

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

WILLIAM B. WEINBERGER,

Plaintiff,

vs.

Civil Action No. 5642

UOP, INC., THE SIGNAL
COMPANIES, INC., SIGCO
INCORPORATED, LEHMAN BROTHERS
KUHN LOEB, INC., CHARLES S.
ARLEDGE, BREWSTER L. ARMS,
ANDREW J. CHITIEA, JAMES
V. CRAWFORD, JAMES W.
GLANVILLE, RICHARD A. LENON,
JOHN O. LOGAN, FRANK J.
PIZZITOLA, WILLIAM J. QUINN,
FORREST N. SHUMWAY, ROBERT
S. STEVENSON, MAYNARD P.
VENEMA, WILLIAM E. WALKUP
and HARRY H. WETZEL,

Defendants.

Courtroom No. 2
County Courthouse
Wilmington, Delaware
Tuesday, May 20, 1980
10:00 a.m.

Before:

HONORABLE GROVER C. BROWN, Vice Chancellor.

Appearances:

WILLIAM PRICKETT, ESQUIRE, and
GEORGE SEITZ, ESQUIRE
Prickett, Jones, Elliott & Kristol
For the Plaintiff

Appearances (Continued):

A. GILCHRIST SPARKS, III, ESQUIRE
Morris, Nichols, Arsht & Tunnell
For Defendant UOP, Inc.

ROBERT K. PAYSON, ESQUIRE
Potter, Anderson & Corroon

-and-

ALAN N. HALKETT, ESQUIRE, of the Calif. Bar
Latham & Watkins
For Defendant Signal Companies, Inc.

R. FRANKLIN BALOTTI, ESQUIRE
Richards, Layton & Finger
For Defendant Lehman Brothers Kuhn
Loeb, Inc.

Also Present:

BREWSTER L. ARMS, ESQUIRE

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MR. PRICKETT: Good morning, your Honor.

I believe we are meeting for the purpose
of considering objections, but before that happens, may
I have noted on the record that I have this morning
served the attorneys for the defendants with plaintiff's
pretrial memorandum on remedy. I filed the original
of this document, and I would like to provide the Court
with a working copy of that same document.

THE COURT: All right. Thank you,
Mr. Prickett.

Mr. Sparks.

MR. SPARKS: Good morning, your Honor. I

1 would like to address first, if I may, the documents
2 listed on Defendants' objections to exhibits offered
3 by plaintiff at trial. Has that been --

4 MR. PAYSON: It was filed late yesterday
5 afternoon.

6 THE COURT: I have it.

7 MR. SPARKS: Particularly I will address
8 those that have the "U" designation before them which
9 were produced at one point or another in the litigation
10 by UOP. The documents basically fall into two
11 categories. First are those that we have objected to
12 on the ground that they are irrelevant. Each of those
13 relates to the stock option situation about which I
14 argued yesterday morning, and I don't intend to burden
15 the Court again with that argument, but I would like to
16 call the Court's attention to the particular numbers
17 that relate to the stock option situation so the record
18 will be clear as to the basis for our objection.

19 They are Documents U-49-1, U-70, U-49-076,
20 U-19-11, U-19-12, U-19-13 and Attachments 2, 3 and 4 to
21 U-300, which I believe are the same documents that are
22 marked as U-19-11, U-19-12 and U-19-13 again. And as I
23 said, our basis for that is that we do not believe that
24 the stock option arrangements made by UOP in order to

1 satisfy its contractual obligation after the merger has
2 anything to do with any issue in this case, and indeed
3 these documents I believe almost uniformly come after
4 the March 6th meeting, which again might make this
5 relevance even more peripheral than the deposition
6 testimony which I noted yesterday.

7 THE COURT: Do the other documents as to
8 which you have designated your objection that they are
9 irrelevant also come under that, or do they --

10 MR. SPARKS: I'm referring now only to
11 those that are numbered 1 to 12 on defendants'
12 objections to exhibits offered by plaintiff at trial,
13 and among those, every one that's marked irrelevant is
14 irrelevant in our view for the same reason that I argued
15 yesterday.

16 THE COURT: Well, all I meant was looking
17 at the latest document you filed, your objections
18 contain 21 items as to which there is some objection,
19 and 13, 14, 15, 16 are all indicated as being
20 irrelevant. Does your objection hold to those too, or
21 is there some other relevance ground?

22 MR. SPARKS: Mr. Halkett will address
23 those. Those are documents without the "U" designation
24 in front of them which were produced by Signal.

1 THE COURT: Fair enough. I understand.

2 MR. SPARKS: I believe I may have left
3 off my list here U-30. That falls into the same
4 category.

5 THE COURT: Fine. Thank you.

6 MR. SPARKS: Now, in addition, we have
7 objected to certain documents on the ground that they
8 are without foundation, and I'll just briefly call the
9 Court's attention to the nature of these documents.

10 First, U-70, which is one of the documents
11 which we claim is irrelevant, we also claim that is
12 without foundation. It is a typewritten sheet entitled
13 "Stock Option Procedures." There is no deposition
14 testimony about the author of that document, and it's
15 obviously a draft of something, and given the fact that
16 there is no foundation for it, we are objecting to it at
17 this point.

18 In addition, there are four other documents
19 among the Nos. 1 through 12 listed on the defendants'
20 objections to which we are objecting as being without
21 foundation.

22 U-316-4 and U-316-5 are handwritten notes
23 the author of which has not been identified in any of
24 the depositions, and we believe under the circumstances

1 they have no foundation, and should not be admitted
2 into evidence without such a foundation.

3 Similarly, U-251 are typewritten draft
4 pages discussing purposes. Again, the source of those
5 pages has not been identified in any of the depositions,
6 and we believe at this point they are without foundation,
7 and should not be admitted.

8 Finally, U-55 is another in this case,
9 a one-page set of handwritten notes the author of which
10 has not been identified, about which there has been no
11 testimony in any of the depositions. Again, for that
12 reason we believe they are without foundation, and
13 should not be admitted into evidence at this time.

14 THE COURT: All right. Thank you,
15 Mr. Sparks.

16 MR. PRICKETT: Would it be easier for the
17 Court to follow this if I replied as each one argues?

18 THE COURT: Is Mr. Halkett the only one
19 who has objections, or do you also, Mr. Balotti?

20 MR. BALOTTI: I have one, your Honor.

21 MR. SPARKS: I have one more, your Honor.

22 THE COURT: In answer to your question,
23 Mr. Prickett, let's hear them all, and then you can
24 respond.

1 MR. PRICKETT: Right.

2 MR. SPARKS: One additional document,
3 Document U-131. It's listed at the end of defendants'
4 objections. It is a typewritten document entitled
5 "Check List" dated 3-29-78, and we don't believe that
6 that document has any relation to the document which
7 has been marked as U-131, which I can elaborate on.

8 U-131, your Honor, is a letter from
9 Latham & Watkins to in-house counsel at Signal and
10 UOP and to Mr. Ronald E. Brackett of Rogers & West.
11 It has attached to it five handwritten and typewritten
12 pages which are entitled "Closing Memorandum," and then
13 after that there is a one-page document entitled "Check
14 List" dated March 29, 1978, to which no reference is
15 made in the earlier documents, and we are unaware of any
16 foundation in the record which would link these
17 documents as such. We don't believe that they should
18 be marked as the same exhibit. Indeed there is no
19 foundation independently for the last page which has
20 been included as part of U-131. It's a possibility it's
21 in there just as an oversight, but at this point we
22 think we ought to object so the record will be clear.

23 THE COURT: Does the basis of your
24 objection then boil down to both a lack of foundation

1 and relevancy to the other document to which it's
2 attached?

3 MR. SPARKS: Yes, your Honor, and any
4 implication that the two documents are somehow linked,
5 or that the second document, if you will, was sent under
6 cover of the letter which forms the first part of U-131.
7 We don't believe there is any evidence in the record
8 to indicate that it was so included.

9 THE COURT: All right. Fine. Thank you.

10 Mr. Halkett, good morning, sir.

11 MR. HALKETT: Good morning, your Honor.

12 Using as the agenda the last document we
13 filed, Defendants' Objections, Item No. 13, which is
14 the proposed exhibit offered as No. 44, the next one on
15 the list, 45, and the following one, 295, is a copy of a
16 final letter dated March 22, 1978, on the letterhead of
17 Latham & Watkins addressed to the Commissioner of
18 Internal Revenue, attention Income Tax Division, et cetera,
19 and it is, I believe, what would commonly be called a
20 request for a ruling with regard to the proposed merger
21 transaction. Those two documents marked as 44 and 45
22 appear to be drafts of such a request for a ruling,
23 proposed Exhibit 44 bearing a date in the upper right
24 hand corner of 3-4-78, and proposed Exhibit No. 45 bearing

1 a draft 3-7-78 in the corner.

2 As noted on this document, we believe that
3 these are irrelevant. There is no issue at all in this
4 case that has been raised by the pleadings or otherwise
5 dealing with the income tax or the tax effect of this
6 transaction. We therefore cannot see any relevance to
7 these exhibits, and that is the basis of our objection.

8 The next item on the list of objections,
9 Item No. 16, is the document proposed as Exhibit No. 134.

10 Exhibit 134, your Honor -- I'll just hold
11 it up -- is a one-page sheet bearing some handwritten
12 words and numbers. There has been no identification of
13 this document either as to its author or as to the
14 subject matter directly to which it refers, and
15 consequently we have objected to it both on the grounds
16 -- I think that our objection says irrelevant, but I
17 believe it should, and at this point I would like to
18 amend that to add also without foundation as to who
19 the author and what the circumstances of this were.

20 Item No. 17 on our list of objections is
21 a document offered as Exhibit 288 consisting of three
22 pages the first page of which is an unsigned typed
23 letter on the letterhead of UOP, Inc. dated March 29,
24 1978, addressed to Lehman Brothers Kuhn Loeb, Incorporated.

1 The two attached pages, which I'll again hold up for
2 the Court to see what we are talking about, appear to be
3 a draft of that typed letter, and on the draft there
4 are both marginal and up near the top some handwritten
5 portions. There has been no foundation laid for whose
6 writing that is, when it may have been written or
7 prepared, and consequently we are objecting as to the
8 introduction of the handwritten portions.

9 Insofar as the typewritten portions, I
10 think they are already marked separately under different
11 numbers, and we are not objecting to the typed portions.

12 If I may have just a moment, your Honor.

13 THE COURT: Surely.

14 (Brief pause.)

15 MR. HALKETT: The next item, Item No. 19
16 on the list of objections, is to proposed Exhibit 252.

17 THE COURT: Item 18 is Lehman Brothers'
18 objection, I guess.

19 MR. HALKETT: Pardon me. I meant No. 19.

20 THE COURT: You said 19. I was just
21 making sure we hadn't skipped inadvertently 18. I'm
22 with you now.

23 MR. HALKETT: There are two pages to this
24 proposed exhibit the first of which is a letter dated

1 March 31, 1978, on the letterhead of the Chase
2 Manhattan Bank addressed to Mr. David Skinner at the
3 Signal Companies, and apparently signed by some
4 representative of the Chase Manhattan Bank. The second
5 page is a typed document, which I'll hold up to the
6 Court, headed "Statistics."

7 There is no showing of any nexus or
8 connection between these two documents whatsoever.
9 Certainly the Chase Manhattan letter makes no reference
10 to any enclosure, nor is the text of that letter, as
11 far as we can see, related in any way whatsoever to
12 this second page, and consequently we object to the
13 two pieces of paper separately being offered as part of
14 one exhibit on the grounds that it may be confusing,
15 and secondly that it presumes a fact not in evidence
16 that there is some connection between the two. As it
17 turns out, the second page of the letter does appear as
18 one sheet in another offered exhibit by the plaintiff,
19 and the connection appears to have nothing to do with
20 the first sheet.

21 MR. PRICKETT: Your Honor, could I speak
22 to counsel on the other side on a matter off the record?

23 THE COURT: Off the record, sure.

24 (Discussion off the record.)

1 MR. PAYSON: Your Honor, Mr. Prickett
2 has inquired as to whether these are pared down
3 objections from those which we filed earlier.

4 Nos. 1 through 18 on the list are a
5 restatement of objections earlier made. After we
6 reviewed the document books yesterday we made three
7 additional objections, and they are 19, 20 and 21. That
8 was what Mr. Prickett just inquired about. He was
9 confused because they hadn't been made before. But
10 those are new objections based on our review of the
11 document books prepared by Mr. Prickett's office.

12 MR. HALKETT: To say a further word on
13 that, if I may, your Honor, the reason for that is that
14 the designation of exhibits which we received last
15 week from Mr. Prickett merely went by number and a
16 very, very brief description of what it was. We had no
17 idea until we received these books yesterday what
18 actual pieces of paper he had included within particular
19 numbered headings, and that's why we were unable prior
20 to yesterday to raise these objections.

21 Item No. 20 --

22 THE COURT: May I go back to 19 just a
23 second, Mr. Halkett? I've lost something in the
24 interruption there.

1 MR. HALKETT: Surely.

2 THE COURT: As pointed out as offered --
3 Well, the offer is as to two documents. One is a letter
4 from the Chase Manhattan Bank to Skinner, and the
5 second part of it is a sheet of statistics, and you
6 indicated your feeling that the statistics did not
7 appear to relate in any way to the content of the
8 letter without an enclosure, et cetera, and maybe that's
9 where I stopped understanding.

10 Is your objection as to both of the
11 documents?

12 MR. HALKETT: No, your Honor. We are not
13 objecting to the letter.

14 THE COURT: All right. I didn't think you
15 were.

16 MR. HALKETT: As a letter standing on its
17 own for whatever purpose plaintiff may wish to make of
18 it. However, we are objecting to the two being offered
19 together as one exhibit because there is no nexus or
20 foundation that they indeed are in any way whatsoever
21 related.

22 THE COURT: And I suppose if the statistic
23 sheet is offered independently, you have a foundation
24 objection to that. You don't know what it is or what it

1 means.

2 MR. HALKETT: The statistic sheet is in
3 fact a part of another exhibit to which we have not
4 objected.

5 THE COURT: You mean it may already be
6 in evidence, or will be in evidence as part of another
7 exhibit?

8 MR. HALKETT: Yes.

9 THE COURT: Okay. Fine.

10 MR. HALKETT: No. 20 on our program,
11 proposed Exhibit 270, is, first of all, a letter on the
12 letterhead of Potter, Anderson & Corroon dated May 1,
13 1978 addressed to the Signal Companies, Inc., and that
14 document is five pages in length, and as to that document
15 being offered in that form as Exhibit 270, we have no
16 objection. However, in the proposed exhibit there is
17 then attached -- or I shouldn't say attached because
18 they are not physically attached, but they are together
19 within the folder -- is a two-page letter dated May 19,
20 1978 on the letterhead of UOP, Inc. addressed to
21 Mr. B. L. Arms at the Signal Companies, and attached
22 behind that is an agenda of a board of directors' meeting
23 of UOP, Inc. May 26, 1978.

24 Insofar as the last two pages, if they

1 were offered independently and separately we would
2 have no objection to them. Our objection is that these
3 documents are offered together as one exhibit on the
4 ground that there is no foundation of any connection
5 between the two, and therefore, insofar as the presenta-
6 tion of them as one exhibit it would be inappropriate,
7 and may lead to an improper inference without foundation.

8 THE COURT: I see.

9 MR. HALKETT: That ends our list.

10 THE COURT: Fine. Thank you, Mr. Halkett.

11 MR. PRICKETT: Could I speak to
12 Mr. Halkett just a second?

13 THE COURT: Sure.

14 (Discussion off the record.)

15 THE COURT: All right. Thank you,
16 Mr. Halkett.

17 That leaves Item No. 18 which Mr. Balotti
18 will speak to; LB-56.

19 MR. BALOTTI: Yes. That is a Lehman
20 Brothers designation as a document having been produced
21 by Lehman Brothers, and I'll hold up that document.

22 It consists of two typed pages with some
23 handwriting on the upper right hand page, and other
24 than the fact that it is a document which was produced

1 by Lehman Brothers, we know nothing about the document,
2 who prepared it, under what circumstances, et cetera,
3 and we object to the document as having no foundation
4 for its introduction.

5 MR. HALKETT: Your Honor, also I think it
6 should be pointed out that that document bears no date
7 nor indication of author any place in it.

8 THE COURT: All right. Thank you.

9 Before Mr. Prickett addresses those
10 objections, would I be correct in assuming that the
11 list we have just gone over of objections in effect
12 supplants the original list of objections that was filed
13 prior to the commencement of the trial?

14 MR. PAYSON: Yes, your Honor. And in
15 that same respect, Mr. Prickett advised me yesterday
16 that he had no objection to the exhibits designated by
17 the defendants.

18 THE COURT: All right. So the first
19 objections designated by the defendants was a list
20 comprised of some 35 items, and --

21 MR. PAYSON: They may be disregarded.

22 THE COURT: They have been pared down now,
23 and all are resolved except the 21 items which we have
24 just heard about.

1 MR. PAYSON: Yes.

2 MR. SPARKS: Before Mr. Prickett starts,
3 I would like to make one correction to one of the
4 statements I made.

5 THE COURT: By all means. That may cut
6 the argument down, or lengthen it as the case may be.

7 MR. SPARKS: With respect to U-49-076, I
8 believe I represented as I stood up here that all of the
9 option documents to which I referred were prepared
10 after March 6th. Double checking that, I note that one
11 which is entitled "UOP-Signal Merger Option and Benefit
12 Plan Considerations" appears to have a date of March 2,
13 1978 in the lower left hand corner, although there was
14 to my recollection no testimony about this in the
15 deposition. Of course it continues to be our position
16 that this and the Crawford testimony as well as all the
17 other documents which I noted are irrelevant because they
18 deal with the stock option plan.

19 THE COURT: Thank you. I appreciate that
20 correction.

21 MR. PRICKETT: Your Honor, for purposes of
22 the record, let me see if I can restate where we stand
23 on exhibits:

24 Yesterday we offered in evidence four black

1 folders containing documents which I will not reiterate
2 here. Those were offered in evidence at the time there
3 was pending a document served May 16, 1980, containing
4 a total of 35 objections on the part of all three
5 defendants. Yesterday, May 19th, that document entitled
6 "Defendants' Objections to Exhibits Designated by the
7 Plaintiff" was superseded by a document similarly
8 entitled "Defendants' Objections to Exhibits Offered
9 by Plaintiff at Trial." It contained on the part of all
10 three defendants a total of 21 objections, three of
11 which I believe were new objections, but a substantial
12 number of former objections which were dropped.

13 I take it that there is no objection to
14 any of the other documents offered by the plaintiff, and
15 therefore, for purposes of the record, they should be
16 admitted in evidence at this point.

17 THE COURT: Well, let me say my under-
18 standing is that I have gotten the impression that there
19 is no objection to any of the other documents other than
20 the objections here set forth, which I assume means they
21 can come into evidence at some point. I don't know
22 whether this is the point or not. Maybe Mr. Halkett has
23 some --

24 MR. PRICKETT: I would renew my motion of

1 yesterday. There being no objection to any of the
2 other documents, that they be admitted in evidence save
3 for the ones that we are here addressing dated May 19,
4 1980, and containing 21 objections. As to the others,
5 there are no objections, and they should be admitted,
6 and the record should so reflect.

7 THE COURT: By the same token, I'm told
8 that you have no objection to the documents designated
9 for admission into evidence by the defendants.

10 MR. PRICKETT: Mr. Halkett correctly
11 stated my position yesterday. I indicated to Mr. Payson
12 that the plaintiff had no objection to the exhibits
13 designated by the three defendants, and therefore they
14 should be admitted in evidence at this point just as
15 the plaintiff's exhibits should be admitted in evidence
16 at this point, there being no objection.

17 THE COURT: All right. Well, first things
18 first.

19 Mr. Halkett -- From the defendants'
20 standpoint, they may have some reason they don't want
21 to ask to have their documents admitted until it comes
22 time for their case. I don't know about that, but let's
23 not get into that first. It is your case we've started
24 with, so you're now making the application before we

1 address these others to have the Court admit the
2 remainder into evidence.

3 Mr. Halkett, do you wish to be heard on
4 the documents?

5 MR. HALKETT: The only comment I have on
6 that, your Honor, is that we have no objection so long
7 as the actual pieces of paper which are going to be put
8 together and marked are the same as the pieces of paper
9 which are in our book or set of documents. We have not
10 had an opportunity to compare the two.

11 Assuming that Mr. Prickett's badly over-
12 worked staff has not fouled up by leaving out or
13 including in that set of books offered to the Court any-
14 thing different from that which we have, then that's
15 correct, we have no objection. We have no objection
16 then subject to our having a chance to compare, and we
17 propose to do that before the close of business today.

18 THE COURT: All right.

19 MR. PRICKETT: Well, your Honor, then I
20 take it that it is appropriate to admit in evidence all
21 of the documents contained in the four volumes which
22 I've offered subject to the right of the defendants by
23 the close of business today to examine the Court's
24 copy to make sure that my staff has given the defendants

1 the same thing that they gave the Court.

2 THE COURT: All right. I think that's
3 probably a good way to approach it, and that maybe
4 will work out fine because this will obviously require
5 someone, I suspect, on both sides to assist the Clerk
6 in marking these documents, and we might as well get
7 that done today so when we go to work tomorrow we can
8 have them in a position to be used by counsel on
9 examination of witnesses.

10 MR. HALKETT: Subject, of course, to the
11 Court's ruling on the objections which are now before
12 the Court.

13 THE COURT: Yes. I'm not speaking to
14 those. As to all other documents. Mr. Prickett is
15 trying to weed everything out except down to the 21 --
16 I see what he's doing -- and have the others put into
17 evidence.

18 I think I've heard enough to indicate
19 that I will admit all of the documents into evidence
20 that have been offered by the plaintiff, not the
21 defendant at this stage, but just the plaintiff, other
22 than the documents to which objections have been made
23 which have just been referred to by counsel in your
24 various arguments and which are set forth on the list

1 of defendants' objections to exhibits offered by
2 plaintiff at trial contained in Nos. 1 through 21.
3 These documents are not admitted into evidence. All
4 other documents offered by the plaintiff as to which
5 there is no objection are hereby admitted in evidence
6 subject to the right as to any particular document
7 which may prove to be not in the proper form as intended
8 by the plaintiff and understood by the defendant.

9 You reserve the right to object to that,
10 and make sure it's correct in form. Is that sufficiently
11 correct?

12 MR. PRICKETT: Yes. I think that ruling
13 is entirely appropriate, your Honor.

14 THE COURT: All right. Now, that leaves
15 us with 21 documents as to which there is objection.

16 Mr. Prickett.

17 MR. PRICKETT: Your Honor, I will follow
18 the sequence of the three attorneys for the defendants:

19 Mr. Sparks broke his objections into two
20 parts; first the objection relating to the stock option,
21 and I guess other benefits going to the employees of
22 UOP, and secondly as to the other objections. Let me
23 turn first to the stock option --

24 THE COURT: Before you turn to it at any

1 great length, Mr. Prickett, not to cut you off, but
2 it's my impression that that objection also rides to
3 the objection made yesterday by Mr. Sparks to the
4 testimony of Mr. Crawford because that also was on
5 relevancy. And if the Court's ruling -- I heard your
6 argument as to that, and I'm under the impression -- and
7 feel free to correct me -- that if, however, I rule on
8 that, that also determines the ruling to be made on
9 this.

10 MR. PRICKETT: Precisely what I was going
11 to say, your Honor.

12 THE COURT: I should have let you say it.
13 It would have been quicker.

14 MR. PRICKETT: If your Honor has made a
15 tentative determination on that --

16 THE COURT: I have not, but I will, and
17 I think one will cure the other. So I just don't see
18 the need for any additional argument on the points that
19 you argued yesterday.

20 MR. PRICKETT: Right. I agree.

21 Now, the second general category of
22 documents to which the defendant-UOP objects is based
23 on the idea that the document is without foundation.
24 U-70, U-316-4 and U-316-5, U-251, U-55 and that part of

1 U-131 which is a five-page handwritten closing memorandum
2 are objected to as being without foundation.

3 We do not think that basic objection has
4 any merit. These are not documents that I produced
5 from my files. These are documents that have been
6 produced by UOP in response to my request for
7 production. It does not lie in the defendant's mouth,
8 therefore, to say there is no foundation for this
9 document, and you haven't identified it since it is
10 UOP's own document.

11 It seems to me that they are not entitled
12 to produce a document in response to our requests for
13 production and then say the document is not identified.
14 Therefore, if they have a problem about a document, and
15 it's not identifiable in terms of its relevancy to this
16 case, it is up to them to say we have this document,
17 but we're not going to produce it because it is not
18 relevant, or we don't have the foundation for it. We've
19 identified it, but we don't think we're going to
20 produce it. But having produced it, and having said in
21 response to our request for production that here is a
22 document that is responsive to an inquiry, it does not
23 lie in the producer's mouth to say that you, the person
24 getting it, have not laid a foundation for the document.

1 It is not identified properly, and therefore it can't
2 be admitted.

3 Your Honor, I don't think that I have
4 anything further to say on those documents within that
5 category. We would ask that the Court either rule that
6 the foundation objection is without merit, or at the
7 very least, to impose on UOP the burden of proving that
8 the document is without foundation. They produced it.
9 They've got to show you why it is without foundation
10 rather than saying to the plaintiff, who knows nothing
11 about it, who has just gotten it, that there is no
12 foundation on this.

13 Now, let me turn to Mr. Halkett's
14 objections, and on these I'll try to follow his arguments
15 seriatim:

16 The first objection runs to Documents 295,
17 44 and 45. These are substantially the same documents
18 in draft and final form. Mr. Halkett suggests that that
19 document emanating from his firm is irrelevant. He says
20 the document is generally described as a document
21 requesting a tax ruling, and indeed it is. It is a
22 request by Latham & Watkins on behalf of its client,
23 Signal, for a tax ruling in advance on the implications,
24 the tax implications of the outcome of the transaction,

1 and not uncommon.

2 The document is not offered in connection
3 with the tax implications. Indeed I think Mr. Halkett
4 is correct, that the tax implications are not directly
5 involved in this case other than, as we say, the
6 structure of the merger was such that it imposed a tax
7 burden on the UOP minority stockholders. The letter is
8 not offered for that purpose. The letter is offered
9 for the statement made on behalf of Signal as to the
10 reason for the merger, and as I described in our brief,
11 that letter that went through two drafts and a final
12 form says in part that the purpose of the merger was to
13 rid Signal of its minority stockholders, and that is
14 the purpose of that, and that is distinctly relevant to
15 the issues in this case, and therefore, we would ask a
16 ruling from the Court on that objection that the
17 documents are relevant and are admissible.

18 I turn to Document 134. It is objected
19 to as irrelevant and without foundation. It consists
20 of one page of notes. The objection is that it is not
21 identified, and it's without foundation.

22 Again, my response is that having produced
23 the document, it is with Signal or the other defendant
24 who produced it to come forward with the identification

1 of the document rather than saying to the plaintiff you
2 have not laid a foundation for that document. But as
3 to this particular document the matter may be slightly
4 academic at a later point in the trial. I believe that
5 one of the witnesses to be called by the defendant-Signal
6 is its financial vice president in charge of planning,
7 Mr. Arledge, and on the document itself there appear
8 the initials "CSA."

9 I think that the Court could postpone a
10 ruling on this document because if Mr. Arledge comes
11 here, we'll get him to identify his initials in this
12 context. But as I say, I don't think you need to do
13 that on my general response to the "without foundation"
14 objection.

15 Now, as to Document No. 288, this is a
16 "no foundation" objection. As to this, what I have
17 previously said in connection with the no-foundation
18 objection is applicable, and we think it should be over-
19 ruled.

20 I turn now to the new objections, or two
21 of the three new objections, and I say that for
22 identification without anything else, your Honor.

23 THE COURT: Yes.

24 MR. PRICKETT: The first is Document 252.

1 As to that document, the objection is that the second
2 page has no relation to the first page, that being a
3 letter to or from Skinner, and I forget which. However,
4 again this is a practical exercise, and it is pointed
5 out that the document objected to, that is the second
6 page with the statistics, is already in evidence as
7 another exhibit without objection.

8 I would suggest that the Court defer a
9 ruling on this objection with the obligation on my part
10 to come back to the Court promptly, and see whether I
11 can agree to the objection and live with the document
12 in evidence in another form, or whether the absence of
13 the so-called link between the statistics and the
14 document is vital to my case or to that document, and
15 I would undertake to do that promptly. I suspect that
16 if I've got it in in another way, I'm not going to
17 require that the document be attached to the letter in
18 the form in which I originally got it.

19 Now, that same modus operandi is
20 applicable to Document No. 270. There is, as I under-
21 stand it, no objection to the letter of Potter, Anderson
22 & Corroon, and there is no objection to the pages
23 attached to that letter provided it is understood that
24 the plaintiff does not ascribe a link or connection

1 between the pages and the unobjected to letter. I would
2 like a chance to review that, and come back to the
3 Court and indicate that if it is made clear, perhaps
4 on the exhibit itself as well as on this record, that
5 I don't stand on the fact that that was the way the
6 document came to me; that we have resolved that without
7 the necessity of a ruling.

8 Your Honor, I believe that I have covered
9 all of the objections with the possible exception of
10 Objection 21, an additional objection. It is an objection
11 to Document 131, and I think that this new objection is
12 similiar to the objections made to the listed
13 Objections 19 and 20; that is Exhibits 252 and 270.
14 The objection goes not to the substance of the check
15 list, but to the fact that it appears to the defendants
16 that the document has no relation to the document to
17 which it is attached, and should be introduced as a
18 separate exhibit, and therefore I would undertake again
19 to look at that, and see whether we could agree that
20 the check list now part of U-131 be separately admitted
21 as U-131-A, it being made clear that we do not stand on
22 a linkage between that and the other parts of the
23 document known as U-131.

24 THE COURT: All right. You also have a

1 foundation objection as to that check list, but I
2 gather your response to that would be the same as to
3 the other no-foundation argument; that it was produced
4 for you by UOP, and it ought to come in.

5 I recall Mr. Sparks saying as to the
6 check list there was no indication as to who prepared
7 it, et cetera, in addition to the fact that it did not
8 appear to bear any relation to the other document.

9 MR. PRICKETT: Yes. My notes do not
10 include that, but my general response to the no-foundation
11 argument applies to that, though I'm not sure that the
12 objection listed as No. 21 to U-131 includes the no-
13 foundation argument. It may. If it does, I piggyback
14 in terms of my response.

15 I do think that I have slighted
16 Mr. Balotti. He made one objection. It was to LB-56.
17 He said that there was no foundation to this, and
18 Mr. Halkett helped him, I suppose, by suggesting that
19 there was no date, nor any author.

20 As to this document, it was produced by
21 Lehman Brothers, and a request was made for identification
22 of the document. It is obviously part of a larger
23 document since internally it refers to other exhibits
24 and other matters, and the request was for the entire

1 document, and also evidence on the author, source, date
2 of the letter. No information was produced, but the
3 document was produced by Lehman Brothers, and therefore
4 we think in particular on this document, as well as
5 generally, it's up to Lehman Brothers to determine what
6 the source of the document they produced is.

7 This particular document by an internal
8 reading indicates that it was prepared as an aid to the
9 UOP team, that is Mr. Logan and Mr. Glanville as they
10 approached the negotiations leading to the eventual
11 arm's length determination that \$21 was an acceptable
12 price for the tender of 1975 as well as the direct
13 purchase of stock by Signal from UOP, and therefore we
14 think it qualifies in terms of its own internal
15 identification.

16 Your Honor, I believe that that completes
17 my response to the tri-part type objections of the
18 defendants to the exhibits offered by the plaintiff.

19 THE COURT: Thank you, Mr. Prickett.

20 Does anyone else feel the need to respond
21 to any of these arguments?

22 Mr. Sparks.

23 MR. SPARKS: Your Honor, I would just
24 like to respond to the foundation argument made by

1 Mr. Prickett with respect to the UOP documents:

2 Of course in this case my client responded
3 to Mr. Prickett's document production request by
4 producing voluminous documents. Indeed all those that
5 we thought were reasonably calculated to lead to the
6 discovery of admissible evidence which we could find in
7 our files in accordance with the discovery rules.

8 And as I believe Mr. Prickett is aware, and certainly I
9 believe it's the law, there is certainly no burden placed
10 upon a defendant when he responds to a plaintiff's
11 document request to go on for purposes -- or certainly
12 for purposes of trial or any other purpose -- and
13 establish for the plaintiff the identity of the author,
14 or indeed the relevance or anything else for the
15 plaintiff's benefit of documents that plaintiff has in
16 his possession and chooses for one reason or another
17 not to lay a foundation for later admitting at trial.
18 As I understand Mr. Prickett's argument, it sort of
19 turns the rules of evidence on their head, and would
20 seem to require the defendant somehow build plaintiff's
21 case with respect to every document that the defendant
22 might produce. And of course the documents in this
23 case produced by UOP include documents that may have
24 been authored in UOP, may have been authored by third

1 parties, and found their way into UOP's files in
2 connection with the transaction; may have been authored
3 by people who are no longer with UOP. It just isn't
4 the way that cases, at least in my experience and based
5 on my knowledge of the rules, are tried.

6 Moreover, I think the Court should be
7 aware that these documents were in Mr. Prickett's
8 possession during the course of the depositions, and he
9 has had in this case every opportunity to establish in
10 depositions from the people at certainly my client's
11 -- and I don't speak for the others, but I think it's
12 the same case -- he's had every opportunity to inquire
13 of the deponents with respect to these documents, should
14 he have a desire to do so, and establish a foundation.
15 He's chosen not to do that, and I think the Court would
16 agree that under those circumstances, the defendants,
17 and certainly UOP, had no obligation to assist plaintiff
18 in the preparation of his case by somehow building a
19 foundation in the record for those documents which
20 plaintiff himself chose not to bring to the attention of
21 the deponents and seek identification of during the
22 deposition process.

23 THE COURT: Let me see if I can make one
24 inquiry:

1 I gather Mr. Prickett's position to be
2 that there is a sufficient foundation laid for the
3 admission of any document that is contained perhaps in
4 the files of your client which is produced pursuant to
5 a request to produce all documents that have a bearing,
6 and that sort of thing, on the issue before the Court
7 in a given case.

8 MR. SPARKS: For discovery purposes we
9 certainly made the judgment that that document would be
10 tendered in response to Mr. Prickett's request, and at
11 that point if there was something that he felt after
12 reading the document should be made out of it, we believe
13 it was his responsibility to thereafter go forward and
14 seek to establish that that document had something to
15 do with the case, and indeed to make it meaningful to
16 the Court and to the parties, and as we see it, these
17 are now just drifting pieces of paper which are not
18 meaningful in absence of knowing who authored them, who
19 ought to be examined about them.

20 THE COURT: Well, again, I perceive his
21 position to be that these documents are such that your
22 client received them, and saw fit to keep them, and
23 that that provides sufficient authentication at least
24 for putting them into evidence presuming they are relevant,

1 or not subject to some other objection. The only basis
2 for your objection is that he can't establish who wrote
3 certain documents or who made certain notes on a margin,
4 and that sort of thing, of papers that apparently were
5 in this case, let's say, in the files or in the
6 document collection of UOP, and for that reason, if you
7 had them, he shouldn't have to -- and I guess that's
8 what he's saying -- that if you have them and they were
9 given to you in some fashion, and they were fit for your
10 purposes, they ought to be fit for the Court's consider-
11 ation as opposed to an objection that there is no
12 foundation laid because he can't, and maybe you can't,
13 nobody can at this point establish who wrote them, or
14 for what purpose. I don't know that that's correct, but
15 that's what I understand his position to be.

16 MR. SPARKS: I don't think we are really
17 talking about -- It maybe smacks a little bit of
18 an authenticity argument, but really what we're talking
19 about is just that, the question of relevance. These
20 documents are really meaningless unless there is some
21 indication of who authored them and the purpose for
22 which they were authored, and we believe it's plaintiff's
23 burden to establish that relevance. And I again point
24 out to the Court that the standard for discovery is, of

1 course, whether something is reasonably calculated to
2 lead to the discovery of admissible evidence. It is
3 not a standard -- I think that's a very carefully
4 drafted provision, so that by producing -- Clients are
5 always confident that by producing they are not thereby
6 admitting anything with respect to the evidentiary
7 quality of what has been produced, and it's the
8 plaintiff's burden to show a foundation to link it to the
9 case.

10 THE COURT: I understand the outcome of
11 your position. What you're saying is if I rule in
12 Mr. Prickett's favor, that's tantamount to saying that
13 as far as production requests are concerned, a party only
14 has to produce what he can substantiate and identify and
15 prove authorship of, and that sort of thing, because
16 it's going to be used against him in evidence by virtue
17 of him producing it, so therefore he has only an
18 obligation to produce what he knows is written by certain
19 persons, and that sort of thing.

20 MR. SPARKS: Well, I think that could be
21 the rule. I understand the discovery rules to be that
22 you are required to produce everything that's requested
23 that's reasonably calculated to lead to the discovery of
24 admissible evidence.

1 THE COURT: I understand that too. I was
2 just perceiving your position down the line --

3 MR. SPARKS: That's right. That would
4 be another logical argument. It would in effect read
5 out of the discovery rules the broader -- To accept
6 Mr. Prickett's standard, it would read out of the
7 discovery rules the present standard, and insert a
8 standard which I think would greatly restrict the scope
9 of discovery contrary to what the rules presently provide.

10 THE COURT: Thank you. Fair enough.

11 Mr. Halkett, do you need to be heard with
12 regard to Mr. Prickett's position?

13 MR. HALKETT: As I understand it, first of
14 all, Mr. Prickett's position vis-a-vis these requests
15 for revenue rulings, they go to in his mind the issue
16 of business purpose. I'm not going to argue what the
17 document itself says, although I will point out that
18 there is a whole paragraph on business purpose which
19 says very much different from what Mr. Prickett said
20 this document did. But assuming that the only purpose
21 for which it is introduced is the question of what the
22 business purpose is, I submit to the Court that the
23 law of this case based on the Court's prior ruling is
24 that that is not an issue now in this case.

1 Secondly, one of the problems with this
2 position taken by Mr. Prickett I would like to point out
3 in a concrete fashion, and I want to work backwards:

4 This Lehman Brothers document, I don't
5 know whether this is the connective in Mr. Prickett's
6 amended complaint, but I want to refer to that for a
7 moment. In Paragraph 11 of the amended complaint which
8 was filed at the end of last year there is a parenthetical
9 comment after talking about the price range of \$20 to
10 \$21 a share, and I quote: "(Though Signal management
11 had obtained figures indicating that a price of \$25 or
12 more would be economically advantageous to Signal)."

13 We know of absolutely no other document in
14 this case upon which the plaintiff could conceivably
15 have made that statement unless perhaps it is this
16 Lehman Brothers document to which Mr. Balotti has
17 objected. The foundational questions of course become
18 very relevant insofar as what sort of arguments a party
19 makes based upon a document. Without knowing by whom
20 that was prepared, when it was prepared, whether or not
21 it was communicated, and other facts of that kind, it
22 cannot possibly support arguments of the type that
23 might be made by the plaintiff based upon that document
24 being in evidence. That's the purpose of the foundational

1 requirements, so that there can be logical conclusions
2 drawn from the fact that that document was in existence,
3 and the facts surrounding its existence and its use.

4 Another example of the way in which a
5 document may well be misused is the document marked
6 134. I believe that Mr. Prickett said the initials
7 "CSA" appear on that document. True, they do, but they
8 do not appear in any fashion which would indicate why
9 they appear there, that CSA may or may not have been the
10 author of it, or why those initials appear. And yet we
11 have what appears to be the inference drawn by
12 plaintiff's counsel that because those initials are
13 there, somehow or other they are connected with that
14 particular individual.

15 So as far as Mr. Prickett's suggestion
16 that you should hold up until Mr. Arledge is present,
17 I do not believe that that would be appropriate.
18 Whether or not Mr. Arledge appears as a witness in this
19 case, as we said before, is a question. They have
20 offered this document, and we have objected to it, and
21 I think there should be a ruling on it.

22 THE COURT: With respect to that document,
23 Mr. Halkett, and the objection is one of foundation --
24 I suppose you're correct I should rule on the application,

1 and in the event I rule against Mr. Prickett because it
2 can't be established who wrote it, and in the event
3 thereafter Mr. Arledge shows up, I presume he's free to
4 establish that and offer it then.

5 MR. HALKETT: That's right. He can try to
6 lay a foundation at that time if he can, and then offer
7 it at that time.

8 THE COURT: All right. I agree with that.

9 All right, Mr. Balotti.

10 MR. BALOTTI: Your Honor, very briefly,
11 with respect to LB-56, Mr. Prickett has indicated that
12 he's requested more information about that document and
13 a complete copy of that document.

14 He's been given nothing because nothing
15 else exists. There is no further information. There is
16 no further document that anyone has been able to find.
17 What he has is all we know about, and it's just two
18 pieces of paper.

19 And to follow up on your comment with
20 Mr. Sparks about a ruling such as that sought by
21 Mr. Prickett, which as I understand it is that if you
22 produce something it is automatically admissible against
23 you, where that will lead in the discovery process is
24 that careful counsel will no longer produce all the

1 documents, but will object to producing documents on
2 the grounds that they are not admissible, and the Court
3 at the production stage will then have to rule on whether
4 or not documents are admissible before they are produced.
5 That's the logical consequence because no one will
6 produce documents if they are then automatically to be
7 used against a party.

8 The discovery rules, as Mr. Sparks pointed
9 out, avoid that problem by not requiring that anything
10 be admissible to be producible. Admissibility is a
11 separate test which is to be ruled upon at the trial,
12 and it is not as a result of production. One offering
13 a document must lay the foundation for that document.

14 In the cases which we have indicated
15 Mr. Prickett has failed to do that. It is a familiar
16 tactic in this court for the plaintiffs to walk in with
17 a batch of documents and say these came from the
18 corporation. Therefore they are admissible. Well, that
19 just isn't true. The fact that someone produced them
20 does not make them admissible, and I believe this Court
21 has generally taken the stand that one does not follow
22 the rule espoused by Mr. Prickett, but that the normal
23 rules of evidence must be followed.

24 THE COURT: Before you leave, we're speaking

1 of this Document LB-56 --

2 MR. BALOTTI: Yes, sir.

3 THE COURT: -- and I, of course, haven't
4 seen it, but I get the impression that it's something
5 that was produced by Lehman because it was something in
6 their files, or something they certainly had access to,
7 a document.

8 MR. BALOTTI: That's true.

9 THE COURT: Your objection goes now to
10 the fact that despite there is no indication on the
11 document as to who its author was, there is no indication
12 as to when it was prepared, therefore you feel that the
13 document has no credibility, certainly has no foundation
14 laid to have it admitted for any purpose.

15 MR. BALOTTI: Yes, sir.

16 THE COURT: I think that what you just
17 also said in your argument is that if you were trying
18 to admit it, you would concede you couldn't get it in
19 on behalf of Lehman Brothers because you couldn't
20 establish a foundation for it either.

21 MR. BALOTTI: I think that's probably true.

22 THE COURT: So that leaves us with a
23 document that's in the files of one of the parties but
24 which neither side can get into evidence over a foundation

1 objection.

2 MR. BALOTTI: And that is not an
3 unfamiliar problem, I would add. For all I know, it's
4 a Xerox of something prepared by someone not affiliated
5 with this case at all. It might have been produced by
6 someone else. To really state an absurd, it could have
7 been written by Mr. Weinberger and mailed to Lehman
8 Brothers, and found its way in the file. I don't know.
9 And that's the kind of problem that we are facing with
10 these kind of --

11 THE COURT: Let me ask just as to that
12 document, is there any indication in any way that it was
13 relied upon by Lehman Brothers for any purpose, or
14 utilized by them for anything regardless of where it
15 came from? That may have some bearing on whether it's
16 admissible over a foundation objection.

17 MR. BALOTTI: I don't believe that
18 Mr. Prickett has adduced any such deposition testimony,
19 and it's his obligation to do so.

20 THE COURT: Well, that might have a bearing
21 on it. I don't know. But it seems to me that -- and
22 I'm talking off the top of my head now -- despite the
23 fact that now we can't get him to say who the author was
24 or when it was drafted or why, some other indication that

1 it was relied upon or used to some extent, then it seems
2 to me that might make Mr. Prickett's position a little
3 stronger, but --

4 MR. PRICKETT: Your Honor, just a second.

5 This document was produced after I took
6 the depositions of most of the people. It was handed
7 to me as I was taking some Lehman Brothers depositions.
8 I had taken the depositions of everybody else.

9 What is the document about? It's a
10 memorandum clearly referring to the 1975 tender, as I
11 said, and it says our strategy should be to demand \$25,
12 and then it advances the reasons for that.

13 Now, I've heard a lot of talk today about
14 the horrors of this situation, and it's a little bit
15 of overkill. They have responded to a request for
16 production that I made, and produced this document from
17 their files. At this point they are objecting saying
18 there is no foundation to this document. And what the
19 point turns on is not the idea that any time you produce
20 a document it's going to come in against you, but who
21 has the obligation to show to the Court that it is the
22 document that came, to use Mr. Balotti's most absurd
23 example, from the plaintiff. And on that, I would suggest
24 who has the better chance at doing that? How in the world

1 do I get in to know what Lehman Brothers has in its
2 files? And doesn't Lehman Brothers have the responsibility
3 of coming forward at this point when the document is
4 offered? This is not an authenticity question. That
5 has been waived. It's authentic. It comes from their
6 files, and it's been produced. The question is who in
7 this situation has the responsibility of convincing the
8 Court that it is not a relevant document, that it has no
9 foundation. And it seems to me that the perils that
10 these gentlemen ascribe don't happen. It's simply the
11 Court says you produced the document. If you have some
12 explanation as to why there is no foundation, you come
13 forward and say it. But don't try to put it on the
14 plaintiff to explain the documents in your files.

15 That is the situation in this case as to
16 all these documents that they don't know want to have
17 come in. They produced them. They give no explanation
18 as to why they are without foundation, and they say
19 because we haven't produced the foundation they are not
20 admissible.

21 There is suggestion made that "the cases
22 hold." I would like to hear those cases, your Honor,
23 and I would like to hear something more than the
24 recitation of the experience of the arguer that indicates

1 that some court has ruled that way because I don't know
2 of any such ruling. I think the ruling should be to the
3 contrary.

4 Now, there is one other matter that has
5 come up that I don't know whether the Court caught or
6 not. Mr. Halkett says it's not relevant because the
7 Court has ruled previously on the business purpose aspects
8 of this case.

9 I think the Court would be well advised
10 to ask Mr. Halkett what he means by that, because I
11 think it is significant as we approach the trial of this
12 case that he articulate where he is coming from if he
13 suggests that the Court has made a ruling that precludes
14 any proof on the absence of a business purpose.

15 Now, he didn't articulate that very clearly,
16 but it was in there, and I think it would be well in this
17 pause before the trial gets underway if Mr. Halkett were
18 asked to delineate what he meant by that because we may
19 be sailing in opposite directions and passing in the
20 night if in fact he does convince the Court that it has
21 made a definitive ruling on the business purpose rule.

22 THE COURT: All right. Thank you,
23 Mr. Prickett.

24 MR. BALOTTI: Your Honor, let me point out

one error that I think Mr. Prickett inadvertently made. He said that this document was produced for him after he had finished all the depositions. In fact if you look at the first part of Mr. Seegal's deposition taken on April 5th, the document was produced for him before he started that deposition. After Mr. Seegal he took the depositions of Mr. Schwarzman and Mr. Pearson. He had the document during all three depositions, and was unable to lay any foundation for the document. So he did have it in plenty of time to lay whatever foundation he was able to lay, and he was able to lay none.

THE COURT: All right. Thank you.

Is there anything else, Mr. Halkett? Did you have anything further to say? Despite the fact that it might be helpful to Mr. Prickett, I'm not going to ask you at this point to set forth your views on business purpose. We may get to that, but with all due respect to you, sir, I don't really want to hear the argument on that now. It may not be necessary.

MR. HALKETT: I didn't propose to make it, your Honor.

THE COURT: Fine.

MR. HALKETT: In the interest of trying to keep procedural matters down to a minimum, as the Court

1 is aware, we have made combined objections where we have
2 felt that the objection made by one party is legally
3 sufficient to prevent the offered document from being
4 offered into evidence. There is, of course, the
5 possibility here that as we are separate parties and
6 separate defendants, separate objections might be made.

7 If, for example, Mr. Prickett's position
8 were to be well taken that if a party produces in
9 response to a discovery request a certain document, and
10 no other foundation is laid for that, and therefore it
11 might be admissible against the party in whose files it
12 was or who produced it, that certainly cannot then be
13 extended without further foundation to be admissible as
14 to any other party in the transaction or in the
15 litigation.

16 I point that out, and I don't think it's
17 necessary that we go through all of that with each of
18 us making separate objections on behalf of individual
19 clients whom we represent. But it certainly raises that
20 problem if one is going to accept Mr. Prickett's view
21 of the admissibility of evidence.

22 THE COURT: All right, gentlemen. Thank
23 you very much. I think perhaps I've ingested enough
24 argument here for the morning on these matters.

1 It doesn't sound to me that you have
2 presented to the Court that major a situation except
3 for perhaps this one key document that you have spent
4 the last part of your comments addressing, but I'll take
5 them under advisement at this time, and I'll ask that
6 someone from each side at least cooperate in assisting
7 the Clerk today to mark the remainder of the documents
8 that have been admitted on behalf of plaintiff, and I'll
9 endeavor to get you a ruling on these. I presume I'm
10 going to have to make it the first thing tomorrow
11 morning the way things are going.

12 I haven't quite gotten through all the
13 depositions yet, but I'm making progress, and I think
14 I'm going to try to stick with that schedule, and get
15 that accomplished during the remainder of today, and
16 I'll try to get you a ruling on these the first thing
17 in the morning. Does that cause any problem?

18 MR. PRICKETT: No, sir.

19 Might I ask: We have supplied your Honor
20 with reading copies of the depositions of these witnesses
21 who clearly are not going to be here, but then in
22 addition we have offered the depositions of these people
23 who are going to be here, but we have not supplied you
24 with copies of those.

1 Now, does your Honor have those?

2 THE COURT: The only thing I have, of
3 course, is what's in the court record. I haven't taken
4 them out yet, and I haven't quite finished with what
5 you have offered me by virtue of having my own copies.
6 Are we talking about Glanville, Crawford, Arledge
7 and Walkup?

8 MR. PRICKETT: I take it your Honor will
9 get those from the files.

10 THE COURT: I might as well at this point.

11 MR. PRICKETT: Thank you, your Honor.

12 THE COURT: Thank you. We'll recess until
13 tomorrow morning at 10:00 o'clock unless I notify you
14 to the contrary between now and 10:00 o'clock, and I
15 hope I don't have to do that.

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