

## Dr. Lewittes - People - Cross

1 THE JURY: Yes.

2 THE COURT: I see all nods and thumbs up. Thank  
3 you.

4 CROSS-EXAMINATION

5 BY MS. WALLACH:

6 Q. Good morning, Dr. Lewittes.

7 A. Good morning.

8 Q. We're still in the morning. Good morning.

9 Now, you had testified about your practice and your  
10 experiences on direct examination; right, doctor?

11 A. Yes.

12 Q. Within your practice and within your publications, you  
13 don't do any psychological research as part of your practice, do  
14 you?

15 A. At this stage in my career I do not do research, no.

16 Q. And you haven't done research in your career or  
17 published for many, many years -- maybe over 20 years; is that  
18 fair to say?

19 A. No, I've published more recently than 20 years, but not  
20 in the last five to six years.

21 Q. Okay. And when you say that you've recently published,  
22 the last article that you published was ten years ago; wasn't  
23 it?

24 A. There was a publication approximately ten years ago I  
25 would guess, yes.

1 Q. 2004?

2 A. Something like that, yes.

3 Q. And it was on the effects of breast augmentation on the  
4 accuracy of mammography; correct?

5 A. That's not my last publication. I did a publication in  
6 Nassau County for -- a publication we did for the Department of  
7 Probation, but I did do a general American Medical Association  
8 having to do with cancer and breast detection.

9 Q. Yes. And then the last publication that you have on  
10 sexual abuse was in 1986; is that fair to say?

11 A. Yes.

12 Q. So you haven't published anything in about 18 years on  
13 child sexual abuse?

14 A. That's correct.

15 Q. Now, you also testified that you were an affiliate with  
16 Albany Medical School; is that right?

17 A. That's correct.

18 Q. You were an instructor in Albany Medical School; is  
19 that correct?

20 A. Correct.

21 Q. That was 1977?

22 A. I don't remember the exact year. I think it was '77,  
23 yes.

24 Q. But you weren't a full professor?

25 A. No, I wasn't a full professor. I was an instructor in

## Dr. Lewittes - People - Cross

1 the Department of Psychiatry and Psychology at Albany Medical  
2 School.

3 Q. And in fact you've never held a position of full  
4 professor, have you?

5 A. I was a clinical affiliate professor of psychology at  
6 St. John University.

7 Q. That's an affiliate, again?

8 A. Right. At the level of full professor, yes.

9 Q. Now, you indicated that you also have a clinical  
10 practice; is that correct?

11 A. Yes.

12 Q. And in your clinical practice, you treat victims of  
13 sexual abuse; is that right?

14 A. That's part of my practice; correct.

15 Q. And as part of your treatment of them you evaluate  
16 them; is that right?

17 A. If indeed that's what I'm doing. I mean, there are  
18 children that are part of my practice that I only evaluate.  
19 There are children that I might treat. So it depends on the  
20 nature of the case.

21 Q. And there are also children -- and I'm asking you --  
22 just try to listen to my question because I'm not asking you  
23 overall. I'm saying as part of your practice, there are also  
24 children that you give coping skills to; correct?

25 A. I don't give anybody coping skills.

## Dr. Lewittes - People - Cross

1 Q. Well, you work with them on coping skill; is that fair  
2 to say?

3 A. Sure.

4 Q. And you work with them on helping them discuss what has  
5 happened to them; is that fair to say?

6 A. There are times when I do that.

7 Q. Now, in this case you indicated on your direct  
8 testimony you never met Shanece Martin?

9 A. No.

10 Q. And you never met Francesca Martin; correct?

11 A. That's correct.

12 Q. You never treated them; correct?

13 A. Correct.

14 Q. And you never did any form of psychological evaluation?

15 A. Absolutely not.

16 Q. Now, you testified that kids often don't disclose  
17 sexual abuse for a number of reasons on direct testimony. Is  
18 that fair to say?

19 A. Sure.

20 Q. And one of those reasons that you testified to was that  
21 they have fear of breaking up their family; is that fair to say?

22 A. I don't think I said breaking up the family. I said  
23 they have fears that it could affect the family, but certainly  
24 breaking it up would be an ultimate fear.

25 Q. And one of the other reasons would be when we are

## Dr. Lewittes - People - Cross

1 talking about breaking up families is the fear that the children  
2 are aware that somebody in the family would be removed from the  
3 home; is that fair to say?

4 A. I don't know whether or not every child would basically  
5 go to the issue of somebody being removed. There are children  
6 who have had experiences where they've told about sexual abuse  
7 and they were removed and put into some kind of foster care  
8 relationship, so everybody's history is different and --

9 Q. That's right, doctor. Each child --

10 MS. JOHNSON: Objection, Your Honor. If the  
11 witness could be permitted to answer.

12 THE COURT: Excuse me. You need only say  
13 objection. The objection is overruled. Could you put your  
14 next question, please, Miss Wallach?

15 MS. WALLACH: Thank you.

16 Q. I'm sorry, doctor. Every child is different in the  
17 way -- I'm sorry -- in their knowledge of what would happen if  
18 they were to disclose; correct?

19 A. I would agree with that in general, sure.

20 Q. Now, you also testified about what you're calling the  
21 Intrafamilial Child Sexual Abuse Syndrome; right?

22 A. Intrafamilial, yes.

23 Q. And that syndrome was discussed by Dr. Susan Sgroi in  
24 her book; correct?

25 A. S G R O I, Sgroi.

1 Q. Yes. And that book was written in 1978; right?

2 A. That's correct.

3 Q. And around -- actually, before that time, there was the  
4 term Child Sexual Abuse Accommodation Syndrome that was coined  
5 by Dr. Summit; correct?

6 A. Dr. Summit, on a different coast, on the west coast,  
7 had his own research, and he had his own theory of how to  
8 describe what happens to children and families and he called it  
9 the accommodation syndrome.

10 Q. And that idea was created before 1978 or around the  
11 time of 1978, wouldn't you say?

12 A. The research that both authors used was  
13 contemporaneous. Approximately in the late 1970's, early 1980's  
14 is when researchers started to talk about this issue.

15 Q. And in fact, doctor -- and, doctor, I'm just going to  
16 ask you if it's possible if I ask you a question that you can  
17 give a yes or no to, that would be helpful.

18 A. Okay.

19 Q. So, doctor, you indicated that they both worked  
20 contemporaneously, and you would agree with me that also the  
21 five -- the pattern of five behaviors that you discussed --  
22 engagement, interaction, secrecy, disclosure and repression --  
23 those were similar in both studies; weren't they?

24 A. Both authors did discuss those stages, yes.

25 Q. And then in 1992 Dr. Summit published an article, Child

## Dr. Lewittes - People - Cross

1 Sexual Abuse -- sorry. Withdrawn.

2 In 1992, Dr. Summit published an article, Abuse of the  
3 Child, Sexual Abuse Accommodation Syndrome; correct?

4 A. I believe that's correct, yes.

5 Q. And in that article in 1992 he denounced the syndrome;  
6 didn't he?

7 A. I do not agree with that characterization, no.

8 Q. Okay. Well, in that article in 1972 he wrote that it  
9 has been denounced as a dangerous --

10 MS. JOHNSON: Objection. Reading from a document  
11 not in evidence.

12 Q. -- pseudoscience; is that correct?

13 MS. JOHNSON: Sorry, Judge. Objection.

14 THE COURT: The objection is overruled. Can you  
15 answer that, doctor?

16 THE WITNESS: Yes.

17 THE COURT: The question is a yes or no. Is that  
18 written in that article?

19 THE WITNESS: I don't remember whether or not  
20 those specific words --

21 THE COURT: Next question, please, Miss Wallach.

22 Q. Doctor, would it refresh your recollection to see the  
23 article again?

24 A. I don't think I need to see the article.

25 Q. So you're suggesting that you don't think that that's

1     what was written in the article; is that right?

2             A.    I think you're taking it out of context.

3             Q.    Well, why don't we try this, doctor.  In Dr. Summit's  
4     article, he wrote specifically, "the Child Sexual Abuse  
5     Accommodation Syndrome" --

6                   MS. JOHNSON:    Objection.

7                   THE COURT:    You may finish your question.

8                   MS. WALLACH:   Thank you.

9             Q.    -- "is a clinical observation that has become both  
10    elevated as gospel and denounced as dangerous pseudoscience."  
11    Isn't that what he wrote in that article?

12                   THE COURT:    The objection is overruled.  You may  
13    answer it if you can, doctor.

14             A.    If you're reading to me those exact words and that is  
15    what is printed on the page, yes.

16             Q.    And, doctor, similarly in that same article, Dr. Summit  
17    wrote, "The polarization which inflames every issue of sexual  
18    abuse has been kindled further here by the exploitation of a  
19    clinical concept as ammunition for battles in court."  Didn't he  
20    write that as well in that same article?

21             A.    I believe that those are words that he wrote, yes.

22             Q.    And then he further indicated, "The excess heat has  
23    been generated by false claims advanced by prosecutors, as well  
24    as the primary effort by defense interests to strip the paper of  
25    any of its worth or relevance."  Is that fair to say?

## Dr. Lewittes - People - Cross

1           A. I think it's fair to say that you're reading from his  
2 article, yes.

3           Q. And you would agree with me that that's in his article?

4           A. I think that's in his article, yes.

5           THE COURT: Can I briefly see both counsel at  
6 sidebar, thank you.

7           (Whereupon, there is a discussion held off the  
8 record, at the sidebar, among the Court, Ms. Wallach and  
9 Assistant District Attorney Johnson.)

10          THE COURT: Whenever you're ready, Miss Wallach,  
11 you may inquire.

12          MS. WALLACH: Thank you, Your Honor.

13          Q. Doctor, you're also familiar with a book by Stephen J.  
14 Ceci and Helene Hembrooke titled Expert Witnesses in Child Abuse  
15 Cases; aren't you?

16          A. I've seen the book, yes.

17          Q. And in that book they specifically address the Child  
18 Sexual Abuse Accommodation Syndrome; don't they?

19          A. I believe that's accurate, yes. They do talk about Dr.  
20 Summit's syndrome which I did not talk about, yes.

21          MS. WALLACH: Your Honor, just a moment. I'm  
22 showing the book to counsel.

23          MS. JOHNSON: Sorry, Judge. I just want to read  
24 the portion. I've never seen it.

25          THE COURT: All right.

## Proceedings

1 (Whereupon, there was a brief pause in the  
2 proceedings.)

3 MS. JOHNSON: Judge, could we have a sidebar?

4 THE COURT: All right. Do we need the reporter?

5 MS. JOHNSON: Yes, Judge.

6 THE COURT: Tell you what, folks. Might be a  
7 good time to stretch your legs, use the facilities.

8 (Whereupon, the jury exits the courtroom.)

9 THE COURT: Let the record reflect the entire  
10 panel of sworn jurors has exited the courtroom. Doctor,  
11 you are excused for a while. We'll see you in a few  
12 minutes. Thank you.

13 (Whereupon, the witness exits the courtroom.)

14 THE COURT: Let the record reflect that the  
15 witness has exited the courtroom.

16 Counsel, I figured this would be easier than doing  
17 this at sidebar. The jurors looked like they needed a few  
18 minutes to stretch their legs anyway. So, Miss Johnson,  
19 what can I do for you?

20 MS. JOHNSON: Judge, I'm just going to object.  
21 I'm not sure how long this is going to go on reading from  
22 different items that I haven't been shown, but I am going  
23 to ask for time. I know counsel is kind of waiting and  
24 moving that I need to move along, but I'm going to have to  
25 read portions of it; because when I'm reading the

## Proceedings

1 paragraph, counsel is selecting one sentence, basically  
2 saying Child Sexual Abuse -- I don't remember exactly what,  
3 this is the first time I'm seeing it -- but saying that  
4 Child Sexual Abuse Accommodation Syndrome is not accepted.

5 When you look under that in court, it actually  
6 says it is for rehabilitative purposes when there is child  
7 testimony, which is exactly what we are dealing with here.  
8 So in terms of the -- I'll stop, Your Honor.

9 THE COURT: Thank you.

10 MS. JOHNSON: Thank you, Judge.

11 THE COURT: First, to the extent that you're  
12 raising an issue regarding that you haven't seen these  
13 materials before, I don't know that anyone has an  
14 obligation to turn over to the other side in an action of  
15 this nature accepted, published documents that are being  
16 used for cross-examination of an expert. I've never heard  
17 that.

18 MS. JOHNSON: I'm not suggesting that. What I am  
19 suggesting is counsel was kind of moving me along, and I  
20 was suggesting to the Court that I just would ask for  
21 patience so I can read the portion; because while I have  
22 access to all these documents, the specific page out of a  
23 couple of hundred page book, I want to see the actual  
24 portion. So I just want to let the Court know that I'm not  
25 being disrespectful, I'm reading that paragraph. When I

## Proceedings

1 read this, for completeness of the narrative, I'm asking  
2 that the entire paragraph be read, not that specific  
3 portion.

4 THE COURT: On the completeness issue, once I  
5 hear what the question is, I will address that if you make  
6 that objection. Of course, you can redirect your witness  
7 anyway.

8 MS. JOHNSON: Of course, Judge.

9 THE COURT: On the issue of needing a few  
10 minutes, just to ensure that she's reading accurately, that  
11 was why I brought you over to sidebar the first time. I  
12 was hoping we could move that along, merely by reference to  
13 titles and page numbers.

14 Am I correct, however, Miss Wallach, the  
15 publication you were using when we just broke -- Miss  
16 Johnson, you don't have that; right?

17 MS. JOHNSON: No, Judge. This is a book. I have  
18 the exhibits from the motion to preclude.

19 THE COURT: So you're going to share the book for  
20 a moment so she could read from where you were reading  
21 from?

22 MS. WALLACH: Your Honor, I didn't even pose the  
23 question yet; but what I did, even before posing the  
24 question, was show Miss Johnson the highlighted portion  
25 specifically that I was going to reference, and I believe,

## Proceedings

1 as Your Honor indicated, and as is my experience, it is to  
2 make sure that I am reading it accurately. The witness can  
3 either accept or reject what I'm saying. I got notice of  
4 this expert I'm sure long after the People knew of it and  
5 so --

6 THE COURT: We don't have to go there.

7 MS. WALLACH: Yes, we don't have to get into  
8 that.

9 THE COURT: We're past that.

10 MS. WALLACH: Thank you, Judge.

11 THE COURT: It seems like a nonissue at the  
12 moment.

13 MS. WALLACH: Thank you.

14 THE COURT: Anything else before I let you take  
15 the same break that I just gave the jurors?

16 MS. WALLACH: No, Judge.

17 MS. JOHNSON: No, Judge.

18 THE COURT: All right, I'll see you all in a few  
19 minutes. Thank you.

20 (Whereupon, there is a brief recess taken.)

21 COURT CLERK: Continued jury trial. People  
22 against Elvis Taylor. All counsel is present and remains  
23 the same. The defendant is present. No sworn jurors are  
24 present.

25 THE COURT: Let the record reflect that the

## Dr. Lewittes - People - Cross

1 witness has reentered the courtroom. Welcome back, doctor.  
2 If you could just have a seat.

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: Thank you, sir.

5 THE COURT OFFICER: Jury entering.

6 (Whereupon, the jury enters the courtroom.)

7 THE COURT: Let the record reflect the entire  
8 panel of sworn jurors has returned to the courtroom. The  
9 courtroom may all be seated. Thank you. Member of the  
10 jury, we are going to continue now with Miss Wallach's  
11 cross examination of Dr. Lewittes.

12 Whenever you're ready, Miss Wallach, you may  
13 inquire.

14 MS. WALLACH: Thank you, Your Honor.

15 CONT'D CROSS-EXAMINATION

16 BY MS. WALLACH:

17 Q. So I believe -- just correct me if I'm wrong -- on my  
18 last question before the break -- do you mind? I'll just ask it  
19 again.

20 I believe, Dr. Lewittes, I asked you if you were  
21 familiar with the book Expert Witnesses in Child Abuse Cases; is  
22 that right?

23 A. Yes.

24 Q. And you're familiar with that book?

25 A. I've seen it.

## Dr. Lewittes - People - Cross

1 Q. And in that book they address the Child Sexual Abuse  
2 Accommodation Syndrome. Would you agree with me on that?

3 A. I believe that's true, yes.

4 Q. Now, doctor, in that book they say, "Moreover, the  
5 reliability of CSAAS as a diagnostic tool has been questioned  
6 because of the lack of empirical evidence supporting the  
7 syndrome's ability to discriminate between abused and nonabused  
8 children." Are you familiar with that?

9 A. Yes, that sounds familiar.

10 Q. Now, doctor, you discussed the term syndrome on direct  
11 examination when referring to these behavioral characteristics  
12 that you identified. Would you agree with me that a syndrome is  
13 an association of several clinically recognizable features?

14 A. Not necessarily clinically recognizable, no. I don't  
15 agree.

16 Q. Okay, doctor. So would you agree with the concept that  
17 a syndrome is accepted in its field through others in the field  
18 conducting scientific tests known as research?

19 A. I would agree with that, yes.

20 Q. Now, would you agree with me that a syndrome is  
21 different than a diagnosis; correct?

22 A. Correct.

23 Q. And a diagnosis is a reasoned opinion about a  
24 particular individual or patient based on the various medical  
25 examinations; is that fair to say?

1 A. Yes.

2 Q. Now, doctor, you discussed certain aspects of these  
3 behaviors on direct examination, and I'm going to call your  
4 attention to disclosure. You specifically talked about  
5 disclosure. You testified that a common time for disclosure --  
6 withdrawn.

7 You testified that some children might make disclosure  
8 to an adult in the household; is that fair to say?

9 A. Yes.

10 Q. And some children might make it deliberately; correct?

11 A. Correct.

12 Q. And some children might make it not deliberately;  
13 correct?

14 A. Yes.

15 Q. And they also might make disclosure to another  
16 individual; is that fair to say?

17 A. It's possible, yes.

18 Q. And if a child makes a disclosure or a statement of  
19 what's going on to another individual, that wouldn't be  
20 considered accidental, would it?

21 A. If I understand your question, if they have voluntarily  
22 told somebody else something, then the disclosure to that party  
23 is not accidental but the disclosure further to others might be  
24 accidental.

25 Q. But that particular disclosure wouldn't be accidental?

## Dr. Lewittes - People - Cross

1           A. But that specific disclosure where they purposefully  
2 went and told somebody, whoever that somebody is, yes, that  
3 would be purposeful, not accidental.

4           Q. Now, a lot of what we talked about when you were  
5 talking on direct examination had to do with what a child might  
6 do in these circumstances; correct?

7           A. Yes.

8           Q. There is no absolute as to each child's behavior based  
9 on a particular circumstance, is there?

10          A. Each child is unique. There is no absolute there that  
11 we are talking about in an individual case, no.

12          Q. And some children might tell or -- some children might  
13 disclose, if you will, for the purpose of getting attention;  
14 isn't that fair to say?

15          A. I think it's possible, yes.

16          Q. And some children might also -- well, withdrawn.

17               Teenagers particularly may be in a position where they  
18 need attention for a particular reason in their household; is  
19 that fair to say?

20          A. I think it's possible, yes.

21          Q. Now, you would agree with me that in the situation of a  
22 blended family -- and when I say blended family, I mean children  
23 from different parents -- so a blended family.

24          A. Okay.

25          Q. In a situation of a blended family, a new child,

1 meaning a new baby, entering a situation could be the reason  
2 that a teenager might seek out attention; is that fair to say?

3 A. I guess it's possible. It's not the most familiar way  
4 that I've known adolescents to --

5 Q. I asked if it was a possibility.

6 A. Yes. The answer is yes.

7 Q. Now, there are statistics regarding adolescents and  
8 false allegations; aren't there?

9 A. There have been some studies done, and then there is a  
10 numerical statistic involved. There is no absolute statistic.

11 Q. That's correct. And there are some studies -- you're  
12 familiar with the studies by Everson and Boat in the American  
13 Academy of Child Adolescent Psychology; aren't you?

14 A. Yes, I've seen it.

15 Q. In that study, they say that the rate of false  
16 allegations in sexual child abuse is between 4.7 and  
17 7.6 percent; isn't that correct?

18 A. Yes, that's what they found in their study, uh-huh.

19 Q. And they also have studies that talk about founded  
20 amount of false allegations, don't they? Not them particularly  
21 but there are studies; correct?

22 A. There are studies where there are no numbers associated  
23 where they have made findings of different types that the  
24 allegation was false, such as Matt's study -- they reviewed  
25 approximately 93 percent --

## Dr. Lewittes - People - Cross

1 Q. Now, doctor --

2 MS. JOHNSON: Objection.

3 THE COURT: I'm sorry, what is the nature of the  
4 objection, please?

5 MS. JOHNSON: Interrupting the witness while  
6 answering.

7 THE COURT: Well, of course, but -- put your next  
8 question, please.

9 MS. WALLACH: Thank you, Judge.

10 Q. Now, doctor, in 1989 there was a study in the American  
11 Academy of Child Adolescent Psychology titled False Allegations  
12 of Sexual Abuse by Children and Adolescents; wasn't there?

13 A. I don't know. There might have been. You haven't  
14 named the author of it, did you? I missed it if you did.

15 Q. That was the study I referred to earlier, doctor. That  
16 was in 1989, the Everson and Boat study.

17 A. Okay.

18 Q. Now, there was also a study in 1992 by Mikkelson,  
19 Gutheil and Emens which appeared in the American Journal of  
20 Psychotherapy. Are you familiar with that study?

21 A. Off the top of my head, I'm not.

22 Q. You're not.

23 Now, doctor, you would agree with me that not always  
24 children react the same way when they are being questioned about  
25 a particular situation; is that fair to say?

1 A. Yes.

2 Q. And you would agree with me that children may keep  
3 things secret, if you will, for different reasons; correct?

4 A. Yes.

5 Q. And you would also agree with me that children might  
6 make up stories for certain reasons; isn't that fair to say?

7 A. It's possible, yes.

8 Q. Now, you talked about the secrecy phase of the  
9 Intrafamilial Sexual Abuse Syndrome.

10 A. Yes.

11 Q. And you discussed the fact that in that phase,  
12 oftentimes children are undergoing specific psychological  
13 trauma, psychological issues, that may weigh heavy on them; is  
14 that fair to say?

15 A. Yes.

16 Q. In fact, I believe your words were that emotionally a  
17 child does not have the ability to deal with that; is that  
18 right?

19 A. Typically children don't necessarily have the ability;  
20 correct.

21 Q. So you would agree with me then that these  
22 psychological trauma marks, they don't just disappear after a  
23 child discloses, if you will?

24 A. I would agree with that statement.

25 Q. And many times these psychological traumas stay with

1 these children; isn't that fair to say?

2 A. I would agree, yes.

3 Q. Even into adulthood; correct?

4 A. It's quite possible, yes.

5 Q. And in your clinical practice, doctor, you treat adults  
6 who have suffered abuse as a child; correct?

7 A. Correct, yes.

8 Q. You also treat teenagers who have suffered abuse as a  
9 child; correct?

10 A. Yes.

11 Q. Now, you also talked about repression as -- I believe  
12 that was the last of the five phases?

13 A. Yes.

14 Q. Is that correct?

15 A. Uh-huh.

16 Q. Now, and you mentioned this effect that repression  
17 could have on an individual in that they would appear to be  
18 flat, if you will, and unemotional; is that right?

19 A. Yes.

20 Q. So if a person is flat and unemotional, that means that  
21 they wouldn't be laughing; isn't that right?

22 A. Not necessarily. Laughter is sometimes what we call  
23 nervous laughter. So sometimes you do hear laughter but it's  
24 usually distinguishable from jovial laughter.

25 Q. Okay. And when I'm talking about laughter I mean, for

1 example, when the person is discussing the issue, if they were  
2 suffering this flat affect of repression, they wouldn't be  
3 smiling, would they?

4 A. No. It's possible that they would have limited  
5 emotions and they could possibly be smiling but they might not  
6 have the full blush.

7 Q. Now, you would also agree with me that the term  
8 repression in the psychological community has been replaced with  
9 a term called dissociative amnesia; wouldn't you?

10 A. No. I don't agree with you on that point, no.

11 Q. You don't agree with the definition of dissociative  
12 amnesia as being keeping out of consciousness traumatic events?

13 A. I didn't say that that definition is what I disagree  
14 with. I disagree with that you said that the concept of  
15 repression was replaced by dissociative amnesia.

16 Q. Well, do you agree with my definition of dissociative  
17 amnesia?

18 A. Your definition of dissociative amnesia, I would agree  
19 with that definition; correct.

20 Q. Thank you.

21 Now, you testify a great deal; don't you?

22 A. I don't know what you call a great deal but I have over  
23 the years.

24 Q. Well, wouldn't you say that you testify probably  
25 upwards of ten times a year?

## Dr. Lewittes - People - Cross

1           A.   That's fair, yes.  If that's what you call a great  
2 deal.

3           Q.   And you've done that for many years; correct?

4           A.   Yes.

5           Q.   You've testified for the prosecution in many of the  
6 cases that you've testified for?

7           A.   Yes.

8           Q.   Correct?

9           A.   Yes.

10          Q.   You've testified for the District Attorney's offices in  
11 the five boroughs of New York; right?

12          A.   Correct.

13          Q.   Westchester County?

14          A.   Yes.

15          Q.   Suffolk County?

16          A.   Yes.

17          Q.   Nassau County?

18          A.   Yes.

19          Q.   Dutchess County?

20          A.   Yes.

21          Q.   And Westchester County; correct?

22          A.   Correct.

23          Q.   And wouldn't you agree with me that about 90 percent of  
24 the time you're called as a prosecution witness?

25          A.   Yes.

1 Q. In fact, would you agree with the fact that --  
2 withdrawn.

3 Now, you testified also that you're paid for your time  
4 here in court today; is that right?

5 A. Yes.

6 Q. You're also paid for the time that you spent consulting  
7 with the District Attorney's office; isn't that fair to say?

8 A. I don't usually have any fee for any consultation  
9 hours.

10 Q. When you say usually, so --

11 A. Well, sometimes there may be an hour that I do charge  
12 for, but typically the fee is based upon my time in a courtroom  
13 setting.

14 Q. Doctor, you were asked to bring your tax records to  
15 court today by subpoena; weren't you?

16 MS. JOHNSON: Objection.

17 A. No. The answer is I was not asked to bring anything to  
18 court today.

19 THE COURT: The objection is overruled.

20 Q. You were served with a subpoena; correct?

21 A. I was never served with a subpoena.

22 Q. Doctor, would you agree with me that your secretary  
23 accepted a subpoena for you for this trial on your behalf?

24 A. I don't know anything about my secretary's behavior.

25 You would have to ask her; and I don't have a private secretary.

1           Q. Well, you provided the District Attorney's office with  
2 a subpoena that you were served; isn't that right?

3           A. I provided the District Attorney's office with a piece  
4 of paper.

5           Q. And the piece of paper was entitled "subpoena duces  
6 tecum"; wasn't it?

7           A. It may have been entitled that. It didn't seem to be  
8 anything official to me. I was never -- I was never given that  
9 piece of paper. It was stuck in my mailbox.

10          Q. And, doctor, that piece of paper that you say was  
11 entitled subpoena duces tecum, it had the caption on it of  
12 People of the State of New York versus Elvis Taylor; didn't it?

13                   MS. JOHNSON: Objection.

14                   THE COURT: Overruled.

15          A. Yes.

16          Q. And that's this case; isn't it?

17          A. I believe so, yes.

18          Q. And when you received that piece of paper, you sent it  
19 to the District Attorney's office; fair to say?

20          A. It's fair to say that I faxed them a copy of it, yes.

21          Q. So you didn't bring any records with you here today;  
22 did you?

23          A. No, I did not.

24          Q. Now, doctor, you would agree with the statement that  
25 things that may have been held valid 20 years ago may not any

1 longer be valid today; is that fair to say?

2 A. It's fair to say that science changes, yes.

3 Q. And it would also be fair to say that people who gave  
4 expert testimony 20 or 25 years ago in a particular -- what was  
5 widely believed then and accepted then may not necessarily be  
6 widely believed and accepted today; is that fair to say?

7 A. If I understand what you're saying is that a person may  
8 have said that they testified to something based upon the  
9 knowledge 20 years ago, no longer utilizing that as a database;  
10 yes, I would agree with that, that they could change as the  
11 science changes as an expert; correct.

12 Q. Now, doctor, you also do work for the courts; isn't  
13 that right?

14 A. I don't know exactly what you mean. I'm sorry.

15 Q. Well, let me rephrase that.

16 You work in the family court system, you work for the  
17 department of -- the Childrens Advocacy Center in Brooklyn as a  
18 validator; correct?

19 A. No, I have never worked for the Children's Advocacy  
20 Center.

21 Q. Well, you work for family court as a validator; don't  
22 you?

23 A. I have at times been a validator under a judge's order  
24 in family court, yes.

25 Q. And can you explain what a validator is, please,

1 doctor?

2 A. A validator in family court is when a judge orders that  
3 an expert can interview the children, and because of the nature  
4 of the difficulty that a child might have in being able to  
5 express the matter themselves in front of a parent, that the  
6 expert can offer their own opinion in place of the child in a  
7 family court setting when there is a familial issue of sexual  
8 abuse. So an expert -- a recognized expert the judge may say  
9 can interview the children and then that expert can offer their  
10 opinions, which is what they call an exception to the hearsay  
11 rule.

12 Q. And, doctor, in working as a validator, you're familiar  
13 with the American Professional Society on the abuse of children;  
14 correct?

15 A. Well, I am, but they don't have anything to say about  
16 validators per se.

17 Q. I didn't say they did. I asked if you were familiar.

18 MS. JOHNSON: Objection.

19 A. Well, you put the two in one sentence. The answer is  
20 yes, I'm familiar with the organization.

21 THE COURT: The objection is overrule. Put your  
22 next question, please.

23 Q. And you're also familiar with the National Children's  
24 Advocacy Center and their best practices for forensic  
25 interviewing; aren't you?

1 A. Yes.

2 Q. And in fact they published their best practices --  
3 withdrawn.

4 In fact, the Unified Court System of New York published  
5 their best practices in 2004; correct?

6 A. There was a publication with that name, yes.

7 Q. And in that publication, the Unified Court System  
8 indicated that when children are being interviewed regarding  
9 sexual abuse allegations, those interviews must be recorded;  
10 isn't that fair to say?

11 MS. JOHNSON: Judge, may I just see.

12 THE COURT: Just a minute, doctor. You want to  
13 look at the document that she's reading from?

14 THE WITNESS: No, I --

15 MS. JOHNSON: Briefly.

16 MS. WALLACH: I'm going to hand her a copy.

17 THE COURT: Forgive me, doctor. I meant Miss  
18 Johnson wanted to look at the document. We'll just take a  
19 minute to look at that if we could before we continue.

20 (Whereupon, there was a brief pause in the  
21 proceedings.)

22 Q. Doctor, you're familiar with those guidelines; correct?

23 A. Yes, guidelines.

24 Q. Now, you were asked by the District Attorney's office  
25 to discuss forensic interviewing in the context of

1 suggestibility; correct?

2 A. Yes.

3 Q. And forensic interviewing is interviewing a victim or  
4 an alleged victim of a child abuse situation in the context of  
5 child abuse; correct?

6 A. That would be an example of forensic interviewing, yes.

7 Q. And the validator work that you do is an example of  
8 that as well?

9 A. It's a subset of it, yes.

10 Q. And currently, doctor, you are a party to a lawsuit as  
11 you testified to; correct?

12 A. That's correct.

13 Q. And the other named parties in that lawsuit are the  
14 Administration for Children's Services; right?

15 A. Correct.

16 Q. The City of New York; correct?

17 A. Correct.

18 Q. And the Director of the Brooklyn Advocacy Center for  
19 New York State Child Advocacy Resource and Consultation;  
20 correct?

21 A. I don't think that's accurate, but there was somebody  
22 in the Child Advocacy Center who was named as part of the suit.  
23 It's possible -- since I'm not part of that suit, it's possible  
24 that suit -- the new person on the name is. I don't know.

25 Q. And in the lawsuit you indicated that certain parts --

1 certain of the claims, if you will, of the civil suit -- certain  
2 of the claims were dismissed in a motion to dismiss; correct?

3 A. That's correct.

4 Q. And the court ordered that; correct?

5 A. Correct.

6 Q. But some of the claims were not dismissed; isn't that  
7 correct?

8 A. That's correct.

9 Q. And one of the claims that was not dismissed against  
10 you is the allegation for malicious prosecution; isn't that  
11 right?

12 A. That's correct.

13 Q. And that allegation for malicious prosecution is an  
14 allegation of a violation of 42 U.S.C. 1983 and violations of  
15 the First, Fourth and Fourteenth Amendments of the U.S.  
16 Constitution; isn't that right?

17 A. I think that would be an interpretation that a lawyer  
18 would give. If a person was prosecuted with malice, yes, that  
19 would be the lawyer's terminology of an example that malice  
20 would violate.

21 Q. Well, you've seen the Complaint in the lawsuit, haven't  
22 you? It's been served on you, hasn't it?

23 A. Yes.

24 Q. And that's what's stated in the Complaint?

25 A. As I said, that's what a lawyer stated, yes.

1 Q. And, doctor, specifically in the Complaint it alleges  
2 that you interviewed the children using improper methodologies  
3 prior to issuing your report; isn't that fair to say?

4 A. That's what the allegation stated, yes.

5 Q. Now, doctor, you're also familiar with the fact that on  
6 November 8, 2010 --

7 MS. WALLACH: If I may, Your Honor, I have a copy  
8 for the Court as well.

9 (Whereupon, there was a brief pause in the  
10 proceedings.)

11 Q. Doctor, on November 8, 2010, the Family Court in Bronx  
12 County disposed of an entirely separate sexual abuse case in  
13 which you allegedly served as a validator; correct?

14 A. I believe that's correct, yes.

15 Q. And specifically the Bronx County Family Court credited  
16 the testimony of the defense's forensic expert over your opinion  
17 and found you did not follow accepted protocol for your  
18 methodologies; isn't that fair to say?

19 A. That was an individual decision, yes.

20 Q. And that the name of that -- well, withdrawn.

21 Now, that case was before Judge Gribetz; correct?

22 A. Yes.

23 Q. And in that case Judge Gribetz excluded your testimony  
24 regarding sexual abuse of a child because you had, one,  
25 conducted the evaluative interviews in the presence of the

1 child's mother; two, failed to investigate any family history;  
2 three, relied on hearsay statements; and, four, repeatedly asked  
3 the children leading questions. Isn't that what the judge  
4 found?

5 A. That's what the judge wrote, yes.

6 Q. Now, doctor, on your direct examination you also  
7 testified about blended memory; isn't that right?

8 A. Yes.

9 Q. You said many of the events may have blended together;  
10 isn't that right?

11 A. I said that's possible in a situation, yes.

12 Q. But isn't there really no such psychological term as  
13 blended memory that's generally accepted in your community?

14 A. I don't agree with that, no. I think the concept of  
15 blending is generally accepted.

16 Q. Isn't the correct term, though, script memory?

17 A. There are different terms of use in terms of discussion  
18 of memory.

19 Q. And you would agree with me that script memory is a  
20 term used for this type of situation; wouldn't you agree?

21 A. I don't know who authored that term. It's not a  
22 terminology that I personally ascribe to.

23 Q. Now, doctor, in the lawsuit that we talked about  
24 earlier, the one to which you are a party, you gave a  
25 deposition; isn't that fair to say?

## Dr. Lewittes - People - Cross

1 A. Yes.

2 Q. And the deposition is a testimonial setting not in a  
3 courtroom. You'd agree with that?

4 A. It's done under oath.

5 Q. That's right, it's done under oath.

6 A. Yes.

7 Q. With a court reporter; correct?

8 A. Yes.

9 Q. And in that deposition, doctor, you're asked various  
10 questions about not only the case but your particular opinions  
11 about the psychological issues in the case; isn't that fair to  
12 say?

13 A. It's quite possible, yes.

14 Q. Doctor, would you agree with me that in that deposition  
15 -- well, withdrawn.

16 Let me start by saying you would agree with me that  
17 it's possible for a child to demonstrate -- withdrawn.

18 You would agree with me that it's possible in certain  
19 circumstances that a rehearsed -- that it's possible in certain  
20 circumstances that a child that has been tutored would fool or  
21 trick or mimic others -- withdrawn. I'm going to rephrase the  
22 question.

23 Doctor, you would agree with me that it's possible in  
24 certain circumstances that are rehearsed a child who is  
25 themselves untruthful could appear to be consistent with

1 children who have been found to be reactive to being sexually  
2 abused and to be inaccurate correlation -- and that to be an  
3 inaccurate correlation? So let me rephrase the question so that  
4 I'm clear, because I'm stumbling and I apologize.

5 Doctor, you would agree with me that in certain  
6 circumstances that it's possible that a -- that certain  
7 circumstances that are rehearsed, a child who is themselves  
8 untruthful could appear to be consistent with the children who  
9 have been found to be reactive to being sexually abused and that  
10 that child have an inaccurate correlation; would you agree with  
11 me on that?

12 A. It's possible, yes.

13 Q. And, doctor, you've also -- you've also had experience  
14 where children in an interview situation would recant their  
15 story; isn't that fair to say?

16 A. Yes.

17 Q. And you've had that experience as a validator; correct?

18 A. Yes.

19 Q. You've also had that experience in your clinical  
20 practice; correct?

21 A. Yes.

22 MS. WALLACH: Just a moment, Your Honor.

23 (Whereupon, there was a brief pause in the  
24 proceedings.)

25 MS. WALLACH: I have nothing further.

## Dr. Lewittes - People - Redirect

1 THE COURT: Any redirect, Miss Johnson?

2 MS. JOHNSON: Thank you, Judge.

3 REDIRECT EXAMINATION

4 BY MS. JOHNSON:

5 Q. Doctor, would you please describe the differences, if  
6 any, between Child Sexual Abuse Accommodation Syndrome and the  
7 syndrome you discussed here today?

8 A. The accommodation syndrome, which was coined by Dr.  
9 Roland Summit, who was an individual, independent psychiatrist  
10 out on the west coast back in the '80s, he felt in his review of  
11 the literature and professional experience that it was common  
12 that children recanted, that is, took back their initial  
13 allegations that they had been sexually abused. And so when he  
14 published his treatise, the accommodation syndrome, he stated  
15 that because it was common he put it as one of the stages;  
16 that's children often, he said, recant or take back.

17 Research afterwards showed that it's not, quote,  
18 unquote, common if you used the statistic of 51 percent being  
19 common. Rather, it's more along the lines of, let's say,  
20 25 percent by research. So, in other words, he overstated, if  
21 you will, the percentage of the children who you would assume  
22 may recant in a given family situation, meaning that most cases  
23 children don't take it back. In most cases, once they've made  
24 an allegation, they don't typically take it back.

25 That research after his initial statement is such that

1 in the Sgroi model, although recantation is discussed, it's not  
2 discussed as one of the main stages. That's the primary  
3 difference between the two and that's why we don't use the  
4 accommodation syndrome, some of us; although in the New York  
5 State courts of law, as of 2014, it's still accepted.

6 MS. WALLACH: Objection.

7 THE COURT: Overruled. Next question, please,  
8 Miss Johnson.

9 Q. The syndrome that you've discussed today, what is that  
10 syndrome based upon?

11 A. It's based initially upon the research and the  
12 experience of the author, but subsequent to that there have been  
13 hundreds of studies done that basically continue to elaborate on  
14 it in terms of the issue of how children process the trauma of  
15 being sexually abused in a family setting.

16 Q. Counsel referenced an article regarding abuse of the  
17 Child Sexual Abuse Accommodation Syndrome by Rowland Summit and  
18 referenced some quotations from that article.

19 A. Yes.

20 Q. What was the general nature of that particular article?

21 A. The article that he wrote ten years after the initial  
22 article said that people had taken his clinical article and had  
23 used it primarily in the family court system as a way of  
24 diagnosing children, and he felt that that was inaccurate and  
25 inappropriate; that's not what he meant it to be used for.

1           So the article that he wrote about ten years later  
2       stated that he didn't want people to not understand what he was  
3       talking about and to use it as a diagnostic tool was inaccurate,  
4       and that's what he was saying in the article is that there are  
5       people who are misusing his syndrome and he wanted to make  
6       himself clear on the matter of what he thought was and wasn't  
7       the appropriate use of that syndrome.

8           Q.    The intrafamilial sexual abuse syndrome that you've  
9       discussed here today, is that a diagnosis tool?

10          A.    No, it's not.

11          Q.    What is it really used for?

12          A.    It's used as an explanatory concept when there has been  
13       an independent establishment that the child has been sexually  
14       abused. It's not used to determine if a child has been sexually  
15       abused.

16          Q.    When looking at behaviors of particular children, is it  
17       a reference tool to look at certain behaviors children may  
18       exhibit when they are sexually abused?

19          A.    That is correct.

20          Q.    Counsel asked you about syndromes. Is the DSM -- can  
21       you talk to us about what that is, the DSM?

22          A.    The Diagnostic and Statical Manual is the manual where  
23       all psychiatric diagnoses are basically published, and it's  
24       associated with the international code. The DSM-V does not  
25       allow any syndromes to be used because they are not diagnostic

1 in nature, so that there are no syndromes published in the DSM-V  
2 of any kind; battered woman, etcetera, or rape trauma.

3 However, there are delineations of effects of specific  
4 stressors, such as rape and sexual abuse are considered highly  
5 stressful events and there are diagnostic categories, and there  
6 are also discussions of what typically may occur, which is that  
7 posttraumatic stress disorder, PTSD, may be a significant  
8 correlation for a child or an adult who has been, for example,  
9 sexually abused in a traumatic way.

10 Q. When can purposeful disclosure become accidental?

11 A. If you're talking about a multiple progression of  
12 people who have heard that the child has been allegedly sexually  
13 abused, initially the child may have told somebody, such as a  
14 friend; but then they may not have necessarily told an authority  
15 figure, like a parent, and that the parent has only stumbled  
16 across it. So that could --

17 MS. WALLACH: Objection.

18 THE COURT: Overruled. You may continue, doctor.

19 A. So that if a parent, for example, read an e-mail, then  
20 they would then potentially question a child about it. In that  
21 second step, the second person who is aware of the allegation,  
22 that would be an accidental disclosure because the child did not  
23 tell the parent directly. But the e-mail from the child to a  
24 peer would be a direct or purposeful disclosure. So it's sort  
25 of like a complex equation as opposed to a simple one.

1 Q. What is compartmentalization?

2 A. Compartmentalization is just a mental term in terms of  
3 the way children organize their thoughts in terms of being able  
4 to differentiate different times or people or places; and so  
5 compartmentalization is often a coping mechanism for a child to  
6 be able to focus and function, especially when they have had a  
7 trauma. So it's sort of like putting something in a box and  
8 putting the box on a shelf in the closet as a compartment.

9 Q. From the research and from your experience in your  
10 professional practice, is it possible for children to experience  
11 smiling and emotion even though they have been sexually abused?

12 A. Yes. In my professional experience, it's quite  
13 possible that in talking about it, especially in a situation  
14 that's not comfortable for them, that nervous smiling has been  
15 identified by many people, yes.

16 Q. Doctor, would you please discuss the difference between  
17 acting as a validator and acting as a forensic interviewer in --  
18 strike that -- if you would describe the difference.

19 A. Well, a validator is only specific to the State of New  
20 York and it's only specific having to do with a family court  
21 matter. Forensic interviewing could include, for example,  
22 children who are seen at the advocacy center where they are  
23 basically seen by a team; where a detective would typically be  
24 there, the district attorney.

25 So investigative forensic interviewing would actually

1 be a much different issue, because that would be at a stage  
2 where typically a child is first having contact made with the  
3 authorities, and those circumstances are particularly important  
4 that what the information that's garnered is such that it's not  
5 tainted.

6           Whereas a validation in a family court, the child has  
7 already made statements and it's not investigatory at all. It  
8 has to do with adjudication. It has to do with the family court  
9 which is in a finding. So there are different times when people  
10 would talk to a child for allegations of sexual abuse, but  
11 investigatory usually is the initial time and a validation is  
12 much further down in a time line in terms of if a petition was  
13 filed against the family member.

14           Q. With regard to the matter D.M. that counsel referenced  
15 in 2010 --

16           A. Yes.

17           Q. -- the decision that criticized the validation that  
18 took place in that particular case --

19           A. Yes.

20           Q. -- why did you allow the mother -- well, first of all,  
21 from your professional experience, your research and the  
22 literature, did you make a determination to bring the mother  
23 into the interview with the child in that case?

24           A. In that case -- I believe it was a grandmother -- but  
25 yes. The grandmother -- the child was Spanish speaking and some

1 of the issues had to do with language. She had been the person  
2 who stated that she received the initial allegation and so,  
3 therefore, I thought it was helpful to observe what the child  
4 would say in her presence to rule out, actually, whether or not  
5 she had been the one who made suggestions to the child.

6 There are different people have different opinions  
7 about whether or not any parent figure should ever be included  
8 in. The literature is complex. As I said, it's changed over  
9 time. Different people have different attitudes. The judge in  
10 that matter decided that he didn't think the grandmother should  
11 be included, even though the interview was taped. And the  
12 reason he knew what happened was everything was taped. So it  
13 wasn't like I did it outside of everybody's knowledge. I did it  
14 and had it all taped. That was his opinion after the fact.

15 Q. Did you make an actual decision based upon your  
16 research and based upon the literature to include the  
17 grandmother in a portion of that taped interview?

18 A. Yes. After the child had recanted, I made the decision  
19 that the guidelines were such that there are certain cases when  
20 a parent figure is allowed. It's not always allowed. So that  
21 was my determination and, as I said, the judge differed.

22 Q. In that case, did you investigate any family background  
23 pertaining to the child?

24 A. Absolutely, I did, yes.

25 Q. Dr. Lewittes, in approximately how many cases have you

1 acted as a validator?

2 A. Approximately -- over the last 10 to 15 years,  
3 approximately 75 cases.

4 Q. To your knowledge, has any other case ever been written  
5 up where your technique has been questioned?

6 A. No. To the contrary, there are publications of judges  
7 where they basically cited me and stated positive things. So  
8 there's no other case that I've ever been cited for in my  
9 knowledge.

10 Q. In the field of validation, are there any honors that  
11 can be received?

12 A. Not that I know of, other than a judge citing you in a  
13 publication.

14 Q. Have you ever at any time been contracted as a  
15 validator?

16 A. Yes.

17 Q. Where and during what time period?

18 A. I was contracted by the Agency for Children's Service  
19 in the City of New York from approximately 2000 to approximately  
20 2012.

21 Q. Was the case matter of D.M. in 2010?

22 A. Yes.

23 Q. Were you kept as a contracted employee or did you  
24 reapply and you were accepted?

25 A. No, I was kept on as a contract employee.

## Dr. Lewittes - People - Redirect

1 Q. You continued to do validations?

2 A. Yes. There are definitely times when a judge in an  
3 individual case may not credit the validator or, you know, not  
4 necessarily be supportive of an individual case. It's not  
5 unheard of, by any stretch of the imagination.

6 Q. Dr. Lewittes, what is experiential learning versus  
7 modeling?

8 MS. WALLACH: Objection.

9 THE COURT: Sustained.

10 Q. Doctor, with regard to the literature and research,  
11 does such discuss false allegations by children?

12 A. Excuse me, does --

13 Q. I'll rephrase the question.

14 Does the literature and research regarding child sexual  
15 abuse allegations address the topic of false allegations?

16 A. Yes.

17 Q. Counsel referenced an article and research by Everson  
18 and Boat, a study. What is the significance of that study?

19 A. Well, although it's an old study, what it said is  
20 basically approximately 93 percent of all allegations that  
21 children had made were found to be truthful. That's group data.  
22 It's not an individual case in front of a judge but in terms  
23 of -- that was a massive study of all the studies that they  
24 reviewed. In cases where children had made allegations,  
25 approximately 92 to 93 percent of the children were found to

1 have made allegations which were adjudicated as being truthful;  
2 different ways of finding that out.

3 Approximately three or four percent of the cases --  
4 younger children primarily, often in divorce case -- there were  
5 cases found where the children had not made accurate or not made  
6 valid allegations. That's the significance, for whatever one  
7 wants to make of it.

8 Q. With regard to how the literature discusses these false  
9 allegations, is there any research pertaining to reasons why  
10 children lie pertaining to sexual abuse allegations  
11 specifically?

12 A. Yes.

13 Q. Would you please discuss those.

14 A. The majority of cases in the literature are seen as  
15 cases where there are divorce and custody issues where the  
16 children are used as pawns by one party or the other to make a  
17 false allegation, and children in those situations are typically  
18 below the age of six, sometimes younger; meaning that they are  
19 young children and that they often are more suggestible and that  
20 the outcome is inherent in a family about one person being  
21 against another and children are making very global, nonspecific  
22 allegations. That's the major finding of false allegations in  
23 family settings.

24 Other than that, there are times when children are  
25 intellectually impaired. They don't understand the nature of

1     what is being told to them in terms of what is a good touch.  
2     But primarily it's a matter of the custody issues where the  
3     majority of all cases have occurred.

4           Q.    Does the literature and research in your field address  
5     within the issue of false allegations the concept of dialogue?

6           A.    The concept of dialogue?

7           Q.    And scripting.

8           A.    Oh, scripting? Yes, scripting -- scripting, in my  
9     terminology, is not a concept of memory. Scripting means that  
10    if a child has rehearsed with a script what they are supposed to  
11    say happened to them, then that's associated typically with a  
12    pattern of false allegation; meaning that you would be reading  
13    from a written script or scripted in your mind because it never  
14    happened so, therefore, you have to follow the script when  
15    you're making the allegations. So it's scripted in the sense  
16    that it's a false suggestion, either written or orally made to a  
17    child. But it doesn't have anything to do, for example, with  
18    the blending of multiple events.

19          Q.    Dr. Lewittes, does the research and literature speak to  
20    the ease that children have in addressing false allegations  
21    through scripting?

22          A.    Yes.

23          Q.    Could you please discuss that.

24          A.    It's considered extremely difficult for a child to be  
25    able to rehearse and then repeat reliably, meaning to multiple

## Dr. Lewittes - People - Redirect

1 people over time or to do it in a sense in a session where they  
2 know at an age the difference between right and wrong; and also  
3 in terms of the issue of consequences, meaning that once a child  
4 reaches a certain age, they certainly would have their own  
5 opinions but also understand the differences about if indeed  
6 somebody told them to say something that was false, or they  
7 themselves said something that was false, they understand the  
8 consequences of behavior.

9           So at a certain age they realize that it's not for fun  
10 but it's for real. And that if they are going to say something  
11 about somebody that's not accurate and that person -- would have  
12 negative consequences for that person, obviously children who  
13 have a moral development would certainly have difficulty in  
14 scripting in that they would just blindly repeat what somebody  
15 else had told them, even though they knew that what they were  
16 repeating and stating was not only false but also had negative  
17 consequences for somebody who was important to them.

18           So those are the issues that had come up in terms of  
19 moral development and rehearsed statements and a child's own  
20 experiences versus what somebody told them to say about what  
21 they actually experienced in life.

22           Q. Doctor, between approximately what ages does that type  
23 of moral development occur in children?

24           A. By the time a child is five or six they usually  
25 understand -- by seven or eight they certainly do understand the

1 moral issues of the outcome and the effects of behavior.

2 Certainly by adolescence we expect a person to have a full moral  
3 code of ethics; although, again, adults it may be a different  
4 issue.

5 For some people, even in adolescence they have less of  
6 a conscience, if you will, and only as they get older sometimes  
7 people develop more of an internalized moral code. It means  
8 breaking the law, so to speak, for issues such as drugs and  
9 alcohol.

10 Q. Doctor, is Intrafamilial Sexual Abuse Syndrome accepted  
11 within your scientific community?

12 A. Yes, it is.

13 Q. And is it referenced by other doctors within your  
14 community?

15 A. Yes.

16 Q. And is it still used as a reference tool by other  
17 doctors in your community?

18 A. Absolutely.

19 MS. JOHNSON: No further questions, Your Honor.

20 THE COURT: Any recross, Miss Wallach?

21 MS. WALLACH: Yes, Your Honor.

22 RECROSS-EXAMINATION

23 BY MS. WALLACH:

24 Q. Doctor, Dr. Sgroi's book on Intrafamilial Sexual Abuse,  
25 that was published over 30 years ago; correct?

1           A.    The initial publication, yes; that's correct.

2           Q.    And I understand you testified that there have been  
3 studies since then, but there have been no diagnostic studies  
4 done since then; is that fair to say?

5           A.    Well, there are many diagnostic studies done, but not  
6 using the syndrome as the diagnostic tool; that's correct. It  
7 never was a diagnostic tool.

8           Q.    Now, doctor, you indicated that there was a different  
9 -- or I guess the district attorney asked you about being a  
10 validator versus being a forensic interviewer.

11          A.    Yes.

12          Q.    But you use forensic interviewing skills as a  
13 validator; don't you?

14          A.    The skills may be similar, but, as I said, the context  
15 of what is going to be asked is different. If one is doing it  
16 with law enforcement at the initial stage, the first time the  
17 child has ever told somebody is different is what I said.

18          Q.    Excuse me, doctor. My question is just if the skills  
19 used were the same?

20          A.    I said there differences and there are also  
21 similarities.

22          Q.    Okay. And you indicated that other than the matter of  
23 D.M., the 75 cases as validator you have never had your  
24 validations questioned; right?

25          A.    Correct.

## Dr. Lewittes - People - Redirect

1 Q. Except for the current lawsuit; isn't that correct?

2 A. No, my validation was never questioned in the current  
3 lawsuit. The current lawsuit is not a personal lawsuit. It's a  
4 lawsuit about a prosecution. And the issue that I'm involved in  
5 has to do with a mother being served with an Order of  
6 Protection. The judge threw out everything about my work having  
7 to do with the respondent in that matter. That was the part  
8 that was thrown out.

9 Q. Doctor, you're a named party; right? Your name?

10 A. I'm named to what is remaining.

11 Q. I'm asking if you're a named party in the remaining  
12 lawsuit.

13 A. Yes, I am; that's correct.

14 Q. And the lawsuit is for malicious prosecution; correct?  
15 That's one the claims?

16 A. That's correct.

17 Q. And the reason you are named is because you were a  
18 validator within the underlying case; correct?

19 A. That was the role I was in; that's correct.

20 Q. Now, doctor, you indicated that the literature says  
21 that there is -- there are about 93 percent of the time there  
22 are not false allegations; correct?

23 A. I was just quoting the study that you presented to me;  
24 that's correct. I was restating what you said, yes.

25 Q. Absolutely. So seven percent of time there are false

## Dr. Lewittes - People - Redirect

1       allegations; fair to say? Based on that study?

2           A.    I think it was between six and seven percent, yes, in  
3       that study; that's correct.

4           Q.    Now, the district attorney asked you about  
5       intrafamilial child abuse syndrome and if it was generally  
6       accepted in your scientific community; correct?

7           A.    Yes.

8           Q.    But you would agree with me that there is also a  
9       scientific community that completely rejects it; isn't that fair  
10      to say?

11          A.    Not that I am aware of, not the model that follows from  
12      Dr. Sgroi. I am not aware of any scientific community.

13          Q.    So you are not aware of Dr. John Uhl, for example, who  
14      rejects the syndrome outright?

15          A.    No. Dr. Uhl, in my knowledge -- first of all, he's not  
16      an American authority; and, number two, he talked about the  
17      accommodation syndrome, which is Dr. Summit's syndrome. I don't  
18      know that he's talked about Dr. Sgroi's syndrome, and if he has,  
19      so be it. He's an individual professor in Canada.

20          Q.    That's right, doctor. He's a professor in Canada and  
21      he specializes in child abuse; doesn't he?

22          A.    He's not a clinician, and I don't know what he  
23      specializes these days. He does not come to New York State and  
24      testify in courts, as far as I know.

25          Q.    As far as you know, doctor; right? As far as you know?

## Dr. Lewittes - People - Redirect

1 A. Right.

2 MS. JOHNSON: Objection, Your Honor.

3 THE COURT: Overruled. Next question, please.

4 Q. Now, doctor, just bear with me for a second. I'm  
5 sorry.

6 THE COURT: Of course.

7 (Whereupon, there was a brief pause in the  
8 proceedings.)

9 Q. You're also familiar with Dr. Maggie Bruck; aren't you?

10 A. I've seen her work. Yes, she was a student with Dr.  
11 Ceci at Cornell.

12 Q. Yes. And she specializes in child and adolescent  
13 psychology; correct?

14 A. I believe so, yes.

15 Q. And Dr. Bruck doesn't support the intrafamilial child  
16 abuse syndrome, does she?

17 A. No. She, again, has only --

18 Q. I asked the question --

19 A. The answer is no.

20 THE COURT: Excuse me, everyone. First, Dr.  
21 Lewittes, if a question is put to you that requires a yes  
22 or no answer, please answer just yes or no, and if you  
23 cannot, just tell me.

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: Thank you. Second, please don't

## Dr. Lewittes - People - Redirect

1           argue with the witness.

2                   MS. WALLACH:    I apologize, Your Honor.

3                   THE COURT:    That's quite all right.  And you may  
4           inquire.

5                   MS. WALLACH:    Thank you, Judge.

6           Q.    And, doctor, as you testified on direct examination,  
7    five of the seven behaviors identified in child abuse  
8    accommodation syndrome are those that were adopted by Dr. Sgroi  
9    in her intrafamilial accommodation syndrome; correct?

10          A.    No.

11          Q.    Well, five of the seven listed behaviors are in her  
12   syndrome; aren't there?

13          A.    There are a number of commonalities.

14          Q.    A number of commonalities.

15                   MS. WALLACH:    I have nothing further.  Thank you.

16                   THE COURT:    Anything else, Miss Johnson?

17                   MS. JOHNSON:    No, Judge.

18                   THE COURT:    Thank you, doctor.  You're excused.

19                   THE WITNESS:   Thank you.

20                           (Whereupon, the witness is excused and exits the  
21   courtroom.)

22                   THE COURT:    Ladies and gentlemen, we are going to  
23   break for lunch now.  Just one minute, I'll see counsel at  
24   sidebar before you leave.

25                           (Whereupon, there is a discussion held off the

## Dr. Lewittes - People - Redirect

1 record, at the side bar, among the Court, Ms. Wallach and  
2 Assistant District Attorney Johnson.)

3 THE COURT: And I'll see you all at 2:15. Have a  
4 good lunch.

5 (Whereupon, the jury exits the courtroom.)

6 THE COURT: Let the record reflect the entire  
7 panel of sworn jurors has exited the courtroom. Because we  
8 are a little bit late, counselors, in breaking, that's why  
9 I told the jury to be back at 2:15, but I would like to see  
10 counsel at two o'clock. We won't have a reporter at that  
11 moment but we will hopefully be able to do a lot off the  
12 record. Thank you.

13 MS. WALLACH: Thank you, Judge.

14 MS. JOHNSON: Thank you, Judge.

15 (Whereupon, there is a luncheon recess taken and  
16 the case is adjourned to 2:15 p.m.)

17

18

19

20

21

22

23

24

25