Witness: Laurie Wesenberg

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Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – Rick Distaso; Cross – Pat Harris; Redirect – Rick Distaso; Recross – Pat Harris

Day 1 of 1 for this witness

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Direct Examination by Rick Distaso

DISTASO: Ma'am, could you tell me where you are employed?

WESENBERG: I'm employed at Salon Salon.

DISTASO: Okay. Is that a hair salon or day spa in Modesto, California?

WESENBERG: Yes.

DISTASO: Okay. Just since we heard from some other folks, that doesn't have anything to do with the Sweet Serenity day spa?

WESENBERG: No, we're completely separate.

DISTASO: And what is your job there?

WESENBERG: I am the manager.

DISTASO: And how long have you been the manager of that particular salon?

WESENBERG: For eleven years.

DISTASO: So obviously you were the manager during the month of December of 2002?

WESENBERG: That's correct.

DISTASO: Were you working on January 23rd of, I mean, I'm sorry, December 23rd of 2002? Were you working that day?

WESENBERG: Yes, I was.

DISTASO: Okay. On December 23rd?

WESENBERG: I was working but I get off at 3:00.

DISTASO: Okay. And what time did you come into the shop that day?

WESENBERG: I usually come in around quarter to 9:00.

DISTASO: And then that day you got off at 3:00 o'clock?

WESENBERG: Uh-huh.

DISTASO: All right. Let me show you a binder, People's number 3, and it's full of, I think 16 pictures. Can you look through that and tell me if you recognize the photographs that are depicted in that particular binder.

WESENBERG: Yes. These are all of Salon Salon.

JUDGE: These are all photographs of Salon Salon?

DISTASO: Salon Salon, yes, your Honor.

JUDGE: The whole 16 of them?

DISTASO: All of them.

JUDGE: Are you going to refer to them individually, like 3 A, 3 B?

DISTASO: I'm going, I'm actually going to display them.

JUDGE: We should mark them for the record, too.

DISTASO: They're each individually marked. 3-A to 3-O.

JUDGE: 3-A to 3-O. Okay.

DISTASO: And ma'am, have you looked through all those photographs, 3-A to 3-O.

WESENBERG: Yes.

DISTASO: And do those photographs accurately depict the interior of your salon there at Salon Salon?

WESENBERG: Yes, they sure do.

DISTASO: And is that how the salon looked on December 23rd of 2002?

WESENBERG: Yes, except for the sitting area furniture was replaced.

DISTASO: So since that time the sitting area furniture has been replaced?

WESENBERG: Yeah. Same area, same place, everything, just new furniture.

DISTASO: Okay. So the, but the layout of the salon is the same?

WESENBERG: Yes, exactly.

DISTASO: All right. Let me show you some pictures. And I don't know, Judge, can we cut one of the lights so we can see a little better?

JUDGE: Yeah, I'll have Mike cut one of the lights.

DISTASO: Okay. The picture on the screen right now, is that the 3-A in the binder?

WESENBERG: Yes.

DISTASO: And can you just tell the jury real quick what we're looking at?

WESENBERG: Yes. That is the front entrance to the salon, and as you walk in our front doors.

DISTASO: Okay. And does your, does your salon have videotape surveillance?

WESENBERG: Yes, we do.

DISTASO: Okay. Let me, let's flip through here, then I'll...and is that 3-B that we're looking at now?

WESENBERG: Yes.

DISTASO: And, okay, what are we looking at here?

WESENBERG: The girl sitting on the couch is on the far left of our waiting area.

DISTASO: Okay. So basically like where I would be standing in this part of, looking at the screen, I would be kind of where the front desk is?

WESENBERG: You'd be right beside the front desk, to the right. The front desk is right in the entryway, right as you come in the front doors.

DISTASO: Okay. Is this 3-C?

WESENBERG: Yes.

DISTASO: And what are we looking at here? What part of the salon is that?

WESENBERG: That's also the waiting area.

DISTASO: Okay. This is the area that you said that the furniture is changed, but other than that it's the same as it was on the,

WESENBERG: Yes. Different couch, exactly.

DISTASO: And what are we looking at here?

WESENBERG: As you can see the corner of the couch in the waiting area, that's kind of the walk-through, the middle of the salon.

DISTASO: Okay.

GERAGOS: Can the record reflect this is 3-D.

DISTASO: Yeah, I was about to get there.

JUDGE: This is 3-D, okay.

DISTASO: Let's go to 3-E. And what are we seeing if you look at this view?

WESENBERG: This is coming through the front doors, and the desk is on your right, and retail is on your left.

DISTASO: Okay. That's 3-E, yes?

WESENBERG: E?

DISTASO: Echo, yes.

WESENBERG: Yes.

DISTASO: And is this 3-F?

WESENBERG: Yes.

DISTASO: And again, this is the waiting area and some of the booths?

WESENBERG: The center of the salon, yes.

DISTASO: Okay. And then 3-G, are we looking at that now?

WESENBERG: Uh-huh.

DISTASO: Okay. And in the back here, where I'm using the mouse right now, is that the, like a black couch with some dryers?

WESENBERG: Yes, it's a dryer booth.

DISTASO: Okay. And there's that same black couch. This is the 3, what picture is this? I lost track.

WESENBERG: That's, oh, sorry. H?

DISTASO: 3-H. Okay. Go ahead. Tell me what we're looking at.

WESENBERG: That's the walkway in front of the dryer area that goes straight to our boutique.

DISTASO: Okay.

WESENBERG: And the waiting area would be to the right of that one station.

DISTASO: Okay. Let's go to 3-I. Go through these quickly. And what are we looking at here?

WESENBERG: Coming from the boutique, the reverse of the other one. Coming back, the dryers are off to your right here.

DISTASO: Over here where the mouse is here?

WESENBERG: Yeah, in front of those magazines, that table.

DISTASO: And there is Chris Johnson, is that right?

WESENBERG: That's correct.

DISTASO: And is he the owner of the salon?

WESENBERG: Yes, he is.

DISTASO: And this is his normal area where he works?

WESENBERG: Yes, that's his station.

DISTASO: Okay. And so it looks like this is 3-J, is that right?

WESENBERG: Yes.

DISTASO: Okay. 3-J, it looks like Chris Johnson's area is right in front of the black line, the black couch with the dryer?

WESENBERG: Exactly.

DISTASO: Okay. This is 3-K. And it looks like, again, the sitting area you've already told us about?

WESENBERG: That's correct.

DISTASO: Okay. And 3-L is the black couch with the dryers?

WESENBERG: That's correct.

DISTASO: 3-M is Chris Johnson's station?

WESENBERG: That's correct.

DISTASO: 3-N is, what are we looking at here? Why don't you describe that one.

WESENBERG: Again, it's looking from Chris Johnson's station back to the front doors, through the waiting area.

DISTASO: Okay. The, can you see the video camera in the picture that you have?

WESENBERG: Up there in the left corner, in the right corner?

DISTASO: Okay. Is it right here where the mouse is now?

WESENBERG: Yes, that is one.

DISTASO: So there's one camera there. How many cameras are in this shop? Do you know?

WESENBERG: I have, on the monitor in my office I have four screens, I have four cameras.

DISTASO: Okay. Are those all, you have a monitor in your office, correct?

WESENBERG: I have two at my front desk and two in the office.

DISTASO: Okay. So there's two cameras that cover the ne 16 office?

WESENBERG: Uh-huh.

DISTASO: Two cameras that cover the front desk?

WESENBERG: That's correct.

DISTASO: Does the surveillance system in the shop cover the entire shop and all the stations?

WESENBERG: No.

DISTASO: Okay. What I'm going to do on the photograph you have in front of you, 3-N, I'm actually going to pull it out of the plastic for a second. And can you go ahead and circle with this red pen where the video cameras are that cover the front desk.

WESENBERG: I believe the other one is right here.

DISTASO: Okay. Go ahead, you can put that back in the plastic, or I'll do it for you. And just so the jury can see what you were circling, you circled, it's dark here, but you circled this area right here, is that correct?

WESENBERG: That's correct.

DISTASO: Right above, above the front desk. And then right in the other corner, is that correct?

WESENBERG: Kind of at the left edge of the desk.

DISTASO: Right here?

WESENBERG: Yeah, right there.

DISTASO: Okay. So that's where the cameras are? Okay. Then going to the next picture, what, what number do we have of the next picture? I lost track again. The very last one.

GERAGOS: 3-O.

DISTASO: 3-O. And this is just a picture from the salon looking out the doors, is that correct?

WESENBERG: That's correct.

DISTASO: Okay. Let me go back to, let me go back to 3-N. Do you have that in front of you, 3-N?

WESENBERG: Yes.

DISTASO: Okay. That, and I want to talk to you about the surveillance system you have in your shop. The, you said you have two cameras that cover the desk, is that right?

WESENBERG: That's correct.

DISTASO: And two cameras that cover the office area?

WESENBERG: That's correct.

DISTASO: And what's the reason that you have those, the cameras covering those particular areas?

WESENBERG: The video cameras we have are for cash transactions. Anywhere that the monies are handled we have video surveillance.

DISTASO: Okay. So the, the reason you have the video cameras is not to watch the entire store area, is that right?

WESENBERG: That's correct.

DISTASO: It's to watch the areas where people are counting money or cash?

WESENBERG: Right. When customers come up to the front desk and they give their money across the counter and the cash drawer is opening, that's what our video surveillance is for.

DISTASO: And that's where the cameras focus?

WESENBERG: That's correct.

DISTASO: Do, can you see the front doors from the cameras?

WESENBERG: No, you can't see the front doors. But if you're standing in front of the front desk, like you're paying or if you walked in the front door and went to the right side by the front desk

close enough you might get a glimpse.

DISTASO: Okay.

WESENBERG: But,

DISTASO: If I put the mouse, can you show me where you're talking about?

WESENBERG: Right. Anywhere right along, like within that little area in front of these two receptionists.

DISTASO: Okay. So if you're walking right along the edge of the counter here, you might get a glimpse of the people?

WESENBERG: That's correct.

DISTASO: And the other two cameras you have cover the office area, is that correct?

WESENBERG: That's correct. One on the safe and one on the counter where the cash is counted.

DISTASO: Okay. That's because, again, it's the cash transactions?

WESENBERG: That's correct.

DISTASO: And your business is, hair salon business is done mainly in cash, is that right?

WESENBERG: Yes.

DISTASO: I guess frequently in cash?

WESENBERG: Yes, we count a lot of cash.

DISTASO: Okay. Back in December of 2002, did you have this particular system in place, this, the video surveillance system you just told me about, did you have this in place?

WESENBERG: Yes, we had those four cameras in place.

DISTASO: Okay. And it was the same type of system you have now?

WESENBERG: That's correct.

DISTASO: Okay. And what, how are the cameras, how do they record information? Onto what?

WESENBERG: Today? Or back then?

DISTASO: Back then. I'm really only,

WESENBERG: On December,

DISTASO: talking about,

WESENBERG: 23rd we,

REPORTER: Please don't overlap. Let him finish the question before you begin to answer.

WESENBERG: Okay.

REPORTER: Thank you.

WESENBERG: On December 23rd we were on a seven day tape program, so every, we had a tape for Sunday, Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and every morning that tape would be taken out and the next day's put in.

DISTASO: Okay. So these images were recorded on videotape?

WESENBERG: That's correct.

DISTASO: And the videotape was reused every week?

WESENBERG: That's correct.

DISTASO: So December 23rd was a Monday, so Monday's tape was in recording?

WESENBERG: That's correct.

DISTASO: And it was recording just the areas that you told me about?

WESENBERG: That's correct.

DISTASO: All right. And then a week later, so that would have been the 30th, that tape was plugged back into the machine and reused and taped over for the next week?

WESENBERG: That is correct.

DISTASO: And you had that system in place for every single day?

WESENBERG: That's right.

DISTASO: Because of this case, have you changed your procedure?

WESENBERG: Yes, we have.

DISTASO: Okay. What did you change it to?

WESENBERG: We've changed it to a 30 day, 31 day tape supply. So we have a tape for 30 days before we record over it.

DISTASO: Okay. So now you use, you basically have a January, February, March kind of tape thing?

WESENBERG: No, we have the 1st through the 31st.

DISTASO: Okay, gotcha.

WESENBERG: And each day of the month we put that day's in.

DISTASO: Okay. The, on the 23rd of December, 2002, you got off work at 3:00 o'clock?

WESENBERG: Yes.

DISTASO: So it's fair to say you did not see Laci Peterson at all that day?

WESENBERG: That's correct.

DISTASO: Did you know who Laci Peterson was?

WESENBERG: No.

DISTASO: Okay. Did you know that her sister worked in the salon?

WESENBERG: Yes.

DISTASO: Okay. And what's her sister's name?

WESENBERG: Amy Rocha.

DISTASO: And she does still work in your salon, is that right?

WESENBERG: Yes, she does.

DISTASO: Nothing further, your Honor.

Cross Examination by Pat Harris

HARRIS: Good morning.

WESENBERG: Good morning.

HARRIS: At some point in early February you had an interview with a Detective Grogan? Do you recall that?

WESENBERG: I remember talking to, to Mr. Grogan, yes, but I don't remember what the date was.

HARRIS: Do you remember approximately the time period?

WESENBERG: First of February.

HARRIS: First week of February, somewhere along those lines?

WESENBERG: Yes.

JUDGE: Is that 2004?

HARRIS: 2003.

JUDGE: 2003.

HARRIS: . During that interview you explained to Detective Grogan what you just testified to in court about the taping system, is that right?

WESENBERG: That's correct.

HARRIS: You explained the whole fact that there were two video cameras outside and the two video cameras that were at the front desk and two video cameras that were in the office, is that right?

WESENBERG: I think our conversation went is there, you know, we didn't have any tape that had that day, December 23rd or 4th, anywhere to be found.

HARRIS: But you explained the taping system to him?

WESENBERG: Yes. Yes.

HARRIS: You told him about, I think you just testified about the weekly Monday, Tuesday sort of system. You explained that system to him, correct?

WESENBERG: Yes.

HARRIS: Remember?

WESENBERG: Probably did somehow.

HARRIS: Okay. At that point Detective Grogan had no knowledge about that system, did he?

WESENBERG: Not to my knowledge.

HARRIS: He wasn't aware, for example, to your knowledge from the interview, he didn't tell you he knew about how your taping system worked?

WESENBERG: No.

DISTASO: Objection, your Honor. Calls for hearsay.

JUDGE: Overruled.

HARRIS: . He didn't tell you that he knew about where the cameras were located, did he?

WESENBERG: No.

HARRIS: At that point it was your impression, from the questioning that Detective Grogan gave you, that he may have been looking specifically for a tape of Laci Peterson, correct?

WESENBERG: I, I'm not sure.

HARRIS: But that was what he was asking for, wasn't it? He was looking to see if you had, in fact, had a videotape of Laci Peterson?

WESENBERG: From that evening, that's correct.

HARRIS: Okay. So at that point Detective Grogan, during his interview, he made it clear that he thought there was a possibility that there was a surveillance tape of Laci Peterson that night of the 23rd, correct?

WESENBERG: He may have.

HARRIS: He may have? He did, in fact, didn't he?

WESENBERG: Well, he didn't say anything to me, sir.

HARRIS: He did, in fact, say that he was looking for a tape of Laci Peterson the night of the 23rd?

WESENBERG: He wanted to know if I had any tapes from the 23rd, yes.

HARRIS: So all of the testimony that you just gave to the prosecution, about how the system worked, how the cameras are set up, how the, everything was done with the taping, the seven day system, Detective Grogan had no knowledge of that when he interviewed you on the 4th, is that correct?

WESENBERG: That's correct.

HARRIS: That you were aware of. You say that, and Mr. Chris Johnson owns the –

WESENBERG: That's correct.

HARRIS: Did Mr. Johnson ever come to you and tell you that he had had an interview with the Modesto police?

WESENBERG: No.

HARRIS: Did he ever discuss with you the fact that he had told the Modesto police three weeks prior that there was a surveillance system?

WESENBERG: What Chris Johnson, I believe, left me on my message or talked to me in a phone conversation is,

DISTASO: Actually, your Honor, I'm going to object at this point. It's hearsay.

JUDGE: I don't think it's being offered, the issue is what was told to her, is, I think is the issue, not for the truth. Overruled. Go ahead.

WESENBERG: He said I left a tape on your desk from those two nights, if you -- I think I was on vacation. He said When you come back, if you could see if there's anything on there for him, that would be great.

HARRIS: . Okay. Do you recall approximately the date that you had that conversation with Mr. Johnson?

WESENBERG: It was, like, the third week in January maybe? When I was coming back.

HARRIS: And so he told you that prior to that, the third week of January, the Modesto police had come to talk to him about a potential surveillance tape?

WESENBERG: I didn't get the details other than I left some tapes on your desk and we hadn't thought about it but maybe there's something on there from that night.

HARRIS: And he mentioned, at no point he mentioned the Modesto police had come by?

WESENBERG: No, but they would be.

HARRIS: He did mention the Modesto police would be coming by?

WESENBERG: Would be, Yes. He wanted me to look at them to see if I had anything from those two dates.

HARRIS: So he didn't in any way mention he had actually had a conversation,

WESENBERG: No.

HARRIS: if I understand your testimony, he didn't mention he had actually had a conversation but, in fact, what he was telling you was the Modesto police may come by to look for these tapes?

WESENBERG: Or look at them and see if there's anything from those nights and let me know.

HARRIS: So at that point it was your impression that this was just something Chris Johnson thought might happen?

WESENBERG: Might be there, that's correct.

HARRIS: And sure enough, three weeks later Modesto police did show up to, in fact, look for the surveillance tape?

WESENBERG: Uh-huh.

HARRIS: Okay. Is that correct?

WESENBERG: That's correct.

HARRIS: And this was three weeks,

WESENBERG: Well,

HARRIS: or approximately, in your mind, three weeks after Chris Johnson had already notified you of this?

WESENBERG: No, because that was, I think we're talking about the first week of February when the detectives come in, so it would have only been a week after that.

HARRIS: You said late January?

WESENBERG: Yes, like third week in January.

HARRIS: The surveillance system, as it is set up, the taping system as it's set up, are the employees aware that they're being taped?

WESENBERG: Yes.

HARRIS: All the employees are aware of it?

WESENBERG: Yes.

HARRIS: So,

WESENBERG: Anyone that works at the front desk can see the monitor in the office and know exactly where they're being taped.

HARRIS: In fact, the, the surveillance system is so sort of prevalent it's very easy to see?

WESENBERG: Yes.

HARRIS: It's not hidden surveillance, is it?

WESENBERG: No.

HARRIS: In fact, you're trying, when you walk in that salon, it's something you can very clearly see?

WESENBERG: Yeah. After eleven years I don't even see it, but I'm,

HARRIS: Most people would probably clearly see it?

WESENBERG: Right.

HARRIS: It's not something that the business is trying to hide?

WESENBERG: Right.

HARRIS: In fact, a business such as yourself, in order to prevent problems with customers, may well make sure the customers do in fact know the surveillance, they're being surveilled?

WESENBERG: Actually, it's more employees than it is customers. We don't really see the customer, unless they're handing cash.

HARRIS: And all the employees are very well aware of the surveillance system?

WESENBERG: No, I wouldn't, I mean, unless you're at the front desk or in my office. If you're a hairstylist it doesn't affect you, you're never on it unless you're at the front desk. So I wouldn't say our hairstylists or employees that handle the cash transactions would be aware of it.

HARRIS: But they would see it?

WESENBERG: They might see it.

HARRIS: You looked at several pictures in the exhibit, where did you put the,

WESENBERG: This book.

HARRIS: Oh, you have it? If you could flip through, first of all, let me tell ask you. Amy Rocha has worked there for how long?

WESENBERG: Five years maybe? I'm not exactly sure.

JUDGE: You've got to talk into the microphone, ma'am, because the jury can't hear you talking.

WESENBERG: I want to say five years, maybe.

HARRIS: Does she have a work station?

WESENBERG: Yes, she does.

HARRIS: And could you turn to wherever the work station is that Amy Rocha works?

WESENBERG: Today?

HARRIS: Today, currently.

GERAGOS: Pat, do you know which one?

HARRIS: She's trying to find it here. See which picture. 3-I.

GERAGOS: I'll never be able to figure it out. Tell me to stop when I get there.

WESENBERG: It has, if you keep going.

WESENBERG: Okay. Right there. The empty chair.

HARRIS: . Okay. So the one in the black chair sitting next to the gentleman, that would be Miss Rocha's station?

WESENBERG: That's correct.

JUDGE: Today?

HARRIS: Today.

HARRIS: Now, at that point, on December 23rd, the night of that, was that also her station? Or was she at a different location?

WESENBERG: You know what, I believe she was at a different location, and she still might have been Chris's assistant at the time and just starting to get out on her own, so she may not have even had her own station.

HARRIS: Okay. When you don't have your own station, what does that mean in terms of where you actually cut hair?

WESENBERG: Well, you don't cut hair as an assistant. You don't have your station. You just do Chris's colors and that kind of stuff. And then if you were going to cut someone's hair, usually you cut it in your free time at an open station.

HARRIS: So you just go to wherever happens to be open at that particular time?

WESENBERG: That's correct.

HARRIS: Thank you. Previous to the, December 23rd, had you ever filed, rephrase the question. Had Salon Salon ever been broken into?

WESENBERG: No.

HARRIS: That you're aware of?

WESENBERG: No. Not broken into.

HARRIS: The areas you mentioned that has been changed, the reception area?

WESENBERG: Yes, the seating area.

HARRIS: The seating area, could you turn to it.

WESENBERG: Oh, here we go.

HARRIS: Okay. So 3-E. I apologize, I'm technologically challenged. I have to have my boss.

WESENBERG: I'm with ya.

DISTASO: Counsel, that's A, is that right?

WESENBERG: That's A, and it's E.

DISTASO: It's E we're looking for? A, B, C, D, E.

WESENBERG: Okay.

HARRIS: . Now, I want to make sure I'm clear. That area in itself --

WESENBERG: You know, what if you can go one more?

DISTASO: One more forward?

WESENBERG: Yes. F.

DISTASO: That's 3-F?

WESENBERG: Yes. There we go. That's our seating area.

HARRIS: . Okay. The only thing I'm not clear on is where is this in relationship to the front desk?

WESENBERG: When you walk in the front doors, the front desk is on your right and you walk right into that area.

HARRIS: So it's very close to the front desk?

WESENBERG: It's right beyond the front desk.

HARRIS: Right beyond the front desk?

WESENBERG: Uh-huh.

HARRIS: So, in fact, the video cameras would cover some of this seating area?

WESENBERG: No.

HARRIS: They're pointing straight,

WESENBERG: They're strictly down on the desk.

HARRIS: down, so there's no viewing whatsoever of the seating area at that point?

WESENBERG: No. No.

HARRIS: Okay. The system as it's set up has a monitor, you're able to monitor it out of the office?

WESENBERG: That's correct.

HARRIS: Okay. And two of the monitor, two of the cameras are actually in the office?

WESENBERG: That's correct.

HARRIS: Okay. And you testified a little while ago that Chris Johnson had spoken to you and that during the conversation he had asked you to, I assume what he asked you was to locate the tapes of December 23rd?

WESENBERG: He had them on my desk for me.

HARRIS: Okay. He had how many tapes on the desk?

WESENBERG: I think two.

HARRIS: And this was you think the last week of January?

WESENBERG: Yeah. Around the third week somewhere.

HARRIS: And where are those two tapes?

WESENBERG: That's a good question. I'm not sure.

HARRIS: You don't know where the tapes are?

WESENBERG: No.

HARRIS: Chris Johnson had pulled those specifically as tapes from the 23rd?

WESENBERG: He pulled two tapes, left them on my desk. I review both of them. I had nothing from either of those days left on there. So, and I don't remember where they, if they left my office, if they were, if I reused them and relabeled them. I don't have any recall.

HARRIS: That's all I have. Thank you

Redirect Examination by Rick Distaso

DISTASO: Ms. Wesenberg, so let me go back to I think it's 3, 3-N. Is this the front counter right here?

WESENBERG: Yes.

DISTASO: Is this 3-O, is that right?

WESENBERG: Yes.

DISTASO: Okay. So in order to be seen on the videotapes, you have to be walking along or standing right at the counter here, is that right?

WESENBERG: That's correct.

DISTASO: Okay. So to go to the counter, when you go to the counter, you do what you do at the counter, you pay or make an appointment, do those kind of things?

WESENBERG: That's correct.

DISTASO: To your knowledge who was cutting Laci Peterson's hair back in December of 2002?

WESENBERG: Amy Rocha.

DISTASO: Okay. Do you know if her sister Amy was charging her money such that it would go through the counter or cash register?

WESENBERG: No. Family does not pay.

DISTASO: Okay. The other, so if somebody came in here on 3-O, walked in through the front doors and walked down along the right-hand side here, and, and went over to the stations, they wouldn't show up on the videotape?

WESENBERG: That's correct.

DISTASO: The, do you remember the exact day that Detective Grogan came to talk to you?

WESENBERG: No, I don't.

DISTASO: Okay. Let me show you a report and see if this refreshes your memory. Just read to yourself this first paragraph here.

JUDGE: You want to identify what you're showing her?

DISTASO: It is, I'm showing her a report from Detective Grogan about this incident with the videotape.

JUDGE: What date is it?

DISTASO: It's on February 4th.

JUDGE: Okay.

DISTASO: And does that refresh your memory as to, as to what date the detective came to talk to you?

WESENBERG: Yes.

DISTASO: And what date was that?

WESENBERG: February 4th.

DISTASO: 2003?

WESENBERG: 2003.

DISTASO: Okay. And do you know when, do you know exactly, as you sit here today, the date that you had a conversation with Chris Johnson about the videotape?

WESENBERG: No, I don't.

DISTASO: Do you have any knowledge as you sit here today when Chris Johnson first spoke to the Modesto Police Department about the videotape?

WESENBERG: No, I have no idea.

DISTASO: Okay. So when you were saying it's about three weeks prior or about one week, or whatever, are you just basically guessing at this point?

WESENBERG: Completely.

DISTASO: Okay. So if the Modesto police had some records or reports that show when they spoke to Chris Johnson about this, would that be a better, or more accurate in your mind?

GERAGOS: Objection. Calls for speculation.

JUDGE: Sustained.

DISTASO: Basically what I'm trying to get from you is you talked with them on February 4th, is that right?

WESENBERG: That's correct.

DISTASO: Do you have really any idea when you spoke to Chris Johnson in relation to February 4th about the videotapes?

WESENBERG: Only that it was prior to that.

DISTASO: It was sometime in the month of January?

WESENBERG: It was in January, yes. I could confirm that.

DISTASO: Nothing further, your Honor.

Recross Examination by Pat Harris

HARRIS: Let me ask you a couple of quick questions about the tapes again. The, you said that he put the tapes on your desk to view.

WESENBERG: Uh-huh.

HARRIS: Okay. Now, is it your testimony that you, in fact, did review the tapes?

WESENBERG: Yes, it is.

HARRIS: And you say you don't know what happened to them after that?

WESENBERG: That's correct. I reviewed them and there was nothing on from those dates, so I believe I put them back into my seven day cycle. I don't,

HARRIS: When you say there was nothing else on them, there was tapes of the,

WESENBERG: That's correct.

HARRIS: salon on those days?

WESENBERG: Right.

HARRIS: And it's your testimony that in fact when you made the determination there was nothing on them, you put them back into the cycle?

WESENBERG: Right, because there was nothing pertaining to the 23rd and 4th.

HARRIS: Okay. And you it's your testimony that you do it on a daily basis, Monday's tape goes back into Monday's cycle?

WESENBERG: That's correct.

HARRIS: So it would be very easy, for example, for anyone to pull a Monday tape, because it's the same tape, correct?

WESENBERG: You mean every Monday?

HARRIS: Yeah.

WESENBERG: Every Monday we use the same tape, that's correct.

HARRIS: Absolutely. So anyone could come in, the Modesto Police Department could come in on any Monday and get a tape from Mondays to, in fact, see if it had been taped over, correct?

WESENBERG: Yes.

HARRIS: And, in fact, the Modesto Police Department never asked you for either of those tapes, did they?

WESENBERG: No, because I told them, when they asked me I told them I had already reviewed them and taped over them and the most current I had was in January.

HARRIS: So when this murder case, they took your word that in fact you had seen the tapes, nothing was on them, the heck with it, you put them back in?

WESENBERG: Well, I think what we discussed was it was used for monetary. I had no customers in and out of the salon on the tape, it was just cash transactions. Laci doesn't pay at the register. She doesn't come up to where the money is even handled.

HARRIS: Well, you did in fact testify on direct that you do get shots of people, glimpses of people coming in through the door, correct?

WESENBERG: Not unless you're standing at the desk, paying.

HARRIS: You come by there, don't you?

WESENBERG: You don't get the front door.

HARRIS: And, in fact, there is a possibility that she would have been coming in or else you wouldn't have even been looking at the tapes in the first place, would you?

DISTASO: Objection, your Honor. It calls for speculation.

JUDGE: Argumentative. Sustained.

HARRIS: I'll rephrase the question. You decided that it was worthwhile to take your time to look at the tapes to see if Laci Peterson was on there, did you not?

WESENBERG: I was, did what I was told, yes.

HARRIS: In fact, Chris Johnson felt that it was important enough that he pulled the tapes and put them on your desk and asked to you look through them, correct?

WESENBERG: Maybe there might be something on there.

HARRIS: And, in fact, when you put them back into the circulation on Monday, it was a, make sure I'm correct, it was a Monday tape, correct?

WESENBERG: Are you talking about Monday after I viewed them? Or Monday before I viewed them?

HARRIS: Let me back you up. These were Monday, it was Monday the 23rd, correct?

WESENBERG: It was a Monday tape, that's correct.

HARRIS: So it was a Monday tape, correct?

WESENBERG: That's correct.

HARRIS: You put it back into the Monday circulation?

WESENBERG: Uh-huh.

HARRIS: And at any point a Modesto police officer could come in there and say We would like to see your Monday tape, is that correct?

WESENBERG: That's correct.

HARRIS: And you, in fact, told the Modesto Police Department that you had taken the Monday, or the Monday tapes had been taken out, presented to you, and you cleared them?

WESENBERG: That's correct.

HARRIS: And they walked out the door, correct?

WESENBERG: Yes. On my word that there was nothing on there from those days,

HARRIS: You told them,

WESENBERG: taped over.

HARRIS: and they took your word for it and walked out the door?

DISTASO: Objection. Asked and answered.

HARRIS: That's all,

JUDGE: Sustained.

HARRIS: Hold on one second.

JUDGE: You're not going to ask that same question again, are you?

HARRIS: When you replaced a tape, we talked about there were two tapes, and I asked you about one tape, I guess. Were there two tapes in fact?

WESENBERG: There were two tapes on my desk.

HARRIS: Okay. What happened to the second tape?

WESENBERG: Same thing as the first one.

HARRIS: Does it take two tapes a day?

WESENBERG: No.

HARRIS: For Monday?

WESENBERG: No, it's on a 24 hour basis, and I don't know if it was late, I don't know, I don't know why he left two on my desk.

HARRIS: You don't know why?

WESENBERG: No.

HARRIS: You viewed them?

WESENBERG: I viewed them, but there was nothing on there, so I never went back to question what he was thinking on that.

HARRIS: Okay. Let me back up just a second. There's two tapes sitting on the desk.

WESENBERG: Uh-huh.

HARRIS: Okay. You put both of them back into circulation?

WESENBERG: Yes.

HARRIS: And they were both Monday tapes?

WESENBERG: Yes.

HARRIS: Okay. So when a tape runs, a Monday tape runs, it runs the entire 24 hours?

WESENBERG: Yes.

HARRIS: So do you have two tapes for every Monday?

WESENBERG: No. Today we do. Then we didn't.

HARRIS: Then you didn't?

WESENBERG: No. Then we just had one for each day, so I don't know if it was a Monday, Tuesday, I don't remember the days on the tape.

HARRIS: Well, how do you put it back into circulation, two tapes?

WESENBERG: Well, because I only had seven tapes, and we were continuing to tape that way. And once we reviewed them and there was confirmed there was nothing on them, we continued to use them.

HARRIS: You only have seven tapes?

WESENBERG: We only had seven tapes.

HARRIS: And you viewed two of them?

WESENBERG: I viewed two of them.

HARRIS: Were you viewing two Monday tapes?

WESENBERG: I don't recall.

HARRIS: You don't know whether they were both Monday tapes?

WESENBERG: I didn't even know, I just reviewed the two tapes that Chris put on my desk.

HARRIS: So when you had the conversation with the Modesto Police Department, you told them you didn't know what you were viewing?

WESENBERG: No, I was viewing the date of the 23rd. The tape that, because it has a date what they thought were the 23rd tapes were on my desk.

HARRIS: Okay.

WESENBERG: So, and when I reviewed them, the date, the 23rd, was no longer on the VCR, on the tape.

HARRIS: They both had the date of the 23rd on them?

WESENBERG: No, neither of them did.

HARRIS: You just testified that they had the date on them.

WESENBERG: Well, they had the date from what was recorded. Remember, because it got taped over. So all I was looking for was that date of the 23rd, and because it wasn't on any of that tape, I just said we don't have anything. I did not pay attention to the date that it actually got recorded over, or if it had been three Mondays later.

JUDGE: Okay. Just one thing is a little unclear to me. Did you tell the Modesto police that you had reviewed these tapes, you didn't see anything on there you thought was important or significant, and then you taped them over?

WESENBERG: I had, by the time I reviewed them.

JUDGE: So you told the Modesto police that you had taped them over?

WESENBERG: That's correct.

JUDGE: So when the Modesto police came there you had already taped over,

WESENBERG: That's correct.

JUDGE: those two?

WESENBERG: By the time we even thought about the surveillance, or at the time Chris Johnson got to me, it was already I think, like, two Mondays later. So we had already used that tape again.

JUDGE: Okay.

WESENBERG: So when I view it, it actually has the date of the recording on there.

HARRIS: And you explained that to the police?

WESENBERG: Yes.

HARRIS: And you explained, in fact, that what you viewed didn't show Laci on there?

WESENBERG: That's correct.

HARRIS: But that you weren't really clear what it was viewing?

WESENBERG: No.

HARRIS: You weren't really clear what was on the actual tapes, what day you were even viewing, or anything?

WESENBERG: I don't remember what day I was viewing. I just know it was not the 23rd. I had nothing from that date,

HARRIS: So you didn't –

WESENBERG: left on any of my tapes.

HARRIS: Okay. And the way you knew that was because there was no date on there?

WESENBERG: No. On, when you view it on the VCR and play it, it will show you the date it was recorded, but once it wasn't the 23rd, I put it back into my,

HARRIS: So you didn't actually view the tape, you just viewed to see the date, and once you saw it wasn't the date, you stopped viewing the tape?

WESENBERG: I viewed from front to end to see where the date was change,

HARRIS: Why was, excuse me.

WESENBERG: Changed.

HARRIS: I'm sorry. Are you finished?

WESENBERG: Uh-huh.

HARRIS: Didn't mean to interrupt you. Why would you view from front to end if it shows on the date that it's, that, you put it in the VCR, it shows it's not the date, it shows it's a different day, yet you view it from front to end?

WESENBERG: Because I have employees who forget to change the tape, change it late,

HARRIS: Exactly.

WESENBERG: don't do it, so I wanted to be sure I had nothing from those dates.

HARRIS: There's a lot of times, in fact, the tapes aren't put in correctly, they're lying there, with the right date,

WESENBERG: Right.

HARRIS: all those things. And there is a possibility that there was a tape that existed of the 23rd?

WESENBERG: No.

HARRIS: There was no possibility of that?

DISTASO: Objection, your Honor. It calls for speculation.

JUDGE: She's answered –

HARRIS: It doesn't call for speculation, it calls for,

JUDGE: She's answered. The answer "No" will stand.

HARRIS: And you explained all this to the Modesto Police Department?

DISTASO: Objection. It's been asked and answered.

JUDGE: Sustained.

HARRIS: One second.

HARRIS: Nothing further.

JUDGE: May this witness be excused subject to recall?

DISTASO: Yes, your Honor.

GERAGOS: Yes.