

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ROBERT MORGALO,	*	CASE NO.: 07-1380 (BJM)
	*	
Plaintiff	*	
	*	
vs	*	
	*	
RUBÉN BLADES, et al,	*	
	*	
Defendant(s)	*	February 11, 2013
	*	Hato Rey, Puerto Rico

BENCH TRIAL

HELD BEFORE THE HONORABLE BRUCE J. MC GIVERIN
UNITED STATES MAGISTRATE JUDGE
FEDERAL BUILDING, HATO REY, PUERTO RICO

APPEARANCES:

FOR PLAINTIFF	:	Juan M. Frontera-Suau, Esq. Israel O. Alicea-Luciano, Esq.
FOR DEFENDANT(s)	:	Pamela D. González-Robinson, Esq. Eduardo J. Corretjer-Reyes, Esq.
COURTROOM DEPUTY	:	Ms. Melissa Calderón
COURT INTERPRETER	:	MR. Juan Llagostera
COURT REPORTER	:	FTR

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P R O C E E D I N G S

(9:45 A.M.)

COURTROOM DEPUTY: Morgalo versus Blades, Civil Case Number 07-1380 (BJM). Case is set for a Bench Trial before Magistrate Judge Bruce Mc Giverin.

On behalf of Plaintiff, Attorney Israel Alicea and Juan Frontera. On behalf of Defendant, attorneys Eduardo Corretjer and Pamela González.

MR. FRONTERA-SUAU: Good morning, Your Honor. This is Attorney Juan Frontera. With me is Attorney Israel Alicea. We represent Roberto Morgalo. We're ready, Your Honor.

MS. GONZÁLEZ-ROBINSON: Good morning, Your Honor. On behalf of the Defendant, Pamela González, Eduardo Corretjer, and Mr. Blades is present.

THE COURT: Okay, good morning to everybody, Mr. Morgalo, Mr. Blades.

This case is set for a Bench Trial. I want to talk a little bit about the Motions in Limine before we start with the evidence. But, are the parties otherwise ready to go?

MR. FRONTERA-SUAU: Yes, Your Honor, there is an issue of the newspaper articles that were subject to the Motion in Limine presented by Mr. Blades.

We have reviewed our... revised our Exhibit List and I.D. List, and we have... between Defendants and Plaintiff, we have stipulated two newspaper articles. Those are the two

1 articles that were attached to the Complaint.

2 THE COURT: Okay.

3 MR. FRONTERA-SUAU: Those two articles have been
4 marked as Exhibits 1 and 2 for the Plaintiff. The other
5 articles we have left out of our Exhibit... I.D. List, so we
6 are not going to present them into evidence, Your Honor.

7 THE COURT: All right, very well. So, what...
8 exactly what Exhibit numbers are those that you're agreeing to
9 withdraw?

10 MR. FRONTERA-SUAU: The only newspaper articles
11 that we're going to use are the ones that were attached to the
12 Complaint. These are, Your Honor, the...

13 THE COURT: Exhibit 1 and 2, is it?

14 MR. FRONTERA-SUAU: Yes.

15 THE COURT: And, these are Joint Exhibits 1 and 2?

16 MR. FRONTERA-SUAU: I think they are Plaintiff
17 Exhibits 1 and 2.

18 THE COURT: Okay, Plaintiff Exhibits 1 and 2.
19 And...

20 MR. FRONTERA-SUAU: Or do you want to mark them as
21 Joint? I don't...

22 MS. GONZÁLEZ-ROBINSON: Well, we're both going to
23 use them for...

24 MR. FRONTERA-SUAU: Okay, so...

25 THE COURT: Okay, so there's no objection as to

1 Plaintiff Exhibits 1 and 2. But, just... okay, I have a binder
2 full of Exhibits, and it looks like it's as many fewer than
3 the ones that were put in the Joint proposed Pre-Trial
4 Motions. So, those other newspaper articles are not included
5 in the Court's binder?

6 MR. FRONTERA-SUAU: Yes, Your Honor.

7 THE COURT: Okay, all right.

8 UNIDENTIFIED SPEAKER: There are two newspaper
9 articles which are marked as I.D. 6 and 7 that we would not be
10 using.

11 THE COURT: I.D. 6 an 7..

12 MR. FRONTERA-SUAU: Uh huh, yes.

13 THE COURT: ... will not be used by the
14 Plaintiff's. All right, anything else by way of stipulations
15 from the parties?

16 MR. FRONTERA-SUAU: No, Your Honor.

17 MS. GONZÁLEZ-ROBINSON: No, Your Honor.

18 THE COURT: Okay, now, getting to the Motions in
19 Limine... maybe before we talk about this, are there any non-
20 party witnesses in the courtroom?

21 MR. FRONTERA-SUAU: Yes, Your Honor.

22 THE COURT: Okay, maybe they should be excluded...

23 MR. FRONTERA-SUAU: Yes, Your Honor, I will...

24 THE COURT: ... at this time. All right? So, I will
25 ask Counsel on both sides to identify such persons, and ask

1 them to...

2 UNIDENTIFIED SPEAKER: We don't have any
3 (phonetic).

4 MS. GONZÁLEZ-ROBINSON: But, on behalf of
5 Defendant, we have Mr. Ariel Rivas, Mr. Arturo Martínez, and
6 Mr. Juan Toro.

7 THE COURT: All right, okay, I will ask the three
8 of you to please step outside, and, when your testimony is
9 required, then someone will go get you. Thanks a lot.

10 UNIDENTIFIED SPEAKER: Can we put them under a
11 ruling of the Court (phonetic)?

12 THE COURT: Okay, well... okay, I will ask... you
13 know... the three of you... ask the other gentleman to please
14 come back in.

15 Okay, I'm going to ask the three of you to please
16 not discuss your potential testimony with each other or with
17 anyone else for the duration of these proceedings. Thank you.

18 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

19 THE COURT: Okay, as to the Plaintiff, Plaintiff
20 filed three Motions in Limine, and I denied all three of them.
21 Okay? So, that takes care of that.

22 Mr. Blades also filed a Motion in Limine raising
23 additional grounds. Plaintiff, Mr. Morgalo, has filed an
24 Opposition to that.

25 As to grounds one and two of Plaintiff's Motion, it

1 basically seeks to exclude evidence of damages. And, as near
2 as I can tell, both one and two raise the same grounds, and
3 essentially the Defendant is claiming that Mr. Morgalo did not
4 sufficiently describe his damages under his Rule 26 Initial
5 Disclosures.

6 Also, interweaved with that are some arguments
7 related to deficiencies of the Complaint. I'm denying the
8 Motion in Limine at this time as to one and two based on Rule
9 26 grounds.

10 I simply find that there was... you know... to the
11 extent the initial Disclosures were lacking, there simply was
12 no prejudice.

13 To the extent these Motions in Limine seek to
14 exclude documentary evidence and they are not clear as to,
15 frankly, with precision, what types of evidence they're
16 seeking to exclude, I find that there's not prejudice because
17 the documents already have been turned over, were turned over
18 long ago in Discovery.

19 I also find there was no prejudice because Mr.
20 Blades, in the course of this litigation, has had more than
21 ample opportunity to take that position of Mr. Morgalo or
22 anybody else, and flash out these allegations.

23 Now, also, as I mentioned, one and two also seem to
24 weave in some arguments, although they seem to be extensively
25 be based on Rule... insufficient Rule 26 Disclosures.

1 Grounds one and two of Defendants' Motions in Limine
2 also make arguments that seem to go to the... an alleged
3 insufficiency in the Complaint, and go so far as to seek
4 dismissal of the Complaint based on that.

5 And, I find, simply at this time, that those
6 arguments are too late to the extent that Plaintiff... or the
7 Defendant is asking dismissal of the Complaint at this time.
8 Then, that would really not be a Motion in Limine, but would
9 be a Motion... a Dispositive Motion, like a Motion to Dismiss
10 or a Motion for Summary Judgment, and there was a deadline
11 established in this case, which was long ago to file such a
12 Motion, and no such Motion was filed. So, I'm not going to
13 consider it on these grounds.

14 I will, however, entertain such arguments at the end
15 of Plaintiff's case, and certainly at the end of all evidence
16 to the extent that it might reflect on... in argument from the
17 Defendants' part that the evidence simply was insufficient to
18 support the Relief that's being requested by Mr. Morgalo.

19 Now, the next matter is a Motion in Limine, by Mr.
20 Blades, to exclude certain documents, and one group of
21 documents are... seem to be like medical reports, medical
22 reports from the Armed Services.

23 And, I understand that the grounds for seeking to
24 exclude those are authentication grounds. So, let me ask...
25 and that's strikes me as persuasive. I don't see anyone on the

1 Witness List who's going to authenticate medical documents.

2 So, what's... is there any...

3 MR. FRONTERA-SUAU: No, Your Honor, we don't have
4 any.

5 THE COURT: Okay, so I am granting Mr. Blades'
6 Motion in Limine to exclude any of Plaintiff's Exhibits that
7 constitute medical records because I find, based on proffer,
8 that there's simply going to be no evidence that's going to
9 authenticate that.

10 Mr. Blades, in the same section, seeks to exclude
11 income tax returns. I don't see the same problem with that
12 because I assume Mr. Morgalo could authenticate income tax
13 returns. Is that correct?

14 MR. FRONTERA-SUAU: Yes, Your Honor.

15 THE COURT: Okay, and I also assume that they would
16 go to damages. Again, if... I mean there has to be some
17 finding of liability before the Court would consider damages.

18 But, assuming... you know... such liability, that
19 there is a Claim of Liability, then the Court will consider
20 that.

21 There's also an argument in the Motions in Limine,
22 from Mr. Blades, essentially claiming that any statements that
23 were made at the press conference, in Panama, were governed
24 and protected by a litigation privilege.

25 I find that I don't have sufficient facts before me,

1 at this time, to definitively rule on that. I think it's... I
2 think the Court would actually frankly just have to hear the
3 evidence as to who those statements were made to, what the
4 motivations were for making those statements.

5 So, I think that's something the Court will have to
6 entertain at the end of the case, possibly in a Motion from
7 the Defense or actually from both sides as to... you know...
8 just citing case law and just giving me a little better
9 guidance as to that issue. So, I'm going to defer ruling as to
10 that.

11 And, then the remaining issue had to do with the
12 subsequent newspaper articles, and it looks like the parties
13 have already addressed. All right?

14 MS. GONZÁLEZ-ROBINSON: Your Honor, we would like
15 to respond with respect to the allegations that go towards the
16 deficiency of the pleading.

17 The timing of that was due to the fact that the
18 application of New York, at substantive law, was not
19 determined until the Pre-Trial Hearing on January 24th. That's
20 when we...

21 THE COURT: Well, that's what the parties agreed
22 to, but that still wouldn't have stopped you... you know...
23 four months ago from filing a Motion under 12(b)(6), and
24 saying New York law applies, and taking the initiative on it.
25 So, anyway, to the extent you're asking for a reconsideration,

1 that's denied.

2 Okay, so, if we're ready to go, what I will ask next
3 is I'll give the parties the opportunity to make opening
4 statements to the Court. Obviously, the Defense can reserve
5 the opening statement until after Plaintiff has rested, if
6 they want to, or the Defense can make an opening statement
7 right now. Is Plaintiff ready?

8 MR. FRONTERA-SUAU: Yes, Your Honor.

9 THE COURT: Okay, so you can make your statement at
10 the podium.

11 MR. FRONTERA-SUAU: Good morning, Your Honor, and
12 everyone here in this courtroom. My name is Juan Manuel
13 Frontera-Suau. I represent Mr. Robert Morgalo in this case.

14 Your Honor, the evidence we're going to present
15 before you is that there's a series of stipulations that we
16 have filed before the Court, between Plaintiff and Defendants,
17 that I think puts the Court in perspective of what is the
18 controversies and the surrounding facts that pertain to the
19 specific facts that we're going to be presenting into
20 evidence.

21 The issue is, Your Honor, that there was a press
22 conference held in Puerto Rico, in 2003, before the Siembra
23 Concert (phonetic) that was going to be held, in *El Coliseo de*
24 *Puerto Rico*, where Mr. Blades and Mr. Colón were going to be
25 performing.

1 In that press conference that was held here, in
2 Puerto Rico, there were... the promoters of the Siembra
3 Concert were present. Mr. Blades was present, Mr. Colón was
4 present in that press conference.

5 Specifically, the press conference was going to show
6 that Mr. Blades was asked, by some of the reporters there, if
7 the problems that they were having with the Siembra Concert
8 were the result of the matter that this money that they were
9 going to earn was stolen from them.

10 At that point in time, the evidence is going to show
11 that Mr. Blades could not make a statement with respect to
12 that because he didn't have the facts clear before him.

13 And, the evidence is going to show also, Your
14 Honor... and that we intend to present before the Court...
15 that, after the concert, Mr. Blades, in response to some of
16 Willy Colón's requests with respect getting clear what had
17 happened with the Siembra Concert funds, he made a letter...
18 he wrote a letter to Mr. Willy Colón. And, in that letter, he
19 specifically told Mr. Colón his state of mind with respect to
20 what had happened.

21 And, his state of mind, at that point in time, goes
22 after the concert, that the monies were stolen from them.

23 Afterwards, Your Honor, Mr. Colón filed a Complaint
24 here, in Puerto Rico, for collection of monies and breach of
25 contract against Mr. Blades. And, when Mr. Blades knew of...

1 got notice of that filing of the Complaint, he was not yet
2 served. He knew about the Complaint because of some press
3 releases.

4 So, he was in Panama, and he was in a press
5 conference related to the fact that it had come to his
6 knowledge that a Complaint had been filed against him, in
7 Puerto Rico.

8 And, in that press conference, he stated, to
9 international reporters, that... he stated specifically "I got
10 robbed. We got robbed.". And, in that press conference, Mr.
11 Rubén Blades specifically identified Mr. Arturo Martínez and
12 Mr. Roberto Morgalo as its representative, and the ones that
13 took the money.

14 So, Your Honor, as we present before you, the
15 evidence is going to show that Mr. ... when Mr. Blades made
16 those statements, his state of mind was that Mr. ... and what
17 he meant when he said "We got robbed. I got robbed. We got
18 robbed.", and specifically identified Mr. Morgalo and Mr.
19 Martínez as the ones who had taken the money, that is
20 defamation *per se*, under New York law, that constitutes
21 accusing Mr. Morgalo specifically, our client, of committing a
22 crime.

23 And, his state of mind is going to prove that that
24 was his intention when he said "I got robbed. We both got
25 robbed.".

1 So, that's the evidence that we're going to present
2 before the Court, and we think that we can comply with the
3 requirements with the defamation *per se*, under New York law,
4 against Mr. Blades.

5 THE COURT: Okay, thank you. Okay, does the Defense
6 wish to make a statement at this time?

7 MS. GONZÁLEZ-ROBINSON: We will defer until the
8 closing of the case (phonetic).

9 THE COURT: Reserved, okay, very well. All right,
10 are you ready with your first witness?

11 MR. FRONTERA-SUAU: Yes, we call Mr. Rubén Blades.

12 COURTROOM DEPUTY: Please raise your right hand. Do
13 you solemnly swear that all the testimony you're about to give
14 in the case now before the Court will be the truth, the whole
15 truth, and nothing but the truth, so help you God?

16 WITNESS: I swear.

17 COURTROOM DEPUTY: Thank you. Have a seat.

18 (Whereupon,

19 **MR. RUBÉN BLADES-VEYIL-VELUNA**

20 after having been duly sworn, was examined, and testified upon
21 his oath as follows:)

22 **DIRECT EXAMINATION**

23 BY MR. FRONTERA-SUAU:

24 Q. Good morning, Mr. Blades.

25 A. Good morning.

1 Q. Can you please state your full name for the Court, for
2 the Judge?

3 A. Rubén Blades-Veyil-Veluna (phonetic).

4 Q. Mr. Blades, where were you in May, 2003?

5 A. In New York.

6 Q. At the beginning of the month, May 3, 2003?

7 A. Oh, we were in Puerto Rico.

8 Q. Okay, why?

9 A. We came to perform in a concert, Willy Colón and I.

10 Q. Okay, on May 3, 2003, were you part of a press
11 conference related to that concert?

12 A. Yes.

13 Q. Do you know who called that press conference?

14 A. The promoters of the show.

15 Q. Who were the promoters?

16 A. *Rompe Olas*. I believe it was Ariel Rivas and Mr. Saenz
17 (phonetic).

18 Q. And, why was that press conference called?

19 A. They were concerned about the fact that I had been
20 interviewed a week earlier, and I had expressed doubts about
21 the concert being able to happen.

22 Because, as we had stipulated, Willy Colón and
23 myself, the money for the show had not been paid in its
24 totality.

25 So, a newspaper person from I think *El Nuevo Día*,

1 Jaime Torres-Torres, wrote an article that... I don't remember
2 the headline, but it pretty much stated that the concert was
3 in doubt.

4 Having realized that, in fact, the promoters had
5 paid the monies... they had statements that so indicated...
6 they were concerned that people were going to believe the
7 concert was going to be canceled.

8 It was... the sales were suffering. So, they wanted
9 me to make a public statement related to the fact that we were
10 going to perform.

11 Q. Okay, now, during that press conference, do you remember
12 being asked specifically that if the monies that you were
13 going to earn, as part of that concert, were stolen from you?

14 A. Could you repeat that, please?

15 Q. Do you remember that, during that press conference,
16 specifically the reporter Millie Cagiano asked you that if you
17 believed that the money that you were going to earn, you and
18 Mr. Colón, from that concert, was stolen from you?

19 A. I don't remember it, but I'm sure she did ask such a
20 question. That was what everybody was talking about.

21 Q. Okay, and, at that point, your answer was that you're
22 going to put your attorney hat for a moment, and that you were
23 not going to... you were not prepared to make those kinds of
24 statements with respect to what had happened with the money.
25 Is that right?

1 A. Yes.

2 Q. You remember that?

3 A. I remember that we were not sure what had happened with
4 the money.

5 Q. So, you were not prepared, at that point in time, to
6 state that the monies were stolen from you. Is that right?

7 A. I was prepared to say that Martínez & Morgalo had not
8 paid us, and that the money was not accounted for, which is
9 what I did.

10 Q. In fact, during that press conference, you never
11 mentioned... you, specifically... never mentioned the name
12 either of Arturo Martínez or Mr. Roberto Morgalo. Is that
13 right?

14 A. I mentioned the office, Martínez & Morgalo.

15 Q. The one that mentioned Mr. Arturo Martínez' name
16 specifically, during that press conference, was Mr. César
17 Saenz. Do you remember that?

18 A. No, I don't.

19 Q. No. Did you specifically mention the name of Mr. Roberto
20 Morgalo during that conference?

21 A. Who did?

22 Q. You. Did you?

23 A. No.

24 Q. No. Now, after the concert, do you remember writing a
25 letter to Mr. Willy Colón in response to his request to

1 knowledge what had happened with the money?

2 A. Several letters, yes.

3 Q. Okay.

4 A. I need my glasses.

5 UNIDENTIFIED SPEAKER: May I, Your Honor?

6 THE COURT: Yes, you may.

7 A. Thank you.

8 BY MR. FRONTERA-SUAU:

9 Q. Now, I'm going to show you...

10 MR. FRONTERA-SUAU: Please show the Witness
11 Plaintiff's I.D. 2.

12 UNIDENTIFIED SPEAKER: May I approach?

13 MR. FRONTERA-SUAU: Yes.

14 PAUSE

15 (Revision of document by Witness.)

16 BY MR. FRONTERA-SUAU:

17 Q. Now, Mr. Blades, did you write that letter?

18 A. Yes.

19 Q. And, you wrote it to whom?

20 A. This was a report on expenses that I sent to Willy
21 Colón.

22 Q. Okay, now, in this letter, you state, in... at...

23 THE COURT: Just for my benefit, is this the one
24 that says "As of May 16th." at the top?

25 MR. FRONTERA-SUAU: Yes, Your Honor.

1 THE COURT: All right, go ahead.

2 MR. FRONTERA-SUAU: We're going to mark this. We're
3 going to ask the Court to mark this as Exhibit 3 for
4 Plaintiff.

5 THE COURT: Okay, any objection?

6 MS. GONZÁLEZ-ROBINSON: As to the marking or as to
7 the introduction into evidence?

8 MR. FRONTERA-SUAU: The introduction.

9 THE COURT: As to the introduction.

10 MS. GONZÁLEZ-ROBINSON: None, Your Honor.

11 THE COURT: All right, it's admitted.

12 (Whereupon,

13 the above-mentioned document was admitted into
14 evidence as Plaintiff Exhibit 3.)

15 BY MR. FRONTERA-SUAU:

16 Q. Okay, in this letter, Mr. Blades, you state...

17 THE COURT: Sorry, this is Exhibit 3?

18 MS. GONZÁLEZ-ROBINSON: I.D. ...

19 THE COURT: No, Exhibit 3.

20 MS. GONZÁLEZ-ROBINSON: Yeah, Exhibit 3.

21 THE COURT: All right, Exhibits 1 and 2 are the
22 newspaper articles we talked about?

23 MR. FRONTERA-SUAU: The newspaper articles.

24 THE COURT: All right.

25 BY MR. FRONTERA-SUAU:

1 Q. Now, in this letter, you identify two amounts, at the
2 bottom, and you say "Amounts totaling, in 2002, sixty-two
3 thousand, five hundred.". Is that right?

4 A. Uh huh, yes.

5 Q. And, you identify an amount stolen, in 2003, for sixty-
6 three thousand, zero, thirty-three point twenty (phonetic). Is
7 that right?

8 A. Uh huh, yes.

9 Q. And, you were the one that identified those two amounts
10 as amounts stolen. You were the one that identified those
11 amounts as stolen. Is that right?

12 A. Yes.

13 MR. FRONTERA-SUAU: Okay, now I'm going to ask the
14 Witness to be shown Plaintiff I.D. 4.

15 PAUSE

16 (Revision of document by Witness.)

17 BY MR. FRONTERA-SUAU:

18 Q. Did you have a chance to review the document, Mr.
19 Blades?

20 A. I haven't read it all, no.

21 Q. Okay, please review it.

22 PAUSE

23 (Continued revision of document by Witness.)

24 A. Yes.

25 BY MR. FRONTERA-SUAU:

1 Q. Did you write this letter?

2 A. Yes, I did.

3 Q. When?

4 A. It says "May 14th."

5 Q. To whom?

6 A. To Willy Colón.

7 MR. FRONTERA-SUAU: Okay, we're going to introduce
8 this as Exhibit 4 for Plaintiff, Your Honor.

9 THE COURT: Okay, any objections?

10 MS. GONZÁLEZ-ROBINSON: No objection, Your Honor.

11 THE COURT: Okay, it's admitted.

12 (Whereupon,

13 the above-mentioned document was admitted into
14 evidence as Plaintiff Exhibit 4.)

15 BY MR. FRONTERA-SUAU:

16 Q. Now, in the first... in the second paragraph of this
17 letter, Mr. Blades, I'm going to read it, and you will tell me
18 if I'm reading correctly. It is the point identified as "2",
19 the second sentence where it says "I also...". You stated, to
20 Mr. Colón:

21 "I also want Arturo..."... that would be Arturo
22 Martínez?

23 A. Yes, it would be.

24 Q. "I also want Arturo to clarify the extent of Roberto
25 Morgalo's involvement in this situation. So far, Arturo

1 is the one we all have focused on, but it seems to me
2 it's obvious Morgalo had a hand as well in the
3 embezzlement, and it's in Arturo's personal interest to
4 explain what role the latter played in this."

5 A. Yes.

6 Q. You wrote this?

7 A. Yes.

8 Q. Okay, and you used the word "embezzlement". Is that
9 right?

10 A. Yes.

11 Q. To describe what you think was obvious that Mr.
12 Morgalo's conduct had been. Is that right?

13 A. I was...

14 Q. Is that right?

15 A. Yes.

16 MR. FRONTERA-SUAU: Okay, now I'd like to show the
17 Witness Plaintiff I.D. 5.

18 PAUSE

19 (Revision of document by Witness.)

20 BY MR. FRONTERA-SUAU:

21 Q. Now, before going through I.D. 5, in Exhibit...
22 Plaintiff Exhibit 4, let's go to the second page, the second
23 page of Exhibit 4, the May 14th letter.

24 A. I don't know what it is. This (phonetic)?

25 Q. Yeah, May 14th.

1 A. Okay, got it.

2 Q. In the last paragraph, when you state what it says, "I
3 regret...", I'm going to read it, and you will tell me if I am
4 reading it correctly.

5 "I regret this whole situation, and I'm trying to
6 clarify it and to resolve it ASAP. Please, be patient.

7 As for Arturo and Morgalo, the only reason I have
8 waited before going through with criminal action against
9 them is that we need to understand what was the final
10 amount stolen."

11 You wrote that?

12 A. Yes.

13 Q. Okay, and, at that point in time, you had not gone to
14 the police to bring charges against Mr. Morgalo and Mr.
15 Martínez, as you stated here, because you had... you did not
16 have clear what was the exact amount that had been stolen. Is
17 that right?

18 A. Yes, that was the argument I presented to Willy Colón.

19 Q. Now, let's go to I.D. 5, the one that... the last one
20 that was handed to you, Mr. Blades.

21 A. This is May 16th?

22 Q. Yes, the May 15th, to Juan Toro.

23 A. May 16th... oh, okay.

24 Q. I'm sorry?

25 A. 15th?

1 Q. Yes. Did you write this letter, Mr. Blades?

2 A. I... yes, I did.

3 Q. You wrote it to whom?

4 A. "Juan Toro", it says.

5 Q. Okay, in what date?

6 A. May 15, 2003.

7 MR. FRONTERA-SUAU: I'm going to ask the Court to
8 mark this as Plaintiff Exhibit 6 (sic)...

9 THE COURT: Any objections?

10 MR. FRONTERA-SUAU: ... 5.

11 MS. GONZÁLEZ-ROBINSON: 5. No objections.

12 THE COURT: Okay, admitted.

13 (Whereupon,

14 the above-mentioned document was admitted into
15 evidence as Plaintiff Exhibit 5.)

16 BY MR. FRONTERA-SUAU:

17 Q. Now, you describe here... in the first paragraph, you
18 describe the conduct of Martínez & Morgalo as "larcenous".

19 A. Yes, the company's conduct was larcenous.

20 Q. Okay, now, Mr. Blades, in 2007, you were... I think it
21 has been stipulated that a Complaint was filed, by Mr. Colón,
22 against you, in 2007. Is that right, Mr. Blades?

23 A. I believe so, yes.

24 Q. How did you come to know that a Complaint was filed
25 against you?

1 A. I found out about the Colón suit by the newspapers.

2 Q. You were where at that point in time?

3 A. I was a public official serving in my country, in charge
4 of Tourism, National Tourism.

5 Q. Where?

6 A. In the Republic of Panama.

7 Q. Okay, now, after you came to know that Mr. Willy Colón
8 had filed a Complaint against you by the press, what did you
9 do?

10 A. I thought it was very strange that he had sued me.

11 Q. Did you call a press conference?

12 A. No, I did not.

13 Q. Did you talk to the press related to that?

14 A. I was forced to talk to the press because of my position
15 as a public official. Colón had made a statement suggesting I
16 had kept money... his money... and, as you may imagine, it had
17 an impact, especially in those who did not approve the
18 Government's position in certain issues related to local
19 politics.

20 So, I was forced to address the issue and explain
21 the issue to the media that was local media. There were
22 several instances where I was asked to do interviews, and I
23 could not dedicate all my time to be doing one, two, three,
24 four, five different interviews.

25 So, the organization, the Tourism organization,

1 decided that the best thing to deal with the situation was to
2 talk to the press, and they called them all in one place, and
3 then I went in... was subject to the questions, but I did not
4 call for the press conference. The press conference was
5 thrust upon me because of the situation.

6 Q. But, you participated in that press conference?

7 A. Absolutely.

8 Q. And, you voluntarily participated?

9 A. Yes, I did.

10 Q. Okay, and, in that press conference, there were local
11 news media from Panama, and also international media. Is that
12 right?

13 A. No, not that I know of. There wasn't any... I don't
14 remember any international media. I think that probably what
15 was said there and whatever they wrote was later on sent by
16 the wires. That's what I imagine. I don't remember it being an
17 international forum.

18 Q. Do you remember, after the press conference, seeing
19 press releases for newspapers specifically discussing what had
20 happened in that press conference?

21 A. I tried... when I was in government, I tried not to read
22 the papers, to tell you the truth. The papers write whatever
23 they want to write.

24 I'm sure that I must have received, from my office,
25 a sort of *resumen*, a *résumé*, of what was written, and usually

1 it's so badly written that it annoys me more than informs me.

2 Q. But, the reason that you participated in that press
3 conference is that you wanted to make your... you wanted to
4 make a statement with respect to the Complaint filed against
5 you...

6 A. Yes.

7 Q. ... to the media, to the public?

8 A. Yes, Willy Colón had accused me basically of keeping a
9 hundred and thirty-two thousand dollars of his money, which
10 was not true, and which I felt was something that made me look
11 bad as a public official.

12 Q. Now, at that point in time, you had not been served with
13 the Complaint?

14 A. No, no, I had not.

15 Q. And, the information that you had was the information
16 that you got from the newspapers?

17 A. Yes.

18 Q. At that point in time, had you hired an attorney to
19 represent you in that Claim?

20 A. No, sir.

21 Q. Now, during that press conference, Mr. Blades, you
22 specifically identified Mr. Roberto Morgalo and Mr. Arturo
23 Martínez. Is that right?

24 A. I always referred to Martínez & Morgalo. The agency
25 bears their names... the agency... Martínez & Morgalo. That

1 was always what I said, "Martínez & Morgalo", the agency, all
2 the times.

3 Q. So, you never identified, during that press conference,
4 the specific names of Mr. Arturo Martínez and Roberto Morgalo?

5 A. That is correct.

6 Q. That's your testimony, okay. Now, during that press
7 conference, at some point in time, you stated that "They
8 robbed me. They robbed us both.". Is that right?

9 A. That's what they wrote, "*Nos robaron.*" doesn't mean
10 "They robbed us.". That's like saying "We were had. We were
11 screwed.".

12 It's a way of... a colloquialism, "*Nos robaron a los*
13 *dos.*", "We got robbed. We got screwed. We were had.", "*Nos*
14 *robaron.*", not "They robbed us.". That's not the translation.
15 "*Nos robaron.*" is "We were robbed." or "We were had." or "We
16 were screwed." or "We were..."...

17 Q. And, you were referring to you and Mr. Colón?

18 A. Yes, I was, because Colón was trying to say that I was
19 the one who took his money, and I said, no, I was a victim
20 also. That was the core of the intent. I was also a victim,
21 "How can you say that I took your money?".

22 Q. Now, and you meant that Mr. Martínez and Mr. Morgalo had
23 robbed you. Itti?

24 A. Martínez & Morgalo, the office.

25 Q. So, your testimony here is that Mr. Roberto Martínez

1 (sic)... it was your belief, when you made those statements,
2 you were not referring to Mr. Roberto Morgalo's person?

3 A. I was referring to the agency, and Martínez & Morgalo
4 was the one who was in charge of the concert. They are the
5 ones responsible for the money.

6 Q. So, let me get this clear, Mr. Blades. Your testimony
7 here is that, when you say... when you stated "They robbed
8 us." or "Nos robaron."...

9 A. *Nos robaron.*

10 Q. ... you were not referring to Mr. Roberto Morgalo
11 specifically, in his problem capacity?

12 MS. GONZÁLEZ-ROBINSON: Objection, asked and
13 answered.

14 THE COURT: I'll let him answer.

15 A. We always... I always referred to Martínez & Morgalo,
16 their names. That's the name of the office.

17 BY MR. FRONTERA-SUAU:

18 Q. Did you...

19 MR. FRONTERA-SUAU: I'm going to ask that the
20 Witness be shown Exhibits 1 and 2.

21 PAUSE

22 (Revision of documents by Witness.)

23 A. Uh huh, yes.

24 BY MR. FRONTERA-SUAU:

25 Q. Exhibit 1 is a press... a news release entitled "*Blades*

1 *apenado con Demanda de Colón.*", "Blades saddened by Colón's
2 Claim.", and it's dated May 9, 2007, printed on May 15, 2007,
3 by latino.msn.com (phonetic).

4 A. Uh huh.

5 Q. In this newspaper article, paragraph one, two, three,
6 four, five, six, seven, eight, nine...

7 MS. GONZÁLEZ-ROBINSON: Objection to the use of the
8 description as a newspaper article because that's an
9 entertainment site (phonetic), latino.msn.com.

10 THE COURT: Which... this is Exhibit 1?

11 MR. FRONTERA-SUAU: Exhibit 1, yes, Your Honor. It
12 says "noticias", "articles", in the bottom, in the first page,
13 "news articles".

14 THE COURT: Yeah, but it looks like it's printed
15 from a website, right?

16 MR. FRONTERA-SUAU: Yeah, yes, Your Honor.

17 THE COURT: And, this is the one that starts out
18 "*Blades apenado con Demanda de Colón.*", all right.

19 BY MR. FRONTERA-SUAU:

20 Q. And, it says... in the top, it says "Associated Press".
21 Is that right, Mr. Blades?

22 A. Yes, it says "AP".

23 Q. Okay, what is AP, if you know?

24 A. Associated Press.

25 Q. What is that?

1 A. I'm sorry?

2 Q. Do you know what Associated Press is?

3 A. I know of one Associated Press, which is AP, but I don't
4 know if there are anymore titled AP. I have no idea.

5 Q. But, the one that you know, Associated Press, do you
6 know what that is?

7 A. Yes, it's a news agency, an international news agency,
8 AP.

9 MS. GONZÁLEZ-ROBINSON: Your Honor, our only
10 objection is to the calling, in Exhibit 1, as a newspaper
11 article. That's...

12 MR. FRONTERA-SUAU: The news article.

13 THE COURT: Okay, well, the parties stipulate that
14 this is something that appeared on the Internet in the form
15 that it's been printed out?

16 MS. GONZÁLEZ-ROBINSON: Yes, Your Honor.

17 MR. FRONTERA-SUAU: Yes, yes.

18 THE COURT: Okay, so that's what it is.

19 BY MR. FRONTERA-SUAU:

20 Q. Okay, in paragraph one, two, three, four, five, six,
21 seven, eight, nine, do you have the translation, the official
22 translation with you, so that I can...

23 A. Yes, I have a translation here.

24 Q. Okay, perfect. Paragraph nine of the translation also,
25 the last sentence of that news article, it says:

1 “The representative with whom, according to Blades,
2 worked with our problems for several years was identified
3 as Arturo Martínez and Roberto Morgalo.”.

4 That’s what the newspaper... the news article says.
5 Is that right?

6 A. That’s what it says there.

7 Q. And, your testimony... you maintain your testimony that
8 you never gave the press these two names in that press
9 conference, Arturo Martínez and Roberto Morgalo?

10 A. I always said “Martínez & Morgalo”.

11 Q. Okay, Exhibit 2 also specifically states “Martínez &
12 Morgalo”, two representatives, Martínez & Morgalo. Is that
13 right?

14 A. Ask me that again.

15 Q. Paragraph one, two, three, four, five of that news...

16 A. Of the same page?

17 Q. Of Exhibit 2.

18 A. This one?

19 Q. Yes.

20 A. Sorry.

21 Q. Paragraph one, two, three, four, five.

22 A. Where it says “*El Panameño de cincuenta y ocho años...*”?

23 Q. Yes, uh huh, “... who swore he wouldn’t return to stage
24 with Colón, asserted that he didn’t sue the two
25 representatives, Martínez & Morgalo, because they didn’t have

1 money.". Okay, do you remember making that statement during
2 that press conference?

3 A. I don't remember, but I'm not... I have said that
4 before, so most likely I did say that.

5 Q. Okay, now, Mr. Blades, you have stated before that you
6 believe that Mr. Morgalo stole money from you...

7 MS. GONZÁLEZ-ROBINSON: Objection.

8 BY MR. FRONTERA-SUAU:

9 Q. ... embezzled you. Is that right?

10 MS. GONZÁLEZ-ROBINSON: Objection.

11 THE COURT: Sustained.

12 BY MR. FRONTERA-SUAU:

13 Q. Your testimony is that you have never stated that?

14 MS. GONZÁLEZ-ROBINSON: Objection.

15 THE COURT: I'll let him... rephrase it, please.

16 BY MR. FRONTERA-SUAU:

17 Q. Your testimony is that have never stated that Mr.
18 Morgalo, Roberto Morgalo, stole money from you or embezzled
19 you. Is that your testimony?

20 A. My testimony is that I feel that Martínez & Morgalo
21 stole the money. That is my testimony.

22 Q. Yes, but...

23 A. If you ask me what do I feel what happened, my opinion
24 on this matter, I would think that Morgalo had something to do
25 with it, in my mind. My opinion is that based on all the

1 information that came out.

2 Q. The truth is you had stated, specifically to Mr.
3 Morgalo, that you believed that he stole money from you and
4 embezzled you. Is that right?

5 A. I always referred...

6 MS. GONZÁLEZ-ROBINSON: Objection, assuming facts
7 not in evidence.

8 THE COURT: Okay, make that question again.
9 Rephrase the question, and break it down a little bit.

10 BY MR. FRONTERA-SUAU:

11 Q. The fact is, Mr. Blades, that you have stated to Mr.
12 Morgalo specifically that you think that he stole from you and
13 embezzled you. Is that right?

14 A. That I told Morgalo, himself?

15 Q. Yes.

16 A. If I told... if I said that, which I don't remember, I'm
17 sure I said it because that's what I... that's my opinion.

18 Q. Do you remember a deposition that was taken to you on
19 April 22, 2009...

20 A. Yes.

21 Q. ... in Mr. Colón's attorney's office?

22 A. Yes, I do.

23 Q. Do you remember being asked, by Mr. Morgalo, that
24 specific question?

25 A. I don't remember being asked, but I'm sure that it's in

1 the... it must be in the record with my answer.

2 Q. Do you remember him asking you "As you continue to read
3 to the end of the paragraph, do you believe that Roberto
4 Morgalo stole money and embezzled money from you and Willy
5 Colón?"?

6 A. I would say yes.

7 Q. Okay, and that was your belief when you held the press
8 conference, in Panama. Is that right, Mr. Blades?

9 A. At the time, I referred, as always, to the company. My
10 belief is that the company was responsible for my money.

11 Q. Yes, but you believed... when you made the statement in
12 the press conference, in Panama...

13 A. That he was involved.

14 Q. ... you believed that he had stolen money from our and
15 embezzled you. Is that right?

16 A. I believe that they were both involved, yes.

17 MR. FRONTERA-SUAU: I have no further questions,
18 Your Honor.

19 THE COURT: Okay, any Cross?

20 MS. GONZÁLEZ-ROBINSON: Briefly, Your Honor.

21 **CROSS EXAMINATION**

22 BY MS. GONZÁLEZ-ROBINSON:

23 Q. Mr. Blades, how old are you?

24 A. I'm sixty-four.

25 Q. And, how... what is your current occupation?

1 A. I am a musician/actor.

2 Q. How long did you serve as Minister of Tourism, in
3 Panama?

4 A. Five years.

5 Q. Can you tell us when you started and when you ended that
6 career?

7 A. I began serving on September 1st of 2004, and completed
8 our term on June... the end of June of 2009.

9 Q. What, if any, was your intention in answering the press
10 in Panama, in 2007, when you heard about the Colón lawsuit?

11 A. The situation at that time was this. I was a city
12 official, a public official, who, all of a sudden, was sued by
13 his old music partner who was demanding of me payment for the
14 amount of money that was stolen from us from the Siembra
15 Concert, and that he had not received.

16 And, he sued me for a hundred and thirty... or a
17 hundred and fifteen thousand, a hundred and thirty-two
18 thousand or a hundred I don't know what because the number
19 kept changing.

20 And, I had to come out and face these situations. I
21 would like to add that, from the 2003 conference to 2007, I
22 never mentioned the name of either of the gentlemen who were
23 in the company. I didn't even talk about them.

24 This was something that happened at that moment, and
25 I had to come out and explain what had happened, to the best

1 of my knowledge.

2 Q. In answering the press at the conference in Panama, did
3 you speak in Spanish or in English?

4 A. In Spanish.

5 Q. All of the questions were answered in English... in
6 Spanish? I'm sorry.

7 A. All the questions were answered in Spanish.

8 Q. What was your relationship with the office of Martínez &
9 Morgalo?

10 A. My relationship with them was a relationship of trust,
11 friendship. We were on very good terms, I found.

12 Q. What, if any, was your reaction when you heard what had
13 happened with the funds from the Siembra Concert?

14 A. I was very, very upset. I was... it took me a while to
15 believe it.

16 Q. Why?

17 A. I didn't expect it at all. I mean we didn't even have a
18 signed contract. I mean we had trust.

19 Q. What, if any, information did you receive that pointed
20 to Martínez & Morgalo as being the one who misappropriated the
21 money from the Siembra Concert?

22 A. I always insisted in getting paid before I leave for a
23 show, and the company knew that, and that's the way we worked
24 always.

25 Sometimes there were delays on payment, but I always

1 get paid before I leave. And, one week before the show... I
2 think it was a week before the show... the money was not
3 there.

4 Q. But, what information did you have, at the time you made
5 the statements in 2007, that Martínez & Morgalo, the company,
6 had actually been responsible for not accounting for the
7 money.

8 A. I'm sorry, I had a confusion. The conversation that I
9 had with Arturo Martínez where he explained to me what had
10 happened.

11 Q. Where did that conversation take place?

12 A. The first conversation... the conversation that we had
13 was at the offices of Juan Toro.

14 Q. When?

15 A. It was somewhere in 2004. I believe perhaps between June
16 and July. I had asked Juan. I wanted to know what happened.

17 Q. Was it 2004 or was it after the concert, the same year
18 of the concert?

19 A. It was the same... I'm sorry... 2004, I made a mistake,
20 Your Honor. It's 2003... 2003... between June and July. The
21 concert was in May of 2003, and I saw Arturo between...
22 somewhere between June and July of 2003.

23 Q. How did that meeting come about?

24 A. I demanded the meeting. I had no details on what had
25 happened. The only thing I knew was the company had not paid

1 us. Okay? And, the company... the President was Arturo Morgalo
2 (sic), and... Martínez & Morgalo had not paid. The company had
3 not given us the money. So, I couldn't find anybody. I
4 couldn't find anyone.

5 Q. Was there anyone else present during that conversation?

6 A. Juan Toro.

7 Q. What, if any, was... did Arturo Martínez tell you, and
8 what, if anything, did you tell him?

9 A. It was a very difficult meeting.

10 MR. FRONTERA-SUAU: Your Honor, objection, hearsay.

11 A. I'm sorry?

12 MS. GONZÁLEZ-ROBINSON: Your Honor...

13 THE COURT: Okay, I'm overruling because I'm going
14 to accept this line of questioning for what his state of mind
15 was...

16 MR. FRONTERA-SUAU: Okay.

17 THE COURT: ... when he made the 2007 statements.

18 MR. FRONTERA-SUAU: Okay.

19 THE COURT: Okay.

20 BY MS. GONZÁLEZ-ROBINSON:

21 Q. The question was what, if anything, was said to you by
22 Arturo Martínez, and what, if anything, did you say to him?

23 A. Arturo was very repentant. He felt terrible. He cried.
24 He apologized. I was very upset. I asked him a thousand times
25 "Why did you do this?".

1 Q. What exactly did he tell you what happened to the funds
2 from the concert?

3 A. What he said to me was... one thing that he said that
4 always stayed with me was that it wasn't a malicious thing, is
5 what he kept saying.

6 They were having problems, liquidity problems. They
7 were having shows that failed. They were having tremendous
8 amounts of trouble with money.

9 So, they were taking money from my shows and
10 applying them to pay for the shows that they were making and
11 that were failing.

12 He said to me "You know, we didn't buy a car. We
13 didn't buy a house. You know, we just have these problems.",
14 and I said "Well, how did this come about?", and then he
15 explained to me how, when and why the diversion (phonetic) of
16 the funds.

17 And, then he said to me something that this
18 surprised me, and he said to me that there were funds that
19 were being... had been taken from the year before the concert
20 for shows that never happened.

21 Q. That would have been 2002?

22 A. 2002, yeah.

23 Q. What, if anything, was said about Robert Morgalo's
24 involvement in this, the diversion of funds?

25 A. At the time, he said to me that it was mutually agreed.

1 They both had been involved in it.

2 Q. Where was Robert Morgalo at this time?

3 A. I don't know where... well, he was in the Army
4 somewhere. I mean he had left, and this is something else. He
5 left in January, I believe, of 2003 or something. At some
6 point, he left.

7 And, I didn't either talk to him or see him again
8 for I don't know how long. But, during all this mess, he was
9 nowhere to be seen, missing in action.

10 Q. Did Robert Morgalo ever contact you about the Siembra
11 Concert?

12 A. Robert Morgalo called me, at one point, on the phone
13 after the cont. I want to say it was 2004. I don't quite
14 remember. He did call, and he said... and this was the first
15 time I spoke with him... that he was sorry about what
16 happened, and he was trying to... you know... get the funds to
17 pay for the problem and fix the problem, basically.

18 Q. Did he ever do that?

19 A. No.

20 Q. Other than the admission of Arturo Martínez as to what
21 happened to the Siembra funds, did you have any other
22 independent information to form a belief that Martínez &
23 Morgalo had actually used the funds to pay other debts?

24 A. Well, there was an issue of sixty-two thousand, five
25 hundred dollars that were missing, and were not accounted for

1 when we added up all the amounts of money that had been paid
2 by the promoters for the Siembra Concert.

3 There was a missing amount of sixty-two thousand,
4 five hundred dollars which I confronted the promoters with.
5 Even, at that time, I was saying... I was trying to figure out
6 what happened here, "This money is missing, and it's not in
7 your wires."

8 And, they said "No, it's not in the wires because
9 this belongs to a concert that we had advanced the money for
10 at one point, and we applied this to the Siembra Concert."

11 Q. Did you know about that other show?

12 A. No, I didn't know that they had received money for any
13 other show that I, myself, had not received money for that
14 show.

15 Q. And, Robert Morgalo negotiated that prior show?

16 A. He was involved in the negotiation of that part of the
17 show, of that particular show in 2002, I believe it was.

18 Q. How about the Siembra Concert, how did that come about,
19 the idea of doing the Siembra Concert?

20 A. The Siembra Concert idea, I was approached by Morgalo
21 who called me about this show.

22 Q. By Robert Morgalo?

23 A. Robert Morgalo told me about the show.

24 Q. Where were you when he called you?

25 A. In 2003, I must have been in California.

1 Q. Was it in 2003 or was it in the year before?

2 A. It was about a year before actually. You know, I
3 don't... I'm sorry, but I don't have all the dates that clear.

4 Q. What did he say to you?

5 A. That it was a great gig, and the possibility of doing a
6 gig with Willy Colón, and there was a lot of money. This is
7 the thing. I remember that, "There's a lot of money in this."

8 Q. What did you say to him?

9 A. I said no.

10 Q. Why did you say "no"?

11 A. I said no for several reasons. One was I believe I had
12 been in Puerto Rico before. I felt that it was... we were too
13 close. The show was too close to the last time I had been
14 here. That was one thing I think I seem to recall.

15 I was doing well with... thank God, I was doing well
16 with money at the time, so I didn't really need the money to
17 work.

18 And, third, I didn't want to work with Willy Colón
19 because, every time something happened with Willy Colón, there
20 was some kind of problem. So, I really didn't want to do that.

21 Q. Who, if anyone, did Robert Morgalo tell you he was
22 negotiating the contract with?

23 A. I believe it was Ariel Rivas... Saenz... Ariel Rivas.

24 Q. Once you said "no" to Robert Morgalo, what happened
25 next?

1 A. I got a call from Willy Colón. I got a call from Willy
2 Colón asking me to sort of reconsider. I think, even before
3 that, I probably got another call from Robert Morgalo about
4 it... you know... trying to change... it was a lot of money. I
5 mean there was a lot of money at the time to be offered for
6 this show.

7 So, Willy called me, and said to me that he really
8 would appreciate it if I did this show because he was having
9 some difficulties money-wise.

10 Q. Who typically negotiated the contracts, at Martínez &
11 Morgalo, on your behalf... to book shows?

12 A. I always thought Morgalo... Robert... because he was the
13 most aggressive one. You know, he was the business guy, as far
14 as my perception is and was.

15 Q. Why did you not sue Robert Morgalo and Arturo Martínez
16 after you had learned what happened with the Siembra funds?

17 A. It's a combination of things. The first thing was the
18 perception that suing them was going to be pointless from the
19 point of view of recuperating any funds.

20 Willy wanted to have them sued. My position was they
21 don't have any money, and what's going to happen is their
22 families are going to be hurt.

23 Basically, I remember the story, and I said it again
24 and I'll say it again, Morgalo had a child with a heart
25 problem. Arturo had... his wife was pregnant, expecting. And,

1 my position was there's no point in suing them. We're going to
2 sue them, and all we're going to do is wreck their families,
3 is what I was going to do.

4 Q. Did you ever intend to harm Robert Morgalo?

5 A. Never.

6 MS. GONZÁLEZ-ROBINSON: No further questions, Your
7 Honor.

8 THE COURT: All right, any Redirect?

9 MR. FRONTERA-SUAU: Yes, Your Honor.

10 **REDIRECT EXAMINATION**

11 BY MR. FRONTERA-SUAU:

12 Q. The fact is, Mr. Blades, that you, in fact, sued Mr.
13 Morgalo in his personal capacity. Is that right?

14 A. I'm sorry?

15 Q. You, in fact, sued Mr. Morgalo in his personal capacity.
16 Is that right?

17 A. Responding to his lawsuit.

18 Q. To what lawsuit?

19 A. I don't know. You mean that I sued him?

20 Q. You sued Mr. Morgalo in his personal capacity. You sued
21 the company, Martínez & Morgalo, and you also sued him in his
22 personal capacity. Is that right?

23 A. Oh, we tried to make him...

24 Q. Is that right?

25 A. ... liable for the company, yes.

1 Q. You didn't sue Mr. Arturo Martínez. Is that right?

2 A. At the time, no.

3 Q. No. And, Mr. Arturo Martínez...

4 MS. GONZÁLEZ-ROBINSON: I object to the inference
5 that he did not sue him. The fact was, at the time, Mr. Arturo
6 Martínez was incarcerated, and he was not made a party by the
7 Court.

8 Robert Morgalo and Martínez & Morgalo were ruled to
9 be necessary (phonetic) parties.

10 THE COURT: The Docket's clear as to how all
11 parties were brought into this case...

12 MS. GONZÁLEZ-ROBINSON: Right.

13 THE COURT: ... or whether they were brought into
14 this case. So, can the... okay, to the extent that it might be
15 relevant, can the parties stipulate that the Court can take
16 notice of the items on the Docket?

17 MR. FRONTERA-SUAU: Yes, Your Honor, yes, Your
18 Honor.

19 THE COURT: All right, very well. Okay, so go
20 ahead.

21 BY MR. FRONTERA-SUAU:

22 Q. The fact is, Mr. Blades, that what you know... what your
23 state of mind was after the concert, after you talked to Mr.
24 Martínez of what specifically had happened, you had that state
25 of mind because of the information that Arturo Martínez gave

1 you. Is that right?

2 A. Yes.

3 MS. GONZÁLEZ-ROBINSON: I object to the
4 characterization as the only evidence of...

5 MR. FRONTERA-SUAU: Your Honor, he answered.

6 MS. GONZÁLEZ-ROBINSON: The testimony was that he
7 had other sources of information.

8 THE COURT: All right, I'm overruling the
9 objection. His testimony was clear.

10 MR. FRONTERA-SUAU: Okay.

11 BY MR. FRONTERA-SUAU:

12 Q. And, specifically, Mr. Blades, you don't know with whom
13 Martínez & Morgalo specifically negotiated, if it was with
14 Ariel Rivas or with Mr. César Saenz?

15 A. My information is it was with Ariel Rivas.

16 Q. Do you know who signed the contract with respect to the
17 promoters?

18 A. No, I don't.

19 Q. You don't know. And, Mr. Blades, the fact is that Mr.
20 Arturo Martínez, at the present time, after he was released
21 from prison, he began working with Juan Toro. Is that right?

22 A. Yes, sir.

23 Q. And, Juan Toro works for you. Is that right?

24 A. He is a person who does bookings for me. He doesn't work
25 for me. He does bookings for me.

1 Q. And, he has... and Mr. Juan Toro has done the bookings
2 for the contract that you have held in Puerto Rico after the
3 Siembra Concert. Is that right?

4 A. Probably.

5 Q. And, Mr. Arturo Martínez has worked in those concerts.
6 Is that right?

7 A. I have no idea. You have to ask Juan Toro.

8 Q. You have never seen him in the concerts?

9 A. I've seen him. I don't know if he's been working for
10 Juan, but I assume he has since he's a member of
11 (unintelligible).

12 Q. And, you have seen Mr. Arturo Martínez working in the
13 industry, right?

14 A. Yes, I have.

15 Q. Have you seen Mr. Morgalo working in the industry?

16 A. I haven't seen Mr. Morgalo at all.

17 Q. Okay, when you talked to Mr. Morgalo, as you testified,
18 did he accept to you that he had something to do with the
19 funds?

20 A. When was this, sir?

21 Q. You said...

22 A. When he spoke to me on the phone?

23 Q. Yes.

24 A. When he spoke to me on the phone...

25 Q. Did he accept that he took the funds?

1 A. He said "I'm going to see what I can do to clear this
2 mess, and get the money and pay this.". I don't know if that
3 would be construed as an acceptance because...

4 Q. Did you ask him what had happened?

5 A. At the time, no.

6 Q. No, okay. Have you ever tried to talk to him to see what
7 was his version of what happened?

8 A. No.

9 Q. No.

10 MR. FRONTERA-SUAU: I don't have any further
11 questions, Your Honor.

12 THE COURT: All right, Re-Cross?

13 MS. GONZÁLEZ-ROBINSON: Briefly, Your Honor.

14 MR. FRONTERA-SUAU: I'm sorry, Your Honor.

15 PAUSE

16 MR. FRONTERA-SUAU: That will be all, Your Honor.

17 **RE-CROSS EXAMINATION**

18 BY MS. GONZÁLEZ-ROBINSON:

19 Q. What, if anything, did you mean when the press quotes
20 you as saying "Nos robaron.", at the press conference, in
21 Panama?

22 MR. FRONTERA-SUAU: Your Honor, I object. That
23 wasn't part of the Redirect.

24 MS. GONZÁLEZ-ROBINSON: Yes, it was. State of mind
25 was addressed during the Redirect.

1 MR. FRONTERA-SUAU: It was not part of the
2 Redirect.

3 THE COURT: I'll let him answer that, but it really
4 was not part of the Redirect. Okay, stick to the Redirect.

5 BY MS. GONZÁLEZ-ROBINSON:

6 Q. What, if anything, was your state of mind or what was
7 your intention when you were quoted by the press as saying
8 "Nos robaron.", at the press conference, in Panama?

9 A. I wanted to make it clear that I was a victim, as well
10 as Willy Colón. That I was not the one who had taken the
11 money. That the money had been taken by the Martínez & Morgalo
12 office.

13 MS. GONZÁLEZ-ROBINSON: That would be it.

14 THE COURT: All right, okay, thank you, sir. You
15 may step down.

16 WITNESS: Oh, and what do I do with this?

17 UNIDENTIFIED SPEAKER: I can take that.

18 (Witness is excused.)

19 THE COURT: Okay, who is Plaintiff's next witness?

20 MR. FRONTERA-SUAU: Your Honor, the Plaintiff will
21 rest. We will not present anymore witnesses.

22 THE COURT: The Plaintiff rests, all right. Okay,
23 we'll take a five minute break, and then we'll start.

24 MR. FRONTERA-SUAU: We put the tax returns at the
25 disposition of the Defendants, so...

1 THE COURT: All right, okay. Let's take a ten
2 minute break.

3 (Off the record.)

4 (Brief recess.)

5 (Back on the record.)

6 THE COURT: Please be seated. All right, the
7 Plaintiff, Mr. Morgalo, rests. Are there any Motions at this
8 time?

9 MS. GONZÁLEZ-ROBINSON: We have a Motion, Your
10 Honor.

11 THE COURT: Okay, approach the podium, please.

12 MS. GONZÁLEZ-ROBINSON: Yes, Your Honor, the
13 Defendant moves, at this time, for Judgement as a matter of
14 law as Plaintiff has failed to establish the *prima facie* case
15 of defamation.

16 He has failed to establish a tribal issue of facts
17 as to whether a statement was made or published as to the
18 Plaintiff.

19 Mr. Blades unequivocally denied making the subject
20 statement about the Plaintiff, but instead referred to
21 Martínez & Morgalo, the company, the office.

22 Therefore, the Plaintiff has failed to establish a
23 showing of the requisite publication of a defamatory
24 statement.

25 Furthermore, the particular word that is complained

1 of, as set forth in the Complaint and raised during the Case
2 in Chief of the Plaintiff, was quoted *verbatim* and taken out
3 of the context.

4 Exhibit 1 shows that the press... the news article
5 is about Blades being saddened by Colón's Claim. Exhibit 2 is
6 about Willy Colón sues Rubén Blades.

7 Clearly the context in which the statements were
8 made is not about the Plaintiff, and the circumstances are
9 such that Mr. Blades was being forced to defend from
10 allegations that he had become aware of that involved a
11 litigation, and are therefore privileged.

12 Under New York Civil Rights, Section 74, a Defendant
13 is afforded the protection, under Fair Reporting Privilege,
14 that forbids the maintenance of a civil action against any
15 person, firm or corporation for the publication of fair and
16 true report in any judicial proceeding, and this includes
17 before the judicial proceeding if the same posture or position
18 is then adopted in the Court of the litigation. That is
19 exactly what happened in this case.

20 THE COURT: What is your citation for that?

21 MS. GONZÁLEZ-ROBINSON: It's New York Civil Rights
22 Law, Section 74. In this litigation, the statements that are
23 complained of were exactly the position adopted by the
24 Defendant both in his defense from the Willy Colón action, in
25 his affirmative defense, the admitting and contribution

1 (phonetic) from Martínez & Morgalo, the company, and its
2 Directors, and in his own Cross-Claim against the company for
3 recovery of the Siembra funds and the sixty-two thousand, five
4 hundred dollars that was unaccounted for from the year before.

5 Furthermore, the only statement admitted to, in the
6 press articles that are the basis for the Complaint, Exhibits
7 1 and 2, is that Martínez & Morgalo, the company, misspent,
8 *malgastaron el dinero*, the money, and that was a true
9 statement which was made in response to a direct questioning
10 by the media concerning an issue of public concern.

11 THE COURT: Okay, but you're looking at Exhibits 1
12 and 2?

13 MS. GONZÁLEZ-ROBINSON: 1 and 2, correct, 1 and 2.
14 They quote him as saying that it was a company that misspent
15 half of the money. So, that calls into question the meaning of
16 the word "robbed".

17 In any event, that constitutes not only fair opinion
18 and fair comment, but an exaggeration, as Blades testified.
19 It's a way of speech. He felt he was cheated. He felt he was
20 robbed, but not in a literal sense of being held at gunpoint
21 and forcibly removed of his property.

22 So, the literal meaning assigned to the word also
23 must fail. One must view the statements in the full context of
24 the communication in which the statement appears.

25 If we go to Exhibit 3 that was used in the Direct

1 Examination of Mr. Blades, those are reports to Willy Colón
2 that refer to Martínez & Morgalo.

3 Exhibit 4 as well, when he talks about wanting to
4 clarify the situation. It's opinion. It's his belief at the
5 time that the company had done this, and it did, in fact, turn
6 out to be true, as we have a Judgment against Martínez &
7 Morgalo for a hundred and thirty-three thousand dollars.

8 Finally, Exhibit 5, when Mr. Blades is writing to
9 Juan Toro, again he refers to Martínez & Morgalo's larcenous
10 conduct, again referring to the company and to his belief, his
11 opinion.

12 So, the statements are not concerning the Plaintiff,
13 which is a fundamental element of defamation, and it's not
14 susceptible to a defamatory meaning in the sense that it was
15 quoted... it was said in Spanish with a non-literal meaning.

16 Lastly, it was made... it's protected by qualified
17 privilege having been made fairly in the discharge of a public
18 duty. My client was a Government Officer, in Panama, that
19 needed to clear his name, and in which he had an interest...

20 THE COURT: What... okay, do you have any authority
21 for that, for that privilege?

22 MS. GONZÁLEZ-ROBINSON: Yes, that's the same
23 citation, Section 74 of New York Civil Rights.

24 THE COURT: Okay, and that applies to Government
25 Officials who... in the course of their duty or is that

1 privilege broader under 74?

2 MS. GONZÁLEZ-ROBINSON: That privilege also exists
3 under New York law as a judicial privilege, except for
4 Government Officials is an absolute privilege.

5 Here, we have raised the absolute privilege in the
6 answer and also in our Motion. But, in the alternative, we're
7 submitting to the Court that the most applicable privilege is
8 the fair comment privilege. That's a qualified privilege
9 which, having established it, it shifts the burden to the
10 Plaintiff to show malice.

11 So, to the extent that we have raised the privilege
12 in testimony...

13 THE COURT: Is that a privilege that applies only
14 to... I mean it's New York State statute you're citing. Does
15 that apply only to officials of New York State or any public
16 official anywhere in the world? Is that what you're telling
17 me?

18 MS. GONZÁLEZ-ROBINSON: Well, common law makes it a
19 privilege applicable to Government Officials. But, we are
20 right now arguing that, in the context of this case where he's
21 defending from accusations brought on by Willy Colón, he's
22 privileged under the fair report (phonetic), and Section 74
23 applies to all persons. So...

24 THE COURT: And, is that binding on this Court
25 as... since New York law applies to the Cause of Action or

1 what am I to do with Rule 501, I believe, which says that it's
2 Federal Common Law is what applies to privileges, and not
3 necessarily any State law, in a Federal Court proceeding?

4 MS. GONZÁLEZ-ROBINSON: I believe that he... the
5 substantive law of New York applies to all of the Claims and
6 defenses, including the privilege, and the Court would be
7 guided by it, although the common law privilege also exists
8 and may apply.

9 THE COURT: All right.

10 MS. GONZÁLEZ-ROBINSON: And, Your Honor, that
11 brings me to the point where, having established that it was a
12 fair report based on information that Mr. Blades had that was
13 substantiated, it was not Basis of Claim against the company,
14 the burden shifts, and the Plaintiff would have to prove
15 malice, and that has also failed here.

16 As Mr. Blades has testified, he had no malice, no
17 ill intention or bad will against Robert Morgalo. He never
18 made this a personal thing against Mr. Morgalo individually,
19 and, in fact, didn't sue him because he felt sorry for him.

20 So, there can be no malice in any of the statements
21 that were presented in this Court today to the extent that
22 there...

23 THE COURT: Is malice an element of the Cause of
24 Action?

25 MS. GONZÁLEZ-ROBINSON: It's not an element of the

1 Cause of Action insofar as Robert Morgalo holds himself to be
2 private figure in this litigation.

3 THE COURT: You contest otherwise?

4 MS. GONZÁLEZ-ROBINSON: But, it would... he would
5 have to prove malice if we shift... if we prove the fair
6 comment privilege, and he hasn't done so in this case.

7 Again, the statements against the corporation are
8 true, and, to the extent that they have tried to give this a
9 meaning of larceny or embezzlement, even in the context of a
10 false imputation (phonetic) of larceny, in the context of this
11 particular case, it was merely to show that my client felt he
12 had been abused in a trust relationship.

13 This was again not about Plaintiff. It was about the
14 company of which Mr. Morgalo was majority owner, and the only
15 two Officers were him and his partner Arturo Martínez.

16 Lastly, there has been no evidence on damages in
17 this case. And, to the extent that he would survive a finding
18 of moving to the next stage of proving a hundred percent
19 (phonetic), there has been no evidence so that the Court can
20 even assign a compensatory amount to Mr. Morgalo.

21 THE COURT: Okay, all right, so I think the
22 negative implication of what you're saying is that, if the
23 Court determined there was sufficient evidence to find slander
24 *per se*, then no damages need to be proven at this stage. Is
25 that right?

1 MS. GONZÁLEZ-ROBINSON: No, the damages would not
2 need to be alleged because they would be presumed, but the
3 amount would need to be proven. So, there is no quantum before
4 the Court.

5 THE COURT: Okay, very well, thank you.

6 MS. GONZÁLEZ-ROBINSON: Thank you, Your Honor.

7 THE COURT: Let me hear from the Plaintiff.

8 MR. FRONTERA-SUAU: Your Honor, the Cause of Action
9 that my client maintains against Blades is a Cause of Action
10 of defamation *per se* or slander *per se*.

11 With respect to the damages issued in the
12 computation, the case law is clear with respect to the fact
13 that, if it is proven, as we submit to the Court it will be
14 proven, that the statements against my client are defamatory
15 *per se*, the Court is the one to assess the damages.

16 THE COURT: Based on what though?

17 MR. FRONTERA-SUAU: Based on the Court's... what
18 the... the testimony and based on the Court's fashioning a
19 remedy that could remedy my client's Claim of being defamed
20 against him.

21 The case law does not require the presentation of
22 specific damages at all. The Court will fashion the remedy
23 that the Court sees fit with respect to the evidence presented
24 as the result of this defamatory *per se* statements.

25 But, the case law does not require the presentation

1 of specific damages at all. With respect...

2 THE COURT: Do you have a case quickly you can give
3 me so I can look that up?

4 MR. FRONTERA-SUAU: Sure, Your Honor.

5 THE COURT: I mean it doesn't seem to be contested.

6 MR. FRONTERA-SUAU: Davis versus Ross, 754 Federal
7 2nd, 80, at page eighty-two, 2nd Circuit, 1985, Davis versus
8 Ross, 754 Federal 2nd, 80, page eighty-two.

9 THE COURT: Okay.

10 MR. FRONTERA-SUAU: The 2nd Circuit, 1985.

11 THE COURT: Right, go ahead.

12 MR. FRONTERA-SUAU: And, the case is quoted there,
13 Your Honor.

14 With respect to the privilege, the affirmative
15 defenses raised by Defendant in this case only mention the
16 affirmative defense of absolute clear privilege (phonetic)
17 with respect to statements made during the course of and as
18 part of the judicial proceeding.

19 It does not mention any absolute privilege with
20 respect to statements made by... qualified immunity (phonetic)
21 or statements made by a public official.

22 The Court can quickly view, in the Docket, the
23 Answer to the Complaint. There's no mention of a qualified
24 immunity or absolute immunity with respect to statements made
25 by public officials.

1 THE COURT: So, you're saying that that defense
2 would be waived?

3 MR. FRONTERA-SUAU: Yes, Your Honor. The only
4 absolute privilege mentioned in the Answer to the Complaint is
5 the one with respect to judicial proceedings.

6 The courts have consistently held that out of Court
7 statements, such as those made in the press conference or
8 press release, are not covered by the absolute privilege. This
9 was resolved in Long versus Marrobeni Am Corporation
10 (phonetic), 406 Federal 2nd, 285, at page two, ninety-four,
11 Southern District of New York, 2005.

12 The Court states also, in Breach Cat Scan versus
13 Ohio Nuclear, Inc., 608 Federal Sub-1187, at page eleven,
14 ninety-five, Southern District of New York, that:

15 "The delivery of a copy or a report..."...

16 THE COURT: What year is that?

17 MR. FRONTERA-SUAU: ... 1985... "The delivery of a
18 copy or a report of a Complaint to the press is not a
19 statement made during the course of a judicial
20 proceeding, and therefore is not protected by a common
21 law privilege afforded such statements."

22 THE COURT: And, these are based on Federal Common
23 Law or New York law?

24 MR. FRONTERA-SUAU: Your Honor, this is... these
25 are interpretations of common law of New York Common Law made

1 by the Southern District of New York.

2 THE COURT: Okay.

3 MR. FRONTERA-SUAU: Okay, and the statements made
4 by Mr. Blades here, in that press conference in 2007, he had
5 only heard about the Complaint. He had only heard that the
6 Complaint was filed. He didn't have the Complaint, and he had
7 not been served.

8 THE COURT: No, but he heard that the Complaint was
9 filed, right?

10 MR. FRONTERA-SUAU: He heard, but...

11 THE COURT: And, you don't contest the Complaint
12 wasn't filed?

13 MR. FRONTERA-SUAU: The Complaint was filed, and he
14 had heard it, but he had not been served. The Court had not
15 had jurisdiction.

16 THE COURT: And, what is the legal significance of
17 that?

18 MR. FRONTERA-SUAU: And, the legal significance,
19 Your Honor, is it is the commencement of the case. This is a
20 press conference outside not related to or during the course
21 of the litigation.

22 And, as the Court stated in Long, that out of Court
23 statements made in a press conference or press release are not
24 covered by absolute privilege.

25 THE COURT: And, in that case, was there an ongoing

1 litigation?

2 MR. FRONTERA-SUAU: Yes, Your Honor, and these were
3 statements made outside, in press releases.

4 THE COURT: By whom?

5 MR. FRONTERA-SUAU: By one of the parties. I don't
6 remember one of them, but one of the parties, Your Honor. So,
7 the absolute privilege does not apply, as we have expressed
8 (phonetic).

9 With respect to the defamation *per se*, Your Honor,
10 we have... I think we have proven what was the state of mind
11 of Mr. Blades when he made the statement "*Nos robaron*". That
12 has been translated in the official translations that they
13 wrote.

14 He admitted, before this Court, that what he
15 believed was that Mr. Morgalo specifically... and stated that,
16 at that point when he made those statements, he believed that
17 Mr. Morgalo had something to do with this personally, and that
18 he believed that Mr. Morgalo had embezzled or stolen from him.
19 That he had stated that before.

20 He had also stated, in the letters before the
21 conference, that Mr. Morgalo had a hand in the embezzlement,
22 that Mr. Morgalo had stolen from him, and he put in those
23 letters the word "stolen" and "embezzled". So, we...

24 THE COURT: No, but the business relationship
25 hasn't... doesn't the evidence prove the business

1 relationship... and it's stipulated, I think... was between
2 the company and Mr. Blades.

3 MR. FRONTERA-SUAU: Yes, Your Honor.

4 THE COURT: With the company and Mr. Blades.

5 MR. FRONTERA-SUAU: Yes, Your Honor, but the
6 Exhibits that we have submitted, Exhibit 1 and 2, the press
7 release from that press conference, specifically...

8 THE COURT: Okay, but it's also stipulated that
9 your client was the... he was responsible for this company,
10 right?

11 MR. FRONTERA-SUAU: He was one of the Director of
12 the company, yes, Your Honor.

13 THE COURT: Well, he was more than that, wasn't he?
14 Wasn't he the...

15 MR. FRONTERA-SUAU: He was the President, yeah.

16 THE COURT: The President.

17 MR. FRONTERA-SUAU: And, Mr. Martínez was the Vice-
18 President.

19 THE COURT: So, why is it somehow nefarious for Mr.
20 Blades to assume, when he and Mr. Colón don't get paid by this
21 company, that the person responsible for that company had
22 something to do with it?

23 MR. FRONTERA-SUAU: Yes, Your Honor, but...

24 THE COURT: I mean what's... what am I missing
25 here?

1 MR. FRONTERA-SUAU: ... one thing is that. And, the
2 other thing is accusing them of robbing him.

3 THE COURT: Well, you can call it "robbery", you
4 can call it "larceny", you can call it a "embezzlement", you
5 can call it "misappropriation"... you know... withholding
6 funds or whatever, but... you know... the fact is...

7 MR. FRONTERA-SUAU: Publically accusing...

8 THE COURT: ... Mr. Blades and Mr. Colón didn't get
9 paid by the entity that was supposed to pay them. Right? I
10 mean... and that your client was in charge of that.

11 MR. FRONTERA-SUAU: Yes, Your Honor, but one thing
12 is that, and the other thing is accusing him personally of
13 robbing him.

14 THE COURT: Well, all right.

15 MR. FRONTERA-SUAU: That's the issue.

16 THE COURT: Okay, so what's your next point, if
17 there is one?

18 MR. FRONTERA-SUAU: That would be our position,
19 Your Honor.

20 THE COURT: Okay, all right, I'm taking...

21 MS. GONZÁLEZ-ROBINSON: Your Honor?

22 THE COURT: Yeah.

23 MS. GONZÁLEZ-ROBINSON: Can I... with respect to
24 the qualified privilege that Counsel argued that I have
25 raised, I have raised it in the Answer to the Complaint, at

1 paragraphs five and six of our affirmative defenses.

2 THE COURT: Okay.

3 MS. GONZÁLEZ-ROBINSON: And, furthermore, it would
4 be a defense not waived under Rule 12 because it bars the
5 Cause of Action against Mr. Blades. So, it's not a waiveable
6 (sic) defense.

7 THE COURT: Okay, but, if I look at the...

8 MS. GONZÁLEZ-ROBINSON: 129(b)(6)... I'm sorry...
9 12(b)(6). And, I would like to submit to the Court that the
10 citation that the Counsel has given for saying that the
11 privileges don't apply was misguided.

12 In that case, it was determined that, once the party
13 does, in fact, take the position stated to the press,
14 afterwards in the pleading, there's no barrier to application
15 of Section 74.

16 THE COURT: Okay, so I'll look at that. Okay, I...

17 MR. FRONTERA-SUAU: At that point, Your Honor... I
18 want to make it clear... at that point, Mr. Morgalo was not a
19 party.

20 THE COURT: I understand that. He was brought in...

21 MR. FRONTERA-SUAU: Afterwards.

22 THE COURT: ... my understanding is first by Mr.
23 Colón, right?

24 MS. GONZÁLEZ-ROBINSON: Correct.

25 THE COURT: And, then Mr. Blades brought him in

1 also or joined the Cause of Action against him. Okay, I'm
2 taking the Motion under advisement. All right? Okay, so is the
3 Defense ready with witnesses.

4 It's about a little after eleven, thirty. We'll go
5 till twelve, thirty, and then we'll break for lunch.

6 MS. GONZÁLEZ-ROBINSON: Yes, Your Honor, we are
7 ready. We would call, as our first witness, Mr. Ariel Rivas.

8 THE COURT: Okay.

9 MS. GONZÁLEZ-ROBINSON: Your Honor, for this
10 Witness, we have a Court Interpreter...

11 THE COURT: Okay.

12 MS. GONZÁLEZ-ROBINSON: ... to interpret his
13 testimony from Spanish to English.

14 THE COURT: Okay.

15 MS. GONZÁLEZ-ROBINSON: Mr. Llagostera.

16 THE COURT: We should swear in the Interpreter.

17 COURTROOM DEPUTY: Mr. Interpreter, do you solemnly
18 swear that all the testimony you are about to interpret will
19 be the truth, the whole truth, and nothing but the truth?

20 INTERPRETER: I do.

21 COURTROOM DEPUTY: Thank you. And, sir, do you
22 solemnly swear that all the testimony you're about to give in
23 the case now before the Court will be the truth, the whole
24 truth, and nothing but the truth?

25 WITNESS: I do.

1 (Whereupon,

2 **MR. CARLOS ARIEL RIVAS-VILLAMAL**

3 after having been duly sworn, was examined and, through the
4 Official Court Interpreter, testified upon his oath as
5 follows:)

6 **DIRECT EXAMINATION**

7 BY MS. GONZÁLEZ-ROBINSON:

8 Q. Please state your full name?

9 A. Carlos Ariel Rivas-Villamal.

10 Q. What is your age?

11 A. Thirty-five years old.

12 Q. What is your occupation?

13 A. I'm a Manager and Producer of promoters of sales.

14 Q. What is your level of education?

15 A. I have a Degree in Architecture, with a specialty in
16 Scenery Design, and a Master's, in Berkeley, in Music
17 Business, and a Master's in Arts and Management, in Berkeley
18 also.

19 Q. How long have you been in the music industry business?

20 A. I started when I was fifteen years old, and I've been in
21 it for about twenty years.

22 Q. Do you own your own company?

23 A. Yes.

24 Q. What is it? What is the name of the company?

25 A. I have about ten companies in which I'm either a partner

1 or the owner.

2 Q. What countries do you do business in?

3 A. Practically the entire world.

4 Q. Is there... is your main company or your focus of
5 operation situated in a place, a specific place?

6 A. Specifically, four countries.

7 Q. What countries?

8 A. Costa Rica, Panama, the Dominican Republic, and in
9 Puerto Rico.

10 Q. Under what company name do you do business in Puerto
11 Rico?

12 A. Ariel Rivas Entertainment, Ariel Rivas Music, Flax
13 Entertainment (phonetic), Distar Records (phonetic), and Green
14 Sound or *Sonido Verde*.

15 Q. How long has Distar Records existed?

16 A. Distar was founded by Danny Rivera in '97.

17 Q. Are you a partner with Danny Rivera in Distar Records?

18 A. I handle the company.

19 Q. You manage the career of Danny Rivera?

20 A. Yes, that is correct.

21 Q. How long have you managed his career?

22 A. Since I was eighteen.

23 Q. How many employees do you have?

24 A. Fixed, worldwide, around sixteen.

25 Q. Have you won any awarded in your career related to your

1 industry?

2 A. Yes, I've been nominated for Grammy's. I do have a
3 Grammy as a Producer, and acknowledgments by foundations and
4 things.

5 Q. What prizes or recognition have you received?

6 MR. FRONTERA-SUAU: Asked and answered.

7 BY MS. GONZÁLEZ-ROBINSON:

8 Q. Others, in addition to winning a Grammy?

9 A. Well, I received a scholarship for academic excellence.
10 I have a scholarship from Bill Cosby.

11 Q. And, what is that scholarship about?

12 A. Well, it was for Berkeley.

13 Q. Do you know Robert Morgalo, the Plaintiff in this case?

14 A. Yes.

15 Q. When did you meet him?

16 A. The first time I saw him was in 2002.

17 Q. And, how do you know Mr. Morgalo?

18 A. Well, Robert was producing a series of shows at the
19 Apollo Theater, and he hired Danny Rivera for part of the
20 series. That was back in September, 2001.

21 And, in October... after 9/11, the show canceled.

22 And, in October of 2001, I met him at the Apollo Theater
23 personally.

24 Q. That show that you were referring to that was canceled,
25 who did you negotiate that show with or did you negotiate that

1 show?

2 A. Yes.

3 Q. With whom did you negotiate the show?

4 A. With Martínez & Morgalo.

5 Q. The company?

6 A. Yes.

7 Q. Did you come to know that Robert Morgalo was part of
8 Martínez & Morgalo?

9 A. In October, when I met him, I found out that he had a
10 relationship with Martínez & Morgalo.

11 Q. The Siembra Concert that is the subject of this
12 litigation, did you negotiate that contract?

13 A. Correct.

14 Q. Who did you negotiate the Siembra Concert with?

15 A. With Robert Morgalo.

16 Q. Can you describe how the negotiations occurred?

17 A. In 2002... well, by October, 2001, I found out that
18 Morgalo was in relationships with Mr. Blades, and he was his
19 agent or his booking man for dates.

20 After I met Robert, I told him about the idea of
21 hiring Blades.

22 Q. This was on or about what date?

23 A. 2002 already, to do a show with Danny Rivera, in the
24 Dominican Republic.

25 Q. Did you do that show?

1 A. No.

2 Q. Why not?

3 A. Well, I had a trip, and I couldn't get any
4 communications for three days. And, during that time that I
5 didn't have any communications, the deal I was making in the
6 Dominican Republic Robert went directly to my client, and sold
7 him the show. Therefore, the presentation we were going to do
8 did not come about.

9 Q. But, was the presentation made, just not with you?

10 A. Not with me nor Danny Rivera.

11 Q. Did you ever do any shows with Danny Rivera through
12 Martínez & Morgalo?

13 A. Yes, in October, 2001.

14 Q. And, where was the show?

15 A. At the Apollo Theater.

16 Q. Did you negotiate any other shows with Mr. Morgalo?

17 A. We did a negotiation for a show with Rubén Blades, in
18 Puerto Rico, which would be with 'Cheo' Feliciano, at the end
19 of 2002.

20 Q. What happened with that show?

21 A. Well, the date we chose for the show, precisely on that
22 date, Richie Rey and Bobby Cruz were going to do a *salsa*
23 concert.

24 Q. And, then what happened?

25 A. Well, we told the artists through the man who was

1 dealing the dates, which was Roberto, the most intelligent and
2 sensible thing to do was to move the date to another occasion.

3 Q. Had you taken a deposit for that show?

4 A. Yes, I did.

5 Q. What was the amount of the deposit?

6 A. Sixty-two thousand, five hundred dollars.

7 Q. What happened with that deposit?

8 A. When we agreed with Roberto to move the date to
9 February...

10 Q. February of 2003?

11 A. Correct.

12 THE COURT: If I could interrupt. This deposit was
13 for the Rubén Blades/'Cheo' Feliciano show or was it for the
14 other salsa show that was close to the date?

15 A. Yes, correct, the first deposit we posted, which was
16 sixty-two thousand, five hundred dollars, was for the Rubén
17 Blades/'Cheo' Feliciano show, which then was changed into the
18 Siembra show.

19 BY MS. GONZÁLEZ-ROBINSON:

20 Q. How was that changed, one show for another?

21 A. Well, we proposed the new date of February, Roberto
22 called me and told me he had a better show for me.

23 Q. Where were you when he called you?

24 A. In Puerto Rico.

25 Q. What was your reaction to that call?

1 A. Well, great, for him to explain to me what was it about.
2 He told me he was able to fix the reunion of Willy Colón with
3 Ruben Blades.

4 Q. What about the deposit?

5 A. Well, if we reached an agreement, the deposit I had
6 already paid for the 'Cheo' concert would be then credited
7 into this concert.

8 Q. That is something that Roberto said?

9 A. Totally.

10 Q. Did you, in fact, reach an engagement agreement for the
11 show?

12 A. Of course, yes.

13 Q. Who did you negotiate that with?

14 A. With Roberto.

15 Q. What were the terms of that contract?

16 A. Okay, the event was an event...

17 MR. FRONTERA-SUAU: Your Honor, if they're going to
18 talk about the concert and the contract, I would request that
19 the contract be...

20 THE COURT: Overruled. He can testify as to his own
21 recollection and knowledge of the terms of the contract. If
22 you find that that goes outside what reality is, then of
23 course you may bring in the contract. So...

24 A. The event was a reunion celebrating twenty-five years of
25 the Siembra recording, which is the highest selling record in

1 the *salsa* history.

2 BY MS. GONZÁLEZ-ROBINSON:

3 Q. Was there supposed to be only one show?

4 A. In the first meeting, yes, we reached an agreement that
5 it would be only one show, and we agreed to an amount of three
6 hundred and fifty thousand dollars.

7 And, then Robert brought up to me the possibility of
8 taking this show to other cities.

9 Q. What, if anything, did you do with that proposal?

10 A. I immediately let him know that I was interested in
11 taking the show to other cities, and for him to let me know
12 about the conditions.

13 Q. Did you present him with any specific offer to make the
14 show anywhere else, other than Puerto Rico?

15 A. I specifically told him I was interested in doing it in
16 the Dominican Republic, Venezuela, and Columbia.

17 Q. An event of this magnitude... you said it was for three
18 hundred and fifty thousand dollars... a reunion concert... how
19 long does it take to plan?

20 A. Well, in total, it could take five months to develop it.
21 It also depends on the opportunity. If you're told you have to
22 do it in two months, and you have a chance to do it, well, you
23 do it.

24 Q. In this particular case with Willy Colón and Ruben
25 Blades being in different areas, how long did it take to

1 develop the concert?

2 A. Well, really the most essential part are the rehearsals,
3 to make up a list of songs and rehearse them. That could take
4 a week, two weeks, of full rehearsals.

5 Q. How long did it take you to make the payment of three
6 hundred and fifty thousand dollars?

7 A. In total, counting the first payment of sixty-two
8 thousand, five hundred dollars which was credited to the show,
9 thirteen transfers were made in total.

10 Q. Spanning what period of time?

11 A. Approximately, ten months.

12 Q. How were the payments made?

13 A. Well, every once in a while within that time.

14 Q. Were they wired?

15 A. All of them.

16 Q. To what account?

17 A. To the Martínez & Morgalo account.

18 Q. Did you have an opportunity to receive any other
19 concrete offers with respect to the Puerto Rico show?

20 A. Yes, we received an off from BMG for the recording of
21 the concert.

22 Q. Did you transmit that to Martínez & Morgalo?

23 A. Yes, of course. Fernando Ramos was the BMG Director at
24 that time, and he offered me a half a million dollars to be
25 able to record the show.

1 Q. And, who did you communicate that offer to at Martínez &
2 Morgalo?

3 A. To Roberto.

4 Q. Was that over the phone or in person?

5 A. I made the offer to him several times.

6 Q. Approximately, how many telephone conversations did you
7 have with Robert Morgalo about the Siembra Concert?

8 A. Well, we would talk practically everyday about the show.
9 It was so unique and special, so we would talk about it
10 constantly.

11 Q. And, since approximately what month?

12 A. The end of December, 2002, January of 2003.

13 Q. Did there come a time when you stopped having
14 communications with Robert Morgalo?

15 A. Yes, I remember specifically the date. After January
16 19th, Robert disappeared. And, after that, I only received one
17 call from him.

18 Q. Was that call before the Siembra Concert?

19 A. Yes.

20 Q. What was the substance of that conversation?

21 A. Apparently, he found out there was a beer factory...
22 Presidente Beer... from the Dominican Republic, that was
23 interested...

24 MR. FRONTERA-SUAU: Speculative, Your Honor.

25 MS. GONZÁLEZ-ROBINSON: The Witness is testifying

1 from his own firsthand knowledge.

2 THE COURT: He's testifying as to... as I
3 understand it... as to what he was informed by the Plaintiff.
4 Right?

5 MS. GONZÁLEZ-ROBINSON: Right.

6 THE COURT: Okay, so I'm allowing it.

7 A. ... in doing the show in the Dominican Republic.

8 BY MS. GONZÁLEZ-ROBINSON:

9 Q. And, what about that?

10 A. I received a call from Robert telling me that he had
11 found out about the dealings in the Dominican Republic, and he
12 wanted to find out how was everything going.

13 Q. How was everything going as to whether a concert was
14 going to be had in the Dominican Republic?

15 A. Robert disappeared after January 19th because, allegedly,
16 he was going to do some military service that he had, and he
17 would be in lock-down where he couldn't get in touch with
18 anybody.

19 And, by the time this opportunity about the show
20 came up, he came out also and asked me about this show.

21 Q. The show would have been Siembra, but in the Dominican
22 Republic?

23 A. Correct.

24 Q. Where was he calling from?

25 A. Well, he told me he was given forty-eight hours to come

1 home. So, I would assume he was in Pennsylvania where he
2 lived.

3 Q. When was the last time that you saw Robert Morgalo prior
4 to the Siembra Concert?

5 A. At his house, sometime by January 18th.

6 Q. How do you remember that you saw him then?

7 A. Because it was a farewell party because he was going to
8 the military service.

9 Q. Who invited you to the party or how did you learn about
10 the party?

11 A. Persons working for Robert invited me to go to his house
12 because it was going to be a surprise party.

13 Q. Who did you go there with, if anyone?

14 A. I went with an uncle of mine who lives in New York.

15 Q. What was Mr. Morgalo's reaction when he saw you?

16 A. Well, he was surprised, but he received me at his home,
17 and showed me his uniform.

18 Q. Did you discuss the Siembra show, in Puerto Rico, for
19 May 3rd?

20 A. We took a couple of minutes out to talk about the
21 concert.

22 Q. And, what about the concert did you discuss?

23 A. He told me that everything would run the same. That,
24 from now on, I should keep on talking with Arturo, and he
25 would go through a period of silence, but that he was coming

1 back, and he would get in touch with me.

2 Q. When you say "Arturo", that would have been Arturo
3 Martínez, his partner?

4 A. Correct.

5 Q. Was there anything else discussed concerning the Siembra
6 Concert at that farewell party?

7 A. Well, that I recall, we talked about promotion things,
8 normal things.

9 Q. What happened afterwards?

10 A. After that, he just totally disappeared until that day
11 when he asked me about the Dominican Republic thing.

12 Q. Did you continue the negotiations then with Arturo
13 Martínez?

14 A. Well, really, I already had done the negotiations with
15 Roberto.

16 Q. So, what, if anything, was left to do with respect to
17 the concert?

18 A. Well, you know, the follow-up, the technical writer
19 (phonetic), the deposits that were needed, before we got to
20 May, because we were in January, not much more.

21 Q. So, there did there come a problem, prior to the date of
22 the concert, where it was threatened to not happen?

23 A. Well, about three or four days before the concert, I
24 received a call from Mr. Jaime Torres-Torres, a newspaperman
25 working for *El Nuevo Día*, and he told me that...

1 MR. FRONTERA-SUAU: Objection, Your Honor, hearsay.

2 THE COURT: Pardon me?

3 MR. FRONTERA-SUAU: Hearsay.

4 THE COURT: I don't know what he's going to say
5 yet, so go ahead.

6 A. He told me that...

7 MS. GONZÁLEZ-ROBINSON: It's nothing offered for
8 the truth of the matter asserted, just so that there was a
9 conversation that triggered other facts.

10 THE COURT: Okay, I'm going to allow it. It's
11 something I think Mr. Blades already testified about, to begin
12 with. What he's going to testify is that he had spoken with
13 Mr. Blades about this, so go ahead.

14 A. Well, Jaime Torres-Torres told me he had talked to
15 Rubén, and that the show was not going to go on because Rubén
16 had not received his money.

17 BY MS. GONZÁLEZ-ROBINSON:

18 Q. What, if anything, did you do then?

19 A. Well, the first thing, we ran to get Rubén.

20 Q. Did you try to get to him directly or did you try to go
21 through Martínez & Morgalo?

22 A. No, first, through the company.

23 Q. And, what happened?

24 A. We didn't get anybody from the company. So, then it was
25 don't through 'Tuti' Bou (phonetic), from Sony Music, who had

1 communications with Rubén. And, we gave him all the evidence
2 of the transfers made to the company.

3 Q. Did you come, at any point before May 3rd, the concert
4 date, to learn about what had happened to Martínez & Morgalo,
5 the company?

6 A. Well, everything was going normal until three or four
7 days before the show. Previous to that, I had received...

8 MR. FRONTERA-SUAU: Objection, hearsay.

9 THE COURT: Overruled.

10 A. ... some comments that the company was having some
11 problems, specifically in a show that we had at the United
12 Palace, with Danny Rivera, in February. They told me that
13 Martínez & Morgalo had problems...

14 MR. FRONTERA-SUAU: Objection, hearsay.

15 THE COURT: Okay, sustained.

16 BY MS. GONZÁLEZ-ROBINSON:

17 Q. But, what about the people of Arturo Martínez and Robert
18 Morgalo, did you come to learn what had happened to them?

19 A. Well, as I said, Robert had already disappeared. And,
20 Arturo, well, three or four days before the show, I had no
21 further communications with him.

22 Q. And, prior to the concert, did you learn anything
23 specifically about where they were, where Arturo Martínez was?

24 A. Yes, the say before the show, I found out that Arturo
25 had tried to commit suicide. That was the only thing said in a

1 press conference held in Puerto Rico.

2 Q. After the concert, did you ever speak to Robert Morgalo
3 again?

4 A. After, you mean?

5 Q. Yes, after.

6 A. Well, I received a call from Robert, through an agency,
7 Relentless Agency. He allegedly called me from Iraq telling me
8 that he was sorry for everything that had happened, and that
9 he was seeking a way to pay Rubén his money.

10 Q. When, approximately, was this call that you received?

11 A. It must have been two, three months after.

12 Q. Around the July time frame, the summer?

13 A. Approximately, July, August.

14 Q. What did you say to him?

15 A. Well, really, I didn't have much to talk to him about,
16 that he had disappeared and tricked us.

17 Q. Did you come to learn, after the Siembra Concert, what
18 happened to the funds, the Siembra funds that you deposited in
19 thirteen transfers to Martínez & Morgalo?

20 A. I have no idea.

21 Q. Did you come to learn, afterwards, whether Martínez &
22 Morgalo stayed in business?

23 A. I don't think so.

24 Q. Did you ever do business again with Martínez & Morgalo?

25 A. Of course not.

1 Q. Would you do business with Robert Morgalo again?

2 A. Absolutely not.

3 Q. Why not?

4 A. Well, he broke the trust. This show business is a very
5 closed one, and he broke all ethics of the same.

6 Q. Did he ever explain to you what happened with the funds?

7 A. Never.

8 MS. GONZÁLEZ-ROBINSON: I have no further
9 questions.

10 THE COURT: Okay, any Cross?

11 **CROSS EXAMINATION**

12 BY MR. FRONTERA-SUAU:

13 Q. Good morning, Mr. Rivas.

14 A. Good morning.

15 Q. Did you ever ask Mr. Morgalo what happened?

16 A. Well, after he called me after the show was over, I told
17 him I had not much to talk to him about, that he knew what he
18 had done.

19 Q. Did you ever ask him what had happened?

20 A. No.

21 Q. You asked Arturo Martínez what had happened, yes?

22 A. I had no communication with Arturo from three days
23 before the show.

24 Q. After the show, did you ask Arturo Martínez what
25 happened?

1 A. Years later.

2 Q. Now, did you sign a contract with Martínez & Morgalo
3 Associates for the Siembra Concert?

4 A. I do believe so.

5 Q. Do you have the signed contract?

6 A. I would have to look for it.

7 Q. Have you seen the signed contract?

8 A. I believe so.

9 Q. Where have you seen it?

10 A. I don't recall right now.

11 Q. You have seen more than one contract for the concert. Is
12 that right?

13 A. Yes.

14 Q. There were several contracts written for that concert.
15 Is that right?

16 A. I saw two, different contracts.

17 Q. And, the one that you saw that you allegedly saw signed,
18 who signed that contract on behalf of Martínez & Morgalo?

19 A. I don't recall at this time.

20 Q. The fact that you don't recall is that that document was
21 not signed by anyone from Martínez & Morgalo. Is that right?

22 A. I don't recall at this time.

23 Q. The fact is that you don't have any signed contract,
24 with respect to the Siembra Concert, at this point. Is that
25 right?

1 A. If I had it, I would have to look for it.

2 Q. I'm not asking that. I'm asking you if you have a signed
3 contract, for the Siembra Concert, with Martínez & Morgalo?

4 A. I say again, if I had a contract, I would have to look
5 for it in my records.

6 Q. I'm not asking you that. I'm asking you if you know you
7 have it?

8 A. At this time, I'm not sure, unless I look for it.

9 Q. You have been the subject of depositions in the case of
10 Colón and Mr. Blades. Is that right?

11 A. Correct.

12 Q. And, you testified in a Default Hearing (phonetic) here,
13 in this Court, a Default Hearing against Martínez & Morgalo.
14 Is that right?

15 A. Correct.

16 Q. Have you seen, during the course of that litigation...
17 at any point in time, have you been shown a written contract
18 for the Siembra Concert that was signed between you and
19 Martínez & Morgalo Associates?

20 A. At the deposition and the process, no.

21 Q. Now, you have talked about thirteen transfers that
22 allegedly you made to Martínez & Morgalo. Is that right?

23 A. Correct.

24 Q. Did you personally do those transfers?

25 A. Most of them I did, yes.

1 Q. And, those transfers were made through your account?

2 A. If I remember, they were made through a special account
3 we opened for the concert.

4 Q. Weren't those transfers made from César Saenz-Rodríguez
5 to Martínez & Morgalo Associates?

6 A. Some of them might have been made through César, who was
7 my partner at the concert.

8 Q. I'm going to show you a document.

9 MS. GONZÁLEZ-ROBINSON: I'm sorry. Can I see it?

10 MR. FRONTERA-SUAU: I'm sorry.

11 PAUSE

12 (Revision of document by Counsel and Witness.)

13 BY MR. FRONTERA-SUAU:

14 Q. Have you seen that document before, Mr. Rivas?

15 A. I have a doubt about this document.

16 Q. Have you seen that document before?

17 A. I don't recall having seen this portion here with the
18 squares and everything.

19 Q. Do you know who produced that document?

20 A. Martínez & Morgalo.

21 Q. How do you know that they produced that document?

22 A. Because it is very similar to the contract I received
23 signed by them.

24 Q. When did you receive the contract signed?

25 A. Like I said before, I would have to look for it to see

1 if I had a contract signed.

2 Q. Do you or do you not have a contract signed?

3 MS. GONZÁLEZ-ROBINSON: I'm going to object to the
4 signature because it's not clear what Counsel is referring to,
5 if it's a handwritten signature or an electronic signature.
6 What type of signature is Counsel referring to?

7 BY MR. FRONTERA-SUAU:

8 Q. I'm referring to do you have a document... a contract
9 signed by Martínez & Morgalo Associates?

10 A. I believe I do, but I would have to look for it in my
11 file.

12 Q. Do you know if you have it or not?

13 A. I don't know at this time.

14 Q. So, you cannot tell me which... I have here two other
15 different versions of the contract.

16 PAUSE

17 (Revision of documents by Witness.)

18 A. Like I said before, this page here is different from
19 this other one. I've never seen a page with the squares and
20 the columns here.

21 BY MR. FRONTERA-SUAU:

22 Q. The contract that you signed with Martínez & Morgalo...
23 I gave you three contracts. Two are with the signatures of
24 Arturo Martínez. One is with the signature of Mr. Robert
25 Morgalo.

1 Do you know... the contract that you say that you
2 know that you maybe have, that you have to look for it, do you
3 know who signed it on behalf of Martínez & Morgalo Associates?

4 A. The only contract I accepted is the one that states that
5 the sixty-two thousand, five hundred dollars that I had
6 deposited for the 'Cheo' Feliciano concert were accredited
7 into this one.

8 In the other contract that you've shown me, it does
9 not appear as credited, rather it appears as owed.

10 Q. Do any of those three contracts mention the 'Cheo'
11 Feliciano concert?

12 A. Well, in point number seven, it's mentioned a deposit of
13 sixty-two thousand, five hundred dollars received in April,
14 2002.

15 Q. Does the contract mention the 'Cheo' Feliciano
16 concert... any of them?

17 A. I don't think so, according to what I read here.

18 Q. So, do any of those three contracts reflect the one that
19 you allegedly signed?

20 A. According to the clauses, the one that states that the
21 sixty-two thousand, five hundred dollars will be credited to
22 the Siembra Concert is the one we had agreed upon.

23 Q. There are two contracts, of what I showed you, that
24 state that a payment in April, 2002 was to be accredited.

25 THE COURT: Counsel, for the record, are you

1 referring to Exhibits that are in evidence?

2 MR. FRONTERA-SUAU: No, Your Honor.

3 THE COURT: No. Okay, then I'm going to ask that
4 you not refer to the contents of them or ask questions about
5 them.

6 MR. FRONTERA-SUAU: But, we're going to submit them
7 as evidence, Your Honor.

8 THE COURT: Okay, any objection to submitting these
9 in evidence?

10 MS. GONZÁLEZ-ROBINSON: Yes, we object on grounds
11 of relevance, on grounds of whether they're actual contracts
12 or drafts.

13 THE COURT: Yeah, okay, I haven't heard any...

14 MS. GONZÁLEZ-ROBINSON: And, authenticity. They
15 haven't be authenticated.

16 THE COURT: ... I haven't heard any testimony
17 authenticating either of the documents these documents that
18 you've produced. So, unless you can lay that foundation...

19 MR. FRONTERA-SUAU: Your Honor, Defendants have
20 announced, as an I.D., and Engagement Contract for the Siembra
21 Concert of 2003.

22 THE COURT: Well, is that the... is that the
23 document you're talking about?

24 MR. FRONTERA-SUAU: One of them, Your Honor.

25 MS. GONZÁLEZ-ROBINSON: The one you were going to

1 use?

2 MR. FRONTERA-SUAU: Yes.

3 MS. GONZÁLEZ-ROBINSON: And, did not use?

4 MR. FRONTERA-SUAU: You have not (unintelligible).

5 MS. GONZÁLEZ-ROBINSON: Yes, I did.

6 MR. FRONTERA-SUAU: That's okay. I'm going to
7 continue, Your Honor.

8 THE COURT: Okay, how much more Cross do you have
9 to do?

10 MR. FRONTERA-SUAU: A little bit more, Your Honor.

11 THE COURT: All right.

12 MR. FRONTERA-SUAU: Like half an hour.

13 THE COURT: Well, maybe now is a good time to take
14 a lunch break.

15 MR. FRONTERA-SUAU: Okay.

16 THE COURT: All right? Okay, sir, I will...

17 MS. GONZÁLEZ-ROBINSON: If Counsel doesn't have
18 many more questions for him, I'd request, so we can let the
19 Interpreter... release him because he's on the clock.

20 THE COURT: Well, how much time?

21 MR. FRONTERA-SUAU: Like half an hour, Your Honor.

22 THE COURT: Half an hour. Okay, we're going to have
23 to take the lunch break. All right?

24 Okay, sir, I'm going to ask that you not discuss
25 your testimony with anybody during the lunch break. You're

1 going to come back at two o'clock, and you're going to
2 continue with your testimony. All right? Okay, we'll break for
3 lunch until two o'clock. See you then.

4 (Off the record.)

5 (Lunch recess.)

6 **A F T E R N O O N S E S S I O N**

7 (2:29 P.M.)

8 (Back on the record.)

9 THE COURT: Please be seated. Okay, you're ready?

10 MR. FRONTERA-SUAU: Yes, Your Honor.

11 THE COURT: Okay, sir, I remind you that you're
12 still under oath.

13 WITNESS: Yes, sir.

14 MR. FRONTERA-SUAU: May I approach, Your Honor?

15 THE COURT: Go ahead.

16 **CROSS EXAMINATION (Continued.)**

17 BY MR. FRONTERA-SUAU:

18 Q. Now, Mr. Rivas, good afternoon.

19 A. Good afternoon, sir.

20 MR. FRONTERA-SUAU: This is Attorney Juan Frontera,
21 for the record, representing Robert Morgalo.

22 BY MR. FRONTERA-SUAU:

23 Q. Now, we were discussing the copies of the contracts that
24 you have before you. And, you have stated that you have never
25 seen one of them that is for... you have never seen one of

1 them that has like a square at the bottom of the last page. Is
2 that right?

3 A. Correct, I don't recall having seen Exhibit 4 before.

4 Q. Do you... the one that has the... the Exhibit 4, but
5 that's not an Exhibit 4 of this case. It's an Exhibit 4 of a
6 deposition in this case, in the case of Colón versus Blades,
7 just for the record to be clear.

8 Now, that is the Exhibit 4 of your deposition in the
9 case of Colón versus Blades. Is that right, Mr. Rivas?

10 A. I can't say that for sure.

11 Q. Do you remember being in a deposition in the case of
12 Colón versus Blades? Is that right?

13 A. Yes, sir.

14 Q. In the offices of the attorneys for Mr. Colón?

15 A. Yes, sir.

16 Q. And, in that deposition, was present the attorney for
17 Colón and Mr. Israel Alicea, an Attorney for Mr. Robert
18 Morgalo. Is that right?

19 A. **NO AUDIBLE RESPONSE FROM WITNESS.**

20 Q. And, also Ms. Pamela González, who was present as Ruben
21 Blades' Attorney?

22 A. **NO AUDIBLE RESPONSE FROM WITNESS.**

23 Q. Now, in that deposition, you identified Exhibit 4 as the
24 contract that you signed with Martínez & Morgalo... that was
25 signed... the contract that was signed with Martínez & Morgalo

1 Associates. Is that right?

2 A. I say again, on page two of the contract you're
3 mentioning, I don't recall having seen this portion here
4 because the other contract does not have it. It's something
5 that calls my attention, the fact that it has this square.

6 Now, the contract conditions that appear...

7 Q. But, I'm asking you... what I'm asking you is you
8 identified Exhibit 4 of... in your deposition, in the case of
9 Colón versus Blades, you identified, in that deposition, the
10 Exhibit 4 of that deposition as the document that you
11 allegedly signed with Martínez & Morgalo Associates. Is that
12 right, "yes" or "no"?

13 A. Well, in that deposition, as you're doing today, I was
14 shown several contracts.

15 Q. Okay, I'm going to read for you your deposition taken in
16 the case of Colón versus Blades.

17 MS. GONZÁLEZ-ROBINSON: Objection, hearsay, and I
18 have not been shown the excerpt.

19 MR. FRONTERA-SUAU: It's his statement in his prior
20 deposition.

21 THE COURT: Okay, overruled.

22 MS. GONZÁLEZ-ROBINSON: I think that Counsel is
23 improperly trying to impeach this Witness.

24 THE COURT: I think he's...

25 MS. GONZÁLEZ-ROBINSON: He hasn't denied anything.

1 He's just... he says he was shown many contracts.

2 THE COURT: Okay, overruled. Go ahead.

3 BY MR. FRONTERA-SUAU:

4 Q. Now, in that deposition, you were asked:

5 "And, you only subscribed one contract for a May
6 concert?".

7 And, you answered: "Correct.". Do you remember that?

8 A. Correct.

9 Q. And, the next question was:

10 "That is Exhibit 4?".

11 And, you say: "Correct.".

12 A. I say again...

13 Q. Is that right? Do you remember that?

14 A. No, I don't recall having said so.

15 MR. FRONTERA-SUAU: May I approach (phonetic)?

16 THE COURT: Yes, you may.

17 BY MR. FRONTERA-SUAU:

18 Q. I'm asking you about lines seventeen to twenty-one, page
19 seventy-five. Is that what I read it says?

20 PAUSE

21 (Revision of document by Witness.)

22 A. Okay.

23 BY MR. FRONTERA-SUAU:

24 Q. Yes?

25 A. Okay, correct.

1 Q. Am I right?

2 A. Yes.

3 Q. Now, I'm going to show you Exhibit 4 of your deposition.

4 MS. GONZÁLEZ-ROBINSON: Your Honor, may I see the
5 Exhibit?

6 MR. FRONTERA-SUAU: Sure.

7 THE COURT: Yes, you may.

8 PAUSE

9 (Revision of document by Counsel and Witness.)

10 BY MR. FRONTERA-SUAU:

11 Q. This was the document that was marked as Exhibit 4 of
12 your deposition. I'll ask you to compare it with the one that
13 you say that you have never seen.

14 A. I repeat, sir...

15 Q. Is that the same document?

16 A. ... I don't recall having seen the document as it is
17 here, with the squares. However, the conditions that are in
18 the Exhibit 4 contract...

19 Q. What I'm asking you is, is the Exhibit 4 that you
20 identified in your deposition the same as the one that you
21 said here you have never seen before, "yes" or "no"?

22 A. I don't recall having seen the square in the paragraph
23 on the second page.

24 Q. I'm not asking you if you remember seeing the square.
25 I'm asking you for you to compare the Exhibit that you say

1 that you have never seen before here and the Exhibit that was
2 marked as Exhibit 4 to your deposition? Are they the same?

3 A. Well, the first page says Exhibit 4. The second page has
4 no notes on it.

5 Q. What I'm asking you is if they are the same document?

6 A. I would have to read them in full, but apparently they
7 are the same.

8 Q. Go ahead and read them.

9 PAUSE

10 (Revision of documents by Witness.)

11 A. Yes, sir, they seem to be the same.

12 BY MR. FRONTERA-SUAU:

13 Q. Okay, and, in fact, Mr. Rivas, at page sixty-nine of
14 your deposition, when that Exhibit was submitted, you were
15 asked:

16 "I'm going to show you Exhibit 4. And, I'm going to
17 ask you, in order to close the circle, if this is an
18 exact copy of the document that you brought to us?", is
19 what Mr. Savedra (phonetic) is asking you.

20 And, you answered: "I hope so.". Is that right, page
21 sixty-nine, lines seven to ten? Is that right?

22 A. At that time, the attorney made a pause and left the
23 deposition. When he came back, he brought along a document,
24 and asked me if I had seen it before.

25 Q. I'm asking you if what I read was your testimony in the

1 deposition, page sixty-nine, lines seven to ten? Is that
2 right?

3 A. In the transcript of my deposition?

4 Q. Yes. Is that right? Yes?

5 A. Yes.

6 Q. In fact, in that deposition, you identified Exhibit 4 as
7 the document that you had printed from your computer. Is that
8 right?

9 A. I would have to review that.

10 Q. You have the document before you.

11 A. I don't have the computer.

12 Q. So, at this point, Mr. Rivas, you don't know which of
13 those three documents was the one that you signed. Is that
14 right?

15 A. I am very clear as to which of them has the conditions
16 that were established as part of the contract.

17 Q. But, I'm not asking you that. Can you tell me and tell
18 this Court which one of those documents is the one that you
19 allege is signed for the Siembra Concert?

20 A. I can tell you that I am sure as to the one that was not
21 signed.

22 Q. No, that's not my question. My question is can you tell
23 me, from those three documents that you have before you, which
24 one was it that was signed for the Siembra Concert?

25 A. The conditions that are established in two of the

1 contracts were the ones agreed to for the concert.

2 Q. I'm not asking you that. Do you understand my question?

3 A. Yes.

4 Q. I'm asking you if you can identify which of those three
5 was the one that allegedly was signed for the Siembra Concert?
6 It's as simple as that.

7 A. I say again I can tell you perfectly the conditions
8 which were signed, but I cannot tell you which of the two that
9 are the conditions agreed to as part of the contract was the
10 one signed.

11 I can tell you though which is the one that was not
12 signed.

13 Q. Between those two that you say have the conditions, you
14 cannot say which one of them was signed?

15 A. It could have been either of the two because it's only
16 the part that I mentioned since the beginning.

17 Q. Can I have the document. Now, both of those documents
18 that you identified have the conditions... I'm sorry... both
19 of those documents that you identified as having the
20 conditions are prepared for the signature of Mr. Arturo
21 Martínez. Is that right?

22 A. The representative of Martínez & Morgalo.

23 Q. Not for the signature of Mr. Robert Morgalo. Is that
24 right?

25 A. The representative of the company of which Mr. Robert

1 Morgalo is a part of.

2 Q. But, both of those contracts are prepared for the
3 signature of Mr. Arturo Martínez, a representative of Martínez
4 & Morgalo Associates. Is that right?

5 A. That is correct, as an agent.

6 Q. Now, you sent... the truth is that you sent a letter to
7 Mr. Arturo Martínez, on January 21, 2003, negotiating the
8 terms and conditions of the Siembra Concert. Is that right?

9 A. I would have to see the letter.

10 PAUSE

11 BY MR. FRONTERA-SUAU:

12 Q. Now, I ask you, Mr. Rivas, to review that document. I
13 have shown you the letter in Spanish and the certified
14 translation.

15 PAUSE

16 (Revision of document by Witness.)

17 BY MR. FRONTERA-SUAU:

18 Q. Did you have a chance to review the letter, Mr. Rivas?

19 A. Yes, sir.

20 Q. Did you write that letter?

21 A. I believe so.

22 Q. And, you wrote it to Mr. Arturo Martínez. Is that right?

23 A. Yes, sir.

24 MR. FRONTERA-SUAU: I ask the Court to admit this
25 document as Exhibit 6.

1 THE COURT: Any objection?

2 MS. GONZÁLEZ-ROBINSON: No objection.

3 THE COURT: Okay, admitted.

4 (Whereupon,

5 the above-mentioned document was admitted into
6 evidence as Plaintiff Exhibit 6.)

7 BY MR. FRONTERA-SUAU:

8 Q. Now, in this letter, you are making several offers with
9 respect to the Siembra Concert to Arturo Martínez. Is that
10 right?

11 A. I'd like to return to my original statement, sir. When I
12 told him...

13 Q. I'm asking you a question. "Yes" or "no"?

14 A. If I'm allowed?

15 Q. In this letter, are you making several offers, to Arturo
16 Martínez, with respect to the Siembra Concert? That's the
17 question. It's simple.

18 A. None of the agreements of the contract are being
19 negotiating. All we are doing here is requesting for the
20 promotion of the show, the follow-up that Mr. Martínez was
21 giving to the show, because the conditions were already
22 negotiated.

23 Q. The truth is, Mr. Rivas, that, in this letter, you state
24 that... in the first page, you say:

25 "Arturo..."... the first, second, third, fourth

1 bullet... and I'm going to say it in Spanish, and you
2 have the official translation... I have the Spanish
3 here... *"Estamos seguros de que podemos encontrar una*
4 *solución favorable para todos, dentro de los cuales,*
5 *planteamos dos propuestas a su consideración."*

6 INTERPRETER: "We are sure that we can find a
7 favorable solution for all within which we present two
8 proposals for your consideration."

9 BY MR. FRONTERA-SUAU:

10 Q. And, then you make two proposals with respect to the
11 concert. Is that right?

12 A. Yes, the negotiation of the promotion with Z-93.

13 Q. And, also you were saying to Arturo that you were
14 willing to meet with him and with Rubén, in New York or Los
15 Angeles, to put forth to him personally, and reach the better
16 agreement possible. Is that right? Is that what the letter
17 says?

18 A. To negotiate the terms of the promotion.

19 MR. FRONTERA-SUAU: Let me... I'm having trouble
20 here, Your Honor. One second (phonetic).

21 PAUSE

22 BY MR. FRONTERA-SUAU:

23 Q. And, the first offer that you make, the last bullet of
24 that first offer, in the second page of the letter... I don't
25 know if it's the same page for you (phonetic)... you state...

1 and I'm going to read it in Spanish:

2 *"Que el cache de los artistas sea de tres cientos*
3 *mil dolares, para nosotros, de esta manera, poder comprar*
4 *promociones en otras emisoras y reforzar la promoción."*

5 Is that what it says? Is that what you wrote to Mr.
6 Arturo Martínez?

7 INTERPRETER: "That the cache for the artists will
8 be three hundred...

9 THE COURT: I'm sorry, the cache for what?

10 INTERPRETER: ... "for the artists..."...
11 "cache"...

12 THE COURT: Oh, for the artists, okay.

13 INTERPRETER: ... "will be three hundred thousand
14 dollars. This way we will be able to purchase promotion
15 at other stations and reenforce their promotion."

16 BY MR. FRONTERA-SUAU:

17 Q. Is that what you wrote there, Mr. Rivas?

18 A. To work on the promotion. That's the letter's concept,
19 yes.

20 Q. So, in this letter, you're telling Arturo Martínez that
21 the cache that the artists will receive will be of three
22 hundred thousand dollars. Is that right?

23 MS. GONZÁLEZ-ROBINSON: Objection, "cash" or
24 "cache"?

25 MR. FRONTERA-SUAU: "Cache".

1 A. Cache, yes. I'm asking for a reduction in order to make
2 more promotion.

3 BY MR. FRONTERA-SUAU:

4 Q. Because, at this point in time, there had been no final
5 agreement with respect to how much the Siembra Concert was
6 going to give the artists. You didn't know if it was three,
7 fifty or three hundred thousand. Is that right?

8 A. By the 21st of January...

9 Q. Is that right?

10 A. ... of 2003...

11 Q. Is that right?

12 A. ... everything was already negotiated with Mr. Morgalo.

13 Q. The fact is that you don't have any document to
14 establish that you had negotiated that with Mr. Robert
15 Morgalo, in December. Is that right?

16 A. I would have to check all my e-mails, but it was already
17 negotiated with Morgalo for three hundred and fifty thousand.

18 Q. You don't have that document, Mr. Rivas. Is that right?

19 A. The three hundred and fifty thousand had been negotiated
20 with Mr. Morgalo.

21 Q. I'm not asking you that, sir. I'm asking you if you have
22 a document where the negotiation that you allege you made with
23 Mr. Robert Morgalo for the three hundred and fifty thousand
24 dollars for the Siembra Concert? Do you have a document...

25 MS. GONZÁLEZ-ROBINSON: Objection, asked and

1 answered.

2 BY MR. FRONTERA-SUAU:

3 Q. ... containing that agreement?

4 MS. GONZÁLEZ-ROBINSON: Objection to the question.

5 Asked and answered.

6 THE COURT: Okay, overruled. It's a "yes" or "no"
7 question.

8 A. What I would have to look for is an e-mail, a document,
9 in which it shows that that amount was written there.

10 BY MR. FRONTERA-SUAU:

11 Q. Do you have it here, Mr. Rivas?

12 A. No, sir.

13 Q. Have you produced that document throughout the
14 litigation of Colón versus Blades, Mr. Rivas?

15 A. I produced the contract we already had.

16 Q. The one we have discussed?

17 A. Obviously, no.

18 Q. Now, I'm going to show you another document.

19 PAUSE

20 (Revision of document by Witness.)

21 BY MR. FRONTERA-SUAU:

22 Q. I've handed you a letter with the official translation.
23 Have you seen this letter before, Mr. Rivas?

24 A. I believe so.

25 Q. In fact, you received this letter from Arturo Martínez.

1 Is that right?

2 A. Yes, sir.

3 MR. FRONTERA-SUAU: I ask for it to be admitted
4 into evidence as Plaintiff Exhibit 7.

5 MS. GONZÁLEZ-ROBINSON: No objection.

6 THE COURT: I thought the last one was 7.

7 COURTROOM DEPUTY: 6.

8 MR. FRONTERA-SUAU: It was 6, yes.

9 THE COURT: 6, okay.

10 MS. GONZÁLEZ-ROBINSON: It was 7. The last one was
11 7.

12 MR. FRONTERA-SUAU: No, it was never identified as
13 an Exhibit.

14 THE COURT: All right, no objection, so it's
15 admitted.

16 (Whereupon,

17 the above-mentioned document was admitted into
18 evidence as Plaintiff Exhibit 7.)

19 BY MR. FRONTERA-SUAU:

20 Q. Now, in this letter that is dated January 22, 2003,
21 you're receiving a confirmation for the date of the concert,
22 as of May 3, 2003. Is that right?

23 A. Yes, sir.

24 Q. So, as to January 22nd, you didn't have any type of
25 confirmation of the date of the concert. Is that right?

1 A. Of course. I already had the verbal confirmation by
2 Roberto.

3 Q. I thought you said you had something in writing from
4 Robert Morgalo.

5 A. Yes, sir.

6 Q. Uh huh. Now, do you have any document, Mr. Rivas, to
7 establish that you transferred sixty-two thousand, five
8 hundred dollars to Martínez & Morgalo Associates, in April,
9 2002, for the 'Cheo' Feliciano and Ruben Blades concert?

10 A. I must have some confirmation, yes.

11 Q. I'm asking you do you have it?

12 A. I must have some confirmation, yes.

13 Q. Have you produced it throughout the litigation of Colón
14 versus Blades, Mr. Rivas?

15 A. I don't recall whether it was within the thirteen
16 transactions I sent.

17 Q. The truth is, Mr. Rivas, is that both of the documents
18 that you allegedly say that have the specific terms and
19 conditions of the... that you reached with Martínez & Morgalo
20 Associates, for the Siembra Concert, both of those documents
21 talk about sixty-two thousand, five hundred dollars that you
22 allegedly transferred to Martínez & Morgalo Associates, in
23 April, 2002. Is that right?

24 A. You mean the contracts?

25 Q. Yes.

1 A. Yes.

2 Q. The truth is that you don't have any type of documentary
3 evidence that you, in fact, transferred those sixty-two
4 thousand, five hundred dollars, in April, 2002.

5 A. We must have the bank register.

6 Q. And, the fact is that you don't have any document where
7 it is stated that the alleged payment of sixty-two thousand,
8 five hundred dollars, the alleged payment that you made of
9 sixty-two thousand, five hundred dollars, was applied to the
10 Siembra Concert.

11 A. Of course I do, the contract.

12 Q. The one that you don't have here?

13 A. The one I don't have here.

14 Q. The one that you... that, from the three that we have
15 seen, either of them are signed. Is that right?

16 A. Of the three you showed me, two of them do say that the
17 sixty-two thousand, five hundred dollars are applied, and were
18 received by April, 2002.

19 Q. The ones that don't mention the 'Cheo' Feliciano and
20 Ruben Blades concert?

21 A. Because that amount was approved to be negotiated in
22 this contract.

23 MR. FRONTERA-SUAU: I have no further questions,
24 Your Honor.

25 THE COURT: Okay, any Redirect?

1 MS. GONZÁLEZ-ROBINSON: Yes, Your Honor.

2 **REDIRECT EXAMINATION**

3 BY MS. GONZÁLEZ-ROBINSON:

4 Q. Mr. Rivas, were the majority of your communications with
5 Robert Morgalo verbal or written?

6 A. Verbal or in person.

7 Q. In the industry, in the music industry in which you
8 work, what is the custom, the industry custom, with respect to
9 contracts? Are they all signed or are they... or are some of
10 them not signed?

11 A. Well, some are signed, some are not. You establish the
12 agreement on your own.

13 Q. And, when you say "signed", are they always physically
14 signed with ink or are there some that are not signed
15 physically by a person with their handwriting?

16 MR. FRONTERA-SUAU: Leading, Your Honor.

17 A. Electronic signing.

18 THE COURT: Overruled.

19 A. Well, you can scan them, sign them or digitalize as
20 well.

21 BY MS. GONZÁLEZ-ROBINSON:

22 Q. In your prior dealings with Martínez & Morgalo, the
23 company, for other shows that you did with them, like with
24 Danny Rivera that you testified to at the Apollo Theater, did
25 you have a signed contract?

1 A. I don't recall if there was a signed contract, no.

2 Q. But, the show was had?

3 A. Yes, in October, 2002.

4 MS. GONZÁLEZ-ROBINSON: No further questions.

5 MR. FRONTERA-SUAU: One question, Your Honor.

6 **RE-CROSS EXAMINATION**

7 BY MR. FRONTERA-SUAU:

8 Q. Your testimony here is that, for the Siembra Concert,
9 you had a signed contract. Is that right?

10 A. Yeah, there must be.

11 MR. FRONTERA-SUAU: I don't have any further
12 questions.

13 THE COURT: Okay, thank you, sir. You may step
14 down.

15 (Witness is excused.)

16 THE COURT: Okay, is the Defense ready with the
17 next witness?

18 MS. GONZÁLEZ-ROBINSON: We're calling the next
19 Witness, Mr. Arturo Martínez.

20 MR. FRONTERA-SUAU: Your Honor, can we take a
21 break?

22 THE COURT: Okay, let's take a ten minute break.

23 (Off the record.)

24 (Brief recess.)

25 (Back on the record.)

1 THE COURT: Please be seated.

2 MS. GONZÁLEZ-ROBINSON: Your Honor, the Defense
3 calls Mr. Arturo Martínez to the stand.

4 COURTROOM DEPUTY: Sir, please raise your right
5 hand. Do you solemnly swear that all the testimony you're
6 about to give in the case now before the Court will be the
7 truth, the whole truth, and nothing but the truth, so help you
8 God?

9 WITNESS: I do.

10 COURTROOM DEPUTY: Thank you. Have a seat.

11 (Whereupon,

12 **MR. ARTURO MARTÍNEZ**

13 after having been duly sworn, was examined, testified upon his
14 oath as follows:)

15 **DIRECT EXAMINATION**

16 BY MS. GONZÁLEZ-ROBINSON:

17 Q. Could you please state your full name for the record?

18 A. Arturo Martínez.

19 Q. Were you Robert Morgalo's partner at Martínez & Morgalo?

20 A. Yes.

21 Q. How long did the company do business?

22 A. The company was formed in December, 1999. I joined a
23 short while later, so 2003.

24 Q. What month, in 2003?

25 A. Well, the offices closed in early 2003, but I guess,

1 being that the concert was in May, I guess... you know... that
2 was the last real...

3 Q. When you say the "concert", are you referring to the
4 Siembra Concert...

5 A. Yes, I am. Sorry.

6 Q. ... in Puerto Rico?

7 A. Yes.

8 Q. Did you have a physical office?

9 A. Yes, we did.

10 Q. Where was it located?

11 A. We were first at 350 Broadway.

12 Q. In New York City?

13 A. In New York City. And, then we moved to 64 4th Street.

14 Q. Did you always conduct business out of those two places
15 or did you conduct business out of other places?

16 A. Well, very early we got an apartment, but not very long.
17 It was right from the office. And, then, obviously, when the
18 office was closed, we would get calls from... you know... our
19 respective phones.

20 Q. Yours and Mr. Morgalo's respectively?

21 A. Well, correct. We had telephones.

22 Q. And, how did you meet Mr. Morgalo?

23 A. We worked together at David Maldonado Entertainment.

24 Q. Is that another booking agent?

25 A. Yes, it is.

1 Q. Does David Maldonado Entertainment still exist?

2 A. I believe it does, but not... well, most of the
3 (unintelligible), but it doesn't do business (unintelligible).

4 Q. Whose idea was it to form Martínez & Morgalo Associates?

5 A. It was Robert's idea, and... you know... he asked me to
6 join it, so I was involved with him (phonetic).

7 Q. Who were the major clients of Martínez & Morgalo
8 Associates?

9 A. Clients in the sense of artists or acts?

10 Q. Artists, acts.

11 A. Okay, Ruben Blades. We also represented Patrick Shine
12 (phonetic), but (unintelligible).

13 Q. How did Ruben Blades agree to book his shows through
14 you, through Martínez & Morgalo?

15 A. He was... while we were at David Maldonado
16 Entertainment, we represented Rubén, went on the road with
17 him, and just reached an agreement, and wanted to support us
18 to try to go on our own. And, if we would go on our own, he
19 would go with us (phonetic). (Unintelligible).

20 Q. How would you describe your relationship with Mr. Ruben
21 Blades?

22 A. Close, close. He was more... we booked him, but also he
23 supportive, and someone... you know... I guess close, just
24 close.

25 Q. By December, 2002, what was the financial condition of

1 Martínez & Morgalo?

2 A. By December of '02, we had completed the series of
3 concerts for... it was called "Latin Nights at the Apollo".
4 They had not done very well for us.

5 Q. When you say "they had not done very well" for you, what
6 do you mean?

7 A. The tickets did not sell. They weren't very successful.
8 They weren't successful. One show, out of the ten of that
9 year, had been successful.

10 The company was getting by, just figuring out what
11 next to do, trying to get by. It wasn't in a good space.

12 Q. Did Martínez & Morgalo have... owe money to Creditors?

13 A. Yes.

14 Q. Who did Martínez & Morgalo owe money to by December of
15 2002?

16 A. Radio stations, newspaper ads, newspapers, some who had
17 shared some sponsorship for us, artists.

18 Q. What artists did Martínez & Morgalo owe money to?

19 A. There were a few different deals that went on that... at
20 that time, December of '02. There was money owed to Rubén.
21 Sorry, I'm just trying to remember. I think that was the bulk
22 of it. I'm not sure if there was an outstanding debt to Oscar
23 De León, but I don't know if it was paid by that point.

24 Q. Did Martínez & Morgalo owe money to any financial
25 institutions?

1 A. To financial institutions, as far as the banks?

2 Q. Loans.

3 A. Oh, yes, I believe there was... *Acción New York* was the
4 Debtor (sic).

5 Q. You mean a Creditor?

6 A. A Creditor... I'm sorry... a Creditor, the SBA
7 (phonetic), and that was a loan (phonetic).

8 Q. What were the loans for?

9 A. We had gotten some disaster relief loans.

10 Q. Disaster relief loans?

11 A. Yes, after 9/11, and...

12 Q. Why did you obtain disaster relief loans?

13 A. Well, after 9/11...

14 Q. Of 2001?

15 A. ... of 2001... I'm sorry... our company did some shows
16 (phonetic). A lot of shows were canceled, a lot of shows we
17 went ahead on and kept going, I guess, trying to catch up, and
18 thinking we'd figure out the next move to... you know... to
19 make it.

20 So, we applied for a few loans, and subsequently got
21 them.

22 Q. And, then you were taking out other loans to cover
23 the...

24 A. We were trying to, yeah.

25 Q. ... these disaster relief loans?

1 A. Yes.

2 Q. Who was responsible for procuring the loans between you
3 and your partner?

4 A. Robert was in charge of it, but I know there's a few
5 loans that I also was the signee on. *Acción New York* I know I
6 was. The...

7 Q. Personally?

8 A. Personally, correct.

9 Q. Did Robert Morgalo personally guarantee any loans to
10 Martínez & Morgalo?

11 A. In the sense... I don't understand the question.

12 Q. Of being... of personally guaranteeing it.

13 A. Yes, the *Acción* loan was a personal guarantee loan. The
14 SBA stuff I wasn't too familiar with, the paperwork on that,
15 but I believe so.

16 Q. How was the decision making, at Martínez & Morgalo, with
17 respect to booking shows?

18 A. Robert booked a large majority of it. I went out with
19 most of the artists on the road.

20 Q. When you say you "went out" with the artists, what were
21 your duties?

22 A. On the road. I went out as Tour Manager the majority of
23 the time. I'd say ninety percent of the time. I went out with
24 the artists. You know, with the artists, I would talk with
25 them. I guess (unintelligible) the Tour Promoter and the

1 artists. The Road Manager had the logistics into that nature
2 (phonetic).

3 Q. As far as paperwork, contracts, papers signed, did you
4 each have authority to sign documents?

5 A. Yes.

6 Q. Who had access... how many bank accounts did Martínez &
7 Morgalo have?

8 A. For the duration, there was two. There was a J.P. Morgan
9 Chase, and there was a Citibank account.

10 Q. Who had access to those two bank accounts?

11 A. Myself and Robert.

12 Q. Robert Morgalo?

13 A. Correct.

14 Q. When you... could you see... did you have authority to
15 sign checks?

16 A. Yes.

17 Q. Did both of you have authority to see the transactions
18 online?

19 A. Yes.

20 Q. How many e-mails accounts had Martínez & Morgalo?

21 A. There was... we had a website, martínezandmorgalo.com.
22 Subsequently, (unintelligible) came of that.

23 Then, America Online. There was one account that
24 there were a few e-mails addresses within that account.

25 Q. Did you each have authority to enter and see the e-

1 mails...

2 A. Yes.

3 Q. ... in both accounts?

4 A. Yes.

5 Q. Did you each have authority to send e-mails from those
6 accounts?

7 A. Yes.

8 Q. I'm sorry?

9 A. Yes.

10 Q. So, you said that ten shows... out of ten shows in 2002,
11 only one had been successful?

12 A. Out of the ten Latin Nights at the Apollo shows.

13 Q. Latin Nights at the Apollo?

14 A. Correct.

15 Q. Who negotiated that concept of ten shows, in 2002, at
16 the Apollo Theater?

17 A. Robert. I had input in the acts, acts to procure, and
18 things of that nature.

19 Q. What, if any knowledge, do you have concerning a sixty-
20 two thousand, five hundred dollar deposit received in 2002
21 from Distar Production, Ariel Rivas, in Puerto Rico?

22 A. That was deposit for a show that was payment for
23 (unintelligible). I believe the show was for a total of about
24 a hundred and twenty-five thousand dollars.

25 Q. That would have been half of the amount?

1 A. Correct, that was standard. You gain fifty percent
2 (phonetic) of the deposit. That would be the standard deposit.

3 Q. And, you knew what the show was to be?

4 A. That show had been... it was originally for a Ruben
5 Blades show. Then, it was postponed.

6 Q. By whom?

7 A. I believe it was us. We postponed it for a later date,
8 and mutually agreed upon.

9 Q. Was it supposed to be with 'Cheo' Feliciano?

10 A. I don't know if the initial one was, but...

11 MR. FRONTERA-SUAU: Leading, Your Honor.

12 A. ... I think one of them was.

13 THE COURT: Overruled.

14 BY MS. GONZÁLEZ-ROBINSON:

15 Q. Who negotiated the terms and conditions for that show,
16 for which the sixty-two thousand, five hundred dollar deposit
17 was received?

18 A. Well, with Mr. Rivas, Robert handled the negotiations. I
19 came in... I was aware of it, but I came in sort of at the
20 latter part.

21 Q. Was the deposit received in a one, lump sum payment, to
22 your recollection?

23 A. It might have been, but I'm not sure. It most likely
24 was.

25 Q. When a payment would come into the accounts of Martínez

1 & Morgalo on behalf of the artist, how would you find out?

2 A. Well, it's common knowledge. Every morning we pretty
3 much checked the account, what came in, what didn't come in,
4 or we'd get a receipt from the sender that said "Look, I sent
5 this account.", and then they'd either send a receipt or a
6 fax, and we'd just compare it with what was in the account.

7 Q. Would Robert Morgalo know if money had come into the
8 office?

9 A. Yes.

10 Q. What happened with that show for which the sixty-two
11 thousand, five hundred dollar deposit was received by Martínez
12 & Morgalo?

13 A. It was postponed, and then, somewhere along the line, it
14 was to be moved to give us a little more time.

15 Q. More time for what?

16 A. To come up with the funds that we had mismanaged.

17 Q. Did you tell Ruben Blades that the company had received
18 sixty-two thousand, five hundred dollars...

19 A. No.

20 Q. ... for a deposit for a show of his?

21 A. No.

22 Q. Were you supposed to tell Mr. Blades?

23 A. Yes.

24 Q. Who failed to tell Mr. Blades?

25 A. Myself and Robert Morgalo.

1 Q. So, when you say you needed more time, was it more time
2 to send the money to Mr. Blades?

3 A. At this point, it was... I can't remember the exact
4 date, but it was probably just some more time to 'recupe' more
5 funds to be able to cover it.

6 Q. Because you used the money?

7 A. Yes.

8 Q. Martínez & Morgalo used the sixty-two thousand, five
9 hundred deposit for what?

10 A. We had a lot of bills that we were covering, and we were
11 in anticipation of more loans coming in, trying to cover them,
12 and trying to 'recupe' or recover from the losses at the
13 Apollo.

14 Q. Did Martínez & Morgalo have other expenses, in addition
15 to the ones you have just testified to, the television ads and
16 radio ads and the Apollo Theater?

17 A. Rent.

18 Q. Rent for the office?

19 A. Correct.

20 Q. How much was the rent?

21 A. I believe... I don't remember. I believe it was close to
22 five thousand dollars, but I'm not...

23 Q. Five thousand dollars a month?

24 A. Correct.

25 Q. And, how much was the payroll?

1 A. By that time, we had scaled down. We had four additional
2 employees.

3 Q. You mean by the end of 2002?

4 A. Yes, after the Apollo. So, our payroll would have been
5 about another seven thousand dollars, give or take, an
6 estimate.

7 Q. Did Martínez & Morgalo owe money to anyone else?

8 A. The employees, obviously. By that time, we had also
9 taken some loans for some shows.

10 Q. Loans from where?

11 A. Promoters. There was one in particular I remember, a
12 gentleman from Columbia, Ingesto Ramírez (phonetic).

13 Q. Was it a loan?

14 A. It wasn't a loan. It was an advance for a show.

15 Q. An advance for a show for whom?

16 A. At the time, Robert had promised to book him a show with
17 Lenny Kravatz (phonetic).

18 Q. Did Martínez & Morgalo Associates ever represent Lenny
19 Kravatz?

20 A. Never.

21 Q. So, this gentleman from Columbia paid a deposit on a
22 show for Lenny Kravatz?

23 A. Correct.

24 Q. And, who received the money?

25 A. The... I don't remember if it was the initial deposit,

1 but I remember he had sent someone to Miami to bring cash, and
2 I was instructed to pick up the deposit, and I picked up the
3 deposit.

4 Q. Who instructed you to pick up the deposit?

5 A. It was discussed between myself and Robert Morgalo.

6 Q. Did you pay back Mr. ... the gentleman from Columbia?

7 A. I did pay it back.

8 Q. What money was used to pay that?

9 A. At that point, I had gotten some e-mails and pictures
10 threatening myself to pay back the money. And, I had used
11 monies from the Siembra Concert that were supposed to go to
12 Rubén to pay him back.

13 Q. Did Robert Morgalo know this?

14 A. Yes.

15 Q. How did he know?

16 A. When we had spoken over the phone, he said "The first
17 that comes in take care of that."

18 Q. Who said that?

19 A. Robert.

20 Q. Were there any other individuals that loaned money to
21 Martínez & Morgalo?

22 A. There had been some loans taken, yes.

23 Q. From where?

24 A. Some unsavory characters, you could say (phonetic).

25 Q. Street lenders?

1 A. Yes.

2 Q. How did the Siembra... the idea of turning a show for
3 which a deposit had been made to turning it into a reunion
4 concert for Siembra? How did that come about?

5 A. It was... I guess it would be kind of a joint effort,
6 something we knew people would want to see, something we knew
7 would draw in more money, cost more money.

8 So, which would mean a higher commission for us,
9 which would mean we'd have to actually produce
10 (unintelligible), which was a great idea.

11 At the time, Rubén and Willy hadn't played together
12 for a while. There was a good relationship on both parts to do
13 it. It was a concert that...

14 Q. Meaning Willy Colón and Ruben Blades had a good
15 relationship with Martínez & Morgalo?

16 A. You know, they had... we had worked with Willy before,
17 and... you know... I like Willy and I like Rubén. They were
18 good to us. They never... you know... had done anything bad.
19 We'd always... up until that point, we had never had any
20 problems... you know... coming up with the...

21 Q. They trusted you?

22 A. Correct, yes.

23 Q. So, who approached whom about doing a Siembra Concert,
24 and making it a reality?

25 A. It would have... it was a joint effort. We had done a

1 show with Willy, at the Blue Note. So, after mentioning it to
2 him, it was kind of like between both artists. If he's willing
3 to do it... you know... then we'll do it... you know... how
4 much is it and things like that.

5 So, I guess it would be a joint... you know...
6 agreement that everyone... if the terms were correct... you
7 know... everyone would go ahead and move forward.

8 Q. And, how come that was... who negotiated that with the
9 promoters in Puerto Rico?

10 A. At that point, Robert had the relationship with Mr.
11 Rivas. I knew Ariel, but, as far as that business, handling
12 negotiations, Robert had that.

13 Q. Did you have any input in the amount of the artist fees?

14 A. No, that was pretty much Robert's deal. I was...

15 Q. How about the dates, did you have input as to the dates
16 that the concert would be held?

17 A. No.

18 Q. How about the decision to make it an all-inclusive fee?

19 A. No.

20 Q. How about the decision to make it into specified
21 installments... the payments?

22 A. No. You have to remember that, at the time, I'm partners
23 with Robert. So, what he said was we were in it together,
24 basically.

25 Q. Would you say that he was the lead decision-maker, Mr.

1 Morgalo?

2 A. Yes, it's something that I guess, with time, I've
3 come... it bothered me because I could've and should've
4 stepped up more, but I didn't, but, yes, he was.

5 Q. When did you find out that Mr. Morgalo was going to be
6 leaving for active duty with the U.S. Army?

7 A. I don't know the time frame, the time frame or the date
8 (phonetic). It was kind of rushed up, but it had been
9 insinuated that it was going to happen, that he was going to
10 sign up for active duty, go ahead and stop any Creditors
11 against us because he was in the service, try to get some
12 loans because he was in the service.

13 Q. So, he was already in the Reserves?

14 A. Yes.

15 Q. Do you know if he voluntarily asked to be transferred to
16 active... to a unit for active duty?

17 A. From my knowledge, yes.

18 Q. Do you know when this happened?

19 A. I don't recollect the exact date.

20 Q. What, if anything, did he tell you concerning his
21 leaving the office to for active duty in respect to the
22 company, the company's management?

23 A. Just what I told you. We'd be... I'm sorry... we'd be in
24 communication, "This isn't going to stop us from getting loans
25 (phonetic). I have this loan working, in the process. This is

1 coming through.", and... you know...

2 Q. And, what loan was he referring to?

3 A. The SBA loan.

4 Q. Another SBA loan?

5 A. Uh huh.

6 Q. Did you see the paperwork for that loan?

7 A. I might have. I don't recall. Mostly... most of the
8 stuff on the SBA loan, to my recollection, we had set up to
9 clear up Robert's credit because his credit was better than
10 mine (phonetic). So, he had already some assets or things of
11 that nature that would help, be helpful.

12 Q. Was this in 2002 or are we already talking about 2003?

13 A. I want to say early 2002.

14 Q. When did Robert Morgalo stop going to the office, at New
15 York City?

16 A. It was, I'd say, about January maybe, that holiday time
17 period.

18 Q. Do you recall going to a farewell party at Mr. Morgalo's
19 house...

20 A. Yes.

21 Q. ... before his deployment?

22 A. Yes.

23 Q. When was that?

24 A. It was right before he left. I believe it was at the
25 last of the holidays, sometime after the holidays, in January.

1 Q. And, at that time, what was the situation with the
2 Siembra Concert?

3 A. It was chaotic for me... overwhelming. I mean it was...
4 I guess I was just waiting for that big miracle to show up...
5 you know... so that...

6 Q. Did you discuss the situation with Mr. Morgalo at that
7 party?

8 A. When he was leaving to... you know... Robert's outlook
9 was always like "We'll figure it out. Something will happen.
10 We'll figure it out."

11 Q. Did you believe that Robert Morgalo was going to keep in
12 touch with you after he left for military duty?

13 A. I did, I did.

14 Q. Did he keep in touch with you, in fact?

15 A. He did. He called. Sometimes he did.

16 Q. Where did he call?

17 A. He called my home, my cell.

18 Q. A cell phone?

19 A. Uh huh.

20 Q. Where was he calling from?

21 A. He said he was in... I believe it was Fort Dix at first.
22 And, then he had moved, and I don't remember where he went.

23 Q. What were the subjects of your conversations over the
24 phone?

25 A. "What's going on? Did anything come in?", discussing

1 what we should pay to get rid of, how we should shut down the
2 office, things of that nature.

3 Q. With respect to who was paid, how was that determined
4 with the money from the Siembra Concert?

5 A. We had gotten... from the Venture Capital Company, we
6 had gotten an advance on the next year's concert service.

7 Q. 2003?

8 A. Correct.

9 Q. How much was the advance for?

10 A. I don't remember what the full contract was for, but I
11 believe we got, from the Venture Capital Company, about a
12 hundred thousand dollars.

13 Q. And, what about that hundred thousand?

14 A. That was used to pay shows that we had just done with
15 Rubén. That was... you know... catching up. It was kind of
16 like take from Peter to pay Paul... you know.

17 It was just total madness. You know, I can sit here
18 and say money was taken to buy houses or cars or any of that
19 because that just wasn't the case.

20 Q. And, what, if anything, did you discuss with Robert
21 Morgalo with respect to that advance from the company?

22 A. Well, "We have to figure it out. You know, we have the
23 money for the next year day, so we can't not pay the Apollo
24 who we owe money to."

25 So, we just divided what we had to pay to be able to

1 move forward with next year.

2 Q. By January 18th or whenever this party was, how much do
3 you estimate the outstanding debt of Martínez & Morgalo to
4 be... to have been?

5 A. You know, right now, my recollection of a number is...
6 so much time has passed. I guess things trigger, and I always
7 remember, like "Oh, yeah, we owed him too. Oh, yeah."

8 Q. A rough estimate?

9 A. Two hundred thousand dollars probably (phonetic).

10 Q. When was the last time that you heard from Robert
11 Morgalo before the May 3rd show in Puerto Rico?

12 A. You know, when Robert called, it would either be early
13 in the morning or late at night.

14 Q. By this time, he was already in Iraq, to your knowledge?

15 A. I don't know where he was, but... you know... he said he
16 was deployed. Myself, I had gone through a massive depression,
17 not knowing what to do, scared, nervous, embarrassed. I
18 felt... you know... just not knowing what to do.

19 Q. So, do you recall a last conversation before the May
20 3rd...

21 A. The last one I probably wouldn't be able to remember,
22 but I remember... you know... Robert's going to be all
23 right... you know... we'll get through this... you know...
24 things of that nature, thinking things would go well
25 (phonetic).

1 Q. Do you know if he had access to the accounts...

2 A. Yes.

3 Q. ... remotely from wherever he was, to the Martínez &
4 Morgalo and bank accounts?

5 A. Yes, yes. He also had a bank card.

6 Q. I'm sorry?

7 A. He also had a bank card.

8 Q. What is a bank card?

9 A. An ATM card.

10 Q. Does Martínez & Morgalo Associates owe money to this day
11 to people?

12 A. Yes.

13 Q. When you... those conversations that you were having
14 with Mr. Robert Morgalo after he was deployed were in the year
15 2003, correct?

16 A. Yes.

17 Q. And, did you specifically discuss the Siembra funds
18 during that time frame, after January of 2003?

19 A. A lot of phone calls were "How's Rubén? Did he come? He
20 hasn't sent the money?", things of that nature, so, yes.

21 Q. Who else, at the office, knew about this situation that
22 Martínez & Morgalo was confronting of having to use money from
23 the Siembra Concert to pay other debts?

24 A. Myself, Robert and George Lenovitch (phonetic).

25 Q. Who was George Lenovitch?

1 A. George worked with us. He handled a lot of the
2 marketing. He wasn't a partner, but was very much involved in
3 everything. He was in the office. When I say "office", he was
4 in the immediate office. Like we didn't have private offices.
5 Accounting and the Receptionist had one side, and then there
6 was one office that (unintelligible), and George was in that
7 office with us.

8 Q. What, if anything, happened to Mr. George Lenovitch?

9 A. He jumped ship. He sw... you know... in hindsight now, I
10 see he saw things were going (unintelligible).

11 Q. He left the company?

12 A. Yes.

13 Q. Did you answer who did Martínez & Morgalo owe money to
14 as of January... as of 2003, as of March of 2003?

15 A. Yeah, radio stations, Omega, *Radio Vatho* (phonetic),
16 *Latino Mix*, *El Diario Newspaper*, Amy Rhostatter (phonetic),
17 rent, the Apollo Theater, Ingesto Ramirez.

18 Q. And, Robert Morgalo was aware of all those debts?

19 A. Oh, yes.

20 Q. And, Mr. Martínez, there came a time, before the concert
21 happened, where you attempted to take your life, correct?

22 A. Correct.

23 Q. When did that happen?

24 A. There were two, separate episodes. The one I recall more
25 was right before the concert, days leading up to the concert

1 (phonetic).

2 Q. Did Robert Morgalo come to find this out?

3 A. Yes, he did.

4 Q. How did he know?

5 A. When I came through, my brother told me my wife at the
6 time told him (phonetic), which I really don't think that...

7 MR. FRONTERA-SUAU: Your Honor, hearsay. He's going
8 to say what the brother and his wife told him.

9 THE COURT: Yeah, sustained.

10 BY MS. GONZÁLEZ-ROBINSON:

11 Q. Did you talk to him after you came back from your
12 hospitalization?

13 A. That time was really a blur.

14 Q. What, if anything, did you feel about Mr. Morgalo at
15 that time?

16 A. He left me hanging.

17 Q. Did you have an opportunity to speak with Mr. Blades,
18 after the May 3rd event, to talk about what you're testifying
19 to today, in Court, with respect to the Siembra Concert?

20 A. Yes.

21 Q. Where was this meeting?

22 A. It was at Juan Toro's office, the DME offices.

23 Q. And, how did it... how was it coordinated... the
24 meeting?

25 A. I had been speaking with Juan, and I wanted to... I

1 guess a little too late... but explain the situation to Rubén,
2 ready to take whatever punishment was coming along with it. I
3 just wanted to track the money (phonetic).

4 Q. Did you, in fact, speak with Mr. Blades?

5 A. Yes.

6 Q. What, if anything, did you tell him?

7 A. That I was sorry, that nothing was done maliciously. I
8 know that things kind of... it's weird to say... but that
9 there was nothing done with an intent to do harm.

10 Q. Did you explain to him the extent of Mr. Robert
11 Morgalo's participation in the diversion of funds?

12 A. Yeah, I explained that it was on both parts. You know,
13 as a company, we made the decision.

14 Q. Did you clarify, for Mr. Blades, the issue of the sixty-
15 two thousand, five hundred dollars that had been paid for a
16 different show?

17 A. At that point, there was so many questions, papers and
18 things. What really stands out about that meeting was just
19 questions more to the extent of why, and... you know... where
20 did this go, and... you know... like why.

21 Q. Subsequent to that meeting, did Mr. Ruben Blades take
22 any action against you?

23 A. No.

24 Q. Did he tell you he intended to take action against any
25 of the two of you, you and Robert Morgalo?

1 A. No.

2 Q. Mr. Martínez, you were incarcerated in 2003, correct?

3 A. August 22, 2003.

4 Q. And, can you tell the Court what that offense was?

5 A. Yes, I was convicted, in the State of Georgia, for
6 trafficking drugs.

7 Q. What was the circumstances of that offense? What were
8 you specifically charged with?

9 A. My charge was trafficking cocaine. I was sentenced to
10 fifteen years in the State of Georgia. I was bringing in half
11 a 'kilo' of cocaine. I was...

12 Q. From where?

13 A. From Panama. I was attempting to win my name back and go
14 away (phonetic), win money back to try and pay back the
15 tremendous debt.

16 Q. To Mr. Blades?

17 A. To Mr. Blades, to Mr. Colón, to people from the radio
18 stations, to anyone I could... desperation. I'm not condoning
19 it at all or even excusing myself, but I was just trying to do
20 something.

21 Q. And, you pled guilty to that offense?

22 A. I pled guilty.

23 Q. You didn't have a trial?

24 A. I did not have a trial.

25 Q. And, you served how many years for that offense?

1 A. Out of fifteen years, I served five years, two months,
2 and two days.

3 Q. Were you released on parole?

4 A. Yes, I was.

5 Q. How many hearings did you have to go through to get
6 parole?

7 A. I was paroled on the first time. I'm currently on
8 parole. I've been on parole since October of 2008. I have not
9 had one violation. I have not had one... anything more,
10 exemplary record, permission to travel to do my work.

11 Q. While you were incarcerated, did you hear from Mr.
12 Morgalo at any time?

13 A. Yeah, I received a letter from Robert.

14 MS. GONZÁLEZ-ROBINSON: I'm going to ask you to
15 show the Witness what has been marked as I.D. C for the
16 Defense.

17 MR. FRONTERA-SUAU: Can we see it?

18 THE COURT: Go ahead.

19 MR. FRONTERA-SUAU: We don't have a copy of that.
20 Can we...

21 MS. GONZÁLEZ-ROBINSON: Yes.

22 BY MS. GONZÁLEZ-ROBINSON:

23 Q. I'll ask you to take a look at I.D. C, and tell me if
24 you know what that is?

25 (Revision of document by Witness.)

1 BY MS. GONZÁLEZ-ROBINSON:

2 Q. Do you recognize I.D. C?

3 A. Yes.

4 Q. What do you recognize it to be?

5 A. A letter that I received from Robert.

6 Q. Do you... are you familiar with the handwriting of this
7 letter?

8 A. Yes.

9 Q. Whose handwriting is it?

10 A. Robert Morgalo.

11 Q. How do you know his handwriting?

12 A. I worked with him so many years, and I just recognize
13 it, all the paperwork we've done together. It's his
14 handwriting.

15 Q. Prior to the three years that you worked with Robert
16 Morgalo, at Martínez & Morgalo, how long did you work together
17 at David Maldonado Entertainment?

18 A. About two years.

19 Q. Did you have a chance to see his handwriting?

20 A. Yes.

21 Q. Did you read letters written by him?

22 A. Yes.

23 Q. Is this letter addressed to you?

24 A. Yes.

25 Q. Do you recognize the signature on page three?

1 A. Yes.

2 Q. Who do you recognize that signature to be?

3 A. Robert Morgalo.

4 MS. GONZÁLEZ-ROBINSON: Your Honor, I ask that this
5 I.D. C be admitted into evidence as Exhibit 8.

6 THE COURT: Any objection?

7 MR. FRONTERA-SUAU: No objection.

8 THE COURT: Okay, so admitted.

9 (Whereupon,

10 the above-mentioned document was admitted into
11 evidence as Defendant Exhibit 8.)

12 BY MS. GONZÁLEZ-ROBINSON:

13 Q. Do you recall when the letter was received by you,
14 approximately?

15 A. It had to have been between August, 2002...

16 Q. 2003?

17 A. ... I'm sorry, 2003... and January, 2004.

18 Q. How do you know that it had to be between those two
19 specific dates?

20 A. Because, at that time, I was at the Dayton County Jail
21 (phonetic), and that's where I had the letter notarized and
22 sent back to him.

23 Q. When you said "I had the letter notarized and sent back"
24 to Robert Morgalo, are referring to a request that you
25 received in this... through this Exhibit 8?

1 A. Yes.

2 Q. And, this letter states that Mr. Morgalo is still in
3 Iraq, correct?

4 A. Yes.

5 Q. What is it that he's asking you to do in this letter?

6 A. He asked for a letter giving him full... giving him my
7 shares of the company. Along with this letter, whenever I
8 would call home, I would also get messages through my wife
9 that he had talked to my wife.

10 Q. Robert Morgalo was talking to your wife?

11 A. Correct, Robert Morgalo was contacting my wife, and
12 asking for a letter me giving up my shares in the company.

13 MR. FRONTERA-SUAU: Your Honor, if he's going to
14 talk about the content of the document that he notarized, I
15 would ask that it be presented as evidence in Court. Because
16 it is part of this document that is attached to it, and he's
17 going to talk about the contents of the document that he
18 notarized.

19 THE COURT: Okay, so that's sustained. If he's
20 going to talk about the content of the attachment, that needs
21 to be introduced into evidence also.

22 MS. GONZÁLEZ-ROBINSON: No, there's no attachment
23 to this letter, Your Honor. He's testifying as to what he did
24 in response to receiving this letter.

25 THE COURT: Okay, he can do that. But, if he's

1 talking about the content of another document that's not in
2 evidence, that's where we'll draw the line.

3 BY MS. GONZÁLEZ-ROBINSON:

4 Q. So, what is Mr. Morgalo asking for in this letter of
5 you?

6 A. He's asking for a letter rescinding my involvement in
7 the company, and giving him full shares of the company.

8 Q. So, your forty-nine percent?

9 A. Correct.

10 Q. Is that what he talks about in page number two, when he
11 says "I am still waiting on that notarized letter."?

12 A. Yes.

13 Q. And, then he says "Without your help in sending this to
14 me, I cannot resolve this issue with Ruben Blades."?

15 A. Yes.

16 Q. So, by this time, he knew about the issue with Ruben
17 Blades, correct?

18 A. Yes.

19 Q. And, this talks about wanting to take yet another loan
20 with the SBA, which is the Small Business Administration,
21 correct?

22 A. Correct.

23 Q. What was... what, if anything, did you do after you got
24 this letter?

25 A. I went ahead and I wrote a letter. I got it notarized

1 because I didn't want nothing to do with it anymore.

2 Q. With Martínez & Morgalo?

3 A. Correct.

4 Q. You got it notarized at the County Jail?

5 A. Correct.

6 Q. There was a Notary service there?

7 A. Correct... well, what happens is that, when you write a
8 letter and you need it notarized, they take you to the lower
9 library, get it notarized, legal documents, whatever you're
10 going to... if you have a case pending or something like that,
11 and they go ahead and notarize it for you.

12 Q. Who did you send the letter to?

13 A. I sent it to Robert.

14 Q. Where did you send it to?

15 A. He was living in... I sent it to his home address. I
16 believe he was living in Pennsylvania.

17 Q. So, you don't think he was living in Iraq when he sent
18 this letter?

19 A. You know, I have my doubts with everything (phonetic).

20 Q. Do you know if he got your letter?

21 A. I don't believe there was any other contact after that.

22 Q. In the third page of this letter, right before signing
23 it, he says "Again, I hope you are doing well. I wish the best
24 for you. Remember that you are my friend, and I am yours.
25 Nothing will change that.", do you believe that?

1 A. Not at all.

2 Q. How did you feel about getting this letter from Mr.
3 Morgalo?

4 A. I guess I was kind of torn because we had gone through a
5 lot. So...

6 Q. Did you consider him a friend before all this happened?

7 A. Before this happened, yes.

8 Q. Do you... did you believe that he was taking care of the
9 situation with Ruben Blades, that he had contacted Ruben
10 Blades to take care of the situation?

11 A. At that point, I could only take his word for it. I
12 thought he was trying to save himself.

13 Q. Are you working now, Mr. Martínez?

14 A. Yes, I am.

15 Q. Where are you working?

16 A. I work for the Relentless Agency.

17 Q. How long have you been working at the Relentless Agency?

18 A. Since 2008.

19 Q. When you were released on parole?

20 A. Correct.

21 Q. What is your title or position at the Relentless Agency?

22 A. I do work in bookings, I do road work, I do...

23 Q. You're an agent?

24 A. Yes.

25 Q. Who's your Supervisor?

1 A. Juan Toro.

2 Q. Have you worked on any other Ruben Blades' shows since
3 you started working at the Relentless Agency, in 2008?

4 A. I... in Miami, I went ahead and worked doing some
5 transportation work. As far as booking shows, no.

6 Q. When you spoke with Mr. Blades at Juan Toro's office to
7 explain the situation for the first time, did you tell him not
8 to speak about this to anyone else?

9 A. At that point, I was just ready for what came... you
10 know.

11 Q. You were prepared for him stepping out, and publically
12 talking about what had happened to the funds?

13 A. Yes, I knew it was coming. I didn't want it to happen,
14 but I knew it was coming.

15 Q. And, you didn't specifically preclude him from making
16 statements about the mismanagement of the funds or him not
17 being paid the artist fee for the Siembra Concert?

18 A. I was in no position to make any demands or requests at
19 that point.

20 Q. And, when Mr. Morgalo left the company, he left you in
21 charge, correct?

22 A. Yes.

23 MS. GONZÁLEZ-ROBINSON: No further questions.

24 THE COURT: Okay, any Cross?

25 MR. FRONTERA-SUAU: Yes, Your Honor.

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CROSS EXAMINATION

BY MR. FRONTERA-SUAU:

Q. Good afternoon, Mr. Martínez.

A. How are you?

Q. Fine. Now, you testified that Mr. Robert Morgalo, after he was deployed to military services, had access to the accounts. Is that right?

A. Yes.

Q. Do you remember giving testimony here, in the Default Hearings against Martínez & Morgalo, Mr. Martínez?

A. Yeah.

Q. Do you remember testifying, during those hearings, that Mr. Robert Morgalo had no access to the accounts of the corporation?

A. No, I don't.

Q. No. I'm going to show you page one, eighty-two of the Default Hearings.

MR. FRONTERA-SUAU: May I approach?

THE COURT: Yes, you may.

BY MR. FRONTERA-SUAU:

Q. Page one, eighty-two, lines six to nine, and I'm going to read it to you. You stated there:

"Again, I don't remember, but, if they were sent, I would have sent them."

"You know so to be exact (phonetic)?"

1 "If they were sent, because Robert was away, so he
2 had no access to that, to the accounts, and sending any
3 money.".

4 That was your testimony in the Default Hearings. Is
5 that right?

6 A. Uh huh, yes.

7 Q. So, you said... you stated, in the Default Hearings
8 here, that "Robert was away, and he had no access to the
9 accounts." or the money, the sent money. Is that right?

10 A. No, it's not.

11 Q. It's not?

12 A. I'm stating that in the context of him... excuse me, the
13 paper... I'm stating that in the context that he did not have
14 to send the money, the deposits that came in.

15 Q. You stated he had no access to the accounts there. Is
16 that right? You stated that, "yes" or "no"?

17 A. That's not in the context that I meant (phonetic).

18 Q. No, okay.

19 A. That was in the context that, if it was sent, I would be
20 the one that would have sent it.

21 Q. Now, the truth is that Mr. Morgalo had been in the
22 military way before he was deployed to Iraq. Is that right?

23 A. Correct.

24 Q. And, that he did not get into the military in order to
25 get grants or loans. Is that right?

1 MS. GONZÁLEZ-ROBINSON: Objection, speculation.

2 BY MR. FRONTERA-SUAU:

3 Q. Is that right?

4 THE COURT: Overruled.

5 A. He was in the Reserves, and it was always stated that he
6 was going to join to apply for active duty. So, that's...

7 BY MR. FRONTERA-SUAU:

8 Q. So he could get grants?

9 A. Correct.

10 Q. Okay, do you remember your testimony here, in the
11 Default Hearings, at page one, seventy-nine? You were asked,
12 by Ms. Pamela González, Attorney Pamela González:

13 "When did you find out that Robert Morgalo was
14 leaving for the military?"

15 "Right before, right before. Robert was leaving, and
16 he was... how could I say... he was determined that he'd
17 be going, and he would try to get some grants so we could
18 try to fix things, and I would get a break in doing
19 this."

20 And, then you were asked, by Ms. González:

21 "And, he did join the military to get grants?"

22 And, you stated:

23 "No, no, no, not at all. He was in the military. He
24 was in the National Guard, I believe. So, he would go on
25 deployment like ever now and then for weekends."

1 That was your testimony. Is that right?

2 A. Yes.

3 Q. Yes. Now, in the deposition that was taken of you in
4 Georgia, in the penitentiary in Georgia, the truth is, Mr.
5 Martínez, that you do not remember the alleged first payment
6 made by the promoters, from Puerto Rico, for the Siembra
7 Concert. Is that right?

8 A. The truth is... can you repeat the question?

9 Q. That you do not remember the first payment made by the
10 Puerto Rico promoters for the Siembra Concert?

11 A. The first payment, like I said, the deal was done with
12 Robert Morgalo. As far as him getting the payment and when he
13 got it, when we got it, where we got it, if you're asking me
14 if I remember the date, I don't remember the date. Do I
15 remember us receiving that payment? Yes.

16 Q. During your deposition that was taken in Georgia, at
17 page seventy-six and seventy-seven, you were asked:

18 "What steps did Roberto Morgalo take with respect to
19 the money that was deposited by the Puerto Rican
20 promoters?"

21 And, you stated:

22 "Well, like I say, I don't remember that first
23 payment, so I can't say that."

24 That was your testimony. Is that right

25 A. I don't remember when we got that first payment.

1 Q. You don't remember the first payment?

2 A. When? I don't remember when we got it.

3 Q. That's not what you said in the deposition. You stated
4 that you didn't remember that first payment, so you can't...
5 could not say anything about it. Is that right?

6 A. No.

7 MS. GONZÁLEZ-ROBINSON: Objection.

8 THE COURT: Yeah, overruled.

9 BY MR. FRONTERA-SUAU:

10 Q. No, okay. Now, Mr. Martínez, your deposition in Georgia
11 was around April, 2008. Is that right?

12 A. April, 2008?

13 Q. Uh huh.

14 MR. FRONTERA-SUAU: Can we stipulate the date?

15 MS. GONZÁLEZ-ROBINSON: I'm sorry?

16 MR. FRONTERA-SUAU: The date of the deposition, in
17 Georgia, April 22, 2008?

18 MS. GONZÁLEZ-ROBINSON: Absolutely, on or about
19 that time. It was in connection with the Colón one (phonetic).

20 BY MR. FRONTERA-SUAU:

21 Q. You received a visit from Mr. Juan Toro, at the
22 penitentiary, several days after the deposition. Is that
23 right?

24 A. I received... I'm trying to remember if it was 2008. I
25 don't remember when I received a visit from Juan, but I did

1 receive a visit from Juan Toro.

2 Q. You received a visit from Juan Toro, and you listed Juan
3 Toro as your employer. Is that right?

4 A. Yes.

5 Q. But, he was not your employer at that time?

6 A. No.

7 Q. No. Had he offered you a job when he visited you?

8 A. He offered me a job in August of... the first time... in
9 November, when I first got locked up, he told me "When you
10 come home, you're going to be all right."

11 Q. Why did you list him as your employer?

12 A. Because, even when I was working with Martínez &
13 Morgalo, I always had the utmost respect for Juan. I
14 considered him a mentor, a backer of mine. More important, I
15 considered him a friend of mine.

16 Q. But, he was not your employer at that time?

17 A. No.

18 Q. Now...

19 A. The Department of Corrections was my employer.

20 Q. Do you remember Martínez & Morgalo Associates receiving
21 one hundred thousand dollars around December, 2002, December
22 18, 2002?

23 A. From?

24 Q. From Civic Capital Corporation.

25 A. Capital Venture, correct.

1 Q. You received one hundred thousand dollars?

2 A. Correct.

3 Q. Do you remember Martínez & Morgalo Associates receiving
4 one hundred and forty-nine thousand, nine hundred and seventy
5 dollars, from Prestige Capital, in December, 2002?

6 A. It was... I don't think it was... I don't remember if...

7 Q. It could have been?

8 A. **NO AUDIBLE RESPONSE FROM WITNESS.**

9 Q. If I show you a document, can you remember?

10 A. That I received both of them?

11 Q. Yes.

12 A. Yes, show me because I don't remember.

13 MR. FRONTERA-SUAU: May I approach?

14 THE COURT: Yes, you may.

15 A. You're showing me a document or a computer?

16 BY MR. FRONTERA-SUAU:

17 Q. A document from your computer.

18 A. Okay.

19 Q. First, that you identified Prestige Capital. J.P. Morgan
20 Chase, one hundred thousand, from Civic Capital Corporation to
21 Martínez & Morgalo. That's the one that you testified about
22 that you remember.

23 A. That was one of them. I don't remember two of them.

24 Q. And, now that I show you this document from J.P. Morgan,
25 one hundred and forty-nine thousand, nine hundred and seventy,

1 Prestige Capital to Martínez & Morgalo?

2 A. I still don't remember two of them.

3 Q. Does that help you?

4 A. Not really.

5 Q. No. But, it could have happened? You could have received
6 it?

7 MR. CORRETJER-REYES: Objection, Your Honor, asked
8 and answered.

9 THE COURT: Sustained.

10 BY MR. FRONTERA-SUAU:

11 Q. Do you remember, in November, receiving fifty thousand
12 dollars from Chivas Regal, in November, 2002?

13 THE COURT: I'm sorry, from whom?

14 A. That's very likely.

15 BY MR. FRONTERA-SUAU:

16 Q. And, do you remember receiving fifty thousand dollars,
17 in November, 2002, from Pernod Ricard USA?

18 A. They're the same company.

19 Q. Now, you gave access, to Mr. Juan Toro, to the account
20 of Martínez & Morgalo Associates right before or after the
21 concert of May 3, 2003. Is that right?

22 A. Correct.

23 Q. And, at that point, you didn't know how much money was
24 in the Martínez & Morgalo Associates' account. Is that right?

25 A. Correct.

1 Q. So, you didn't know... you don't know how much money
2 Juan Toro took out at that point in time. Is that right?

3 A. Correct.

4 Q. Do you remember sending two payments of fifty thousand
5 dollars to Mr. Ruben Blades, in December, 2002, two payments
6 of twenty-five thousand dollars each, amounting to fifty
7 thousand, in December, 2002?

8 A. In December, 2002?

9 Q. Yes.

10 A. December, it could have been Robert as well.

11 Q. Do you remember Martínez & Morgalo Associates sending,
12 to Ruben Blades Productions, two payments of twenty-five
13 thousand dollars each?

14 A. You're asking me if I remember personally doing it? No,
15 I don't.

16 Q. If I show you some documents, could it help you
17 remember?

18 A. If it shows that I sent it, yeah, but I can't tell you
19 if it was myself or Robert.

20 Q. I'm showing you two documents. Do you recognize those
21 documents, Mr. Martínez?

22 A. Uh huh.

23 Q. Do you recognize those documents?

24 A. Uh huh.

25 Q. What are those documents?

1 A. This looks like they are...

2 Q. When you say "Uh huh", what do you mean?

3 A. Yes. I'm sorry, I'm sorry.

4 Q. Okay.

5 A. Yes, I do. They look like they came from the bank, and
6 there would be receipts of debits from the account.

7 Q. From what account?

8 A. From Chase, J.P. Morgan Chase.

9 Q. And, to which do those accounts belong?

10 A. To Ruben Blades Productions.

11 Q. So, you say that those are...

12 A. They would be from Martínez & Morgalo Associates to
13 Ruben Blades, and that's it.

14 Q. So, it would be a payment from Martínez & Morgalo
15 Associates' bank account, at Chase, at J.P. Morgan, to Ruben
16 Blades Productions. Is that right?

17 A. Yes.

18 MR. FRONTERA-SUAU: Your Honor, I would ask that
19 this be admitted as Exhibit 8 and 9 of Plaintiff.

20 THE COURT: Any objection?

21 MS. GONZÁLEZ-ROBINSON: We object to that it has
22 not been established what the payments were for.

23 THE COURT: Well, you're correct in that. But, it's
24 not a ground for objection. All right.

25 MR. FRONTERA-SUAU: So, we're going to mark, as

1 Exhibit 8...

2 THE COURT: They're admitted.

3 (Whereupon,

4 the above-mentioned documents were admitted into
5 evidence as Plaintiff Exhibits 9 and 10.)

6 MR. FRONTERA-SUAU: ... and 9.

7 UNIDENTIFIED SPEAKER: 9 and 10.

8 MR. FRONTERA-SUAU: 9 and 10? I'm sorry, Your
9 Honor.

10 MR. FRONTERA-SUAU: We don't have any further
11 questions, Your Honor.

12 MS. GONZÁLEZ-ROBINSON: May I have Exhibits 9 and
13 10?

14 THE COURT: Yes.

15 MS. GONZÁLEZ-ROBINSON: May I show the Witness,
16 Your Honor?

17 THE COURT: Yes, you may.

18 **REDIRECT EXAMINATION**

19 BY MS. GONZÁLEZ-ROBINSON:

20 Q. Mr. Martínez, I'm showing you what has been marked as
21 Exhibits 9 and 10. Do those two documents show what those
22 payments are for?

23 A. They do not.

24 Q. Do they show...

25 A. No, they do not. I'm sorry.

1 Q. Do they show if Ruben Blades received those funds?

2 A. No, it does not.

3 Q. To what account was it sent, the two payments?

4 A. Ruben Blades Productions, Inc., L.A., to an L.A. bank,
5 but...

6 Q. Did Mr. Blades have an L.A. bank that he received money
7 from Martínez & Morgalo?

8 A. I don't even remember a Ruben Blades Productions, Inc.
9 L.A.

10 Q. Where were the payments that Martínez & Morgalo received
11 on behalf of shows for Ruben Blades sent to in the regular
12 course of business?

13 A. To my recollection, to a bank in New York or to his
14 Accountant, Jerry Shustick, who was in New York, but then went
15 to Massachusetts. So, I don't remember ever sending this. It
16 just might be the Bank of America...

17 Q. And, you do not know if Mr. Blades received money,
18 according to those?

19 A. No, according to this, it says... you know... I'm just
20 going by what this says. But, do I have any recollection of
21 this? Not at all.

22 Q. Okay, by the date on those two checks, how much money
23 was owed to Ruben Blades for the Siembra show?

24 A. By the date of?

25 Q. Of those two Exhibits 9 and 10.

1 A. These are showing dates of February, 2010.

2 MR. FRONTERA-SUAU: No, Your Honor, it's the
3 date...

4 A. I don't see any other date. If you point it out to me,
5 I'd be glad to see it, but I don't... I do not see any other
6 date, except this one up here. If you find another date,
7 please point it out.

8 MS. GONZÁLEZ-ROBINSON: To clarify for the record,
9 these say "02/12/10".

10 THE COURT: Let me see them.

11 MS. GONZÁLEZ-ROBINSON: Unless it's...

12 MR. FRONTERA-SUAU: Can we approach, Your Honor?

13 MS. GONZÁLEZ-ROBINSON: ... it's October of '02.

14 **(INAUDIBLE BENCH CONFERENCE.)**

15 BY MS. GONZÁLEZ-ROBINSON:

16 Q. On October of 2002, was Ruben Blades owed money for
17 shows other than Siembra, to your recollection?

18 MR. FRONTERA-SUAU: Your Honor, that wasn't part of
19 the...

20 THE COURT: Overruled.

21 A. October, 2002? We had just done some shows, so it's
22 possible they were the Santo Domingo shows.

23 BY MS. GONZÁLEZ-ROBINSON:

24 Q. What show did you do in Santo Domingo with Ruben Blades?

25 MR. FRONTERA-SUAU: Your Honor, that was not part

1 of...

2 THE COURT: Overruled.

3 MR. FRONTERA-SUAU: ... of the Direct or the...

4 THE COURT: Overruled.

5 A. It was (unintelligible) show where it was Tony Rosario,
6 Ruben Blades and Gilberto Santa Rosa, and there was a show in
7 *La Fortaleza* also with Ruben Blades, Sergio Vargas, Raymond
8 (unintelligible) and (unintelligible).

9 BY MS. GONZÁLEZ-ROBINSON:

10 Q. Those are... those were booked through Martínez &
11 Morgalo?

12 A. Yes, of course.

13 Q. And, performed by Ruben Blades?

14 A. Correct.

15 Q. Both in 2002?

16 A. Correct.

17 Q. Do you know the amounts that he charged for each show,
18 each of those two shows?

19 A. I believe one was for one hundred thousand dollars,
20 and...sorry, I don't remember the other one.

21 Q. Who negotiated those two shows?

22 A. Robert Morgalo.

23 Q. Why did you give Juan Toro access to the Martínez &
24 Morgalo account, after the Siembra show?

25 A. I was hospitalized. I was told that Rubén needed

1 anything that was there already.

2 Q. Why were you told that? What, if any reason, was given
3 for why Ruben Blades needed anything that was left in the
4 account?

5 A. To pay the band and expenses related to the show.

6 Q. So, what information did you give Juan Toro?

7 A. I gave him the bank code.

8 Q. So that he could withdraw the money to give to Ruben
9 Blades?

10 A. Correct.

11 Q. Do you know if he did that?

12 A. Well, just from... he told me he did, and my wife told
13 me he did, and Rubén stated it.

14 Q. Do you know, approximately, what residual amount was
15 left in the Martínez & Morgalo account?

16 A. I don't remember.

17 Q. Was it more than fifty thousand dollars?

18 A. No.

19 Q. When you said that you did not remember when the sixty-
20 two thousand, five hundred dollar deposit came in, you
21 testified you remember it did come in?

22 A. I remember us getting it. As far as what I don't
23 remember is the time frame we got it, and when we got it.

24 Q. Why did you not know exactly the date when it got in?

25 A. A lot of the things... like I said, Robert was still

1 there. It was just a split, and it was just common knowledge,
2 that came in, this was brought in. Ariel was a client of
3 Robert's.

4 At that point, I didn't have any dealings too much
5 with Ariel.

6 Q. So, Morgalo dealt with the payment of the sixty-two
7 thousand, five hundred?

8 A. Correct, correct.

9 MS. GONZÁLEZ-ROBINSON: That's all I have, Your
10 Honor.

11 THE COURT: All right.

12 MR. FRONTERA-SUAU: No further questions, Your
13 Honor.

14 THE COURT: Okay, thank you, sir. You may step
15 down.

16 (Witness is excused.)

17 THE COURT: Does the Defense have any other
18 witnesses?

19 MS. GONZÁLEZ-ROBINSON: We have one more Witness,
20 Your Honor.

21 THE COURT: Okay.

22 MS. GONZÁLEZ-ROBINSON: We call Juan Toro.

23 THE COURT: We'll go till about five, thirty today.

24 MS. GONZÁLEZ-ROBINSON: It's going to be a short
25 Direct.

1 THE COURT: All right.

2 COURTROOM DEPUTY: Sir, please raise your right
3 hand. Do you solemnly swear that all the testimony you're
4 about to give in the case now before the Court will be the
5 truth, the whole truth, and nothing but the truth, so help you
6 God?

7 WITNESS: Yes.

8 COURTROOM DEPUTY: Thank you. Have a seat.

9 (Whereupon,

10 **MR. JUAN TORO**

11 after having been duly sworn, was examined, testified upon his
12 oath as follows:)

13 **DIRECT EXAMINATION**

14 BY MS. GONZÁLEZ-ROBINSON:

15 Q. Can you please state your full name?

16 A. Juan Toro.

17 Q. Mr. Toro, where do you live?

18 A. In New York City. Do you need the exact address?

19 Q. No.

20 A. Okay.

21 Q. Where do you work at?

22 A. In New York, at the Relentless Agency.

23 Q. How long have you worked at the Relentless Agency?

24 A. The actual agency was formed in 2003.

25 Q. Do you have any ownership in the Relentless Agency?

1 A. Yes, yes, I'm the owner, the sole owner.

2 Q. And, you testified it was created in what year? I'm
3 sorry.

4 A. 2003.

5 Q. What does the Relentless Agency do?

6 A. Consulting, booking, management, a few event
7 productions, but few, and some theater production as well.

8 Q. So, it's part of the entertainment industry?

9 A. Yes, correct.

10 Q. Prior to working... to forming the Relentless Agency,
11 where did you work at?

12 A. I was at DME, David Maldonado Entertainment.

13 Q. How long did you work at DME?

14 A. Wow, that's a tough one because we did change the
15 corporation a few times, but about maybe ten years, twelve
16 years, in that corporation. And, then, prior to that, another
17 ten, twelve, in the other company.

18 Q. What other company?

19 A. It was DMM, the same partners, the same people involved
20 in the company, just a different corporate name (phonetic).

21 Q. So, in total, how long have you been in the music
22 industry, working in the music industry?

23 A. Probably, now, thirty-nine years, close to thirty-nine
24 years.

25 Q. Did you also work with RMM or Ralph Mercado Management?

1 A. Yes, yes, I did.

2 Q. For how long did you work there?

3 A. About seven years.

4 Q. And, what acts were represented by RMM?

5 A. That's a tricky one. By RMM, Celia Cruz, 'Tito' Puente,
6 Tony Vega, Johnny Rivera, 'Tito' Nieves, mostly tropical acts.

7 Q. How about DME, what artists were represented?

8 A. We represented Marc Anthony, Rubén, Gilberto Santa Rosa,
9 several artists.

10 Q. What artists does the Relentless Agency represent
11 currently?

12 A. Currently, Rubén, Don Omar, Wisin & Yandel, again,
13 several.

14 Q. So, would you say it's accurate to say that the
15 Relentless Agency is a branch out of... a branch off of DME?

16 A. Yeah, I guess.

17 Q. Do you still collaborate with David Maldonado?

18 A. Yes, I do, yeah, and we are partners in other ventures.

19 Q. And, what is your educational background?

20 A. College educated.

21 Q. How long have you known Mr. Ruben Blades?

22 A. About thirty-nine years.

23 Q. Mr. Blades did bookings through DME?

24 A. Yes.

25 Q. How long have you known... or do you know Robert

1 Morgalo?

2 A. Yes, I do.

3 Q. How do you know Robert Morgalo?

4 A. Robert worked with us at DME for a few years, and also
5 DMM before we changed and moved (phonetic).

6 Q. Were you Robert Morgalo superior at DME?

7 A. Yeah, I guess you can call it that.

8 Q. So, you supervised his duties?

9 A. Yeah, you can call it that.

10 Q. What were Mr. Morgalo's duties while... in what capacity
11 did Mr. Morgalo work at DME?

12 A. He was also an agent. He came in as an agent.

13 Q. So, what were his duties as an agent?

14 A. He would book talent. He would book some of the acts
15 that we had in the office.

16 Q. How long did Mr. Morgalo work at DME?

17 A. Well, I couldn't say. I wouldn't... I'm not good with
18 that one because it was on and off.

19 Q. He left the company?

20 A. Yes.

21 Q. How many times?

22 A. I believe twice, maybe three times, twice, at least
23 twice. I know that much.

24 Q. But, he resigned from the company?

25 A. Yes.

1 Q. Why did he leave?

2 A. He was dissatisfied. He wasn't happy with what he felt
3 was his compensation. You know, he wasn't... I guess he didn't
4 feel satisfied with his position in the company.

5 Q. Did he express this to you?

6 A. Yeah, a few times, yes.

7 Q. How would you describe Mr. Morgalo's performance as an
8 agent at DME?

9 MR. FRONTERA-SUAU: Your Honor, relevance.

10 MS. GONZÁLEZ-ROBINSON: He was his Supervisor. He
11 knows Mr. Morgalo, and it goes to character. Character is an
12 essential element in a defamation Claim.

13 MR. FRONTERA-SUAU: Your Honor, defamation, we're
14 talking about a defamation *per se* Claim with respect to the
15 statements made by Mr. Ruben Blades. We're not talking about
16 the time that he was working with DME.

17 THE COURT: Sustained in the objection.

18 BY MS. GONZÁLEZ-ROBINSON:

19 Q. What, if anything, do you know... or you also know Mr.
20 Arturo Martínez?

21 A. Yes, absolutely.

22 Q. He worked also for you...

23 A. Yes.

24 Q. ... or under your supervision?

25 A. Correct.

1 Q. How long did Mr. Martínez work at DME?

2 A. Again, also it's hard to give you the exact time because
3 he was also on and off, and he left as well. He's now with me,
4 in the Relentless Agency.

5 Q. Were you surprised when Mr. Arturo Martínez and Mr.
6 Robert Morgalo decided to leave DME to form their own company?

7 A. Not so much Robert. I was surprised that Arturo left,
8 yeah.

9 Q. Why were you surprised?

10 A. With Arturo? I just... I didn't think he was
11 dissatisfied or that unhappy with the job.

12 Q. What, if anything, do you know about Martínez & Morgalo
13 Associates in the industry after it was formed?

14 A. Okay, well, let me... what do you mean what do I know?
15 What I heard or what I know of and what happened?

16 Q. Yes, what you know personally about the artists they
17 represented.

18 A. Well, I know they had, for a while... I mean they've had
19 some issues and problems because, I mean, I'm in the industry,
20 so I get... you know... people to talk to me.

21 MR. FRONTERA-SUAU: Your Honor, we're going to
22 object to this line of answers as hearsay. It's not his
23 personal knowledge. It's just what he heard.

24 THE COURT: Okay, sustained. Please limit the
25 questions to the Witness' personal knowledge.

1 BY MS. GONZÁLEZ-ROBINSON:

2 Q. Do you have personal knowledge of the concert held in
3 Puerto Rico, on May 3rd, to commemorate the Siembra album?

4 A. Yes.

5 Q. Between Ruben Blades and Willy Colón?

6 A. Yes, yes, I'm aware of it.

7 Q. What do you know about it?

8 A. Well, I know of it from when I got a phone call from
9 Ariel Rivas asking me to intervene, and we talked to Rubén
10 because I believe he read a statement in the press that the
11 concert wasn't going to happen.

12 And, he contacted me to contact Rubén, and ask him
13 why was he thinking that or saying that.

14 Q. Did you, in fact, contact Ruben Blades?

15 A. Yes, I did.

16 Q. And, you put Mr. Ruben Blades in contact with Mr. Ariel
17 Rivas?

18 A. As well, yes.

19 Q. And, what, if anything, did you learn was happening
20 around the time of that phone call?

21 A. Well, Rubén had told me that he wasn't... he hadn't
22 gotten paid for the event. And, I had spoken to Ariel Rivas,
23 and he told me "We sent all of the money, so it's impossible
24 that he couldn't have gotten paid."

25 And, he told me he had sent it to the company, the

1 representatives at the time, which was M&M, Martínez &
2 Morgalo. And, Rubén told me, one, "I haven't received
3 anything. I don't know what's going on.", and that's when I
4 put them together.

5 Q. Do you know where Mr. Arturo Martínez or Mr. Morgalo
6 were at the time?

7 A. Morgalo, no, no. Martínez, I reached out to him to find
8 out what was going on, and he did get back to me.

9 Q. So, how did you reach out to him, and what did you find
10 out about this?

11 A. I called him, and he told me that he didn't have the
12 money. They didn't have the money. They had used the money for
13 other things, to pay off other things, and he just didn't have
14 it.

15 Q. Were you informed about Robert Morgalo leaving the
16 United States or going to military duty?

17 A. No, no.

18 Q. You never got a call from Robert Morgalo?

19 A. Well, informed how? Because I mean he never told me. So,
20 I mean I found out, but he never told me.

21 Q. Did Robert Morgalo ever contact you about the Siembra
22 situation before the concert?

23 A. Before the concert, no. I wasn't even aware that the
24 concert was happening until I got the call from Ariel.

25 Q. When you found out about the concert and about what the

1 situation was with the management of the funds, did you ever
2 receive a call from Robert Morgalo trying to intervene on
3 behalf of... on his behalf with Ruben Blades?

4 A. No, not... you mean to talk to Rubén? No.

5 Q. Or to talk to you to try and...

6 A. They told me... I travel a lot. They told me he had
7 called a few times.

8 MR. FRONTERA-SUAU: Objection, Your Honor, hearsay.

9 THE COURT: Sustained.

10 A. The office told me that he had called.

11 BY MS. GONZÁLEZ-ROBINSON:

12 Q. Did he call you personally?

13 MR. FRONTERA-SUAU: Objection, Your Honor.

14 THE COURT: Overruled.

15 A. At the office. My secretary told me that he had called
16 and left a message.

17 BY MS. GONZÁLEZ-ROBINSON:

18 Q. But, you didn't speak to him?

19 A. I think I may have spoken to him once very briefly...
20 once very briefly.

21 Q. What was the substance of that conversation?

22 A. I think I basically just told him about what happened to
23 Arturo because he had asked me, and I told him Arturo had...
24 was in the hospital, and that he was awake, not all the things
25 that happened.

1 Q. Do you know approximately when this happened?

2 A. I can't remember. That one I can't. It was that one
3 conversation. It was a brief call. I believe he told me he was
4 away, that he wasn't in the country, and that was it. It was a
5 short conversation. It wasn't that long.

6 Q. So, you told him that Mr. Morgalo had attempted suicide?

7 A. Yes.

8 Q. Or Mr. Martínez. I'm sorry.

9 MR. FRONTERA-SUAU: Objection.

10 A. Yeah, I think I did. I told him that as well.

11 BY MS. GONZÁLEZ-ROBINSON:

12 Q. What was his reaction?

13 A. Well, I guess... I don't know. He was on the other side
14 of the phone, but he went like "Oh, wow..." you know... that
15 was it. I couldn't guess, but... you know... I did tell him.

16 Q. And, you were given access to the Martínez & Morgalo
17 account, correct, by Mr. Arturo Martínez, after the concert?

18 A. No, I wasn't given access. I believe his wife had...
19 well, actually, I know his wife had transferred the money to
20 my account, and I, in turn, transferred it to Rubén because he
21 had to pay the musicians and some... a bunch of expenses that
22 he had incurred.

23 Q. Do you know what amount was left over in that account?

24 A. Wow, that was so long ago. I have to say maybe forty-
25 something, fifty-something. I'm not really... I don't really

1 remember that well, but it was a decent chunk.

2 Q. When you learned, from the conversation with Arturo
3 Martínez and Ruben Blades at your office, about what had
4 happened with the Siembra Concert, were you surprised?

5 A. No.

6 Q. Why not?

7 A. Because I mean I already knew that they were having
8 problems because...

9 MR. FRONTERA-SUAU: Objection, Your Honor, hearsay.
10 She's not established the foundation for the question
11 (phonetic).

12 MS. GONZÁLEZ-ROBINSON: This is totally relevant to
13 the truth defense.

14 THE COURT: We'll see, we'll see. Go ahead and
15 answer the question.

16 A. No, I already knew because I knew they were having
17 problems. I, for one, had personally loaned Robert some money
18 because he needed to pay Rubén for an event.

19 And, I had given fifty thousand, in cash, and I
20 couldn't get it back. I called and called, and he would just
21 duck me. And, finally, I got him in... I ran into him in the
22 Apollo, and he was... he had an event at the Apollo. And, he
23 had promised me this money way before, and he kept telling me
24 "Oh, I have to wait for the factoring company (phonetic) to
25 send me the money. I promise you."

1 And, I found out, through another individual, that
2 he was paid.

3 MR. FRONTERA-SUAU: Objection, Your Honor.

4 THE COURT: Sustained, sustained, that part. Go
5 ahead.

6 BY MS. GONZÁLEZ-ROBINSON:

7 Q. How much money did you loan Robert Morgalo?

8 A. Fifty thousand dollars.

9 Q. When did you loan this money to him?

10 A. It had to be June or July.

11 Q. Of 2002?

12 A. 2002.

13 Q. How did you know this?

14 A. Because it was for an event. It was money that I
15 received for an event for an artist, and they had brought it
16 to me in cash. And, he had asked me to... he needed the money
17 real quick. He needed it right away, to clear right away
18 (phonetic).

19 Q. How did he ask you, in person or by phone?

20 A. Yeah, the phone, the phone. He called me a few times
21 because, at first, I didn't have the money. I was waiting for
22 it, and I had told I was getting the money. If I get it, I
23 will lend it to him. And, finally, when it did come in, I did
24 lend it to him.

25 Q. How did you give the money to him?

1 A. In cash.

2 Q. Did he pay you back that money?

3 A. No... well, sorry... he gave me back twenty thousand of
4 it. A few months later, I got it back.

5 Q. You got it back a few months later?

6 A. Yeah, about...

7 Q. Before December, 2002?

8 A. Yeah, yeah, it was in... I believe it was November
9 because I remember I had to call the artist who the money
10 belonged to, and tell him shamefully that I didn't have it,
11 and what I had done.

12 And, that was... I remember that. It was October,
13 but it was one of the hardest things I've ever had to do, to
14 tell someone that I had given the money that belonged to them.

15 And, I ended up paying him a week later out of my
16 money, but I needed to tell him that that's what I had done
17 because I was late with the money about a few days.

18 Q. Had you ever done that before?

19 A. No, not something purposely like that.

20 Q. Why did you make an exception for Robert Morgalo?

21 A. I knew Robert. He worked with us for many years. He
22 worked with me, and he said he needed it, and we were friends.
23 I mean he lived in my house.

24 Q. And, what did he need it for again?

25 A. To pay Rubén. He told me specifically he had until

1 Friday to pay Rubén or Rubén was not going to do an event that
2 he had. I don't recall the event, but he told me he wouldn't
3 do it, and he showed me an e-mail that Rubén had sent telling
4 him... you know... "If I don't have my money by Friday at
5 Shustick's (phonetic) office..."... which was Rubén's
6 Accountant... that he was not going to do the event.

7 Q. Did you tell Mr. Blades that you had loaned Morgalo
8 money?

9 A. No, no, no, it was with him. It had nothing really to do
10 with Rubén.

11 Q. So, your testimony is that Mr. Morgalo owes you thirty
12 thousand dollars?

13 A. Well, that's the balance, yeah.

14 Q. Do you know when the office of Martínez & Morgalo ceased
15 doing business?

16 A. I would imagine that moment when they called me about
17 the Puerto Rico concert because it was... I mean they couldn't
18 find anyone, and no one was available.

19 Q. Do you know when Mr. Morgalo returned from his tour of
20 active duty?

21 A. No.

22 Q. Do you know if he ever tried to rebuild the company?

23 A. No, I haven't spoken to him since... I haven't even seen
24 him since then.

25 Q. At the time of the event, in 2003, after the show, what

1 was the perception in the industry with respect to Mr. Robert
2 Morgalo?

3 MR. FRONTERA-SUAU: Objection, Your Honor.

4 MS. GONZÁLEZ-ROBINSON: He's testified that he's a
5 veteran in the industry.

6 THE COURT: Overruled.

7 A. Well, basically, that he was... they were scared to do
8 dealings with him. They thought he was scattered and
9 irresponsible.

10 BY MS. GONZÁLEZ-ROBINSON:

11 Q. Do you agree with that perception?

12 A. Yeah, I do. I have to, yeah.

13 Q. Is it because of the Siembra... on what basis do you
14 agree with that perception?

15 A. Just I mean I worked with him for a long time, so I know
16 that he's a good salesman, but the follow-through is never
17 there. And, we've always talked it was always for him about
18 the sales, and it's the follow-through that was really
19 important.

20 Q. And, is it your testimony that this was known at the
21 time of the Siembra event?

22 MR. FRONTERA-SUAU: Leading, Your Honor.

23 THE COURT: Sustained.

24 BY MS. GONZÁLEZ-ROBINSON:

25 Q. Did you hear about the statements that are complained of

1 in this litigation that were stated in Panama, in 2007?

2 A. I'm sorry, if I heard it in 2007?

3 Q. Correct. Did you hear about...

4 A. No.

5 Q. ... what the statements were that Mr. Blades is accused
6 for in this litigation?

7 A. Not exactly. What I was told... again, people in the
8 industry... "Hey, did you know that Rubén is being...

9 MR. FRONTERA-SUAU: Objection, Your Honor, hearsay.

10 THE COURT: Overruled.

11 BY MS. GONZÁLEZ-ROBINSON:

12 Q. You may answer.

13 A. No, I was told that "Hey, did you know that Rubén was
14 being sued by Robert Morgalo?", and I asked why. It was all
15 because of the cont. I mean that was generally... I never even
16 bothered looking for it because I consider those things like I
17 wasn't involved. I really didn't have any business in it, so
18 it didn't concern me.

19 Q. So, you didn't hear the statements or read anything in
20 the... did you read the statements yourself at any time?

21 A. No, no, no, no.

22 Q. Was the issue of the Siembra Concert, in Puerto Rico,
23 and Martínez & Morgalo Associates representation of Mr. Blades
24 and Mr. Colón for that show publically discussed at the time
25 of the Siembra Concert?

1 A. In the press or in the business?

2 Q. In the business.

3 A. Yeah, absolutely.

4 Q. Were you familiar with Robert Morgalo's financial
5 affairs on or about May of 2003?

6 A. No.

7 Q. Were you familiar with his financial affairs on or about
8 March of 2007?

9 A. No.

10 Q. Do you know what Robert Morgalo's reputation in the
11 music industry is today?

12 MR. FRONTERA-SUAU: Objection, Your Honor. Mr. Toro
13 has not been announced as a reputation witness.

14 THE COURT: Overruled.

15 A. Can you repeat the question?

16 BY MS. GONZÁLEZ-ROBINSON:

17 Q. Do you know what Robert Morgalo's reputation in the
18 music industry is today?

19 A. I believe it's non-existent. I don't think he's in it. I
20 mean the people that had worked with him had told me they
21 wouldn't work with him again, but...

22 MR. FRONTERA-SUAU: Objection, Your Honor, hearsay.

23 THE COURT: Overruled.

24 A. That's what they told me. I'm just saying what they told
25 me, the people in the business. And, pretty much... I mean I

1 don't even know if he's doing anything in the entertainment
2 business.

3 BY MS. GONZÁLEZ-ROBINSON:

4 Q. How large is the entertainment business and Latin music
5 industry?

6 A. It's... you know... it's not... compared to the general
7 market, it's not small.

8 Q. Why did you hire Arturo Martínez to work at the
9 Relentless Agency?

10 A. Oh, the current company?

11 Q. Current, yes, in 2008.

12 A. I consider him a friend. I trust him, and I know him
13 well. I know... I guess I don't know how to put it, but I know
14 his heart. I mean I know him. I know how he is.

15 Q. How does he perform at the Relentless Agency?

16 A. No complaints. He's still there.

17 Q. What are his duties at the Relentless Agency?

18 A. He handles some of the smaller acts. He does some
19 booking follow-up work. He went... he started with pretty much
20 that, just assisting, things like that. But... you know...
21 he's grown... he's grown... and I mean he's doing well.

22 He's booking acts on his own. He's actually
23 discovered a few acts, so, yeah, he's doing well.

24 MS. GONZÁLEZ-ROBINSON: One moment, Your Honor.

25 PAUSE

1 MS. GONZÁLEZ-ROBINSON: We have no further
2 questions for this Witness.

3 THE COURT: All right.

4 MS. GONZÁLEZ-ROBINSON: Thank you, Mr. Toro.

5 **CROSS EXAMINATION**

6 BY MR. FRONTERA-SUAU:

7 Q. Good afternoon, Mr. Toro.

8 A. Good afternoon.

9 Q. Right now, Mr. Toro, Ruben Blades is your client. Is
10 that right?

11 A. Correct.

12 Q. Since 2003?

13 A. No.

14 Q. Since when?

15 A. We're in 2013, probably 2009.

16 Q. And, Mr. Blades is an important client of yours?

17 A. Yes.

18 Q. Now, Mr. Martínez has worked for you at Mr. Blades'
19 concerts. Is that right?

20 A. No, I don't... in what capacity? I don't understand when
21 you say "worked" for me.

22 Q. He has been... he has worked when Mr. Blades has given
23 concerts here, in Puerto Rico? He has worked for you here, in
24 Puerto Rico?

25 A. Yes, for me, yes, absolutely, yeah.

1 Q. In those concerts?

2 A. No, not at the concerts because we're really not a
3 production company. We don't... we never... we don't produce
4 artist concerts, but he's been to the concerts with me. He's
5 actually driven me and things like that, yeah.

6 MR. FRONTERA-SUAU: Okay, I don't have any further
7 questions, Your Honor.

8 THE COURT: All right, thank you, sir. You may step
9 down.

10 (Witness is excused.)

11 THE COURT: Any other witnesses for the Defense?

12 MS. GONZÁLEZ-ROBINSON: The Defense rests.

13 THE COURT: Okay, anything else from Plaintiff?

14 MR. FRONTERA-SUAU: No, Your Honor.

15 THE COURT: Plaintiff...

16 MR. FRONTERA-SUAU: Rests.

17 THE COURT: Okay, and no rebuttal. Okay, so it's
18 submitted?

19 MS. GONZÁLEZ-ROBINSON: Submitted.

20 MR. FRONTERA-SUAU: Yes.

21 THE COURT: Submitted, all right. Here's what I'd
22 like the parties to do.

23 I'd like the parties to file simultaneously, in
24 fourteen days, Post-Trial briefs, simply making their case,
25 and raising the... any factual and legal arguments that the

1 parties think are important in this matter, and important to
2 the Court's decision.

3 Seven days after that, the parties can file a Reply
4 brief to the other side simultaneously. Okay?

5 MR. FRONTERA-SUAU: Okay, Your Honor.

6 THE COURT: If you need a transcript to do this,
7 talk with the Deputy Clerk, and a Court Reporter will be
8 assigned that you'll obviously have to pay for the transcript.

9 MR. FRONTERA-SUAU: Okay.

10 THE COURT: Okay? And, maybe you can... if you want
11 to do that, the parties can split the cost of that or as you
12 wish.

13 MR. FRONTERA-SUAU: Okay.

14 THE COURT: Anything else?

15 MR. FRONTERA-SUAU: No, Your Honor.

16 MS. GONZÁLEZ-ROBINSON: No, Your Honor.

17 MR. FRONTERA-SUAU: Thank you very much, Your
18 Honor.

19 THE COURT: Thank you.

20 (Whereupon,
21 the hearing in the above-mention proceeding was
22 terminated.)
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TRANSCRIBER CERTIFICATION

I, CRYSTAL INCHAUSTEGUI BREAZ, Transcriber, do hereby certify that the foregoing transcript was transcribed by me to the best of my abilities.

I CERTIFY that all "(inaudible)", "(phonetic)", and "(unintelligible)" were carefully reviewed and found to be as written.

I FURTHER CERTIFY that I am not interested in the outcome of the case mentioned in said caption.

S/ CRYSTAL INCHAUSTEGUI
CRYSTAL INCHAUSTEGUI BREAZ

I, DIANE BREAZ, RPR and Official Court Reporter for the District Court of Puerto Rico, certify that the foregoing transcript has been verified and certified by me.

S/ DIANE BREAZ
DIANE BREAZ