't you?

14 MR. AZMY: Objection, Your Honor. Relevance.

15 THE COURT: I think the reason for arrest is not  
16 relevant to this case. Sustained.

17 MR. O'CONNOR: Your Honor, I was not asking about  
18 the reason, just that he thinks it was wrongful. It goes to  
19 why he's suing a civilian contractor and not the --

20 THE COURT: No. No. No. No. Sustained.

21 BY MR. O'CONNOR:

22 Q You believe U.S. Army soldiers treated you very bad at  
23 Al Faris airport; don't you?

24 A It was the first interaction with the American forces  
25 at the Al Faris airport, and it was odd.

1 Q You called it very bad in your report; didn't you?

2 A Yes.

3 Q And you believe U.S. Army soldiers mistreated you on  
4 the helicopter ride to Tikrit; right?

5 A Inside the helicopter, they did not mistreat me.

6 Q Well, the ride was veering from side to side, and you  
7 had a bag on your head; right?

8 THE COURT: That's cumulative. That's cumulative.  
9 We don't need to hear it twice.

10 BY MR. O'CONNOR:

11 Q And you identified U.S. Army Soldier Charles Graner as  
12 mistreating you at Abu Ghraib prison?

13 A Yes.

14 Q Since you were released by the U.S. Army in 2003, what  
15 have you done to pursue a claim against the United States?

16 MR. AZMY: Objection, Your Honor. Relevance.

17 THE COURT: Excuse me?

18 MR. AZMY: Objection. Relevance.

19 THE COURT: No. I'm going to overrule that  
20 objection.

21 THE WITNESS: During the early years, I didn't do  
22 anything at all.

23 BY MR. O'CONNOR:

24 Q Have you done anything since then to pursue a claim  
25 against the United States?

1 A No. The situation in Iraq was unstable, the legal and  
2 political atmosphere in Iraq in general were unstable. I  
3 did not know what was the right path to pursue.

4 Q But in the 20 years since you were released from Abu  
5 Ghraib prison, you've never brought a claim against the  
6 United States for your treatment; have you?

7 A No.

8 Q You never sued Charles Graner for abusing you?

9 A No.

10 Q Did you ever make any effort to find the identities of  
11 the interrogators that you say interrogated you at Abu  
12 Ghraib prison?

13 MR. AZMY: Objection, Your Honor. Relevance.

14 THE COURT: No. I'm going to overrule the  
15 objection.

16 THE WITNESS: I believe these are legal matters  
17 that require attorneys. I'm not able to get to all of these  
18 details.

19 BY MR. O'CONNOR:

20 Q But in 2008, you met up with attorneys who wanted to  
21 file a suit against CACI; right?

22 MR. AZMY: Your Honor, I don't know where this is  
23 going. This is getting close to privilege.

24 MR. O'CONNOR: I'm not going beyond the  
25 solicitation, Your Honor.

1 THE COURT: All right. Go ahead.

2 THE WITNESS: I did not meet directly with them at  
3 the beginning; however, friends in Iraq mentioned there is a  
4 possibility that lawsuits can be brought against those who  
5 harmed you in Abu Ghraib. And based on that, I communicated  
6 with the attorneys. And we started to talk about the matter  
7 all the way that I got to understand details regarding that  
8 story, and this is how this lawsuit started.

9 BY MR. O'CONNOR:

10 Q And when we took your deposition in 2013 and I asked  
11 you what CACI did in causing the injuries you suffered,  
12 didn't you say if they were at Abu Ghraib prison, yes, they  
13 have a role?

14 A If they were the interrogators, of course they had a  
15 big role.

16 Q Well, you also said: As long as they were at Abu  
17 Ghraib prison, yes, they have fault; right?

18 A The interrogators that used to interrogate us, and they  
19 were civilians, of course they are responsible for  
20 everything that happened.

21 Q But you don't have any information as to the identity  
22 of exactly who you say interrogated you; do you?

23 A Of course I don't have information; however, when you  
24 sit down with the attorneys and you get to delve into  
25 details, the story becomes clearer. We just had simple

1 information. There were contractors present in Abu Ghraib  
2 jail.

3 Q Okay. And in ten years -- and when you filed this  
4 lawsuit, you allege that CACI personnel directly tortured  
5 you; didn't you?

6 A I don't remember that.

7 Q Okay. After you were released from Abu Ghraib prison,  
8 you didn't go see a doctor for any injuries; did you?

9 A No.

10 Q And the first time that you saw a psychiatrist or  
11 psychologist was in January of 2013; right?

12 A I think so.

13 Q And that was when you went to Erbil, Iraq to meet with  
14 Dr. Steven Xenakis?

15 A Correct.

16 Q And he was the doctor that the plaintiffs hired as a  
17 medical expert in this case; right?

18 A Yes.

19 Q And he spent about a half a day with you?

20 A I don't remember the time.

21 Q Dr. Xenakis didn't identify any physical injuries to  
22 you; did he?

23 A To start with, I never had apparent physical injuries.  
24 Specifically because that meeting was many years after the  
25 incident.



1 Q So your first meeting with a doctor to testify on your  
2 behalf was 11 years after the -- your time at Abu Ghraib  
3 prison?

4 A I think so, yes.

5 Q Have you had any follow-up examinations with  
6 Dr. Xenakis?

7 A What do you mean by that?

8 Q Has he seen you again other than January of 2013?

9 A I don't recall.

10 Q Do you recall how much Dr. Xenakis was paid to conduct  
11 examinations of you and the other plaintiffs?

12 A No, I do not know that.

13 MR. O'CONNOR: No further questions, Your Honor.

14 THE COURT: All right. Redirect?

15 MR. AZMY: Yes, please.

16 REDIRECT EXAMINATION

17 BY MR. AZMY:

18 Q You were asked by Mr. O'Connor about a report that you  
19 wrote, PX 224, I believe; yes? Is that right?

20 A Yes.

21 Q Okay. When did you write the report? When? Yeah.  
22 Around what date?

23 A I believe it was two or three weeks after I was  
24 released from jail. I don't recall exactly.

25 Q Sure.

1 And what was the purpose of the report?

2 A Briefly I was supposed to say where I was and what  
3 happened in a brief and clear way.

4 Q To whom was the report written? Who was it written  
5 for?

6 A The office manager in Iraq in Baghdad.

7 Q Of your employer?

8 A Yes.

9 Q Okay. Did you -- were you asked to, or did you feel  
10 the need to include every detail of your time at Abu Ghraib  
11 in this report?

12 A No.

13 Q Okay. And is there anything in the report that's  
14 inaccurate?

15 A Nothing inaccurate; however, this report is a general  
16 picture.

17 Q Okay.

18 A Again, I said if I wanted to include all the details,  
19 it would take tens of pages.

20 Q Okay. Mr. O'Connor asked you in your deposition  
21 whether the report you prepared was full or complete; do you  
22 remember being asked that?

23 A I don't remember that.

24 Q Okay. Let's look at your deposition testimony,  
25 page 186, line 12 to 187. I'm going to read from those

1 lines in English, and I would ask the interpreter to  
2 translate.

3 THE INTERPRETER: What is it, 186?

4 THE COURT: It's the first exhibit in that big  
5 volume. All right.

6 MR. AZMY: Page 186 starting at line 12. Do you  
7 see? Yes. Uh-huh.

8 I'm going to read this, and please translate.  
9 I'll go piece by piece.

10 BY MR. AZMY:

11 Q When you were released by the United States military  
12 and returned to Al Jazeera, you testified that they had you  
13 write a report about your experiences in U.S. custody.

14 Answer: Yes.

15 Okay. And then on line 21, you were asked: That  
16 report describes your arrest and detention by the military.

17 And you answered: Yes, in a brief way.

18 A Uh-huh.

19 THE COURT: I'm sorry, do you recall testifying  
20 that way?

21 THE WITNESS: My memory does not recall all these  
22 details, but if you go back to history, it is probably true.

23 BY MR. AZMY:

24 Q Okay. When you wrote the report, did you know that  
25 CACI had interrogators at Abu Ghraib?

1 A I knew there were security contractors, but I wasn't  
2 sure if it was CACI or anything else.

3 Q Okay. And when you wrote the report, did you note  
4 Graner's identification at that time? Did you know the  
5 identity of Graner at the time you wrote the report?

6 A At the time, I was able to see his picture, and I  
7 recognized him.

8 Q Okay. When you wrote the report in January?

9 A Which report are you referring to?

10 Q Sorry. The report, 224, the Al Jazeera report.

11 A No. No. I was not aware at that time.

12 Q Okay. So you wouldn't have included that in the  
13 report; correct?

14 A No. No.

15 Q Okay.

16 A At that time, the pictures of the jail did not come on  
17 the media, and there were no names known.

18 Q Okay. When you were in interrogations, about how often  
19 was a bag placed over your head?

20 A Most of the interrogations, the bag was on my head;  
21 however, there were many times, seldom times, where the bag  
22 would be removed from my head.

23 Q Okay. And it's in those moments when the bag was  
24 removed that you could see who was interrogating you?

25 MR. O'CONNOR: Objection. Leading.

1 THE COURT: Sustained.

2 BY MR. AZMY:

3 Q Okay. After you were released from Abu Ghraib, were  
4 you made aware of any process to make a financial claim  
5 against the United States? Did anyone give you any  
6 information about that?

7 A No.

8 Q Okay. After your release, was there any reason why you  
9 didn't see a psychologist in Iraq?

10 A Okay. So first, it is cultural. In Iraq, it is  
11 something that's not necessarily common that you go to a  
12 psychiatrist or psychologist, and then you would be labeled  
13 crazy. And at the time, I did not even think that something  
14 was wrong with me. And it was that fear to go seek a  
15 psychiatrist or psychologist, at least I would be called  
16 crazy. I don't even think there's any psychologists or  
17 psychiatrists in the governorate where I reside or in  
18 Baghdad. Meaning, there's a specific thing that someone can  
19 reach to.

20 Q Okay. You testified to your physical examination by a  
21 Dr. Xenakis in Erbil; yes?

22 A Yes.

23 Q And you testified that at the time you were examined,  
24 you didn't have any sort of lasting physical symptoms from  
25 the time at Abu Ghraib; is that right?

1 A That is correct. Time has elapsed, and there was no  
2 present physical injuries on my body.

3 Q What about mental harm, then and now, do you have any  
4 mental or psychological harm from what happened at Abu  
5 Ghraib?

6 A Of course the psychological harm is here and  
7 persistent.

8 Q Can you say a little bit more about that?

9 A Until this very moment, I lack confidence in people. I  
10 could never trust anyone. Perhaps some would say this is  
11 normal, but what I have is not normal; it's more than  
12 normal. I fear any other, any agreement, any actions.

13 The other thing is the mention of the Abu Ghraib  
14 jail, the mention of that causes me fear and anxiety even  
15 though many years have passed.

16 MR. AZMY: Thank you, Salah.

17 No further questions, Your Honor.

18 THE COURT: Is there any recross?

19 MR. O'CONNOR: Nothing at all, Your Honor. Thank  
20 you.

21 THE COURT: All right. Thank you for your  
22 testimony. The witness may step down.

23 (Witness excused at 5:17 p.m.)

24 THE COURT: Mr. O'Connor, I'm not sure if you  
25 formally moved 224 in. It's a plaintiffs' exhibit as I see

1 it labeled; is that correct?

2 MR. O'CONNOR: It is a plaintiffs' exhibit, Your  
3 Honor.

4 THE COURT: You're moving it in?

5 MR. O'CONNOR: You asked any objection, and they  
6 said no objection, so it's in.

7 THE COURT: So it's in. I just want to make sure.

8 MR. O'CONNOR: If we didn't move, we so move.

9 THE COURT: Yes, it is in.

10 (Plaintiffs' Exhibit Number 224 admitted into evidence.)

11 THE COURT: It's Plaintiffs' 224.

12 All right. Your next witness.

13 MR. FARIDI: Your Honor, before we call the next  
14 witness, I want to read the United States government's  
15 response to an interrogatory by CACI. The parties have  
16 agreed to the admission of this particular response from the  
17 United States government, and this is in Defense Exhibit 2.

18 THE COURT: All right. And there's no objection  
19 to that; correct?

20 MR. O'CONNOR: No, Your Honor, no objection.

21 THE COURT: Now, for purposes of the record, are  
22 you putting a number on this? Defense Exhibit 2, is that  
23 what it is?

24 MR. FARIDI: That is it, Your Honor.

25 THE COURT: So each side's moving the other

1 exhibits in. That's all right.

2 MR. O'CONNOR: I just want to make clear, this is  
3 now in, Your Honor?

4 THE COURT: I'm sorry?

5 MR. O'CONNOR: The exhibit is now in?

6 THE COURT: It is now in, yes. Defense Exhibit 2  
7 is in.

8 (Defense Exhibit Number 2 admitted into evidence.)

9 MR. FARIDI: As redacted, Your Honor. With the  
10 redactions.

11 THE COURT: Yes.

12 MR. FARIDI: The interrogatory asks the United  
13 States government to identify any interrogator who  
14 interrogated any plaintiff at Abu Ghraib prison. And I want  
15 to read the third paragraph, the United States' response as  
16 it relates to Mr. Al-Ejaili.

17 The response of the United States government was  
18 that the Department of Defense has not located any record  
19 that would formally document any intelligence interrogation  
20 of Plaintiff Salah Hasan Nusaif Jasim Al-Ejaili, Plaintiff  
21 Al-Ejaili, such as an interrogation plan, an interrogation  
22 report or investigator notes; however, as described below in  
23 response to Interrogatory Number 2, the Department of  
24 Defense has located and produced other information  
25 suggesting that Plaintiff Al-Ejaili may have been



1 interrogated by an Army interrogator and a CACI interrogator  
2 during his detention at Abu Ghraib.

3 Your Honor, plaintiffs call Torin Nelson.

4 MR. O'CONNOR: Your Honor, before we do that, I  
5 assumed we were going to go on and read in Interrogatory  
6 Number 2, which is cross-referenced in Interrogatory  
7 Number 1. I think for completeness, I don't think it's  
8 appropriate to not read 2.

9 THE COURT: I think so the jury doesn't get  
10 confused, let's read Number 2.

11 MR. FARIDI: We're happy to do so, Your Honor.

12 Interrogatory Number 2 asked for each interrogator  
13 identified in response to Interrogatory Number 1, describe  
14 the facts relating to such interrogators' interaction with  
15 plaintiffs, including the specific conduct to which such  
16 interrogators subjected any plaintiff and the source of any  
17 direction under which the acts took place. And going to  
18 Section C of the United States government's response, which  
19 appears on page --

20 THE COURT: All right. Let me stop for just one  
21 second.

22 So, folks, in civil litigation in the federal  
23 system, before the case ever comes to trial, the lawyers can  
24 engage in what is called discovery, and discovery are  
25 techniques that are used by the lawyers to obtain

1 information about the case.

2 One of those forms is by asking questions, they're  
3 called interrogatories. You're hearing that word a lot in  
4 this case. So the lawyer for a particular side will write  
5 specific questions, and then the lawyer for the other side  
6 is responsible for providing a full answer that have to be  
7 truthful. All right.

8 In this case, because of the involvement of the  
9 United States at Abu Ghraib, they were -- interrogatories  
10 were put to the United States, and that's why we have  
11 interrogatory answers from the United States in this case.

12 As I mentioned to you also earlier, there are  
13 still areas surrounding the events at Abu Ghraib which the  
14 United States government feels require that they not be  
15 public.

16 And so you will see on many of the documents --  
17 and this is an example of that -- sections of the document  
18 blacked out. That blacking out was not by -- was not done  
19 by the parties in this case. In fact, both sides would like  
20 to have that unblocked. But the United States has taken the  
21 position that it must be redacted. That's the technical  
22 term.

23 So I want to make sure you understand why you're  
24 seeing things that way. But all of the redactions you're  
25 seeing are as a result of the United States government, not

1 of the parties.

2 All right. Go ahead.

3 MR. FARIDI: I'll now read the United States'  
4 response to Interrogatory Number 2 as it relates to  
5 Mr. Al-Ejaili, and it begins on page 15 of Defense  
6 Exhibit 2.

7 The United States wrote: Although as noted in  
8 response to Interrogatory Number 1, the Department of  
9 Defense has found no formal record of an intelligence  
10 interrogation of Plaintiff Al-Ejaili. Other records in its  
11 possession reference military intelligence activity during  
12 Plaintiff Al-Ejaili's detention at Abu Ghraib, including  
13 suggestions that Plaintiff Al-Ejaili may have been  
14 interrogated by a CACI interrogator and a military  
15 interrogator.

16 In the military police log for the Abu Ghraib hard  
17 site, there is a reference on November 9, 2003. "2015,  
18 8:15 p.m., new civilian internee Number 152735 worked for Al  
19 Jazeera. CIC says he is a reporter moved to 1A-28."

20 On the following day, November 10, 2003, after the  
21 opening of the log at 1600, 4 p.m., there is this entry:  
22 "Note: Per the chief not further identified but presumably  
23 a military chief warrant officer, Number 152735 is to have  
24 contact with no one except his team." There is a  
25 parenthetical that includes the first names of two

1 individuals who are not further identified and the last  
2 names of two known Army interrogators.

3 "If anyone attempts to speak with this person and  
4 gives a problem, notify the chief at" -- provides apparent  
5 phone number -- "log everyone who tries to or speaks with  
6 this person, Military Policeman Graner."

7 In this same time period, emails were exchanged  
8 between intelligence officials at CJTF-7 and the Abu Ghraib  
9 ICE. The CJTF-7 official forwarded draft intelligence  
10 information report, DIIR, regarding another Al Jazeera  
11 employee who had been detained by the coalition and remarked  
12 that the DIIR was "something of interest/possible assistance  
13 in dealing with Al Jazeera TV guide."

14 The ICE military official responded: "Will put  
15 this in Al Jazeera dude's file. My last marching orders for  
16 this guy was not to talk to him. He's currently in ISO."

17 The CJTF-7 official replied: "Be advised the  
18 subject in the DIIR is not, again, not the same as the guy  
19 at Abu Ghraib. The material may still be helpful for  
20 background, but please do not confuse the two."

21 In addition, in 2013, the Department of Army  
22 approved the deposition of Army Interrogator James Lee  
23 Joseph Beachner. During the April 25, 2013 deposition of  
24 Sergeant Beachner, the United States permitted Beachner to  
25 affirm that statements he made to military investigators in

1 a June 4, 2004 sworn statement were true. According to  
2 Beachner's 2004 statement, Beachner had been assigned to  
3 interrogate the Al Jazeera reporter, and that on one  
4 occasion, he found out that CACI interrogator Steve  
5 Stefanowicz "was questioning him."

6 According to Beachner's statement, "when I found  
7 this out, I told him to stop because this was my detainee.  
8 He stopped. There was nothing violating the IROE in that  
9 particular interrogation."

10 The United States is continuing to exercise its  
11 due diligence to determine if there is any additional  
12 information it can provide. Should it come across  
13 additional responsive information, the United States will  
14 supplement its responses consistent with Rule 26(e) of the  
15 Federal Rules of Civil Procedure.

16 THE COURT: All right.

17 MR. FARIDI: Your Honor, at this time, plaintiffs  
18 call Torin Nelson.

19 THE COURT SECURITY OFFICER: Sir, come forward.  
20 Face the deputy clerk. Raise your right hand.

21 Thereupon,

22 TORIN NELSON,  
23 having been called as a witness on behalf of the plaintiffs  
24 and having been first duly sworn by the Deputy Clerk, was  
25 examined and testified as follows:

1 (Time noted: 5:26 p.m.)

2 THE DEPUTY CLERK: Thank you.

3 THE COURT SECURITY OFFICER: You may be seated.

4 DIRECT EXAMINATION

5 BY MR. FARIDI:

6 Q Could you please introduce yourself to the Court and  
7 the members of the jury.

8 A My name is Torin Nelson.

9 Q Mr. Nelson, have you heard of CACI?

10 A Yes, I have.

11 Q And how is it that you've heard of CACI, sir?

12 A Well, I worked for them from late 2003 to early 2004.

13 Q And, Mr. Nelson, what type of work did you do with  
14 CACI?

15 A I was hired by them to work as an interrogator.

16 Q An interrogator where?

17 A In Iraq at a place called Abu Ghraib prison.

18 THE COURT: Mr. Nelson, can you move a little  
19 closer to the microphone? It's that little black box in  
20 front of you there. Thank you.

21 THE WITNESS: This one?

22 THE COURT: Yeah.

23 THE WITNESS: Yes, Your Honor.

24 BY MR. FARIDI:

25 Q Mr. Nelson, prior to joining CACI, did you serve in our

1 country's military?

2 A Yes. I joined the U.S. military, the United States  
3 Army in 1992 as a 97 echo interrogator was the title. And I  
4 had 11 years experience, going on 12 by the time that I was  
5 actually hired by CACI. Eleven, 12 years of experience as a  
6 soldier working as an interrogator.

7 Q And when you were in our country's military, what  
8 particular branch did you work in?

9 A I worked for U.S. Army intelligence. Six years as  
10 regular Army, and then another six years as Utah National  
11 Guard, the 300th Military Intelligence Brigade is who I was  
12 assigned to in the Utah National Guard, the whole time as an  
13 interrogator in 97 echo. And most of the time that I was  
14 with the Utah National Guard was not part time; it was full  
15 time.

16 Q For those of us who are not familiar with the military  
17 vernacular, what is 97 echo?

18 A 97 echo is the military occupational specialty or MOS.  
19 Each job for the United States Army is given a particular  
20 designator. So 97 echo is specifically as an interrogator.  
21 It is now considered a -- they changed it in the 2000s to a  
22 35 mike.

23 Q And prior to going to work for CACI in November of  
24 2003, approximately how much experience had you gained with  
25 respect to interrogations through your work with the United

1 States military in the Utah National Guard?

2 A I was considered to be a very experienced interrogator  
3 given the time. When I joined in 1992, the first couple of  
4 years were spent in training. First basic, then I was sent  
5 to language school to learn Russian, and then to Fort  
6 Huachuca to the interrogator school.

7 In 2004 I was there for about four months before I  
8 graduated, and then I was sent off to my first duty station.  
9 But at my duty station, my training continued basically as  
10 what we would consider OJT, on-the-job training, because I  
11 was doing real-world in-language debriefings of live sources  
12 for the 66 Military Intelligence Brigade in Augsburg,  
13 Germany. I did that for a few years.

14 Then I was also working as a strategic debriefer  
15 for weapons inspection teams in Europe overseeing the  
16 conventional forces of Europe treaty. And then I was sent  
17 down to Bosnia to work for counterintelligence force  
18 protection missions working both as a translator in Bosnia,  
19 but also as a human intelligence collector interviewing  
20 local nationals and such like that.

21 And then after that, probably the most relevant  
22 experience was my deployment with the Utah National Guard  
23 down to Guantanamo Bay, Cuba, GTMO, from mid 2002 to 2003  
24 where I interrogated enemy combatants that were housed at  
25 Guantanamo Bay. And then following that directly instead of



1 being redeployed back home, I was actually mobilized with  
2 the rest of my battalion to participate in the invasion of  
3 Iraq in the spring of 2003. So I was considered to be one  
4 of the more experienced people.

5 Q And between formal and informal training, prior to  
6 joining CACI in November of 2003, can you approximate the  
7 number of years of training you had in interrogation? Just  
8 give us a number.

9 A I would probably say 10 to 11 years of training.

10 Q Mr. Nelson, are you currently employed?

11 A Yes, I am.

12 Q And can you describe for the jury who you work for?

13 A I work for a defense contracting company. I am  
14 currently employed at Fort Huachuca. I've been at Fort  
15 Huachuca, Arizona for about the last three and a half years  
16 now. I was working initially as an instructor at the 35  
17 mike course, which is human intelligence collector, which  
18 succeeded the 97 echo interrogator course. I worked there  
19 for a few years, and recently I was just promoted to the  
20 2XMC course, which is -- the 2X is the assistant to the two  
21 shop, which is in charge of intelligence for all staff  
22 command positions throughout the military to advise  
23 specifically on human intelligence aspects. So that  
24 includes counterintelligence, strategic debriefing,  
25 interrogations and military source operations. So I am an

1 instructor there as the subject matter expert, the SME, for  
2 interrogation operations.

3 Q For those who don't follow the military vernacular, 2X,  
4 et cetera, can you describe the level of importance  
5 associated with your position?

6 A A 2X is specifically designated to advise the two who  
7 is in charge of all intelligence operations for each command  
8 going anywhere from a company level all the way up to core  
9 or above.

10 So you can have somebody who's a battalion  
11 commander or lieutenant colonel who has an assistant who's  
12 their 2X, all the way up to a three- or four-star general  
13 who will have a 2X shop usually staffed by a number of  
14 people.

15 The students that we normally get in now are  
16 midfield grade officers. They're talking captains, majors,  
17 senior warrant officers and senior NCOs, non-commissioned  
18 officers. Occasionally the -- a civilian, usually a GS-13  
19 or such pay grade will come through as well that works for  
20 the intelligence community.

21 Q I want to talk about how you began to work for CACI.

22 Okay. And at the time you were hired by CACI, did  
23 you know having been in the interrogation community for  
24 11 years at that time, whether CACI provided interrogation  
25 services?

1 A No. The first time I heard about CACI was when a  
2 friend called me up in about September of 2003 telling me  
3 that there was a company that was looking to hire  
4 interrogators. He wasn't going to go, but he recommended  
5 me.

6 Q And were you interviewed by CACI?

7 A It was two telephone interviews, one by a recruiter.  
8 This would have been around September, also maybe late  
9 September. And the second interview also by telephone was  
10 Amy Jenson, I believe, the program manager.

11 Q And who did Amy Jenson work for as a program manager?

12 A She worked for CACI.

13 Q And can you describe the interview that you had with  
14 Amy Jenson, the program manager at CACI?

15 A Overall I would say it was one of the more odd  
16 interviews that I've ever had. It only lasted for about 30  
17 minutes over the phone. The first five minutes of it was me  
18 talking about my experience and my skills, and then the rest  
19 of the phone call, about 25 minutes, was her mainly talking  
20 about how good it was to work for CACI, all the benefits and  
21 things that I would expect and such like that.

22 Q Why did you find that interaction to be odd?

23 A Well, even if we're working doing interviews,  
24 discussions and such like that in an unclassified manner,  
25 like over a public phone and such like that, there are

1 certain terms and such that you just get used to hearing  
2 people ask you about to describe your experience so that  
3 they can get a better understanding of, you know, beyond  
4 just your resume and such. Like, how much do you actually  
5 bring to the table as an employee.

6 We have a very specific skill set, and people in  
7 our community kind of know some of the terminology that they  
8 need to use around each other to kind of ascertain does this  
9 person actually have the experience and the knowledge that  
10 they purport to do, and she didn't use any of that.

11 Q Did you meet with anyone from CACI's management before  
12 you were hired?

13 A Before I was hired, no. The only interaction I had was  
14 telephonically, those two phone calls, and then emails back  
15 and forth, maybe a couple follow-up calls just to make sure  
16 things had gotten through. But it was -- the first time I  
17 ever met anybody was after I had been hired. And, you know,  
18 it would have been at the CRC, the CONUS reemployment center  
19 down at Fort Bliss, Texas where I was getting ready to  
20 actually go through my medical exams and get equipment  
21 issued and those kinds of things before I actually got  
22 deployed to Iraq. And that fellow who I met was another new  
23 hire.

24 Q So let me ask you to turn to PTX 230. It's in the  
25 binder in front of you.

1 THE COURT: Is there any objection to 230? It's a  
2 CACI document.

3 MR. O'CONNOR: Your Honor's already ruled on this,  
4 Your Honor.

5 THE COURT: Well, just tell me. I mean --

6 MR. O'CONNOR: No objection.

7 THE COURT: All right. 230 is in.

8 (Plaintiffs' Exhibit Number 230 admitted into evidence.)

9 BY MR. FARIDI:

10 Q And let's focus on the first page that's titled  
11 employment agreement; do you see that?

12 A Yes.

13 Q And let's just skip to the last page, page 4, of the  
14 document.

15 Is that your signature there?

16 A Yes. That's -- I printed my name, signed it and dated  
17 it on the right side.

18 Q And it's countersigned by Amy Jenson; correct?

19 A Yes.

20 Q And let's take a look at the section titled management  
21 rights on page 2 of the document. Okay.

22 We've highlighted some language, and I want to  
23 read some of the language to you and ask you a question.

24 A Okay.

25 Q It says: CACI's management retains all rights to

1 operate the business according to its judgment, including  
2 without limitation, the right to determine the size and  
3 nature of the work -- I'll skip some language here -- to be  
4 the sole judge of the competence and performance of  
5 employees, to determine the means and manner in which the  
6 business is to be conducted, including services to be  
7 provided. And then skipping some language again. In the  
8 very last line it states: To direct, supervise, control,  
9 and when it deems appropriate, discipline the workforce in  
10 management's discretion; do you see that?

11 A Yes, I do.

12 Q Okay. What was your understanding as to CACI's ability  
13 to supervise your work as an interrogator at Abu Ghraib?

14 A It was pretty standard. As far as for my hiring, there  
15 were expectations of my being able to do the job, to do the  
16 job correctly according to the rules, and to be held  
17 accountable for that. And that would be overseen by the  
18 resident CACI personnel who were tasked with making sure  
19 that I was doing my job. It's pretty standard.

20 Q Did CACI have the ability to fire you?

21 A Yes.

22 Q Did it have the ability to discipline you?

23 A Yes.

24 Q And let me show you PTX 229.

25 Is that your signature on this document?

1 A Yes. I printed and signed my name there.

2 Q And is this a CACI document?

3 A Yes, it is.

4 MR. FARIDI: Your Honor, we offer PTX 229.

5 THE COURT: Any objection?

6 MR. O'CONNOR: Let me look at it, Your Honor.

7 THE COURT: It's in.

8 MR. O'CONNOR: No objection.

9 THE COURT: It's in.

10 (Plaintiffs' Exhibit Number 229 admitted into evidence.)

11 BY MR. FARIDI:

12 Q Okay. And the document's titled certification of  
13 understanding and compliance code of ethics and business  
14 conduct standards, electronic communications policy, the  
15 year 2003.

16 And the first sentence states: I have read,  
17 understand and agree to comply about CACI's code of ethics  
18 and business conduct, standards and the electronic  
19 communications policy; do you see that?

20 A Yes.

21 Q Did you review the CACI code of ethics?

22 A I did. It was sent to me, and I looked it over.

23 Q Let me show you PTX 85A.

24 THE COURT: Any objection to 85A?

25 MR. O'CONNOR: No, Your Honor.

1 THE COURT: It's in.

2 (Plaintiffs' Exhibit Number 85A admitted into evidence.)

3 BY MR. FARIDI:

4 Q And the document is titled year 2003 code of ethics and  
5 business conduct standards, revised February 2003; do you  
6 see that?

7 A Yes.

8 Q Okay. Is this a document that you reviewed?

9 A Yes.

10 Q Okay. Set that aside, we'll come back to it later.

11 Mr. Nelson, when did you arrive in Iraq?

12 A In Iraq, it would have been I believe early morning on  
13 the 21st of November 2003.

14 Q And when you got to Iraq, where did you go first?

15 A We flew into BIAP, which is Baghdad International  
16 Airport. Phoned into the Camp Victory to be picked up. I  
17 flew in with another new hire from CACI, Mr. Scott Northrup.  
18 And he and I were transported over to the area we refer to  
19 as CACIville on Camp Victory, and I was there for about two  
20 days, I think, before the morning of the 23rd. I was  
21 transported --

22 THE COURT: Hold on a second.

23 What is Camp Victory?

24 THE WITNESS: Camp Victory was one of the main  
25 bases that U.S. forces had set up near Baghdad International



1 Airport. I believe that the core commander, the three-star  
2 was actually headquartered there. So a lot of activity at  
3 Camp Victory. CACIville was a small portion of that.

4 So we flew in, drove over to there. We were there  
5 for about two days. Then I was driven out to Abu Ghraib on  
6 the morning I believe of the 23rd of November 2003.

7 BY MR. FARIDI:

8 Q Can you describe what CACIville is or was?

9 A It was just an old one-story building, basically maybe  
10 a couple of other outbuildings as well. Kind of on the edge  
11 of the Camp Victory compound area where most of the in-house  
12 senior personnel for CACI were primary located, they would  
13 kind of base their operations out of.

14 Q And when you got to Abu Ghraib in November of 2003 from  
15 CACIville, did you meet with any folks who worked for CACI?

16 A When I got to AbuG?

17 Q Yes.

18 (Reporter interrupted for clarification.)

19 THE WITNESS: AbuG. Abu Ghraib.

20 See, that morning when we got through the front  
21 gates and dropped off at the housing compound, some of the  
22 first people that I remember meeting were Dan Porvaznik, I  
23 think someone named Hank, and I think I met Steve a little  
24 bit later.

25 BY MR. FARIDI:

1 Q Let's focus on Dan for a second.

2 Who's Dan Porvaznik?

3 A Dan Porvaznik was my on-site manager.

4 Q Who did he work for?

5 A He was also a CACI employee.

6 Q Who did Mr. Porvaznik report to?

7 A To my understanding, Mr. Porvaznik was reporting  
8 primarily to Amy Jenson. It might have been a couple of  
9 other people as well depending on the situation, but most of  
10 the traffic that I saw either through email or, you know,  
11 conversations and such, you know, home office reported back  
12 sounded like it was mostly dialogue between Mr. Porvaznik  
13 and Ms. Jenson.

14 Q And Ms. Jenson was in the United States?

15 A Yes, at home office.

16 Q Okay. And can you describe, from your standpoint, what  
17 you viewed to be Mr. Porvaznik's responsibilities on the  
18 ground at Abu Ghraib in Iraq?

19 A So as overall site manager, he was in charge of making  
20 sure that all the CACI personnel were provided for,  
21 accounted for, present. There were no issues. Payroll,  
22 personnel, medical, vacation, leave issues at all.

23 But also to ensure that as a site manager, we were  
24 all -- how would I put it -- providing the services that had  
25 been agreed upon to the client, which in this case was the

1 military.

2 Q You had agreed to a CACI code of conduct before you  
3 went to Abu Ghraib?

4 A Yes.

5 Q Who was responsible on the ground at Abu Ghraib in  
6 ensuring that you complied with the CACI code of conduct?

7 A The site manager ran -- I suppose also his assistant  
8 site manager, which later on turned out to be Steve. But  
9 the main point of contact was Dan Porvaznik to ensure that.

10 And that's pretty typical, actually, for site  
11 managers to work in conjunction with the military client to  
12 make sure that all their personnel are actually doing the  
13 job that they agreed upon.

14 Q And you referenced a Steve as an assistant manager.  
15 What's Steve's last name?

16 A I always mess it up.

17 Q Would it refresh your recollection if I said Steve  
18 Stefanowicz?

19 A Stefanowicz, yeah.

20 Q Okay. And who did he work for?

21 A Steve Stefanowicz also worked for CACI.

22 Q And when you were at Abu Ghraib, aside from interacting  
23 with Mr. Porvaznik, did you get to interact with other  
24 interrogators there?

25 A Yeah. Military and CACI interrogators. I pretty much

1 interacted with almost all of them. Some more than others.  
2 The ones that worked on my shift I got to interact with on a  
3 much more regular basis.

4 Q Did you recognize anyone that you knew from the  
5 interrogation world from which you came from?

6 A No. None on the CACI side. There were maybe one, two  
7 on the military side that I recognized from previous  
8 deployments, but those were military personnel.

9 There was one female interrogator who was coming  
10 in on the day that I left in 2004. That was the only person  
11 that I recognized from any of the previous work that I had  
12 ever done.

13 Q And did that surprise you? Did that concern you?

14 A Well, that was one of my initial concerns. There were  
15 a lot of initial concerns, but that was one of them was the  
16 fact, not just that I didn't know anybody there, but it was  
17 unusual because I was actually used to actually running into  
18 a lot of the same faces on my deployments.

19 Q And why is it that not running into interrogators at  
20 Abu Ghraib from your prior life, why was that a surprise to  
21 you?

22 A Well, first off, it was one of the first times that I  
23 had done a deployment where that didn't happen. Whether I  
24 was going to the desert in Kuwait for the invasion, whether  
25 it was GTMO, whether it was my tours in Bosnia, I was

1 constantly running into people that I had worked with  
2 previously because we were such a small group, and, you get  
3 to know each other. Interrogators are a very small-knit  
4 group in the United States military.

5 Q And from your interactions with these CACI employees,  
6 these interrogators, what, if anything, did you learn about  
7 their backgrounds?

8 A Almost immediately I began to realize that a lot of  
9 them didn't seem to have the experience necessary to be even  
10 qualified to be doing interrogations, and certainly not to  
11 do them well.

12 I remember there was a meeting within the first  
13 week that I arrived there where I believe it was headed up  
14 by Chuck Mudd who came out on a visit to Abu Ghraib.

15 Q Who did Mr. Mudd work for?

16 A Mr. Mudd was working for CACI. I think he was a VP,  
17 but I'm not sure.

18 Anyways, he was -- he held kind of like a mini  
19 town hall for all the CACI personnel. This would have been  
20 right around Thanksgiving, I believe. And I noticed that a  
21 lot of the personnel -- the CACI personnel that were at that  
22 meeting were addressing a lot of their concerns and such,  
23 safety, provisions, you know, communications, those sorts of  
24 things. But it just seemed like at that meeting -- I  
25 remember after the meeting going up to Dan and saying I'm

1 not really sure I want to work here and I might want to  
2 actually consider either working for CACI somewhere else or  
3 going to work for another company.

4 Because he specifically told me you're one of the  
5 most experienced guys, we really need you and asked me to  
6 stick it out for a couple of weeks or a few weeks to see if  
7 maybe things got better.

8 I agreed to that, and then as I continued to work  
9 there longer, I realized I really was one of the more  
10 experienced people. They were sorely needing experienced  
11 interrogators to be able to do the mission correctly. So  
12 that's why I stayed around as long as I did.

13 Q All right. I want to switch subjects a little bit.  
14 Related subject. I want to talk about the treatment of  
15 detainees at Abu Ghraib.

16 A Yes.

17 Q Okay. And before we get started on that subject, I  
18 want to clarify one thing.

19 Did the United States military ever authorize you,  
20 as a CACI interrogator, to direct the military police to  
21 abuse detainees?

22 A No.

23 Q And based on your training and experience, what  
24 understanding, if any, did you have as to how detainees  
25 needed to be treated?

1 A Well, based upon not only my training, but also my  
2 personal experience plus all the work that I had done in  
3 research prior to that, studying good interrogation cases  
4 over the 20th century, my understanding was was that the  
5 best results came from treating your captured personnel,  
6 whether they're unlawful enemy combatants or whether or not  
7 they're enemy prisoners of war, humanely. Treat them, some  
8 people would say with kid gloves, but I preferred to use the  
9 term with a bare minimum of humanity in the sense that you  
10 need to think of them as human beings first and foremost,  
11 not the enemy.

12 Once you do that, then you build up your  
13 relationship from that baseline through conversation,  
14 understand who they are as a person, what's motivating them,  
15 what their strengths, what their weaknesses are. Once you  
16 have kind of a better understanding of who they are, then  
17 you can kind of present the predicament that they find  
18 themselves in at that moment so that you can leverage that  
19 in order to be able to give them a good option for being  
20 able to be cooperative with you.

21 Ultimately in military intelligence interrogation,  
22 you're not looking for a confession from anybody. What  
23 you're looking for is information that is truthful and  
24 accurate so that you can paint a better picture of the  
25 unknown areas of the battlefield. Because the intelligence

1 that we provide gives more information to the commanders so  
2 that they can make better decisions.

3 Q Can you describe the relationship between interrogators  
4 and military police at Abu Ghraib?

5 A Minimalism is usually best. Military police are there  
6 serving a purpose to be able to safeguard, protect, and, if  
7 need be, restrict detainees. Whether it's in their movement  
8 or in their actions or their interactions with each other  
9 and such like that, these are for a multitude of purposes.  
10 That is a separate mission generally, almost always, from  
11 military intelligence, which is primarily there to actually  
12 interact with the detainees.

13 So there's very little collaboration. There is  
14 cooperation, but very little collaboration ever between  
15 military intelligence personnel and military police,  
16 especially when it comes to military intelligence personnel  
17 using military police for their purposes.

18 Q What actually happened on the ground at Abu Ghraib in  
19 terms of the relationship between military intelligence and  
20 military police?

21 A Well, I found out that there were numerous violations.

22 MR. O'CONNOR: Objection. Hearsay. He found out?

23 MR. FARIDI: Well, we can lay the foundation.

24 THE COURT: Well, I'll tell you what. It's  
25 getting late, and the jury has been here longer than the



1 normal day. You all came in around 8:30, I suspect. So I'm  
2 going to let the jury go home tonight, and we'll have  
3 Mr. Nelson back on the stand at 9:30 tomorrow morning. All  
4 right.

5 Ladies and gentlemen, please remember my cautions  
6 about avoiding any media coverage. I actually did see a  
7 couple of reporters at certain times during the trial. So  
8 don't be looking for anything, and if you see anything,  
9 immediately, you know, get away from it.

10 As I said before, the best thing we can do as a  
11 juror is to get a good night's sleep. If there's still  
12 enough daylight out there, until this weekend you'll have a  
13 little bit of daylight, even some fresh air and some  
14 exercise.

15 But we appreciate -- we definitely appreciate the  
16 sacrifice that you're all making in being here. And, again,  
17 I will continue to push the lawyers. We always do a little  
18 housekeeping each night to see what we can do to keep the  
19 case moving.

20 Leave your notebooks here, and we cannot start  
21 until you're all here in the morning. So I know traffic in  
22 Northern Virginia can be a real issue, so try to leave a  
23 little bit early so you're here on time.

24 We'll let the jury go. Mr. Nelson, you can leave  
25 for the evening. We'll see you at 9:30 tomorrow morning.

1 And I have a couple of matters to take up with counsel.

2 THE COURT SECURITY OFFICER: Rise for the jury.

3 (Jury not present at 5:55 p.m.)

4 THE COURT: All right. Now what I want for  
5 tomorrow is I want a clear list of the witnesses and the  
6 order in which you plan to call them. All right.

7 It sounds like we're behind schedule. I think the  
8 voir dire took longer than it normally does, so I want to  
9 start, you know, moving the case. All right.

10 Are there any issues that may be coming up  
11 tomorrow that we need to address?

12 MR. O'CONNOR: I don't foresee any other than what  
13 I think Your Honor was getting at. We got a list of eight  
14 witnesses last night, including four hours of de bene esse  
15 depositions. I'm hoping that this isn't a guess within this  
16 list of who we're going to call tomorrow.

17 THE COURT: In any case, let's think about whether  
18 we need as much of the de bene esse depositions as everybody  
19 originally thought we might need.

20 The main thing is, though, I want the list of  
21 witnesses who are anticipated. And every night before you  
22 all leave, that list should be prepared for the next day so  
23 that counsel knows what's coming. And when we go into the  
24 defense case, the same obligation will apply to the defense;  
25 all right?

1 MR. FARIDI: And that's fine, Your Honor.

2 I think one thing just to flag for you, just  
3 depending on how the examinations go, we may need to switch  
4 the order, particularly towards the tail end of the day. If  
5 we're running out of time and let's say we have two hours of  
6 de bene esse testimony that we may not be able to play in  
7 its entirety, we may move up someone who's got 30 minutes of  
8 testimony to avoid a break in the middle of the testimony.

9 THE COURT: Well, I understand that, but we're  
10 having a break now with Mr. Nelson's testimony. I don't  
11 think that's that critical. Maybe if you get close to the  
12 weekend or some of the gaps that we have, that's a different  
13 situation. Let's keep it moving, and that avoids problems.  
14 All right.

15 So tomorrow we shouldn't have a problem. I think  
16 we may have to get our tech people in. I'm not sure yet  
17 that the screen is working for the witness box, so I want to  
18 try to get that working. But if there's nothing further  
19 then we'll recess court.

20 Oh, no. I do want to follow my practice of  
21 reading into the record those exhibits that were entered  
22 into evidence. We're going to do that at the end of each  
23 night just to make sure, and it avoids having to do it all  
24 at the end of the trial. All right.

25 THE DEPUTY CLERK: PTX 13. PTX 1. PTX 193.

1 PTX 224. DTX 93. DTX 2. PTX 230. PTX 229. PTX 85A.

2 THE COURT: All right. And we also have  
3 Plaintiffs' 226. That's the stipulation. I'm assuming the  
4 entire stipulation at some point will go in. We were just  
5 reading portions of it; correct?

6 MR. O'CONNOR: I think that's right, Your Honor.

7 MR. FARIDI: Yeah.

8 THE COURT: So Plaintiffs' 226. It was  
9 Stipulations 1 through 3, 19 and 20. Those were actually  
10 read. But that whole exhibit will be in. Okay.

11 (Plaintiffs' Exhibit Number 226 admitted into evidence.)

12 THE COURT: And every stipulation that's in it at  
13 some point is going to be published to the jury, or if they  
14 get the whole exhibit that they can read in the jury room;  
15 correct?

16 MR. O'CONNOR: Exactly. One way or the other,  
17 Your Honor.

18 THE COURT: All right. That's fine.

19 Anything further then? All the exhibits that  
20 everybody thought were introduced today are in?

21 MR. FARIDI: Nothing from us, Your Honor.

22 MR. O'CONNOR: Nothing further, Your Honor. Thank  
23 you.

24 THE COURT: All right. Good.

25 We'll recess court then until 9:30.

(Proceedings adjourned at 5:59 p.m.)

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I certify that the foregoing is a true and accurate  
transcription of my stenographic notes.

Stephanie Austin

Stephanie M. Austin, RPR, CRR