

1 If the witness is not within the party's control,
2 then the party may call that witness for oral direct
3 testimony. The example that has been used here is if Mr.
4 Naftalin who represents Gerard Turro wanted to present Mr.
5 Warshaw's -- wanted to make -- wanted to introduce some
6 evidence through Mr. Warshaw who is not with Mr. Turro's
7 control, could he bring in Mr. Warshaw for oral testimony or
8 are we going to have to introduce certain deposition pages,
9 and I basically said that he would have his option. If he
10 wanted to introduce the deposition pages, he's have to work
11 out an arrangement with the other counsel to do that.

12 But the point being is I think I -- that I ought
13 to amend the ground rules to the extent that direct written
14 case if the witness is within the party's control, if the
15 witness is not within the party's control, then the witness'
16 testimony may be presented orally.

17 If a witness is going to testify orally, then on
18 the exchange date, the date that the direct cases are to be
19 exchanged each party shall list the witness which will give
20 oral testimony and give a brief summary of the areas in
21 which they're going to testify so that everybody is prepared
22 and knows that certain witnesses are going to come and
23 testify orally rather than in writing.

24 I think with everyone's deposition having been
25 taken, the parties should know what the testimony is going

1 to be so the description or summarization of what the
2 witnesses are expected to testify to doesn't have to be done
3 in any tremendous detail.

4 Does everybody agree to that? Mr. Aronowitz?

5 MR. ARONOWITZ: Yes, Your Honor.

6 JUDGE STEINBERG: Mr. Naftalin?

7 MR. NAFTALIN: That makes sense.

8 JUDGE STEINBERG: Mr. Helmick?

9 MR. HELMICK: Yes, Your Honor.

10 JUDGE STEINBERG: Mr. Riley?

11 MR. RILEY: Yes, Your Honor.

12 JUDGE STEINBERG: Does anybody want to add
13 anything to what I've said or expand on it because we
14 discussed other situations and, you know, I just put the
15 Warsaw one on the record as an example and I wondered if
16 there was anything anybody else wanted to put on the record.

17 MR. NAFTALIN: May I just ask for clarification,
18 just to make sure I'm clear with everything. In two rounds,
19 the parties will put forward direct written cases which
20 would, I guess, mostly consist of sworn statements by
21 various witnesses, plus maybe documents or what have you.
22 And those -- so, for those things, there'd be no summary
23 necessary because you've got the substance of their direct
24 testimony then and there; correct?

25 JUDGE STEINBERG: Well, but -- if a witness -- if

1 you're going to put some -- if you expected somebody to
2 testify orally, for instance, you'd say "Turro plans to call
3 Mr. Warshaw. Mr. Warshaw is expected to testify" and then a
4 summary. Then you and Mr. -- then you and Mr. Helmick or
5 and then the other parties can work out, well, instead of
6 him coming and testifying orally, maybe we ought to do it
7 this way or you can do it beforehand, and then just put in
8 the exhibit.

9 MR. NAFTALIN: I see. Okay. Let me make -- let
10 me try and grab an example. The Bureau and Universal will
11 go first --

12 JUDGE STEINBERG: Right. Right. Their exchange
13 will be first. So let's say the Bureau will get a written
14 statement from Mr. Loginow, and let's say they might want to
15 call Mr. Weise so the Bureau will say, you know, in a cover
16 letter, "Attached are our exhibits. In addition, we plan to
17 call Wesley Weise. Mr. Weise is expected to testify -- we
18 plan to call Wesley Weise to testify with respect to issues
19 6, 7 and 8. Mr. Weise is expected to testify --" and then a
20 brief summary of the areas in which he's expected to
21 testify.

22 And then everyone knows that Mr. Weise is coming
23 to testify and these are the areas. But if Mr. Aronowitz
24 wants to make an arrangement with Mr. Riley and other
25 counsel so that Mr. Weise doesn't have to come in terms of

1 entering into a stipulation that had he come his testimony
2 would be as follows, and either say what his testimony was
3 going to be or introduce the deposition pages, that would be
4 fine.

5 I also indicated off the record that since there
6 are misrepresentation issues involved concerning I guess
7 representations made by Mr. Turro and Mr. Weise that I would
8 obviously want to see them testify with respect to those
9 matters before me. There are other matters that you might
10 be able to stipulate to so that you can have them testifying
11 before me only with respect to the misrepresentation issue
12 and perhaps the other issues can be done by using deposition
13 pages, stipulations of whatever.

14 Does that clarify it?

15 MR. NAFTALIN: Yes, it does. Thank you.

16 JUDGE STEINBERG: And I apologize. I hadn't
17 thought of that at the time of the May 20, 197 prehearing
18 conference but I was educated by our much smarter than I am
19 Chief Judge.

20 Okay. Anything further? Mr. Aronowitz?

21 MR. ARONOWITZ: No, Your Honor.

22 JUDGE STEINBERG: Mr. Naftalin?

23 MR. NAFTALIN: No, Your Honor.

24 JUDGE STEINBERG: Mr. Helmick?

25 MR. HELMICK: No, Your Honor.

1 JUDGE STEINBERG: Mr. Riley?

2 MR. RILEY: No, Your Honor.

3 JUDGE STEINBERG: Okay. Could we go off the
4 record again?

5 (Whereupon, the hearing was concluded at 12:07
6 p.m.)

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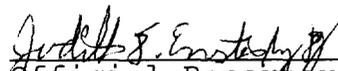
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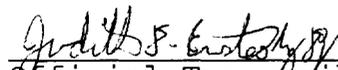


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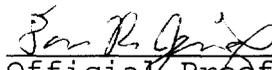


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