

1 Q. Did you ever read about your
2 criminal case in the newspaper?

3 A. Yes, I actually did.

4 Q. Which newspaper?

5 A. It was the New York Journal, I
6 believe.

7 Q. New York Journal?

8 A. Yes.

9 Q. What type of publication is that?

10 A. I have no idea. I don't remember
11 where I got that paper from. I think my father
12 brought it home and said it was in there and I
13 read it. I sure was in there.

14 Q. What did the article say?

15 A. It just described unlawful arrest.
16 I don't recall exactly what it said, but the
17 article was dealing with racial profiling. I
18 think I have a copy at home. I have to look
19 through.

20 MS. HABER: If you have a copy, I'm
21 going to request it.

22 MR. MASSIMO: I have a copy.

23 Q. Do you recall the date of the
24 article?

Joshua Wharton

1 A. No, I do not. I don't even know
2 how they found out about this situation.

3 Q. Did you speak to any reporters
4 about it?
5 A. No, I did not.

6 Q. Other than the New York Journal
7 article, did you read about this case in any
8 other media?

9 A. No.
10 Q. Are you close to your parents?
11 A. Yeah. I say I'm closer nowadays
12 then I was years ago.

13 Q. And by years ago, what year are you
14 referring to that you were not as close to them?

15 A. I say middle school years, like 8th
16 grade, 9th grade, 7th, 8th and 9th.

17 Q. And what was going on in 7th, 8th
18 and 9th grade that you were not as close to your
19 parents?

20 A. I don't know. Exploring, finding
21 myself, growing up, girlfriend, a couple of house
22 parties and stuff like that from school. Dances
23 and stuff. And my parents, I don't want to say
24 religious, but big on the religion on

Joshua Wharton

1 Christianity. My father is a minister. Any fun
2 he really doesn't want you to have. No option
3 for fun. Strictly follow the rules, the law on
4 the land follow up on the Bible and do good. Do
5 what you know is right. He would instill Bible
6 lessons every night. When you make friends, you
7 tend to move away from strict business and stuff,
8 family business. I grew up out of it. I had to
9 learn myself, apply it to my own life. I didn't
10 want to grow up and still be lectured on my life.
11 I applied what I learned. That's all I could do
12 at that point.

13 Q. Have you been involved in any
14 criminal litigation aside from this case? Have
15 you ever sued anyone before?

16 A. No.

17 Q. Have you ever been sued by anyone
18 before?

19 A. No.

20 Q. Were you ever arrested prior to

21 January 24, 2004?

22 MR. MASSIMO: I'm going to object,
23 but you can answer.

24 A. Yes. This was, I forgot the year

Joshua Wharton

1 it was for. Trespassing in my neighborhood park.
2 We were hanging out, the park closed at ten, they
3 closed the fencing. There was an opening in the
4 fence. That's the only time I was arrested. It
5 was after hours. We were still trespassing on
6 the property so they arrested us. And that was
7 it. We got led off.

8 Q. Do you remember how old you were at
9 the time?

10 A. Maybe 16, 15.

11 Q. So approximately, one to two years
12 before the arrest at Dunkin Donuts?

13 A. Yes.

14 Q. You said you were, led off. What
15 do you mean by that; the charges were dismissed?

16 MR. MASSIMO: I object to that.

17 You can answer.

18 A. Yes, it was dismissed.

19 Q. Have you been arrested since
20 January 20th, 2004?

21 MR. MASSIMO: I'm going to object
22 to that.

23 You can answer.

24 A. Yes.

1 Q. What for?

2 MR. MASSIMO: Objection.

3 You can answer.

4 A. Trespassing in the mall, Roosevelt
5 Field. I was locked in the mall due to -- I had
6 a closing at the mortgage company, AFG, I had to
7 close the deal that same day. One of my
8 coworkers decided to celebrate. So we went to
9 his house in Plainview and we had a couple of
10 drinks there. And I went back to the office to
11 close up and everything, it was still technically
12 a workday. We closed up the office. They
13 dropped me off at the terminal. We were going
14 separate ways. I thought I asked for a ride
15 home, no one was able to go out of their way
16 being that we just celebrated. I didn't have a
17 problem with that. I had left my phone in the
18 office and didn't realize it. I was drunk. I
19 went to the bus terminal, got dropped off there
20 from my coworker. I walked in the mall to use
21 the rest room. On my way out, it was absolutely
22 locked. The doors were locked and I said, is
23 this really happening. It was so happening. I
24 wasn't out of my mind, I was just drunk.

Joshua Wharton

I used the phone that's in the
kiosk, it had a tarp over it. I unzipped the
tarp and grabbed the phone. I knew who worked in
the mall. I know that each booth had a phone. I
went to use the phone to call my cell phone or
someone else, security was patrolling through.
As soon as I touched the phone, they popped up.

They asked what I was doing. I told them I was
locked in the mall. I was in a suit. I just got
out of the work. I leave at the same time the
mall closes. I didn't realize that I didn't have
time to use the bathroom. I got locked in and
suffered the consequences. Everything was
dismissed with that case being for legitimate
reasons.

Q. Do you know when the charges on
that case was dismissed?

MR. MASSIMO: I'm going to object.
You can answer.

A. I don't recall the exact date, but
it was fairly recent. Maybe two or three months
ago, maybe four months. But I do have the
disposition for the case and everything.
MS. HABER: I'll request production

Joshua Wharton

of the disposition of that as well.

Q. Were you represented by a lawyer with respect to that case?

A. No, legal aid.

Q. Do you know the name of the assistant district attorney who handled the case?

MR. MASSIMO: I'm going to object.

You can answer.

A. No.

Q. Were either Brian or JJ arrested on January 20th, 2004?

A. No.

Q. Did they come to the police precinct with you?

(Continued testimony on following page to allow for jurat.)

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1 Joshua Wharton

2 A. No.

3 MS. HABER: Thank you, Joshua. I

4 have no further questions.

5 (Time noted: 4:25 p.m.)

6

7

----- JOSHUA WHARTON

8 Subscribed and sworn to

9 before me on this _____ day

10 of _____, 2009.

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----- NOTARY PUBLIC

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INDEX

INDEX TO TESTIMONY

3	Witness	Examination	Page
5	Joshua Wharton	Ms. Haber	5
6			

INDEX TO REQUESTS

7		Page	Line
8	Request production for the medical records pertaining treatment for stomach problems	92	4
9			
10	Request copy of article in New York Journal	96	21
11			
12	Request disposition	101	25
13			

INDEX TO DEFENDANT'S EXHIBITS

14	Description	Page	Line
15	E, Diagram of Dunkin Donuts	36	23
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

CERTIFICATION

I, JASMIN TROVATO, a Notary Public in and for
the State of New York, do hereby certify:

THAT the witness whose testimony is
hereinbefore set forth, was duly sworn by me; and

THAT the within transcript is a true record
of the testimony given by said witness. I

further certify that I am not related, either by
blood or marriage, to any of the parties to this
action; and

THAT I am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 6th day of January, 2009.



JASMIN TROVATO

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2 ERRATA SHEET

3 CASE: Joshua Wharton, Gail Wharton and Jonathan
4 Wharton against County of Nassau, Et al

5 DATE OF DEPOSITION: December 12, 2008

6 WITNESS: Joshua Wharton

7 PAGE: LINE: CHANGE:

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21 JOSHUA WHARTON

22 SUBSCRIBED AND SWEARN TO
BEFORE ME THIS _____ DAY
OF _____ 2009.

23

24 NOTARY

25

A	aid 82:22 83:17 102:5 aide 7:24 10:3 12:20 aides 10:7 air 74:5,7 al 106:4 Albertson 31:22,22 alert 66:5,6 altered 50:18 alleging 90:10 allow 67:8 102:17 allowed 30:5 amazed 93:14 amazing 93:22 American 21:22 analysis 8:18 angle 62:23 ankle 63:14 answer 30:7 89:21 98:24 99:18,24 100:4 101:20 actual 67:4 77:13 addition 3:9 address 5:12 6:9,10 6:13,20,25 7:5 13:24 14:2 31:21 32:7 adjourned 82:15,16 administration 83:5 administrators 32:25 advice 90:4 91:24 advise 48:6 affiliated 8:24 afford 89:9 affording 89:10 AFG 19:5,15,25 20:4,20,24 22:11 100:7 aforementioned 36:23 afro 53:16 afternoon 5:7,8,16 age 26:21 ago 94:9 97:13,14 101:23	area 8:12 12:15 26:2 26:4,10 27:1 34:3 34:18 64:14 69:8 92:23 93:4,5 arm 54:2,7 55:2,4,6 55:8,9,12,12,14,15 55:19,20,21 56:6,7 58:3,4,5,18,24 59:4,8,13,16 62:4 62:24 74:5,12 arms 22:23 56:15 57:8 60:25 Armstrong 24:10 34:21 arrangements 87:4 arrest 5:17 16:5 59:10 67:4 68:19 80:13 83:6,20,23 90:24 92:15 93:9 96:16 99:13 arrested 40:24 43:5 64:9 66:13 75:14 76:2 98:21 99:5,7 99:20 102:11 arresting 69:14 95:22 arrived 32:10 34:24 70:17 article 1:16 96:15,18 96:25 97:8 104:10 aside 56:12 63:20 98:15 asked 39:7,13,19 45:9 46:5 47:12 appeared 84:21,25 87:16 appetite 35:18 application 15:17 applications 18:5 applied 98:12 apply 98:10 approached 41:23 approaching 42:16 approximate 35:9 approximately 20:7 84:16 99:12	assumed 40:3 assuming 32:2 86:3 athletic 29:6 33:8 athletics 29:6 Atlantic 19:5 attend 23:22 27:16 27:22 30:5,9,22 attended 23:19 24:25 49:5 72:7 attorney 2:7,8 4:5 81:23,24 82:3 83:17 84:6 85:6 102:7 attorneys 2:3 3:3 August 19:14 authorization 92:9 automatic 93:3 available 13:23 Avenue 7:3 31:22 32:4 aware 89:18,22 A-N-Y-I-S 31:10 B	back 8:21 9:15 13:17 23:6,6,25 24:3 25:17,19 28:2 28:3,7,9,18 37:16 40:10 52:19 55:20 56:3 59:23 66:20 67:6 68:2 69:4 71:4,25 72:22,24 74:20 76:25 78:6 78:18,23 80:20,21 80:25 81:2,5 94:24 100:11 background 76:10 bad 26:20,21 badges 51:2,3 bank 22:17 banks 19:22,23 22:14,16,20 Baptista 31:13 32:15
----------	---	---	--	---

Baptista's 31:20 bar 3:11	big 97:25 billing 8:17 birth 7:7 bit 23:25 25:4 40:11 41:15 66:10 67:24 71:10 91:2	building 17:5 21:3 bulldog 74:21 bunch 47:6 bus 100:20 business 21:15,23 47:17 98:8,9 businesses 21:20 bystander 51:11	37:13,15,21,24 39:18 cashier 39:16 49:2 catch 88:10 caucasion 70:3 caught 14:23 cause 47:7,14 60:19 91:21 cautious 88:19 92:22
basis 35:21	block 33:23 blood 105:9 blue 21:3 43:10 44:2 44:5 70:5 body 53:9,13 57:11 58:2	C cab 43:9,10,10 call 18:6,24 41:6 50:18 54:18 64:9 65:18,19 21:6,7 70:19 75:7,8,10,17 77:6 80:19 101:6 called 12:3 27:17,21 29:6 49:24 50:4 84:20 87:7 94:24 calling 15:15 50:13 94:18	celebrate 100:9 celebrated 100:17 cell 74:18,20,21,23 75:6,20 76:23 77:13,15 78:9,18 78:19,23 94:18 101:6 cells 77:14 center 83:20 92:3 95:8 Centre 8:4 certain 29:25 62:11 75:11 certificate 9:7 certification 11:25 12:19,22,24 23:17 105:1 certified 9:8 certify 105:3,8 chair 57:13,15,23 chance 21:17,21 27:5,16 29:20 41:3 44:20 cards 21:1,6,22 care 8:16 10:9,17,19 11:20,22 92:12 Carrey 8:25 carry 69:20 case 37:2 84:3,7,20 85:10,13 86:23 88:2,4,21 94:15 96:3 97:8 98:15 101:15,18,24 102:4,7 106:3 cash 21:16,18 37:4
basketball 25:3,11 29:2,17 30:5,9,19 30:22 31:15 32:11 33:3 70:12	Baskin 94:10 Bates 65:11,12 bathroom 101:13 beat 10:14 89:23 becoming 22:17 Bedford 7:2 began 9:20 beginning 41:8 begun 3:17 behalf 84:25 believe 13:7 17:25 18:13,18 19:8 22:6 27:20 28:12,17 31:24 35:2 43:20 43:21 51:6,7,9 55:2 60:13 64:11 66:3 69:4,9 77:16 79:16 82:15,20,20 82:21 83:4,6 84:8 96:7	braids 53:15,15 Brain 44:16 break 41:14 54:3,4 54:13 55:10,17 58:19,20,25 62:16 62:17,19 63:4,18 breath 27:6 Brian 31:17 33:20 38:7,9,19 41:4,10 42:15 44:9,18 47:24 50:25 102:11 bring 55:16 57:12 78:13 92:10 71:3	45:17 broker 17:18 broke 49:7 54:8 brokers 17:19 18:23 brother 10:9,18,20 65:24,25 brought 55:21 56:9 58:7 76:25 78:18 78:19 80:8 96:13 brown 44:7
bench 74:2	Bernstein 24:21,21 best 23:5 26:9 66:4,6 71:24 88:6 bet 26:10 29:8 66:4 better 20:13 Bible 98:5,6	brother 10:9,18,20 65:24,25 brought 55:21 56:9 58:7 76:25 78:18 78:19 80:8 96:13	charge 4:6 76:18 charged 66:16 82:22 82:24 83:2,6,13 charges 74:24 78:18 82:19 83:8,10 86:20 99:16 101:17

CHARLES 1:7	colleagues 88:21	congregation 90:16	31:4 44:13 51:19
checked 67:7,9	collecting 21:15	91:6	51:19 64:24 73:3
checks 19:22	color 44:5,7 57:25	consequences 101:14	97:22 100:10
cheese 38:5	58:22 59:6 70:4	considered 27:12	Court 1:7 43:16
chest 55:2,19	colored 44:6 45:12	consolidation 19:21	45:13
56:15 58:4,6,8	colors 44:3 45:19	20:3	course 9:2 24:3 53:2
children 7:14	come 11:4,22 29:8	consultant 19:17	court 1:2 6:2 81:15
Christianity 9:8,2	30:12 32:24 35:22	20:23	81:16,18 82:5,5,7
church 89:7 90:18	38:9 44:15,25	contact 21:19 32:24	82:10,13,18 83:10
Citibank 17:5	48:25 73:19 76:11	40:12 52:4,12 66:5	83:24 84:13,17,19
City 1:11 2:4 7:2,3	76:12,13,15 79:3,8	87:15	87:15
17:4 20:25 21:2	79:10,17 102:14	95:13	courtesy 91:7
24:11 32:3	comes 9:17	continue 83:24 84:3	coverage 89:19
Civil 1:16	comfort 91:6	90:5	covered 89:14,17
claiming 64:13	comfortable 51:23	Continued 102:16	coworker 94:17
class 32:20	coming 50:18,22	continuing 92:17	coworkers 93:18
classmates 32:18	69:7	controlled 3:21	100:21
classrooms 25:8	commission 20:6,10	conversation 69:20	94:15 100:9
clean 28:23	20:11,14 87:24	75:4 90:7	CPLR 3:4,20
cleaning 18:22	88:6	conversations 44:23	crazy 49:8,25 50:2
clear 60:23	Community 95:8	convicted 88:22	credential 69:16
clients 15:16 18:6	companies 12:18	cooperating 61:25	credentials 51:11
clock 12:9 74:22	87:23	cooperative 61:20	credit 19:22 20:2
close 18:10 32:7	company 10:6,17	62:18	21:13,14,16,18,22
56:6 97:11,15,19	12:3 13:10,12	copy 4:3 96:19,21,23	criminal 65:6 84:3
100:8,12	14:20,21 16:9,13	104:10	85:10 87:12 96:3
closed 19:24,25 99:3	16:20 19:20 21:11	corner 65:16	98:15
99:4 100:13	22:5,17,21,22	corporate 93:17	criminally 83:22
closer 97:12	94:21 100:7	correct 6:23 9:22	cringes 92:19
closes 101:12	compared 27:14	10:3 18:2 23:18	crossed 57:9,11
closing 88:7 100:7	competition 22:4	28:10 38:8,21 42:9	crowd 26:25
closings 20:15,15	complete 11:3 73:18	56:7,8,10 61:14	Crown 43:8
clothes 45:12,22	completed 10:22,23	76:3 84:4,23 95:24	cuff 55:17 59:17
57:19,20 58:2,16	27:25	95:25	cuffed 41:3 51:7
58:23 59:6 70:6	completing 26:8	correctional 64:7	53:25 54:24 55:6,8
clothing 44:2 71:18	computer 8:20	counsel 3:19	55:9,21 59:17
71:20,22 72:5,11	73:11	counseling 20:3 89:6	73:20,23 74:4
72:23	concerned 26:18	89:9	77:22 78:2
clue 82:6	concussion 53:17	counter 38:23	cuffs 67:10,11,16
coach 28:25 33:4	conduct 3:5 83:5	Country 1:6,2:5	69:5 77:20 78:11
code 15:15 18:6	confronting 42:17	county 1:6,6 2:7	cuffed 40:10
31:23	confused 12:23	7:24 12:4 60:17	cure 67:22
coffee 37:25	Congratulations	66:2 77:8 83:20	current 5:12
cold 35:2,4 80:24	23:9	89:18 106:4	currently 7:1 6,19
collar 70:5	couple 8:19 29:18	couple 64:25	cursed 64:25

cursing	50:3	64:23	degree	9:5,7	62:22	99:19	101:15,18	Dunkin	33:20,25
customers	21:16	delete	7:6,15	dismissing	30:3	34:7,11,14,20,24			
35:7	68:13,15	demanding	48:24	disorderly	83:5	35:14,17,20,36:10			
		demolished	22:21	disposition	101:24	36:18	37:11,41:2,5		
D		denied	75:8,9	102:2	104:11	41:12	42:2,8,43:14		
D 104:1		department	1:7	12:8	45:5	46:9,48:9			
Dances	97:23	93:17	disrespect	47:9	45:5	46:9,48:9			
dark	43:25	58:21	distinguish	45:16	59:21	68:11,69:11			
darker	57:20	58:23	distribute	19:23	70:12	72:3,78:13			
date	7:7	18,19,22,72:10	21:14	22:18	94:6,7,11	95:20			
date	7:7	8:9,10,15:8	21:14	22:18	99:13	104:15			
80:13	82:5,5,11,13	deposition	1:15	3:14	duties	8:14,15:13			
82:18	83:10,24	3:18,22	10:6,5	district	1:2,2	84:6			
96:24	101:21	Depositions	3:6	102:7	doctor	67:16,95:8,10			
106:5		derives	53:22	102:7	document	36:24			
dates	87:16	describe	36:11,15	70:25	70:25	D-E-C-A-N-Y-O			
dating	31:6	described	96:16	documents	92:21	17:16			
day	9:25	8:11,11,12:8	deserves	53:23	documents	92:21			
22:15	30:18,35:2	desk	76:8	29:23	46:20	E			
35:16	47:18,20	detained	81:22	54:5,9	47:4	E 2:2,2	104:1,15		
68:23	70:7,79:10	Detective	43:16	65:25	55:7	104:1,15			
81:15	94:23,24	deteriorated	88:12	73:23	60:22	106:2,2,2			
95:17	100:8	diagnosed	67:15	73:23	66:2,3	earns	20:5,8		
103:10	105:14	diagnosis	91:21,24	73:23	68:1,9	EASTERN	1:2		
106:22		diagram	36:10,10	73:23	76:19	101:9			
day-to-day	35:21	36:15	37:9,12,22	73:23	76:19	eat	50:8,9		
deal	21:13	100:8	38:18	41:17	101:9	51:24	80:23		
dealing	22:20	96:18	104:15	102:18	101:9	81:3	81:3		
deals	19:24	different	12:18	103:13	102:13	economy	9:17	22:13	
debt	19:21	20:3	19:23	104:6	102:13	effect	48:10,13		
DeCanyo	17:13,14	directed	49:15	104:15	102:13	egg	38:5		
Decaro	1:7	43:16	directly	21:2	103:13	eight	6:14,16	8:8	
45:13		34:8	39:24	103:13	104:15	11:8	14:12,14	48:2	
December	1:12	9:2	51:20,25	52:6,10	door	either	24:20	35:17	
9:21	106:5	65:15	69:3	65:15	35:17	44:2	46:8,9	91:21	
decide	77:15	85:22	disabled	10:8,9,11	doors	44:2	46:8,9	91:21	
decided	23:3	80:25	76:13	73:8	downstairs	102:11	105:8		
81:2	100:9	discussed	21:6	82:23	draw	102:11	105:8		
decision	26:1	86:5	86:5	86:5	36:14	EKG	8:18		
decoy	43:9	discussing	69:15,17	86:5	dress	electronic	77:4		
deemed	3:19	discussion	84:11	86:5	70:6	Emergency	95:9		
Defendant's	1:8	dropped	100:14,20	86:5	drinks	emotionally	90:2		
41:17	104:13	dropping	53:23	86:5	42:21	93:9			
definitely	53:18	drove	72:3	86:5	droving	droving			
		drunk	100:19,25	86:5	droving	droving			
		due	100:6	86:5	droving	droving			
		duly	5:3	105:5	droving	droving			

employers	87:20	excuse	44:24	48:12	father	41:7	63:10	16:7	17:11	12:18	9:
employment	11:17	Exhibit	41:17	20,22		64:7	79:13,17	19:4	20:9	12:32	6:
14:17	23:4	EXHIBITS	104:13			80:19	82:21	89:23	37:10	41:16	42:12
emptied	55:23	existing	21:15	53:22		96:12	98:2		47:19	50:21	54:25
encoding	8:17	experienced	53:10						56:4	61:4	77:21
ended	12:8	13:8	experiencing	68:8	fear	93:2			78:7	81:14	82:4,7
22:24	30:3	explain	11:15	90:3	February	8:9	9:24		82:10,13,18	83:17	
ends	9:10	Exploring	97:21		81:15,17	83:10			83:23,23	94:22	
engaging	87:6	Express	21:22		feel	49:21			fittest	22:7	
enjoy	49:6	expression	65:2		feeling	90:2			five	34:12	35:10
enroll	23:14	extend	91:7		fell	58:3,11			38:14	45:7,8	
enrolled	10:10	11:13	extended	89:3	felt	91:7			flail	57:8	60:25
27:10	28:14	extent	90:4		female	73:19			flew	27:17	
entered	37:11	extra	27:4		fence	99:5			floor	17:6	40:24
70:12		extracurricular			fencing	99:4			41:3	55:4	57:16
entertain	50:8	24:25	25:9		field	9:16,18	94:21		flowing	21:19	
entire	27:23	32:13	extreme	53:21	100:6				fly	90:5	
75:2		extremely	50:17		fight	52:19			folded	62:22	
entities	11:21	eye	52:4,12		fighting	53:21			folded	56:14	
entrance	37:4,21	eyes	54:16		figure	47:13			follow	98:4,5	
41:5					figures	36:16,17			followed	39:19	
environment	26:21				filling	3:21	8:17		48:23		
92:21		F	36:24	41:17,20,22	fill	15:17	29:12		following	46:18	
Epson	67:21	face	35:23		filled	78:10			48:15	49:8	102:16
ER	91:19,25	faced	56:10		filling	73:10,14,16			follows	5:4	
ERICA	2:9	facilities	12:15		finances	85:9			food	40:8	49:5
error	89:4	facility	12:4	76:9	Financial	22:12			50:10		
ESQ	2:5,7,9	fact	16:19	31:2	find	19:22	31:2		91:22	force	40:22
established	87:25	79:25	86:3	93:21	64:14				53:18	54:6	57:14
establishment	68:24	fail	27:15		finding	97:21			61:13,17,22		
Et	106:4	failure	3:9,17		finger	77:4			forgot	24:21	79:15
evening	46:11	fairly	10:1,22		fingerprint	77:3			98:25		
event	32:20	Faith	90:18		78:20				form	3:7	
eventually	85:3	fall	28:1,3,21	57:14	fingerprinted	66:24			former	33:3	
exact	8:10	57:15	58:10		77:2	78:15,16,22			forming	68:2,1	
28:17	65:3	101:21			falling	57:21			forth	105:5	
exactly	41:10	43:2	familiar	62:9	63:6				Fortunately	10:15	
48:25	76:13	96:17	families	10:7	family	10:8,11,11:18			88:10		
examination	3:8,11	3:17	4:4	5:5	10:4,4	11:21	26:1,2	91:7	forward	57:2,11	
examined	3:15	5:4	far	28:23	40:23	98:9			found	16:8,12	22:22
excellent	27:1,2,14	52:15	71:11	72:13	52:15	71:13			29:23	79:9	97:3
excessive	40:21	fast	34:13	35:3	40:17	44:14	63:24		four	11:8	21:24
52:14	53:18	57:14			14:11	15:10,25			68:16	18	73:17
									84:24	101:23	
									Franklin	8:25	23:7

23:11 free 27:3 58:5,5 Freeport 6:11 90:21 freezer 37:4 freshman 24:2 25:5 25:14,21 27:23 friend 31:16,17 65:10,22 94:19 friends 31:5 38:15 39:4,12 40:25 46:22,24 50:22 63:12 98:7 friend's 41:7,11 65:9 65:9 66:5 79:8 front 8:21 17:5 39:24 49:14 51:20 51:25 57:3,17 73:20 82:12 85:24 86:10 Fuck 48:11,14,20 49:10 fucken 58:20 full 15:10 69:20 full-time 9:18 20:19 fun 98:2,4 furnished 4:4 furniture 94:12 further 4:3 61:8 62:2 103:4 105:8	getting 14:22 15:22 18:22 26:9,18 27:2 39:4 87:22 girl 31:6 girlfriend 31:4,8 97:22 give 5:23 12:25 39:20 48:23 52:25 62:13,13 71:9,12 72:1,2,15 80:25 81:2,9 85:24 87:8 87:20 given 105:7 glass 21:3 go 12:9 16:19,24 18:12 23:3 26:12 30:16 34:7 35:14 41:7 56:3 60:13 65:8,22 67:8 71:10 78:21 80:12,16 81:16 82:11 84:17 89:7 92:20,20,24 93:4,23 94:23 100:16 goal 9:19 goes 34:21 going 5:15 9:17,23 13:17 22:7 26:6 27:2 29:8 30:2,25 34:16 36:8,9 38:12 39:8 40:3 41:14 42:15 47:15 51:13 54:3,4,5 56:7 game 29:21 30:19,20 30:22,25 31:3,15 32:11,12,13,17,25 33:6,13,16,18 34:8 41:9 70:12 games 30:2,5,9 Garden 1:11 2:4 7:2 7:3 17:4 20:25,25 24:10 32:3 generally 43:24 German 27:21 Gerouzounis 17:22	84:15 89:3 halfway 80:20 hand 54:3,4,8,11,13 78:2 105:14 handcuffed 47:24 54:18,22 73:25 77:18 78:24 handcuffing 61:18 handcuffs 54:23 59:14 60:25 61:4,6 62:7 74:18,25 77:24 78:5 handle 22:14 handled 84:6 102:7 hands 5:25 40:20 57:10 59:23 hang 31:14 hanging 26:25 99:3 happen 18:11,23 27:2 34:15 87:10 88:7 94:2 95:2 happened 14:13 23:4 36:11 39:2 40:16,17 60:8 66:7 76:24 81:16 93:12 93:21 happening 26:23 53:6 100:24,24 happens 9:16 71:12 happy 5:20,22 hard 20:6 28:17 53:14 61:11 87:22 hat 53:16 head 5:25 15:9 24:23 50:5 53:14 53:24 54:21,25 58:16 59:6 67:5,6 67:25 68:3 headlock 40:15 56:24,25 57:5,10 57:25 63:14 headlocks 53:9 Headquarters 80:9 health 7:24 10:3,7 12:20 88:12 89:12
---	--	---

	including 3:6 income 20:15 89:11 J INDEX 10:4:3 7,13 jacket 44:6 70:4,5 jackets 43:20	issue 86:16
89:13,19 hear 5:21 40:2 46:24 70:8 73:6 94:15 heard 46:23 51:9 79:12,16 93:13,18 94:19 height 45:21 held 1:17 55:25 56:13 62:24 80:22 84:11 86:5 hell 49:7 88:3,8 help 10:10,12 21:22 25:7 51:13 helps 91:23 Hempstead 82:14 hereinbefore 105:5 hereto 3:3 hereunto 105:13 Herricks 34:4,4 37:6 38:18,20 Hicksville 21:8 high 23:19,23 24:8 25:2 27:12,13 28:4 30:10,13,16 34:7 34:11,16 46:11 48:7 65:15,16,17 72:2,3,24 88:11 Higher 74:13 hire 10:7 12:25 85:4 hired 10:16 12:16 13:4 88:3,5 holding 40:8 55:17 56:5,19 74:18,20 74:23 75:6 78:9,17 78:17 home 7:23 10:2,7 12:9,20 13:14 14:6 15:25 18:7 41:9 65:23 76:19 80:21 93:21 96:13,19 100:16 hood 48:11 64:10,11 64:11 hoody 43:20 44:6 hope 88:7	79:7 Hospital 7:23,25 9:3 32:7 hour 11:2 33:14,15 34:25 hourly 15:21 hours 11:5,8 33:15 73:17 74:24 76:16 76:24 78:9 99:6 house 18:22 41:7 65:9,23 91:5 97:22 100:10 hugged 40:7 humiliate 63:3 humiliating 49:19 93:22 humiliation 93:11 93:15 humored 76:20 hurt 54:6 I ice 67:25 ID 39:16,20,20 47:7 47:12 48:23 49:9 55:24 60:14 64:15 64:15 69:16 71:9 71:12 72:12,15 idea 36:6 95:21 96:11 identification 36:25 39:14 45:10,24 46:3 55:23 60:14 60:15 72:6 identified 69:22 identify 51:4 52:16 illness 10:15 impression 86:22 improve 18:7 incarcerated 83:19 incident 16:10,11 41:12 42:25 44:14 47:22 68:11,25 95:15,16 jaw 54:4,4 jeans 43:20 44:5 70:6 injury 62:2 67:22 inmate 79:15 INSERT 29:14 inside 21:10 35:5,7 45:5 46:9 48:9 68:13 72:10 insisted 72:11 insisting 62:19 instant 47:16 instantly 54:8 instill 98:6 Institute 8:25 23:7 23:12 insurance 89:12,13 89:15,19 interested 105:11 interior 43:3 intern 7:22 8:5 internship 8:7,12,24 9:3,10,21 19:2 intersection 34:5 interview 71:7 interviewed 71:5 investigating 48:6 involved 27:4 98:14 in-house 22:19 Island 21:8 22:22	January 5:17 16:2 24:6,15 28:1,9 30:13 35:20 48:5 81:16,19 93:10 95:12,17 98:22 99:21 102:12 105:14 Jasmin 1:18 105:2 105:16 jaw 54:4,4 jeans 43:20 44:5 70:6 Jericho 34:4 37:6,8 JJ 31:16,25 33:21 38:7,9,19 39:7,11 41:4,10,11 42:14 44:8,16,18 47:23 50:25 65:8,22 102:11 job 8:14 12:6,7,16 12:25 13:3,10 14:10,14 16:17 19:3,18 21:19,23 87:24 92:21 John 17:12,22 join 25:10 joke 80:23 joked 93:18 jokes 73:3 Jonathan 1:4 106:3 Joshua 1:3,15 5:1,11 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1

31:1 32:1 33:1	keep 21:18 22:18	74:21 76:17 77:11	58:3 59:4,13,21
34:1 35:1 36:1	57:8 77:14	79:6,18,18 80:24	72:3 80:11,16
37:1 38:1 39:1	kept 53:13,23,25	81:14 82:4,22 84:5	100:18
40:1 41:1 42:1	54:5 62:15,18	84:9,16 85:19	left-hand 73:24
43:1 44:1 45:1	77:12 80:3,24	88:13 89:2 94:4,15	leg 63:14
46:1 47:1 48:1	94:18	95:19,21 97:2,21	legal 82:22 83:16
49:1 50:1 51:1	ketchup 80:22 81:2	98:6 101:5,17	102:5
52:1 53:1 54:1	kick 61:2	102:6	legitimate 101:15
55:1 56:1 57:1	kicked 29:19	knowledge 94:14	legs 58:9
58:1 59:1 60:1	kids 26:20	known 47:18	length 14:19
61:1 62:1 63:1	kind 40:10 50:3	<hr/> L <hr/>	lessons 98:7
64:1 65:1 66:1	88:12 93:19	laboratory 8:22	lets 20:8
67:1 68:1 69:1	kinds 91:15	ladies 93:24	level 74:8 77:12
70:1 71:1 72:1	kiosk 101:3	lady 13:21 73:19	88:13
73:1 74:1 75:1	knee 53:24 54:2 59:7	laid 15:3,4 16:4,6	leveled 74:11
76:1 77:1 78:1	62:4	land 98:5	license 55:24
79:1 80:1 81:1	kneed 54:25	language 48:12	Lieutenant 1:7
82:1 83:1 84:1	kneeing 53:13 54:21	Lasambet 94:17	95:14,19
85:1 86:1 87:1	55:5,18 58:16 59:6	lasted 68:5,5 89:2	life 7:6 10:12,15
88:1 89:1 90:1	63:17	Latoya 26:15	98:10,11
91:1 92:1 93:1	knees 58:10	laughable 93:20	light 44:5,5 45:12,19
94:1 95:1 96:1	knew 32:21 35:21,23	laughed 93:14	53:12 57:25 58:16
97:1 98:1 99:1	41:9 50:19 65:23	laughing 73:4	59:6 70:4,4
100:1 101:1 102:1	65:24 93:24 94:25	law 1:16 98:4	lighter 45:22 57:18
103:1,3,7 104:5	101:4	lawyer 84:25 85:3	72:5,23
106:3,6,20	knot 67:5 68:2,4	lights 93:6	
Journal 96:6,8 97:7	know 5:20 6:15 11:3	line 14:25 68:21,22	
10:4,10	13:24,25 14:2 17:3	lawyers 87:3,7	94:3 104:7,14
judge 82:11,15	24:2,18 26:20	laying 58:12,13,15	106:7
85:13 86:23,23	31:20 34:9 35:19	layout 36:18	lined 77:14
87:5	35:22,23 36:4 39:6	learned 56:25	links 18:24
June 24:12	40:22,23 42:20	leaning 57:11	list 22:16 83:7
junior 14:15,16,24	43:13,15,15,17	learn 44:15,22,25	litigation 98:15
15:7,14,25 17:9	45:4,9,11,13,14	69:10 98:10	little 19:13 20:16
28:9,10,14,20	46:25 47:6,8,13,21	learned 54:11 98:12	23:25 25:3,5 40:11
junior's 55:24	50:11 51:12,12	leave 18:16,19 21:25	41:15 53:15 66:10
jurat 102:17	53:24 54:9,10,12	22:11 29:9,10	67:24 71:10 74:9
jurors 85:25 87:8	54:14 55:3 59:19	46:17 68:24 76:13	91:2
jury 85:14,16,20,21	60:19 61:21,22	101:11	live 6:12,19,24 7:4
86:10,12,14,16	62:14,15 63:3,10	leaving 69:7	11:19,21 26:12
87:3,5,7,10	64:2,4,5 65:7,13	lectured 98:11	64:10,10 65:16
justify 71:13	65:25 66:12 67:15	led 99:8,15	lived 6:6 26:14 32:3
<hr/> K <hr/>	68:4,6,7 69:6,12	left 14:17 23:24 34:6	32:4,6 64:12
kaki 44:6	69:13,16,20,21,23	35:3 52:7,9 55:12	lives 65:15
		55:20 56:6,6,24	loan 14:15,16,24

15:7,14,17,18,25 16:13 17:9 18:5,8 18:23 19:16 loans 15:16 18:7,10 19:21,23,25 22:14 22:18 located 8:2 13:15 20:24 24:9 27:19 68:13 90:20 lock 54:3 58:1,8 59:17 60:20 62:5,6 62:8 63:8,14,14 locked 60:23 71:13 94:20,22 100:6,23 100:23 101:10,13 long 6:6 7:4 10:15 21:7 22:22 29:16 33:13 34:10 36:7 44:8 45:4 47:22,24 51:16 53:3 60:4,17 60:18,22 67:11 68:2,4 70:14 74:17 89:2 longer 44:10,13 look 39:4 88:22 96:19 looked 39:7,8 55:25 69:25 70:2 75:17 83:15 looking 23:4 26:7 27:5 50:9 52:12 loops 74:4 loose 49:7 LORNA 2:7 lot 20:2 22:4,7 26:2 26:3,21 27:3 28:22 32:18,20 47:11 66:2 68:15 87:23 88:9,11 91:3 93:17 loud 40:5 50:15,17 loudly 8:1,1 low 25:5 lower 74:9 77:11 luck 9:11	M M 2:9 Macy's 21:3 Main 82:14 90:21 major 88:21 making 58:17 72:7 male 32:2 70:3 mall 17:5 21:2 100:5 100:6,21 101:5,10 101:12 maneuver 62:10 maneuvers 53:9 63:12 manhandled 59:16 manhandling 40:21 40:24 46:6 manner 46:7 March 7:8 mark 32:4 36:20,22 41:16 marked 36:24 43:5 market 22:13 marketer 14:11,12 14:25 marketers 14:22 marriage 10:5:9 married 7:12 Massimo 2:3,5 5:23 83:15 looking 23:4 26:7 27:5 50:9 52:12 loops 74:4 loose 49:7 LORNA 2:7 lot 20:2 22:4,7 26:2 26:3,21 27:3 28:22 32:18,20 47:11 66:2 68:15 87:23 88:9,11 91:3 93:17 loud 40:5 50:15,17 loudly 8:1,1 low 25:5 lower 74:9 77:11 luck 9:11	McGovern 1:8 95:14,19,24 McGuad 31:17,18 32:5,16 mean 50:2 53:19 62:9 75:25 99:16 Meaning 55:15 83:25 Medford 5:13 media 97:9 medical 7:23,25 8:13,17 9:3,7,18 9:19 19:3 23:16 67:20 92:2,5 104:8 medication 7:17 95:4 meet 79:20 member 1:18 29:2 29:16 members 10:8,11 11:22 86:14 memory 71:24 men 39:5,10 42:16 50:22 mental 89:19 90:10 mention 79:13,16 mentioned 10:2 69:9 91:17 Merchant 21:12 Merchants 21:7 Mercy 7:23,25 9:3 9:18 19:2 messing 23:25 met 80:20 Michael 1:7 95:14 95:23 mid 9:24 14:7 25:18 middle 14:7 28:16 97:16 Mill 5:13 6:6 Mina 13:22 mind 36:9,12 100:25 mindful 90:4 minding 47:17 Mineola 2:9 13:15 McDermott 20:21	23:19,23 24:8 25:2 27:11,13 28:4 30:13 32:8 46:11 80:8 88:18,19 92:20 minister 89:8 98:2 Ministries 90:19 minute 13:17 60:6 60:19 minutes 34:12,12 38:14 45:7,8 48:2 48:3 53:5,7,10 60:7 70:15 misbehaving 71:8 mischief 26:4 miserable 26:22 missed 87:18 88:9 missing 87:21 mix 14:23 mom 66:3,5,5 79:8 moment 14:2 72:19 Mona 13:22 month 15:5 20:8 months 6:14,16 14:12,14 18:17 20:12 21:24 29:18 67:13 91:9 101:22 101:23 morning 80:7 mortgage 9:16 12:7 13:10,12,14 14:6 15:25 16:9,13,20 16:25 17:7,21 18:4 18:16,19 19:5,6,16 20:23 93:16 94:21 100:7 mother 13:21 41:11 65:9,11 91:5 mother's 91:5 motion 3:12 move 3:7,10 25:23 26:10 55:4,7 59:7 62:4 98:8 moved 12:14 25:15 25:20,24 39:23,24
--	--	---	--

51:22,22,24 56:20 56:21 73:21 74:20	n nicholas 2:5 niggers 48:12 night 33:9 65:25 69:18 74:19 88:11 89:3 94:18 98:7	n nodding 5:25 nonsense 47:6 normally 51:24 North 27:20 90:21	offer 21:20,21,21 office 8:13,21,21 9:7 13:22 23:16 officer 14:15,17,24 15:7,14,18 16:2 17:9 19:16 39:9,25 40:6,13 41:23 44:4	opportunity 10:16 18:12 49:4 option 98:3 oral 5:24 order 1:17 38:12 42:15 68:22 ordered 37:25 38:4 38:13 ordering 68:20 original 3:18,22 49:5 outcome 105:11 outdoors 11:21 outside 25:9 56:2 overcoming 10:13 overnight 80:22,25 o'clock 30:20
N N 2:22 5:2 48:18 104:1	Notary 1:19 3:1 5,16 5:3 103:13 105:2 106:24 noted 103:5 notice 41:25 42:2 noticed 38:15 39:5 41:4 42:13,16 50:23,24 68:25	Notary 1:19 3:1 5,16 5:3 103:13 105:2 106:24 noted 103:5 notice 41:25 42:2 noticed 38:15 39:5 41:4 42:13,16 50:23,24 68:25	officers 18:23 39:24 40:12,19 41:25	P package 80:22 page 102:17 104:4,7 104:14 106:7 paid 8:5 10:21,23,25 39:3 87:25 pain 59:9 62:12 63:2 68:5 painful 63:4 Panetta 2:3 paper 36:9,21 69:17 96:12 paperwork 73:11,14 73:16,23 78:2,10 paranoia 88:17 parents 26:4 41:8,9 65:18,20 66:6 75:7 79:3,9,20 85:8 97:11,20,24 park 7:2,3 24:11 32:3 66:4 99:2,3 Parkway 27:18,22 27:25 part 3:4 15:12,19 54:10 90:7,8
O O 5:2,2 object 3:6,9 90:6 98:23 99:17,22 101:19 102:8 Objection 26:19 30:6 89:20 100:3 observant 47:2 observe 34:15 68:12 73:10 observing 69:19,24 obstructive 83:4 occasions 82:17 93:19 October 19:9,11	neither 95:23 nervous 88:17,24 93:3 nervousness 89:6 never 12:6 18:10 80:11 81:25 88:14 new 1:2,11,19 2:4,9 5:3,14 6:11 7:3 14:21 21:15 25:17 27:5,5 31:23 94:12 94:12 96:6,8 97:7 104:10 105:3	neither 95:23 nowadays 97:12 nuisance 50:20 numb 67:10 number 7:10 12:6 65:5 nature 88:8 Navy 44:2 near 38:20 need 49:21 needed 49:21 65:6 neighborhood 26:2 26:24 64:12,17 94:19 99:2 neither 95:23 nervous 88:17,24 93:3 nervousness 89:6 never 12:6 18:10 80:11 81:25 88:14 new 1:2,11,19 2:4,9 5:3,14 6:11 7:3 14:21 21:15 25:17 27:5,5 31:23 94:12 94:12 96:6,8 97:7 104:10 105:3	officers 18:23 39:9 45:5,6 46:8,10,14 46:23 47:3,23 48:4 48:5 49:24 50:12 51:5,17,21 52:17 53:4 54:21 56:5 59:25 62:5 63:16 64:3 69:14 70:9,16 73:10 75:5,13,23 75:25 76:2,4,8,11 officer's 62:3 okay 29:10 old 16:25 99:9 oldest 26:14 once 36:14 43:4 48:22 56:22 64:18 70:16 73:9,17 94:22 ones 46:20 open 22:23 88:2 opened 88:4 opening 99:4	

participate	24:24	phone	65:21	67:2	40:4	43:5	49:22	probation	29:24
particular	12:25		75:8	10,17	77:6	50:12	16,20,21	problem	10:13
parties	3:3	9:23	80:18	94:18	51:5	52:17	64:3	29:13	40:22
105:9			100:18	101:2,4,5,6	66:21	70:14	80:9	50:23	62:15
part-time	20:17		101:6,8		81:9	95:13	102:14	62:15	91:18
pass	34:22	93:4	physical	13:2	67:3	policeman	51:15	94:4	94:4
passing	75:16		pick	59:25	87:9	pop	88:4	100:18	100:18
pastor	89:25	90:23		92:20		popped	101:8	104:9	
pastor's	90:12		picked	51:21	22	position	54:7,12	104:9	
Patchogue	14:4		piece	36:21	69:17	62:11		proceeded	39:18
Pathways	12:3,9,11		pinned	55:3		positioned	52:5	41:6	42:14
12:16,20	13:6,7		pissed	76:20		possible	88:6	56:18	56:18
19:3			pit	92:25		post	70:25	60:10	62:6
patient	8:16		pizza	35:18		PPD	13:2	processing	21:7,12
patrol	51:15		pizzeria	35:16		produce	21:23	22:15	
patrolling	10:1,7		place	1:18	15:5	production	18:21	92:5	
pay	10:19	24:2		41:12	69:18	90:5		101:25	104:8
38:15	85:6		placed	68:19	70:13	precinct	65:20	92:5	
paycheck	11:4		74:17		70:17	73:9	74:15	101:25	104:8
payments	21:17		plainclothes	42:19	74:16	76:10	77:13	96:18	96:18
pen	77:2,5,10,19		51:14	69:13	79:3,21	80:4,12,15		program	10:10
78:5,6,7,12,17			Plaintiff	1:15	80:17	81:9,22		11:13,15,20	23:14
79:13,23			Plaintiffs	1:4,2,3	88:22	102:15		23:17	
Peninsula	8:3		Plainview	43:11		prescribed	95:4	property	81:4
people	14:21	26:21		100:10		present	42:3	99:7	99:7
31:2	32:20,21		plan	49:5	89:15,19	51:3	69:10	prosecuted	83:22
50:16	68:16,18		play	30:2	95:20	56:5	76:5	prosecution	83:24
69:2,7	85:22	87:2	Plaza	20:25		protect	62:2	84:2	
87:9			please	5:9,20	63:18	presents	53:17	protect	62:2
percent	20:11,14		plus	20:10		protocol	13:3	62:2	62:2
61:25			pockets	55:22,23		proturded	48:24	63:18	63:18
Perfecting	90:18		60:11,13	66:9		prove	50:15	59:20	59:20
period	47:25	70:14	point	19:22	30:1,2	provide	79:25		
81:21			38:23	40:5,12,20		provided	3:4,20		
person	11:19	69:18	42:17,24	48:4,17		provides	89:19		
personally	35:22		50:11	51:25	52:16	psychiatrist	89:9		
84:21	85:8		54:17,19,22	56:22		Public	1:19	3:15,16	
pertaining	92:6		57:6	59:9,12,18,24		5:3	103:13	105:2	
104:8			59:25	60:24	61:3,5	publication	9:6,10		
Philadelphia	25:15		61:7	63:22,25	64:2	Puccio	24:20		
25:20,23	26:13,16		64:5,22	65:8	66:13	pulled	55:5		
27:8,19			75:5,5	77:23	78:15	pulling	55:19		
PHILLIP	1:7		79:2	81:25,25	82:2	punk	47:6	49:8,25	
Philly	25:24	27:20	98:13			50:6,13			
phlebotomy	8:18		police	1:6	34:15,17	purposely	54:12		
					91:10,22	pursuant	1:16		
						pursuing	61:10		

put 29:24 36:17 37:3 37:3 40:5,14,16,23 56:4,25 57:5,14 58:18 59:13,17 60:25 62:6,11,12 62:24 66:20 67:25 76:21 77:4,9 78:12 94:12 putting 53:8,11,25 57:11 P.C 2:3 p.m 1:13 103:5 P.O 1:7,7	50:10 53:14 60:18 64:9 76:21 79:18 88:8 89:8,10 93:22 94:25 98:3 100:24 reason 29:4 47:8 52:13,14 61:8 65:22 72:2 reasons 10:1,16 recall 15:8 17:10,17 29:5,9 34:6 35:6 36:2 38:3 70:21 71:2,3 75:9 82:14 83:7 86:15,25 95:7 95:12 96:17,24 101:21 receive 12:21 15:20 21:17,21 received 12:19 20:14 42:23 61:12 86:8 questioned 61:9 questioning 47:14 50:22 questions 5:16,24 73:13 87:8 103:4 quickly 93:6 quite 11:2	religion 97:25 religious 97:25 remain 14:16 70:24 remained 14:19 remember 14:18 29:3,11 31:23 34:23 35:4,11 43:18 50:4 58:11 58:12 63:22,24 64:24,25 25 65:3,3 69:24 73:5,7 81:13 83:3,14 87:6 96:11 99:9 remodeled 94:9 remove 77:23 renovated 94:11 renting 6:21 rep 21:10 repeat 5:22 rephrase 5:21 86:7 report 74:23 reporter 6:2 reporters 9:7,4 represented 83:16 102:3 representing 82:8 request 92:4 96:22 101:25 104:8,10 104:11 requested 75:8 requesting 47:11 REQUESTS 104:7 reserved 3:8,12 residence 11:19 resident 64:14,17 resign 16:14 resigned 16:15 resist 61:24 resisting 83:6 respect 10:2,4 rehiring 14:21 related 5:16 105:8 release 67:12 released 62:6 78:2 80:5 81:8 relevance 51:12 R 2:2 5:2 106:2,2 racial 47:16 96:18 raise 46:13 raised 49:13 rapidly 63:23 95:2 reach 40:9 56:13 reached 40:6 read 66:18 96:2,14 97:8 real 25:9 43:1,2 50:15 91:21,24 realize 100:19 101:12 realized 64:16 really 10:13 18:10 26:22,23 40:4 46:24 48:24 49:16	responsibilities 8:15 15:14 18:4 19:19 rest 100:22 result 67:4,18 83:20 83:23 87:15 93:9 95:5 retain 82:2 retained 81:25 retaliated 88:20 retrieved 46:5 return 3:18 returned 30:19 72:9 review 29:12 73:19 76:12 reviewing 85:23 re-enroll 28:5 re-enrolled 28:3 Richie 94:17 rid 14:22 18:23 ride 100:15 right 3:6 7:22 17:5 28:24 35:17 40:2 48:25 54:7,11,15 55:15,21 58:5,17 60:21,21 64:17 66:8 69:11 70:24 76:2,7 80:14 98:6 rights 3:4,20 66:18 70:20 road 5:13 6:7 13:16 17:2 24:10 34:4,5 34:19,21 37:7 38:18,20 Robin 65:11 Robins 94:11 Rockville 8:3 roll 59:7,9,15 rolled 59:12 rolling 55:5 room 75:16 76:5,6 95:9 100:22 Roosevelt 2:4 100:5 Roosevelt 1:10 rounded 20:4 Route 13:25
			VERITEXT REPORTING COMPANY 212-267-6868 516-608-2400

row 32:23	scuffle 54:18	12:10,12,17 13:18	32:16
Rule 3:20	searching 9:9,12	13:19,20 19:3	Social 7:9
rules 1:17 3:5 98:4	seat 39:19 40:11,18	Shore's 13:24	somebody 72:8
running 22:14	46:19 48:16 49:7	short 29:3 45:20	soon 49:3 52:24
S	56:11	71:16 72:10 74:12	101:8
	seated 57:13	shorter 45:20	soothed 67:23
	seating 87:4	shorts 29:4 33:10	sophomore 25:12
	second 12:6 17:6	shoulder 52:8,9 74:8	27:24,25 28:2
	18:8 48:22 82:5	74:13	sorry 8:11 9:20
	seconds 44:13 45:2	show 46:2 63:13	12:23 44:24 83:25
	51:19,19	showed 51:10 69:15	94:2
	security 7:9 91:5	82:16	sounds 28:24 31:11
	101:7	showing 59:19	Source 16:25 17:8
	see 30:24 33:3,7	shut 39:11	17:21 18:4,16,20
salary 15:20 20:5,10	39:4,14 42:4,7	side 21:2,3 37:6,7	South 7:24 10:3,5,6
20:13 87:25	52:10 68:15 71:11	39:25 51:22 52:6	11:7,13,23,24
sales 21:10,19	72:6 76:7,8 79:4	58:17 87:4	12:10,11,16 13:18
Salt 67:21	87:2 91:10,20,20	sign 70:19	13:18,20,24 19:3
sandwich 37:25 38:2	91:23 93:24	signed 70:21	space 29:10
38:3,23 39:3,16	seeing 86:25	signs 93:6	speak 8:11 32:16
40:5,7,9,16,20	seek 67:17 89:5	silence 56:23	33:7,11 44:8,21
49:3,3,6 55:3 56:5	90:22 91:15,18	silent 70:24	49:4,21,22 61:5,7
56:13,17,19,21	seen 33:9 51:9,9	silver 43:8	70:16 81:23 89:8
57:9 80:21	57:21 68:16 94:8	similar 12:4,17	89:24 91:2,3,11
sandy 44:7	selection 87:7	sisters 26:15	93:16 97:4
sat 32:22 49:9,17,22	send 77:16	sit 39:18 40:10 74:10	speaking 43:24
51:20 52:24	senior 15:17 19:16	87:9	47:23
sauce 91:23	20:23 24:17 28:20	site 8:24	spell 17:14,23 31:18
Sausage 38:5	sensation 67:14	sitting 40:14,15	90:14
saw 42:13 44:11,12	sent 77:21	41:18,22 51:16	spelling 18:2
45:6 47:23 95:8	separate 100:15	56:11,12 69:2	spent 28:22
saying 50:4 65:2	September 14:8	situation 47:20	spoke 38:14 72:8
scene 51:8	19:9	88:16 93:4,14,18	91:13
scheduled 81:15	series 5:16 76:20	93:25 97:3	spotted 33:10
school 8:23,25 10:22	serious 72:16 88:15	six 20:12 91:11	spread 94:25
10:23 23:3,5,20,23	set 14:23 105:5,13	size 70:25	stand 57:2,15
24:8,23 25:2,17,25	seven 14:12,13	skills 8:20	standing 38:22 39:5
26:7,8 27:3,9,12	30:20 80:6	slightly 39:17	40:2 41:4 51:9
27:13,13,14,16,17	shake 93:2	slim 26:9	57:3,17,22
28:4,24 30:10,13	shattering 22:19	slows 93:7	start 10:23 29:21
30:17,18 31:5	sheet 36:8	small 68:21	76:11
32:19,25 34:7,11	shift 66:2	smerked 75:17	started 9:3 18:13
34:16 35:3 46:11	shit 50:5	snap 54:5	19:8 20:9,12 30:21
48:7 55:24 63:11	Shore 7:24 10:3,5,6	sneakers 43:21	starving 38:6
63:12 64:15 65:14	11:7,13,23,24	Snowden 31:16,25	state 1:19 5:3,9
65:15,16,17 72:2,4			
72:7,24 87:18 88:9			
88:11,11 89:17			
93:13,13 97:16,23			
schooling 88:9			
school's 24:19			
scratch 22:16			

25:15 105:3 STATES 1:2 Station 13:15,16 stationhouse 71:6 71:24 stay 25:6 90:4 91:22 stayed 26:6,15 80:14 steep 15:23 stick 9:17 36:16 88:5 STIPULATED 3:2 4:3	76:16 84:2 submission 62:12 106:21 substance 44:23 successfully 59:10 sued 98:16,18 suffered 93:9 101:14 Suffolk 7:24 12:14 suit 101:10 Suite 2:4 stomach 88:15 91:17 91:18 92:7 15,18 92:19,25 95:5 104:9 stood 45:20 51:7,25 55:22 60:8,11,12 64:18 66:8 69:5 stop 61:17 63:17,17 63:17,18 91:4,4 93:6 stopped 56:22 72:17 72:18 store 37:16 68:13 story 41:14 straight 34:22 37:13 58:9,12,13,15 62:24 90:5 street 2:8 6:10,13,25 32:6 65:17 82:14 90:21 streets 64:13 stress 88:13 strict 98:8 Strictly 98:4 strike 3:7,10 stripped 66:25 structure 18:5 19:21 structuring 15:16 struggling 85:9 student 24:5 89:17 stuff 25:8 49:9 50:2 50:2 66:4 94:13 97:23,24 98:8 stumped 73:16	territorial 64:13 test 13:2 testified 5:4 11:12 testify 13:9 86:10 87:12 testimony 1:17 3:8 3:10 85:24 102:16 104:3 105:4,7 Thank 6:5 23:10 103:3 thing 19:20 23:5 37:10 39:23 43:10 43:24 47:12 50:4,5 52:12 53:16,20 88:17 93:15 94:4 94:10 things 8:20 22:6 26:7 64:24 89:4 think 13:22 19:12 25:18 27:24 28:15 29:22 33:5,9 41:11 42:24 50:20 53:23 55:24 61:3,12 68:20,21 79:11 81:14 82:23,24 87:11 88:25 91:17 96:12,19 thinking 43:11 third 66:24 70:17 74:15,16 76:9 79:3 79:21 80:4,11,15 81:9,22 82:5 thought 23:5 50:7 50:21 52:10 60:20 60:21 73:17 76:18 79:7,8 94:1,0 100:1,5 three 6:8 18:17 19:25 20:14 21:24 68:16,18 74:24 76:16,24 77:14 78:9 101:22 throw 95:10 ticket 81:10,12 83:12,15
--	--	--

tight 59:18 67:11	town 14:3 17:3	91:19	52:13,14 100:21
time 1:18 12:8 14:19	27:21 93:22	two 12:5,18 14:9	101:6,13
15:10,12,19 16:7,8	track 23:7 24:3	15:22 20:11,15	V
16:9,12 17:19 22:4	Train 13:15	24:22 33:15 35:13	Valentine's 9:25
24:23 25:25 26:3	trained 11:24 12:2	39:5 40:25 42:11	variance 22:5
26:10,16,22 27:3	training 54:10	42:16 45:25 53:5,7	vehicle 72:9
28:22 29:25 30:12	transcript 29:11,12	53:10 60:7 67:13	verdict 86:16,18
30:16 31:9 34:6,9	105:6	69:2 70:9 74:24	Victorian 43:8
34:23 35:12 36:7	transcription 8:17	75:13,15,25 76:11	view 42:25 52:9
38:6,13,24 39:19	transportation 77:6	76:24 78:9 84:13	violence 26:24
41:2 42:12 46:4	79:24 80:2	84:15 88:25 89:3	voice 46:13 49:12
47:13,19,23,25	treated 64:8 65:7	91:12 95:22 99:12	vulgar 50:5
48:5,17 49:20	treating 49:18	101:22	
50:11,14,24 52:22	treatment 67:17,20	type 9:13 21:11	W
52:23,24 54:15,17	91:16,18 92:6	26:17 38:3 42:20	
56:18 60:17,18,22	104:9	51:11 76:15,16	W 5:2
61:20 65:19,23	trespassing 48:7	wage 15:21	
66:3,13 68:14	99:2,6 100:5	wait 77:5	
69:24 70:11,13,14	trial 3:13 85:11,17	waiting 38:23 49:15	
73:14 74:12,21	86:9 87:13 89:4	68:22 77:5,19	
75:2 76:17 78:4,24	tried 40:9,15 56:12	79:24	
79:2,18,19,19	61:14 64:6 85:13	waived 3:22	
81:18,21 83:3	86:23	waiver 3:11,19	
87:22 90:13 93:4	trouble 26:9,17	walk 33:25 34:10,19	
94:8 95:16 99:5,10	Trovato 1:19 105:2	36:18 42:8	
101:11,13 103:5	105:16	walked 33:17,23	
times 45:23,25 48:20	true 105:6	35:24 37:13,18	
62:18 75:11 84:17	truth 22:2	38:15,19 39:13,17	
84:18,19,21,22,24	try 18:7 28:22 60:24	42:2,5 49:6 50:21	
91:3,12,13	trying 35:4 47:8	50:25 51:8 56:2	
tingling 67:14	50:8,9 52:2 54:13	59:4	
title 14:10,14,23	55:10,17 56:17,21	understand 5:19	
15:6 17:7,17 19:15	57:12,15 59:19	40:25 47:15 54:14	
20:22 21:9	61:3,17,25 62:19	56:16 61:10 90:11	
today 8:9 92:18	63:18 71:12 72:20	Understood 6:4	
told 30:4 41:1,1	87:24,25 88:3,6	uniform 3:5 42:18	
60:16 63:21 64:9	91:20	UNITED 1:2	
65:8,22 77:5,7	turn 39:9,10	University 92:2	
79:24 82:24 94:23	turned 12:11,13	unlawful 96:16	
101:9	38:14 49:2	unmarked 43:6,7	
tomato 91:23	unzipped 101:3	59:20	
top 15:9 58:2	upper 53:1,2	unzipped 101:3	
touched 51:17 101:8	upstairs 73:22 77:25	98:3,11	
tough 47:5 49:25	urine 8:18	wanted 49:16	
50:6,7,13 64:23	use 37:12 48:17	wash 34:22	
		wasn't 14:23 25:24	

26:3,6 29:23 50:8 51:14 55:9 78:11 88:22 89:10,11,22 100:25	13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 watch 32:13 watched 32:12 way 31:10 45:16 48:16 49:13,17 51:23 54:9 57:13 61:23 65:7 66:6 80:19 85:7 100:16 100:22 105:11 ways 100:15 weakest 18:24 wearing 43:19,23 44:4 51:2 week 10:24 11:3,5 11:10,11 68:5,5 weeks 8:9 15:23 20:11 weight 57:12 weird 72:18 weirdest 72:18 welt 67:7 went 13:3 20:13 22:22 23:7 27:7,9 30:13,18,24 33:20 37:21 39:3 47:17 50:8 55:22 57:2 60:11 65:14 66:9 68:6 69:6 72:2,8 78:4,6,7 79:23 82:7,16 84:13 89:24 91:12,19 95:10 100:9,11,20 101:6 weren't 26:7 65:23 69:5 West 2:8 we'll 36:15 54:17 92:8 Whaley 6:10,13,25 Wharton 1:3,3,4,15 5:1,11 6:1 7:1 8:1 9:1 10:1 11:1 12:1	wonderfully 27:17 word 48:18 84:2 94:25 words 40:11 52:3 65:3 wore 29:4 work 7:22,23 8:22 9:9,13 10:17 13:5 13:12 16:9,13,19 19:7 20:17 25:6 36:4 66:2 87:17,18 87:21 88:6,18 94:23,24 101:11 workday 100:13 worked 14:8 19:4 35:20 88:18 101:4 workers 93:24 working 11:6,8 12:5 14:5 15:1,0,24 18:14 22:9 35:12 54:14 79:9 91:4 94:5,7 works 94:20 world 93:17 worse 53:10 wreck 88:24 wrecking 93:3 wrestling 53:20 55:7 63:11,13 wrist 54:2 55:10,18 58:18,19,20,25 59:17 62:5,8,11,16 62:17,17,20,22 63:4,8,18 67:9,24 write 37:8 wrong 26:25 29:23 49:19,20 61:9 Winthrop 32:7 72:20 86:24 92:23 95:3 witness 3:15 4:5 55:13 58:7 61:19 71:19 85:21 92:10 104:4 105:4,7,13 106:6 witnesses 86:9 87:2	ya'll 46:18 76:19 yeah 15:22 16:18 32:14 37:17 39:14 51:10 52:9 58:14 67:23 71:19 73:7 75:7 78:11 80:21 81:6 87:22 95:2 97:12 year 6:15 19:10,11 19:14 22:9 23:8 24:2 25:5,10,14,16 25:21 27:23 24,25 28:2,11,14,16 53:14 91:12 94:9 97:14 98:25 years 6:8,12 11:2,5 13:5 14:9 23:22 84:14,15 88:25 89:3 91:9,12 94:3 97:13,14,16 99:12 yell 46:13 48:10,13 49:12 York 1:2,11,20 2:4,9 5:4,14 6:11 7:3 25:17 31:23 96:6,8 97:7 104:10 105:3 younger 65:24 youngest 22:3 Z zip 31:23 zone 91:6 \$ \$11,50 11:2 \$400 15:22 \$450 20:10 \$9,000 20:16 0 01 25:16 03 13:8 14:7 28:12 28:14,17 04 6:17 28:21 05 6:17,18 24:13 28:21
--	---	---	---

051-74-1024	7:11	23:2,13	2008	1:12 23:2 106:5	9th	97:17,17,19
08 9:21			2009	10:3:11 105:14	9:00	72:4
1				106:22	9:15	72:4
10 1:12 24:10			2012:4		90	62:22
10th 25:18,18			21 84:18 104:10		92	104:8
100 6:1:25			21st 8:19 95:17		96	104:10
101 104:11			211 13:15		99	1:10 2:4
104 3:1:22			221 3:4			
11th 25:18 28:7			23 1:04:15			
11040 7:3 24:11			230 5:13 6:6			
112 13:25			24 98:22			
11501 2:9			25 104:11			
11520 6:11			272 7:2			
11530 2:4			29th 23:13			
11570 31:23			3			
11763 5:14			3rd 9:4 21			
12 1:06:5			30 20:13			
15 20:11 99:11			300 22:16			
16 84:19,21 99:11			31 1:16			
1986 7:8			3116 3:20			
	2		36 104:15			
2nd 9:2				4		
2:00 1:13				4		
20 28:19 84:18				4 104:8		
20th 5:17 16:2 24:6				4:25	103:5	
24:16 30:13 35:20				400	20:25	
48:5 8:1:19 93:10					5	
94:6 95:12 99:21				5	104:5	
102:12						
2000 23:24					6	
2001 25:13					6th	105:14
2002 25:13					6:00	30:20 80:6
2003 14:7,8					6:30	80:6
2004 5:17 13:8 16:2					67	6:10
24:6,16,19 28:19						
30:14 48:5 81:19					7	
95:13 98:22 99:21					7th	7:8 97:17,18
102:12						
2005 6:17,18 16:23						
18:14,18 23:24					8	
24:4					8th	97:16,17,18
2006 13:8 19:9					8:00	34:9,25,25
2007 19:14 22:10,10					8:15	34:9,25