

1 stay here, I just have to -- I didn't realize we were
2 going to be here so late. I just have to tell my son
3 to walk to the doctor's office. He has an
4 appointment right now. I'll just go in the
5 vestibule, it'll take two seconds. If the witness
6 could stay right here, Your Honor, with the Court's
7 permission.

8 THE COURT: You're requesting a recess, aren't
9 you?

10 ATTY. HEISLER: yes, Your Honor. But --

11 THE COURT: Al right. We'll give you --

12 ATTY. HEISLER: Everybody can stay. I only need
13 about 30 seconds.

14 THE COURT: -- a five minute recess. And I
15 don't mean ten minutes. I mean five minutes.

16 ATTY. HEISLER: Thank you.

17 THE COURT: Brief recess. Sir, please be
18 careful stepping down.

19 THE WITNESS: Okay.

20 (Recess)

21 THE COURT: All right, Mr. Hunter, please be
22 seated. Mr. Pollock, do you have any other questions
23 of the witness, Sir?

24 ATTY. POLLOCK: Yes, I did.

25 BY ATTY. POLLOCK:

26 Q I wanted to find out, Mr. Hunter, do you -- in
27 addition to your testimony, do you have any kind of

1 photographs that would depict the damage that you've seen to
2 the property?

3 A Yes, I do.

4 Q And also, with regard to the last time you were at
5 the premises in November, I just want to be clear for the
6 record, when you were there with the Greenwich Police
7 Department, were you able to actually enter the property or
8 was that also an exterior only visit?

9 A I did enter the property with the police, with the
10 Greenwich Police --

11 Q With the Police Department.

12 A Correct.

13 Q Okay.

14 A The property was found abandoned and I did go in with
15 the police.

16 Q So when you went in and at some point -- at some
17 point in November, you found the property vacant?

18 A Correct.

19 Q You found no evidence of anybody living there?

20 A Correct. I actually have a picture with no
21 refrigerator in the -- in the property as well.

22 Q Do you have an extra set of those photographs --

23 A I do.

24 Q -- Mr. Hunter? Can I have a set because I want to
25 enter these as an exhibit?

26 ATTY. HEISLER: Your Honor, if I could -- Your
27 Honor, I have two objections to this. First of all,

1 as I said earlier --

2 THE COURT: To what? To what?

3 ATTY. HEISLER: This whole line of testimony --

4 THE COURT: I already noted your objection.

5 ATTY. HEISLER: Well also I have objections to
6 these pictures and to this exhibit.

7 THE COURT: Well why don't you look at them
8 first, Mr. Heisler. They haven't been offered yet.

9 ATTY. HEISLER: That's correct. Your Honor, the
10 witness has testified that he was aware of these,
11 that he observed these conditions 12 months ago. The
12 plaintiff chose to bring this action based on --

13 THE COURT: Let me interrupt you. Are you going
14 to be offering those photographs?

15 ATTY. POLLOCK: Yes, I am, Your Honor.

16 THE COURT: Then why don't you examine the
17 witness so that you can lay your foundation and Mr.
18 Heisler can be fully heard on his objection.

19 BY ATTY. POLLOCK:

20 Q Mr. Hunter, when were these photographs taken?

21 A November 8th.

22 Q And what do they show?

23 THE COURT: Of this year; right?

24 THE WITNESS: Correct.

25 THE COURT: Right.

26 Q When -- what are they pictures of?

27 A They're pictures of the damage of the inside of the

1 house, the neglect. Specifically, you can tell by the
2 photos nobody is living there. There's no refrigerator in
3 the kitchen. There's no heat, well, at that point, there
4 was no heat in the home which I don't believe there is now.
5 The -- also shows the vandalism in the property as well.

6 THE COURT: Who took the pictures? Did you take
7 them?

8 THE WITNESS: I did, personally.

9 THE COURT: All right.

10 ATTY. HEISLER: If I could voir dire the witness
11 in --

12 THE COURT: Yes, Sir.

13 ATTY. HEISLER: -- connection with his pictures.

14 VOIR DIRE EXAM BY ATTY. HEISLER:

15 Q Mr. Hunter.

16 A Yes.

17 Q How did you get into the house exactly?

18 A I went to do an exterior inspection on the home.

19 We've been going by the house every two months for the past
20 year approximately. When I pulled up in front of the
21 residence, there was a Greenwich Policeman in front of the
22 home. And at that point I asked him what was going on and
23 he had been there for a complaint -- responded to a
24 complaint at the property. Proceeded to go into the home
25 with the officer and found the home was vacant.

26 Q So you saw policeman there and said; hey, I want to
27 go in the house. And he said, sure, come on in?

1 A Well, not exactly. I did speak to him and let him
2 know I was a representative for the bank -- I would -- at
3 the property and had been watching the property for the past
4 year. And up until before I met him, it appeared the home
5 was vacant but we never entered, we never went in at that
6 point. But it did appear vacant probably I would say a
7 month, possibly two months before I met him at the property.
8 But for legal reasons, we couldn't access the property.

9 Q Yeah for legal reasons, meaning that you're not
10 allowed to go into property --

11 A Right.

12 Q -- that you're not a tenant of; correct?

13 A Correct. Yeah, I agree. However, the policeman was
14 there and I went in with the policeman who went in the home.
15 I asked him if I can go in with him and he said yes.

16 Q Did the policeman have a warrant when he went into
17 the house?

18 A You'd have to ask them. I don't believe so. But
19 that has nothing to do with me.

20 ATTY. HEISLER: Well, Your Honor, I do have an
21 objection to this. I believe that it was an unlawful
22 entry by the police. Now, normally, normally, Your
23 Honor, testimony by a private party from an unlawful
24 activity would be admissible under certain
25 circumstances. However, it's clear that Mr. Hunter,
26 if he did go into the property, went in as an agent
27 of the police and I think for that reason alone that

1 these photographs were improperly taken and his entry
2 into the apartment was improper. But more
3 fundamental, Your Honor, Mr. Hunter testified that 12
4 months ago he knew that there was waste occurring on
5 the property. This action could have been brought on
6 nuisance --

7 THE COURT: Mr. Heisler, we are dealing with the
8 offer of Mr. Pollock.

9 ATTY. HEISLER: And again, I don't know the
10 relevance to it.

11 THE COURT: I've heard --

12 ATTY. HEISLER: There's no claim of exemption
13 pending. There's nothing --

14 THE COURT: Keep going --

15 ATTY. HEISLER: What's the relevance on this?

16 THE COURT: -- on the pictures only. Anything
17 else?

18 ATTY. HEISLER: What is the relevance of this,
19 Your Honor?

20 THE COURT: I don't -- I'm not a witness, Mr.
21 Heisler.

22 ATTY. HEISLER: I didn't mean to --

23 THE COURT: If you want to examine the witness,
24 you may further examine him, but you don't ask the
25 Court questions. You argue to the Court, not with
26 the Court. Law school 101. Do you have anything
27 else regarding your objection to the admissibility to

1 those photographs?

2 ATTY. HEISLER: Yes, my objection is, Your
3 Honor, that Mr. Hunter entered the house with the
4 police as part of an illegal search of the apartment,
5 Your Honor. He had no authority to be in there.
6 Greenwich police had no authority to be in there.
7 And it would be against my client's rights under the
8 constitution, under the 14th amendment to have any of
9 this information entered into court here. It was
10 clear that Mr. Hunter entered as part of an illegal
11 search by the -- by the Greenwich Police Department.
12 He entered as an agent of the Greenwich Police
13 Department. He was with them at all times under the
14 color of their authority and therefore these
15 documents should be -- if Your Honor wishes, I could
16 subpoena the Greenwich -- this is the first I became
17 aware of this. I could subpoena the Greenwich Police
18 Department and follow a motion to suppress them with
19 a supporting brief, Your Honor, and an affidavit if
20 Your Honor wishes.

21 THE COURT: Anything else on your objection?

22 ATTY. HEISLER: No, Your Honor.

23 THE COURT: Mr. Pollock, did you wish to respond
24 to the objection?

25 ATTY. POLLOCK: Your Honor, we're not here on a
26 criminal proceeding. It's a civil proceeding. Mr.
27 Hunter was not an agent of the police. He was there

1 as an agent of the bank. He was there, the police
2 entered the building. He has a right to protect his
3 client's property. That property is the property of
4 the bank. And we would -- there was no detainer.
5 There's no evidence that locks were changed or
6 anything like that. So he can -- so he went in there
7 for the purposes of inspection.

8 ATTY. HEISLER: Your Honor

9 THE COURT: Anything else?

10 ATTY. POLLOCK: Nothing further on that point,
11 Your Honor.

12 THE COURT: All right, Mr. Heisler.

13 ATTY. HEISLER: He entered under color of
14 authority by the Greenwich Police Department.

15 THE COURT: You've already stated that, Mr.
16 Heisler.

17 ATTY. HEISLER: Therefore, under --

18 THE COURT: Your objection is overruled. They
19 may be admitted as exhibits. Any other questions of
20 Mr. Hunter?

21 BY ATTY. POLLOCK:

22 Q So, Mr. Hunter, just to be clear, those were pictures
23 that you took on November 8th and they're representative of
24 the damage and waste that you found on the premises?

25 A Correct.

26 ATTY. POLLOCK: Nothing further, Your Honor.

27 THE COURT: All right. Mr. Heisler, did you