

1 page document. First two pages are facsimile cover sheet and
2 attachment with -- dated February 23rd, 1988 and then attached
3 to that are five pages of handwritten notes.

4 JUDGE GONZALEZ: It's identified.

5 (Whereupon, the document referred to as
6 Bureau's Exhibit No. 45 was marked for
7 identification.)

8 MR. WEBER: I offer this into evidence.

9 JUDGE GONZALEZ: Any objection?

10 MR. EMMONS: No objection, Your Honor.

11 MR. SCHNEIDER: No objections, Your Honor.

12 JUDGE GONZALEZ: It's received.

13 (Whereupon, the document referred to as
14 Bureau's Exhibit No. 45 was received into
15 evidence.)

16 MR. WEBER: Next the Bureau offers Exhibit 46 which
17 is a one-page letter from Art Peabody dated June 8th, 1989.

18 JUDGE GONZALEZ: It's identified.

19 (Whereupon, the document referred to as
20 Bureau's Exhibit No. 46 was marked for
21 identification.)

22 MR. WEBER: I offer this into evidence.

23 JUDGE GONZALEZ: Any objection?

24 MR. EMMONS: No objection, Your Honor.

25 JUDGE GONZALEZ: All right. It's received.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 46 was received into
3 evidence.)

4 MR. SCHNEIDER: Can I consult with counsel for one
5 minute, Your Honor?

6 JUDGE GONZALEZ: Sure.

7 MR. SCHNEIDER: We'll have no objection.

8 JUDGE GONZALEZ: All right. As I've indicated, it's
9 received.

10 MR. WEBER: Next for identification purposes the
11 Bureau offers Exhibit 47 which is a one-page letter or note
12 from Art Peabody dated February 21, 1990.

13 JUDGE GONZALEZ: It's identified.

14 (Whereupon, the document referred to as
15 Bureau's Exhibit No. 47 was marked for
16 identification.)

17 MR. WEBER: And I'd offer this into evidence.

18 JUDGE GONZALEZ: Are there any objections?

19 MR. EMMONS: No objection, Your Honor.

20 MR. SCHNEIDER: No objections, Your Honor.

21 JUDGE GONZALEZ: It's received.

22 (Whereupon, the document referred to as
23 Bureau's Exhibit No. 47 was received into
24 evidence.)

25 MR. WEBER: Next for identification purposes the

1 Bureau offers Exhibit 48 which is a three-page document and
2 there's a letter from Arthur Belendiuk to Richard Goehring.
3 Attached is a draft declaration of Richard Goehring.

4 JUDGE GONZALEZ: It's identified.

5 (Whereupon, the document referred to as
6 Bureau's Exhibit No. 48 was marked for
7 identification.)

8 JUDGE GONZALEZ: Any objections?

9 MR. EMMONS: No objection, Your Honor.

10 MR. SCHNEIDER: No objection, Your Honor.

11 JUDGE GONZALEZ: It's received.

12 (Whereupon, the document referred to as
13 Bureau's Exhibit No. 48 was received into
14 evidence.)

15 MR. WEBER: The Bureau will not be offering Exhibit
16 49 as it has already been admitted into evidence.

17 JUDGE GONZALEZ: All right.

18 MR. WEBER: For identification purposes the Bureau
19 offers Exhibit 50 which is a 28-page compilation of letters
20 from the offices of Arthur Belendiuk to the offices of Toteen
21 and Naftalin.

22 JUDGE GONZALEZ: It's identified.

23 (Whereupon, the document referred to as
24 Bureau's Exhibit No. 50 was marked for
25 identification.)

1 MR. WEBER: I offer this into evidence.

2 JUDGE GONZALEZ: Are there any objections?

3 MR. EMMONS: No objection, Your Honor.

4 JUDGE GONZALEZ: Mr. Schneider?

5 MR. SCHNEIDER: One question, Your Honor, which I
6 believe -- come up several times and which I've conversed with
7 counsel about prior to this admission session. Counsel I
8 believe has stated to me that he'd have no objection to us
9 supplementing an exhibit or introducing additional letters to
10 an exhibit in the way of cross-examination or -- if the
11 letters are necessary to complete the record of a particular
12 exhibit and let me make clear what I'm saying here. Part of
13 an occasional process at the offices of Arthur Belendiuk --
14 may have been rather to put in c.c.'s on one letter, if the
15 letter was sent to five people rather than address it to
16 several and c.c. the others he may have sent five identical
17 letters to the same people each with a different header. You
18 --

19 JUDGE GONZALEZ: I follow you.

20 MR. SCHNEIDER: It may be -- after discussing with
21 counsel the purposes of some of these letters it may not be
22 necessary to do that. But to avoid the impression that a
23 certain address might have been the only individual to get a
24 certain letter there may be times when it's desirable to, to
25 add four or five other letters that were identical to that

1 letter to the record. Counsel said he would have no objection
2 to that.

3 MR. WEBER: However, the purposes of this exhibit
4 may be different than what you're speaking about. This is a
5 compilation of letters which show that Mr. Belendiuk was
6 sending drafts of particular items to Toteen and Naftalin and
7 that is its purpose. It's not only -- there is no concern
8 here whether or not other people received it, the issue being
9 that somebody at Toteen did receive --

10 MR. SCHNEIDER: And for that reason I would have no
11 objection. And in fact, I think every letter in this except
12 for one was submitted as part of a TDS exhibit but because
13 there are at least one letter that we didn't submit that's in
14 here I think this exhibit should come in. But I, I appreciate
15 your stating that. The point is not to show who didn't get
16 letters, it's to show who -- that Allen -- that the offices of
17 Toteen and Naftalin gave them that --

18 JUDGE GONZALEZ: All right. We'll receive it.

19 (Whereupon, the document referred to as
20 Bureau's Exhibit No. 50 was received into
21 evidence.)

22 MR. WEBER: For identification purposes the Bureau
23 offers Exhibit 51 which is a four-page document. Cover letter
24 dated August 9th, 1988 with attachments.

25 JUDGE GONZALEZ: It's identified.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 51 was marked for
3 identification.)

4 MR. WEBER: I offer this into evidence.

5 JUDGE GONZALEZ: Are there any objections?

6 MR. EMMONS: No objection, Your Honor.

7 MR. SCHNEIDER: No objections, Your Honor.

8 JUDGE GONZALEZ: It's received.

9 (Whereupon, the document referred to as
10 Bureau's Exhibit No. 51 was received into
11 evidence.)

12 MR. WEBER: The Bureau will not be offering Exhibit
13 52 as it has already been admitted into evidence. For
14 identification purposes the Bureau offers Exhibit 53 which is
15 a one-page document, letter from Arthur Belendiuk dated
16 December 17th, 1987.

17 JUDGE GONZALEZ: It's identified.

18 (Whereupon, the document referred to as
19 Bureau's Exhibit No. 53 was marked for
20 identification.)

21 MR. WEBER: I offer this into evidence.

22 JUDGE GONZALEZ: Are there any objections?

23 MR. EMMONS: No objection, Your Honor.

24 MR. SCHNEIDER: No objection, Your Honor.

25 JUDGE GONZALEZ: It's received.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 53 was received into
3 evidence.)

4 MR. WEBER: Next the Bureau offers Exhibit 54 which
5 is a compilation of letters from the offices of Arthur
6 Belendiuk to Michael Hron, H-R-O-N.

7 JUDGE GONZALEZ: It's identified.

8 (Whereupon, the document referred to as
9 Bureau's Exhibit No. 54 was marked for
10 identification.)

11 MR. WEBER: I offer this into evidence.

12 JUDGE GONZALEZ: Are there any objections?

13 MR. SCHNEIDER: One minute to confer, Your Honor.

14 JUDGE GONZALEZ: Sure.

15 MR. SCHNEIDER: Your Honor, with the same
16 understanding that we earlier had with Mr. Weber concerning
17 the addressee of this letter, we have additional letters
18 identical to some of these addressed to other individuals and,
19 and if appropriate we may wish to supplement the record with
20 those letters.

21 MR. WEBER: Again, I will stipulate the point of
22 these is not to show that somebody else did not get it, but
23 instead to show that Hron did.

24 JUDGE GONZALEZ: I think that's the limited purpose
25 for which it's being admitted. Then you have no objection,

1 correct?

2 MR. SCHNEIDER: I have no objection.

3 JUDGE GONZALEZ: It's received.

4 MR. EMMONS: I have none either.

5 JUDGE GONZALEZ: I'm sorry.

6 MR. EMMONS: I'm sorry.

7 (Whereupon, the document referred to as
8 Bureau's Exhibit No. 54 was received into
9 evidence.)

10 JUDGE GONZALEZ: We'll go on to the next one.

11 MR. WEBER: The Bureau will not be offering Exhibits
12 55, 56 or 57 as they have already been admitted into evidence.

13 JUDGE GONZALEZ: 55, 56 and 57.

14 MR. WEBER: For identification purposes the Bureau
15 offers Exhibit 58 which is a one-page letter from Arthur
16 Belendiuk dated October 15th, 1987.

17 JUDGE GONZALEZ: It's identified.

18 (Whereupon, the document referred to as
19 Bureau's Exhibit No. 58 was marked for
20 identification.)

21 MR. WEBER: I offer this into evidence.

22 JUDGE GONZALEZ: Are there any objections?

23 MR. EMMONS: No objection, Your Honor.

24 MR. SCHNEIDER: No objection.

25 JUDGE GONZALEZ: It is received.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 58 was received into
3 evidence.)

4 MR. WEBER: Next the Bureau offers Exhibit 59 which
5 is a 29-page document dated August 29th, 1990. Cover letter
6 with attachments.

7 JUDGE GONZALEZ: It's identified.

8 (Whereupon, the document referred to as
9 Bureau's Exhibit No. 59 was marked for
10 identification.)

11 MR. WEBER: I offer this into evidence.

12 JUDGE GONZALEZ: Are there any objections?

13 MR. EMMONS: No objection, Your Honor.

14 MR. SCHNEIDER: No objections, Your Honor.

15 JUDGE GONZALEZ: It's received.

16 (Whereupon, the document referred to as
17 Bureau's Exhibit No. 59 was received into
18 evidence.)

19 MR. WEBER: Next the Bureau offers Exhibit 60 which
20 is one-page letter from Peter Connolly dated November 16th,
21 1987.

22 JUDGE GONZALEZ: It's identified.

23 (Whereupon, the document referred to as
24 Bureau's Exhibit No. 60 was marked for
25 identification.)

1 MR. WEBER: I offer this into evidence.

2 JUDGE GONZALEZ: Are there any objections?

3 MR. EMMONS: No objection, Your Honor.

4 MR. SCHNEIDER: No objections, Your Honor.

5 JUDGE GONZALEZ: It's received.

6 (Whereupon, the document referred to as
7 Bureau's Exhibit No. 60 was received into
8 evidence.)

9 MR. WEBER: The Bureau will not be offering Exhibit
10 62.

11 JUDGE GONZALEZ: 61, is that?

12 MR. WEBER: I'm sorry, 61 as it has already been
13 admitted into evidence. The Bureau will offer Exhibit 62
14 which is a one-page document and is a letter from Peter
15 Connolly dated September 13th, 1988.

16 JUDGE GONZALEZ: It's identified.

17 (Whereupon, the document referred to as
18 Bureau's Exhibit No. 62 was marked for
19 identification.)

20 MR. WEBER: I offer this into evidence.

21 JUDGE GONZALEZ: Are there any objections?

22 MR. EMMONS: No objection, Your Honor.

23 MR. SCHNEIDER: No objections, Your Honor.

24 JUDGE GONZALEZ: It's received.

25 (Whereupon, the document referred to as

1 Bureau's Exhibit No. 62 was received into
2 evidence.)

3 MR. WEBER: The Bureau will not be offering Exhibit
4 63 as it has already been admitted into evidence.

5 JUDGE GONZALEZ: All right. Indicate it's
6 withdrawn.

7 MR. WEBER: The Bureau will offer Exhibit 64 which
8 is a one-page letter from Alan Naftalin dated November 10th,
9 1988.

10 JUDGE GONZALEZ: It's identified.

11 (Whereupon, the document referred to as
12 Bureau's Exhibit No. 64 was marked for
13 identification.)

14 MR. WEBER: I offer this into evidence.

15 JUDGE GONZALEZ: Are there any objections?

16 MR. EMMONS: No objection, Your Honor.

17 MR. SCHNEIDER: No objections, Your Honor.

18 JUDGE GONZALEZ: It's received.

19 (Whereupon, the document referred to as
20 Bureau's Exhibit No. 64 was received into
21 evidence.)

22 MR. WEBER: Next the Bureau offers Exhibit 65 which
23 is a nine-page compilation of declarations, drafts of
24 declarations.

25 JUDGE GONZALEZ: It's identified.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 65 was marked for
3 identification.)

4 MR. WEBER: I offer this into evidence.

5 JUDGE GONZALEZ: Are there any objections?

6 MR. EMMONS: No objection, Your Honor.

7 MR. SCHNEIDER: No objections, Your Honor. I would
8 note that in some of these exhibits there are some deposition
9 stickers on the exhibits and I think the witnesses -- I think
10 we should understand that those, that those deposition exhibit
11 stickers were put on in the case during -- on the documents
12 during depositions in these cases and that at the time a
13 witness is shown these documents it might be prudent to
14 explain what --

15 MR. WEBER: That's right. Whenever there is an
16 exhibit sticker on it, that was not part of the document as
17 TDS produced it at its current state and that is not being
18 admitted in any way to be part of the evidence.

19 MR. SCHNEIDER: I agree.

20 JUDGE GONZALEZ: All right. It's so received.

21 (Whereupon, the document referred to as
22 Bureau's Exhibit No. 65 was received into
23 evidence.)

24 MR. WEBER: For identification purposes the Bureau
25 offers Exhibit 36 which is a three-page --

1 JUDGE GONZALEZ: I'm sorry? 66?

2 MR. WEBER: What did I say? 56?

3 JUDGE GONZALEZ: 36.

4 MR. WEBER: 66, which is a three-page document.
5 Cover letter from John Brady dated April 10th, 1990 with
6 attachments.

7 JUDGE GONZALEZ: It's identified.

8 (Whereupon, the document referred to as
9 Bureau's Exhibit No. 66 was marked for
10 identification.)

11 MR. WEBER: I offer this into evidence.

12 JUDGE GONZALEZ: Are there any objections?

13 MR. EMMONS: No objection, Your Honor.

14 MR. SCHNEIDER: No objections, Your Honor.

15 JUDGE GONZALEZ: It's received.

16 (Whereupon, the document referred to as
17 Bureau's Exhibit No. 66 was received into
18 evidence.)

19 MR. WEBER: The Bureau will not be offering Exhibit
20 67 as it has already been admitted into evidence.

21 JUDGE GONZALEZ: All right.

22 MR. WEBER: Next the Bureau offers Exhibit 68 which
23 is an eight-page -- rather, a six-page document to Mr.
24 Belendiuk dated July 12, 1989.

25 JUDGE GONZALEZ: It's identified.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 68 was marked for
3 identification.)

4 MR. WEBER: I offer this into evidence.

5 JUDGE GONZALEZ: Are there any objections?

6 MR. EMMONS: No objection, Your Honor.

7 MR. SCHNEIDER: No objections, Your Honor.

8 JUDGE GONZALEZ: It is received.

9 (Whereupon, the document referred to as
10 Bureau's Exhibit No. 68 was received into
11 evidence.)

12 MR. SCHNEIDER: I believe it's -- but since the
13 written record doesn't reflect how I said it I could be right
14 or wrong.

15 JUDGE GONZALEZ: Maybe we ought to spell it for the
16 reporter.

17 MR. SCHNEIDER: It's spelled S-R-E-D-O-J-E-D-I-C.
18 Andy is the first name.

19 JUDGE GONZALEZ: Next?

20 MR. WEBER: For identification purposes the Bureau
21 offers Exhibit 69 which is a four-page document of various
22 figures with handwritten notes.

23 JUDGE GONZALEZ: It's identified.

24 (Whereupon, the document referred to as
25 Bureau's Exhibit No. 69 was marked for

1 identification.)

2 MR. WEBER: I offer this into evidence.

3 JUDGE GONZALEZ: Are there any objections?

4 MR. EMMONS: Your Honor, with the understanding that
5 counsel is going to question at least one of the witnesses
6 about this document we have no objection.

7 MR. SCHNEIDER: Same understanding, Your Honor.

8 JUDGE GONZALEZ: Is that agreed?

9 MR. WEBER: That's fine.

10 JUDGE GONZALEZ: It's received.

11 (Whereupon, the document referred to as
12 Bureau's Exhibit No. 69 was received into
13 evidence.)

14 MR. WEBER: Next for identification purposes the
15 Bureau offers Exhibit 70 which is an eight-page document with
16 various billing figures.

17 JUDGE GONZALEZ: It's identified.

18 (Whereupon, the document referred to as
19 Bureau's Exhibit No. 70 was marked for
20 identification.)

21 MR. WEBER: I offer this into evidence.

22 JUDGE GONZALEZ: Any objections?

23 MR. EMMONS: No objection, Your Honor.

24 MR. SCHNEIDER: No objections, Your Honor.

25 JUDGE GONZALEZ: Received.

1 (Whereupon, the document referred to as
2 Bureau's Exhibit No. 70 was received into
3 evidence.)

4 MR. WEBER: For identification purposes the Bureau
5 offers Exhibit 71 which is a six-page document. Cover letter
6 from Mr. Belendiuk to Mr. Miller dated January 4th, 1991 with
7 attachments.

8 JUDGE GONZALEZ: It's identified.

9 (Whereupon, the document referred to as
10 Bureau's Exhibit No. 71 was marked for
11 identification.)

12 MR. WEBER: I offer this into evidence.

13 JUDGE GONZALEZ: Any objections?

14 MR. EMMONS: No objection, Your Honor.

15 MR. SCHNEIDER: No objections, Your Honor.

16 JUDGE GONZALEZ: Received.

17 (Whereupon, the document referred to as
18 Bureau's Exhibit No. 71 was received into
19 evidence.)

20 MR. WEBER: The Bureau will not be offering Exhibit
21 72 as it has already been admitted into evidence.

22 JUDGE GONZALEZ: All right.

23 MR. WEBER: For identification purposes the Bureau
24 offers Exhibit 73 which is a four-page document, facsimile
25 cover sheet dated April 1st, 1991 to Mr. Miller from Dr.

1 Anderson with attachments.

2 JUDGE GONZALEZ: I don't know about your copy, but
3 I'd be hard-pressed to read it, at least the final page.

4 MR. WEBER: I will see if I can get a clearer copy.

5 JUDGE GONZALEZ: I don't know about the other --

6 MR. SCHNEIDER: Your Honor, I'm not sure that the
7 legibility of the final page is going to be relevant.

8 MR. WEBER: It would be relevant. It's more the
9 fact Mr. Miller received this from Dr. Anderson.

10 JUDGE GONZALEZ: Because none of it's too clear, but
11 if you -- I'll take your word for it. If you feel it's not
12 relevant --

13 MR. EMMONS: I would also observe, Your Honor, that
14 I doubt that anyone in the courtroom would understand this
15 document.

16 JUDGE GONZALEZ: Just as well. It's not readable.

17 MR. WEBER: I offer this into evidence.

18 JUDGE GONZALEZ: That's the one we've identified as
19 -- we are identifying now as --

20 MR. WEBER: As Exhibit 73.

21 (Whereupon, the document referred to as
22 Bureau's Exhibit No. 73 was marked for
23 identification.)

24 JUDGE GONZALEZ: Are there any objections to its
25 receipt?

1 MR. EMMONS: No objection, Your Honor.

2 MR. SCHNEIDER: No objections, Your Honor.

3 JUDGE GONZALEZ: It's received.

4 (Whereupon, the document referred to as
5 Bureau's Exhibit No. 73 was received into
6 evidence.)

7 MR. WEBER: I believe Exhibit 74 has already been
8 offered, Mr. Emmons.

9 MR. EMMONS: Yes.

10 MR. WEBER: On my notes it doesn't show but I do
11 recall it being --

12 MR. EMMONS: It is, it is Tab D of TDS-USCC
13 Exhibit --

14 MR. WEBER: The Bureau will not be offering Exhibit
15 74.

16 JUDGE GONZALEZ: All right. I'll indicate it's been
17 withdrawn.

18 MR. WEBER: On Exhibits 75 through 90, Mr. Emmons
19 and I have reached a stipulation and I believe he'd like to
20 read that at this time.

21 JUDGE GONZALEZ: All right.

22 MR. EMMONS: I believe it's 75 through 80.

23 MR. WEBER: Is that -- it's 75 through 80.

24 JUDGE GONZALEZ: 75 through 80.

25 MR. EMMONS: Well, actually 75 through 78.

1 MR. WEBER: Pick one of the above.

2 JUDGE GONZALEZ: It's -- this stipulation will --

3 MR. EMMONS: The stipulation --

4 JUDGE GONZALEZ: -- will be entered in lieu of
5 Exhibits 76 through 78?

6 MR. WEBER: Not in lieu of --

7 JUDGE GONZALEZ: Not in lieu of?

8 MR. EMMONS: Not in lieu of, Your Honor, but --

9 MR. WEBER: -- but in, in addition to.

10 MR. EMMONS: My understanding with respect to these
11 exhibits which --

12 JUDGE GONZALEZ: So they don't have to be admitted.

13 MR. EMMONS: No, they do have to be admitted because
14 counsel wishes to question witnesses about --

15 JUDGE GONZALEZ: I see. I'm sorry.

16 MR. EMMONS: But we would have had objections to the
17 admission of the exhibits --

18 JUDGE GONZALEZ: I understand.

19 MR. EMMONS: -- in the absence of this stipulation,
20 I believe.

21 JUDGE GONZALEZ: I'm sorry. I misspoke.

22 MR. EMMONS: So, what I would like to do is state
23 the stipulation on the record and --

24 JUDGE GONZALEZ: All right.

25 MR. EMMONS: -- if counsel for the Bureau would

1 | listen carefully and confirm that this is our stipulation.
2 | Pertaining to Bureau Exhibits 75 through 78 there are six
3 | points to the stipulation. One, that the handwritten notes in
4 | Bureau Exhibit 75, pages 1 through 22, 25 through 33, and 36
5 | through 39 were written by Leroy T. Carlson, Sr. Two, the
6 | identity of the person or persons who wrote the handwritten
7 | notes in Bureau Exhibit 76 is unknown. Three, the handwritten
8 | notes in Bureau Exhibit 77 were written by Mark Ehrmann, E-H-
9 | R-M-A-N-N, who at the time was an attorney representing TDS
10 | and USCC. Four, the handwritten notes in Bureau Exhibit 78
11 | were written by Leroy T. Carlson, Sr. Five, Bureau Exhibits
12 | 75 through 78 are not offered to prove the truth of any matter
13 | asserted therein. And six, proposed findings will not be
14 | written on any entry in Bureau Exhibits 75 through 78 about
15 | which no witness has been questioned at the hearing. I would
16 | ask Mr. Weber to state that that's an accurate account of our
17 | stipulation.

18 | MR. WEBER: That is an accurate account of the
19 | stipulations.

20 | JUDGE GONZALEZ: All right.

21 | MR. HARDMAN: Your Honor, I would like to ask or get
22 | a couple of clarifications because I was not, you know, a
23 | party to the discussions on the stipulation. Exhibit 76,
24 | there was a standing request to TDS as part of the discovery -
25 | - pretrial discovery to determine the identity of the author

1 of those handwritten notes. We went through them in a number
2 of the depositions trying to find out who authored those notes
3 which appear to be notes from this meeting in Chicago on -- in
4 August of 1987 relating to the -- that is the subject of
5 testimony from a number of the witnesses and the response back
6 was that, that they never were able to determine whose, whose
7 notes they were. Now, by the same token, I have no problem
8 using the notes and cross-examining witnesses but I would be
9 very distressed if I were met with an objection from that side
10 based on the fact that they've been unable to identify the
11 author of these notes. They're obviously -- they were offered
12 by someone who was at the meeting and the fact that, that they
13 have not been able to identify who that was should not
14 restrict our ability to use these notes for any purpose, you
15 know, in the cross-examining that people who were at the
16 meeting that might otherwise be indicated.

17 MR. SCHNEIDER: Your Honor, I'll respond to that.
18 As strictly formulated I have no problem with what Mr. Hardman
19 said. I mean, the burden -- we made an effort to determine
20 whose notes they are by asking in excess of 20 people were
21 these their notes. The burden can't be on us to determine
22 something we can't determine. We made a good-faith effort to
23 do so including the making -- making available attorneys who
24 were on longer with any firm that were associated with this
25 case. I have -- we have no problems with other witnesses in

1 | this case being shown these documents and asking questions
2 | based on t he notes. But part of the stipulation involves an
3 | understanding that the notes won't be used to assert the truth
4 | of the matters asserted therein.

5 | JUDGE GONZALEZ: I guess it would be difficult. We
6 | didn't know the author.

7 | MR. HARDMAN: So, the way it comes out is that they
8 | may well be used to impeach or to cast doubt on testimony of
9 | people who were at the meeting who either can't remember or
10 | didn't think that statements were made. And I recognize that
11 | that's a sensitive point but --

12 | JUDGE GONZALEZ: Well, I assume these came from
13 | someone's official files, right, the notes? They just didn't
14 | occur out of nowhere.

15 | MR. EMMONS: All we know, Your Honor, is as
16 | indicated by the date stamp which -- on these copies but it's
17 | SA is the prefix and that stands for Sidley and Austin which
18 | is the Chicago law firm that represents TDS and U.S. Cellular
19 | in their corporate matters. But beyond that, we -- cannot
20 | tell whose notes these are and therefore we have no witness
21 | who could either identify these notes or explain the
22 | circumstances under which these notes were taken or explain
23 | what various entries in any of these notes may have meant or
24 | what the author of these notes thought they meant or whether
25 | they are complete notes of any meeting or conference that may

1 | have taken place, whether any, any particular page of these
2 | notes is a reference to any particular meeting. It is so
3 | unreliable, Your Honor, that to be used for any purpose
4 | including the purpose that I just heard Mr. Hardman express --

5 | JUDGE GONZALEZ: Which was?

6 | MR. EMMONS: -- which was to impeach the witness who
7 | is present who may have been at a particular meeting and who
8 | may have said he doesn't remember something he'd said. I
9 | don't think these notes can be used for the proposition that
10 | that thing was said at that time because we don't -- we just
11 | don't know what these notes are without knowing who the author
12 | was. So, we have no objection as we've indicated to the
13 | witnesses being questioned about anything in here that
14 | refreshes their recollection about anything that they may have
15 | been involved in, that's fine. But to use it for substantive
16 | purposes, to use it as a record of things that were said or
17 | weren't said supposedly at a particular time and location I
18 | think is highly unfair and prejudicial in light of the fact
19 | that despite our good-faith efforts we simply cannot identify
20 | who these notes were written by. And I might add by the way
21 | that some of them -- they may not all have been written by the
22 | same person. The stipulation that we have with the Bureau is
23 | that the person or persons who authored these notes are
24 | unknown. And so that --

25 | JUDGE GONZALEZ: Yeah, I would think it would be

1 difficult to impeach a witness on the basis of notes that we
2 really don't know the origin.

3 MR. HARDMAN: Well, it's not that we don't know the
4 origin.

5 JUDGE GONZALEZ: I mean, we know the origin, we
6 don't know the author.

7 MR. HARDMAN: We don't know the author --

8 JUDGE GONZALEZ: Or the extent to which the author
9 was a party to actually what occurred. I mean, it may have
10 just been -- he may have just or she may have taken on
11 conversations she had with people who were there or he had
12 with people that were there. We really don't know how
13 authoritative or how much weight we should give these notes.

14 MR. HARDMAN: And, Your Honor, we may well ask for
15 an adverse inference from the parties' inability to identify
16 the author of the notes so that we can establish the
17 authenticity and the circumstances.

18 JUDGE GONZALEZ: Well, I mean that's an attempt that
19 could be made, but I --

20 MR. EMMONS: Your Honor, if that's going to happen
21 then I have to say that our -- with apologies to the Bureau
22 that we can't have the stipulation insofar as it at least
23 relates to this Exhibit 76 which I think is the one Mr.
24 Hardman is talking about, just can't have it, and that we
25 would object to the admission of Exhibit 76 into evidence.

1 JUDGE GONZALEZ: Yeah, I'm troubled. I would
2 certainly restrict -- I would think that the proposed -- I
3 mean, my opinion is the proposed stipulation is a good one. I
4 don't see how we could really use this for any purpose other
5 than that parties have agreed to -- two parties have agreed to
6 in their stipulation. It could be it seems to me used as aid
7 to memory. In other words, do you recall such and such a
8 matter having been discussed. But an, but an attempt to
9 impeach a witness on the strength of notes taken by an unknown
10 person whose knowledge of what actually occurred we really
11 can't determine would seem to me not to be worth the exercise.

12 MR. HARDMAN: Well, under general circumstances I
13 might agree, Your Honor, but these especially in the context
14 in which they were produced purport to be notes of a person
15 present at the meeting and the notes --

16 MR. EMMONS: I disagree with that position, Your
17 Honor.

18 MR. HARDMAN: -- strongly support inferences of
19 statements made that are adverse to the interests of the
20 parties now testifying in this proceeding. And it is -- and
21 I'm not suggesting there was any lack of good faith here, but
22 it is curious out of this whole mass of notes that perhaps the
23 notes containing the clearest statement adverse to the
24 parties' interests can't be located or can't be identified.

25 MR. SCHNEIDER: Your Honor, I first want to