

1 relatively promptly. I appreciate that. We had
2 preliminary matters this morning and we have now
3 concluded those and we're prepared to resume with the
4 trial testimony in this case.

5 The testimony that you are about to hear is
6 that of Ms. Sassower. Unlike the prior testimonial
7 evidence you have heard, Ms. Sassower will not be
8 questioned by a lawyer. Rather, because she represents
9 herself, she is entitled to testify in a narrative form.

10 So she will address you once she's sworn in.
11 And therefore, the next testimony that you'll hear will
12 be that of the defendant, Ms. Elena Ruth Sassower. Very
13 well.

14 MS. SASSOWER: Thank you.

15 THE CLERK: Please raise your right hand.

16 ELENA RUTH SASSOWER,
17 having been called as a witness for and on her behalf,
18 and after having been first duly sworn by the deputy
19 clerk, was examined and testified as follows:

20 DIRECT TESTIMONY

21 MS. SASSOWER: Good morning. My name is Elena
22 Ruth Sassower and I am the criminal defendant. I have
23 no obligation to testify here today. I come before you
24 with the presumption of innocence. But I am innocent in
25 fact and so I embrace the opportunity to speak with you

1 directly.

2 My testimony is substantiated by
3 contemporaneous notes that I take as my normal and
4 customary course of practice.

5 The contemporaneous diary entries of phone
6 conversations were moreover embodied by me at the time
7 of the events in question, in correspondence, only a
8 portion of which you are being allowed to see.

9 At the outset, I will identify that apart
10 from being an individual citizen, I am the co-founder
11 and coordinator of a non-partisan non-profit citizens'
12 organization called the Center for Judicial
13 Accountability.

14 To be very blunt, we document how judges break
15 the law and get away with it. And as part of that
16 documentation, because everything that we do is
17 documented, we examine the processes of judicial
18 selection and judicial discipline.

19 The reason that what I do is so meticulous in
20 its documentation is because people who complain about
21 corruption are always dismissed out of hand because so
22 many would like it to be pretended that corruption
23 really doesn't exist.

24 Litigants who come to court whether as
25 plaintiffs, whether as defendants, when they complain

1 about judges, they are dismissed as disgruntled
2 litigants. They lost the case. So of course they're
3 complaining about the judge, sour grapes.

4 Oh, no. You can lose a case that as a
5 matter of law you are entitled to win because of
6 misconduct of a judge. How, how do you ascertain the
7 misconduct of a judge? It's very easy.

8 A case file is the evidence of what took
9 place in a case. It's not just he said/she said, you
10 can look at the record.

11 And one of the things that we particularly do
12 is verify how judges lie in their judicial decisions.
13 They falsify facts, material facts as a case is always
14 dependent on the facts because the law flows from the
15 facts.

16 When a judge lies about the facts, pretends
17 there are facts which don't exist and you can tell
18 whether they exist by whether they are in the record,
19 that is very serious misconduct.

20 And it is all the more serious when a
21 judge lies about facts and does it to disregard the
22 controlling law ~~when he~~ ^{and} adheres to that on what is known
23 as reargument.

24 Anybody can make a mistake. Anybody can slip
25 up. But misconduct is willful and deliberate. Not

1 oops, accident, inadvertence.

2 There is a procedure in the law when you
3 believe that a judge has made a mistake, to bring
4 forward the true facts, the record facts, the
5 controlling law to a judge.

6 And when the party does that and a judge
7 nonetheless adheres to the initial decision, usually
8 without any reason, then you know that what the judge
9 did was not a mistake, was not unintentional but willful
10 and deliberate.

11 Okay, moving along. I have been doing this
12 work for, since 1989 and our members are from throughout
13 the country. They are Democrats, they are Republicans,
14 they are old, they are young, they are people who have
15 found that there are no remedies for judicial
16 misconduct because all the supposed remedies don't
17 exist in fact.

18 The complaint mechanisms, they're worthless,
19 they're window dressing. Appeal, most people can barely
20 afford the case in the trial court, let alone going up
21 on appeal.

22 And so often on appeal you get these
23 rubber stamp affirmances. Requests for supervisory
24 oversight by judges also doesn't exist. All right.

25 Prior to March 2003 when President Bush

1 nominated New York Court of Appeals Judge Richard Wesley
2 to the Second Circuit Court of Appeals, I had already
3 spent over a decade documenting the complete disinterest
4 of the Senate Judiciary Committee in reviewing evidence
5 of nominee unfitness.

6 I had demonstrated that time and again in
7 written submissions, always supported by the
8 substantiated evidence and had not only documented the
9 refusal of the Senate Judiciary Committee to examine
10 evidence of nominee unfitness, but ~~of~~ evidence that the
11 bar associations, which play a role in the process, were
12 not conducting thorough, adequate, honest
13 investigations.

14 Once again, I wish to emphasize to you
15 that what had been presented in 1992, in 1993, in
16 1996, in 1998, in 2001 were fact-specific, documented,
17 document-supported written submissions of a dangerous
18 state of affairs.

19 And the Senate Judiciary Committee never
20 cared. When I say never cared, nobody would discuss
21 anything presented on the subject.

22 This is not a situation where counsel of the
23 Senate Judiciary Committee, senators of the Senate
24 Judiciary's Committee denied or disputed what was being
25 presented.

1 There was never anyone to talk to. And you
2 could write and write and write, and you can call and
3 call and call and it didn't matter and they didn't care.

4 You have already heard that in 1996, there was
5 an occasion when I was at a Senate Judiciary Committee
6 hearing to confirm a federal judicial nominee.

7 Prior to the hearing, I had written and called
8 repeatedly requesting to -- well, firstly identifying
9 that there was evidence that the nominee in question had
10 committed serious judicial misconduct as a New York
11 judge, identifying further that I wished to testify at
12 any hearing to be held.

13 In 1996, there was no return call from counsel
14 inquiring as to the specifics of the misconduct that was
15 only passingly identified in correspondence. There was
16 no request for the evidentiary proof of that misconduct.

17 And as to my repeated requests to testify at
18 any confirmation hearing to be held, well, I wasn't even
19 told of the hearing until the morning on which it was to
20 take place.

21 A couple of days prior thereto, I had received
22 a letter from Chairman Hatch or maybe I should say it
23 was signed by Chairman Hatch, although one doesn't know
24 if the signature is actually his signature.

25 I might identify by way of background that 30

1 years ago I was an intern working on Capitol Hill and
2 senators had machines that make their signature.

3 But at least in 1996, a couple of days prior
4 to the hearing, I had gotten a letter purportedly signed
5 by Chairman Hatch saying no, I wouldn't be permitted to
6 testify and giving no reasons why.

7 And you can be sure that I immediately
8 wrote back. And I said, but Chairman Hatch, why won't I
9 be permitted to testify? And your staff has never even
10 contacted me about the particulars of ^{the} misconduct of the
11 given judge.

12 How can this hearing even be taking place
13 unless you examine the evidence. Unless I've been
14 interviewed. But won't you give me, won't you
15 reconsider your peremptory without reason letter that I
16 won't be permitted to testify.

17 When I got the call that the Senate
18 Judiciary Committee hearing was going to be taking place
19 that afternoon, I had not as yet gotten a response to my
20 letter, my follow-up letter to Chairman Hatch.

21 And immediately, I said to the staff
22 member who called me about the hearing that was to take
23 place that afternoon, well, am I going to be permitted
24 to testify? And there was no response to that question.

25 But in the hope that I would have an

1 opportunity to testify about the serious and sta,
2 substantial misconduct of that particular New York judge
3 that was being elevated to a federal judgeship, I took a
4 car service to the airport, took a flight from New York,
5 where we are based, so that I could be in D.C. for the
6 2:00 p.m. hearing.

7 You can imagine all the expense that was
8 entailed, but surface transportation was an
9 impossibility. From the morning to two, there was no
10 choice, I had to fly.

11 To make the story short, and the story that I
12 tell you, believe it or not only in brief, is all
13 particularized in contemporaneous correspondence that I
14 wrote then and immediately --

15 THE COURT: Your tes -

16 MS. SASSOWER: -- thereafter.

17 THE COURT: Your testimony, your testimony.

18 MS. SASSOWER: Yes. And if I could introduce I
19 will introduce.

20 THE COURT: Ms. Sassower, your testimony
21 please.

22 MS. SASSOWER: When I arrived at that June 25th
23 1996 Senate Judiciary Committee hearing, I could not
24 find anyone to tell me whether or not I would be
25 permitted to testify.

1 And I was subjected to harassment and
2 intimidation by the clerk who was my contact person at
3 the Committee, who called Capitol police. And there
4 were at least five Capitol police officers at the
5 hearing, and I understood for me.

6 As that hearing was concluding -- may I refer to
7 a document please?

8 THE COURT: No.

9 MS. SASSOWER: As that hearing was concluding
10 but had not concluded and the presiding chairman,
11 Senator Kyle, began to announce that the record would
12 remain open three days for written submissions, that is
13 everything was concluded at the hearing, and he was
14 finishing off, and it's then that I rose.

15 And I said, Mr. Chairman, there's citizen
16 opposition, I request to testify. And he ignored what I
17 was saying. And then I said may we tes, may I testify
18 and he said we will have order.

19 He didn't respond may I testify, he said we
20 will have order. And at least one of the officers
21 approached me, didn't remove me, didn't ask me to leave
22 the room, simply said if you say another word you will
23 be removed.

24 So of course I didn't say another word and I
25 was not removed. And Senator Kyle then went on to say

1 the record will remain open three days. Anyone who has
2 written submissions including any, from the audience,
3 anyone who has written submissions, you can make it
4 within three days.

5 The hearing concluded. And I had not been able
6 prior to the hearing to ascertain what the bar
7 association rating of this federal judicial nominee was.

8 And I had been advised in Chairman Hatch's
9 letter to me, that same letter that had said I would not
10 be permitted to testify without giving reasons, that the
11 bar rating would only be available at the confirmation
12 hearing itself.

13 Well, it wasn't announced during the
14 confirmation hearing what the nominee's rating had been.
15 So after the hearing was concluded, I went into the
16 Senate Judiciary Committee offices to request the bar
17 association rating.

18 Initially, staff at the Senate Judiciary
19 Committee didn't want to give me that. But then I
20 pulled out the letter from Chairman Hatch and I said
21 look, it says right here that that information will be
22 available at the hearing. So now we've had the hearing,
23 may I have that bar rating?

24 So I waited, and meanwhile three officers waited
25 with me. And the clerk came back, he wri, he wrote the

1 rating of the nominee and the other nominees whose
2 confirmation was the subject of the hearing.

3 And I should tell you that the nominee that I
4 sought to oppose had the lowest rating, had a mixed
5 rating of qualified/not qualified.

6 As I exited the, the offices of the Senate
7 Judiciary Committee, I, one of the officers asked if
8 they could see my identification. And I had no problem
9 with that. I gave him my identification.

10 And I had a very nice conversation. I had been
11 having a nice conversation with the officers. I assumed
12 when they asked for my identification that they simply
13 wanted to write up what had taken place, how they had
14 spent the previous hour in which they were at the Senate
15 Judiciary Committee and surveilling me.

16 And I began to recount to a woman officer,
17 there were two male officers and a woman officer, what
18 had happened four years earlier when I had come down to
19 the Senate Judiciary Committee.

20 And how at that time I had come down not
21 because there was any hearing but because the evidence
22 that we had presented to the Senate Judiciary Committee
23 was so serious and substantial, and I would write and
24 call and nobody would speak to me.

25 I could, could never speak to counsel and I had

1 tried to make a meeting with counsel. And finally, in
2 desperation, I decided just to come down to see if I
3 could meet with counsel. Well, rather than meeting
4 with me they called the police on me.

5 And I recounted to the female officer how when
6 the police arrived, the first thing they said is what's
7 the matter. And I said you see, you asked me what's the
8 matter but the Senate Judiciary Committee doesn't want
9 to know what the matter is.

10 They don't want to address what we've been
11 documenting as to the dysfunction --

12 THE COURT: Move it along please.

13 MS. SASSOWER: In any event, in 1996, after the
14 male officer took my identification, he proceeded to try
15 to get my Social Security number. It was not just for
16 purposes of writing up a, an innocent report.

17 And when I questioned him about what he was
18 doing and his right to have my license, he threatened
19 me. He arrested me on a completely bogus, trumped-up
20 disorderly conduct charge.

21 But I was -- for your purposes, the most
22 important thing for you to know is that I was not
23 arrested in 1996 for requesting to testify at the Senate
24 Judiciary Committee hearing. Okay.

25 Now let's fast forward. The pertinent facts as

1 to that arrest and the documents as to that arrest as
2 well as the years of our advocacy and my advocacy in
3 particular, with the Senate Judiciary Committee was set
4 forth in a very extensive letter in July 2001 that went,
5 that was addressed to Senator Schumer.

6 Senator Schumer is not only New York's home
7 state's senator, he's a member of the Senate Judiciary
8 Committee. And in the summer of 2001, he was the
9 chairman of the Court's subcommittee.

10 And he was then holding hearings about the
11 process of federal judicial confirmation, and in
12 connection with those hearings I wrote a very extensive
13 letter.

14 These letters are not just letters, they're
15 reports, okay, particularizing 10 years of experience
16 with the Senate Judiciary Committee and their
17 disinterest in examining evidence of nominee unfitness
18 and the problem with bar ratings. Okay.

19 That letter not only went to Senator Schumer,
20 but because of the seriousness of what was set forth, I
21 sent copies to every member of the committee, to the
22 Senate leadership, to Senator Clinton.

23 And in my cover letter to Senator Clinton, I
24 said, you know, you live in Chappaqua, New York and we
25 are only 15 minutes away from your home and we invite

1 you to visit us so that you can see the work of our
2 citizens' organization.

3 We didn't get any response to that letter from
4 Senator Clinton's office, didn't get any response from
5 Senator Schumer to this recitation of what was going on
6 in the Senate Judiciary Committee and bar ratings and no
7 response from anyone else.

8 Now we're on to March 2003 and President Bush's
9 nomination of Richard Wesley to the Second Circuit Court
10 of Appeals. I introduce to you a letter that I wrote
11 to --

12 THE COURT: The, the exhibit number please.

13 MS. SASSOWER: Exhibit Number 39 which is my
14 March 14th letter to the Senate Judiciary Committee, in
15 particular to the nominations clerk for the Republican
16 majority.

17 The committee is very partisan. It has a
18 Democratic side, and has the Republican side, and this
19 correspondence went to both sides. And you will see
20 that.

21 And the letter reflects my phone conversation
22 with the clerks of the Senate Judiciary Committee
23 Republican side, identifying our strenuous opposition to
24 Richard Wesley's confirmation to the Second Circuit
25 Court of Appeals and requesting to testify in

1 opposition.

2 And asking among other things, quote, please
3 also send any written informational material about the
4 committee's confirmation process.

5 This would include information concerning the
6 committee's investigative procedures upon receiving
7 notification, such as this, of citizen opposition and
8 requests to testify in opposition.

9 This would also include the Committee's
10 written standards for evaluating the qualifications of
11 federal judicial nominees, including the weight accorded
12 to bar association ratings, such as those of the
13 American Bar Association and the Association of the Bar
14 of the City of New York.

15 There was never any response from the Senate
16 Judiciary Committee to that request for its rules,
17 regulations, procedures, upon receiving notification,
18 such as this, of citizen opposition and requests to
19 testify.

20 What I did receive, however, was something
21 that I had requested because again I've been doing this
22 for many years. I had requested the public portion of
23 the questionnaire that Judge Wesley had to fill out for
24 the Senate Judiciary Committee.

25 The Senate Judiciary Committee has a

1 questionnaire, the nominee has to respond. There is a
2 public portion that is made publicly available, and
3 there is a confidential portion. And I had requested
4 the public portion.

5 Indeed, I had requested the public portion
6 not only of Judge Wesley but of another individual who
7 was also nominated on the same date by President Bush,
8 not to a Court of Appeals judgeship, which is an
9 intermediate appellate judgeship in the federal system,
10 but to a District Court judgeship. I did receive the,
11 the public portion of their questionnaires.

12 And based upon not only on my direct,
13 first-hand experience with Judge Wesley and the
14 experience of another member of the Center for Judicial
15 Accountability, and, and weaving it together with an
16 analysis of Judge Wesley's response, I prepared a
17 written statement of opposition.

18 And the written statement of opposition
19 described what Judge Wesley had done on New York's
20 highest state court, which is our New York Court of
21 Appeals, concerned his misconduct --

22 THE COURT: No. You stated that your statement
23 concerned your opposition. The details of that
24 opposition are not relevant to this case. Go ahead.

25 MS. SASSOWER: It included his lies.

1 THE COURT: Ms. Sassower, when I ask you to
2 proceed, --

3 MS. SASSOWER: Okay.

4 THE COURT: -- I mean exactly that.

5 MS. SASSOWER: All right. The statement not
6 only gave an overview of what he had done in two public
7 interest cases involving --

8 THE COURT: Excuse me. I think that I was
9 quite clear.

10 MS. SASSOWER: I didn't, I'm not gonna go into
11 the specifics of what he did.

12 THE COURT: Move on.

13 MS. SASSOWER: It identified the evidence that
14 would substantiate the serious assertions made in the
15 overview statement. Okay.

16 On April 23rd, moving from March 14th, the
17 letter to the Senate Judiciary Committee requesting
18 information about its standards for evaluating
19 candidate's fitness and its rules and procedures.

20 On April 23rd, I hand-delivered to the New York
21 City offices of New York's home state senators, Charles
22 Schumer and Hillary Rodham Clinton, identical packages
23 to each.

24 I addressed a cover letter specifically to
25 them, not identical cover letters, asking that they use

1 that special prerogative they have, as the home state
2 senators, to prevent this nomination from going forward
3 to confirmation.

4 I am not only a constituent living in New
5 York of these two New York senators, what was involved
6 was a powerful federal judgeship.

7 The Second Circuit Court of Appeals sits
8 in Manhattan. The Second Circuit, for your information,
9 covers three states: New York, Vermont, Connecticut.

10 I had delivered to the New York offices
11 identical cover letters, I'm sorry, identical packages
12 with separate cover letters. But each of them got a
13 copy of the other's cover letter. And I provided a copy
14 of the --

15 THE COURT: No, that will be stricken. That
16 will be stricken.

17 MS. SASSOWER: I'm not going to discuss the
18 content.

19 THE COURT: Well it seems that that's exactly
20 what you're about to do.

21 MS. SASSOWER: I'm not going to discuss the
22 content. I'm going to identify --

23 THE COURT: Identify the documents in the
24 packet?

25 MS. SASSOWER: Excuse me?

1 THE COURT: Identify the documents in the
2 packet?

3 MS. SASSOWER: Only generally because you have
4 precluded me from, from --

5 THE COURT: Ms. Sassower, don't argue with me
6 from the witness stand. I've ruled.

7 MS. SASSOWER: Okay. They were provided with
8 the overview statement as to the misconduct and the key
9 documents substantiating that misconduct.

10 The key documents from the record of the two
11 public interest cases that came before Judge Wesley
12 sitting on New York's Court of Appeals. The documentary
13 evidence in that package sufficed.

14 ~~It~~ It was sufficient in and of itself to establish
15 what Judge Wesley had done and done both individually
16 and collectively with his fellow judges, both.

17 Additionally, since there had never been any
18 response from Senators Schumer and Clinton to the letter
19 of two years earlier, 2001, July 2001, I provided --

20 THE COURT: What's the exhibit number?

21 MS. SASSOWER: Well, this is all part of the
22 cumulative Exhibit 37.

23 THE COURT: Very well.

24 MS. SASSOWER: The package.

25 THE COURT: Then it will not be referred to.

1 Please proceed.

2 MS. SASSOWER: In other words, I wasn't making
3 wild allegations, charges of misconduct by Judge Wesley.
4 I was providing something that was detailed, fact-
5 specific, documented.

6 At the same time, because there is some sort of
7 internal courier system that the senators have in New
8 York with their Washington offices, I requested Senator
9 Schumer's office to, to carry, to transmit this package
10 of materials that I've provided to Schumer, that I've
11 provided to Clinton.

12 I had two other packages: one for the Republican
13 majority Senate Judiciary Committee and one for the
14 Democratic minority of the Senate Judiciary Committee.

15 So that they would have at that moment the
16 overview statement identifying the misconduct and the
17 pertinent substantiating documents.

18 I was never able to verify, I was never able to
19 get a straight answer from Senator Schumer's office,
20 from the Republican majority side of the Senate
21 Judiciary Committee, from the Democratic minority side
22 of the ~~sement~~ ^{Senate} [sic], Senate Judiciary Committee whether
23 they ever got that package of materials that I had left
24 with Senator Schumer's office to have transmitted
25 internally to them.

1 And as to Senator Clinton's office, well, I left
2 message after message after message for Leecia Eve as to
3 whether or not she received this April 23rd hand-
4 delivered package from the New York office, never gave
5 me the courtesy of a return call.

6 Couldn't get much information from Josh Albert,
7 the legislative correspondent who had been my contact
8 person. And finally, I decided to make a personal trip
9 from New York, to drive down from New York -

10 Oh, this is the age of all those toxics scares,
11 mail is impossible. If you send anything to Congress,
12 it takes weeks and weeks and months to arrive.

13 And I had been told that by Josh Albert. I had
14 been told that by everyone. You can send faxes, you can
15 send e-mails, but if you're gonna send anything by
16 regular mail, you can forget it. It's not gonna arrive
17 for weeks and weeks and weeks.

18 So I drove down from New York on May 5th. By
19 then I had -- oh, oh. The, there's a May 2nd letter to
20 Josh Albert, is that in evidence? I think he --

21 THE COURT: What's the exhibit number?

22 MS. SASSOWER: Exhibit number.

23 MR. GOLDSTONE: Thirty-eight?

24 MS. SASSOWER:: Yes, yes, yes, 38, is that in
25 evidence? I questioned him about that letter whether he

1 had received it.

2 THE COURT: Counsel approach the bench. Bring
3 38 with you.

4 (Bench Conference)

5 MS. SASSOWER: Do you have it? Do you have it?

6 THE COURT: Step around. The question to me is
7 whether or not this specific exhibit has been introduced
8 into evidence. You can't question on --

9 I have no recollection that exhibit, that the
10 exhibit that's now identified as 38 has been admitted
11 into evidence. Have you seen this?

12 MR. MENDELSON: The only defense exhibit
13 that's actually in evidence is Defense Exhibit Number 2
14 and perhaps part of Defense Exhibit 7.

15 THE COURT: Excuse me?

16 MR. MENDELSON: And perhaps part of Defense
17 Exhibit 7. We do not believe that Defense exhibit 38 is
18 in evidence.

19 MS. SASSOWER: I know --

20 THE COURT: I haven't asked you yet. Look at
21 the evidence, look at it. What is this document being
22 offered for? That is to say, when you speak to the jury
23 concerning this exhibit, what exactly is it that you
24 want to tell them?

25 MS. SASSOWER: That I left repeated messages

1 for Leecia Eve, that we had a meeting tentatively
2 scheduled for 1:00 p.m. I went to that office. I left
3 materials in that office.

4 MR. MENDELSON: Your Honor, again, we have no
5 objection to the defendant testifying about all these
6 facts. But this letter --

7 THE COURT: Essentially that is cumulative,
8 correct?

9 MR. MENDELSON: Yes, Your Honor.

10 THE COURT: Very well. I'm going to actually
11 allow this --

12 MS. SASSOWER: -- Thank you.

13 THE COURT: -- into, into evidence. It hasn't
14 been admitted yet. I'll, I'll allow her to offer it.
15 You can state your objection. Well, you've already
16 stated your objection. I'll have -- 38.

17 MS. SASSOWER: Thank you.

18 (Open Court)

19 THE COURT: Proceed, Ms. Sassower.

20 MS. SASSOWER: Okay.

21 THE COURT: Be mindful of the time please.

22 MS. SASSOWER: Obviously, I wanted to maximize
23 my trip to Washington. I didn't want to just be a
24 courier of documents, and I arranged a meeting with
25 Leecia Eve through Josh Albert.

"CORRECTED PAGE"

1 It was po, it was supposed to be for 1:00 p.m.
2 I was running late. When I arrived maybe a half an
3 hour, 40 - 45 minutes later, nobody could see me. I sat
4 perhaps 20 - 25 minutes, no one came out, no one was
5 available.

6 And I left in that office Exhibit 15, which is
7 my May 5th memo to Chairman Hatch and Ranking Member
8 Leahy of the Senate Judiciary Committee.

9 And Senator Clinton was an indicated recipient
10 since of course she is a home-state senator of New York.
11 And I also went and provided a copy for Senator Schumer.

12 And the memo in brief recounted our years,
13 that is the Center for Judicial Accountability's years
14 of interaction with the Senate Judiciary Committee and
15 the fact that we had over and again established that
16 the bar association ratings were fraudulent, the
17 product of insufficient, dishonest investigations
18 without any response from the Senate Judiciary
19 Committee. And this was highlighted because by then
20 the bar associations had given approval ratings to
21 Judge Wesley.

22 And so what was being identified is that
23 the evidence that was being proffered as to
24 Judge Wesley's unfitness also exposed that the bar
25 associations had not done their job.

"CORRECTED PAGE"

1 And the evidence, but not just the, the most
2 direct evidence, was transmitted to the Senate Judiciary
3 Committee. It consisted of those five boxes.

4 THE COURT: Let the record reflect that Ms.
5 Sassower is pointing to several document boxes that are
6 stacked on the defense table. Appear to be five boxes.

7 MS. SASSOWER: And --

8 THE COURT: Please sit down, Ms. Sassower.

9 MS. SASSOWER: And a, what is called a redweld
10 folder, it's one of those brown long folders with a
11 flap. Yeah. All right. No, don't do that.

12 THE COURT: Very well. Please proceed.

13 MS. SASSOWER: Okay. Now you should know that
14 those decorated boxes were not decorated for the Senate
15 Judiciary Committee. That, those are the original boxes
16 with the original file that had been before Judge Wesley
17 at the New York Court of Appeals when he did what he
18 did.

19 THE COURT: Move it along, Ms. Sassower.

20 MS. SASSOWER: Okay. After the New York Court
21 of Appeals disposed of the matter as it did and the bar
22 associations were doing their evaluations, I provided
23 them with those boxes, those evi, evidence-filled boxes.

24 And after they had completed their ratings, I
25 picked up those boxes from the bar association and

1 brought them to Senate Judiciary Committee.

2 Okay. Moving on. Nobody called me from the
3 Senate Judiciary Committee. Nobody said we have some
4 questions. We don't understand what you're saying. We
5 don't understand your allegations. We don't understand
6 where the evidence is.

7 Nobody contacted me. I was never interviewed.
8 And from May 5th ,I called the Senate Judiciary
9 Committee.

10 THE COURT: What are you referring to, Ms.
11 Sassower?

12 MS. SASSOWER: I'm sorry, I'm now looking at my
13 May 19th memorandum.

14 THE COURT: What is the exhibit number?

15 MS. SASSOWER: Exhibit Number 4, my May 19th
16 memorandum to Chairman Hatch and ranking member Leahy.
17 Again, I had deposited those boxes in substantiation of
18 a written statement on May 5th and there had been no
19 response from anyone.

20 And I had called in the intervening days. I
21 had called on Tuesday, May 6th at 2:05 p.m., on
22 Thursday, May 8th at 11:25 p.m., on Friday, May 9th at
23 2:05 p.m., on Monday, May 12th at 2:02 p.m., leaving
24 voice mail messages, all unreturned.

25 Finally, on May 13th, I, I called again and

1 said if I did not hear back from someone, I would be
2 taking it up with a superior. These were messages left
3 for the nominations clerk.

4 The nominations clerk called me back at the end
5 of the day. And what he claimed was that reviewing
6 counsel had -- what he claimed was that the Committee's
7 counsel had reviewed the material but didn't understand
8 my accusations and which documents would substantiate
9 them.

10 And my response to that is that was impossible.
11 That the accusations and the substantiating documents
12 were particularized in my overview statement.

13 And I said counsel would have to be brain dead,
14 would have to be brain dead not to understand what that
15 overview statement said and which were the
16 substantiating documents.

17 And I asked to speak to the supposed reviewing
18 counsel. I wanted the name of the reviewing counsel.

19 No, the nominations clerk would not give me the
20 name of the reviewing counsel, gave me no reason for why
21 he would not give me the name of the reviewing counsel.
22 But he did agree to pass on my request to speak to the
23 reviewing counsel.

24 Moving on. And this will be in evidence and
25 you can read exactly what happened at that time. Two

1 days later, we are now -- that conversation with the
2 clerk was May 13th. Two days later, we're at May 15th.

3 And now the clerk told me that he had been told
4 by reviewing counsel that I was "a disgruntled litigant"
5 who saw conspiracies and corruption everywhere.

6 And my response to him was no competent
7 unconflicted counsel could so conclude. And I again
8 asked for the name of the counsel, and the clerk would
9 not give me the supposed reviewing counsel's name.

10 The clerk did not see fit to tell me what he
11 already knew, which is that the hearing had been
12 scheduled, on the confirmation, had been scheduled for
13 the following week. He didn't tell me that but he
14 already knew it.

15 THE COURT: Very well.

16 MS. SASSOWER: I --

17 THE COURT: An appropriate point for us to have
18 a bench conference. Counsel approach.

19 (Bench Conference)

20 THE COURT: Very well. This has been now
21 proceeding for about 59 minutes now. And quite frankly,
22 much too ti, too much time has been consumed already.

23 And I appreciate the fact that the Government
24 has not interposed objections when it could well have
25 and I haven't stricken matters from the record when I

1 could well have.

2 We're now going to do the following: either
3 you're going to give your tape analysis or you're going
4 to conclude.

5 MS. SASSOWER: Okay.

6 THE COURT: And I will give you --.

7 MS. SASSOWER: All right, five minutes.

8 THE COURT: Very well.

9 (Open Court)

10 MS. SASSOWER: The pertinent documents of May
11 19th and May 22nd recite what was going on at the Senate
12 Judiciary Committee. And as I -- okay.

13 Now, as I said in my opening, what is set
14 forth in the May 22nd document is what I was told on May
15 19th and May 20th, the events of the prior two days.

16 Between those, I had a phone conference with
17 Leecia Eve and Josh Albert on May 20th. It was
18 approximately 40 minutes in length.

19 And not only did I relay to Ms. Eve that there
20 had been no investigation by the Senate Judiciary
21 Committee of the, of what had been presented in
22 opposition to Judge Wesley, that I had not gotten any
23 call from reviewing counsel, didn't even know the
24 identity of so-called reviewing counsel. But --

25 THE COURT: Ms. Sassower, analysis of the

1 videotape?

2 MS. SASSOWER: -- it, it -- well, wait. Can I
3 --

4 THE COURT: To whom are you speaking?
5 Analysis of the videotape or we will conclude your
6 testimony, Ms. Sassower.

7 MS. SASSOWER: All right. We will move forward
8 to the videotape. Know that everything that I would
9 testify to is set forth in these documents of May 19th,
10 May 22nd and then the shocking correspondence of May
11 21st.

12 Now let's look at the video. Because what did
13 you see? The prosecution showed you the video. It
14 doesn't speak for itself. What did you see? Do you
15 want to use your video? Yes. Okay.

16 Before we see it, because it's too -- you know,
17 in those high-powered trials, you always have the
18 technical analysts who have enhanced the tape, right,
19 who slow the tape, who, so that you can hear but you
20 can't really hear clearly. And so that you see the
21 sequence.

22 Since I don't have any high-powered
23 technological experts, I did an analysis watching the
24 tape over again. Okay.

25 (Thereupon, the tape was played.)

1 MS. SASSOWER: Wait, no, no, no, please stop.
2 Let it -- okay. We will see it but first let me tell
3 you what you will see.

4 To begin with, the videotape shows that the so-
5 called disruption did not occur during a Judiciary
6 Committee hearing but upon its being adjourned.

7 Only after presiding Chairman Chambliss says "if
8 there are no further questions or participation from
9 anyone on the Committee, we will stand adjourned." Only
10 after he says that did I commence to speak, and then it
11 was only for a total of eight seconds.

12 Now as to a gavel? He strikes the gavel once
13 and the gavel is not struck to quell any distraction.
14 Rather, Chairman Chambliss struck the gavel to symbolize
15 the close of the hearing while saying thank you very
16 much.

17 One strike, not (demonstrating) as if he's
18 calling disturbance, but (demonstrating) one strike as
19 he's saying thank you very much because he has just said
20 that the hearing will "stand adjourned." Okay.

21 Now the video also makes plain that I began
22 speaking as Chairman Chambliss was saying "thank you very
23 much." Okay. Now it is because our words are
24 simultaneous, with mine coming from the back of the room
25 that my initial words are not audible from the tape.

1 Can I say, can I say what the transcript shows?

2 THE COURT: The tape is --

3 MS. SASSOWER: Okay.

4 THE COURT: --the evidence.

5 MS. SASSOWER: Okay. Now I will tell you what
6 I said because I didn't want to slip up and because I
7 had been unlawfully threatened.

8 THE COURT: Analysis of the tape?

9 MS. SASSOWER: I -- no, I had written precisely
10 what I said.

11 THE COURT: Sit down, Ms. Sassower.

12 MS. SASSOWER: Oh,. And this is what I said:
13 "Mr. Chairman, there's citizen opposition to Judge Wesley
14 based on his documented corruption as a New York Court
15 of Appeals judge. May I testify?"

16 Now, okay. From the video, if you listen
17 carefully, you can hear the words, "May I testify?" All
18 right.

19 Now the video makes plain that I had finished
20 my concluding words, "may I testify?"² by the time Chairman
21 Chambliss responded, "I will issue a warning that we will
22 have order."

23 I had already stopped speaking, it was eight
24 seconds. I had already finished. Indeed, as reflected
25 by the video, his immediately following words, "The

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1 Committee will stand in recess until the police can
2 restore order. Everyone remain seated," as if there were
3 some ongoing continued disturbance or ruckus were wholly
4 superfluous, since after asking "may I testify?" I was
5 completely silent.

6 Now on the video, the heads of Officer
7 Jennings and Sergeant Bignotti are not seen passing the
8 video camera until this further wholly unnecessary
9 statement, "Until the police can restore order." They
10 then passed from left to right.

11 It must be noted that the video which is
12 focused on Chairman Chambliss as he closes the hearing
13 shows no surprise on his face as I begin to speak from
14 the back of the room.

15 Rather, it shows him re, reaching for his
16 reading glasses and then presumably for the, for the
17 paper from which, after I am taken out of the hearing
18 room, he seems to read.

19 THE COURT: Very well. We will have the
20 playing of the tape.

21 MS. SASSOWER: I'm not finished, I'm not
22 finished.

23 THE COURT: You have consumed enough time --

24 MS. SASSOWER: I'm not --

25 THE COURT: -- with this explanation.

"CORRECTED PAGE"

1 MS. SASSOWER: I'm not finished. I have --

2 THE COURT: Well, I'm sorry, Ms. Sassower,
3 that is, that is unfortunate. Play the tape please.

4 (Thereupon, the videotape was played.)

5 MS. SASSOWER: Insofar --

6 THE COURT: Turn, turn the tape off. Very
7 well. Ladies and gentlemen, we're going to take our
8 morning recess. We'll resume in 10 minutes, 15 minutes.

9 (Thereupon, the jury returned to the
10 juryroom.)

11 THE COURT: Very well, step down.

12 MS. SASSOWER: Excuse me, I'd like to place
13 objections on the record please.

14 THE COURT: You can step over and do that from
15 here not the witness stand.

16 MS. SASSOWER: Of course.

17 THE COURT: All right.

18 MS. SASSOWER: What we might have to --

19 THE COURT: We are through with the videotape.
20 Very well. Succinctly state your objection on the
21 record so that we can proceed. We're not gonna consume
22 a lot of time with this. Go ahead.

23 MS. SASSOWER: The this that Your Honor is
24 referring to is my defense.

25 THE COURT: Right.

1 MS. SASSOWER: And I was on the stand for
2 approximately one hour. Your Honor did not indicate at
3 the outset any time restriction.

4 I believed I would have adequate opportunity to
5 present the most relevant particulars which, having
6 provided the necessary background, I was then reciting.

7 And Your Honor has completely truncated and
8 blocked me from reciting the outrageous events
9 pertaining to the call that I received from Capitol
10 police at the instance of Senator Clinton's office,
11 which set in motion a chain of events that included the,
12 the set up by the Senate Judiciary Committee to have me
13 arrested when there was no basis whatsoever for such an
14 arrest, as they knew.

15 THE COURT: Very well. I, I will address --

16 MS. SASSOWER: You interrupted as I was
17 describing Chairman --

18 THE COURT: And I'm -

19 MS. SASSOWER: -- Chambliss's --

20 THE COURT: And I'm interrupting you now. Be
21 silent, sit down while I address this issue. The record
22 will reflect the representations that were made prior to
23 the testimony being rendered as to the estimate of time.

24 The record will also reflect that in an effort
25 to move this matter along, neither the Court nor, to

1 their credit, the Government's counsel interposed
2 objections which would, while warranting, while
3 warranting grant, nevertheless refused to do so to move
4 the matter along.

5 Instead, undue time was consumed in, as I had
6 previously directed the defense, in efforts to get
7 before the jury documents which were clearly
8 inadmissible, clearly referred to by Ms. Sassower in a
9 way to indicate to the jury that there were materials
10 that she submitted to the Senate Judiciary Committee, to
11 Senator Schuman, Schumer and to Senator Clinton.

12 That point was made several times. The content
13 of the documents were not and will not be disclosed
14 except as previously addressed during the preliminary
15 matters part of today's proceedings.

16 Therefore, this Court is satisfied that the
17 jury has seen the videotape several times and has
18 received, by way of evidence that was not objected to
19 and not stricken by the Court, the defendant's analysis
20 such as it was.

21 MS. SASSOWER: The defendant has not, has not
22 concluded the analysis.

23 THE COURT: You've made that point and I'm
24 ordering that you have in fact concluded your analysis.

25 MS. SASSOWER: You will not permit me?

1 THE COURT: I will not permit any further
2 discussion of this videotape.

3 MS. SASSOWER: Of what that tape shows in fact?

4 THE COURT: The tape speaks for itself.

5 MS. SASSOWER: No, it doesn't speak for
6 itself.

7 THE COURT: Very well. Sit down, Ms. Sassower.
8 The, the next matter then is, Ms. Sassower, given that
9 there will be no further discussion of the tape and
10 given that there will be no further testimony from the
11 witness stand, does the defense rest?

12 MS. SASSOWER: No, the defense does not rest.

13 THE COURT: Very well.

14 MS. SASSOWER: The defense --

15 THE COURT: What is the additional evidence
16 that you will offer? Is there another witness?

17 MS. SASSOWER: The defense will
18 testify --

19 THE COURT: Is there --

20 MS. SASSOWER: -- as to Officer Jennings,
21 officer, the placement of Officer Jennings and Sergeant
22 Bignotti.

23 THE COURT: If that's your proffer, it is
24 irrelevant -

25 MS. SASSOWER: And -

1 THE COURT: -- and it will not be admitted into
2 evidence.

3 MS. SASSOWER: And the fact that Sergeant
4 Bignotti alone arrested me, Officer Jennings had nothing
5 to do with it. His testimony is he told me to sit down.
6 He is not the arresting officer, it was Sergeant
7 Bignotti.

8 THE COURT: Very well. You --

9 MS. SASSOWER: Against whom I had filed a
10 police misconduct complaint.

11 THE COURT: The police misconduct --

12 MS. SASSOWER: -- in 1996.

13 THE COURT: The police misconduct complaint is
14 not in this case. I have directed you not to even --

15 MS. SASSOWER: It's properly, it's properly in
16 this, --

17 THE COURT: Not -

18 MS. SASSOWER: -- in this case.

19 THE COURT: It is not in this case.

20 MS. SASSOWER: It's properly in -- Your Honor -

21 THE COURT: Ms. Sassower, --

22 MS. SASSOWER: -- has excluded -

23 THE COURT: Ms. Sassower, --.

24 MS. SASSOWER: It's relevant to evidence.

25 THE COURT: Ms. Sassower, sit down now. Very

1 well. I am ordering that based upon the proffer that
2 I've heard as to the additional information that Ms.
3 Sassower seeks to get before the jury in the way of
4 evidence, that evidence is not admissible.

5 It has previously been ruled upon, particularly
6 this issue of a misconduct complaint against an officer
7 involved in the arrest.

8 And given the extent of the proffer, the Court
9 is ordering that the defense case be closed at this
10 point. The defense rests. Therefore Ms. --

11 MS. SASSOWER: You have rested for me.

12 THE COURT: I have --

13 MS. SASSOWER: The Defense does not rest,
14 Your Honor.

15 THE COURT: The record is clear. But let me
16 tell you this. When we resume what we will be doing is
17 having closing argument and the jury will receive the
18 case.

19 MS. SASSOWER: Well they have not received the,
20 the --

21 THE COURT: Then, then --

22 MS. SASSOWER: -- the pertinent evidence --

23 THE COURT: Then that's --

24 MS. SASSOWER: -- which comes from the witness
25 stand.

1 THE COURT: You don't understand. I'm not
2 entertaining any further discussion on the issue. You
3 have made your objection for the record. It's done.
4 The jury is now going to hear closing argument and
5 receive instruction from me. Sit please. Now --

6 MS. SASSOWER: Excuse me. Will the, will
7 the -- since Sergeant Bignotti put forward her
8 version --

9 THE COURT: You had ample opportunity --

10 MS. SASSOWER: Excuse me.

11 THE COURT: You had ample opportunity to put on
12 evidence in this case.

13 MS. SASSOWER: Will the -

14 THE COURT: There will be no further -

15 MS. SASSOWER: Will --

16 THE COURT: -- evidence -

17 MS. SASSOWER: Will they be told -

18 THE COURT: -- from the defense.

19 MS. SASSOWER: -- that there was no conviction
20 for disorderly conduct?

21 THE COURT: Absolutely not. Sit, sit down.

22 MS. SASSOWER: Absolutely not.

23 THE COURT: Sit down.

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

25 THE COURT: Come up.

1 (Bench Conference)

2 THE COURT: State --

3 MR. MENDELSON: Two issues. One, the
4 Government is not opposed to the defendant finishing up
5 her recitation of the facts by way of reading her,
6 Her, --

7 MS. SASSOWER: Analysis.

8 MR. MENDELSON: -- her analysis. Two, the
9 Government does have cross-examination of the defendant
10 that, depending on how the defendant answers those
11 questions, we don't expect it to take more than 10 - 15
12 minutes.

13 THE COURT: All right. Ms. Sassower.

14 MS. SASSOWER: Oh, the --

15 THE COURT: Lower your voice when you speak.

16 MS. SASSOWER: The defense welcomes --

17 THE COURT: Lower your voice -

18 MS. SASSOWER: -- cross-examination.

19 THE COURT: Get a marshal.

20 MS. SASSOWER: The defense welcomes cross-
21 examination, Your Honor.

22 THE COURT: Very well. And the fact that your
23 being cross-examined doesn't mean that you're gonna give
24 speeches from the witness stand. Do you un, do you
25 understand that?

1 MS. SASSOWER: I will answer as the question
2 warrants, Your Honor.

3 THE COURT: Very well.

4 MR. MENDELSON: Your Honor, all of my
5 questions warrant a yes or no answer.

6 THE COURT: Absolutely.

7 MS. LIU: Your Honor, one more thing.

8 THE COURT: Yes.

9 MS. LIU: You had mentioned that we're going
10 into closing arguments. Is it your intention to have us
11 close before you instruct the jury?

12 THE COURT: No. As a matter of fact, my
13 intention is once the cross-examination is complete,
14 then we will essentially have the -- I think I'm gonna
15 have to give them a break again while I entertain brief
16 discussion of the jury instructions.

17 We'll bring them back in. We'll lock the
18 door. I'll give them the instructions. And of course,
19 as you know, the purpose for locking the door is so that
20 they aren't disturbed during the instruction period.

21 I don't mind who's present for the
22 instructions, but they have to wait until the
23 instructions are completely given before they leave. So
24 we'll instruct them.

25 You will then do your closings and that will be

1 the last thing that they have. Government first,
2 defense, brief rebuttal and then we're done.

3 Right now while we're having this bench
4 conference, it would be good for me to know how long do
5 you think your closings are gonna take.

6 MS. LIU: Your Honor, the Government's first
7 closing is going to take about 12 to 15 minutes.

8 THE COURT: Very well.

9 MS. LIU: And at the close of the defendant's
10 case, rebuttal will not take longer than about five to 8
11 minutes.

12 THE COURT: Very well. So you're talking about
13 a total of 20 minutes?

14 MS. LIU: That's about right, Your Honor.
15 We'll endeavor to keep it brief.

16 THE COURT: Right. Very well. Defense, what do
17 you estimate your closing statement to be?

18 MS. SASSOWER: It will have to be more
19 extensive since I was precluded from testifying.

20 THE COURT: No, you fail to understand. The
21 closing statement --

22 MS. SASSOWER: Yes.

23 THE COURT: -- is a commentary on the evidence.

24 MS. SASSOWER: Yes, I will be giving a
25 commentary.

1 THE COURT: Listen. What you didn't say from
2 the stand, what didn't get in there, you don't get a
3 second chance to do it when you're giving closing
4 statements.

5 MS. SASSOWER: That's why I should be permitted
6 to conclude my factual testimony. That's why I'm --

7 THE COURT: How many, how many additional
8 points in your analysis do you have? You see, the
9 Government, while they may not object, they aren't
10 charged with the efficient operation of this courtroom.
11 That's me. Give me the response to my question, how
12 many additional points?

13 MS. SASSOWER: I think I have perhaps five
14 minutes, no more.

15 THE COURT: No, that was what you stated
16 earlier. I want to know the number of points.

17 MS. SASSOWER: Well, --

18 THE COURT: I don't want, I don't care to know
19 an estimate of time.

20 MS. SASSOWER: May I take my statement and look
21 at it?

22 THE COURT: Sure.

23 (Pause)

24 MS. SASSOWER: It's a sham.

25 THE COURT: Ms. Sassower, Ms. Sassower.

1 MS. SASSOWER: Yes.

2 THE COURT: I'm not going to listen to any
3 other comments like that. Don't ever say anything, I
4 don't care what you say out of my presence, but don't
5 ever make that kind of comment in my presence again.

6 MS. SASSOWER: I was saying it to my attorney,
7 my legal adviser.

8 THE COURT: Ms. Sassower.

9 MS. SASSOWER: The record speaks for itself,
10 Your Honor.

11 THE COURT: How many additional points?

12 MS. SASSOWER: I have one, two, four.

13 THE COURT: Very well. And you will make those
14 four points briefly --

15 MS. SASSOWER: Yes.

16 THE COURT: -- and succinctly.

17 MS. SASSOWER: They're, they're written notes.
18 It's easy to do that.

19 MR. MENDELSON: One further question.

20 THE COURT: Yes.

21 MR. MENDELSON: During the cross-examination,
22 may the Government have permission to enter the well of
23 the courtroom when asking questions? Or would the Court
24 prefer if I stay back by the counsel's table?

25 THE COURT: For what reason would you enter the

1 well except to approach her with the documents? I
2 cannot imagine a reason.

3 MR. MENDELSON: The Court would prefer if I
4 stay back.

5 THE COURT: Absolutely, there at the table or
6 the podium.

7 MR. MENDELSON: Thank you.

8 (Open Court)

9 THE COURT: All right. Given the
10 discussion at the bench conference, I'll allow Ms.
11 Sassower to make four points, four additional points
12 pertaining to the videotape and then we will move
13 immediately into the Government's cross-examination.
14 Very well.

15 Oh, I'm sorry. How much time do you need?
16 Okay. We're gonna recess for 10 minutes while the court
17 reporter, who's been here the entire break period, has
18 a, has a break.

19 THE CLERK: The court will stand in brief recess
20 until return of court.

21 (Thereupon, the Court recessed at 11:58 p.m.)

22 (Thereupon, the Court reconvened at 12:10 PM)

23 THE CLERK: United States versus Elena
24 Sassower, case number M4113-03.

25 THE COURT: Very well. Counsel.

1 MS. LIU: Good morning, Your Honor, Jessie Liu
2 for the United States.

3 MR. MENDELSON: Aaron Mendelson for the
4 United States.

5 MS. SASSOWER: Elena Sassower, defendant pro
6 se.

7 MR. GOLDSTONE: Mark Goldstone, attorney
8 adviser.

9 THE COURT: Very well. We will resume with
10 the, final four points of the defense.

11 MR. MENDELSON: Your Honor, the Government
12 does have a preliminary issue before cross-examination
13 begins. Should we address that now --

14 THE COURT: Yes.

15 MR. MENDELSON: -- or --may we approach?

16 THE COURT: Yes.

17 (Bench conference)

18 MR. MENDELSON: Your Honor, Ms. Sassower
19 stated in her direct testimony that Judge Wesley had a
20 problem with another member of the Center for Judicial
21 Accountability.

22 I would like permission to inquire about that
23 other member, and I assume that that other member is her
24 mother.

25 MS. SASSOWER: It's not.

1 THE COURT: Well, I don't much care who it was.
2 I'm not going to allow any further exploration of that
3 issue. In my view, the nature of the allegations
4 against this judge is completely irrelevant.

5 And I permitted testimony along that line to
6 facilitate the narrative. But as to specific inquiry as
7 to who Judge Wesley may have interacted with the Center
8 for Judicial Accountability, I don't see the relevance
9 to the elements or the defense in this case.

10 MR. MENDELSON: Thank you.

11 THE COURT: So I'm not going to allow any
12 further exploration of that area.

13 MR. MENDELSON: Your Honor, I have one quick
14 question.

15 THE COURT: Yes.

16 MR. MENDELSON: Ms. Sassower, as the
17 defendant pro se, has a right to object, objection to
18 government question. So the methodology of that I'm
19 assuming is for her to stand up on the witness stand and
20 raise an objection. Is that correct?

21 THE COURT: No, she's not gonna stand up and
22 raise an objection. She'll simply turn to me. She'll
23 state the objection and she'll give me a brief statement
24 of the basis and I will rule from here.

25 MR. MENDELSON: Thank you, Your Honor.

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1 THE COURT: You're welcome.

2 MS. SASSOWER: The criminal defendant does not
3 contemplate objecting because the criminal defendant is
4 happy to answer every and all questions. And moreover,
5 for the record, the, the member of the Center to whom I
6 referred which --

7 THE COURT: Is a non-issue and the Court
8 doesn't want to share --

9 MS. SASSOWER: -- is Robert Schulz --

10 THE COURT: Ms. Sassower, --

11 MS. SASSOWER: -- who brought the case
12 against the New York State legislature.

13 THE COURT: Get the marshal up here.

14 (Open Court)

15 (Thereupon the jury returned to the courtroom
16 at 2:20 p.m.)

17 THE COURT: Ms. Sassower, please proceed.

18 MS. SASSOWER: Concluding my analysis with some
19 commentary. Before I am taken out, the video has an
20 eight-second pause. It's the period during which
21 Sergeant Bignotti and Sergeant Bignotti alone demanded
22 that I step out of the hearing room.

23 Although she did not then state that I would be
24 arrested, the very demand that I leave the hearing room
25 was a significant enough departure from the precedent

1 that had been set at the June 25th 1996 Senate Judiciary
2 Committee hearing, as to lead me to believe, based upon
3 the threat that I had received by Detective Zimmerman,
4 reflected in my May 21st fax that will be before you in
5 evidence, that I might be arrested.

6 Because my stated position to Detective
7 Zimmerman, as reflected by that fax, was that it was for
8 the presiding chairman to decide whether a respectful
9 request to testify should be punished by arrest, it was
10 for that reason that I then asked Chairman Chambliss, "Are
11 you directing that I be arrested? Are you directing
12 that I be arrested?"

13 Now Chairman Chambliss, the video shows, did
14 not respond to that straightforward question much as he
15 did not respond to my straightforward question - "May I
16 testify?"

17 Instead, the video shows that he answers, I am
18 directing that the police restore order. Sergeant
19 Bignotti then again demanded me to step out of the
20 hearing room, prompting me to again ask Chairman
21 Chambliss, "Are you directing that I be arrested?"

22 The transcript, the video then shows what
23 happens in a nine-second pause, sequence. The head of
24 Sergeant Bignotti passes from right to left, followed by
25 my head and the head of Officer Jennings. The sound of

1 a door is then heard.

2 Although the video does not zoom on Chairman
3 Chambliss' face, the tempo of his immediately following
4 words give the impression that he is reading from a
5 prepared text.

6 My last observation. As my voluminous
7 correspondence with the Senate Judiciary Committee
8 reflects, the letters submitted by outside witnesses, no
9 matter how serious and substantial, are simply ignored
10 by the Committee whose leadership refuses to respond to
11 written requests to testify.

12 Indeed, from the prepared statement read by
13 Senator Chambliss, it appears that the Committee's
14 leadership set me up to be arrested.

15 Were it otherwise, Senator Chambliss would have
16 been provided with a statement to be read before I rose
17 to request to testify—

18 ^a A statement which acknowledged that the
19 committee had received a written request to testify
20 which was being denied because it was "not our usual
21 procedure" and because such request did not fall, fall
22 within an exception thereto.

23 Rather than making an acknowledgment in advance
24 of my rising, that there had been a request to testify,
25 which was known, which was being denied, he reserves it

1 for after I had been taken out.

2 And when I was taken out, the arrest was made by
3 Sergeant Bignotti, not Officer Jennings.

4 THE COURT: Very well. Cross-examination.

5 MR. MENDELSON: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. MENDELSON:

8 Q Good afternoon, Ms. Sassower.

9 A Good afternoon.

10 Q Ms. Sassower, I want to direct your attention
11 to June 25th, 1996.

12 A Please.

13 Q On that day, you traveled from New York to
14 Washington D.C., isn't that right?

15 A I did.

16 Q You went up to the United States Capitol,
17 right?

18 A I did.

19 Q And you went to, specifically to the Senate
20 Dirksen Building, isn't that right?

21 A Yes. I had gotten a call that morning of the
22 hearing and certainly spectators are always welcome at
23 hearings.

24 Q Isn't it true that you spoke in a loud voice to
25 the Senate staffers in Room 224 of the Senate Dirksen

1 Building that day?

2 A No, it is not true.

3 THE COURT: Very well.

4 THE DEFENDANT: And I was, and --

5 THE COURT: Excuse me.

6 THE DEFENDANT: I was not arrested.

7 THE COURT: Excuse me. The answer is no or
8 yes. Next question.

9 BY MR. MENDELSON:

10 Q In fact, isn't it fair to say that you were
11 yelling at them?

12 A I'm a professional and I don't engage in
13 unbecoming conduct ever.

14 Q Didn't U.S. Capitol police at some point try to
15 remove you from Room 224?

16 A They never tried to remove me from the Senate
17 Judiciary Committee offices. We were, we, I had
18 received the bar association evaluation --

19 Q Ma'am, again --

20 A -- of the nominee.

21 THE COURT: Excuse me.

22 MS. SASSOWER: The business was concluded --

23 THE COURT: Ms. Sassower.

24 MS. SASSOWER: -- and we were walking out --

25 THE COURT: Excuse me.

1 THE DEFENDANT: -- into the hallway.

2 THE COURT: Ms. Sassower, excuse me.

3 When I speak you cease until I ask you to resume.

4 MS. SASSOWER: I'm sorry, Your Honor.

5 THE COURT: Next question.

6 BY MR. MENDELSON:

7 Q You didn't want to leave that room, isn't that
8 right?

9 A I had no reason to remain in that room. I had
10 gotten the information which Chairman Hatch's letter
11 indicated I would receive at the time of, of the
12 hearing.

13 Q So you left Room 224 with the U.S. Capitol
14 police willingly.

15 A Absolutely.

16 Q Then in the hallway, you didn't shout at them
17 at all?

18 A No, I did not.

19 Q You didn't use profanity?

20 A I don't use profanity.

21 Q You didn't speak in a loud voice at all?

22 A I requested the return of identification which
23 I freely and willingly gave to the officer and which he
24 refused to return. And because of my protests, he did
25 not indicate any legal basis --

1 THE COURT: Excuse me, excuse me. Answer the
2 question yes or no. Question.

3 BY MR. MENDELSON:

4 Q In requesting the return of your documents, you
5 didn't speak in a loud voice at all?

6 A I did not speak in a voice that would warrant
7 any kind of arrest, no.

8 Q When you say that, will you demonstrate how you
9 asked for the return of your driver's license?

10 A How is this relevant? I was not arrested for
11 requesting to testify -

12 MR. MENDELSON: Your Honor, --

13 MS. SASSOWER: -- at the Senate Judiciary
14 Committee hearing.

15 THE COURT: That testimony is stricken. Ms.
16 Sassower, answer the question as requested.

17 MS. SASSOWER: The events have been
18 particularized by me in a police --

19 THE COURT: Ms. --

20 MS. SASSOWER: -- misconduct complaint against
21 Sergeant Bignotti -

22 MR. MENDELSON: Your Honor, --

23 THE COURT:: Excuse --

24 MS. SASSOWER: --and the other officers involved,
25 as you know.

1 THE COURT: Excuse me, excuse me. Please have
2 the jury removed. And you will disregard the last
3 comment by the defendant.

4 (Thereupon, the jury returned to the juryroom at
5 12:24 p.m.)

6 THE COURT: Very well, it's now 12:24. The
7 Court has previously given instructions to this witness
8 with regard to the manner in which questions would be
9 answered in this courtroom.

10 Clearly, the response to the last question was
11 not only non-responsive but it was inappropriate, in
12 that the content of that testimony was deemed by this
13 Court to be so prejudicial that it should never be
14 placed in front of the jury.

15 Nevertheless, despite this preclusion and
16 despite the Court referring several times to the fact
17 that the jury should never hear this prejudicial
18 information, Ms. Sassower chose instead to violate the
19 Court's order and to make a statement as to the
20 information that had previously been ruled precluded.

21 Therefore, I'm ordering the marshal at this
22 time to step you back.

23 MS. SASSOWER: Would you take my, my handbag
24 and my belongings? The police misconduct complaint is
25 right there, Mr. Mendelsohn, with all the particulars of

1 what took place with respect to the trumped-up charge of
2 disorderly conduct.

3 THE COURT: All right.

4 THE CLERK: The Court will stand at luncheon
5 recess 'til return of court at 1:25.

6 THE COURT: Very well. Counsel approach.
7 (Bench Conference)

8 THE COURT: All right. I think it should be
9 evident to anybody who has ever practiced before me that
10 I did everything that I could to avoid the occurrence.

11 When she made it clear to me that she would try
12 and get before the jury the information concerning the
13 police misconduct complaint, that evidence is so
14 prejudicial.

15 And my directives had been so explicit that
16 there was no other way to interpret her action but as a
17 direct, intentional, willful, knowing violation of the
18 court order. And on that basis she was stepped back.

19 Mr. Goldstone, it appears to me that you don't
20 have any control over Ms. Sassower. You're there as the
21 attorney adviser.

22 But an intermediate step that I had considered
23 sometime ago was to have you step in and proceed.
24 Whether or not your being, whether or not your being
25 lead counsel would have prevented the outburst will just

1 have to remain the subject of speculation hereon out.

2 But it was clear to me that the intermediate
3 step of ordering you to take over the case would have
4 been unavailing. I'll hear your comment on that now.

5 MR. GOLDSTONE: I concur with the Court that it
6 would be unavailing. There are significant differences
7 in strategy approach that make it impossible for me to
8 step in at this time as lead counsel.

9 I've given a lot of thought, I've had a lot of
10 discussions and a lot of reflection on that. And as I
11 indicated to the Court several days ago, it would be
12 impossible for me to step in as lead counsel at this
13 point.

14 Perhaps after lunch we could resume with the
15 cross-examination and, and proceed to closing arguments
16 without further disruption. That would be my, that
17 would be my recommendation to the Court.

18 THE COURT: Well, Mr. Goldstone, I think that
19 the record will reflect that I have accorded you a
20 certain deference because of your being a member of the
21 District of Columbia Bar, And I have sat here and
22 observed some rather disturbing behavior by your client.

23 I have seen her push you away when you try to
24 give her advice. I've heard her say things which in my
25 view could not have come from you as advice to her.

1 And therefore, my inference has been that she
2 has disregarded, when she see fit to do so, your advice.
3 I believe -- the only thing that I want to address
4 before I get to the issue of what we'll do after lunch
5 is this.

6 Mr. Goldstone, your statement right now that it
7 would be impossible for you to take over, I respect your
8 decision in that regard.

9 The record will reflect, reflect however that
10 earlier in this case, I believe it was on April 15th,
11 when it was clear to me at that time Ms. Sassower would
12 not follow my directives, I gave the defense the
13 opportunity to have you step in and it was declined at
14 that point.

15 So my point here is that I understand your
16 comment with regard to why you can't take over now and I
17 respect that. What I will state for the record is that
18 the offer was extended earlier in the case.

19 MR. GOLDSTONE: I fully concur and I
20 denied at that time, declined at that time. And for the
21 reasons that I declined, those reasons still exist.

22 THE COURT: Very well, very well, all right.
23 Now with regard to after lunch, how much more of this do
24 you have?

25 MR. MENDELSON: I'm almost halfway there.

1 THE COURT: All right. I think you should give
2 considered thought during the luncheon recess as to how,
3 not how many more questions you believe you would be
4 entitled to, but how ma, how many more questions do you
5 need.

6 MR. MENDELSON: I understand, Your Honor.

7 THE COURT: All right. Make that
8 determination, we'll come back after lunch. The, we'll
9 have the conclusion of the examination.

10 Do we have copies of the jury instructions that
11 I intended to give here? You haven't made a copy yet.
12 All right. Because I'll entertain some brief discussion
13 of the jury instructions to the extent that the
14 Government has submitted theirs.

15 I've never seen any from the defense. The
16 burden will be on you, Mr., Mr. Goldstone, to raise
17 objection to the Government's requested jury
18 instructions.

19 I'm going to instruct them before you argue.
20 And I'm also going to instruct them in an order so that
21 I tell them up front what their duties are when they go
22 back into the juryroom.

23 Many of the other items I've already given in
24 my preliminary instructions to them. So we'll begin
25 with their duties while, when they're deliberating,

1 having a verdict form, picking a foreperson.

2 We'll get all of that out of the way first.
3 Elements, reasonable doubt, burden of proof, get that
4 done and then everything else after that. Okay.

5 MR. GOLDSTONE: Your Honor, for the record, I
6 don't have any significant objection to the proposed
7 jury instructions. I have some minor commentary.

8 THE COURT: Right.

9 MR. GOLDSTONE: And then we of course have a
10 defense theory of the case instruction which we're in
11 the process of finalizing.

12 THE COURT: All right. Well, I plan to
13 instruct them and have closings after, after lunch.

14 MR. GOLDSTONE: Understood.

15 THE COURT: All right.

16 MS. LIU: And, Your Honor, simply for the
17 purposes of scheduling, is it your intention to adjourn
18 early today --

19 THE COURT: It is.

20 MS. LIU: -- so that two jurors can --

21 THE COURT: It is.

22 MS. LIU: -- attend to their responsibilities?

23 THE COURT: It is. I believe that -- quite
24 frankly, my intention had been to discharge them at 2:30
25 and have them come back tomorrow at the regular time.

1 The question is going to be whether I get
2 everything done after the luncheon recess before 2:30.
3 That means additional cross-examination. It means me
4 charging them and then the closings.

5 What we might end up with is the finalize,
6 final cross-examination, me charging them, discharge for
7 the day and then they begin anew tomorrow. I'll hear
8 discussion on that.

9 MS. LIU: Your Honor, if at all possible, we
10 would strongly prefer that we finish closings today, if
11 that's possible at all.

12 THE COURT: Well, we can certainly try that.
13 But I'll tell you we've already wasted a good chunk of
14 the morning. They should already have this case. Okay.
15 It's 12:30. There's no, there's no reason that that
16 couldn't have occurred. So we'll be back at 1:30 and
17 we'll go from there.

18 MS. LIU: Very well, Your Honor.

19 THE COURT: All right, thank you.

20 (Thereupon, the Court recessed at 12:35 p.m.)

21 (Thereupon, the Court reconvened at 1:30 p.m.)

22 THE COURT: Very well. All right, any
23 preliminary matters?

24 MR. MENDELSON: No, Your Honor.

25 THE COURT: Mr. Mendelsohn, I asked you to

1 think over the recess whether you needed additional, --

2 MR. MENDELSON: Your Honor, --

3 THE COURT: -- additional questions to ask.

4 MR. MENDELSON: After consulting with my
5 supervisors and my colleague, there are some additional
6 questions. I've cut out a lot but there are some that I
7 still --

8 THE COURT: What is, what's your time estimate?

9 MR. MENDELSON: If it's up to me, 10 minutes
10 at most.

11 THE COURT: Very well. It seems to me that if
12 that's the case, by the time that we review the jury
13 instructions, it will not be possible for us to charge
14 and have closings.

15 The, the sole question that I am asking myself,
16 as I sit here, is whether I bother with the charge
17 today, have them report tomorrow, have the closings and
18 give them the jury instructions at that time, the, the
19 physical instructions that they would take back with
20 them.

21 Or whether I defer instructing until tomorrow
22 morning, have the instructions, have the closings, give
23 them the, the jury instructions for use in the
24 deliberations and then we're, we're done with it. I
25 will entertain recommendations from counsel.

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MS. LIU: Your Honor, I think either way would be fine with us. What we would prefer is if Your Honor could make a decision as to what instructions you are going to give. That would be helpful to us in doing our final preparations for our closing.

THE COURT: Yeah, we're gonna do that absolutely this afternoon, so that, that's not going to be an issue. We'll have discussion on the instructions and my recommendation which I'm making now and which I will make at the time of the -

Well, I don't know yet whether Ms. Sassower believes that she can proceed, to the extent that she represents that she can. My recommendation is going to be that Mr. Goldstone handle the technical aspects of review of these jury instructions.

I have no idea what she's going to say in response to that. If she chooses to be involved in the discussion, it may protract matters. We will nevertheless conclude our discussion on the jury instructions before we adjourn for the day.

And then the question then becomes whether I charge them and then let them go or whether I wait until tomorrow morning, charge them and have the statements.

MS. LIU: Your Honor, in that case, I think

1 that we would prefer that Your Honor charge them in the
2 morning.

3 That way we won't have to keep them when we're
4 having discussions about the instructions and then bring
5 them back and charge them. They can go about their
6 business and we can finish this all up in a day.

7 THE COURT: Very well. All right, Mr.
8 Goldstone.

9 MR. GOLDSTONE: Yeah, I would just ask that Ms.
10 Sassower be brought out so that she can participate in
11 the discussions.

12 THE COURT: She, your statement is noted for
13 the record. With regard to my scheduling, I really
14 don't need her presence for that.

15 But with regard to the actual jury instructions
16 themselves, to the extent that she's able to refrain
17 from disruptive behavior, certainly she can be involved
18 in that.

19 MR. GOLDSTONE: Thank you, Your Honor.

20 THE COURT: All right. Now we need to unlock
21 the door.

22 (Pause)

23 THE COURT: All right. Well, Mr. Goldstone, it
24 seems to me that the initial inquiry at least is whether
25 or not your client believes that she can participate

1 further in these proceedings.

2 And I don't know how you're gonna be able to
3 ascertain that without speaking with her. Have you had
4 the opportunity to do so?

5 MR. GOLDSTONE: No, I have not been able to
6 speak with Ms. Sassower. And I would, I would ask for
7 that opportunity.

8 THE COURT: Please go ahead.

9 (Recess)

10 THE CLERK: United States vs. Elena Sassower,
11 Case No. M4113-03.

12 MR. MENDELSON: Aaron Mendelson for the
13 United States.

14 THE COURT: Very well.

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

16 MR. GOLDSTONE: Mark Goldstone, attorney
17 adviser. And I have a representation after having
18 spoken with Ms. Sassower who was locked up at lunch
19 break.

20 She is willing to comply with the Court's
21 order, orders. She feels that she in fact has been
22 complying with the court orders.

23 That she was simply referring to matters that
24 Mr. Mendelson was asking her on cross-examination and
25 was providing fair comment based upon what Sergeant

1 Bignotti had said on her examination.

2 So she was upset and, or very upset that four
3 minutes into her cross she was locked up. But
4 nevertheless she understands the Court's ruling and did
5 not deliberately violate the Court's ruling and can, can
6 live with the Court's rulings as the Court makes those
7 rulings.

8 THE COURT: Very well. Resume the witness
9 stand please.

10 MR. GOLDSTONE: Thank you, Your Honor.

11 THE COURT: Uh-huh.

12 (Thereupon the defendant resumed the witness
13 stand.)

14 MS. SASSOWER: I'd like to --

15 (Thereupon, the jury returned to the
16 courtroom at 1:43 p.m.)

17 THE COURT: Very well. Please be seated. We
18 will now resume with the cross-examination of Ms.
19 Sassower. Mr. Mendelsohn, please inquire.

20 MR. MENDELSON:

21 Q Ms. Sassower, I'd like to move ahead to 2003.
22 You were opposed to the nomination of Judge Wesley to
23 the Second Circuit, isn't that right?

24 A Yes. I had documentary evidence of his
25 unfitness for any judicial office.

1 Q And by you I mean the Center for Judicial
2 Accountability, isn't that right?

3 A Yes, absolutely.

4 Q Because you are the only full-time paid
5 individual with the Center, isn't that right?

6 A Our membership dues are \$25.

7 Q Ma'am, I've ask you a straightforward question,
8 please answer yes or no.

9 A I am the only full-time paid employee of the
10 Center for Judicial Accountability.

11 Q Thank you, Ms. Sassower.

12 A Which is a membership organization.

13 THE COURT: Excuse me, excuse me. You've
14 answered the question, let's move on. Mr. Mendelsohn.

15 MR. MENDELSON: Okay.

16 BY MR. MENDELSON:

17 Q Ms. Sassower, you submitted five boxes, these
18 five boxes of documents, right?

19 A Uh-huh.

20 Q To the United States Senate Judiciary
21 Committee in early 2003, right? May 2003, right?

22 A I hand delivered them on May 5th, 2003 under a
23 cover memo, yes.

24 Q But that wasn't enough for you in terms of
25 expressing your views on this nominee, isn't that right?

1 For example, it wasn't enough that you also
2 exchanged e-mails with Senator Clinton's legislative
3 correspondent, Josh Albert. Didn't you exchange e-mails
4 with Josh Albert?

5 A Senator Clinton --

6 Q Ma'am, again, --

7 A -- and Senator Schumer --

8 Q -- did you exchange --

9 A -- are the home state senators with
10 prerogatives and responsibilities relating to nominees
11 for the federal bench in New York.

12 THE COURT: Excuse me. The question is did you
13 exchange e-mails.

14 THE DEFENDANT: E-mails and faxes, absolutely.

15 THE COURT: Very well. Next question.

16 BY MR. MENDELSON:

17 Q And, Ms. Sassower, you also spoke on the phone
18 for 40 minutes with Senator Clinton's counsel, Leecia
19 Eve, as well as Josh Albert, isn't that right?

20 A We had a telephone conference in which they
21 revealed that they hadn't --

22 Q Ma'am?

23 A -- done anything. Yes.

24 Q Forty minutes, right?

25 A Yes, that's reflected in my correspondence.

1 THE COURT: You answered the question. Mr.
2 Mendelsohn, next question.

3 BY MR. MENDELSON:

4 Q But that wasn't enough for you either, was it?

5 A Their responsibilities were to review, review
6 what was presented by way of evidence which they failed
7 and refused to do.

8 Q In your opinion.

9 A No, they stated as much to me. Which is why I
10 telephoned and left a message to speak with chief of
11 staff, Tamera Luzzato, on May 20th at the end of the day
12 and on May 21st at the beginning of the day. Because --

13 Q Ms. Sassower, --?

14 A -- their conduct was unprofessional and
15 indefensible.

16 MR. MENDELSON: Your Honor?

17 THE COURT: Very well. You've answered as --
18 you have stated your answer to the question. Mr.
19 Mendelsohn, next question.

20 BY MR. MENDELSON:

21 Q After all that, the five boxes, the exchanging
22 of e-mails, the 40 minutes where Leecia Eve and Josh
23 Albert listened to your concerns about this nominee on
24 the phone, that wasn't enough, right?

25 You intended to go to that hearing just as you

1 went to the hearing in 1996, right? You intended -- let
2 me be clear here. You intended to testify at that
3 hearing on May 22nd, 2003, isn't that right?

4 A No.

5 Q When you stood and you said whatever it was you
6 said, you intended to testify, didn't you?

7 A What I precisely said --

8 THE COURT: We don't need what you said.

9 THE WITNESS: -- was may I testify.

10 THE COURT: Excuse me, excuse me. We need to
11 hear whether you intended to testify.

12 THE WITNESS: How could I intend to testify if
13 I hadn't been given permission to testify?

14 THE COURT: Very well.

15 BY MR. MENDELSON:

16 Q Ma'am, when you asked --

17 A I had to ask.

18 Q Ma'am, when you asked the question, may I
19 testify, --

20 A Yes.

21 Q -- didn't you intend to testify?

22 A No. If I intended to testify, I would have
23 raced up to the front of the room, raised my hands
24 wildly and said I demand to testify, I insist upon
25 testifying.

1 Instead, I politely and respectfully rose from
2 my chair at an appropriate point, indeed after the
3 hearing had already been adjourned, to request if I
4 might be permitted to testify.

5 In other words, I was requesting of the
6 chairman if I might give under oath statements
7 pertaining to the unfitness of this nominee, as to
8 which there had been no investigation by the Senate
9 Judiciary Committee at all and no investigation by
10 New York's own home state senators. All of which
11 was --

12 THE COURT: Very well.

13 MS. SASSOWER: -- chronicled in my --

14 THE COURT: Excuse me.

15 MS. SASSOWER: -- correspondence.

16 THE COURT: Excuse me. The question has been
17 answered to the extent that you've given a response.

18 Mr. Mendelsohn?

19 MR. MENDELSON: Your Honor, now I'm confused.

20 BY MR. MENDELSON:

21 Q If you stood up and said may I testify and now
22 it's your testimony that you didn't want to testify,
23 what is it that you were trying to do when you stood and
24 said may I testify?

25 A I didn't -- of course I wanted to testify. The

1 question is whether I would be given permission. For
2 that I needed to ask whether I might be permitted.

3 Because I had not received any letter. Unlike
4 1996, I had received no letter communication or oral
5 communication from anyone so authorized that I would not
6 be permitted to testify.

7 THE COURT: Very well. Mr. Mendelsohn, next
8 question.

9 BY MR. MENDELSON:

10 Q And after you stood and said may I testify and
11 the chairman asked for order to be restored, you
12 continued to, to speak, didn't you?

13 A Absolutely not, that's not what the video shows
14 at all.

15 THE COURT: Very well.

16 MS. SASSOWER: I was completely silent.

17 THE COURT: Very well. Next question.

18 BY MR. MENDELSON:

19 Q Ms. Sassower, isn't it true that you really are
20 just someone who cannot take no for an answer?

21 A Is that your question to me?

22 Q It is. Aren't you someone who just refuses to
23 take no for an answer, Ms. Sassower?

24 A As the correspondence reflects, there was a
25 question as to whether any of the senators were

1 personally aware of what had been presented in
2 opposition to Judge Wesley.

3 I requested Leecia Eve and Josh Albert to bring
4 this matter to Senator Clinton's personal attention,
5 which they refused to do.

6 My correspondence with the Senate Judiciary
7 Committee reflects my concern that the senators, as
8 opposed to their underling staff, were unaware of this
9 matter.

10 I wanted there to be no doubt that they had
11 reviewed this matter and there was no evidence that they
12 had.

13 THE COURT: Very well. Any further questions,
14 Mr. Mendelsohn?

15 MR. MENDELSON: Thank you.

16 THE COURT: You're welcome. All right. All
17 right, very well. You may step down, Ms. Sassower.

18 MS. SASSOWER: Thank you.

19 THE COURT: Ladies and gentlemen, we have
20 remaining essentially three components to this case.
21 The first is that I will give you instructions. They're
22 similar to the instructions that I gave you at the
23 outset.

24 The second component is closing argument where
25 you will hear from the attorneys and Ms. Sassower again,