

1 | them a question about it. And if it's a permissible question
2 | then the material presented to them, and the answer, come in.
3 | Not to include --

4 | JUDGE GONZALEZ: Right. Right.

5 | MR. HARDMAN: Your Honor, I thought you said that as
6 | an aid in the example --

7 | JUDGE GONZALEZ: Yes. I think it is that, also.
8 | But presumably you are familiar with the material anyway. So
9 | you probably don't need them to actually be exhibits.

10 | MR. HARDMAN: May I just offer one other comment,
11 | Your Honor? I considered not making them exhibits and just
12 | using them purely for impeachment, but I felt that the fairer
13 | thing to do was to include them as exhibits so that the TDS
14 | would be on notice that the material in there would be used to
15 | cross examine the witnesses.

16 | MR. EMMONS: Well, that's fair, Your Honor, and we
17 | appreciate that consideration -- but that is not an argument
18 | for admitting them into evidence at this point.

19 | I think Mr. Schneider's point is very well taken:
20 | That the only purpose for which they may be used, as I
21 | understand what Your Honor has said, is for purposes of
22 | impeachment. That can be done by presenting these documents
23 | to the witnesses when they are on the witness stand.

24 | JUDGE GONZALEZ: Well, when I made the statement, I
25 | wasn't totally certain that that was the full extent of the

1 use to which they would be put.

2 MR. EMMONS: Well, if they're --

3 JUDGE GONZALEZ: I thought I would mention that.

4 MR. EMMONS: -- if Your Honor does deem after
5 questioning of the witnesses that these documents are in and
6 of themselves relevant evidence then Your Honor could admit
7 them at that time.

8 But I think to admit them now in a vacuum, really --
9 and in the absence of any questions and in the absence of any
10 demonstration by Mr. Hardman at this point that these are
11 relevant -- can lead to great, great mischief later on.

12 JUDGE GONZALEZ: Well, my concern is just because of
13 the extent of the documents.

14 Why don't we proceed this way? I -- they have been
15 identified. I'll just hold off. You hold off on offering
16 them until after you have examined the witnesses. And if you
17 feel that there is some reason why these documents should be
18 placed into evidence in light of the examination of the
19 witnesses, then we'll entertain the offer at that time.

20 MR. EMMONS: Okay.

21 JUDGE GONZALEZ: Does that sound reasonable to you,
22 Mr. Hardman?

23 MR. HARDMAN: Well, I would prefer that --

24 JUDGE GONZALEZ: I mean, because --

25 MR. HARDMAN: -- because the Bureau, I mean, the

1 procedure for the Bureau documents was that those were
2 systematically entered into evidence without any showing of
3 relevance of the documents, and the documents involved were a
4 lot thicker than mine.

5 JUDGE GONZALEZ: Well, that really wasn't the only
6 reason. It's just that there appears to be just a volume of
7 material and I gather that some of it was --

8 MR. EMMONS: And there were no objections.

9 MR. SCHNEIDER: There were no objections.

10 JUDGE GONZALEZ: -- was really quite specialized.

11 MR. HARDMAN: Well, if Your Honor prefers to handle
12 it that way.

13 JUDGE GONZALEZ: I think that probably would be the
14 better way, in light of the fact that I consider the issue
15 fairly narrow here.

16 So I am going to have to -- I know that there will
17 probably be a tendency to try to stray a bit from the issue
18 and maybe this is the best way to handle it.

19 MR. HARDMAN: Oh, not from me, Your Honor.

20 JUDGE GONZALEZ: Oh, no, certainly not, Mr. Hardman.
21 Never. But I think probably it would be better to proceed in
22 the fashion that's been suggested. I think that's probably a
23 good way.

24 MR. HARDMAN: Very well, Your Honor.

25 JUDGE GONZALEZ: So I will delay ruling on the

1 | acceptability of those documents, the exhibits in the case,
2 | pending the examination of witnesses.

3 | MR. HARDMAN: Very well. And lastly I would ask
4 | that Exhibit GRP-16 be marked for identification, which
5 | consists of a 269-page document which is excerpts of the
6 | transcript of the proceedings in the LaStar case on January
7 | 23, and then the entire day of January 24, 1991, which in toto
8 | contains the testimony of witnesses Mark Krohse, Don Nelson,
9 | and Richard Goehring in that proceeding.

10 | JUDGE GONZALEZ: All right. That is identified.

11 | (Whereupon, the document referred to as
12 | Exhibit No. GRP-16 was marked for
13 | identification.)

14 | JUDGE GONZALEZ: Are there any objections?

15 | MR. EMMONS: Your Honor, not an objection, but again
16 | an observation that -- on the basis of which Mr. Hardman may
17 | or may not choose to withdraw the exhibit.

18 | Let me explain, as this is a little more complicated
19 | than the previous one. Let me explain, first of all, that all
20 | of the testimonial portion of the exhibits is already in the
21 | record at one place or another. And I intend to go through
22 | and describe which pages from Mr. Hardman's --

23 | JUDGE GONZALEZ: Do you mean the entire proffered
24 | exhibit?

25 | MR. EMMONS: Yes. Yes.

1 JUDGE GONZALEZ: It's already part of the record?

2 MR. EMMONS: It's all parts of various other
3 exhibits. And I think that I ought to state what they are.

4 JUDGE GONZALEZ: Yes. Well, it would be helpful.

5 MR. EMMONS: Thank you. Pages 5-20 and 214-269 are
6 in the record as TDS-USCC Exhibit 8 tab R, pages 7-22 and 27-
7 82. Pages 25-172 of GRP Exhibit 16 are in the record now as
8 TDS-USCC Exhibit 2 tab J, pages 1-148. And pages 173-213 of
9 GRP Exhibit 16 are in the record now as TDS-USCC Exhibit 7 tab
10 F, pages 1-38. And the bottom line therefore is that all of
11 GRP Exhibit 16, with the exception of pages 1-4, which are
12 basically the cover page information, are already in the
13 record and identified as the testimony of the particular
14 witness in question.

15 JUDGE GONZALEZ: Did I hear you identify where in
16 TDS's exhibits pages 214-269 are?

17 MR. EMMONS: Your Honor, those are in TDS-USCC
18 Exhibit 8 tab R, pages 27-82.

19 MR. HARDMAN: Okay. So do I understand you to be
20 saying that the difference in the exhibits is that you broke
21 up each witness' testimony and associated that testimony with
22 the testimony of the particular witness, rather than running
23 the whole document chronologically in the transcript as it
24 appears?

25 MR. EMMONS: That's exactly right.

1 MR. HARDMAN: Well, with that understanding, Your
2 Honor, I would withdraw the exhibit.

3 JUDGE GONZALEZ: The only thing is, I -- did I miss
4 something? Do we have pages 21 through 24 accounted for? Or
5 is there a 21-24?

6 MR. EMMONS: Your Honor, those are the cover pages.
7 The cover pages plus the --

8 JUDGE GONZALEZ: I see. I see. I just noted that
9 there was a gap there, but I can see that that's what that is.
10 All right. Well, then you've withdrawn that, is that it?

11 MR. HARDMAN: Yes, Your Honor.

12 JUDGE GONZALEZ: All right. I think that takes care
13 of yours as well?

14 MR. HARDMAN: Yes, it does, Your Honor.

15 JUDGE GONZALEZ: Yes, sir?

16 MR. EMMONS: One final matter, Your Honor. I had
17 mentioned earlier -- I think this morning -- on the record
18 that the Bureau and the TDS and USCC have a joint exhibit.

19 JUDGE GONZALEZ: Right. Right.

20 MR. EMMONS: Which is a stipulation.

21 JUDGE GONZALEZ: Okay. Thank you.

22 MR. EMMONS: The title of this is WTB and TDS-USCC
23 Joint Exhibit 1, and it consists of one page. It's a
24 stipulation between the Bureau and TDS and US Cellular. The
25 stipulation is self-explanatory, I think. And the purpose of

1 the stipulation, Your Honor -- as I think I mentioned this
2 morning -- is to avoid the need to call for cross examination
3 at the hearing of two witnesses who otherwise would need to
4 have been called here to testify.

5 JUDGE GONZALEZ: All right. It's identified.

6 (Whereupon, the document referred to as
7 Bureau-TDS-USCC Joint Exhibit No. 1 was
8 marked for identification.)

9 JUDGE GONZALEZ: And I gather there is no objection
10 to its receipt?

11 MR. HARDMAN: There is no objection.

12 JUDGE GONZALEZ: All right. Then it is received.

13 (Whereupon, the document referred to as
14 Bureau-TDS-USCC Joint Exhibit No. 1 was
15 received into evidence.)

16 JUDGE GONZALEZ: All right. Well, then, I think
17 that pretty much -- does anyone have anything else to add
18 before we conclude?

19 MR. HARDMAN: Your Honor, I do have one question and
20 that is this -- on the schedule of witnesses for next Tuesday,
21 is it TDS's intention to offer the witnesses in the order of
22 their exhibits?

23 MR. EMMONS: The order -- I will tell you that the
24 first witness, Your Honor, will be Mr. Belendiuk, whose
25 exhibit number is Exhibit 1.

1 After that, the various witnesses have various
2 schedules and we are likely to have to do some juggling and
3 shuffling. And we will endeavor to inform the Court and the
4 parties in advance to the extent that we can. We will give as
5 much notice as possible as to who will be next in line or what
6 the order will be. But it's not possible to do that right now
7 because we have some scheduling problems.

8 JUDGE GONZALEZ: But you would give them sufficient
9 notice to prepare themselves?

10 MR. EMMONS: We will give them as much notice as we
11 can.

12 MR. SCHNEIDER: At this point, Your Honor, Mr.
13 Belendiuk will be the first witness. It's our intention to
14 make Mr. Nelson the second witness. After that, we may not
15 actually know until we see when Mr. Nelson finishes, because
16 certain witnesses have different commitments at different
17 times.

18 And we can try to keep them informed -- but rather
19 than tell you that if so and so ends on this date, and then it
20 will be this witness, and if so and so finishes early, it will
21 be another witness -- we can try to give as much advance
22 notice as possible.

23 JUDGE GONZALEZ: Well, over the years, I have
24 noticed there is often a need for re-shuffling. It's sort of
25 unpredictable when we will conclude with a particular witness.

1 But hopefully TDS and USCC will give the parties
2 sufficient notice of at least who is coming up next so that
3 they can prepare themselves adequately for it. Anything
4 further?

5 MR. EMMONS: No, Your Honor.

6 JUDGE GONZALEZ: All right. Well, if there is
7 nothing further, we will -- yes, sir?

8 MR. HARDMAN: We don't need to do this on the
9 record, Your Honor.

10 JUDGE GONZALEZ: All right. Off the record.

11 (Whereupon, off the record.)

12 (Whereupon, on the record.)

13 JUDGE GONZALEZ: That concludes our business for
14 today, so we will adjourn and reconvene at 10:00 next Tuesday
15 -- I don't remember the date.

16 MR. HARDMAN: The fourteenth.

17 JUDGE GONZALEZ: The fourteenth, at 10:00. All
18 right. Thank you very much.

19 MR. HARDMAN: Thank you, Your Honor.

20 (Whereupon, matter concluded at 4:05 p.m.)

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Docket No.

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Place

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Date

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