

1 to sound like I'm arguing --

2 MR. GREENEBAUM: You're focusing on historical fact
3 which have now through the process been clarified. Really,
4 it's just the same old issue: Who knew what when. And we're
5 not getting to that part of the case. We're just going over
6 the facts of it that are in the record.

7 MS. SCHMELTZER: No, they're not all in the record.
8 We didn't have anything in the record about how she organized
9 these documents in her office and then -- that is now in the
10 record.

11 JUDGE SIPPEL: She, she laid that out in her direct
12 testimony. And we spent -- I don't know how much time we --
13 I, I -- I'm sorry. I don't mean to belabor this. But you see
14 where my concern is. My concern is that all we're doing is
15 just duplicating everything that is in her direct testimony.
16 I don't see what kind of cross-examination -- where that's
17 going to help, because it doesn't do anything to shift her at
18 all. She's just simply repeating what she's already told us.
19 So, we have it twice. I don't know how that helps your case
20 either. But I, I don't want to spend a lot of time -- I've
21 got Mr. Zauner here glaring at me.

22 MR. ZAUNER: No, I'm in agreement with you, Your
23 Honor.

24 JUDGE SIPPEL: I don't want to over -- I'm -- I want
25 this evidence in. I definitely want it in. But I want it in

1 in a crisper fashion --

2 MS. SCHMELTZER: Okay.

3 JUDGE SIPPEL: -- so that we can get on to other
4 things.

5 MS. SCHMELTZER: All right.

6 JUDGE SIPPEL: All right? Let's --

7 MS. SCHMELTZER: Now, I do have portions of the July
8 16th deposition. Counsel for Scripps Howard has said they
9 don't have any objection to having part of this in the record
10 and I've identified for them the part that we would like in
11 the record.

12 MR. HOWARD: No. We, we asked that it be offered
13 for -- to the, to the witness if she's going to be cross-
14 examined on it. We haven't offered any opinion, I don't
15 believe --

16 MS. SCHMELTZER: No, no. I'm talking about --

17 MR. HOWARD: -- on whether it should be --

18 MS. SCHMELTZER: -- at the beginning of this session
19 this morning. You said that you thought it should be made
20 part of the record, I believe.

21 MR. HOWARD: What?

22 MS. ABRUTYN: Oh, yeah. Without conceding that the
23 parts you've selected from that deposition are the complete
24 universe of what should go in, we did say that with respect to
25 the portion of the deposition that would support the statement

1 in Ms. Barr's direct case testimony that Mr. Zauner had an
2 objection to --

3 JUDGE SIPPEL: Well --

4 MS. ABRUTYN: -- proffer this at a later date.

5 JUDGE SIPPEL: I'm going to put a limitation on
6 this. And if you want to take a recess, we can come back on
7 it, but -- if you want to point to something that she's testi-
8 fied to in her testimony and say that didn't you on July 16th
9 of '93 say this and point at some kind of an inconsistency,
10 that's all fine and good. But she has told her story here,
11 and that's her story that she should be cross-examined on. It
12 sounds like you're trying to take a third deposition here
13 almost.

14 MS. SCHMELTZER: No, I'm not, Your Honor.

15 JUDGE SIPPEL: Well, that's how it's striking me.
16 If you want to confront her with something that she's
17 testified to here today and then show for the record that
18 that's either misleading or incomplete, then fine. I'm all
19 for it. But I don't want this, this -- as we're going back
20 and forth with this witness to different time-frames. It's
21 not fair to her. It's not helping the record. And I -- well,
22 that's what I'm saying. I'm prepared to go forward with the
23 witness at this time or I will offer you an opportunity to
24 take a ten-minute recess if you want to reorganize your cross-
25 examination.

1 MS. SCHMELTZER: Well, let's take a -- you know, a
2 five, ten-minute recess is fine.

3 JUDGE SIPPEL: All right.

4 MS. SCHMELTZER: Okay.

5 JUDGE SIPPEL: Let's come back at 11:30 by the clock
6 in the back.

7 (Whereupon, a short recess ensued.)

8 JUDGE SIPPEL: You're still under oath, Ms. Barr.

9 WITNESS: Yes.

10 JUDGE SIPPEL: Okay. Ms. Schmeltzer?

11 MS. SCHMELTZER: Ms. Barr, let me just ask you one
12 more question about your, your conversation with counsel
13 concerning the discovery request, and that is did you ever
14 discuss with counsel in 1993, in approximately June 1993,
15 whether the discovery request covered handwritten notes?

16 JUDGE SIPPEL: Before you answer that now, hold it,
17 is there any objection on that one?

18 MR. GREENEBAUM: Well --

19 MR. HOWARD: We -- could we have --

20 MR. GREENEBAUM: Could we just have a moment? We
21 don't want to object --

22 JUDGE SIPPEL: I understand. Go off the record for
23 a minute.

24 (Off the record. On the record.)

25 JUDGE SIPPEL: Mr. Howard?

1 MR. HOWARD: Just we would, in, in preparing our
2 objection, are not objecting. I was just going to ask counsel
3 for Four Jacks to show us Ms. Barr's -- deposition pages from
4 Ms. Barr's earlier deposition, her first deposition.

5 JUDGE SIPPEL: All right. Let's go off the --

6 MR. HOWARD: See what it said on --

7 JUDGE SIPPEL: -- record. Let's go off the record
8 while we do that.

9 (Off the record. On the record.)

10 JUDGE SIPPEL: Mr. Greenebaum?

11 MR. GREENEBAUM: I'm not sure whether we object or
12 not because the counsel for Four Jacks has graciously given us
13 a copy of where I think they're going, which seems to be in my
14 mind a little different than the question I heard. And I
15 don't want to, I don't want to signal anything to the witness.
16 That's why I'm being careful. But I guess the objection I
17 would have for the record is that the question, the extent
18 I've heard it, refers to a specific conversation without
19 identifying that conversation, when everything else I've heard
20 is she couldn't identify specific conversation. I'm just
21 trying to keep the record from telescoping a lot of conversa-
22 tions that people are going to make more out of later than,
23 than they're entitled to. Especially I don't see the rele-
24 vance of it to begin with because it doesn't seem to me to
25 make a lot of difference about the mechanics of how the pro-

1 | duction got done. It's what happened or what didn't happen
2 | that seems to be the issue here.

3 | JUDGE SIPPEL: Well, did you -- you, you have a
4 | specific question. We don't have an objection on the grounds
5 | of an attorney-client privilege, and I take it it's something
6 | that she has testified to earlier?

7 | MS. SCHMELTZER: Right.

8 | JUDGE SIPPEL: All right. Well, why don't you just
9 | ask the question based on what her earlier deposition was.
10 | And then you were going to have a follow-up question to that?

11 | MS. SCHMELTZER: I may or may not. I mean, yes, I
12 | think I will.

13 | MR. GREENEBAUM: If there's no follow-up question --

14 | JUDGE SIPPEL: I mean, if there's no follow-up
15 | question, we're wasting our time. You may ask her -- you may
16 | repeat for the record what was in her July '93 transcript with
17 | respect to your question, and then you ask a follow-up ques-
18 | tion. Does that accommodate your purpose?

19 | MS. SCHMELTZER: Yes.

20 | JUDGE SIPPEL: All right.

21 | BY MS. SCHMELTZER:

22 | Q Ms. Barr, do you recall asking counsel in connection
23 | with responding to Four Jacks' document production request if
24 | the term "documents" implied every document, including hand-
25 | written notes and things of that nature?

1 A Just at any time do I recall asking --

2 Q No, in --

3 A -- them that?

4 Q -- in connection with responding to Four Jacks'
5 document request in June of 1993.

6 MR. GREENEBAUM: I thought Your Honor asked her to
7 alert the witness to what she said at her deposition? Isn't
8 that --

9 JUDGE SIPPEL: Yeah, but that was going to be the
10 premise of the question.

11 MR. GREENEBAUM: That's right.

12 MS. SCHMELTZER: I'm asking --

13 JUDGE SIPPEL: I think this -- again, this goes
14 beyond my instruction with respect to getting into attorney-
15 client privilege.

16 MR. GREENEBAUM: Thank you, Your Honor.

17 MS. SCHMELTZER: Do you recall -- Ms. Barr, do you
18 recall Mr. Goldstein asking you some questions at the deposi-
19 tion? Is that correct?

20 WITNESS: Yes. I said that earlier.

21 MS. SCHMELTZER: And --

22 MR. GREENEBAUM: Why don't you just -- I thought
23 Your Honor wanted just to read the --

24 JUDGE SIPPEL: That's what I'm waiting --

25 MR. GREENEBAUM: -- answer, then follow it up.

1 JUDGE SIPPEL: -- I'm waiting for. You --

2 MS. SCHMELTZER: Well, I'm trying.

3 JUDGE SIPPEL: Something to the effect --

4 MS. SCHMELTZER: I want to begin --

5 JUDGE SIPPEL: -- that, that: Ms. Barr --

6 MS. SCHMELTZER: -- with the beginning --

7 JUDGE SIPPEL: -- you testified on --

8 MS. SCHMELTZER: Right. Let me --

9 JUDGE SIPPEL: -- July something, 1993 --

10 MS. SCHMELTZER: -- let me show the witness a copy
11 of her deposition. Because the, the question -- unfortunat-
12 ly, the question goes on for two or three pages.

13 JUDGE SIPPEL: Well, that's what I'm trying to
14 avoid.

15 MR. GREENEBAUM: Me too.

16 JUDGE SIPPEL: I thought you had some more --

17 MS. SCHMELTZER: All right.

18 JUDGE SIPPEL: -- some succinct way of bringing this
19 up to a point.

20 MS. SCHMELTZER: You recall Mr. Gold-- do you recall
21 Mr. Goldstein asking you whether you were given any oral
22 instructions by counsel in connection with responding to the
23 Motion to Produce Documents?

24 MR. GREENEBAUM: What line is that? That's not --

25 JUDGE SIPPEL: I don't care what she recalls. What

1 did Mr. Goldstein say? Just read it from the transcript.

2 MS. SCHMELTZER: "Do you recall Mr. Goldstein asking
3 you what instructions were given you when you were given a
4 copy of the Motion to Produce Documents which you discussed
5 here? Were you given any oral instructions?"

6 Answer: "By counsel?"

7 Question: "Yes."

8 Do you remember that?

9 WITNESS: Well, generally.

10 UNIDENTIFIED INDIVIDUAL: I think yes or no --

11 MS. SCHMELTZER: Yes or no. Yes or no?

12 WITNESS: Yes.

13 MS. SCHMELTZER: Okay.

14 JUDGE SIPPEL: That's what the transcript says. Is
15 that correct? You're --

16 MS. SCHMELTZER: Right.

17 JUDGE SIPPEL: -- reading from the transcript?

18 MS. SCHMELTZER: I'm reading from the transcript.

19 JUDGE SIPPEL: You're not paraphrasing, you're --

20 MS. SCHMELTZER: No, I'm reading --

21 JUDGE SIPPEL: -- reading?

22 MS. SCHMELTZER: -- from the transcript.

23 MR. HOWARD: Would you give me the page where you
24 are?

25 MS. SCHMELTZER: Page 141, line, line 6 through 11.

1 MR. GREENEBAUM: Well, I don't see that.

2 JUDGE SIPPEL: All right.

3 MS. SCHMELTZER: "Do you recall Mr. Goldstein asking
4 you did you have any questions?"

5 And you -- and your answer was, "Yes."

6 MR. HOWARD: She, she's skipping over parts of the
7 deposition, Your Honor.

8 MR. GREENEBAUM: If you're going to do it, you've
9 got to read the -- I mean, this is not impeachment. I don't
10 know what it is.

11 JUDGE SIPPEL: I'm not sure for what purpose we're
12 doing this either. You say that you want to -- well, you've
13 said you wanted to establish a --

14 MS. SCHMELTZER: Well --

15 JUDGE SIPPEL: -- a, a sequence of events, but --

16 MR. GREENEBAUM: I mean, line 15 means nothing if
17 you leave out lines 12, 13, and 14.

18 MS. SCHMELTZER: All right. Line 12, you said, "I
19 was told..." --

20 Answer: "I was told to read through it and make
21 sure I understood it and supply everything that the document
22 asked for."

23 Question: "Did you have any questions?"

24 Answer: "Yes."

25 And then there were some objections and I -- and

1 then you later answered: "I believe I asked about item
2 seven."

3 Question: "Can you just tell us what number seven
4 is?"

5 Answer: "The term documents refers to the original
6 in each tangible thing, including reproducing in any manner,
7 et cetera. I specifically asked if we had to produce the
8 videotape copies of everything because I didn't understand if
9 we had to do that or not. I specifically asked if this im-
10 plied every document, including handwritten notes and things
11 of that nature."

12 Do you recall that colloquy at your deposition?

13 WITNESS: Yes.

14 MR. GREENEBAUM: Well, I think she ought to read it.

15 JUDGE SIPPEL: Well, all right. So, you've read it
16 into the record and, and you acknowledge that.

17 MS. SCHMELTZER: I --

18 JUDGE SIPPEL: But, but --

19 MS. SCHMELTZER: Okay. And --

20 JUDGE SIPPEL: -- do you have a extra copy that you
21 could put before the witness?

22 MS. SCHMELTZER: Yes, I do.

23 WITNESS: I don't have one. This --

24 JUDGE SIPPEL: Well, where's the 1993 --

25 MR. ZAUNER: Is that -- do you have a copy of the

1 deposition --

2 MS. SCHMELTZER: You have the wrong deposition.

3 WITNESS: This is --

4 MR. ZAUNER: That's --

5 WITNESS: -- Anita's deposition.

6 MS. SCHMELTZER: That's '94, Bob.

7 MR. ZAUNER: What's attached to mine is the other
8 one. I have both here. That's why I was confused before.

9 MS. SCHMELTZER: Well, I don't know.

10 MR. ZAUNER: Just look at the --

11 JUDGE SIPPEL: All right. Let's go off the record.
12 (Off the record. On the record.)

13 JUDGE SIPPEL: -- we left off. It's in the middle
14 of 144, line 13. All right?

15 MS. SCHMELTZER: Question: "What answer were you
16 given to that?"

17 MR. ZAUNER: Are we back on the record?

18 JUDGE SIPPEL: Yeah, we're on the record.

19 MS. SCHMELTZER: Question: "What answer were you
20 given to that?"

21 Answer: "Any document relating to the
22 production of any of these documents was relevant. I don't
23 recall specifically every question I had when I went through
24 the list with them."

25 Question: "What did you do with the documents

1 | you found?"

2 | Answer: "What did I do with the documents I
3 | found?"

4 | Question: "Yes."

5 | Answer: "I gave them to counsel."

6 | Question: "There were no limits on what you
7 | found? You just gave everything, lock, stock, and barrel,
8 | that you thought was relevant at the time?"

9 | Answer: "Right."

10 | Question: "Did there come a point in time when
11 | you were asked to look a second time?"

12 | Answer: "Yes."

13 | Question: "When was that?"

14 | Answer: "That occurred approximately, I
15 | believe, a week ago."

16 | Question: "What explanation were you given to
17 | go back and look?"

18 | Answer: "That we wanted to make doubly sure
19 | that we had everything that was relevant."

20 | Question: "Based upon your deposition today,
21 | does that bring to mind any documents that you may have seen
22 | and perhaps overlooked that you may now want to give to
23 | counsel?"

24 | Answer: "As of right now?"

25 | Question: "As of this moment."

1 Answer: "No."

2 JUDGE SIPPEL: All right. Now, with that premise
3 that you have just read from the transcript of the July 16,
4 '93, deposition, what is your question?

5 BY MS. SCHMELTZER:

6 Q Okay. Ms. Barr, you recall that colloquy at your
7 deposition, is that correct?

8 A What's a -- I'm sorry. What's a --

9 Q You recall that --

10 A -- colloquy?

11 Q -- colloquy at your deposition, is that correct?

12 A What's a colloquy?

13 Q The, the question that --

14 A Is that a --

15 Q That series of questions --

16 MR. GREENEBAUM: We'll stipulate, Your Honor --

17 MS. SCHMELTZER: -- and answers.

18 MR. GREENEBAUM: I don't -- we --

19 WITNESS: I just never heard that word before.

20 MR. GREENEBAUM: I thought that's why we read it in.

21 JUDGE SIPPEL: Yeah.

22 BY MS. SCHMELTZER:

23 Q And am I correct that those answers were true and
24 accurate?

25 A Yes, they were.

1 Q Now, when you referred to handwritten notes in the
2 conversation that you had with counsel at that deposition,
3 were you referring to the conversation that you had had with
4 counsel about Ms. Covington's handwritten notes?

5 A I, I have no idea which notes I might have been
6 referring to. I, I was referring in general to handwritten
7 notes, as best as I can recall.

8 Q Now -- am -- but, but you had had a conversation
9 with counsel about Ms. Covington's handwritten notes prior to
10 this deposition?

11 A Yes, but -- you're seeming to imply that the only
12 conversation I ever had about handwritten notes would have
13 been only about Ms. Covington's notes.

14 Q No, I'm not. I'm not implying that. But my ques-
15 tion was you did have a conversation with your counsel about
16 Ms. Covington's handwritten notes prior to this deposition?

17 MR. GREENEBAUM: I'm going to object. That the
18 whole point of reading this in was about a different conversa-
19 tion she had earlier when there was production of document.
20 Now we're talking of some other conversation which, which may
21 have happened before or after that. Because it may merge
22 together, that's not fair to the witness.

23 MS. SCHMELTZER: I think it's perfectly understand-
24 able, Your Honor.

25 JUDGE SIPPEL: Well, I, I -- with -- I'm going to

1 overrule the objection because I think that amongst everybody
2 here, the witness has cleared this most up in my mind. I, I,
3 I understand -- I, I understand what she's saying and --
4 again, I don't think that it changes one iota what she's told
5 us in her direct testimony.

6 MR. GREENEBAUM: I'll withdraw the objection.

7 MS. SCHMELTZER: I, I, I think I may not have gotten
8 an answer to the second question, Your Honor, which was: you
9 do recall that you had a conversation with counsel about Ms.
10 Covington's handwritten notes prior to this deposition?

11 JUDGE SIPPEL: That, that was asked and answered.

12 MS. SCHMELTZER: It isn't -- that's correct. Okay.
13 I just wanted to make sure I had an answer to that, because
14 there was an objection.

15 BY MS. SCHMELTZER:

16 Q Now, Ms. Barr, I'd like to refer you to your direct
17 case testimony at page 9, paragraph 28. And you say there
18 that on February 9, 1994, you had a meeting with Ms. Abrutyn,
19 an attorney with Baker & Hostetler. Do you see that?

20 A Yes.

21 Q Am I correct that at your deposition on July 29,
22 1994, you didn't recall whether that meeting occurred on
23 February 9th or not?

24 A Well, I just wasn't sure of the actual day.

25 Q You didn't recall that it occurred on February 9th?

1 A I mean, I didn't know if it was the 9th or the 10th.

2 MR. HOWARD: Objection, Your Honor. If she's going
3 to quiz her about her -- what she said at her deposition on
4 the date at any length, I think she should have a copy of the
5 deposition in front to, to see what it is she actually testi-
6 fied to --

7 MS. SCHMELTZER: Ms. Barr, would you refer to page
8 90 --

9 JUDGE SIPPEL: Then I'll sustain the objection.
10 We're going to deposition now at page 90?

11 MS. SCHMELTZER: Correct. Ms. Barr, would you refer
12 to page 90 of your deposition? And --

13 JUDGE SIPPEL: This is the deposition, now, of July
14 '94?

15 MS. SCHMELTZER: Four.

16 JUDGE SIPPEL: Is that correct?

17 MS. SCHMELTZER: That's correct. Ms. Barr, do you
18 recall that I asked you: "Do you recall having a meeting with
19 anyone from Baker and Hostetler..." This was -- I said:
20 "...let me direct your attention to February 9, 1994, and that
21 was after the judge had added the issues about the NBC corre-
22 spondence and the Covington notes. Do you recall having a
23 meeting with anyone from Baker & Hostetler?" And your -- you
24 said: "When?" And I said: "On February 9, 1994."
25 And you answered: "Not necessarily on -- no. Do you see that?"

1 WITNESS: Um-hum. Yes.

2 MS. SCHMELTZER: And then if you'll turn to --

3 JUDGE SIPPEL: Well, well, wait. Yeah.

4 MS. SCHMELTZER: Well, we're going to --

5 MR. GREENEBAUM: Your Honor, that's -- Your Honor,
6 that's already down to lines 15 -- page 91 through 6, and then
7 on page -- if you read to page 92 on page 13 --

8 MS. SCHMELTZER: Page 13?

9 MR. GREENEBAUM: Line 13. Page 92, line 13. Espe-
10 cially if you -- you just look at lines 8 through 13 here on
11 page 92, you'll see we're just treading water here.

12 JUDGE SIPPEL: Yeah. She -- as I -- I mean, I'm,
13 I'm glancing at this now rather quickly, hurriedly, but as I
14 see what she's saying is, is that after, after I added the
15 issue she had, she had lots of meetings with people from Baker
16 & Hostetler.

17 MR. GREENEBAUM: No. But if you look at 92, Your
18 Honor, lines 5 through 13, they're almost exactly what para-
19 graph 28 says and there's no impeachment. Perfectly
20 consistent.

21 MS. SCHMELTZER: Your Honor, I would object to Mr.
22 Greenebaum's --

23 MR. GREENEBAUM: Well, I'll withdraw that.

24 MS. SCHMELTZER: -- testifying here.

25 JUDGE SIPPEL: He -- it's his characterization. But

1 the point is is that it's not fair to this witness to stop --

2 MS. SCHMELTZER: I, I wasn't going to, Your Honor.

3 MR. GREENEBAUM: But you did.

4 JUDGE SIPPEL: Well, let's go back to where you were
5 before. You were on page 90 of the deposition.

6 MR. GREENEBAUM: On page -- line 20.

7 JUDGE SIPPEL: And you stopped at line --

8 MS. SCHMELTZER: 14.

9 JUDGE SIPPEL: -- 14. All right. Now --

10 MS. SCHMELTZER: That's --

11 MR. GREENEBAUM: I might want to request you to read
12 to page 92, line 13.

13 JUDGE SIPPEL: Yeah. That's what Mr. Greenebaum's
14 asking because that covers the whole subject of meetings with
15 Baker & Hostetler in connection with my ruling.

16 MS. SCHMELTZER: I'll be happy -- if you want me to
17 read it, I'll be happy to read it.

18 MR. GREENEBAUM: Well --

19 JUDGE SIPPEL: Not just for the sake of reading it,
20 but are you going to ask a question after you gather all this
21 information together?

22 MS. SCHMELTZER: Yes.

23 JUDGE SIPPEL: Just -- could you ask the witness a
24 question as to whether or not she met with Baker & Hostetler
25 lawyers after the issue was added?

1 MS. SCHMELTZER: Certainly.

2 JUDGE SIPPEL: Did you?

3 WITNESS: Yes, I did.

4 JUDGE SIPPEL: Now, what's your next question?

5 MS. SCHMELTZER: Had you met with Ms. Abrutyn --
6 strike that. Strike that. Let's, let's clarify this, Ms.
7 Barr. The issue was added on February 1, 1994. Do you recall
8 any meetings with Baker & Hostetler, Hostetler lawyers prior
9 to February 9, 1994, or was that the first one that you had?

10 WITNESS: You mean --

11 JUDGE SIPPEL: Meetings about anything?

12 MS. SCHMELTZER: About the issues that were added.

13 MS. ABRUTYN: So, between February 1st --

14 JUDGE SIPPEL: Well -- I -- again, I, I -- in fair-
15 ness to the witness, I have just capsulized very, very -- in a
16 very brief form what I think she testified to in July of '94
17 about meeting with lawyers after the issue was added. Now,
18 you know, whether she -- what date of the week she met with
19 them, I -- I mean, that's, that's a memory test.

20 MS. SCHMELTZER: No. My only question, Your Honor
21 -- this is -- I do not intend to spend a long time on this.
22 My only question, Your Honor, is at page 92 of the deposition
23 Ms. Barr said she met with Ms. Abrutyn sometime in February.
24 In her direct case exhibit she says she met on February 9th.
25 And I'd like to know how she knows it was February 9th now

1 | when she didn't know that at the time of --

2 | JUDGE SIPPEL: That --

3 | MS. SCHMELTZER: -- her deposition?

4 | JUDGE SIPPEL: That -- there's a question.

5 | MR. ZAUNER: I'll --

6 | JUDGE SIPPEL: There's -- now, wait a minute. We
7 | have a question.

8 | MR. ZAUNER: And I have an objection. It's, it's a
9 | collateral impeachment of the witness's testimony and irrele-
10 | vant to the determination of the issue.

11 | JUDGE SIPPEL: Well, I'm going to rule the -- over-
12 | rule the objection at this point because I want -- the, the,
13 | the witness may be able to help us on this. Go ahead.

14 | WITNESS: Can I -- may I answer the question? When
15 | I was deposed in July and you asked me if, if it happened on
16 | February 9th, I wasn't absolutely certain that it was the 9th.
17 | In my mind it could have been the 10th or the 8th, and I
18 | wasn't absolutely sure. So, I didn't want to answer the
19 | question that I knew it was the 9th. Subsequently, in working
20 | on my direct case testimony I checked my calendar. I know
21 | that I met with Ms. Abrutyn on the 9th.

22 | BY MS. SCHMELTZER:

23 | Q And -- and my -- and you say in your direct case
24 | testimony you do not recall the length of the meeting, is that
25 | right?

1 A That's correct.

2 Q Okay. And, in fact, you don't recall whether the
3 meeting was five minutes or four hours, do you?

4 A I said I didn't recall the length of the meeting.

5 Q You have -- you don't recall how long it was, whet-
6 her it was one hour or four hours, do you?

7 A I said I don't recall the length of the meeting.

8 Q You don't recall anything about the length?

9 MR. ZAUNER: Objection. That's been asked three
10 times now.

11 JUDGE SIPPEL: Sustained. I'll sustain the
12 objection.

13 MS. SCHMELTZER: Now, in the next paragraph, Ms.,
14 Ms. Barr, you said: "...I went through my files to retrieve a
15 memo..." --

16 JUDGE SIPPEL: Wait a minute. Where, where are you
17 now?

18 MS. SCHMELTZER: I'm in paragraph 29 of the direct
19 case exhibit.

20 JUDGE SIPPEL: Exhibit 36. All right. Proceed.

21 BY MS. SCHMELTZER:

22 Q "...I went through my files to retrieve a memo that
23 I had sent to Baker & Hostetler in order to refresh my
24 recollection..." What memo were you trying to find to refresh
25 your recollection?

1 A I don't specifically recall which memo I was looking
2 for.

3 Q But it is your testimony here in your direct case
4 exhibit that it was not -- you were not looking for the memo
5 of June 25, 1993?

6 A Well, I don't know if I was looking -- I can't say
7 that I was looking for a memo dated with a specific date
8 because I didn't -- that wasn't -- I was looking for informa-
9 tion in a memo, and then once I found that information I would
10 know what the date of that memo was. I didn't remember writ-
11 ting the June 25th memo, so I couldn't have specifically been
12 looking for a June 25th memo when I didn't have any memory of
13 having written it.

14 Q Let me refer, refer you to paragraph 31 of your
15 direct case testimony. Now, you say there: "My purpose in
16 examining the "MEMOS TO B & H" file..." That's the file you
17 examined, right? In fact, was that a file or was that a
18 folder?

19 A It was a file in the file cabinet.

20 Q Was it a manilla folder in the file cabinet?

21 A No. It was a file -- you know, one of those green
22 hanging files. And then within that there were different
23 things in that file.

24 Q Your purpose was neither to look for the '92
25 Covington notes nor to look for anything that might help you

1 locate the notes. Is that correct?

2 A That's correct.

3 Q You were -- now, am I correct that the meeting with
4 Ms. Abrutyn concerned the issues that were just added by the
5 Judge?

6 MS. ABRUTYN: Objection. The sub-- I mean, what we
7 talked about at our meeting is --

8 MS. SCHMELTZER: I'm not asking --

9 MS. ABRUTYN: -- technically --

10 MS. SCHMELTZER: -- what you talked about.

11 JUDGE SIPPEL: Your asking for the subject of the
12 meeting has to do --

13 MS. SCHMELTZER: Just the subject.

14 JUDGE SIPPEL: Well, I'm going to sustain that
15 objection. I don't think that, I don't think that we have to
16 get into the purpose of the meeting. I think you're, you're
17 -- I mean, you're, you're making some -- you're, you're,
18 you're establishing some facts in terms of what transpired at
19 the meeting and I think that's all you're entitled to.

20 BY MS. SCHMELTZER:

21 Q Do you recall whether this meeting on February 9th
22 with Ms. Abrutyn was the first meeting you had with Ms.
23 Abrutyn following the Judge's addition of the issues?

24 A Well, as best as I can recall, it was the first
25 face-to-face meeting that I had following that issue.

1 Q And was this the first face-to-face meeting you had
2 with anyone from Baker & Hostetler at WMAR-TV following addi-
3 tion of the issues?

4 A You know, as I just said, as best as I can recall --
5 I mean, given the length of time between the date of the issue
6 and the date of the meeting, I believe it was the first face-
7 to-face meeting.

8 Q And am I correct that you're telling us that it was
9 not your purpose in looking -- in going to the "MEMOS TO B &
10 H" file to look for the '92 Covington notes or anything that
11 might help you find the notes?

12 MR. ZAUNER: Objection. That's stated right in her
13 testimony and, and you asked her the same question earlier
14 when you read that sentence into the record and examined her.

15 JUDGE SIPPEL: Well, I'm going to --

16 MR. ZAUNER: This is the second or third time this
17 same point has been made.

18 JUDGE SIPPEL: I know. This is -- and I'm going
19 to --

20 MR. ZAUNER: It's right there in the --

21 JUDGE SIPPEL: I understand. I understand. I'm
22 going to overrule the objection. I'm -- and, and I'm allowing
23 a little bit of leeway for cross-examination. At least we're
24 in, we're in the ballpark of cross-examination.

25 Can you answer that question or do you want it