

Testimony of Eileen Schirmer

DIRECT EXAMINATION

22

23 BY MS. SHERRI WALLACE:

24 Q. Ms. Schirmer, how old are you?

25 A. I'm 30 years old.

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1 Q. Okay. Are you married?

2 A. Yes, ma'am.

3 Q. Do you have any children?

4 A. I have two children.

5 Q. What are their ages?

6 A. I have a girl that is nine years old

7 and a boy that is six years old.

8 Q. Do you work?

9 A. Yes, I do.

10 Q. What do you do?

11 A. My husband and I are self-employed.

12 We own our own business, engineering of printed circuit
13 boards.

14 Q. What sort of business is that? Tell

15 us about that.

16 A. We do the mechanical design and the

17 actual layout of the printed circuit boards themselves.

18 Q. Is that the same kind of business that

19 the Routiers are in?

20 A. Yes, it is.

21 Q. How are y'all's businesses different,

22 if they are?

23 A. They test -- their business would

24 actually test the printed circuit boards, and we were the

25 beginning phases of the design that actually produced the

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1 schematics and the layouts and the actual drawings.

2 Q. What sort of role do you have in that

3 business, Ms. Schirmer?

4 A. I am the majority stockholder owner

5 and the executive vice-president.

6 Q. Okay. And what do you actually -- I

7 mean, you go to work, and you get your cup of coffee,

8 what do you do next?

9 A. I go to work and I work 8 to 5 every

10 day and I handle all the accounting and the credit for

11 the company.

12 Q. So, it's fair to say you do the books

13 and the finances?

14 A. Yes, I do.

15 Q. Make sure that everything is going
16 right?

17 A. Right.

18 Q. Through work, did and your husband get

19 to know Darin and Darlie Routier?

20 A. Yes, ma'am.

21 Q. Okay. And how did you come about

22 getting to know the Routiers?

23 A. My husband knew Darin Routier through

24 the business, and through conversations. My name came

25 up, and she approached me at my office, inquiring about
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1 day care, the fact that I worked and had children, and

2 how they were cared for, and what day care I used.

3 Q. Okay. About when did she come and ask

4 you about day care, if you remember?

5 A. It was the latter part of '93.

6 Q. All right. Was that the first time

7 you had ever met her?

8 A. Yes, it was.

9 Q. Were you and your husband's business

10 close to Testnec, the Routiers' business?

11 A. Yes, they were very close.

12 Q. Tell the jury about how they were in

13 relation to each other.

14 A. A little more than the length of this

15 courtroom, but in separate buildings.

16 Q. So one day the defendant just came

17 over to talk to you about day care?

18 A. Yes.

19 Q. How was she dressed when she came

20 over?

21 A. She -- her clothing was all green,

22 tight body suit, tight jeans with suede boots past the

23 knees, all green to match.

24 Q. Let me ask you Ms. Schirmer, what was

25 your first impression of her?

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1 A. That she liked to be very glamorous,

2 that she paid a lot of attention to her looks.

3 Q. Over the course of time, did it just

4 so happen that you and your husband were also building a

5 home near their home?

6 A. That's correct.

7 Q. Okay. Were you already building it
8 before you had even met the Routiers?

9 A. We had already bought the lot before
10 we had ever met the Routiers. Yes, that was
11 coincidental.

12 Q. Okay. How close was the home you were
13 building to the home they had on Eagle Drive?

14 A. Their home is the corner home with
15 Willowbrook being the next street, and Allen Lane being
16 the second one, we're the third house from that same end.

17 Q. So about two streets over?

18 A. Two streets over.

19 Q. Because you worked in the same area
20 and you lived in the same area, did you have the
21 opportunity to see the defendant frequently?

22 A. Yes, almost every day, just either in
23 the business or casually passing through the neighborhood
24 or it could have been the actual conversation of visiting
25 one another.

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1 Q. How was she -- when you saw her these
2 other times, did she look different than she had the
3 first time you saw her?

4 A. Yes.

5 Q. Tell the jury how she looked usually.

6 A. Usually she was without makeup,
7 shorts, baggy shirts, her hair wasn't so poofed up,
8 typically wore her jewelry but maybe not as much.

9 Q. Did she wear undergarments?

10 A. Not that I could tell.

11 Q. Okay. Did she ever wear a bra?

12 A. No.

13 Q. Okay. Through being around the
14 parents, did you have an opportunity to get to know the
15 children?

16 A. Yes, I did.

17 Q. Devon and Damon?

18 A. Um-hum. (Witness nodding head
19 affirmatively.)

20 Q. Were they about the same age as your
21 little boy?

22 A. Yes, they were very close, months
23 apart.

24 Q. Okay. And, once you all moved in the
25 neighborhood, did you see the boys even more?

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1 A. Yes, a lot more.
2 Q. How often would you see the boys?
3 A. Whenever they were home the boys would
4 usually be outside, that was a good indication if they
5 were home or not.
6 Q. So if the boys were not outside,
7 pretty much the Routiers were not home; is that about
8 right?
9 A. That's right.
10 Q. Okay. Who was out there watching
11 them?
12 A. There was usually no one from that
13 family out there with the boys.
14 Q. So the times that you would see them,
15 Ms. Schirmer, were Devon and Damon ever supervised?
16 A. No, they were not supervised, not by
17 their parents.
18 Q. One time, did you and your family have
19 an invitation to join the Routiers on their boat?
20 A. Yes, we did.
21 Q. Was that in the summer of '94?
22 A. I believe it was, shortly after they
23 had purchased the boat.
24 Q. About how old were the boys at that
25 time, if you remember?
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1 A. I want to say about four and five.
2 Q. How old was your son in '94?
3 A. He was four years old.
4 Q. So he was the age of the little one,
5 of Damon?
6 A. Yes, of Damon.
7 Q. Did your son know how to swim?
8 A. No.
9 Q. Were you concerned about him going out
10 on the boat and to the lake?
11 A. Yes, even around the docks.
12 Q. Did you take any precautions because
13 he didn't know how to swim?
14 A. Yes, we all did. We made sure that
15 Darin had enough life jackets on the boat for everybody
16 who was going out on the boat.
17 Q. Did you ask your son to wear his or
18 did you just make sure it was there?
19 A. We actually -- everyone in my family
20 put the life jackets on.
21 Q. Was that when you were in the boat or
22 on land or where?

23 A. When we actually got into the boat.
24 Q. Okay. Now, what about the Routier
25 boys, Devon and Damon? Do you know whether or not they
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1 knew how to swim?
2 A. I was told that they did not know how
3 to swim as well.
4 Q. Who told you that, their mom?
5 A. Darlie, yes.
6 Q. Okay. And, did they have any life
7 jackets on?
8 A. No.
9 Q. Did you -- did that concern you?
10 A. Yes, it did. Especially around the
11 docks, because they were free to roam the docks. Whereas
12 I made my children stay hand in hand with my husband and
13 I.
14 Q. What did your little boy have to say
15 about that?
16
17 MR. RICHARD C. MOSTY: I'll object.
18 That is hearsay.
19 THE COURT: Sustained.
20
21 BY MS. SHERRI WALLACE:
22 Q. Did you and your son have a
23 conversation about that?
24 A. Yes, he felt like --
25
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1 MR. RICHARD C. MOSTY: Objection.
2 THE COURT: Sustained. Let's rephrase
3 the question or move on to a new one, please.
4
5 BY MS. SHERRI WALLACE:
6 Q. And after the conversation, did you
7 still make him stay with you with the life jacket on?
8 A. Yes, I did. I made him wear his life
9 jacket.
10 Q. Was there a concern in your
11 neighborhood about the Routier boys running wild?
12
13 MR. RICHARD C. MOSTY: Objection, that
14 is hearsay. That is the most speculative hearsay.
15 THE COURT: I'll sustain the
16 objection.

17

18 BY MS. SHERRI WALLACE:

19 Q. Ms. Schirmer, did you have a concern

20 about the Routier boys running wild in the neighborhood?

21 A. Yes, I did, especially in and around

22 the cars parked on that corner.

23 Q. Did you do anything about that?

24 A. Yes, I had brought it to Darin and

25 Darlie's attention, at times that when their cars were

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1 parked out there, if the boys were riding their bikes or

2 standing behind them, or playing games, that you could

3 not see them dart out, because the visibility was blocked

4 by their vehicles.

5 Q. Did the defendant respond in any way?

6 A. No.

7 Q. Did you approach her another time, in

8 person, about seeing the boys fairly far away from their

9 home?

10 A. Yes.

11 Q. Okay. What did you tell the

12 defendant?

13 A. I felt like it was far from home,

14 because it was off their street and out of visibility

15 range, and I let her know that they were over on my

16 street, and up on the other streets riding their bikes.

17 Q. What reaction did you expect?

18

19 MR. DOUGLAS MULDER: To which we

20 object. How is it material what reaction she would

21 expect?

22 THE COURT: I'll overrule that

23 objection. Go ahead, answer it.

24

25 BY MS. SHERRI WALLACE:

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1 Q. Why did you tell her these things, Ms.

2 Schirmer?

3 A. I felt like that she would be

4 surprised to know that they were that far from home or

5 that she would appreciate the fact that I brought it to

6 her attention and to have them either stay closer to home

7 or go where they needed to go and check in.

8 Q. Did you get that reaction?

9 A. No.

10 Q. What did she say, if anything?

11 A. She didn't really seem to say
12 anything, or be that concerned.
13 Q. Did you have the opportunity to --
14 were you and your family invited to Devon's fifth
15 birthday party?

16 A. Yes, we were.

17 Q. Okay. That was in June of 1994?

18 A. I believe it was, yes.

19 Q. And tell the members of the jury, what
20 sort of birthday party was that? What did y'all do?

21 A. Devon's birthday party was in a park.

22 It was picnic style. Just a community setting type, a
23 spread, you know, pinatas to bust, some water balloons,
24 and water guns, and food.

25 Q. What happened there?

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1 A. It was a family social, we did the
2 pinata breaking, played games, and the kids filled their
3 water guns, and played with the water balloons, and
4 everybody sprayed one another with them.

5 Q. So, did a water fight break out?

6 A. Yes, it did.

7 Q. Okay. Tell us about that.

8 A. Well, a water fight broke out and the
9 parents and the children were spraying one another. It
10 was not just among the children.

11 And, at one point, everybody was
12 pretty wet, and Darlie had said, "Okay, enough is enough.
13 Let's stop the water gun fight now."

14 And one person sneaked in a squirt
15 here and there, and the next thing you know, everyone is
16 squirting again. And Devon sprayed Darlie, and she got
17 really mad about it. She immediately grabbed a piece of
18 birthday cake off the table and shoved it right into his
19 face.

20 Q. How did she do that?

21 A. By grabbing his head and reaching for
22 the plate off the table and shoving the two together.

23 Q. So with one hand she held his head,
24 and with the other hand, she put the cake in his face?

25 A. Yes.

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1 Q. Did she look playful?

2 A. No. Everybody stopped laughing and
3 stared right at her and at Devon expecting him to start
4 crying and --

5

6 MR. RICHARD C. MOSTY: Objection to

7 what people were expecting.

8 THE COURT: Sustained. The jury is

9 instructed to disregard that statement by the witness.

10

11 BY MS. SHERRI WALLACE:

12 Q. What did Devon do?

13 A. He stood there for a moment, just

14 stared at her and he got angry.

15 Q. What did the defendant do?

16 A. She told him that he was warned and to

17 stop and that he got what he deserved.

18 Q. Now, the woman we're talking about, do

19 you see her in the courtroom?

20 A. Yes, ma'am, I do.

21 Q. Would you point her out for the jury?

22 A. She is the woman in the red and white

23 dress.

24 Q. The woman over her tapping her pen and

25 taking notes?

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1 A. Yes, ma'am.

2

3 MS. SHERRI WALLACE: Let the record

4 reflect that the witness has identified the defendant.

5 THE COURT: Yes, ma'am.

6

7 BY MS. SHERRI WALLACE:

8 Q. What did you think at point, Ms.

9 Schirmer?

10

11 MR. RICHARD C. MOSTY: Objection to

12 what she thought, that is pure speculation and hearsay.

13 THE COURT: Sustained.

14 MS. SHERRI WALLACE: What she thought

15 herself, your Honor.

16 MR. RICHARD C. MOSTY: What she

17 thought --

18 THE COURT: Wait a minute. Ladies and

19 gentlemen, an objection will be sufficient. Sustained.

20 Move on.

21

22 BY MS. SHERRI WALLACE:

23 Q. What did you do at that point, Ms.

24 Schirmer?

25 A. My husband and I discussed leaving the

1 party.

2 Q. Okay. Did you leave?

3 A. No, we did not.

4 Q. Why not?

5 A. Because the children were still

6 playing over in the pinata area and had not witnessed it,

7 and wouldn't have understood if we were just to tell them

8 that we needed to go right in the middle of their

9 activity.

10 Q. A little bit later in the party, did

11 you witness another exchange between the defendant and

12 her, at that time, five year old son, Devon?

13 A. Yes, ma'am.

14 Q. Tell the jury about that.

15 A. She approached Devon and told him that

16 he was not to try to do it again, or to get even with her

17 for putting the cake in his face.

18 Q. What was her tone?

19 A. Under her breath and talking through

20 her teeth.

21

22 MS. SHERRI WALLACE: I'll pass the

23 witness.

24

25

1 CROSS EXAMINATION

2

3 BY MR. RICHARD MOSTY:

4 Q. Ms. Schirmer, I take it that you don't

5 much like Mrs. Routier?

6 A. That is not true.

7 Q. You do like her?

8 A. Yes, sir.

9 Q. How do you discipline your children?

10 Do you spank them?

11 A. I have occasionally.

12 Q. With your hand?

13 A. Yes, sir.

14 Q. Some people could disagree with that,

15 couldn't they?

16 A. If they wanted to.

17 Q. You do, perhaps different than someone

18 else disciplines their children?

19 A. That is probably true.

20 Q. Okay. Does your husband spank them?
21 A. Occasionally.
22 Q. With his hand?
23 A. Yes, sir.
24 Q. With anything else?
25 A. No, sir.
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1 Q. All right. And, how old are your
2 kids?
3 A. Nine and six.
4 Q. You ever have any hard days with them?
5 A. Yes, I do.
6 Q. Do you ever raise your voice to them?
7 A. Yes, I have.
8 Q. Ever get angry with them?
9 A. I get angry, yes.
10 Q. Okay. Ever do some things that you
11 regret doing with them?
12 A. I can't say that I have.
13 Q. Nothing you regret?
14 A. Not that I can remember.
15 Q. Some people could perhaps disagree
16 with how you handle some of those situations.
17
18 MS. SHERRI WALLACE: I'm going to
19 object to speculation on her part.
20 THE COURT: I'll sustain that. Let's
21 move on.
22
23 BY MR. RICHARD C. MOSTY:
24 Q. Are you a perfect mother?
25 A. No, I am not.
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1 Q. Have you ever slapped your kids, hit
2 your kids?
3
4 MS. SHERRI WALLACE: Object to
5 relevance.
6 MR. RICHARD C. MOSTY: Your Honor,
7 this lady --
8 THE COURT: Mr. Mosty, all I need is
9 an objection, please. Overruled.
10
11 BY MR. RICHARD C. MOSTY:
12 Q. Have you ever slapped your kids, or
13 pushed them away, or grabbed them up by the arm?

14 A. No, sir.

15 Q. Never, never have?

16 A. No, sir.

17 Q. And, you know that a lot of people do

18 different things, don't you?

19 A. Yes, sir.

20 Q. As a matter of fact, you know, for

21 instance, that there was conversation, that Darin and

22 Darlie were talking about getting speed bumps into the

23 neighborhood?

24

25 MS. SHERRI WALLACE: I'll object as to

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1 hearsay and speculation.

2 THE COURT: Sustained, hearsay. Go

3 ahead.

4 MR. DOUGLAS MULDER: If she knows.

5

6 BY MR. RICHARD C. MOSTY:

7 Q. Well, do you know whether or not the

8 Routiers were looking into getting speed bumps in that

9 area?

10 THE COURT: I'll let her answer that.

11 Do you know of your own knowledge?

12 THE WITNESS: No, I do not know.

13

14 BY MR. RICHARD C. MOSTY:

15 Q. You don't know one way or the other,

16 do you?

17 A. I know that -- it's not to my

18 knowledge that they were trying to do that, no.

19 Q. Of course, how many times have you

20 ever been in their house?

21 A. A couple of dozen.

22 Q. A couple of dozen times you have been

23 in their house?

24 A. Yes.

25 Q. And you don't know whether or not they

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1 addressed the matter of cars and the speed in that area

2 or not, do you?

3 A. I -- Darin has, in a remote way,

4 addressed the speed of the --

5 Q. In a remote way Darin addressed it.

6 Is that what you are saying?

7 A. Yes.

8 Q. So Darin did express some concern and
9 take some action toward speed bumps. Is that what you
10 are telling us now?

11 A. He had -- no, not towards the speed
12 bumps, towards the traffic that was on that corner.

13 Q. Matter of fact, what he did was, he
14 parked his car out there, to try to slow things down,
15 didn't he?

16

17 MS. SHERRI WALLACE: Object. That's
18 hearsay. It's not the actions of the defendant.

19 THE COURT: Overruled. If she
20 knows -- if you know yourself or of your own knowledge,
21 answer the question.

22 THE WITNESS: Could you repeat the
23 question?

24

25 BY MR. RICHARD C. MOSTY:
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1 Q. That is why the car was parked -- that
2 is why they parked the car in front, wasn't it, to slow
3 things down?

4 A. That was his reply when we said to him
5 that it actually blocked the vision and especially when
6 the children were behind it.

7 Q. Now, that conversation that you had
8 about the children and visibility, was that with Darin or
9 Darlie?

10 A. Actually, my conversation with --
11 about the children was directly with Darlie.

12 Q. And so, you know that apparently
13 Darlie and Darin were talking about it.

14 A. I do not know that.

15 Q. Well, you know Darin said that is why
16 we're parking the cars in front?

17 A. That is what he said.

18 Q. That would be an appropriate response,
19 wouldn't it?

20 A. I did not think so, I disagreed.

21 Q. You didn't like it?

22 A. No.

23 Q. Okay. Well, you know you couldn't get
24 speed bumps on that street, don't you?

25 A. I am aware of that.

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1 Q. Okay. And you know that that sort of
2 was a wide area, that was a bit of a traffic problem
3 anyway?

4 A. It's a cul-de-sac area, yes.

5 Q. And these boys were -- you live how
6 far away?

7 A. Two blocks.

8 Q. Two blocks?

9 A. Um-hum. (Witness nodding head
10 affirmatively.)

11 Q. And the boys were riding their bicycle
12 on that street?

13 A. Yes.

14 Q. I guess your thought was that the boys
15 should only ride their bicycle immediately in front of
16 the house?

17 A. Or out of the street.

18 Q. Or out of the street. What does that
19 mean?

20 A. On the sidewalk.

21 Q. So was your concern that they were not
22 on the sidewalk, or was your concern that they were on
23 your street?

24 A. My concern was their safety riding in
25 the street.

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1 Q. Okay. So, if they had been riding on
2 the sidewalk in your neighborhood on your street, that
3 wouldn't have bothered you?

4 A. Not as much.

5 Q. Okay. Of course, it's a little bit
6 hard -- do your kids ever ride their bicycle in the
7 street?

8 A. Yes, they do.

9 Q. And so, it's a little bit hard
10 sometimes to cover those things, isn't it?

11 A. They ride with their parents and with
12 helmets and to the side.

13 Q. Okay. You know that, I guess, that
14 they never ride in the street?

15 A. That my kids never ride in the street?

16 Q. Right.

17 A. No. I just stated that they do, that
18 they have.

19 Q. Matter of fact, your kids ride over to
20 the Routiers' house, wouldn't they?

21 A. Yes.

22 Q. On their bicycles?

23 A. Yes, sir.

24 Q. How old were they?

25 A. Nine and six.

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1 Q. Okay. When they started riding over
2 there, how old were they?

3 A. About eight and five.

4 Q. Okay. And you don't know whether or
5 not they rode in the street or not, do you?

6 A. I do know that they did. I could walk
7 to the corner and see a straight shot to the sidewalk
8 that leads to their house.

9 Q. So you know that they rode in the
10 street some?

11 A. Not to the Routier house.

12 Q. Do you know that?

13 A. Yes, sir.

14 Q. You watched them all the way?

15 A. Yes, sir.

16 Q. You walked down two blocks and watched
17 them?

18 A. I watched to the -- I walked to the
19 end of my street to make sure that they crossed the
20 alley, and across the street, and once they were on that
21 corner.

22 Q. Okay. And then that is how far from
23 the Routiers, a block?

24 A. That would be one alley and one street
25 away.

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1 Q. Okay. Then, how do you know how they
2 went on the bicycle from there?

3 A. I don't.

4 Q. And how do you know where they rode
5 their bicycles, when they got over to the Routier house?

6 A. Usually, they just went to the Routier
7 house and got off their bikes.

8 Q. How do you know they didn't ride
9 around in the cul-de-sac?

10 A. I would ask them if I wanted to know.

11 Q. You didn't go down and watch them, did
12 you?

13 A. No, not the whole time.

14 Q. Well, you didn't watch them when they
15 were down at the Routiers' house, did you?

16 A. No.

17 Q. You obviously felt that it was a safe
18 environment for your children, didn't you?

19 A. Yes.

20 Q. You would have never sent them down
21 there -- if you had the slightest concern about the
22 safety of your children at the Routiers' house, you
23 wouldn't have let them go, would you?

24 A. If I had a concern for their safety, I
25 would not have let them go.

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1 Q. It wouldn't have even crossed your
2 mind, to let them go to the Routiers' house, would it?

3 A. No.

4 Q. If you had the slightest, slightest
5 concern about their safety?

6 A. They had been requested at times to
7 stay outside and not go inside.

8 Q. Ma'am, my question is real simple.

9 A. Okay.

10 Q. You wouldn't have let your children go
11 down there if you had the slightest concern for their
12 well-being, would you?

13 A. That's right.

14

15 MR. RICHARD C. MOSTY: That's all I
16 have.

17 THE COURT: You may step down, ma'am.

18 Watch your step going off, please.

19 THE WITNESS: Okay. Thank you.

20 THE COURT: Ma'am, you are now -- do
21 not discuss your testimony, when you are not testifying,
22 with anybody who has testified. In other words, don't
23 compare it.

24 You have to remain outside the
25 Courtroom when you are not testifying.

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1 THE WITNESS: Yes, sir.

2 THE COURT: You may talk to the
3 attorneys for either side. If someone tries to talk to
4 you about your testimony, please tell the attorney for
5 the side who called you. Okay?

6 THE WITNESS: Okay.

7 THE COURT: Thank you.