

1 JUDGE SIPPEL: I, I would look at a substantive
2 change more in the nature of she had testified in the deposi-
3 tion that she had participated in the, in the -- in ascertain-
4 ment process, and then she wanted to strike that and say that
5 well, no, she really didn't participate in it. And I don't
6 think that this amounts to that kind of a change. I'm -- you
7 can argue -- again, you can, you can make your arguments in
8 Findings with respect to the weight in, in light of the
9 change, if you think that it has -- you can get any mileage
10 out of it, but I'm, I'm going to receive -- I mean, I, I am
11 not going to make any alterations or order any, any striking
12 of that page 17. Are there any other objections that you
13 have?

14 MS. SCHMELTZER: I think on page 28, line 16,
15 there's a substantive change. It concerns a tangential mat-
16 ter, but it is a substantive change. And also on --

17 JUDGE SIPPEL: My ruling will be the same on that.

18 MS. SCHMELTZER: And also at page 60, line 17,
19 there's also a substantive change.

20 JUDGE SIPPEL: Well, the word "profiles of each" is
21 changed to "profiles each." Again, my, my ruling would be the
22 same. Is that it?

23 MS. SCHMELTZER: Yes.

24 JUDGE SIPPEL: That notes your concerns? All right.
25 Over the expressed objection of Four Jacks for the reasons

1 that they have articulated, including the objections to the
2 changes in the -- by virtue of the errata sheet, Scripps
3 Howard Exhibit No. 38 for identification is now received in
4 evidence as No. 38.

5 (Whereupon, the document marked for
6 identification as Scripps Howard
7 Exhibit No. 38 was received into
8 evidence.)

9 JUDGE SIPPEL: Does that conclude all the, the
10 documents at this time?

11 MR. HOWARD: From us, Your Honor, yes.

12 JUDGE SIPPEL: All right. You have a witness, Mr.
13 Howard?

14 MR. HOWARD: Ms. Barr, would you take the stand?
15 Ms. Barr, I'm going to have a copy -- I'm sorry.

16 JUDGE SIPPEL: That's all right. I'm going to ask
17 you to, just before you sit down, raise your right hand?

18 All right. It's -- I understand that you've testi-
19 fied before in this proceeding, Ms. Barr, but you were excused
20 as a witness and I just felt it necessary to administer a new
21 oath to you.

22 WITNESS: No problem.

23 JUDGE SIPPEL: You understand?

24 WITNESS: Yes, I do.

25 MS. ABRUTYN: Can we give Ms. Barr a copy of her

1 direct case testimony with the change that was made this
2 morning in light of Ms. Schmeltzer's objections to
3 paragraph 4?

4 JUDGE SIPPEL: Thank you very much, Ms. Abrutyn.
5 That's Exhibit No. 36. All right. Mr. Howard?

6 MR. HOWARD: Just one preliminary matter, Your
7 Honor.

8 Whereupon,

9 EMILY BARR
10 having first been duly sworn, was called as a witness herein
11 and was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. HOWARD:

14 Q Ms. Barr, is there any clarification of your testi-
15 mony that you'd like to make at this point?

16 A Yes, there is. With respect to tab A of my direct
17 testimony, I just want to clarify for the record that when I
18 refer to having faxed the elements of tab A to Baker &
19 Hostetler, I did in fact fax everything in tab A, the three
20 pages. But I just want to clarify that the third page, which
21 is a list of handwritten issues that is in my handwriting,
22 that was not faxed to NBC originally. What was faxed to NBC
23 was the two-page memo that is part of tab A. I just wanted to
24 make sure that was clear.

25 JUDGE SIPPEL: All right. So, what went to NBC on

1 August 10, 1992, was just the -- your two-page memo --

2 WITNESS: That's correct.

3 JUDGE SIPPEL: -- from you to Ms. Cole and Ms.
4 Anderson?

5 WITNESS: That's correct.

6 JUDGE SIPPEL: All right. Thank you for the clari-
7 fication.

8 MR. HOWARD: That's all, Your Honor.

9 JUDGE SIPPEL: And this is your signature at the end
10 of this testimony?

11 WITNESS: Yes, it is.

12 JUDGE SIPPEL: On page SH36-16?

13 WITNESS: Yes, it is.

14 JUDGE SIPPEL: Ms. Schmeltzer, the witness is ten-
15 dered for cross-examination.

16 MS. SCHMELTZER: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. SCHMELTZER:

19 Q Good morning, Ms. Barr.

20 A Good morning.

21 Q Ms. Barr, I'd like to refer you to page 13 of your
22 direct case testimony, and there you talk about a letter of
23 July 13th which incorrectly implied that you had -- that Ms.
24 Covington had prepared her handwritten notes in 1991 rather
25 than 1992. Do you see that?

1 A Yes, I do.

2 Q Okay. Did you review a copy of that July 13th
3 letter prior to preparing your direct case testimony, Ms.
4 Barr?

5 A I had looked -- I've had -- I've seen that letter
6 several times.

7 Q Well, did you review the letter prior to preparing
8 your direct case testimony?

9 MR. HOWARD: Could you -- ask for a clarification of
10 whether she means her direct case testimony -- this direct
11 case testimony?

12 BY MS. SCHMELTZER:

13 Q Did you review the July 13, 1993, letter prior to
14 preparing this direct case testimony? It's Scripps Howard
15 Broadcasting Company Exhibit 36.

16 A Well, if, if by review you mean did I, did I -- I
17 didn't reread, as I recall, the whole thing very, very close-
18 ly. I looked at the letter and I noticed in the -- in that
19 portion of the, of the, of the letter that she was referred to
20 as the former Public Relations Director.

21 Q And did you also look at the portion of the letter
22 that, and I'm quoting you now, "...implied that Ms. Covington
23 had prepared her notes in 1991, rather than 1992."?

24 A Well, that, that implication was because the letter
25 implied that she had done the notes prior to her departure

1 from the station when she retired in 1991. So, yes, I, I had
2 looked at --

3 Q Let me show you --

4 A I, I was familiar with the letter.

5 Q Let me show you a copy of the July 13th letter.

6 MS. SCHMELTZER: Your Honor, this letter is not in
7 the record. The only thing that was in the record was the
8 last paragraph. I think it would be appropriate to put the
9 whole letter in the record. Actually, I'm not sure the whole
10 last paragraph was in there either, for that matter. But now
11 that Scripps Howard has referred to it in its direct case
12 exhibit, I frankly think the whole letter should be in there.

13 JUDGE SIPPEL: All right. All right. We'll mark it
14 as your next exhibit.

15 MS. SCHMELTZER: So, I would like to have marked as
16 Four Jacks Exhibit 30 a letter dated July 13, 1993. It's
17 directed to Martin Leader from Kenneth C. Howard, Jr.

18 COURT REPORTER: Did you say 30?

19 MS. SCHMELTZER: 30. Four Jacks Exhibit.

20 JUDGE SIPPEL: This two-page document will be marked
21 for identification at this time as Four Jacks Exhibit 30.

22 (Whereupon, the document referred to
23 as Four Jacks Exhibit No. 30 was
24 marked for identification.)

25 BY MS. SCHMELTZER:

1 Q Ms. Barr, is what has been identified as Four Jacks
2 Exhibit 30 the July 13, 1993, letter that you're referring to
3 in paragraph 39 of your testimony?

4 A Yes, I believe it is.

5 Q Now, if you would refer to the second page of that
6 document? And I refer you to the sentence that says,
7 "Finally, Janet Covington, the former public relations direc-
8 tor of WMAR-TV who retired in December '91 at one time
9 possessed personal notes that recorded various ascertainment
10 meetings in which she participated during the relevant
11 period." When you wrote in your testimony that the statement
12 incorrectly implied that she had prepared her notes in '91
13 rather than 1992, were you referring to that sentence?

14 A Yes, I was.

15 Q Okay. And you also believe there was an error in
16 Ms. Covington's title in that letter, is that correct?

17 A I know there's an error in Ms. Covington's title.

18 Q Now, when you prepared your direct case testimony,
19 did you, did you notice any other errors in the July 13th
20 letter? In that paragraph.

21 MR. HOWARD: Objection, Your Honor. If Ms.
22 Schmeltzer sees an error in here that she wants to cross-
23 examine the witness on, I think it's appropriate that she
24 identify the error and ask the witness questions about it.

25 MS. SCHMELTZER: I'm asking the witness about a very

1 short paragraph. I'm asking her if she saw any other letter
2 -- errors in the letter before she prepared her direct case
3 testimony.

4 JUDGE SIPPEL: Well, this testimony is, is being
5 proffered as being full and complete.

6 MS. SCHMELTZER: That's correct.

7 JUDGE SIPPEL: I think that's a -- I don't under-
8 stand the -- I mean, in light of it being proffered as full
9 and complete testimony, either you have a point to cross-
10 examine her on or you don't.

11 MS. SCHMELTZER: Let me ask her another way. Let me
12 rephrase --

13 JUDGE SIPPEL: I'll sustain the --

14 MS. SCHMELTZER: -- the question.

15 JUDGE SIPPEL: -- objection.

16 MS. SCHMELTZER: Okay. Ms. Barr, I'd like you to
17 read that paragraph that begins, "Finally..." and tell me if
18 there are any other factual errors in that paragraph?

19 MR. HOWARD: Your Honor, we object again. He -- you
20 just sustained our objection to that --

21 MS. SCHMELTZER: No, this isn't --

22 MR. HOWARD: -- very question.

23 MS. SCHMELTZER: No, I'm not asking her -- I'm
24 asking her now, as of today, not as of the time she prepared
25 her direct case testimony, I'm asking her as of today does she

1 see any other errors in that paragraph?

2 JUDGE SIPPEL: Now, again, I, I -- it's, it's a
3 paraphrase of what you tried -- what you attempted to do
4 before. I'm saying is I'm not going to permit that question
5 or that type of question. The witness has proffered her
6 testimony as being full and complete. It's written out. You
7 have a right to cross-examine her with specific points. And
8 you've got a letter here now that you've identified and you're
9 asking her specific questions; that's going to be permitted.
10 But I'm not going to permit that kind of an abstract question
11 to be asked.

12 MS. SCHMELTZER: Ms. Barr, referring to your de-
13 scription in paragraph 39, was that a full, complete, and
14 accurate description of the errors in the July 13, 1993,
15 letter?

16 MR. HOWARD: Objection, Your Honor. The, the testi-
17 mony does not purport to be a full, accurate, and complete
18 description of all the errors in the -- in that letter. It's,
19 it's offered for the purpose that she did not review that
20 letter before it was sent. That's the, that's the, the import
21 of the paragraph and that's the line of inquiry --

22 JUDGE SIPPEL: That's --

23 MR. HOWARD: -- not the world.

24 JUDGE SIPPEL: That, that objection is sustained.

25 On -- you -- in order to -- the cross-examination has to go to

1 the specific things that she's testified to on direct.

2 MS. SCHMELTZER: Right. And I can go beyond that,
3 Your Honor.

4 JUDGE SIPPEL: Well, if -- you certainly have to lay
5 a better foundation than this is. You're asking her in a very
6 abstract way something that certainly goes way beyond what is
7 delineated here in her testimony. In other words, you're
8 asking her in a very abstract way could there possibly be
9 anything else that you missed on this.

10 MS. SCHMELTZER: I mean, just that one paragraph. I
11 mean -- in fact, it's only three sentences.

12 JUDGE SIPPEL: Well --

13 MR. GREENEBAUM: Your Honor, this is not her letter.
14 This is a letter written by Mr. Howard.

15 MS. SCHMELTZER: I -- that she reviewed.

16 MR. GREENEBAUM: Well, let me finish, please.

17 JUDGE SIPPEL: Yeah.

18 MR. GREENEBAUM: And she's merely using the letter
19 as a frame of reference as to why she said -- incidents -- and
20 to make this point one in the cross on what -- whether the
21 letter is accurate or not, it seems to me to have no probative
22 value as to what Your Honor is looking at.

23 JUDGE SIPPEL: No. What I'm looking -- see -- I, I,
24 I'm sustaining the objection again on the -- and I agree with
25 Mr. Greenebaum's analysis of the situation. The testimony is

1 really what you're cross-examining, not Mr. Howard's letter.

2 And --

3 MS. SCHMELTZER: That's right.

4 JUDGE SIPPEL: -- you're, you're -- again, if you
5 want to, if you want to go to a specific statement that she
6 made in paragraph 39, all right, and then go to something
7 specific in Mr. Howard's letter for purposes of showing what-
8 ever you seem to be wanting to show, an inconsistency or, or
9 whatever you think would weaken the testimony, I would permit
10 that. But these broad questions, is there anything else,
11 it's, it's -- again, I don't think it's fair to the witness.

12 BY MS. SCHMELTZER:

13 Q Ms. Barr, you said that the letter incorrectly
14 implied that Ms. Covington had prepared her notes in 1991
15 rather than 1992, correct?

16 A Yes, I di--

17 Q Did the letter also incorrectly state that the notes
18 were not retained in any files at WMAR-TV?

19 A Well, it's -- logic prevails that if she didn't
20 produce the notes before she left there they couldn't have
21 been retained in a file. I mean, she retired at the end of
22 1991, so -- I didn't -- I, I didn't write this letter --

23 Q Right.

24 A -- and I didn't review this letter. And the only
25 thing that I tried to say in paragraph 39 was that it was

1 fairly clear to me that I did not review this letter at the
2 time that the letter was being written because I would have
3 made those -- that obvious correction.

4 Q Now, let's go back to when you asked Ms. Covington
5 to prepare handwritten notes for you. Was that the summer of
6 1992?

7 A Well, let me make a correction there. I did not ask
8 Ms. Covington to prepare handwritten notes for me.

9 Q Ms. Covington prepared handwritten notes for you in
10 the summer of 1992, is that correct?

11 A Ms. Coving-- I called Ms. Covington and asked her
12 for her calendar.

13 Q Right.

14 A And she located her calendar and then offered, at
15 her suggestion, to write out in longhand her meetings that she
16 had had during the summer of 1991.

17 Q Correct. And she gave you her personal handwritten
18 notes in the summer of 1992, is that correct?

19 A I -- yeah. I don't recall the exact date, but I did
20 receive them sometime that summer.

21 Q Now, did there come a time -- and I'm going to jump
22 ahead to June of 1993. Do you recall producing documents in
23 response to requests from Four Jacks in June of 1993?

24 A I recall producing a lot of documents during that
25 period of time.

1 Q And in connection with the production of documents
2 to Four Jacks in June of 1993, do you recall turning over the
3 calendars of yourself and Ms. Velleggia and Arnold Kleiner?

4 A I know --

5 MR. HOWARD: Objection, Your Honor. There's a
6 preface in that question that, that adds to the witness's
7 testimony. The earlier question was did she produce documents
8 in response to Four Jacks' Request for Production of
9 Documents, and the witness answered that during that summer
10 she produced a lot of documents. And then the -- Ms.
11 Schmeltzer came back -- going back to her point, which was in
12 fact corrected slightly by the witness, saying in connection
13 with the production of documents in response to Four Jacks'
14 document production request -- and the witness did not testify
15 that she specifically recalled gathering -- that, that all
16 these document productions that occurred were done in response
17 to Four Jacks --

18 JUDGE SIPPEL: Well, I think I understand your
19 point. I, I'm going to, I'm going to sustain the objection to
20 the point -- to, to the extent of requiring you to, to lay a
21 better foundation for that question. When I say "that ques-
22 tion," I mean a question that, that was -- that asks for her
23 role with respect to complying with a discovery request.

24 MS. SCHMELTZER: Okay.

25 BY MS. SCHMELTZER:

1 Q In June of 1993, Ms., Ms. Barr, am I correct that
2 you were asked to review your files in connection with obtain-
3 ing documents that were to be produced in discovery?

4 A I, I know that I was asked to review my files on
5 several occasions by counsel and I know, I know there was a
6 document production request and I know that, you know, that
7 went along with that same period of time that I was looking
8 for documents, yes.

9 Q And --

10 JUDGE SIPPEL: When you say a document production
11 request, you understand that to mean documents that were
12 ultimately going to be turned over to Four Jacks?

13 WITNESS: Yes. I, I was given a copy of the docu-
14 ment production request.

15 JUDGE SIPPEL: And it came from Four Jacks' counsel?

16 WITNESS: Well --

17 JUDGE SIPPEL: I'm sorry. It was, it was Four
18 Jacks' counsel's request. It was given to you by Scripps
19 Howard counsel.

20 WITNESS: When I went over these things, I went over
21 them with my counsel.

22 JUDGE SIPPEL: Okay.

23 WITNESS: So, when I think of receiving it -- I'm
24 sorry -- I think of receiving it from my counsel.

25 JUDGE SIPPEL: Right. But --

1 WITNESS: Yeah.

2 JUDGE SIPPEL: -- it was a Four Jacks' request for
3 documents that you were addressing?

4 WITNESS: As best as I can recall, yes.

5 JUDGE SIPPEL: All right.

6 BY MS. SCHMELTZER:

7 Q And to gather documents for that request, am I
8 correct that you went through the files in your office?

9 A Yes, I did.

10 Q And you kept all of the files pertaining to this
11 case in your office, did you not?

12 A Yes, I did.

13 Q Were you -- and am I correct that you were in-
14 structed to turn over all potentially responsive documents to
15 your counsel?

16 A Yes. I reviewed the document production requests
17 with counsel so that I was sure I understood what it expected
18 of me, and then I turned over everything that I believed to be
19 relevant.

20 Q And, in addition, isn't it correct that one of the
21 attorneys from Baker & Hostetler also came to Baltimore to go
22 through all the files that were related to this case?

23 A At what period of time are we --

24 JUDGE SIPPEL: Wait --

25 MS. SCHMELTZER: In June of 199--

1 JUDGE SIPPEL: Just a minute. Just a minute. We
2 have an objection.

3 MR. GREENEBAUM: I just -- Your Honor, I think about
4 how things are going to read as well as what we hear -- can we
5 make sure we're talking about files in her custody, posses-
6 sion, and control? She couldn't possibly have all of the
7 files relating to this case in her office. I think that's
8 true.

9 JUDGE SIPPEL: All right. I, I'm --

10 MR. GREENEBAUM: A lot of other people are involved
11 relating to this case.

12 JUDGE SIPPEL: Yeah. This is, this is, this is very
13 important, that, that, that your question focus on exactly
14 what the universe of documents is and, and their location for
15 each of these questions.

16 MR. GREENEBAUM: Thank you, Your Honor.

17 MR. ZAUNER: Could I just get a point of information
18 too? Are we talking about Four Jacks' document request of
19 June 11, 1993? Is this, this --

20 MS. SCHMELTZER: Yes.

21 MR. ZAUNER: -- the request that she's preparing the
22 documents --

23 MS. SCHMELTZER: Yes.

24 MR. ZAUNER: -- for?

25 MS. SCHMELTZER: Yes.

1 MR. ZAUNER: Thank you.

2 MR. GREENEBAUM: May I ask that we mark that --

3 MR. HOWARD: Could, could we mark that as an exhibit
4 and have that introduced into the -- in the record. There's,
5 there's, there's clear -- it's clearly relevant to this cross-
6 examination. I, I don't have a copy to, to offer, but I could
7 provide one for the record.

8 MS. SCHMELTZER: I don't have copies to offer ei-
9 ther.

10 MR. ZAUNER: I have a question as to whether it's
11 relevant? Because --

12 MS. SCHMELTZER: We've been through that --

13 MR. ZAUNER: -- in the Judge's order --

14 MS. SCHMELTZER: -- before, Mr. Zauner.

15 MR. ZAUNER: -- in the Judge's Order and Motion for
16 Summary Decision, he sets forth that request of June 11, 1993,
17 and he goes on and he states, as I read it, that "a narrow
18 literal reading of the discovery request by a trial advocate
19 could result in turning over only those documents that were in
20 existence or that were prepared between May 30 to September 3,
21 1991.

22 MS. SCHMELTZER: Your Honor, this has been --

23 MR. ZAUNER: That being the case --

24 MS. SCHMELTZER: -- litigated.

25 JUDGE SIPPEL: Well, well, let Mr. Zauner finish.

1 MR. GREENEBAUM: That's Mr. Zauner's point.

2 MR. ZAUNER: Yeah. That being the case, it seems to
3 me Your Honor has already concluded that that document request
4 did not include, reasonably, the Covington notes, which went
5 --

6 MS. SCHMELTZER: No, that's incorrect.

7 MR. ZAUNER: -- into existence after that date.

8 MS. SCHMELTZER: That's incorrect, Mr. Zauner.

9 JUDGE SIPPEL: That was, that was what -- well, it's
10 interesting to hear what I wrote. When, when did I write
11 that?

12 MR. ZAUNER: Well --

13 JUDGE SIPPEL: But let me just --

14 MR. ZAUNER: -- I happen to agree with it. I think,
15 I think --

16 JUDGE SIPPEL: I --

17 MR. ZAUNER: -- your analysis is correct --

18 JUDGE SIPPEL: -- I, I don't --

19 MR. ZAUNER: -- that March 18, 1994, was released,
20 Memorandum Opinion and Order, FCC 94M-177. And by that analy-
21 sis, this is -- whole thing is irrelevant.

22 JUDGE SIPPEL: I understand, I understand that the
23 Bureau has been opposing the adding of this issue since it
24 first arose, and so I understand, I understand that, you know,
25 that -- I understand what your position is with respect to

1 receiving this evidence. But let me say that that was written
2 in connection with whether or not there was a substantial
3 question of fact with respect to the question, not as to
4 whether or not it was a matter of law. There was going to be
5 a determination made on the issue. It was -- it's -- and I
6 did -- well, I wrote what I wrote, and I'm not trying to
7 retract what I wrote.

8 But in the context of the Motion for Summary
9 Decision as opposed to what we have here, we have an added
10 issue, and the -- well, you know what the issue is. And we
11 have a witness who has given testimony responsive to that
12 issue. And we're getting cross-examination on that testimony.
13 That's -- you know, that's what this is all about.

14 MR. ZAUNER: I, I -- I'm not going to argue with
15 Your Honor. I just pointed out what I thought was something
16 which made this line irrelevant. Your Honor has ruled.

17 MS. SCHMELTZER: Ms. Barr, Mr. Greenebaum has raised
18 a, a concern about what files you had in your office. Let's,
19 let's go back.

20 MR. GREENEBAUM: Your Honor, that's not my concern,
21 only to the record.

22 BY MS. SCHMELTZER:

23 Q Well, let's let the record be clear, then, as to the
24 files that you had in your office. Am I correct that in the
25 summer of 1992 you were working on a project to gather materi-

1 als related to the 1991 ascertainment at WMAR-TV?

2 A That was one element I was working on, yes.

3 Q And in connection with that project you asked, as we
4 said before, you asked Ms. Velleggia and Mr. Kleiner and Ms.
5 Covington for calendars?

6 A Yeah. Actually, I asked other people for calendars.
7 Those are the calendars that still -- people still had.

8 Q And Ms. Velleggia and Mr. Kleiner gave you calendars
9 and Ms. Covington gave you notes, is that correct?

10 A Yes.

11 Q And you took all of those documents and used them to
12 prepare an exhibit for the hearing that would ultimately be
13 held. Is that correct?

14 A I took those documents plus my own calendar, talked
15 with each of the individuals separately on several occasions,
16 and compiled a document that ultimately became an attachment
17 to my testimony of last year.

18 Q Did you talk to Ms. Covington on several occasions?

19 A I know that I spoke to Ms. Covington on the tele-
20 phone when I originally asked her to look for her calendar. I
21 know that I spoke to her a second time when she notified me
22 that she had her calendar and offered to write me the notes,
23 and I know that I spoke to her on at least one other occasion
24 to review what was in the notes for just my own clarification.

25 Q That was one -- you, you recall sitting down with

1 her personally to discuss her, her notes?

2 A As best as I can recall, we did sit down on at least
3 one occasion, and the reason I say at least one occasion is
4 because I saw Ms. Covington fairly often, even though she had
5 since retired from the station. So, while I don't
6 specifically recall sitting down with her on more than one
7 occasion, I do know that I sat down with her on at least one
8 occasion.

9 Q And the purpose of that conversation was to make
10 sure that you understood everything that was written down in
11 Ms. Covington's notes, wasn't it?

12 A I just wanted to clarify some of the things in her
13 notes.

14 Q Am I correct that you and Ms. Covington did not
15 compare her notes to the other calendars that you had?

16 A No. That -- I did not do that.

17 Q And am I right that Ms. Covington did not give you
18 any additional materials apart from the notes?

19 A Not anything other than what she might have told me.

20 Q So, the only thing that you had from Ms. Covington
21 relating to 1991 were the notes, is that correct?

22 A That's correct.

23 Q So, in effect, Ms. Covington's notes were -- with
24 respect to her, were the equivalent of the calendars with
25 respect to Ms. Velleggia and Mr. Kleiner, is that correct?

1 A Yes.

2 Q And Ms. Covington's notes, which the Judge has seen
3 earlier in this case, were in pencil, is that right?

4 A Yes, they are.

5 Q There were some markings on those notes where dates
6 were checked or marked through. Those were your marks?

7 A Yes, they were.

8 Q And the notes that we've seen, and they're attached
9 to your exhibit, Ms. Barr, as exhibit C, did you notice those
10 begin with September 3 and go through September 28, and then
11 they begin again with June 3 and go through August 23rd? Do
12 you see that?

13 A Yes, I do.

14 Q Am I correct that you assume that's the way you got
15 them?

16 A I don't recall in what order I received them.

17 Q Do you recall whether Ms. Covington gave you the
18 June 3 through August 23 notes at the same time that she gave
19 you the September notes?

20 A I, I just don't recall.

21 Q Now, other than meeting with Ms. Covington person to
22 person, am I correct that you don't specifically recall any
23 telephone conversations during which you discussed the notes?

24 A Well, let, let me just state again that I -- Janet
25 and I had numerous conversations and we had contact with each

1 other during this period of time and subsequently, and so
2 while I cannot specifically recall one specific telephone
3 conversation, I know that it would not have been unlikely for
4 me to have perhaps asked her a question or two during a
5 conversation that may have begun about something completely
6 unrelated, but I can't specifically recall that I did have
7 that kind of conversation.

8 Q Now, you worked on the exhibit in late summer, early
9 fall of 1992, is that right?

10 A On this --

11 Q The, the --

12 A -- the --

13 Q -- exhibit that was relating to the 1991 ascertain-
14 ment?

15 A Yes.

16 Q And is it correct that you did not show Ms.
17 Covington any drafts of that exhibit or the final exhibit?

18 A Not that I recall.

19 Q During that period of time, I'm referring to.

20 A Yes.

21 Q Once the project was completed, did you take the
22 calendars and Ms. Covington's notes and put them on the floor
23 in your office?

24 A For a period of time, yes.

25 Q And during the time that you were working on this

1 project your counsel also came to Baltimore in the summer of
2 1992, isn't that correct?

3 A I don't, I don't recall.

4 Q You don't recall whether your counsel came to Balti-
5 more to work on this project?

6 A Well, you know, they've been, they've been in Balti-
7 more, they've been in Baltimore several times, and you're
8 talking about several years ago, and I just can't tell you
9 with certainty whether they were there or not during that
10 summer.

11 Q Do you recall whether you, in the summer of 1992,
12 whether you sent the calendars or the handwritten notes to
13 your counsel?

14 A As best as I can recollect today, I did not.

15 Q Now, am I correct that you did -- you never asked
16 Ms. Covington to keep her calendar?

17 A That's correct.

18 Q And --

19 A I don't -- let me, let me -- I'm sorry. Let me
20 clarify that. I don't recall that I ever asked her to keep
21 her calendar, but I also don't recall that I ever asked her
22 not to keep her calendar.

23 Q All right.

24 A I don't think it ever came up.

25 Q Did you complete the project relating to the 1991

1 ascertainment in the early fall of 1992?

2 A You know, I was working on a lot of different things
3 simultaneously. And as best as I can recall, it was sometime
4 in that fall period after several drafts of I think what was
5 called attachment E finally was completed, or what ultimately
6 became attachment E was completed, that I did complete it.

7 Q Now, after you completed the, the project, did the
8 calendars and the notes stay on the floor of your office for
9 some period of time?

10 A I testified a minute ago that they stayed there for
11 a period of time, yes.

12 Q And did there come a time when you got a file cabi-
13 net? Was that early 1993?

14 A As, as best as I can recall, it was early 1993.

15 Q And at that time did you make a file for the per-
16 sonal calendars?

17 A I made files for everything that had been collecting
18 in my office --

19 Q Was this a --

20 A -- relating to this case.

21 Q Was this a one-drawer file cabinet?

22 A Two drawers.

23 Q Two-drawer file cabinet?

24 A Yes.

25 Q That you got in early 1993?