

1 prerogative as the home state senators from New York.

2 THE COURT: You've been heard on the issue.

3 The record is made. I won't hear any further discussion  
4 of that. That information will be redacted from that  
5 exhibit. Very well, ready for the jury?

6 MR. MENDELSON: Your Honor, we'll make that  
7 redaction before the exhibit is submitted to the jury.

8 THE COURT: Very well.

9 (Thereupon, the jury returned to the courtroom  
10 at 2:20 P.M.)

11 THE COURT: Very well. Ms. Sassower, do you  
12 have another witness?

13 MS. SASSOWER: I do indeed. I call Leecia Eve,  
14 counsel for home state, New York home state senator,  
15 Hillary Rodham Clinton.

16 THE COURT: Very well. Please step up.

17 THE CLERK: Please raise your right hand.

18 Remain standing.

19 THE WITNESS: Oh, sorry.

20 Thereupon,

21 LEECIA EVE,

22 having been called as a witness for and on behalf of the  
23 defendant, and after having been first duly sworn by the  
24 deputy clerk, was examined and testified as follows:

25 THE COURT: Please be seated. Ms. Sassower.

1 DIRECT EXAMINATION

2 BY MS. SASSOWER:

3 Q Ms. Eve, you are here pursuant to my subpoena.  
4 I show you Defendant's Exhibit number 5 marked for  
5 identification. May I approach the witness?

6 THE COURT: Well, before we do that, we need  
7 the witness to identify herself for the record.

8 MS. SASSOWER: I'm sorry.

9 THE COURT: Spell her name and so forth.

10 BY MS. SASSOWER:

11 Q Would you identify your name?

12 A My name is Leecia L-e-e-c-i-a. My middle name  
13 is Roberta, the last name is Eve E-v-e.

14 Q And you are here because you are counsel to New  
15 York home state Senator Hillary Rodham Clinton, is that  
16 correct?

17 A Yes.

18 Q I show you Defendant's Exhibit 35 for  
19 identification, is this -- does this reflect the  
20 subpoena that you received to be here today to give  
21 testimony under oath?

22 A Well, I didn't receive service of the  
23 subpoena, the Senate legal counsel did. So this is the  
24 first time I've seen this particular document.

25 Q Were you advised that it requests not only your

1 personal appearance but documents that you now possessed  
2 relative to this matter?

3 A Yes, I was so advised.

4 Q Have you brought with you today any documents?

5 A No, I have not.

6 Q What documents did you review to refresh your  
7 recollection for your testimony here today?

8 A Let's see. I reviewed e-mails that I believe  
9 were produced, as well as the legal submission made by  
10 the prosecutor with respect to preliminary evidentiary  
11 matters. And I reviewed the judge's order last week.

12 And I also reviewed the, one of the documents  
13 that was produced by the Capitol police.

14 Q Okay. Might -- the documents from Capitol  
15 police that you reviewed, was that the subject profile  
16 of me prepared by special agent Lippay?

17 A I, I reviewed just one document and I believe  
18 it was that, that document.

19 Q Okay. I show you Exhibit 2 marked into  
20 evidence. Is this what you reviewed in preparation for  
21 your testimony here today?

22 A The document I reviewed wasn't, didn't have the  
23 pages that are colored here, in color. They were black  
24 and white. But it appears to be otherwise the same  
25 document.

1 Q Thank you. Do you keep -- how long have you  
2 been counsel for Senator Clinton?

3 A A little bit more than three years.

4 Q So from the inception of her tenure as New York  
5 State junior senator?

6 A No. She was sworn in as a senator in January  
7 of 2001. I became counsel to Senator Clinton the end of  
8 March of 2001.

9 Q What is your background please?

10 A My educational background?

11 Q Yes.

12 A I'm a graduate of the Buffalo public schools,  
13 Smith College, Harvard Law School, the John F. Kennedy  
14 School of Government at Harvard.

15 Q Harvard Law School, what year?

16 A I graduated from Harvard Law School and from  
17 the John F. Kennedy School of Government at Harvard in  
18 1990. I received degree, a received a degree from both  
19 institutions.

20 Q In 1990, both?

21 A Correct.

22 Q This was a joint degree?

23 A Correct.

24 Q And between 1990 and March 2001, what was your  
25 employment?

1           A     After I graduated from law school and the  
2 Kennedy school, I clerked for a little bit, less than  
3 two years for then Associate Justice, judge in the New  
4 York State Court of Appeals, the Honorable Fritz W.  
5 Alexander II. After --

6           Q     In the New York Court of Appeals?

7           A     Yes.

8           Q     New York's highest court.

9           A     That's correct, New York State's highest court.

10          Q     New York State's highest court.

11          A     Would you like me to continue?

12                THE COURT: Is there a question?

13                MS. SASSOWER: Yes, I'm sorry.

14                THE WITNESS: After I finished clerking for  
15 Judge Alexander, I worked for just a couple of months  
16 for an organization called New York '92 which was the  
17 host committee for the Democratic National Convention,  
18 which was held in New York City in July of 1992.

19                From the fall of '92 through the summer of '95,  
20 I was an associate at the law firm of Covington and  
21 Burling here in Washington. Sorry.

22                From the fall of '92 through the summer of '95,  
23 I was an associate at the law firm of Covington and  
24 Burling. After I left Covington, I became one of, of a  
25 number of counsels to Joseph, Senator Joseph Biden of

1 Delaware.

2 THE COURT: Ms. Sassower.

3 MS. SASSOWER: Yes. I'm sorry.

4 BY MS. SASSOWER:

5 Q What was the year?

6 A I began working for Senator Biden in August of  
7 '95 and worked for him in his capacity as ranking member  
8 on the United States Committee, Senate Committee on the  
9 Judiciary. I worked for --

10 Q Of which he had been chairman previously.

11 A Yes, at one point in time he had been chairman,  
12 correct. I did not work for him when he served as  
13 chairman, but he had at one point in time been chairman.

14 After I left Senator Biden in late '96, I  
15 returned to my hometown of Buffalo, New York, joined the  
16 law firm of Hudson Ross Andrews Woods and Goodier as an  
17 associate. And in --

18 Q What year was that?

19 A November of 19 -- it was 1996.

20 Q November '96?

21 A Dece, De, December '96. I --

22 Q December '96?

23 A Correct.

24 Q To --

25 A And --

1 Q I'm sorry, to when, to --

2 THE COURT: Excuse me, to both of you. It's  
3 very difficult for the court reporter to transcribe  
4 based on speed and overlap. So please allow the other  
5 to complete whatever it is they're saying before  
6 continuing it. Slow down.

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: All right, thank you.

9 BY MS. SASSOWER:

10 Q You commenced your employment with the Buffalo  
11 law firm as an associate in December 1996. How long  
12 were you employed there?

13 A I was employed there as an associate until  
14 January of 2000. And in January 2000 technically became  
15 an employer when I was elevated to the position of  
16 partner.

17 And I served as partner actually in 9, from '99  
18 until March of 2001 when I left the firm to return to  
19 Washington to become Senator Clinton's counsel.

20 Q Okay. What are your responsibilities as  
21 Senator Clinton's counsel?

22 A As a general matter, my responsibilities fall  
23 in two basic areas: legislative and non-legislative.

24 With respect to the legislative area. I advised  
25 the Senator on a wide variety of issues including but

1 not limited to any issues that would come before the  
2 Senate Judiciary Committee.

3 She does not serve on that committee, but any  
4 issues that would come for the committee.

5 That includes everything from judicial  
6 nominations to civil rights, to antitrust, intellectual  
7 property, federal committee laws.

8 I also advise her, in addition to those issues,  
9 I'm the head of her homeland security team. So I spend  
10 a lot of time on homeland security matters, Native  
11 American affairs. I am also --

12 Q Ms. Eve, --

13 A Yes.

14 Q Excuse me. We are most interested in federal  
15 judicial nominations.

16 THE COURT: Oh, oh, excuse me, excuse me. The  
17 call of your question was for her duties, she was  
18 delineating those. Please don't disturb her again.

19 MS. SASSOWER: I wanted to --

20 THE COURT: Excuse me. Ms. Eve, you'd gotten  
21 to, as I was struggling to write, homeland security and  
22 --

23 THE WITNESS: Native American affairs --

24 THE COURT: Right.

25 THE WITNESS: -- and various other issues. But



1 those are the primary legislative ones. And then in  
2 terms of non-legislative issues, I basically serve as an  
3 adviser to the office and the senator on campaign  
4 finance and ethics issues.

5 Q Before I focus in on your, how you assist on  
6 federal judicial nominations, I'd like to just clarify  
7 that --

8 THE COURT: Please ask a question.

9 BY MS. SASSOWER:

10 Q In the years that you were in private practice,  
11 were you engaged in litigation?

12 A Yes, I was a litigator when I was in private  
13 practice.

14 Q How do you assist Senator Clinton on federal  
15 judicial nominations? What do you do as a, as a matter  
16 of practice and procedure? How do you advise her?

17 A Well, as a general matter, without waiving  
18 privilege issues -- as a general matter, I review  
19 documents, prepare memoranda for her with respect to  
20 particular nominee's background and qualifications.

21 Q Uh-huh. When did you first become aware of  
22 either me, Elena Sassower, and/or the Center for  
23 Judicial Accountability?

24 A I don't remember specifically when. As a  
25 general matter, I believe it was sometime in May of last

1 year, May of 2003, and I believe I became aware of you  
2 and the center at the same time.

3 Q Prior thereto, you had no knowledge of either  
4 myself or the Center?

5 A No.

6 Q No, no, you had no knowledge of the voluminous  
7 communications with Senator Clinton regarding what goes  
8 on with the federal judicial nominations at the Senate  
9 Judiciary Committee?

10 THE COURT: Well, sustained. I mean there are  
11 two separate questions there. You can ask them  
12 separately and she can respond.

13 MS. SASSOWER: I'll come back to that.

14 BY MS. SASSOWER:

15 Q In connection with the nominations of New York  
16 Court of Appeals Judge Richard Wesley to the Second  
17 Circuit Court of Appeals, when did you become aware that  
18 I, as coordinator of the Center for Judicial  
19 Accountability, had approached Senator Clinton's office  
20 with opposition?

21 A I don't remember specifically when. It was  
22 probably around the same time that I became aware of you  
23 and the Center. Those events were probably  
24 simultaneous.

25 Q I show you Defendant's Exhibit 12 marked for

1 identification. When did you first see that letter?

2 A I haven't reviewed it yet. Would you like me  
3 to --

4 Q Please.

5 A I don't remember seeing this specific letter.  
6 I know, as a general matter, that you sent some  
7 materials to our office.

8 And eventually at least some of those materials  
9 made their way to me, and I have a general recollection  
10 of seeing some of them. But I don't remember particular  
11 documents.

12 Q This letter annexes a fax receipt, is that the  
13 fax number for the Washington, D.C. office of Senator  
14 Clinton?

15 A That appears to be one of the fax numbers, yes.

16 Q And the letter itself is addressed Senator  
17 Clinton, is it not?

18 A Yes, it is.

19 Q And it, and it identifies opposition --

20 THE COURT: Sustained.

21 BY MS. SASSOWER:

22 Q Is it your testimony that on or about April  
23 23rd, 2003 when this document, this letter was faxed to  
24 Senator Clinton's office, you did not receive it on or  
25 about that day?

1 A No, that wasn't my testimony. My testimony is I, I  
2 can't really attest specifically to any particular  
3 document.

4 What I do remember, as a general matter, the  
5 relatively lengthy conversation I had with you regarding  
6 the Wesley nomination.

7 I will not be able to testify with any specifi,  
8 you know, any great specifi, speci, with any great, with  
9 --

10 I will not be able to testify specifically with  
11 respect to any particular document that you may have  
12 sent to our office.

13 Q Well, prior to that telephone conversation, did  
14 I leave phone messages for you on a number of occasions  
15 asking whether you had received a package of materials  
16 hand-delivered to the New York City office?

17 A I don't recall whether you had left me a number  
18 of messages or messages on a number of occasions with  
19 that specific message. I do have a regular recollection  
20 of having a voice mail message from you.

21 And I do remember having a message from you or  
22 either a communication, the lengthy conver, conversation  
23 we had about documents that you had given our office.

24 Q For clarification, we only spoke once, is that  
25 correct?

1           A     I believe that's the case.

2           Q     I show you Defendant's Exhibit 37 for  
3 identification. Have you ever seen near identical  
4 presentation of documents?

5           MS. LIU: Your Honor, may we approach?

6           THE COURT: You may. Just a minute, before you  
7 review that.

8                     (Bench Conference)

9           MS. LIU: Your Honor, from what I can tell, the  
10 same thing is happening with this witness that happened  
11 with Mr. Albert.

12           THE COURT: I mean basically we're having this  
13 witness lay through documents, she's previously  
14 testified that she can't testify with any specificity as  
15 to any document. Why are we going to waste time with  
16 her reviewing the stack of materials?

17           MS. SASSOWER: I'm not asking her to review it  
18 now. I'm asking whether she received it at some point  
19 prior to the hour-long conference.

20           THE COURT: And how else, how else could she be  
21 answering the question except to go through the specific  
22 documents?

23                     I mean this to me is an exercise in absolute  
24 futility. Let's get to the heart of her involvement in  
25 this case. Mr. Mendelsohn.

1 MR. MENDELSON: We have absolutely no  
2 objection to the defendant asking the witness about what  
3 their phone conversation was about.

4 THE COURT: Absolutely.

5 MS. SASSOWER: Fine.

6 THE COURT: But their phone conversation was,  
7 what did she do in response to.

8 MS. SASSOWER: That's fine.

9 (Open Court)

10 BY MS. SASSOWER:

11 Q Do you remember the date of our single phone  
12 conversation together?

13 A I don't remember the precise date. But I  
14 remember it was anywhere from a day or two or three days  
15 before Judge Wesley's nomination hearing. Sometime in  
16 late May.

17 Q Would the date of May 20th, two days before the  
18 May 22nd hearing, seem right to you?

19 A We could have had the conversation that day.

20 Q Do you keep a diary, a log of calls you make,  
21 calls you receive, meetings, conferences that you have?

22 A I do keep notes of some calls and some meetings  
23 but not all.

24 Q Do you have any notes that you took with regard  
25 to the May 20th phone conference that we had together?

1 A I don't believe I do, no.

2 Q Did you tape the May 20th phone conference?

3 A No.

4 Q And prior to the May 20th phone conference, had  
5 you reviewed any of the documents in that package that  
6 had been hand delivered to the New York office?

7 A Again, as I testified before, I know that you  
8 sent some documents to our office. I know some of those  
9 documents made their way to my desk.

10 I have a general recollection of looking  
11 briefly at some of them, but I'm not gonna remember one  
12 document versus another.

13 Q So that we're clear here, prior to the May 20th  
14 conference, are you representing that you reviewed any  
15 of the documents that --

16 A I, I just can't say one way or the other. I  
17 know before we spoke on the phone -- we'll assume that  
18 it was May 20th.

19 I know before we spoke on the phone, I, at a  
20 minimum, perused some material that you sent to Senator  
21 Clinton's office.

22 I don't remember the specifics of the document.  
23 I can't tell you if it was Exhibit 37 or part of Exhibit  
24 37 or Exhibit 12 or some other documents.

25 Q Well, the cover letter identifies --

1 A The cover letter of which exhibit?  
2 Q Of -- I'm sorry.  
3 A Thirty-seven?  
4 Q Of the package.  
5 A Okay.  
6 Q Had you read that cover letter prior to our May  
7 20th conference?  
8 THE COURT: Sustained. The testimony was  
9 clear. She has no recollection of specific documents  
10 that were reviewed.  
11 MS. SASSOWER: Does Senator Clinton, does  
12 Senator Schumer have some special responsibility and  
13 prerogative regarding federal nominations for New York  
14 in Second Circuit?  
15 THE COURT: Sustained.  
16 MS. SASSOWER: Do you know why -- did I express  
17 in written form why I was presenting evidence to the  
18 office of Senator Clinton for review regarding the  
19 fitness of Judge Wesley?  
20 THE COURT: Sustained, sustained.  
21 MS. SASSOWER: Okay. Is it your view that  
22 Senator Clinton -- oh, excuse me. Did Senator Clinton  
23 ever review the March --  
24 MS. LIU: Objection, Your Honor.  
25 MS. SASSOWER: -- 26th statement setting forth



1 the documentary evidence of Judge Wesley's unfitness.

2 THE COURT: Sustained.

3 MS. SASSOWER: Are you --

4 THE COURT: Do you have any questions --

5 MS. SASSOWER: Yes.

6 THE COURT: -- about the single telephone  
7 conference?

8 BY MS. SASSOWER:

9 Q Before our telephone conference on May 20th, we  
10 had been tentatively scheduled to meet in person, is  
11 that correct?

12 A I believe that's the case based upon e-mail  
13 that Josh Albert sent to me.

14 Q And the date for that tentative meeting was May  
15 5th at 1 p.m. in the afternoon, is that correct?

16 A I don't remember the specific date, but that  
17 sounds like that might have been the date of the  
18 meeting, the planned, planned meeting.

19 Q And you were advised that on that same date, I  
20 was going to be delivering the underlying case file  
21 evidence to the Senate Judiciary Committee relative to  
22 the unfitness of Judge Wesley, is that correct?

23 A I'm not sure. I'm not, I became generally  
24 aware that you provided I believe a number of boxes of  
25 documents to the Senate Judiciary Committee. On what

1 date I was made aware of that, I don't remember  
2 specifically.

3 Q Okay. And just, Defendant's Exhibit 38, I show  
4 you --

5 THE COURT: Inasmuch as the testimony has been  
6 that she cannot testify with specificity as to any  
7 document, why are we proceeding with Exhibit 38?  
8 Questions concerning --

9 MS. SASSOWER: I --

10 THE COURT: -- the telephone conference please.

11 BY MS. SASSOWER:

12 Q Were you aware that I did arrive on May 5th at  
13 Senator Clinton's office, albeit delayed and no one was  
14 available to meet with me?

15 A Actually, I don't have a recollection of that  
16 so I don't recall either way.

17 Q Are you aware of any documents that I  
18 physically left in that office on May 5th?

19 A I can't attest to that because I just really  
20 don't know. All I know again generally is that you gave  
21 documents to our office. I'm not aware of the specific  
22 documents or the specific dates.

23 Q Did you ever go down to the Senate Judiciary  
24 Committee, with your own eyes see the boxes that I hand  
25 delivered to the Senate Judiciary Committee?

1           A     No, I did not go down there with my own eyes,  
2 so to speak, review those documents. I do have a  
3 general recollection of asking a legal intern with me at  
4 the time to actually go and look at the documents to see  
5 if there was anything that stood out in her mind that,  
6 you know, she should bring to my attention.

7           Q     What did she say?

8           A     Again, I don't remember the specifics, but my  
9 general recollection is there was nothing that stood  
10 out.

11          Q     What did she describe?

12          A     I don't remember the specifics of the  
13 conversation. I basically asked her to check to see if  
14 there was anything that was significant that should be  
15 brought to my attention.

16                 And, and I don't remember the specifics of the  
17 conversation, but I have a general recollection that she  
18 didn't see anything specific that was significant to  
19 bring to my attention.

20          Q     Did you have any communications with staff of  
21 the Senate Judiciary Committee as to their review of  
22 the, --

23                 THE COURT: Sustained.

24                 MS. SASSOWER: -- of the March 26th  
25 statement --

1 THE COURT: Sustained.

2 MS. SASSOWER: -- and the underlying documents?

3 THE COURT: New question. Telephone  
4 conversation, --

5 MS. SASSOWER: Yes.

6 THE COURT: -- Ms. Sassower.

7 BY MS. SASSOWER:

8 Q What did I say during our phone conversation,  
9 what did you say during our phone conversation of May  
10 20th?

11 A Since it was almost a year ago, I don't  
12 remember the specifics of what you said or the specifics  
13 frankly of what I said. But I do remember the gist of  
14 our conversation.

15 It was, my general recollection it was mostly  
16 Mr. Albert and myself listening to the concerns you had  
17 about Judge Wesley as the nominee to the Second Circuit.

18 The specific comments you made I don't  
19 remember. But I remember you expressing concerns about  
20 him and his, in your view, unfitness for the bench.

21 And I don't remember the specific words you  
22 used, but I do have a recollection of you asking, or  
23 wanting or indicating your desire to testify at his  
24 nomination hearing.

25 I also have a general recollection of you

1 asking Mr. Albert and me when you could. And I believe  
2 I said to you that se, neither Senator Clinton nor her  
3 staff makes deci, makes decisions about who testifies at  
4 Judiciary Committee hearings given that she doesn't  
5 serve on the committee.

6 And I guess the final substantive, the gist,  
7 the final substantive part of the conversation is I  
8 believe you had communicated a request to have Senator  
9 Clinton not support Judge Wesley and that might have  
10 been either withdrawing a blue slip or not testifying.  
11 But you basically wanted her not to support his  
12 candidacy.

13 And I believe that I communicated to you that  
14 there is nothing that I had gleaned that would raise  
15 issues about his nomination and that I did not expect  
16 Senator Clinton to withdraw her blue slip and that she  
17 would in fact testify in support of his nomination at  
18 the hearing.

19 Q When, when you said --

20 THE COURT: Sustained. Approach the bench  
21 please.

22 (Bench Conference)

23 THE COURT: Don't ever do what I'm thinking you  
24 are about to do. There are matters that are already  
25 ruled upon.

1           And if your inquiry was about to be, to explain  
2 what was meant by language that I have already ordered  
3 was not to be used in this case, I'm directing you right  
4 now, if I hear from you those two words that this  
5 witness will have no way of knowing my order and  
6 exclusion of, then I'm going to take that as a direct  
7 violation of my court order. Proceed with your  
8 examination, leave that issue alone.

9           MS. SASSOWER: The record will reflect what is  
10 taking place in this trial.

11           (Open Court)

12           MS. SASSOWER: When you say that I expressed my  
13 view as to the unfitness of Judge Wesley, was my view  
14 based upon --

15           THE COURT: Sustained.

16           MS. SASSOWER: Did I -- have you read the March  
17 26th statement that I had prepared, outlining the  
18 evidence of Judge Wesley's unfitness for the bench when  
19 we had that phone conversation on May 20th? Had you  
20 read it prior thereto?

21           MS. LIU: Objection.

22           THE COURT: Sustained.

23           MS. SASSOWER: Isn't it correct that you had  
24 not read that summary overview presentation of the  
25 evidence against Judge Wesley?

1 THE COURT: Sustained.

2 BY MS. SASSOWER:

3 Q Isn't it correct that you acknowledged to me  
4 that you had not reviewed any of the underlying  
5 documentary evidence?

6 A I don't remember.

7 Q Don't you believe on such serious and  
8 substantial matter?

9 THE COURT: Sustained.

10 MS. SASSOWER: Did I express the view that it  
11 was your obligation to review the March 23, the March  
12 26th statement and specifically referred to  
13 substantiating documentary proof?

14 THE COURT: Sustained. Ms. Eve, following the  
15 telephone conversation that occurred on or about May  
16 20th, 2003, what action, if any, did you take based upon  
17 that conversation and why did you take such action?

18 THE WITNESS: After the telephone conversation  
19 that Mr. Albert and I had with Ms. Sassower was  
20 completed, I walked down the hallway, my office is just  
21 a few offices away from Senator Clinton's.

22 And I walked down the hallway to speak to one  
23 of the Secret Service agents that protects the senator.

24 And --

25 THE COURT: Slowly.

1 THE WITNESS: And wanted to, and in fact, and I  
2 don't remember the specifics of what I said. But the  
3 gist of what I recall saying to the agent was that there  
4 was a constituent, because Ms. Sassower is from New York  
5 or at least live, lived in New York at the time.

6 There was a constituent who had concerns about  
7 a judicial nominee, that Mr. Albert and I had had a  
8 lengthy conversation with her. That she had a number of  
9 request or concerns that I thought in her view we hadn't  
10 met or satisfied.

11 And that she became, in my view at least,  
12 quite upset during the telephone conversation. I also  
13 believe I mentioned to the agent that she indicated a  
14 strong desire to testify at the trial, even though I  
15 believe someone at the Judiciary Committee told her that  
16 she couldn't.

17 And I basically told the agent listen, I want  
18 to let you know that there is a New York constituent who  
19 I think is upset, that she may be at this hearing.

20 She may try to approach the senator and I do  
21 not believe that she will seek or cause any physical  
22 harm to the senator. But because I perceived her as  
23 being quite upset, I was concerned for her safety  
24 because Ms. Sassower's safety --

25 I basically told the agent I don't want you, if



1 she approaches the senator and she's upset, I don't want  
2 you to misinterpret her conduct and to think that she  
3 might actually try and physically hurt the senator.

4 So basically, I was giving the Secret Service,  
5 Service agent the heads up, so to speak, that Ms.  
6 Sassower might try to approach the Senator.

7 But I also want to make clear to him that I did  
8 not think that she would cause the senator physical  
9 harm.

10 But it was really more for Ms. Sassower's  
11 protection I wanted the agent to know that, so that they  
12 wouldn't misinterpret any approach she might make to the  
13 senator.

14 And as to why I did that, one hundred percent,  
15 my sole motivation for speaking to the agent was out of  
16 concern for Ms. Sassower, based upon the conversation I  
17 had just had with her.

18 THE COURT: Very well. Did you have the  
19 opportunity to have any contact with the Capitol police  
20 following your telephone conversation with Ms. Sassower?

21 THE WITNESS: Yes.

22 MS. SASSOWER: May I question, --

23 THE COURT: What was --

24 MS. SASSOWER: -- Your Honor?

25 THE COURT: And what was the nature of the

1 telephone conversation with the Capitol police?

2 THE WITNESS: The nature of the telephone  
3 conversation with the Capitol police, again I don't  
4 recall the specifics. So it was basically the same.

5 I believe the Capitol police officer had called  
6 and I relayed the basic same facts to the police  
7 officer, explaining that I thought she was quite upset,  
8 might try, committee hearing might try to approach the  
9 senator.

10 Because the Senator sometimes has not only  
11 Secret Service agents with her but Capitol police with  
12 her as well.

13 And again, I just wanted them to know I did not  
14 think that Ms. Sassower would seek to cause the senator  
15 any physical harm.

16 But again, out of concern for Ms. Sassower, I  
17 wanted them to know that she might try to approach her  
18 and just to give them again a heads up, so to speak, so  
19 they wouldn't necessarily misinterpret contact that she,  
20 or actions that she may make towards the senator.

21 MS. SASSOWER: May I --

22 THE COURT: Very well, thank you.

23 MS. SASSOWER: -- continue the questioning?

24 BY MS. SASSOWER:

25 Q Let's turn to the -- did I inform you during

1 our telephone conversation that I was not only  
2 concerned, just, that you and Mr. Albert had not read  
3 the March 26th overview statement or reviewed the  
4 underlying substantiating evidence but that there had  
5 been no investigation from the Senate Judiciary  
6 Committee? Did I express my concern --

7 THE COURT: Sustained.

8 MS. SASSOWER: -- on that score?

9 THE COURT: Sustained, irrelevant. Next  
10 question please.

11 BY MS. SASSOWER:

12 Q Did I ask how a hearing could <sup>properly</sup> ~~probably~~ be held  
13 on this confirmation when there was no investigation of  
14 the evidence?

15 THE COURT: Sustained. Please move forward.

16 MS. SASSOWER: Is it not correct that I asked  
17 you to bring the March 26th statement to the personal  
18 attention of Senator Clinton so that she could make a  
19 determination as to its seriousness?

20 THE COURT: Sustained.

21 MS. SASSOWER: On what ground?

22 THE COURT: Approach.

23 (Bench Conference)

24 MS. SASSOWER: What's the ground?

25 THE COURT: The ground is as follows: Once a

1 witness testified as to nonspecific recollection, I am  
2 not going to consume time --

3 MS. SASSOWER: Okay.

4 THE COURT: -- allowing you to present point-  
5 by-point --

6 MS. SASSOWER: Okay.

7 THE COURT: -- to which the witness has already  
8 testified several times there is no specific  
9 recollection. She had a general recollection, she  
10 testified to it. Now if you want to follow up --

11 MS. SASSOWER: Yes.

12 THE COURT: -- with the events that followed  
13 the conversation, then let's do that.

14 MS. SASSOWER: Thank you.

15 THE COURT: Otherwise cross-examination.

16 MS. SASSOWER: Thank you.

17 (Open Court)

18 MS. SASSOWER: Did you become aware that I left  
19 a voice mail message for Tamera Luzzatto, chief of  
20 staff, at the end of the day on May 20th complaining --

21 THE COURT: Very well.

22 MS. SASSOWER: Complaining --

23 THE COURT: Very well. Let's, excuse me, the  
24 court reporter needs a break. Let's break for 15  
25 minutes and be back at three, 3:15.

1 (Thereupon the jury returned to the juryroom.)

2 THE COURT: Very well. Ms. Eve, you're still  
3 under oath. We'll take a break for 15 minutes. Please  
4 don't discuss your prior testimony or any anticipated  
5 testimony with anyone.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Thank you.

8 THE CLERK: The Court will stand in brief  
9 recess until return of court.

10 (Thereupon, the Court recessed at 3:00 P.M..)

11 (Thereupon, the Court reconvened at 3:15 p.m.)

12 THE CLERK: United States versus Elena  
13 Sassower, case number M4113-03.

14 MR. MENDELSON: Aaron Mendelson for the  
15 United States.

16 MS. LIU: Jessie Liu for the United States.

17 MS. SASSOWER: Elena Sassower, criminal  
18 defendant pro se.

19 MR. GOLDSTONE: Mark Goldstone, attorney  
20 adviser.

21 THE COURT: Very well. Please be seated.

22 MR. MENDELSON: Just with respect to Defense  
23 Exhibit 2.

24 THE COURT: Yes.

25 MR. MENDELSON: I now believe I have all the

1 redactions that need to be made. Defense Exhibit 2 is  
2 on the witness stand. Could I substitute the first two  
3 pages?

4 THE COURT: Yes.

5 MS. SASSOWER: This is to remove the language  
6 blue slip, is that correct? Is that the redaction?

7 THE COURT: Excuse me. If you would like to  
8 discuss that issue, bring it to the bench. We won't do  
9 it in open court.

10 MS. SASSOWER: So it's what I said.

11 THE COURT: Ms. Sassower, I think that you  
12 should not speak on this issue further.

13 (Thereupon the witness resumed the witness  
14 stand. The jury returned to the courtroom at 3:20 p.m.)

15 THE COURT: Very well. Please be seated.  
16 Remember, Ms. Eve, you're under oath.

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Thank you. Ms. Sassower.

19 BY MS. SASSOWER:

20 Q You stated that it was only out of concern for  
21 me that you approached the Secret Service, is that  
22 correct?

23 A Yes.

24 Q Because you thought that at the hearing I might  
25 approach Senator Clinton.

1           A     I didn't necessarily think you would do it at  
2 the hearing because I thought you might do it before,  
3 during or after. But at some point, the day of the  
4 hearing, I thought you might approach Senator Clinton.

5           Q     And lot's of people approach Senator Clinton,  
6 constituents and otherwise, why would my approach to  
7 Senator Clinton be any different?

8           A     Well, as I testified earlier, I was concerned  
9 after our telephone conversation because --

10           And again, I don't remember the specifics of  
11 what you said, but I have a pretty good recollection of  
12 you being very upset, you know, the tone of your voice  
13 and the substance of what you were saying, that is more  
14 unusual, and you had indicated your intention to come to  
15 the hearing.

16           And I believe you may have indicated your  
17 intention, I can't remember, to speak to, to Senator  
18 Clinton.

19           It was a combination of all those things but it  
20 was really because you, in my view, were quite upset.

21           Q     And when did you become aware that I called and  
22 left a voice mail message for your chief of staff,  
23 Tamera Luzzatto, complaining of your misconduct and that  
24 of Josh Albert in connection with this matter?

25           A     Well, first of all, I don't know if I would --

1 I'm aware that you left Tamera Luzzatto, the senator's  
2 chief of staff, a voice mail message.

3 I don't know if I would characterize it as  
4 complaint of misconduct, but Tamera told me you had left  
5 her a voice mail message.

6 I believe she actually probably forwarded the  
7 voice mail message to me and I listened to it myself.

8 I became aware that -- generally, sometime  
9 after, you and I had the conversation that included Mr.  
10 Albert. Precisely what date and time I don't remember.

11 Q Well, are you aware that in that first voice  
12 mail message of May 20th, a couple of hours after our  
13 phone conference, I left a callback number so that I  
14 could be contacted by Ms. Luzzato or some other  
15 supervisory personnel in Senator Clinton's office? Is  
16 that not correct?

17 A I don't remember the specifics of your message  
18 other than you appeared to have been upset in that voice  
19 mail. Other than that, I don't remember the specifics  
20 of the message.

21 Q Do you recollect that I was upset because I  
22 viewed it as your responsibility to read documents and  
23 the evidence substantiating the opposition?

24 THE COURT: Sustained.

25 BY MS. SASSOWER:



1 Q Okay. Let's turn to the subject profile which  
2 is before you, Defendant's Exhibit 2. You've identified  
3 having read it.

4 A Give me one moment.

5 THE COURT: I'm sorry, Ms. Eve, I don't believe  
6 that document is in fact in front of you.

7 MS. SASSOWER: Oh, I'm sorry, I'm sorry. It's  
8 been returned. May I approach the witness?

9 BY MS. SASSOWER:

10 Q Who authorized Liz Kelly to call the Threat  
11 Assessment Section of Capitol police?

12 A I specifically don't know. I presume -- you  
13 know, I'm not sure.

14 THE COURT: Very well.

15 BY MS. SASSOWER:

16 Q The subject profile indicates that a copy of  
17 the voice mail message was made by Capitol police and  
18 that Senator Clinton's office sent the fax that it had  
19 received from me.

20 THE COURT: Sustained. Has, has there been a  
21 foundation for this --

22 BY MS. SASSOWER:

23 Q Do you, do you remember receiving a fax from  
24 me?

25 A No.

1 MS. SASSOWER: That -- may I show the witness  
2 Defendant's Exhibit 5, Your Honor?

3 MS. LIU: Your Honor, may we approach?

4 THE COURT: Yes.

5 (Bench Conference)

6 THE COURT: Liz Kelly, how could it possibly be  
7 authenticated by this witness?

8 MS. SASSOWER: Did she, she received the May  
9 19th fax. You have an e-mail that she received it.

10 THE COURT: She has no specific recollection  
11 from any documents involved in this case.

12 (Open Court)

13 BY MS. SASSOWER:

14 Q I show you Defendant's Exhibits 3 and 4 and ask  
15 you, have you ever read them?

16 A As to exhibit, Defendant's Exhibit 3, I may  
17 have glanced or perused the, the memorandum. I don't  
18 recall specifically whether I have read it in its  
19 entirety.

20 As to Defendant's Exhibit 4, briefly reviewing  
21 it now, it does look generally familiar to me. I don't  
22 know if I read every single line, but I do have a  
23 general recollection of at least briefly reviewing the  
24 document.

25 THE COURT: Please identify by the date, the

1 addressee and the sender those two documents please.

2 THE WITNESS: Defendant's Exhibit 3 is from the  
3 Center for Judicial Accountability Inc. dated May 19th,  
4 2003. Says to home state Senator Charles B. Schumer and  
5 home state Senator Hillary Rodham Clinton, from Elena  
6 Ruth Sassower, coordinator, Center for Judicial  
7 Accountability.

8 The, the cover note to the memorandum says it's  
9 12 pages although the document, Defendant's Exhibit 3 is  
10 not 12 pages.

11 THE COURT: Very well.

12 BY MS. SASSOWER:

13 Q It's how many pages?

14 A Two pages of a document. And then the final  
15 two pages of the four-page exhibit appeared to be the  
16 transmission receipt indicating something had been  
17 faxed.

18 Q Yes.

19 THE COURT: Very well. Now please identify  
20 Exhibit 4.

21 THE WITNESS: Defendant's Exhibit 4 also  
22 appears to be on the letterhead of the Center for  
23 Judicial Accountability Inc., also dated May 19th, 2003.

24 The addressees here are Senator Orin Hatch,  
25 chair of the Senate Judiciary Committee, and Senator

1 Patrick Leahy, ranking member of the Senate Judiciary  
2 Committee.

3 The document indicates that it's from Ms.  
4 Sassower, as coordinator for the Center for Judicial  
5 Accountability. And the first page of the document  
6 indicates or states that it's 10 pages.

7 The memo is eight pages with a couple of  
8 attachments, which, so the document does appear to be  
9 about 10 pages long. And the final few pages,  
10 Defendant's Exhibit 4, are fax transmission sheets of  
11 some kind.

12 THE COURT: Very well.

13 BY MS. SASSOWER:

14 Q Except for the fax receipts, you do recognize  
15 that the May 19th memorandum to Senators Hatch and Leahy  
16 was the enclosure of 10 pages to the two-page cover memo  
17 to Senators Schumer and Clinton, right?

18 MS. LIU: Your Honor, objection, relevance.

19 THE COURT: Absolutely. Sustained.

20 BY MS. SASSOWER:

21 Q Thank you. To your knowledge, was this entire  
22 memo of 12 pages faxed to Capitol police?

23 A When you say entire memo, you're talking about  
24 the combination of Defendant's Exhibits 3 and 4?

25 Q Yes.

1           A    I don't know, I don't know what, what documents  
2 were faxed to the Capitol police.

3           Q    Do you see -- is there anything inappropriate  
4 about what is set forth --

5           MS. LIU:  Objection, Your Honor.

6           MS. SASSOWER:  -- in --

7           THE COURT:  Sustained.

8           BY MS. SASSOWER:

9           Q    Were you aware that Capitol police made an  
10 assessment that there were no threats or harassing  
11 language contained in either the voice mail message or  
12 the fax?

13          A    No, I had not been made, made aware of that.

14          Q    But you would agree that there was no threats,  
15 no harassing language in the fax that I had sent on May  
16 19th to Senator Clinton's office and in the voice mail  
17 message that I had left regarding your misconduct.

18          MS. LIU:  Objection, Your Honor.

19          THE WITNESS:  Well, I haven't --

20          THE COURT:  Overruled.

21          THE WITNESS:  I haven't reviewed in particular  
22 today Defendant's Exhibit 4 in its entirety.  I've just  
23 perused it to see if I was generally familiar with it.

24                And as I testified earlier, I don't remember  
25 the specifics.  When you mentioned the voice mail, is it

1 referring to the voice mail you left for Tamera  
2 Luzzatto?

3 But my general recollection is that, at least  
4 as to me, you weren't harassing me.

5 BY MS. SASSOWER:

6 Q Thank you. Now let's go to the next page.

7 A Next page of exhibit?

8 Q Of the subject profile.

9 A Okay.

10 Q Ser, Special Agent Lippay had a phone  
11 conversation with you on May 21st, is that correct?

12 A I don't remember the specific dates, but the  
13 profile indicates that the conversation took place on  
14 May 21st, 2003. And I have no reason to believe it  
15 didn't take place that day.

16 Q And this is after Special Agent Lippay had  
17 already reviewed the--

18 THE COURT: Sustained.

19 BY MS. SASSOWER:

20 Q Okay. According to the subject profile,  
21 Special Agent Lippay spoke to you after speaking first  
22 to Ms. Kelly, is that correct?

23 A I don't know if she spoke to me after she spoke  
24 to Ms. Kelly, but that's based upon my review of the su,  
25 subject profile, that appears to have been what

1 happened.

2 Q And, and Ms. Kelly said, according to Ms.  
3 Kelly, the subject stalked and harassed associates of  
4 the senator's legal counsel?

5 Ms. Kelly referred Special Agent Lippay to  
6 Leecia Eve, who was the subject of the stalking and  
7 harassment. Is that a true and correct statement?

8 A What, I mean I don't know what you're asking me  
9 what's true and correct.

10 Q Well, had I ever stalked and harassed you?

11 A No.

12 Q We had only a single phone conversation.

13 A That's my recollection, that we had the one  
14 telephone conversation.

15 Q And if I was dissatisfied with your conduct  
16 during that phone conversation and dissatisfied with the  
17 conduct of Josh Albert, it was within my right --

18 THE COURT: Sustained. No, that question is  
19 improper.

20 MS. SASSOWER: Okay.

21 THE COURT: It's a speech.

22 BY MS. SASSOWER:

23 Q Okay. Now then let's go on. Special Agent,  
24 special -- the subject profile then reflects that  
25 Special Agent Lippay telephoned you.

1           And it says Special Agent Lippay telephoned Ms.  
2 Eve who stated that Sassower presents herself in a  
3 professional manner but does not act in a rational  
4 manner.

5           Sassower has sent approximately six boxes of  
6 documents to the Judiciary Committee regarding her  
7 interest in the nomination of Judge Wesley.

8           Now, was it your intention to imply that by my  
9 having provided the Senate Judiciary Committee with six  
10 boxes of documents, I had not acted rationally?

11          A     Oh, that was not my intention at all. There  
12 are two really distinct issues. And again, I don't  
13 remember the specific statements I made to the, Sergeant  
14 Lippay.

15           But I presume I was just conveying a fact based  
16 upon either what you had told me or maybe what someone  
17 at the Judiciary Committee had told me regarding you  
18 having sent boxes of documents, I believe six boxes of  
19 documents to the Judiciary Committee.

20           So that's one sentence. And to me that doesn't  
21 really relate to, at least directly to the previous  
22 sentence.

23           My statement that or my communication that I  
24 believe you acted in a professional manner but do not,  
25 do not act in a rational manner, I don't know if I said



1 that.

2 But what I probably or what I believe I  
3 conveyed to Sergeant Lippay is that you had written a  
4 lot of materials. You were well-spoken. And --

5 But that I had, based upon my own research of  
6 the general allegations that you had made about Judge  
7 Wesley, I found them not only not credible but, I don't  
8 know how to really characterize it.

9  
10 But, I, I guess it was a combination of, of my  
11 con, my view of your concerns, your allegations against  
12 Judge Wesley, combined with the way that you  
13 communicated about your concerns about Judge Wesley and  
14 your, your, how upset you were I guess really during the  
15 conversations that you, that you, Josh and I had  
16 together.

17 It's really a combination of those things that  
18 may have led me to say to Sergeant Lippay that, you  
19 know, in some respects you conduct yourself in a  
20 professional manner.

21 But, you know, I don't know if I said that you  
22 don't act in a rational manner. I may have said that  
23 but it probably would have been a combination of, of  
24 things that would have led me to say that.

25 Q I see. You stated you did your research, based

1 on your own research, you found me not credible.

2 But you did not read the written statement as  
3 to the documentary evidence of Judge Wesley's corruption  
4 that I had up here, is that not correct?

5 The March 26th statement, you had never read  
6 it. You did some, own research but the document that I  
7 had prepared, you had not read.

8 A Well, I guess I want to correct something. If  
9 I said that I didn't think -- I don't know if I  
10 testified that I, I thought you were not credible.

11 I believe I testified or I meant to testify  
12 that I didn't think your, the, the assertions you were  
13 making about Judge Wesley were credible.

14 And as I have testified I think a number of  
15 times, I don't remember specific documents, specific  
16 dates that you sent to our office.

17 But I do have a general recollection of at  
18 least perusing some of those documents and as, you know,  
19 just getting a general sense of what your concerns were  
20 about Judge Wesley.

21 Anytime someone, particularly New York  
22 constituent, raises concerns about the fitness of a  
23 nominee to a federal appellate court, I take that very  
24 seriously.

25 And so, yes, I did some research on the Center

1 for Judicial Accountability. And --

2 Q What did your research show?

3 A I don't remember the specifics. But the  
4 conclusion I reached after conducting research on the  
5 Center for Judicial Accountability, and I think plugging  
6 your name into, Sassower, plugging into the Nexis, was  
7 that there is a fair amount of litigation with respect  
8 to the disbarment of your mother.

9 THE COURT: Just, just -- excuse me. We don't  
10 have to get into the specifics of the litigation.

11 THE WITNESS: Uh-huh.

12 THE COURT: Ms. Sassower, I'm instructing the  
13 witness, please don't interrupt me again.

14 MS. SASSOWER: She's in error.

15 THE COURT: You do not have to get into the  
16 specifics of the details of the research.

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Very well.

19 THE WITNESS: I basically conducted a research  
20 and, and I think Mr. Albert did, conducted some as well.

21 And I reached the conclusion, based upon that  
22 research and based upon my, at least perusal of some of  
23 the documents that you sent to our office, --

24 Q What documents?

25 A -- that your assertions regarding the fitness

1 of Judge Wesley were without merit.

2 Q May I approach the witness please? Transmitted  
3 with the April 23rd letter, in addition to the  
4 informational brochure of the Center for Judicial  
5 Accountability, was my written statement summarizing the  
6 documentary evidence as to the unfitness of Judge  
7 Wesley.

8 THE COURT: What is the question?

9 MS. SASSOWER: Did you make findings of fact  
10 and conclusions of law as to this statement for which  
11 the most pertinent documentary evidence --

12 THE COURT: Sustained. This is a --

13 MS. SASSOWER: -- for two motions --

14 THE COURT: Excuse me.

15 MS. SASSOWER: -- that --

16 THE COURT: Ex, excuse me. This is a speech,  
17 it is not a question.

18 MS. SASSOWER: Did you --

19 THE COURT: The witness has already testified  
20 as to her lack of specific knowledge with regard to  
21 documents. Please move your examination along.

22 MS. SASSOWER: Okay, I'm sorry. So you found  
23 me not credible but not based upon the evidentiary  
24 presentation I had made, that you had not reviewed.

25 MS. LIU: Objection, Your Honor.

1 MS. SASSOWER: Is that correct?

2 THE COURT: I'll allow it. Please answer the  
3 question.

4 THE WITNESS: Again, I, my recollection, I  
5 wasn't focusing on you personally. I was focusing on  
6 the allegations of unfitness that you made with respect  
7 to Judge Wesley. And I found those allegations to be  
8 without merit.

9 MS. SASSOWER: Judge Wesley's misconduct relate  
10 --

11 THE COURT: Sustained.

12 MS. SASSOWER: Excuse me. You served at --

13 THE COURT: Excuse me?

14 MS. SASSOWER: I was referring to --

15 THE COURT: Next question.

16 BY MS. SASSOWER:

17 Q You worked at the New York Court of Appeals,  
18 isn't that correct?

19 A Yes, I did.

20 Q You worked at the New York Court of Appeals on  
21 which Judge Wesley subsequently sat, according to your  
22 testimony. Is it correct you served from 1990 to 1992?

23 A Yes.

24 Q Is it correct that the corruption that was  
25 particularized in these documents --

1 THE COURT: Sustained.

2 MS. SASSOWER: -- did not just concern --

3 THE COURT: Sustained.

4 MS. SASSOWER: -- Judge Wesley.

5 THE COURT: Sustained. No more questions  
6 concerning the documents that she's already stated she  
7 has no particularized knowledge of.

8 MS. SASSOWER: She --

9 THE COURT: Don't argue with me, Ms. Sassower.  
10 Ask your next question please.

11 BY MS. SASSOWER:

12 Q Did you not suffer from conflict of interest  
13 because you knew judges? You had worked for judges at  
14 the Court of Appeals whose misconduct was part and  
15 parcel of Judge Wesley's misconduct?

16 A I guess I -- explain to me. I guess -- if you  
17 could rephrase the question. I'm not sure if I'm  
18 understanding your question.

19 Q The allegations, excuse me, they weren't  
20 allegations. The evidence presented to you in this  
21 written statement --

22 THE COURT: Sustained. Next question.

23 MS. SASSOWER: -- included misconduct from  
24 other --

25 THE COURT: Next --

1 MS. SASSOWER: -- judges of the New York --

2 THE COURT: Next --

3 MS. SASSOWER: -- Court of Appeals.

4 THE COURT: Ne, call --

5 MS. SASSOWER: -- with whom you --

6 THE COURT: Excuse me.

7 MS. SASSOWER: -- were familiar --

8 THE COURT: Excuse me.

9 MS. SASSOWER: -- and worked.

10 THE COURT: Ladies and gentlemen, I have to  
11 handle a legal matter. We'll be in recess please.

12 (Thereupon, the jury returned to the juryroom  
13 at 3:50 p.m.)

14 THE COURT: Ms. Eve, would you please step  
15 back? Thank you.

16 THE COURT: Several days ago when the issue of  
17 the failure to respond to my specific directives was  
18 first brought to the fore, I gave specific instruction  
19 that for the pendency of this case and particularly  
20 during the time that the jury would be present, that you  
21 are to follow my directives. Now --

22 MS. SASSOWER: I have.

23 THE COURT: No, you have not. And the record  
24 will reflect that your continued questioning of this  
25 witness concerning documents that you may well have

1 provided to the chambers of Senator Clinton, but which  
2 this witness has no specific recollection, is in direct  
3 violation of orders that I had given you here at the  
4 bench.

5           You have also had the opportunity to remove  
6 yourself as lead counsel and have your counsel assistant  
7 step in. You have chosen not to do that. When I've  
8 given you specific instruction in court not to continue  
9 speaking, you have done that.

10           When I have instructed you that certain  
11 evidence would be improper if placed in front of the  
12 jury because of my order precluding it, you have  
13 nevertheless attempted by speeding up your speech where  
14 you should have been asking a succinct question to get  
15 that evidence in front of this jury.

16           I don't want to hear from you now. The  
17 question that you will discuss with your attorney  
18 adviser in the 10 minutes that I'm going to be off the  
19 bench is simply this.

20           Do you intend to follow my instructions from  
21 this bench? Don't respond now. I'll take your answer  
22 when I come back. Have the marshal --

23           MS. SASSOWER: The answer is of course, Your  
24 Honor.

25           THE CLERK: The court will stand in 10-minute



1 recess until return of court.

2 (Thereupon, the Court recessed at 3:50 p.m.)

3 (Thereupon, the Court reconvened at 4:00 p.m.)

4 THE CLERK: United States vs. Elena Sassower,  
5 case number M4113-03

6 MS. LIU: Your Honor, Jessie Liu for the United  
7 States.

8 MR. MENDELSON: Aaron Mendelsohn for the  
9 United States.

10 MS. SASSOWER: Elena Sassower, criminal  
11 defendant, pro se.

12 MR. GOLDSTONE: Mark Goldstone, attorney  
13 adviser.

14 THE COURT: Very well. When I left the bench I  
15 believe that I made it in the clearest possible terms  
16 that my inquiry would be very singular and as focused  
17 when I return.

18 And that inquiry is simply this, Ms. Sassower.  
19 Is it your intention to follow the orders of me, as the  
20 judge presiding in this case, from this point forward  
21 through its duration? The answer is simply yes or no.

22 MS. SASSOWER: Yes. I was simply clarifying --

23 THE COURT: Ms., Ms. --

24 MS. SASSOWER: -- misapprehension of the court.

25 THE COURT: Ms. Sassower, I don't need for you

1 to instruct me about misapprehension. You simply answer  
2 my question yes or no.

3 MS. SASSOWER: Of course, Your Honor.

4 THE COURT: Very well. Then we will continue  
5 with the examination of this witness.

6 MS. SASSOWER: May I just <sup>inform</sup> ~~move~~ the Court that  
7 there is a bias cross-examination issue here.

8 THE COURT: Then if you can cross-examine this  
9 witness and develop your bias theory --

10 MS. SASSOWER: May we be, if you like I can  
11 present --

12 THE COURT: Why?

13 MS. SASSOWER: I just want the Court to  
14 understand that based upon what she has represented as  
15 her credentials, it seems that she worked at the Court  
16 of Appeals during pertinent periods of time that  
17 underlie the misconduct --

18 THE COURT: Bias cross-examination is entirely  
19 appropriate. Failure to follow my directives is  
20 patently inappropriate.

21 MS. SASSOWER: Okay.

22 THE COURT: This has nothing to do with your  
23 bias cross-examination. As you were cross-examining  
24 this witness about her prior affiliation with the New  
25 York State Court of Appeals, there was no involvement by

1 me in that examination.

2 This witness has repeatedly stated her lack of  
3 knowledge with regard to specific documents.

4 And what you appear to be attempting to do is  
5 to introduce the content of documents totally irrelevant  
6 to the elements of the offense in this case through  
7 witnesses who could not possibly lay the appropriate  
8 evidentiary foundation for those documents.

9 Therefore, if I instruct you that you are not  
10 to question a witness further about documents, your  
11 objection is noted for the record and the case will  
12 proceed.

13 MS. SASSOWER: Okay. I will --

14 THE COURT: You will not speak while I'm  
15 speaking. You will not countermand or attempt to  
16 countermand my directives. You will not speak back to  
17 me with this jury present. Am I making myself clear?

18 MS. SASSOWER: I certainly have attempted to  
19 follow your orders, --

20 THE COURT: Answer my question.

21 MS. SASSOWER: -- Your Honor's directives. I  
22 have tried. If I --

23 THE COURT: Answer my question, have I made  
24 myself clear? I don't care about your past efforts or  
25 motives. Have I made myself clear?

1 MS. SASSOWER: Yes. And please understand I am  
2 trying. If you deem me in breach, --

3 THE COURT: Ms. --

4 MS. SASSOWER: -- it's not intentional.

5 THE COURT: Ms. Sassower, that is an example of  
6 what I have been speaking of. When I speak keep your  
7 mouth shut. If I ask you a direct question you answer  
8 it, am I clear?

9 MS. SASSOWER: Yes, Your Honor.

10 THE COURT: Very well, let's bring the jury in.

11 (Thereupon, the jury returned to the courtroom  
12 at 4:08 P.M..)

13 THE COURT: Please be seated. Ms. Sassower.

14 BY MS. SASSOWER:

15 Q At anytime -- was it not apparent to you that  
16 having worked on the New York Court of Appeals, you knew  
17 judges, had worked for judges or <sup>were</sup> friendly with judges  
18 who were involved in some of the issues that were being  
19 presented as they related to Judge Wesley?

20 A If I can break down your questions because you  
21 asked me a number of questions really in one.

22 I've worked for one judge in the Court of  
23 Appeals who has since passed away, passed away some  
24 years ago.

25 I am, don't -- I have a general recollection of

1 you or I should say the Center for Judicial  
2 Accountability and be, being involved in litigation  
3 concerning misconduct of judges. How many on the  
4 various courts, I don't specifically recall.

5 I have a general recollection of some of those  
6 judges being judges who served on the New York State  
7 Court of Appeals. I'm trying to remember the first part  
8 of your question.

9 Q You know some of those judges, is that not  
10 correct?

11 A Again, I can't, I don't remember the ones that  
12 were the subject matter of your complaint. I mean I've  
13 worked for the judge in that court 12 years ago.

14 Your complaints I think are subsequent to that.  
15 The court has changed its make-up by at least a few  
16 judges during that time.

17 Q Chief Judge Judith Kaye of the New York Court  
18 of Appeals was on the Court of Appeals when you worked  
19 there, is that not correct?

20 A Yes, she was.

21 Q Judge Smith was on the Court of Appeals at that  
22 time.

23 A No, he was not.

24 Q But Chief Judge Kaye was.

25 A She was not chief judge then, she was an

1 associate judge of the court.

2 A And did you have occasion to observe that her  
3 misconduct was fairly focal in the underlying documents?

4 THE COURT: Sustained.

5 BY MS. SASSOWER:

6 Q Okay. What were the precise dates that you  
7 worked at the New York Court of Appeals?

8 A I don't remember the precise dates. But I  
9 started I believe sometime in August of 2000, a few  
10 months after I graduated from law school, and a few  
11 weeks after I took the bar exam.

12 And my clerkship was to have ended about two  
13 years later. But my, the judge for whom I was working  
14 for at the time decided to retire a little bit early, so  
15 my clerkship ended I think in April of 2002.

16 And it was in May and June and July roughly  
17 that I then worked for the convention. So I worked for  
18 the Court of Appeals from roughly August of 2000 'til  
19 April or May of 2002.

20 A Did you have occasion to examine documents that  
21 related to that very period at the New York Court of  
22 Appeals that were part of what was being presented in  
23 the Senate Judiciary Committee and your office?

24 THE COURT: Sustained.

25 MS. SASSOWER: Is it not correct that a public

1 interest election law lawsuit came up to the New York  
2 Court of Appeals in the period in which you were there  
3 called ~~Co~~stracan v. Colavita.

4 THE COURT: Sustained.

5 MS. SASSOWER: Okay. Did you examine any of  
6 the documents from which you might see that you were at  
7 the Court of Appeals during the period in which  
8 misconduct by the judges of that court were, was  
9 alleged?

10 THE COURT: Sustained.

11 BY MS. SASSOWER:

12 Q Okay. Moving on to a different area as to your  
13 employment. You worked at the Senate Judicia -- well,  
14 you worked for Senator Biden from August '95 to late '96  
15 when he was ranking member of the Senate Judiciary  
16 Committee.

17 A Is that a question?

18 Q Is that correct?

19 A Yes, it is.

20 Q Were you at the Senate Judiciary Committee  
21 hearing on June 25th, 1996 when I rose to request to  
22 testify <sup>with</sup> ~~as~~ citizen opposition against the nomination of  
23 Judge Lawrence Kahn to the District Court of the  
24 Northern District of New York?

25 A I don't believe so, I certainly have no

1 recollection. And probably it would not have been a  
2 reason for me to be there because my responsibilities  
3 when I served as counsel to Senator Biden explicitly  
4 excluded judicial nominations.

5 Q You had no involvement with judicial  
6 nominations when you worked for Senator Biden from '95  
7 to '96.

8 A That's correct.

9 Q Were you aware of -- excuse me. May I approach  
10 the witness?

11 THE COURT: You may.

12 BY MS. SASSOWER:

13 Q For Senator Clinton, you do handle judicial  
14 nominations.

15 A That's correct.

16 Q Do you recall ever seeing the letter addressed  
17 to Senator Clinton dated July 14th, 2001 transmitting an  
18 extensive letter of July 3rd, 2001 that had been  
19 addressed to Senator Schumer regarding federal judicial  
20 nominations?

21 A No.

22 Q Have you ever read it to this day?

23 THE COURT: Sustained.

24 BY MS. SASSOWER:

25 Q Were you aware that during Senator Biden's



1 chairmanship of the Senate Judiciary Committee in 1992,  
2 the predecessor citizens group to the Center for  
3 Judicial Accountability had documented the, the Senate  
4 Judiciary Committee's disregard for evidence that the  
5 bar associations were rendering ratings on federal  
6 judicial nominees --

7 THE COURT: Sus --

8 MS. SASSOWER: -- which were inadequate --

9 THE COURT: Sustained.

10 MS. SASSOWER: -- and dishonest?

11 THE COURT: Sustained. Counsel please  
12 approach.

13 (Bench Conference)

14 MS. SASSOWER: Senator Biden, they were  
15 critical --

16 THE COURT: I gave you the opportunity to  
17 pursue the line of bias cross-examination that simply  
18 has no bearing with regard to the current line of  
19 inquiry. It's more of a speech than is testimony. I'm  
20 going to give you 10 minutes --

21 MS. SASSOWER: Okay.

22 THE COURT: -- and that will be the end of your  
23 examination of this witness.

24 MS. SASSOWER: Okay.

25 (Open Court)

1 THE COURT: Ms. Sassower.

2 BY MS. SASSOWER:

3 Q Did you state, as so represented in the subject  
4 profile that you believe that I might travel to D.C.,  
5 quote, in an attempt to verbally disrupt tomorrow's  
6 hearing.

7 A Again, I don't recall the specifics of my  
8 conversation with the Capitol police. I don't know if I  
9 used that particular terminology.

10 The gist of what I recall conveying to the  
11 Capitol police was your inte, your desire to testify,  
12 your being told by I believe the judiciary committee  
13 that you could not, the lengthy conversation Mr. Albert  
14 and I had with you and your intention nevertheless to  
15 come to the hearing and seek to speak.

16 And I believe you also may have indicated your  
17 intention to try and speak with Senator Clinton.  
18 Whether I used those precise words, I really don't  
19 remember.

20 Q But you had no reason to believe that I was  
21 going to disrupt?

22 MS. LIU: Objection, Your Honor.

23 THE COURT: Sustained.

24 MS. SASSOWER: Let the record reflect that the  
25 witness was shaking her head no.

1 THE COURT: Both the question and the nonverbal  
2 communication will be stricken. Next question.

3 BY MS. SASSOWER:

4 Q Let's turn to the photo bulletin annexed to the  
5 subject profile. It says, Sassower may also attempt to  
6 verbally harass Senator Clinton who will attend the  
7 hearing.

8 Just to clarify your testimony. In contacting  
9 Senator, in contacting Capitol police, your concern was  
10 for me, is that correct? Your sole concern, you  
11 testified, was for me.

12 A That's correct.

13 Q You did not believe -- you were not saying that  
14 I would verbally harass Senator Clinton, did you?

15 A Again, I don't recall what I specifically said.  
16 I believe I communicated to both the Secret Service and  
17 the Capitol police that I thought you might approach the  
18 Senator and that you might be in an agitated state.

19 Whether I used the term harass, I don't know.  
20 But that you would approach her and that you might be in  
21 an agitated state. I, I probably conveyed something to  
22 that effect.

23 BY MS. SASSOWER:

24 Q But you considered me professional, is that  
25 correct?

1 A In some respects, yes.

2 THE COURT: Asked and answered.

3 MS. SASSOWER: In some respects.

4 BY MS. SASSOWER:

5 Q Do you know where this information came from on  
6 that bulletin, that in 1996, June 1996, I was arrested,  
7 quote, for disorderly conduct when she disrupted a  
8 hearing that was being held.

9 Do you know where that information may have  
10 come from?

11 A I have no idea.

12 Q Did you ever represent that in 1996, I had been  
13 arrested for disrupting a hearing?

14 A No, I did not. As a matter of fact, I had no  
15 knowledge of the statements and the alleged arrest  
16 before speaking to the Capitol police or the Secret  
17 Service.

18 Q Further information, quote, Sassower claims to  
19 work for an organization called Center for Judicial  
20 Accountability which is a one-person organization headed  
21 by Sassower.

22 Did you have any doubt that the Center for  
23 Judicial Accountability was a legitimate organization  
24 that had been working for, that had been working under  
25 that name for over a decade?

1 THE COURT: Sustained. What was your  
2 understanding of the Center for Judicial Accountability  
3 in May of 2003?

4 THE WITNESS: My understanding in May of 2003  
5 was that it was an organization that, as a practical  
6 matter, is being run by one person and had leveled  
7 charges of misconduct against many judges. And my own  
8 investigation seriously questioned the, the validity of  
9 those charges.

10 MS. SASSOWER: Did you read the informational  
11 brochure that was part of that package of materials? Or  
12 had you not received it?

13 THE COURT: At what point in time?

14 BY MS. SASSOWER:

15 Q On, on Ma, or about May 20th when we had the  
16 phone conference and, and thereafter Senator Clinton's  
17 office in contact with Capitol police.

18 Had you ever read the brochure of the Center  
19 for Judicial Accountability that had been part of the  
20 transmittal of, of April 23rd?

21 A Again, I am aware that you sent many documents  
22 to our office, either in New York City and/or Washington  
23 office. I certainly perused some but probably not all  
24 of those documents.

25 It's not, I don't remember specifically other

1 than I think Defendant's Exhibit 4, looking at them.

2 But in answer to your question, by the time you  
3 and I spoke on or about May 20th, I was, in my view,  
4 quite knowledgeable or knowledgeable enough about the  
5 Center for Judicial Accountability.

6 Q There are two names that appear on the  
7 letterhead of the most important --

8 THE COURT: Sustained. Are not those documents  
9 a part of the packet that was here on the witness stand?

10 MS. SASSOWER: Yes, indeed.

11 THE COURT: Very well. Then there will be no  
12 addressing specific documents when the witness has  
13 already testified that she has no specific knowledge.

14 MS. SASSOWER: Okay, next question.

15 BY MS. SASSOWER:

16 Q You were so concerned about me that there came  
17 a point, is that not correct, when you received faxes  
18 dated May 21st advising that I had been threatened with  
19 arrest if I requested to testify at the hearing of the  
20 next day. I had been threatened, is that not correct?

21 A I'm not sure what documents you're referring  
22 to.

23 MS. SASSOWER: May I show documents or --

24 THE COURT: I have no idea what the documents  
25 are.

1 MS. SASSOWER: May I? I'm sorry. They  
2 are, they, they, I'll use this, okay. Excuse me. I'll  
3 use this. I show you Defendant's Exhibit 44 for  
4 identification. Do you recall seeing documents  
5 imploring --

6 THE COURT: Excuse me. Identification of the  
7 document in front of the witness.

8 MS. SASSOWER: I'm sorry.

9 BY MS. SASSOWER:

10 Q Would you kindly identify the document that I  
11 have provided you?

12 A Actually, it appears to be a document I  
13 produced. It's Defendant's Exhibit 44. It's an e-mail  
14 from Josh Albert to Tamera Luzzato, the senator's chief  
15 of staff, and to me.

16 It was sent by Josh on Thursday, May 22nd, 8:38  
17 a.m. And he's forwarding to us an e-mail from you,  
18 although the e-mail address says Judgewatchers@aol.com.

19 And your e-mail to him was apparently sent  
20 Wednesday, May 21st, 2003 at about 11:00 that evening.  
21 And the subject line says CJA's May 21st letter  
22 requesting to testify and to not be arrested.

23 And then there's some brief discussion from you  
24 to Josh, to Josh in the e-mail.

25 Q Do you recall seeing correspondence, and I'll

1 be happy to -- you testified that you were concerned  
2 with me.

3 THE COURT: Excuse me. Which question are you  
4 asking?

5 MS. SASSOWER: Did you believe that I should be  
6 arrested simply for rising to request permission to  
7 testify in opposition at the hearing?

8 THE COURT: This witness's belief as the  
9 grounds for your arrest are irrelevant.

10 MS. SASSOWER: Did you --

11 THE COURT: Next question.

12 MS. SASSOWER: Do you believe that a respectful  
13 request to testify at a public congressional hearing  
14 made at an appropriate point can ever be deemed to be  
15 disruption of Congress?

16 THE COURT: Sustained. And based upon our  
17 prior bench conference, is there cross-examination?

18 MS. LIU: Just one question. Your Honor.

19 THE COURT: Very well.

20 CROSS EXAMINATION

21 BY MS. LIU:

22 Q Isn't it you worked for the New York Court of  
23 Appeals from 1990 to 1992, right, not 2000 to 2002?

24 A That's correct. I'm sorry if I said different  
25 dates. I apologize.



1 THE COURT: Very well. All right. Ms. Eve,  
2 thank you for your presentation here, for your, your  
3 testimony. You're excused.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Very well.

6 (Thereupon, the witness was excused.)

7 THE COURT: Ladies and gentlemen, we are going  
8 to break for the day. There are some administrative  
9 matters that I must attend to and we will address those  
10 matters while you're getting ready.

11 Obviously. we're carrying in to Monday. There  
12 is, as I understand it, one more witness and that is Ms.  
13 Sassower. Therefore, it is my view that you will have  
14 this case for deliberations on Monday. Very well.  
15 We'll begin again at 9:45 on Monday.

16 (Thereupon, the jury was excused for the day at  
17 4:30 p.m.)

18 THE COURT: Counsel approach please.

19 (Bench Conference)

20 THE COURT: A matter of administration. We  
21 have two jurors, 7 and 8 -- we have two jurors, numbers  
22 7 and 8 have expressed that they have some scheduling  
23 problems with regard to Monday. That's what we're here  
24 to discuss.

25 (Juror number 7 present)

1 THE COURT: How are you, sir?

2 JUROR NO. 7: I'm fine, Your Honor.

3 THE COURT: Yes, I recall that during the,  
4 involved in that process called voir dire, you had  
5 expressed some concerns about care of your wife who has  
6 systemic lupus, correct?

7 JUROR NO. 7: That's right.

8 THE COURT: Very well. I understand now that  
9 you have a scheduling issue with regard to Monday.

10 JUROR NO. 7: She's supposed to receive some  
11 therapy on Monday. If I can't get my daughters to be  
12 able to take off, then I think it's at 3 o'clock, Monday  
13 afternoon.

14 THE COURT: Well, I mean I understand your  
15 concern. And the only thing that I can say is that I  
16 need you to make every effort to have one of your other  
17 relatives cover that therapy appointments on Monday.

18 I'm not a doctor so I can't get into giving you  
19 advice on having medical appointments rescheduled and so  
20 forth, and I won't attempt to do that here.

21 But unfortunately, the case is, has been  
22 delayed somewhat due to various administrative matters  
23 that I've had to attend to. And therefore, we will have  
24 no choice but to come back to hear the conclusion of the  
25 defense case, for the jury to receive instruction from

1 me and to begin deliberations.

2 So what I would say to you is that there's  
3 really no gentle way for me to, to put it. I need you  
4 to be here on Monday ready to go and I need you to make  
5 arrangements with someone who can cover this appointment  
6 for you.

7 I know it's a hardship but fortunately, these  
8 things, these conflicts arise. And we're currently in  
9 the case, about to conclude the case, and I don't know  
10 how else to handle that matter.

11 JUROR NO. 7: Because I had to take off  
12 Thursday because I was here.

13 THE COURT: I understand, I understand. And,  
14 you know, I just simply don't want to get into an  
15 exchange with you where, --

16 JUROR NO. 7: No.

17 THE CLERK: -- you know, we're talking about  
18 matters compelling you to come in and so forth. So I am  
19 essentially asking you to please make it your business  
20 to obtain coverage and be here on Monday.

21 JUROR NO. 7: Okay.

22 THE COURT: Very well, thank you.

23 (Juror number 7 was excused.)

24 THE CLERK: I'll bring in the other one. Your  
25 Honor, juror in seat number 8.

1 (Juror number 8 present.)

2 THE COURT: Yes. Hi, ma'am, how are you?

3 JUROR NO. 8: Fine, thank you.

4 THE COURT: It's been brought to my attention  
5 that you have a scheduling issue for Monday, is that  
6 correct?

7 JUROR NO. 8: That is correct, if I could  
8 explain very briefly.

9 THE COURT: Yes.

10 JUROR NO. 8: I am certified to teach in the  
11 state of Maryland. And as you may be aware, teachers  
12 are required to take certification courses in order to  
13 renew their licenses.

14 I have a course starting Monday at 4:00 o'clock  
15 in Adelphi, which would mean that I would need to leave  
16 D.C. probably at three in the afternoon if I'm going to  
17 make that class.

18 THE COURT: Are the rest of the jurors here?

19 THE CLERK: Yes, Your Honor.

20 THE COURT: What time did you need to leave  
21 D.C.?

22 JUROR NO. 8: I think three in order to make it  
23 on time for that class at four.

24 THE COURT: Very well. And a, a note from the  
25 judge won't stand you in good stead?

1 JUROR NO. 8: Well, it's certainly accepted,  
2 Your Honor, and I'll be happy to show it and I'll, you  
3 know, I certainly will make the effort to, to have that  
4 suffice but I just wanted to bring it to your attention.

5 THE COURT: Thank you. I appreciate that.

6 JUROR NO. 8: Okay.

7 THE COURT: If you would just wait for Ms., Ms.  
8 Franklin in the juryroom.

9 JUROR NO. 8: Okay.

10 THE COURT: And I will be back to you with  
11 disposition of this.

12 JUROR NO. 8: Okay.

13 THE COURT: Okay?

14 JUROR NO. 8: Thank you, Your Honor.

15 THE COURT: Thank you very much.

16 MS. SASSOWER: How many days is the --

17 THE COURT: Ms. Franklin, have her come back,  
18 have her, right now, yeah.

19 THE CLERK: Juror number 8.

20 THE COURT: I forgot to ask you. Is it a one-  
21 day course.

22 JUROR NO. 8: No, sir, it's five sessions and  
23 the first session is this, is this Monday.

24 THE COURT: It's on Monday. And are they  
25 five --

1 JUROR NO. 8: Weekly.

2 THE COURT: -- conse --

3 JUROR NO. 8: Weekly, weekly sessions.

4 THE COURT: Weekly sessions.

5 JUROR NO. 8: Right.

6 THE COURT: So they aren't consecutive days.

7 JUROR NO. 8: No, sir, no.

8 THE COURT: Very well, thank you very much.

9 JUROR NO. 8: Yes, Your Honor.

10 THE COURT: The, I mean sometimes it's actually  
11 fortuitous that these complications arise because it  
12 allows me to address other matters that are related.

13 Obviously, we're going to have to be here on  
14 Monday. And the question for me is whether we're going  
15 to adjourn early on that day so that these individuals  
16 can make their appointments.

17 I would much rather try to do that than to --  
18 while I have some concerns about the medical issue for  
19 juror number 7, the certification issue for juror number  
20 8 I'm not so concerned about.

21 The reason that I find this fortuitous is it  
22 gives me the opportunity to speak about the rest of the  
23 defense case and presentation. There simply will not be  
24 the kind of delays that we have experienced thus far.  
25 And I anticipate this jury receiving this case long

1 before three o'clock.

2 In any event, my inclination at this time is to  
3 have them come back and if -- well, we'll have them come  
4 back and have them suspend any deliberations for the day  
5 at perhaps 2:00 - 2:30 and then to come back the next  
6 day and resume their deliberations.

7 I think that that is just simply the most -- I  
8 hate with jurors, particularly where we've already lost  
9 one, I would hate to put them in a position of being  
10 forceful about this. And it seems to me that the more  
11 reasonable approach is to accommodate.

12 And so what I would like to take back to them  
13 is we will begin on time on Monday, everyone be present.  
14 That we will have a faster pace to the remaining  
15 evidentiary presentation. That they will receive the  
16 case for deliberations on Monday.

17 And to the extent that there's a need for them  
18 to come back for deliberations on Tuesday, we will  
19 suspend deliberations at two or 2:30. Ms. Sassower.

20 MS. SASSOWER: Yes. Needless to say, I will be  
21 making the trip from New York. I will be here at --  
22 what time did you wish to begin?

23 THE COURT: 9:45.

24 MS. SASSOWER: All righty. I will certainly  
25 make every effort to be here precisely on time. Do

1 understand that I will be leaving New York at about  
2 three in the morning.

3 Let me assure the Court that unlike the  
4 witnesses that I've called from Senator Clinton's  
5 office, I have clear recollection. I have the assisting  
6 documents and the testimony I expect will be not  
7 prolonged.

8 And, as I said, I will encompass that testimony  
9 and very immediately the analysis.

10 THE COURT: Excuse me.

11 (Pause)

12 MS. SASSOWER: I will accomplish in my  
13 testimony, which will be as I said, I think concise. I  
14 do understand your parameters I believe and I will  
15 encompass an analysis of the video.

16 So that there is no mistake, I have generated  
17 documents. I have written documents heretofore. You  
18 have objected to matters coming into evidence because  
19 they were not generated by the witness. I, as far as  
20 the packages of material, I would wish to have that  
21 marked as an exhibit.

22 THE COURT: Well, --

23 MS. SASSOWER: The --

24 THE COURT: -- let me stop you here because  
25 this, this is a speech that need not occur. For Monday,



1 have your exhibits marked.

2 MS. SASSOWER: Okay.

3 THE COURT: Mr. Goldstone will be conducting  
4 the examination?

5 MS. SASSOWER: No.

6 THE COURT: He, Mr. Goldstone won't be  
7 conducting your testimony?

8 MS. SASSOWER: I will be testifying in  
9 narrative in a very brief fashion so as not to delay  
10 with question and answer. I don't think that you will  
11 have any objection --

12 THE COURT: Very well.

13 MS. SASSOWER: -- to the swiftness --

14 THE COURT: Well, what I would --

15 MS. SASSOWER: -- with which we will go  
16 directly to the heart.

17 THE COURT: Well, what I would say is simply  
18 this. I have not only given you the option of having  
19 Mr. Goldstone conduct the examination, but I recommend  
20 to you that you have Mr. Goldstone conduct the  
21 examination.

22 And I forewarn you, the fact that you have  
23 documents that you generated and that you marked are  
24 absolutely no guarantee that those documents are going  
25 to be admitted into evidence.

1           Therefore, be here on 9, at 9:45 on Monday and  
2 we can proceed. Are there any further questions?

3           MR. MENDELSON: Only, Your Honor, that we  
4 requested an exhibit list from the defendant which we  
5 have not received.

6           THE COURT: Which the Court still have not  
7 received as well. And therefore, I'm unable to know  
8 what documents are being placed in front of the witness  
9 without hearing a speech as to the content which is  
10 totally improper for the jury. Mr. Goldstone.

11           MR. GOLDSTONE: Yeah, one very quick, Your  
12 Honor. All right. I have discussed at length whether  
13 or not it's appropriate for me to present Ms. Sassower  
14 as a witness.

15           THE COURT: Right.

16           MR. GOLDSTONE: It is my professional judgment  
17 that she will be better off defending her case by  
18 presenting herself in a narrative fashion.

19           THE COURT: Very well.

20           MR. GOLDSTONE: We spent a lot of time  
21 reviewing it as a full, in full consultation. And I say  
22 this to the Court.

23           THE COURT: Very well, so be it? 9:45 on  
24 Monday.

25           MS. SASSOWER: Thank you.

1 THE CLERK: Ms. Sassower, your case is  
2 continued to 9:45 on Monday morning. If you failed to  
3 appear, a warrant would issue for your arrest. If  
4 you're convicted of failing to appear, you face a 180  
5 days in jail, \$1000 fine or both. Do you understand the  
6 warning you've been given?

7 MS. SASSOWER: I do.

8 THE CLERK: Please sign your notice. In  
9 addition, your trial has begun. If you fail to return,  
10 the Court could consider that you waive your right to a  
11 trial. It will continue in your absence.

12 (Thereupon, the proceedings concluded at 4:45  
13 P.M..)

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