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1 IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE  
2 IN AND FOR NEW CASTLE COUNTY  
3

4 WILLIAM B. WEINBERGER,  
5 Plaintiff,

6 vs. Civil Action No. 5642

7 UOP, INC., THE SIGNAL  
8 COMPANIES, INC., SIGCO  
9 INCORPORATED, LEHMAN BROTHERS,  
10 KUHN LOEB, INC., CHARLES S.  
11 ARLEDGE, BREWSTER L. ARMS,  
12 ANDREW J. CHITIEA, JAMES  
13 V. CRAWFORD, JAMES W.  
14 GLANVILLE, RICHARD A. LENON,  
15 JOHN O. LOGAN, FRANK J.  
16 PIZZITOLA, WILLIAM J. QUINN,  
17 FORREST N. SHUMWAY, ROBERT  
18 S. STEVENSON, MAYNARD P.  
19 VENEMA, WILLIAM E. WALKUP  
20 and HARRY H. WETZEL,

21 Defendants.

22 Courtroom No. 2  
23 County Courthouse  
24 Wilmington, Delaware  
Monday, May 19, 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

1   Appearances (Continued):

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

5                   ROBERT K. PAYSON, ESQUIRE  
6                   Potter, Anderson & Corroon

7                   -and  
8                   ALAN N. HALKETT, ESQUIRE, of the Calif. Bar  
9                   Latham & Watkins  
10                  For Defendant Signal Companies, Inc.

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

15   Also Present:

16                  BREWSTER L. ARMS, ESQUIRE

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18                  PROCEEDINGS

19                  THE COURT: Good morning all.

20                  MR. PRICKETT: Good morning, your Honor.

21                  The thing that brings us to Court this  
22 morning is the opening of the trial in Weinberger vs.  
23 UOP, et al. I think that it is agreed that the  
24 procedure that we will follow this morning is to present  
to the Court certain depositions that the plaintiff  
wishes to introduce in evidence, the witnesses not being  
available.

                  We had considered the possibility of  
having the depositions orally read into the record by

1 following the usual procedure of putting someone on the  
2 stand, and then doing it in question and answer form,  
3 but it was agreed by the parties and by the Court that  
4 time would be saved if the Court simply retired to  
5 Chambers and read the depositions themselves, and there-  
6 fore it has been agreed, I believe, that the Court  
7 would devote the first two days of the trial in making  
8 a review of these depositions, and that the live  
9 testimony would begin on Wednesday, and that's what  
10 brings us here.

11 Now, at the outset I have served on the  
12 attorneys for the defendants, and I hereby file,  
13 plaintiff's pretrial memorandum on liability. I hand  
14 the Clerk the copy that acknowledges service on it, and  
15 I hand the Court a working copy for the Court.

16 THE COURT: Thank you, Mr. Prickett.

17 MR. PRICKETT: I tender to the Court  
18 now extra transcripts of the following depositions.  
19 That is, the transcript of these depositions have been  
20 filed with the Register. As a convenience to the Court  
21 we have made copies of these depositions with the  
22 exhibits that are referred to in the depositions so that  
23 the Court does not need to pull the official Register  
24 copies, but can use these copies of the depositions.

1 And the depositions that I refer to are the following:

2           Forrest Shumway, Mr. Chitica, Mr. Clements,  
3 Mr. Lenon, Mr. LOGAN, Mr. Pizzitola, Mr. Glanville,  
4 Mr. Pearson, Mr. Schwarzman, Mr. Seegal.

5           I have one additional deposition, that  
6 of Mr. Crawford, that is not among the group that I have  
7 here, but I will send that up later. I think your  
8 Honor has enough for the present with these transcripts.

9           Mr. Crawford is among the persons who  
10 is tentatively listed by the defendants as a live  
11 witness, but we think that your Honor may want to review  
12 the deposition of Mr. Crawford in any case.

13           Let me try to make that a little bit  
14 clearer:

15           The defendants have designated other  
16 than their expert witness tentatively the following  
17 people whom they have indicated they would or might call:  
18 Mr. Crawford, Mr. Logan, Mr. Arledge and Mr. Glanville.  
19 However, at the pretrial conference they said that I as  
20 the attorney for the plaintiff should not rely on that;  
21 that they might or might not call these persons. I  
22 have therefore indicated that I would offer the  
23 depositions of all of those four people since I could  
24 not tell at the conclusion of my case whether or not they

1 would be called. I have not suggested other than  
2 Mr. Crawford that those depositions be read. I would  
3 suggest that if they are not called, we would ask the  
4 Court to be sure to read those, but if they are called,  
5 it's perhaps unnecessary.

6 So that in sum, we have furnished the  
7 Court with transcripts of the depositions of witnesses  
8 whose depositions have been taken and as to whom neither  
9 party is either able to call them or will call them.

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1 THE COURT: You are offering the entire  
2 deposition of Mr. Crawford, aren't you? Did I see that  
3 somewhere?

4 MR. PRICKETT: No. The entire deposition  
5 of Mr. Shumway is offered.

6 THE COURT: I beg your pardon.

7 MR. PRICKETT: Mr. Crawford, we have  
8 designated pages. There have been counter-designations  
9 and objections as to certain portions.

10 Your Honor, in addition, we have  
11 designated and hereby offer four notebooks, numbered 1  
12 through 4, containing the exhibits that, pursuant to  
13 the pretrial order, we have designated. They are  
14 marked and tabbed, and this is a copy for the Court.  
15 There is an additional copy for the Register, so that  
16 the Court has its own copy.

17 Pursuant to the pretrial order, the  
18 defendants served on Friday their objections to some of  
19 the documents designated, and they served counter-  
20 designations of documents.

21 There are some items that I think we are  
22 agreed on are mechanical; that is, in just the physical  
23 job of pulling these documents together, I inadvertently  
24 put wrong dates and things like that on them, and that

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1 is my responsibility and not my hardworking staff's. As  
2 to those, I would suggest that we attempt to pare that  
3 list down by getting together and comparing notes, now  
4 that we have a definitive set of the documents, and see  
5 if we can eliminate those mechanical objections.

6 I might note for the record that I have  
7 furnished to the three defendants one complete copy of  
8 what I am furnishing to the Court and to the Register in  
9 the form of volumes of exhibits, so that we all start  
10 with the same pieces of paper. And to some extent I  
11 would suggest that we work together on making certain  
12 that the objections go to the substance rather than to  
13 mechanical problems of my inadvertently misdescribing  
14 or misdating a document or some other problem that we  
15 can resolve. I don't think it is a matter that the  
16 Court should take the time to hear at this point.

17 THE COURT: Let me ask you something.  
18 You say you have a copy of those exhibits that you  
19 would offer for the Register. I assume, then, you mean  
20 that those would be the ones that you would be offering  
21 into evidence and have them designated as such.

22 MR. PRICKETT: Yes. Let me now  
23 physically carry these documents over and for the  
24 record describe them.

1 THE COURT: The only reason I was asking,  
2 before you do that, Mr. Prickett, is, I was wondering,  
3 for the purpose of using them during trial, are we  
4 going to leave them in the notebooks, or is it the  
5 contemplation of the parties to have them numbered as  
6 separate exhibits. That is not something we have to be  
7 terribly concerned about now, but I was just wondering,  
8 when someone gets to cross-examine on a particular  
9 document, if he is going to want the document or if he  
10 is going to be content to carry the book around. It  
11 matters not to me. I will be doing neither.

12 MR. PRICKETT: Your Honor, what I would  
13 suggest, just as a thought for the defendants, would be  
14 that we leave in the Register's possession at all times  
15 the four volumes intact; that, having furnished the  
16 defendants each with a copy, a complete copy of that,  
17 that if and when they want to examine a witness on a  
18 document, they pull their copy of the document out of  
19 their group of four books and show it to the witness,  
20 and the witness be furnished, for example, with one of  
21 mine, but that we not touch those documents, so that we  
22 have them intact there.

23 THE COURT: Fair enough. That is your  
24 proposal, and I will see if they agree with it. I was



1 just curious as to how we were going to handle that.

2 MR. PRICKETT: One of the reasons why I  
3 made the copies for the other side was so that every-  
4 body would have a copy of the documents, and we would  
5 not be in the problem of taking them out of the  
6 Register's copy, except to the extent that there is a  
7 ruling that they are inadmissible. At that point they  
8 would come out of his copy, but otherwise, we would  
9 leave them there. And for purposes of the examination  
10 or argument, we would each refer to our own copy, it  
11 having been agreed that legible copies are admissible.  
12 And therefore, I would suppose they would be fungible  
13 and interchangeable, and we would not have to get into  
14 the problem of the Register's copies.

15 THE COURT: All right. Fair enough.  
16 Thank you.

17 MR. PRICKETT: Your Honor, that completes  
18 the items that I have at this point.

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

21 MR. PAYSON: Good morning, Chancellor.

22 THE COURT: Mr. Payson.

23 MR. PAYSON: I know Mr. Halkett needs no  
24 further introduction, but I would like to reintroduce

1 to the Court Mr. Brewster Arms, who is the senior vice-  
2 president and general counsel of The Signal Companies.

3 THE COURT: Mr. Arms, good to see you  
4 again.

5 MR. PAYSON: Chancellor, if I may ask  
6 through you to Mr. Prickett --

7 MR. PRICKETT: May I ask Mr. Payson  
8 something.

9 (Discussion off the record.)

10 MR. PAYSON: I am wondering if the  
11 depositions which Mr. Prickett has copied include only  
12 the designated pages or the entire deposition.

13 MR. PRICKETT: The entire deposition, but  
14 we have included the counter-designations, I believe,  
15 to the extent we had them. We just go on this  
16 morning.

17 MR. PAYSON: But complete copies of all  
18 the depositions have been provided to the Court.

19 MR. PRICKETT: Yes. That's right, and  
20 the page designations thereof.

21 MR. PAYSON: Yes. I believe Mr. Prickett  
22 misspoke when he indicated that Mr. Logan's deposition  
23 had been offered in lieu of his testimony. We have  
24 never designated Mr. Logan as a witness. We designated

1 as possible witnesses Messrs. Walkup, Arledge,  
2 Glanville and Crawford. And as I understand it,  
3 Mr. Prickett has designated their entire deposition  
4 transcripts. And we would ask the Court not to wait  
5 until the defendants' case but rather, subject to the  
6 Court's time schedule and convenience, that the Court  
7 read all of those depositions in their entirety so that  
8 the Court has a feel for exactly what is in  
9 Mr. Prickett's case.

10 THE COURT: Well, let's go back to  
11 Mr. Logan, then. Does that constitute an objection to  
12 that deposition?

13 MR. PAYSON: No, sir. Mr. Logan's  
14 deposition transcript was in part designated by  
15 Mr. Prickett, and I believe there were counter-  
16 designations. But the Court asked Mr. Prickett this  
17 morning if Mr. Crawford's deposition was being offered  
18 in its entirety. I believe he said no; rather, that  
19 designated portions had been done. In fact, there have  
20 been no designations of any portions of the Crawford  
21 deposition. I believe it has been offered in its  
22 entirety.

23 THE COURT: All right.

24 MR. PRICKETT: Your Honor, let me see if

1 I can clear that up. I may have misspoken on Logan.  
2 If I did, I apologize. But Logan's deposition is in  
3 one of the three volumes that were referred to as  
4 reading copies for the Court. So we have that.

5 THE COURT: You have him on your list  
6 here.

7 MR. PRICKETT: That's correct. And if I  
8 misspoke, I apologize.

9 Now, as I understand the defendants'  
10 motion, that is -- I don't know exactly what it is.  
11 They want the Court to read in our case not only the  
12 depositions that I have here provided the Court with  
13 reading copies of, but if it is part of my case, the  
14 depositions of the additional witnesses who may or may  
15 not be called. And as I understand that list, it  
16 consists of Crawford, Walkup, Arledge and Glanville.

17 MR. PAYSON: As I understand it, you have  
18 offered those depositions in evidence as part of your  
19 case.

20 MR. PRICKETT: Yes, I have. And I have  
21 no objection to that, Your Honor. I have not provided  
22 the Court with "reading copies" of those depositions.

23 THE COURT: Well, that may not be  
24 necessary if we are into the whole deposition perhaps.

1 We certainly don't have to worry about it now. We do  
2 have a copy of the complete deposition in the file.  
3 Since there will be no designations or anything of that  
4 sort as to those depositions, let's not worry about  
5 getting the extra copy right at the time.

6 MR. PRICKETT: Yes. Thank you.

7 THE COURT: Mr. Halkett.

8 MR. HALKETT: Good morning, Your Honor.

9 Mr. Prickett has said that he is offering the deposition  
10 or portions of the depositions, to which the exhibits  
11 are attached for the convenience of the Court. I think  
12 it should be made clear that the documents identified  
13 during the course of the deposition are not exhibits in  
14 this case and they are not being offered for that  
15 purpose as part of the depositions. If they are, then  
16 we would want to consider objections thereto.

17 In other words, the way the past week  
18 went was, Mr. Prickett designated those depositions or  
19 portions of depositions which he wished to introduce as  
20 a part of his case in chief. He did not include in  
21 those depositions any of the documents marked during  
22 the course of any one or more of those depositions.  
23 Therefore, our review of Mr. Prickett's deposition  
24 designations did not go to the subject of the pieces of

1 paper that were used during the course of the  
2 deposition. So we have not agreed that any of the  
3 depositions exhibits as such may be introduced in  
4 evidence in this case.

5 THE COURT: As a part of the deposition.

6 MR. HALKETT: As a part of the deposition.  
7 As it turns out, probably the great majority of those  
8 pieces of paper have been marked by Mr. Prickett and  
9 are included within the documents he has in these bound  
10 volumes.

11 Just so the record is clear, I thought  
12 that I should make that point on the record.

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1 THE COURT: What you're saying is that  
2 as far as you're concerned, the only exhibits being  
3 offered by the plaintiff are those set forth on the  
4 list of designated exhibits. To the extent that they  
5 may be duplicated by being attached to a copy of a  
6 deposition, or something, there is no problem, but any-  
7 thing that is attached as an exhibit to a deposition  
8 which is not designated on the plaintiff's list of  
9 exhibits, you do not consider it to be offered into  
10 evidence or as being part of the case.

11 MR. HALKETT: That's correct at this  
12 point.

13 THE COURT: You reserve the right to  
14 object to them if any such offer is made.

15 MR. HALKETT: Correct.

16 THE COURT: I think that's probably  
17 fair enough.

18 Mr. Prickett --

19 MR. PRICKETT: Yes. Let me say, your  
20 Honor, I understand the defendant's position. I'm not  
21 sure that I agree, but I think mechanically every  
22 exhibit that was referred to in the deposition is  
23 included in the designation, though I say that with a  
24 little bit of a tentative approach because I'm not dead

1 sure that every one was. But certainly all the  
2 important ones were. And I'll recheck Mr. Halkett's  
3 reservation on the deposition exhibits, and if I have  
4 slipped up, I'll perhaps come back and offer it, but I  
5 really don't think it's a problem.

6 THE COURT: All right. Thank you.

7 MR. HALKETT: The four volumes of  
8 proposed exhibits, I believe that Mr. Prickett said that  
9 they had been designated and hereby offered in evidence.  
10 I suggest that perhaps may be a little premature for  
11 such an offer until such time as we have gone through  
12 the procedure Mr. Prickett suggested, which I think is  
13 a good one.

14 Let us have the chance here when we are  
15 through with this Court session this morning to see if  
16 there are any of the objections which we made to his  
17 exhibits which can be eliminated. Then there will  
18 undoubtedly be a certain number of objections to certain  
19 of these documents which are included in the volumes,  
20 and those will have to be ruled upon by the Court before  
21 they are offered.

22 In effect then I gather that these are  
23 being tendered to the Clerk for purposes of identifica-  
24 tion only in a sense at this point. As long as that's



1 clear, that's fine.

2 MR. PRICKETT: Now, that's not right.  
3 They are offered. The objections can be made any time,  
4 but I want the record clear that it's not as restated  
5 by Mr. Halkett that they are not offered. They are  
6 offered.

7 Now, I agree that we ought to go  
8 through the objections and try and pare them down, but  
9 let's be clear about the record. I have offered them.

10 THE COURT: You consider they are  
11 identified by the fact that they are put together in  
12 that volume as far as you're concerned, and you're  
13 offering them now subject to ruling by the Court, I  
14 understand.

15 MR. PRICKETT: Yes. I just don't want  
16 a problem that Mr. Halkett at some time says well, he  
17 agreed that they were moved for identification. They  
18 are offered.

19 Now, there are objections that  
20 Mr. Halkett will try to refine with my help, and then  
21 they will be presented, but I want the record clear  
22 that these are offered in evidence, and not offered  
23 for identification.

24 MR. HALKETT: Again, I think the record

1 should reflect our objections to their introduction at  
2 this point until we have an opportunity to be heard on  
3 that score.

4 THE COURT: All right. I don't think  
5 we're really talking about any major problem. I'm  
6 certainly not going to rule on them at this point.

7 MR. HALKETT: The final thing that I  
8 have is my suggestion would be that at some point in  
9 time we work out a system whereby mechanically the  
10 document identifications can be physically placed on  
11 the documents themselves, and as appropriate, maybe  
12 stapled so that whether or not they remain physically  
13 in these volumes or not, at some point in time if a  
14 document is removed from the volume, one is going to be  
15 able to identify it as an exhibit and by the number of  
16 the exhibit.

17 I have no problem at all using extra  
18 copies in examinations with witnesses, and so on, but I  
19 noticed in going through our set of these that where,  
20 for example, there are multiple pages that make up one  
21 exhibit, they are not stapled together, nor do they  
22 necessarily all bear a designation as they do on the tab.  
23 Some place along the line I think they ought to be  
24 identified before they are part of the record of the

1 case.

2 THE COURT: Well, as I understand what  
3 you're saying then, you feel that perhaps as to each  
4 document, or combination of documents offered as an  
5 exhibit, they should be as in the normal procedure given  
6 an evidence identification sticker by the Clerk, and  
7 in some manner stapled or put together so that they  
8 don't get separated or lost with the understanding, I  
9 suppose, they could then be put back in the notebook  
10 volumes. Is that right?

11 MR. HALKETT: Correct. That's what I do  
12 suggest.

13 THE COURT: Your suggestion I believe I  
14 interpret as being one simply to make sure we preserve  
15 no matter what happens a complete set of exhibits, and  
16 don't get any confused.

17 MR. HALKETT: And a complete record so  
18 that there is no later confusion about what pieces of  
19 paper were part of what.

20 THE COURT: That would be merely a  
21 mechanical problem, and I suspect that that's something  
22 that can be handled by Mr. Donovan while I'm reading  
23 for two days. I suppose he will have plenty of time to  
24 get those various documents marked at his leisure. So I

1 think it's probably not a bad idea.

2 MR. PRICKETT: I would think that we  
3 could probably take a Xerox of our own numbers and make  
4 the stickers, and then with counsel we could simply get  
5 the stickers on and staple them.

6 THE COURT: I would presume that perhaps  
7 somebody from either side could assist him to make sure  
8 he gets them all designated properly. I have no  
9 problem with your suggestion. That will probably make  
10 sure we preserve all the documents that are in fact in  
11 evidence.

12 MR. HALKETT: Finally, I would like to  
13 make a suggestion, if I may, and that is that perhaps  
14 we reconvene tomorrow morning at ten o'clock for a brief  
15 period of time to resolve the question or questions  
16 about the objections to any of these documentary  
17 exhibits. That will give us the balance of the day to  
18 work out our own problems, and to perhaps then have an  
19 opportunity tomorrow so that before we start the live  
20 testimony on Wednesday morning, we'll know which  
21 documents are in evidence as well. Gratuitously, you  
22 will probably need a break anyway from the reading.

23 THE COURT: I was thinking of that.  
24 Do you have any problem with that,

1 Mr. Prickett? I gather what he's saying is it might be  
2 a good idea to meet tomorrow morning at ten o'clock to  
3 see what, if anything, else can be straightened out, or  
4 if any other problems have arisen over the course of  
5 today.

6 MR. PRICKETT: Well, I think it would be  
7 a good idea to meet tomorrow morning.

8 THE COURT: If we don't have to do any-  
9 thing, it won't take long.

10 MR. PRICKETT: We may want to see --  
11 Your Honor has taken on a monstrous reading assignment.

12 THE COURT: I see that now.

13 MR. PRICKETT: That has been added to  
14 now by the four principal depositions, and there will be  
15 a real question in my mind as to whether the Court will  
16 have been able to complete the reading of the  
17 depositions by Wednesday morning. And as your Honor  
18 knows, we had originally contemplated reading the  
19 depositions in, but it was as an aid -- it was agreed  
20 that instead of that, the Court would read them. But  
21 it is fundamental to the plaintiff's case that these  
22 depositions on liability be read, and there has already  
23 been one suggestion that one day be allowed for this.  
24 Well, we have now doubled, in effect, what the Court has

1 undertaken to read. So tomorrow morning we may need a  
2 reading as to where the Court is in this because if the  
3 Court is not finished, we would want to enlarge the time  
4 for the Court to do this just as you would do if we  
5 hadn't gotten through the testimony.

6 THE COURT: Well, we're in agreement we  
7 can meet at ten o'clock tomorrow morning.

8 MR. HALKETT: All right. I gather from  
9 what Mr. Prickett has previously said, that going back  
10 to our procedure for the designation of the depositions  
11 and portions of depositions, the defendant's counter  
12 designations in which we added certain pages and line  
13 references -- and I believe the Court has a copy of  
14 that counter designation -- that Mr. Prickett has no  
15 objection to any of those counter designations, and  
16 therefore, what we now understand is before the Court  
17 in the deposition testimony are Mr. Prickett's designations  
18 plus our counter designations subject to any objections  
19 that we may have that have not been yet ruled upon, and  
20 I think there is only one, and that is as to a portion  
21 of Mr. Crawford's deposition, and on that subject I turn  
22 that over to Mr. Sparks.

23 THE COURT: I was going to ask about that.  
24 It seemed to me that if that's the case, that if

1 Mr. Prickett had no objections to what your counter  
2 designations were, then I only had actually one  
3 objection made to any portion of the deposition being  
4 offered.

5 MR. HALKETT: That's correct.

6 MR. PRICKETT: That's right, your Honor.

7 THE COURT: Very good. That helps.

8 Thank you. I'm pleasantly surprised.

9 MR. SPARKS: I'm prepared to go forward  
10 with respect to that matter at this time, if that is  
11 the Court's pleasure.

12 THE COURT: Well, I'm not sure it would  
13 be helpful to do so at this time, Mr. Sparks, since I  
14 haven't the faintest idea what is in the deposition or  
15 what's been objected to.

16 MR. SPARKS: Well, there is an  
17 alternative approach, and that would be that if your  
18 Honor in reading the various depositions -- I know you  
19 don't even have Mr. Prickett's designated copy of the  
20 Crawford deposition yet. If your Honor preferred, and  
21 could adjust your voluminous reading such that the  
22 Crawford deposition would be one that would be read, I  
23 guess, after the arguments tomorrow, perhaps that would  
24 be the way to handle it.

1 THE COURT: I think probably that's  
2 what I'll have to do, Mr. Sparks. Either if we can't  
3 come to it by the time we meet tomorrow, then if there  
4 is only one, maybe we have to take that up the first  
5 thing Wednesday morning, and I'll give you what my views  
6 on it are, or make a ruling on it before we start.

7 MR. SPARKS: Would you like me to go  
8 ahead and make the argument, and point out the problem  
9 to the Court in the event you get to that point?

10 THE COURT: Well, your objection had to  
11 do with relevance, I think.

12 MR. SPARKS: It does have to do with  
13 relevance, and I think if it's fairly simply stated,  
14 maybe it would be helpful to the Court if I just go ahead  
15 and make the argument.

16 THE COURT: Yes. Just state it simply.  
17 Well, let me ask you to do this:

18 Give me the general outline of the  
19 problem and your objection without going into detail.  
20 I'll try and pick that up when I read it.

21 MR. SPARKS: Both of the line and page  
22 designations in the Crawford deposition to which we have  
23 objected relate to questions directed by Mr. Prickett  
24 to Mr. Crawford at his first session of his deposition



1 relating to the subject of UOP's stock option plans and  
2 the provision made in the merger between UOP and  
3 Sigco to satisfy UOP's contractual obligation with  
4 respect to the option holders. And just to orient the  
5 Court, what happened is that the difference between the  
6 \$21 merger price and the exercised price of the options  
7 was paid to all those people who had options.

8 Now, we have objected to these  
9 particular designations by Mr. Prickett on relevance  
10 grounds since neither the option plans nor UOP's  
11 satisfaction of its obligation under those plans as we  
12 understand this case are at issue, and really beyond  
13 that we just don't see what that has to do with the  
14 case.

15 Perhaps if Mr. Prickett has something  
16 to say we can respond further, but as we read the  
17 complaint, it's just not part of the case. That's the  
18 basis for our objection.

19 THE COURT: All right. Thank you.

20 Mr. Prickett, what is your pleasure?  
21 You certainly are not compelled to respond now.

22 MR. PRICKETT: Your Honor invites me as  
23 to what my pleasure is, and it's certainly not here.  
24 But seriously, your Honor, we do not think that by any

1 stretch of the imagination a major portion of our case  
2 on liability concerns itself with the handling of the  
3 stock options by Mr. Crawford. The relevance of the  
4 stock option situation is as follows:

5 Mr. Crawford, the president of UOP, when  
6 he was first presented with Signal's proposal, and at  
7 the meeting of the board of directors, addresses himself  
8 not to the rights of stockholders, but how he's going  
9 to handle the options of the UOP employees. What he  
10 says is what we're going to do is to make sure that  
11 those people are satisfied, and that's actually what  
12 happened.

13 They had some options. They were  
14 exercisable at a price on condition that they stay there  
15 because the idea was to get them to work for a long time  
16 for UOP because they were very beneficial. Signal is  
17 going to buy them out, so they accelerate all these  
18 options at a cost of \$2,000,000 to the stockholders.

19 Now, the relevance of this is who was  
20 Crawford really concerned with in this situation? Was  
21 it the people who are going to be employees of Signal,  
22 or his stockholders? What were his priorities here?  
23 And it's perfectly clear that in the option situation  
24 he created a very favorable thing for the employees, and

1 they said so. They were very, very grateful because  
2 they had gotten a plum that had fallen off the tree.  
3 At the same time he's busy arranging a merger that is  
4 grossly unfair to the stockholders, and that's the  
5 relevance of the matter.

6 Now, that's why it's included in there.  
7 It's not a major element of the case, but it shows what  
8 Crawford's priorities and loyalties were in this  
9 situation.

10 THE COURT: I certainly understand why  
11 you think it's relevant then based on that.

12 MR. SPARKS: Your Honor, first I take  
13 issue with the characterization of what happened. These  
14 were not options that were accelerated. It was just a  
15 matter of having to do something to take care of the  
16 option situation since the stock of UOP was obviously  
17 not publicly available for use to the option holders.  
18 But I think that what Mr. Prickett has said points up  
19 the fact that this really just has nothing to do with  
20 this case.

21 The matter with respect to the options  
22 was fully disclosed in the proxy materials, and it just  
23 cannot be the basis for any nondisclosure claim that  
24 Mr. Prickett has. And under those circumstances, given

1 the nature of his amended complaint, which of course he  
2 had a chance -- did amend after the discovery was  
3 completed which we're referring to right here -- If he  
4 had had some claim with respect to some form of fraud  
5 with respect to this option plan, he's had ample  
6 opportunity to make it. We are at this late stage in  
7 the case, and whether he characterizes it as a big part  
8 of his case or a little part of his case or a peripheral  
9 part of his case we think, based on the complaint as it  
10 now exists, it's no part of his case. Certainly under  
11 any standard where fraud would have to be pleaded with  
12 some sort of particularity, it's just not in there.  
13 It's not something that we ought to be required to meet  
14 at this late day.

end tk. 3

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1 MR. PRICKETT: Your Honor, let me just  
2 say, I think Mr. Sparks didn't hear me. I didn't say I  
3 am making a claim on this. I don't need to amend my  
4 complaint, and his objection is not that I failed to  
5 state a claim or something like that. What we are  
6 talking about is evidence relevancy. And I have tried  
7 to indicate to Mr. Sparks its relevancy in terms of  
8 what Crawford, the head executive of UOP, felt his  
9 obligations were and his priorities.

10 I am not making a claim that we ought to  
11 get those payments back. And that is all the relevancy.  
12 And I do say that it is not by any means a major  
13 element in this case, but it is there, and it is  
14 relevant to that point, and that is what it is there  
15 for.

16 THE COURT: All right. Thank you very  
17 much.

18 MR. PRICKETT: Thank you, Your Honor.

19 THE COURT: Maybe that will be sufficient  
20 to make a ruling without having to ask you to reargue  
21 at some time when we again convene.

22 All right, gentlemen. Is there anything  
23 else we need to do this morning before I have to go to  
24 work?

1       come to light on that within the next day or two.

2               All right, gentlemen. Mr. Prickett, what  
3       is mine, now? These four volumes here belong to the  
4       Register. The other three of the depositions are mine?

5               MR. PRICKETT: Belong to you. And these  
6       four volumes of the offered exhibits which duplicate the  
7       Register's are the Court's.

8               THE COURT: Fair enough. I just didn't  
9       want to walk out with the wrong ones. As a matter of  
10      fact, I am not sure I am going to walk out with them.  
11      I may have to designate a deposition and exhibit bearer  
12      for the purpose of the trial. But I am not sure it is  
13      quite as bad as it looks, although it is rather imposing.

14              MR. PRICKETT: Oh, it is very good, Your  
15      Honor.

16              THE COURT: I hope to find it so, if I  
17      have got to read it.

18              All right, gentlemen. I gather if you  
19      have no further pending applications, we will recess the  
20      matter until ten o'clock tomorrow morning, at which time  
21      we will reconvene for the purpose of trying to resolve  
22      any problems that may have come up overnight. And I  
23      understand that today you will be attempting to see how  
24      many of the thirty-five objections that are listed here

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1 to the exhibits can be resolved on the theory that they  
2 are just designations of dates or mechanical things,  
3 and at least tomorrow morning you can advise me of that.  
4 If we have anything else to take up, we will try to do  
5 it then.

6 Thank you very much for the preparation  
7 you have obviously gone into in getting the matter into  
8 this posture. It is certainly going to be of  
9 considerable assistance to the Court doing it this way  
10 rather than trying to go through offering these  
11 documents on a piece-by-piece basis.

12 All right. I guess we stand in recess,  
13 then, until ten o'clock tomorrow morning. Thank you.

14 (Court adjourned at 10:40 a.m.)

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