

4 Q. BY MS. MARSHALL: Mr. Weil, we met before.

5 A. Yes.

6 Q. My name is Linda Marshall. I very much
7 appreciate you coming back for a second time to
8 testify this morning.

9 A. No problem.

10 Q. I want to first of all explore your relationship
11 with NorthWest Direct. You testified that you
12 had been an attorney, you had known Mr. Rote for
13 some ten years, I believe you said?

14 A. That's a rough approximation, yes.

15 Q. And that you had represented NorthWest Direct
16 and its sister companies in various matters
17 during that period?

18 A. Yes. That's correct.

19 Q. At any time during these arbitration proceedings
20 have, and when I say arbitration proceedings,
21 I'm talking about the hearing itself, have you
22 acted as, considered yourself to be acting as
23 attorney for the corporations or have you relied
24 upon Mr. Cliff for that purpose?

25 A. The attorney for the corporations in this

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1 arbitration proceeding.

2 Q. In the arbitration hearing, yes?

3 A. In the arbitration hearing, no, I have not
4 considered myself to be an attorney, I have not
5 considered myself to be representing the party
6 in this case.

7 Q. Okay. So obviously we have a bit of a change
8 now that Mr. Cliff is not present and Mr. Rote
9 has taken over. And so I want to be clear as to
10 whether Mr. Rote is representing the corporation
11 together with advice from Mr. Cliff and you are
12 here solely as a witness. Am I correct on that?

13 MR. ROTE: That is correct.

14 THE WITNESS: That's my understanding, yes.

15 Q. BY MS. MARSHALL: Okay. I wanted to try and
16 push back to a time before the arbitration
17 hearing so that we can have some sense of when
18 you stopped being a, an attorney for the
19 corporation and started being solely a witness.
20 Have, and this is, this may not be my most
21 articulate question, but did you play any part
22 as an attorney in preparing for the hearing of
23 this arbitration?

24 A. No.

25 Q. Okay. So you've at all times in connection with

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1 arbitration hearing and the preparation for it

2 considered yourself to be a witness?

3 A. Yes.

4 Q.

5 A. I guess I don't, this case has gone on for so
6 long, I think oh three, that I'm not sure when,
7 you know, I guess the only question I would have
8 is the time frame is when the arbitration
9 actually began. But it has been some time since
10 I represented the defendant or the party
11 corporation as an attorney in this. And I don't
12 think ever, as far as I understand the
13 arbitration in the context of the arbitration.
14 I have only been called as a witness. I've not
15 provided legal advice to the company, if that
16 answers.

17 Q. That's, I just want to make sure that I'm

18 phrasing my questions correctly and that I'm

19 clear as to what your role is.

20 So in that role as a witness only, may I ask
21 what you did to prepare yourself to testify
22 today?

23 A. I had a couple of conversations with Mr. Cliff
24 and I reviewed an affidavit that I prepared for
25 Mr. *Edelstein, *Edelstein in, I don't know if

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1 that was -- It was in relation to this dispute.
2 I don't know if it was in this arbitration
3 proceeding or some...

4 Q. Did you review any other documents?

5 A. I did not to my recollection, I did not review
6 documents. Now, you say, I think you asked
7 today. But I consider that you're asking back
8 towards when I --

9 Q. Thank you, yes?

10 A. -- Earlier as well. And I don't think I
11 reviewed any documents to prepare for my
12 testimony. I mean, I think there was a letter
13 attached to my affidavit and those kind of
14 things I looked at, a letter to Mr. Egan. So

15 when I talk about my affidavit, that was
16 attached. I reviewed that as well.

17 Q. Okay.

18 A. That's what I recall.

19 Q. Did you, for the purpose of testifying today,
20 review the, any part of the transcript of the
21 hearing that was held in June and July?

22 A. I did review that because Mr., Mr. Cliff
23 provided that to me along with the arbitrator's
24 ruling on the waiver issue so that I could pass
25 that to my be associate and ask her to look

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1 through the file for documents that were
2 responsive to the production requirement. I
3 didn't, and that's the reason I looked at T I
4 haven't looked at it since, well, a month, I
5 would guess.

6 Q. Have you reviewed any, the witness testimony of
7 any other witness in this arbitration?

8 A. I have not.

9 Q. Have you spoken to any other witness in the

10 arbitration?
11 A. Other than Mr. Rote. And I'm not sure who all
12 the witnesses are, but I haven't knowingly
13 spoken to a witness other than Mr. Rote. I
14 haven't spoken to Mr. Rote about his testimony.
15 Q. Okay. But you said you received the deposition
16 transcript in connection with Mr. Crow's ruling?
17 A. My trial or arbitration transcript.
18 Q. Yes.
19 A. Yeah. In that, yeah.
20 Q. You received that, the transcript in connection
21 with Mr. Crow's ruling?
22 A. Yes. Mr. Cliff gave that to me to understand
23 the context of the ruling and that was
24 requested.
25 Q. So did you review that?

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1 A. I did review my testimony.
2 Q. Your own testimony?
3 A. That was the only transcript I received was of
4 my testimony.
5 Q. Okay. Did you review your file in any way to

6 refresh your recollection, any events or times
7 or anything like that?

8 A. No.

9 Q. So I ask you a question today, can I, can we all
10 assume that your answer is given from your
11 present recollection, as you sit here today,
12 what you remember happened in 2003, et cetera?

13 A. Yes. And then I guess with the just additional,
14 I did look at my affidavit, although it's been a
15 while since I've looked at it. But that and the
16 letter. And of course I saw the exhibits when I
17 was testifying. So that, I mean, at that point
18 my memory was perhaps I guess you'd say
19 refreshed, but, you know, or sharpened. But I
20 haven't reviewed for the purpose of this
21 testimony.

22 Q. Have you reviewed any other exhibits in this
23 hearing?

24 A. I have not reviewed any exhibits unless they
25 were shown to me when I testified.

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- 1 Q. I'm not going to mark this as an exhibit but I'm
2 just going to put Mr. Crow's letter in front of
3 you.
- 4 A. Yes.
- 5 Q. Is this the, what you're referring to about
6 Mr. Crow's ruling?
- 7 A. Yes. Mr. Cliff provided this to me.
- 8 Q. Okay. And that's June 23rd, 2010, letter from
9 Mr. Crow to myself and Mr. Cliff?
- 10 A. Correct.
- 11 Q. All right. Now, did, if I could just have that
12 back for just a second.
- 13 MR. ROTE: Sure.
- 14 Q. BY MS. MARSHALL: Okay. And I take it from your
15 testimony that you, you received this to help
16 you to collect documents to produce?
- 17 A. Well, I initially received it I think at or
18 about the time of the June 23rd date. And Scott
19 just gave it to me as a matter of this is what
20 the judge has ruled. And I asked him if I
21 should provide documents and he said I should
22 wait for an order. And then later on, and I'm,
23 I think probably late August he contacted me
24 again, provided me with this again, and at that

25 time a transcript of just my testimony, I don't

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1 know if there was anything else, but said, you
2 know, this is the context. Would you please
3 produce the documents. He asked me if I would
4 have a secretary or an assistant produce the
5 documents. I said would it be better to have a
6 lawyer do that? And he said he thought yes. So
7 I asked my associate Chelsea to read those and
8 to go through the file to produce documents.
9 Q. So who actually reviewed your file in order to
10 select documents to produce?
11 A. An attorney in my office, Chelsea Lewandowski.
12 Q. If you'd like you can spell that so we don't
13 have do to go back.
14 A. L E W A N D O W S K I.
15 Q. Has Ms. Lewandowski been involved at all in the
16 representation of NorthWest Direct? Let me
17 narrow the question. In connection with this
18 case?
19 A. Certainly not in connection with this case.
20 Q. Okay. Did you provide her with anything other

21 than this letter in terms of figuring out what
22 documents to select?

23 A. Well, I provided her with the letter, the
24 transcript to the extent that helped, and the
25 whole file, and then I think I told her that she

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1 should discuss with Scott cliff if she had
2 questions, I think I told her. I assume I would
3 have told her that. And if Scott provided me
4 with anything else, I would have given that to
5 her but I can't think of anything else offhand
6 he gave me.

7 Q. Okay. Did she ask you any questions or did you
8 provide her with any additional information in
9 selecting documents?

10 A. No. And she didn't ask me any questions in the
11 procession. I think she went through it and if
12 she had questions she then spoke to Scott. I
13 don't know if Mr. Rote, but Scott, I believe.

14 Q. Now, a minute ago you referred to the file with
15 showing the file to be somewhat thick. Can you

- 16 give us an estimate?
- 17 A. I may have exaggerated when I held my hands, but
- 18 I would guess it's four or 5 inches thick.
- 19 Q. Okay. In connection with just this case?
- 20 A. The case has a lot six history. So yes, yeah, I
- 21 think that's right.
- 22 Q. And for your purposes today we're really only
- 23 focusing on some events that happened in early
- 24 October of 2003.
- 25 A. That's my understanding, yes.

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- 1 Q. Did you, do you know whether Ms. Lewandowski, do
- 2 I have it right?
- 3 A. Lewandowski.
- 4 Q. In addition to examining file, the paper file
- 5 itself, whether she looked for e-mailed
- 6 correspondence between you and Mr. Rote in that
- 7 October time frame, 2003?
- 8 A. After talking to Mr. Cliff, she did ask me about
- 9 going through my e-mails. And my response to
- 10 her, as I recall, was that if there are any
- 11 e-mails, they are printed and in the file.

12 Because I, you know, from 2003, I just don't
13 have those e-mails. We've had our servers
14 changed a couple of times and it's just, you
15 know, you may be able to find a forensic expert
16 be that but certainly than me. I would not
17 retrieve them if that's even doable.

18 Q. Sure. What is your practice when you receive
19 e-mails from a client like Mr. Rote, I should
20 narrow my questions to Mr. Rote. When you
21 receive e-mails from him, do you automatically
22 print the e-mail and save it in a paper file or
23 do you save it electronically?

24 A. I save, you know, if something, if I think I'm
25 going to refer back to it I need to keep a



1 record of it, I will print it and give it to my
2 secretary to file. And then I think typically
3 client e-mails, I try to keep for at least a
4 year and then, you know, if a case, there are
5 some cases write think I need to hold onto this.
6 But most cases probably after a year I just

7 delete them. And this is not, I guess this is
8 one of those cases that in retrospect perhaps I
9 should have held onto them. But it had just
10 dropped off the radar for years and I thought
11 that was all gone.

12 Q. When you keep the e-mails electronically, do
13 you, for example, store a, all e-mails with a
14 particular client in a folder with that client's
15 name on it?

16 A. I just don't delete them is what I do or don't
17 do. I don't set up separate subfolders and
18 files in my e-mail.

19 Q. Okay. And now we're going to talk, we're going
20 to focus back on 2003, particularly September,
21 October of 2003. Would you say that it was
22 customary for Mr. Rote to communicate with you
23 by e-mail?

24 A. Yes, it was common.

25 Q. And if we had the actual electronic record of



1 those e-mails, would you expect to see the
2 important issues that the two of you had

3 discussed somewhere, if it was sent by e-mail,
4 somewhere in the electronic record?

5 A. Tim's e-mails are usually pretty terrace and
6 short. And so what I would have expected to see
7 is, I mean because I do have some recollection
8 of this, is that I remember being forwarded a
9 string of e-mails between Tim and I believe
10 someone at Mr. Egan's office and then I think
11 there was just a comment maybe from Tim and
12 there was like a letter scanned into it that,
13 but had there been communication between Tim and
14 me and were those e-mails still available, yeah,
15 I mean, we would have seen that.

16 Q. When Mr., focusing back in that same time
17 period, was it customary for Mr. Rote to send
18 you copies of, for example, of his
19 correspondence attached to e-mails as an
20 alternative to, for example, faxing a copy of
21 the document or hand delivering it or something
22 of that nature?

23 A. I mean, I'm trying to remember in 2003 when -- I
24 know you didn't have a scanning machine back
25 then. I can't remember if, I just can't

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1 remember. I know I got fax -- I know he
2 communicated with me by fax and by e-mail. And
3 was your question, was it typical for him to do
4 that?

5 Q. Yes.

6 A. By e-mail? I mean, typical in the sense of it
7 wasn't unusual. But, you know, Tim had dropped
8 things by my office on occasion. He's, you
9 know, used the fax machine freely as well. So,
10 I mean, it's not, it was just one of the normal
11 ways that he would communicate with me.

12 Q. All right. When you received faxes, for
13 example, from Mr. Rote back in that time period,
14 do you recall whether it was customary for him
15 to put a cover sheet on the document he was
16 sending you?

17 A. I don't recall. I really don't. You know, and,
18 I just don't. Typically I didn't have a fax in
19 my office. So people would pick things up and
20 that. I just don't know.

21 Q. Well, am I correct in the information I've been

22 provided that there are virtually no papers in
23 your file that related, that relate to or show
24 when you received a copy of a certain
25 October 2nd, 2003, letter? If you wish we can



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1 actually pull it up in the exhibit.
2 A. Yeah. I guess I would...
3 Q. Exhibit 13. Okay. Can you find Exhibit 13 in
4 the binder?
5 A. Yeah. It's a letter from Mr. Rote to
6 Mr. Zweizig dated October 2, 2003.
7 Q. Yes.
8 A. Yes, I do have it.
9 Q. Now you recall you attached a copy of that
10 letter to your letter to Mr. Egan?
11 A. Uh-huh. Yes, I do.
12 Q. And we're trying to discover when you first saw
13 that letter. And that's why I'm asking the
14 questions about whether there would be any
15 documents in your file that would indicate when
16 you first received a copy of this letter?
17 MR. ROTE: I have a question, Mr. Crow.

18 ARBITRATOR CROW: Yes. Go ahead.

19 MR. ROTE: I think the specific request
20 point was when Mr. Weil first became aware of
21 the respondent's termination. I think
22 Ms. Marshall is now being more specific and
23 focusing on the letter. Am I misinterpreting
24 where you're going here?

25 ARBITRATOR CROW: I think those are related

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1 matters but I do understand that Ms. Marshall's
2 question is does he have anything in his file
3 which would reflect when he got this letter?
4 And I think he has referred to it in other
5 correspondence.

6 THE WITNESS: Let me just give you my best
7 answer. I don't nope the specific moment I
8 first received this letter. What I do know is
9 that I would have received it between the time I
10 sent my letter to Mr. Egan, which I believe was
11 in early November, and the time that I first got
12 an e-mail from Mr. Rote, which was, my

13 recollection was maybe four or 5 days before the
14 date of that letter. Because this isn't
15 something that I recall I was involved in before
16 Mr. Rote wanted to make me aware of the report
17 to the state of Oregon.

18 Q. Okay.

19 A. So that brackets it anyway.

20 Q. Yeah. What I am trying to figure out is whether
21 there's any evidence as to when you received it.
22 And if there is none, I'll accept that answer.
23 But my question I guess encompasses e-mails you
24 may have printed out in which Mr. Rote may have
25 attached this letter, fax cover sheets that may

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1 have been attached to the letter, or even the
2 fax tracks at the top of the letter if it was
3 faxed to you. And I am trying to figure out if
4 Ms. Lewandowski did the search that would have
5 discovered that kind of information in order to
6 produce it for our consumption?

7 MR. ROTE: Excuse me. That is beyond the
8 scope of this order. The question was when you

9 first became aware of the timing of the
10 termination.

11 ARBITRATOR CROW: I understand. But the
12 question can be asked as framed. And your
13 answer to that question, Mr. Weil?

14 THE WITNESS: Is quite frankly I don't know.
15 I mean, she reviewed with the specific
16 instructions and I did not review. So I don't
17 know if there's something that shows the context
18 in which I first received this letter.

19 Q. BY MS. MARSHALL: Okay. Are you absolutely
20 positive that you did not see this letter prior
21 to the e-mail from Mr. Rote that you discussed
22 in your testimony, and let's get that e-mail
23 out. That would be the October 29th e-mail from
24 Mr. Rote to various, back to Joyce *Fordi, I
25 believe, and then a copy to Mr. Weil.

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1 I believe it's Exhibit 1 pages 86 to 88.

2 A. Exhibit 1?

3 Q. Exhibit 1 is maybe a different book from what

- 4 you have here.
- 5 A. Here we've got Exhibit 1.
- 6 Q. Okay. Page 88, starting at page 88 and moving
- 7 to page -- I'm sorry. Starting at page 86 and
- 8 moving to page 88.
- 9 A. 86 through... As I sit here today, I can tell
- 10 you that I do not recall having heard the name
- 11 Max Zweizig before I received this e-mail you
- 12 just directed me to, page, starting on page 86
- 13 of Exhibit 1.
- 14 Q. Okay.
- 15 A. So, yeah. So, I mean, that's what -- I, to my
- 16 recollection, this was my first hint of
- 17 employment of Max Zweizig and a dispute.
- 18 Q. Okay. And the date of this e-mail is
- 19 October 28th, 2003, at 8:48 p.m.?
- 20 A. Correct. Yeah.
- 21 Q. Okay. So we, can we be sure from your best
- 22 recollection that you had not seen the
- 23 October 2nd termination letter prior to
- 24 October 28th, 2003, at 8:48 p.m.?
- 25 A. It wasn't cc'd to me.

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1 ARBITRATOR CROW: Exhibit 20 is your letter.

2 THE WITNESS: And Exhibit 20 is my letter.

3 Yeah. To my best recollection, I would have
4 seen this e-mail, the following morning,
5 Wednesday, October 29th, because I'm sure I
6 wasn't in my office at 8:48 p.m. so I would
7 have seen it first thing the next morning. And
8 then I obviously had the October 2nd letter on
9 November 3, 2003, when I sent it to Mr. Egan.

10 Q. So you must have received the October 2nd letter
11 sometime between October 29th when you opened
12 the e-mail we just discussed and November 3rd,
13 when you wrote your letter?

14 A. That is my best recollection. I mean, the only
15 possibility would be, and I'm not cc'd on this.
16 So I have no reason, I'm just, it's possible
17 that he cc'd it to me and it was something that
18 didn't mean anything. But I think that I got it
19 from Mr. Rote between those dates. But...

20 Q. Well, Exhibit 1, page 89, does not on its face
21 appear to have a cc and it's printed off of your
22 e-mail account. Do you see that at the very top
23 of the document?

24 A. Yeah. This, I assume I printed -- I mean, I
25 don't know where this came from, if it came from

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1 Jeff, but I assume I printed this out of my
2 e-mail the following day, I want to say the
3 following day, I mean the day following the
4 Thursday, Tuesday, October 28th date. So, yeah.

5 Q. All right. So what I'm looking for is, would
6 have come after October 28th at 8:00 at night.
7 We don't see an attachment to this e-mail.

8 A. Uh-huh.

9 Q. So what I'm wondering is if there was a follow
10 on e-mail that you can recall that would say
11 here's my termination letter or something to the
12 effect of when I say I, we came to a parting of
13 the ways, here's what I mean and attaching the
14 October 2nd letter?

15 A. From Mr. Rote to me.

16 Q. Yes.

17 A. I mean, I don't have a recollection of how it
18 was transmitted to me, if it was e-mail, fax, or

19 if Tim dropped it by my office. I just don't
20 have a recollection. I mean, I guess the only
21 thing I'd say is my letter to Mr. Egan, and, you
22 know, maybe the enclosure with that would show
23 and I don't remember what Exhibit No. That was.
24 But obviously you people have thought of that as
25 well.

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1 Q. That would be, that would be Exhibit 20, I
2 believe, is your letter.
3 A. Yeah.
4 Q. Let's see if that refreshes any recollection.
5 A. No, it doesn't. It does not refresh my
6 recollection as to how I came into possession of
7 this.
8 Q. You don't have a recollection -- Well, let me
9 ask you, do you have any recollection of
10 Mr. Rote coming into your office and handing you
11 the October 2nd letter, Exhibit 20 -- Exhibit,
12 I'm sorry, Exhibit 13?
13 A. Yeah. Exhibit 20.
14 Q. I'm sorry.

15 A. You're right. Exhibit 13.

16 Q. I may have misled you. Yeah.

17 A. I do not have a recollection that he delivered
18 it to me. I have no recollection of how I
19 received it. I don't know if I got it in the
20 mail, hand delivery, e-mail, fax. I just don't
21 know.

22 Q. And you don't know whether there was a cover
23 letter or whether there was a fax sheet cover
24 letter or whatever?

25 A. I don't. No, I don't know.

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1 Q. Okay. I have to ask that there be some search
2 of the file to find out when, because the issue
3 is when this letter was created, whether it
4 existed even until somewhere around
5 November 3rd.

6 A. And I haven't seen, I haven't even seen what was
7 produced. Mr. Cliff asked that I not review the
8 file in any way.

9 Q. Sure. Well let's go ahead with your testimony

10 and I will, I'll sort of keep some notes and
11 then maybe your subsequent testimony will clear
12 some things up.

13 A. Okay.

14 Q. You were aware, weren't you, that one of the
15 issues in this lawsuit is whether be Mr. Rote
16 terminated Mr. Zweizig before or after
17 Mr. Zweizig brought certain billing concerns to
18 his attention.

19 A. Yeah. And I can't remember when I learned that,
20 but yes.

21 Q. And you're aware, aren't you, that it's
22 Mr. Zweizig's, I'm sorry, it's Mr. Rote's
23 position that he wrote a letter on October 1st
24 and mailed it to Mr. Zweizig on October 2nd, and
25 that letter is Exhibit 13.

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1 A. Well, I mean, you ever' just told me that. I
2 mean, I think back to October 3rd. What I
3 recall was getting the e-mail from Mr. Rote,
4 having a discussion, because I called him,
5 what's this about? And I can't remember when I

6 got this letter. But it was my understanding
7 that, yes, this letter had been sent. And I
8 guess I assumed it was sent on the October 2nd
9 date of the letter.

10 ARBITRATOR CROW: I believe Mr. Weil's
11 testimony earlier was that he had never heard
12 the name Max Zweizig until October 28th.

13 THE WITNESS: That is my recollection, yes.

14 Q. BY MS. MARSHALL: You're aware or at some point
15 you became aware that Mr. Zweizig's position is
16 that he never received the letter on or near
17 October 2nd or for some time after that.

18 A. Yeah. I think preparing for my direct testimony
19 I learned that for the first time.

20 Q. Okay. So I apologize, but we have two different
21 views of the facts. And so it's going to be
22 important for Mr. Crow to make a decision as to
23 whether the October 2nd letter was in existence
24 on October 28th when you received that letter,
25 which happens to coincide with some other

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1 incidents, or whether it was created by someone
2 between October 28th and November 3rd, when you
3 sent your letter, or October 4th, I guess it,
4 when you sent your letter to Mr. Egan. So
5 that's why I'm asking you the questions as to
6 when you first saw the letter.

7 A. Right.

8 Q. And what evidence there might be as to when you
9 first saw the letter. If you were to go looking
10 to find out when you first saw the letter, what
11 would you do? Where would you go, what would
12 you look at?

13 A. Well, the only place I could go would be my
14 file. And as I speculated a little bit earlier,
15 I mean, it is possible and I guess I could look
16 at, which would then lead me to the NorthWest
17 Direct general file, that because, as I said
18 before, that Tim occasionally would surprise me
19 with, where he cc'd me on something or sent me a
20 copy of something because he wanted me to be
21 aware of something. So it's possible he would
22 have sent it to me earlier. But, you know, I
23 haven't heard his testimony. I don't know if he
24 thinks he did that with this case. But, I mean,

25 that would be the only other place that I could

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1 even think of to look.

2 ARBITRATOR CROW: Ms. Marshall if it's any
3 assistance to you, I am persuaded that Mr. Weil
4 did not see the October 2nd letter until
5 sometime after October 28th, 2003. That doesn't
6 mean it wasn't in existence but I believe it's
7 very safe from my perception Mr. Weil had not
8 seen it before sometime after the e-mail of
9 October 28th.

10 MS. MARSHALL: Okay.

11 ARBITRATOR CROW: I think that should
12 satisfy your concern.

13 MS. MARSHALL: I appreciate that. My
14 concern is when it was created and that the
15 possibility that there are four days there in
16 which it could have come into existence. If it
17 was in Mr. Weil's hands on October 29th, that
18 would tell us one thing. If it wasn't in
19 Mr. Weil's hands until November 3rd or fourth,
20 that tells us yet another thing.

21 ARBITRATOR CROW: I think his testimony is
22 he certainly received it sometime between the
23 28th and November 3rd because he enclosed it in
24 a letter of November 3rd and he had never heard
25 the name Zweizig before October 28th. So there

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1 is a period of five days I guess that may, that
2 Mr. Weil may have received the e-mail or the
3 letter, but that doesn't resolve the question of
4 whether it was created on October 2nd, which I
5 think is your principal issue.

6 Q. BY MS. MARSHALL: Let me go back and just allow
7 you to talk about yourself for a bit.

8 A. Okay.

9 Q. Isn't it true that your background is, I believe
10 you testified primarily in debtor creditor
11 matters, bankruptcy, commercial litigation, that
12 sort of thing?

13 A. Correct.

14 Q. And that you represented a lot of secured
15 lenders?

- 16 A. Correct.
- 17 Q. Is that, does that mean that you were collecting
- 18 for secured lenders or what exactly does that
- 19 mean?
- 20 A. Well, it means documenting secured loans, it
- 21 means negotiating over loans that are in problem
- 22 situations and it does mean in some cases
- 23 foreclosing, collecting that kind of thing both
- 24 in state court, bankruptcy court contexts. And
- 25 primarily a UCC based bankruptcy code based

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- 1 product is what I have.
- 2 Q. Would it be fair to say that employment law was
- 3 not at that time a focus of yours?
- 4 A. And still is not, yes. That's correct.
- 5 Q. Okay. Did you know Jimmy began at that time?
- 6 A. No. I don't believe I had ever dealt with him,
- 7 no.
- 8 Q. Okay.
- 9 A. I certainly don't know him. You know, we may
- 10 have spoken on the phone other than this time.
- 11 Q. At the time you called him, were you aware of

12 what his practice was?

13 A. No, I was not.

14 Q. It is true that you called him, not the other
15 way around?

16 A. That is my recollection, yes.

17 Q. Okay.

18 ARBITRATOR CROW: Does anyone know what day
19 of the week November 3, 2003, was? I see that
20 Mr. Weil is conveying information that he had
21 earlier conveyed by phone last week.

22 MS. MARSHALL: I believe November 3rd is a
23 Monday, if I'm not mistaken. And I believe what
24 we will see in further testimony is that the
25 letter, although the letter is dated

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1 November 3rd, it was actually faxed to Mr. Egan
2 on November 4th. So it may very well have been
3 created on a Monday and sent on a Tuesday.

4 ARBITRATOR CROW: All right.

5 Q. BY MS. MARSHALL: Now I'd like to go back to the
6 e-mail that you received that was forwarded to

7 you from Mr. Rote and ask you some questions
8 about your knowledge, not of the October 2nd
9 letter, but generally of the termination. Can
10 we be confident from your recollection today
11 that prior to receiving, reading that e-mail on
12 October 29th, that you had no knowledge that
13 Mr. Rote had terminated his IT director, whether
14 it's been Mr. Zweizig's name or otherwise, but
15 you had no knowledge of the termination prior to
16 that date?

17 A. I don't recall being advised of it. And I can't
18 think of the context in which I would have been
19 advised of it. So that's as strong an answer as
20 I can give you.

21 Q. Okay. Well, one context in which you could have
22 been advised is he may have asked for some
23 advice. And I'm not attempting to ask you for
24 what your advice was.

25 A. But I don't recall. Yeah. I don't recall him

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1 raising Mr. Zweizig's name or the situation of
2 firing an IT person.

- 3 Q. Okay. And that brings me back to the e-mail.
4 Because Mr. Rote's e-mail back to Ms. *Fordi and
5 forwarded to you does not actually say that he
6 terminated Mr. Zweizig. It said that they came
7 to a parting of the ways. Do you recall that?
8 A. I don't, I don't recall.
9 Q. Well we can get the e-mail out. And what my
10 question is is what you understood that to mean.
11 What number is that again?
12 A. It's page 86 I think of Exhibit 1.
13 Q. Exhibit 1, page 86.
14 A. And is there some, did you --
15 Q. This is in the body of Mr. Rote's e-mail to
16 Joyce *Fordi, which is copied to you, he says,
17 it is imperative that you understand that Max
18 and NorthWest came to a parting of the ways well
19 over four weeks ago.
20 A. Well, I read that and then I read, we, then you
21 read on, it says, we believe this action is
22 retaliatory. So I guess when I read this I
23 understand that to mean that Mr. Zweizig's no
24 longer employed.
25 Q. Okay. So was it your understanding, thinking

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1 back, putting yourself back six and a half years
2 or so, did you understand that Mr. Zweizig was
3 no longer on the payroll as of the date of this
4 e-mail, that he, in fact, hadn't been on the
5 payroll for over four weeks?

6 A. Well, I wouldn't say I understood that. I mean,
7 we fire people and give them notice in our
8 office. So, I mean, I guess reading this, my
9 understanding would have been there was some
10 sort of a termination that had either occurred
11 or was taking place. That's, yeah, that's how I
12 would read it. I mean, it's not like he, it
13 doesn't state definitely that he hasn't worked
14 for the company for X time, but that there is a
15 parting of the ways in the works and that this
16 action may be retaliatory.

17 Q. Do you have any recollection as to how you found
18 out that -- I'm going to strike that. I'm going
19 to move on from there because I think we've
20 covered this.

21 Let me ask you about another exhibit,

22 Exhibit 14.

23 A. All right. It's a one page e-mail from Mr. Rote
24 to Mr. Zweizig dated October 2nd.

25 Q. Yes.



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1 A. Yes. Yes, I see it.

2 Q. Have you seen that document before?

3 A. I don't have a recollection independently of
4 having seen this before.

5 Q. So is it possible that you saw this document
6 dated October 2nd, 2003, Exhibit 14, that you
7 saw it for the first time today?

8 A. It's possible. You know, I can't say I've never
9 seen it. I just, I don't recall one way or the
10 other if I've seen it before or not.

11 Q. If, if this document had been copied to you,
12 would it be in your file?

13 A. Well, you know, it would just -- You know, I
14 don't know. If this had been copied to me and I
15 realized its significance, it might have been
16 one of the e-mails I had printed off. But I
17 just, yeah, that's, I couldn't speculate about

18 that. I just don't know.

19 Q. Do you know whether Ms. Lewandowski looked for
20 this e-mail in the file?

21 A. All I know is what I instructed her to do, and
22 that was in what was, I gave her the
23 arbitrator's letter, transcript, had her talk to
24 Mr. Cliff and, you know, I don't know.

25 Q. Okay. Going back to your conversation with

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1 Mr. Egan, how did you, how did you get

2 Mr. Egan's name to know who to contact?

3 A. I think it was from the e-mails that we have
4 seen, the Exhibit 1 page 86 and on. I think it
5 was from that chain of e-mails.

6 Q. Did you ever receive any other communication
7 from him, from Mr. Egan other than --

8 A. Related to this case, no.

9 Q. Okay. So you called Mr. Egan; is that correct?

10 A. That's correct.

11 Q. And when you -- Do you have an independent
12 recollection today, other than your letter, do

13 you have an independent recollection of that
14 conversation?

15 A. You know, it's always hard to say how
16 independent it is. I mean, I recall the
17 conversation. But, you know, this case keeps
18 popping up now and then and I've seen the
19 letter. But I do recall the conversation with
20 him.

21 Q. Okay. When I say do you recall the
22 conversation, can you tell us specifically what
23 you recall from that conversation?

24 A. Well, I remember calling and introducing myself
25 and that I represented Mr. Rote's company and

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1 that I was calling about this complaint. And I
2 just wanted to make him aware of the fact that,
3 recognizing I'm not an expert in employment law,
4 although I had done a little research on
5 whistle-blower statutes before the call, that
6 the position taken was not correct enough
7 position because Mr. Zweizig's had been, his
8 employment had been terminated before this

9 complaint was made. Therefore the complaint
10 could not -- the firing could not have been in
11 retaliation for the complaint. And my
12 recollection is he didn't argue with me. I got
13 the -- His position, as I recall, was that the
14 firing had been rescinded for some reason. So
15 we discussed that. And I told him that I was
16 not aware of any rescission that my client tells
17 me he'd been fired. And then the other reason
18 that I recall it, and I think I'd probably
19 recall it even without having looked at the
20 letter, is it was very surprising when I was
21 told that, you know, really we don't think the
22 state's going to do anything about this but, you
23 know, we just want to preserve Mr. Zweizig's
24 employment.

25 Q. When you had that conversation with him and you

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1 told him, asked him if he was aware that
2 Mr. Zweizig had terminated, been terminated
3 before did you have the letter in your hand?

4 A. I didn't ask him if he was aware. I said, I
5 mean, I think I told him. I said, my client had
6 terminated him. So it couldn't have been
7 retaliatory.

8 And Ms. Marshall, I don't have a --

9 Q. My question --

10 A. I don't have a recollection if I made that
11 statement based only on what Mr. Rote had told
12 me or if I had the letter at that time.

13 Q. Do you remember ever saying to Mr. Egan in that
14 conversation, look, I'll send you be the letter.
15 What's your fax number?

16 A. I don't remember if I made that statement or
17 not.

18 Q. But you didn't send it to him, did you?

19 A. Send him the letter?

20 Q. Right.

21 A. I did send him the letter.

22 Q. That day when you had the conversation?

23 A. Not that day I did not.

24 Q. You had the conversation with Mr. Egan on
25 October 30th?

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- 1 A. Okay.
- 2 Q. Which is a Friday.
- 3 A. Friday.
- 4 Q. And you sent the letter the following week,
5 which had a copy, had sent your letter the
6 following week which had a copy?
- 7 A. Uh-huh.
- 8 Q. But you didn't offer to Mr. Egan to fax over the
9 letter right now, I've got it right here in my
10 hand. I'm looking at it. Did you?
- 11 A. I did not.
- 12 Q. And that's because you didn't have the letter at
13 that time, did you?
- 14 A. I don't know that's true. I think what I wanted
15 to do, I was going to send him the letter that I
16 sent him on Monday, the third, and that was an
17 enclosure.
- 18 Q. Well, that brings us back to how good your
19 recollection is. I thought a minute ago you
20 told us that you just didn't recall whether you
21 had the letter and now you're saying that you
22 had the letter but you were going to send it?
- 23 A. No I didn't say that. I said I was going to

24 send him a letter on the third. So if I had
25 that letter, I one' going to run off and

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1 independently send the October 2nd letter. I
2 would send it in the context of my November 3rd
3 letter. That's what I think I said.

4 Q. Let me make sure that I understand your
5 testimony because now I'm thinking that this is
6 yet a little bit different. Now I think you're
7 telling me that you had the letter, the
8 October 2nd letter when you had the conversation
9 with Mr. Egan on October 30th but you didn't
10 want to fax it to him at that time because you
11 were going to send it later with a more
12 comprehensive letter. Is that what you
13 remember --

14 A. No.

15 Q. -- your mind set was?

16 A. No. I don't remember precise date I got the
17 October 2nd letter. I do remember that before I
18 called Mr. Egan, I had the knowledge, I will say

19 from my client, that Mr. Zweizig had been
20 terminated. I don't know if I had that letter
21 in my hand. But it would not have been my
22 practice to simply fax him that letter on
23 October 30th following our conversation unless
24 he specifically asked for it. If I had that
25 letter or if I was expecting to get that letter,

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1 I would have done exactly what I did do and that
2 is enclose it with my November 3rd letter that
3 confirmed our conversation and we responded.

4 Q. But you can't tell us as you sit here today
5 whether you had it or you didn't. You're
6 talking in terms of if I had it I would have
7 done this?

8 A. Yeah. I don't know.

9 Q. But you can't tell us whether you had it or you
10 didn't when you had that conversation?

11 A. I do not have an independent recollection of the
12 date that I had that letter.

13 Q. Now, when you called Mr. Egan that day, you were
14 calling topping advocate on behalf of NorthWest

15 Direct, weren't you?

16 A. Well, I was calling to, I guess. I mean I was
17 calling to let Tim know that we thought his
18 letter was a mistake.

19 Q. Okay. Now, I want to ask you a little bit about
20 how you see yourself today you're very soft
21 spoken and articulate. When you are being an
22 advocate, when you are in advocacy mode, do you
23 see yourself as taking strong positions?

24 A. Well, I guess, yeah.

25 Q. Okay. Do you see yourself as being somewhat

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1 argumentative?

2 A. No. No, I don't think so.

3 Q. Okay. Do you see yourself as drawing
4 conclusions about the other person's motives in
5 terms of your conversation or, oh, you're trying
6 to do this or you're trying to do that. Do you
7 see any of that in yourself?

8 A. Well, I mean I think I'm skeptical and, you
9 know, take the other party's positions,

10 understanding their advocates with a grain of
11 salt.

12 Q. And did you convey that to Mr. Egan that day,
13 that you were essentially taking his position
14 with a grain of salt?

15 A. I don't know that I D I mean, his position was
16 the termination had been rescinded and we really
17 don't expect that the state's going to act on
18 this and respond as a protective kind of effort.
19 So I don't know how I would take that way grain
20 of salt. He pretty well stated to me, I
21 thought, the position.

22 Q. Can you give us his exact words?

23 A. Oh, no.

24 Q. Okay. So what I'm trying to figure out is
25 whether he actually used those words or said

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1 those things or whether that mixed in with your
2 advocacy to come out is what you recall or what
3 you understood that he was saying?

4 A. You know, I don't think so.

5 Q. Okay.

- 6 A. I don't think so.
- 7 Q. Do you concede any possibility that you may have
8 misunderstood what he was saying?
- 9 A. Well, other than the sort of universal
10 acknowledgment that something's always possible.
- 11 Q. Okay.
- 12 A. I was pretty clear I thought coming out of that
13 conversation about what the position was and
14 that's one of the reasons I wrote the letter.
- 15 Q. Do you concede any possibility that he
16 misunderstood during the conversation what you
17 were saying?
- 18 A. Again, anything's possible. But I think it was
19 not a real long conversation, as I recall. And,
20 you know, I had a fairly simple message to
21 deliver and to discuss. And so I don't know. I
22 mean, you'd have to ask him that.
- 23 Q. Do you recall any give and take between the two
24 of you between that conversation where you
25 attempted to characterize what he had just said

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- 1 and he attempted to correct you? Do you recall
2 any of that kind of thing going on?
- 3 A. You know, it would get... The only thing I
4 recall was when I said that Mr. Zweizig had been
5 terminated previously and he responded, well,
6 that had been rescinded, my recollection is that
7 I said, I'll discuss it with my client but
8 that's not what I've been told. And when I
9 spoke to Mr. Rote I was told most emphatically
10 that wasn't the case.
- 11 Q. Did you have more than one conversation with
12 Mr. Egan?
- 13 A. I think it was just that one.
- 14 Q. You think?
- 15 A. I'm sure it was just that one. I'm positive I
16 didn't get a response to that letter.
- 17 Q. During that conversation were the two of you
18 going back and forth in such a way that maybe at
19 times you spoke over one another?
- 20 A. I don't recall that. You know, my, my
21 recollection of the conversation was that it was
22 civil and, you know, sort of stating the
23 positions back and forth. So I don't think,
24 there wasn't raised voices or heated

25 conversation or, you know, went over another

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1 one. That's not my recollection.

2 Q. I don't mean to imply that either were involved
3 in raise the voices or it was aim heated
4 conversation. But it was a telephone
5 conversation; right?

6 A. Yes.

7 Q. Were either one of you on a speaker phone?

8 A. I was not. I don't know about Mr. Egan.

9 Q. Okay. So I'm just asking whether there was any
10 time in that conversation where either one of
11 you might have cut the other off to characterize
12 I think you're wrong here, I didn't say that,
13 let me, let me clarify what I said. Do you
14 remember any kind of conversation like that?

15 A. I don't.

16 Q. Have you had telephone conversations that, kind
17 of the first telephone conversation in other
18 cases with employment lawyers?

19 A. With employment lawyers?

20 Q. Yeah.

21 A. No. I mean, well, certainly not on a regular
22 basis because I don't practice employment law.

23 Q. With plaintiffs lawyers?

24 A. Yes.

25 Q. Okay. So this wasn't a unique conversation

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1 where there would be a difference of opinion as
2 to what had happened, was it?

3 A. No. No, it wasn't unique.

4 Q. Wouldn't you have to agree with me that it would
5 be a rather unusual circumstance for a
6 plaintiff's lawyer in the very first
7 conversation with the defense lawyer to
8 essentially say that his client had filed a
9 complaint that he did not believe to be
10 meritorious, wouldn't that be a little odd to
11 you?

12 A. Yeah. In any situation not just the first
13 conversation. And that's one of the reasons I
14 wrote the letter. One was to refute the
15 decision and provide the October 2nd letter and

16 the other was to state this is what I understood
17 and to get it out there. So yes I did consider
18 it.

19 Q. And in the actual telephone conversation with
20 Mr. Egan you had the, you discussed those same
21 things where you said this is what you just told
22 me and Mr. Egan would then say, that's, you're
23 mischaracterizing what I just told you. Do you
24 remember that part of the conversation where he
25 repeatedly told you, look, you're

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1 mischaracterizing what I'm saying?

2 A. No, I do not.

3 Q. Okay. I'm looking to see if we have covered
4 everything. I think we may have. In the years
5 that you have represented Mr. Rote, there have
6 been other situations that you're aware of where
7 Mr. Rote essentially created evidence in order
8 to effect the results of litigation; is that
9 correct?

10 A. That is not correct.

11 Q. That that's happened multiple times?

- 12 A. You're asking me if I am aware of Mr. Rote
13 creating evidence?
- 14 Q. Yes.
- 15 A. Fabricating evidence, not producing the evidence
16 but fabricating evidence?
- 17 Q. Well, fabricating is a strong term. Creating
18 documents, creating correspondence, creating
19 communications in order to affect the course of
20 litigation?
- 21 A. Well, I mean, if you mean -- I mean, I think
22 that I'm aware of Tim writing letters to state
23 positions and things like that. But if you
24 mean -- It's obvious from this that you are
25 taking the position that this October 2nd letter

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- 1 wasn't written when it's dated. I'm not aware
2 of anything like that, if that's what you mean
3 by your question.
- 4 Q. Okay. You represented NorthWest Direct in
5 another case that was basically an employee that
6 had filed a lawsuit against NorthWest Direct by

7 the name, the employee's name was I believe Sean
8 Jones.
9 A. That's correct. Yes.
10 Q. Versus NorthWest Direct. And you represented
11 NorthWest Direct or its sister or predecessor
12 company; is that correct?
13 A. Yes. Right. I think that's right. Yeah.
14 Q. And another employee, excuse me, another lawyer
15 represented Mr. Rote individually; is that
16 correct?
17 A. That's correct.
18 Q. Okay. And the reason that Mr. Rote was
19 represented separately was because Mr. Rote had,
20 in order to affect the course of the litigation,
21 had written a letter to judge Robert Jones that
22 made the judge so angry that he ejected Mr. Rote
23 from the courtroom and had to recuse himself.
24 You were present for that, weren't you?
25 MR. ROTE: I am going to object to this.

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1 ARBITRATOR CROW: Well, I'm going do
2 overrule the objection. Are we talking about a

3 different letter to a judge than the one I'm
4 familiar with.

5 MS. MARSHALL: We are.

6 ARBITRATOR CROW: All right. Go ahead and
7 answer the question.

8 THE WITNESS: I came in I believe it was
9 after that letter was written and I don't have
10 the letter here. My recollection, you
11 characterized it as a letter to influence the
12 course of the litigation. I thought it was a
13 letter in which Mr. Rote expressed his
14 unhappiness with some process decision,
15 et cetera. I don't recall it directly. Because
16 that's more than seven years ago. That was a
17 long time ago.

18 Q. BY MS. MARSHALL: It is. It is. It was a
19 letter that Mr. Rote did not show to either you
20 or his attorney. Is that your recollection?

21 A. I, at the time I began representing the company,
22 I don't think I had seen it and I can't remember
23 how I did see it ultimately. But...

24 Q. Well, Judge Jones held a hearing.

25 A. Yes.

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- 1 Q. About his receipt of this letter in which he
2 basically asked the parties and their, or the
3 parties' attorneys to come to the federal
4 courthouse for a hearing.
- 5 A. Uh-huh.
- 6 Q. Do you recall that hearing?
- 7 A. Yes. I recall going to that hearing, yes.
8 Absolutely.
- 9 Q. It was a fairly tense hearing, I assume?
- 10 A. Yes, it was.
- 11 Q. And in that hearing Judge Jones asked you if you
12 had seen Mr. Rote's letter and you said no;
13 correct?
- 14 A. You know, again, I don't have an independent
15 recollection of Judge Jones asking me that
16 question and when I saw the letter. If I didn't
17 see it until after the hearing or if it was
18 given to me just before the hearing. But if
19 that's on the record and I said no, then that
20 is, you know, I answered truthfully.
- 21 Q. Sure. Do you have any independent recollection

22 of what Mr., what Judge Jones said about the
23 letter he received?

24 A. I have the general recollection that he was very
25 unhappy with it and I understood that. And that

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1 he, as I recall, as you correctly stated, he
2 recused himself after seeing that.

3 Q. Do you recall him saying that after receiving
4 the letter from Mr. Rote, that there was no way
5 that he could be unbiased and proceed with the
6 case? Do you recall him saying --

7 A. Yes.

8 Q. Okay. And he also said that there was no way
9 that judge Marsh, for reasons that he didn't
10 disclose in the hearing anyway could be unbiased
11 either. Do you remember that?

12 A. I don't recall that.

13 Q. And then he commanded Mr. Rote to leave the
14 courtroom.

15 A. We were in chambers but I think as I recall, but
16 yes, I think he asked Mr. Rote to leave at that
17 point. I think that is right.

18 Q. Okay.

19 ARBITRATOR CROW: Is that letter going to be
20 an exhibit.

21 MS. MARSHALL: I'll ask you to take judicial
22 notice of the transcript of the hearing. The
23 letter is not a part of the transcript. I don't
24 have the letter.

25 ARBITRATOR CROW: Do I have the transcript.

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1 MS. MARSHALL: I have the transcript.

2 ARBITRATOR CROW: Do you intend to introduce
3 the transcript.

4 MS. MARSHALL: Yes, I do.

5 ARBITRATOR CROW: All right.

6 MS. MARSHALL: I don't have the letter.

7 It's my understanding that the two attorneys did
8 not and Judge Jones didn't make it a part of the
9 record. And that would be Exhibit 170, I
10 believe, is the, Exhibit 170 is the docket and
11 the transcript is attached to it and I'd ask
12 that you take judicial notice of the transcript.

13 ARBITRATOR CROW: Well, I'll receive the
14 transcript as an official document of the court.

15 MR. ROTE: And I noted my objection to that.

16 ARBITRATOR CROW: Is it a certified
17 transcript, Ms. Marshall, by the court reporter?

18 MS. MARSHALL: It is, it is not a certified
19 transcript. It is, it is the only transcript as
20 far as I am aware that is in the records of the
21 court and Mr. Weil is quite correct, this
22 occurred back in 2001. And so our access to the
23 court reporter is most likely nonexistent.

24 ARBITRATOR CROW: Who was the court
25 reporter?

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1 MS. MARSHALL: The court reporter is
2 Catherine Bismark. Catherine Bismark maybe,
3 official court reporter.

4 ARBITRATOR CROW: If it is not an official
5 transcript, I'm not going to receive the
6 transcript. I have heard the testimony and I
7 will accept Mr. Weil's testimony concerning what
8 happened in the courtroom. If you want to get

9 the transcript certified, I can take judicial
10 notice of it. But not without a certification
11 of the transcript. But I've heard testimony
12 concerning it and I am satisfied that that will
13 be sufficient for my purposes.

14 MS. MARSHALL: Okay. Then let me ask
15 Mr. Weil one more question.

16 ARBITRATOR CROW: Yes.

17 MS. MARSHALL: That the transcript may help
18 us with.

19 Q. BY MS. MARSHALL: Mr. Weil, do you remember
20 Judge Jones making the statement with respect to
21 his presiding over that matter, anyway, I don't
22 want anything to do with this case. I have
23 utter contempt for this person. He wrote the
24 court a very personal, very nasty letter, a
25 hypocrite, no, get out of here. I am not going

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1 to have anything to do with this. I will recuse
2 myself. I will reassign it to another judge.
3 Do you remember him saying that?

4 A. Ms. Marshall, I don't remember the exact words.
5 Certainly I remember the tenor of that and that
6 statement, yeah, I think accurately summarizes
7 the unpleasantness and context of that hearing.

8 ARBITRATOR CROW: It sounds like something
9 Judge Jones would say.

10 MS. MARSHALL: Yes, it does. All right.
11 I'm finished.

12 ARBITRATOR CROW: Cross-examination.

13 Q. BY MR. ROTE: Your conversation with Mr. Egan,
14 would you say that you were absolutely stunned
15 by his admissions during that conversation?

16 A. I was, I was very surprised, yes, as I think I
17 have testified.

18 Q. And you called me immediately or soon thereafter
19 and shared that with me?

20 A. That's correct.

21 Q. Back to Exhibit 1, page 86, which is the
22 correspondence from my e-mail to Joyce *Fordi.

23 A. Yes. Okay. I am there.

24 Q. You were cc'd on that?

25 A. Yes.

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1 Q. And the following morning I think you testified
2 you and I talked is the best of your
3 recollection?

4 A. That is to the best of my recollection.

5 Q. And that is the manner of which you learned of
6 Mr. Zweizig's termination?

7 A. That is my recollection, yes. That's correct.

8 Q. Okay. Thank you. That's all.

9 ARBITRATOR CROW: You are excused Mr. Weil.
10 Thank you for coming in.

11 THE WITNESS: Thank you very much. Thank
12 you Ms. Marshall.

13 MS. MARSHALL: Thank you.

14 ARBITRATOR CROW: Now do we have judge Egan?

15 MS. MARSHALL: If you could, maybe now would
16 be a good time to break and we'll try and get,
17 I'm sure it will take him a few minutes