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APPEARANCES

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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1 (The following record was made in open court on April 2, 2019, in
2 the presence of all parties, counsel, and in the presence and
3 hearing of the jury.)

4 THE COURT: Good morning, ladies and gentlemen. I
5 remind you, you have now heard all the evidence in this case, and
6 the two important parts of the trial to be completed, before it's
7 given to you for your deliberations and verdict, are the closing
8 arguments by each side.

9 Counsel will now make closing arguments. I again remind you
10 that what the lawyers say is not evidence, but is intended to
11 assist you in recalling the evidence and to suggest what you
12 might conclude from the evidence if you interpret the evidence in
13 the same way. You are not bound by what the lawyers say. It is
14 your recollections and inferences that will control. Because the
15 government has the burden of proof, it has the right to both open
16 and close the closing arguments.

17 Counsel.

18 MS. MAXFIELD-GREEN: The tiger king; that's how
19 Mr. Passage marketed himself, and that's how he has lived his
20 life. Mr. Passage built his own kingdom, the GW Exotic Animal
21 Park. He started with a couple of animals and a tract of land in
22 Wynnewood, Oklahoma, and he grew it into an attraction with
23 hundreds of animals, quite possibly the largest population of big
24 cats in captivity in the United States.

25 He owned the zoo. He operated the zoo. He lived at the

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1 zoo. He gave the tours. He hired and fired the employees. It
2 was Mr. Passage's face on the zoo billboards and the zoo
3 merchandise, everything from T-shirts to underwear.

4 He took a -- undertook a massive social media presence on
5 Facebook and Youtube, with Joe Exotic TV and Joe Gone Wild shows,
6 with hundreds of videos starring Mr. Passage, of course. As far
7 as the employees and the public were concerned, Mr. Passage was
8 the king of the GW Exotic Animal Park.

9 Mr. Passage also made himself king over the animals at the
10 zoo. He handled the tigers and lions like domestic pets. At
11 some point he decided not just to exhibit the big cats, but to
12 breed them. After all, he needed a constant supply of cubs for
13 play times. The opportunity to make \$50 every eight minutes was
14 too good to pass up. So he bred his tigers, and he bred his
15 lions, and he removed the cubs from their mothers at birth and
16 bottle raised them so that they would be used to human handling.

17 And he was, in fact, successful. He produced 40 to 50 cubs
18 a year. It became well known in exotic animal circles that, if
19 you needed a tiger cub or a lion cub, you could buy one from
20 Mr. Passage. And it appears that in 20 years of handling lions
21 and tigers, he never sustained a serious injury. He was the
22 tiger king.

23 But here's the problem with kings, they get used to making
24 all the rules and they start to believe that they are above the
25 law. And that's how Mr. Passage came to think of himself. At

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1 some point he came to believe that he didn't have to comply with
2 the federal laws governing endangered species and wildlife in
3 general.

4 Now, during Mr. Passage's testimony, he gave you his opinion
5 about what the Endangered Species Act says, or what he wants it
6 to say or what the Trump administration is going to change it to
7 say. But Mr. Passage's opinions on the Endangered Species Act
8 are totally irrelevant. The judge has given instructions, No.
9 20, 21 and 22, on what the ESA actually says. It says that
10 unless you have specific permission from the U.S. Fish & Wildlife
11 Service, you can't sell tigers and you can't offer them for sale.
12 It says you can't kill tigers anywhere in the United States.
13 There is no exception for animals in captivity.

14 It's true that the protections of the ESA were not fully
15 applied to generic tigers until May of 2016. You will notice
16 that all of the ESA violations charged by the government occurred
17 after that date.

18 Let's talk about Count 8. You heard the testimony of John
19 Finlay -- back up to Count 8. Sorry.

20 You heard the testimony of Darlene Cervantes and saw her
21 text message exchange with Mr. Passage. That's at Exhibit 21.
22 On October 30th, 2017, when she was living in Indiana,
23 Mr. Passage offered to sell her two of his five-month-old male
24 tiger cubs for a thousand dollars, a sale across state lines that
25 violated the Endangered Species Act.

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1 Mr. Passage testified both that it wasn't him communicating
2 with Ms. Cervantes, and even if it was him, he just told her a
3 thousand dollars to get her to go away because he doesn't sell
4 tigers. Read Exhibit 21 again, see what you think. And ask
5 yourselves, why didn't Mr. Passage just tell people it's illegal
6 to sell tigers to end that conversation? Does it make sense that
7 he would tell people a price?

8 Let's talk about Counts 9, 10 and 11. You heard the
9 testimony of John Finlay. At Mr. Passage's direction, he drove
10 these tiger cubs across state lines and dropped them off at zoos
11 in Illinois and Indiana. You saw the transfer forms, Exhibits 7,
12 8 and 9. And even though those forms showed the animals were
13 donated, Mr. Finlay told you that wasn't true. That he collected
14 envelopes of cash for the animals, always more than \$350, and he
15 took the cash directly back to Mr. Passage, not back to Mr. Lowe.
16 That violated the Endangered Species Act. Why did the transfer
17 forms say donate? Because it's not illegal to donate tigers
18 across state lines, it's only illegal to sell them.

19 Let's talk about Counts 3 through 7 of the indictment. You
20 heard testimony from Eric Cowie and Dylan West about how in
21 October 2017 Mr. Passage shot five tigers with a .410 shotgun.
22 These are the same tigers that Dylan West told you he buried in
23 the back property of the zoo, the same tigers that Special Agent
24 James Markley told you that the U.S. Fish & Wildlife Service dug
25 up last fall.

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1 The skulls were examined by Dr. Tabitha Viner, who testified
2 that those tigers had been shot in the head. Mr. Passage
3 admitted that he shot these tigers with a .410 shotgun, and
4 Mr. Passage has admitted that the DNA of these animals showed
5 that they were tigers. They were adult tigers, and there was
6 nothing wrong with them. Dylan West and Eric Cowie, who knew
7 those cats, told you that.

8 Dr. Tabitha Viner is a forensic veterinary pathologist with
9 years of experience examining precisely this kind of evidence.
10 She examined their skulls and teeth and told you that, in her
11 opinion, they were middle-aged and in normal health.

12 Dr. Joanne Green, the zoo's veterinarian, told you she
13 didn't authorize Mr. Passage to shoot those animals and that
14 Mr. Passage was only authorized to shoot animals when there was
15 an extreme emergency. As Mr. Cowie and Mr. West told you,
16 Mr. Passage shot them because he couldn't use them to make money.
17 They were too big for play times and they weren't producing cubs.
18 And his cages were at capacity; he needed to make room for cats
19 that would make him money.

20 He needed space for Trey Key's cats from the Merryweather
21 service -- Merryweather Circus. He needed that \$5,000 that Trey
22 Key donated each year when he dropped off the animals. So Mr.
23 Passage shot these five tigers, which was consistent with what he
24 told James Garretson in a recorded conversation you heard at
25 Exhibit 50. When James asked him how to get rid of a tiger that

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1 he had, Mr. Passage said, "Just off him and say they died." This
2 violated the Endangered Species Act.

3 You have also been instructed that it's a federal crime to
4 make false records concerning the sale of any wildlife, not just
5 endangered species, but any wildlife with a market value greater
6 than \$350 that is transported in interstate commerce.

7 Mr. Passage ignored that law too because it didn't suit his
8 status as the tiger king.

9 Mr. Passage was breeding new animals all the time. He had
10 them to spare, and he had a reputation to uphold as a breeder.
11 He was going to illegally sell tigers and lions across state
12 lines if he wanted to. And the way to hide that fact was to
13 falsify the records that he and the other USDA license holders
14 were required to keep. He simply wrote, or directed someone else
15 to write, "donate" on the transfer forms because donations of
16 endangered species across state lines aren't illegal.

17 But we know that these weren't donations. You heard a
18 recording of Mr. Passage bragging to James Garretson about how he
19 would falsify the documents to hide the births and sales of tiger
20 cubs. In Exhibit 55 he instructs Mr. Garretson that, if he wants
21 some tiger cubs, he can just say his tigers gave birth to them
22 and date the transfer forms however he wants. Mr. Passage says,
23 "That's my secret. Why are they on the Endangered Species Act?
24 Because nobody can track them."

25 Yesterday you saw a recording of Mr. Passage from May

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1 of 2018, explaining how he falsified his cub book and the
2 transfer forms so there won't be a trail, paper trail, of the
3 sale of an orange tiger cub to Robert Engesser for \$2,000.

4 Let's talk about Count 12 and Counts 15 through 20 of the
5 indictment. Again, you heard the testimony of John Finlay about
6 these lions and tigers. Mr. Finlay told you that at
7 Mr. Passage's direction he drove those animals across state
8 lines, dropped them off at zoos in Illinois, Indiana, Wisconsin
9 and Missouri, he collected envelopes of cash, and he took the
10 cash directly back to Mr. Passage, not directly back to Mr. Lowe.
11 He told you that he always collected more than \$350 for these
12 animals. And you'll note that Count 12 is the same sale as Count
13 9, and Count 16 is the same sale as Count 10, and Count 17 is the
14 same sale as Count 11. And they're charged this way because
15 these transactions were illegal for two reasons, because they
16 involved false documents and because sales of tigers are illegal
17 under the Endangered Species Act.

18 Now, with regard to Count 20, Marsha David told you that she
19 went along for the trip with John Finlay to deliver those lions
20 and that she counted the cash in the envelope. There was \$5,000.
21 With regard to Count 18, the only certificate of veterinary
22 inspection, Dr. Green testified that the information on those
23 forms had to come from Mr. Passage himself or one of his staff.

24 And if you have any question in your mind about the value of
25 these lions and tigers, all you have to do is look at

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1 Mr. Passage's own valuation of the animals; look at Exhibit 139.
2 The inventory of animals that Leesa Sparks told you she had
3 copied from Mr. Passage's handwritten notes from jail. He wasn't
4 thinking about the ESA or the Lacey Act then. He was trying to
5 prove to a Garvin County judge that Jeff Lowe had stolen valuable
6 property from him, and he wrote down the values for pages and
7 pages of tigers and lions.

8 We know these were sales of these animals directed by
9 Mr. Passage and that he got the money. And the transfer forms
10 say donate, and the CVI says for exhibition. Mr. Passage put
11 that on the forms to hide the sales. And when he directed false
12 information to be written on forms that were required for USDA
13 inspection, Mr. Passage violated the Lacey Act.

14 And finally, the false document that's -- that is the
15 subject of Count 21, the falsified transfer form for a lemur
16 which showed a lemur was transferred from Mr. Passage himself to
17 Mr. Garretson's wife. James Garretson told you his wife wanted a
18 lemur and that Mr. Passage arranged for him to buy a lemur from
19 Omar in Texas, and that when the lemur arrived in Oklahoma, he
20 paid \$1,500 for it.

21 You saw actual video of Mr. Passage creating and falsifying
22 that form. You heard him ask the sex of the lemur; ask him
23 whether Mr. Garretson wanted it made out to Ringling Animal Care,
24 his wife's entity; asking whether Mr. Garretson wanted him to
25 backdate it about a month. Why did Mr. Passage create this form?

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1 To hide the fact that buying and selling lemurs -- which are
2 endangered species -- across state lines is illegal under the
3 ESA.

4 You have heard all the evidence you need to find Mr. Passage
5 guilty of Counts 3 through 12 and 15 through 20 because the fact
6 is that Mr. Passage was not above the federal wildlife laws. As
7 it turns out, the GW Exotic Animal Park was not a kingdom. It
8 was a zoo in the United States of America, and it was built by
9 capitalizing off of animals that are valued and protected by
10 specific federal statutes. And in the United States of America,
11 you can own endangered species, you can breed endangered species,
12 you can own and operate a private zoo that charges the public for
13 admission, you can charge people to pet tiger cubs, but, if
14 you're going to do all of that, you're required to follow the
15 laws that Congress has enacted to make sure that the individual
16 animals and the species as a whole are protected. Mr. Passage
17 didn't do that, and it's your duty to enforce those laws.

18 Now, another quality of kings is that they defend the
19 kingdom, oftentimes at all costs. And starting in about 2010,
20 Mr. Passage believed that his kingdom, the GW Exotic Animal Park,
21 was under attack. In 2010 Mr. Passage was building his business
22 and his reputation. He had the zoo in Wynnewood going and he was
23 also traveling the country to malls and fairs with his magic show
24 and cub-petting business.

25 As she told you, this is a practice that Carole Baskin was

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1 and is deeply opposed to. She believes that exploiting tiger and
2 lion cubs with human handling is not only inhumane to that cub,
3 but also that it leads to the further inhumane treatment of adult
4 tigers and to the illegal trafficking of tigers. And as we have
5 just discussed, in the case of Mr. Passage, she was correct.

6 When Ms. Baskin became aware of Mr. Passage, she began her
7 activism against him, as she had against others in the industry.
8 She contacted the malls that were booking his shows and urged
9 them to cancel. She organized protests. She posted on the
10 Internet asking for regulators or the public to shut him down.

11 As Mr. Passage viewed it, this was Ms. Baskin's first attack
12 on his kingdom. So he fired back. He criticized Ms. Baskin's
13 animal sanctuary, Big Cat Rescue, in Tampa, Florida. He posted
14 some threatening things on social media.

15 When Ms. Baskin's criticisms didn't let up, Mr. Passage
16 increased his firepower. He started using the name Big Cat
17 Rescue Entertainment and her logo, and even Florida phone numbers
18 to market his own cub-petting shows. And that's pretty clever,
19 right? Use your enemy's name to advertise the very thing that
20 they oppose most.

21 Mr. Passage testified yesterday it was a way to pay her back
22 for sending emails to the malls about him. And he also used
23 photographs from her website to, what he said, "give her a taste
24 of her own medicine." But this was another instance in which
25 Mr. Passage thought he was above the law. He believed that he

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1 could violate federal trademark and copyright laws without any
2 consequences.

3 But in 2012 -- in 2011 and 2012 Ms. Baskin responded to
4 Mr. Passage's clever marketing with three civil lawsuits against
5 him and the zoo, a fresh attack. And in 2013, not only did
6 Ms. Baskin win the lawsuits, she won a more than \$1 million
7 judgment against Mr. Passage and she set about using the civil
8 legal system to collect that judgment, another attack.

9 In fact, this became an ongoing campaign that could
10 financially destroy the zoo between the judgment itself and the
11 legal fees. It was a campaign that threatened to snap up every
12 asset Mr. Passage had and every dollar he had made or would make.
13 Now he wasn't hiding animal sales as donations just to evade the
14 federal wildlife laws, he was also hiding them so that Ms. Baskin
15 couldn't latch onto the money he received from selling the
16 animals.

17 So Mr. Passage attacked back with his mouth. He talked to
18 everyone around him about his hate for Ms. Baskin. He developed
19 a multi-front war against her on social media. Facebook,
20 Youtube, whole Joe Exotic TV shows dedicated to airing his
21 vitriol against Ms. Baskin, humiliating remarks about Ms. Baskin,
22 violent remarks about Ms. Baskin, direct threats. He rallied his
23 followers to hate her.

24 And Mr. Passage says he's a showman and this was all for
25 show, to get clicks and shares on social media, and that having a

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1 big mouth isn't a crime. That may be true. It's possible that
2 Mr. Passage could have continued to just run his mouth about
3 Ms. Baskin, even threatening to harm her, without ever committing
4 a federal crime. But we aren't here today because of what
5 Mr. Passage said online. We're here today because of what he
6 said when he thought no one was listening, because at some point
7 Mr. Passage wasn't just running his mouth. He decided to put his
8 money where his mouth was.

9 By 2017 Mr. Passage's kingdom was still under attack and he
10 was losing. Carole Baskin's money judgment was nowhere close to
11 paid off. He had tried various ways of maneuvering the zoo out
12 from under the judgment, new entities, bankruptcies, transfers of
13 assets, and they hadn't worked. In 2016 he'd even sold the zoo
14 to Jeff Lowe, a new owner, in the hopes that a new name and
15 corporate entity would defeat the judgment. It didn't. It had
16 been six years of litigation and legal fees and Ms. Baskin was
17 still pursuing him.

18 The years of online intimidation hadn't worked. In May
19 of 2017, multiple organizations, including Big Cat Rescue,
20 proposed regulation changes that were designed to end
21 Mr. Passage's claim to fame, the breeding of lion-tiger hybrids.

22 In July of 2017, Mr. Passage took in a shipment of 19 tigers
23 from Dade City Wild Things in Florida, in violation of a court
24 order. When those animals were transported from Florida to
25 Oklahoma in July, three cubs were stillborn. Ms. Baskin told you

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1 she had nothing to do with that litigation, but in Mr. Passage's
2 mind this was a joint attack by PETA and Carole Baskin on exotic
3 animal owners that caused animals to die. And you heard
4 Mr. Passage on his own Facebook videos ranting about Carole
5 Baskin, Exhibits 108 through 111. He said, "I'm threatening you,
6 Carole." Showing the dead cubs on the ground, he says, "There
7 you go, Carole, you better never see me in a dark alley, bitch."
8 As he showed a video of unloading the cats from the back of the
9 trailer, he says, "Come get me, Carole, three baby tigers died
10 today because of your bullshit." And he closes by saying, "I
11 think it's time that other people start dying instead of
12 animals."

13 Mr. Passage had reached his breaking point and he decided
14 that, as the king, he would protect the kingdom at all costs. He
15 decided that the laws didn't apply to him. He was going to
16 simply assassinate his rival to stop the attacks, her attacks on
17 his animal handling practices, her attacks on his finances, her
18 attack on his kingdom, the zoo that was his life's work.

19 James Garretson told you that it was soon after those 19
20 tigers arrived in August of 2017, that Mr. Passage was again
21 talking to him about finding someone to kill Carole Baskin, and
22 that this had been an ongoing conversation with him since 2016,
23 that Mr. Passage had asked him a dozen times whether he knew any
24 hit men. In August 2017 Mr. Garretson was involved in a
25 conversation with Mr. Passage where they were looking at maps of

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1 Ms. Baskin's property and her bike path in the context of how she
2 could be murdered.

3 And shortly after that, Mr. Garretson called Carole Baskin's
4 phone, but it wasn't Carole Baskin that called him back. It was
5 Special Agent Matt Bryant with the U.S. Fish & Wildlife Service.
6 And during his first face-to-face interview, Mr. Garretson told
7 Special Agent Bryant everything he knew about Mr. Passage, the
8 wildlife trafficking, and that he was looking for a hit man. And
9 Mr. Garretson agreed to record his conversations, and he agreed
10 to try to interest Mr. Passage in meeting his hit man, who would
11 be an undercover FBI agent.

12 And so through those recorded conversations we have
13 Mr. Passage, in his own words, describing in detail his plans for
14 hiring someone to murder Carole Baskin. And almost everything
15 you need to know about Count 1 of the superseding indictment,
16 Mr. Passage's plan to hire Alan Glover to kill Carole Baskin, is
17 contained in the recorded phone call between James Garretson and
18 Mr. Passage on November 7th of 2017. It's Exhibit 51. And
19 before we listen to that call again, bear this in mind,
20 Mr. Passage's lawyer didn't ask him about this call because not
21 even Mr. Passage can explain it away.

22 (Audio played in open court.)

23 MS. MAXFIELD-GREEN: And you saw in the government's
24 evidence that pretty much everything that Mr. Passage planned to
25 happen in that call actually happened. You have the jury

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1 instruction for Count 1 and Count 2, murder for hire. It's
2 Instruction No. 19. The government can satisfy that first
3 element by proving that Mr. Passage caused another person to
4 travel in interstate commerce with intent that a murder be
5 committed.

6 Mr. Passage states in the November 7th call that John Finlay
7 drove Alan Glover to go get a fake ID. Alan Glover told us that
8 Mr. Finlay drove him to Texas to buy a fake ID so that he could
9 get to Florida to kill Ms. Baskin, and that was Mr. Passage's
10 idea. John Finlay told you he drove Alan Glover to Texas to get
11 a fake ID and that he knew, from a phone call with Mr. Passage on
12 the way there, that it was part of the plot for Mr. Glover to
13 kill Ms. Baskin.

14 James Garretson told you that Mr. Passage asked him for a
15 place to get a fake ID. James Garretson saw Finlay and Glover on
16 their way back from Texas up to Oklahoma with the fake ID. We
17 saw a picture of them in Mr. Glover's store in Ardmore. Special
18 Agent James Markle showed you the ID photos of Mr. Glover that
19 were found on the cameras and computer at Smith Electric in
20 Texas, and you saw the picture of the fake ID that Mr. Garretson
21 managed to take a lay dater.

22 So we know that Mr. Passage caused Mr. Glover and Mr. Finlay
23 to drive across state lines to Texas to get a fake ID, and we
24 know that he caused them to travel with the intent that the
25 murder of Carole Baskin be committed, because that's what the ID

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1 was for.

2 Now, the government can also satisfy that first element by
3 proving that the defendant used or caused another person to use
4 the mail or any facility of interstate commerce with intent that
5 a murder be committed. Mr. Passage states in the November 7th
6 call that he was going to overnight Mr. Glover's phone to Las
7 Vegas and, in fact, we know that he did this. Alan Glover told
8 you that, right before he left the zoo on November 25th,
9 Mr. Passage took his personal cell phone from him.

10 Postal Inspector Brian Hess told you that on November 25th
11 at 10:13 a.m. a package was dropped off at the U.S. Post Office
12 in Wynnewood to Lauren Lowe's address in Las Vegas and that it
13 was paid for with a \$212 check. We know from Lauren Lowe's
14 testimony that a check was written on the zoo's bank account
15 dated November 25th to the U.S. Postal Service for \$212, and that
16 this check was signed with a Jeff Lowe rubber stamp that had been
17 left in Mr. Passage's possession.

18 And we also know from Lauren Lowe's testimony that a package
19 arrived at her house in Las Vegas containing an old cell phone,
20 and ultimately that phone was turned over to the FBI. And once
21 that phone was analyzed, it was discovered that it had belonged
22 to Alan Glover.

23 So we know that Mr. Passage used the mail, or caused another
24 person to use the mail. And we know that it was with the intent
25 that the murder of Ms. Baskin be committed because the mailing

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1 was all part of his plot to conceal his hit man's whereabouts,
2 the plot he described to James Garretson on November 7th.

3 And with regard to cell phones, Mr. Glover told you that
4 right before he left South Carolina -- left for South Carolina on
5 November 25th, when Mr. Passage took his cell phone, Mr. Passage
6 gave him a different cell phone that belonged to the pizza
7 restaurant. And that phone was still in his possession in July
8 2018 when he was interviewed by the FBI and Fish & Wildlife
9 Service.

10 And Special Agent Farabow testified that the FBI analyzed
11 that phone and it contains the photos Mr. Glover said it would
12 have on it, photos of Carole Baskin and her address that were
13 taken on November 25th, 2017, at 9:05 a.m. This is about an hour
14 before Mr. Glover's cell phone is mailed to Las Vegas, at the
15 post office just down the road, about six hours before Mr. Glover
16 left Oklahoma for South Carolina. Photos Mr. Passage took of his
17 computer screen so that, as Mr. Glover put it, he wouldn't kill
18 the wrong person. And that cell phone, which is itself a
19 facility of interstate commerce, traveled with Mr. Glover to
20 South Carolina.

21 The third element of the crime is that the murder in
22 question was intended to be committed as consideration for the
23 receipt of anything of pecuniary value. All that means is that
24 the hit man was going to be paid for the murder. And we know
25 this was the case. Mr. Passage states in the November 7th call

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1 that he was waiting on this lady to get this money for the
2 liligers because that's what I'm paying for it with. And he
3 expressed his belief that all the hundred dollar bills would be
4 out of a bank in Florida, and so long as he doesn't touch them
5 then they can't be traced to him.

6 Note that seven days later, during that text exchange with
7 Darlene Cervantes, Mr. Passage said to her, "Any luck on the
8 money? I'm in a hell of a bind." And again, what Mr. Passage
9 stated as his plan in that call to James Garretson became a
10 reality. Mr. Glover told you that, right before he left the zoo,
11 Mr. Passage sold a big cat cub. Mr. Glover told you he put the
12 cub in a man's car and saw that man hand a thick envelope of cash
13 to Mr. Passage. And he told you that Mr. Passage took \$3,000 of
14 that money and gave it to him. And the reason he gave it to him
15 was as a down payment on the murder of Carole Baskin, and that
16 Mr. Passage had promised him thousands of -- thousands more in
17 room and board without working if he successfully committed the
18 murder.

19 Now, Mr. Passage's lawyers went to great pains to point out
20 that Mr. Glover identified a person named Robert Engesser as the
21 man who bought the cub, and that on the date of the indictment in
22 this case, the government believed it was Robert Engesser who
23 bought the cub. Mr. Glover was wrong and the government was
24 wrong that it was Robert Engesser who bought the cub. Mr. Glover
25 misidentified a single photo of a heavysset white man with a

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1 beard, when he was trying to recall a scruffy looking heavysset
2 white man that he had seen seven months before for a total of two
3 minutes while he was holding a wild animal, but that doesn't
4 disprove that Mr. Passage sold the animal, and it doesn't
5 disprove that he gave Mr. Glover the money.

6 In fact, Mr. Passage's own words confirm that he gave
7 Mr. Glover the money. On February 26th of 2018, about three
8 months after Mr. Glover left the zoo, Mr. Passage texted
9 Mr. Glover on his new phone and asked, "Hey, you got any of the
10 cash left?" Mr. Glover responds no, but that he can get cash
11 because Social Security owes him \$3,760, which would have
12 indicated to Mr. Passage that he could pay him back that \$3,000
13 down payment on the hit.

14 On February 11th, 2018, Mr. Passage is talking to
15 Mr. Garretson about getting together money to take care of Carole
16 Baskin, and he says that the last guy went to North Carolina and
17 drank it all. He meant Alan Glover.

18 On March 8, 2018, in a recorded conversation, Mr. Passage is
19 again talking to Mr. Garretson about paying Mark to do the hit,
20 and Mr. Passage says, "That one of Jeff's run off with my money,
21 never heard from him again." He meant Alan Glover.

22 On March 28th, 2018, in a recorded conversation, Mr. Passage
23 is still talking to Mr. Garretson about paying Mark to kill
24 Carole Baskin. And Mr. Garretson said -- says that his guy Mark
25 is not like that other dipshit, meaning Mr. Glover. And

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1 Mr. Passage says, "He took \$4,000 and never came back." And that
2 was true. Mr. Glover told you that he ran off with Mr. Passage's
3 money.

4 So we know, not just from Mr. Glover's testimony but from
5 Mr. Passage's own words, that Mr. Passage paid Mr. Glover to kill
6 Carole Baskin. And so this was the type of murder plot that's
7 criminalized by this statute, a murder for hire.

8 Now, Mr. Glover left Oklahoma for South Carolina on November
9 25th, 2017, as you saw from the American Airlines records, a
10 flight that was booked using the email of Anne Patrick, a close
11 friend of Mr. Passage. And Mr. Glover told you that he never
12 intended to murder Carole Baskin, that all he wanted was to
13 swindle Mr. Passage out of some money and go home. And it
14 doesn't matter what Mr. Glover intended.

15 You're here to decide what Mr. Passage intended. Mr. Glover
16 made Mr. Passage believe that he was capable of murdering Carole
17 Baskin. Mr. Glover let Mr. Passage believe that that teardrop
18 tattoo by his eye meant he had killed someone. He told
19 Mr. Passage that he would kill Carole Baskin with a knife and cut
20 her head off, and Mr. Passage was fine with that plan.

21 Mr. Glover talked to Mr. Passage like he talked to James
22 Garretson in the recording of him that you saw. He was
23 convincing. He sounded like a man capable of murder, and that's
24 what Mr. Passage wanted. And when Mr. Glover left Oklahoma and
25 traveled to South Carolina, that's what Mr. Passage thought he

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1 was getting.

2 Now, Special Agent Farabow explained to you that throughout
3 November 2017 the government was following all of the recorded
4 conversations between Mr. Garretson and Mr. Passage and
5 Mr. Glover. They were following it so closely that they were
6 ready with search warrants and arrest warrants to arrest
7 Mr. Passage and Mr. Glover if it appeared that Mr. Glover was
8 headed to a bus station. Suddenly, Mr. Glover indicated to
9 Mr. Garretson that plans had changed, that he was just going back
10 home to South Carolina to do something else. Neither
11 Mr. Garretson nor the investigators knew at that point that
12 Mr. Passage had paid Mr. Glover, or about Mr. Passage mailing the
13 cell phone, or about Mr. Passage giving a new phone to Glover
14 with pictures of Carole Baskin on it.

15 When they found out that Mr. Glover had left the zoo, they
16 believed that that plot had fizzled. They believed that
17 Mr. Garretson had been successful in convincing Mr. Passage that
18 Mr. Glover couldn't pull it off and that he should use
19 Mr. Garretson's guy instead. And so Mr. Garretson offered to
20 introduce Mr. Passage to his guy Mark, a guy that Mr. Passage had
21 been asking him to find for over a year.

22 And Mr. Passage agreed to that meeting at least twice during
23 a recorded conversation on November 17th, 2017. It's Exhibit 52.
24 Mr. Garretson says, "If you want me to bring that dude, just let
25 me know." And Mr. Passage immediately asked, "How much that dude

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1 cost us?"

2 When Mr. Garretson offers to just bring him to the zoo,
3 Mr. Passage says, "If he wants to do that," and again asks, "How
4 much does he want down?"

5 Later in the conversation Mr. Passage is talking about
6 Mr. Glover and says, "See, what I was going to do is send him
7 with four and then give him six when it was done. So if your guy
8 wants to do it, you can take that white over there and I'll give
9 you the rest in cash." And then you heard the call on December
10 5th where Mr. Garretson was talking on his cell phone to
11 Mr. Passage, who was talking on his cell phone, and Mr. Passage
12 agreed to meet Mr. Garretson's guy. And the judge has instructed
13 you that those cell phones are facilities of interstate commerce.

14 And, of course, we know that Mr. Garretson's guy was an
15 undercover FBI agent. And on December 8th that agent, Mark
16 Williams, went with Mr. Garretson to the zoo and met with
17 Mr. Passage. They discussed in detail Mr. Passage's history with
18 Carole Baskin, possible ways of killing her and covering it up,
19 and the price of the hit. You listened to that whole
20 conversation. It's Exhibit 63.

21 You heard Mr. Passage talk about the best place to do it, on
22 the bike path that she takes to work. You heard the place in the
23 conversation where Mr. Passage showed Mark the address of Big Cat
24 Rescue. You heard Mr. Passage suggest that Mark, "follow her
25 into a mall parking lot and just cap her and drive off." You

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1 heard Mr. Passage say he could get a clean pistol from the flea
2 market in Sulphur. You heard them agree on a price, \$10,000 with
3 5,000 down and 5,000 when, as Mr. Passage put it, "she's on the
4 news, she's dead." You heard Mark say, "Hey, man, if you're
5 serious about it, you let me know." To which Mr. Passage
6 immediately responded, "We'll get James the money."

7 This meeting happened on a Friday where Mr. Passage said,
8 "let me put the money together by Wednesday," and he said that to
9 get the other half he would just sell a bunch of tigers. That
10 meeting ended with an agreement and a promise by Mark to commit
11 the murder and Mr. Passage's agreement and promise to pay him for
12 it. And that meets the elements of the jury instruction for
13 Count 2.

14 When you're trying to figure out what happened here, just go
15 back to Mr. Passage's own words. He laid it all out for you in
16 conversations he didn't know were being recorded. Now, once he
17 found out they were recorded, he came up with stories to explain
18 it all away. For instance, Mr. Passage testified yesterday he
19 knew that Mark Williams was an undercover cop, but that he didn't
20 blow his cover or report it to law enforcement or even ask him
21 during the conversation, "Are you an undercover cop?" No, he
22 played along, he said, in great detail. Ask yourselves if this
23 makes any actual sense. Mr. Passage tried to explain it all
24 away, all except that call with Mr. Garretson on November 7th.
25 That's at Exhibit 51.

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1 There's one conversation that Mr. Passage knew was being
2 recorded, the call he made to John Finlay from jail right after
3 he'd been arrested on these charges. He called John Finlay, a
4 man who had been his de facto husband for 11 years, a man who had
5 worked for him for 15 years, a man he still trusted and called in
6 his darkest hour. And even though Mr. Passage knew that that
7 call was being recorded, John Finlay surprised him so much so
8 that, again, Mr. Passage's mouth became his own worst enemy. You
9 can hear it happen at Exhibit 61.

10 (Audio played in open court.)

11 MS. MAXFIELD-GREEN: "You hung me out to dry?" "No, I
12 told the truth."

13 The truth is that Mr. Passage is guilty of all counts of the
14 indictment, and it's your job now to make sure that no one, not
15 even the tiger king, is allowed to be above the laws of the
16 United States.

17 THE COURT: Defense may proceed with their closing
18 argument.

19 MR. EARLEY: Revenge. Remember over a week ago when
20 Mr. Brown told you that this case was all about revenge? Well,
21 he was right. This case is about revenge, a revenge by animal
22 rights groups who have contempt for Mr. Passage because he
23 engages in completely legal activity that they just don't like,
24 revenge by a couple of individuals who got stiffed on their
25 investment in Mr. Passage's business and were desperate to get

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1 rid of him, and revenge by a disgruntled drug and alcohol abuser
2 who hated the way that Mr. Passage treated him at the park.

3 Now, I want to begin by addressing what I'll refer to,
4 generally, as the paperwork violations, that's Counts 3 through
5 12 and 15 through 21, because they're separate and apart from
6 that revenge that makes up most of this case.

7 Now, the investigation was commenced by federal agents as
8 early as 2015, 2016. Mr. Passage was a lightning rod for animal
9 activist organizations. With their help and years of inspections
10 and combing through laws and regulations, they came up with what
11 you find in Counts 3 through 12 and 15 through 21.

12 Now, the government started this trial off with the
13 violations in Counts 3 through 7, the charges of taking
14 endangered species by killing them, the five dead tigers from
15 October of 2017. We spent the first couple of days on those
16 charges, and that was by design.

17 We spent hours talking about how the tigers died, digging
18 them up, removing their skulls, sending them to a lab to
19 determine how they actually died. I submit that elaborate
20 presentation with respect to how these tigers died was for one
21 purpose and one purpose only, and that was to inflame your
22 passions at the very beginning of this case and to color your
23 view of Mr. Passage from day one. For what end? Well, in the
24 hopes that your disgust with what happened would allow you to
25 overlook the shortcomings in the rest of the government's case.

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1 What did you hear? These tigers were put down properly.
2 Was it done to the technical specifications of Dr. Viner? Well,
3 perhaps not completely, but it was done with instantaneous death,
4 which is all the Veterinary Association regulations require for
5 purposes of a proper euthanization. That's really all that fancy
6 laboratory evidence showed you. It showed you what exactly
7 happened. Those tigers were put down with a gunshot to the head.

8 What the government didn't bother to do was find out, well,
9 was there a reason for them to be put down. They didn't bother
10 to examine the bodies of these tigers to see if they had suffered
11 from other health issues, if they had issues with their paws.
12 They didn't bother to see if euthanization was a reasonable
13 alternative under the circumstances.

14 Mr. Passage told you why, and the only evidence to the
15 contrary is what a couple of individuals who were on Team USA
16 came to tell you about what they thought was the reason. And
17 really, in the end, what are the charges concerning the deaths of
18 these tigers? The charges are that he killed tigers, the charges
19 are not killing tigers for cage space. That was a theory
20 developed by the government after a group discussion of witnesses
21 about the timing of the event.

22 The charges are killing tigers without a permit. These are
23 permit charges, ladies and gentlemen. There are separate
24 regulations that play in almost every aspect of the paperwork
25 violations in this case, regulations you can't get a straight

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1 answer on when you call the agency, regulations confusing not
2 only to the uninformed, but also to those who have to deal with
3 those regulations on a daily basis. And I want you to ask
4 yourself, does the law that the judge is giving you on these
5 violations really apply in this case? The judge informed you of
6 what the law is. That's his job. He gives you the law, but it's
7 your job to apply the law to the facts as you see them. And you
8 need to take a hard look at this law in this case. The law the
9 judge has given you with respect to these particular counts, the
10 taking, is as follows.

11 The term "take" means to harass, to harm, pursue, hunt,
12 shoot, wound, kill, capture or collect. The language of this
13 statute appears in the Endangered Species Act, an act designed to
14 protect animals in the wild that may suffer if they are
15 continued -- or if it's continued to be the situation where
16 they're harassed, where they're harmed, where they're pursued,
17 where they're hunted, where they're shot, wounded, killed,
18 captured or collected.

19 The animals in this case were captive animals. They are the
20 offspring of captive animals. They're likely generations removed
21 from their brothers and sisters in the wild. Ask yourselves if
22 you think that the law the judge gave you on these crimes applies
23 to a situation in which a private zoo owner is euthanizing his
24 own animals. I submit it is not.

25 A look at the charges for sale or selling endangered

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1 species. Now, it's important to recall each of these
2 transactions the government has charged in this case are between
3 licensed exhibitors, except for one. The last one, the one
4 that's not is the Darlene Cervantes transaction. That
5 transaction was never concluded because Mr. Passage had no
6 intention of it ever being a transaction. He or someone from his
7 office shot this lady a price to shut her up. That's what he
8 testified to. And recall the great lengths to which he went to
9 make sure that, if she was going to do this, she had to have
10 certain permission, she had to have a certain location. And he
11 kept warning her, you may be in violation of rules and
12 regulations. She persisted. He priced her out of further
13 conversations to get her out of the way.

14 On Counts 9, 10 and 11, these are zoo-to-zoo transfers.
15 These types of exchanges are common and there's certainly nothing
16 unusual about them. Now, the government wants to say that these
17 were sales. Mr. Passage, as he testified to, says they were
18 donations. They're donations because he's getting them off his
19 license onto somebody else's license with no financial incentive
20 to him. Mr. Passage, as he told you, was simply the transferrer.

21 If there was a sale, that was between the receiver of those
22 animals and Jeff Lowe, the owner of the park. As far as he was
23 concerned, the money that was provided by whoever was on the
24 other end of this transaction was a donation that went right into
25 the zoo's bank account, Mr. Lowe's bank account.

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1 What is missing in the government's proof on these charges
2 is the intent of the person on the receiving end. You heard
3 nothing from Brown's Zoo or TS, as that person is referred to in
4 the indictment, as to their characterization of the transaction
5 when money was transferred from them to John Finlay. While
6 Finlay may want to speculate that, hey, these were sales, the
7 nature of the transaction really, in the end, is dependent upon
8 the person who's receiving the animals and handing over the
9 money. The government failed to produce any evidence on that
10 critical issue.

11 Now, the charges of falsifying records in association with
12 the interstate movement of wildlife, Counts 12 through 21 minus a
13 couple. Now, you heard evidence from Dr. Boone and Dr. Green
14 about these forms that the government contends are false records.
15 Dr. Boone testified that, while in compliance with the government
16 form, as she mentioned in this letter, Defendant's Exhibit 11,
17 isn't, you know, required, you don't have to hit all those
18 categories, but you got to hit some of them. And she highlighted
19 in her letter, which was -- and she spelled that out in
20 Defendant's Exhibit 11. "Hey, you need a vehicle license number
21 and state driver's license if the person isn't registered under
22 the Animal Welfare Act, the full name and address of the
23 buyer/receiver must be -- in addition to the city and state."

24 She mentioned those things to them -- she mentioned those
25 things because it's necessary for the facility to do these

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1 acquisition and disposition records to be able to accurately
2 track the animals, to ensure that they're legal acquisitions,
3 that there's proper care and humane transportation. Well, the
4 form, as you'll recall, that they're supposed to aspire to but
5 not required to meet in every aspect, provides a number of boxes
6 that the form itself says, fill these out, make sure that you hit
7 these boxes.

8 Well, you know, if the government is going to insist on
9 information that most everyone in this case testified is
10 completely irrelevant, whether this was a sale or exchange or
11 donation, then the government should have told the people who are
12 filling out these forms that this is required information. This
13 form specifically says, by the government, that that information
14 is not required on this form.

15 All of the evidence you have heard about the acquisition and
16 disposition forms and the CVI form that Dr. Green has to fill out
17 reflects that whether there is a sale, exchange, donation, that
18 information isn't required and it's irrelevant. The government
19 is asking you to convict a person of a serious crime based on
20 placing information on a form that's not even required or
21 relevant. So it's up to you to decide if a citizen of this
22 country should be faced with criminal prosecution and the
23 potential loss of his or her liberty for something that's not
24 even addressed on a form, in a regulation or the law.

25 Count 21, I'll just refer to it as the lemur form. Well,

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1 the only thing I can tell you is, you know, Mr. Passage testified
2 he didn't do that for a bad purpose. He was trying to help
3 Garretson out, based on an impending inspection. I'll leave that
4 for your consideration.

5 Now, let's talk about what this case is really about,
6 alleged murder-for-hire plots.

7 Now, some preliminary observations. We have heard a great
8 deal about Jeff Lowe, a government cooperator. We haven't heard
9 from him, but what we do know is that Jeff Lowe had become very,
10 wary and weary of Mr. Passage's legal problems. His weariness is
11 evidenced by the fact that he, too, apparently began to verbalize
12 his extreme dislike for Ms. Baskin; and if you believe Garretson,
13 to the point of having an office discussion with Garretson,
14 during which he pulled up on the computer screen Ms. Baskin's
15 location, where she usually walked, her trail and all sorts of
16 identifying things. That was Mr. Lowe who did that for
17 Mr. Garretson.

18 So, you know, Lowe sat out on a path to rid himself of the
19 legal quagmire that Mr. Passage represented. Lowe and Garretson
20 had become close during this time and Lowe discussed with
21 Garretson perhaps a way to get rid of Mr. Passage and his legal
22 problems. One discussion was, "hey, let's have Carole Baskin buy
23 the zoo in exchange for him serving up Joe on a platter to
24 Ms. Baskin." We learned that -- from Garretson -- that a
25 successful plot that got rid of Joe Passage would net him,

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1 Garretson, a cool hundred thousand dollars from Lowe.

2 Well, unfortunately, you know, this deal of trying to get
3 Carole Baskin to buy the park, well, it didn't gain any traction,
4 so off we go to the next plan.

5 Now, I want you to think about this. Do you find it just a
6 little suspicious that after four or five years of Carole-bashing
7 by this man, that the very first effort by anyone to try to
8 involve him in a murder-for-hire scheme resulted in two
9 simultaneous plots? What are the odds of that? I mean, people
10 testified that Mr. Passage ran his mouth about Carole and they
11 took it as his wish that she was dead. You can take whatever you
12 want from his worldwide web rants over the years. But I ask you,
13 do you believe two separate plans to ensnare Mr. Passage in a
14 murder-for-hire plot would commence at exactly the same time
15 without some collusion on someone's part?

16 Who is right smack in the middle of both of these plots?
17 James Garretson. And who's circling above like a vulture? Jeff
18 Lowe. Keep that in mind while you sort out what's going on and
19 who has a motive to snare Mr. Passage in a trap.

20 Now, the judge is going to give you the instructions, and
21 has already instructed you that you must use your common sense
22 while evaluating the evidence and determining if someone is
23 guilty of an offense. The murder for hire, under the facts of
24 this case, requires the government to prove beyond a reasonable
25 doubt the elements that Ms. Green went through with you.

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1 So let's look at Count 1 and some of the other factors in
2 this incredible confluence of efforts by several people. First
3 of all, Lowe's associate and confidant, his old-time South
4 Carolina buddy Alan Glover, a convicted felon, that supposedly
5 looks the part; he enters on stage left here. Other than his
6 looks, I think the idea that anyone would seriously consider
7 Glover capable of carrying out a plot to kill anyone is pretty
8 much preposterous. You would be lucky if he made it to
9 Interstate 35 from that park without spending whatever money he
10 got on booze, drugs and women.

11 All his shortcomings aside, it's entirely likely that
12 Mr. Passage's dislike for Alan Glover exceeded that of his
13 dislike for Carole Baskin. Mr. Passage repeatedly advised Jeff
14 Lowe of his dislike for Glover and his attitude. He wanted
15 Glover out of the park. Is someone like Alan Glover a person
16 that someone would go to in Mr. Passage's position to ask them to
17 kill somebody?

18 And how convenient, there's no witnesses, no recordings,
19 none of that to Mr. Passage's supposed solicitation of Alan
20 Glover to kill Baskin, just the word of Alan Glover. And, you
21 know, going through these things that led up to Alan Glover
22 leaving, I mean, isn't it curious that Garretson -- here he is
23 again, swimming around in this thing -- isn't it curious
24 Garretson is the man to call to get a fake ID? No, it's not
25 curious. It's all set up by Lowe and Garretson.

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1 Now, isn't it curious that the government tells the grand
2 jury in this case the money for Glover to go to Florida came from
3 a sale of a cub by Robert Engesser. We know that's not true.
4 The government admits that that's not true. But guess who came
5 up with Robert Engesser? Oh, that would be Jeff Lowe. Because
6 that's what Jeff Lowe wanted them to believe, because he got
7 Engesser's name from that tape he and his wife gemmed up trying
8 to get Mr. Passage to say something to get himself in trouble.
9 And how convenient that the phone that is mailed to Lowe's
10 address in Vegas was never turned on. Well, it was never turned
11 on to give Alan Glover an alibi because there was never a plan
12 for Alan Glover to go anywhere.

13 Now, Ms. Green says, well, gee, Mr. Passage got up there and
14 his lawyer never asked him about that November 7th, 2017, phone
15 call. Well, Mr. Passage explained all of his contacts that he
16 had with Garretson during this time frame. He was saying things
17 to Mr. Garretson to see if they would get back to Mr. Lowe
18 because he knew something was going on between the two of them.
19 So the more he talks to Mr. Garretson about something, if it
20 comes back to him in the next conversation from Mr. Lowe, yeah,
21 I'm right; they are colluding. They are doing something.
22 They're up to no good. He's explained that.

23 And really this phone, this mailing this phone, I mean,
24 think about this. Lauren Lowe testified about that. I submit
25 her story was dismantled almost immediately by the postal

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1 inspector. I mean, she got up there and claimed, oh, I get
2 packages all the time, stuff comes in all the time.

3 Well, during the relevant period that they had asked the
4 postal inspector to look at, she only got four deliveries.
5 Moreover, she claims that this cell phone and charger came to her
6 in a 10-by-12 yellow envelope. That's all that was in the
7 envelope, a cell phone and the charger. Remember the weight of
8 the parcel? Almost five pounds. Now, I doubt that there's ever
9 been a cell phone that weighs four or five pounds, and I'm
10 spotting the charger maybe a pound, given her observation. I
11 doubt there's ever been a cell phone that weighed anything close
12 to that even in the 1980s. Lowe never intended to turn on a cell
13 phone when it got to Las Vegas at his direction because Glover
14 didn't need an alibi because he was never going anywhere and none
15 of this was ever going to happen.

16 Now, how convenient too, you know, that Alan Glover
17 supposedly drove hundreds of miles from South Carolina to Florida
18 and didn't have a phone. Well, how was he supposed to know where
19 to go? I mean, without the phone he wouldn't have had pictures,
20 he didn't have the address to Big Cat Rescue. It's because he
21 never went.

22 And how convenient that Alan Glover comes in here and tells
23 you, yeah, I went to Florida, but, gosh, I was so intoxicated the
24 whole way I was driving down there, or I was on cocaine, alcohol
25 or whatever else he was abusing at the time, I just -- I don't

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1 know where I went in Florida, I couldn't tell you. Well, you
2 know, how convenient that he can drive hundreds of miles in that
3 state, never have an accident, kill someone, or even get pulled
4 over by the highway patrol.

5 It's all so convenient because it's impossible to
6 corroborate or not corroborate what his story is. The evidence
7 shows, ladies and gentlemen, that from February of 2018 to July
8 10, 2018, Mr. Glover got to get his story straight, and with who,
9 Jeff Lowe. That was before Jeff Lowe presented him to the
10 federal agents so that he could provide them some additional
11 information to revive this plot that they had already thought had
12 died on the vine last November of 2017. Because, remember, at
13 this time, in July of 2018, not only had the Glover plot
14 supposedly fizzled out, but the Mark plot never went anywhere
15 either.

16 The absurdity of all of this supports what Mr. Passage told
17 you, that it was clear to him that beginning in the summer of
18 2017 Lowe was trying to find a way to get rid of him one way or
19 another. He participated in this little charade of theirs,
20 talking to Garretson, talking to Alan Glover, not with the intent
21 that Glover travel to Florida to kill Carole Baskin, but with the
22 intent that Alan Glover go home and get out of his hair once and
23 for all.

24 You know, the evidence supporting this charge in Count 1 is
25 based almost exclusively on the word of Glover, that he actually

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1 went to Florida and that he did these other things with respect
2 to obtaining money for the purpose of fulfilling Mr. Passage's
3 desire that Carole Baskin die. I submit to you that
4 Mr. Passage's version of this is much more plausible, and that
5 version is that he knew that this was a setup from the beginning
6 and that he had no intention of ever having anyone kill Carole
7 Baskin.

8 Now, let's go to Count 2, the evidence about the Mark plot,
9 as I'll refer to it. Now, the evidence shows that, at the
10 beginning of November 2017, Mr. Passage was putting his exit
11 strategy in place. He decided to leave the zoo and all the
12 negative effects that it was having on him. He had had a tragedy
13 visited upon him and that tragedy had resulted in a lot of soul
14 searching on his part. And this isn't just Mr. Passage saying
15 this. Brittany Peet verified this.

16 The evidence shows Mr. Passage did more than just talk about
17 changing his ways. He put his words into action. He shook hands
18 with the very people that he viewed as his enemy, PETA. He
19 prevailed upon Ms. Peet to try to work something out for him.
20 She testified to those efforts. At the same time he continued to
21 run for governor. You know, whether he had a realistic shot or
22 not, at least he felt that he was a voice for those without one.

23 The testimony shows that Garretson -- Garretson attempted to
24 introduce Mark to Mr. Passage on numerous occasions prior to
25 December 8. To shut Garretson up, Mr. Passage spoke with the guy

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1 on December the 8th. And it's clear from the recording
2 Mr. Passage responded to Mark's efforts only when he was directed
3 to the subject of killing Carole Baskin. He constantly veered
4 off onto other topics only to be steered back into the lane by
5 Garretson.

6 You heard that Mr. Passage, during this -- this meeting with
7 Mark, gleefully went and grabbed a whole pile of stuff and he
8 goes and he puts it on the table. "Hey, look, I know all this
9 about Carole Baskin." I mean, he's bragging about it, all this
10 stuff he had collected. But you know what, not one piece of
11 paper goes with Mark out the door. Oddly, there was no recording
12 of the only time the government can point to that Mr. Passage
13 called Garretson, supposedly, about this. Even then, even if
14 that occurred, we have no idea how that conversation evolved and
15 whether Garretson was true to form in steering the conversation
16 right into the direction of, hey, how about my guy Mark.

17 You know, contrary to Ms. Green's assertion, I submit there
18 was no agreement that was reached at that meeting on December the
19 8th. There was no causing a use of interstate facility with the
20 intent that a murder be committed. There was no offer, there was
21 no acceptance, there was no consideration, there was no
22 agreement. Mr. Passage never intended and never did give money
23 to Mark or to Mr. Garretson for Mark's services.

24 Remember what the -- the testimony and what was on the tape,
25 December the 8th. Mr. Passage is getting married the following

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1 Monday. And they had set up, well, we'll meet about this again
2 that next Wednesday. There was no meeting that next Wednesday.
3 There was never another meeting at all between Mr. Passage and
4 Mark. That's because Mr. Passage was simply not interested in
5 anything that Garretson or Mark had to offer.

6 And I want you to ask yourselves when you're thinking about
7 that, if the evidence of what happened on December the 8th, 2017,
8 was enough to support the completion of that crime, why didn't
9 they arrest him that day? Why didn't they arrest him the next
10 day, or a week later, or a month later? If what Ms. Green was
11 telling you, well, it's all said and done December 8th, boom,
12 crime completed, why wasn't he ever arrested? Because even they
13 knew that to solidify an intent on his part or an agreement, that
14 Mr. Passage needed to do something else.

15 They needed some concrete acts such as giving money to
16 Garretson or Mark, such as buying a gun like they had discussed,
17 such as buying two phones so that they could communicate as they
18 had discussed. They needed something more that would show an
19 intent and an agreement on Mr. Passage's part. But nothing ever
20 solidified their case because Mr. Passage never had the intent to
21 hire this guy to kill Carole Baskin.

22 And let us not forget, killing Carole Baskin would not solve
23 his problem. The judgment against him would live on and on and
24 her death would have absolutely no effect on that. You have all
25 those tapes. I urge you to listen to them again. And I urge you

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1 to listen to them bearing in mind what Mr. Passage testified
2 about was going on at the time that he made those statements and
3 the circumstances that existed at the time those statements were
4 made.

5 And remember to consider who called who and who came to who.
6 More importantly, I think you need to take into consideration the
7 circumstances going on in Mr. Passage's life during this time.
8 After all, it's his head you're trying to get into to determine
9 whether he intended to commit any criminal act.

10 And you think about it. In November and December of 2017,
11 this man was grieving. This man, because of his loss, had
12 serious regrets about the way that his life had proceeded to that
13 point. This man was in the middle of leaving his life's work
14 behind, extricating him from a place that he had built for over
15 two decades. This man was running for statewide office. Just
16 making it through to one -- one day at a time was really about
17 all he could handle during this period of time. That's the stuff
18 he had in his mind. And I submit to you that an intent or desire
19 or a motive to kill Carole Baskin was never even a thought during
20 that particular period of his life.

21 This case is replete with reasonable doubt. This case is
22 polluted with outside interests that want more than anything to
23 see this man humiliated, marginalized and locked away. You know,
24 Mr. Passage's lifestyle and work may be subject to honest
25 criticism, but these murder-for-hire allegations were

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1 manufactured. They were manufactured by individuals who want to
2 get him out of the way. They're manufactured by individuals who
3 cooperated to protect themselves. And they're manufactured by
4 the Fish & Wildlife agency that wanted to make a splashy case
5 instead of a bunch of paperwork violations.

6 The government has the burden of proving each one of these
7 offenses and each element of these offenses beyond a reasonable
8 doubt. I ask you to hold them to that burden. The only verdict
9 that is warranted under the facts and the law in this case is a
10 verdict of not guilty on each and every count in the indictment.

11 THE COURT: Government's rebuttal and final closing.

12 MS. MAXFIELD-GREEN: First, with regard to the false
13 document charges, so the saying goes, a rose by any other name
14 would smell just as sweet. And a sale, regardless of whether you
15 call it a donation, results in money. In this case, that's cash,
16 cash that was delivered directly to Mr. Passage.

17 And Mr. Passage wants you to know about all the allegations
18 of criminal wrongdoing and plotting and bad things about Mr. Lowe
19 and Mr. Garretson and Mr. Glover. You don't have to think about
20 any of that. The judge has instructed you not to think about
21 that. Jury Instruction No. 25 says there at the bottom, "The
22 question of the possible guilt of others should not enter your
23 thinking as you decide whether this defendant has been proved
24 guilty of the crimes charged."

25 John Finlay testified that at one point in time Mr. Passage

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1 had a magic show. He said that the show involved, quote, a bunch
2 of big illusions that Joe performed. And that's what Mr. Passage
3 is trying to do now, he's trying to pull off the biggest illusion
4 of them all. Mr. Passage's explanation for all the recorded
5 conversations and text messages is that he knew what was going
6 on, he knew that Jeff Lowe and James Garretson and Alan Glover
7 were trying to get rid of him and that they were up to no good
8 and so he played them. He said all those things you heard on all
9 of those recordings and sent all of those text messages to see if
10 James Garretson was leaking information to Jeff Lowe. That it
11 was all a charade and so was the meeting with Mark Williams;
12 everything you heard on that recording was just him playing along
13 for a charade because he knew. And it was a charade that the FBI
14 and the U.S. Fish & Wildlife Service got caught up in, his
15 charade. Basically, Mr. Passage is telling you that we're all
16 playing checkers and that he's playing three-dimensional chess
17 and that he should get an Oscar for his performance in all of
18 those recordings.

19 If Mr. Passage thought that people were trying to frame him,
20 why didn't he just call law enforcement and tell them? If he
21 just wanted revenge on these bad guys that he didn't like, why
22 didn't he just call law enforcement and report that Lowe and
23 Garretson and Glover were plotting a murder for hire of their
24 own? Why didn't he tape record any conversations with Lowe or
25 Glover or James if he knew they were up to no good?

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1 Mr. Passage's explanation for a number of things during his
2 testimony yesterday was that he just made up a story to get out
3 of it, and that's what he's doing here.

4 You heard the recordings, you saw the text messages, you saw
5 and heard all of the witnesses testify, including Mr. Passage.
6 It's up to you to use your common sense to decide who's telling
7 the truth, and who's just using smoke and mirrors.

8 THE COURT: Thank you, Counsel.

9 Ladies and gentlemen, it would be, I think, prudent at this
10 time to -- I want to reread to you the final instruction that I
11 gave you yesterday.

12 In a moment the bailiff will escort you to the jury room and
13 provide each of you with a copy of the instructions that I have
14 read. Any exhibits admitted into evidence will also be placed in
15 the jury room for your review.

16 If any of you have cell phones or similar devices with you,
17 you are instructed to be sure they are turned off and then to
18 turn them over to the bailiff as you enter the jury deliberation
19 room. They will be held by the bailiff for you and returned to
20 you after your deliberations are completed, and after any break
21 or similar period when you are not deliberating. The purpose of
22 this requirement is to avoid any interruption or distraction
23 during your deliberations and to avoid any question of outside
24 contact with the jury during your deliberations.

25 You will note from the oath about to be taken by the bailiff

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1 that, during the course of your deliberations, the bailiff and
2 other persons are forbidden from communicating in any way or
3 manner with any member of the jury on any subject touching the
4 merits of this case.

5 When you go to the jury room, you should first select a
6 foreperson who will help to guide your deliberations and who will
7 speak for you here in the courtroom. The second thing you should
8 do is review the instructions. Not only will your deliberations
9 be more productive if you understand the legal principles upon
10 which your verdict must be based, but for your verdict to be
11 valid you must follow the instructions throughout your
12 deliberations.

13 Remember, you are the judges of the facts, but you are bound
14 by your oath to follow the law stated in the instructions. To
15 reach a verdict, whether it is guilty or not guilty, all of you
16 must agree. Your verdict must be unanimous on each count of the
17 superseding indictment.

18 Your deliberations will be secret. You will never have to
19 explain your verdict to anyone. You must consult with one
20 another and deliberate in an effort to reach agreement, if you
21 can do so. Each of you must decide the case for yourself, but
22 only after an impartial consideration of the evidence with your
23 fellow jurors.

24 During your deliberations, do not hesitate to re-examine
25 your own opinions and change your mind if convinced that you are

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1 wrong, but do not give up your honest belief solely because of
2 the opinion of your fellow jurors or for the mere purpose of
3 returning a verdict. Remember, at all times, you are judges,
4 judges of the facts. You must decide whether the government has
5 proved the defendant guilty beyond a reasonable doubt.

6 A verdict form has been prepared for your convenience. The
7 foreperson will write the unanimous answer of the jury in the
8 space provided for each count of the superseding indictment,
9 either guilty or not guilty. At the conclusion of your
10 deliberations, the foreperson should date and sign the verdict.

11 If you need to communicate with me during your
12 deliberations, the foreperson should write the message and give
13 it to the bailiff. I will either reply in writing or bring you
14 back into the court to respond to your message. Under no
15 circumstances should you reveal to me the numerical division of
16 the jury.

17 The bailiff will come forward and be sworn.

18 (Bailiff sworn.)

19 THE COURT: Members of the jury, please follow the
20 bailiff to the deliberation room where you will commence your
21 deliberations. The alternate jurors will remain in the
22 courtroom.

23 All persons in the courtroom, please remain seated until the
24 jury has retired.

25 (Jury retired to deliberate at 10:30 a.m.)

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1 THE COURT: To the alternates, I always like to say you
2 have one of the most difficult jobs of the jury panel, having to
3 listen attentively to all of the evidence and then sometimes not
4 ultimately deliberate. I cannot emphasize to you enough how
5 important the job of an alternate is. Particularly of a case of
6 this length, it is not unusual at all that for one reason or
7 another we lose a juror, and alternates are placed into service.
8 In the absence of alternates, if we were to lose a juror,
9 everything that has been done has been for nothing, and we would
10 have to start back over. That is precisely how important your
11 jobs are. I cannot thank you enough, nor can I express my
12 appreciation for you being here.

13 Now, that being said, you will be released, but please
14 continue under the admonition previously given. There is always
15 a chance that you could be called back into service, but -- so
16 please remain with your -- be mindful of the admonition and not
17 discuss the case with anyone until a verdict has been reached.
18 You'll be excused to the jury assembly room.

19 Again, the court will remain seated as the alternate jurors
20 leave the courtroom.

21 (Alternate jurors exited.)

22 THE COURT: I want to compliment counsel on both sides,
23 for the government and for the defense, on a job well done. The
24 case was well-presented. I appreciate your efforts.

25 Ms. Eagleston, I know in your capacity you juggle both roles

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1 in terms of presenting a great deal of evidence and making it
2 available for the jury for both sides, and I understand precisely
3 how stressful that job is, and I appreciate your efforts.

4 Anything else from either party?

5 MS. MAXFIELD-GREEN: No, Your Honor.

6 MR. EARLEY: No, Your Honor.

7 THE COURT: Court will be in recess.

8 (Break taken from 10:33 to 2:23.)

9 (The following proceedings were had in open court, with all
10 parties and counsel present, and out of the presence and hearing
11 of the jury.)

12 THE COURT: Court will come to order. It's my
13 understanding that the jury has reached a verdict. The record
14 will reflect the defendant is in the courtroom.

15 The parties are present and ready?

16 MS. MAXFIELD-GREEN: Yes, Your Honor.

17 MR. EARLEY: Yes, Your Honor.

18 THE COURT: Marcia, if you would get the jury, please.
19 (Jury entered.)

20 (The following proceedings were had in open court, with all
21 parties and counsel present, and in the presence and hearing of
22 the jury.)

23 THE COURT: Record will reflect that the jury has
24 returned to the courtroom.

25 Ladies and gentlemen of the jury, has the jury reached a

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1 unanimous verdict?

2 JUROR BUSKEY: Yes, Your Honor, we have.

3 THE COURT: After the verdict is read, all persons in
4 the courtroom will remain in the courtroom and seated until the
5 jury is discharged and has left the courtroom.

6 Mr. Foreman, if you could. Thank you.

7 In the United States District Court for the Western District
8 of Oklahoma, the United States of America, plaintiff, vs. Joseph
9 Maldonado-Passage, defendant, verdict: We the jury, duly
10 empanelled and sworn in the above-entitled cause, upon our oaths,
11 find defendant Joseph Maldonado-Passage, as follows.

12 Count 1, alleged use of interstate commerce facilities in
13 the commission of a murder for hire, in violation of Title 18,
14 United States Code, Section 1958(a), guilty.

15 Count 2, alleged use of interstate commerce facilities in
16 the commission of a murder for hire, in violation of 18, USC,
17 Section 1958(a), guilty.

18 Count 3, alleged violation of the Endangered Species Act by
19 illegal taking, in violation of Title 16, United States Code,
20 Section 1538(a)(1)(B), guilty.

21 Count 4, alleged violation of the Endangered Species Act by
22 illegal taking, in violation of Title 16, United States Code,
23 Section 1538(a)(1)(B), guilty.

24 Count 5, alleged violation of the Endangered Species Act by
25 illegal taking, in violation of Title 16, United States Code,

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1 Section 1538(a)(1)(B), guilty.

2 Count 6, alleged violation of the Endangered Species Act by
3 illegal taking, in violation of Title 16, United States Code,
4 Section 1538(a)(1)(B), guilty.

5 Count 7, alleged violation of the Endangered Species Act by
6 illegal taking, in violation of Title 16, United States Code,
7 Section 1538(a)(1)(B), guilty.

8 Count 8, alleged violation of the Endangered Species Act by
9 illegal offering for sale, in violation of Title 16, United
10 States Code, Section 1538(a)(1)(F), guilty.

11 Count 9, alleged violation of the Endangered Species Act by
12 illegal sale, in violation of Title 16, United States Code,
13 Section 1538(a)(1)(F), guilty.

14 Count 10, alleged violation of the Endangered Species Act by
15 illegal sale, in violation of Title 16, United States Code,
16 Section 1538(a)(1)(F), guilty.

17 Count 11, alleged violation of the Endangered Species Act by
18 illegal sale, in violation of Title 16, United States Code,
19 Section 1538(a)(1)(F), guilty.

20 Count 12, alleged violation of the Lacey Act for false
21 records of wildlife, in violation of Title 16, United States Code
22 Section 3372(d)(2), guilty.

23 Count 15, alleged violation of the Lacey Act for false
24 records of wildlife, in violation of Title 16, United States
25 Code, Section 3372(d)(2), guilty.

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1 Count 16, alleged violation of the Lacey Act for false
2 records of wildlife, in violation of Title 16, United States
3 Code, Section 3372(d)(2), guilty.

4 Count 17, alleged violation of the Lacey Act for false
5 records of wildlife, in violation of Title 16, United States
6 Code, Section 3372(d)(2), guilty.

7 Count 18, alleged violation of the Lacey Act for false
8 records of wildlife, in violation of Title 16, United States
9 Code, Section 3372(d)(2), guilty.

10 Count 19, alleged violation of the Lacey Act for false
11 records of wildlife, in violation of Title 16, United States
12 Code, Section 3372(d)(2), guilty.

13 Count 20, alleged violation of the Lacey Act for false
14 records of wildlife, in violation of Title 16, United States
15 Code, Section 3372(d)(2) guilty.

16 Count 21, alleged violation of the Lacey Act for false
17 records of wildlife, in violation of Title 16, United States Code
18 Section 3372(d)(2), guilty.

19 Dated April 2nd of 2019, signed by the foreperson.

20 Ladies and gentlemen of the jury, as you know, your verdict
21 must be unanimous. Is that the verdict of each of you?

22 (All jurors affirmed.)

23 THE COURT: Counsel, anything else before the Court
24 discharges the jury?

25 MS. MAXFIELD-GREEN: No, Your Honor.

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1 THE COURT: Counsel for the defendant?

2 MR. EARLEY: No, Your Honor.

3 THE COURT: Ladies and gentlemen, your service as
4 jurors in this case has demonstrated your willingness to accept
5 an important responsibility and contribute to the administration
6 of justice. I hope that your service as a juror has been
7 pleasant and beneficial to you in providing an opportunity to
8 learn more about our courts and our system of justice. You have
9 provided dedicated service to your community, and I personally
10 thank you for your service as jurors in our court.

11 You are free to discuss your jury service; you are not
12 obligated to discuss your jury service. If anyone attempts to
13 question your verdict or anything you have done in this case,
14 please make that known to me as soon as possible. The rules of
15 this Court prohibit the lawyers, or anyone on their behalf, from
16 talking to you without my permission. If any such thing is
17 attempted, that should be made known to me as soon as possible.

18 I am available to meet in my chambers with all of you,
19 should you wish to. You certainly don't have to. For those of
20 you that are interested in doing that, Ms. Osborn will take you
21 to my chambers. For those of you that would prefer to go on
22 home, please return to the jury assembly room, but you are
23 discharged from further duties in this case.

24 Thank you.

25 (Jury exited.)

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1 THE COURT: The clerk will file the verdict with the
2 court.

3 Mr. Passage, you have heard the verdict. The Court will
4 refer your case to the probation officer for the preparation of a
5 presentence report. I would ask for your cooperation in doing
6 that. We will -- you will be afforded the opportunity to read
7 that presentence report prior to sentencing and file any
8 objections you have to the information that's contained in that
9 report. A date for sentencing will be set and you will have the
10 opportunity to be heard at your sentencing.

11 You'll be remanded to the custody of the U.S. marshals.

12 Anything further from either party?

13 MS. MAXFIELD-GREEN: No, Your Honor.

14 MR. EARLEY: Not at this time, Your Honor.

15 THE COURT: Court is in recess.

16 The exhibits are withdrawn and retained -- the parties who
17 admitted them are to retain custody of them.

18 MR. WACKENHEIM: Pursuant to local Court order, we'll
19 withdraw our exhibits.

20 (Court adjourned.)

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REPORTER'S CERTIFICATION

I, Emily Eakle, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 6th day of March, 2020.

/S/ Emily Eakle
EMILY EAKLE, RMR, CRR
Federal Official Court Reporter

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