

1           A.    I don't remember.

2           Q.    More than one?

3           A.    I believe so, yes.

4           Q.    More than two?

5           A.    I don't know.  I don't remember how  
6 many printers there were.

7                   MR. GORDIN:  Are you speaking about the  
8 Novell systems?

9                   MR. LYON:  I'm speaking about the  
10 system at San Mateo Group.

11                  MR. ALTSHULER:  Is that question clear  
12 to you?

13                  THE WITNESS:  Yes, it's clear.

14                  I don't remember how many printers were  
15 at that location.

16                  MR. LYON:  Q.  Was there an HP color  
17 laser jet?

18           A.    Yes.

19           Q.    Can you recall the makes and models of  
20 any other printers there?

21           A.    No.

22           Q.    Were you told why you were hired, or  
23 why you were retained?

24           A.    Yes.

25           Q.    And what were you told?

1           A.    To act as kind of an insurance policy  
2 for the bidding process to make sure the computer  
3 systems worked.

4           Q.    Were you told that there had been any  
5 previous problems with the computer systems?

6           A.    Yes.

7           Q.    Could you describe the nature of those  
8 problems as they were told to you?

9           A.    I know there was a problem with the  
10 backup system. I think there was a problem with  
11 one of the drivers in the file server; but I don't  
12 remember exactly everything, no.

13                    Those are the two that kind of stand  
14 out.

15           Q.    It's been more than two years, hasn't  
16 it?

17           A.    Yes, it has.

18           Q.    It would be hard for anybody to  
19 remember two years ago.

20           A.    Exactly. Exactly.

21           Q.    To the best of your recollection, what  
22 were the problems as they were described to you  
23 with respect to the backup system?

24           A.    It was intermittent.

25           Q.    And did you say the other problem you

1 recall was a disk drive problem?

2 A. Yes, I think so. Yes.

3 Q. Was that on a server?

4 A. Yes.

5 Q. The file server?

6 A. Yes.

7 Q. Was there more than one file server?

8 A. I don't think so. I don't remember.

9 I remember there was one main file  
10 server.

11 Q. And what was described to you to be the  
12 problem with the disk drive on the file server?

13 A. That was kind of left for me to figure  
14 out.

15 Q. Did you?

16 A. Yes.

17 Q. And what was the problem?

18 A. It was a faulty drive.

19 Q. Were there any problems with power,  
20 electrical power?

21 A. I believe there was a blackout at some  
22 point when we were there. That's all I remember.

23 Q. Any other problems?

24 A. Not that I know of.

25 Q. Any problems with the UPS? Do you know

1 what -- strike that.

2 A. Yes, I do.

3 Q. Was there uninterruptable power source  
4 at that particular location?

5 A. Let's honestly. I don't remember.

6 Q. Okay.

7 A. Whether they had a UPS or not.

8 Q. Was there flickering of the lights when  
9 the laser printers were activated?

10 MR. GORDIN: Objection. Assumes facts  
11 not in evidence.

12 MR. LYON: Q. Did you ever activate a  
13 laser printer?

14 A. Yes.

15 Q. And was there flickering of the lights  
16 when that occurred?

17 A. I don't remember.

18 Q. Who communicated to you the problem  
19 with the backup system and the disk drive?

20 A. Mr. Easton.

21 Q. Was Mr. Easton your primary supervisor  
22 there -- strike that.

23 Did you have a supervisor there?

24 A. No.

25 Q. Did you have someone you reported to

1 there?

2 A. Mr. Easton.

3 Q. Anyone else?

4 A. No, just Mr. Easton, for the most part.

5 Q. Do you know Bill Pezzaglia?

6 A. Yes.

7 Q. Did you report to Bill Pezzaglia at any  
8 point?

9 A. I don't understand what you mean by  
10 "report."

11 Q. By report, I mean, describe what you're  
12 doing, take direction from; that type of thing.

13 A. Absolutely. If that's the case, I  
14 reported to everyone there.

15 MR. GORDIN: Would you read back the  
16 question, please.

17 (Record read.)

18 MR. GORDIN: Thank you.

19 MR. LYON: Q. Did you report to  
20 Cynthia Hamilton?

21 A. Yes.

22 Q. You took direction from her?

23 A. Yes.

24 Q. What direction did you take from her?

25 A. She would explain the problems on her

1 computer, and I would repair it, just like everyone  
2 else there.

3 Q. Did she have problems with her  
4 computer?

5 A. From time to time, yes. They all had  
6 problems.

7 Q. Did you have any responsibility -- I'm  
8 sorry. With respect to the backup system, did you  
9 find the cause of the problem?

10 A. Yes.

11 Q. Were there more than one cause?

12 A. Just old and outdated.

13 Q. What did you do in response?

14 A. Did the best I could to repair it, and  
15 then just checked it every day, and if it didn't  
16 work, I ran a manual backup.

17 Q. Did you eventually replace the backup?

18 A. Yes.

19 Q. Do you recall when you did that?

20 A. It was after around 11:00.

21 Q. I can believe that.

22 MR. GORDIN: I will object to that  
23 comment.

24 MR. LYON: I guess I can't.

25 MR. GORDIN: Object to that comment.

1 MR. LYON: Q. Were the changes made  
2 after 11:00 with respect to the computer system?

3 A. Yes.

4 Q. Could you describe those changes?

5 A. The primary file server was replaced  
6 with an NT file server.

7 Q. Why was that done?

8 A. At my recommendation.

9 Q. Why did you recommend it?

10 A. Because I believed the NT file server  
11 to be more stable.

12 Q. You were having problems with the  
13 stability of the file server?

14 A. Yes.

15 Q. Did you have problems with the file  
16 server becoming fully loaded? I know that's a  
17 terrible question. Let me try again.

18 A. Okay.

19 Q. Did you have problems with the file  
20 server becoming full?

21 A. Yes.

22 Q. Did that happen with regularity?

23 A. Yes.

24 Q. Did that interfere with the working of  
25 the computer system?

1 A. Yes.

2 Q. Would you describe how?

3 A. You become unable to save files, if the  
4 system is full.

5 Q. Any other problems that a full file  
6 server would have -- or had on the computer system?

7 A. Would slow it down.

8 Q. Any others?

9 A. I mean, there's a lot of problems it  
10 could cause, but those are the main ones.

11 Q. Would it affect the printers?

12 A. Yes.

13 Q. How would it affect the printers?

14 A. If the file server is full, the  
15 printers can't print. They can't write up a temp  
16 print file.

17 Q. Would the same be true if the fax  
18 server became full?

19 A. Would what be true?

20 Q. That it would interfere with the  
21 printers?

22 A. No.

23 (Conference between Messrs. Lyon and Easton.)

24 MR. LYON: Q. Would in-coming faxes  
25 have an effect on the file server?

1 A. No.

2 Q. How about on the file server print  
3 spools?

4 A. No.

5 MR. GORDIN: I'm sorry. What was the  
6 answer?

7 THE WITNESS: No.

8 MR. LYON: Q. Was there a LAN in  
9 operation at San Mateo Group?

10 A. Yes, that's what the system was, a  
11 local area network.

12 Q. And what was the software running the  
13 LAN?

14 A. Novell 312.

15 Q. Was that also called Novell NetWare?

16 A. Yes.

17 Q. And would you describe the function of  
18 NetWare?

19 A. Okay. NetWare allows multiple  
20 computers --

21 MR. GORDIN: Excuse me.

22 I'm going to object to this question to  
23 the extent it's calling for an expert opinion since  
24 he doesn't want to qualify us as an expert.

25 Subject to the objection, you can

1 answer.

2 THE WITNESS: NetWare allows multiple  
3 computers to access information, save information,  
4 share printing resources of one, quote, "file  
5 server."

6 MR. LYON: Q. Okay.

7 A. That's the purpose of network.

8 Q. The backup system, was that run by  
9 software?

10 A. Yes.

11 Q. What software?

12 A. I don't remember.

13 Q. Do the words Colorado Data refresh your  
14 recollection with respect to the software run in  
15 the backup system?

16 A. No. I do not remember if it was  
17 Colorado or not.

18 Q. Do you recall whether it was S-Back  
19 (sic)?

20 A. S-Backup?

21 Q. I'm sorry. S-Backup.

22 A. I don't think it was using S-Backup.

23 Q. S-Backup is using a Novell product?

24 A. Exactly, but I don't think we were  
25 using S-Backup.

1 Q. Did the computer system at San Mateo  
2 Group have -- did it have the capacity to have  
3 supervisor privileges assigned to individuals?

4 A. Yes.

5 Q. And were you a supervisor?

6 A. Yes.

7 Q. Were there other supervisors?

8 A. I believe so. Yes.

9 Q. Was Mr. Pezzaglia a supervisor, to your  
10 knowledge?

11 A. I don't remember who all the  
12 supervisors were.

13 Q. Mr. Gavette?

14 A. I don't know.

15 Q. Ms. Hamilton?

16 A. I don't know. Honestly, I don't  
17 remember who all the supervisors were.

18 Q. Was it your understanding that you were  
19 the only supervisor?

20 A. No.

21 Q. Was it your understanding that there  
22 were multiple supervisors?

23 A. Yes.

24 Q. Are you familiar with the term  
25 supervisor privileges?

1 A. Yes.

2 Q. Could you explain that term to us?

3 A. It is a user or -- "supervisor," quote,  
4 unquote, is a user within the Novell system. That  
5 is the user that is used to, first of all, set up  
6 the network; and the supervisor is the person that  
7 can add accounts, can do all of the maintenance on  
8 the file server that needs to be done, as can a  
9 supervisor equivalent.

10 Q. Were there supervisor equivalents at  
11 the San Mateo Group?

12 A. Yes.

13 Q. Do you know who any of them were?

14 A. I can't remember them all, no.

15 Q. Did you know if Mr. Easton was a  
16 supervisor?

17 A. I'm sure he was. He set up a network.

18 Q. Is that an assumption on your part  
19 or --

20 A. Yes, it is an assumption.

21 Q. Do supervisors have the capability of  
22 deleting files from the NetWare server?

23 A. Yes.

24 Q. Do they have the capability of  
25 purging -- strike that.

1 Are you familiar with the term purge?

2 A. Yes.

3 Q. Would you describe that term for us.

4 A. With the NetWare when you delete a  
5 file, it is held in a kind of like a safety file  
6 called deleted.save.

7 And what purging does is empty that  
8 file so that it no longer has a record of any file  
9 that has been deleted.

10 Q. Is there any reason why an operator of  
11 a NetWare system would effect the purge command?

12 MR. GORDIN: Object to the question.  
13 Same grounds regarding expertise.

14 THE WITNESS: I really don't understand  
15 the question.

16 MR. LYON: Q. Is there a reason why a  
17 supervisor would purge files from the NetWare  
18 server?

19 MR. GORDIN: Same objection.

20 THE WITNESS: Can I answer?

21 MR. ALTSHULER: Go ahead.

22 THE WITNESS: As part of our regular  
23 maintenance, yes.

24 MR. LYON: Q. Why?

25 A. In this case because the drives kept

1 filling up.

2 Q. And purging is necessary to make room  
3 on the file for additional files?

4 A. Yes.

5 Q. I said that wrong. Let me try again.

6 Purging is necessary to make room  
7 on the drive for additional files?

8 A. Yes.

9 Q. Deleting isn't good enough?

10 A. No.

11 Q. Why not?

12 A. Because deleting just moves the file  
13 into the deleted.save file.

14 Q. So it doesn't free up space on the hard  
15 drive?

16 A. No.

17 Q. Did you find it necessary to ever purge  
18 files on the network server?

19 A. Yes.

20 Q. Did you find it necessary to regularly  
21 do so?

22 A. Yes.

23 Q. Do you know if in the normal course of  
24 business other persons with supervisor privileges  
25 found it necessary to purge the NetWare server?

1 A. I don't know.

2 Q. Do you think they did?

3 A. Yes, I think they would.

4 Q. And did you find their purging the  
5 NetWare server to be unusual?

6 MR. GORDIN: Object to the question.

7 Assumes facts not in evidence.

8 You asked him if he thought he did. He  
9 said he didn't know if he did.

10 MR. LYON: The record will reflect it,  
11 and I object to your attempting to get the witness  
12 to change his testimony.

13 MR. GORDIN: That's clearly not what  
14 happened.

15 MR. ALTSHULER: Could you read the last  
16 question back, please.

17 MR. LYON: I'll reask it.

18 Q. Did you find it unusual for other  
19 persons to purge files from the NetWare server?

20 MR. GORDIN: Object to the question.  
21 Assumes facts not in evidence.

22 MR. ALTSHULER: I'll join in the  
23 objection.

24 MR. LYON: Q. Did other persons purge  
25 files from the NetWare server, to your knowledge?

1           A.    Do I have direct knowledge?  No.  I  
2  don't know.

3           Q.    So you have no direct knowledge of  
4  anyone else in the San Mateo Group offices purging  
5  files from the NetWare file server; is that  
6  correct?

7                   MR. ALTSHULER:  I object to the term  
8  "direct knowledge" as being vague.

9                   MR. LYON:  Q.  Direct knowledge was,  
10 did you ever see anyone in the San Mateo Group,  
11 other than yourself, purge files from the NetWare  
12 server?

13           A.    No.

14           Q.    Is it possible to hear somebody purging  
15 files?

16           A.    No.

17           Q.    So the only direct knowledge you would  
18 have would be seeing that occur; is that correct?

19           A.    Yes.

20           Q.    Do backups occur automatically at the  
21 San Mateo Group?  Backups of the file NetWare  
22 server?

23           A.    They were supposed to.

24           Q.    But did they?

25           A.    Sometimes.

1 Q. Sometimes they didn't?

2 A. Right.

3 Q. Then it was necessary for you to  
4 manually do so; is that correct?

5 A. Yes.

6 Q. Can you be sure that every day you  
7 ensured that the file server was automatically  
8 backed up or you manually backed it up?

9 MR. GORDIN: Can you repeat the  
10 question?

11 (Record read.)

12 MR. GORDIN: I object to the form of  
13 the question.

14 MR. ALTSHULER: I object to it as  
15 vague.

16 MR. GORDIN: And compound.

17 MR. LYON: Q. Can you answer?

18 A. It's two years ago. I don't know.

19 Can I be sure?

20 It's two years ago. The answer would  
21 be no.

22 Q. Are you familiar with the power  
23 requirements of laser printers in general?

24 A. No.

25 Q. Do you know whether they have a heating

1 element in them?

2 A. Yes.

3 Q. And is it your understanding that the  
4 heating element can draw as much as a thousand  
5 watts?

6 A. I don't know.

7 Q. Drawing your attention to shortly after  
8 January 23, 1996, did you have the occasion to be  
9 interviewed by representatives of the law firm  
10 which included David Wilson as one of the lawyers?

11 A. I don't remember. Someone interviewed  
12 me. I forget who.

13 Q. They've sometimes been referred to as  
14 the independent counsel.

15 Does that refresh your recollection?

16 A. No, it doesn't.

17 Q. You do recall being interviewed?

18 A. Yes.

19 Q. Do you recall being interviewed more  
20 than once?

21 A. No.

22 Q. Can you recall what you told Mr. -- the  
23 person who interviewed you -- strike that.

24 Were you interviewed by more than one  
25 person?

1 A. I forgot. I don't know.

2 Q. Do you recall how long your interview  
3 was?

4 A. No.

5 Q. Do you recall any of the questions  
6 asked?

7 A. They asked me did I backup the network.  
8 I do remember that.

9 Q. Anything else they asked you?

10 A. I forget. I'm sure there were others.

11 Q. Did you understand that you were being  
12 interviewed for a purpose?

13 A. I don't know. No.

14 Q. Did you have an understanding of  
15 whether the interview was important?

16 A. I don't know. It was definitely not  
17 like this.

18 Q. I can understand that.

19 THE WITNESS: Counsel?

20 MR. ALTSHULER: The witness.

21 MR. LYON: Would you like a break?

22 MR. ALTSHULER: The witness would like  
23 to use the restroom, please.

24 MR. LYON: I would too.

25 Let's just go off the record, please.

1 (Recess taken from 11:15 to 11:30 a.m.)

2 MR. LYON: I want to go back to the  
3 question of faxes.

4 Q. Is it your understanding that San Mateo  
5 Group had a fax server?

6 A. Yes.

7 Q. And was that networked with the Novell  
8 NetWare?

9 A. Yes.

10 Q. And in-coming faxes -- strike that.

11 When a file would be ordered printed by  
12 someone working on a work station, that would be  
13 through a printer, print spool; is that correct?

14 A. Yes.

15 Q. And if the print -- was it possible for  
16 the print spools to become full?

17 A. Yes.

18 Q. And what would happen if that happened?

19 A. It wouldn't print.

20 Q. I'm sorry?

21 A. It would not print. I'm sorry.

22 Q. Was it your understanding that faxes in  
23 order to be printed also had to go into the print  
24 spools?

25 A. Yes.

1 Q. And is it your understanding that faxes  
2 could fill a print spool?

3 A. Yes.

4 Q. And could that cause the printer not to  
5 print?

6 A. Yes.

7 Q. Going back to the Wilson firm. In your  
8 interview, or your interviews, do you have a  
9 present recollection of whether it was one or two  
10 interviews?

11 A. I believe it was one.

12 Q. Okay. And other than the questions  
13 regarding what -- I'm sorry.

14 Other than the questions regarding  
15 whether you made a backup, were you asked other  
16 questions?

17 A. There were questions about can files be  
18 deleted, similar to the questions you've asked  
19 about deleting files and what happens.

20 Q. Did they ask you about purging?

21 A. I believe so.

22 Q. Did they ask you if it was normal to  
23 purge?

24 A. Yes, I believe they did.

25 Q. And you told them it was normal to

1 purge?

2 A. Yes.

3 MR. GORDIN: Object to leading.

4 MR. LYON: That's all right. He said  
5 he's not my witness.

6 Q. Did you get the impression from the  
7 individual or individuals who interviewed you that  
8 they were computer illiterate?

9 MR. ALTSHULER: I'm sorry. Did you say  
10 computer illiterate or computer literate?

11 MR. LYON: Computer literate.

12 THE WITNESS: No.

13 MR. LYON: Q. Did you get the  
14 impression that they were computer illiterate?

15 A. Yes.

16 Q. The question with respect to whether  
17 you made a backup, was that directed at whether you  
18 made a backup on or about January 23, 1996?

19 A. Yes.

20 Q. And what was your answer?

21 A. Yes.

22 Q. Do you recall the date of the backup?

23 A. It was backed up from that night,  
24 whatever night that was.

25 Q. Was that a full system backup?

1           A.    Yes.

2           Q.    And would you identify for the record  
3 what the term full system backup means?

4           A.    It means they've backed up everything  
5 onto a file server.

6           Q.    Do you have a copy of the backup that  
7 you made?

8           A.    I don't, no.

9           Q.    Would that backup have been on a tape?

10          A.    Yes.

11          Q.    What did you do with the backup tape  
12 that you made?

13          A.    Gave it to Javier.

14          Q.    When you say Javier, you mean Javier  
15 Lamoso?

16          A.    Yes.

17          Q.    Do you know what he did with it?

18          A.    No.

19          Q.    Do you know if the backup tape that you  
20 made still exists?

21          A.    I don't know I haven't seen it since.

22          Q.    Have you ever had the occasion to  
23 discuss with Mr. Lamoso what he did with the backup  
24 tape that you made on the evening of January 23,  
25 1996?

1           A.    Yes.  He called our company last year  
2 to ask me what can he do with it, how does he go  
3 about getting data off of it.

4           Q.    What did you tell him?

5           A.    I pointed him to a firm that could do  
6 that for him.

7           Q.    What was the full name of the firm?

8           A.    I don't remember.

9           Q.    Would you have written down the name?

10          A.    No.

11          Q.    If I ask you today to give me the name  
12 of a firm who could get data off of that tape if I  
13 had it in my possession, who would you refer me to?

14          A.    Probably do the same thing I did with  
15 him.  I would look it up on the Internet.

16          Q.    That's how you determined?

17          A.    Exactly.

18          Q.    Do you know if Mr. Lamoso called the  
19 company you referred him to?

20          A.    I believe he did.

21          Q.    Can you state the basis for your  
22 belief?

23          A.    He called me back and told me they  
24 couldn't get any data off of it, was there anything  
25 else he could do.

1 Q. Did that surprise you?

2 A. No.

3 Q. Why?

4 A. Because the tapes have been sitting for  
5 two years.

6 Q. What could happen to a tape that has  
7 been sitting for two years?

8 A. It deteriorates.

9 MR. GORDIN: Object to this whole line  
10 of questioning as to his knowledge in particular,  
11 what he was doing in particular at this period of  
12 time.

13 MR. LYON: I think the record will  
14 reflect that this witness is quite knowledgeable in  
15 computer matters.

16 Q. And I trust that if something is beyond  
17 your knowledge, you'll tell me?

18 A. Yes.

19 MR. GORDIN: My objection still stands.  
20 He is not an expert witness to this particular  
21 case.

22 MR. LYON: Q. Could you answer the  
23 question, or should I restate it?

24 MR. GORDIN: Could we at least have a  
25 standing objection?