

In The Matter Of:

*Claudia Balcerro Giraldo, et al. vs.
Drummond Company, Inc., et al.*

*Letters Rogatory Video Hearing - Jhon Jaime Esquivel Cu
March 22, 2012*

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ALABAMA
3 (Southern Division)

4
5 CLAUDIA BALCERO GIRALDO,
6 et al.

7 Plaintiffs

8 vs.

 Case No. 2:09-cv-1041-RDP

9 DRUMMOND COMPANY, INC.,
10 et al.

11 Defendants

12 _____ /

13
14 The Letters Rogatory Video Hearing in the
15 above-entitled matter, as translated by GUIOMAR EMEDAN-
16 LAUTEN and MARIA KISIC, INTERPRETERS, was held on
17 Friday, March 22, 2012, commencing at 9:15 a.m., at the
18 Ninth Civil Circuit Court of Barranquilla, Atlantico,
19 Colombia, before the Honorable Clementina Patricia
20 Godin Ojeda and Steven Poulakos, Notary Public.

21 REPORTED BY: Steven Poulakos

1 APPEARANCES:

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21 (APPEARANCES continued on next page.)

1 (APPEARANCES continued.)

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INDEX

Letters Rogatory Hearing

March 22, 2012

WITNESS: JHON JAIME ESQUIVEL CUADRADO, alias El TIGRE

EXAMINATION BY: PAGE

Mr. Collingsworth 16, 188

Mr. Jeffress 82

PLAINTIFFS' EXHIBIT NO. MARKED

Exhibit 1 Statement 25

Exhibit 2 Photograph 28

Exhibit 3 Map 50

Exhibit 4 Statement 71

Exhibit 5 Statement 77

DEFENDANTS' EXHIBIT NO. MARKED

Exhibit ET-1 Copy of Testimony 91

1 P R O C E E D I N G S

2 THE COURT: So on this day we are ready to
3 begin this proceeding. Above all good morning. This
4 is the 9th Civil Circuit Court of Barranquilla
5 Atlantico Colombia, and, present is Your Honor,
6 Clementina Patricia Godin Ojeda, together with her
7 secretary, Guillermo Fontalvo Charris.

8 We are here and have changed hearing
9 rooms in order to carry out and in compliance with
10 Rogatory Letters from the District Court of the
11 United States, Northern District of Alabama, in
12 order to take the testimony of Mr. Jhon Jaime, alias
13 Diego, El Tigre, and 55.

14 And now we need to begin this proceeding
15 confirming that he is indeed present.

16 THE INTERPRETER: And the witness has said
17 his name, Jhon Jaime Esquivel Cuadrado.

18 THE COURT: So Plaintiff -- attorneys for
19 Plaintiffs could, please, state their names for the
20 record, most importantly whoever is going to conduct
21 the witness' testimony.

1 MR. COLLINGSWORTH: Thank your, Your Honor.
2 I am Terry Collingsworth the attorney for the
3 Plaintiffs. I will be asking the questions. With me
4 is my colleague, Lorraine Leete, who is here behalf of
5 the Plaintiffs as well.

6 THE COURT: Thank you.

7 And present here counsel for Drummond
8 Company, Inc.?

9 MR. JEFFRESS: Buenos dias. My name is
10 William Jeffress. I will be asking questions on behalf
11 of the Defendants in the lawsuit. I have other counsel
12 with me and I'll ask them to introduce themselves.

13 MR. CUELLAR: Jaime Bernal Cuellar.

14 MR. DAVIS: Tony Davis.

15 MR. PARR: Bryan Parr.

16 MR. LINARES: Jose Miguel Linares.

17 THE COURT: So now that both parties have
18 stated their names for the record and also those
19 representing Drummond Company and Drummond Limited,
20 also the president for DDL, Augusto Jimenez. He also
21 has a representative here present.

1 MR. JEFFRESS: Yes, Your Honor. I also
2 represented Augusto Jimenez.

3 THE COURT: Thank you.

4 So now that both parties have stated
5 their names for the record we now proceed to
6 identity witness for the record.

7 So before we begin with the proceeding
8 we would like for him to stand and be sworn.

9 Mr. Jhon Jairo Esquivel Cuadrado, you
10 have been asked to be sworn here and under oath
11 present your testimony here today. And so now that
12 both parties have identified themselves.

13 You have been brought here so that the
14 facts regarding whatever knowledge you may have will
15 be set forth on a record. You are thus being called
16 to bring testimony under oath which means that you
17 are to say only the truth of what you know, what you
18 have knowledge of, or what you have witnessed.

19 Do you so swear?

20 THE WITNESS: Yes.

21 THE COURT: So once you have now sworn to

1 say only the truth, let me indicate that in case you
2 should state any falsity for this record you would be
3 incurring in a crime which is punishable by our laws
4 which is perjury.

5 Also let me warn you that according to
6 Colombian law you are not compelled to testify
7 against yourself or your family members to the
8 fourth generation, according to Colombian rules.

9 The questions you will answer should be
10 answered clearly and specifically referring to the
11 facts about which you will be questioned.

12 If you should have any doubts or
13 anything that you do not understand, you should
14 indicate this and then this Court will help you
15 understand.

16 We ask everyone to be present with the
17 utmost respect for this Court, to answer no cells so
18 that we can move along swiftly, and to ask to use
19 the microphones whenever you need to speak. We can
20 now sit. Thank you.

21 Now we proceed with the general

1 proceeding.

2 Your full name for the record?

3 THE WITNESS: My full name is Jhon Jaime
4 Esquivel Cuadrado. My ID number is 10.901.999 from
5 Violencia, Cordoba.

6 THE COURT: Aliases you have ever been
7 known by?

8 THE WITNESS: I have the following Aliases:
9 El Tigre, Diego, or 55.

10 THE COURT: (Speaking Spanish.)

11 THE WITNESS: I am single. Yes, I have one
12 child.

13 THE COURT: Your profession?

14 THE WITNESS: Currently I am detained, but
15 I was a part of the AUC.

16 THE COURT: When were you a member of the
17 AUC, starting when?

18 THE WITNESS: I started with the AUC in
19 1990. In 1996 I was transferred to the Magdalena area
20 in Cesar.

21 THE COURT: And now in compliance with the

1 request of Rogatory Letters having performed all of the
2 legal requirements according to Colombian law we give
3 the floor to Plaintiffs.

4 MR. COLLINGSWORTH: Thank you very much,
5 Your Honor, and on behalf of the Plaintiffs, thank you
6 for your flexibility in arranging this room and
7 allowing us to conduct these proceedings here.

8 THE COURT: With pleasure.

9 MR. COLLINGSWORTH: Before I begin
10 questioning the witness I have two preliminary matters
11 to raise with Your Honor.

12 First, counsel for Drummond and I, Mr.
13 Jeffress, have agreed that we are reserving all
14 objections, substantive objections, to evidence so
15 that we won't be making those objections regarding
16 testimony or documents, and we will take those up
17 before our judge in Alabama under the U.S. rules
18 with one exception, and that is if there is an
19 improper form of a question we will note it for the
20 record now so that the opposing counsel have the
21 opportunity to correct it, if he wishes, but we're

1 not asking Your Honor to rule on those questions.

2 Mr. Jeffress agrees with that?

3 MR. JEFFRESS: Se.

4 THE COURT: Okay. So long as both parties
5 are in agreement, we can begin.

6 MR. COLLINGSWORTH: Second item, Your
7 Honor, is that there is an attorney present here for
8 Drummond, Jaime Bernal Cuellar. We would move the
9 Court to exclude him from these proceedings for two
10 reasons.

11 The first is that he has filed a
12 criminal complaint against the witness and we think
13 it is improper for him to be here in any way
14 purporting to represent a party in these
15 proceedings.

16 The second reason is that he, Mr.
17 Cuellar, is now a material witness to the facts of
18 this case. We contend that he has visited several
19 of the witnesses, including Mr. Esquivel, to have
20 discussions about their relationships to Drummond
21 and so it would be inappropriate for him to hear the

1 testimony of another witness, Mr. Esquivel, because
2 he is going to be a witness in these proceedings.

3 THE COURT: So we will resolve this request
4 in the following manner: Regarding the first reason,
5 it is not acceptable by this office because this is a
6 public hearing.

7 Regarding the second reason, this office
8 deems that we will accept that reason thus ordering
9 Mr. Jaime Cuellar to, please, leave the room because
10 being that he will be a witness in this cause it
11 would not be adequate for him to listen to the
12 testimony of this witness here present today.

13 Not before though we request proof that
14 Dr. Jaime Cuellar will be a witness in this
15 proceeding, in this lawsuit. And since he is indeed
16 present, we proceed to ask him if he is indeed going
17 to be a witness during this lawsuit.

18 MR. CUELLAR: Thank you very much, Your
19 Honor. I currently do not know if my name has been
20 mentioned as a possible or as a possibility for
21 being a witness during this lawsuit.

1 I have not had any notification from
2 any U.S. court that I may be required to be a
3 witness, therefore, my understanding is that there
4 should be such a notification before I know that I
5 will indeed be a witness for this lawsuit.

6 MR. JEFFRESS: May I speak, Your Honor?

7 THE COURT: Just one minute, please.

8 I have listened to Dr. Jaime Cuellar's
9 reply, but we had requested a proof, an evidence.

10 MR. COLLINGSWORTH: Your Honor, under our
11 system we have a process to issue either a Notice of
12 Deposition or Letters Rogatory such as brought Mr.
13 Esquivel to the court today.

14 And I'm representing to the Court that
15 we will be filing on Monday with our court a Letters
16 Rogatory requesting that Mr. Cuellar appear as a
17 witness in this case.

18 And I would like to hand, Your Honor, a
19 declaration that was signed by Mr. Esquivel that
20 indicates that there were three individuals,
21 including Mr. Cuellar, who visited him in prison and

1 encouraged him not to speak about Drummond, and that
2 is the topic of which we will be examining Mr.
3 Cuellar.

4 THE COURT: We will now hear from the
5 representative of Drummond who had asked to speak.

6 MR. JEFFRESS: Thank you, Your Honor.

7 The -- in February of 2010 the Fiscalia
8 took testimony from Mr. Esquivel in a proceeding at
9 which Dr. Bernal and another attorney named Nodier
10 Agudelo, were present.

11 Mr. Cuellar testified under the oath to
12 the Fiscalia in a manner that we believe to be
13 entirely true.

14 Mr. Esquivel has now signed a
15 declaration that has been given to Your Honor in
16 which he claims that he lied under oath to the
17 Fiscalia. He says in this declaration falsely, we
18 believe, that he was threatened somehow by the
19 Fiscalia, by Dr. Bernal, and by Dr. Agudelo.

20 Your Honor, based on that, Mr.
21 Collingsworth --

1 THE COURT: One moment. First of all, in
2 order to expedite matters let me say that I do not
3 believe we are in the midst of a hearing where we are
4 making statements that are material to this lawsuit.

5 So having heard what I have thus far
6 heard and having before me proof that Plaintiff has
7 presented. I think we have enough elements in order
8 to resolve this administrative matter here today.

9 Thus we resolve in the following manner:
10 This office does not find sufficient proof or
11 elements in order to exclude Dr. Cuellar because
12 what has been mentioned by both parties -- or by
13 Plaintiffs, does not constitute an impediment for
14 Dr. Bernal Cuellar to be present here today.

15 Due to the fact that he is here present
16 representing the Defendants, thus excluding him from
17 the room, would go against due process for the
18 Defendants.

19 Aside from the fact that even though
20 there are several representatives for the
21 Defendants, only one of them will be speaking on

1 behalf of the Defendants, and that representation
2 falls to Dr. Jeffress and not Dr. Bernal Cuellar.

3 MR. COLLINGSWORTH: Thank you, Your Honor.
4 I noted it for the record.

5 THE COURT: And so we can begin with the
6 interrogation and Dr. Collingsworth may now ask
7 questions.

8 MR. COLLINGSWORTH: Thank you, Your
9 Honor. May it please the Court.

10 EXAMINATION BY MR. COLLINGSWORTH:

11 Q Mr. Esquivel, can I ask you first, you were
12 in the Colombian military for a while; is that correct?

13 A Yes, I was in the Colombian Army.

14 Q Can you tell us how old you were when you
15 joined?

16 A I had just turned 18 and I started with the
17 AUC being a minor.

18 Q When did you join the Colombian military,
19 the regular military?

20 A In 1993.

21 Q How old were you when you joined the

1 Colombian military?

2 A Eighteen years of age.

3 Q And what service did you do while you were
4 in the military?

5 A This was in Battalion 31 in Carepa.

6 THE COURT: Antioquia?

7 THE WITNESS: And also in the Battalion
8 Francisco de Paulo Veles.

9 THE COURT: Where was that?

10 THE WITNESS: That was between Apatado and
11 Carepa, and also in the Battalion 31, Voltijero.

12 BY MR. COLLINGSWORTH:

13 Q Were you an infantry soldier?

14 A I was an infantry soldier. I was a
15 patrolman in the banana area. Banana area, yes, that
16 is Carepa. It is a banana area.

17 Q Did you engage in any battles while you
18 were in the Colombian military?

19 A When I was in the Army, yes, I had many
20 confrontations, many confrontations with the Fifth
21 Front of the FARC. It is correct.

1 Q Who is the FARC, for the record, Mr.
2 Esquivel?

3 A The FARC is an armed group beyond the law.
4 They are leftists.

5 THE COURT: Excuse me?

6 When Mr. Esquivel talks about a place,
7 please, mention specifically such place because this
8 is going to a certain state so please be specific in
9 regards to the place we're talking about.

10 MR. COLLINGSWORTH: Thank you, Your Honor.
11 That's very helpful.

12 BY MR. COLLINGSWORTH:

13 Q How many years did you serve in the regular
14 Colombian military?

15 A I was there 18 months.

16 Q What was your rank when you left the
17 military?

18 A Regular soldier, common soldier.

19 Q What did you do when you left Colombian
20 military?

21 A After I left Army I lasted like a year as a

1 voluntary soldier.

2 Q Who were you volunteering for?

3 A For Battalion Number 35.

4 Q And you did that for about a year?

5 A I was like a year as a volunteer soldier
6 also in Brigade 17.

7 THE INTERPRETER: Sorry about that.

8 BY MR. COLLINGSWORTH:

9 Q When did you then join the AUC?

10 A I started in the AUC before I joined the
11 Army because I was from an area that has a very strong
12 influence from the guerillas. So if I didn't get into
13 the AUC I was going to go into the guerillas, and this
14 was the Fifth Front of the FARC.

15 Q What organization of the AUC did you join
16 before you went into the military?

17 A The AUC were born after Fidel Castano was
18 there because before that there were paramilitary
19 groups.

20 Q Which group did you join before you joined
21 the military of the AUC, which paramilitary group?

1 A At that time those were paramilitary
2 groups, the ones I joined. Those were at the banana
3 area and those were at San Pedro and they were also in
4 Cordoba, Violencia.

5 Q Did you leave the AUC when you joined the
6 military?

7 A I left to be able to serve in the military.
8 When I left the military I began a period as a
9 voluntary soldier and after that I went back to the
10 AUC.

11 Q When you went back to the AUC, what entity
12 of the AUC did you join?

13 THE INTERPRETER: The interpreter needs ask
14 the witness a place.

15 THE WITNESS: At that time there were the
16 AUC of Cordoba and Uraba, and those were under Carlos
17 Castano. At that time they were not the United Forces
18 of the AUC.

19 BY MR. COLLINGSWORTH:

20 Q What was it called -- what was the
21 predecessor group to the AUC when you joined after your

1 military service?

2 A At that time there were paramilitary
3 groups, they were not united farmer forces.

4 Q While you were in this paramilitary group,
5 did the paramilitaries ultimately unite and become the
6 AUC?

7 A After the death of Carlos Castano in '94
8 that's when the United Forces of the AUC were born.

9 Q Who was the leader of the AUC then when it
10 was born?

11 A When they were born these farmer forces of
12 Cordoba and Uraba, it was 00 who was at the head of
13 them were Carlos Castano.

14 Q Carlos Castano was called 00?

15 A No. 00 was Colonel who was retired from
16 the Army. His name was Jimenez and he was killed in
17 Santa Marta.

18 Q I'm sorry, I'm confused. Was 00 originally
19 the head of the AUC and then he was killed?

20 A No. He began paramilitary groups. He was
21 a lieutenant in the Army.

1 Q Who was the head of the newly formed AUC
2 when it became united?

3 A Carlos Castano.

4 Q And when Carlos Castano took over roughly
5 what year was that?

6 A That was after the death of Fidel Castano.
7 That was in '94.

8 Q And you were a member of the AUC at this
9 time?

10 A At that time I had retired from the Army
11 and I went back into the AUC.

12 Q At some point you became a member of the
13 Juan Alvarez Front; is that correct?

14 A The Front when Andres Alvarez was born in
15 memory of Juan Andres Alvarez, alias Daniel, we went
16 into this front. It was Magdalena and Cesar. That was
17 the area where the front was.

18 Q At what time roughly did you become a
19 member of the Juan Alvarez Front?

20 A When we arrived to the area of Cesar. We
21 went to a farm which is called Mata de Indios of a man

1 called Cespedes and that is between the pathway of --
2 it's on an unpaved road between Cuatro Vientos and
3 Codazzi, and I still have to answer it.

4 At that time that group was called The
5 Group of Cesar. It was operating in that unpaved road
6 called Vevacia.

7 I will continue with my answer.

8 And on the 13th of December of '98 alias
9 Daniel was killed in a subdistrict called Media Luna.
10 And so in memory of a colleague of ours is when the
11 Juan Andres Alvarez Front was born in memory of alias
12 Daniel and was Juan Andres Alvarez.

13 Q Thank you. And roughly what year was this?

14 A Mr. Rodrigo took -- handed me that area at
15 end of '98. So more or less at the beginning of
16 January when that was when officially I took charge of
17 the Juan Andres Alvarez Front.

18 Q So January 1998 is when you became the
19 commander of the Front?

20 A No, in December of 1998, that's when they
21 hand me the Juan Andres Alvarez Front to me, and in

1 January of '99 we began firmly with the Juan Andres
2 Front, because in December that's when the guys have
3 leave. So the front is not complete.

4 Q Thank you.

5 When did you first, yourself, go to the
6 area of Cesar Province as a member of the AUC?

7 A We begun -- we came to Cesar, that was in
8 mid 1996. We started doing insurgence in the Cesar
9 department. There were a lot of massacres at that time
10 in the area.

11 Q When you joined the AUC after your military
12 service, was that a common thing that ex-military went
13 into the AUC?

14 MR. JEFFRESS: Objection.

15 THE WITNESS: In the Farmed -- United Farm
16 Forces of Cordova on Uraba many of the members had been
17 members of the Army themselves.

18 BY MR. COLLINGSWORTH:

19 Q And how about in the Juan Andres Front,
20 when you were the commander, were many of your men
21 former military?

1 A The majority of my men had been
2 ex-military.

3 (Plaintiffs' Exhibit 1 was marked for
4 purposes of identification.)

5 BY MR. COLLINGSWORTH:

6 Q Mr. Esquivel, I'm going to hand you a large
7 document that we have marked as Exhibit 1, and my first
8 question to you is to simply look this over, and I'm
9 going identity more specifically for the record.

10 I would like the record to reflect that
11 this document has Bates numbers in the lower right-hand
12 corner that go from 25 to 67 and that the Spanish
13 version of the statement is numbered 34 to 40.

14 And I would ask that you turn to the page
15 numbered 40, and maybe the translator can help to see
16 if that is your signature there.

17 A (Witness reviewing document.)

18 Yes, that is my signature.

19 Q And the signature is dated December 3rd,
20 2009; is that correct?

21 A Yes, it is correct.

1 Q Now, could I ask you to turn to the page
2 numbered 34, which is the beginning of the Spanish
3 version of the statement.

4 A This is correct.

5 Q So could you look over, just examine pages
6 34 to 40 so that you can tell me what this document is.

7 MR. COLLINGSWORTH: I'm not asking the
8 witness to carefully read every word. I'm asking him
9 to look at it sufficiently so we can identify the
10 document.

11 BY MR. COLLINGSWORTH:

12 Q What is it?

13 A Yes, I'm looking at it.

14 (Witness reviewing document.)

15 Now you can ask me the question.

16 Q Can you identify this document? What is
17 it?

18 A This is a statement that I gave at the
19 model jail of Barranquilla.

20 Q And is everything in this statement true?

21 MR. JEFFRESS: Objection.

1 THE WITNESS: Yes, everything that I said
2 in this statement it is because it is the truth.

3 BY MR. COLLINGSWORTH:

4 Q Do you remember signing the statement and
5 transmitting it to me?

6 A Yes, I remember personally. I do remember.

7 Q Now, I'm going to ask you some questions
8 about the events that you relate in your declaration.

9 A There is no problem at all.

10 Q I would first like you to look at the
11 exhibits to the declaration. They begin on page 41.

12 A No problem at all.

13 (Witness reviewing document.)

14 Q Just familiarize yourself, please, with
15 those exhibits.

16 A You can ask me questions.

17 Q The only question is: Those were exhibits
18 that were attached to your original declaration; is
19 that correct?

20 A That is correct.

21 Q Thank you.

1 (Plaintiffs' Exhibit 2 was marked for
2 purposes of identification.)

3 BY MR. COLLINGSWORTH:

4 Q I'm now going hand you a photograph that we
5 have marked as Plaintiffs' Exhibit 2. Can you identify
6 the person in that --

7 A I know this.

8 Q Who is that man?

9 A Alfredo Araujo.

10 Q Do you recall when you first met this man,
11 Alfredo Araujo?

12 A Yes, I do remember. In 1999 I had to do an
13 incursion in a subdistrict called Atanque in the
14 Department of Cesar where I was wounded by shots. Can
15 I continue answering?

16 Q Yes, please.

17 MR. JEFFRESS: Excuse me, wounded by?

18 MR. COLLINGSWORTH: Shots.

19 MR. JEFFRESS: Shots.

20 THE WITNESS: Mr. Rodrigo Tovar Pupo, alias
21 Jorge Forte, told me that I had to pressure businessman

1 and cattle owners in the area. Because the Juan Andres
2 Alvarez Front was very little and we needed more men to
3 live right there in the area and also for them to go up
4 into the mountain of Perija.

5 And Mr. Rodrigo Tovar Pupo told me that
6 he had a friend, a childhood friend, who was at the
7 Drummond Company and his name was Alfredo Araujo.
8 And a meeting was programmed at La Mesa, and La Mesa
9 Mesa it's 14, 15 kilometers from Badillo La Popa in
10 Valledupar.

11 At that time I made the crossing towards
12 Badillo. I got noon -- at the noon hours I met
13 Mr. Araujo. Tovar introduced me to him. I didn't
14 know him from before.

15 We had a meeting at a farm around Tuna
16 Ceiba. That farm is right now property of
17 Mr. Rodrigo Tovar, that is alias Jorge Forte.

18 And Mr. Araujo told Mr. Jorge Forte,
19 Mr. Tovar, that Drummond, Drummond Company, was very
20 concerned because in many occasions the guerilla had
21 put down the railway line.

1 Q Let me stop you just for a moment to get
2 some context for this meeting. So who all was at the
3 meeting that you are now describing?

4 A No problem.

5 By the AUC it was Rodrigo Tovar Pupo and
6 myself. Mr. Rodrigo Tovar Pupo was leading Northern
7 Bloc and I was leading the Juan Andres Alvarez Front.

8 Mr. Alfredo Araujo was with three other
9 people, but they were not representatives of Drummond.
10 They were companions of Alfredo Araujo.

11 Q Were there other members of the AUC present
12 with you or with Jorge Forte?

13 A There were some security men at the time
14 that were from Rodrigo Tovar Pupo, alias Jorge Forte,
15 and there were men from my security team as well.

16 At that time I remember that also was with
17 us, alias Cortico, alias Guerrero, alias Kevin, and
18 also alias El Negro who is a cousin of mine.

19 Q Now, you mentioned that Jorge Forte
20 introduced you to Alfredo Araujo. Can you tell me what
21 was said?

1 A Yes, he introduced me to Mr. Araujo. The
2 subject matter of that meeting was because the Juan
3 Andres Alvarez were very small.

4 Q When he introduced you, do you remember
5 what words he used?

6 A With pleasure. He said, this is the
7 commander of the area.

8 Q Referring to you?

9 A It is correct, and I introduced myself as
10 alias Diego.

11 Q At that time you went primarily by the
12 alias Diego?

13 A The alias Diego was the name that I had
14 when I was in the ranks, but El Tigre was a nickname
15 that I had from before, and alias 55 was the number of
16 a code that I used to use because when we used to do
17 operations we used to use codes.

18 Q Thank you. So, please, go on and describe
19 what happened at this meeting that you have begun to
20 tell us about.

21 A With pleasure.

1 Days before, months before Jorge Cuarenta
2 had told me that finances were kind of low and I had
3 told him that I needed more men, that I need around 200
4 men to be able to go up into the Perija mountains. And
5 he told me that the contact person between the AUC and
6 Drummond was Alfredo Araujo.

7 Q And did he mention any relationship that
8 existed between himself, Jorge Forte, and Alfredo
9 Araujo?

10 MR. JEFFRESS: Objection.

11 THE WITNESS: Yes, of course. He told me
12 they were childhood acquaintances.

13 BY MR. COLLINGSWORTH:

14 Q So at this meeting where you were present
15 with Alfredo Araujo and Jorge Forte, what was
16 discussed?

17 A Drummond was very concerned because they
18 were having losses around the railroad lines. And also
19 was agreed that in case that Drummond did not want to
20 cooperate with the AUC, that if the guerilla would blow
21 up again the train and the railroad lines then Drummond

1 would then cooperate with the AUC.

2 Q During this meeting was any agreement
3 reached that you were present at between Jorge Forte
4 and Alfredo Araujo?

5 A Yes, of course, there was an agreement.
6 Yes, Jorge Forte told Alfredo Araujo that he needed
7 approximately between 150 and 200 men.

8 And Mr. Forte told him that he was pretty
9 concerned because finances were very low, and Alfredo
10 Araujo told Mr. Tovar Pupo, alias Jorge Forte, that if
11 the railroad lines would blow up again then Drummond
12 would finance the area of Cesar.

13 Q So what agreement was reached?

14 A We reached an agreement. The agreement was
15 that we needed to clean up of guerillas all the area
16 that surrounded Drummond, that would approach Drummond
17 and, therefore, then Drummond would cooperate with the
18 finances that they were going provide to the AUC.

19 Q You used at least in the translation you
20 used the words, clean up the area of guerillas. What
21 did you mean by that?

1 A Clean up means, yes, it means killing all
2 of the guerillas or guerilla men that are armed in the
3 area and civilians as well.

4 Q Did Alfredo Araujo say anything that you
5 heard about the need to do this, to clean out the area?

6 A Yes, he did. He said that if we -- that if
7 Drummond noticed that we did not let the guerilla
8 approach, then Drummond would cooperate with us.

9 Q Did Mr. Araujo mention the consideration of
10 this idea by anyone in the United States?

11 A No. He said that he was going to be in
12 charge for that payment to be effected.

13 Q Do you know whether Drummond then made a
14 payment to the AUC following this meeting you've
15 described between Alfredo Araujo, Jorge Forte, and
16 yourself?

17 A Yes, they made that payment, and I
18 personally went when they were going to go get that
19 money.

20 Q Can you describe everything you can
21 remember about your actions in going to get the money

1 that Drummond had promised to pay the AUC in this
2 meeting?

3 MR. JEFFRESS: Can we have a date and a
4 time frame?

5 THE WITNESS: I remember that in the year
6 2000, more or less in May or towards end of April, the
7 person in charge of the Black Road, or Carretera Negra,
8 called me. I was then in a subdivision called Hatillo
9 near La Loma. Then he arrived to where I was and he
10 told me that I should go with him to this place, to a
11 place called Las Palmitas, to do something that
12 Mr. Tovar Pupo had asked him to do.

13 When he arrived there he called a
14 contact that he had in Las Palmitas and the contact
15 said that he would arrive in a minute or so.

16 So we went from Las Palmitas. So Las
17 Palmitas is right in between Rincon Hondo and the
18 Chiriguana crossing.

19 After we had been on the road for
20 approximately ten minutes the truck came in with
21 three gentlemen and he told them as well that he was

1 coming for an errand that Mr. Tovar Pupo, alias
2 Jorge Cuarenta, had given him and they gave him
3 three boxes, you know, approximately, you know, a
4 good size.

5 And so he took them and he put them in
6 the truck where he was riding. He was in a green
7 Rodeo truck and I was in a silver truck.

8 THE INTERPRETER: Can the interpret inquire
9 as to the make of this truck?

10 MR. COLLINGSWORTH: Sure.

11 THE WITNESS: A high look silver truck, a
12 wagon.

13 And so when the boxes arrived they had
14 told him that when those boxes arrived he should
15 call his friend, and Amin opened the boxes right in
16 front of me and there were dollar bills inside and
17 he said as soon as you get there, please, contact
18 the friend, and so I took Amin to the Chiriguana
19 crossing.

20 And I stayed at the Chiriguana crossing
21 at a restaurant owned by a lady whose name is Petra

1 because I had a meeting with an informant from the
2 area.

3 BY MR. COLLINGSWORTH:

4 Q Do you know what Amin ultimately did with
5 the three boxes money?

6 A He took off immediately to meet with
7 Mr. Tovar Pupo, alias Jorge Cuarenta, who was at the
8 San Angel Base, better known as the Airplane. That was
9 the base that Mr. Tovar Pupo had back then.

10 Q Can you describe this base, San Angel Base,
11 also known as the Airplane.

12 A With pleasure.

13 The San Angel Base or the Airplane is a
14 farm owned by some cattle growers in the area. They
15 call it the Airplane because many years ago an airplane
16 crashed in the area and it's still there, the remnants,
17 and in front of it there's a dam, a big one. And
18 there's a two-story balcony made out of wood and next
19 to it there are some pens, and so that's what El Avion
20 looks like.

21 Q Thank you.

1 So did Jorge Forte ultimately confirm to
2 you that he received this cash that Amin brought him?

3 MR. JEFFRESS: Objection, leading.

4 THE WITNESS: Mr. Rodrigo Tovar Pupo called
5 me by HF radio on day three. So on day three he
6 confirmed that he needed to meet with me. I personally
7 went there with five people from my security forces.

8 When I arrived to see Mr. Rodrigo Tovar
9 Popu he told me that a part of the payment had
10 already been given him and that I should make ready
11 a certain amount of personnel because in the next
12 few days a lot of supplies or arms that he had
13 acquired were to arrive.

14 And I told him, tell me when the arms
15 are here. I have -- I'll have the personnel ready.
16 Around those days we received some AK-47s, 556
17 rifles. These were Pata de Cuchara and Pata de
18 Bomba rifles. They gave me ten rifles on that day.
19 So I got ten more guys for the front.

20 And I was waiting for arms that would
21 arrive by Turbo and they also brought some M-60s.

1 M-60 is support -- weapons for war support.

2 BY MR. COLLINGSWORTH:

3 Q Just to be clear in terms of the timing.

4 So I believe you said that you talked to Jorge Forte on
5 May 3rd; is that correct?

6 A Three days after they handed over the
7 money.

8 Q I see. So three days after they handed
9 over the money you had a meeting with Jorge Forte?

10 A Yes, with Mr. Jorge Forte I did meet.

11 Q Where was this meeting?

12 A At El Avion farm.

13 Q So you went to him at this headquarters
14 you've described called San Angel?

15 A Okay. San Angel is a municipality within
16 Magdalena, but El Avion, or the Airplane, is near
17 Magdalena. You can enter it through Puerto Nuevo
18 looking for the general direction of the -- the general
19 direction of El Dificil.

20 Q Were arms actually given to you at this
21 meeting?

1 A Yes, they gave me ten rifles. Okay. He
2 said, here's ten rifles, do you want to take them with
3 you and he said -- and I said, yes, I will take them
4 with me and he said until I get more weapons next time
5 and I said, okay, until you get them I will take these,
6 because another set of arms was coming by turbo
7 thereafter.

8 Q And when you say he, you're referring to
9 Jorge Forte?

10 A Yes, to Mr. Rodrigo Tovar Pupo, alias Jorge
11 Forte.

12 Q Now, you had previously described some
13 other weapons and I wasn't clear on what role they
14 played in this meeting. So can you tell us these other
15 weapons you've described what was said about them?

16 A The other weapons were to arrive by Turbo
17 because another group was going to be formed and this
18 group was going to be sent to El Banco Magdalena area.

19 Q When you say Turbo, what are you referring
20 to?

21 A Turbo is a municipality in Antioquia. It

1 is right there by the water's edge in Antioquia.

2 Q So did those weapons ultimately arrive from
3 Turbo?

4 A Yes, they arrived in Turbo finally
5 because -- yes, because alias 57, Edgar Ariel Corrdoba
6 Trujillo, told me that they had indeed arrived because,
7 you know, I was captured on July 19th in the year 2000.

8 Q Were you captured before the arms arrived?

9 A Yes, before the arms arrived that were
10 going arrive in.

11 Q Turbo?

12 A The arms were to arrive in Turbo, but I was
13 captured in Violencia.

14 Q Going back to the meeting with Jorge Forte,
15 did he tell you where the money was coming from to
16 purchase these new arms?

17 A Yes, he told me that they were coming from
18 the Drummond Company.

19 Q Who is Jaime Blanco Maya? Do you know him?

20 A He is Edgardo Maya Mayazon's brother.
21 Edgardo Mayazon had been the general prosecutor for

1 Colombia, and, yes, I do know Jaime Blanco Maya.

2 Mr. Benedito Tupinan told me that there was
3 a gentleman who wanted to talk to me and he introduced
4 me to Mr. Jaime Blanco at El Benedito Kiosk.

5 Q Roughly when did this meeting occur?

6 A That was around April or March of the year
7 2000. At that meeting he told me that there was a
8 gentleman at La Loma whose name was Hugo Guerra and
9 they had given him information that he was a FARC
10 guerilla.

11 Q Jaime Blanco told you this?

12 A Yes, he told me that personally. And he
13 told me that that gentleman had had a hand in blowing
14 up the train many years before. And that Hugo Guerra
15 was the brother of another guerilla commander, alias El
16 Guajiro. I was able to place him, and men under my
17 command put him down, and currently I am in jail
18 because of that.

19 Q Going back to Jaime Blanco. Was this
20 meeting you're describing you said roughly March of
21 2000, was that the first time you had met him?

1 A Yes, that was the first time I met him and
2 I continued to see him many more times and I would
3 speak on the phone to him. He had a bodyguard they
4 used to call Peinado and he used to hang without
5 another one whose name was or who was called Charris.

6 Q When you first meet Jaime Blanco, what did
7 you understand his position, his job to be?

8 A I was told that he was a Drummond employee
9 and that he was in charge of lunches at Drummond.

10 Q Did you have any arrangement with Jaime
11 Blanco for him to this point in time provide you funds?

12 A Yes, and I told him that I wanted the AUC
13 to combat the guerillas around Drummond there had to be
14 an agreement for monthly payments. And he told me that
15 he was not authorized to make those arrangements, but
16 that he would speak to Mr. Alfredo Araujo and that that
17 guy could make that agreement.

18 So a few days later Mr. Jaime Blanco called
19 me and told me that Alfredo Araujo had agreed upon a
20 monthly amount, a monthly amount that would be around
21 25 to 30 million pesos per month, and alias Amin or

1 alias Tomas would receive the monies. Tomas was a
2 police captain and his last name was Posada.

3 Q So at this -- was it at the first meeting
4 you told us about in roughly March 2000 that you had
5 this discussion with Jaime Blanco for him to ask
6 Alfredo Araujo for funds?

7 MR. JEFFRESS: Objection, leading.

8 BY MR. COLLINGSWORTH:

9 Q Let me rephrase the question.

10 When was the meeting that you have
11 discussed here at which Jaime Blanco told you he would
12 seek funds from Alfredo Araujo?

13 A Between March and April approximately.
14 That was after the death of the officers of the CTI.

15 Q Can you describe just briefly that
16 reference, the death of the officers of the CTI?

17 A They are -- they are members of the CTI
18 that, you know, were being investigated and they were
19 put down by men under my command, and I am also
20 currently under indictment for those deaths, and that
21 occurred on March 9th of the year 2000.

1 Q So you've mentioned this because you're
2 saying that the meeting with Jaime Blanco occurred
3 after that; is that correct?

4 A After that, correct.

5 Q So at this meeting with Jaime Blanco did
6 you ask him for funds or how did it come up?

7 A I asked him for the funds.

8 Q And what exactly did he say back to you?

9 A He said that he was not authorized to do
10 any of that, but that he would speak to Alfredo Araujo
11 who would be authorized.

12 Q And did you discuss with Jaime Blanco what
13 your front would be doing with funds?

14 A Yes, and I told him that we needed to buy
15 supplies with this money. At that time I bought 2,000
16 blue caps. I bought sweat shirts or shirts. I bought
17 those caps, barrets. I bought boots and I bought other
18 military supplies.

19 I told Mr. Rodrigo Tovar Pupo that I had
20 spoken to Jaime Blanco and he told me that there was no
21 problem, but that those payments should be made to Amin

1 in order to pay for payroll.

2 And I told Mr. Rodrigo Tovar Pupo that I
3 needed more people because there were too few of us in
4 order to operate around the Drummond area and also to
5 go up to the mountain.

6 And he said, be patient. As soon as the
7 arms get here with pleasure we will make the front grow
8 more, but for now I should make due with the men that I
9 had in the area.

10 MR. COLLINGSWORTH: Just a translation
11 question. Ms. Leete says that he said 200 caps and not
12 2,000 caps. Could we get that clarified?

13 THE WITNESS: It was 200 barrets.

14 BY MR. COLLINGSWORTH:

15 Q Thank you.

16 Going back to your discussion with Jaime
17 Blanco. So you've told us that sometime in March of
18 2000 you asked him for a monthly support. Did he
19 respond to you and get you the funds?

20 A He tells me that he's going to speak to
21 Alfredo Araujo because he, Jaime, is not authorized for

1 that. And then a few days later he called and told me
2 that, yes, Alfredo Araujo had called him and told him
3 that the funds had been approved for that.

4 And I told Mr. Rodrigo Tovar Pupo about
5 that and he told me that we should not allow for
6 anybody to blow up the railroad line again.

7 Q Did the payments that you had discussed
8 with Jaime Blanco, did they come to you? Were they
9 made?

10 A Yes, they did come to me and the rest they
11 took them to Amin, and if they did not reach Amin they
12 were done to Captain Posada, alias Tomas.

13 Q And what did you use those funds for once
14 you received them that Jaime Blanco had arranged?

15 A I bought 200 barrets. I bought boots, and
16 I also bought hygiene supplies for the troops, and I
17 also bought some black shirts that had markings on the
18 chest. With the markings a farm forces of the AUC of
19 Corrdoba Uraba, death awaits you, death threatens you.
20 It is correct.

21 Q Were the payments then made on a monthly

1 basis that you had discussed with Jaime Blanco?

2 MR. JEFFRESS: Objection, asked and
3 answered.

4 THE WITNESS: Monthly installments,
5 correct.

6 BY MR. COLLINGSWORTH:

7 Q And did you do anything else with those
8 funds?

9 MR. JEFFRESS: Objection, lack of
10 foundation.

11 THE WITNESS: No, because the rest of the
12 funds were going reach Mr. Rodrigo Tovar Pupo, alias
13 Jorge Forte. Those funds were used for payroll. What
14 I mean by payroll, it's to give the bonuses to the
15 members of AUC.

16 BY MR. COLLINGSWORTH:

17 Q Did that include your men in the Juan
18 Andres Front?

19 A It is correct.

20 Q Can we step back now and let me ask: Can
21 you give a time frame for when you were in the area

1 around Drummond's facilities in Cesar as a commander of
2 the Juan Andres Front?

3 A Yes, I was a commander in that area.

4 Q From roughly what time frame?

5 MR. COLLINGSWORTH: Don't give that to him
6 yet.

7 THE WITNESS: Commander as such in that
8 area I was from the end of '98 until 19th of July of
9 2000 when I was captured. I was a member of that Front
10 since 1996. Because I was one of the founders of the
11 Northern Bloc and also the Juan Andres Alvarez Front.
12 When Mr. Rodrigo Tovar Pupo was not an AUC at that
13 time.

14 Our commander at that time was Santiago
15 Tolon. The name is Rene Rios. And the commander at
16 that time in the area was alias Balthazar, and alias
17 El Negro. And there was a coordinator at the time
18 whose name was Lino Ramone, alias 36, because
19 Mr. Rodrigo Tovar Pupo came to be part of the AUC in
20 the year '97. Before he had been at collaborator of
21 the AUC known in Cesar as Papa Tovar that is

1 correct.

2 Q Thank you.

3 (Plaintiffs' Exhibit 3 was marked for
4 purposes of identification.)

5 BY MR. COLLINGSWORTH:

6 Q I'm handing you what we've marked as
7 Plaintiffs' Exhibit 3.

8 A No problem.

9 Q Can you first hold that up so that the
10 camera can see that exhibit?

11 A (Witness complying.)

12 Q Can you hold it up so that the camera can
13 see the exhibit that I've just handed you? Turn it to
14 face the camera.

15 A (Witness complying.)

16 Q Now, I'd like you to, please, look at
17 Exhibit 3 and see if you can describe, using the towns
18 that are marked and the railroad line there that is
19 marked, what operations you performed as the commander
20 of the Alvarez Front?

21 A With pleasure. I know that by heart, sir.

1 In the department of Cesar in the neighboring areas of
2 Drummond there are municipalities such as El Paso,
3 Bosconia, La Loma. I would get all the way to whatever
4 Cesar was because from Bosconia further was Magdalena.
5 That did not belong to me.

6 And around Drummond, around Drummond's
7 facilities we have the Municipality, new Municipality
8 of La Jaguias de Ibirico, Rincon Hondo, Las Palmitas,
9 Chiriguana crossing, La Loma Deportadia and La Loma
10 Calintoma, Becerril, Codazzi, Jaraska.

11 There is a subdivision called the 28.
12 There is kind of a village called Puente Canoa is
13 between El Paso -- it's between El Paso, Cuatro Vientos
14 and La Loma. It's an area where the Front of the FARC
15 number 41 and the ELNs had a lot of foothold.

16 Q What was your -- as the commander, when you
17 were the commander of the Juan Andres Alvarez Front,
18 what was your strategic objective militarily in this
19 area the Drummond facilities?

20 A When I was the commander of the Juan
21 Alvarez Front I had strict orders from Rodrigo Tovar

1 Pupo, alias Jorge Forte, not to allow for the guerillas
2 to have any presence whatsoever in the lower areas.

3 And I was waiting for the rest of the arms
4 to be able to establish a base at Loma Seca and Casa de
5 Tabla. And Loma Seca and Casa de Tabla are in the
6 Perija Mountains.

7 And at that time they had a presence,
8 actually they had a foothold, Front 41 and the ELN
9 where I fought for many years, guerilla camps, where I
10 recovered arms.

11 They were also took arms from me, where I
12 lost men, where I also put down enemy forces, where I
13 was wounded on several occasions. That is correct.

14 Q Did you clear out some -- during the time
15 that you were the commander of the Juan Andres Front,
16 did you also -- did you clear out some villages for
17 strategic reasons?

18 A Could you repeat the question, please?

19 Q During the time that you were the commander
20 of the Juan Andres Front, did you displace people
21 living in villages for strategic reasons?

1 A Again, we were commanders of the Juan
2 Andres Alvarez Front. We put down people, whether they
3 were militants or whether there was civilians of the
4 guerillas.

5 Many people because of fear or because of
6 pressure of the armed forces were displaced. Cases
7 that I in the process of Justice and Peace I have
8 already accepted to those killings and to those
9 displacements.

10 Q Roughly how many people have you accepted
11 responsibility for killing or displacing in the Justice
12 and Peace process to date?

13 A No problem. No problem. The year 2009, up
14 to the year 2009, I had 720 killings that I confessed
15 to and more than 2,000 displacements. There have been
16 many more versions where I have accepted responsibility
17 for many more killings, but to give you a count right
18 now I really am not able to, but I would venture to say
19 that it's around a thousand, around a thousand, fifteen
20 hundred approximately through the Juan Andres Alvarez
21 Front, and not only in Cesar because we would work on

1 joint operations towards the Bolivar department also in
2 the Magdalena department and in the Sucre department,
3 also South Bolivar, Sud de Bolivar, and many in the
4 department of Cesar.

5 Q Thank you.

6 When you were operating in the Cesar
7 Province did you observe the presence of the regular
8 Colombian military there?

9 A Yes. Inside the facilities of Drummond
10 there has always been one of the military armed forces
11 companies, groups, inside there. I give testimony that
12 I did see military armed forces within Drummond because
13 once I was going to do an incursion in a village called
14 San Roque and to get to San Roque you have to pass
15 through Drummond and I told Captain Posada that I
16 needed to go through his facilities, but I needed also
17 coordination.

18 So Army forces and troops and police forces
19 and us did not get into a shootout, that is, having a
20 confrontation among ourselves or for there to be a
21 shootout.

1 Mr. Posada, alias Tomas, called a contact
2 that he had within Drummond that he needed to speak to
3 the major that was in the Army that was within
4 Drummond. He invited me and I personally went in with
5 that captain. We coordinated the crossing towards San
6 Roque. The Army major was there nearby an airfield
7 strip. Three days later that such incursion into San
8 Roque.

9 Q So this meeting occurred inside the
10 Drummond facility?

11 A The coordination made by Posada was done
12 inside of Drummond with a major of the Army. So,
13 therefore, that when I would go through Drummond the
14 Army would not attack me.

15 The reason why there was no any collusion
16 between -- collision between --

17 THE INTERPRETER: The interpreter corrects
18 herself.

19 A -- collision between the armed forces, the
20 Army, and the AUC is because we had a common enemy
21 which we fought so much, the AUC as the Army itself.

1 The AUC were an organization that was above
2 the law but on right, the rightist, however, the
3 guerilla was a group that was above the law but was
4 leftist, therefore, the Army and AUC fought a common
5 enemy.

6 Q So while you were commander of the Juan
7 Andres Front you considered the Army to be your
8 strategic partner in the war against the left?

9 MR. JEFFRESS: Objection, leading.

10 THE WITNESS: Yes, we were colleagues to
11 fight against the guerilla.

12 MR. COLLINGSWORTH: Your Honor, can we
13 take a five-minute break at this point?

14 THE COURT: Of course you can.

15 THE VIDEOGRAPHER: Going off the record at
16 11:06.

17 (Deposition recessed at 11:06 a.m.)

18 (Deposition resumed at 11:15 a.m.)

19 THE COURT: We will then begin with our
20 proceedings after our short recess.

21 MR. COLLINGSWORTH: Thank you, Your Honor.

1 BY MR. COLLINGSWORTH:

2 Q Mr. Esquivel, I want to refer you back to
3 what we call Plaintiffs' Exhibit 1 which is your
4 declaration, and I will simply note for the record that
5 it is dated December 3rd, 2009.

6 My question is: After December 3rd, 2009,
7 did you hear from Jorge Forte about the fact that you'd
8 given this statement?

9 A Every time Mr. Bocanegra, not Camilo, but
10 the other one who is the attorney for Rodrigo Tovar
11 Pupo, alias Jorge Forte. On several occasions I asked
12 him to tell him that they were asking me about Drummond
13 because at that time some FBI agents came. I even have
14 the card that they gave me if you want to see it where
15 I denied everything.

16 Q Let me get some clarifications. So you
17 mentioned the name Bocanegra and you said that he is
18 Jorge Forte's lawyer?

19 A Here in Colombia.

20 Q And he visited you in prison?

21 A Yes, several times came to give me messages

1 from Mr. Rodrigo Tovar Pupo, alias Jorge Forte.

2 Q And do you recall what those messages were
3 as they related to your statement that you provided in
4 December 2009 about Drummond?

5 A Regarding the testimony that I gave the FBI
6 gentlemen.

7 Q What did -- what was the message you
8 received from Jorge Forte?

9 A Oh, A message by Jorge Forte, oh, he told
10 me that not to say anything, that he'll fix things over
11 there in the U.S.

12 Q And did you understand that to be referring
13 to your statement that you gave about Drummond?

14 MR. JEFFRESS: Objection.

15 THE WITNESS: Yes, about -- yes, that was
16 in relation to a statement that I gave about Drummond
17 and also a statement that I gave in regards to the
18 ex-governor of El Cesar, Mr. Araujo, Hernando Molina.

19 On several occasions I sent a message
20 back to Mr. Rodrigo Tovar Pupo that he should know
21 himself that I was not the only one that knew about

1 the relationship that existed between Drummond and
2 the AUC.

3 BY MR. COLLINGSWORTH:

4 Q How did you send your message back to Jorge
5 Forte?

6 A That he should know that I was not the only
7 one that had knowledge between the relationship between
8 Drummond and the AUC, that when Jaime Blanco would
9 fall --

10 MR. JEFFRESS: I'm sorry, when Jaime Blanco
11 would what?

12 THE INTERPRETER: Would fall.

13 THE WITNESS: When alias Peinado would also
14 fall or when Charris would fall, they were going to
15 talk, and with the only person they were going to wash
16 their hands with was with me because at that time I was
17 the commander of that Front. And if those people said
18 something I was going to say the same. And he told me
19 to stay quite and that he was going take care of it in
20 the U.S.

21 BY MR. COLLINGSWORTH:

1 Q Did all of these communications between you
2 and Jorge Forte go through this lawyer you mentioned,
3 Bocanegra, or was there another way to communicate?

4 A Through Attorney Bocanegra.

5 Q The first time that Bocanegra came to visit
6 you, did he mention the name Drummond?

7 A The first time that I met Bocanegra I met
8 him in Valledupar in 2006 where Mr. Rodrigo Tovar Pupo
9 had worked for me through him where he was at La Ceja,
10 Antioquia; that he needed to talk to me, and in those
11 days they were going take me to the jail of
12 Barranquilla. At the -- by the end of October 2007
13 they got me out and took me to the jail of
14 Barranquilla.

15 I met again, personally met again, with Mr.
16 Forte. It had been eight years that I had not seen
17 him, and I told him these things to Mr. Rodrigo Tovar
18 Pupo. I told him I have to meet -- I have to my name
19 many killings in El Cesar.

20 What do we do about Hernando Molina Araujo
21 and about Drummond, and he said to me, about Drummond,

1 don't say anything, that I will take care of that. And
2 I don't want you to even touch Hernando Molina because
3 he's a childhood friend and I don't want you to touch
4 him in that sense.

5 In the first free version that I gave in
6 the Justice and Peace process, every time they would
7 ask me about that subject matter I would say that I had
8 no knowledge of.

9 Q Let me get some context again. This
10 face-to-face meeting you had with Jorge Forte in 2008,
11 where was that?

12 A That was at the end of 2007 after the
13 version that I gave to the Justice and Peace process.
14 They took me to Valledupar for a summary proceeding.

15 In January of 2008 I met again Mr. Rodrigo
16 Tovar Pupo alias Jorge Forte, and he told me again,
17 don't mention anything about Drummond nor about
18 Hernando Molina.

19 To the 12th of May of 2008 Mr. Rodrigo
20 Tovar Pupo, alias Jorge Forte, was extradited to the
21 United States and I was in the same place where he was

1 at and he gave me these words, son, they deceived us,
2 and I said what about it, sir?

3 So save yourself. Say whatever you need to
4 say, but don't talk about Drummond nor about Hernando
5 Molina. These words were said to me personally by
6 Rodrigo Tovar Pupo. It was going to be midnight.

7 From the Barranquilla jail they took out
8 Nodier Giraldo, Hernan Giraldo, who is Nodier's father,
9 and Eduardo Bencochea, and Mr. Rodrigo Tovar Pupo. It
10 is correct.

11 Q That's when he was -- Jorge Forte was
12 extradited to the United States?

13 A To the United States.

14 Q So when you had these last face-to-face
15 words with Jorge Forte, you were both in the prison in
16 Barranquilla?

17 A Which were in the jail of Barranquilla in
18 patio number 8.

19 Q And that was the last time you saw him
20 face-to-face?

21 A The last time that I saw him personally.

1 It is correct.

2 Q And since then all of your communications
3 have they been through this lawyer Bocanegra?

4 A Through personal means through Bocanegra.
5 One around 10:00 p.m. approximately. Antonio told me
6 there was a long-distance call that it was from
7 Attorney Bocanegra, and he said, I'm over here where
8 grandpa is.

9 Did you say something about what we spoke
10 about? I said, yes, I did because everybody is washing
11 their hands with me and I'm not going to say something
12 because of somebody else.

13 Because I told Attorney Ivan Otero Mendoza,
14 that I was concerned because they were asking me a lot
15 about Drummond and I didn't know what else to do, and
16 Otero personally told me that I was the owner of my own
17 being and to try to fix my own legal situation.

18 I made that statement without any pressure
19 from anybody. I did it because I want to take care of
20 my own legal situation, and, as far as I know, this is
21 a civil lawsuit that was going to be reserved. It is

1 correct.

2 Q When you say you gave the statement of your
3 free will, are you referring to the statement that we
4 called Exhibit 1?

5 A Against Drummond. It is correct. That is
6 between -- that is the relationship between Drummond
7 and the AUC. It is correct.

8 Q You mentioned that someone from the FBI
9 came to visit you? Was that the United States FBI?

10 A Yes, and I have the card here.

11 Q Do you remember --

12 A These gentleman came to visit me. I have
13 the card here.

14 MR. COLLINGSWORTH: I will let the record
15 reflect that he's handed me a card that says Federal
16 Bureau of Investigation, Special Agent Manuel Ortega,
17 Miami division.

18 THE COURT: And I'm giving this back to him
19 so he can show it to the camera.

20 THE WITNESS: Are we set?

21 MR. COLLINGSWORTH: Yes.

1 THE WITNESS: When the FBI came I told them
2 that I had knowledge, but I was not going say anything
3 because I am a human being and as such I was in fear.
4 The transfer that was made towards the end of 2007
5 where I was returned once again in January of 2008,
6 Mr. Rodrigo Tovar Pupo talked to someone that worked
7 for emerging gangs, better known as the Nevados, and
8 the name of the person who worked for those gangs was
9 Charlie Aristizabal who was a classmate of mine. We
10 grew up together since childhood.

11 He worked for me at the AUC. And he
12 told me that Mr. Rodrigo Tovar Pupo had given him
13 orders to get me and kill me on the way there
14 because I knew too much and he could not allow me to
15 talk about either Drummond or childhood friends that
16 I had had at El Cesar because he wanted there to be
17 only one truth to his convenience.

18 MR. COLLINGSWORTH: Just a translator
19 question that he said that I had, the friends that I
20 had in Cesar, but he was referring to something that
21 Jorge Forte had said; is that correct?

1 THE WITNESS: That is correct.

2 BY MR. COLLINGSWORTH:

3 Q So your friend told you that Jorge Forte
4 had ordered your murder?

5 MR. JEFFRESS: Objection, leading.

6 THE WITNESS: Yes, that I should be gotten
7 to and murdered. He also had another activity in Santa
8 Marta about a year ago where there are a lot of
9 officers of that emergent gang, better know as the
10 Nevados, and they all the confirmed the same situation
11 that they were given orders to get at me and murder me
12 so that I would not be able to say anything because I
13 knew too much.

14 Three days later gave a version in Santa
15 Marta and Attorney Bocanegra, Attorney Armando
16 Araujo because he's an attorney also, were both
17 present, and I sent word with Attorney Bocanegra to
18 Jorge Cuarenta asking him why had he ordered my
19 death saying that the only thing I had ever done was
20 be faithful to him? Why was he paying me back in
21 such a way? And he said I don't believe that he

1 ordered that and I said, but I have proof.

2 Charlie Aristizabal visited me in the
3 Barranquilla jail and he confirmed this to me in
4 person. So beware, they want to kill you because
5 you know too much.

6 BY MR. COLLINGSWORTH:

7 Q Now, this version you've talked about in
8 Santa Marta, that was a Justice and Peace testimony?

9 A Yes, within Justice and Peace. I would
10 also like to make clear that Mr. Rodrigo Tovar Pupo
11 ordered the death of all of the commanders of the Front
12 so that there would only be one truth, the truth that
13 was most convenient to him.

14 For evidence after the demobilization alias
15 Omega was murdered, alias Felipe was murdered, alias
16 Ramiro was murdered, and many other intermediate
17 commanders who know the secrets of the AUC.

18 And at the regular Fiscalia, or the
19 Fiscalia for Justice and Peace, you can ask Rafa
20 Pivijay, and he was a commander of the Front which
21 would operate in Pivijay. You could also ask John 70.

1 He handed himself over in 2008 and they
2 came to ask him why at the kiosk of patio 8 and he also
3 asked him why had he ordered his death, and he said, I
4 never ordered your death, 70, and Sadenta said, I have
5 evidence from e-mail where it states that you ordered
6 my death.

7 Well, and I thank God, that the person you
8 gave this order to is a very good friend and he did not
9 want to do it. But then you can also ask any commander
10 of the Front who is in jail at the model jail in
11 Barranquilla because we once held a meeting and then I
12 was also told that they had ordered our death and we
13 said the following: Well, then they ordered the death
14 of all of us with just the following goal, that there
15 would only be one truth, the truth would be most
16 convenient to him.

17 Q And by him you mean --

18 THE COURT: Excuse me. And right now we
19 would ask the witness to guide his answers towards what
20 is permitted to the proceeding as such because we are
21 derouting the conversation towards the Justice and

1 Peace process.

2 BY MR. COLLINGSWORTH:

3 Q I just would like a clear question because
4 that was helpful information. Do you have knowledge
5 that Jorge Forte was -- had ordered your murder and the
6 murders of other commanders that were under him in the
7 AUC?

8 MR. JEFFRESS: Objection, leading.

9 BY MR. COLLINGSWORTH:

10 Q You can answer.

11 A That a Drummond attorney or any attorney
12 may have threatened me? No, at no time have they
13 threatened me.

14 Q No, no, that's not the question. The
15 question is: You just told a very long story and I
16 just want to focus on one question which is: Do you
17 know that Jorge Forte had ordered your killing?

18 MR. JEFFRESS: Objection, leading.

19 THE WITNESS: Yes, I have knowledge through
20 one of the members of the gang called the Nevados,
21 Charlie Aristizabal, Aristizabal, alias Loro Guapo.

1 BY MR. COLLINGSWORTH:

2 Q And he was your childhood friend?

3 A Yes, childhood. We grew up together in
4 Violencia Cordoba, and I'll give you details of how
5 they were going to get at me in order to murder me.

6 Q Let me ask the question then. How did you
7 learn from your childhood friend Loro Guapo that Jorge
8 Forte intended to kill you?

9 MR. JEFFRESS: I object. Excuse me. I
10 object on the grounds, this has absolutely nothing to
11 do with Drummond or with this lawsuit. I think the
12 judge has already asked Mr. Collingsworth that you
13 confine your questions to something relevant to this
14 lawsuit, and I object to your proceeding in this
15 fashion.

16 MR. COLLINGSWORTH: Your Honor, this goes
17 to his state of mind. I would just like an answer to
18 that question and then we're going to move on.

19 THE COURT: You can proceed.

20 MR. COLLINGSWORTH: Thank you.

21 THE INTERPRETER: Could counsel repeat the

1 question?

2 BY MR. COLLINGSWORTH:

3 Q How did you learn from your childhood
4 friend, Loro Guapo, that Jorge Forte had ordered your
5 murder?

6 A Because he went to visit me at the model
7 jail in Barranquilla and he stopped going there to
8 visit me because he had been mentioned within Justice
9 and Peace, and in order not to be captured, in order to
10 not be captured he decided not to go visit me anymore.

11 Q Did he tell you how, what the plan was to
12 kill you?

13 A Yes.

14 Q Can you tell us?

15 A They were going to block the road with a
16 truck near the Copey so the guard would stop everyone.
17 They would get at me then and then they would murder me
18 and then they would make it so that it would seem like
19 it had been an rescue attempt.

20 Q Thank you.

21 (Plaintiffs' Exhibit 4 was marked for

1 purposes of identification.)

2 BY MR. COLLINGSWORTH:

3 Q I'm going to hand you now what we have
4 marked as Plaintiffs' Exhibit 4. Now, first I will
5 note that the first part of this is -- the first half
6 of it is in English translation. If you could turn
7 about halfway in there's a beginning of a numbering
8 system that starts at 52 and goes to 61.

9 Can you look at the pages 52 to 61 and tell
10 me if you recognize this document?

11 A (Witness reviewing document.)

12 Yes, I know of this document.

13 Q What is this document?

14 A It is a statement that I gave where I am
15 retracting my statement that I had given at a
16 proceeding in Bogota.

17 Q Can you tell us the circumstances under
18 which you gave this statement that we've marked as
19 Exhibit 4?

20 A A prosecutor from Bogota took a statement
21 of me regarding whether or not I had knowledge of the

1 links between the AUC and Drummond and an attorney
2 Nodier Agudelo who is Alfredo Araujo's attorney, Dr. or
3 Attorney Jaime Bernal Cuellar, who is here present was
4 there present as well. He's an attorney for Drummond,
5 and they asked the questions.

6 I went close to Mr. Jaime Bernal Cuellar
7 and I asked him, what kind of a statement is this? And
8 he said, this is about the links between Drummond and
9 the AUC, and I told him, well, then I'm afraid. It is
10 a very sensitive thing or process, and he told me this
11 as advice because, you know, I took this as advice and
12 not as a threat.

13 Fix up your legal situation. Get your
14 legal situation straightened out and don't get into
15 trouble, my friend. At no time did Attorney Jaime
16 Bernal Cuellar threaten me because if I said so I would
17 be lying.

18 I am just a human being and I am afraid for
19 myself and for my family because I know that Drummond,
20 the multi-national, is a very powerful company and in
21 the same way that they financed the AUC to combat the

1 guerillas it would be nothing to them to finance others
2 that would then murder me. I am a human being and I am
3 afraid.

4 In a statement I gave years ago regarding
5 Mr. Molina Araujo I was threatened, my trusted
6 attorney, Ivan Otero Mendoza, was also threatened, and,
7 as a matter of fact, due to those threats he gave up my
8 case.

9 Q So this statement that we're talking about,
10 Exhibit 4, you did sign it, correct?

11 A I did sign it.

12 Q And it is essentially a retraction of your
13 prior statement about the relationship between Drummond
14 and the AUC?

15 MR. JEFFRESS: Objection.

16 THE WITNESS: Yes, I retracted myself
17 because I'm a human being and I feel fear.

18 MR. COLLINGSWORTH: I want to ask the
19 question, please.

20 BY MR. COLLINGSWORTH:

21 Q So was it true? When you retracted your

1 prior statement about the relationship, was the
2 retraction true?

3 A Yes, I made it.

4 Q But was it true?

5 MR. COLLINGSWORTH: Let me --

6 THE WITNESS: It is true that I retracted
7 my statement due to fear.

8 BY MR. COLLINGSWORTH:

9 Q Please explain why you retracted your
10 statement completely?

11 A I retracted myself from my prior statement
12 because in the same way that Drummond financed
13 paramilitary groups to fight against the guerillas, it
14 would be nothing to them to finance someone to kill me,
15 and I know that regarding this statement that I am
16 giving here today I cannot cover the sun with one hand.

17 Everyone is giving statements regarding
18 Drummond and the AUC and the things that there were
19 between them. Jaime Blanco threw the dirty water at
20 me. Charris is also going to throw the dirty water at
21 me, and Samario once said that they should ask me

1 because after I had been captured the Juan Andres
2 Alvarez Front kept on or went on being sponsored by
3 Drummond. And regarding this statement that I'm giving
4 I know that I'm going get into trouble.

5 Q Have you told the truth today about the
6 relationship that you're aware of between the AUC and
7 Drummond?

8 A Yes, I am stating the truth, and there will
9 be many candidates that had been saying the same truth
10 because they are awaiting to be called so they can also
11 say the truth because they told me if you don't say the
12 truth, we're going say the truth.

13 Q Now, can I ask that going back to this
14 Exhibit 4, which is dated February 11th, 2010, where
15 you retracted your original statement. As you sit here
16 today, are you safer than you were then or are you less
17 worried about repercussions?

18 A I know that I'll be threatened now that I'm
19 saying the truth.

20 Q But are you any safer? Did you do anything
21 to make yourself safer?

1 A No, because I have nothing else to do but
2 say the truth because everybody else is saying the
3 truth.

4 Q Did you take any precautions to protect
5 your family?

6 A Yes, yes, I took precautions with my
7 family, although I know that they are not fully
8 secured; but, you know, it will be what God wills it to
9 be.

10 (Plaintiffs' Exhibit 5 was marked for
11 purposes of identification.)

12 BY MR. COLLINGSWORTH:

13 Q I'm going to hand you one more exhibit,
14 Number 5.

15 MR. COLLINGSWORTH: Your Honor, you
16 already have this exhibit. It is the one that I gave
17 when I was talking about Mr. Cuellar earlier today.

18 THE WITNESS: It's like in English?

19 THE COURT: Yes, correct.

20 THE WITNESS: Well, if you ask me the
21 questions, translate them, I will very gladly answer

1 them.

2 MR. COLLINGSWORTH: I just would like
3 the record to reflect that the document has been
4 Bates numbered in the lower right-hand corner. It
5 goes from 2683 to 2687 and it's starting on page
6 2686 is the Spanish original version.

7 BY MR. COLLINGSWORTH:

8 Q Can you turn to that page, please?

9 A Ready.

10 Q Can you identify this document? What is
11 it?

12 A That statement says that William Pacheco,
13 Nodier Agudelo, and Mr. Cuellar came. It's when I
14 retracted myself.

15 Q And on page 2687 at the bottom is that your
16 signature?

17 A Yes, that is my signature.

18 Q And this is dated June 17th, 2011, correct?

19 A It is correct.

20 Q And is everything in this statement true?

21 A That's however where it says that the

1 attorney, prosecutor, had threatened me and at no time
2 had he threatened me. And the prosecutor just asked me
3 the questions in a very decent manner as questions are
4 posed and, therefore, I answered, that I had no
5 knowledge, as I told you before, because I'm a human
6 being and I feel fear. It is correct.

7 Q So the events that you relate in this
8 document, Exhibit 5, are they correct? Do they
9 correctly describe what happened the day that you gave
10 the statement that is Exhibit 4?

11 A It is correct.

12 Q Mr. Esquivel, we are going back to
13 Exhibit 1, your original declaration dated November --
14 I'm sorry, December 3rd, 2009, that is a true
15 statement, correct?

16 MR. JEFFRESS: Objection, leading.

17 THE WITNESS: The statement of
18 December 2009 that I told about the relationship
19 between Drummond and the AUC, it is the truth which is
20 the same one that I'm giving you right now here.

21 BY MR. COLLINGSWORTH:

1 Q And everything that you've testified to
2 today here in this proceeding is it true?

3 MR. JEFFRESS: Objection, leading.

4 THE WITNESS: It has been the truth, and
5 also when they take me to Justice and Peace I have
6 thought of also taking charge of my legal situation and
7 telling the truth in that process.

8 BY MR. COLLINGSWORTH:

9 Q And you're required to tell the truth in
10 the Justice and Peace process, correct?

11 A And also, yes, I am required to tell the
12 truth and Attorney Daisy Jaramillo Rivera told me on
13 occasions that I had many things to say. Yes, I said I
14 have many things to say, it is true.

15 And on many occasions she told me, tell me
16 the truth, tell me the truth, otherwise you will lose
17 your benefits. And I said to her, well, I really have
18 nothing else to tell you. And she was telling me that
19 they were going to take away my benefits for not
20 telling the truth.

21 Have been 12 years in jail. I cannot lose

1 my benefits for covering the truth of other people. It
2 is correct.

3 MR. COLLINGSWORTH: Thank you, Mr.
4 Esquivel. I have no more questions for now, and it's
5 going to -- you're now going to have the pleasure of
6 some questions from Mr. Jeffress.

7 THE WITNESS: There's no problem. I'm
8 available. I'm willing.

9 THE COURT: I would like to take advantage
10 now, and since we are at a good breaking point since
11 the examination by Mr. Collingsworth has finished, then
12 it would be worthwhile to take a break and then
13 recommence with the questioning by Mr. Jeffress after
14 lunch.

15 MR. JEFFRESS: Thank you.

16 MR. COLLINGSWORTH: Very nice.

17 THE COURT: The break will be for an hour
18 and 15 minutes. So we will be back here at 1:30 p.m.

19 MR. COLLINGSWORTH: Thank you, Your Honor.

20 THE VIDEOGRAPHER: Going off the record at
21 12:15.

1 (Recessed at 12:15 p.m. for lunch)

2 (Reconvened at 1:37 p.m.)

3 THE COURT: And so we resume our business
4 this afternoon after the morning recess in compliance
5 once again with the request from the Court in Alabama
6 to take the testimony of Jhon Jaime Esquivel, and
7 Attorney Jeffress has -- can now speak.

8 EXAMINATION BY MR. JEFFRESS:

9 Q Mr. Esquivel, were are you arrested on
10 July 19th of the year 2000?

11 A Yes, I was arrested back then.

12 Q Who arrested you?

13 A The Colombian police in Violencia, Cordoba.

14 Q When did you leave Cesar to go to
15 Violencia, Cordoba?

16 A I was wounded at La Loma Deportadia, and so
17 I had gone back there to recover from that wound to
18 Violencia, Cordoba.

19 Q Were you wounded on May the 4th, 2000, in
20 La Loma?

21 A Yes, I was wound at La Loma.

1 Q Were you wounded in a fight with another
2 member of the paramilitary?

3 A No -- yes, I was wounded by a member of the
4 AUC, you know. He let out a shot and it happened to
5 hit me here in my hand.

6 Q Had you been in a fight with this other man
7 that his gun went off?

8 A No, at no time.

9 Q So you left to get treatment for your hand
10 in Violencia?

11 A Exactly, treatment for my hand.

12 Q So you were not in Cesar after May 5th or
13 6th of the year 2000, correct?

14 A What was that?

15 Q You were not in Cesar after May 5th or 6th
16 of the year 2000?

17 A I went to Violencia, but I returned to
18 Cesar to a meeting with Mr. Rodrigo Tovar Pupo because
19 I was still the head of the Front.

20 Q And then after that meeting you went back
21 to Violencia?

1 A I went to get more personnel because they
2 had put down some personnel of the AUC in the southern
3 part of the Bolivar. So I went to get more men.

4 Q And then you went back to Violencia?

5 A I went -- I went to Violencia, but then I
6 returned. In other words, twice went to Violencia and
7 twice I went back.

8 Q When did -- I'm sorry -- strike that.

9 What was the charge on which you were
10 arrested July the 19th?

11 A They arrested me on account of the death of
12 some officials of the CTI.

13 Q Those are officials who you -- your men had
14 murdered in March of 2000?

15 A March 9th year 2000, correct. And I was
16 already indicted for that case.

17 Q And have you been in prison continuously
18 since July 19th of 2000?

19 A Yes, since I was detained on July 19th.

20 Q When the Justice and Peace law was enacted,
21 did you seek to take advantage of the provisions of the

1 Justice and Peace law?

2 A I was in the jail at Valledupar and
3 Mr. Rodrigo Tovar Pupo sent word that I should try to
4 seek the provisions of the law for Justice and Peace.

5 MR. JEFFRESS: Move to strike as
6 nonresponsive.

7 BY MR. JEFFRESS:

8 Q Did you seek to take advantage of the
9 provisions of the Justice and Peace law?

10 A I did not take advantage of Justice and
11 Peace. I'm clarifying my situation before this law of
12 Justice and Peace.

13 Q Let me say it a different way.

14 The Justice and Peace law offers the
15 possibility that your sentence would be reduced to
16 approximately eight years; is that correct?

17 A Yes, from five to eight years, that is
18 correct.

19 Q And are you seeking to have your sentence
20 reduced under the Justice and Peace law?

21 A Yes, I'm emersed in that process so that it

1 will be reduced from 40 to 8 years.

2 Q Forty to eight years?

3 A From 40 to 8 years, correct.

4 Q When did you begin to testify to declare in
5 the Justice and Peace process?

6 A I started testifying -- I started
7 testifying in November of 2007, around the 11th or
8 10th of November.

9 Q And how many times did you testify in the
10 years 2007, 2008, 2009?

11 A Whenever they called me to come testify at
12 Justice and Peace I would go out and do it. Many
13 times. Way lot of times.

14 Q And in that testimony you did not say
15 anything about Drummond Company having supported the
16 paramilitaries, correct?

17 A At no time did I say any of that because
18 Jaime Blanco was out, Peinado was out, and Jorge Forte
19 told me not to say a word because he would take care of
20 that.

21 MR. JEFFRESS: Strike the answer beginning

1 the cause. Move to strike, I'm sorry.

2 BY MR. JEFFRESS:

3 Q At no time in the Justice and Peace
4 testimony through 2007, 2008, 2009, did you mention
5 Alfredo Araujo, correct?

6 A At no time. I had not mentioned him at any
7 time. I hadn't even mentioned Hernando Molina Araujo's
8 name either because I received threats at that time.

9 MR. JEFFRESS: Move to strike after the
10 word no.

11 BY MR. JEFFRESS:

12 Q When did you -- were you first approached
13 by Mr. Collingsworth or his fellow lawyers to give a
14 declaration in this case?

15 MR. COLLINGSWORTH: Objection, no
16 foundation.

17 THE WITNESS: Well, the first time I told
18 Dr. Ivan Otero that I was very worried because they
19 were asking me about Drummond a lot, and then came a
20 lady and a gentleman and they said that, you know, they
21 were interested in knowing the truth about Drummond.

1 They were attorneys for victims, and I
2 told them that I knew a lot but that I was afraid to
3 speak and they said, don't worry, this is a civil
4 suit and it will be handled in privacy.

5 BY MR. JEFFRESS:

6 Q They told you this lawsuit would be handled
7 in privacy?

8 A Yes, that it was going to be confidential
9 or under reserve, you know, that it was not like
10 Justice and Peace or at the jail or anything and that
11 this was a lawsuit for the victims.

12 Q So did Mr. Collingsworth visit you along
13 with Mr. Otero and Mr. Collingsworth's assistant,
14 Rebecca Pendleton back in 2009?

15 A Yes, they came to visit me and I gave them
16 a statement.

17 Q You gave them a statement in August 2009?

18 A Yes, a statement in around 2009.

19 Q Well, the statement that you identified
20 today is December the 3rd I believe of 2009. Is that
21 the only statement that you had provided to Mr.

1 Collingsworth at that time?

2 A I don't know, but I gave them a statement.
3 I gave them a statement in 2009.

4 Q Who wrote that statement?

5 A I did. They would ask me the questions,
6 what I knew about Drummond, and then they would write
7 that.

8 Q And then they wrote up a statement in
9 Spanish for you to sign?

10 MR. COLLINGSWORTH: Objection, vague, no
11 foundation.

12 THE WITNESS: No. I testified what I knew.

13 BY MR. JEFFRESS:

14 Q Who wrote the statement, the written
15 statement?

16 MR. COLLINGSWORTH: Objection, vague.

17 THE WITNESS: One of them wrote it. I
18 don't know which, but one of them.

19 BY MR. JEFFRESS:

20 Q Well, up until the time that you signed the
21 statement for Mr. Collingsworth, you had never said in

1 any testimony that Drummond had anything to do with
2 supporting your paramilitary group, correct?

3 THE INTERPRETER: Could counsel repeat the
4 question for the interpreter?

5 BY MR. JEFFRESS:

6 Q Up until the time that you signed the
7 declaration for Mr. Collingsworth, you had never said
8 in any testimony that Drummond provided support to your
9 paramilitary group?

10 A They asked me what knowledge I had about
11 Drummond and I said that, yes, they supported the AUC.

12 Q Mr. Esquivel, you've said that when you
13 testified to the Fiscalia in February 2010 you had
14 fear. Do you remember that testimony?

15 A Yes.

16 Q But you had no fear in December of 2009 to
17 give Mr. Collingsworth a statement?

18 A Well, I've always been afraid. I told
19 them, you know, as long as I don't get into any trouble
20 and they answered, this is a civil lawsuit.

21 Q Although a civil lawsuit, Mr. Esquivel,

1 didn't you know that Drummond and its lawyers would
2 know what you said in your declaration?

3 A No, I did know that they were going to find
4 out about that because I knew that when talking about
5 that I would get into a lot of problems.

6 Q I'm going to show you what we've marked as
7 Defendants' Exhibit ET-1 for this -- for this?

8 MR. JEFFRESS: Your Honor, may I hand that
9 to the witness?

10 THE COURT: Yes, you can.

11 (Defendants' Exhibit ET-1 was marked for
12 purposes of identification.)

13 BY MR. JEFFRESS:

14 Q Mr. Esquivel, this is a copy of -- this is
15 a copy of the same testimony that you identified as --
16 for Mr. Collingsworth as his Exhibit 4 I believe it
17 was, and that is dated February the 10th of the year
18 2010, correct?

19 A Yes.

20 THE COURT: 2011?

21 MR. JEFFRESS: No, 2010.

1 BY MR. JEFFRESS:

2 Q Which was about two months after you signed
3 the declaration for Mr. Collingsworth, correct?

4 A Yes.

5 Q And in that testimony first Mr. William
6 Pacheco; do you remember him?

7 A William Pacheco's a prosecutor?

8 Q Yes.

9 A Yes, I do remember him.

10 Q And he was from the national prosecutor of
11 the national unit against terrorism; do you recall
12 that?

13 A Yes, true.

14 Q And did -- were you under oath when you
15 gave that declaration?

16 A Yes, I did say the under oath.

17 Q And Mr. Pacheco warned you about the
18 seriousness and the commitment that you acquire of
19 telling only the truth of the declaration? This is the
20 highlighted part on the first page.

21 A Yes, he did warn me of that, but I am a

1 human being and I felt afraid.

2 Q And you told Mr. Pacheco at that time, you
3 promised to say the truth and nothing but the truth in
4 what you were going to declare? Is that what you said
5 at that time?

6 A That's right, I said it. I did it only to
7 protect myself and to protect my family.

8 Q But you had no thought of protecting
9 yourself or your family when you gave the declaration
10 to Mr. Collingsworth two months earlier?

11 A Yes, but since it was a civil lawsuit, I
12 never thought that it would reach the regular Fiscalia.

13 Q Did you state in that testimony to the
14 Fiscalia -- this is at page 4 down at the bottom, the
15 highlighted portion -- well, strike that.

16 Were you asked this question asked:
17 Please, state if you found out about a possible
18 indulgence, permissiveness, collaboration, liking, or
19 sympathy of the managers or workers from Drummond with
20 members of the self-defenses of the Northern Bloc?

21 Were you asked that question?

1 THE INTERPRETER: Counsel, the interpreter
2 cannot find that on page 4.

3 MR. JEFFRESS: I'm sorry, it's the Spanish
4 on page 7.

5 THE INTERPRETER: Please let us know if
6 you found out or if you realize that there was any
7 possible filtration of members of the AUC from the
8 Northern Bloc at Drummond Company.

9 THE WITNESS: Could you repeat the question
10 again?

11 BY MR. JEFFRESS:

12 Q Yes.

13 You were asked by Mr. Pacheco, the
14 prosecutor at that time, to state if you found out
15 about a possible indulgence, permissiveness,
16 collaboration, liking, or sympathy of the managers or
17 workers from Drummond with members of the self-defenses
18 of the Northern Bloc. He asked you that question,
19 correct?

20 A Yes, I do remember. I do remember being
21 asked that question and I said that I had no knowledge.

1 Q Well, in fact, Mr. Esquivel, you said,
2 quote, never did I personally receive money or
3 logistics from that company. On the contrary, we were
4 financed by installments from the cattle and for that
5 there was a financier in charge, correct, that's what
6 you said?

7 A Yes, I did say that. That is correct.

8 Q And, Mr. Esquivel, you said on the same day
9 under oath -- this is page 5 toward the top -- that the
10 multi-national Drummond never looked me up to kill
11 Mr. Guerra nor did it hire me to kill anyone in the
12 territory where the Juan Andres Alvarez Front had its
13 influence where Drummond was. You said that under
14 oath, correct?

15 A I said it. I said it to protect my family
16 and I said it out of fear.

17 Q Was that true or false?

18 A The Drummond Company while I was commander
19 did support us.

20 Q So you lied to the Fiscalia under oath?

21 A I said it out of fear because I am a human

1 being.

2 Q Do you lie when it's convenient?

3 MR. COLLINGSWORTH: Objection,
4 argumentative.

5 THE WITNESS: No, I do not.

6 BY MR. JEFFRESS:

7 Q Well, did you tell the Fiscalia under
8 oath -- and this is the top of the page 8. With
9 respect to Mr. Alfredo Araujo I have never had any
10 links with him and only now do I hear his name? Did
11 your say that under oath?

12 A I did say it because, you know, whenever I
13 talk about the Araujo family I always receive threats.
14 I receive them and my attorney receives them.

15 MR. JEFFRESS: Move to strike all of the
16 testimony after yes.

17 THE WITNESS: May I add something?

18 BY MR. JEFFRESS:

19 Q Wait for the next question.

20 Did you -- were you asked -- this is the
21 bottom of page 8. Were you asked by the Fiscalia to

1 say under oath in simple and precise manner, if during
2 the time you commanded the self-defense groups there
3 was any link of any nature with Drummond or its
4 executives, Augusto Jimenez, Gary Drummond, and Alfredo
5 Alfredo Araujo? You were asked that question, correct?

6 A Yes, they did ask me that question because
7 once -- well, you know, once when I talked about the
8 Araujo family they came and threatened me and they sent
9 word that they had money to buy anything, and so I did
10 it to protect my family and to protect myself.

11 MR. JEFFRESS: Move to strike everything
12 after yes.

13 BY MR. JEFFRESS:

14 Q Did you answer that question as follows:
15 At no moment had there been those links neither when I
16 was in command of the self-defenses nor while I was
17 under arrest? I did not have any knowledge that
18 Drummond or the persons mentioned have had any link
19 with the self-defenses until this date. Did you say
20 that?

21 A I did it, I said it out of fear, and I do

1 remember.

2 Q Mr. Esquivel, you've testified, you told
3 Mr. Collingsworth that you understand that if you lie
4 you could lose your benefits under Justice and Peace,
5 correct?

6 A Yes, I did say it because, you know, that
7 was a civil proceeding not under Justice and Peace.

8 Q Well, you're telling me that if you lie to
9 the Fiscalia, as you say that you did, you don't think
10 that's going to affect your benefits in Justice and
11 Peace?

12 MR. COLLINGSWORTH: Objection, no
13 foundation, calls for a legal conclusion.

14 BY MR. JEFFRESS:

15 Q You may answer.

16 A That process was not being lead by the
17 Fiscalia. It was a civil proceeding.

18 Q You understand that you're here today in a
19 civil proceeding?

20 A Yes, right, it's a civil proceeding; but
21 once I go to Justice and Peace I'm going to declare the

1 truth also. I still have not declared before Justice
2 and Peace.

3 Q But you believe that you could lie today
4 and suffer no consequences in Justice and Peace?

5 MR. COLLINGSWORTH: Objection, no
6 foundation, calls for a legal conclusion.

7 THE WITNESS: No, but I'm not going lie at
8 Justice and Peace.

9 BY MR. JEFFRESS:

10 Q So you have not to this day said anything
11 in Justice and Peace about Alfredo Araujo or Drummond
12 Company, correct?

13 A No, at Justice and Peace I haven't said
14 anything. I haven't said anything. Yes, but now I
15 will be doing it when I go to Valledupar. Before the
16 Justice and Peace process I will be making statements
17 about Drummond and about Alfredo Araujo and about many
18 other homicides that occurred around that time.

19 Q But the only time you've actually testified
20 under oath about Drummond was the time in February 2010
21 when the Fiscalia asked you questions, correct?

1 MR. COLLINGSWORTH: Objection, no
2 foundation, argumentative.

3 THE WITNESS: Yes, they did ask me those
4 questions.

5 BY MR. JEFFRESS:

6 Q Who asked you those questions, the
7 Fiscalia?

8 A A prosecutor had asked -- a prosecutor had
9 asked those questions and it was in regards to the
10 Araujo family because they are related and so much so
11 as I did as my attorney we both received threats.

12 Q And who threatened your attorney?

13 A Hernando Molina Araujo, and he threatened
14 him and he threatened me as well and that he had money
15 to buy judges and also prosecutors.

16 Q When was the last time you spoke to
17 Hernando Molina?

18 A The last time that I saw him, that I had
19 dealings with him it was when we did an incursion of
20 the village of Atanque and that was through Badillo and
21 also Media. We also did one in Pueblo Bello. That was

1 in December 9th of '99.

2 BY MR. JEFFRESS:

3 Q 1999?

4 A December of 1999 in those combats I was
5 wounded.

6 Q Now, Mr. Esquivel, what happened to cause
7 you fear that you would suffer consequences if you
8 testified on February 10, 2010, in accordance with your
9 declaration to Mr. Collingsworth?

10 A Regarding this statement, I denied in
11 Justice and Peace regarding Hernando Molina that I had
12 received threats from him.

13 When Hernando Soto was detained in the jail
14 and also when I talked to him he told me that I should
15 not say anything, that he had money to buy judges and
16 prosecutors.

17 Q When did you talk to Hernando Soto?

18 A I know I sent word to him through a man
19 whose name is Boris Mendoza Luz. He's going to deny
20 everything. He's going to say nothing. He would
21 rather have you killed, but he's going deny everything.

1 He's not going say that he ever saw you.

2 Q Who is Hernando Soto?

3 A Boris Mendoza Luz.

4 Q I'm sorry, who is Boris Mendoza Luz?

5 A He is the one that sent word to me. I told
6 him that I could not cover the sun with my hand. And
7 he is the cousin of Alfredo Araujo and he has been
8 convicted because of paramilitarism.

9 Q Now, we're going back and forth. Are you
10 speaking of Mr. Molina is the cousin of Alfredo Araujo?

11 A It is correct.

12 Q Now, I want to go back to the man you were
13 speaking of, and I'm sorry missed his name?

14 A Boris Mendoza Luz.

15 Q Boris Mendoza Luz, and did Boris Mendoza
16 Luz have anything to do with Drummond Company?

17 A He had nothing to do with Drummond. He was
18 also a jail mate and he had left the jail in those
19 days.

20 MR. JEFFRESS: I move to strike all of the
21 testimony against Boris Mendoza.

1 BY MR. JEFFRESS:

2 Q Now, when did you tell either Mr. Otero or
3 Mr. Collingsworth about this testimony that you had
4 given to the Fiscalia in February 2010?

5 A I told them two, three days later. I said,
6 I have been visited by the Fiscalia of Bogota.

7 Q And did you tell -- did you speak to Mr.
8 Collingsworth?

9 A No, I did not tell him. I did though tell
10 Attorney Ivan Otero and I told him that I felt
11 concerned.

12 Q Did you tell Ivan Otero you had lied under
13 oath?

14 A Yes, I told him. I said to him I had to
15 lie because I have to protect my family.

16 Q Did you ever go back to the Fiscalia and
17 seek to correct the false testimony you had given?

18 A Would you repeat question, please?

19 Q Yes.

20 Did you ever go back and did you ever
21 contact the Fiscalia and tell them that you had lied

1 under oath?

2 A No. They take that day to talk to me, but
3 I did not contact any Fiscalia. They came to ask me
4 questions.

5 Q Who is they?

6 A That day -- that prosecutor came, that
7 Pacheco prosecutor, William Pacheco. He came with that
8 time when Nodier Agudelo came and also with Attorney
9 Cuellar. They came that day.

10 Q Let me try to clarify.

11 They came that day you testified and you
12 lied; is that what you're claiming?

13 MR. COLLINGSWORTH: Objection, asked and
14 answered, and argumentative.

15 THE WITNESS: I lied in order to protect my
16 family.

17 BY MR. JEFFRESS:

18 Q And after your testimony to the Fiscalia
19 you told Mr. Otero about it, correct?

20 A I told him that the prosecutor had come to
21 ask questions and that I had lied and I said I feel

1 fear.

2 Q After speaking to Mr. Otero, did you
3 contact the Fiscalia and correct -- seek to correct
4 your testimony?

5 MR. COLLINGSWORTH: Objection, asked and
6 answered.

7 THE WITNESS: No, I didn't do that at any
8 time.

9 BY MR. JEFFRESS:

10 Q Now, if you would look at Exhibit -- look
11 at Exhibit 5. Do you have Exhibit 5, which is your
12 second declaration?

13 A Is this the one?

14 Q No, it's Plaintiffs' Exhibit 5. It's this
15 one right here.

16 Now, who first came to you on behalf of Mr.
17 Collingsworth to ask you about your testimony to the
18 Fiscalia?

19 MR. COLLINGSWORTH: Objection, no
20 foundation.

21 THE WITNESS: When they came to ask me

1 about the statement I told Mr. Otero that they had come
2 from the Fiscalia to ask me questions about Drummond.

3 BY MR. JEFFRESS:

4 Q Well, was Mr. Otero seeking a declaration
5 by repudiating your testimony to the Fiscalia?

6 MR. COLLINGSWORTH: Objection, no
7 foundation.

8 THE WITNESS: At no time.

9 BY MR. JEFFRESS:

10 Q When you gave this statement -- well, let's
11 make sure. That is your signature on this declaration
12 dated June 17th, 2011, correct?

13 A Yes, it is my signature. That is my
14 signature.

15 Q And did you accuse -- in this declaration
16 did you accuse Mr. Pacheco, Dr. Bernal, and Dr. Agudelo
17 of making threats against you?

18 MR. COLLINGSWORTH: Objection. That
19 misstates his testimony.

20 THE WITNESS: At no time did I say that.

21 BY MR. JEFFRESS:

1 Q Look at the second page of your
2 declaration, paragraph 5. Did you say --

3 A I can't read this, sir.

4 Q I'm sorry?

5 A I can't read this, sir.

6 MR. JEFFRESS: It's not Spanish?

7 THE INTERPRETER: No, sir.

8 MR. JEFFRESS: I'm sorry.

9 MR. COLLINGSWORTH: Yes, Spanish is
10 attached. It's on page 268687.

11 MR. JEFFRESS: There you go. Okay.

12 BY MR. JEFFRESS:

13 Q Do you see paragraph 5 in Spanish?

14 A Yes.

15 Q And did you say in this declaration, Mr.
16 Esquivel, I understood the threats that were made to me
17 as saying my family would suffer violent retaliation if
18 I did not recant my December 3rd, 2009, declaration?
19 Did you say that on this page?

20 A At no time did I say that. I did say at a
21 certain point that I did speak to Mr. Bernal Cuellar

1 and he gave me advice, but he did not threaten me
2 whatsoever.

3 Q Did you sign a declaration under oath,
4 under penalties of perjury in the United States of
5 America saying, quote, I understood the threats that
6 were made to me as saying my family would suffer
7 violent retaliation if I did not recant my declaration?

8 MR. COLLINGSWORTH: I object to the
9 question as taking his statement out of context.

10 THE WITNESS: Could you, please, repeat
11 question once again?

12 BY MR. JEFFRESS:

13 Q Did you swear in your declaration dated
14 17th of June 2011 as follows: Quote, I understood the
15 threats that were made to me as saying that my family
16 would suffer violent retaliation if I did not recant my
17 December 3rd, 2009, declaration?

18 MR. COLLINGSWORTH: Same objection.

19 THE WITNESS: I stated that I did not know
20 anything about those facts because I feared for the
21 safety of my family and of mine, but at no time was I

1 threatened.

2 BY MR. JEFFRESS:

3 Q When you said in this declaration, when you
4 referred to, quote -- why are you looking at Mr.
5 Collingsworth? Why are you looking at Mr.
6 Collingsworth?

7 MR. COLLINGSWORTH: I'm sorry, I object to
8 your characterization of anything that he has done.

9 THE WITNESS: At no time I have seen
10 anybody's face. I have not seen anybody's face at no
11 time.

12 BY MR. JEFFRESS:

13 Q When you referred to the threats that were
14 made to me, what threats were you referring to?

15 A Death threats.

16 Q Who made such threats?

17 A Hernando Molina Araujo, the cousin of
18 Alfredo Araujo; Rodrigo Tovar Pupo, the commander of
19 the Northern Bloc.

20 Q None of that had anything to do with your
21 December 3rd, 2009 declaration, correct?

1 MR. COLLINGSWORTH: Objection, vague, and
2 misstates the testimony.

3 THE WITNESS: The December 2009 declaration
4 I stated so because it is the truth.

5 MR. JEFFRESS: Move to strike that as
6 nonresponsive.

7 BY MR. JEFFRESS:

8 Q So when you said in paragraph 7 -- look at
9 paragraph 7, please. You said, I hope that by exposing
10 what happened and who threatened me I may have a chance
11 to survive. Do you see that?

12 A In this one, right, in 7?

13 Q You said that, correct, under oath?

14 A I did it under -- under -- I was sworn at
15 when I said this because my life was in danger like
16 right now with my statement right now, my life is in
17 danger as well.

18 Q In truth -- strike that.

19 It is true that neither Dr. Pacheco nor Dr.
20 Bernal nor Dr. Agudelo made any threat against you
21 whatsoever on February 10th, 2010, correct?

1 A At no -- at no time did they threaten me.
2 They did give me an advice, which I accepted, but at no
3 moment, at no time did they threaten me.

4 Q Among the advice is that you carefully
5 consider your answers and tell the truth. That was the
6 advice that you were given, correct?

7 MR. COLLINGSWORTH: Objection, misstates
8 his testimony.

9 THE WITNESS: I was told -- I was told to
10 avoid problems and to fix my legal situation. I took
11 it as an advice.

12 BY MR. JEFFRESS:

13 Q And who exactly told you what you just
14 said?

15 A Mr. Jaime -- Mr. Jaime Bernal Cuellar at
16 the model jail of Barranquilla.

17 Q Did you have a private conversation with
18 Mr. Bernal?

19 A It lasted like around five minutes.

20 Q A private conversation?

21 A It was like a normal five-minute

1 conversation that we were like to the side, like on a
2 corner. He told me that he had engaged in some
3 negotiations between the ELN and the AUC.

4 Q Now, on the December 3rd, 2009, declaration
5 that you provided to Mr. Collingsworth, what, what
6 offers were made or what expectations did you have that
7 caused you to overcome your fear and give testimony
8 against Drummond and Mr. Araujo?

9 MR. COLLINGSWORTH: Objection, no
10 foundation.

11 THE WITNESS: At no time was I offered
12 anything. No one ever offered me anything. It's just
13 that I wanted to fix my legal situation.

14 BY MR. JEFFRESS:

15 Q I'm sorry?

16 A It was just for the purposes of fixing my
17 legal situation.

18 Q Fixing your legal situation?

19 A Legal situation, judicial situation.

20 Q Meaning your sentence, your criminal
21 sentence?

1 A No. When I have confessed to all my crimes
2 I will not have anything else pending with the legal
3 and judicial system.

4 Q You, Mr. Esquivel, had been convicted --
5 have you been convicted of murder of seven CTI
6 investigators?

7 THE INTERPRETER: I'm sorry, Counselor,
8 could you repeat that?

9 BY MR. JEFFRESS:

10 Q Have you been convicted of the murder of
11 seven CTI investigators?

12 A Yes, I have been convicted because of the
13 seven deaths of the CTI, because of the massacre of El
14 Salao, because of the death of Hugo Guerra, because of
15 the massacre of Santa Cecilia and Pueblo Bello.

16 Q Let me ask you first about the CTI. Did
17 you order the murder of investigators from the CTI?

18 A Yes, I ordered their death through orders
19 of Carlos Castano.

20 Q And why did either you or Carlos Castano
21 wish these people dead?

1 MR. COLLINGSWORTH: Objection, no
2 foundation.

3 THE WITNESS: Carlos Castano had mentioned
4 to me three months prior that officers of the CTI were
5 working for the guerillas.

6 BY MR. JEFFRESS:

7 Q Were the -- CTI is a law enforcement
8 agency, correct?

9 A It's a state agency. It's an investigation
10 agency, yes.

11 Q It's part of the Fiscalia, correct?

12 A Part, part of the Fiscalia. Investigators
13 of the Fiscalia. Part of the CTI.

14 Q And the Fiscalia at that time was part of
15 the court system of Colombia, correct?

16 MR. COLLINGSWORTH: Objection, no
17 foundation.

18 THE WITNESS: They are part of the state.

19 BY MR. JEFFRESS:

20 Q You believe that the employees of the
21 Fiscalia were guerillas? Is that your testimony?

1 MR. COLLINGSWORTH: Objection, vague.

2 THE WITNESS: Information by Carlos Castano
3 said they were.

4 BY MR. JEFFRESS:

5 Q In fact, the investigators from the CTI
6 were investigating a murder that you had committed and
7 your band had committed, correct?

8 A Yes, the organization had committed those.
9 We had political representation, representation in
10 Colombia. We were one more group in Colombia.

11 Q And, in fact, Mr. Esquivel, isn't it true
12 that you had the CTI investigators murdered not to
13 fight the guerilla but to protect yourself?

14 MR. COLLINGSWORTH: Objection, no
15 foundation and argumentative.

16 THE WITNESS: No. By the order of Carlos
17 Castano, that's why I did it.

18 BY MR. JEFFRESS:

19 Q What -- how many years in prison have you
20 been -- received as a sentence for the CTI murders?

21 A They gave me 40 years in prison and through

1 appeals I have 33.

2 Q You --

3 THE INTERPRETER: I was left with 33.

4 Interpreter corrects herself.

5 BY MR. JEFFRESS:

6 Q You mentioned, Mr. Esquivel, a massacre at
7 El Salao, correct?

8 A Correct, yes.

9 Q And did that occur in February of 2000 in
10 the Department of Bolivar?

11 A February 2000, Department of Bolivar.

12 Q There were over a hundred people murdered
13 in the massacre of El Salao, Mr. Esquivel, correct?

14 A 38 people were left in the village and
15 other people were left around. I don't know. I didn't
16 count them. I don't know if there were more than a
17 hundred, but there were different fronts going there.
18 The Front of Cesar, the Front of Magdalena, and the
19 Front of Montaday Maria.

20 Q Did your men use chainsaws to decapitate
21 victims?

1 A At no time that occurred. The people that
2 were put down, they were shot.

3 Q Did your people use screwdrivers on
4 victims?

5 A At no time. We used automatic weapons,
6 AK-47 or guns.

7 Q Was there testimony in the -- by victims
8 and witnesses of the El Sasado (ph) massacre that you
9 did use chainsaws and screwdrivers?

10 THE INTERPRETER: I'm sorry, Counsel,
11 interpreter heard half of the question.

12 BY MR. JEFFRESS:

13 Q Was there testimony by victims and
14 witnesses that your people did use chainsaws and
15 screwdrivers in that massacre?

16 MR. COLLINGSWORTH: Objection, no
17 foundation.

18 THE WITNESS: At no time -- at no time
19 there were chainsaws or screwdrivers. The combats
20 lasted like three days and maybe when the bodies kind
21 of decomposed maybe they were bitten by animals, but at

1 no time we used any type of saws, and we were -- what
2 we did use were shots.

3 BY MR. JEFFRESS:

4 Q Did you kill men, women, and children?

5 A I, approximately, myself put down around 12
6 people.

7 Q How many years in prison did you receive as
8 a sentence for the El Salao massacre?

9 A 408 months. That is 40 years.

10 Q You mentioned in your testimony also the
11 death of Hugo Guerra, correct?

12 A Yes.

13 Q Is it true that Jaime Blanco caused you to
14 murder Hugo Guerra?

15 MR. COLLINGSWORTH: Objection, misstates
16 his testimony.

17 THE WITNESS: He gave me -- he gave me the
18 information that Hugo Guerra belonged to the Group 41
19 of the FARC and that he had to do with the blowing out
20 of the railroad lines.

21 BY MR. JEFFRESS:

1 Q Did you learn at any time whether Jaime
2 Blanco's statement to you was true?

3 A I had a guerilla man that was with me. His
4 name was Pelo e Loca and he told me, yes, he knew for
5 himself that he had been part.

6 THE INTERPRETER: Interpreter needs to ask
7 the witness to repeat.

8 THE WITNESS: That he was the brother of El
9 Guajiro. He was a commander of the Front 41 of the
10 FARC.

11 BY MR. JEFFRESS:

12 Q Did you later learn that Hugo Guerra was a
13 business competitor of Jaime Blanco?

14 MR. COLLINGSWORTH: Objection, no
15 foundation.

16 THE WITNESS: I was told that he was part
17 of a guerilla, but I don't know about Jaime Blanco.
18 And I heard later on that he also was part of the
19 contracts, of the lunch contracts with Drummond.

20 BY MR. JEFFRESS:

21 Q Jaime Blanco is the one who told you that

1 Hugo Guerra was a guerilla member, correct?

2 MR. COLLINGSWORTH: Objection, asked and
3 answered.

4 THE WITNESS: Correct. He told me that he
5 had -- there was a guerilla member who was in the area
6 of La Loma, Cesar.

7 BY MR. JEFFRESS:

8 Q And that's why you ordered that he be
9 killed, correct?

10 A I told the guys to put him down. His name
11 was Pelo e Loca.

12 Q But if you had found out that there were
13 personal problems between Jaime Blanco and Hugo Guerra
14 due to a contract with Drummond you would have never
15 done such a thing, correct?

16 MR. COLLINGSWORTH: Objection, calls for
17 speculation.

18 THE INTERPRETER: Counsel, I'm sorry, I'm
19 not hearing the question.

20 MR. JEFFRESS: Turn to his testimony on the
21 Fiscalia on February 10, page 4 of the Spanish.

1 BY MR. JEFFRESS:

2 Q Do you see towards the bottom in the middle
3 of 2001 before it starts, the highlighted -- do you see
4 the highlighted portion in the middle of 2001?

5 MR. JEFFRESS: Are you on page 4?

6 THE INTERPRETER: Yes, sir.

7 MR. JEFFRESS: Are you ready?

8 THE INTERPRETER: Yes, sir.

9 BY MR. JEFFRESS:

10 Q Mr. Esquivel, did you testify as follows
11 under oath to the Fiscalia on February 10th, 2010:
12 Quote, in the middle of 2001 while at the Tramacua
13 Prison I found out that Mr. Hugo Guerra was not a
14 guerilla and they had simply sent me against him,
15 misinformed me, so that I would kill him in order that
16 Jaime Blanco could keep the contract of Drummond's
17 lunch meats. Did you testify like that?

18 A Those were their comments, but I, however,
19 did not confirm anything because those were the
20 comments thereabout, yes.

21 Q That was -- what I just read was your

1 testimony under oath to the Fiscalia, correct?

2 A Yes, yes, it's correct, that they have
3 given those comments to me. Those were things that
4 were told me.

5 Q How did you get the nickname El Tigre?

6 A Carlos Castano gave me that name, that
7 nickname of El Tigre.

8 Q Did it come from some incident or something
9 special?

10 A No, because, I mean, sometimes when they
11 give you nicknames they used names of animals. There
12 was another one whose name was El Calero. Another one
13 was called Loro Guapo.

14 Q Aside from the El Salsado (ph) massacre,
15 the CTI killings, and the Hugo Guerra killing, have you
16 been convicted of any other killings?

17 THE INTERPRETER: El Salao, Counsel, right.

18 MR. JEFFRESS: Yes, I'm sorry, El Salao,
19 yes.

20 THE WITNESS: I was convicted for the
21 Pueblo Bello because I massacre, also for the Santa

1 Cecilia massacre, that is El Bolsillo.

2 BY MR. JEFFRESS:

3 Q El Bolsillo?

4 THE INTERPRETER: El Bolsillo. Counselor,
5 B-O-L-S-I-L-L-O.

6 BY MR. JEFFRESS:

7 Q How many people were killed in the Bolsillo
8 massacre?

9 A Twelve people. That was on the 28th of
10 January of 2000.

11 Q How many people were killed in the Santa
12 Cecilia massacre?

13 A As if the -- there were 12 they were killed
14 in that incursion. There was 11 in the village and one
15 outside of the village, a man.

16 Q What month was that?

17 A January 28th of 2000.

18 Q So all of these murders that you have
19 talked about occurred within only three months:
20 January, February, and March of 2000?

21 A Whenever there were operations -- in one

1 month you could even have three operations.

2 Q Is that the last of the events for which
3 you've been convicted and sentenced?

4 A They convicted me for the one of Hugo
5 Guerra, for the one in El Salao, which was in February
6 of 2000, the CTI was on March 9th of 2000.

7 Q All right. And this El Salsado (ph)
8 massacre?

9 A That was in February of 2000. The
10 incursion started -- well, 12/15 actually. It started
11 on the 12th we were there and we ended up leaving on
12 the 21st.

13 Q I'd like to ask you about this meeting you
14 testified to with Alfredo Araujo in November of 1999.

15 A In February, no. At the end of 1999.

16 Q November I think I said.

17 A At the end of '99, yes, like around
18 November. That was before the incursion in Atanque,
19 it's correct.

20 Q Now, La Mesa, who owned the property at La
21 Mesa where this meeting occurred?

1 A La Mesa, it's a subdivision of the
2 Department of El Cesar. It was not in La Mesa itself,
3 nearby.

4 Q Who owned the farm?

5 A That farm was near A Ceiba. It was Rodrigo
6 Tovar Pupo's ownership. I don't know if he's still the
7 owner there.

8 Q Now, mentioned that people who accompanied
9 you included alias Cortico, correct, alias Cortico,
10 C-O-R-T-I-C-O?

11 A Cortico.

12 Q And where is Mr. Cortico today?

13 A After my capture he was at the command of
14 my Front. I don't know, however -- I don't know if he
15 demobilized himself. People say that he was killed,
16 but maybe he wasn't killed. I don't know.

17 Q You say that alias Kevin accompanied you to
18 that meeting?

19 A Kevin.

20 Q Where is Kevin today?

21 A He must be in some new band because I heard

1 that did he not demobilize. They also say that he was
2 killed.

3 Q You mentioned El Negro as someone who
4 accompanied you to that meeting, correct?

5 A El Negro, a cousin of mine. His name is
6 Jaime the Second Esquivel.

7 Q Where is El Negro today?

8 A Is dead. He's already dead.

9 Q Anyone else that you can name who was
10 present at that meeting?

11 A I had like five or six guys. I don't
12 remember very well, but it was like five or six guys.

13 Q Do you remember the name -- I'm putting
14 aside Jorge Forte and Alfredo Araujo, but any other
15 people who were with you whose names you can recall?

16 A Mr. Forte had some security guys of his at
17 the meeting.

18 Q Do you know any of the names?

19 A I know that -- I don't know. Let me see.
20 I know that the commander of security there was 05,
21 however, I don't know if 05 was there.

1 Q You've said that at the time you needed 200
2 people, 200 men, to go up into the mountains. Do you
3 remember that?

4 A Yes, it is correct. It was like 200 men.
5 150 to go to Loma Seca, Loma de Tabla, and 50 to go to
6 El Pareo.

7 THE INTERPRETER: Casa de Tabla. The
8 interpreter corrects herself.

9 BY MR. JEFFRESS:

10 Q Where is Loma Seca?

11 A Loma Seca, it's in the mountains of Perija.
12 You go through Codazzi and San Ramon.

13 Q Towards Venezuela?

14 A No. Nearby, yes, but not that it's in the
15 area of Venezuela, but, yes, nearby. It's the
16 mountains of Perija, yes.

17 Q You say up the road from what town,
18 Becerril? What town?

19 A You go through the entrance of San Ramon
20 going upwards San Ramon. I would always go through
21 Codazzi, but to go through San Ramon going upwards to

1 Loma Seca.

2 Q Sir, I'm looking at this map which you
3 identified as Number 3. Do you have Exhibit 3? Where
4 is San Ramon?

5 A There are many things that don't appear
6 here in this map. Let me see, San Ramon. The entrance
7 doesn't -- is not here.

8 Q Is it between Becerril and Codazzi?

9 A No. The entrance is through Codazzi.
10 Casacara, you can go -- you can go through there as
11 well, but going through there is much more difficult
12 because the guerilla is right there.

13 Q And you mentioned --

14 A And you can hear to hard.

15 Q You mentioned another place in the
16 mountains that you wanted to send men, what was that?

17 A Oh, yes, that is called Casa de Tabla.

18 THE INTEPRETER: And for counsel that's
19 C-A-S-A and that's D-E- and then T-A-B as in boy L-A.

20 BY MR. JEFFRESS:

21 Q By reference to the map, Plaintiffs'

1 Exhibit 3, can you tell me where Casa de Tabla is?

2 A With pleasure. Because I went to Casa de
3 Tabla many times. That is through Becerril, and you go
4 through a place that is called Novillo San Isido.

5 Further up there is a village called
6 Estados Unidos, and further up it's this place called
7 Casa de Tabla and that's going towards the Serrania del
8 Perija which is the Perija mountains.

9 Q So that's headed away from where the
10 Drummond mine and Drummond railroad is located,
11 correct?

12 A That is the area where the guerilla had
13 their base.

14 Q Did you attack that base? Did your men
15 attack that base, guerilla base?

16 A Several times we had contact around there
17 with the organization.

18 Q When you say you had contact, does that mean
19 you sent men with weapons to attack the base?

20 A Contact means combat, combat between the
21 guerillas and the AUC.

1 Q Going back to the meeting in November of
2 1999 where Alfredo Araujo was present. How many people
3 accompanied Alfredo Araujo to this meeting?

4 A It was Alfredo Araujo and three other
5 people.

6 Q Were you introduced to those three other
7 people?

8 A No. They remained a bit far from where
9 Mr. Cuarenta, Alfredo Araujo, and I were.

10 Q Can you tell us the names of any of those
11 people that accompanied Mr. Araujo?

12 A No, they did not give me names.

13 Q Did you participate in the conversation
14 between Jorge Forte and Alfredo Araujo at this meeting?

15 A The three of us were in that conversation,
16 yes.

17 Q Now, do I understand your testimony to be
18 that Alfredo Araujo wanted the AUC to bomb Drummond's
19 own train?

20 A Yes. Alfredo said that with another
21 blasting of railroad line then Drummond would consider

1 giving us a payment monthly, yes.

2 Q Was Araujo asking you to bomb Drummond's
3 own train?

4 A He asked Mr. Rodrigo Tovar Pupo and I was
5 present there.

6 Q And he asked Rodrigo Tovar Pupo to arrange
7 to bomb Drummond's own train; is that correct?

8 A Yes. And that was performed by alias Amin
9 and alias Pirulo who was an explosives expert at the
10 Northern Bloc.

11 Q And according to your declaration alfredo
12 Araujo told you and Jorge Forte that this was necessary
13 to deceive the Drummond management into thinking that
14 the train was blown up by the guerillas; is that
15 correct?

16 MR. COLLINGSWORTH: Objection, misstates
17 his testimony.

18 THE WITNESS: To accelerate or to make more
19 speedy payment from the management to us, the AUC.

20 BY MR. JEFFRESS:

21 Q Did Araujo tell you that the AUC needed to

1 attack the railroad line and make it appear that FARC
2 was responsible?

3 A Yes, that he said right in front of me.

4 Q And did you say in your declaration -- and
5 this is paragraph 9 -- that Araujo said this would be
6 sufficient to make Drummond speed up the payments to
7 the AUC? Did you say that?

8 A That is correct, yes.

9 Q In other words, if the Drummond executives
10 thought it was the FARC bombing the train instead of
11 the AUC they would come up with some money for you? Is
12 that what happened?

13 A Yes, that is correct, and there were some
14 brochures; but the person who knows full well about
15 those brochures is Jaime Blanco.

16 Q Well, let me show you, you've got your
17 declaration, Exhibit -- Plaintiffs' Exhibit 1. Can you
18 look at that. Could you look at the exhibits on the
19 back of that declaration?

20 MR. COLLINGSWORTH: Yes, Exhibit 1.

21 THE INTERPRETER: Counsel, Exhibit 1?

1 MR. JEFFRESS: Exhibit A I think it's
2 called.

3 MR. COLLINGSWORTH: It's 1.

4 MR. JEFFRESS: I'm sorry.

5 MR. COLLINGSWORTH: They're still trying to
6 find out what document you're talking about. It's
7 Exhibit 1, which is the original declaration.

8 MR. JEFFRESS: Yes.

9 BY MR. JEFFRESS:

10 Q Look in the back of that document, there
11 are some exhibits to the declaration. Have you found
12 it?

13 A You can ask the question.

14 Q Okay. The first Exhibit A there's a page
15 with a photograph view and a map of Cesar, Department
16 of Cesar.

17 A Yes.

18 Q Where did that come from?

19 A Correct, and this is over here. That is
20 correct.

21 Q And look at just -- where did that come

1 from?

2 A That photograph is from when I was captured
3 they took that photo at the Fiscalia.

4 Q But this page where the map of Cesar and
5 your photograph and so forth and some description,
6 where did that page come from?

7 A Well, you know, I don't know, but this
8 appeared when I started testifying for Justice and
9 Peace and, you know, they had taken this picture of me
10 and the Fiscalia. They, you know, put it next to the
11 map and Dr. Daisy Rameriz means is that you and I said
12 sure enough that's me.

13 Q Look to two pages further and there's a
14 page that is headed in English Drummond railroad
15 attacks. Can you read any of that?

16 A Well, no. It's in English.

17 Q You didn't prepare it then, correct?

18 A No. All of this was made by the Fiscalia.
19 I didn't make this.

20 Q Are you telling me that the Drummond
21 railroad attacks with the picture of the toy train was

1 prepared by the Fiscalia in English?

2 A I imagine so because I didn't prepare this.
3 You know, they would ask me, were you here and I would
4 answer, yes, I was here or, no, I was here. Was this
5 here and I would say, yes, it was here or, no, it
6 wasn't here.

7 Q Well, in fact, this page with the picture
8 of the toy train in English was prepared by people
9 working for Mr. Collingsworth and was given to you to
10 attach to your declaration, correct?

11 MR. COLLINGSWORTH: Objection, no
12 foundation.

13 THE WITNESS: At no time have they ever
14 given me that, no.

15 BY MR. JEFFRESS:

16 Q Who gave you the copies of the newspaper
17 articles that are attached in Spanish?

18 A Well, you know, you more or less ask people
19 was there a statement that appeared in the newspaper
20 and then people say yes or no, but that I would have
21 said anything to the newspapers, no, and, of course,

1 this is something that you can find on the Internet if
2 you just go on-line.

3 Q But my question is: The copies that are
4 attached to your declaration, who provided to you those
5 copies?

6 A No, this is the first time I've ever seen
7 those copies. I had never seen this.

8 Q Somebody just attached them to your
9 declaration?

10 A I don't know what happened, you know. This
11 is the first time that I've seen them. I didn't have
12 any of this before.

13 Q Okay. Look just past the newspaper
14 articles there is a flyer and it starts and it's headed
15 Vecinos de El Paso mucha atencion.

16 MR. COLLINGSWORTH: It's page 65 of the
17 exhibit.

18 MR. JEFFRESS: Yes.

19 BY MR. JEFFRESS:

20 Q Look at page 65, the Bates number. Do you
21 see that?

1 A Yes.

2 Q Where did you get this copy of this
3 document?

4 A No. This is the first time I've ever seen
5 this. I know of the existence of this brochure, this
6 flyer, because, you know, Amin once had it, but this is
7 the first time I've ever seen it.

8 Q Do you know who prepared it?

9 A I have knowledge that Mr. Jaime Blanco has
10 knowledge of that flyer.

11 Q How do you know that?

12 A Because he told me that Amin had handed out
13 some of these leaflets and he told me that he knew of
14 these leaflets.

15 Q Jaime Blanco told you that or Amin told you
16 that?

17 A Jaime Blanco told me personally.

18 Q Look at the next page. It says, Comunicado
19 a la opinion publica. Have you ever seen that document
20 before?

21 A By then I was already under detention. By

1 September 7th of the year 2000 I was already in jail.

2 Q So what knowledge do you have about this
3 document?

4 A Of this one, of this one I don't have any
5 knowledge because I was already detained by then. I
6 can respond until July 19th of the year 2000.

7 Q Well, look at the next document, which is
8 Denuncia Publica. Have you ever seen this document
9 before?

10 A No, this is the first time.

11 Q Do you know how it got attached to your
12 declaration?

13 A I have no knowledge. This is the first
14 time I've seen it.

15 Q Now, going back to the November 1999
16 meeting I've asked you about. After that meeting ended
17 did your men blow up Drummond's train?

18 A Amin and Pirulo did it. They were the ones
19 in charge of the Carretera Negra, or the Black Road,
20 but not my men, no.

21 Q Did you give the orders for them to do it?

1 A At no time.

2 Q Do you know why they waited from November
3 of 1999 to April of 2000 to blow up the train?

4 A I have no idea because the person in charge
5 of that was Rodrigo Tovar Pupo.

6 Q You say in paragraph 9 of your
7 declaration -- I'm sorry, paragraph 12 of your
8 declaration that you personally carried out the
9 dynamite operation in April of 2000 along with alias
10 Pirulo?

11 A I have knowledge, but Mr. Cuarenta was not
12 either. That was Amin and Pirulo. Pirulo was first a
13 member of the ELN and then joined the AUC, and he's an
14 explosives expert.

15 Q Mr. Esquivel, you signed the declaration
16 that says, quote, I personally carried out the dynamite
17 operation in April 2000 along with alias Pirulo. Now,
18 is that true or is that false?

19 A I have knowledge of it because I was the
20 commander of the Front. I have knowledge of it.

21 Q But you didn't personally carry out the

1 attack?

2 A Well, no, I did not do it personally
3 because I don't have knowledge of explosives. And if
4 asked about this at Justice and Peace by the Fiscalia I
5 will say that I have knowledge of it, but I did not do
6 it.

7 Q Why did you sign a declaration that said
8 something that was not true?

9 MR. COLLINGSWORTH: Objection,
10 mischaracterizes his testimony.

11 THE WITNESS: Yes, it did happen.

12 BY MR. JEFFRESS:

13 Q Not question is: Why would you sign a
14 declaration said that something that was not true?

15 MR. COLLINGSWORTH: Objection. It
16 mischaracterizes the testimony.

17 THE WITNESS: It did happen and I have
18 knowledge of it and Amin confirmed it did happen.

19 BY MR. JEFFRESS:

20 Q Look further in paragraph 12 you say a
21 month later in May of 2000, we assassinated five people

1 near Casacara, Becerril who you identified as being
2 collaborators with the FARC guerilla and authored the
3 attack?

4 A Mr. Cuarenta's orders were that anyone
5 associated with the FARC and anyone who was around the
6 Drummond area had to be put down.

7 THE COURT: I just want to interrupt one
8 second and indicate to the witness, Jhon Jaime, that
9 since the facts that are being questioned and the
10 questions that are being asked imply criminal
11 responsibility, he can resolve the answers he will give
12 without being held to the oath he took before, and we
13 may then continue.

14 MR. JEFFRESS: I'm told the tape is almost
15 out of tape. Should we take a short break?

16 THE COURT: Yes, we'll take a five-minute
17 recess to prepare the next tape.

18 THE VIDEOGRAPHER: We are going off the
19 record at 3:25.

20 (Deposition recessed at 3:25 p.m.)

21 (Deposition resumed at 3:35 p.m.)

1 THE VIDEOGRAPHER: Tape four at 3:35.

2 THE COURT: Good afternoon. We will resume
3 then with these proceedings and after the short break
4 we will proceed with the examination of Mr. Jeffress.

5 You have the floor, Mr. Jeffress.

6 MR. JEFFRESS: Thank your, Your Honor.

7 BY MR. JEFFRESS:

8 Q I was asking you, Mr. Esquivel, about the
9 killing of five people by your unit who you identified
10 as guerilla supporters; is that correct?

11 A Yes, the five people I already confessed to
12 them in the Justice and Peace process.

13 Q And this was in May of 2000?

14 A Like the first days of May of 2000 or
15 before. I already confessed to that in the Justice and
16 Peace process.

17 Q Let me refer you to paragraph 12 of your
18 declaration. Do you have that in front of you,
19 Exhibit 1, paragraph 12?

20 Do you see that you say it was May of 2000
21 that you killed these five people? And you say you

1 identified those people as being collaborators with the
2 FARC guerillas who had been authors of the attack on
3 the train; is that correct?

4 A Those killings I confessed to at the
5 Justice and Peace process and through the guide, Pelo e
6 Loca, who identified them.

7 Q Well, in the Justice and Peace process did
8 you tell the Justice and Peace prosecutors that you had
9 attacked the train yourself and you faked the story
10 that these guerillas were to blame?

11 A No, I have not -- I did not confess about
12 the railroad line at the Justice and Peace process. I
13 did, however, confess that I did put down those five
14 people.

15 Q But you didn't tell them that those five
16 people hadn't had anything to do with the bombings of
17 the trains; is that right?

18 A I did tell them that these people were
19 informants of the guerilla and that they were
20 responsible for many crimes against the civilians.

21 About Drummond, we have not spoken about

1 anything at Justice and Peace.

2 Q Now, in your testimony to the Fiscalia, if
3 you would look at page 3, that's February 10, 2010,
4 testimony. Do you have that in front of you?

5 A This is in English.

6 MR. COLLINGSWORTH: You have to refer him
7 to the exhibit, Bill. He doesn't know what you're
8 talking about.

9 THE INTERPRETER: Which exhibit, Counsel?

10 MR. JEFFRESS: I don't remember the number
11 of it.

12 THE INTERPRETER: Is this it?

13 BY MR. JEFFRESS:

14 Q Now, Mr. Esquivel, I refer you to page 3 of
15 your testimony to the Fiscalia in February of 2010 and
16 ask you if you told the Fiscalia that at that time a
17 guerilla member, alias Pelo e Loca, is that same Pelo e
18 Loca that you mentioned earlier?

19 A It is correct.

20 Q You told the Fiscalia that you told Pelo e
21 Loca to cooperate with me, that I would pardon his life

1 if he would cooperate and tell me who had blown up the
2 gondolas. Do you see that?

3 A Rodrigo Tovar Pupo handed me Pelo e Loca
4 had been handed by alias Omega, and they gave it to me
5 because he had knowledge about the area around
6 Drummond.

7 And I told him that I was going pardon his
8 life if he was going to hand me all the militants that
9 were in all the areas like La Loma, Becerril, Casacara,
10 Las Jagiuas, Chiriguana.

11 Q Well, Mr. Esquivel, you told the Fiscalia
12 that you told Pelo e Loca you would pardon his life if
13 he would tell you who had blown up the gondolas,
14 correct?

15 A Yes. Before I had said that I was going to
16 pardon his life if he had handed to me all the
17 militants.

18 Q All the militants who had blown up
19 Drummond's train?

20 A That -- that had knowledge, yes, that years
21 before had blown up the train. It is correct.

1 Q Well, but according to you, you had blown
2 up the train in April 2000, correct?

3 A People from the AUC did that, however, I
4 did not do that because I know nothing about dynamite.

5 Q Even though you said in your declaration
6 that you personally did it you, in fact, no nothing
7 about it?

8 MR. COLLINGSWORTH: Objection. That
9 misstates his testimony.

10 THE WITNESS: Men under my command did it.
11 Men under my command did it.

12 BY MR. JEFFRESS:

13 Q You had testified that there was a -- to a
14 payment of money in three boxes by Drummond to
15 paramilitaries in April of 2000; do you recall that?

16 A That was done. That was done. That was
17 done close to Las Palmitas. I was there. I was
18 present there.

19 Q And who from Drummond brought those boxes
20 to you?

21 A They were given to alias Amin who he was in

1 charge of giving them also to Jorge Cuarenta, Jorge
2 Forte.

3 Q My question is: Who from Drummond brought
4 those boxes to you?

5 A I didn't know that person. The person who
6 had contact was Amin who talked to them.

7 Q It was only one person from Drummond?

8 A There were three people that came with
9 those boxes.

10 Q Three people from Drummond or three people
11 that came in the truck with the boxes?

12 A Three people that came in the truck with
13 the boxes.

14 Q And what form was the money?

15 A In dollars.

16 Q U.S. dollars?

17 A Dollars, dollars, yes.

18 Q U.S. dollars?

19 A No. The only one that I know it's the
20 dollar. I mean, mr. Jorge Cuarenta said, yes, those
21 are dollars.

1 Q Did you see the money?

2 A Yes, I saw it personally.

3 Q Okay. Well, my only question is: Is it
4 U.S. dollars or Colombian pesos?

5 A No, no. Colombian pesos was not. It was
6 U.S. dollars. It was U.S. dollars. At the time the
7 largest Colombian peso was 20,000.

8 Q Amin is the person who took the money; is
9 that correct?

10 A He was the liaison of Jorge Cuarenta for
11 him to take the money.

12 Q Where is Amin today?

13 A They said that for the year 2002 or 2001
14 that he had been killed or that he hadn't been killed.
15 I don't know because at that time I was already
16 detained.

17 Q Aside from that delivery of boxes on that
18 day in April of 2000, did you witness any payments by
19 anyone from Drummond to anyone from the AUC?

20 A There was a payment that was made of
21 30 million pesos, but that was in relation to a monthly

1 payment. There were other payments that were made
2 through Amin also through Jorge Cuarenta. With such a
3 payment I had the money to buy the raise, boots, and
4 other supplies.

5 Q Let me go back. You mentioned there was a
6 30 million pesos payment which was a monthly payment?

7 A Yes, monthly, and Mr. Jaime Blanco has
8 knowledge of that payment because he's the one that
9 would bring the payment. He would bring the monthly
10 payment.

11 And then after I was in jail I was told
12 that those payments continued and those payments were
13 given to an attorney called Dasa, but I have no
14 knowledge of that. I was already detained.

15 Q Who told you that?

16 A Members of the AUC.

17 Q Who?

18 A Everybody knows alias Pigua told me, alias
19 Peinado told me, El Yuca also knows about that, Samario
20 also knows about that, Charris also knows about that.
21 It is correct.

1 Q You have spoken to Samario about Drummond
2 in the last two years?

3 A No, because Samario speaks about -- we
4 speak about two different subjects. Samario speaks
5 about 2000 on until he was captured and I speak about
6 from '96 to 2000 when I was captured. Those are two
7 different subject matters.

8 Q How do you know that Samario speaks from
9 2000 on?

10 A Because he came into the AUC after I was
11 captured because before he was from the south of
12 Bolivar.

13 Have you spoken to Samario about what he
14 has testified to?

15 MR. COLLINGSWORTH: Objection, vague.

16 THE WITNESS: I have not spoken to Samario
17 about that. I know what happened. I know what
18 happened, what happened in that statement because I saw
19 it on TV, but of him having told me, no.

20 BY MR. JEFFRESS:

21 Q You mean you saw Samario's statement last

1 week on TV?

2 A It was on the newspaper, yes, and it was
3 also in Catacol.

4 Q Yes, but before that statement was in the
5 news last week, you had spoken several times with
6 Samario about his testimony about Drummond, correct?

7 A No. Once when I went to a proceeding I
8 told him I'm going speak about Drummond because I said,
9 tomorrow maybe in the future when somebody else comes
10 to talk they're going cause me harm, because Samario
11 told me I'm going also have to speak up because Samario
12 has been convicted because of the union members of
13 Drummond.

14 Q Isn't it true that you, Samario, and
15 Tolemaida met with Ivan Otero about Drummond in late
16 1998 or early 1999?

17 MR. COLLINGSWORTH: Objection, no
18 foundation.

19 MR. JEFFRESS: Let me withdraw that
20 question. I said that wrong.

21 THE INTERPRETER: I'm sorry, counsel?

1 MR. JEFFRESS: Can I withdraw that
2 question?

3 BY MR. JEFFRESS:

4 Q I included Tolemaida, I shouldn't have done
5 that because he wasn't there.

6 But you and Samario discussed your Drummond
7 case with Ivan Otero in late 2008 or early 2009?

8 MR. COLLINGSWORTH: Objection, vague, no
9 foundation.

10 THE WITNESS: I told Ivan Otero that I was
11 concerned about the Drummond process, however, I did
12 not speak to Samario about that because Samario has
13 different subject matters to deal with with Drummond.
14 His period is from 2000 on, my period is from '96 to
15 2000. These are different subject matters.

16 BY MR. JEFFRESS:

17 Q Well, just to make sure. Did you speak to
18 Samario about the declaration he gave to Mr.
19 Collingsworth?

20 The question was whether you have spoken to
21 Samario about the declaration he gave to Mr.

1 Collingsworth about Drummond?

2 A No. He said the only thing that he said is
3 that he was going to declare against Drummond because
4 he already has been convicted.

5 Q He was going to declare against Drummond
6 because he's already been convicted; is that what he
7 said to you?

8 A He had already been convicted and he had
9 already a lot of knowledge about it.

10 Q You met Samario in 2007 at the Barranquilla
11 prison, correct?

12 A I met Samario at the end of 2007 when I
13 arrived to Valledupar.

14 Q And you consider him a friend, correct?

15 A Right now I consider him my friend because
16 when I go to Valledupar he receives me in his cell and
17 when he comes here I receive him in mine.

18 Q And he was your friend before you gave the
19 declaration to Mr. Collingsworth in December 2009,
20 correct?

21 MR. COLLINGSWORTH: Objection, no

1 foundation.

2 THE WITNESS: Yes. We became friends in
3 2007 when I came from Valledupar to Barranquilla.
4 Approximately since the end of 2007 we became friends.

5 BY MR. JEFFRESS:

6 Q Do you also know Jesus Jairo Charris?

7 A Yes, I know Charris.

8 Q Is he a friend?

9 A Yes, he's an acquaintance of mine from the
10 street, yes.

11 Q Do you consider him a bitter person who
12 tells lies about other paramilitaries?

13 MR. COLLINGSWORTH: Objection, vague and no
14 foundation.

15 THE WITNESS: No problem. I never heard
16 him as being a liar when he would bring me food from
17 Drummond.

18 THE INTERPRETER: I need to consult with
19 the witness.

20 THE WITNESS: Many times he brought me food
21 in a truck from Drummond.

1 BY MR. JEFFRESS:

2 Q Did he tell you he knew where the CTI
3 investigators' bodies were buried?

4 A No, he has no knowledge of that.

5 Q Well, let me ask you about your testimony
6 to the Fiscalia which is the Spanish version. You have
7 it right in front of you, okay? Look at the very
8 bottom of page 5.

9 You noticed you say that -- wait a minute.
10 This is about Ochoa, I'm sorry. Well, let me ask
11 you -- strike that question.

12 Do you know Javier Ernesto Ochoa?

13 A Mr. Javier Ernesto Ochoa met him in 2008,
14 approximately. He was at that time detained at the
15 judicial jail and he told me that he was part of the
16 AUC, however, out in the street I did not know him as a
17 member of the AUC. I heard that they call him the
18 mechanic, but he is not a friend of mine, an
19 acquaintance only.

20 Q Did he lie to you?

21 MR. COLLINGSWORTH: Objection, vague.

1 THE WITNESS: I don't know about that. I
2 heard once that he had some knowledge about the
3 investigators of the CTI, however, and I told him to
4 speak to Attorney Daisy and to provide to her that
5 information; but about Drummond we have not spoken at
6 all because when I met him I met him was in jail.

7 BY MR. JEFFRESS:

8 Q If you look at page bottom of the page 5 of
9 the testimony to the Fiscalia right in front of you,
10 bottom of page 5 -- bottom of page 5. Did you tell the
11 Fiscalia that in 2007 he told you he knew the
12 whereabouts of the staff members of the CTI?

13 A Yes, he told me he has knowledge thereof.

14 Q And then he later admitted that that was a
15 lie?

16 A I heard he said that because we went to the
17 side that supposedly that's where were buried, the
18 officers of the CTI. I didn't know the road. I had no
19 knowledge about the area itself. And I asked him, why
20 did you bring me here? And he said, well, I just heard
21 talking about that, and I said to myself, it must have

1 been then the Fiscalia, the prosecutor.

2 I told him to make a map for me with his
3 own handwriting and to sign it for me, and I gave it to
4 Attorney Daisy Jaramillo. It's correct.

5 Q So did Ochoa know where the bodies were
6 buried or not?

7 A Has no knowledge of that because -- as far
8 as I know, because I'm the main witness because I am
9 the commander and I know how the facts went down.

10 Was March the 9th of 2000, and I heard that
11 Ochoa joined the AUC a little bit after my capture. So
12 he is though a witness, however, not the main witness.

13 Q Do you have a mobile phone in prison?

14 A Once in a while in all truth, yes,
15 sometimes you do have to make calls, and, yes,
16 sometimes the guards will take it to you because there
17 is a phone on the wall though.

18 Q Have you spoken to Ochoa either in person
19 or by telephone since making your declaration in this
20 case?

21 A No, he lives in a very different area. I

1 mean, it is the same jail, but it's in a very different
2 yard than mine.

3 Q Have you spoken to Jose Aristides Peinado
4 since making your declaration in this case?

5 A When he was captured I spoke to him.

6 THE INTERPRETER: Could the interpreter
7 inquire as to the word Monteria, M-O-N-T-E-R-I-A?

8 THE WITNESS: In the last days in the jail
9 house or the Monteria jail house, and I asked him if he
10 was going to talk about the Drummond case and he told
11 me that, yes, he was going speak up because he had been
12 convicted already, or sentenced. He asked me if I was
13 going speak up and I said, I'm afraid of speaking but I
14 will have to, correct.

15 BY MR. JEFFRESS:

16 Q Did he say what he was being offered to
17 speak up about Drummond?

18 MR. COLLINGSWORTH: Objection, no
19 foundation.

20 THE WITNESS: To speak up against who?

21 BY MR. JEFFRESS:

1 Q Drummond.

2 A I was not offered anything at no time.

3 Q You testified that you were Honor visited
4 by the FBI and particularly by an agent Manny, I can't
5 remember his name, but you were visited by an FBI
6 agent, right?

7 A Yes, and I have the card here and I showed
8 it to the camera and it was actually three people from
9 the FBI who came in, three. Two people from the FBI
10 and one from the DAS here in Colombia.

11 And they asked: Why was I denying
12 everything? I told them I was afraid, and they said,
13 sooner or later you'll have to speak. And I said, yes,
14 I'm going to have to because I know that Mancuso
15 already spoke up in the U.S., that he had knowledge of
16 the link between Drummond and the AUC, and sooner or
17 later Mr. Rodrigo Tovar Pupo and Toleda have to talk
18 about Drummond because from now on all of those who are
19 in the know about the link between Drummond and the AUC
20 will speak up. The only thing they were waiting for
21 was for someone to take the first step.

1 MR. JEFFRESS: I move to strike the answer
2 as nonresponsive.

3 BY MR. JEFFRESS:

4 Q The question is: Did the FBI visit you
5 before or after you gave the declaration to Mr.
6 Collingsworth or people working with Mr. Collingsworth?

7 A After.

8 Q After?

9 A Yes.

10 Q How long after? If you gave that
11 declaration in December 2009, how long afterwards did
12 the FBI come and see you?

13 A Well, you know, a short while after. I
14 told a gentleman whose name is Manuel, you know, white
15 thin guy. I told him in due time I will speak out
16 against Drummond because, you know, this is a civil
17 lawsuit.

18 And then they came back once more and they
19 asked me, what have you decided? And I said in due
20 time, but then I asked them a question. I said, if I
21 don't speak out about Drummond what's going to happen

1 to me?

2 Well, you know, he said, sooner or later
3 everybody is going to have to speak out against
4 Drummond because that is a law.

5 You cannot cover the sun with just one hand
6 and sooner or later everybody is going come clean. I
7 told him that Mr. Rodrigo Tovar Pupo had sent word that
8 if I talked against Drummond I was going to get
9 extradited, and I said, that does not amount to an
10 extradition because I am not a drug trafficker. I was
11 a military commander, that's all.

12 And until the day after Samario made his
13 statement in Valledupar they started investigating
14 comments that Mr. Rodrigo Tovar Pupo was coming back to
15 Colombia and that I was getting myself into trouble.

16 And, I said, I may have to leave my own
17 place, but, you know, the truth is something that
18 cannot be avoided or covered up by everyone, and I am
19 not going to make trouble for myself by covering up for
20 others. And so I now leave this up to whatever God
21 deems fit.

1 BY MR. JEFFRESS:

2 Q Now, do you -- are you describing a
3 conversation that happened after Samario testified last
4 week?

5 A Yes.

6 Q A conversation with who?

7 A This comment was made in jail.

8 Q By whom?

9 A All of the inmates were saying this. They
10 were saying Jorge Cuarenta is coming, what are you
11 going to do now, Tigre?

12 Q Do you know Mr. Jorge Cuarenta is in prison
13 in the United States after extradition for narcotics
14 trafficking?

15 A Yes, I have knowledge because he was
16 extradited while I was with him in that same yard.

17 Q And one of the ways that the Northern Bloc
18 of the AUC financed its operations was by trafficking
19 in narcotics correct?

20 MR. COLLINGSWORTH: Objection no
21 foundation.

1 THE WITNESS: By the time back then when I
2 was a militant at the Juan Andres Alvarez Front, I
3 never saw drug trafficking but it is my understanding
4 but it is my understanding that that changed. That the
5 AUC changed from 2001 to date but while I was a
6 militant there we were being financed by companies and
7 by cattle men in the area where we were.

8 BY MR. JEFFRESS:

9 Q You testified this mornings in response to
10 Mr. Collingsworth's questions about payments to the AUC
11 by Jaime Blanco. Do you remember that 30,000 -- I
12 believe it was 30 million pesos a month?

13 A 30 million pesos per month.

14 MR. JEFFRESS: May I say for the record if
15 that noise that's being heard in the background, it's I
16 think a fire alarm; is that right?

17 So because if this is played in the
18 court in the United States I want them to understand
19 there's no emergency.

20 THE COURT: Yes, it is clearly not an
21 emergency but rather a drill. As I explained when we

1 came back from recess, the alarm that is being heard is
2 part of a drill that is being performed on behalf of
3 the secretary in charge of professional risk for an
4 evacuation and we should be complying with it, but we
5 have asked to be excused in order to proceed with this
6 hearing.

7 MR. JEFFRESS: Thank you.

8 BY MR. JEFFRESS:

9 Q Now, your testimony about the payments from
10 Jaime Blanco, when did you first testify that payments
11 like that had occurred?

12 MR. COLLINGSWORTH: Objection, vague.

13 THE WITNESS: I testified regarding those
14 payments when I was interviewed regarding the links
15 between Drummond and the AUC.

16 BY MR. JEFFRESS:

17 Q Interviewed by whom?

18 A An interview on behalf of the
19 representatives of Drummond's victims.

20 Q Do you know the name of that person?

21 A The gentleman present here and also another

1 lady which is not the lady who is present here today.
2 I believe her name is Rebecca.

3 Q Rebecca Pendleton?

4 A I think so, yes.

5 Q And I'll represent to you, Mr. Esquivel,
6 that there is nothing about any payments from Jaime
7 Blanco in your declaration of December the 3rd, 2009.
8 You did not remember those payments at the time you
9 gave 2009 declaration?

10 MR. COLLINGSWORTH: Objection, no
11 foundation.

12 THE WITNESS: The thing is the gentleman
13 have come several times to take statements.

14 BY MR. JEFFRESS:

15 Q And you've told them something different or
16 additional each time?

17 A No, whenever they come to tell them the
18 same thing and then in here if I remember having been a
19 part of another case I add that.

20 Q Have you spoken to Jaime Blanco at all
21 since he's been arrested?

1 A Since he was arrested, no, I haven't spoken
2 to him in person.

3 Q When was the last time you did speak to
4 him?

5 A While he was still free I talked to him and
6 I told him I was going speak about the death of the
7 Hugo Guerra and he said, do whatever you want.

8 I heard he had gone to Venezuela and then I
9 heard that he went back to Cesar and he had been
10 captured, but I have never spoken personally to him
11 ever again.

12 Q When and where was this conversation with
13 Jaime Blanco about your testifying concerning Hugo
14 Guerra?

15 A That happened in the model prison in
16 Barranquilla, you know, the phone, he gave me the phone
17 this guy Peinado, and I remember it was a TVO number
18 beginning 300. I don't remember the number.

19 Q Does this Peinado have a cell phone in the
20 prison?

21 A No, Peinado was still out free when that

1 happened.

2 Q Whose cell phone did you use to talk to
3 Jaime Blanco?

4 A I had a cell of my own there.

5 Q And Peinado gave you the number, is that
6 it?

7 A I called Peinado and he gave me the number.
8 I said, I need to speak to your boss. And he said,
9 this is the number. And he said, what are you going to
10 talk to him about, that I was going to talk in the Hugo
11 Guerra proceeding because I have knowledge that Hugo
12 Guerra woman's name is Irin Ester Brito who was the
13 main witness in my conviction. Today she is in witness
14 protection in Canada.

15 Q She was the main witness in your conviction
16 for which of your crimes?

17 A Of using Hugo Guerra's death. He was her
18 husband.

19 Q Why would you call Jaime Blanco to tell him
20 you were going testify?

21 A Because she was also a witness against

1 Jaime Blanco.

2 Q Well, did you want Jaime Blanco to know
3 this for a particular reason. Jaime Blanco to know for
4 a particular reason?

5 A Yes, I wanted him to know that because I
6 had to clarify that legal situation.

7 Q That he what?

8 A That legal situation.

9 MR. JEFFRESS: Legal situation.

10 BY MR. JEFFRESS:

11 Q Did you ask Jaime Blanco for something?

12 A No, at no time, because out in the street
13 we were friends and the right thing was to forewarn him
14 so that he would know. I had already been convicted
15 and so, you know, there was no sense in denying that.

16 Q So you wanted to forewarn him so he could
17 do what?

18 A So that he would so that he would know and
19 then he could hand himself over, he could hand himself
20 in or he could fix things with his lawyer or he could
21 do whatever he thought he should do.

1 Q Mr. Esquivel, you testified about a meeting
2 with the Army that was inside the Drummond compound; do
3 you remember that?

4 A Yes. That was a coordination so that we
5 could cross to a point called San Roque where seven
6 people lost their lives. That happened in '99.

7 Q Who lost their lives?

8 A Seven people.

9 Q Guerillas?

10 A Well, yes, that they were collaborators
11 with the ELN for a front, let me see that group was
12 called alias Willington, Manuel Martinez Quiroz was the
13 name of the Front. That's name of the front, Manuel
14 Martinez Quiroz commanded by alias Willington because
15 Milton belongs to the 41 but of the FARC.

16 Q Where is Tomas Posada live today?

17 A He was a police commander. And in 2003 I
18 spoke to him from the jail of Tramacua, you know, and
19 then I spoke to him again from La Picota. Then he had
20 come back to Barranquilla. He was a police commander.

21 Q And who was the Army major at the time that

1 Mr. Posada learned that you needed to speak with?

2 A I don't remember his name right now but he
3 was a major there and he was a commander of the counter
4 guerilla force and he was a friend of captain Posada.

5 Q Did this meeting occur in a vehicle or a
6 building?

7 A No, that happened near a landing strip.

8 Q It happened at the military installation
9 near the landing strip?

10 A Yes, inside the complex itself because
11 Wilson, that is Captain Posada, had good relationships
12 and he had access to almost everywhere. He was driving
13 a legal vehicle and had legal weapons. As far as I
14 know, he was the commander of the SIJIN in Valledupar.

15 Q Who else was with you?

16 A No. It was him and another guy, and then I
17 went personally because there were orders to capture me
18 back then. So I couldn't move around with a lot of
19 people.

20 Q You alone went to the meeting?

21 A No, I went with him, with Wilson, Posada,

1 and another guy who was with him. In order to move
2 around in Cesar I had to go with him.

3 Q Let me clarify. You testified about
4 payments by Jaime Blanco of 30 million pesos per month?

5 A Yes, that is correct.

6 Q Did Jaime Blanco or someone on his behalf
7 deliver any such payments to you personally?

8 A Once on one occasion Jaime Blanco delivered
9 the money to me. The rest of the time the money was
10 delivered Amin. You know back then with those monies I
11 was able to buy 200 barrets, you know, which the Army
12 wears for, you know, operations and 200 black T-shirts,
13 and I also bought supplies for arms and I bought them
14 at La Popa Battalion from a dress maker whose name was
15 alias Albita, which are used to buy uniforms, boots,
16 munitions, and harnesses, bayonets, any type of war
17 supplies or weapons because at the battalion there's a
18 storehouse for weapon supplies.

19 If I wanted to wear a new uniform, I would
20 call them and they would bring it immediately.

21 Q What month was this payment that Jaime

1 Blanco made to you personally?

2 A That happened shortly after the meeting
3 that we held at Benedito.

4 Q You said you met with him in your too many
5 Mr. Collingsworth between March and April 2000 after
6 the death of the CTI workers; is that correct?

7 A Yes, I met -- several times I met, also
8 near La Loma where there is a bunch of trees that are
9 made of -- that are papia trees. Several times I met
10 him. I spoke constantly on the phone with him.

11 Q You spoke constantly on the phone with
12 Jaime Blanco?

13 A Yes, I spoke constantly. When I was in
14 prison in 2000, he even gave me as a gift 5 million
15 pesos.

16 Q Who gave you that gift?

17 A Jaime Blanco.

18 Q Why did he give you that gift?

19 A We were very good friends at that time.

20 Q Is this before or after you began
21 testifying in the Justice and Peace process?

1 A No, that was recently when I had just been
2 recently captured. That was after my capture. While I
3 was not in the Justice and Peace process, all of the
4 proceedings that I was questioned by the Fiscalia I
5 denied it, because I'm very aware then when I joined
6 the AUC, I joined very willingly. I was not threatened
7 nor they required of me to join the AUC.

8 After I began the process of Justice and
9 Peace I told Mr. Forte all of those killings,
10 displacements, and relationships and links amongst
11 cattle growers and businessmen and companies that I'm
12 going to be talking about.

13 He told me to keep quite, to accept the
14 killings as my responsibility and not to the mention
15 anyone; but if I don't mention them my subordinates
16 will not mention them either and there I will then lose
17 the benefits of the Justice and Peace process.

18 The commitment in the Justice and Peace
19 process is to tell the truth. Many people that are in
20 the Justice and Peace process don't tell the truth
21 because of fear, because we are in jail. So much of

1 our families as ourselves we are in danger. It is
2 correct.

3 Q So when Mr. Jaime Blanco gave you 5 million
4 pesos as a gift, did he ask you to keep quite about
5 him?

6 A No, at no time. I always accepted that and
7 I did not mention anyone. I even remember like three
8 months before I came over here for the Justice and
9 Peace process Attorney Luisa Pinto Ochoa, she told me
10 you're going to let them convict you for so many times
11 and you're not going to say anything. I said, when I
12 go the Justice and Peace process I will accept my
13 facts.

14 I had thought, however, that if there's no
15 Justice and Peace process I would prefer to die in jail
16 or to leave and flee.

17 Q So let me make sure this is correct. Mr.
18 Peinado gave you -- after you went to prison gave you
19 Jaime Blanco's telephone number and asked you to call?

20 A Lastly, yes. When I began the Justice and
21 Peace process, yes.

1 Q Was it after that phone call that Jaime
2 Blanco gave you 5 million pesos?

3 A No. He gave them to me when I had just
4 been captured in 2000, and I spoke to Jaime Blanco in
5 2007 when it was turning into 2008. Seven or eight
6 years later.

7 Q And when did you first tell the Justice and
8 Peace authorities about Hugo Guerra?

9 A I told them when the free versions begun.
10 As far as I remember, when I begun with the free
11 versions they started to attack me about the CTI
12 officers and the El Salao massacre. When I then
13 clarified those facts, that's when the other versions
14 came about.

15 Q Why did your group murder those people in
16 El Salao?

17 A The AUC group who was approximately 350
18 men. They were many men, many guerilla men of the
19 FARC; 30 from the Front, 35, 37, they were lead by a
20 man called Martin Caballero.

21 Those FARC deserters said they said that El

1 Salao was like the base headquarters of the FARC, and
2 that there was a camp nearby a farm called Las Yeguas.
3 When we went to this camp last year was Amaury, alias
4 Amaury, was ambushed. He was a commander of a front
5 and that was nearby in El Salao. That's where we
6 decided to go into El Salao.

7 Those same deserters there's the one that
8 indicated the people we had our own people that were
9 wounded. There were combats at the entrance of the
10 town. That is why we did that incursion in El Salao.

11 Just to tell you, to show you, you can ask
12 at Barfin 5, infantry battalion, where sometime ago
13 several officers of the Army had been killed in that
14 same area. Even an Army captain had been put down. It
15 is correct.

16 Q You mentioned a person named Pirulo,
17 nickname Pirulo?

18 A Pirulo.

19 Q Where is Pirulo today?

20 A He must be out in the street. He's an
21 expert in explosives. He would make bombs.

1 Q Out in the street where?

2 A When we were going to have combat with the
3 guerilla. He must be with new groups. He's out in the
4 street. He must be with new groups. He probably
5 demobilized.

6 Q What is his real name?

7 A I don't know his real name because in the
8 AUC we knew each other through nicknames. Sooner or
9 later he will be captured because even the big leaders
10 they also fall down.

11 Q How about Amin? Where is Amin today?

12 A I heard that after my capture he had been
13 killed, but I cannot confirm it because I have been
14 detained. In order for me to confirm something I have
15 to be present, otherwise, I'm a hearsay witness.

16 Q Now, did you keep notes or records of the
17 names of the persons who you and your men killed?

18 A I had an agenda that is buried at a farm
19 near Drummond. It's a lot called Los Mangos whose
20 property of that lot is Efrain Lacutir and the farm's
21 name is San Rafael.

1 On several occasions I asked for favors
2 from acquaintances in the area for them to be able to
3 take out that device. When I talk about a device or
4 equipment it's a rucksack where I have your supplies
5 and a map and agenda with phone numbers and of people
6 that you might have killed, but has not been possible
7 to get that agenda because nowadays it's an area that
8 is being -- where the foothold is had by emerging
9 gangs. It's correct.

10 Q Have you consulted that agenda since you've
11 been in prison?

12 A No, because I've always asked my friends
13 for a favor to get it out, but they haven't been able
14 to. I also asked Mr. Maximo for a favor for him to get
15 it out and I would provide him with the location, with
16 a map, where that equipment was found.

17 And he told me that he was afraid because
18 those emerging gangs and anybody that is foreign to
19 that area they will put down because outside there in
20 the street there is a conflict between three emerging
21 gangs: The Paisas, Restrojos, and Urabenos. Those are

1 bands that are formed or gangs by members of AUC. It
2 is correct.

3 Q Are you willing to tell the Fiscalia or the
4 police the location of this sack of materials so that
5 they can go recover them and provide them to the
6 parties in this case?

7 A Yes, I would be willing, but I need that a
8 person that I trust go there as well because I know
9 that when they find that equipment they're going get
10 rid of much evidence that I know that they're going to
11 be surprised to find because I have phone numbers of
12 members of the Army.

13 I have phone numbers of important
14 businessmen and I have documents that are evidence of
15 everything that I'm telling you. I have maps given to
16 me by Rodrigo Tovar Pupo, alias Jorge Forte, where I
17 demonstrate that the area where I used to operate is
18 around Drummond, and I would be willing to provide the
19 location if somebody that I trust goes there as well
20 because I know that you'll be surprised.

21 Q Do you trust Mr. Otero, Ivan Otero?

1 A I know I do trust Mr. Otero. I know that
2 if I sent Mr. Otero over then he'll be a dead man. I
3 want to be very clear.

4 Q Who is someone you trust who could
5 accompany the Fiscalia to recover those materials?

6 A I'm going to talk to some friends that are
7 out in the street to see if they dare to. I don't
8 trust the Fiscalia.

9 Q Are these friends people you knew in the
10 AUC?

11 A Because I have coordinations.

12 Q I'm sorry?

13 MR. COLLINGSWORTH: He said something else.

14 BY MR. JEFFRESS:

15 Q I'm sorry, are these friends, people you
16 knew in the AUC?

17 A Yes, I have many members of the Fiscalia
18 that cooperated with us. Even within the members of
19 the CTI, there was a brother that worked with me and
20 that same brother confirmed to me that the brother
21 worked for the guerillas.

1 The name of that person is Henry Quintero
2 and that CTI officer is Hugo Quintero. You can ask
3 anyone. I'm telling you the truth.

4 Q So that I understand, Hugo Quintero was an
5 employee of CTI who you say was a member of the FARC;
6 is that it?

7 A Henry he was his brother and worked with me
8 and his alias was Colita. When the Fiscalia would turn
9 on a car to work on operations against me, I already
10 had knowledge about those facts.

11 Here in Colombia while they're called the
12 Intelligence of the State Forces they cooperate with
13 different groups.

14 There are members of the police forces and
15 members of the Army that are sympathizers so much as
16 the guerilla, so much as the AUC. We are not
17 clairvoyant to know when they're going to capture us
18 nor to know when they are coming to get us because we
19 have informants for the evidence, just investigate the
20 false/positives.

21 Always there are some involved, that is

1 members of the state, not said by my -- from me, but
2 from everybody else that even President Uribe and
3 President Santos has destituted many public officials
4 because of corruption, correct.

5 Q What question did you just answer?

6 A No, I am clarifying about what you asked me
7 about my agenda, that I do not trust the Fiscalia.
8 First of all, I have a process that the Fiscalia knows
9 that I am a mastermind of the CTI officers and I don't
10 think they're going to want my welfare, my well-being
11 to the contrary, they want to take me down, and with
12 some evidence that I do have -- I don't have to tell
13 you about this. It's just the evidence speaks on
14 itself, by itself.

15 For us to be able to get to the Cesar
16 Department we were claimed, hauled, by cattle owners,
17 businessmen and important businessmen. You can ask
18 Salvatore Mancuso and Jorge Forte if I'm telling you
19 the truth or not.

20 And lastly I want to clarify the following:
21 Ask Salvatore Mancuso, he also has knowledge of the

1 relationship between Drummond and the AUC.

2 MR. COLLINGSWORTH: I would like the record
3 to reflect, Mr. Jeffress, you're going to need to leave
4 me 10 or 15 minutes for redirect.

5 MR. JEFFRESS: I can move to strike the
6 last ten minutes of testimony as nonresponsive.

7 THE WITNESS: It's correct.

8 BY MR. JEFFRESS:

9 Q Look at page 16 of your declaration in
10 front of Exhibit 1 in Spanish.

11 MR. COLLINGSWORTH: Page or paragraph?

12 MR. JEFFRESS: Paragraph 16.

13 THE INTERPRETER: Counsel, what portion of
14 the paragraph?

15 MR. JEFFRESS: Paragraph 16.

16 BY MR. JEFFRESS:

17 Q Mr. Esquivel mentioned in paragraph 16 the
18 names of some 20 to 25 people who say you remember
19 killing including, in many cases, the apellido segundo
20 of each of those persons.

21 Did you have a list in 2009 of people that

1 you had killed ten years earlier?

2 A When I started in Justice and Peace the
3 Fiscalia gave me, whatchamacallit, a base of documents
4 where all the victims accused me, and from there in
5 regards to dates, area that I knew of, I would accept
6 it.

7 I would accept responsibility because there
8 are many false victims that are taking advantage of the
9 process of Justice and Peace.

10 Q What do you mean by that that there are
11 many false victims taking advantage of Justice and
12 Peace?

13 A It is correct, I will answer the question.
14 Approximately like a year after the statement that I
15 gave about El Salao there is a man that said that I had
16 made his daughter disappear. At that time it was going
17 to be ten years. Eight years later the daughter
18 appeared married and with children.

19 So then the prosecutor, Daisy Jaramillo,
20 she found out that I wasn't lying and that was out in
21 the newspaper, came out in the TV. I'm here to face

1 responsibility for my errors, but, however, not for
2 someone else's errors.

3 If I have something to do in a case I'll
4 accept responsibility for that, otherwise I shall not.

5 Q All right. So these names and dates in
6 paragraph 16 come from a list originally prepared by
7 the Fiscalia?

8 A The Fiscalia gave me a format of questions
9 where the victims accused me, and since I was in those
10 facts I remember what is it that I did and what is it
11 that I did not.

12 When I wasn't involved in those facts,
13 when -- I do however accept responsibility because of
14 the line of command.

15 Q Final subject, Mr. Esquivel.

16 A Thank you.

17 Q In your second declaration of June 2011,
18 which is Exhibit 5, I believe, you said that when
19 William Pacheco and Jaime Bernal and Nodier Agudelo
20 came to see you in February of 2010 --

21 MR. JEFFRESS: Go ahead --

1 BY MR. JEFFRESS:

2 Q -- you said they were very unhappy that you
3 had given your truthful declaration of December 3rd,
4 2009. Do you remember that?

5 A They asked me the questions and I denied.

6 Q In fact, Mr. Esquivel --

7 A Because of fear, because I feel fear; but
8 they were never unkind to me. Mr. Bernal Cuellar was
9 never unkind to me. He gave me advice and I took it as
10 an advice, but because I am a human being I feel fear;
11 but at no time did the gentlemen threatened me. He was
12 very respectful towards me just as well as Nodier
13 Agudelo was.

14 Q My question, Mr. Esquivel is: None of the
15 people present had a copy of your December 3rd, 2009,
16 declaration, correct?

17 MR. COLLINGSWORTH: Objection, no
18 foundation.

19 THE WITNESS: I don't know that they asked
20 me the questions and I answered them, but, no, I don't
21 remember if they did. I told them that I had no

1 knowledge about anything because of my own safety and
2 security and for my family's safety and security, it's
3 correct.

4 BY MR. JEFFRESS:

5 Q Mr. Collingsworth said several times they
6 asked you to retract your 2009 declaration. Now, in
7 truth none of those people at that meeting mentioned at
8 all anything about your 2009 declaration, correct?

9 MR. COLLINGSWORTH: Objection, misstates
10 the testimony.

11 THE WITNESS: It's correct, maybe because I
12 said I was afraid, that's way it was understood, but,
13 no, I was not threatened.

14 MR. JEFFRESS: No further questions.

15 MR. COLLINGSWORTH: Your Honor, with your
16 indulgence, in our system I get a brief right to
17 redirect. May I have a few minutes to ask a few
18 questions very briefly?

19 THE COURT: We will have a five-minute
20 recess because the witness have a personal need,
21 however, we will, after that break, give the word to

1 second examination by Plaintiffs' counsel.

2 THE VIDEOGRAPHER: Off the record at 5:04.

3 (The hearing recessed at 5:04 p.m.)

4 (The hearing resumed at 5:15 p.m.)

5 THE VIDEOGRAPHER: We are back on the
6 record at 5:15.

7 THE COURT: Good afternoon, once again. We
8 begin this process after the second recess for this
9 afternoon. Mr. Collingsworth can speak.

10 MR. COLLINGSWORTH: Thank you, Your Honor.

11 FURTHER EXAMINATION BY MR. COLLINGSWORTH:

12 Q Mr. Esquivel, thank you for your long day
13 of testimony. I just have a few questions and we'll be
14 finished in minutes.

15 A Thank you. No problem.

16 Q You've mentioned a couple of times a
17 commander named Omega. Who was Omega?

18 A Omega was the commander for the southern
19 part of Cesar, after Pailitas onward.

20 Q And I believe in response to one of Mr.
21 Jeffress' questions you said that Jorge Forte had Omega

1 killed; is that correct?

2 A Yes, Mr. Omega was murdered in Medellin,
3 and the grapevine has it that Jorge Cuarenta ordered
4 it.

5 In this case I'm a third-party witness
6 because those are just comments that one hears, and we
7 also heard that we would all be running the same fate.

8 Q And by we what do you mean?

9 A I'm referring to myself and many commanders
10 of the Front that are currently detained.

11 Q And what exactly was in your mind about
12 this information? What do you think?

13 A I thought that if I was eliminated or if I
14 was put down the only truth would be then heard from
15 Mr. Rodrigo Tovar Pupo his way. As the saying goes,
16 once the dog's dead there's no more mange.

17 Q And from approximately what time period did
18 you hear that you might be in danger of being killed by
19 Jorge Forte?

20 A I was told this since 2008, but I had shut
21 up. I hadn't said anything. While I was in Santa

1 Marta it was reconfirmed to me. And when I was back
2 here in Barranquilla at the yard I mentioned this to a
3 lot of colleagues that are in the yard as well that
4 Mr. Rodrigo Tovar Pupo's order was to find me and to
5 put me down. And my colleagues said that was the order
6 he gave for all of us, because he wanted things to be
7 left with just one truth, the truth his way.

8 Q Thank you.

9 Now, switching topics. You testified that
10 in late 1998 you became the head of the Juan Andres
11 Front and then there was a December holiday. So in
12 early '99 you assumed the actual command of the Juan
13 Alvarez Front; is that correct?

14 A Correct. Yes, and I assumed or I became
15 the head of the Juan Andres Alvarez Front after the
16 death of Daniel who was a commander whose name was Juan
17 Andres Alvarez himself, and then we gave the name, or
18 his name, to the group as the new front.

19 And so in January when all of the personnel
20 that had been out on leave came back that's when I
21 assumed command of the Front, of the Juan Andres

1 Alvarez Front.

2 That Front was inaugurated at the end of
3 1989, in December, because there was an attempt against
4 the life of Carlos Castano at El Nudo del Paramillo
5 where the FARC almost put him down, and I confessed to
6 all of this at the Justice and Peace.

7 Mr. Carlos Castano ordered that in memory
8 of the attempt against his life on that month we should
9 kill a thousand people on that month, and I was a part,
10 or I was involved or I participated in the Playon
11 Orozco massacre where 37 people were put down.

12 But the order was to find a thousand people
13 all over the country and put them down, and we should
14 hit the territory where the FARC had a better
15 stronghold.

16 Playon Orozco is an area influenced by the
17 guerillas back then and it was the site which Jorge
18 Pueblo, alias Jorge Forte, indicated that that was the
19 place.

20 And I confessed to all of this during the
21 Justice and Peace process.

1 Q Thank you. Thank you.

2 Now, when you became the commander of the
3 Juan Andres Front, who did you report to? Who was your
4 immediate supervisor let's say?

5 A I took orders directly from Rodrigo Tovar
6 Pupo; but let me make this very clear, that after the
7 Catatumbo Front was created, Mr. Rodrigo Tovar Pupo
8 became the head of the -- direct head of the Northern
9 Bloc because Mancuso moved to El Catatumbo because the
10 Catatumbo Bloc demobilized. The Catatumbo Bloc was
11 founded on May 29th, 1999.

12 Q Okay.

13 A I had been one of the people selected to go
14 to the Catatumbo Bloc, but Rodrigo Tovar Pupo did not
15 let me go because I had put an end to guerilla activity
16 in El Cesar. There were no more kidnappings, there
17 were no more explosions in farms, and there was no more
18 guerilla presence.

19 Q Okay. Thank you.

20 We have just a few minutes. I'm going ask
21 a few really precise questions and let's just try to

1 answer those so that the Judge does not stare at me and
2 wonder when we're going to finish.

3 A No, because when they ask me questions, you
4 know, I say the date, the place, everything because I
5 was a witness to them.

6 Q Thank you.

7 Once you became the commander of the Juan
8 Andres Front and you reported to Jorge Forte, when did
9 he first make you aware that part of your
10 responsibility included watching out for the Drummond
11 facilities?

12 MR. JEFFRESS: Objection, form, leading.

13 THE WITNESS: Since we came as transfers
14 from Uraba our orders were to clean out El Cesar, and
15 the AUC were created in order to fight against the
16 guerillas. When Jorge Cuarenta assumed command the
17 same goals were kept.

18 BY MR. COLLINGSWORTH:

19 Q When did he first mention Drummond to you
20 as part of that job?

21 A More or less around mid-1998. He said to

1 me he said, how could it -- how could we do things so
2 that that company would begin financing us; but as far
3 as I understand it, I have no knowledge that back then
4 there were any links.

5 Q Did you, in fact, from 1999 on patrol
6 around the areas in Cesar where Drummond operated?

7 MR. JEFFRESS: Objection, leading.

8 THE WITNESS: Yes, I did patrol the areas.

9 BY MR. COLLINGSWORTH:

10 Q And did you perform operations in those
11 areas?

12 A Yes, we were constantly performing,
13 searching.

14 Q Mr. Jeffress asked you a number of times in
15 different context whether you had testified in Justice
16 and Peace about Drummond.

17 And my question to you is: Did any Justice
18 and Peace prosecutor ever ask you the question? Did
19 they ever ask you: Did you have links to Drummond as
20 part of your testimony so far?

21 A Yes. Attorney Daisy Jaramillo had asked me

1 several times what, if anything, did I have to say
2 against Drummond and I would say, no, no, nothing.
3 Back then attorney Ivan Otero was my attorney.

4 Q And you made clear -- did you make clear to
5 the Fiscalia that you mentioned that you weren't going
6 to talk about Drummond?

7 MR. JEFFRESS: Objection, leading.

8 THE WITNESS: No. I told them that I had
9 no knowledge because I didn't want to discuss that
10 topic because I felt afraid.

11 MR. COLLINGSWORTH: Thank you.

12 Your Honor, may I approach the witness?
13 I want to use one of the exhibits we're working
14 with.

15 THE COURT: Yes, proceed.

16 BY MR. COLLINGSWORTH:

17 Q Mr. Esquivel, I'm showing you this nap that
18 we've marked as Exhibit 3. Can you see it?

19 A Yes, I do see it.

20 Q In response to some questions by Mr,
21 Jeffress you talked about moving up to a place called

1 Casa de Tabla; do you remember that?

2 MR. JEFFRESS: Could you pull that over so
3 the camera picks it up. You have to kind of put it
4 right in front of his chest.

5 THE WITNESS: Yes, I was at Casa las
6 Tablas.

7 BY MR. COLLINGSWORTH:

8 Q Let's get it a little lower so your face
9 shows. Now, can you show us on the map and first look
10 and then we'll turn it around and point roughly where
11 that is?

12 A Well, you know, it is not shown here in the
13 map because you go in through Becerril, through a
14 municipality called San Isido, a village or a grouping
15 of houses called United States or Estados Unidos and
16 then you get there.

17 Q Let me show you here that this is Becerril.
18 So where would Casa Las Tabla be in relation to that?

19 A The entryway is through a point where
20 there's an electric company. You know, that's where
21 you go into it, towards the Perija Mountains.

1 Q And the mountain range goes this way?

2 A Yes, the Perija Mountain range goes like
3 that.

4 Q Okay. Now, if we could show the camera
5 that you have pointed that the mountain range goes up
6 this way and that this is where Becerril is; is that
7 correct?

8 A Correct.

9 Q Now, if this is the rail line that Drummond
10 was using, what was the strategic reason for being up
11 here in the mountains to attack the FARC?

12 A To neutralize so the guerilla could not go
13 down to the flatland.

14 Q Thank you.

15 MR. COLLINGSWORTH: No further questions.
16 Your Honor, we're finished.

17 THE WITNESS: I'm so glad because I have a
18 sore throat.

19 THE COURT: We formally just conclude this
20 hearing. Thank you to all of the parties for their
21 good behavior. Thank you to Mr. Jhon Jairo, the

1 witness, for complying with his duty according to
2 Colombian law. Thank you all.

3 MR. JEFFRESS: Thank you, Your Honor.

4 MR. COLLINGSWORTH: Your Honor, can we
5 briefly discuss tomorrow --

6 THE VIDEOGRAPHER: Off the record at 5:45.

7 (Letters Rogatory Hearing concluded at
8 5:45 p.m.)

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1 District of Columbia,

2 At Large, to wit:

3 I, Steven Poulakos, a Notary Public of
4 the District of Columbia, do hereby certify that the
5 within-named witness personally appeared before me
6 at the time and place herein set out, and after having
7 been duly sworn by me, according to law, was examined
8 by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this transcript
11 is a true record of the proceedings.

12 I further certify that I am not of counsel
13 to any of the parties, nor in any way interested in
14 the outcome of this action.

15 As witness my hand this 6th day of April,
16 2012.

17 

18 Steven Poulakos,

19 Notary Public

20 My commission expires:

21 May 31, 2013

	1989 (1) 191:3	2009 (31) 25:20;53:13,14;57:5; 6:58;4:79:14,18;86:10; 87:4;88:14,17,18,20; 89:3;90:16;107:18; 108:17;109:21;110:3; 112:4;152:7;153:19; 160:11;165:7,9;183:21; 186:4,15;187:6,8	25:13;26:2,6 35 (2) 19:3;175:19	
0	1990 (1) 9:19	2010 (13) 14:7;76:14;90:13; 91:18,21;99:20;101:8; 103:4;110:21;121:11; 144:3,15;185:20	350 (1) 175:17	6
00 (4) 21:12,14,15,18	1993 (1) 16:20	2011 (5) 78:18;91:20;106:12; 108:14;185:17	36 (1) 49:18	61 (2) 72:8,9
05 (2) 126:20,21	1996 (3) 9:19;24:8;49:10	2012 (1) 199:16	37 (2) 175:19;191:11	65 (2) 136:16,20
1	1998 (4) 23:18,20;151:16; 190:10	2013 (1) 199:21	38 (1) 116:14	67 (1) 25:12
1 (12) 25:3,7;57:3;64:4; 79:13;132:17,20,21; 133:3,7;142:19;183:10	1999 (11) 28:12;101:3,4;124:14; 15:130:2;138:15;139:3; 151:16;192:11;194:5	202-639-7700 (1) 3:11	3rd (13) 25:19;39:5;57:5,6; 79:14;88:20;107:18; 108:17;109:21;112:4; 165:7;186:3,15	6th (3) 83:13,15;199:15
1:30 (1) 81:18	19th (7) 41:7;49:8;82:10; 84:10,18,19;138:6	21st (1) 124:12	4	7 (4) 94:4;110:8,9,12
1:37 (1) 82:2	2	25 (3) 25:12;43:21;183:18	4 (11) 71:21;72:4,19;74:10; 76:14;79:10;91:16; 93:14;94:2;120:21; 121:5	70 (2) 67:21;68:4
10 (4) 101:8;120:21;144:3; 183:4	2 (2) 28:1,5	2683 (1) 78:5	40 (7) 25:13,15;26:6;86:1,3; 115:21;118:9	720 (1) 53:14
10.901.999 (1) 9:4	2,000 (3) 45:15;46:12;53:15	2686 (1) 78:6	408 (1) 118:9	7th (1) 138:1
10:00 (1) 63:5	20 (1) 183:18	268687 (1) 107:10	41 (6) 27:11;51:15;52:8; 118:18;119:9;169:15	8
10th (4) 86:8;91:17;110:21; 121:11	20,000 (1) 148:7	2687 (2) 78:5,15	4th (1) 82:19	8 (6) 62:18;68:2;86:1,3; 96:8,21
11 (1) 123:14	200 (10) 32:3;33:7;46:11,13; 47:15;127:1,2,4;171:11, 12	28 (1) 51:11	5	9
11:06 (2) 56:16,17	2000 (44) 35:6;41:7;42:7,21; 44:4,21;46:18;49:9; 82:10,19;83:13,16; 84:14,15,18;116:9,11; 123:10,17,20;124:6,6,9; 138:1,6;139:3,9,17; 140:21;142:13,14,20; 146:2,15;148:18;150:5, 6,9;152:14,15;157:10; 172:5,14;175:4	28th (2) 123:9,17	5 (18) 77:10,14;79:8;95:9; 105:11,11,14;107:2,13; 155:8;156:8,10,10; 172:14;174:3;175:2; 176:12;185:18	9 (2) 132:5;139:6
11:15 (1) 56:18	2004 (1) 3:10	29th (1) 192:11	5:04 (2) 188:2,3	94 (2) 21:7;22:7
11th (2) 76:14;86:7	2001 (5) 121:3,4,12;148:13; 163:5	3 (9) 50:3,7,17;128:3,3; 129:1;144:3,14;195:18	5:15 (2) 188:4,6	96 (2) 150:6;152:14
12 (7) 80:21;118:5;123:13; 139:7;140:20;142:17,19	2002 (1) 148:13	3:25 (2) 141:19,20	5:45 (2) 198:6,8	97 (1) 49:20
12/15 (1) 124:10	2003 (1) 169:17	3:35 (2) 141:21;142:1	50 (1) 127:5	98 (3) 23:8,15;49:8
12:15 (2) 81:21;82:1	2006 (1) 60:8	30 (7) 43:21;148:21;149:6; 163:12,13;171:4;175:19	52 (2) 72:8,9	99 (5) 24:1;101:1;124:17; 169:6;190:12
1299 (1) 3:9	2007 (12) 60:12;61:12;65:4; 86:7,10;87:4;153:10,12; 154:3,4;156:11;175:5	30,000 (1) 163:11	55 (3) 5:13;9:9;31:15	99th (6) 5:4;44:21;84:15; 101:1;124:6;157:10
12th (2) 61:19;124:11	2008 (11) 61:10,15,19;65:5; 68:1;86:10;87:4;152:7; 155:13;175:5;189:20	300 (1) 166:18	556 (1) 38:16	A
13th (1) 23:8		31 (3) 17:5,11;199:21	57 (1) 41:5	able (10) 20:7;32:4;42:16;52:4; 53:18;66:12;171:11; 178:2,13;182:15
14 (1) 29:9		33 (2) 116:1,3	5th (2) 83:12,15	Above (3) 5:3;56:1,3
15 (3) 29:9;81:18;183:4		34 (3)		absolutely (1) 70:10
150 (2) 33:7;127:5				accelerate (1) 131:18
16 (5) 183:9,12,15,17;185:6				accept (7) 12:8;173:13;174:12; 184:5,7;185:4,13
17 (1) 19:6				
17th (3) 78:18;106:12;108:14				
18 (2) 16:16;18:15				

acceptable (1) 12:5	159:12;178:17;187:12; 195:10	171:15	131:8;137:6,12,15; 138:18;139:12;140:18; 146:21;147:6;148:8,12; 149:2;171:10;177:11,11	15;33:4,6,10;34:4,9,15; 43:16,19;44:6,12;45:10; 46:21;47:2;58:18;60:20; 66:16;74:5;87:5;96:9, 13;97:5,8;99:11,17; 100:10,13;102:7,10; 109:17,18;112:8; 124:14;126:14;130:2,3, 4,9,11,14,18;131:2,12, 21;132:5
accepted (5) 53:8,10,16;111:2; 174:6	afternoon (4) 82:4;142:2;188:7,9	Alfredo (41) 28:9,11;29:7;30:8,10, 20;32:6,8,15;33:4,6,9; 34:4,15;43:16,19;44:6, 12;45:10;46:21;47:2; 73:2;87:5;96:9;97:4,5; 99:11,17;102:7,10; 109:18;124:14;126:14; 130:2,3,4,9,14,18,20; 131:11	among (2) 54:20;111:4	Araujo's (2) 73:2;87:7
access (1) 170:12	again (16) 32:21;33:11;47:6; 53:1;60:15,15;61:9,15, 16;65:5;82:5;94:10; 108:11;166:11;169:19; 188:7	alias (58) 5:12;22:15;23:8,11; 28:20;29:17;30:14,17, 17,17,18;31:10,12,13, 15;33:10;36:1;37:7; 40:10;41:5;42:15;43:21; 44:1;47:12;48:12;49:16, 16,18;52:1;55:1;57:11; 58:1;59:13;61:16,20; 67:14,15,15;69:21; 125:9,9,17;131:8,9; 139:9,17;144:17;145:4; 146:21;149:18,18; 169:12,14;171:15; 176:3;179:16;181:8; 191:18	amongst (1) 173:10	area (46) 9:19;17:15,15,16; 19:11;20:3;22:17,20; 23:14;24:6,10;29:1,3; 31:7;33:12,15,20;34:3,5; 37:2,14,16;40:18;46:4,9; 48:21;49:3,8,16;51:14, 19;120:5;127:15; 129:12;141:6;145:5; 156:19;157:21;163:7; 176:14;178:2,7,19; 179:17;184:5;191:16
accompanied (5) 125:8,17;126:4;130:3, 11	against (26) 8:7;11:12;15:17;56:8, 11;64:5;75:13;92:11; 102:21;106:17;110:20; 112:8;121:14;143:20; 153:3,5;158:20;160:16; 161:3,8;167:21;181:9; 191:3,8;193:15;195:2	Aliases (2) 9:6,8	amount (4) 38:11;43:20,20;161:9	areas (6) 51:1;52:2;145:9; 194:6,8,11
accompany (1) 180:5	age (1) 17:2	allow (3) 47:5;52:1;65:14	Andres (29) 22:14,15;23:11,12,17, 21;24:1,19;29:1;30:7; 31:3;48:18;49:2,11; 51:17;52:15,20;53:2,20; 56:7;76:1;95:12;163:2; 190:10,15,17,21;192:3; 193:8	argumentative (4) 96:4;100:2;104:14; 115:15
accordance (1) 101:8	agency (3) 114:8,9,10	allowing (1) 10:7	Angel (5) 37:8,10,13;39:14,15	Ariel (1) 41:5
according (7) 8:5,8;10:2;131:11; 146:1;198:1;199:7	agenda (5) 177:18;178:5,7,10; 182:7	almost (3) 141:14;170:12;191:5	animals (2) 117:21;122:11	Aristides (1) 158:3
account (1) 84:11	Agent (3) 64:16;159:4,6	alone (1) 170:20	answered (8) 8:10;48:3;79:4;90:20; 104:14;105:6;120:3; 186:20	Aristizabal (4) 65:9;67:2;69:21,21
accuse (2) 106:15,16	agents (1) 57:13	along (4) 8:18;88:12;139:9,17	Antioquia (4) 17:6;40:21;41:1;60:10	Armando (1) 66:15
accused (2) 184:4;185:9	ago (4) 37:15;66:8;74:4; 176:12	although (2) 77:7;90:21	Antonio (1) 63:5	armed (6) 18:3;34:2;53:6;54:10, 12;55:19
acquaintance (2) 154:9;155:19	agreed (3) 10:13;32:19;43:19	Alvarez (24) 22:13,14,15,19;23:11, 12,17,21;29:2;30:7; 31:3;49:11;50:20;51:17, 21;53:2,20;76:2;95:12; 163:2;190:13,15,17; 191:1	anymore (1) 71:10	arms (14) 38:12,14,20;39:20; 40:6;41:8,9,12,16;46:7; 52:3,10,11;171:13
acquaintances (2) 32:12;178:2	agrees (1) 11:2	Alvear (1) 3:18	apataado (1) 17:10	Army (24) 16:13;17:19;18:21; 19:11;21:16,21;22:10; 24:17;54:18;55:3,6,12, 14,20,21;56:4,7;169:2, 21;171:11;176:13,14; 179:12;181:15
acquire (1) 92:18	Agudelo (9) 14:10,19;73:2;78:13; 104:8;106:16;110:20; 185:19;186:13	always (7) 54:10;90:18;96:13; 127:20;174:6;178:12; 181:21	apellido (1) 183:19	around (30) 29:15;32:3,18;38:16; 42:6;43:13,20;46:4; 49:1;51:6,6;53:19,19; 63:5;86:7;88:18;99:18; 111:19;116:15;118:5; 124:17;129:16;141:5; 145:5;170:18;171:2; 179:18;193:21;194:6; 196:10
acquired (1) 38:13	Agusto (3) 6:20;7:2;97:4	ambushed (1) 176:4	appeals (1) 116:1	arrange (1)
action (1) 199:14	ahead (1) 185:21	America (1) 108:5	appear (3) 13:16;128:5;132:1	
actions (1) 34:21	airfield (1) 55:6	Amin (23) 36:15,18;37:4;38:2; 43:21;45:21;47:11,11;	APPEARANCES (1) 3:1	
activity (2) 66:7;192:15	Airplane (6) 37:8,11,13,15,15; 39:16		approach (3) 33:16;34:8;195:12	
actual (1) 190:12	AK-47 (1) 117:6		approached (1) 87:12	
actually (5) 39:20;52:8;99:19; 124:10;159:8	AK-47s (1) 38:16		approved (1) 47:3	
add (2) 96:17;165:19	Alabama (3) 5:11;10:17;82:5		approximately (13) 33:7;35:20;36:3; 44:13;53:20;63:5;85:16; 118:5;154:4;155:14; 175:17;184:14;189:17	
additional (1) 165:16	alarm (2) 163:16;164:1		April (11) 35:6;42:6;44:13; 139:3,9,17;146:2,15; 148:18;172:5;199:15	
adequate (1) 12:11	Albita (1)		Araujo (56) 28:9,11;29:7,13,18; 30:8,10,20,31:1;32:6,9,	
administrative (1) 15:8				
admitted (1) 156:14				
advantage (6) 81:9;84:21;85:8,10; 184:8,11				
advice (9) 73:11,11;108:1;111:2, 4,6,11;186:9,10				
affect (1) 98:10				
afraid (11) 73:9,18;74:3;88:2; 90:18;93:1;158:13;				

131:6 arranged (1) 47:14 arrangement (1) 43:10 arrangements (1) 43:15 arranging (1) 10:6 arrest (1) 97:17 arrested (7) 82:9,11,12;84:10,11; 165:21;166:1 arrive (7) 35:15;38:13,21;40:16; 41:2,10,12 arrived (11) 22:20;35:9,13;36:13, 14;38:8;41:4,6,8,9; 153:13 articles (2) 135:17;136:14 Aside (4) 15:19;122:14;126:14; 148:17 assassinated (1) 140:21 assistant (1) 88:13 associated (1) 141:5 assumed (4) 190:12,14,21;193:16 Atanque (3) 28:13;100:20;124:18 atencion (1) 136:15 Atlantico (1) 5:5 attach (1) 135:10 attached (6) 27:18;107:10;135:17; 136:4,8;138:11 attack (10) 55:14;129:14,15,19; 132:1;140:1;141:3; 143:2;175:11;197:11 attacked (1) 143:9 attacks (2) 134:15,21 attempt (3) 71:19;191:3,8 attorney (34) 6:2;11:7;14:9;57:10; 60:4;63:7,13;66:15,15, 16,17;69:11,11;73:1,2,3, 4,15;74:6;79:1;80:12; 82:7;96:14;100:11,12; 103:10;104:8;149:13; 156:4;157:4;174:9;	194:21;195:3,3 attorneys (2) 5:18;88:1 AUC (93) 9:15,17,18;16:17; 19:9,10,13,15,17,21; 20:5,10,11,12,16,18,21; 21:6,8,9,19;22:1,8,11; 24:6,11,13;30:5,11;32:5, 20;33:1,18;34:14;35:1; 43:12;47:18;48:15; 49:12,19,21;55:20,21; 56:1,4;59:2,8;64:7; 65:11;67:17;69:7;73:1, 9,21;74:14;75:18;76:6; 79:19;83:4;84:2;90:11; 94:7;112:3;129:21; 130:18;131:19,21;132:7, 11;139:13;146:3; 148:19;149:16;150:10; 155:16,17;157:11; 159:16,19;162:18;163:5, 10;164:15;173:6,7; 175:17;177:8;179:1; 180:10,16;181:16; 183:1;193:15 August (1) 88:17 authored (1) 141:2 authorities (1) 175:8 authorized (4) 43:15;45:9,11;46:21 authors (1) 143:2 automatic (1) 117:5 available (1) 81:8 Avenue (1) 3:9 Avion (3) 37:19;39:12,16 avoid (1) 111:10 avoided (1) 161:18 awaiting (1) 76:10 awaits (1) 47:19 aware (3) 76:6;173:5;193:9 away (2) 80:19;129:9	64:18;66:20;76:13; 79:12;81:18;82:11,17; 83:20;84:4,7;88:14; 102:9,12;103:16,20; 130:1;132:19;133:10; 138:15;149:5;160:18; 161:14;163:1;164:1; 166:9;169:20;170:18; 171:10;188:5;190:1,20; 191:17;194:3;195:3 background (1) 163:15 Badillo (3) 29:9,12;100:20 Baker (1) 3:8 balcony (1) 37:18 Balthazar (1) 49:16 Banana (4) 17:15,15,16;20:2 Banco (1) 40:18 band (2) 115:7;125:21 bands (1) 179:1 Barfin (1) 176:12 Barranquilla (16) 5:4;26:19;60:12,14; 62:7,16,17;67:3;68:11; 71:7;111:16;153:10; 154:3;166:16;169:20; 190:2 barrets (4) 45:17;46:13;47:15; 171:11 Base (13) 37:8,9,10,10,13;52:4; 129:13,14,15,15,19; 176:1;184:3 based (1) 14:20 basis (1) 48:1 Bates (3) 25:11;78:4;136:20 Battalion (7) 17:5,7,11;19:3; 171:14,17;176:12 battles (1) 17:17 bayonets (1) 171:16 became (10) 22:2,12;23:18;154:2, 4;190:10,14;192:2,8; 193:7 Becerril (9) 51:10;127:18;128:8; 129:3;141:1;145:9;	196:13,17;197:6 become (2) 21:5;22:18 becuase (1) 73:16 began (6) 20:8;21:20;24:1; 172:20;173:8;174:20 begin (11) 5:3,14;7:7;10:9;11:5; 16:5;27:11;56:19;86:4; 188:8;194:2 beginning (5) 23:15;26:2;72:7; 86:21;166:18 begun (4) 24:7;31:19;175:9,10 BEHALF (9) 3:3;6:4,10;10:5;16:1; 105:16;164:2,18;171:6 behavior (1) 197:21 Bello (3) 100:21;113:15;122:21 belong (1) 51:5 belonged (1) 118:18 belongs (1) 169:15 Bencochea (1) 62:9 Benedito (3) 42:2,4;172:3 benefits (6) 80:17,19;81:1;98:4, 10;173:17 Bernal (16) 6:13;11:8;14:9,19; 15:14;16:2;73:3,6,16; 106:16;107:21;110:20; 111:15,18;185:19;186:8 better (4) 37:8;65:7;66:9;191:14 beware (1) 67:4 beyond (1) 18:3 big (2) 37:17;177:9 Bill (1) 144:7 bills (1) 36:16 bit (2) 130:8;157:11 bitten (1) 117:21 bitter (1) 154:11 Black (4) 35:7;47:17;138:19; 171:12	blame (1) 143:10 Blanco (53) 41:19;42:1,4,11,19; 43:6,11,18;44:5,11;45:2, 5,12,20;46:17;47:8,14; 48:1;59:8,10;75:19; 86:18;118:13;119:13,17, 21;120:13;121:16; 132:15;137:9,15,17; 149:7;163:11;164:10; 165:7,20;166:13;167:3, 19;168:1,2,3,11;171:4,6, 8;172:1,12,17;174:3; 175:2,4 Blanco's (2) 119:2;174:19 blasting (1) 130:21 Bloc (12) behavior (1) 30:7;49:11;93:20; 94:8,18;109:19;131:10; 162:17;192:9,10,10,14 block (1) 71:15 blow (5) 32:20;33:11;47:6; 138:17;139:3 blowing (2) 42:13;118:19 blown (6) 131:14;145:1,13,18, 21;146:1 blue (1) 45:16 Bocanegra (11) 57:9,17;60:3,4,5,7; 63:3,4,7;66:15,17 bodies (3) 117:20;155:3;157:5 bodyguard (1) 43:3 Bogota (3) 72:16,20;103:6 Bolivar (7) 54:1,3,3;84:3;116:10, 11;150:12 Bolsillo (4) 123:1,3,4,7 B-O-L-S-I-L-L-O (1) 123:5 bomb (3) 130:18;131:2,7 Bomba (1) 38:18 bombing (1) 132:10 bombings (1) 143:16 bombs (1) 176:21 bonuses (1) 48:14
	B			
	back (46) 20:9,11;22:11;37:9; 41:14;42:19;45:8;46:16; 48:20;57:2;58:20;59:4;			

<p>boots (4) 45:17;47:15;149:3; 171:15</p> <p>Boris (7) 101:19;102:3,4,14,15, 15,21</p> <p>born (6) 19:17;21:8,10,11; 22:14;23:11</p> <p>Bosconia (2) 51:3,4</p> <p>boss (1) 167:8</p> <p>both (8) 6:17;7:4,12;11:4; 15:12;62:15;66:16; 100:11</p> <p>bottom (8) 78:15;93:14;96:21; 121:2;155:8;156:8,10,10</p> <p>Botts (1) 3:8</p> <p>bought (11) 45:15,16,16,17,17; 47:15,15,16,17;171:13, 13</p> <p>boxes (12) 36:3,13,14,15;37:5; 146:14,19;147:4,9,11, 13;148:17</p> <p>boy (1) 128:19</p> <p>break (6) 56:13;81:12,17; 141:15;142:3;187:21</p> <p>breaking (1) 81:10</p> <p>brief (1) 187:16</p> <p>briefly (3) 44:15;187:18;198:5</p> <p>Brigade (1) 19:6</p> <p>bring (6) 7:16;149:9,9;154:16; 156:20;171:20</p> <p>Brito (1) 167:12</p> <p>brochure (1) 137:5</p> <p>brochures (2) 132:14,15</p> <p>brother (7) 41:20;42:15;119:8; 180:19,20,20;181:7</p> <p>brought (7) 7:13;13:12;38:2,21; 146:19;147:3;154:20</p> <p>BRYAN (2) 3:5;6:15</p> <p>bryanparr@bakerbottscom (1) 3:13</p> <p>Buenos (1)</p>	<p>6:9</p> <p>building (1) 170:6</p> <p>bunch (1) 172:8</p> <p>Bureau (1) 64:16</p> <p>buried (4) 155:3;156:17;157:6; 177:18</p> <p>business (2) 82:3;119:13</p> <p>businessman (1) 28:21</p> <p>businessmen (4) 173:11;179:14; 182:17,17</p> <p>buy (7) 45:14;97:9;100:15; 101:15;149:3;171:11,15</p> <p style="text-align: center;">C</p> <p>Caballero (1) 175:20</p> <p>Calero (1) 122:12</p> <p>Calintoma (1) 51:10</p> <p>call (10) 36:15;37:15;43:4; 57:3;63:6;155:17; 167:19;171:20;174:19; 175:1</p> <p>called (44) 7:15;20:20;21:14; 22:21;23:1,4,6,9;28:13; 35:8,8,11,13;38:4;39:14; 43:5,18;47:1,2;51:11,12; 54:13;55:1;64:4;69:20; 76:10;86:11;122:13; 128:17;129:4,5,6;133:2; 149:13;167:7;169:5,12; 175:20;176:2;177:19; 181:11;195:21;196:14, 15</p> <p>calls (4) 98:13;99:6;120:16; 157:15</p> <p>came (36) 24:7;35:20;49:19; 57:13,21;60:5;64:9,12; 65:1;68:2;78:13;87:19; 88:15;97:8;104:3,6,7,8, 9,11;105:16,21;147:8, 11,12;150:10;154:3; 159:9;160:18;164:1; 174:8;175:14;184:21; 185:20;190:20;193:13</p> <p>camera (7) 50:10,12,14;64:19; 159:8;196:3;197:4</p> <p>Camilo (1)</p>	<p>57:9</p> <p>camp (2) 176:2,3</p> <p>camp (1) 52:9</p> <p>can (69) 8:18,19;11:5;16:5,11, 14;25:15;26:6,9,15,16; 27:16;28:5,14;30:20; 34:20,20;35:3;36:8; 37:10;39:17;40:14; 44:15;48:20,20;50:9,10, 12,12,17;56:12,14; 64:19;67:19;68:9;69:10; 70:19;71:14;72:9,17; 76:10,13;78:8,10;82:7; 91:10;126:9,15;128:10, 10,14;129:1;130:10; 132:17;133:13;134:15; 136:1;138:6;141:11; 152:1;176:11;179:5; 181:2;182:17;183:5; 188:9;195:18;196:9; 198:4</p> <p>Canada (1) 167:14</p> <p>candidates (1) 76:9</p> <p>Canoa (1) 51:12</p> <p>caps (4) 45:16,17;46:11,12</p> <p>captain (7) 44:2;47:12;54:15; 55:5;170:4,11;176:14</p> <p>capture (6) 125:13;157:11; 170:17;173:2;177:12; 181:17</p> <p>captured (16) 41:7,8,13;49:9;71:9, 10;76:1;134:2;150:5,6, 11;158:5;166:10;173:2; 175:4;177:9</p> <p>car (1) 181:9</p> <p>card (5) 57:14;64:10,13,15; 159:7</p> <p>care (4) 59:19;61:1;63:19; 86:19</p> <p>carefully (2) 26:8;111:4</p> <p>Carepa (3) 17:5,11,16</p> <p>Carlos (14) 20:16;21:7,13,14; 22:3,4;113:19,20;114:3; 115:2,16;122:6;191:4,7</p> <p>Carretera (2) 35:7;138:19</p> <p>carried (2)</p>	<p>139:8,16</p> <p>carry (2) 5:9;139:21</p> <p>Casa (10) 52:4,5;127:7;128:17; 129:1,2,7;196:1,5,18</p> <p>C-A-S-A (1) 128:19</p> <p>Casacara (3) 128:10;141:1;145:9</p> <p>case (15) 8:1;11:18;13:17; 32:19;74:8;84:16;87:14; 152:7;157:20;158:4,10; 165:19;179:6;185:3; 189:5</p> <p>Cases (2) 53:6;183:19</p> <p>cash (1) 38:2</p> <p>Castano (16) 19:17;20:17;21:7,13, 14;22:3,4,6;113:19,20; 114:3;115:2,17;122:6; 191:4,7</p> <p>Catacol (1) 151:3</p> <p>Catatumbo (5) 192:7,9,10,10,14</p> <p>cattle (6) 29:1;37:14;95:4; 163:7;173:11;182:16</p> <p>cause (4) 12:10;87:1;101:6; 151:10</p> <p>caused (2) 112:7;118:13</p> <p>Cecilia (3) 113:15;123:1,12</p> <p>Ceiba (2) 29:16;125:5</p> <p>Ceja (1) 60:9</p> <p>cell (4) 153:16;166:19;167:2, 4</p> <p>cells (1) 8:17</p> <p>certain (3) 18:8;38:11;107:21</p> <p>certify (3) 199:4,9,12</p> <p>Cesar (37) 9:20;22:16,20;23:5; 24:6,7,8;28:14;33:12; 49:1,21;51:1,4;53:21; 54:4,6;58:18;60:19; 65:16,20;82:14;83:12, 15,18;116:18;120:6; 125:2;133:15,16;134:4; 166:9;171:2;182:15; 188:19;192:16;193:14; 194:6</p>	<p>Cespedes (1) 23:1</p> <p>chainsaws (4) 116:20;117:9,14,19</p> <p>chance (1) 110:10</p> <p>changed (3) 5:8;163:4,5</p> <p>characterization (1) 109:8</p> <p>chest (11) 23:16;34:12;35:7; 43:9;80:6;84:9;95:5; 138:19;139:4;147:1; 164:3</p> <p>Charlie (3) 65:9;67:2;69:21</p> <p>Charris (7) 5:7;43:5;59:14;75:20; 149:20;154:6,7</p> <p>chest (2) 47:18;196:4</p> <p>child (1) 9:12</p> <p>childhood (9) 29:6;32:12;61:3; 65:10,15;70:2,3,7;71:3</p> <p>children (2) 118:4;184:18</p> <p>Chiriguana (5) 35:18;36:18,20;51:9; 145:10</p> <p>Circuit (1) 5:4</p> <p>circumstances (1) 72:17</p> <p>Civil (11) 5:4;63:21;88:3;90:20, 21;93:11;98:7,17,19,20; 160:16</p> <p>civilians (3) 34:3;53:3;143:20</p> <p>claimed (1) 182:16</p> <p>claiming (1) 104:12</p> <p>claims (1) 14:16</p> <p>clairvoyant (1) 181:17</p> <p>clarifications (1) 57:16</p> <p>clarified (2) 46:12;175:13</p> <p>clarify (4) 104:10;168:6;171:3; 182:20</p> <p>clarifying (2) 85:11;182:6</p> <p>classmate (1) 65:9</p> <p>clean (6) 33:15,20;34:1,5;</p>
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161:6;193:14 clear (10) 39:3;40:13;52:14,16; 67:10;69:3;180:3;192:6; 195:4,4 clearly (2) 8:10;163:20 Clementina (1) 5:6 close (2) 73:6;146:17 Codazzi (6) 23:3;51:10;127:12,21; 128:8,9 code (1) 31:16 codes (1) 31:17 Colita (1) 181:8 collaboration (2) 93:18;94:16 collaborator (1) 49:20 collaborators (3) 141:2;143:1;169:10 colleague (2) 6:4;23:10 colleagues (3) 56:10;190:3,5 COLLINGSWORTH (155) 6:1,2;10:4,9;11:6; 13:10;14:21;16:3,6,8,10; 17:12;18:10,12;19:8; 20:19;24:18;25:5;26:7, 11;27:3;28:3,18;32:13; 36:10;37:3;39:2,44:8; 46:10,14;48:6,16;49:5; 50:5;56:12,21;57:1; 59:3,21;64:14,21;65:18; 66:2;67:6;69:2,9;70:1, 12,16,20;71:2;72:2; 74:18,20;75:5,8;77:12, 15;78:2,7;79:21;80:8; 81:3,11,16,19;87:13,15; 88:12;89:1,10,16,21; 90:7,17;91:16;92:3; 93:10;96:3;98:3,12; 99:5;100:1;101:9;103:3, 8;104:13;105:5,17,19; 106:6,18;107:9;108:8, 18;109:5,6,7;110:1; 111:7;112:5,9;114:1,16; 115:1,14;117:16; 118:15;119:14;120:2, 16;131:16;132:20; 133:3,5;135:9,11; 136:16;140:9,15;144:6; 146:8;150:15;151:17; 152:8,19;153:1,19,21; 154:13;155:21;158:18; 160:6,6;162:20;164:12; 165:10;172:5;180:13;	183:2,11;186:17;187:5, 9,15;188:9,10,11; 193:18;194:9;195:11, 16;196:7;197:15;198:4 Collingsworth's (2) 88:13;163:10 collision (2) 55:16,19 collusion (1) 55:15 Colombia (9) 5:5;42:1;57:19; 114:15;115:10,10; 159:10;161:15;181:11 Colombian (16) 8:6,8;10:2;16:12,13, 18;17:1,18;18:14,19; 54:8;82:13;148:4,5,7; 198:2 Colonel (1) 21:15 Columbia (2) 199:1,4 combat (5) 43:13;73:21;129:20, 20;177:2 combats (3) 101:4;117:19;176:9 coming (7) 36:1;40:6;41:15,17; 161:14;162:10;181:18 command (10) 42:17;44:19;97:16; 125:13;146:10,11; 185:14;190:12,21; 193:16 commanded (2) 97:2;169:14 commander (36) 23:19;24:20;31:7; 42:15;49:1,3,7,14,15; 50:19;51:16,17,20; 52:15,19;56:6;59:17; 67:20;68:9;95:18; 109:18;119:9;126:20; 139:20;157:9;161:11; 169:17,20;170:3,14; 176:4;188:17,18; 190:16;192:2;193:7 commanders (5) 53:1;67:11,17;69:6; 189:9 comment (1) 162:7 comments (5) 121:18,20;122:3; 161:14;189:6 commission (1) 199:20 commitment (2) 92:18;173:18 committed (3) 115:6,7,8	common (4) 18:18;24:12;55:20; 56:4 communicate (1) 60:3 communications (2) 60:1;63:2 companies (3) 54:11;163:6;173:11 companions (1) 30:10 Company (14) 6:8,19;29:7,19;41:18; 73:20;86:15;94:8;95:3, 18;99:12;102:16;194:2; 196:20 compelled (1) 8:6 competitor (1) 119:13 complaint (1) 11:12 complete (1) 24:3 completely (1) 75:10 complex (1) 170:10 compliance (3) 5:9;9:21;82:4 complying (4) 50:11,15;164:4;198:1 compound (1) 169:2 Comunicado (1) 137:18 concerned (6) 29:20;32:17;33:9; 63:14;103:11;152:11 concerning (1) 166:13 conclude (1) 197:19 concluded (1) 198:7 conclusion (2) 98:13;99:6 conduct (2) 5:20;10:7 confess (2) 143:11,13 confessed (7) 53:14;113:1;142:11, 15;143:4;191:5,20 confidential (1) 88:8 confine (1) 70:13 confirm (4) 38:1;121:19;177:13, 14 confirmed (5) 38:6;66:10;67:3;	140:18;180:20 confirming (1) 5:15 conflict (1) 178:20 confrontation (1) 54:20 confrontations (2) 17:20,20 confused (1) 21:18 consequences (2) 99:4;101:7 consider (5) 111:5;130:21;153:14, 15;154:11 consideration (1) 34:9 considered (1) 56:7 constantly (4) 172:10,11,13;194:12 constitute (1) 15:13 consult (1) 154:18 consulted (1) 178:10 contact (12) 32:5;35:14,14;36:17; 55:1;103:21;104:3; 105:3;129:16,18,20; 147:6 contend (1) 11:18 context (4) 30:2;61:9;108:9; 194:15 continue (3) 23:7;28:15;141:13 continued (3) 3:1;43:2;149:12 continuously (1) 84:17 contract (2) 120:14;121:16 contracts (2) 119:19,19 contrary (2) 95:3;182:11 convenience (1) 65:17 convenient (3) 67:13;68:16;96:2 conversation (9) 68:21;111:17,20; 112:1;130:13,15;162:3, 6;166:12 convict (1) 174:10 convicted (15) 102:8;113:4,5,10,12; 122:16,20;124:3,4;	151:12;153:4,6,8; 158:12;168:14 conviction (2) 167:13,15 cooperate (7) 32:20;33:1,17;34:8; 144:21;145:1;181:12 cooperated (1) 180:18 coordinated (1) 55:5 coordination (3) 54:17;55:11;169:4 coordinations (1) 180:11 coordinator (1) 49:17 Copey (1) 71:16 copies (4) 135:16;136:3,5,7 copy (4) 91:14,15;137:2; 186:15 Cordoba (8) 9:5;20:4,16;21:12; 70:4;82:13,15,18 Cordova (1) 24:16 corner (3) 25:12;78:4;112:2 Corrdoba (2) 41:5;47:19 correctly (1) 79:9 corrects (3) 55:17;116:4;127:8 corruption (1) 182:4 Cortico (5) 30:17;125:9,9,11,12 C-O-R-T-I-C-O (1) 125:10 counsel (18) 6:7,11;10:12,20; 70:21;90:3;94:1;117:10; 120:18;122:17;128:18; 132:21;144:9;151:21; 183:13;188:1;199:8,12 Counselor (2) 113:7;123:4 count (2) 53:17;116:16 counter (1) 170:3 country (1) 191:13 couple (1) 188:16 course (4) 32:11;33:5;56:14; 135:21 COURT (53)
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5:2,4,10,18;6:6,17;7:3, 21;8:14,17;9:6,10,13,16, 21;10:8;11:4,9;12:3; 13:2,7,13,14,15;14:4; 15:1;16:5,9;17:6,9;18:5; 56:14,19;64:18;68:18; 70:19;77:19;81:9,17; 82:3,5;91:10,20;114:15; 141:7,16;142:2;163:18, 20;187:19;188:7; 195:15;197:19	Cuellar's (1) 13:8 Currently (5) 9:14;12:19;42:17; 44:20;189:10	dealings (1) 100:19 death (22) 21:7;22:6;44:14,16; 47:19,19;66:19;67:11; 68:3,4,6,12,13;84:11; 109:15;113:14,18; 118:11;166:6;167:17; 172:6;190:16 deaths (2) 44:20;113:13 decapitate (1) 116:20 deceive (1) 131:13 deceived (1) 62:1 December (25) 23:8,20;24:2;25:19; 57:5,6;58:4;79:14,18; 88:20;90:16;101:1,4; 107:18;108:17;109:21; 110:3;112:4;153:19; 160:11;165:7;186:3,15; 190:11;191:3 decent (1) 79:3 decided (3) 71:10;160:19;176:6 declaration (63) 13:19;14:15,17;27:8, 11,18;57:4;79:13;87:14; 90:7;91:2;92:3,15,19; 93:9;101:9;105:12; 106:4,11,15;107:2,15, 18;108:3,7,13,17;109:3, 21;110:3;112:4;131:11; 132:4,17,19;133:7,11; 135:10;136:4,9;138:12; 139:7,8,15;140:7,14; 142:18;146:5;152:18, 21;153:19;157:19; 158:4;160:5,11;165:7,9; 183:9;185:17;186:3,16; 187:6,8 declare (5) 86:4;93:4;98:21; 153:3,5 declared (1) 99:1 decomposed (1) 117:21 deems (2) 12:8;161:21 DEFENDANTS (6) 3:3;6:11;15:16,18,21; 16:1 Defendants' (2) 91:7,11 del (2) 129:7;191:4 deliver (1) 171:7	delivered (2) 171:8,10 delivery (1) 148:17 demobilization (1) 67:14 demobilize (1) 126:1 demobilized (3) 125:15;177:5;192:10 demonstrate (1) 179:17 denied (4) 57:15;101:10;173:5; 186:5 Denuncia (1) 138:8 deny (2) 101:19,21 denying (2) 159:11;168:15 department (12) 24:9;28:14;51:1;54:1, 2,2,4;116:10,11;125:2; 133:15;182:16 Deportadia (2) 51:9;82:16 Deposition (5) 13:12;56:17,18; 141:20,21 derouting (1) 68:21 describe (6) 31:18;34:20;37:10; 44:15;50:17;79:9 described (4) 34:15;39:14;40:12,15 describing (3) 30:3;42:20;162:2 description (1) 134:5 deserters (2) 175:21;176:7 destituted (1) 182:3 details (1) 70:4 detained (9) 9:14;84:19;101:13; 138:5;148:16;149:14; 155:14;177:14;189:10 detention (1) 137:21 device (2) 178:3,3 dias (1) 6:9 die (1) 174:15 Diego (5) 5:13;9:9;31:10,12,13 different (11) 85:13;116:17;150:4,7;	152:13,15;157:21; 158:1;165:15;181:13; 194:15 difficult (1) 128:11 Difícil (1) 39:19 direct (1) 192:8 direction (2) 39:18,19 directly (1) 192:5 dirty (2) 75:19,20 disappear (1) 184:16 discuss (3) 45:12;195:9;198:5 discussed (5) 32:16;44:11;47:7; 48:1;152:6 discussion (2) 44:5;46:16 discussions (1) 11:20 displace (1) 52:20 displaced (1) 53:6 displacements (3) 53:9,15;173:10 displacing (1) 53:11 District (4) 5:10,11;199:1,4 division (1) 64:17 document (22) 25:7,11,17;26:6,10,14, 16;27:13;72:10,11,12, 13;78:3,10;79:8;133:6, 10;137:3,19;138:3,7,8 documents (3) 10:16;179:14;184:3 dog's (1) 189:16 dollar (2) 36:16;147:20 dollars (9) 147:15,16,17,17,18, 21;148:4,6,6 done (9) 47:12;55:11;66:19; 109:8;120:15;146:16,16, 17;152:4 doubts (1) 8:12 down (23) 29:21;42:17;44:19; 52:12;53:2;84:2;93:14; 117:2;118:5;120:10; 141:6;143:13;157:9;
cousin (5) 30:18;102:7,10; 109:17;126:5 cover (3) 75:16;102:6;161:5 covered (1) 161:18 covering (2) 81:1;161:19 crashed (1) 37:16 created (2) 192:7;193:15 crime (1) 8:3 crimes (3) 113:1;143:20;167:16 criminal (3) 11:12;112:20;141:10 cross (1) 169:5 crossing (6) 29:11;35:18;36:19,20; 51:9;55:5 CTI (27) 44:14,16,17;84:12; 113:5,11,13,16,17; 114:4,7,13;115:5,12,20; 122:15;124:6;155:2; 156:3,12,18;172:6; 175:11;180:19;181:2,5; 182:9 Cuadrado (3) 5:17;7:9;9:4 Cuarenta (14) 32:1;36:2;37:7;66:18; 130:9;139:11;147:1,20; 148:10;149:2;162:10, 12;189:3;193:16 Cuarenta's (1) 141:4 Cuatro (2) 23:2;51:13 Cuchara (1) 38:17 CUELLAR (24) 3:7;6:13,13;11:8,17; 12:9,14,18;13:16,21; 14:3,11;15:11,14;16:2; 73:3,6,16;77:17;78:13; 104:9;107:21;111:15; 186:8	D Daisy (6) 80:12;134:11;156:4; 157:4;184:19;194:21 dam (1) 37:17 danger (4) 110:15,17;174:1; 189:18 Daniel (4) 22:15;23:9,12;190:16 dare (1) 180:7 DAS (1) 159:10 Dasa (1) 149:13 date (5) 35:3;53:12;97:19; 163:5;193:4 dated (8) 25:19;57:5;76:14; 78:18;79:13;91:17; 106:12;108:13 dates (2) 184:5;185:5 daughter (2) 184:16,17 DAVIS (2) 6:14,14 day (15) 5:2;38:5,5,18;79:9; 95:8;99:10;104:2,6,9,11; 148:18;161:12;188:12; 199:15 Days (15) 32:1;38:12,16;39:6,8; 43:18;47:1;55:7;60:11; 66:14;102:19;103:5; 117:20;142:14;158:8 DC (1) 3:10 DDL (1) 6:20 de (16) 17:8;22:21;38:17,17; 51:8;52:4,5;54:3;127:5, 7;128:17;129:1,2,7; 136:15;196:1 D-E- (1) 128:19 dead (5) 113:21;126:8,8;180:2; 189:16 deal (1) 152:13	deaths (1) 100:19 death (22) 21:7;22:6;44:14,16; 47:19,19;66:19;67:11; 68:3,4,6,12,13;84:11; 109:15;113:14,18; 118:11;166:6;167:17; 172:6;190:16 deaths (2) 44:20;113:13 decapitate (1) 116:20 deceive (1) 131:13 deceived (1) 62:1 December (25) 23:8,20;24:2;25:19; 57:5,6;58:4;79:14,18; 88:20;90:16;101:1,4; 107:18;108:17;109:21; 110:3;112:4;153:19; 160:11;165:7;186:3,15; 190:11;191:3 decent (1) 79:3 decided (3) 71:10;160:19;176:6 declaration (63) 13:19;14:15,17;27:8, 11,18;57:4;79:13;87:14; 90:7;91:2;92:3,15,19; 93:9;101:9;105:12; 106:4,11,15;107:2,15, 18;108:3,7,13,17;109:3, 21;110:3;112:4;131:11; 132:4,17,19;133:7,11; 135:10;136:4,9;138:12; 139:7,8,15;140:7,14; 142:18;146:5;152:18, 21;153:19;157:19; 158:4;160:5,11;165:7,9; 183:9;185:17;186:3,16; 187:6,8 declare (5) 86:4;93:4;98:21; 153:3,5 declared (1) 99:1 decomposed (1) 117:21 deems (2) 12:8;161:21 DEFENDANTS (6) 3:3;6:11;15:16,18,21; 16:1 Defendants' (2) 91:7,11 del (2) 129:7;191:4 deliver (1) 171:7	delivered (2) 171:8,10 delivery (1) 148:17 demobilization (1) 67:14 demobilize (1) 126:1 demobilized (3) 125:15;177:5;192:10 demonstrate (1) 179:17 denied (4) 57:15;101:10;173:5; 186:5 Denuncia (1) 138:8 deny (2) 101:19,21 denying (2) 159:11;168:15 department (12) 24:9;28:14;51:1;54:1, 2,2,4;116:10,11;125:2; 133:15;182:16 Deportadia (2) 51:9;82:16 Deposition (5) 13:12;56:17,18; 141:20,21 derouting (1) 68:21 describe (6) 31:18;34:20;37:10; 44:15;50:17;79:9 described (4) 34:15;39:14;40:12,15 describing (3) 30:3;42:20;162:2 description (1) 134:5 deserters (2) 175:21;176:7 destituted (1) 182:3 details (1) 70:4 detained (9) 9:14;84:19;101:13; 138:5;148:16;149:14; 155:14;177:14;189:10 detention (1) 137:21 device (2) 178:3,3 dias (1) 6:9 die (1) 174:15 Diego (5) 5:13;9:9;31:10,12,13 different (11) 85:13;116:17;150:4,7;	152:13,15;157:21; 158:1;165:15;181:13; 194:15 difficult (1) 128:11 Difícil (1) 39:19 direct (1) 192:8 direction (2) 39:18,19 directly (1) 192:5 dirty (2) 75:19,20 disappear (1) 184:16 discuss (3) 45:12;195:9;198:5 discussed (5) 32:16;44:11;47:7; 48:1;152:6 discussion (2) 44:5;46:16 discussions (1) 11:20 displace (1) 52:20 displaced (1) 53:6 displacements (3) 53:9,15;173:10 displacing (1) 53:11 District (4) 5:10,11;199:1,4 division (1) 64:17 document (22) 25:7,11,17;26:6,10,14, 16;27:13;72:10,11,12, 13;78:3,10;79:8;133:6, 10;137:3,19;138:3,7,8 documents (3) 10:16;179:14;184:3 dog's (1) 189:16 dollar (2) 36:16;147:20 dollars (9) 147:15,16,17,17,18, 21;148:4,6,6 done (9) 47:12;55:11;66:19; 109:8;120:15;146:16,16, 17;152:4 doubts (1) 8:12 down (23) 29:21;42:17;44:19; 52:12;53:2;84:2;93:14; 117:2;118:5;120:10; 141:6;143:13;157:9;

176:14;177:10;178:19; 182:11;189:14;190:5; 191:5,11,13;197:13 Dr (18) 12:14;13:8;14:9,19, 19:15:11,14;16:2,2,6; 73:2;87:18;106:16,16; 110:19,19,20;134:11 dress (1) 171:14 drill (2) 163:21;164:2 driving (1) 170:12 drug (2) 161:10;163:3 Drummond (147) 6:7,19,19;10:12;11:8, 20;14:1,5;29:7,19,19; 30:9;32:6,17,19,21; 33:11,16,16,17;34:7,8, 13;35:1;41:18;43:8,9, 13;46:4;51:2,6,19;54:9, 12,15;55:2,4,10,12,13; 57:12;58:4,13,16;59:1,8; 60:6,21,21;61:17;62:4; 63:15;64:5,6;65:15; 69:11;70:11;73:1,4,8,19; 74:13;75:12,18;76:3,7; 79:19;86:15;87:19,21; 89:6;90:1,8,11,91:1; 93:19;94:8,17;95:10,13, 18;97:3,4,18;99:11,17, 20;102:16,17;106:2; 112:8;119:19;120:14; 129:10,10;130:21; 131:13;132:6,9;134:14, 20;141:6;143:21;145:6; 146:14,19;147:3,7,10; 148:19;150:1;151:6,8, 13,15;152:6,11,13; 153:1,3,5;154:17,21; 156:5;158:10,17;159:1, 16,18,19;160:16,21; 161:4,8;164:15;169:2; 177:19;179:18;183:1; 193:10,19;194:6,16,19; 195:2,6;197:9 Drummond's (9) 49:1;51:6;121:16; 130:18;131:2,7;138:17; 145:19;164:19 Due (8) 15:15,17;46:8;74:7; 75:7;120:14;160:15,19 duly (1) 199:7 during (7) 12:17,21;33:2;52:14, 19;97:1;191:20 duty (1) 198:1 dynamite (3)	139:9,16;146:4 E earlier (4) 77:17;93:10;144:18; 184:1 early (3) 151:16;152:7;190:12 Edgar (1) 41:5 Edgardo (2) 41:20,21 edge (1) 41:1 Eduardo (1) 62:9 effected (1) 34:12 Efrain (1) 177:20 eight (6) 60:16;85:16,17;86:2; 175:5;184:17 Eighteen (1) 17:2 either (8) 13:11;65:15;87:8; 103:2;113:20;139:12; 157:18;173:16 El (53) 5:13;9:9;30:18;31:14; 37:19;39:12,16,19; 40:18;42:4,15;49:17; 51:2,13,13;58:18;60:19; 65:16;113:13;116:7,13; 117:8;118:8;119:8; 122:5,7,12,14,17,18; 123:1,3,4;124:5,7;125:2; 126:3,5,7;127:6;136:15; 149:19;175:12,16,21; 176:5,6,10;184:15; 191:4;192:9,16;193:14 electric (1) 196:20 elements (2) 15:7,11 eliminated (1) 189:13 ELN (4) 52:8;112:3;139:13; 169:11 ELNs (1) 51:15 else (12) 48:7;63:12,15;77:1,2; 80:18;113:2;126:9; 151:9;170:15;180:13; 182:2 else's (1) 185:2 Email (2) 3:12,13	e-mail (1) 68:5 Emedan-Lauten (1) 3:16 emergency (2) 163:19,21 emergent (1) 66:9 emerging (4) 65:7;178:8,18,20 emersed (1) 85:21 employee (2) 43:8;181:5 employees (1) 114:20 enacted (1) 84:20 encouraged (1) 14:1 end (12) 23:15;35:6;49:8; 60:12;61:12;65:4; 124:15,17;153:12; 154:4;191:2;192:15 ended (2) 124:11;138:16 enemy (3) 52:12;55:20;56:5 enforcement (1) 114:7 engage (1) 17:17 engaged (1) 112:2 English (7) 72:6;77:18;134:14,16; 135:1,8;144:5 enough (2) 15:7;134:12 enter (1) 39:17 entirely (1) 14:13 entity (1) 20:11 entrance (4) 127:19;128:6,9;176:9 entryway (1) 196:19 equipment (3) 178:4,16;179:9 Ernesto (2) 155:12,13 errand (1) 36:1 errors (2) 185:1,2 ESQUIRE (5) 3:4,5,6,7,18 Esquivel (44) 5:17;7:9;9:4;11:19; 12:1;13:13,19;14:8,14;	16:11;18:2,6;25:6;57:2; 79:12;81:4;82:6,9; 90:12,21;91:14;95:1,8; 98:2;101:6;107:16; 113:4;115:11;116:6,13; 121:10;126:6;139:15; 142:8;144:14;145:11; 165:5;169:1;183:17; 185:15;186:6,14; 188:12;195:17 essentially (1) 74:12 establish (1) 52:4 Estados (2) 129:6;196:15 Ester (1) 167:12 ET-1 (2) 91:7,11 evacuation (1) 164:4 even (12) 15:19;57:13;61:2; 87:7;124:1;146:5; 172:14;174:7;176:14; 177:9;180:18;182:2 events (3) 27:8;79:7;124:2 everybody (6) 63:10;77:2;149:18; 161:3,6;182:2 everyone (4) 8:16;71:16;75:17; 161:18 everywhere (1) 170:12 evidence (9) 10:14;13:9;67:14; 68:5;179:10,14;181:19; 182:12,13 exactly (4) 45:8;83:11;111:13; 189:11 EXAMINATION (7) 16:10;81:11;82:8; 142:4;188:1,11;199:9 examine (1) 26:5 examined (1) 199:7 examining (1) 14:2 exception (1) 10:18 exclude (2) 11:9;15:11 excluding (1) 15:16 Excuse (4) 18:5;28:17;68:18;70:9 excused (1) 164:5	executives (2) 97:4;132:9 ex-governor (1) 58:18 Exhibit (45) 25:3,7;28:1,5;50:3,7, 10,13,17;57:3;64:4; 71:21;72:4,19;74:10; 76:14;77:10,13,16;79:8, 10,13;91:7,11,16; 105:10,11,11,14;128:3; 129:1;132:17,17,20,21; 133:1,7,14;136:17; 142:19;144:7,9;183:10; 185:18;195:18 exhibits (6) 27:11,15,17;132:18; 133:11;195:13 existed (2) 32:8;59:1 existence (1) 137:5 ex-military (2) 24:12;25:2 expectations (1) 112:6 expedite (1) 15:2 expert (3) 131:9;139:14;176:21 expires (1) 199:20 explain (1) 75:9 explained (1) 163:21 explosions (1) 192:17 explosives (4) 131:9;139:14;140:3; 176:21 exposing (1) 110:9 extradited (4) 61:20;62:12;161:9; 162:16 extradition (2) 161:10;162:13
		F		
		face (5) 50:14;109:10,10; 184:21;196:8 face-to-face (3) 61:10;62:14,20 facilities (6) 49:1;51:7,19;54:9,16; 193:11 facility (1) 55:10 fact (11) 15:15,19;57:7;74:7;		

95:1;115:5,11;135:7; 146:6;186:6;194:5 facts (11) 7:14;8:11;11:17; 108:20;141:9;157:9; 174:13;175:13;181:10; 185:10,12 faithful (1) 66:20 faked (1) 143:9 fall (5) 59:9,12,14,14;177:10 falls (1) 16:2 false (5) 95:17;103:17;139:18; 184:8,11 false/positives (1) 181:20 falsely (1) 14:17 falsity (1) 8:2 familiarize (1) 27:14 families (1) 174:1 family (17) 8:7;73:19;77:5,7;93:7, 9:95:15;96:13;97:8,10; 100:10;103:15;104:16; 107:17;108:6,15,21 family's (1) 187:2 far (8) 15:5;63:20;130:8; 157:7;170:13;175:10; 194:2,20 FARC (21) 17:21;18:1,3;19:14; 42:9;51:14;118:19; 119:10;132:1,10;141:2, 5;143:2;169:15;175:19, 21;176:1;181:5;191:5, 14;197:11 farm (11) 22:21;24:15;29:15,16; 37:14;39:12;47:18; 125:4,5;176:2;177:18 Farmed (1) 24:15 farmer (2) 21:3,11 farms (1) 192:17 farm's (1) 177:20 fashion (1) 70:15 fate (1) 189:7 father (1)	62:8 favor (2) 178:13,14 favours (1) 178:1 FBI (11) 57:13;58:5;64:8,9; 65:1;159:4,5,9,9;160:4, 12 fear (17) 53:5;65:3;74:17;75:7; 79:6;90:14,16;95:16,21; 97:21;101:7;105:1; 112:7;173:21;186:7,7,10 feared (1) 108:20 February (19) 14:7;76:14;90:13; 91:17;99:20;101:8; 103:4;110:21;116:9,11; 120:21;121:11;123:20; 124:5,9,15;144:3,15; 185:20 Federal (1) 64:15 feel (5) 74:17;79:6;104:21; 186:7,10 Felipe (1) 67:15 fellow (1) 87:13 felt (3) 93:1;103:10;195:10 few (9) 38:12;43:18;46:3; 47:1;187:17,17;188:13; 192:20,21 Fidel (2) 19:17;22:6 fifteen (1) 53:19 Fifth (2) 17:20;19:14 fight (6) 56:11;75:13;83:1,6; 115:13;193:15 filed (1) 11:11 filing (1) 13:15 filtration (1) 94:7 Final (1) 185:15 finally (1) 41:4 finance (3) 33:12;74:1;75:14 financed (5) 73:21;75:12;95:4; 162:18;163:6 finances (3)	32:2;33:9,18 financier (1) 95:5 financing (1) 194:2 find (9) 15:10;91:3;94:2; 133:6;136:1;179:9,11; 190:4;191:12 finish (1) 193:2 finished (3) 81:11;188:14;197:16 fire (1) 163:16 firmly (1) 24:1 First (42) 10:12;11:11;12:4; 15:1;16:11;24:5;25:7; 27:10;28:10;42:21;43:1; 6;44:3;50:9;60:5,7;61:5; 72:4,5,5;87:12,17;92:5, 20;105:16;113:16; 133:14;136:6,11;137:4, 7;138:10,13;139:12; 142:14;159:21;164:10; 175:7;182:8;193:9,19; 196:9 Fiscalia (60) 14:7,12,17,19;67:18, 19;90:13;93:12,14; 95:20;96:7,21;98:9,17; 99:21;100:7;103:4,6,16, 21;104:3,18;105:3,18; 106:2,5;114:11,12,13, 14,21;120:21;121:11; 122:1;134:3,10,18; 135:1;140:4;144:2,15, 16,20;145:11;155:6; 156:9,11;157:1;173:4; 179:3;180:5,8,17;181:8; 182:7,8;184:3;185:7,8, 195:5 fit (1) 161:21 five (11) 38:7;85:17;111:19; 126:11,12;140:21;142:9, 11,21;143:13,15 five-minute (4) 56:13;111:21;141:16; 187:19 fix (6) 58:10;63:17;73:13; 111:10;112:13;168:20 fixing (2) 112:16,18 flatland (1) 197:13 flee (1) 174:16 flexibility (1)	10:6 floor (2) 10:3;142:5 flyer (3) 136:14;137:6,10 focus (1) 69:16 following (7) 9:8;12:4;15:9;34:14; 68:13,14;182:20 follows (3) 97:14;108:14;121:10 Fontalvo (1) 5:7 food (2) 154:16,20 foothold (3) 51:15;52:8;178:8 force (1) 170:4 Forces (16) 20:17;21:3,8,11; 24:16;38:7;47:18;52:12; 53:6;54:10,12,18,18; 55:19;181:12,14 foreign (1) 178:18 forewarn (2) 168:13,16 form (3) 10:19;147:14;193:12 formally (1) 197:19 format (1) 185:8 formed (3) 22:1;40:17;179:1 former (1) 24:21 Forte (54) 28:21;29:17,18;30:12, 14,19;32:8,15;33:3,6,8, 10;34:15;38:1;39:4,9, 10;40:9,11;41:14;48:13; 52:1;57:7,11;58:1,8,9; 59:5;60:2,16;61:10,16, 20;62:11,15;65:21;66:3; 69:5,17;70:8;71:4; 86:18;126:14,16; 130:14;131:12;147:2; 173:9;179:16;182:18; 188:21;189:19;191:18; 193:8 Forte's (1) 57:18 forth (3) 7:15;102:9;134:5 Forty (1) 86:2 fought (3) 52:9;55:21;56:4 found (8) 93:17;94:6,14;120:12;	121:13;133:11;178:16; 184:20 foundation (23) 48:10;87:16;89:11; 98:13;99:6;100:2; 105:20;106:7;112:10; 114:2,17;115:15; 117:17;119:15;135:12; 151:18;152:9;154:1,14; 158:19;162:21;165:11; 186:18 founded (1) 192:11 founders (1) 49:10 four (1) 142:1 fourth (1) 8:8 frame (3) 35:4;48:21;49:4 FRANCISCO (2) 3:7;17:8 free (6) 61:5;64:3;166:5,21; 175:9,10 friend (17) 29:6,6;36:15,18;61:3; 66:3;68:8;70:2,7;71:4; 73:15;153:14,15,18; 154:8;155:18;170:4 friends (10) 65:15,19;154:2,4; 168:13;172:19;178:12; 180:6,9,15 Front (72) 17:21;19:14;22:13,14, 16,17,19;23:11,17,19, 21;24:2,3,19;29:2,30;7; 36:16;37:17;38:19; 45:13;46:7;48:18;49:2, 9,11;50:20;51:14,17,21; 52:8,15,20;53:2,21;56:7; 59:17;67:11,20;68:10; 76:2;83:19;95:12; 116:18,18,19;119:9; 125:14;132:3;139:20; 142:18;144:4;155:7; 156:9;163:2;169:11,13, 13;175:19;176:4; 183:10;189:10;190:11, 13,15,18,21;191:1,2; 192:3,7;193:8;196:4 fronts (1) 116:17 full (3) 9:2,3;132:14 fully (1) 77:7 funds (12) 43:11;44:6,12;45:6,7, 13;46:19;47:3,13;48:8, 12,13
---	--	---	--	--

<p>further (10) 51:4;129:5,6;134:13; 140:20;187:14;188:11; 197:15;199:9,12</p> <p>future (1) 151:9</p>	<p>193:17</p> <p>God (3) 68:7;77:8;161:20</p> <p>Godin (1) 5:6</p> <p>goes (8) 70:16;72:8;78:5; 179:19;189:15;197:1,2,5</p> <p>gondolas (2) 145:2,13</p> <p>good (9) 5:3;36:4;68:8;81:10; 142:2;170:11;172:19; 188:7;197:21</p> <p>grandpa (1) 63:8</p> <p>grapevine (1) 189:3</p> <p>green (1) 36:6</p> <p>Gregorio (1) 3:18</p> <p>grew (2) 65:10;70:3</p> <p>grounds (1) 70:10</p> <p>group (18) 18:3;19:20,21;20:21; 21:4;23:4,5;40:17,18; 56:3;90:2,9;115:10; 118:18;169:11;175:15, 17;190:18</p> <p>grouping (1) 196:14</p> <p>groups (10) 19:19;20:2;21:3,20; 54:11;75:13;97:2;177:3, 4;181:13</p> <p>grow (1) 46:7</p> <p>growers (2) 37:14;173:11</p> <p>Guajiro (2) 42:16;119:9</p> <p>Guapo (4) 69:21;70:7;71:4; 122:13</p> <p>guard (1) 71:16</p> <p>guards (1) 157:16</p> <p>guerilla (29) 29:20;32:20;34:2,7; 42:10,15;52:9;56:3,11; 115:13;119:3,17;120:1, 5;121:14;128:12; 129:12,15;141:2; 142:10;143:19;144:17; 170:4;175:18;177:3; 181:16;192:15,18; 197:12</p> <p>guerillas (20) 19:12,13;33:15,20;</p>	<p>34:2;43:13;52:1;53:4; 74:1;75:13;114:5,21; 129:21;131:14;143:2, 10;169:9;180:21; 191:17;193:16</p> <p>Guerra (18) 42:8,14;95:11;113:14; 118:11,14,18;119:12; 120:1,13;121:13; 122:15;124:5;166:7,14; 167:11,12;175:8</p> <p>Guerra's (1) 167:17</p> <p>Guerrero (1) 30:17</p> <p>guide (2) 68:19;143:5</p> <p>Guillermo (1) 5:7</p> <p>Guiomar (1) 3:16</p> <p>gun (1) 83:7</p> <p>guns (1) 117:6</p> <p>guy (5) 43:17;160:15;166:17; 170:16;171:1</p> <p>guys (6) 24:2;38:19;120:10; 126:11,12,16</p>	<p>136:10;150:17,18,18; 162:3;166:15;167:1; 169:6;170:7,8;172:2</p> <p>hard (1) 128:14</p> <p>harm (1) 151:10</p> <p>harnesses (1) 171:16</p> <p>Hatillo (1) 35:8</p> <p>hailed (1) 182:16</p> <p>head (8) 21:12,19;22:1;83:19; 190:10,15;192:8,8</p> <p>headed (3) 129:9;134:14;136:14</p> <p>headquarters (2) 39:13;176:1</p> <p>hear (6) 11:21;14:4;57:7; 96:10;128:14;189:18</p> <p>heard (19) 15:5,6;34:5;117:11; 119:18;125:21;154:15; 155:17;156:2,16,20; 157:10;163:15;164:1; 166:8,9;177:12;189:7,14</p> <p>hearing (9) 5:8;12:6;15:3;120:19; 164:6;188:3,4;197:20; 198:7</p> <p>hears (1) 189:6</p> <p>hearsay (1) 177:15</p> <p>heart (1) 50:21</p> <p>held (3) 68:11;141:12;172:3</p> <p>help (2) 8:14;25:15</p> <p>helpful (2) 18:11;69:4</p> <p>Henry (2) 181:1,7</p> <p>hereby (1) 199:4</p> <p>herein (1) 199:6</p> <p>here's (1) 40:2</p> <p>Hernan (1) 62:8</p> <p>Hernando (13) 58:18;60:20;61:2,18; 62:4;87:7;100:13,17; 101:11,13,17;102:2; 109:17</p> <p>herself (3) 55:18;116:4;127:8</p> <p>HF (1)</p>	<p>38:5</p> <p>high (1) 36:11</p> <p>highlighted (4) 92:20;93:15;121:3,4</p> <p>himself (8) 32:8;58:21;68:1; 119:5;125:15;168:19, 19;190:17</p> <p>hire (1) 95:11</p> <p>hit (2) 83:5;191:14</p> <p>hold (2) 50:9,12</p> <p>holiday (1) 190:11</p> <p>homicides (1) 99:18</p> <p>Hondo (2) 35:17;51:8</p> <p>Honor (31) 5:5;6:1;7:1;10:5,11; 11:1,7;12:19;13:6,10,18; 14:6,15,20;16:3,9;18:10; 56:12,21;70:16;77:15; 81:19;91:8;142:6;159:3; 187:15;188:10;195:12; 197:16;198:3,4</p> <p>hope (1) 110:9</p> <p>hour (1) 81:17</p> <p>hours (1) 29:12</p> <p>house (2) 158:9,9</p> <p>houses (1) 196:15</p> <p>Hugo (20) 42:8,14;113:14; 118:11,14,18;119:12; 120:1,13;121:13; 122:15;124:4;166:7,13; 167:10,11,17;175:8; 181:2,4</p> <p>human (8) 65:3;73:18;74:2,17; 79:5;93:1;95:21;186:10</p> <p>hundred (3) 53:20;116:12,17</p> <p>husband (1) 167:18</p> <p>hygiene (1) 47:16</p>
		H		
<p>gang (2) 66:9;69:20</p> <p>gangs (6) 65:7,8;178:9,18,21; 179:1</p> <p>Gary (1) 97:4</p> <p>gave (58) 26:18;36:2;38:18; 40:1;57:14;58:5,13,16, 17;61:5,13;62:1;64:2; 66:14;68:8;72:14,18; 74:4,7;77:16;79:9; 88:15,17;89:2,3;92:15; 93:9;106:10;108:1; 115:21;118:17,17; 122:6;135:16;145:4; 152:18,21;153:18; 157:3;160:5,10;165:9; 166:16;167:5,7;172:14, 16;174:3,18,18;175:2,3; 184:3,15;185:8;186:9; 190:6,17</p> <p>general (4) 8:21;39:18,18;41:21</p> <p>generation (1) 8:8</p> <p>gentleman (8) 42:3,8,13;64:12; 87:20;160:14;164:21; 165:12</p> <p>gentlemen (3) 35:21;58:6;186:11</p> <p>gift (4) 172:14,16,18;174:4</p> <p>Giraldo (2) 62:8,8</p> <p>given (19) 14:15;36:2;38:10; 39:20;42:9;57:8;65:12; 66:11;72:15;103:4,17; 111:6;122:3;135:9,14; 146:21;149:13;179:15; 186:3</p> <p>giving (7) 64:18;75:16,17;76:3; 79:20;131:1;147:1</p> <p>glad (1) 197:17</p> <p>gladly (1) 77:21</p> <p>goal (1) 68:14</p> <p>goals (1)</p>	<p>70:16;72:8;78:5; 179:19;189:15;197:1,2,5</p> <p>gondolas (2) 145:2,13</p> <p>good (9) 5:3;36:4;68:8;81:10; 142:2;170:11;172:19; 188:7;197:21</p> <p>grandpa (1) 63:8</p> <p>grapevine (1) 189:3</p> <p>green (1) 36:6</p> <p>Gregorio (1) 3:18</p> <p>grew (2) 65:10;70:3</p> <p>grounds (1) 70:10</p> <p>group (18) 18:3;19:20,21;20:21; 21:4;23:4,5;40:17,18; 56:3;90:2,9;115:10; 118:18;169:11;175:15, 17;190:18</p> <p>grouping (1) 196:14</p> <p>groups (10) 19:19;20:2;21:3,20; 54:11;75:13;97:2;177:3, 4;181:13</p> <p>grow (1) 46:7</p> <p>growers (2) 37:14;173:11</p> <p>Guajiro (2) 42:16;119:9</p> <p>Guapo (4) 69:21;70:7;71:4; 122:13</p> <p>guard (1) 71:16</p> <p>guards (1) 157:16</p> <p>guerilla (29) 29:20;32:20;34:2,7; 42:10,15;52:9;56:3,11; 115:13;119:3,17;120:1, 5;121:14;128:12; 129:12,15;141:2; 142:10;143:19;144:17; 170:4;175:18;177:3; 181:16;192:15,18; 197:12</p> <p>guerillas (20) 19:12,13;33:15,20;</p>	<p>half (2) 72:5;117:11</p> <p>halfway (1) 72:7</p> <p>hand (18) 13:18;23:21;25:6; 28:4;42:13;72:3;75:16; 77:13;83:5,9,11;91:8; 102:6;145:8;161:5; 168:19,19;199:15</p> <p>handed (10) 23:14;39:6,8;50:13; 64:15;68:1;137:12; 145:3,4,16</p> <p>handing (1) 50:6</p> <p>handled (2) 88:4,6</p> <p>hands (2) 59:16;63:11</p> <p>handwriting (1) 157:3</p> <p>hang (1) 43:4</p> <p>happen (4) 140:11,17,18;160:21</p> <p>happened (17) 31:19;79:9;83:4; 101:6;110:10;132:12;</p>	<p>136:10;150:17,18,18; 162:3;166:15;167:1; 169:6;170:7,8;172:2</p> <p>hard (1) 128:14</p> <p>harm (1) 151:10</p> <p>harnesses (1) 171:16</p> <p>Hatillo (1) 35:8</p> <p>hailed (1) 182:16</p> <p>head (8) 21:12,19;22:1;83:19; 190:10,15;192:8,8</p> <p>headed (3) 129:9;134:14;136:14</p> <p>headquarters (2) 39:13;176:1</p> <p>hear (6) 11:21;14:4;57:7; 96:10;128:14;189:18</p> <p>heard (19) 15:5,6;34:5;117:11; 119:18;125:21;154:15; 155:17;156:2,16,20; 157:10;163:15;164:1; 166:8,9;177:12;189:7,14</p> <p>hearing (9) 5:8;12:6;15:3;120:19; 164:6;188:3,4;197:20; 198:7</p> <p>hears (1) 189:6</p> <p>hearsay (1) 177:15</p> <p>heart (1) 50:21</p> <p>held (3) 68:11;141:12;172:3</p> <p>help (2) 8:14;25:15</p> <p>helpful (2) 18:11;69:4</p> <p>Henry (2) 181:1,7</p> <p>hereby (1) 199:4</p> <p>herein (1) 199:6</p> <p>here's (1) 40:2</p> <p>Hernan (1) 62:8</p> <p>Hernando (13) 58:18;60:20;61:2,18; 62:4;87:7;100:13,17; 101:11,13,17;102:2; 109:17</p> <p>herself (3) 55:18;116:4;127:8</p> <p>HF (1)</p>	<p style="text-align: center;">I</p> <p>Ibirico (1) 51:8</p> <p>ID (1) 9:4</p> <p>idea (2)</p>

<p>34:10;139:4 identification (6) 25:4;28:2;50:4;72:1; 77:11;91:12 identified (8) 7:12;88:19;91:15; 128:3;141:1;142:9; 143:1,6 identify (4) 26:9,16;28:5;78:10 identity (2) 7:6;25:9 imagine (1) 135:2 immediate (1) 192:4 immediately (2) 37:6;171:20 impediment (1) 15:13 imply (1) 141:10 important (2) 179:13;182:17 importantly (1) 5:20 improper (2) 10:19;11:13 inappropriate (1) 11:21 inaugurated (1) 191:2 Inc (1) 6:8 incident (1) 122:8 include (1) 48:17 included (3) 125:9;152:4;193:10 including (3) 11:19;13:21;183:19 incurring (1) 8:3 incursion (8) 28:13;54:13;55:7; 100:19;123:14;124:10, 18;176:10 indeed (5) 5:15;12:15,16;13:5; 41:6 indicate (3) 8:1,14;141:8 indicated (2) 176:8;191:18 indicates (1) 13:20 indicted (1) 84:16 indictment (1) 44:20 Indios (1) 22:21</p>	<p>individuals (1) 13:20 indulgence (3) 93:18;94:15;187:16 infantry (3) 17:13,14;176:12 influence (2) 19:12;95:13 influenced (1) 191:16 informant (1) 37:1 informants (2) 143:19;181:19 information (6) 42:9;69:4;115:2; 118:18;156:5;189:12 inmates (1) 162:9 inquire (2) 36:8;158:7 inside (7) 36:16;54:9,11;55:9, 12;169:2;170:10 installation (1) 170:8 installments (2) 48:4;95:4 instead (1) 132:10 insurance (1) 24:8 Intelligence (1) 181:12 intended (1) 70:8 INTEPRETER (1) 128:18 interested (2) 87:21;199:13 intermediate (1) 67:16 Internet (1) 136:1 interpret (1) 36:8 Interpreter (39) 3:16,17;5:16;19:7; 20:13,13;36:8;55:17,17; 59:12;70:21;90:3,4; 94:1,1,5;107:7;113:7; 116:3,4;117:10,11; 119:6,6;120:18;121:6,8; 122:17;123:4;127:7,8; 132:21;144:9,12; 151:21;154:18;158:6,6; 183:13 interrogation (1) 16:6 interrupt (1) 141:7 interview (1) 164:18</p>	<p>interviewed (2) 164:14,17 into (21) 19:12,13,16;22:11,16; 24:13;29:4;32:4;54:19; 55:7;73:14;76:4;90:19; 91:5;127:2;131:13; 150:10;161:15;175:5; 176:6;196:21 introduce (1) 6:12 introduced (7) 29:13;30:20;31:1,4,9; 42:3;130:6 investigate (1) 181:19 investigated (1) 44:18 investigating (2) 115:6;161:13 Investigation (2) 64:16;114:9 investigators (7) 113:6,11,17;114:12; 115:5,12;156:3 investigators' (1) 155:3 invited (1) 55:4 involved (3) 181:21;185:12;191:10 Irin (1) 167:12 Isido (2) 129:4;196:14 issue (1) 13:11 item (1) 11:6 Ivan (10) 63:13;74:6;87:18; 103:10,12;151:15;152:7, 10;179:21;195:3</p>	<p>59:8,10;73:3,6,15;75:19; 82:6;86:18;111:15,15; 118:13;119:1,13,17,21; 120:13;121:16;126:6; 132:15;137:9,15,17; 141:8;149:7;163:11; 164:10;165:6,20; 166:13;167:3,19;168:1, 2,3,11;171:4,6,8,21; 172:12,17;174:3,19; 175:1,4;185:19 Jairo (3) 7:9;154:6;197:21 January (9) 23:16,18;24:1;61:15; 65:5;123:10,17,20; 190:19 Jaramillo (4) 80:12;157:4;184:19; 194:21 Jaraska (1) 51:10 Javier (2) 155:12,13 JEFFRESS (157) 3:4;6:9,10;7:1;10:13; 11:2,3;13:6;14:6;16:2; 24:14;26:21;28:17,19; 32:10;35:3;38:3;44:7; 48:2,9;56:9;58:14; 59:10;66:5;69:8,18; 70:9;74:15;79:16;80:3; 81:6,13,15;82:7,8;85:5, 7;86:21;87:2,9,11;88:5; 89:13,19;90:5;91:8,13, 21;92:1;94:3,11;96:6,15, 18;97:11,13;98:14;99:9; 100:5;101:2;102:20; 103:1;104:17;105:9; 106:3,9,21;107:6,8,11, 12;108:12;109:2,12; 110:5,7;111:12;112:14; 113:9;114:6,19;115:4, 18;116:5;117:12;118:3, 21;119:11,20;120:7,20; 121:1,5,7,9;122:18; 123:2,6;127:9;128:20; 131:20;133:1,4,8,9; 135:15;136:18,19; 140:12,19;141:14;142:4, 5,6,7;144:10,13;146:12; 150:20;151:19;152:1,3, 16;154:5;155:1;156:7; 158:15,21;160:1,3; 162:1;163:8,14;164:7,8, 16;165:14;168:9,10; 180:14;183:3,5,8,12,15, 16;185:21;186:1;187:4, 14;193:12;194:7,14; 195:7,21;196:2;198:3 Jeffress' (1) 188:21 Jesus (1)</p>	<p>154:6 Jhon (7) 5:12,17;7:9;9:3;82:6; 141:8;197:21 Jimenez (4) 6:20;7:2;21:16;97:4 job (2) 43:7;193:20 John (2) 3:15;67:21 join (6) 16:18;19:9,15,20; 20:12;173:7 joined (12) 16:15,21;19:10,20; 20:2,5,21;24:11;139:13; 157:11;173:5,6 joint (1) 54:1 Jorge (64) 28:21;29:17,18;30:12, 14,19;32:1,8,15;33:3,6, 10;34:15;36:2;37:7; 38:1;39:4,9,10;40:9,10; 41:14;48:13;52:1;57:7, 11,18;58:1,8,9;59:4; 60:2;61:10,16,20;62:11, 15;65:21;66:3,18;69:5, 17;70:7;71:4;86:18; 126:14;130:14;131:12; 147:1,1,20;148:10; 149:2;162:10,12; 179:16;182:18;188:21; 189:3,19;191:17,18; 193:8,16 JOSE (3) 3:6;6:16;158:3 JR (1) 3:4 Juan (32) 22:13,15,19;23:11,12, 17,21;24:1,19;29:1; 30:7;31:2;48:17;49:2, 11;51:17,20;52:15,20; 53:1,20;56:6;76:1; 95:12;163:2;190:10,12, 15,16,21;192:3;193:7 judge (3) 10:17;70:12;193:1 judges (2) 100:15;101:15 judicial (3) 112:19;113:3;155:15 July (7) 41:7;49:8;82:10; 84:10,18,19;138:6 June (4) 78:18;106:12;108:14; 185:17 Justice (61) 53:7,11;61:6,13;67:8, 9,19;68:21;71:8;80:5, 10;84:20;85:1,4,9,10,12,</p>
		J		
		<p>Jagiuas (2) 51:8;145:10 jail (28) 26:19;42:17;60:11,13; 62:7,17;67:3;68:10,10; 71:7;80:21;85:2;88:10; 101:13;102:18,18; 111:16;138:1;149:11; 155:15;156:6;158:1,8,9; 162:7;169:18;173:21; 174:15 Jaime (73) 5:12,17;6:13;9:3;11:8; 12:9,14;13:8;41:19; 42:1,4,11,19;43:6,10,18; 44:5,11;45:2,5,12,20; 46:16,21;47:8,14;48:1;</p>		

14,20;86:5,12;87:3; 88:10;98:4,7,10,21;99:1, 4,8,11,13,16;101:11; 134:8;140:4;142:12,15; 143:5,7,8,12;144:1; 172:21;173:3,8,17,18, 20;174:8,12,15,20; 175:7;184:2,9,11;191:6, 21;194:15,17	153:9;155:4;156:2,13, 19;157:7;159:15; 162:15;167:11;181:10; 182:21;187:1;194:3; 195:9 known (5) 9:7;37:8,11;49:21; 65:7 knows (6) 132:14;149:18,19,20, 20;182:8	lawsuit (15) 6:11;12:15,17,21; 13:5;15:4;63:21;70:11, 14;88:6,11;90:20,21; 93:11;160:17 lawyer (4) 57:18;60:2;63:3; 168:20 lawyers (2) 87:13;91:1 lead (2) 98:16;175:19 leader (1) 21:9 leaders (1) 177:9 leading (13) 30:6,7;38:3;44:7;56:9; 66:5;69:8,18;79:16; 80:3;193:12;194:7; 195:7 leaflets (2) 137:13,14 learn (4) 70:7;71:3;119:1,12 learned (1) 170:1 least (1) 33:19 leave (9) 12:9;20:5;24:3;82:14; 161:16,20;174:16; 183:3;190:20 leaving (1) 124:11 Leete (2) 6:4;46:11 left (12) 18:16,19,21;20:7,8; 56:8;83:9;102:18;116:3, 14,15;190:7 leftist (1) 56:4 leftists (1) 18:4 legal (19) 10:2;63:17,20;73:13, 14;80:6;98:13;99:6; 111:10;112:13,17,18,19; 113:2;168:6,8,9;170:13, 13 less (5) 23:15;35:6;76:16; 135:18;193:21 Letters (5) 5:10;10:1;13:12,15; 198:7 liaison (1) 148:10 liar (1) 154:16 lie (8) 96:2;98:3,8;99:3,7;	103:15;155:20;156:15 lied (7) 14:16;95:20;103:12, 21;104:12,15,21 lies (1) 154:12 lieutenant (1) 21:21 life (8) 110:15,16;144:21; 145:8,12,16;191:4,8 liking (2) 93:18;94:16 Limited (1) 6:19 LINARES (3) 3:6;6:16,16 line (8) 29:21;47:6;50:18; 130:21;132:1;143:12; 185:14;197:9 lines (4) 32:18,21;33:11; 118:20 link (4) 97:3,18;159:16,19 links (8) 73:1,8;96:10;97:15; 164:14;173:10;194:4,19 Lino (1) 49:18 list (2) 183:21;185:6 listen (1) 12:11 listened (1) 13:8 little (3) 29:2;157:11;196:8 live (2) 29:3;169:16 lives (3) 157:21;169:6,7 living (1) 52:21 LLP (1) 3:8 Loca (8) 119:4;120:11;143:6; 144:17,18,21;145:3,12 located (1) 129:10 location (3) 178:15;179:4,19 logistics (1) 95:3 Loma (19) 35:9;42:8;51:3,9,14; 52:4,5;82:16,20,21; 120:6;127:5,5,10,11; 128:1;145:9;172:8 long (6) 11:4;69:15;90:19;	160:10,11;188:12 long-distance (1) 63:6 look (26) 25:8;26:5,9;27:10; 36:11;50:16;72:9; 105:10,10;107:1;110:8; 132:18,18;133:10,21; 134:13;136:13,20; 137:18;138:7;140:20; 144:3;155:7;156:8; 183:9;196:9 looked (1) 95:10 looking (5) 26:13;39:18;109:4,5; 128:2 looks (1) 37:20 Loro (4) 69:21;70:7;71:4; 122:13 Lorraine (1) 6:4 Los (1) 177:19 lose (4) 80:16,21;98:4;173:16 losses (1) 32:18 lost (3) 52:12;169:6,7 lot (14) 24:9;38:12;51:15; 63:14;66:8;86:13;87:19; 88:2;91:5;153:9;170:18; 177:19,20;190:3 low (2) 32:2;33:9 lower (4) 25:11;52:2;78:4;196:8 Luisa (1) 174:9 Luna (1) 23:9 lunch (4) 81:14;82:1;119:19; 121:17 lunches (1) 43:9 Luz (6) 101:19;102:3,4,14,15, 16 lying (2) 73:17;184:20
K	L			
keep (4) 121:16;173:13;174:4; 177:16 kept (2) 76:2;193:17 Kevin (4) 30:17;125:17,19,20 kidnappings (1) 192:16 kill (10) 65:13;67:4;70:8; 71:12;75:14;95:10,11; 118:4;121:15;191:9 killed (21) 21:16,19;23:9;101:21; 120:9;123:7,11,13; 125:15,16;126:2; 142:21;148:14,14; 176:13;177:13,17; 178:6;184:1;189:1,18 killings (6) 34:1;53:11;69:17; 122:15;142:9;183:19 killings (9) 53:8,14,17;60:19; 122:15,16;143:4;173:9, 14 kilometers (1) 29:9 kind (5) 32:2;51:12;73:7; 117:20;196:3 Kiosk (2) 42:4;68:2 Kisic (1) 3:17 knew (15) 58:21;65:14;66:13; 88:2;89:6,12;91:4; 119:4;137:13;155:2; 156:11;177:8;180:9,16, 184:5 knowing (1) 87:21 knowledge (41) 7:14,18;59:7;61:8; 65:2;69:4,19;72:21; 79:5;90:10;94:21;97:17; 137:9,10;138:2,5,13; 139:11,19,20;140:3,5, 18;145:5,20;149:8,14;	La (24) 29:8,8,9;35:9;42:8; 51:3,8,9,14;60:9; 82:16,20,21;120:6; 124:20,20;125:1,2; 137:19;145:9;169:19; 171:14;172:8 L-A (1) 128:19 lack (1) 48:9 Lacutir (1) 177:20 lady (4) 36:21;87:20;165:1,1 landing (2) 170:7,9 large (2) 25:6;199:2 largest (1) 148:7 Las (10) 35:11,14,16,16;51:8; 145:10;146:17;176:2; 196:5,18 last (15) 44:2;62:14,19,21; 100:16,18;124:2;150:2, 21;151:5;158:8;162:3; 166:3;176:3;183:6 lasted (3) 18:21;111:19;117:20 Lastly (2) 174:20;182:20 late (3) 151:15;152:7;190:10 later (16) 43:18;47:1;55:7; 66:14;103:5;119:12,18; 140:21;156:14;159:13, 17;161:2,6;175:6;177:9; 184:17 law (16) 8:6;10:2;18:3;56:2,3; 84:20;85:1,4,9,11,14,20; 114:7;161:4;198:2; 199:7 laws (1) 8:3	lawsuit (15) 6:11;12:15,17,21; 13:5;15:4;63:21;70:11, 14;88:6,11;90:20,21; 93:11;160:17 lawyer (4) 57:18;60:2;63:3; 168:20 lawyers (2) 87:13;91:1 lead (2) 98:16;175:19 leader (1) 21:9 leaders (1) 177:9 leading (13) 30:6,7;38:3;44:7;56:9; 66:5;69:8,18;79:16; 80:3;193:12;194:7; 195:7 leaflets (2) 137:13,14 learn (4) 70:7;71:3;119:1,12 learned (1) 170:1 least (1) 33:19 leave (9) 12:9;20:5;24:3;82:14; 161:16,20;174:16; 183:3;190:20 leaving (1) 124:11 Leete (2) 6:4;46:11 left (12) 18:16,19,21;20:7,8; 56:8;83:9;102:18;116:3, 14,15;190:7 leftist (1) 56:4 leftists (1) 18:4 legal (19) 10:2;63:17,20;73:13, 14;80:6;98:13;99:6; 111:10;112:13,17,18,19; 113:2;168:6,8,9;170:13, 13 less (5) 23:15;35:6;76:16; 135:18;193:21 Letters (5) 5:10;10:1;13:12,15; 198:7 liaison (1) 148:10 liar (1) 154:16 lie (8) 96:2;98:3,8;99:3,7;	103:15;155:20;156:15 lied (7) 14:16;95:20;103:12, 21;104:12,15,21 lies (1) 154:12 lieutenant (1) 21:21 life (8) 110:15,16;144:21; 145:8,12,16;191:4,8 liking (2) 93:18;94:16 Limited (1) 6:19 LINARES (3) 3:6;6:16,16 line (8) 29:21;47:6;50:18; 130:21;132:1;143:12; 185:14;197:9 lines (4) 32:18,21;33:11; 118:20 link (4) 97:3,18;159:16,19 links (8) 73:1,8;96:10;97:15; 164:14;173:10;194:4,19 Lino (1) 49:18 list (2) 183:21;185:6 listen (1) 12:11 listened (1) 13:8 little (3) 29:2;157:11;196:8 live (2) 29:3;169:16 lives (3) 157:21;169:6,7 living (1) 52:21 LLP (1) 3:8 Loca (8) 119:4;120:11;143:6; 144:17,18,21;145:3,12 located (1) 129:10 location (3) 178:15;179:4,19 logistics (1) 95:3 Loma (19) 35:9;42:8;51:3,9,14; 52:4,5;82:16,20,21; 120:6;127:5,5,10,11; 128:1;145:9;172:8 long (6) 11:4;69:15;90:19;	160:10,11;188:12 long-distance (1) 63:6 look (26) 25:8;26:5,9;27:10; 36:11;50:16;72:9; 105:10,10;107:1;110:8; 132:18,18;133:10,21; 134:13;136:13,20; 137:18;138:7;140:20; 144:3;155:7;156:8; 183:9;196:9 looked (1) 95:10 looking (5) 26:13;39:18;109:4,5; 128:2 looks (1) 37:20 Loro (4) 69:21;70:7;71:4; 122:13 Lorraine (1) 6:4 Los (1) 177:19 lose (4) 80:16,21;98:4;173:16 losses (1) 32:18 lost (3) 52:12;169:6,7 lot (14) 24:9;38:12;51:15; 63:14;66:8;86:13;87:19; 88:2;91:5;153:9;170:18; 177:19,20;190:3 low (2) 32:2;33:9 lower (4) 25:11;52:2;78:4;196:8 Luisa (1) 174:9 Luna (1) 23:9 lunch (4) 81:14;82:1;119:19; 121:17 lunches (1) 43:9 Luz (6) 101:19;102:3,4,14,15, 16 lying (2) 73:17;184:20
			M	
			M-60 (1) 39:1 M-60s (1) 38:21 Magdalena (8)	

9:19;22:16;39:16,17; 40:18;51:4;54:2;116:18	marked (15) 25:3,7;28:1,5;50:3,6, 18,19;71:21;72:4,18; 77:10;91:6,11;195:18	112:20	144:18;149:5;176:16; 183:17;187:7;188:16; 190:2;195:5	35:20;81:18;111:19; 183:4,6;187:17;188:14; 192:20
main (4) 157:8,12;167:13,15	markings (2) 47:17,18	means (6) 7:16;34:1,1;63:4; 129:20;134:11	Mesa (7) 29:8,8,9;124:20,21; 125:1,2	mischaracterizes (2) 140:10,16
major (5) 55:3,6,12;169:21; 170:3	married (1) 184:18	meats (1) 121:17	message (4) 58:7,9,19;59:4	misinformed (1) 121:15
majority (1) 25:1	Marta (5) 21:17;66:8,15;67:8; 190:1	mechanic (1) 155:18	messages (2) 57:21;58:2	missed (1) 102:13
maker (1) 171:14	Martin (1) 175:20	Medellin (1) 189:2	met (19) 28:10;29:12;42:21; 43:1;60:7,7,15,15;61:15; 151:15;153:10,12; 155:13;156:6,6;172:4,7, 7,9	misstates (7) 106:19;110:2;111:7; 118:15;131:16;146:9; 187:9
making (6) 10:15;15:4;99:16; 106:17;157:19;158:4	Martinez (2) 169:12,14	Media (2) 23:9;100:21	Miami (1) 64:17	mobile (1) 157:13
man (11) 22:21;28:8,10;83:6; 101:18;102:12;119:3; 123:15;175:20;180:2; 184:15	massacre (15) 113:13,15;116:6,13; 117:8,15;118:8;122:14, 21;123:1,8,12;124:8; 175:12;191:11	meet (5) 37:6;38:6;39:10;43:6; 60:18	microphones (1) 8:19	model (5) 26:19;68:10;71:6; 111:16;166:15
management (2) 131:13,19	massacres (1) 24:9	meeting (44) 29:8,15;30:2,3;31:2, 19;32:14;33:2;34:14; 35:2;37:1;39:9,11,21; 40:14;41:14;42:5,7,20; 44:3,10;45:2,5;55:9; 61:10;68:11;83:18,20; 124:13,21;125:18;126:4, 10,17;130:1,3,14; 138:16,16;169:1;170:5, 20;172:2;187:7	mid (1) 24:8	Molina (12) 58:18;60:20;61:2,18; 62:5;74:5;87:7;100:13, 17;101:11;102:10; 109:17
managers (2) 93:19;94:16	mastermind (1) 182:9	member (14) 9:16;22:8,12,19;24:6; 49:9;83:2,3;120:1,5; 139:13;144:17;155:17; 181:5	mid-1998 (1) 193:21	moment (4) 15:1;30:1;97:15;111:3
Mancuso (4) 159:14;182:18,21; 192:9	Mata (1) 22:21	members (20) 8:7;24:16,17;30:11; 44:17;48:15;69:20; 93:20;94:7,17;149:16; 151:12;156:12;179:1, 12;180:17,18;181:14,15; 182:1	middle (3) 121:2,4,12	Monday (1) 13:15
mange (1) 189:16	mate (1) 102:18	memory (4) 22:15;23:10,11;191:7	midnight (1) 62:6	money (20) 34:19,21;37:5;39:7,9; 41:15;45:15;95:2;97:9; 100:14;101:15;132:11; 146:14;147:14;148:1,8, 11;149:3;171:9,9
Mangos (1) 177:19	material (2) 11:17;15:4	men (32) 24:20;25:1;29:2; 30:13,15;32:3,4;33:7; 34:2;42:16;44:19;46:8; 48:17;52:12;84:3,13; 116:20;118:4;127:2,4; 128:16;129:14,19; 138:17,20;146:10,11; 163:7;175:18,18,18; 177:17	midst (1) 15:3	monies (2) 44:1;171:10
manner (5) 12:4;14:12;15:9;79:3; 97:1	materials (2) 179:4;180:5	Mendoza (9) 63:13;74:6;101:19; 102:3,4,14,15,15,21	might (2) 178:6;189:18	Montaday (1) 116:19
Manny (1) 159:4	matter (4) 15:8;31:2;61:7;74:7	mention (11) 18:7;32:7;34:9;60:6; 61:17;87:4;173:14,15, 16;174:7;193:19	MIGUEL (2) 3:6;6:16	Monteria (2) 158:7,9
Manuel (4) 64:16;160:14;169:12, 13	matters (5) 10:10;15:2;150:7; 152:13,15	memory (4) 22:15;23:10,11;191:7	militant (2) 163:2,6	M-O-N-T-E-R-I-A (1) 158:7
many (44) 17:19,20;18:13;24:16, 20;29:20;37:15;42:14; 43:2;52:9;53:5,10,16,17; 54:3;60:19;67:16;76:9; 80:13,14,15;86:9,12; 99:17;115:19;118:7; 123:7,11;128:5;129:3; 130:2;143:20;154:20; 172:4;173:19;174:10; 175:18,18;180:17; 182:3;183:19;184:8,11; 189:9	Maximo (1) 178:14	men (32) 24:20;25:1;29:2; 30:13,15;32:3,4;33:7; 34:2;42:16;44:19;46:8; 48:17;52:12;84:3,13; 116:20;118:4;127:2,4; 128:16;129:14,19; 138:17,20;146:10,11; 163:7;175:18,18,18; 177:17	militants (4) 53:3;145:8,17,18	Monday (1) 13:15
map (11) 128:2,6,21;133:15; 134:4,11;157:2;178:5, 16;196:9,13	may (27) 7:14;13:2,6;16:6,9; 35:6;39:5;61:19;69:12; 82:19;83:12,15;91:8; 96:17;98:15;110:10; 140:21;141:13;142:13, 14,20;161:16;163:14; 187:17;192:11;195:12; 199:21	memory (4) 22:15;23:10,11;191:7	militarily (1) 51:18	monies (2) 44:1;171:10
maps (1) 179:15	Maya (3) 41:19,20;42:1	men (32) 24:20;25:1;29:2; 30:13,15;32:3,4;33:7; 34:2;42:16;44:19;46:8; 48:17;52:12;84:3,13; 116:20;118:4;127:2,4; 128:16;129:14,19; 138:17,20;146:10,11; 163:7;175:18,18,18; 177:17	million (9) 43:21;148:21;149:6; 163:12,13;171:4; 172:14;174:3;175:2	Montaday (1) 116:19
March (12) 42:6,20;44:4,13,21; 46:17;84:14,15;123:20; 124:6;157:10;172:5	Mayazon (1) 41:21	Mendoza (9) 63:13;74:6;101:19; 102:3,4,14,15,15,21	Military (23) 16:12,18,19;17:1,4,18; 18:14,17,20;19:16,21; 20:6,7,8;21:1;24:11,21; 45:18;54:8,10,12; 161:11;170:8	Monteria (2) 158:7,9
Maria (2) 3:17;116:19	Mayazon's (1) 41:20	mention (11) 18:7;32:7;34:9;60:6; 61:17;87:4;173:14,15, 16;174:7;193:19	Milton (1) 169:15	M-O-N-T-E-R-I-A (1) 158:7
	maybe (6) 25:15;117:20,21; 125:16;151:9;187:11	mentioned (26) 12:20;15:12;30:19; 45:1;57:17;60:2;64:8; 71:8;87:6,7;97:18; 114:3;116:6;118:10; 125:8;126:3;128:13,15;	mind (2) 70:17;189:11	monthly (11) 43:21;123:16;124:1; 140:21;163:12,13;171:4, 21;191:8,9
	mean (10) 33:21;48:14;68:17; 122:10;129:18;147:20; 150:21;158:1;184:10; 189:8	mentioned (26) 12:20;15:12;30:19; 45:1;57:17;60:2;64:8; 71:8;87:6,7;97:18; 114:3;116:6;118:10; 125:8;126:3;128:13,15;	mine (9) 30:18;65:9;108:21; 126:5;129:10;153:17; 154:9;155:18;158:2	months (8) 18:15;32:1;92:2; 93:10;114:4;118:9; 123:19;174:8
	Meaning (1)		minor (1) 16:17	more (28) 23:15;25:9;29:2;32:3; 35:6;38:19;40:4;43:2; 46:3,8;53:15,16,17; 77:13;81:4;84:1,3; 115:10;116:16;128:11; 131:18;135:18;160:18; 189:16;192:16,17,17; 193:21
			minute (3) 13:7;35:15;155:9	morning (2)
			minutes (8)	

5:3;82:4 mornings (1) 163:9 most (3) 5:20;67:13;68:15 mountain (5) 29:4;46:5;197:1,2,5 mountains (9) 32:4;52:6;127:2,11, 16;128:16;129:8; 196:21;197:11 move (14) 8:18;11:8;70:18;85:5; 87:1,9;96:15;97:11; 102:20;110:5;160:1; 170:18;171:1;183:5 moved (1) 192:9 moving (1) 195:21 much (12) 10:4;12:18;55:21; 65:14;66:13;67:5; 100:10;128:11;173:21; 179:10;181:15,16 mucha (1) 136:15 multi-national (2) 73:20;95:10 municipalities (1) 51:2 municipality (5) 39:15;40:21;51:7,7; 196:14 munitions (1) 171:16 murder (13) 66:4,11;69:5;70:5; 71:5,17;74:2;113:5,10, 17;115:6;118:14;175:15 murdered (8) 66:7;67:15,15,16; 84:14;115:12;116:12; 189:2 murders (3) 69:6;115:20;123:18 must (5) 125:21;156:21; 176:20;177:3,4 myself (13) 30:6;31:9;73:19; 74:16;75:11;78:14;93:7; 97:10;118:5;156:21; 161:15,19;189:9	102:13;119:4;120:10; 122:6,12;126:5,9,13; 159:5;160:14;164:20; 165:2;167:12;169:13, 13;170:2;171:14;177:6, 7,21;181:1;190:16,17,18 named (3) 14:9;176:16;188:17 names (11) 5:19;6:18;7:5;122:11; 126:15,18;130:10,12; 177:17;183:18;185:5 nap (1) 195:17 narcotics (2) 162:13,19 national (2) 92:10,11 nature (1) 97:3 near (9) 35:9;39:16;71:16; 125:5;141:1;170:7,9; 172:8;177:19 nearby (6) 55:6;125:3;127:14,15; 176:2,5 necessary (1) 131:12 need (10) 5:14;8:19;32:3;34:5; 62:3;154:18;167:8; 179:7;183:3;187:20 needed (14) 29:2;32:3;33:6,15; 38:6;45:14;46:3;54:16, 16;55:2;60:10;127:1; 131:21;170:1 needs (2) 20:13;119:6 negotiations (1) 112:3 Negra (2) 35:7;138:19 Negro (5) 30:18;49:17;126:3,5,7 neighboring (1) 51:1 neither (2) 97:15;110:19 neutralize (1) 197:12 Nevados (3) 65:7;66:10;69:20 new (7) 41:16;51:7;125:21; 171:19;177:3,4;190:18 newly (1) 22:1 news (1) 151:5 newspaper (5) 135:16,19;136:13;	151:2;184:21 newspapers (1) 135:21 next (8) 37:18;38:11;40:4; 96:19;134:10;137:18; 138:7;141:17 nice (1) 81:16 nickname (4) 31:14;122:5,7;176:17 nicknames (2) 122:11;177:8 Nodier (7) 14:9;62:8;73:2;78:13; 104:8;185:19;186:12 Nodier's (1) 62:8 noise (1) 163:15 None (3) 109:20;186:14;187:7 nonresponsive (4) 85:6;110:6;160:2; 183:6 noon (2) 29:12,12 nor (9) 61:17;62:4;95:11; 97:16;110:19,20;173:7; 181:18;199:13 normal (1) 111:21 Northern (10) 5:11;30:6;49:11; 93:20;94:8,18;109:19; 131:10;162:17;192:8 Notary (2) 199:3,19 note (3) 10:19;57:4;72:5 noted (1) 16:4 notes (1) 177:16 Notice (1) 13:11 noticed (2) 34:7;155:9 notification (2) 13:1,4 November (9) 79:13;86:7,8;124:14, 16,18;130:1;138:15; 139:2 Novillo (1) 129:4 nowadays (1) 178:7 Nudo (1) 191:4 Nuevo (1) 39:17	number (16) 9:4;19:3;31:15;51:15; 62:18;77:14;128:3; 136:20;144:10;166:17, 18;167:5,7,9;174:19; 194:14 numbered (4) 25:13,15;26:2;78:4 numbering (1) 72:7 numbers (4) 25:11;178:5;179:11, 13 NW (1) 3:9	124:21;164:11 Ochoa (7) 155:10,12,13;157:5, 11,18;174:9 October (1) 60:12 off (7) 37:6;56:15;81:20; 83:7;141:18;188:2; 198:6 offered (4) 112:11,12;158:16; 159:2 offers (2) 85:14;112:6 office (3) 12:5,7;15:10 officer (1) 181:2 officers (8) 44:14,16;66:9;114:4; 156:18;175:12;176:13; 182:9 officially (1) 23:16 officials (3) 84:12,13;182:3 Ojeda (1) 5:6 old (2) 16:14,21 Omega (7) 67:15;145:4;188:17, 17,18,21;189:2 once (20) 7:21;47:13;54:13; 65:5;68:11;75:21;82:5; 97:7,7;98:21;108:11; 137:6;151:7;156:2; 157:14;160:18;171:8; 188:7;189:16;193:7 one (54) 9:11;10:18;13:7;15:1, 21;37:17;43:5;49:10; 54:10;57:10;58:21;59:7; 63:5;65:17;67:12;68:15; 69:16,20;75:16;77:13, 16;79:20;89:17,18; 100:21;102:5;105:13, 15;110:12;112:12; 115:10;119:21;122:12, 12;123:14,21;124:4,5; 138:4,4;141:7;147:7,19; 149:8;159:10;161:5; 162:17;171:8;176:7; 188:20;189:6;190:7; 192:13;195:13 ones (2) 20:2;138:18 on-line (1) 136:2 only (25) 7:17;8:1;15:21;27:17;
N			O	
name (45) 5:17;6:9;9:2,3;12:19; 21:16;29:7;31:13;36:21; 42:8;43:5;44:2;49:15, 18;57:17;60:6,18;65:8; 87:8;96:10;101:19;			oath (20) 7:10,16;14:11,16; 92:14,16;95:9,14,20; 96:8,11;97:1;99:20; 103:13;104:1;108:3; 110:13;121:11;122:1; 141:12 object (5) 70:9,10,14;108:8; 109:7 Objection (60) 24:14;26:21;32:10; 38:3;44:7;48:2,9;56:9; 58:14;66:5;69:8,18; 74:15;79:16;80:3;87:15; 89:10,16;96:3;98:12; 99:5;100:1;104:13; 105:5,19;106:6,18; 108:18;110:1;111:7; 112:9;114:1,16;115:1, 14;117:16;118:15; 119:14;120:2,16; 131:16;135:11;140:9, 15;146:8;150:15; 151:17;152:8;153:21; 154:13;155:21;158:18; 162:20;164:12;165:10; 186:17;187:9;193:12; 194:7;195:7 objections (3) 10:14,14,15 objective (1) 51:18 observe (1) 54:7 occasion (1) 171:8 occasions (7) 29:20;52:13;57:11; 58:19;80:13,15;178:1 occur (3) 42:5;116:9;170:5 occurred (8) 44:21;45:2;55:9; 99:18;117:1;123:19;	

53:21;58:21;59:6,15; 65:17;66:19;67:12; 68:15;88:21;92:19;93:6; 96:10;99:19;123:19; 147:7,19;148:3;153:2; 155:19;159:20;189:14	21;180:1,2;195:3 others (2) 74:1;161:20 otherwise (3) 80:16;177:15;185:4 ours (1) 23:10 ourselves (2) 54:20;174:1 out (49) 5:9;34:5;37:18;52:14, 16:60;13;62:7;73:14; 83:4;86:12,18,18;91:4; 93:17;94:6,14;95:16,21; 97:21;108:9;118:19; 120:12;121:13;133:6; 137:12;139:8,16,21; 141:15;155:16;160:15, 21;161:3;166:21; 168:12;176:20;177:1,3; 178:3,13,15;180:7; 184:20,20,21;190:20; 193:10,14;199:6 outcome (1) 199:14 outside (2) 123:15;178:19 over (15) 22:4;25:8;26:5;39:6,9; 58:10;63:7;68:1;116:12; 133:19;168:19;174:8; 180:2;191:13;196:2 overcome (1) 112:7 own (11) 63:16,17,20;130:19; 131:3,7;157:3;161:16; 167:4;176:8;187:1 owned (4) 36:21;37:14;124:20; 125:4 owner (2) 63:16;125:7 owners (2) 29:1;182:16 ownership (1) 125:6	137:18;144:3,14;155:8; 156:8,8,10,10;183:9,11 pages (3) 26:5;72:9;134:13 Pailitas (1) 188:19 Paisas (1) 178:21 Palmitas (6) 35:11,14,16,17;51:8; 146:17 Palomino (1) 3:18 Papa (1) 49:21 papia (1) 172:9 paragraph (16) 107:2,13;110:8,9; 132:5;139:6,7;140:20; 142:17,19;183:11,12,14, 15,17;185:6 paramilitaries (4) 21:5;86:16;146:15; 154:12 paramilitarism (1) 102:8 paramilitary (10) 19:18,21;20:1;21:2,4, 20;75:13;83:2;90:2,9 Paramillo (1) 191:4 pardon (4) 144:21;145:7,12,16 Pareo (1) 127:6 PARR (3) 3:5;6:15,15 part (23) 9:15;38:9;49:19;72:5; 84:3;92:20;114:11,12, 12,13,14,18;119:5,16, 18;155:15;164:2; 165:19;188:19;191:9; 193:9,20;194:20 participate (1) 130:13 participated (1) 191:10 particular (2) 168:3,4 particularly (1) 159:4 parties (8) 6:17;7:4,12;11:4; 15:12;179:6;197:20; 199:13 partner (1) 56:8 party (1) 11:14 Paso (4) 51:2,13,13;136:15	pass (1) 54:14 past (1) 136:13 Pata (2) 38:17,17 pathway (1) 23:1 patient (1) 46:6 patio (2) 62:18;68:2 Patricia (1) 5:6 patrol (2) 194:5,8 patrolman (1) 17:15 Paulo (1) 17:8 pay (2) 35:1;46:1 paying (1) 66:20 payment (16) 34:12,14,17;38:9; 131:1,19;146:14; 148:20;149:1,3,6,6,8,9, 10;171:21 payments (17) 43:14;45:21;47:7,21; 132:6;148:18;149:1,12, 12;163:10;164:9,10,14; 165:6,8;171:4,7 payroll (3) 46:1;48:13,14 Peace (61) 53:7,12;61:6,13;67:8, 9,19;69:1;71:9;80:5,10; 84:20;85:1,4,9,11,12,14, 20;86:5,12;87:3;88:10; 98:4,7,11,21;99:2,4,8,11, 13,16;101:11;134:9; 140:4;142:12,16;143:5, 7,8,12;144:1;172:21; 173:3,9,17,18,20;174:9, 12,15,21;175:8;184:2,9, 12;191:6,21;194:16,18 Pedro (1) 20:3 Peinado (11) 43:4;59:13;86:18; 149:19;158:3;166:17,19, 21;167:5,7;174:18 Pelo (8) 119:4;120:11;143:5; 144:17,17,20;145:3,12 penalties (1) 108:4 pending (1) 113:2 Pendleton (2) 88:14;165:3	Pennsylvania (1) 3:9 pens (1) 37:19 people (65) 30:9;38:7;46:3;52:20; 53:2,5,10;59:17;81:1; 113:21;116:12,14,15; 117:1,3,14;118:6;123:7, 9,11;125:8,15;126:15; 127:2;130:2,5,7,11; 135:8,18,20;140:21; 142:9,11,21;143:1,14, 16,18;146:3;147:8,10, 10,12;159:8,9;160:6; 169:6,8;170:19;173:19; 175:15;176:8,8;178:5; 180:9,15;183:18,21; 186:15;187:7;191:9,11, 12;192:13 per (3) 43:21;163:13;171:4 perform (1) 194:10 performed (4) 10:1;50:19;131:8; 164:2 performing (1) 194:12 Perija (9) 29:4;32:4;52:6; 127:11,16;129:8,8; 196:21;197:2 period (4) 20:8;152:14,14; 189:17 perjury (2) 8:4;108:4 permissiveness (2) 93:18;94:15 permitted (1) 68:20 person (20) 28:6;32:5;35:7;59:15; 65:8;67:4;68:7;132:14; 139:4;147:5,5,7;148:8; 154:11;157:18;164:20; 166:2;176:16;179:8; 181:1 personal (3) 63:4;120:13;187:20 personally (22) 27:6;34:18;38:6; 42:12;55:4;60:15;62:5, 21;63:16;95:2;137:17; 139:8,16,21;140:2; 146:6;148:2;166:10; 170:17;171:7;172:1; 199:5 personnel (5) 38:11,15;84:1,2; 190:19 persons (3)
	P			
	Pacheco (10) 78:12;92:6,17;93:2; 94:13;104:7,7;106:16; 110:19;185:19 Pacheco's (1) 92:7 page (35) 25:14;26:1;27:11; 78:5,8,15;92:20;93:14; 94:2,4;95:9;96:8,21; 107:1,10,19;120:21; 121:5;133:14;134:4,6, 14;135:7;136:16,20;			

<p>97:18;177:17;183:20 peso (1) 148:7 pesos (11) 43:21;148:4,5,21; 149:6;163:12,13;171:4; 172:15;174:4;175:2 Petra (1) 36:21 ph (3) 117:8;122:14;124:7 phone (13) 43:3;157:13,17; 166:16,16,19;167:2; 172:10,11;175:1;178:5; 179:11,13 photo (1) 134:3 photograph (4) 28:4;133:15;134:2,5 picks (1) 196:3 Picota (1) 169:19 picture (3) 134:9,21;135:7 Pigua (1) 149:18 Pinto (1) 174:9 Pirulo (10) 131:9;138:18;139:10, 12,12,17;176:16,17,18, 19 Pivijay (2) 67:20,21 place (16) 18:6,7,9;20:14;35:10, 11;42:16;61:21;128:15; 129:4,6;161:17;191:19; 193:4;195:21;199:6 Plaintiff (2) 5:18;15:6 Plaintiffs (6) 5:19;6:3,5;10:3,5; 15:13 Plaintiffs' (13) 25:3;28:1,5;50:3,7; 57:3;71:21;72:4;77:10; 105:14;128:21;132:17; 188:1 plan (1) 71:11 played (2) 40:14;163:17 Playon (2) 191:10,16 please (20) 5:19;12:9;13:7;16:9; 18:7,8;27:14;28:16; 31:18;36:17;50:16; 52:18;74:19;75:9;78:8; 93:17;94:5;103:18;</p>	<p>108:10;110:9 pleasure (8) 10:8;31:6,21;37:12; 46:7;50:21;81:5;129:2 pm (9) 63:5;81:18;82:1,2; 141:20,21;188:3,4;198:8 point (8) 22:12;43:11;56:13; 81:10;107:21;169:5; 196:10,19 pointed (1) 197:5 police (7) 44:2;54:18;82:13; 169:17,20;179:4;181:14 political (1) 115:9 Popa (2) 29:9;171:14 Popu (1) 38:9 portion (3) 93:15;121:4;183:13 Posada (10) 44:2;47:12;54:15; 55:1,11;169:16;170:1,4, 11,21 posed (1) 79:4 position (1) 43:7 possibility (2) 12:20;85:15 possible (5) 12:20;93:17;94:7,15; 178:6 Poulakos (2) 199:3,18 powerful (1) 73:20 precautions (2) 77:4,6 precise (2) 97:1;192:21 predecessor (1) 20:21 prefer (1) 174:15 preliminary (1) 10:10 prepare (3) 134:17;135:2;141:17 prepared (4) 135:1,8;137:8;185:6 presence (4) 52:2,7;54:7;192:18 PRESENT (27) 3:15;5:5,15;6:7,21; 7:11;8:16;11:7;12:12, 16;14:10;15:14,15; 30:11;32:14;33:3;66:17; 73:3,4;126:10;130:2;</p>	<p>131:5;146:18;164:21; 165:1;177:15;186:15 presented (1) 15:7 president (3) 6:20;182:2,3 pressure (3) 28:21;53:6;63:18 pretty (1) 33:8 previously (1) 40:12 primarily (1) 31:11 prior (4) 74:13;75:1,11;114:4 prison (16) 13:21;57:20;62:15; 84:17;115:19,21;118:7; 121:13;153:11;157:13; 162:12;166:15,20; 172:14;174:18;178:11 privacy (2) 88:4,7 private (2) 111:17,20 probably (1) 177:4 problem (10) 27:9,12;30:4;45:21; 50:8;53:13,13;81:7; 154:15;188:15 problems (3) 91:5;111:10;120:13 proceed (7) 7:5;8:21;12:16;70:19; 142:4;164:5;195:15 proceeding (17) 5:3,14;7:7;9:1;12:15; 14:8;61:14;68:20;70:14; 72:16;80:2;98:7,17,19, 20;151:7;167:11 proceedings (8) 10:7;11:9,15;12:2; 56:20;142:3;173:4; 199:11 process (34) 13:11;15:17;53:7,12; 61:6,13;69:1;73:10; 80:7,10;85:21;86:5; 98:16;99:16;142:12,16; 143:5,7,12;152:11; 172:21;173:3,8,17,19, 20;174:9,12,15,21; 182:8;184:9;188:8; 191:21 profession (1) 9:13 professional (1) 164:3 programmed (1) 29:8 promised (2)</p>	<p>35:1;93:3 proof (5) 12:13;13:9;15:6,10; 67:1 property (3) 29:16;124:20;177:20 prosecutor (15) 41:21;72:20;79:1,2; 92:7,10;94:14;100:8,8; 104:6,7,20;157:1; 184:19;194:18 prosecutors (3) 100:15;101:16;143:8 protect (9) 77:4;93:7,7;95:15; 97:10,10;103:15; 104:15;115:13 protecting (1) 93:8 protection (1) 167:14 provide (6) 33:18;43:11;156:4; 178:15;179:5,18 provided (5) 58:3;88:21;90:8; 112:5;136:4 Province (2) 24:6;54:7 provisions (3) 84:21;85:4,9 public (4) 12:6;182:3;199:3,19 publica (2) 137:19;138:8 Pueblo (4) 100:21;113:15; 122:21;191:18 Puente (1) 51:12 Puerto (1) 39:17 pull (1) 196:2 punishable (1) 8:3 Pupo (46) 28:20;29:5;30:5,6,14; 33:10;35:12;36:1;37:7, 9;38:4;40:10;45:19; 46:2;47:4;48:12;49:12, 19;52:1;57:11;58:1,20; 60:8,18;61:16,20;62:6,9; 65:6,12;67:10;83:18; 85:3;109:18;131:4,6; 139:5;145:3;159:17; 161:7,14;179:16; 189:15;192:6,7,14 Pupo's (2) 125:6;190:4 purchase (1) 41:16 purporting (1)</p>	<p>11:14 purposes (7) 25:4;28:2;50:4;72:1; 77:11;91:12;112:16 put (22) 29:21;36:5;42:17; 44:19;52:12;53:2;84:2; 117:2;118:5;120:10; 134:10;141:6;143:13; 176:14;178:19;189:14; 190:5;191:5,11,13; 192:15;196:3 putting (1) 126:13</p>
Q				
<p>Quintero (3) 181:1,2,4 Quiroz (2) 169:12,14 quite (3) 59:19;173:13;174:4 quote (6) 95:2;108:5,14;109:4; 121:12;139:16</p>				
R				
<p>radio (1) 38:5 Rafa (1) 67:19 Rafael (1) 177:21 rail (1) 197:9 railroad (12) 32:18,21;33:11;47:6; 50:18;118:20;129:10; 130:21;132:1;134:14, 21;143:12 railway (1) 29:21 raise (2) 10:11;149:3 RAMERIZ (2) 3:7;134:11 Ramiro (1) 67:16 Ramon (6) 127:12,19,20,21; 128:4,6 Ramone (1) 49:18 range (3) 197:1,2,5 rank (1) 18:16 ranks (1) 31:14 rather (2) 101:21;163:21</p>				

reach (3) 47:11;48:12;93:12	177:16	repeat (8) 52:18;70:21;90:3; 94:9;103:18;108:10; 113:8;119:7	47:10;48:11;52:3; 171:9	30:5,6,14;38:4,8;40:10; 45:19;46:2;47:4;48:12; 49:12,19;51:21;57:10; 58:1,20;60:8,17;61:15, 19;62:6,9;65:6,12; 67:10;83:18;85:3; 109:18;125:5;131:4,6; 139:5;145:3;159:17; 161:7,14;179:16; 189:15;190:4;192:5,7,14
reached (3) 33:3,13,14	recover (3) 82:17;179:5;180:5	repercussions (1) 76:17	restaurant (1) 36:21	Rogatory (5) 5:10;10:1;13:12,16; 198:7
read (5) 26:8;107:3,5;121:21; 134:15	recovered (1) 52:10	rephrase (1) 44:9	Restrojos (1) 178:21	role (1) 40:13
ready (5) 5:2;38:10,15;78:9; 121:7	redirect (2) 183:4;187:17	reply (1) 13:9	resume (2) 82:3;142:2	room (3) 10:6;12:9;15:17
real (2) 177:6,7	reduced (3) 85:15,20;86:1	report (1) 192:3	resumed (3) 56:18;141:21;188:4	rooms (1) 5:9
realize (1) 94:6	refer (4) 57:2;142:17;144:6,14	reported (1) 193:8	retaliation (3) 107:17;108:7,16	Roque (5) 54:14,14;55:6,8;169:5
really (3) 53:18;80:17;192:21	reference (2) 44:16;128:21	represent (2) 11:14;165:5	retired (2) 21:15;22:10	roughly (9) 22:4,18;23:13;42:5, 20;44:4;49:4;53:10; 196:10
reason (8) 11:16;12:4,7,8;55:15; 168:3,4;197:10	referred (2) 109:4,13	representation (3) 16:1;115:9,9	retract (1) 187:6	rucksack (1) 178:4
reasons (3) 11:10;52:17,21	referring (9) 8:10;31:8;40:8,19; 58:12;64:3;65:20; 109:14;189:9	representative (2) 6:21;14:5	retracted (7) 74:16,21;75:6,9,11; 76:15;78:14	rule (1) 11:1
Rebecca (3) 88:14;165:2,3	reflect (4) 25:10;64:15;78:3; 183:3	representatives (3) 15:20;30:9;164:19	retracting (1) 72:15	rules (2) 8:8;10:17
recall (5) 28:10;58:2;92:11; 126:15;146:15	regarding (14) 7:14;10:15;12:4,7; 58:5;72:21;74:4;75:15, 17;76:3;101:10,11; 164:13,14	represented (1) 7:2	retraction (2) 74:12;75:2	running (1) 189:7
recant (3) 107:18;108:7,16	regards (4) 18:9;58:17;100:9; 184:5	representing (3) 6:19;13:14;15:16	returned (3) 65:5;83:17;84:6	
receive (6) 44:1;95:2;96:13,14; 118:7;153:17	regular (6) 16:19;18:13,18;54:7; 67:18;93:12	repudiating (1) 106:5	reviewing (4) 25:17;26:14;27:13; 72:11	S
received (8) 38:2,16;47:14;58:8; 87:8;100:11;101:12; 115:20	relate (2) 27:8;79:7	request (4) 10:1;12:3,13;82:5	rid (1) 179:10	sack (1) 179:4
receives (2) 96:14;153:16	related (2) 58:3;100:10	requested (1) 13:9	riding (1) 36:6	Sadenta (1) 68:4
recently (2) 173:1,2	relation (3) 58:16;148:21;196:18	requesting (1) 13:16	rifles (5) 38:17,18,18;40:1,2	safer (3) 76:16,20,21
recess (6) 56:20;82:4;141:17; 164:1;187:20;188:8	relationship (9) 32:7;59:1,7;64:6; 74:13;75:1;76:6;79:18; 183:1	required (4) 13:2;80:9,11;173:7	right (30) 29:3,16;35:17;36:15; 41:1;53:17;56:2;68:18; 79:20;93:6;98:20; 105:15;110:12,16,16; 122:17;124:7;128:12; 132:3;143:17;153:15; 155:7;156:9;159:6; 163:16;168:13;170:2; 185:5;187:16;196:4	safety (3) 108:21;187:1,2
recessed (4) 56:17;82:1;141:20; 188:3	relationships (3) 11:20;170:11;173:10	requirements (1) 10:2	right-hand (2) 25:11;78:4	Salao (14) 113:14;116:7,13; 118:8;122:17,18;124:5; 175:12,16;176:1,5,6,10; 184:15
recognize (1) 72:10	relevant (1) 70:13	rescue (1) 71:19	rightist (1) 56:2	Salsado (2) 122:14;124:7
recommence (1) 81:13	remained (1) 130:8	reserve (1) 88:9	Rincon (2) 35:17;51:8	Salvatore (2) 182:18,21
reconfirmed (1) 190:1	remember (34) 27:4,6,6;28:12;30:16; 31:4;34:21;35:5;64:11; 90:14;92:6,9;94:20,20; 98:1;126:12,13;127:3; 144:10;159:5;163:11; 165:8,18;166:17,18; 169:3;170:2;174:7; 175:10;183:18;185:10; 186:4,21;196:1	reserved (1) 63:21	Rios (1) 49:15	Samario (21) 75:21;149:19;150:1,3, 4,8,13,16;151:6,10,11, 14;152:6,12,12,18,21; 153:10,12;161:12;162:3
Reconvened (1) 82:2	remnants (1) 37:16	reserving (1) 10:13	risk (1) 164:3	Samario's (1) 150:21
record (24) 5:20;6:18;7:5,6,15; 8:2;9:2;10:20;16:4;18:1; 25:9,10;56:15;57:4; 64:14;78:3;81:20; 141:19;163:14;183:2; 188:2,6;198:6;199:11	Rene (1) 49:15	resolve (4) 12:3;15:8,9;141:11	Rivera (1) 80:12	same (19) 59:18;61:21;66:10; 73:21;75:12;76:9;79:20;
recorded (1) 199:10		respect (2) 8:17;96:9	road (8) 23:2,5;35:7,19;71:15; 127:17;138:19;156:18	
records (1)		respectful (1) 186:12	Rodeo (1) 36:7	
		respond (2) 46:19;138:6	Rodrigo (46) 23:14;28:20;29:5,17;	
		response (3) 163:9;188:20;195:20		
		responsibility (9) 53:11,16;141:11; 173:14;184:7;185:1,4, 13;193:10		
		responsible (2) 132:2;143:20		
		rest (4)		

91:15;95:8;108:18; 144:17;158:1;162:16; 165:18;176:7,14; 180:20;189:7;193:17	selected (1) 192:13	showed (1) 159:7	122:10;157:15,16	165:20;166:1,10
San (20) 20:3;37:8,10,13; 39:14,15;54:14,14;55:5, 7;127:12,19,20,21; 128:4,6;129:4;169:5; 177:21;196:14	self-defense (1) 97:2	showing (1) 195:17	son (1) 62:1	sponsored (1) 76:2
Santa (8) 21:17;66:7,14;67:8; 113:15;122:21;123:11; 189:21	self-defenses (4) 93:20;94:17;97:16,19	shown (1) 196:12	soon (2) 36:17;46:6	staff (1) 156:12
Santiago (1) 49:14	send (2) 59:4;128:16	shows (1) 196:9	sooner (5) 159:13,16;161:2,6; 177:8	stand (1) 7:8
Santos (1) 182:3	sense (2) 61:4;168:15	shut (1) 189:20	sore (1) 197:18	stare (1) 193:1
Sasado (1) 117:8	sensitive (1) 73:10	side (2) 112:1;156:17	Sorry (23) 19:7;21:18;59:10; 79:14;84:8;87:1;94:3; 102:4,13;107:4,8;109:7; 112:15;113:7;117:10; 120:18;122:18;133:4; 139:7;151:21;155:10; 180:12,15	started (12) 9:18;16:16;19:10; 24:8;86:6,6;124:10,10; 134:8;161:13;175:11; 184:2
save (1) 62:3	sent (11) 40:18;58:19;66:17; 85:3;97:8;101:18;102:5; 121:14;129:19;161:7; 180:2	sign (7) 74:10,11;89:9;108:3; 140:7,13;157:3	Soto (3) 101:13,17;102:2	starting (2) 9:17;78:5
saw (8) 62:19,21;100:18; 102:1;148:2;150:18,21; 163:3	sentence (6) 85:15,19;112:20,21; 115:20;118:8	signature (8) 25:16,18,19;78:16,17; 106:11,13,14	South (2) 54:3;150:11	starts (3) 72:8;121:3;136:14
saws (1) 118:1	sentenced (2) 124:3;158:12	signed (6) 13:19;14:14;89:20; 90:6;92:2;139:15	southern (2) 84:2;188:18	state (11) 5:19;8:2;18:8;70:17; 93:13,17;94:14;114:9, 18;181:12;182:1
saying (12) 45:2;66:19;76:9,19; 77:2;107:17;108:5,6,15; 162:9,10;189:15	September (1) 138:1	signing (1) 27:4	Spanish (13) 9:10;25:12;26:2;78:6; 89:9;94:3;107:6,9,13; 120:21;135:17;155:6; 183:10	stated (4) 6:18;7:4;108:19;110:4
screwdrivers (4) 117:3,9,15,19	seriousness (1) 92:18	SIJIN (1) 170:14	Speak (34) 8:19;13:6;14:1,5;43:3, 16;45:10;46:20;55:2; 82:7;88:3;103:7;107:21; 150:4,5;151:8,11; 152:12,17;156:4;158:11, 13,17,20;159:13,20; 160:15,21;161:3;166:3, 6;167:8;170:1;188:9	statement (59) 25:13;26:3,18,20; 27:2,4;57:8;58:3,13,16, 17;63:18;64:2,3;72:14, 15,18,20;73:7;74:4,9,13; 75:1,7,10,11,15;76:3,15; 78:12,20;79:10,15,17; 88:16,17,18,19,21;89:2, 3,4,8,14,15,21;90:17; 101:10;106:1,10;108:9; 110:16;119:2;135:19; 150:18,21;151:4; 161:13;184:14
Se (1) 11:3	Serrania (1) 129:7	silver (2) 36:7,11	speaking (6) 9:10;15:21;102:10,13; 105:2;158:13	statements (4) 15:4;75:17;99:16; 165:13
searching (1) 194:13	serve (2) 18:13;20:7	simple (1) 97:1	speaks (4) 150:3,4,8;182:13	States (11) 5:11;34:10;61:21; 62:12,13;64:9;68:5; 108:4;162:13;163:18; 196:15
Seca (6) 52:4,5;127:5,10,11; 128:1	service (3) 17:3;21:1;24:12	simply (3) 25:8;57:4;121:14	Special (2) 64:16;122:9	stating (1) 76:8
Second (10) 11:6,16;12:7;105:12; 107:1;126:6;141:8; 185:17;188:1,8	set (4) 7:15;40:6;64:20;199:6	single (1) 9:11	specific (1) 18:8	stay (1) 59:19
secretary (2) 5:7;164:3	seven (6) 113:5,11,13;169:5,8; 175:5	sit (2) 8:20;76:15	specifically (3) 8:10;18:7;25:9	stayed (1) 36:20
secrets (1) 67:17	several (15) 11:18;15:20;52:13; 57:11,21;58:19;129:16; 151:5;165:13;172:7,9; 176:13;178:1;187:5; 195:1	situation (16) 63:17,20;66:10;73:13, 14;80:6;85:11;111:10; 112:13,17,18,19,19; 168:6,8,9	speculation (1) 120:17	stenographically (1) 199:10
secured (1) 77:8	shall (1) 185:4	six (2) 126:11,12	speed (1) 132:6	step (2) 48:20;159:21
security (7) 30:13,15;38:7;126:16, 20;187:2,2	Sherman (1) 3:15	size (1) 36:4	speedy (1) 131:19	Steven (2) 199:3,18
seek (6) 44:12;84:21;85:4,8; 103:17;105:3	shirts (3) 45:16,16;47:17	small (1) 31:3	spoken (13) 63:9;100:16;158:5; 159:15;169:18,19; 172:10,11,13;175:4	still (8) 23:3;37:16;83:19; 99:1;125:6;133:5;166:5, 21
seeking (2) 85:19;106:4	shootout (2) 54:19,21	soldier (7) 17:13,14;18:18,18; 19:1,5;20:9	stop (2) 30:1;71:16	
seem (1) 71:18	short (4) 56:20;141:15;142:3; 160:13	somebody (4) 63:12;136:8;151:9; 179:19		
segundo (1) 183:19	shortly (1) 172:2	somehow (1) 14:18		
	shot (2) 83:4;117:2	someone (8) 64:8;65:6;75:14; 126:3;159:21;171:6; 180:4;185:2		
	shots (4) 28:14,18,19;118:2	sometime (2) 46:17;176:12		
	show (7) 64:19;91:6;132:16; 176:11;196:9,17;197:4	sometimes (3)		

<p>stopped (1) 71:7</p> <p>storehouse (1) 171:18</p> <p>story (2) 69:15;143:9</p> <p>straightened (1) 73:14</p> <p>strategic (5) 51:18;52:17,21;56:8; 197:10</p> <p>street (8) 154:10;155:16; 168:12;176:20;177:1,4; 178:20;180:7</p> <p>strict (1) 51:21</p> <p>strike (14) 84:8;85:5;86:21;87:1, 9;93:15;96:15;97:11; 102:20;110:5,18; 155:11;160:1;183:5</p> <p>strip (3) 55:7;170:7,9</p> <p>strong (1) 19:11</p> <p>stronghold (1) 191:15</p> <p>subdistrict (2) 23:9;28:13</p> <p>subdivision (3) 35:8;51:11;125:1</p> <p>subject (6) 31:2;61:7;150:7; 152:13,15;185:15</p> <p>subjects (1) 150:4</p> <p>subordinates (1) 173:15</p> <p>substantive (1) 10:14</p> <p>Sucre (1) 54:2</p> <p>Sud (1) 54:3</p> <p>suffer (5) 99:4;101:7;107:17; 108:6,16</p> <p>sufficient (2) 15:10;132:6</p> <p>sufficiently (1) 26:9</p> <p>suit (1) 88:4</p> <p>summary (1) 61:14</p> <p>sun (3) 75:16;102:6;161:5</p> <p>supervisor (1) 192:4</p> <p>supplies (9) 38:12;45:15,18;47:16; 149:4;171:13,17,18;</p>	<p>178:4</p> <p>support (5) 39:1,1;46:18;90:8; 95:19</p> <p>supported (2) 86:15;90:11</p> <p>supporters (1) 142:10</p> <p>supporting (1) 90:2</p> <p>supposedly (1) 156:17</p> <p>Sure (5) 36:10;106:11;134:12; 152:17;174:17</p> <p>surprised (2) 179:11,20</p> <p>surrounded (1) 33:16</p> <p>survive (1) 110:11</p> <p>swear (2) 7:19;108:13</p> <p>sweat (1) 45:16</p> <p>swiftly (1) 8:18</p> <p>switching (1) 190:9</p> <p>sworn (5) 7:8,10,21;110:14; 199:7</p> <p>sympathizers (1) 181:15</p> <p>sympathy (2) 93:19;94:16</p> <p>system (5) 13:11;72:8;113:3; 114:15;187:16</p>	<p>173:12</p> <p>talks (1) 18:6</p> <p>tape (4) 141:14,15,17;142:1</p> <p>team (1) 30:15</p> <p>Telephone (3) 3:11;157:19;174:19</p> <p>telling (9) 80:7,18,20;92:19; 98:8;134:20;179:15; 181:3;182:18</p> <p>tells (2) 46:20;154:12</p> <p>ten (8) 35:20;38:18,19;40:1, 2;183:6;184:1,17</p> <p>terms (1) 39:3</p> <p>territory (2) 95:12;191:14</p> <p>terrorism (1) 92:11</p> <p>Terry (1) 6:2</p> <p>testified (19) 14:11;80:1;89:12; 90:13;98:2;99:19;101:8; 104:11;124:14;146:13; 150:14;159:3;162:3; 163:9;164:13;169:1; 171:3;190:9;194:15</p> <p>testify (8) 8:6;86:4,9,11;121:10, 17;164:10;167:20</p> <p>testifying (5) 86:6,7;134:8;166:13; 172:21</p> <p>testimony (55) 5:12,21;7:11,16; 10:16;12:1,12;14:8; 54:11;58:5;67:8;82:6; 86:14;87:4;90:1,8,14; 91:15;92:5;93:13;96:16; 102:21;103:3,17; 104:18;105:4,17;106:5, 19;110:2;111:8;112:7; 114:21;117:7,13;118:10, 16;120:20;122:1; 130:17;131:17;140:10, 16;144:2,4,15;146:9; 151:6;155:5;156:9; 164:9;183:6;187:10; 188:13;194:20</p> <p>thereabout (1) 121:20</p> <p>thereafter (1) 40:7</p> <p>therefore (5) 13:3;33:17;55:13; 56:4;79:4</p> <p>thereof (1)</p>	<p>156:13</p> <p>thin (1) 160:15</p> <p>thinking (1) 131:13</p> <p>third-party (1) 189:5</p> <p>though (6) 12:13;15:19;103:9; 146:5;157:12,17</p> <p>thought (7) 80:6;93:8,12;132:10; 168:21;174:14;189:13</p> <p>thousand (4) 53:19,19;191:9,12</p> <p>threat (2) 73:12;110:20</p> <p>threaten (4) 73:16;108:1;111:1,3</p> <p>threatened (17) 14:18;69:12,13;74:5, 6;76:18;79:1,2;97:8; 100:12,13,14;109:1; 110:10;173:6;186:11; 187:13</p> <p>threatens (1) 47:19</p> <p>threats (13) 74:7;87:8;96:13; 100:11;101:12;106:17; 107:16;108:5,15;109:13, 14,15,16</p> <p>three (28) 13:20;30:8;35:21; 36:3;37:5;38:5,5;39:6,8; 55:7;66:14;103:5;114:4; 117:20;123:19;124:1; 130:4,6,15;146:14; 147:8,10,10,12;159:8,9; 174:7;178:20</p> <p>threw (1) 75:19</p> <p>throat (1) 197:18</p> <p>throw (1) 75:20</p> <p>thus (5) 7:15;12:8;15:5,9,16</p> <p>Tigre (6) 5:13;9:9;31:14;122:5, 7;162:11</p> <p>times (17) 43:2;57:21;86:9,13, 13;129:3,16;151:5; 154:20;165:13;172:7,9; 174:10;187:5;188:16; 194:14;195:1</p> <p>timing (1) 39:3</p> <p>today (22) 7:11;12:12;13:13; 15:8,14;75:16;76:5,16; 77:17;80:2;88:20;98:18;</p>	<p>99:3;125:12,20;126:7; 148:12;165:1;167:13; 169:16;176:19;177:11</p> <p>together (3) 5:6;65:10;70:3</p> <p>told (125) 28:21;29:5,18;32:2,3, 5,11;33:6,8,10;35:10,21; 36:14;38:9,14;41:6,17; 42:2,7,11,12,13;43:8,12, 14,19;44:4,11;45:14,19, 20;46:2,17;47:1,2,4,5; 54:15;58:9;59:18;60:17, 18;61:16;63:5,13,16; 65:1,12;66:3;68:12; 69:15;73:9,10;76:5,11; 79:5,18;80:12,15;86:19; 87:17;88:2,6;90:18; 93:2;98:2;101:14;102:5; 103:5,10,14;104:19,20; 106:1;111:9,13;112:2; 119:4,16,21;120:4,10; 122:4;131:12;137:12,13, 15,15,17;141:14;144:16, 20,20;145:7,11,12; 149:11,15,18,19;150:19; 151:8,11;152:10; 155:15;156:3,11,13; 157:2;158:10;159:12; 160:14,15;161:7; 165:15;166:6;173:9,13; 174:9;175:9;178:17; 186:21;189:20;195:8</p> <p>Tolemaida (3) 151:15;152:4;159:17</p> <p>Tolon (1) 49:15</p> <p>Tomas (5) 44:1,1;47:12;55:1; 169:16</p> <p>tomorrow (2) 151:9;198:5</p> <p>Tony (1) 6:14</p> <p>took (21) 14:8;22:4;23:14,16; 36:5,18;37:6;47:11; 52:11;60:13;61:14;62:7; 72:20;73:11;77:6; 111:10;134:3;141:12; 148:8;186:9;192:5</p> <p>top (2) 95:9;96:8</p> <p>topic (2) 14:2;195:10</p> <p>topics (1) 190:9</p> <p>touch (2) 61:2,3</p> <p>Tovar (53) 28:20;29:5,13,17,19; 30:5,6,14;33:10;35:12; 36:1;37:7,9;38:4,8;</p>
	T			
	<p>T-A-B (1) 128:19</p> <p>Tabla (10) 52:5,5;127:5,7; 128:17;129:1,3,7;196:1, 18</p> <p>Tablas (1) 196:6</p> <p>talk (17) 42:3;59:15;60:10; 62:4;65:15;96:13; 101:17;104:2;151:10; 158:10;159:17;167:2,10, 10;178:3;180:6;195:6</p> <p>talked (10) 39:4;65:6;67:7;97:7; 101:14;123:19;147:6; 161:8;166:5;195:21</p> <p>talking (8) 18:9;74:9;77:17;91:4; 133:6;144:8;156:21;</p>			

40:10;45:19;46:2;47:4; 48:12;49:12,19,21; 51:21;57:10;58:1,20; 60:8,17;61:16,20;62:6,9; 65:6,12;67:10;83:18; 85:3;109:18;125:6; 131:4,6;139:5;145:3; 159:17;161:7,14; 179:16;189:15;190:4; 192:5,7,14	35:20;36:6,7,9,11; 71:16;147:11,12;154:21	two-story (1) 37:18	Uraba (5) 20:16;21:12;24:16; 47:19;193:14	129:5;196:14
true (21) 14:13;26:20;74:21; 75:2,4,6;78:20;79:14; 80:2,14;92:13;95:17; 110:19;115:11;118:13; 119:2;139:18;140:8,14; 151:14;199:11	Trujillo (1) 41:6	type (2) 118:1;171:16	Urabenos (1) 178:21	villages (2) 52:16,21
toward (1) 95:9	trust (7) 179:8,19,21;180:1,4,8; 182:7	U	Uribe (1) 182:2	Violencia (13) 9:5;20:4;41:13;70:4; 82:13,15,18;83:10,17, 21;84:4,5,6
towards (12) 29:11;35:6;54:1;55:5; 65:4;68:19,21;121:2; 127:13;129:7;186:12; 196:21	trusted (1) 74:5	ultimately (4) 21:5;37:4;38:1;41:2	use (11) 8:18;31:16,17;47:13; 116:20;117:3,9,14; 118:2;167:2;195:13	violent (3) 107:17;108:7,16
town (3) 127:17,18;176:10	truth (44) 7:17;8:1;27:2;65:17; 67:12,12;68:15,15;76:5, 8,9,11,12,12,19;77:2,3; 79:19;80:4,7,9,12,16,16, 20;81:1;87:21;92:19; 93:3,3;99:1;110:4,18; 111:5;157:14;161:17; 173:19,20;181:3; 182:19;187:7;189:14; 190:7,7	under (38) 7:10,16;10:17;13:10; 14:11,16;20:16;42:16; 44:19,20;69:6;72:17; 85:20;88:9;92:14,16; 95:9,13,20;96:7,11;97:1, 17;98:4,7;99:20;103:12; 104:1;108:3,4;110:13, 14,14;121:11;122:1; 137:21;146:10,11	used (14) 31:5,16,16,17;33:19, 20;43:4,4;48:13;117:5; 118:1;122:11;171:15; 179:17	visit (9) 60:5;64:9,12;71:6,8, 10;88:12,15;160:4
towns (1) 50:17	truthful (1) 186:3	understood (4) 107:16;108:5,14; 187:12	using (3) 50:17;167:17;197:10	visited (7) 11:18;13:21;57:20; 67:2;103:6;159:3,5
toy (2) 134:21;135:8	try (4) 63:17;85:3;104:10; 192:21	unhappy (1) 186:2	utmost (1) 8:17	Voltijero (1) 17:11
trafficker (1) 161:10	trying (1) 133:5	Unidos (2) 129:6;196:15	V	voluntary (2) 19:1;20:9
trafficking (3) 162:14,18;163:3	T-shirts (1) 171:12	uniform (1) 171:19	vague (9) 89:10,16;110:1;115:1; 150:15;152:8;154:13; 155:21;164:12	volunteer (1) 19:5
train (16) 32:21;42:14;130:19; 131:3,7,14;132:10; 134:21;135:8;138:17; 139:3;143:3,9;145:19, 21;146:2	Tuna (1) 29:15	uniforms (1) 171:15	Valledupar (10) 29:10;60:8;61:14; 85:2;99:15;153:13,16; 154:3;161:13;170:14	volunteering (1) 19:2
trains (1) 143:17	Tupinan (1) 42:2	union (1) 151:12	Vecinos (1) 136:15	W
Tramacua (2) 121:12;169:18	Turbo (9) 38:21;40:6,16,19,21; 41:3,4,11,12	unit (2) 92:11;142:9	vehicle (2) 170:5,13	wagon (1) 36:12
transcript (1) 199:10	turn (8) 25:14;26:1;50:13; 72:6;78:8;120:20;181:8; 196:10	unite (1) 21:5	Veles (1) 17:8	Wait (2) 96:19;155:9
transfer (1) 65:4	turned (1) 16:16	United (15) 5:11;20:17;21:3,8; 22:2;24:15;34:10;61:21; 62:12,13;64:9;108:4; 162:13;163:18;196:15	Venezuela (3) 127:13,15;166:8	waited (1) 139:2
transferred (1) 9:19	turning (1) 175:5	unkind (2) 186:8,9	venture (1) 53:18	waiting (3) 38:20;52:3;159:20
transfers (1) 193:13	TV (3) 150:19;151:1;184:21	unpaved (2) 23:2,5	version (8) 25:13;26:3;61:5,13; 66:14;67:7;78:6;155:6	wall (1) 157:17
translate (1) 77:21	TVO (1) 166:17	up (54) 10:16;29:3;32:4,21; 33:11,15,20;34:1;42:14; 45:6;46:5;47:6;50:9,12; 53:13;65:10;70:3;73:13; 74:7;89:8,20;90:6; 95:10;124:11;127:2,17; 129:5,6,18;131:14; 132:6,11;138:17;139:3; 145:1,13,18,21;146:2; 151:11;158:11,13,17,20; 159:15,20;161:18,19,20; 189:21;195:21;196:3; 197:5,10	versions (4) 53:16;175:9,11,13	war (3) 39:1;56:8;171:16
translation (3) 33:19;46:10;72:6	twice (2) 84:6,7	upon (1) 43:19	Vevacia (1) 23:6	warn (2) 8:5;92:21
translator (2) 25:15;65:18	two (10) 10:10;11:9;92:2; 93:10;103:5;134:13; 150:2,4,6;159:9	upwards (2) 127:20,21	Victims (11) 88:1,11;116:21;117:4, 7,13;164:19;184:4,8,11; 185:9	warned (1) 92:17
transmitting (1) 27:5			Videos (8) 3:15;56:15;81:20; 141:18;142:1;188:2,5; 198:6	wash (1) 59:15
treatment (2) 83:9,11			Vientos (2) 23:2;51:13	washing (1) 63:10
trees (2) 172:8,9			view (1) 133:15	Washington (1) 3:10
troops (2) 47:16;54:18			village (8) 51:12;54:13;100:20; 116:14;123:14,15;	watching (1) 193:10
trouble (5) 73:15;76:4;90:19; 161:15,19				water (2) 75:19,20
truck (10)				water's (1) 41:1
				way (15) 11:13;51:3;60:3; 65:13;66:21;73:21; 75:12;85:13;86:13; 187:12;189:15;190:7; 197:1,6;199:13
				ways (1) 162:17
				weapon (1)

<p>171:18 weapons (10) 39:1;40:4,13,15,16; 41:2;117:5;129:19; 170:13;171:17 wear (1) 171:19 wears (1) 171:12 week (3) 151:1,5;162:4 welfare (1) 182:10 well-being (1) 182:10 weren't (1) 195:5 whatchamacallit (1) 184:3 what's (1) 160:21 whatsoever (3) 52:2;108:2;110:21 whenever (5) 8:19;86:11;96:12; 123:21;165:17 whereabouts (1) 156:12 white (1) 160:14 whose (12) 36:21;42:8;43:5; 49:18;101:19;122:12; 126:15;160:14;167:2; 171:14;177:19;190:16 WILLIAM (7) 3:4;6:10;78:12;92:5,7; 104:7;185:19 williamjefress@bakerbottscom (1) 3:12 willing (4) 81:8;179:3,7,18 willingly (1) 173:6 Willington (2) 169:12,14 wills (1) 77:8 Wilson (2) 170:11,21 wish (1) 113:21 wishes (1) 10:21 wit (1) 199:2 withdraw (2) 151:19;152:1 within (8) 39:15;54:12;55:2,3; 67:9;71:8;123:19; 180:18 within-named (1)</p>	<p>199:5 without (3) 43:4;63:18;141:12 witness (132) 5:16;7:6,20;9:3,8,11, 14,18;10:10;11:12,17; 12:1,2,10,12,14,17,21; 13:3,5,17;17:7,10;20:14, 15;24:15;25:17;26:8,14; 27:1,13;28:20;32:11; 35:5;36:11;38:4;46:13; 48:4,11;49:7;50:11,15; 56:10;58:15;59:13; 64:20;65:1;66:1,6; 68:19;69:19;72:11; 74:16;75:6;77:18,20; 79:17;80:4;81:7;87:17; 89:12,17;91:9;94:9; 96:5,17;99:7;100:3; 104:15;105:7,21;106:8, 20;108:10,19;109:9; 110:3;111:9;112:11; 114:3,18;115:2,16; 117:18;118:17;119:7,8, 16;120:4;122:20; 131:18;135:13;140:11, 17;141:8;146:10; 148:18;150:16;152:10; 154:2,15,19,20;156:1; 157:8,12,12;158:8,20; 163:1;164:13;165:12; 167:13,13,15,21;177:15; 183:7;186:19;187:11, 20;189:5;193:5,13; 194:8;195:8,12;196:5; 197:17;198:1;199:5,15 witness' (1) 5:21 witnessed (1) 7:18 witnesses (3) 11:19;117:8,14 woman's (1) 167:12 women (1) 118:4 wonder (1) 193:2 wood (1) 37:18 word (11) 26:8;66:17;85:3; 86:19;87:10;97:9; 101:18;102:5;158:7; 161:7;187:21 words (7) 31:5;33:20;62:1,5,15; 84:6;132:9 work (2) 53:21;181:9 worked (7) 60:9;65:6,8,11; 180:19,21;181:7</p>	<p>workers (3) 93:19;94:17;172:6 working (4) 114:5;135:9;160:6; 195:13 worried (2) 76:17;87:18 worry (1) 88:3 worthwhile (1) 81:12 wound (2) 82:17,21 wounded (9) 28:14,17;52:13;82:16, 19;83:1,3;101:5;176:9 write (1) 89:6 written (1) 89:14 wrong (1) 151:20 wrote (4) 89:4,8,14,17</p> <p style="text-align: center;">Y</p> <p>yard (4) 158:2;162:16;190:2,3 year (23) 18:21;19:4,5;22:5; 23:13;35:5;41:7;42:6; 44:21;49:20;53:13,14; 66:8;82:10;83:13,16; 84:15;91:17;138:1,6; 148:13;176:3;184:14 years (24) 17:2;18:13;37:15; 42:14;52:9;60:16;74:4; 80:21;85:16,17;86:1,2,3, 10;115:19,21;118:7,9; 145:20;150:2;175:6; 184:1,17,17 Yeguas (1) 176:2 Yuca (1) 149:19</p>		
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