

- 1 Q Look at page FJS0066.
- 2 A Look at 0066.
- 3 Q Where it says active employment.
- 4 A I'm aware of that. And I've --
- 5 Q -- read it?
- 6 A -- read it. Um-hum.
- 7 Q Was that your understanding of the eligibility
8 requirement on this plan?
- 9 A Now that I've read it, yes.
- 10 Q Thank you. Now -- and if you'll look at tab 32.
- 11 A Thirty-two.
- 12 Q This is a First Health document that's been
13 stipulated to. And I want to ask you if you know on the line
14 where it says employees, and it lists the various people on
15 that, you see that?
- 16 A Yes. Um-hum.
- 17 Q Okay. To the right of the word "employee", there's
18 some -- after the word "code" there are some definitions of
19 coverages of benefits provided through First Health. Are you
20 the person that deals with First Health as well?
- 21 A Well, First Health doesn't exist anymore, so I don't
22 deal with them.
- 23 Q Well, did you at the time?
- 24 A I was one of the people, yes.
- 25 Q Okay. Now can you tell us what the premium for AD&D

1 means?

2 MS. SCHMELTZER: Objection. I'm going to --

3 WITNESS: Couldn't tell you.

4 MS. SCHMELTZER: Objection on the relevance --

5 JUDGE SIPPEL: Wait, wait. Let's hear. What's the
6 objection?

7 MS. SCHMELTZER: I have an objection on relevance
8 grounds, Your Honor. And we've been through this exhibit with
9 two other witnesses.

10 JUDGE SIPPEL: All right. Let's have a proffer of
11 relevance.

12 MR. GREENEBAUM: No one has been able to tell us
13 what the coverages or benefits in those codes are. And the
14 document without that explanation doesn't have full meaning.

15 MS. SCHMELTZER: Your Honor --

16 JUDGE SIPPEL: Well, let, let -- he's identified the
17 people as employees. And all the Smiths are included in that
18 grouping of employees.

19 MR. GREENEBAUM: That's not, that's not the thrust
20 of my question. I'm trying to find out what benefit plan that
21 got that's called ALTRV. I don't, I --

22 MR. LEADER: Well, what difference does it --

23 JUDGE SIPPEL: What difference does it make though?

24 MR. LEADER: You've shown that they're on the list.

25 MR. GREENEBAUM: Well, I think it's a brick. But

1 I'm not going to, not going to throw it at you.

2 JUDGE SIPPEL: Well, I think -- I mean this --
3 the -- these are -- the data underneath those headings is
4 masked out. Again it, it gets into this area of potential
5 confusion that I'd rather avoid.

6 MR. GREENEBAUM: Dr. Smith --

7 JUDGE SIPPEL: Let's leave that alone. I'll sustain
8 your objection, Ms. Schmeltzer.

9 BY MR. GREENEBAUM:

10 Q Dr. Smith, do you know if any benefit program
11 package or opportunity was made available to employees of
12 Sinclair Broadcast Group, Inc. which you or your brothers did
13 not participate in?

14 A Health, let's see, 401K --

15 Q No, think to yourself, please. I want to know if
16 there are any that you know of that you and your brothers
17 haven't participated in.

18 A Repeat the question again please.

19 Q Do you know of any benefit program, plan or
20 opportunity that's been made available by Sinclair Broadcast
21 Group, Inc. to its employees that you and your brothers have
22 not participated in?

23 A No, I'm not aware of any.

24 MR. GREENEBAUM: If Your Honor will indulge us one
25 minute we'll, we'll find it.

1 JUDGE SIPPEL: Go, go off the record for a minute.

2 (Off the record. On the record.)

3 JUDGE SIPPEL: Back on the record.

4 BY MR. GREENEBAUM:

5 Q Dr. Smith, are you also -- would you take a look at
6 tab 28 please in Exhibit 40?

7 A Twenty-eight.

8 Q This is the Sinclair Broadcast Group, Inc. 401K
9 profit sharing plan and trust summary plan description. Are
10 you a participant in this plan as well?

11 A You asked me this in the most recent deposition.
12 The answer was is that I'm a participant in the current plan,
13 but this is not the current plan.

14 Q But to the extent that the plan has been updated or
15 amended, you are a participant, are you not?

16 A Yes, I am.

17 Q And have you been a participant in the company's
18 401K plan ever since you've been eligible -- to be?

19 A Yes, I have.

20 Q And you understand that it's only available for
21 employees of the company, do you not?

22 A Yes.

23 Q And do you know what income is available --

24 A Let me go back and qualify that now that we raised
25 this question about TTA and IIB. I'm assuming that is

1 correct. It may in fact be an all inclusive umbrella with IIB
2 and TTA, or they may have carved out their own --

3 Q Look at page FJS0034 --

4 JUDGE SIPPEL: Just -- let me just -- you're going
5 to have to speak a little bit slower on this. Because what is
6 happening is everything gets recorded. And then somebody has
7 to listen to this and transcribe it in a transcript. So I --

8 WITNESS: Slurred.

9 JUDGE SIPPEL: Yeah. We hear it here. But it's
10 going to get difficult coming across on the tape. Just slow
11 your answers down a little bit.

12 WITNESS: Thank you.

13 BY MR. GREENEBAUM:

14 Q Would you take a look at FJS0034 which is the first
15 page of the summary plan description entitled "Introduction to
16 Your Plan" and look at the first paragraphs, read them to
17 yourself.

18 Q Do you -- does that refresh your recollection that
19 this was the plan of Sinclair Broadcast Group, Inc.?

20 A I never said it wasn't.

21 Q Okay, that's for its eligible employees?

22 A Yes.

23 Q And to the extent there may be plans that cover
24 other people, is that because the plan would have been made
25 available to the other entities as well?

1 MR. LEADER: Well, can I --

2 JUDGE SIPPEL: Just a minute --

3 WITNESS: I believe, I believe --

4 MR. LEADER: -- what you mean by other people? I
5 mean --

6 MR. GREENEBAUM: Well --

7 MR. LEADER: -- this other --

8 JUDGE SIPPEL: All right, sustain the objection.
9 Rephrase the question.

10 BY MR. GREENEBAUM:

11 Q Let me, let me clarify it for the record. Look at
12 page FJS0036. Do you see that?

13 A Um-hum. There you go.

14 Q And that identifies the other entities that have
15 adopted this same plan. Is that correct?

16 A Correct.

17 Q And whether you are eligible because of Sinclair or
18 one of these other entities, you still have to be a full-time
19 employee of that entity.

20 A Well, you have to do whatever the requirements are
21 to get into the plan. And I don't know what they are. You
22 can read those --

23 MR. ZAUNER: Wouldn't the plan speak for itself?

24 JUDGE SIPPEL: Yes, it would.

25 WITNESS: Right. Plan --

1 JUDGE SIPPEL: Yes, it would. I, I think, you know,
2 we've been through this --

3 MR. GREENEBAUM: I agree, Your Honor.

4 JUDGE SIPPEL: Okay. Fine. No argument. Next
5 topic.

6 MR. GREENEBAUM: Your Honor, I hope you won't think
7 I'm ignoring your comment. I believe this is a different
8 topic. So if you, if you disagree, I'll move right on.

9 Do you understand, Dr. Smith, what type of income is
10 appropriate to be properly deferred under this plan?

11 MS. SCHMELTZER: It is the same topic.

12 JUDGE SIPPEL: I know it's the same topic. Mr.
13 Greenebaum alerted me to that. I'll see -- I'll let, I'll let
14 a little bit be asked on this.

15 WITNESS: What was the question please?

16 MR. GREENEBAUM: Do you understand what type of
17 income is appropriate to be properly deferred under this plan?

18 WITNESS: Deferred into what?

19 MR. LEADER: He's kind of answered the question. I
20 mean the question is its own answer, sir, with all --

21 MR. GREENEBAUM: Well --

22 MR. LEADER: -- due respect to Mr. Greenebaum.

23 MR. GREENEBAUM: Well, turn to your deposition of
24 July 19 --

25 JUDGE SIPPEL: Well, I'll overrule that objection

1 for the time being. But do we have to go into a deposition to
2 get this clarified?

3 MR. GREENEBAUM: Well, I don't believe we do. But
4 if, but if --

5 MS. SCHMELTZER: He hasn't --

6 MR. GREENEBAUM: -- Mr. Leader is suggesting he
7 doesn't understand the question.

8 MS. SCHMELTZER: No, he wasn't suggesting --

9 WITNESS: I understand the question.

10 MR. LEADER: No, it's not --

11 JUDGE SIPPEL: He understands.

12 MR. LEADER: -- I just -- I said that you --

13 MS. SCHMELTZER: We had an objection --

14 MR. LEADER: -- answered the question when you asked
15 it by using the word income. You said what kind of income can
16 be deferred? Income is income.

17 MR. GREENEBAUM: No, it is not, Your Honor. That's
18 not true.

19 JUDGE SIPPEL: No, no, that's not true.

20 MR. GREENEBAUM: He knows exactly what he's trying
21 to tell --

22 JUDGE SIPPEL: That's not true. I'll going to --
23 I'm going to permit the questioning. But please -- and let
24 him phrase it, Mr. Leader, so we can move out of this area.
25 Do you have to -- do you need a deposition?

1 MR. GREENEBAUM: Dr. Smith, you know you can't --
2 dividend income is not eligible to be put in a, used for 401K
3 purposes --

4 WITNESS: That's right. Interest income on savings,
5 that's correct.

6 MR. GREENEBAUM: The only income that would be
7 appropriate would be earnings from your employer. Isn't that
8 correct? Salary.

9 WITNESS: Yeah, that's right.

10 MR. ZAUNER: You know, once again, Your Honor, the
11 plan itself states --

12 JUDGE SIPPEL: I understand.

13 MR. ZAUNER: -- exactly what --

14 JUDGE SIPPEL: I understand. I understand.

15 MR. GREENEBAUM: I, I think --

16 JUDGE SIPPEL: I understand also what Mr. Greenebaum
17 is asking. And I understand what the witness answered.

18 BY MR. GREENEBAUM:

19 Q Do you also receive a company car?

20 A You asked me that last time. And I told you I
21 wasn't sure it was a car or truck. And it is a car.

22 Q You found that out since your deposition.

23 A Yes. I went and checked.

24 Q Do you know what company provides it to you?

25 A I would assume it's Sinclair Broadcast Group.

1 Q You don't know for sure?

2 A No, I do not.

3 Q Do you also have a corporate credit card made
4 available for you to use?

5 A You asked me that, and I didn't know who was on the
6 card, and I looked and it was Sinclair Broadcast Group.

7 Q And have you filled any applications for credit,
8 loans or the like at anytime since you became associated with
9 Sinclair on a full-time basis in 1991?

10 A Me personally?

11 Q Yes.

12 A I haven't borrowed any money.

13 Q Would you look at Exhibit 40, tab 3 please, sir?

14 A Tab 3. Is that -- that's that first book. I've
15 seen this before.

16 Q I'm sorry. I didn't hear --

17 A I've seen this before.

18 Q These are your W-2 forms from Sinclair for the years
19 1991, 1992 and 1993, is that correct?

20 MS. SCHMELTZER: I believe we've stipulated, Your
21 Honor, that these are --

22 MR. GREENEBAUM: I just want to make sure. I --

23 MS. SCHMELTZER: Well --

24 JUDGE SIPPEL: Well --

25 MR. LEADER: You don't trust our stipulation? I

1 mean --

2 MR. GREENEBAUM: No --

3 JUDGE SIPPEL: His -- again, this is -- I'm giving
4 him leeway on cross-examination. I, you know, I think I gave
5 you leeway on cross-examination. Go ahead. The witness isn't
6 being misled by anything here.

7 BY MR. GREENEBAUM:

8 Q Do you recognize these as your W-2 forms?

9 A You showed them to me in the deposition. Yes, you
10 did. And I recognized them as such.

11 Q Who provided these to you?

12 A The accountant.

13 Q You never saw them before the accountant gave them
14 to you?

15 A I never saw them before, on my tax return, and I
16 don't even think I looked at them then. I think the first
17 time I saw them was when you gave them to me.

18 Q Take a look then at tab 6 which is your W-4 entitled
19 employees withholding allowance certificate.

20 A I've seen this before.

21 Q You have?

22 A When you showed it to me last time.

23 Q That's the first time you saw it?

24 A First time I can remember seeing, yes.

25 Q Well, you saw it when you signed it, did you not?

1 A I -- yes, sir. But I don't -- you asked me did I
2 recall signing it. I recall signing it.

3 Q Do you know what, for what purpose you executed the
4 employees --

5 A Employees withholding allowance certificate.

6 Q Do you know for what purpose you executed it?

7 A Withholding monies for tax purposes.

8 (Pause.)

9 MR. GREENEBAUM: If you'll indulge us one moment --

10 BY MR. GREENEBAUM:

11 Q Would you take a look at Exhibit 40, tab 9?

12 A Help me -- oh, tab 9.

13 Q Do you recall executing this for the purpose of
14 Maryland withholding exemption certificate --

15 A No.

16 Q -- employees?

17 A No.

18 Q That's your signature there.

19 A Yes, it is.

20 MS. SCHMELTZER: Just for the record, Your Honor,
21 this is another document that we stipulated to. And I think
22 asking the witness if it's his signature is ridiculous.

23 JUDGE SIPPEL: Well, I'll take that as an objection.

24 I -- Mr. Greenebaum, this -- is there a faster way of moving
25 through this --

1 MR. GREENEBAUM: Yes, there is, Your Honor. Maybe
2 this would be a good time for our morning break, and I'll see
3 what I can do with the rest of it.

4 MR. LEADER: I would just as soon let's go --

5 UNIDENTIFIED SPEAKER: Let's go.

6 JUDGE SIPPEL: Well, it's --

7 MR. GREENEBAUM: I'd like to go to the men's room --

8 JUDGE SIPPEL: -- a quarter past 11. We'll come
9 back at 25 minutes after 11. But I, I want to caution, I'm
10 prepared to continue to go forward with this witness until
11 he's finished.

12 MR. GREENEBAUM: I have no problem with that.

13 JUDGE SIPPEL: All right. And I, I don't -- by
14 saying that, I don't think that it's going to be until 2
15 o'clock in the afternoon. I think we got --

16 MR. GREENEBAUM: I have got three or four more
17 topics. That's all.

18 JUDGE SIPPEL: No subtopics. We're in recess. Off
19 the record.

20 (Off the record at 11:20 a.m. Back on the record at
21 11:25 a.m.)

22 BY MR. GREENEBAUM:

23 Q Dr. Smith, if you'll look at your Exhibit, Four J
24 Exhibit 28 which is your direct testimony in this case.
25 Direct your attention to page --

1 A Thank you.

2 Q -- 3.

3 A Pardon me?

4 Q Direct your attention to page 3. In paragraph seven
5 at the bottom of the page, you have used the phrase true
6 employees. Do you see that?

7 A Let me read it.

8 A Yes. Um-hum.

9 Q Who do you consider the true employees of Sinclair
10 Broadcast Group, Inc. if any?

11 A Well, the definition that I'm using which we
12 described here besides my brothers, everybody else is a true
13 employee.

14 Q Do you know of any definition --

15 A Mr., Mr. Amy or --

16 Q I'm sorry.

17 JUDGE SIPPEL: What -- does that complete your
18 answer?

19 WITNESS: No. For example, Mr. Amy.

20 BY MR. GREENEBAUM:

21 Q And what is Mr. Amy's title?

22 A He's a controller.

23 Q Is he an officer?

24 A No.

25 Q And do you know of any definition in the Internal

1 Revenue Code that refers to true employee?

2 A Have to ask an internal revenue lawyer.

3 Q Do you know anything about the Internal Revenue Code
4 at all?

5 A Not really.

6 Q Do you know the definition of wages?

7 A We -- I've discussed what wages are already.

8 Q I'm asking if you know the, the definition under the
9 law.

10 A No.

11 MS. SCHMELTZER: Objection. Calls for a legal
12 conclusion from the witness.

13 MR. GREENEBAUM: Well, Your Honor, he's left his
14 legal conclusion in his direct testimony.

15 MS. SCHMELTZER: It's not a legal conclusion in the
16 direct testimony.

17 JUDGE SIPPEL: Well, it's, it's -- both ways it
18 turns out to be a mixed bag. But in any event, the subject
19 has been covered. We're going to move on.

20 BY MR. GREENEBAUM:

21 Q Dr. Smith, did you ever say to Sinclair or suggest
22 or intimate in any way that you should not have gotten a W-2
23 because you were not an employee of Sinclair Broadcast Group,
24 Inc?

25 A Would you repeat the question? I couldn't hear the

1 first part --

2 Q Did you ever say to Sinclair or suggest or
3 intimate --

4 A I've ever said of Sinclair?

5 Q Did you ever say to Sinclair --

6 A Ever say?

7 Q Say to Sinclair or suggest or intimate in any way
8 that you should not have gotten a W-2 because you are not an
9 employee of Sinclair Broadcast Group, Inc.?

10 A No.

11 Q Did you ever advise your accountant in connection
12 with the preparation of your federal tax returns or for any
13 other reason or under any other circumstance that you are not
14 an employee of Sinclair Broadcast Group, Inc.?

15 A I've never advised my accountant one way or the
16 other.

17 Q Now let me direct your attention to page 4,
18 paragraph 8. And ask you in that connection if you are
19 familiar with all of the filings which have been made with the
20 Securities and Exchange Commission in and since December 1993
21 on behalf of Sinclair?

22 MR. LEADER: Can I just object to the form of the
23 question? He said are you familiar with the filings which can
24 mean an awful lot of things, Your Honor.

25 JUDGE SIPPEL: Right.

1 MR. LEADER: I mean it can mean were they, that they
2 were just filed.

3 JUDGE SIPPEL: Well, let's --

4 MR. LEADER: It can mean the contents. It can
5 mean --

6 JUDGE SIPPEL: That could be an introductory
7 question. I mean obviously there's not going to be anything
8 concluded. If he answers that question, I would assume there
9 would be a follow-up question. You intended to follow up with
10 that?

11 MR. GREENEBAUM: Yes, Your Honor.

12 JUDGE SIPPEL: I'll permit it for the purposes of
13 focusing the witness on a subject.

14 MR. GREENEBAUM: Are you familiar with the filings
15 that have been made to Securities and Exchange Commission
16 since September 28th, 1993 on behalf of Sinclair?

17 WITNESS: I'm familiar that files were made.

18 MR. GREENEBAUM: Now in paragraph 8, you talk about
19 having never been your intention to give up ownership and
20 executive positions with Sinclair Broadcast Group, Inc. And
21 at the bottom of that paragraph, you say this intention is
22 reiterated in a registration statement in a prospectus filed
23 with the Securities and Exchange Commission, December 1993. I
24 believe -- can you tell me where in your SEC filings you made
25 it clear as you read those filings or understand them that it

1 | was your intention to remain with Sinclair even if you were
2 | successful in your challenge for Channel 2?

3 | JUDGE SIPPEL: Well, wait just a minute now. That's
4 | not what he -- his testimony is that it was reiterated in a
5 | registration statement. He didn't testify that he made it
6 | clear. What, what about the -- I mean you direct his
7 | attention toward the reiteration. I'd like to have the
8 | witness first asked if he can tell us where this reiteration
9 | was in the registration statement. And then go into whether
10 | or not it was made clear.

11 | MR. GREENEBAUM: That's fine. Can you tell us where
12 | you --

13 | WITNESS: I can't tell you just the page where it
14 | was made, no.

15 | JUDGE SIPPEL: Well, when, when you prepared --
16 | well, let me, let me ask this question, Mr. Greenebaum. I'm
17 | sorry. But when you signed your written testimony here, had
18 | you been shown something in the registration statement whereby
19 | you could independently conclude that it was a reiteration? I
20 | mean did somebody put that in front of you?

21 | WITNESS: I'm going to characterize the reiteration.
22 | But I know we've discussed the issue historically about
23 | characterizing what we're going to do with respect to the
24 | bondholders with respect to Sinclair Broadcast Group. I think
25 | that's what this is referring to. Explain to them that we, we

1 | in fact make no bones about it, we may not be directly
2 | involved with Sinclair Broadcast Group and we may. There is a
3 | specific passage there.

4 | JUDGE SIPPEL: Well, it does say -- where? There
5 | being where, on the registration statement?

6 | WITNESS: Um-hum. I know I've read it with respect
7 | to Four Jacks. Was a clarification issue.

8 | JUDGE SIPPEL: All right, well I'll -- did you want
9 | to put the prospectus in front of him, Mr. Greenebaum? I'm
10 | not requiring you to do that.

11 | MR. GREENEBAUM: I'm trying to save time. But I, I
12 | think I have to. And I know Your Honor is anxious to move it
13 | on. But I --

14 | JUDGE SIPPEL: I am. But I'm also like to have the
15 | questions answered.

16 | MR. GREENEBAUM: And I, I really would like to say,
17 | Your Honor, we really have only been with this witness a
18 | little over an hour. So I don't think we're dragging it out
19 | at all. We're close to the end. So I'm doing the best I can.
20 | But I think I've got to hand him several documents.

21 | JUDGE SIPPEL: All right.

22 | MR. GREENEBAUM: Dr. Smith, would you look at, look
23 | at the, the attachments to the application, Exhibit 46.

24 | MS. SCHMELTZER: Is this on the same question?

25 | MR. GREENEBAUM: Well, I'm going to get to it. I'm

1 going to go through the pledges and build up to it.

2 BY MR. GREENEBAUM:

3 Q You see -- look at page 4 at the bottom of the page
4 where you pledge to fulfill the integration commitments. Each
5 of the brothers will resign from their then current
6 employment.

7 A Wait -- I'm sorry. Where are we, Mr. Greenebaum?

8 Q We're on page 4 of SEC Form 301, Exhibit 6. Mr.
9 Lane will point it out to you. See the last sentence starting
10 on page 4 and continuing over. "To fulfill the integration
11 commitments, each of the brothers will resign from their then
12 current employment and limit or terminate any other activities
13 that might interfere with integration commitment."

14 A Yes?

15 Q And if we look at Exhibit 47 --

16 A Where's 47?

17 JUDGE SIPPEL: You're getting it now.

18 WITNESS: Thank you.

19 MS. SCHMELTZER: Excuse me, what is 47?

20 MR. GREENEBAUM: Forty-seven is the integration
21 classification statement.

22 BY MR. GREENEBAUM:

23 Q Page 3. Three lines from the top. Do you have
24 that? To fulfill his integration commitments, Frederick G.
25 Smith will resign from his then current employment and will

1 | limit or terminate any other activities that might interfere
2 | with --

3 | A I don't have that. What page is that on again
4 | please?

5 | Q Page 3. Third, third new sentence on that page.

6 | A Okay, third sentence.

7 | Q See that? You reaffirmed your commitment to resign
8 | from your then current employment at that time?

9 | A Right.

10 | Q That was made 5/19/93, is that correct?

11 | A Yup.

12 | Q Okay, then take a look at Four Jacks Exhibit 4,
13 | first page which is the declaration of Frederick G. Smith.

14 | A Okay.

15 | Q And you see at the bottom of paragraph A,
16 | integration quantitative, it reaffirms your pledge again, do
17 | you see that?

18 | MS. SCHMELTZER: Objection, Your Honor. The
19 | documents speak for themselves.

20 | JUDGE SIPPEL: Well, I understand that. But he's
21 | got a right to cross-examine these witnesses on this
22 | disclosure. This goes right to the heart of the issue.

23 | WITNESS: Where, where are we?

24 | JUDGE SIPPEL: So I'm going to permit it.

25 | MR. GREENEBAUM: Exhibit 4 --

1 MR. LEADER: But it's not -- he's just asking him
2 what -- is it correct what's in the record?

3 JUDGE SIPPEL: He's --

4 MR. LEADER: He's not asking him questions.

5 JUDGE SIPPEL: Mr. Greenebaum is, is making the
6 record as, as an advocate. And he's going to get to a
7 question after he lays all this in.

8 MS. SCHMELTZER: But all he's asking is does this
9 document say what it says.

10 JUDGE SIPPEL: I understand that. But he's -- the
11 questions have to be asked one at a time. It's like walking.
12 It's, it's -- I'm going to let him ask the question this way.
13 So please stop interrupting. Go ahead, Mr. Greenebaum.

14 BY MR. GREENEBAUM:

15 Q Do you see that on the bottom of the page? Bottom
16 of the -- end of the first paragraph?

17 A Are -- excuse me. Are we on Four Jacks Broadcasting
18 Exhibit 4?

19 Q Yes, sir.

20 A In the bottom of the page, let's see.

21 Q The last sentence of the first paragraph. "In event
22 of a grant of Four Jacks's application, to fulfill my
23 integration commitment I will resign from my then current
24 employment, will limit or terminate any other activities that
25 might interfere with my integration commitment."

1 A Wait a minute. Okay. Hold on. You're -- I'm on
2 the wrong --

3 JUDGE SIPPEL: What page are you on, Mr. Greenebaum?

4 MR. GREENEBAUM: It's Exhibit 4. It's the first
5 page --

6 WITNESS: Okay. I'm on the wrong paragraph.

7 MR. GREENEBAUM: -- of Frederick G. Smith
8 declaration.

9 WITNESS: -- G. Smith -- yeah, okay. Got you.

10 BY MR. GREENEBAUM:

11 Q And that's a pledge you made on September 10, 1993.
12 Is that correct?

13 A Right.

14 Q And you intended to keep these pledges at the time
15 you made them, did you not?

16 A Correct.

17 Q Do you feel that you may have pledged the FCC to
18 resign from Sinclair in the event that you were successful
19 with your challenge --

20 A No.

21 Q -- to Channel 2?

22 Q Do you know of any filings for the FCC that indicate
23 an intention to stay with Sinclair if you were successful with
24 your challenge for Channel 2 prior to the time that the issue
25 was added that brings us here today in February 1994?

1 MS. SCHMELTZER: Objection, Your Honor, for the same
2 reason that I said yesterday. That there was no requirement
3 that we say we were retaining our positions with Sinclair. We
4 only had to state what we were divesting. And until this
5 issue was raised, we weren't aware that Scripps Howard was
6 confused or anyone was confused.

7 JUDGE SIPPEL: All right, well --

8 MR. ZAUNER: There's also another grounds for
9 objection. And that is we don't know that the witness is
10 familiar with all of the filings that were made at the
11 Commission. We don't know he's --

12 JUDGE SIPPEL: Well, the witness --

13 MR. ZAUNER: -- familiar with any of them.

14 JUDGE SIPPEL: -- the witness is, is certainly in a
15 position to testify to that.

16 MR. ZAUNER: Well, he should be asked that first I
17 think as a preliminary question.

18 MR. GREENEBAUM: Your Honor --

19 JUDGE SIPPEL: This is again, we're just into an
20 area of cross-examination. Go ahead, Mr. Greenebaum. Let me
21 hear from you.

22 MR. GREENEBAUM: I'll refer you to page 4 of Exhibit
23 28 where he says I believe that this intention was made clear
24 in Four Jacks's filing with the FCC throughout the course of
25 this proceeding. I'm trying to find out when it was.

1 JUDGE SIPPEL: Well --

2 MR. LEADER: That's a different --

3 MS. SCHMELTZER: It's a different question.

4 JUDGE SIPPEL: Yeah, he was -- you're talking now
5 about his direct testimony in September of this month?

6 MR. LEADER: That's a different question, Your
7 Honor.

8 JUDGE SIPPEL: Is that what you're referring to
9 where he says --

10 MR. GREENEBAUM: Well, I'm just -- I'm referring to
11 that as a statement that's made in the direct. I'm not --

12 JUDGE SIPPEL: The direct --

13 MR. GREENEBAUM: -- in my cross to that statement.
14 But he claims some familiarity with the FCC filings. That's
15 my only point.

16 JUDGE SIPPEL: Well, no, wait a minute now. The
17 filing in paragraph 8 of, of his testimony today refers to his
18 filing with the Securities and Exchange Commission.

19 MR. HOWARD: No. The next sentence.

20 MR. GREENEBAUM: No, the next sentence.

21 JUDGE SIPPEL: Oh, I, I didn't get down that far.
22 I'm sorry. Well, all right. You can ask him for the basis
23 for making that statement.

24 MR. GREENEBAUM: But I, I think that --

25 JUDGE SIPPEL: This is what you did I think.