

## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 Braunstein.

2 (Witness entering.)

3 COURT CLERK: Ma'am, do you sincerely and solemnly  
4 swear or affirm that the testimony you are about to give  
5 this court will be the truth, the whole truth, and nothing  
6 but the truth, do you so swear or affirm?

7 D R S U S A N B R A U N S T E I N,  
8 having been called as a witness on behalf of the People,  
9 testified as follows:

10 THE WITNESS: I do.

11 COURT OFFICER: In a loud clear voice, state your  
12 full name, spell your last name, and your county of  
13 residence.

14 THE WITNESS: Susan Braunstein,  
15 B-R-A-U-N-S-T-E-I-N. Kings county.

16 MR. BREITBART: Judge, may I impose upon you to  
17 ask Miss Braunstein to keep her voice up.

18 THE COURT: Please, the mic. is live although you  
19 need to use some energy, too.

20 If you don't understand a question, let me know so  
21 we can ask it more clearly and if there is an objection,  
22 give me a chance to tell you whether or not to answer it.

23 Your witness, sir.

24 MR. BANDLER: Thank you.

25 DIRECT EXAMINATION

Sheila Wesley  
Senior Court Reporter

## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 BY MR. BANDLER:

2 Q Miss Braunstein -- Dr. Braunstein, who are you employed  
3 by?

4 A The Jewish Museum.

5 Q And what is your position at the Jewish Museum?

6 A I'm Curator of Archeology and Judaica and chair of  
7 curatorial affairs.

8 Q How long have you been with the Jewish Museum?

9 A Thirty years.

10 Q And could you summarize for the jury what your duties  
11 are as curator and chair of that department?

12 A A curator is responsible for creating exhibitions and  
13 also for maintaining the collections of a museum.

14 Q And what's your educational background?

15 A I have a master's and Ph.D. from Columbia University.

16 Q What's your Ph.D. in?

17 A Ancient Near Eastern Archeology.

18 Q Did there come a time when your museum was planning an  
19 exhibit on the Dead Sea Scrolls?

20 A That's correct.

21 Q And when was that exhibit scheduled to take place?

22 A It was going to open on September 21, 2008 and run  
23 through January 4, 2009?

24 Q And did it actually run as scheduled?

25 A Yes, it did.

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## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 Q Who was in charge of organizing that exhibit?

2 A I was in charge of it.

3 Q At about when did you start planning and organizing for  
4 that exhibit?

5 A About a year and a half before it opened.

6 Q And what type of exhibit was this that took place?

7 A It was an exhibition that was going to explore who  
8 wrote the Dead Sea Scrolls and what they tell us about ancient  
9 Judaism and Christianity and it featured both artifacts and six  
10 Dead Sea Scrolls.

11 Q And do you remember what the exhibit was called?

12 A We called it the Dead Sea Scrolls Mystery of the  
13 Ancient World.

14 Q And what types of things did this exhibit include?

15 A It included various artifacts, pottery, a woman's  
16 hairnet, comb, things that enabled us to talk about who might  
17 have used the Dead Sea Scrolls as well as six of the actual  
18 scrolls.

19 Q How did you go about getting the scrolls and getting  
20 the artifacts?

21 A We work with the Israel Antiquities Authority which is  
22 the organization that is in charge of the scrolls and the  
23 artifacts as well.

24 Q And aside from artifacts and exhibits, what else did  
25 your exhibit have?

## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 A We write text panels, they're labels and we also  
2 included a wall of quotations from different scholars.

3 Q And were there also speakers?

4 A Yes, we organized several public programs in  
5 conjunction with the exhibition.

6 Q And do you normally have speakers at events like this?

7 A Yes, we usually have at least one public program with  
8 every exhibition that we hold.

9 Q When you say a public program when is that scheduled  
10 for during the exhibit?

11 A It's usually sometime during the run of the exhibition.

12 Q And so at this Jewish Museum exhibit on the Dead Sea  
13 Scrolls, did you also have speakers for that exhibit?

14 A Yes, we did.

15 Q And who were the speakers that spoke?

16 A Lawrence Schiffman and Eileen Schuller.

17 Q Do you remember when approximately you started  
18 arranging for the speakers?

19 A We probably started discussing it in the spring of  
20 2008.

21 Q And do you remember when approximately you announced to  
22 the public who the speakers would be?

23 A It probably was late summer when we start sending out  
24 announcements about the exhibition and the programs.

25 Q Now, for this exhibit on the Dead Sea Scrolls, how did

## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 you go about selecting a speaker?

2 A There is a public program committee that always meet  
3 regularly and when they are ready to discuss what lecturers they  
4 want for a particular show, they ask the curator to attend their  
5 meeting and we bat around ideas about what subjects we would  
6 like to cover or perhaps there are important people who are  
7 involved in this subject who we would like to engage.

8 Q And Dr. Schiffman what was his speech scheduled for,  
9 what topic?

10 A We asked him to speak about the history of ancient Jews  
11 and Christians during the period of the Dead Sea Scrolls.

12 Q And you mentioned Dr. Schuller, what was the topic of  
13 her speech?

14 A We asked her to speak on women and the Dead Sea  
15 Scrolls.

16 Q I think I asked this, when did you start announcing to  
17 the public who the speakers would be?

18 A It was probably late summer.

19 Q Now in general for your general museum events, how do  
20 you go about selecting a speaker?

21 MR. KUBY: Judge, I object to in general. I ask  
22 as to this event would be fine.

23 THE COURT: You may answer the question.

24 A In general we're looking for somebody who is first of  
25 all who is an engaging speaker, someone who knows their subject

Sheila Wesley  
Senior Court Reporter

## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 very well and someone who also might be known to the public so  
2 they may be interested in hearing them speak.

3 Q Do you remember when you first approached Dr. Schiffman  
4 about speaking at the event?

5 A It was in April of 2008.

6 Q And in addition to speaking, did Dr. Schiffman perform  
7 any other services for the museum related to this exhibit?

8 A Yes, he did.

9 Q And what services?

10 A I asked if he would review a group of about eight to  
11 ten quotations from different scholars voicing their opinions of  
12 who wrote the Dead Sea Scrolls that I was going to include in  
13 the exhibition.

14 Q And I'll ask a few more questions about that later but  
15 were any fees paid to Dr. Schiffman?

16 A Yes, he received an honorarium for speaking and he  
17 received an honorarium for speaking about those quotations.

18 Q Do you remember approximately how much he was paid?

19 A Yes, I do. It was the lecture honorarium was \$650 and  
20 the consultation was \$500.

21 Q And by honorarium, what does that mean in the field?

22 A An honorarium is usually something that we offer as a  
23 token of our thanks for speaking knowing that normally the fees  
24 are much higher.

25 Q Are speaking fees customary?

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1 A Yes.

2 Q So I would like to talk a little bit about  
3 Dr. Schiffman's consultation for the exhibit, this text or the  
4 quotes that Dr. Schiffman reviewed, what was the purpose of  
5 those within the exhibit?

6 A They were to show that there were many differing  
7 interpretations of who wrote the Dead Sea Scrolls to show  
8 different sides of the scholarly arguments.

9 Q And did one of those quotes include Dr. Norman Golb?

10 A Yes, it did.

11 Q And did Dr. Schiffman review these different views  
12 including Dr. Golb?

13 A Yes, he did.

14 Q And did Dr. Schiffman approve the presentation?

15 A Yes, he did.

16 Q So after Dr. Schiffman's consultation and review, the  
17 exhibit still contained these different points of view?

18 A Yes, they did.

19 Q Including Dr. Golb's view?

20 A Yes.

21 Q Have you ever met Raphael Golb?

22 A I met him once.

23 Q And do you see him in the courtroom today?

24 A Yes, I do.

25 Q And if you could just point to him and identify.

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1 A (The witness indicated.)

2 MR. BANDLER: Indicating the defendant.

3 MR. KUBY: Yes.

4 Q And do you remember approximately when you met  
5 Mr. Golb?

6 A It was in January of 2009.

7 Q And when in relation to the Dead Sea Scrolls exhibit,  
8 was it before, during, after?

9 A It had already closed.

10 Q And was Mr. Golb alone or with someone else?

11 A He was with somebody else.

12 Q And who was he with?

13 A Daniel Friedenberg.

14 Q And was there any conversation with Mr. Golb?

15 A Yes, I spoke with him.

16 Q And what was that topic about?

17 A We spoke about his father's review, Norman Golb's  
18 review of the exhibition.

19 Q And do you know Dr. Norman Golb?

20 A I don't know him, I know of him.

21 Q And so prior to meeting Mr. Raphael Golb, the  
22 defendant, had you had any conversations with him about the  
23 exhibit?

24 A No.

25 Q So Dr. Norman Golb, do you know him?

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1 A No.

2 Q Had any contact with Dr. Norman Golb about the exhibit  
3 at the Jewish Museum?

4 A He contacted me to ask if I would send him the text  
5 from the exhibition because he wanted to write a review of it  
6 and was unable to get to New York.

7 Q And when in relation -- when approximately did this  
8 take place?

9 A Shortly after it opened. On September 21st is when it  
10 opened.

11 Q So sometime after September 21st?

12 A Yes.

13 Q Any communication with Dr. Norman Golb before the  
14 exhibit opened?

15 A None that I can recall.

16 Q And you mentioned Daniel Friedenberg, who is Daniel  
17 Friedenberg?

18 A Daniel Friedenberg was once a curator at the Jewish  
19 Museum, he's a collector of things related to Jewish life. He  
20 gave a collection to the museum and over the years have given us  
21 other items from his collection and been a good friend.

22 Q And did Mr. Friedenberg ever approach you regarding  
23 Dr. Norman Golb and the Dead Sea Scrolls exhibit?

24 A Yes, he did.

25 Q And do you remember approximately when that was?

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## DIRECT/PEOPLE/DR. BRAUNSTEIN

1 A I believe it was in August or late summer of 2008.

2 Q And could you please summarize what he asked you  
3 regarding Dr. Norman Golb?

4 MR. KUBY: Objection, hearsay.

5 MR. BANDLER: Not for the truth.

6 THE COURT: We'll accept it but not for its truth.

7 Q So if you could, summarize what Mr. Friedenberg asked  
8 you?

9 A He asked whether Norman Golb could speak at the Jewish  
10 Museum on the subject of who wrote the Dead Sea Scrolls and that  
11 Daniel Friedenberg would be willing to pay for that lecture.

12 Q And what was your response to that?

13 A We told him that we did not think it was possible to  
14 add this lecturer to the lecture series.

15 Q And did he say why he was making this request?

16 A Yes, he said that he was concerned that Lawrence  
17 Schiffman who he knew was speaking, would only give one side of  
18 the debate and he felt that we should have the other side  
19 represented.

20 Q And what was your position as to the different sides of  
21 the debate?

22 A My personal opinion?

23 Q That was a bad question as I can tell.

24 What was your feeling as to whether differing sides  
25 were represented in the exhibit?

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1           A     I made a very careful effort to show both sides. That  
2 was sort of the unusual aspect of the exhibition. Most other  
3 exhibitions had shown one side of the argument or championed one  
4 side of the argument and I was very careful to show all sides of  
5 it and to let the viewer decide for themselves.

6           Q     What's the website address for the Jewish Museum?

7           A     The Jewish museum dot org.

8           Q     And if I was going to send an e-mail to someone who  
9 works at the Jewish Museum, what would come after the at sign in  
10 the e-mail address?

11          A     The J M dot org.

12          Q     And what would the following e-mail address belong to  
13 press office at the JM dot org?

14          A     That's our communications department which is like our  
15 press department.

16          Q     And how about this e-mail address info at the JM dot  
17 org?

18          A     That's a more general number for general inquiries that  
19 goes to the visitors' services department.

20                   MR. BANDLER: No further questions.

21 CROSS-EXAMINATION

22 BY MR. KUBY:

23          Q     Good afternoon, Dr. Braunstein.

24          A     That's correct.

25          Q     You just testified that in curating this exhibit you

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## CROSS/KUBY/DR. BRAUNSTEIN

1 made a careful effort to show both sides of the controversy?

2 A That's correct.

3 Q And is it fair to say that by both sides, there are two  
4 basic theories as to the origin of the Dead Sea Scrolls?

5 A Yes.

6 Q There are a lot of other spinoff theories from those as  
7 well, correct?

8 A That's correct.

9 Q But two basic ones and is it fair to say that on one  
10 side would be characterized the views of Dr. Schiffman and his  
11 colleagues?

12 A In a very general way. Dr. Schiffman already has an  
13 alternate view amongst the group that you're talking about.

14 Q And again, very general, because I don't know we need  
15 the specifics unless you feel I'm misrepresenting something, the  
16 other side, the other theory is represented by Norman Golb and  
17 his colleagues?

18 A That's correct.

19 Q And Mr. Magen, I believe, Magen, are you familiar with  
20 that name?

21 A Probably pronounced Ma-Gan.

22 Q Magen, sorry. And Mr. Peleg?

23 A They are two archeologists working in Israel who  
24 recently re excavated the site of Qumran which has been  
25 associated with the Dead Sea Scrolls.

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## CROSS/KUBY/DR. BRAUNSTEIN

1 Q And is it fair to say that generally that their view is  
2 more in accord with the Golb view than the Schiffman view?

3 A Yes.

4 Q And those two men, Mr. Magen and Mr. Peleg, they are  
5 esteemed, respectable members of the archeological community?

6 A That's correct.

7 Q Now, you also said that most exhibits showed only one  
8 side of the story, is that your testimony?

9 A May I qualify what I said?

10 Q Sure.

11 A I believe that they tried to indicate that there were  
12 other theories but that in the end they seemed to come down on  
13 one side.

14 Q They championed one side over the other and is it fair  
15 to say that generally what you're referring to are those who  
16 championed what I would call the Schiffman side?

17 A That's correct.

18 Q And what you were trying to do is to champion neither  
19 side, correct?

20 A That's correct.

21 Q And to present both theories?

22 A That's correct.

23 Q The evidence supporting both theories?

24 A I was actually the opposite, I felt that neither side  
25 had proven their case.

## CROSS/KUBY/DR. BRAUNSTEIN

1 Q So as far as this exhibition was concerned, you thought  
2 that neither side had proven this beyond the doubt that you  
3 wanted proof by; is that correct?

4 A That's correct.

5 Q And so you would simply explain that there were these  
6 two differing theories, correct?

7 A Correct.

8 Q And no way at this point, given your understanding of  
9 this research, to really tell who is right and who is wrong?

10 A Correct.

11 Q You've been involved with the Jewish Museum for how  
12 long?

13 A Thirty years.

14 Q And the Dead Sea Scrolls for how long?

15 A Twice. Once when we preparing a permanent exhibition  
16 in the nineties and now again so a few years.

17 Q Is it fair to say in your experience the people who  
18 care about the origin of the scrolls in academia many of them  
19 care very, very passionately about resolving this issue?

20 A Very passionately? They care.

21 Q Now, when you met Raphael Golb, could you briefly  
22 describe the conversation you had with him?

23 A The part that I remember was his mentioning that his  
24 father's review indicated that he thought that all the labels  
25 and text panels were written by one person except those of the

## CROSS/KUBY/DR. BRAUNSTEIN

1 actual six scrolls, he felt that they were written by somebody  
2 else and I told Raphael Golb that that was not the case, that I  
3 had written them all, and had written them in conjunction with  
4 the approval of the Israel Antiquities Authority.

5 Q And do you recall any other part of your conversation  
6 with Raphael Golb?

7 A I'm sorry I cannot.

8 Q Do you recall Raphael Golb telling you that you should  
9 not have had Schiffman as your speaker?

10 A No, I don't remember that.

11 Q And if that is something that he said, you would have  
12 remembered that?

13 A No.

14 Q Schiffman should have been cancelled from this exhibit?

15 A No.

16 Q Schiffman should not speak at this exhibit?

17 A No, he never said that.

18 Q Did Raphael Golb ever make a demand that his father be  
19 presented?

20 A No.

21 Q That Mr. Magen be presented?

22 A No.

23 Q That Mr. Peleg be presented?

24 A No.

25 Q Now you have had experience with exhibits that had

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1 generated controversy of one kind or another in the community in  
2 which they're primarily addressed; is that correct?

3 A That's correct.

4 Q And it's not uncommon generally, different people have  
5 different views of the material, right?

6 A Yes.

7 Q And they want their view championed?

8 A Yes.

9 Q And they feel the other person is not telling the truth  
10 or is wrong or mistaken?

11 A Sometimes.

12 Q Sometimes.

13 And you get letters, correct?

14 A Yes.

15 Q Complaining about exhibits?

16 A We do.

17 Q Letters praising them, letters complaining about  
18 speakers?

19 A Yes, we do.

20 Q Letters praising speakers.

21 Do you make decisions as to who to cancel or who to  
22 hire based on letters that people send complaints?

23 A Hired for a position at the museum or hired for a  
24 lecture?

25 Q For a lecture?

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## CROSS/KUBY/DR. BRAUNSTEIN

1           A     For a lecture, we would only get the complaint after  
2 the lecture had taken place so I think that would be --

3           Q     You said you received one communication from Norman  
4 Golb in which you said he wanted the text of the exhibits?

5           A     That's correct.

6           Q     Just tell me very briefly, what do you mean by the text  
7 of the exhibit, when I go to museums I think of the dinosaurs at  
8 the Natural Museum of History, I'm not sure what you mean?

9           A     We write what we call text panels which are lengthy  
10 discussions for the visitor to understand the nature of what is  
11 going on and what we want to tell them. We write individual  
12 labels for each object to explain that, and in this case we also  
13 had what I call the wall of quotes which were the quotations  
14 from different scholars about their opinions about who wrote the  
15 Dead Sea Scrolls.

16          Q     And Dr. Golb indicated that he wanted this because he  
17 couldn't make it to New York to see the exhibit?

18          A     That's correct.

19          Q     Did you ever send them to him?

20          A     The press office sent them to him.

21          Q     That's nothing extraordinary for a scholar to request  
22 of an exhibit, is it?

23          A     Well, usually they come to the museum so they don't  
24 request it but we would certainly provide that for a person from  
25 the press, a critic who wanted to review an exhibition, we would

## CROSS/KUBY/DR. BRAUNSTEIN

1 certainly provide the press and I believe they are in our press  
2 packet.

3 Q And you knew who Norman Golb was prior to him making  
4 the request?

5 A That's correct.

6 Q And you had no problem with sending him a copy of the  
7 text?

8 A No problem.

9 Q Because the exhibit is open to the public, correct?

10 A That's correct.

11 Q And really anybody can comment on it who wants to  
12 comment on it, right?

13 A That's correct.

14 Q Now you converse with Mr. Friedenber?

15 A That's correct.

16 Q You referred to him as somebody who has been very good  
17 to the museum, is that correct, is it fair to say without  
18 mischaracterizing it, is it fair to say when you say he's been  
19 very good to the museum this is somebody whose donations and  
20 contributions have been made in the past and they are important  
21 to you?

22 A Yes.

23 Q And he was that person when he made that request of  
24 you?

25 A He was important.

## CROSS/KUBY/DR. BRAUNSTEIN

1 Q Yes?

2 A Yes.

3 Q And is he still that person now?

4 A Yes.

5 Q And he requested that Norman Golb be included is as a  
6 speaker; is that correct?

7 A That's correct.

8 Q And is it fair to say that you had already chosen the  
9 speakers?

10 A Yes, we had by then.

11 Q And there wasn't time to start to redo the program; is  
12 that correct?

13 A That's correct.

14 Q And you also explained to him look, this is not a  
15 scholarly analysis of the minucia of who wrote the Dead Sea  
16 Scrolls, this is more general presentation to show there are  
17 different theories?

18 A That is correct.

19 Q And, therefore, the Schiffmanites (phonetic) versus the  
20 Golbites (phonetic), if I might say that, were really irrelevant  
21 to what you were doing except they both exist?

22 A We did not want the lecture series to be a forum for  
23 that debate.

24 Q And did he ask that or appear to?

25 A Yes, he did.

Sheila Wesley  
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## CROSS/KUBY/DR. BRAUNSTEIN

1 Q He didn't say invite Golb or forget my contributions?

2 A No, he did not.

3 Q And he continues to make contributions?

4 A Yes.

5 Q When Raphael Golb, the defendant, when he spoke to you,  
6 was he polite?

7 A Yes, he was.

8 Q Pleasant?

9 A Yes.

10 Q Appeared to be somewhat well informed about the nature  
11 of the exhibits and the nature of the controversy?

12 A Yes.

13 Q And engaged you in conversation and that was pretty  
14 much the end of it, right?

15 A Yes.

16 MR. KUBY: May I have just a moment, Judge?

17 THE COURT: Sure.

18 Q Was this the first time there had been a scrolls  
19 presentation in New York City?

20 A No, it was not.

21 Q Okay, when was the previous one?

22 A I believe the previous one was in 1994, if memory  
23 serves me correctly. In the nineties.

24 Q So this was the first one more or less in a generation  
25 '08, '09?

## CROSS/KUBY/DR. BRAUNSTEIN

1 A Maybe half a generation.

2 Q And about how many people attended?

3 A Excuse me?

4 Q About how many people attended?

5 A Our exhibition?

6 Q Your exhibit, yes?

7 A About 36,000 people.

8 Q 36,000. Was there an admission charge for this?

9 A Yes, a general admission to the museum.

10 Q And how much was that, is that?

11 A I regret to say I don't know.

12 Q You get comp in?

13 A I believe it's around \$12.

14 Q You had a conversation with -- well withdrawn. Thank  
15 you very much doctor -- Just a second.

16 I am done, thank you.

17 REDIRECT EXAMINATION

18 BY MR. BANDLER:

19 Q Would you consider yourself an expert on the Dead Sea  
20 Scrolls?

21 A No, I don't, that takes a long time to become an expert  
22 on the Dead Sea Scrolls.

23 Q Would you consider yourself an expert on the debate  
24 about the Dead Sea Scrolls?

25 A To some extent.

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## REDIRECT/PEOPLE/DR. BRAUNSTEIN

1 Q Is it fair to say there's a lot of different aspects  
2 about the Dead Sea Scrolls?

3 A Yes, it's a very complex subject.

4 Q Is it fair to say it may not be black and white as  
5 Schiffman versus Golb?

6 A That's correct. It's much more nuance and complex than  
7 that.

8 Q Is it fair to say that an accusation of plagiarism  
9 might give you pause about whether that person should be a  
10 speaker potentially and hypothetically?

11 A I think several things might go into our consideration,  
12 the reputation of the speaker and our knowledge of their  
13 integrity, the nature of the accusation, was this a major  
14 horrific act or was it just a minor thing and I would say also  
15 the nature of the press interest in that might affect our  
16 decision.

17 MR. BANDLER: Thank you.

18 MR. KUBY: Briefly, Judge.

19 RE CROSS-EXAMINATION

20 BY MR. KUBY:

21 Q Before Dr. Schiffman spoke at your exhibition, you were  
22 aware, were you not, that there were accusations of plagiarism  
23 made against him?

24 A I can't recall when I learned about this between the  
25 spring and the summer and the fall but at some point I became

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Senior Court Reporter

## RE CROSS / KUBY / DR. BRAUNSTEIN

1 aware that there were these accusations.

2 Q And in fact you were aware that in -- well withdrawn.  
3 Norman Golb wrote a book; is that correct?

4 A About the Dead Sea --

5 MR. BANDLER: Objection, beyond the scope.

6 MR. KUBY: No, it's foundational, Judge.

7 Q And the name of that book was?

8 A I believe it was Who Wrote the Dead Sea Scrolls or  
9 something to that effect.

10 Q And you were aware that Norman Golb had made the  
11 accusation of plagiarism as against Dr. Schiffman in his book;  
12 is that correct?

13 MR. BANDLER: Objection.

14 THE COURT: You may answer the question.

15 A Yes.

16 Q And that book was written in 1992 or something?

17 A 1995.

18 Q Thank you. And that played no role in your decision to  
19 have Dr. Schiffman as your speaker; is that correct?

20 A That is correct.

21 Q So whatever could have happened, might have happened,  
22 could have happened, would have happened in this case, it had no  
23 role whatsoever in your decision; is that correct?

24 A That is correct.

25 MR. KUBY: Thank you, Doctor.

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Senior Court Reporter

## PROCEEDINGS

1 MR. BANDLER: No further questions.

2 THE COURT: Thank you.

3 (Witness exit.)

4 THE COURT: Now, jurors, much to my grave  
5 displeasure, Mr. Bandler has no further witnesses for us  
6 today. You see how red his cheeks are. So have a good  
7 afternoon and evening. I'll see you tomorrow morning at  
8 10:30 to avoid the fire drill unless you all want to come to  
9 the fire drill. I didn't think so, it's not fun. And I'll  
10 see you 10:30 and we have an early break for the holiday.

11 (The jury exited the courtroom and the  
12 following occurred:)

13 THE COURT: Mr. Bandler, let me just ask you one  
14 more question the count with regard to Identity Theft in the  
15 Third Degree, it's not on the V.D.F.

16 MR. BANDLER: That would be the Criminal  
17 Impersonation in the Second Degree. There is the other  
18 misdemeanors charge, the Forgery in the Third Degree and the  
19 Harassment so I guess I haven't specified.

20 THE COURT: So it would be Aggravated Harassment,  
21 Criminal Impersonation, not the computer charge?

22 MR. BANDLER: And that, too.

23 MR. KUBY: Sorry, not Identity Theft?

24 THE COURT: No, Identity Theft that would be a  
25 totality. Identity Theft requires an object crime.

Sheila Wesley  
Senior Court Reporter

## PROCEEDINGS

1 Identity Theft in the Second Degree requires a felony object  
2 crime. Identity Theft in the Third Degree requires a  
3 misdemeanor.

4 MR. KUBY: That's correct, Judge, and I'm just  
5 trying to make it clear because there seems to be to my  
6 perception a certain amount of bootstrapping of the elements  
7 of one offense in order to get to the felony level and I was  
8 just trying to clarify what Mr. Bandler considered Identity  
9 Theft as one of the object offenses for the felonious  
10 falsification.

11 THE COURT: No, we asked that question this  
12 morning.

13 MR. KUBY: So there is Criminal Impersonation,  
14 Forgery, and Aggravated Harassment.

15 THE COURT: He answered the question. It's on the  
16 V.D.F. as Scheme to Defraud and Falsifying Business Records  
17 and we keep on going this is never ending because Falsifying  
18 Business Records also ends up with committing another crime  
19 or two but I'm not really up to that yet.

20 (The trial was adjourned until September 17,  
21 2010 at 10:30 a.m.)