BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 010740-TP
Filed: September 7, 2001

In re: Complaint of IDS Long Distance, Inc. N/k/a IDS Telecom, L.L.C., Against BellSouth Telecommunications, Inc., and Request for Emergency Relief

COPY

DEPOSITION

OF

KEITH KRAMER

SunTrust International Center
One S.E. Third Avenue
28th Floor
Miami, Florida

Tuesday, September 11, 2001
8:45 a.m. - 11:30 a.m.

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I N D E X

Witness	Direct	Cross
KEITH KRAMER	3	--

THEREUPON:

KEITH KRAMER,

a witness named in the notice heretofore filed, having been first duly sworn, deposes and says as follows:

DIRECT EXAMINATION

BY MR. MEZA:

Q. Good morning, Mr. Kramer.

A. Good morning, Jim.

Q. As you know, I'm Jim Meza. We spent a lot of time together a couple weeks ago.

A. Yes, we did.

Q. We are here to take your deposition. Can you please provide me with your full name.

A. My name is Keith George Kramer.

Q. Your home address?

A. [redacted]

Q. And your social security number, please?

A. [redacted]

Q. Have you ever been deposed before?

A. No. This is the first time.

Q. Okay. I'm sure your counsel has given you instructions as to what to expect today, but I am just going to give you just some general

ideas. You're going to be required to give a verbal response to any questions so that the court reporter can accurately reflect your answers to my questions. If at any time you don't understand what I am asking you, please ask me to clarify it or ask it again and I'll be happy to accommodate you. If you need a break at any time, please feel free to just let me know and I will be sure to accommodate that request.

Are you on medications or anything that would affect your ability to understand any of my questions?

A. No.

Q. Can you give me a summary of your college or your education starting with college?

A. Miami-Dade Community College, A.A. went to University of South Florida. Went to University of Miami. Went to FIU.

Q. When did you go to Miami-Dade Community College?

A. `72 through `74.

Q. And you got an A.A.

A. Yes, I did.

Q. Associates in Arts?

A. Associates in Arts.

Q. And then you proceeded to what school?
A. Went to the University of South Florida.
Q. Where is that?
A. Tampa.
Q. And how long were you there?
A. One year.
Q. Did you graduate?
A. No.
Q. And then you went to what school?
A. University of Miami.
Q. For how many years?
A. One year.
Q. And did you graduate?
A. Yes, I did.
Q. In what degree?
A. Got a B.A. in psychology and minor, I believe, in business administration.
Q. And what year is that, again?
A. `77.
Q. And then you went to FIU; is that correct?
A. Uh-huh.
Q. What years?
A. I can't remember that. Sometime around the `80s.

Q. Did you graduate from FIU?
A. No.
Q. What courses were you taking?
A. Took graduate courses in business.
Q. How long were you at FIU?
A. I believe it was approximately a year.
Q. Do you remember how many courses you took?
A. I believe -- no.
Q. Would it be a full work load or full hour load per semester, or were you going part-time?
A. It was -- I think, it was full -- I was working full-time at the time, so I can't remember exactly.
Q. Any particular reason why you decided not to obtain a degree?
A. My wife got pregnant.
Q. Well, you said that you were working full-time while at FIU. Where were you working?
A. I believe I was working at Luskins High Fidelity.
Q. In what capacity?
A. At that time, I believe I was a store manager.

Q. What did your job duties entail?
A. My job duties was to run the store.
Q. And how long were you at Luskins Fidelity?
A. High Fidelity.
Q. High Fidelity.
A. Approximately seven years.
Q. And when did you start?
A. `78, I think.
Q. And you left that place of employment?
A. I'm sorry?
Q. Did you go to another job after seven years?
A. Yes.
Q. What job is that?
A. Sound Advice.
Q. Why did you leave Lufkin's High --
A. Luskins.
Q. Luskins High Fidelity?
A. The owner and I had a disagreement.
Q. Over what?
A. I believe at the time it was I had the position of general sales manager and we had a disagreement over the general manager.
Q. Meaning? Can you expound upon that?

A. Yes. I thought the general manager wasn't doing a very good job. The general manager thought I wasn't doing a very good job, so I left.

Q. Were you fired or terminated?

A. I was terminated.

Q. Then you went to stereo -- excuse me -- Sound Advice.

A. Can I go back to the other question?

Q. Sure.

A. Because the other question, actually what it was, I resigned under duress. He didn't terminate me specifically.

Q. Okay. Did you file any type of legal action against him?

A. No.

Q. Then you went to Sound Advice; is that correct?

A. That is correct.

Q. Do you know what year that was?

A. I'm going to estimate 1982 through 1983.

Q. Now, is Sound Advice the same as Stereo Etcetera, or is that different?

A. No. That was different.

Q. So in what capacity were you employed by Sound Advice?

A. I started off as a salesperson, went up to the store manager.

Q. And you left Sound Advice in `83; is that correct?

A. I'm not sure that's the date.

Q. But you were there for about a year?

A. About that.

Q. Why did you leave?

A. I went to Stereo Etcetera to help a good friend of mine run the company.

Q. In what capacity were you employed at Stereo Etcetera?

A. I was, I think, the general sales manager.

Q. For your entire tenure there?

A. Yes.

Q. And what year -- what years were you employed by Stereo Etcetera?

A. I was there a year and I know I finished in `84, so I would say in that time frame. Between `83 and `84.

Q. Did you have any ownership interest in the company?

A. No.

Q. Why did you leave in `84?

A. The company went bankrupt.

Q. And after Stereo Etcetera, what was your next job?

A. Went to a company called Southern Wine and Spirits.

Q. What type of company is that?

A. They distribute fine wines and spirits.

Q. And what were your job duties at Southern Wine and Spirits?

A. Initially it was a salesperson.

Q. Were you promoted?

A. Yes.

Q. To what jobs and when?

A. I was promoted, I believe, around the fourth or fifth year, I can't be certain, to sales manager.

Q. And how long were you at Southern Wine and Spirits?

A. I believe it was approximately ten years.

Q. And what were your job duties as a sales manager?

A. As the sales manager I ran a team of sales people that covered South Florida.

Q. Was South Florida a large market for the

company?

A. It was their largest market.

Q. How many people were you supervisor of?

A. Ten, I believe.

Q. Ten?

A. Yes.

Q. So from approximately 1984 to about 1994 you were employed by Southern Wine and Spirits?

A. That is correct.

Q. Why did you leave that company?

A. I got an offer from a very good friend of mine.

Q. And who is that?

A. Joe Millstone.

Q. And what was the offer?

A. To be the sales manager for IDS.

Q. How were you and Mr. Millstone friends?

A. We met each other back when I was manager at Luskins.

Q. Was he also employed by Luskins?

A. Yes, he was.

Q. In what capacity?

A. He was a salesperson and then he went to a manager.

Q. Were you contemporaries, or were you his

boss?

A. I was his boss.

Q. You were his boss.

Was IDS in existence in 1994?

A. Yes, it was.

Q. And what type of business were they conducting?

A. They were a reseller of long distance services.

Q. Did you have any previous experience in the telecom industry prior to being offered a job by Mr. Millstone?

A. No.

Q. And what was Mr. Millstone's job title?

A. I think he was the chief executive officer.

Q. Do you know how he got that position?

A. I believe he and two other individuals started the company.

Q. And who are those individuals?

A. His father, Burris Millstone and Michael Noshay.

Q. In any of your previous jobs, up until becoming part of IDS, did you have any experience whatsoever in evaluating the telecommunications

industry?

A. Before IDS?

Q. Yes.

A. No.

Q. So you were pretty much brand new to the whole industry at this time?

A. Yes, I was.

Q. Did you receive any type of training or educational course in order to prepare you for your position as a sales manager at IDS?

A. I enrolled in a three-day class and I cannot tell you who was monitoring the class or gave the class.

Q. And what did you basically learn in that class?

A. I learned the basics of the long distance and what we call TELRIC.

Q. What were you expected to do as sales manager?

A. Sell long distance service to primarily business customers.

Q. Did that entail making actual phone calls, or was it hiring telemarketing, if you can just expound upon that?

A. No. It was hiring actual direct sales

people.

Q. So you were responsible for the internal sales people that were responsible for getting business for IDS?

A. That is correct.

Q. Was there a specific market that you were targeting at that time, and by "you", I mean IDS?

A. Yes.

Q. What was that market?

A. That was the hospitality market.

Q. When you began your employment at IDS, how many customers did IDS have? Can you remember?

A. No, I do not.

Q. Do you remember how many customers you brought into IDS when you were a sales manager?

A. We did not specifically count customers, so I can't answer that.

Q. Was your performance based upon the number of customers that your sales reps brought to the company?

MR. MILLER: Objection. Can you give us a time frame?

MR. MEZA: The time frame is when he was

sales manager of IDS.

What years were you the sales manager?

A. I was sales manager from 1994 through, I guess, 1995, `96.

Q. Okay. Let's take 1994 to 1995.

A. Okay.

Q. Was your performance based upon -- as being evaluated by the company, was it based upon how many customers you brought into IDS?

A. Indirectly, yes.

Q. How is that?

A. We estimated revenues that customers brought in. So we were given revenue quotas.

Q. What do you mean by revenue quotas?

A. We would estimate the amount of money that each customer that we sold would spend in long distance and we would have projections on how much sales growth we would have on dollar volume and the number of minutes that the customer needed.

Q. From 1994 to 1995, what were those estimates?

A. If I remember correctly, I believe it was approximately [redacted]

Q. And what does that translate into

customers?

A. In early -- let's say in `94, `95, that would be anywhere between [redacted] customers.

Q. So for the entire year of 1994 it is your estimation that IDS would receive between [redacted] new hospitality-type customers?

A. Per month.

Q. Per month?

A. Yes.

Q. Did you meet that expectation?

A. I believe I did.

Q. Let's take from 1995 to 1996. What was the estimation at that time for that time period as far as how many customers or the revenue?

A. We were trying to continue to obtain the same goals.

Q. Okay.

A. Okay.

Q. And, again, were you able to meet those goals?

A. Yes.

Q. You were eventually promoted at IDS; is that correct?

A. That is correct.

Q. What year was that?

A. I believe it was `95, `96.
Q. That's an important distinction between the years. A lot happened in 1996.
A. I would say, I believe, I'd say early `96.
Q. Early `96. Okay. And what position were you promoted to?
A. Sales director.
Q. And what were your job duties as sales director?
A. To procure a sales manager and expand the sales force.
Q. Did you obtain or procure a sales manager?
A. Yes.
Q. Who was that?
A. I'm sorry. I can't remember the name.
Q. That's fine.
A. I see his face. I can't remember his name.
Q. And did you expand the sales force?
A. I believe we did, yes.
Q. How did you expand it?
A. Let's see, we went from approximately, I believe, four to five sales people we went up to

ten.

Q. And these were the individual people that were responsible for making the initial contact with potential customers?

A. Yes, sir.

Q. And how long were you in this position as sales director?

A. I believe until `97.

Q. How were you evaluated as sales director from your supervisors?

A. I was evaluated by the owners of the company.

Q. Were there any specific guidelines or goals that you were required to meet as sales director?

A. My primary goal was growth.

Q. Were you able to obtain that?

A. Yes.

Q. How?

A. Through sales people and sales and the revenue that comes with it.

Q. Do you remember exactly, or a rough estimation as to the growth that the company experienced while you were sales director?

A. I believe we doubled in size.

Q. What did you double in size from?

A. I believe that we were approximately [redacted] when I first started annually, and I'm not sure, but I believe that we were approximately [redacted] I'm not sure.

Q. Do you know what the growth in customer base was during your tenure as sales director as far as how many lines you received, new lines you received?

A. I can't recall the exact number of lines I'm sorry.

Q. What does approximately [redacted] in increased revenue equate to as to additional lines?

A. I can't answer that. We weren't inventorying lines. We were inventorying minutes.

Q. Could you give me the estimation in increase in minutes that translates into an increase of approximately [redacted]

A. I wouldn't be able to answer that honestly. I'm sorry.

Q. In any event, the company grew?

A. Yes.

Q. In 1996 and 1997, was IDS involved in

the local market?

A. No.

Q. So they were strictly doing long distance at that time?

A. That is correct.

Q. In 1997, were you promoted again?

A. I believe either late `97 or `98, yes.

Q. And to what position were you promoted to?

A. Vice president of sales and marketing.

Q. Who was your predecessor?

A. Nobody.

Q. What were your job duties?

A. Again, same thing. Sales and growth, expand the sales divisions.

Q. At this time, IDS decided to enter the local market for basic local service?

A. In `97, yes.

Q. Were you involved in any way with that decision?

A. Yes, I was.

Q. Can you explain to me the thought process that went into deciding to enter the local market?

A. We wanted to be able to offer more

services to our end users and grow the company and its value through the local market.

Q. What was IDS' strategy as to how to enter into the local market in 1997?

A. We had twofold. One is to eventually acquire a Class V switch. At the same time we wanted to grow our resale base.

Q. When you say you wanted to grow your resale base, the growth would be through obtaining local lines in addition to long distance or -- it seems confusing to me, if you could explain that, because prior to that time you weren't in the local market.

A. No, we weren't.

Q. What do you mean by "resale growth"?

A. We wanted to be able to sell resale services to our existing customers, and when we had new customers, offer it with long distance, but our primary focus from a profit standpoint was long distance.

Q. When you say resale, and just for my knowledge, do you mean -- is that term also used in reselling long distance services as well as local services?

A. Yes, it is.

Q. Did you receive any training before becoming the VP of sales and marketing as to the local market since it was a new market for the company?

A. No, I didn't get any formal training.

Q. Was there anyone in the company that had experience regarding the local market?

A. No.

Q. Did you feel that it was necessary for you to take some type of training or be educated as to how the local market works?

A. Yes, I do.

Q. And what did you do to become educated about it?

A. I got as many books as I could find, which there were not much of, and I read as much as I could off of the various publications and industry journals and magazines that were available at the time.

Q. Were you the sole person responsible at IDS for becoming knowledgeable about the local market or the local services industry?

A. No. We had one other gentleman, Burris Millstone.

Q. He was one of the founders; is that

correct?

A. Correct.

Q. Did you divide any responsibilities or job duties as far as getting the company educated and prepared to enter the local market?

A. Burris Millstone learned the operational side of it and the interactions with BellSouth. I learned the sales and marketing side.

Q. And this is your current position today, is it not?

A. No, it's not.

Q. No, it's not. What was your next position?

A. My next position was senior vice president.

Q. Okay. And how does that differ from a vice president?

A. Well, I started taking over the duties of what we would term the COO position without actually taking that particular title.

Q. What is COO?

A. Chief operations officer.

Q. And what duties were those?

A. When I took over those duties it was to work the operations of IDS.

Q. What do you mean by "work the operations"?

A. Organize and staff our operations from the processing side through the customer service side and through the tiered management.

Q. What do you mean by the processing side?

A. Processing orders for both local and long distance into the various systems that we have at IDS.

Q. We'll get back to the systems, but what is tier management?

A. We would have, you know, our employees, then there would be supervisors, then there would be the department managers and then there would be the assistant vice president and vice president of operations.

Q. So you basically set up the structure of your organization as far as the operations side goes?

A. Yes.

Q. When were you promoted to senior VP?

A. I believe it was sometime in 1999.

Q. Prior to your promotion, how was it structured, the company structured as far as the operations side?

A. We would have various vice-presidents of operations that would report directly to the CEO.

Q. Prior to your promotion, was IDS in the local market?

A. I'm sorry. Prior to which promotion?

Q. The promotion to senior vice president.

A. Yes.

Q. You mentioned something about the various systems at IDS regarding order processing. Can you tell me what systems you are referring?

A. In which time frame?

Q. When you were promoted as senior vice president.

A. We have the billing system, which is so we can bill our customers.

Q. Okay. Is there a name for that?

A. No. We call it the billing system. I'm sorry.

Q. Is that system still in use today?

A. Yes, it is.

Q. It hasn't changed since 1999?

A. It hasn't changed since we've started in business. We use a third-party vendor.

Q. And who is that?

A. ATS.

Q. Is that an acronym, or is that the name of the company?

A. I don't know. We actually always refer to it as Roger.

Q. Is ATS responsible for collection, as well as billing?

A. No.

Q. Just billing?

A. That's correct.

Q. What other systems other than a billing system in 1999?

A. We would have Dataease.

Q. What is Dataease?

A. Dataease is our, I guess we call it, data system that tracks customer information.

Q. What type of customer information does it track?

A. It tracks certain billing information.

Q. Like what?

A. It will tracks the actual bill that went out to the customer. It tracks the accounting. It tracks the accounts receivable, payable to each one of the individual customers, and it tracks comments or anything that we put as far as a

historical aspect of the customer.

Q. And when you say "it tracks", what do you mean by that?

A. Customer calls in with a problem.

Q. Okay.

A. You would put in comments. Okay. Those comments would be whatever the customer would tell our CSRs.

Q. And you said that it can track billing information. What type of information does it track?

A. Well, when the billing goes out, we actually send data to the billing company and then the billing company sends us back data which is put into Dataease so when a customer calls we can pull up the bill and look at the bill that went out.

Q. Through this system, are you able to tell the amount of the bill?

A. Yes.

Q. Are you able to tell the type of features that each customer has on it?

A. We list -- it depends on what time frame. I'm sorry. Yes. It does for the most part.

Q. Is this system still being used by IDS today?

A. Yes, it is.

Q. Are there any other systems other than the billing system and the Dataease?

A. We have the network operations center.

Q. What is that?

A. It controls our various networks.

Q. What networks does IDS have?

A. We have our long distance network, our facilities based network and the BellSouth UNE-P product.

Q. What is entailed in the long distance

A. We have at the present time --

[redacted]

Q. Where are [redacted]

A. I don't know the specific address.

Q. In Florida?

A. [redacted]

Q. In [redacted]

A. [redacted]

Q. [redacted]

A. Yes. [redacted]

Q. Is there anything else network wise on the long distance side in 1999?

A. We do have international wholesale.

Q. Today, do you have any additional network products or features?

A. We have the international, we have the long distance, we have the facilities based local, we have the UNE-P product and we have a resale product, to the best of my knowledge.

Q. The facilities based network local in 1999, what did that network entail?

A. I believe -- I am trying to get my dates right. In the summer of `99 we installed the [redacted] I believe it wasn't fully functional until sometime in the year 2000.

Q. Does IDS currently offer local service through its own facilities?

A. Yes, we do.

Q. And when did they start doing that?

A. I believe we started doing the local services sometime in the summer of 2000.

Q. Do you know how many customer IDS serves with its facilities, with its own facilities?

A. I cannot give you an exact number. I'm sorry.

Q. Can you give me an estimation?

A. My estimation would be [redacted].

Q. [redacted]

MR. LACKEY: Let me interrupt. If this is proprietary information, you probably have to tell us it's proprietary so the court reporter will know to mark it. I don't know if it is or not. If you are going to -- if he considers it proprietary, we need to say that so we'll know part of it needs to be sealed.

MR. MILLER: Sure. We'll try to do that, however, I'd also like to abide by the terms of the protective order and that we have a chance to go back over the transcript and designate things confidential.

MR. LACKEY: The problem is you have staff on the phone.

It probably would be -- you are not binding yourself. It's just a heads-up.

MR. MILLER: We can attempt to do that, to the extent that you can remember to do that.

MR. MEZA: And to the extent that I can ask you the question without getting confidential information, I will try to do that.

Q. Currently, has IDS purchased any additional equipment for its facilities based network other than [redacted]

A. Since I'm not over operations currently, I'm going to say, I believe there is a possibility that we have. I can't tell you for certain.

Q. And that would be the purchase of [redacted]

A. I believe it's collocation equipment, which could be termed as a switch.

Q. And in 1999 you said the third component of the network operations center was the BellSouth UNE-P product; is that right?

A. In what year?

Q. 1999.

A. No. I was referring to the present day.

Q. In 1999, was there a UNE-P network?

A. No. We didn't have one.

Q. Was there a resale network?

A. We had resale, yes.

Q. What does that network entail?

MR. MILLER: In 1999 or presently?

MR. MEZA: Yes. Thank you. 1999.

A. Resale really isn't an IDS network. We were reselling BellSouth services.

Q. Now, I'm going to ask you some information or some questions that you may think is confidential, but if you do, let me know and we will mark it accordingly.

How many resale customers did IDS have in 1999?

A. I don't remember the exact number. I'm sorry.

Q. Can you give me a rough estimate?

[redacted]

A. [redacted].

Q. How many resale customers did IDS have in 2000?

A. 2000? I'm estimating. Okay? It was in excess of [redacted]

Q. In 2000, it was greater than [redacted]

A. Yes, sir. I'm sorry. I can't remember the exact number.

Q. In 2001 to date, how many resale customers does IDS have?

A. Customers? I can't tell you customers.

I can tell you lines.

Q. Okay. Lines.

A. Okay. Can this be confidential?

Q. Sure.

MR. MEZA: Can you hold on for a second?

MR. LACKEY: Let's go off the record for just a minute.

MR. MILLER: Off the record.

(Discussion off the record.)

A. I believe it's approximately [redacted] lines for local service.

Q. Still on resale?

A. No, sir. It's a combination of resale and UNE-P and facilities based.

Q. Can you break it down, of that [redacted] what is resale, what is UNE-P and what is facilities based today?

A. Can I give you generalities?

Q. Yes. Sure.

A. [redacted]

Q. When you say "majority", I presume that

is greater than 50 percent of the [redacted] lines?

A. I believe that to be the case.

Q. Could you be more specific on the [redacted]

[redacted]

A. I haven't really looked at that, I'm sorry, in several months. I can't be more precise.

Q. Would the [redacted] customers you previously identified that are facilities based customers, would that number still be accurate today?

A. I hope so. I would think it is.

Q. So [redacted] wouldn't you agree?

A. Those customers are larger customers that we provide [redacted] to.

Q. And those [redacted] customers -- well, the [redacted] is lines, right?

A. Correct.

Q. And so a number of customers could have multiple lines?

A. Yes.

Q. Could you give me a rough estimation, percentage wise, as to what percentage of the [redacted] lines are UNE-P? We know it's greater than

[redacted]

A. I would say it's around [redacted] maybe. I can't be precise. I'm sorry.

Q. And so according to your estimation, the balance of the [redacted] percent would be either resale or facilities based?

A. I would think that is a fair statement.

Q. We previously talked about the amount of customers IDS had for resale in 1999 and 2000. Do you remember that?

A. Uh-huh.

Q. Can you translate the customers into lines for that same time period, rough estimation?

MR. MILLER: I'm sorry. At what time period?

MR. MEZA: For both 1999 -- if you want to break it up, that's fine. For 1999, do you know how many resale lines IDS had?

A. I can't give you an exact number. I'm going to be estimating.

Q. That's fine.

A. I don't know how accurate it would be.

Q. Is there a general rule or standard of the industry of how many lines a company can expect a business customer to have?

A. It just depends on the specific area that you are selling and I -- it could be -- to be specific, I believe, that in 1999 our average customer had approximately [redacted] You know, a small percentage on each side. I can't tell you for certain.

Q. Okay.

A. That was in `99.

Q. All right. Taking the less than [redacted] figure that you provided for 1999 for the number of customers, resale customers, multiply that by the average lines a customer had, wouldn't that be about [redacted] resale customers?

MR. MILLER: Objection. I am not sure there is a basis for that in the record.

MR. MEZA: Mr. Kramer previously testified that in 1999 IDS had [redacted] resale customers.

THE WITNESS: No, I didn't.

MR. MILLER: I don't recall that.

Q. [redacted]

A. That's correct.

Q. [redacted]

MR. MILLER: [redacted] resale customers.

Q. Yes. And he just testified that -- he just testified that in 1999 the average customer had [redacted] for IDS and I was just trying to extrapolate, if he can, to help me understand the number of lines, resale lines IDS had in 1999. It's a simple mathematical equation. We can do it, and if you can't I understand, but I am just trying to get a rough estimation of the number of lines based upon what you told me so far today.

A. In `99, we had obviously significantly [redacted] We weren't even close to that. I would say we had, and I am going to estimate this, [redacted] lines throughout -- depending on what month you were talking about in `99. I would say that would be closer to the end of `99.

Q. Okay.

A. And, again, I'm doing the best I can to remember.

Q. Sure.

A. I am not sure --

Q. That's fine.

A. -- of the numbers.

Q. And that's customers, right?

A. No. Lines, I said.

Q. Lines?

A. Yes. And I believe near the end of `99 our customers may have had [redacted] lines per customer.

Q. Now I'm confused.

A. I would say it's about [redacted] but the closer we got to the end of `99, if I remember correctly, because of the facilities based customers being our large customers, the resale base was smaller customers, so as you add more customers, the average started to go down.

Q. So in 1999 you estimate that IDS had between [redacted] resale lines?

A. I would say between there, yes. Somewhere between there.

Q. Based upon that estimation, do you know how many customers that translated into, roughly?

A. If you give me a calculator I'd try to do that, but I'm not going to guess it at this point.

Q. If we took [redacted] that would be the number of customers?

A. I would say [redacted]

Q. [redacted]

A. That's a good spot, yes.

Q. You stated that your larger customers were moved to the facilities network, correct?

A. Yes, sir.

Q. And you previously testified that the number of customers was [redacted] is that correct?

A. Present day.

Q. In 1999, do you know how many customers?

A. [redacted]

Q. I guess I'm confused because you said the number of resale lines decreased because you moved your larger customers to the facilities based network.

A. Now I'm confused. I'm sorry. Yes. You're right. We didn't have facilities back, if I remember correctly, in 1999. We didn't have that until -- I can't remember. I have to apologize. I don't know when facilities started, but I think it was in 2000.

Q. Does that change your testimony regarding the number of resold lines IDS had in 1999?

A. Again, I'm trying to give you the best that I have to my knowledge, and I can't remember if that's an exact number. I really can't. I'm

sorry. I believe that was true in `99, and I can't remember exactly when we turned on the facilities, but I think the facilities was in 2000.

Q. So let's keep the assumption that in 1999 it was between [redacted] resold lines.

A. Okay.

Q. In 2000 IDS converts some of its larger customers to its facilities based network?

A. I believe so, yes.

Q. How many lines were transferred to the facilities based network, roughly?

[redacted]

Q. So in 2000, there were [redacted]

A. In the beginning of 2000, if I -- again, I'm not sure, but I don't believe so in the beginning of 2000.

Q. Any time in 2000 --

A. In the summer of 2000, I believe we started to.

Q. Now, were these new customers?

A. Yes.

Q. So --

A. I have to explain. I'm not sure if it's `99 or 2000. I am trying to think right now and I am drawing a blank.

Q. Who would know?

A. The person that would probably be the best, more apt to tell you that would be the COO because he was running it with the vice president of operations at that time. He could give you a better idea on what time we had the facilities and what time we didn't. The CEO. Not the COO. I'm sorry.

Q. I understand that you have somewhat limited knowledge of this information, but I just want to make sure that as far as you know I'm clear to what your understanding is. Are you saying that [redacted] were moved to their own facilities at all?

A. To our facilities?

Q. To your facilities.

A. To my best knowledge, [redacted] our resale customers large enough to be moved to the switch. [redacted]

Q. Does IDS keep a record of this

information?

A. I would think so.

MR. MEZA: I'm going to ask as a late file deposition exhibit that Mr. Kramer produce the number of resold lines in 1999 and the number of customers; the number of resold lines and the number of customers for 2000 and the number of resold lines and the numbers of customers for 2001, and again the same inquiry for UNE-P and facilities based for that same time period.

MR. MILLER: It would be far easier if you would put that in a letter to us rather than the transcript.

MR. MEZA: That's fine. You guys weren't privy to the first round of depos. That's fine. I'd be glad to do that.

MR. MILLER: Thank you.

Q. Are you okay? Do you want to take a break?

A. How about in 20 minutes? Do it at the top of the hour. Would that be fine?

Q. Whenever you need one, I will be glad to accommodate you.

We have touched base a little bit about

this, but I want to go in more detail. When was IDS founded?

A. I believe in 1989.

Q. And by whom?

A. I believe by the three original owners.

Q. Which are, again, who?

A. At the time that was Burris Millstone, Joe Millstone and Michael Noshay.

Q. In 1989 through 1995, let's make it easy, 1996, what business did IDS conduct, what type of business did it do?

A. They resold long distance services.

Q. In what states did IDS, if you know, provide long distance service?

A. Florida.

Q. From 1996 to the present, does IDS still continue to offer long distance service?

A. Yes.

Q. In which states does IDS offer long distance service?

MR. MILLER: At what point in time?

Q. From 1996 through the present.

A. I believe presently we offer it in Florida, Georgia. We have customers -- we have the ability in seven of the nine Bell states. I

can tell you we don't in Louisiana and I don't know the other state.

Q. You're saying you don't have the ability in Louisiana?

A. Right.

Q. Is that what you're saying?

A. Right.

Q. Now, when you say "the ability", does that mean that -- what does that mean?

A. We are just not set up as a reseller in Louisiana, nor do we sell services.

Q. I thought you said that IDS has the ability to provide long distance service in seven of the nine Bell states?

A. One that I'm positive is Louisiana and I am not sure of the reasons why.

Q. What do you mean by the ability to provide long distance service? Does that mean you are actually providing service? Do you have any customers in those seven states?

MR. MILLER: Objection. Compound.

MR. MEZA: Okay. That's fair.

A. I can't tell you presently what customers we have in states other than Georgia and Florida that we are providing long distance

service to. I just have not been aware of that particular information. I'm sorry.

Q. So is it fair to say that you just don't know if you have customers in the other seven BellSouth states, long distance customers?

A. I know we have some long distance customers in Georgia and I believe in other states. I just can't identify those states with any accuracy. I'm sorry.

Q. Do you know, roughly, how many long distance customers IDS has today?

A. That I couldn't tell you.

Q. Who would know that information?

A. Robert Hacker probably would know that.

Q. You said, correct me if I am wrong, that IDS began to provide local service in 1998; is that right?

A. I think I said we started sometime in `97.

Q. `97. Okay. From 1997 to the present, in which states does IDS provide local service?

A. We started in Florida and then recently, I would say within the last, approximately 12 months, I can't tell you for sure, we have expanded to local service in a number of BellSouth

states. The ones I can tell you, to the best of my knowledge is Florida, Georgia, I believe North Carolina and possibly Kentucky and possibly Alabama.

Q. Is it possible that IDS would be providing local service in a state but not long distance?

A. Yes.

Q. Do you know what percentage of your customers have both long distance and local service with IDS?

A. I can't give you a precise number on that. I'm sorry.

Q. Do you have a rough estimate?

A. I would say, to be safe, it's better than [redacted]

Q. Of the states that you mentioned, for sure you know that you are providing local service in Florida and Georgia, correct?

A. Yes, sir.

Q. Do you know how many local customers you have in Florida?

A. No. I can't tell you that.

Q. Do you know how many local customers you have in Georgia?

A. Present time, I can't tell you that.
Q. Who would know that information?
A. Bob Hacker would.
Q. Would he also know if IDS does, in fact, have customers, local service customers in north Carolina, Kentucky and Alabama and the number of those customers?
A. He might be able to.
Q. In which states is IDS certificated to provide local service?
A. My best estimation is that we are certified in at least seven of the Bell states, if I remember correctly, and several Verizon states.
Q. Do you remember what those are?
A. Not at the present time. New York, I believe, is one.
Q. Would Mr. Hacker know that information as well?
A. He may or may not. Angel may be more precise on that information.
Q. Do you know which states IDS is certificated to provide long distance service?
MR. MILLER: Present time?
Q. Present time, yes.
A. I would say my answer would be the same

as the local.

Q. Do you know if IDS is providing any type of service to any customers outside of the BellSouth region, nine state region?

A. Not that I'm aware of.

He just passed the first page.

Q. It gets better. Of your local customers, what percentage are business customers?

A. [redacted]

Q. [redacted]

A. Yes. Bob Hacker will be better on that one, but I believe it's close to those numbers.

Q. Would that breakdown or percentage or percentages be the same in Florida?

A. We have high density in [redacted] I would say the majority of our customers would be [redacted]

Q. So the answer to my question would be the same, [redacted]--

A. No. I don't believe --

Q. -- the breakdown of business versus residential in Florida?

A. Yes. I believe that would be true.

Q. I'm still a little confused about what we talked about before. Let me make sure. If I am incorrect, please let me know. Today, IDS has approximately [redacted] lines?

A. I believe that to be the case.

Q. And we don't know how many customers that translates into?

A. I'm sorry. I don't.

Q. Would Bob Hacker know that?

A. I believe he would.

Q. Is IDS a public or private company?

A. Private.

Q. Do you know who has an ownership interest in the company?

A. Yes, I do.

Q. Could you please tell me.

A. It's Joe Millstone, Michael Noshay, Anthony Petrone and Keith Kramer.

Q. What percentage ownership interest does Mr. Millstone have?

A. I can't remember. I'm sorry. It's -- I believe it's [redacted] I believe, but I'm not sure of the exact number. I should know, but I don't.

Q. Mr. Noshay?

A. It's around [redacted] I'm not sure. I don't even want to attempt to do the math here.

Q. Mr. Petrone?

A. I believe he's [redacted].

Q. And yourself?

A. [redacted] I guarantee you that part. That's the one that's most important to me.

Q. Can you please describe to me how IDS is structured on the high level corporate --

A. You mean from the top?

Q. Top down. Not to the individual service reps, but just an understanding of how the corporation itself is structured to high level management.

A. What time period?

Q. Today.

A. Today. Currently Joe Millstone is the CEO. He handles obviously all the duties of a CEO. We have the chief operating officer is a person named Lou Bender.

Q. Okay.

A. The senior vice president is myself. The executive vice president is Anthony Petrone. The president is Michael Noshay and the vice

president of local is Bill Gulas. Assistant vice president of local is Becky Wellman. Vice president of sales and marketing is Fabio Gallopi. I believe that's all of the upper tier management.

Q. So there's no assistant vice president to Mr. Petrone?

A. No. There is no assistant vice president to Mr. Petrone, no.

Q. Or neither Mr. Noshay?

A. No.

Q. What job duties are encompassed within the executive vice president?

A. Tony's job right now is to put in the facilities based local network on collocation and international wholesale sales.

Q. And what is Mr. Noshay's title again?

A. President.

Q. What duties are entailed in his job?

A. He reviews certain legal documents.

Q. Is he an attorney?

A. Nope.

Q. What type of legal documents does he review?

A. Whatever either Joe or myself let him

look at.

Q. What duties are entailed in Mr. Gulas' position as vice president of local?

A. Mr. Gulas set up a lot of the processing procedures and personnel and to a certain extent he set up a lot of the customer service. That was until approximately 90 days ago. Now he's totally involved specifically in this case.

Q. And Ms. Wellman, what are her job duties?

A. Presently it's 100 percent in this case, but prior to that her main position was the processing of UNE-P orders.

Q. How many employees does IDS have?

A. A guesstimate?

Q. Yes.

A. Approximately, I think, 260.

Q. How many customer reps does IDS currently have?

A. I can't tell you exactly that. I'm sorry.

Q. Who would know?

A. Vice president of sales and marketing, Fabio Gallopi.

Q. Would either Mr. Hamilton or Mr. Leiro?

A. I don't know -- no, Angel wouldn't know. It doesn't come under his department.

Q. What about Ms. Wellman?

A. No. That wouldn't come under her department.

Q. Does IDS have any service technicians?

A. I'm sorry. Could you define service technician?

Q. For your facilities based, do you have any employees that are responsible for maintaining any facilities that IDS owns?

A. Our switch?

Q. Yes.

A. Yes.

Q. Your switches.

A. Yes.

Q. How many do you have?

A. I don't know.

MR. MILLER: You mean how many employees, right?

MR. MEZA: Yes. Yes.

A. No. I'm sorry. I don't know.

Q. Who would know?

A. Tony Petrone.

MR. MEZA: Let's take a break.

(Recess in Proceedings)

MR. MEZA: Let's go back on the record.

Q. Mr. Kramer, do you know IDS' total gross revenue last year for 2000?

A. No, I don't.

Q. Who would know?

A. I believe probably Mr. Hacker.

Q. And the total gross revenue for 2001, would the answer be the same, it would be Mr. Hacker who would know that?

A. Yes.

Q. Do you know, of the gross revenue that IDS received, what percentage was based purely on long distance?

A. What time period?

Q. 1999.

A. I couldn't -- I can't give you an accurate answer on that.

Q. Do you have --

MS. HELTON: I'm sorry. I'm not hearing Mr. Kramer.

MR. MILLER: Let's move the mircophone.

MR. LACKEY: Off the record.

(Discussion off the record.)

Q. Again, why don't I try to reask that

question. Do you know the percentage of revenue that IDS received, the total it received? The breakdown of total revenue, what percentage is from long distance, what percentage is local, what percentage is both?

MR. MILLER: Time frame?

A. 1999?

Q. 1999.

A. No. I can't answer that question. I'm sorry. I don't know.

Q. Who would know?

A. I would presume Bob Hacker would know.

Q. Do you know the total of amount of expenses that IDS incurred for 2000?

A. No, I don't.

Q. Do you know the total amount of expenses for 1999 or up to 2001?

A. No.

Q. Would Mr. Hacker also know that?

A. He might know that.

Q. Do you know if IDS is currently running at a deficit?

A. No, I don't. You'd have to ask Bob Hacker on that.

Q. Do you know if IDS is current with all

of its creditors as far as payment?

A. No. I can't answer that. You will have to ask Bob.

Q. When you say you can't answer, is that just because you don't have knowledge?

A. Yes. I don't want to say something I really have no knowledge base of.

Q. Is IDS current with all of its vendors regarding payment for services?

A. I have no knowledge of that.

Q. Who would know?

A. I would presume Bob Hacker would.

Q. Is IDS current in its account with BellSouth?

A. I asked Bob about that last week. He indicated to me that it was, but you'd have to ask him.

Q. Is IDS' account with any other -- with any long distance company current?

A. Again, I have no knowledge of that.

Q. Do you have any idea of what the financial outlook for IDS is for the next six months?

MR. MILLER: Objection. Vague.

Q. Vague. Okay.

Do you understand the term financial outlook?

A. I have an idea.

Q. What is your understanding?

A. Whether or not you are going to be successful, or you are going to lose money and are you going to be profitable or not.

Q. Based upon your understanding of the term financial outlook, do you know what IDS' financial outlook is for the next six months?

A. No, I don't.

Q. Who would know?

A. I would presume Bob Hacker would.

Q. Is IDS in jeopardy of going out of business?

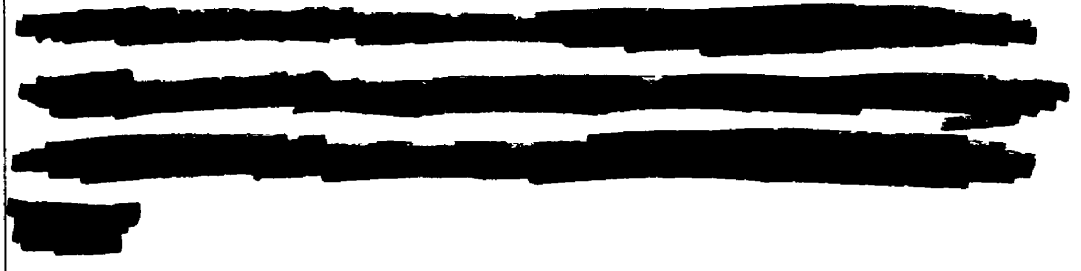
A. Not to my knowledge.

Q. Is IDS in jeopardy of going bankrupt?

A. Not to my knowledge.

Q. What is IDS' business plan for local service?

A. To the best of my knowledge, it is to



Q. Why would you want to [redacted]

A. [redacted]

Q. Yes.

A. It would be cheaper than paying market based rates.

Q. What is IDS' business plan for long distance?

A. Long distance is something we wish to continue to sell to our business customers who we provide local service to.

Q. You said that the reason why you want to [redacted] was that you're not paying market based rates?

A. That is correct.

Q. What is your understanding of market based rates?

A. Market based rates, to the best of my knowledge, the top 50 T1 MSAs allows the incumbent CLEC to charge market based rates for the port in the network.

Q. For the UNE-P product it is your understanding that IDS is paying BellSouth market based rates?

A. In -- I'm sorry?

Q. [redacted]

A. You'd have to clarify the question a little bit more. I'm sorry.

Q. Is it your understanding that IDS pays BellSouth market based rates for UNE-P in [redacted]

A. Today.

Q. Today?

A. I can't answer that question appropriately. I'm sorry. I mean, I don't know.

Q. Well, in which cities or LATTAs or areas does IDS pay market based rates for UNE-P?

A. I don't know -- I know where the ILEC can, if they want to charge market based rates. I don't know whether or not that is being charged to us, so I don't know if we're paying market based rates.

Q. Isn't there another type of rate that could be charged?

A. Yes. There is a thing called TELRIC rates.

Q. What is that?

A. I believe it is Total Elemental Long Range Incremental Costing.

Q. Do you know if BellSouth is charging IDS

TELRIC rates for UNE-P?

A. I believe they are.

Q. And you don't know if BellSouth is charging you market based rates for UNE-P?

A. I'm not aware of that at the present time.

Q. Does that remove the incentive to [redacted] if you are not paying market based rates?

A. If you're not paying market based rates, in my opinion, it would probably remove the incentive on moving accounts to a switch.

Q. Does IDS belong to any CLEC industry groups?

A. I believe so.

Q. Which ones?

A. I'm sorry. I should know that because I talk to them all the time. The events -- I am just brain dead right know. It may come back to me later.

MR. MEZA: Let me throw out a suggestion because we are all sort of unsettled by what we have learned. Would it be okay for you if we took a lengthy break to allow everyone to clear their heads, talk to family, in order

to get a more effective response from Mr. Kramer if the recent current events are affecting his ability to answer.

MR. MILLER: I don't know if it's affecting his ability to answer.

THE WITNESS: Let's proceed on until lunch and maybe we will take an extended break at lunch. How does that sound?

MR. MEZA: I guess my concern is that if you're telling me that none of your responses from the moment that we got back on the record from the recent break have not been affected by what we learned, then I'm okay with that. But if your answers would be different or be more detailed, then I think we need to take the break now.

MR. MILLER: Just so the record is clear, what we are talking about here are the recent events this morning of explosions at the World Trade Center and the Pentagon.

MR. MEZA: In no way am I -- I am pretty upset too, but if I can get a better answer from you when you clear your head or when we have all had a chance to settle down, I'd like to do that.

THE WITNESS: I want to continue to answer the best that I can. There are times when I just draw a blank and it could be because of that or it could be that I don't know it or I didn't sleep well last night. I can't give you -- you're right, it's a pretty horrible thing. Does that mean that short-circuits the brain? I believe it would, but it's not an everyday event.

MR. MEZA: I agree with that.

Okay. I guess we will continue and talk about it later.

THE WITNESS: Okay.

Q. So to the best of your recollection today, you do not know or remember what CLEC industry groups IDS belongs to; is that correct?

A. Right now I can't remember the specific names. We do belong to certain groups.

Q. Do you know how many?

A. Two that I know of.

Q. Who at these groups do you converse with?

A. I conversed in one group with a gentleman named Russell Frisbee.

Comtel. That's it. I overheard him.

Q. So one of the groups is Comtel?
A. Yes.
Q. And what did you talk about with Mr. Frisbee?
A. We talked about -- I met him at the structural separation hearing in Tallahassee. I met him at the hotel. He thought, I guess, my little speech was very good and effective. He called me later on, I can't tell you the exact date, and said he had read about our complaint.
Q. Have you had any further discussions with Mr. Freebee?
A. Not with my Frisbee, no.
Q. Have you had any further discussion with the group that he represents or is associated with?
A. He sent an individual to sign us back up.
Q. What does that mean?
A. We had -- I guess we forgot to pay the membership dues and he sent an individual over to, I guess, sign us back up to the association or organization and we gave -- I guess we gave them a check and I think I filled out some paperwork and he asked me about the complaint and said that, you

know, what the state of the industry was, I guess.

Q. He asked you about the state of the industry?

A. No. I asked him.

Q. And what did he tell you?

A. He said it was going through a rough time.

Q. What services or privileges or whatever do you get when you become a member of Mr. Frisbee's organization?

A. Magazines, if I remember correctly. That's about as far as I can remember.

Q. And that's just magazines on the industry?

A. Magazines and I think that they hold, I guess, conventions. I remember I have gone to one several years ago.

Q. Which individuals have you talked to for the other organization that IDS is a member of?

A. There's an individual who I've had several conversations with in Washington. There's a member of an attorney firm that runs another association of CLECs that are, I guess, UNE-P providers. I cannot recall the name of that. I'm sorry.

Q. So the group that IDS is a member of is a group of CLECs that purchase the UNE-P product from ILECs around the country. Is that a fair assessment?

A. Yes. I believe that's the case.

Q. And what discussions have you had with this association or group that you can remember?

A. I can recall that the group was very concerned about Michael Powell and his views on the industry and we met in Washington about that.

Q. Who was present at the meeting? Do you remember what companies were --

A. I can remember Access Integrated Networks and I can't recall the names of the other -- one I can, it was Z-Tel. And I can't remember the other companies there or the individuals' names. I'm sorry.

Q. Do you know when this meeting occurred?

A. I believe it might have been February possibly.

Q. Of this year?

A. I believe so.

Q. Other than these two groups, have you had any discussions with any other telecommunications industry group or association

within the last eight months?

A. No. Not that I recall.

Q. Have you had any discussions with any other ALEC regarding the complaint IDS has filed against BST. When I say BST, I mean, excuse me, BellSouth.

A. Yes. I guess you want me to name them?

Q. Yes.

A. [redacted]. I may have talked with [redacted]

Q. Let's take --

A. I haven't fished.

Q. I'm sorry. I don't mean to interrupt you.

A. That's all right. [redacted] And I talked to somebody [redacted], I believe they were called [redacted]

Q. Can you remember any more?

A. Probably, but I can't remember specific names. There was a lot of companies that called.

Q. So these companies called you?

A. Yes.

Q. Do you remember what [redacted] first called you?

A. Summertime.

Q. How many discussions have you had with [redacted]

A. Several. I can't tell you the exact amount.

Q. Do you remember the topic of discussion?

A. Generally they were calling about our complaint before the Public Service Commission and the Georgia Public Service Commission.

Q. Did they ask any questions?

A. Most of the time it was a feeling of support and glad that we had initiated the complaint because they were experiencing exactly the same problems we were.

Q. And is that response limited to [redacted] or for all of the ALECs?

A. That was pretty much the topic of conversation for all of the ALECs or CLECs that called me.

Q. Can you give me a rough estimate of the number of times that you talked to a representative of [redacted] regarding this complaint?

A. Several times.

Q. Less than ten?

A. That probably would be fair.

Q. Greater than five, less than ten, around there? I don't want to put you in the same issue we had before?

A. I don't keep track.

Q. More than two?

A. More than two, yes. I don't keep track.

Q. What about [redacted]

A. [redacted] I only talked to that person a couple of times.

Q. And what person was that?

A. I believe I can only give you a first name.

Q. Okay.

A. And I might be wrong, but if I remember correctly, it was a [redacted] but I could be wrong. I'm not very good with names.

Q. And, again, [redacted] just called to inquire about the complaint?

A. She again said, you guys have done a very good job. I'm glad that you've done it. I said, thank you very much. We're doing the best that we can type of conversation.

Q. [redacted] how many conversations did you have with a representative from that company?

A. Maybe only once. I'm not sure.
Q. Do you remember who that was?
A. No. That I can't tell you.
Q. [redacted] how many conversations have you had with a representative of [redacted] regarding IDS' complaint against BellSouth?
A. We've had several conversations with them.
Q. More than the number you've had with [redacted]
A. Yes.
Q. Can you give me a rough estimation of what you think, how many you think?
A. Conversations? No. How about this? Less than 50.
Q. Less than 50. Okay. When did they start?
A. Summertime.
Q. Are you currently having discussions today with [redacted]
A. Today, no. Yesterday, no. Day before, last week maybe I talked to someone.
Q. So about once a week maybe since summertime?
A. That would be close, yes.

Q. Who at [redacted] have you talked with regarding this complaint?

A. I've talked to [redacted]

Q. And do you know their titles?

A. I can give you what I think their titles are. I could be wrong. I think their titles are [redacted]

Q. Both of them?

A. Again, that's my belief. I'm not sure.

Q. Are they out of [redacted]

A. [redacted]

Q. I don't expect you to remember all of your conversations with them, but in general, can you describe the topics that have been discussed between IDS and [redacted]

A. The initial topics, I believe they were impressed -- actually, initially I talked to [redacted]. She, again said, you guys are doing a great job. Pat on the back, yadah, yadah. Then I think we talked again and we talked about the [redacted]

[redacted]

Q. Regarding the complaint, have you had any specific discussions with [redacted] as to how the case is proceeding?

MR. MILLER: What is your time frame?

MR. MEZA: From the summertime, as he's testified, to the present.

MR. MILLER: You said at any point in time.

Q. During that time period.

A. Yes. I believe so.

Q. And what exactly have you discussed with [redacted] regarding the complaint that IDS has filed against BellSouth from the summertime, whatever that period is, to the present?

MR. MILLER: I am going to instruct the witness to answer only regarding your initial conversations with them. Not to get into any of the substance of any conversations after any common interest agreements have been reached.

A. Okay. We talked about -- [redacted]

[redacted]

[redacted]

Q. Okay. Did you talk to [redacted] prior to filing the complaint?

A. No. Not -- in what aspect? I'm sorry.

Q. Well, you said that the [redacted] representative informed you that it [redacted]

A. No. She did not.

Q. I'm sorry. What --

A. She said that [redacted]

Q. [redacted]

A. [redacted]

[redacted].

Q. [redacted]

A. [redacted]

[redacted]

MR. MILLER: Objection. Foundation.

A. [redacted]

Q.

[redacted]

A. [redacted]

Q. [redacted]

[redacted]

A. [redacted]

[redacted]

Q. [redacted]

[redacted]

A. [redacted]

[redacted]

Q. [redacted]

[redacted]

[redacted]

Q. IDS has recently hired a new law firm?

A. Yes.

Q. [redacted]

[redacted]

[redacted]

A. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Q. [redacted]

[redacted]

A. [redacted]

Q. [redacted]

[redacted]

[redacted]

[redacted]

Q. [redacted]

[redacted]

[redacted]

[redacted]

A. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

MR. MEZA: I'm going to ask as a late file deposition exhibit for [redacted]

MR. MILLER: Again, anything you want to request, I'd ask that it put it into a letter to us after the deposition.

MR. MEZA: That's fine. That is not a

problem.

MR. LACKEY: Wait. Wait. Let's go off the record for just a minute.

(Discussion off the record.)

MR. MEZA: Let's go back on.

Q. [redacted]

A. [redacted]

Q. Has IDS had any discussion with any CLEC or ALEC regarding that?

A. Not to my knowledge.

Q. Has IDS received any funding or monies from any ALEC or CLEC without any association with this complaint over the last six months?

MR. MILLER: Objection. It's pretty broad.

Q. Okay. Let me try again. [redacted]

A. [redacted]

Q. Has any CLEC offered or provided IDS any funds or monies in general within the last six

months, not specifically associated with this case? Let me ask it this way: Has any CLEC invested in IDS?

A. Not to my knowledge.

Q. So no other company has an ownership interest in IDS?

A. We do have [redacted] which is a financial company that loans us money and they have -- I believe they have some financial interest in IDS.

Q. Is [redacted] a bank?

A. They are not a bank, from what I understand. They're some financial type institution.

Q. So is it like, and I don't want to testify for you, is it like an equity investment firm?

A. To the best of my knowledge, they're a company that loans monies to CLECs.

Q. And how did they get an ownership interest in IDS?

MR. MILLER: Objection. Foundation.

MR. MEZA: He just said that he believed [redacted] has an ownership interest in IDS and I am just asking how did they obtain it.

MR. MILLER: Same objection.

A. I think, and I'm not sure, but I think that's the terms of them loaning money to the company, that they have some interest in the company.

Q. Do you know how much [redacted] has loaned to IDS?

A. I believe, and I'm not sure, it's around [redacted].

Q. Do you know roughly what is [redacted] ownership interest in IDS?

A. I don't know if you can term it ownership. I believe it's somewhere in the [redacted]

Q. Why wouldn't you term it as ownership interest?

A. I think it's called warrants.

Q. What is your understanding of how this [redacted] percent or how this warrant works?

A. I really have no understanding of that. I'm sorry.

Q. [redacted]

A. [redacted]

Q. [redacted]?

A. [redacted]

Q. [redacted]

MR. MILLER: [redacted]

MR. MEZA: [redacted]

MR. MILLER: [redacted]

MR. MEZA: [redacted]

MR. MILLER: [redacted]

MR. MEZA: [redacted]

[redacted]

MR. MILLER: [redacted]

[redacted]

MR. MEZA: [redacted]

[redacted]

MR. MILLER: [redacted]

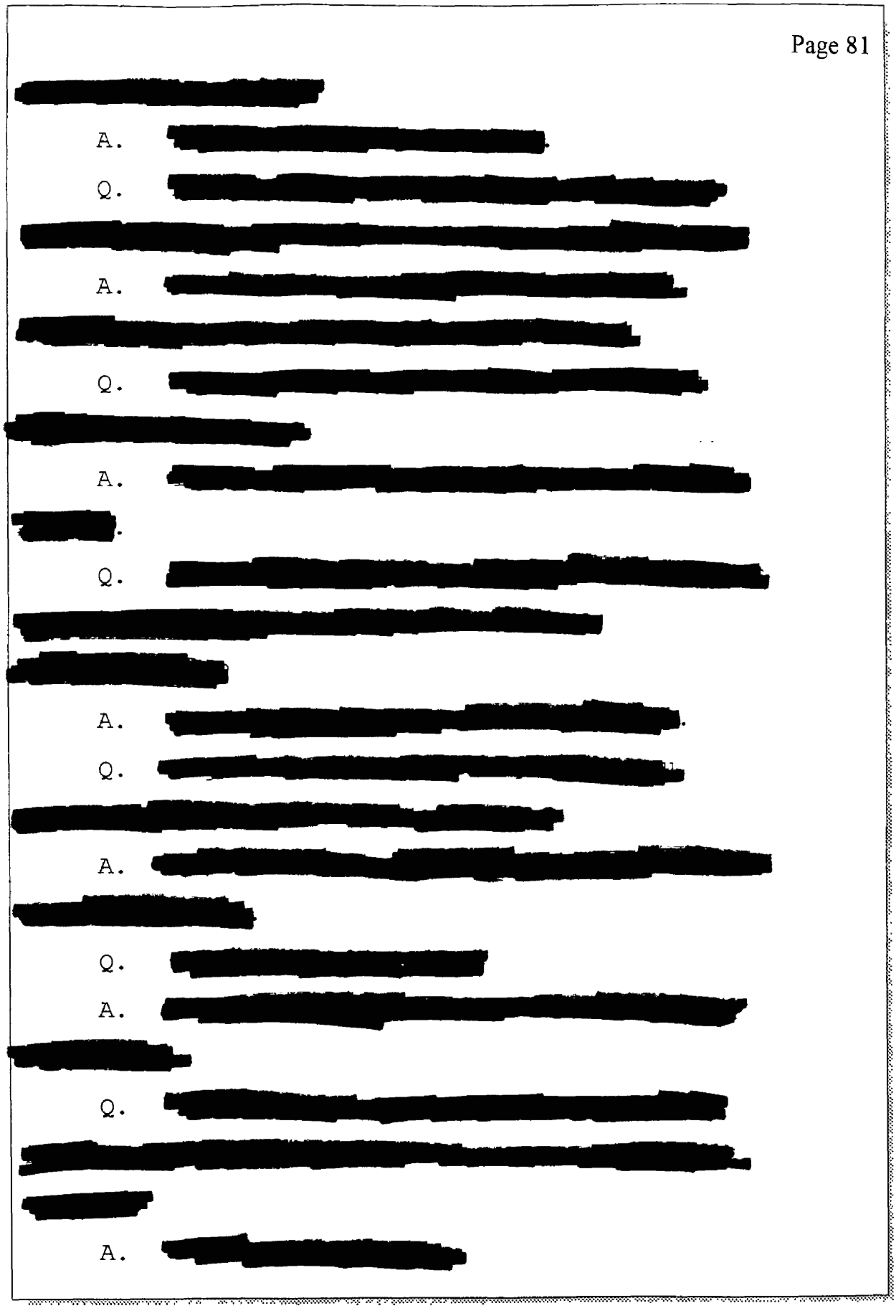
[redacted]

A. [redacted]

[redacted]

Q. [redacted]

[redacted]



Q. [redacted]

A. [redacted]

Q. Does IDS have subsidiaries or affiliates?

A. IDS has what I believe is an affiliate, I believe you would call it.

Q. What is the name of that company?

A. Unified Solutions.

Q. Do you know its place of incorporation, state of incorporation?

A. No. I can't answer that question. I'm sorry.

Q. Do you know what type of business it does?

A. We work with other CLECs.

Q. To do what?

A. We give them certain advice. We also help them convert resale base to UNE-P.

Q. What type of advice do you give a CLEC through Unified Solutions?

A. Mainly we try to advise them of the profit potential of the UNE-P product.

Q. Let me back up a little bit.

You said that Unified Solutions is an affiliate of IDS?

A. Let's say some of -- the owners of IDS have an ownership interest in Unified Solutions.

Q. Is the ownership interest identical?

A. No.

Q. Do you know which owners of IDS also own or have an ownership interest in Unified Solutions?

A. Yes.

Q. Can you tell me those, please.

A. Joe Millstone.

Q. And their respective percentages, if you know?

A. I believe for all of the owners it's a [redacted] interest, I believe. To the best of my knowledge.

Q. So everyone that's an owner in IDS is also an owner of Unified Solutions, but their ownership interest is about [redacted]?

A. I believe that's right.

Q. Who owns the remainder of Unified Solutions?

A. I believe Bill Gulas and Becky Wellman.

Q. Are there any other owners?

A. Not that I'm aware of.

Q. Do you know the percentage of ownership

of Mr. Gulas and Ms. Wellman?

A. [redacted].

Q. You told me that Unified Solutions is in the business of providing advice to CLECs in converting CLECs' accounts from resale to UNE-P; is that correct?

A. That is correct.

Q. Do you know then Unified Solutions was created?

A. I don't know the exact date. I'm sorry.

Q. Do you know if it was --

A. Sometime last year.

Q. Let me help. If I give you a date that we're all familiar with, maybe it help you out. Was it before or after the bulk ordering incident in May of 2000?

A. It would have been after May of 2000.

Q. Can you describe to me the thought process that went into creating this new company?

MR. MILLER: Objection. Whose thought process?

MR. MEZA: Okay. That's fair.

Q. As an owner of Unified Solutions, were you involved in any discussions with any of the

other owners regarding why it would be a good idea or be profitable to create Unified Solutions?

A. Okay. We believe that we could give advice, show CLECs the profit and make money off the advice and charge the other CLECs monies to convert their resale based to UNE-P.

Q. What is Unified Solutions' business plan?

A. That is the business plan.

Q. Who are the officers and directors?

A. Just the owners. As far as I know there are no officers.

Q. Which CLECs are customers of Unified Solutions?

A. Well, we have agreements with these CLECs that are nondisclosures.

Q. What how many are there?

A. Maybe -- I'm not sure. [redacted] would be the best of my knowledge.

Q. It's your understanding that you are prohibited from telling me who those [redacted] are because you have an agreement with them not to disclose that?

A. Yes.

Q. When did the first CLEC sign up with

Unified Solutions?

A. I believe it was in December of last year.

Q. And when did [redacted] CLEC sign up?

A. Sometime after that. This year, I would presume.

Q. Do you know when?

A. No, I didn't sign up the company. I'm sorry.

Q. Who did?

A. I believe, Bill Gulas did.

Q. What about [redacted]?

A. Again, I wouldn't know exactly when they signed up.

Q. Can you give us a rough idea?

A. Beginning of the summer maybe.

Q. But Bill Gulas may have better knowledge?

A. I would believe he would know that.

Q. And [redacted]?

A. Sometime during the summer.

Q. What is Unified Solutions' pitch to the CLEC in order to get them to sign a contract with them?

A. I don't know. I wasn't involved in any

of the sales.

Q. Who would be? Who would --

A. I would say Bill was the primary person talking to CLECs.

Q. How does Unified Solutions charge a CLEC for services rendered?

A. That information is in the nondisclosure agreements that we have signed between the companies and Unified.

Q. Well, let me see if I can ask it a way where you don't think it's confidential. Okay. Are the charges based upon the number of conversion orders that Unified Solutions converts to UNE-P?

A. Not exactly, no.

Q. Explain to me, to the best that you can without violating a confidentiality agreement, how the charges are based?

A. We charge a certain sum on a per line basis for conversion and other services associated with that line.

Q. Which would be what? What other services would be provided besides the conversion?

A. From what I understand that a lot of CLECs' lines either, A, can't be converted to

UNE-P for a number of reasons, okay, and more times than not the CLEC or ALEC gives us lines that don't belong to them any more.

Q. What are the reasons why a line can't be converted?

A. I'm not sure.

Q. You know that there a number of them, but you don't know of the actual reasons why?

A. Well, there are some services that cannot be put on UNE-P.

Q. Okay. Like what?

A. ADSL would be one, from my understanding.

Q. So CLEC 1 gives Unified or tells Unified Solutions to convert this line to UNE-P.

A. Uh-huh. Yes.

Q. Unified Solutions takes the line, submits it to BellSouth, correct?

A. That is correct.

Q. And the line cannot be converted to UNE-P, assume for me that's the case, because of whatever reason, for one of those many reasons you told me, numerous reasons?

A. The one reason I told you.

Q. You told me ADSL is one reason that it

could not be converted?

A. Right.

Q. What happens then?

A. I can't tell you, to be honest with you. I'm not involved in that company, other than I have a specific interest in it and that's about it.

Q. Well, what services would Unified Solutions be providing to the CLEC that will require a charge?

A. Could you clarify the question again.

Q. What services would Unified Solutions be providing to the CLECs in that instance that requires the company to be compensated?

A. I would say they, to the best of my knowledge, they encompass all of the services that we provide in the charge that we provide the customer to convert their lines.

Q. I apologize because my question probably was --

A. Sorry about that.

Q. I am just trying to figure out -- maybe if I tell you what I'm trying to get at, you can help me out.

A. Yes.

Q. You said that the charges imposed upon a CLEC is Unified Solutions charges a CLEC for the conversion of a line and associated services?

A. Uh-huh.

Q. You told me that those services are the result of a number of reasons why lines can't be converted?

A. Uh-huh.

Q. And another is that the CLEC doesn't own the number any more, and I guess what I'm trying to understand is what services does Unified Solutions provide in those circumstances in which the charge it charges the CLEC is supposed to recovery? Do you know what I'm saying?

A. You sound like the other time on my side. To the best of my ability to answer the question, I've heard the term scrubbing lines, which takes a lot of work. I do not know precisely or have any general knowledge exactly what that entails.

Q. But scrubbing lines could be the additional service that you are providing?

A. From what I understand, that requires a certain amount of labor.

Q. Do you know the total amount of revenue

that Unified Solutions received for 2000?

A. No.

Q. Were there any profits or dividends paid at the end of 2000?

A. [redacted]

Q. To date, do you know Unified Solutions' gross revenue?

A. No, I don't.

Q. Would Mr. Gulas know that information?

A. He probably would, I would think.

Q. When processing conversion orders for other CLECs, what process does it use? Does it use the W Activity code or the V Activity code?

MR. MILLER: Who is "it"?

Q. Unified Solutions.

A. To the best of my knowledge, we use both.

Q. Do you know what percentage of time Unified Solutions uses the W to submit a conversion order?

A. To the best of my knowledge, it would probably be the majority of the time.

Q. Can we get more specific than majority. 70 percent?

A. I'm not involved in the day-to-day

operations. I wouldn't -- I couldn't even tell you who the employees are.

Q. How many employees does Unified Solutions have?

A. Other than the owners, I know we have -- I know we have an agreement to sub -- I believe -- subcontract certain of IDS employees.

Q. So to the best of your knowledge, there is some common employment of those employees?

A. To the best of my knowledge.

Q. When you sub them out, are they still considered IDS employees?

A. I don't know. Again, I'm not involved in the day-to-day operations of that.

Q. Would Bill Gulas or Becky Wellman know that answer?

A. They would be in a better position to answer that question, yes.

Q. Who runs the day-to-day operations of Unified Solutions?

A. I believe it would be Bill and Becky.

Q. Has IDS ever informed other CLECs about this W activity code?

A. Not to my knowledge.

Q. Has Unified Solutions ever informed

another CLEC about the W activity code?

A. Not to my knowledge.

Q. Before we get to your direct testimony, I wanted to just ask you a few more questions about what we talked about this morning. By the way, I think we are doing pretty good time-wise.

A. It's been a strange day today. I'm sorry.

Q. Explain to me, again, this Dataease system. I'm confused as to how it works.

A. I would be even more confusing. All I know is it's Dataease and our I.S. Department is responsible for it.

Q. I.S. being?

A. Information Systems and Services.

Q. Who at IDS has the most knowledge about the Dataease?

A. Probably Eileen Turpin.

Q. Eileen Turpin. Based upon your understanding, let me just give you a hypothetical and see. BellSouth gives you a phone number. Can you insert that phone number into Dataease and get information about the customer?

A. From BellSouth? No.

Q. One of your employees says, I think this

customer has a problem with the bill, or a problem with service.

A. Uh-huh.

Q. How do you access or do you use Dataease to access the customer's records?

A. Well, we use what we call billing. Now, whether or not that's specific to Dataease or not, I can't tell you. Eileen probably could. But a customer says, I have a problem with billing. Our CSRs go into the billing screen and review it through that.

Q. And what shows up on the billing screen?

A. Well, if they ask to look at the bill, I believe it shows -- not the actual bill, but what the bill looks like to the customer.

Q. Right.

A. To the best of my knowledge.

Q. Okay. It doesn't show the actual bill, but it shows what the bill is to the customer. Is that what you said?

A. You know, to the best of my knowledge, the customer gets a white bill. On the screen it's blue with white letters. It looks different than what the customer gets, but I believe the information is the same.

Q. If I gave you a number today of an IDS customer and you invert it into billing or Dataease, would you be able to access the customer's records through those systems?

A. Our records, yes.

Q. Yes. IDS' records?

A. Yes. IDS' records.

Q. And again, what records are those?

A. You can get certain records which would be customer comments. If a customer calls in, we can access accounting records so we know if they're passed due or if they have a late fee or if they're current or -- we can access customers who say they have either been billed incorrectly. We can access, I believe, all of the information necessary to provide service to that customer.

Q. And if a customer calls up with a question regarding service, normally the customer service rep would document that in the comment section, I presume?

A. I'm sorry. Say that again.

Q. Let me ask it this way. What type of customer comments are encompassed within --

A. Dataease?

Q. Dataease.

A. Our CSRs are instructed to put in customer comments. Okay. So that if the customer calls in, again, does not get the same CSR, you could tell what the previous customer service rep's reactions or discussions were.

Q. If there is a billing issue, what information is available for the customer service rep or whoever is addressing the billing question?

MR. MILLER: Off the record.

(Discussion off the record.)

Q. Again, I think I was asking you about when a customer has a billing question --

A. Uh-huh.

Q. -- what information shows up through Dataease or the billing system?

A. The bill.

Q. Does it show the customer's previous billed amounts?

A. I believe that it would show whatever outstanding balance the customer may have.

Q. So it's your understanding that it only shows the current bill?

A. No. No. It would show a previous amount due and any finance charges and the current bill. I get a bill at home and that's what it

says on my bill at home.

Q. So the best of your understanding is the billing system shows the amount -- it's essentially the bill, is what you're telling me?

A. Yes.

Q. There is no other customer comment section?

A. Not on the billing screen.

Q. Well, if a customer has a question as to why they were charged something, what is the service rep instructed to do?

A. I'm sorry.

Q. A customer calls up IDS and says, look, I should not have been charged this amount and the service rep types in the phone number, out pops the billing screen and it's essentially the customer's bill. What does the customer service rep do at that point?

A. They would go into, I guess, the Dataease screen, from what I know, and that's to the best of my knowledge. I never accessed any of those personally.

Q. How long does IDS maintain records, billing records for former customers?

A. I don't know that.

Q. Do you know how often the system purges itself?

A. No. I don't know that.

Q. Who would know?

A. I would guess our I.S. Department would know.

Q. So it's your understanding that through the Dataease system the customer service rep could obtain additional billing information?

Off the record.

(Discussion off the record.)

(Thereupon, the deposition was adjourned.)

A

abide 30:15
ability 4:11 43:25 44:3,8 44:13,17 61:3,5 90:16
able 16:19 18:17 19:21 20:25 21:16 27:18,21 47 8 72:20 95:3
about 9:6,7 11:7 22:14 22:21 25:8 35:8 36.13 37:15 38:6 39:5 42:21 42:25 49:1,2 53:3 56:15 61:18 62:12 63:3 63:5,10,25 64:2,12 65:9,10 67:6 68.7,18 69:14,23 70:22 71:23 72:25 75:3,17 80:9 83:18 86:12 89:6,21 92:22 93:1,5,5,16,23 96.11
accelerated 72:5,21
access 65:13 94:4,5 95:3 95:11,13,15
accessed 97:21
accommodate 4:6,9 42:24
according 35.4 79:2
accordingly 32:8
account 56:13,18
accounting 26:22 95 11
accounts 26:23 60:12 84:6
accuracy 45:9
accurate 34:11 35:22 54:18
accurately 4:3
acquire 21:6
acronym 26:2
action 8:14
activity 91:13,13 92:23 93:1
actual 13:22,25 26:21 88:8 94:14,18
actually 8:10 23:20 26:4 27:13 44:19 70:19
add 38:10
addition 21:10
additional 19:14 29:6 31:6 81:12 90:22 98:9
address 3:16,17 28:20
addressing 96.8
adjourned 98:12
administration 5:17
ADSL 88:12,25
advice 7:16 8:7,16,21,25 9:3 82:17,19 84.5 85:4 85:5
advise 82:21
advised 81:2
affect 4:11
affected 61:13
affecting 61.3,5
affidavits 72.1,4,19
affiliate 82:5,25
affiliates 82:4
after 7:12 10 2 71:20 73:20 75 24 84.16,18 86:5
again 4 6 5:18 16:19 20:6,14 28:16 37:18 39 23 40:18 42:9 43:6 51:17 54.25 56:20 68:17,19 70:10,20,22 71:24 75:22 76:18 80:14 86:13 89:11 92:13 93:9 95:8,21 96:3,11
against 1:6 8:14 66:5 69:6 71:15 73:16 76:8 76:21
ago 3.11 52:7 64:17
agree 34:14 62:10
agreed 74.13,18 81:8
agreement 72:9,24 73:12 73:25 74:4,23 75:5,8,9 75:21 76:20 78:21,25 79.4,10,11,15,20,25 80:5,9,10,18,24 82:1 85:22 87:17 92:6
agreements 71:21 85:15 87:8
Akerman 2:7
Alabama 46:4 47:6
ALEC 66.4 76:7,11,14 88:2
ALECs 67:15,17
allow 60:24
allows 58:19
always 26:4
amount 15:15 27:19 35:8 55:13,16 67:4 90:24,25 96:24 97:3,14
amounts 96:18
Anderson 70:4 75:1
Angel 47:19 53:1
Anne 2:16
annually 19:3
another 7:12 31:12 59:18 64:22 90:9 93:1
answer 14:19 19:15,21 47:25 48:20 54:9,18 55:9 56:2,4 59:9 61:3,5 61:22 62:2 71:18 79:19 79:21 80:12,18,21 82:11 90:16 92:16,18
answers 4:3 61:14
Anthony 49:18 50 24
anyone 22:6
anything 4:10 26.25 29:3 75:22
anywhere 16:3
apologize 39.18 73.4 89:19
APPEARANCES 2:2
appropriately 59:10
approximately 6:6 7:7 10:19 11:7 15:24 17.24 19:2,5,12,19 33:11 36:4 45:23 49 4 52:7 52:17 81:9 84:3
apt 41:7
area 36.1
areas 59:11
argue 79:23
around 5.24 10:14 35.2 50:1,4,6 65:3 68:1 78:7
arrangements 73:24 74:22 75:2
Arts 4:24,25
asked 56:15 63:25 64:2,4
asking 4:5 77:24 79:9,12 79:13 81:15 96:11
aspect 27:1 72:12
assessment 65:4
assistant 24:15 51 1,6,8
associated 63:15 74:19 77:1 87:20 90:3
Associates 4:24,25
association 63:22 64:23 65.7,25 76.14
assume 88:21
assumption 40:5
Atlanta 70:11,12
ATS 26:1,6
attempt 30:23 50:2
attorney 51:21 64.22 75:15,16 81:3
attorneys 73.13 74:20 79:2,5 81:5
AT&T 66:15 69:4,5,20 70:1,17 71:4,14 72:10 72:13,24 73:16 74:2,6 74:8,10,13,18 75:6,17 75:17 78:21 79:4,8,12 79:13 80:1,17,25 81:8 81:22
available 22:19 96:7
Avenue 1:21 2:8
average 36:3,12 37:2 38:11
aware 45:1 48:5 60:5 74:1,21 81:4 83:24
A.A 4 16,22
a.m 1.24,24

B

back 8:8 11:18 24:10 27:14 30:17 39 15 54:2 60:19 61:11 63:17,22 70.21 75:14 76.5 78.21 82:23
balance 35:5 84.3 96:20
bank 77.10,11
bankrupt 10:1 57.17
base 19.7 21:7,9 38.10 42:25 56.7 82:18
based 14:20 15:7,8 28:11 29:9,12 31:6 33.15,18 33:24 34:5,10 35:6 37:9 38:8,16 39.13 40:9,12,17 42:10 51:15 53:9 54:13 57 8,24 58:2,6,14,17,18,20,24 59:5,12,14,16 60:4,8,9 60:10 81:5 85.6 87:12 87:18 93.19
basic 20:17
basically 13:14 24:17
basics 13:16
basis 36:15 87:20
Becky 51:2 83:22 92:15 92:21
become 22:13 64:9
becoming 12:24 22:2,21
before 1:1 3:21 13:2 22:1 49:2 67:7 68:3 69:21 84:16 93.3
began 14:12 45:16
beginning 40:18,20 86:16
being 12:11 15:8 28:1 38:9 59:15 93:14
belief 70:10
believe 5:17 6:6,9,21,24 7:22 10:14,19 11:4 12:18 15:23 16:11 17:1 17:4,22,25 18:8,25 19:2,4 20:7 24:22 29:14,16,22 31:9,13 33:11 34:2 36:3 38:2 40:1,10,19,22 43:3,5 43:23 45:7 46:2 47:16 48:14,22,25 49:5,10,22 49:22 50:4 51:4 54:7 59:23 60:2,15 62:8 65:5,19,22 66:16 68:11 70:12,18 71.12 74:9,10 74:24 75:16 77:9 78:7 78:12 79:2 80:8 81:9

81:17 82:5,6 83.13,14 83:19,22 85 3 86·2,11 86·19 92:6,21 94.14,24 95:15 96 19
believed 77:22
Bell 43 25 44 14 47:12
BellSouth 1.6 2:10,12 23·7 28.11 31:16 32:4 45·5,25 48.4 56:14 58:23 59.5,25 60:3 66:6 69:6 71:15 73:17 76:8,22 80:4,6 88:18 93:21,24
belong 60:13 62:18 88·3
belongs 62:16
Bender 50:21
besides 87:23
best 29 11 37:18 39.23 41:7,21 46:1 47·11 57:21 58:18 62:2,14 68:21 71:25 75:4 76:23 77:17 79:3,5 81:6 82:2 83:14 85.19 87:16 89:15 90:16 91:16,21 92:8,10 94:17,21 97:2 97 21
better 41:10 46:15 48:7 48:13 61:22 86:17 92:17
between 9:21 16:3,5 17:2 38:13,14,15,24 40:6 70:17 74:25 75:5 78:24 80:24 84·2 87:8
beyond 81:17
bill 25:16 26:21 27:16,16 27:19 51:1 83:22 86.11 86:17 87:3 92:15,21 94:1,13,14,15,18,19,22 96:16,22,25,25 97:1,4 97·17
billed 95:14 96:18
billing 25:15,18 26:7,9 26:11,19 27:9,12,13,14 28:5 94:6,9,10,12 95:2 96·6,8,12,15 97:3,8,16 97:24 98:9
binding 30:22
bit 42:25 59:3 82:23
blank 41:4 62:3
blue 94:23
Bob 2:17 47:3 48:13 49:9 55·12,23 56.3,12,15 57:13
books 22:15
boss 12:1,2,3
both 24:7 28.25 35:16 46:10 55:5 70.9 79:6 91·17
brain 60:19 62·8
brand 13:5
break 4.7 33:16 35.17 42:20 53 25 60:24 61·8 61 12,16
breakdown 48:15,23 55:3
BRIAN 2:5
broad 76:17
brought 14:17,21 15:9 15:13
BST 66:5,5
Bulecza-Banks 2:18
bulk 84:16
Burris 12:21 22:23 23:6 43:7
business 5.17 6:4 12:6 13:21 14:4 25:24 35:25 43:10,11 48.8,23 57:15 57:19 58:7,10 82:13 84:5 85:7,9
B.A 5:16

C

calculator 38:18
call 13.17 25:18 26:15 72:5,21 73:13 75:11 82:6 94:6
called 10:4 59:20 63.9 66:17,20,21,24 67:18 68:17 78:16
calling 67:6
calls 13.23 27:4,15 95.10 95:17 96:3 97:13
capacity 6:23 8:24 9:11 11:22
Carolina 46:3 47·6
case 34:2 49:5 52:8,11 65:5 70:24 71:5 76:7,8 76:21 77:2 80:11 88:21
Casey 2:17
center 1:20 2·7 28:6 31:16 61.20
CEO 25:2 41:11 50:19 50:20 74 25
certain 10:15 26:19 31:10 36:6 51:20 52:5 62:18 73:11 81:1 82:17 87:19 90:24 92:7 95:9
certificated 47:9,22
certified 47:12
chance 30:17 61:24
change 39:20
changed 25:22,23
charge 58:20 59:14 70:8 85:5 87:5,19 89:10,17 90:13
charged 59:15,19 97.10 97:14
charges 87 12,18 90:1,2 90:13 96.24
charging 59·25 60:4
cheaper 58.5
check 63·24
Cheryl 2:18
chief 12:15 23:22 50:20
circumstances 90:12
cities 59:11
clarify 4:5 59:2 89:11
class 13:11,12,13,15 21:6 28:17
Claudia 70:3,13,20
Clayton 2:18
clear 41:16 60:25 61:18 61:23
CLEC 58·20 60:13 62:15 76:7,10,14,19,24 77:2 82:19 85:25 86·4 86:23 87:5 88.2,14 89:9 90:2,2,9,13 93:1
CLECs 64:23 65.2 67:17 77:18 82:15 84:5,6 85:4,5,13,16 87:4,25 89:13 91:12 92·22
close 37:11 48:10,14 69:25
closer 37:16 38:7
code 91:13,13 92:23 93·1
collection 26.6
college 4:15,15,16,20
collocation 31:13 51:15
combination 33:14
come 53:2,4 60:19
comes 18:21
comment 95:19 97:6
comments 26:25 27:6,7 95:10,23 96:2
commission 1.1 67:7,8
common 71:21 73:9 79:14,20 80:9,18 92:9
Community 4:16,19
companies 65:12,16 66:20,21 78:24 79:6 87:9
company 9:10,23 10:1,4 10·6 11:1,10 12:19 14:22 15:8 18:12,23 19:23 21:1 22:4,6 23:4 24:24 26:3 27:13,14 35:24 49:11,14 56:19 68:25 77:5,8,18 78:3,4 82:7 84:20 86:8,12,20 89:5,14
compensated 89 14
complaint 1:5 63 10,25 66.4 67 7,12,22 68 18 69:6 70·2 71:3,14 72 2 72 11,19 76 15 80·1,2
complaints 72:1 73:7
component 31.15
Compound 44:21
Comtel 62:25 63.1
concern 61:9
concerned 65:9
conduct 43·10
conducting 12:7
confidential 30:18 31:3 32:7 33:3 80:6 87:11
confidentiality 80:4,10 80:24 87:17
confused 38:5 39·10,14 49:1 73:15 93:10
confusing 21:11 93:11
considered 92:12
considers 30:11 80·5
contact 18:4
contemporaries 11:25
continue 16:15 43:17 58:10 62:1,11
contract 86:23
controls 28:8
conventions 64 16
conversation 67·17 68:22
conversations 64 21 68·24 69:4,7,14 70·15 71:19,20
converse 62:21
conversed 62:23
conversion 87:13,20,23 90:3 91:11,20
convert 82:18 85:6 88:15 89:18
converted 87:25 88:5,20 89:1 90:7
converting 84:6
converts 40:8 87:13
COO 23:19,21 41:7,11
copy 75:20
corporate 50:10
corporation 50:14
correct 5:21 8:17,18 9:4 11:9 14:5 16·23,24 20:5 23:1,2 26:10 34:19 36·22 39:2,6 45:15 46:19 58:15 62:16 76:22 81:24 84:7 84:8 88:18,19
correctly 15:23 38:8 39:16 47.13 64:11

68 15
Costing 59:24
counsel 3:23
count 14:18
country 65:3
couple 3:11 68 9
course 13.9 57.24
courses 6:3,4,7
court 4:2 30:8
covered 10:24
create 85:2
created 84:10
creating 84:20
creditors 56:1
Cross 2:23
CSR 96:3
CSRs 27 8 94:10 96:1
current 23:9 55:25 56.8 56:13,19 61:2 95:13 96:22,24
currently 29:18 31:5,8 50:18 52.19 55:21 69:19 74:5
customer 15:16,19 19:6 24.4 26:16,17,22 27:1 27:4,7,15,22 29:24 35:25 36:4,12 37:2 38:4 52:6,18 89:18 93:23 94.1,9,15,19,22 94:24 95:2,10,10,16,17 95:18,23 96:2,2,4,7,12 96:20 97:6,9,13,17 98:8
customers 13:21 14:13 14:16,18,21 15:9,12 16:1,3,6,14 18:4 21:17 21:18 25:16 26:24 32:9 32:16,24,25,25 34:9,10 34:15,15,17,20 35.9,12 36:11,11,13,18,25 37:24 38:3,9,9,10,11 38.17,22 39:1,5,8,12 40:9,16,17,24 41:17,22 41:24 42:6,7,9 43:24 44:20,24 45:4,5,7,11 46:10,21,24 47:5,5,7 48:3,8,8,18 49:6 57:24 58:10,13 60:8 85:13 95:13 97:24
customer's 94:5 95:4 96:17 97:17

D

D 2:22
data 26:16 27:13,14
Dataease 26:13,14,15 27:15 28:5 93:9,12,17 93:22 94:4,7 95:3,24 95:25 96.15 97:20 98 8
date 9:5 32:23 63.10 84:11,14 91 6
dates 29:14
Davont 70:3
day 31:20 39:7 69:21 93:7
days 52:7
day-to-day 91:25 92:14 92:19
DCO 28:18
dead 60:19
December 86.2
decided 6:16 20:16 73:12
deciding 20:23
decision 20 20
decreased 39:11
deficit 55:22
define 53:7
degree 5:15 6:17
DeltaCom 66:9,23 67:2 67:15,21 69:10
density 48:17
department 24:14 53.2,5 93:12 98:5
depending 37:14
depends 27:23 36:1
depos 42:16
deposed 3:21
deposes 3:4
deposition 1:13 3:13 42:4 75:20,24 98:12
describe 50:9 70.16 84:19
designate 30:18
detail 43:1
detailed 61:15
differ 23:16
difference 72:22
different 8:22,23 61:15 72:3 94:23
direct 2:23 3:6 13:25 93:3
directly 25:2
director 17:8,10 18:7,9 18:15,24 19:7
directors 85:10
disagreement 7:20,24
disclose 85:23
disclosure 80:25
discoverable 80:3
discovery 79:23,24
discussed 70:16 71:13 74:10 81:9
discussion 33:10 54:24 63:14 67:5 76:4,10 96:10 98:11
discussions 63:11 65:6 65:24 66.3 67:1 69:19 71:4 84:25 96:5
distance 1.5 12:8 13.17 13:20 15.17 20:4 21.10 21:18,20,23 24:8 28 10 28.13 29:4,9 43.12,14 43:17,20 44:13,18,25 45:5,6,11 46:7,10 47:22 54 14 55:4 56:19 58:8,9
distinction 17:2
distribute 10:7
divide 23:3
divided 38:21
dividends 91:3
divisions 20:15
divulge 80.16
docket 1:3 72:6
document 95:19
documents 51:20,23
doing 8:2,3 20:3 29:21 29:22 37:18 68:21 70:20 93:6
dollar 15:18
dollars 19:13,20
done 68.19,20
Donna 68:15
double 19:1
doubled 18:25
DOUGLAS 2:5,12
down 33:16 38:11 50:12 61:24
draw 62:3
drawing 41:4
due 95:12 96:24
dues 63:21
duly 3:4
duress 8:11
during 19:7 71:11 86:21
duties 7:1,2 10:8,21 17:9 20:13 23:4,18,23,24 50:19 51:12,19 52:2,10

E

E 2:22
each 11:18 15:16 26:23 27:22 36:5 72:9 73:8,9
early 16:2 17:4,6
easier 42:12
easy 43:10
educated 22:10,13 23:4
education 4:15
educational 13:9
effective 61:1 63:8
Eidson 2.7
eight 19 5 66 1
Eileen 93:18,19 94.8
either 20:7 35:5 51:25 52:25 74.13 75.17 87:25 95:14
Elemental 59:23
Emergency 1:7
employed 8:24 9:11,18 11:8,20
employees 24 12 52:14 53.10,20 92.2,3,7,9,12 93:25
employment 7:10 14 12 92 9
encompass 89:16
encompassed 51:12 95.23
end 21:1 37.16 38.2,7 91:4
enough 41 22
enrolled 13:11
entail 7:1 13.22 29.13 31:25
entailed 28:13 51:19 52 2
entails 90:20
enter 20:16,23 21:4 23:5
entered 72:24 74:9 79:25 80:4
entering 74:3
entire 9:15 16:4
equate 19:13
equation 37:6
equipment 31:6,13
equity 77:15
esq 2:5,5,6,11,12,16
essentially 72:15 97.4,16
estimate 8:20 15 15 32:13 37:12 38:12 46:14 67.19
estimated 15:12
estimates 15:22
estimating 32:18 35.20
estimation 16:5,13 18:23 19:17 30:3,4 34:23 35:4,13 37:8 38:16 47.11 69:12
Etcetera 8.22 9:9,12,18 10:2
evaluated 15:8 18:9,11
evaluating 12:25
even 37:11 50:2 92:1 93:11
event 19:23 62:9
events 60:18 61:2,19
eventually 16:22 21:5
ever 3:21 92:22,25

everyday 62:9
everyone 60.24 83:16
EWSD 28 17 29 16
exact 19 10 30.1 32:11 32:22 35:19 39:25 49:23 63:9 67 3 84:11
exactly 6.15 18.22 40:2 52 20 67 12 71.13 86.13 87.15 90:19
EXAMINATION 3:6
excess 32:19
excuse 8.6 66.5
executive 12:15 50:24 51:13
exhibit 42:4 75:20
existence 12:4
existing 21:17
expand 17:11,21,23 20:15 57:22,23
expanded 45:25
expect 3:24 35:25 70:14 81:11,12
expectation 16:10 74:7
expected 13:18
expedited 72:15
expenses 55:14,16
experience 12 10,24 22:7
experienced 18:24
experiencing 67:12
explain 20:22 21:11 41:2 72:23 87:16 93:9
explosions 61:19
expound 7:25 13:24 75:3
extended 61:7
extent 30:24 31:1 52:5 80:3,19
extrapolate 37.4

F

Fabio 51:3 52:24
face 17:19
facilities 28:11 29:9,12 29:19,25,25 31:6 33:15 33:18,23 34:5,10 35:6 38:8 39:2,12,15,18 40:3,3,9,12,17 41:10 41:18,19,20 42:10 51:15 53:9,11 57:24 58:2,13 60:8
fact 47:4
fair 35:7 44:22 45:3 65:3 67:25 84:23
familiar 84.15
family 60:25
far 16:14 19:8 23:4 24:18,24 26:25 37:9 41:15 42:12 56:1 64:12 81:21 85 11
father 12:21
features 27:22 29 7
February 65:19
fee 95:12
feel 4:7 22 9
feeling 67.10
fees 74:11,12,19 81:7,12 81:16
felt 72:18 73 8 79:5
few 93:4
Fidelity 6:22 7:4,5,6,19
fifth 10:15
figure 36.10 89:22
file 8:13 42:4 75.20
filed 1:3 3:3 66.4 71:14
filing 72:11
filled 63:24
finance 96:24
financial 56.22 57:1,9,10 73:24 74:11,21 75.2 77:7,9,12
find 22:15
fine 10:7 17:18 35.17,21 37:22 42:15,17,22 75:25
finished 9:19
fired 8:4
firm 64:22 74:16 77:16
first 3:4,22 19:3 42:16 48.6 66:23 68:11 85:25
fished 66:12
FIU 4:18 5:20 6:1,5,20
five 17:25 68:1
Flagler 2:13
Floor 1:21 2:8
florida 1.1,22 2:9,14 3:18 4:17 5:2 10.24,25 28:21,23 43:15,24 44:25 45:22 46:2,19,22 48.16,17,19,24 59:1,6
focus 21:19
follows 3:5
force 17:12,21
forgot 63:20
formal 22:5
former 97:24
Foundation 73:19 77:21
founded 43:2
founders 22:25
four 17:25 19:12,19 36:4 37:3 38:3,6,21,23,24 85:18,21
fourth 10:15 86:20
FPSC 2:15
frame 9:20 14:24,25 25:12 27:24 55:6 71:6
free 4:8
Freebee 63.12
friend 9:10 11:11
friends 11 17
Frisbee 62.24 63:4,13
Frisbee's 64.10
from 6:1 11:7,11 15:3,21 16.12 17:24 18:10 19:1 21.19 23:16 24:3 43:16 43:22 45:20 50:11 55:4 58:13 61:1,11,12,23 65:3 68:25 71:7,15 72:3 74:6,7,8 76:6,14 77:11 84.6 85:21 87:24 88:12 90:23 93.24 97.20
full 3:14 6:10,10,13
fully 29:16
full-time 6:14,20
functional 29:17
funding 74.2 76:13
funds 76:25
further 63:11,14

G

Gallopi 51:4 52:24
gave 13:13 63:23,23 75:14 95:1
general 3:25 7:23,24 8.1 8:2 9:13 35:23 70.15 76:25 79:17 90:19
generalities 33:19
Generally 67:6
gentleman 22:23 62:24
George 3:15
Georgia 43:24 44:24 45:7 46:2,19,25 67:8
gets 48:7 94:22,24
getting 14:3 23:4 31:2
give 3:25 4:1,14 14:23 19:17 30:1,3 32:13 33:19 34:23 35:19 38:18 39:23 41:9 46:12 54:17 62:6 67:19 68:11 69:12 70:6 82:17,19 84:14 85:3 86:15 93:20
given 3:23 15:13 76:19
gives 88:2,14 93:21
glad 42:17,23 67.11 68:20
go 4:19 7:12 8:8 30:17 33:7 38:11 43:1 54:2 73:12 76:2,5 78:21 94:10 97:19
goal 18:16
goals 16:16,20 18:14
goes 24:19 27:12
going 3 25 4:1 6 11 8:20 30.10 31 9 32 5 35 20 37:12 38 19 42 3 57 5 57 6,7,14,17 64.6 71:17 75:19 79:3 80 11
gone 64:16 81:17
good 3:8,9 8:2,3 9:9 11:11 38:25 63:8 68 16 68.20 70.24 75:13 85 1 93:6
graduate 5:7,13 6 1,4
great 70:21
greater 32:20 34:1,25 49:22 68:1
grew 19:23
gross 54:3,8,12 91:7
group 62:23 63:15 65:1 65:2,7,8,25
groups 60:14 62:16,18 62:21 63.1 65.23
grow 21:1,7,8
growth 15:18 18:16,23 19:6 20:14 21:9,15
guarantee 50:7
guess 15:4 26:15 38:19 39:10 61:9 62:11 63:7 63:20,22,23 64:1,16,23 66.7 72:5,21 73:5,15 74:22 75:10 81:15 90:10 97:19 98:5
guesstimate 52:15
guidelines 18.13
Gulas 51:1 52 2,4 83:22 84:1 86:11,17 91:9 92:15
guys 42:15 68:19 70:20

H

Hacker 45:14 47:3,17 48:13 49:9 54:7,10 55:12,19,24 56:12 57:13
half 19:12,19
Hamilton 52:25
handles 50:19
happened 17:3
happens 89:3
happy 4:6
having 3:4 69:19
head 61.23
heads 60:25
heads-up 30:22
heard 90:17
hearing 54:20 63:6 71:2 73:23,23
hearings 73:8
help 9:9 37:4 70:24 73:9

73 22 74 11,18,19 76.7 82:18 84.14,15 89:24
helton 2:16 54:20
her 52:9,12 53:4 81:21
heretofore 3:3
high 6.21 7:5,6,17,19 48:17 50:10,14
him 8.14 51:25 56:17 62:25 63:5,7 64 4
hired 74:16
hiring 13:23,25 74:19
historical 27:1
hold 33:5 64:15 79:22
home 3:16,17 96:25 97.1
honest 89:4
honestly 19:22
hope 34:12
horrible 62:7
hospitality 14:11
hospitality-type 16:6
hotel 63:7
hour 6:11 42:22
housed 29:1
hypothetical 93:20

I

idea 41:10 56:21 57:3 70:24 85.1 86:15
ideas 4:1
identical 83:3
identified 34.10
identify 45:8
IDS 1.5,6 2.4 11:16 12:4 12:24 13:2,10 14:4,8 14:12,13,17 15:1,9 16:5,22 19:25 20:16 21:3 22:21 23:25 24:9 25:3,9 28:1,9 29:18,24 31:5 32:3,9,16,24 35:9 35:18 36:17 37:3,5 38:12 39:21 40:8 41:25 43:2,10,13,16,19 44:12 45:11,16,21 46:5,11 47:4,9,21 48:2 49:3,11 50:9 52:14,18 53:6,11 54:3,13 55:2,14,21,25 56:8,13,18,22 57:9,14 57:17,19 58:7,23 59:4 59:12,25 60:13 62:16 64:19 65:1 66:4 69:5 70:17 71:14 72:24 73:17 74:2,7,13,16 75:6 76:6,10,13,19,20 76:24 77:3,6,9,20,23 78:6,10 79:7,12,13,25 80:3,5,25 81:11 82:3,5 82:25 83:1,5,16 92:7 92.12,22 93:16 95:1,6 95:7 97:13,23
III 2:11
ILEC 59:13
ILECs 65:3
Ileri 2:17
important 17:2 50:8 71:1 72.4,14,20
imposed 90 1
impressed 70:19 73:20
Inc 1:5,6 2:12
incentive 60:7,12
incident 84.16
including 79:16
incorporation 82:9,10
incorrect 49:3
incorrectly 95:14
increase 19:18,19
increased 19:13
Incremental 59:24
incumbent 58:19
incur 81:11
incurred 55:14
indicated 56:16
Indirectly 15:10
individual 18:2 26:24 50:12 63:17,21 64.20
individuals 12:18,20 64:18 65:17
industry 12:11 13:1,6 22:18,22 35:24 60:13 62:16 64:1,3,14 65:10 65.25 71:1
information 26:16,17,19 27:10,10 30:7 31:3 32:6 41:14 42:1 45:2 45:13 47.2,17,20 73:5 73:7,11 78:24 79:1,7 79:17,19 80:5,17 81:1 87:7 91:9 93:15,23 94:25 95:15 96.7,14 98:9
informed 72:14 92:22,25
initial 18:3 70:18 71:18
initially 10:10 70:19
initiated 67:11
inquire 68:17
inquiry 42:10
insert 93:22
installed 29:15
instance 89:13
institution 77:13
instruct 71:17 79:18 80:12
instructed 81:4 96:1 97.11
instructions 3:24
Integrated 65:13
interactions 23:7
interest 9 22 49:14,19 71:21 73 9 77 6,9,20 77:23 78:3,10,15 79:14 79:20 80:9,18 83:2,3,6 83:14,18 89:6
interests 75:10
internal 14:2
international 1:20 2:7 29:5,8 51.16
interrupt 30:6 66:13
inventorying 19:16,16
invert 95:2
invested 77:3
investment 77:15
involved 19:25 20:19 52:8 74:25 84:25 86:25 89:5 91:25 92:13
in-house 75:15,16
issue 68:2 96 6
ITC 66:9,23 67:2,14,21 69:9
I.S 93:12,14 98:5

J

JAMES 2:11
jeopardy 57:14,17
Jim 3:9,10 75:13
job 7:1,2,12,15 8:2,3 10:3,8,21 12:11,14 17:9 20:13 23:4 51:12 51:14,19 52:9 68:20 70:21
jobs 10:13 12:23
Joe 11:14 43:8 49:17 50:18 51:25 83:10
JOHN 2:6
joined 70:24
joint 75:10,10
journals 22:18
just 3:25,25 4:8 13:24 21:21 26:9 30:22 33:8 36:1 37:1,2,3,7 41:14 44:10 45:1,3,8 48:6 50:13 56:5 60:19 61:17 62:3 64:13 68:17 76:3 77:22,24 80:14 82:1 85:11 89:22 93:4,20

K

keep 40:5 41:25 68:4,6
keith 1:16 2:24 3:2,15 49:18
Kentucky 46:3 47:6
kept 71:24
kind 72.8 73:5,6
knew 73:11
know 3:10 4:8 8:19 9:19 12:17 19:6 24.12 26:4 28:20 29:24 30:9,9,12 32:7 34:25 35.18,22 36:4 38:16 39:8,18 41:5,15 43:13 44:2 45:4,6,10,13,14 46:9 46 18,21,24 47:2,4,17 47:21 48:2 49:3,6,9,13 49.24 50.6 52:22 53:1 53.2,18,22,23 54:3,6 54:10,12 55:1,10,11,12 55:13,16,19,20,21,25 56:11 57:9,12 59:10,13 59:13,15,16,25 60:3,17 60:19 61:4 62:5,15,19 62.20 64:1 65:18 70:5 71.24 72:6 73:4,5,6 75:5,11 78:5,9,11 80:21 81:6,19 82:9,13 83:5,12,25 84:9,11,12 85:11 86:7,13,19,25 88:7,8 90:14,18,25 91:6,9,18 92:5,6,13,15 93:12 94:21 95:11 97:20,25 98:1,3,4,6
knowledge 21:22 29:11 39:24 41:14,21 46:2 56:5,7,10,20 57:16,18 57:21 58:19 75:4 76:12 76:23 77:4,17 81:25 82:2 83:15 85:19 86:18 89:16 90:19 91:16,21 92:8,10,24 93:2,16 94:17,21 97:21
knowledgeable 22:21
kramer 1:16 2:24 3:2,8 3:15 36:16 42:4 49:18 54:3,21 61:2

L

labor 90:24
LACKEY 2:12 30:6,19 33:7 54:23 76.2
large 10:25 38:9 41:22 48:9
larger 34:15 39:1,12 40:8
largest 11:2
last 45:23 54:4 56 15 62:5 66:1 69:22 76:15 76:25 84:13 86.2
late 20:7 42:3 75:19 95:12
later 60:20 62:12 63:9
LATTAs 59:11

law 2.6 74:16
learn 13.14
learned 13.16 23:6,8 60:23 61:13
least 47:12
leave 7:17 9:8,25 11:10
left 7:10 8:3 9.3
legal 8:13 51 20,23 74:11 74:12
Leiro 52:25
lengthy 60:24
less 32:14 36:9,21,23,24 37:11,13 38:3,23 67:24 68:1 69:15,16
let 4:8 30:6 32:7 49:2,3 51:25 60:21 76:18 77.2 82:23 84 14 87 10 93:20 95:22
letter 42:13 75:23
letters 94.23
let's 15:5 16:2,12 17 24 33.7 40:5 43:9 53.25 54:2,22 61:6 66:11 74:9 76:2,5 78:21 83:1
level 50:10,14
Levent 2:17
Lewis 2:18
like 26:20 30:15 61:25 77:14,15 88.11 90:15 94:15
limited 41:14 67:14 79:24
line 87.19,21 88 4,15,17 88:20 90:3
lines 19:8,8,10,14,16 21:10 33:1,2,12,22 34:1,18,21,25 35:13,18 35:24 36:4,12 37:3,5,5 37:9,14,25 38:1,4,13 39:11,21 40:6,11 42:5 42:7,8 49:4 87:25 88:2 89:18 90:6,17,21
list 27:23
litigation 80:10
little 42:25 49:1 59:3 63:8 82:23
load 6:10,11
loaned 78:5
loaning 78:2
loans 77:8,18
local 20:1,17,17,23 21:2 21:4,10,13,24 22:3,7 22:11,21,22 23:5 24.7 25:4 29:9,12,18,22 33:12 45:16,21,25 46:6 46:10,18,21,24 47:5,10 48:1,7 51:1,2,15 52:3 55:4 57.19,22 58.11
located 28:19 30:5
location 29:2
long 1:5 5 5 6:5 7:3 10:17 12:8 13:16,20 15:17 18.6 20:3 21:10 21:18,20,23 24:8 28:10 28:13 29:4,9 43:12,14 43.17,19 44:13,18,25 45:5,6,10 46:6,10 47:22 54:14 55:4 56:19 58:7,9 59:23 97:23
look 27:16 52:1 94:13 97:13
looked 34:6
looks 94:15,23
lose 57:6
lot 3:11 17:3 52:4,6 66:20 87:24 90:18
Lou 50:21
Louisiana 44:1,4,11,15
Lufkin's 7:17
lunch 61:7,8
Luskins 6:21 7:3,18,19 11:19,20
L.L.C 1:6

M

made 72:2 74 23
magazines 22:18 64:11 64:13,15
main 52:12
Mainly 82:21
maintain 97:23
maintaining 53:10
majority 33 21,25 48:18 91:22,23
make 41:15 43.9 49:2 80:15 85:4
Makin 2:19
making 13:22 18.3
management 24:5,11 50:15 51:5
manager 6:25 7:23,24 8:1,2 9:2,14 10:16,22 10:23 11:16,19,24 13:10,19 14:17 15:1,2 15:3 17:11,14
managers 24:14
many 5:11 6:7 11:3 14:13,16 15:9 16:14 19:8 22:15 29:24 32:9 32:16,23 35:18,24 38:17 39:8 40:11 45:10 46:21,24 49:6 52:14,18 53:17,19 62:19 67:1 68:23 69:4,13 85:17 88:22 92.3
mark 30:9 32:8 78 13 81.16,18
market 10.25 11 2 14:6 14:10,11 20:1,17,24 21:2,4,13 22:3,3,7,11 22:22 23.5 25:4 58:5 58.14,16,18,20,23 59:5 59:12,14,16 60.4,9,10
marketing 20:10 22:2 23:8 51:3 52.23
Mary 2:16
math 50:2
mathematical 37:6
may 32:6 38:3 47:19,19 47:19 60:19 66:9 84:17 84:18 86:17 96:20
maybe 30:4 35:2 61:7 69:1,22,23 84:15 85:18 86:16 89:22
MCG 77:7,10,23 78:5
MCG's 78:9
MCI 66:9 68:7,8,17
mean 14:7 15:14 21:15 21:22 24:1,6 27:3 44.9 44:9,17,18 50:11 53:19 59:10 62:7 63:19 66:5 66:13 79:23
Meaning 7:25
medications 4:10
meet 16:10,19 18:14
meeting 65:11,18
member 64:9,19,22 65:1
membership 63:21
mentioned 25:8 46.17
met 11:18 63:5,7 65.10
meza 2:11 3:7,10 14:25 31:1 32:2 33:5 35:16 36:16 42:3,15 44:22 53:21,25 54:2 60:21 61:9,21 62:10 71:7 75:19,25 76:5 77:22 79:11,16,22 80:14 84:23
Miami 1:22 2:9,14 4:18 5:10
Miami-Dade 4:16,19
Michael 12:21 43:8 49:17 50:25 65:9
middle 73:1
mid-summer 72:7
might 47:8 55:20 65:19 68:14
migrate 57:23 58:1,13 60:8
mile 28:24
MILLER 2:5 14:23 30:14,23 32:1 33 9 35.14 36 14,20,24 42:12,18 43.21 44.21 47:23 53.19 54 22 55:6 56:24 61.4,17 71 6,9 71.17 73:19 75 7,22 76:16 77.21,25 79.9,14 79:18 80:8,16 84.21 91:14 96.9
million 19.3,5,13,19 78:8
Millstone 11:14,17 12:12 12.21 22:24 23:6 43:7 43:8 49:17,20 50:18 83:10
Millstone's 12:14
mine 9:10 11:12 50:6
minor 5:16
minute 33:8 76:3
minutes 15:19 19:16,18 42:21
mircophone 54:22
moment 61:11
money 15:15 57:6 76:20 77:8 78:2 81:23 85:4
monies 74:3,5,8,14 76.6 76:13,25 77:18 85:5
monitoring 13:12
month 15:24 16:7,8 37:14
monthly 81:14
months 34 7 45:24 56:23 57:10 66.1 76:15 77:1
more 20:25 34.3,7 37:13 38:10 41:7 43:1 47:19 59:3 61:1,15 66:18 68:5,6 69:9 88:1,3 90:10 91 23 93:4,11
morning 3:8,9 61:19 93.5
most 27:24 50:8 67:10 93:16
move 54:22
moved 39:2,12 41:17,23
moving 60:12
MSAs 57:23 58:3,19
much 13:5 15:18 22:16 22:16 67:16 68:21 78:5 81:7,19,20
multiple 34:21
multiply 36:11
mutual 72:8,23 73:12,25 75:9 79 4
myself 50:23 51:25

N

N 2:22
name 3:14,15 17:17,20

25.17 26:2 64:24 66:7 68 12 82 7
named 3:3 50:21 62.24
names 62:18 65:14,17 66:20 68.16
near 38.2
necessary 22:9 95:16
need 4:7 30:11 42.23 61.16 78:25
needed 15:20 73.17
needs 30:12
neither 51:10
network 28.6,10,11,14 29:3,7,12,13 31:7,16 31.21,23,25 32.3 39:2 39:13 40:9,12 51.15 58.21 66:10 68:23
networks 28 8,9 65.14
never 97:21
new 13:5 16:6 19:8 21:18 22:3 40:24 47.15 66:16 66:17 74:16,19 84:20
next 10:3 23:12,14 56 22 57:10
night 62:5
nine 43:25 44 14 48.4
Nobody 20:12
non 73:12
nondisclosure 87:7
nondisclosures 85.16
none 40.13,14,15 61:10
Nope 51:22
normally 95:18
north 46:2 47:5
Noshay 12:22 43 8 49.17 49.25 50:25 51:10
Noshay's 51:17
notice 3:3
number 3:19 14:21 15:19 19:10 30:1 32:11 32:22 34.11,20 35:19 36:10 37:5,8 38:22 39:5,11,21,25 42:5,6,6 42:7,8 45:25 46:12 47 6 49:23 67:20 69:9 87:12 88:1,7 90:6,10 93:21,22 95:1 97:15
numbers 37:23 42:9 48:14
numerous 88:23
N.W 3:17
N/k/a 1:6

O

objection 14:23 36:14 44:21 56:24 73:19 76:16 77.21,25 79:9 84:21
obtain 6:17 16:15 17:13 18:17 77:24 98:9
obtaining 21:9
obviously 37:10 50:19
occurred 65:18
off 9:1 22:17 33:7,9,10 54:23,24 76.2,4 85.4 96:9,10 98:10,11
offer 11:11,15 20:25 21:18 29:18 43:17,19 43:23
offered 12:11 74.13 76:24
office 28.24
officer 12:16 23:22 50:20
officers 85:10,12
Offices 2:6
often 98:1
Oh 81:17
okay 3:23 8:13 15.5,6 16:17,18 17:6 23:16 25:17 27:5,6 32:18 33:2,3 36:7 37:17 40.7 42:19 44.22 45:20 50:22 56:25 60:23 61:13 62:11,13 68:13 69:16 71:23 72:10,23 73:3 76.18 84:23 85:3 87:11 88:1,11 94:18 96:2
once 69:1,23
one 1:21 2.8 5:6,12 21:5 22:23,25 26:24 31:7,22 42:23 44:15 47:16 48:14 50:7 62:23 63:1 64:16 65:15 72:2 88:12 88:22,24,25 93:25
ones 46:1 60:16
only 41:23 68:8,11 69:1 71:18 96:21
operating 50:20
operational 23:6
operations 23:22,25 24:2 24:3,16,18,25 25:2 28:6 31:8,16 41:9 92:1 92:14,19
opinion 60:11
order 13:9 25:9 30:16 60:25 86:23 91:20
ordering 84:16
orders 24:7 52:13 87:13 91:11
organization 24:18 63:23 64:10,19
Organize 24:3
original 43:5
Orleans 66:16
other 8:8,10 11:18 12:18 22 23 26:11,11 28:4,4 31:7 44:2,24 45:4,7 56:18 64.19 65:15,16 65.23,24 66:4 72:9 73:9 76:6,19 77.5 81:3 82:15 83:23 85:1,5 87:20,22 89:5 90:15 91:12 92:5,22 97:6
others 72:3 73.9
otherwise 79:21 80:19
out 26.22 27:12,17 57 14 60:21 63:24 70:11,12 73:9,14 84:15 89:22,24 92:11 97:15
outlook 56:22 57:2,9,10
outside 48:3 74:12
outstanding 96:20
over 7:21,24 23:18,24 30:17 31:8 57:24 63:21 76:15
overheard 62:25
own 29:19,25 41:17 83:5 84:3 90:9
owner 7:20 83:16,17 84:24
owners 18:11 43:5 83:1,5 83 13,23 85:1,11 92:5
ownership 9:22 49:13,19 77:5,19,23 78:10,12,14 83:2,3,6,18,25
owns 53:11 83:20
O'KEEFE 2:5
O'SULLIVAN 2:6

P

P 2:5
page 48:6
pages 75:14
paid 81:20 91:3
paperwork 63:24
part 12:24 27:25 30:12 50:7
particular 6:16 23:20 45:2
part-time 6:12
passed 48:6 95:12
Pat 70:21
pay 59:12 63:20 74:13 74:18 81:8,12,14
payable 26:23
paying 58:5,14,23 59:16 60:9,10
payment 56:1,9 74:12
pays 59.4
Pembroke 3:18
pending 73:16
Pentagon 61.20
people 10:24 11 3 14:1,3 17:25 18:2,20
per 6:11 16:7,8 38:4 87:19
percent 34:1 35:5 46:16 48:10,11 49:22 50:1 52:11 78:13,18 83:14 83:18 84:3 91:24
percentage 33:22,23 34:4,14,24,24 36.5 46:9 48 8,9,15 49:19 54:13 55.1,3,4,5 83:25 91:18
percentages 48 16 83 11
performance 14.20 15.7
period 16.13 35:13,15 42:11 50:16 54:15 71:11,16
person 22:20 41:6 50:21 68:8,10 87:3
personally 97:22
personnel 52:5
pertains 80:2
perused 75:14
Petrone 49:18 50:3,24 51.7,9 53:24
phone 13:22 30:20 93.21 93:22 97:15
Pines 3:18
pitch 86:22
place 7:10 82:9
plan 57:19 58:7 85:8,9
please 3:14,19 4:5,7 49:3 49:16 50:9 83:9
point 38:20 43:21 71:9 97:18
pops 97:15
port 58:20
position 7:23 12:17 13.10 17:6 18:6 20:8 23:9,13,14,19 52:3,12 92:17
positive 44:15
possibility 31:9
possible 46:5
possibly 46:3,3 65:20 74:25
potential 18:4 82:22
Powell 65:9
precise 34:8 35:3 46:12 47:20
precisely 90:19
predecessor 20:11
pregnant 6:18
prepare 13:9

prepared 23 5
present 28:15 31:20 39 7 43.16,22 45.20 47:1,15 47.23,24 60:5 65:11 71:8,16
presently 32:1 43:23 44.23 52.11
president 20:10 23.15,17 24 15,15 25·6,14 41:8 50·23,24,25 51:1,2,3,6 51:9,13,18 52:3,23
presidents 70:8
presume 33:25 55.12 56·12 57:13 86:6 95·20
pretty 13:5 61.21 62:6 67:16 76:16 93:6
previous 12:10,23 96:4 96:17,23
previously 34·9 35:8 36·16 39:4 76:18
primarily 13:20
primary 18:16 21:19 87·3
prior 12:11 21:12 24:23 25:3,5 52:12 72:10
private 49:11,12
privileges 64:8
privy 42:16
probably 30:7,21 33:23 41:6 45:14 54:7 60:11 66:19 67:25 89:19 91:10,22 93:18 94:8
problem 27:4 30:19 76:1 94:1,1,9
problems 67.13 71:2
procedures 52:5
proceed 61:6 76:7
proceeded 5:1
proceeding 71:5 73:16
proceedings 54:1 73:10
process 20:23 84:20,22 91:12
processing 24:4,6,7 25:10 52:4,13 91:11
procure 17:11,13
produce 42:5
product 28:12 29:10,11 31:17 58:22 65:2 82:22
products 29:7
profit 21:19 82:22 85:4
profitable 57:7 85:2
profits 91:3
prohibited 85:21
prohibits 80:25
projections 15:17
promoted 10:11,14 16:22 17:7 20:6,8 24 21 25.13
promotion 24:23 25·3,5 25:6
proprietary 30·7,8,11 75:6 79:1
prosecute 76:7
prosecution 76:21
protective 30:16
provide 3:14 34:16 43:14 44:13,18 45.16,21 47:10,22 58.11 73:21 76:20 82.1 89:17,17 90:12 95:16
provided 36:10 72:1 74:2 76:24 79:7,12,13 81:23 87:23
providers 64:24
providing 44:19,25 46:6 46:18 48:2 84:5 89:9 89:13 90.22
psychology 5:16
public 1:1 49:11 67:7,8
publications 22:17
pull 27:16
purchase 31:11 65:2
purchased 31:5
purely 54:13
purges 98:1
purpose 78·22,23
pursuant 80:17
put 26:25 27.6,15 42:13 51:14 68.2 72:4,19 75:23 88:10 96:1
P.A 2:7

Q

question 8:8,10 31·2 48:20 55:1,9 59:2,9 75:13 79:21 80:19,22 82:11 89:11,19 90·17 92:18 95:18 96:8,12 97:9
questions 4:2,4,12 32:6 67:9 93.4
quotas 15:13,14

R

R 2:12
ran 10:23
Range 59.24
rate 59:18
rates 58:6,14,17,18,20 58:24 59:5,12,14,17,21 60:1,4,9,10
rather 42:13
re 1:5
reached 71.22 72:8 76 20 81:16
reactions 96:5
read 22:16 63.10
really 32:3 34:6 39 25 56:7 70:24 78:19
reask 54:25
reason 6:16 58:12 88:22 88:24,25
reasons 44:16 88:1,4,8 88:22,23 90:6
recall 19:10 36:20 64:24 65:8,14 66:2
receivable 26.23
receive 13:8 16:5 22:1 74:8
received 19:8,9 54:13 55:2,2 74:5 76:6,13 91·1
recent 61:2,12,19
recently 45:22 74:16
Recess 54:1
recollection 62:14 71:25
record 33:7,9,10 36:15 41:25 54:2,23,24 61:12 61:17 76:3,4 96.9,10 98:10,11
records 94:5 95:4,5,6,7,8 95:9,11 97:23,24
recovery 90:14
refer 26:4
referring 25:11 31:20
reflect 4:3
regarding 22:7 25.9 39:21 56:9 66:4 67:21 69:5 70:2 71:3,14,18 75:10 76:11,21 85:1 95:18
region 48:4,4
regulatory 70:8
related 73·25
relevant 80.1
Relief 1:7
remainder 83:20
remaining 48:11
remember 5:24 6:7,14 14:14,16 15:23 17:17 17:19 18:22 30:24 32:11,21 35:10 37:19 38:7 39:16,17,24 40:2 47:13,14 49:21 62:15 62:17 64:11,12,16 65:7 65:12,13,16 66:18,19 66:23 67:5 68:14 69:2 70:14 72:8
remove 60.7,11
rendered 87:6
rep 95:19 96:8 97:11,15 97·18 98 8
report 25·2
reporter 4·3 30:9
representative 67 21 68:24 69 5 72:14
representatives 75.17
represents 63:15
reps 14:21 50:13 52:18
rep's 96:5
request 1 7 4:9 75·23
require 89·10
required 4:1 18:14
requires 89:14 90·23
resale 21:7,9,15,16,21 29:10 31·23,24 32:3,9 32:16,23 33:13,14,17 33:22 34:4 35:6,9,18 36.11,13,17,24 37:5 38:9,13 39:11 41:22 82:18 84:6 85:6
reseller 12:8 44:10
reselling 21:23 32:4
residential 48:12,24
resigned 8:11
resold 39:21 40:6 42:5,7 42:8 43:12
respect 79:19 80:7
respective 83·11
response 4:2 61·1 67 14
responses 61·10
responsibilities 23.3
responsible 14:2,3 18:3 22:20 26:6 53:10 93:13
result 74·3 90:6
retainment 74.22
revenue 15:13,14 16:14 18:21 19:13 54:4,8,12 55:1,3 90:25 91:7
revenues 15:12
review 51:24 94:10
reviews 51:20
right 29:15 31:17 34:18 36:9 37:24 39:15 41:3 44:5,7 45:17 51:14 53:20 60:19 62:6,17 66:15 79:22,24 81:6 83:19 89:2 94:16
Robert 45:14
Roger 26:5
rough 18:22 32:13 34:23 35:13 37:8 46:14 64:6 67:19 69:12 86:15
roughly 38:17 40:12 45:10 78:9
round 42:16
rule 35:23
run 7:2 9:10

running 41:8 55:21
runs 64.22 92:19
Russell 62.24

S

safe 46·15
sales 7:23 9:13 10.15,21 10·23,24 11:16 13:10 13.18,25 14·3,17,21 15.1,2,3,18 17:8,9,11 17.12,13,21,25 18:7,9 18.14,20,20,24 19:7 20:10,14,15 22:2 23:8 51 3,16 52·23 87:1
salesperson 9.1 10:10 11:23
same 8:21 16·16 20:14 21:6 29:1 35:13 42:10 42:11 47:25 48:16,21 54:9 67:13 68:2 77:25 94:25 96:3
saying 41:17 44:3,6 90:14
says 3:4 93:25 94:9 97:1 97:13
school 5:1,9
screen 94:10,12,22 97:8 97:16,20
scrubbing 90:17,21
sealed 30:13
second 33:6 78:22 86:4
section 95:20 97:7
security 3:19
see 17:19,24 74:9 87:10 93·21
seems 21:11
sell 13:20 21:16 44:11 58:10
selling 36:2
semester 6:11
send 27:13
sends 27:14
senior 23:14 24:21 25:6 25:13 50:23
sent 63:17,21
Senterfitt 2:7
separate 73:10
separation 63:6 70:23,25 73:23
September 1:3,24
serves 29:24
service 1:1 13:20 20:17 24:4 29:18 33:12 43:14 43:17,20 44:13,18,19 45:1,16,21,25 46.6,11 46:18 47:5,10,22 48:3 50:12 52:6 53:6,7 57.20,22 58 11 67·7,8 90:22 94:2 95·16,18,19 96.4,7 97 11,15,17 98:8
services 12:9 21.1,17,23 21.24 22:22 29·23 32:4 34·16 43·12 44:11 56:9 64.8 87·6,20,23 88:9 89:8,12,16 90:3,5,11 93:15
set 24:17 44·10 52:4,6
settle 61:24
seven 7:7,12 43:25 44:13 44:20 45:4 47:12
several 34:7 47·13 64.17 64:21 67:3,23 69 7
share 78:23
shared 79:20 80:17
sharing 73:10
short-circuits 62:8
show 85·4 94 18 96:17 96:19,23
shows 94 12,14,19 96:14 96:22 97:3
side 23:7,8 24:4,5,6,18 24·25 29:4 36:5 90:16
Siemens 28:17,18 29:16
sign 63:17,22 85.25 86:4 86:8,23
signed 73:21 86:14 87:8
significant 72·3
significantly 37:10
Silvia 75:1
similar 33.23
simple 37·6
since 22:3 25:22,23 31:8 69:23
sir 18:5 32:21 33:14 39:3 46.20
six 19:5 56:22 57:10 76:15,25
size 18:25 19.1
sleep 62:5
slightly 37:13 38.3
small 33:22,23 34:3,13 36:5
smaller 38 10
social 3:19
sold 15:16
sole 22:20
Solutions 82:8,20,24 83:2,7,17,21 84:4,9,24 85:2,7,14 86:1,22 87:5 87:13 88:15,17 89:9,12 90:2,12 91:1,6,15,19 92:4,20,25
some 3:25 22:10 32:5,6 40:8 45:6 63·24 74.10 77.9,12 78·3 79:4 80.24 83·1 88·9 92:9
somebody 66.16
someone 69:22
something 25 8 56.6 58.9 97:10
sometime 5·24 24:22 29:17,23 45·18 72.7 73:1 84:13 86:5,21
somewhat 41.13
somewhere 38·15 78.12
sorry 7:11 17 17 19:11 19:22 25:5,19 27.24 30:2 32:12,21 34:7 35:3,14 39:14 40:1 41:12 45:2,9 46:13 49:8,21 52:21 53.7,22 54·20 55.10 58:25 59:3 59:10 60:17 64.25 65:17 66:13 72:12,17 75:7 78:20 80:22 82:12 84:11 86:9 89:21 93:8 95:21 97:12
sort 60:22
sound 7:16 8.7,16,21,25 9:3 61:8 90:15
South 4:17 5:2 10:24,25 28.23 48:17,19 59:1,5 66:17
Southern 10:4,9,17 11:8
specific 14:6 18.13 28.20 34:3 36:1,3 62:17 66:19 71:4 89:6 91:23 94:7
specifically 8:12 14:18 52:8 77.1
specified 80:13
speech 63:8
spend 15:16
spent 3:10
spirits 10:5,7,9,18 11:8
spot 38:25
staff 2:17,17 24:3 30:20
standard 35:23
standpoint 21:19
start 7:8 29:21 69:17
started 9:1 12:19 19:3 23:18 25:23 29:22 38:11 39:18 40:23 45:18,22
starting 4:15
state 44:2 46.6 48:4 64·1 64:2 82:10
stated 39:1
statement 35.7
states 43:13,19,25 44·14 44 20,24 45 5,8,8,21 46:1,17 47.9,12,13,21
stereo 8:6,21 9·9,12,18 10:2
still 25 20 28.1 33.13 34:4,11 43 16 49·1 92:11
store 6.24 7.2 9:2
strange 93:7
strategy 21:3
Street 2 13 3.18
strictly 20·3
structural 63 6 70:23,25 73.22
structure 24.17
structured 24:24,24 50:10,14
sub 92 6,11
subcontract 92·7
submit 91:19
submits 88.18
subsidiaries 82:3
substance 71 20
successful 57 6
suggestion 60:21
Suite 2:13
suited 79:3
sum 74:13 87:19
summary 4.14
summer 29:15,23 40:22 73:1 86:16,21
Summerlin 81.13,14
Summerlin's 74:11 81:7
summertime 66:25 69:18,24 71:7,15
SunTrust 1:20 2:7
supervisor 11:3
supervisors 18:10 24:13
support 67:11
supposed 90:13
sure 3:23 4:8 8:9 9:5 19:4,5 30:14 33:4,20 36.14 37.20,21 40:19 41:2,15 44:16 45·24 46:18 48:10 49:2,23 50:1 69:1 70:10 74:24 78:1,7 80:15 85:18 88:6
Susan 74:11
switch 21:6 28:17,18 30:5 31:7,12,14 41:23 53:12 60:12
switches 28.19 53:15 57:23
sworn 3:4
Sylvia 70:3,12
system 25:15,18,20

26:12,16 27:18 28:1,5 93:10 96:15 97.3 98.1 98:8
systems 24.8,10 25:9,10 26:11 28:4 93:15 95:4
S.E 1:21 2:8

T

take 3:13 15:5 16 12 22:10 42:19 53:25 61:7 61:16 66:11
takes 88:17 90.18
taking 6:3 23:18,20 36:9
talk 60:18,25 62:11 63:3 72:10
talked 35:8 49:2 63.5 64:18 66:9,15 67:20 68:8 69:22 70:1,3,19 70:22,22 71:23 93 5
talking 37:15 61:18 75:16 87:4
Tallahassee 63:6 70:13
Tampa 5:4
targeting 14:7
team 10:23 73:17
technician 53 8
technicians 53:6
telecom 1:6 12:11
telecommunications 1:6 2:12 12:25 65:25
telemarketing 13:23
Telephone 66:10 68:23
tell 13:12 25:10 27:7,19 27:21 30:8 31:10 32:25 33:1 36:5 41:7 44:1,23 45:12,24 46:1,23 47:1 49:16 52:20 63:9 64:5 67:3 69:3 73:2 81:6,20 83:9 89:4,23 92:1 94:8 96:4
telling 61:10 85:21 97:4
tells 88:14
TELRIC 13:17 59:20 60:1
ten 10:19 11:4,5 18:1 50:6 67:24 68:1
tenure 9:15 19.7
term 21:22 23:19 57:1,9 78:11,14 90:17
termed 31:14
terminate 8:12
terminated 8.4,5
terminology 72:6
terms 30:16 78:2
testified 36:17 37:1,2 39:4 71:8 80:8
testify 77:15
testimony 39 20 81:22 93 3
thank 32.2 42.18 68 21
their 11:2 41 17 60:25 70:5,6,7 73:22 83:11 83:17 85 6 89:18
thing 20:14 59.20 62:7 72:2 79:5
things 30:18
think 6:13 7.9 9:13 12:15 32:6 34:12 35:7 39:19 40:3 41:3 42:2 45:18 52:17 61:15 63:24 64:15 69:13,13 70:6,7,22 72:7 78.1,1 78:16 81:22 87:11 91:10 93:6,25 96.11
third 1:21 2:8 31:15 86:12
third-party 25:24
thought 8:1,3 20:22 44:12 63:7 70:23 73:21 84:19,21
three 37:13 38:13,24 40:6 43:5
three-day 13:11
through 4:21 8:20 15:3 18:20 21:2,9 24:4,5 27:18 29:19 43:9,22 57:22 64:6 75:14 82:20 94:11 95:4 96:14 98:7
throughout 37:14
throw 60:21
tier 24:11 51:4 57:23 58:3
tiered 24:5
time 3:11,22 4:4,7 6:14 6:24 7:22 9:20 13:6 14:7,24,25 16:13,13 20:4,16 21:6,12 22:19 25:12 27:23 28:15 35:13,14 40:21 41.9,10 41:11 42:11 43:7,21 47:1,15,23,24 50:16 54:15 55:6 57:25 60:6 60:18 64:7 67:10 71:6 71:10,11 75.15 90:15 91:18,22
times 62:2 67:20,23 68:9 88:2
time-wise 93:6
title 12:14 23.20 51:17 75:12
titles 70:5,6,7
today 3:24 23:9 25:20 28:2,16 29:6 33:18 34:11 37:9 45:11 49:3 50:17,18 59:7,8 62 15 69:20,21 93:7 95:1
together 3:11
told 37:9 76:19 81:5 84:4 88:23,24,25 90:5
Tony 53.24
Tony's 51:14
top 42:22 50:11,12 57:23 58:19
topic 67:5,16
topics 70:16,18
total 54:3,8 55:2,3,13,16 59:23 90:25
totally 52:7
touched 42:25
track 26:18 27:9,11 68:4 68.6
tracks 26:16,19,21,22,23 26:24 27.2
Trade 61:20
training 13:8 22:1,5,10
transcript 30:17 42:14
transferred 40:11
translate 15:25 35:12
translated 38:17
translates 19:18 49:7
trial 72:15
true 40:1 48:25
try 30:14 31:3 38:18 54:25 76:18 82:21
trying 16:15 29:14 37:3 37:8 39:23 41:3 89:22 89:23 90:10
Tuesday 1:24
turned 40:2
Turpin 93:18,19
two 12:18 62:20 65:23 68:5,6 78:24 84:2
twofold 21:5
type 8:13 10:6 12:6 13:8 22:10 26:17 27:10,21 43:11 48:2 51:23 59:18 68:22 72:23 73:10 77:12 80:24 82:13,19 95:22
types 97:15
T1 34:16 41:23 58:19

U

Uh-huh 5:22 35:11 88:16 90:4,8 94:3 96:13
under 8:11 53:2,4 79:10 79:11,14,20
understand 4:4,11 37:4 37:7 41:13 57:1 77:12 80:15 87:24 90:11,23
understanding 41 16 50:13 57:4,8 58 16,23 59:4 75.9 78:17,19 80:23 85:20 88:13 93:20 96:21 97 2 98:7
UNE-P 28:11 29:10 31:17,21 33.15,17,22 34:25 42:10 52:13 57:22 58:13,22 59:5,12 60:1,4 64:23 65:2 82:18,22 84:6 85:6 87:14 88:1,10,15,21
Unified 82:8,20,24 83:2 83:6,17,20 84:4,9,24 85:2,7,13 86:1,22 87.5 87:9,13 88:14,14,17 89:8,12 90:2,11 91:1,6 91:15,19 92:3,20,25
University 4:17,18 5:2 5:10
unsettled 60:22
until 12:23 18:8 29:17 39:17 52:7 61:6
upper 51:4
upset 61:22
use 25:20,24 91:12,13,16 94:4,6
used 21.22 28:1
users 21:1
uses 91:19

V

V 21:6 28:17 91:13
Vague 56:24,25
value 21:2
various 22:17 24.8 25:1 25:9 28:8 73:7
vendor 25:24
vendors 56:8
verbal 4:2
Verizon 47:13
versus 48:23 73:7
very 8:2,3 11:11 34:13 48:9 63:8 65:8 68:16 68:20,21 71:1 72:4,20 73:18,20
vice 20:10 23:14,17 24:15,15 25:6,13 41:8 50:23,24,25 51:1,2,6,8 51:13 52:3,23
vice-presidents 25:1
views 65:9
violating 87:17
volume 15:18
VP 22:2 24:21

W

W 91:13,19 92.23 93.1
Wait 76 2,2
want 35:16 41.15 42.19 43 1 50 2 56.6 58.1,12 59:14 62:1 66:7 68:2 75:22 77:14
wanted 20:25 21·7,8,16 71:23 73:4,5,6 93·4
warrant 78·18
warrants 78.16
Washington 64:21 65:10
wasn't 8:2,3 29:16 74:24 86:25
way 20:19 61·21 77:2 80:12 87:10 93:6 95:22
Wayne 2:19
week 56:15 69:22,23
weeks 3:11
well 6:19 21:23 23:18 26:7 27·12 34:17 47:18 59:11 62:5 72:13 79:16 81:17 84:2 85:15 87:10 88:9 89.8 94:6,13 97:9
Wellman 51:2 52:9 53.3 83:22 84:1 92:15
went 4.16,17,18 5:2,9,20 8:6,16 9:1,9 10:1,4 11·23 17:24,25 20:23 26.21 27:16 75·13 84:20
were 5:5 6:3,5,11,19,20 7:3 8:4,24 9:6,11,17 10:8,11,17,21 11.3,8 11:17,25,25 12:3,6,8 13:5,18 14:2,3,7,17 15:2,13,21 16:15,19,22 17:7,9 18:2,3,6,9,13,14 18:17,24 19:2,4,16 20:3,6,8,13,19 22:16 22:18,20 23:23 24:21 25:13 32:4 37:15 39:2 40:11,16,24 41:17 65:12 66:16 67:6,12,13 70:18 72:4,19 73:18,20 73:24 79:3 84:24 91:3 96:5 97:10
weren't 19:15 21:12,14 37:11 42:16
West 2:13
we'll 24:10 30:12,14
we're 59:16 68:21 84:15
we've 25:23 69:7 81:9
whatsoever 12:25
while 6:20 18:24
white 94:22,23
whole 13:6
wholesale 29:5 51:16
wife 6:18
Wine 10:4,9,17 11:8
wines 10:7
wise 29:3 34.24
wish 58:9
witness 2.23 3:3 36·19 61:6 62.1,13 71:18 79:18 80:12
work 6·10 23.25 24:1 72:9 79:3 82:15 90:18
worked 73:13
working 6:14,19,20,21
works 22:11 78:18 93:10
World 61.20
wouldn't 19·21 34:14 36:12 53.1,4 78:14 86·13 92:1
wrong 45 15 68:14,15 70:7

X

X 2:22

Y

yadah 70:21,21
year 5:6,12,18 6:6 8:19 9:6,17,19 10:15 16:4 16·25 29·17 31.18 54:4 65.21 84:13 86:3,5
years 5:11,23 7:7,13 9:17 10:20 15·2 17·3 64:17
Yesterday 69:21
York 47:15

Z

Z-Tel 65:15

$

$30,000 15:24

0

010740-TP 1:3

1

1 57:23 58:3 88:14
1.5 19:3
1.8 19:3
10 16:3,5 35:5 48·11 50:6 78:12,18 83:14,18
10,000 32:14 36:9,17,21 36:23,24 37:11
100 30:4 34:9,13,17 39:5 52:11
11 1:24
11:30 1:24
12 45:23
15 35:5 78:8
150 2:13
18459 3.17
1910 2:13
1982 8.20
1983 8:20
1984 11:7
1989 43:3,9
1994 11:7 12:4 15:3,5,21 16:4
1995 15:4,5,21 16:12 43:9
1996 16:12 17:3 19:25 43:10,16,22
1997 19:25 20:6 21:4 45:20
1998 45:16
1999 24:22 25:22 26:12 28:16 29:4,13 31·15,19 31:21 32:1,2,10 35:9 35:16,17 36.3,10,17 37:2,5 38:12 39:8,9,16 39:22 40:6 42:5 54:16 55:7,8,17

2

20 42:21
2000 29:17,23 32:17,18 32:19,20,20 35:9 39:19 40:4,8,16,18,20,21,22 41:3 42.8 54:4 55:14 84:17,18 91.1,4
2001 1:3,24 32:23 42:9 54:8 55:17
260 52:17
265-15-2842 3:20
271 71:2 73:23
28 50:4
28th 1:21 2:8

3

3 2:24
3.5 38:24
30 50:1
30,000 38:21
33029 3:18
33130 2:14
33131-1714 2:9
35 49:22
35,000 81:10,11,16,18

4

40 16:3,6
40,000 36:13

5

5,000 37:14 38:13 40:6
50 34:1 35:1 46:16 58:19 69.15,16
55,000 33 11,16 34 1,13 34 18,25 49·4

6

60 84.3

7

7 1.3
70 91.24
72 4:21
74 4:21
77 5:19
78 7:9

8

8:45 1:24
80s 5:25
83 9:3,21
84 9:20,21,25
85 35·2

9

9th 3.17
90 35:2 48:10 52:7
90/10 48:21
94 16:2
95 16·2 17:1
96 15.4 17:1,5,6
97 18:8 20:7,18 45.19,20
98 20:7
99 29:15 36:8 37:10,15 37:16 38:2,7 40:1 41:3

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 010740-TP
Filed: September 7, 2001

In re: Complaint of IDS Long Distance, Inc. N/k/a IDS Telecom, L.L.C., Against BellSouth Telecommunications, Inc., and Request for Emergency Relief

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COPY

VOLUME II

DEPOSITION

OF

KEITH KRAMER

SunTrust International Center
One S.E. Third Avenue
28th Floor
Miami, Florida

Wednesday, September 12, 2001
8:45 a.m. - 4:55 p.m.

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- - - - - -

I N D E X

Witness	Direct	Cross
KEITH KRAMER	102	--

E X H I B I T I N D E X

Kramer Exhibit	Description	Page No.
1	Letter of Authorization	233
2	BellSouth Telecommunications Access Gateway Testing Agreement	238
3	Memrorandum dated 3-10-00	240
4	E-mail dated 5-16-00	312

MR. MEZA: I will remind Mr. Kramer that you are still under oath from yesterday. We are continuing the deposition that we started yesterday.

MS. HELTON: Off the record.

(Discussion off the record.)

Q. Mr. Kramer, again, we are continuing the deposition that we began yesterday. I just have a couple of follow-up questions that we started with yesterday morning.

You mentioned that there is [redacted]

MR. MILLER: Objection. Foundation.

A. I'm sorry. I said I believe that it's [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. Right. I believe yesterday we took a break right about the time that I asked you a question about, let's say a customer calls up IDS and has a billing dispute, and you said that the customer service rep would pull up through the billing system the customer's actual bill. Do you remember that?

A. Yes.

Q. And my question to you was, according to what you were telling me, and my understanding was that the customer service rep was only able to see the customer's current bill, correct, through the billing system when they pulled it up through

phone number?

A. I don't remember if I said something like that. I said that they could pull up the current bill.

Q. Okay. All right. And that is through the use of the customer's telephone number? Is that how it's pulled up?

A. Usually, to the best of my knowledge, we give -- and this may have changed. We give each customer an account number, but I think we might be able to cross-reference it.

Q. Cross-reference --

A. If they don't have their account number, I believe we might be able to do that.

Q. And you would cross-reference it with a telephone number?

A. If they give us a telephone number -- an account number or a telephone number, I think we have the ability to cross-reference it.

Q. So your understanding is a customer service representative could pull up a customer's billing account through the customer's account number or through a customer's telephone number; is that correct?

A. Yes. I believe that's correct.

Q. When a service rep goes and pulls up the customer's billing record, what is shown through the billing system at that time?

A. I can't answer that with accuracy. I have never personally pulled up any records. I've seen CSRs at a distance as I walk through the customer service department pulling it up, so to the best of my knowledge they see something that resembles the bill.

Q. Okay. Do you know through the billing system, can the CSR view that customer's billing and payment history, let's say, for the last three months?

A. I can't answer that. I really don't know.

Q. Well, let's say that a customer says, IDS, you have been charging me this feature that I don't have for the last three months. How would the CSR verify that?

A. Could you rephrase the question. I'm sorry.

Q. One of your customers calls you up and says, IDS, you have been charging me for call-waiting for the last three months. I don't have call-waiting. How would a CSR verify that,

verify what the customer is saying?

A. I don't know the procedures.

Q. Who would?

A. I would think that you could probably get that question answered by, maybe, Bill Gulas.

Q. It's your understanding -- give me your understanding about how far IDS keeps customer service records. How long do they keep them for a particular customer?

A. I don't know that.

Q. So you don't know -- are you saying that you don't know if IDS does that? Is that what you're saying?

A. I don't know how long we keep the records.

Q. Is it your understanding that IDS is able or does keep a certain history, payment history and billing history, for customers for a period of time, whatever it is?

A. I believe it's correct. Yes.

Q. What you don't know is how long that information is actually kept?

A. No, I don't.

Q. Do you know what specific information is kept?

A. No, I don't.
Q. Would it be likely that payment information is kept for a period of time?
A. I would think so.
Q. Is it likely that billing information is kept for a period of time?
A. I would think so.
Q. Is it likely that customer comments are kept for a period of time?
A. That might be a possibility.
Q. Why would customer comments be different than payment and billing?
A. Because the comment section cannot be -- in a way that it can't be changed. It can be erased by another CSR. It's a flaw in the system.
Q. Although the theory behind the customer comments is so, at IDS, whoever is handling the inquiry can have a history of the customer's concerns, there is a possibility of those comments being erased?
MR. MILLER: Objection. Foundation.
A. I'm sorry. I remember what you went through. I'm sorry.
Q. All is fair in war.
A. Now you have to repeat the question.

Q. Okay. Is it your understanding that -- Okay, let me ask you this: Why do you keep customer comments?

A. We keep them, as I said before, so that if the customer calls back and gets a different CSR, that CSR will know what had happened previously.

Q. And that is the purpose of the comment section?

A. Yes.

Q. But despite that purpose, there is a possibility that those comments could be erased?

A. We have run into those type of problems, yes.

Q. Is that the only reason why you think that the comment section may not be kept for a period of time for a customer?

A. No. I don't have any knowledge of how long we archive customer comments. That doesn't come under my --

Q. Let's say that no one erases the comments. Is it your understanding that it's likely that those comments are kept for a period of time, whatever they are for, in archive situation?

A. It could be. Yes.

Q. Now, are the customer comments kept, or can the customer comments be viewed through the billing system or through Dataease?

A. To my understanding, it's Dataease.

Q. And the CSR. Is your rep who is typing in all that stuff?

A. Okay.

Q. They have access to both of those systems; is that correct?

A. I believe that's the case. Yes.

Q. Now, can you obtain information from your third-party billing vendor?

A. I'm sorry. I don't understand the question.

Q. I think you testified yesterday that there is a third-party vendor that you use for actual billing?

A. That's correct.

Q. Let's say, for some reason, that your billing system does not keep information beyond three months.

A. Uh-huh.

Q. Could you call up your third-party vendor, give them either the customer's account

number or the customer's telephone number and say, Could I have this customer's billing records for the last six months?

A. I don't know.

Q. So IDS, as far as you know, has never asked the third-party vendor to supply it with archived billing records for a particular customer?

MR. MEZA: Objection. Foundation.

A. I have, in the past, asked our third-party vendor --

Q. Okay.

A. -- to rebill an entire billing cycle a month later, when I thought we had a problem. So that's the -- to the extent of my knowledge, that's the only thing I do know.

Q. What do you mean by rebill?

A. That was, I believe, several years ago, and I believe we sent out a bill incorrectly. Okay? And I can't tell you why or what. So we asked him if he could run the billing again.

Q. Okay. And what did the company -- or was the company able to do that?

A. Yes.

Q. Let's say an IDS customer calls up and

wants to cancel its account. How would that information be reflected in that customer's service records or account information with IDS?

A. I don't know.

Q. Do you know if IDS keeps record of that information?

A. To the best of my knowledge, we do.

Q. How does it keep records of customer disconnects?

A. I don't know.

Q. Who would know?

A. It's a possibility that the VP of customer service, Nancy Matsen.

Q. Is it possible that a notice of disconnection would not be contained in the customer comments?

A. It might be possible.

Q. So if a customer tells your CSR, I don't want IDS service any more, would you expect your customer service rep to put that information in customer comments?

A. I would expect that, yes.

Q. But sitting here today, you don't know if that's actually the case?

A. I've never seen that directly, no.

Q. All right. If I asked you to pull certain account records or pull all customer account records for a two-week period, could either your Dataease system or billing system be able to do that if I gave you the actual numbers for 100 customers?

MR. MILLER: You mean the company, not Mr. Kramer personally?

MR. MEZA: Yes. Yes. I'm sorry.

A. I couldn't do that. I don't know. I would ask somebody to do that for me and they would produce it, and I don't get into how they do that.

Q. But it would be possible?

A. I would believe it would be possible.

Q. Okay. Do you remember our discussions about Unified Solutions yesterday?

A. Yes.

Q. And you mentioned that Unified Solutions currently has [redacted] customers, [redacted] CLEC customers?

A. To the best of my knowledge.

Q. To the best your knowledge. That's correct. Thank you for correcting me.

Do you know if these [redacted] companies know that Unified Solutions is using the W Activity

code for a majority of the conversion orders that it is submitting to BellSouth?

A. Do I know?

Q. Yes.

A. I have no direct knowledge.

Q. You are currently the senior vice president?

A. Correct.

Q. Of marketing?

A. No.

Q. Of sales?

A. Right now, just of this case. All my other job duties have been evaporated.

Q. In your former life -- please provide me with your title again.

A. I was senior vice-president. And prior to this I did many of the duties that we would normally expect the COO to do.

Q. Are you responsible for hiring third-party telemarketers to advertise and solicit IDS service?

A. No.

Q. Who is, at IDS, responsible for that?

A. I would believe that would be the vice president of sales and marketing.

Q. And who is it again?

A. That's Fabio Gallopi.

Q. Does IDS use third-party telemarketers, to your knowledge?

A. To the best of my knowledge, yes.

Q. Have you received complaints about these third-party telemarketers that are working on behalf of IDS? And when I say you, I mean IDS.

Has IDS received complaints about the third-party telemarketers?

A. Okay.

Q. If you're having trouble, just let me know.

A. Well, it's the form of the question, okay, because we have received complaints, but it was not referenced, to my knowledge, to a specific telemarketing company.

Q. You received complaints about what?

A. We received complaints about whether or not the customer understood IDS and how we provide the services.

Q. What do you mean by that?

A. Customers, at times, did not understand whether or not IDS provided the underlying services or at times BellSouth supplied the

underlying services.

Q. And is that the total universe of complaints that you have received?

A. No.

Q. What other types of complaints have you received?

A. The majority of the complaints that we receive would be that the customer believed that the conversion would be seamless and there would be no problems and that we promised them there would be no problems, and they would have some service that had a problem. They said that we had either misrepresented the product or we had lied to them or we had misrepresented something that we didn't promise them, and this was not an authorized action because we had made promises that they said we couldn't keep.

Q. Okay. And you're saying that that scenario, that is the majority of complaints that you have received regarding telemarketers?

A. That I, personally, when it came to me, yes.

Q. But there are some other complaints regarding confusion about who was providing the underlying service; is that correct?

A. Yes. We have heard some of those.
Q. And the confusion is whether its IDS or BellSouth?
A. Correct.
Q. Do you know how many complaints you have received for the latter scenario?
A. The number of complaints?
Q. Yes.
A. No.
Q. Does IDS have any in-house sales reps or marketers that actually contact users and try to make them switch to IDS?
A. To the best of my knowledge, we do have a direct sales force.
Q. How many employees do you have?
A. Employees total?
Q. That are involved in a direct sales force.
A. I don't know.
Q. How many telemarketing firms are currently employed or hired by IDS to solicit business?
A. I don't know. I can tell you one, but there could be more. I don't know.
Q. Could you tell me that one, please?

A. To the best of my knowledge, it's called Equal Access.

Q. What does IDS ask Equal Access -- I'm just going to use Equal Access as an example. What does IDS ask Equal Access to do in soliciting business?

A. That is not my department. I have no idea --

Q. What would you expect a telemarketer to do in attempting to solicit business for IDS?

A. What would I expect them to do?

Q. Yes.

A. Sell our service.

Q. And that would involve convincing end users that are currently not IDS customers to switch to IDS?

MR. MILLER: Objection. Foundation.

A. I would -- yes.

Q. Does IDS provide any scripts to those telemarketing firms that you have hired?

A. Yes.

Q. What has IDS done to make sure that the telemarketers do not make false representations to the end users?

A. To the best of my knowledge, we have a

contract with the telemarketers and we make the telemarketers sign that they have to use the script on a verbatim basis.

Q. What happens if they don't?

A. My direction is that we no longer do business with that particular firm.

Q. When you receive a complaint from a consumer that their local service was switched without authorization, what does IDS do in that situation?

A. If we come up with that particular situation, what we do is not charge the customer. We credit the bill.

MR. MILLER: I'm sorry. Can you read back that question and answer, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

Q. Has BellSouth forwarded to IDS complaints that they have received from customers regarding IDS' telemarketers?

A. I have received letters from Lea Cooper with BellSouth.

Q. Stating what I've just said?

A. Yes.

Q. Or stating what?

A. Stating that they had customers, I believe, that believed that we represented ourselves as BellSouth.

Q. What did IDS do -- let me ask you this: Is that part of the script?

A. No.

Q. What did IDS do after receiving those complaints?

A. When I received the complaints, I gave them over to our in-house attorney and then I directed Angel to check every one of either the letters of authorization or the third-party verification to make sure that we had the proper authorization. And then we do have a department in our company that reviews all of these before we process an account, to the best of my knowledge, so that this doesn't happen. Unfortunately, she died and I sent the rest of the letters, I believe, up to Suzanne Summerlin.

Q. To your knowledge, has IDS fired any telemarketers within the last six months?

A. I can't answer that. I don't know.

Q. What about the last three months?

A. Again, I don't know.

Q. What about after receiving the complaints from BellSouth?

A. Again, I don't know.

Q. Does IDS feel that they are responsible for the activities of these third-party telemarketers?

A. I don't know all of the activities that they would do that I would want to be responsible for. I'm sorry.

Q. Well, just in general, if you hire a third-party, nonemployee telemarketing firm to solicit business on behalf of IDS, do you feel that you should be responsible for those actions of those telemarketers, whatever they are?

A. The telemarketers' actions only as it applies to IDS and the script that we supply them. I can't be held responsible for actions that they take on behalf of another company.

Q. Let me ask you this: If a telemarketing employee, third-party, not an IDS employee, goes beyond the script and says some things that aren't accurate, do you feel that IDS is responsible for the telemarketer's actions?

MR. MILLER: I assume you are not asking him for any legal conclusion.

MR. MEZA: No. Just his personal opinion.

A. I think IDS has a responsibility to ensure that the telemarketers do exactly as we contract them to do and take responsibility to ensure that they do it at all times. And if they don't, I think we have to take, as quickly and as we possibly can, actions to make sure that they correct their behavior or find somebody else that can do what we ask them to do.

Q. Okay. Do you feel that IDS should be responsible to that end user for the actions of the telemarketing employee?

MR. MILLER: The same objection.

Q. I'm just asking for your understanding. I mean, if IDS hires --

A. Well, if he sold them, I presume that we put service on -- I know where you want to go. Narrow it down.

Q. A telemarketing employee does not follow the script that IDS has given to its company. Okay. This telemarketing employee informs the end users that he is representing IDS and says that IDS is just a subsidiary of BellSouth and that you're still getting BellSouth service. The

customer believes the telemarketer, agrees to switch but later finds out that is not the case. In that situation, do you feel that IDS is responsible or should be responsible for the telemarketer's actions for failing to follow the script?

A. You are asking me personally?

Q. Personally.

A. Or legally? I'm not an attorney.

Q. I'm not asking you to give me a legal opinion.

A. I think that if the telemarketer says something that we contract to and the end user, okay, believes something other than what is truthful --

Q. Uh-huh.

A. -- and they switch to IDS based on what somebody else said, okay, my belief is that to make sure that that customer's bill is credited so that they're not responsible for any payments to us based on what somebody else said. And then we do issue apologies to that customer.

Q. All right. I'm asking a simple yes or no question, and I will allow you to just explain as much as you want. But when a telemarketer

fails to follow the script and the end user believes, for instance, that the telemarketer and IDS is a subsidiary of BellSouth, and that is clearly not the case, do you feel, yes or no, that IDS is responsible for the actions of that third-party telemarketer?

MR. MILLER: Can you read back that question, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

A. Okay. Yes, in the context as I've previously answered.

Q. What context is that?

A. Okay. Yes. IDS is responsible, but again, it depends upon -- I mean, if the telemarketer goes out and does some heinous act, like kills somebody or whatever, obviously I'm not going to take responsibility for something like that.

Q. No.

A. If a telemarketer does not follow the script and causes a customer to believe something that is not correct, I would, you know, be responsible for that action and make sure that the

customer gets an apology and does not have to pay for any of those types of actions.

Q. In that situation that we just talked about, what does IDS do to the actual telemarketer, the employee in that situation, if anything?

A. I don't know what we do to the actual employee of a company that we don't own. I know that my directions are not to continue to use a company who flagrantly violates or does anything of that type of nature.

Q. Okay. Has that ever happened? Do you know of an instance where a telemarketer has, in fact, not followed the script and caused customer confusion?

A. The one instance that I have direct knowledge of, we discovered one telemarketing company that had misrepresented. We had -- I directed our in-house attorney to talk to Lea Cooper, tell her we were taking proactive action and we would not convert any of those customers. We would call each one of those customers and apologize for that action. And I believe that's the course that we did.

Q. Did you fire the telemarketing firm in

that situation?

A. To the best of my knowledge we did.

Q. I thought five minutes ago I asked you that same question --

A. And I didn't remember and now I remember that.

Q. So you changed your testimony now?

A. Yes, because when you asked that question -- sort of like the Comtel thing yesterday. Sorry.

Q. Was this Equal Access? Was that the company that you terminated?

A. I don't recall the company that was doing that. I'm sorry.

Q. So it's your understanding then that you received complaints or a complaint from BellSouth that IDS actually responded to BellSouth?

A. No. We didn't receive it from BellSouth. Our internal processes had discovered this when we were verifying the third-party verifications. And when we heard that these customers were answering something that was not on the script, we immediately contacted our -- immediately asked our attorney --

MR. MILLER: I'm sorry. I should have

stopped you earlier on some of these questions when you were answering. I'm going to instruct you not to discuss your conversations with your in-house attorney. You can answer the question with respect to what actions IDS took, but don't divulge the substance of your conversations with your attorneys.

THE WITNESS: Thank you.

Q. Who drafted the script? Do you know?

A. No, I don't.

Q. Is it still in existence?

A. The script? Yes.

MR. MEZA: I'm going to ask for as a late file Deposition Exhibit Number 3, the script that Mr. Kramer is referring to, and I will put it in a letter for you.

Q. Do you, by chance, have a copy of your direct testimony with you today?

A. No.

Q. You're in luck.

A. I figured you'd have it.

Q. I'm going to be asking you a lot questions about this, so I figure it would be easier if you and I both have a copy of it so it

can go a little quicker.

I'm sorry, Brian, I did not bring a copy. But if you want to take a two-minute break to make a copy, I will be amenable.

MR. MILLER: Sure. Off the record.

(Discussion off the record.)

MR. MEZA: Back on the record.

Q. Mr. Kramer, I think everyone now has a copy of your testimony, direct testimony. If you look on page 2, line 16 there is a question that asked you whether you have ever testified before regulatory authorities or courts, and you answered yes. Where have you previously testified?

A. I believe it was South Carolina during an arbitration hearing.

Q. Anyplace else?

MR. MILLER: I'm sorry. You referred to page 2, line 16. There are two page twos. Okay. I'm with you. Not the first page 2.

Q. It asks whether you've testified previously before any other regulatory authorities or courts.

A. Including traffic court?

Q. Whatever. You answered yes.

A. Okay. Excuse me. Just one second.

I have traffic court and I was testifying once at somebody's divorce trial, to the best of my knowledge.

Q. But as far as regulatory authorities go, the South Carolina Service Commission is the --

A. I did give a speech in the structural separation hearing recently.

Q. Okay.

A. And I did give -- I gave a small speech in Tallahassee, I believe, a while back, though I can't tell you when, on a hearing that they were having on OSS Metrix.

Q. Is that the Florida Public Service Commission, as well?

A. Yes.

Q. If you look on page 4, lines 15 through page 5, line 18, there is a discussion regarding definitions contained in the interconnection agreement regarding parity.

A. This whole section from page 4, line 15 through line 12 on page 5.

Q. Yes.

You would agree with me that there it says that the Interconnection Agreement says that BellSouth will provide IDS long distance for

resale will be at least equal in quality to that provided to BellSouth or any BellSouth subsidiary, affiliate or end user?

A. Yes. I'm sorry.

Q. My question is: Is that what your testimony states on page 4, lines 17 through 20?

A. Yes.

Q. And you have termed that provision to be parity; is that correct?

A. Yes.

Q. What is your understanding of parity?

A. My understanding?

Q. Yes.

A. I'm not an attorney, so I can only give you my personal understanding of parity.

Q. That's fine.

A. It's that the quality of the service that I get from BellSouth in all aspects of that work is equal to what BellSouth will give to itself.

Q. Is that your understanding, that the Interconnection Agreement requires BellSouth to provides service that is greater than it provides itself?

A. It's my understanding that it would be

at least as good, maybe better.

Q. Where --

A. But not less than good.

Q. Where do you see the "maybe better" on page 4, lines 17 through page 5, line 12?

A. It doesn't say better. I'm sorry. I just told you from personal -- I'm not an attorney.

Q. According to your understanding of the Interconnection Agreement, is BellSouth required to give IDS a level of service that is greater than it gives to itself?

A. I don't believe that to be the case, no.

Q. On page 5, lines 16 through 22 the question is: "Do you believe the Florida Public Service Commission has authority to enforce the terms of the Interconnection Agreement IDS entered into with BellSouth?"

And your answer was, yes.

What is the basis of your understanding that this commission has jurisdiction to enforce the Interconnection Agreement?

A. Again, I'm not an attorney so I can only go by what I've read. As for my belief and understanding, the Telecommunications Act of `96,

and 1934 it allows both the state and the federal regulatory agents to enforce the activities that we do between my company and your company.

Q. Okay. I know you are not an attorney, but can you cite to any specific provisions of either version of the Act that supports that understanding?

A. Again, I -- I just read it. I couldn't even tell you the statute. I'm sorry.

Q. All right. On page 6, lines 1 the question was: "Do you believe the Florida Public Service Commission has authority under the Telecommunications Act of 1996 and under Section 364 of the Florida Statutes to take action against BellSouth for anti-competitive actions against IDS?" And your statement on line 5 was, yes.

What is the basis of your understanding?

A. That was conversations that I had with my attorney with regard to that.

Q. Can you cite to any provision in the Telecom Act that grants the Florida Public Service Commission the authority to take actions against BellSouth or anti-competitive acts?

A. Again, that was with conversations with my attorney.

Q. So your answer would be, no?

MR. MEZA: I'm going to instruct the witness not to answer with respect to any conversations with his attorney.

A. Okay.

Q. So other than conversations you had with your attorney, you did not do any personal research to respond to the question outlined in number 1 through 4?

A. I have read magazine articles, documents, industry information that does not specifically cite statutes, but it says from -- I hate to use this word, from a 50,000 foot level that these statements are correct and accurate, to the best of my knowledge. Again, I'm not an attorney, so...

Q. But did you look at the Act before making that statement?

A. Did I look at the Act?

Q. Did you read the Act?

A. I read summaries of the Act. Not the actual Act itself.

Q. Did you read Section 364 of the Florida Statutes before making the statement on page 6, lines 5 through 9?

A. I read summaries, though I can't remember -- I mean, again, this is in the course of conversations with my attorney.

Q. I'm not asking you what she told you. I'm just asking, have you ever read Chapter 364?

A. I read summaries of that.

Q. Have you ever read Chapter 364?

A. I may have.

Q. Do you remember when?

A. In the course of this hearing and case, no, but there was many things I've been reading, so I couldn't tell you the date or time. I'm trying to read as much as I can.

Q. Have you ever read Section 251 or 252 of the Telecommunications Act of 1996?

A. I may have read those, yes.

Q. But you're not sure?

A. Again, I can't -- it could have been a summary. It could have been this. I grabbed some stuff, I read it. I do not have the actual Act on my desk.

Q. So to the extent that you may have read Section 251 and Section 252 of the Act, those provisions would have been contained in some summary that you've read. Is that what you're

saying?

MR. MILLER: Objection. Foundation.

A. It may have been.

Q. And your answer was?

A. I'm sorry. It may have been, yes.

Q. I guess what I'm asking you is, have you ever picked up the United States Code and read Section 251 of Chapter 47?

A. No. I've never picked up the actual statute book and pretended that I was an attorney. I'm sorry.

Q. Have you ever picked up Section 364 of the Florida Statutes and read that?

A. No. I've never picked up the actual book, itself, and read that.

Q. Is it your understanding that the Florida Public Service Commission can take action against an ALEC that is involved in anti-competitive activity?

A. Against an ALEC? I wouldn't know. I have no understanding.

Q. So it's your understanding that the Public Service Commission has the authority to take actions against BellSouth, right?

A. That's my understanding.

Q. For anti-competitive activity?

A. Correct.

Q. But you don't know if the Public Service Commission has authority to act against an ALEC for that same type of activity?

A. No. I don't. I haven't been concerned about that at the present time.

Q. Okay. If you look on page 6, lines 10 through 15, the question is: "Do you believe the Telecommunications Act of 1996 precludes BellSouth from permitting the sharing of IDS' CPNI information between it's retail and wholesale divisions in such a fashion as to permit BellSouth to contact IDS' customers prior to or immediately after their conversion to IDS for purposes of winning the customer back to BellSouth?"

And your answer on line 16 is: "Absolutely."

What is the basis of your belief that that is the case?

A. To my understanding, to my best belief, through conversations I've had with people in the industry who have mentioned this section and what CPNI stands for, to the best that I can interpret what they say, that is the basis of my answer.

Q. Why did you use "absolutely" instead of yes, as you did in the other answers?

A. I can't answer why I used that instead of the word, yes.

Q. Did you do any additional research in responding to the question as posed in lines 10 through 15 than you did in the previous two questions I've asked you about?

A. I'm sorry?

Q. Did you do any additional research in responding to the question as posed in lines 10 through 15 than you did for the answers you provided for the previous two questions I've asked you about?

A. Yes. I had discussions with our attorney.

Q. And based upon those discussions, you came to your understanding of your answer; is that correct?

A. Based on the discussions that I had with my attorney is the basis for these answers.

Q. Did you do any independent research to determine if the Act precludes BellSouth from permitting the sharing of IDS' CPNI information?

A. I relied mostly on our conversations

with my attorney.

Q. For the reliance that was not part of conversations with your attorneys, what did you do, look at or research?

A. Again, I researched, you know, trade magazines, articles, things that, you know, you could find that would cite instances about stuff like this.

Q. You say that the use of IDS' CPNI by BellSouth constitutes violation of both the Telecommunications Act of 1996 and the provisions of Section 364 Florida Statutes. What provisions of Section 364 are you referring to?

A. Again, that was with conversations I had with my attorney, so...

Q. Other than what she told you, you don't know what provisions?

A. Correct.

Q. Other than what we have discussed, why is it blatantly anti-competitive for BellSouth to use IDS' CPNI data?

MR. MILLER: Object to the form.

MR. MEZA: For what reason?

MR. MILLER: Read back the question, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

MR. MILLER: It's mischaracterizing his testimony.

MR. MEZA: Okay. Let me try again.

Q. On page 6, lines 16 to 20 you state -- and I'm paraphrasing and if I'm incorrect, please correct me, but BellSouth's use of IDS data is a violation of both the Act and Section 364 because it is blatantly anti-competitive. What do you mean by blatantly anti-competitive?

A. Again, based on conversations with my attorney, okay, these sections prohibit BellSouth from doing this. So if they prevent it, then it's -- so obviously you do it, then it would be anti-competitive. So...

Q. What are you referring to when you say the utilization of IDS' CPNI data? What does that mean?

A. From my understanding, it refers to customer proprietary network information.

Q. Okay.

A. Okay.

Q. Which is the information that the

customer has. And how is BellSouth utilizing that information, in your opinion?

A. My opinion is that they use the customer's information during the conversion process to win back the customer.

Q. How is that? How are they using the information?

A. They use it to either telemarket the customer, sell the customer in some format to come back to BellSouth, either during or right after the conversion process.

Q. What information are they utilizing? I mean, I know you have given me what CPNI stands for, but I still don't know what's involved, what that entails. I was wondering if you know.

A. To the best of my knowledge, it most likely would mean the customer's name and telephone number and what services that they have so that you could call the customer and say, "Don't leave, come back to BellSouth."

Q. You said that BellSouth was utilizing IDS' CPNI data during or immediately after a conversion. Do you remember that?

A. I told you that that was my belief.

Q. Okay. Is that the only time or the only

instance that you were referring to where BellSouth has utilized IDS' CPNI?

A. In the form of anti-competitive behavior?

Q. Yes. As it relates to your answer on page 6, lines 16 through 20.

A. Give it to me again.

Q. I asked you in what instance -- basically, I asked, when does BellSouth use this CPNI information. And your response to me was, during or immediately after a conversion.

My question to you is: Is that the only time that IDS is alleging that BellSouth has improperly used IDS' CPNI?

A. I know of that. There may be others that I don't have full knowledge of.

Q. In this case, does IDS intend to prove or attempt to prove that IDS -- I mean, that BellSouth has used IDS' CPNI improperly at any other time?

MR. MILLER: I'll object in that the complaint that IDS filed speaks for itself.

Q. You can answer.

A. I'll -- the complaint speaks for itself and everything that I've put in this complaint.

Q. You have today provided me with a specific time period as for when IDS believes, or you believe, that BellSouth has improperly used IDS' CPNI. Do you have personal knowledge of any other instance, other than during the conversion or right after, where BellSouth has improperly used IDS' CPNI?

A. I can tell you of a personal experience with a customer.

Q. Okay. Please do.

A. Okay. This is, again, to the best of my knowledge, the conversation.

We had a customer -- again, this is kind of proprietary information, so I want to put it as it is. We had a customer that we had begun to process the order at approximately 7:30 in the morning, and right after we inputted the information -- of course, at this time we are waiting for an FOC -- the customer services are disconnected. The customer is obviously irate. And it's a very large customer. I came into the office, I don't remember, around eightish, and the customer was very, very upset; had called up BellSouth retail and BellSouth retail said that we had ordered the disconnect. Actually named an

employee that ordered a disconnect. Of course, I went running down and I said, okay, what's going on here? And I talked to -- I forgot who I talked to at the time. I'm sorry. She said that -- it may have been Nancy Matsen -- that we haven't even got a firm order commitment back.

What do you mean? Who's this employee of ours? We don't have an employee of that name.

So this customer -- I got on the phone with the customer, what did Bell say? Bell says specifically that this individual of IDS ordered a disconnect. But if you come back to BellSouth, they will probably have you up in less than an hour. I said, repeat that. This person did. And I was very upset.

Q. Okay. Do you remember the name of this customer?

A. The company was called [redacted]

MR. MILLER: I'm sorry, Jim. I assume our same understanding from yesterday with respect to confidentiality stands.

MR. MEZA: Sure.

Q. Did you provide that customer's name in response to discovery requests?

A. I believe it is. I think we tried to

give you everything we could, to the best of our ability.

Q. Now, in that situation you're saying it's before the actual conversion, the actual conversion started; is that right?

A. Yes.

Q. Where the alleged improper use of CPNI --

A. Let me say it was before we had actually gotten an FOC. And if I remember correctly --

Q. Okay.

A. -- the conversion was going to happen a day or two later.

Q. But you had already submitted your order in?

A. From my understanding, yes.

Q. So that scenario would be encompassed during the conversion scenario that you previously provided me as to when you allege BellSouth improperly used CPNI, wouldn't you agree with me on that?

A. Let me state that it's during our conversion process, which directly inputted to yours through LENS.

Q. And that process starts the minute you

submit your order?

A. To the best of my understanding, that process starts when I submit it.

Q. So you are alleging that BellSouth has improperly used CPNI data for the time period once you submit your conversion order --

A. I'm sorry.

Q. -- until it's completed; is that correct? I think that's your testimony?

A. Okay. Yes.

Q. Or right after the actual conversion?

A. Correct.

Q. And I asked you if there were any other instances where you have personal knowledge of BellSouth improperly using CPNI, other than those two situations, during the conversion or right after, and you provided me with the [redacted] example, which appears to me to be during the conversion process. Would you agree with that?

A. Yes.

Q. Other than the [redacted] scenario, are you familiar with any other instance where BellSouth has improperly used IDS' CPNI other than during the conversion or right after?

A. We have -- I talked to our CSRs and I

talked to our people, and it appears through several months that we have lost customers, several hundred customers, during the -- I guess what we would call the conversion process.

Now, I have not talked to these hundred -- I don't have direct conversations with customers like I did with the gentleman from [redacted]

Q. Okay. What is your understanding of the conversion process? I'm sorry. I appear to have cut you off. Were you finished with your response. You said that you were --

A. Now I forgot.

Q. That there were a couple of hundred calls that you know your service reps received during the conversion process?

A. I don't think I said that.

Q. Restate what you told me.

A. I said I know of, let's see, several hundred customers, okay, that during the -- I guess what you would call the conversion process. It would appear that sometime during this conversion process, they had gone back to BellSouth.

Q. For those several hundred customers, do

you know if they went back to BellSouth because BellSouth improperly used IDS' CPNI?

A. It is -- I would say that BellSouth inappropriately used CPNI information during the conversion process to win these customers back.

Q. What facts do you have to support that belief or assertion?

A. To the best of my ability.

Q. Sure.

A. First, difficult to understand how so many customers could have possibly gone back to BellSouth without realizing they had already -- that they were converting to IDS. It's an almost inconceivable thought.

The other thing is we had -- I had asked, I believe, our vice president of marketing to make calls to these customers and ask why did they go back to BellSouth. And he came back -- it was kind -- when I got that information, it was kind of in a crisis information. And I believe he made calls, several calls -- he may have called all of them. I can't remember. And he came back to me and we sat in my office and he said all these customers had either gotten a letter from BellSouth or gotten a call from BellSouth and had

gone back to BellSouth. I said, we haven't converted them yet, or we had just converted them. How is that all possible? And we all went, we have no idea.

Q. Who was it that provided you with that information? What is his name?

A. We had these conversations -- I had some conversations with the vice president of sales and marketing, Fabio Gallopi. I know I had conversations with CRSs. And I just pulled them at random and I can't remember who exactly I talked to.

Q. You just told me that you had conversations with a person who told you that all of these several hundred customers went back to BellSouth. Who was that person?

A. Who made the calls?

Q. Who told you?

A. Who told me?

Q. Yes.

A. We -- let's see. How did it come up? It came up to me through Nancy Matsen that when we -- we look in to see when the order has completed and when the order completed, she noticed that the customer had gone back to

BellSouth, and she started seeing a lot of these, and she came to my office and said, Keith, we have a problem here. I said, what is the problem? She said, all these customers we converted, when we see them completed, they have already gone back to BellSouth. I said, how is that possible? So that's kind of how it started.

Q. So Nancy Matsen is the person who told you?

A. I believe she is. This happened a long time ago, but I believe she is the one that did this.

Q. Maybe I'm misunderstanding you, but there appears to be a contradiction in your statements. You said originally that you asked your vice president of sales to find out what was going on and he actually contacted these several hundred customers and reported back to you?

A. Yes.

Q. And then you just told me Nancy Matsen came to you and told you that customers were leaving prior to the conversion being completed?

A. Yes. The chronology might be able to help you.

Q. Okay.

A. I get the information from Nancy Matsen.

Q. Okay.

A. She tells me that they're looking -- I guess she called them CP. Again, it gets technical. That the customer has gone back to BellSouth, we're in a meeting, Fabio is there. I said, this is crazy, blah, blah, I believe -- this is going back a while. And I said, I believe I told him, to grab these customers, call them up, I want to know why they went back to BellSouth. Because it seems almost incredulous.

And I don't know if it was several hours or a day, I can't tell you, but he came back and said, here's what we know; that these customers went back because either they got a letter from Bell saying, you know, sorry that we've left, or that they talked to somebody at Bell. And that was the reason why they went back. I said, how is this possible? The order was still pending. And we all looked at each other and we said, we have no idea.

Q. What time period did this happen?

A. To a great extent I believe this is happening somewhere in late 2000, early 2001.

Q. And it's your understanding that Fabio

Gallopi, is that right --

A. He's Italian. Something like that.

Q. -- actually contacted every single one of those customers that Ms. Matsen notified you about?

A. I don't know if he contacted every single one of them. I know that he did not personally make the calls. I just asked him to find out, call these customers.

Q. Do you know who actually made the calls?

A. No, I do not.

Q. Do you know if any notes or records were kept?

A. No, I do not.

Q. How many calls do you think they made?

A. I don't know. I asked him to call the customers.

Q. Was it your intention that they contact every single customer that this was happening to?

A. I believe at the time my primary intention was to find out whether or not we were doing something wrong that caused either the order not to go through -- it just didn't make any sense how this large number of customers would have gone back during the conversion process. So the first

thing is: Call the customer, see what they say.

Q. But you don't know how many customers IDS actually contacted?

A. No. I really don't.

MR. MILLER: Jim, I'm sorry to interrupt. We are at 10:00.

MR. MEZA: That's fine.

(Recess in Proceedings)

MR. MEZA: Let's go back on the record.

Q. When we broke a couple minutes ago, we were talking about the investigation, I guess you'd call it, that you had your AVP do regarding certain hundred calls or conversions of customers, several hundred customers that went back to BellSouth during the conversion process. Do you remember that?

A. Yes.

Q. And from what I remember, you told me that you instructed him to find out why those customers came back to BellSouth?

A. Yes.

Q. And he then instructed somebody to make these calls, correct?

A. Yes.

Q. Do you know who that was that actually

conversed with the customers?

A. No, I don't.

Q. And you do not know how many customers they actually called?

A. No, I don't.

Q. And you don't know if any notes or recordings were taken?

A. I don't know if any were.

Q. What do you mean by several hundred? Can you be more specific? Is it more than 100?

A. Yes. I believe it is.

Q. Is it less than 500?

A. Less than 500 what?

Q. Customers that he was asked to contact to find out why they switched back to BellSouth.

A. I would say it may have been less than -- I don't know. I'm sorry. I don't know how many customers he actually called.

Q. I'm just trying to find out, what do you consider to be several hundred customers?

A. I told him to call up customers that we were beginning to see had gone back to BellSouth. I don't know what that finite number was at that time.

Q. But it's several hundred, is what you

testified to?

A. It's my impression.

Q. Do you think it would be reasonable for whoever made those calls to take down notes or recordings as to what the customer said when they actually talked to them?

A. Are you asking me should he or did he?

Q. I'm asking you, do you think it would be reasonable?

A. It may be reasonable.

Q. You wouldn't expect your customer service reps or whoever made the call to actually take down notes and recordings from their conversations with the customers?

A. I wasn't involved in that process, so I don't know what notes or what records, if any. I just wanted to know a reason. That's all.

Q. I'm asking you: Would you expect the customer service rep or whoever made the calls to actually keep notes or recordings?

A. I would expect they would have written down some of the answers.

Q. And you would expect them -- would you expect those customer service reps to provide those notes or recordings to your assistant vice

president of sales?

A. I don't know if they would have given it to him directly.

Q. So it would be reasonable, in your estimation, that they could verbally report back to the AVP as to what they found in conversing with these customers?

A. That would not be the AVP. It would be the VP of sales and marketing.

Q. Excuse me. The VP of sales and marketing.

A. Obviously there was some conversation.

Q. And you don't know if the customer service reps or whoever contacted the customers, if they did take notes, actually forwarded those notes to the sales vice president?

A. I don't know.

Q. And you, yourself, never received any memo or summary of conversations from the sales vice president?

A. No.

Q. Would you expect some type of memorialization of their conversations to be somewhere or to be done?

A. Memorialization?

Q. Some type of documentation or some type of history of the actual recordings, who they contacted, what phone number. Wouldn't you expect that, as a senior vice president?

A. At the time, I wanted to know immediately what the reason was. It was a very confusing time back then. So I don't know what notes or what happened or what was happening.

Q. Do you know which customers were contacted?

A. No, I don't.

Q. Do you know the names of any of those customers that came back to BellSouth during late 2000, early 2001, during the conversion process?

A. No. I don't have personal knowledge of any names.

Q. Okay. Any of IDS witnesses do they have personal knowledge about the specific customers that were contacted during this time period or the specific customers that came back to BellSouth during the conversion process?

A. I don't know if they do or don't.

Q. So you wouldn't expect Becky Wellman or Bill Gulas to have that information?

A. I don't know.

Q. You don't know?
A. I don't know.
Q. Well, why didn't IDS present a witness who had that specific information?
A. Why wouldn't we present a witness?
Q. Why didn't you?
A. I can't answer that.
Q. All right. You said that the sales VP reported back to you that these customers went back to BellSouth because, one, they got a letter from BellSouth or, two, they talked to someone at BellSouth. Do you remember that?
A. That's my -- that was the information that was given to me.
Q. Have you ever seen this letter that you're referring to?
A. Have I seen the letter that actually went to these customers?
Q. Yes.
A. They brought a letter. I read it. I can't tell you which customer it was.
Q. Do you know who sent the letter?
A. My best recollection is it was a BellSouth letter with a BellSouth logo on it.
Q. What division of BellSouth sent the

letter?

A. I can't tell you.

Q. So you don't know if it was the retail side or the --

A. It was an "I'm sorry to lose you letter or something of that nature.

Q. Did you see this letter in late 2000, early 2001?

A. I saw a couple letters, if I remember correctly, in that time period.

Q. How did IDS obtain those letters?

A. I don't know.

Q. Is it likely that they received the letters from the customers themselves?

A. I would think so.

Q. Has IDS produced those letters to BellSouth?

A. I don't know what has been produced. I know that we gave our best efforts to give you everything that we could.

Q. Do you know if IDS is still in possession of these letters?

A. I have no idea.

Q. Who can we ask?

A. Angel.

Q. All right. Who at BellSouth talked to these customers? You said that there was a letter or they talked to somebody at BellSouth. Who at BellSouth talked to them?

A. I wouldn't know.

Q. You don't know. Do you have any idea of who it may have been?

A. No.

Q. Do you know what they said?

A. No.

Q. So after the sales VP comes back to you and reports that these customers left because they either got a letter from BellSouth or talked to someone at BellSouth, correct me if I'm wrong, but it's your testimony that you guys tried to determine how this could occur during the conversion process and you didn't know; is that right?

A. I believe so, yes.

Q. Do you still not know how this could occur or how -- how a customer could come back to BellSouth during the conversion process?

A. The only thing that I have some knowledge to is if a customer's service gets disconnected.

Q. Okay. And could you explain that?

A. It's just my customer service reps have told me that customers who cannot get their services turned back on with IDS, that they have contacted BellSouth and BellSouth has told them that if they come back, they'll have them up in an hour.

Q. All right. Of those several hundred customers that you saw go back to BellSouth during the conversion process, do you know how many of those customers experienced a disconnect?

A. No, I don't.

Q. So other than the disconnect scenario, do you now know why or how these customers could go back to BellSouth during the conversion process?

A. Other than what I said, I have no idea how they would have gone back.

Q. Well, in your testimony you say that BellSouth, utilizing IDS' CPNI data -- and I'm trying to understand the basis of that. And you've given me an example as to where several hundred customers went back to BellSouth during the conversion process. You found that out. But you didn't know how it occurred. Is that the

basis of your statement, that BellSouth has utilized IDS' CPNI?

A. To the best of my knowledge.

Q. Would anybody else have better knowledge?

A. I don't know.

Q. You told me that BellSouth has utilized IDS' CPNI during the conversion process and right after. We talked about during the conversion process. What do you mean by right after?

A. We have noticed that customers go back to BellSouth before they actually get an IDS bill and, at times, before they've actually gotten our welcome package.

Q. How many customers have gone back to BellSouth?

A. I can't give you an absolute number.

Q. A rough estimation.

A. I would say several thousand.

Q. And how do you know that?

A. I have seen some reports that indicate that customers have gone back to BellSouth prior to receiving their first bill.

Q. And what reports are those?

A. Some data that has been complied that

showed me during a specific time period.

Q. Do you know what type -- is it a spreadsheet? Is it a summary?

A. I guess you'd call it something like a spreadsheet or summaries.

Q. Do you know if that document was produced to BellSouth?

A. I haven't seen all the documents, but I think we have provided everything that we could provide you, to the best of our ability.

Q. Do you personally have copies of these spreadsheets that we're referring to?

A. No.

Q. What did you do with those documents after you reviewed them?

A. I believe I gave them back to Angel.

Q. Again, you don't know which customers actually went back to BellSouth?

A. No.

Q. And do you know when these thousands of customers went back?

A. The precise time?

Q. Yes.

A. No.

Q. What is your understanding as to how

BellSouth -- what is your belief as to which division at BellSouth sends the "sorry you left" letter?

A. My belief?

Q. Yes.

A. I would say the retail division.

Q. And what is your belief or understanding as to how the retail division -- assuming that you're correct -- gets that information?

A. I would like to know that. I don't know.

Q. You don't know. Okay.

Let's go to page 7 of your testimony, lines 1 through 4. You state that IDS entered into a resale agreement with BellSouth in 1998 and that almost immediately after beginning provisioning of services to IDS' customers on a resale basis, IDS began experiencing problems with BellSouth's systems used for this purpose.

What problems are you referring to?

A. We had some customers, if I recall correctly, that were disconnected, and other type problems. I can't remember all the problems. Otherwise, I guess I would have listed something.

Q. So customer disconnects weren't the only

problem, is that what you're stating?

A. No.

Q. Do you know how many customers were disconnected?

A. I can't recall.

Q. Was it a substantial amount of customers?

A. I can't recall.

Q. Now, what did you do after you -- what did you do about these problems?

A. I talked to Gary Smart.

Q. And what did he tell you?

A. Come on up to Birmingham and talk about it.

Q. Do you have any documents or evidence to support your contention that IDS was having service and provisioning problems with resale?

A. I don't know what documents we may or may not have. I know we have done our best effort to give you everything that we have.

Q. I'm asking you, are you personally aware of any documents that exist --

A. No.

Q. Okay. And so you went to Birmingham. And what did Mr. Smart tell you?

A. He introduced me to several people in a meeting.
Q. Okay.
A. I can't remember who was there.
Q. Okay.
A. Other than Gary and Jason.
Q. And what did you discuss at this meeting?
A. They told me how good they were.
Q. How good who was?
A. BellSouth was.
Q. And then what?
A. And then we were leaving and Jason Cooke told me about this UNE-P type of agreement.
Q. Okay. So, well, did BellSouth offer any solutions to the problems you were having?
A. They said they were getting better.
Q. And at that time, in 1998, BellSouth informed you about the network combination product?
A. I believe we had this meeting sometime early `99, if I can remember correctly.
Q. Do you know what term BellSouth used to describe that product at that time?
A. Network Combination Agreement.

Q. What did they tell you about the network combination product?

A. That we could make a lot more money on it.

Q. And what was your understanding as to how you could make a lot more money?

A. Because it costs less for Bell's services.

Q. Were you interested in that?

A. Absolutely.

Q. Were you satisfied with BellSouth's response that they were working on trying to fix the resale problems?

A. Yes.

Q. Did they explain to you that there was some type of professional service fee that is attached to the network combination product?

A. Yes.

Q. And you were okay with that?

A. At the time.

Q. And what is your understanding of this fee?

A. What is the understanding of the fee? It was just a fee that they put on in, I think, if I remember correctly, three zones.

Q. It was what?

A. It was in three different zones.

Q. Is it your -- well, do you know if there is a professional service fee on the UNE-P product today?

A. No.

Q. What is your understanding of the UNE-P product as of February 17th of 2000? What is it?

A. What is it?

Q. What is it?

A. I think, I guess, to obtain all elements in BellSouth's currently combined network and get it at a cost-plus basis, to the best of my knowledge.

Q. Is that a TELRIC?

A. I believe that's what they call it. Yes.

Q. Let me go back a couple of questions.

A. Okay.

Q. You said that in 1998, after you executed the Interconnection Agreement, IDS experienced disconnects when converting customers from BellSouth retail to IDS resale. How can there be a disconnect when you're converting from retail to resale?

A. I don't know. That's why we went to talk about it.

Q. Do you know what conversion process was being used at that time?

A. No, I don't.

Q. So you don't know if the Single C was available?

A. In `98?

Q. Or whenever you experienced these disconnect problems.

A. This is in `98. I don't know if they were using it at that time or not.

Q. Has IDS consistently had disconnect problems when converting from retail to resale?

A. Recently? Or what time period?

Q. From 1999 to 2000.

A. 2000? It was significantly better in `99.

Q. Okay. And from 1999 to 2000, have you had any disconnects when converting from retail to resale?

A. Not that I'm aware of.

Q. And you don't know how many disconnects there actually were in 1998, do you?

A. No. Like I said there was other

service-related problems, too.

Q. In your testimony on page 7, line 16, you refer to the new product as the UNE-P?

A. Yes.

Q. Is that incorrect?

A. Yes.

Q. That's just an unintentional mistake?

A. We get to, so often, use that UNE-P. It was actually a network combinations contract.

Q. That was just an unintentional mistake, correct?

A. Yes.

Q. What date did IDS sign the network combination product agreement?

A. To my best knowledge, I believe it was November 2nd, 1999.

Q. Okay. And your conversation with Gary Smart and Jason Cooke was when, when they told you about this?

A. Early `99.

Q. What was the delay in signing or signing up for this new product?

A. We were negotiating the contract.

Q. When did you begin the negotiations?

A. I don't know.

Q. Was it immediately after you found out about this product?

A. It probably started then, yes.

Q. And what type of negotiations were you having?

A. Jesus. They were substantial on all aspects of the contract.

Q. Do you know if BellSouth was required by the FCC to provide CLECs like IDS with the network combination product?

A. At that time?

Q. At that time.

MR. MILLER: At what time?

A. In 1999 it was my understanding that they were not required.

Q. Okay. Were you aware, prior to signing the network combination agreement on November 2nd of `99, of the provision in the contract that rendered the agreement void if a party a dispute and brought it to the Public Service Commission or the court?

A. Yes, I'm aware of the provision.

Q. The question was: Were you aware at the time of signing the agreement of that provision?

A. Yes.

Q. Were you concerned about that provision?
A. Yes.
Q. How did you address your concerns?
A. I don't recall how I addressed those concerns. I know we had conversations.
Q. And you had concerns about this specific provision saying that if you go, if you bring this agreement to court, it becomes null and void?
A. Yes.
Q. But you still signed the agreement?
A. Yes.
Q. And there weren't any modifications or revisions to that provision?
A. I can't remember what modifications were made from the first to the last.
Q. But in the agreement that you signed there was that provision?
A. Yes.
Q. Did you understand what this provision meant?
A. I wasn't the primary person negotiating it.
Q. IDS understood it enough to be concerned about it, though?
A. Yes.

Q. Is it now your position that the Public Service Commission has jurisdiction over that agreement?

A. Based on conversations I had with my attorney.

Q. And what was BellSouth's reasoning for putting this provision into the contract?

A. I don't know what the reasonings were.

Q. Maybe you can refer to page 8, lines 10 through 14 of your testimony.

A. Okay.

Q. Does that refresh your memory, now that you've had a chance to review it?

A. Yes. That's one of the things we talked about. It was a company-to-company provision.

I must have misunderstood your previous question. I'm sorry.

Q. Okay.

Now, did BellSouth provide you with any clarifications as to that specific provision?

A. I'm sorry. What do you mean by clarification?

Q. Did they provide you with any additional information?

A. No.

Q. I'm going to show you an exhibit that was attached to Mr. Ruscilli's direct testimony, Exhibit 1. It's an October 28th, 1999, letter from BellSouth to IDS. Have you seen that letter before? After your counsel has had a chance to review it.

A. I saw this when I saw Mr. Ruscilli's testimony.

Q. So you did not get a copy of this on 10-28 of `99?

A. I did not see a copy of this. I'm sorry.

Q. And it was addressed to Mr. Noshay; is that right?

A. That is right.

Q. What is your understanding of what this letter says?

A. Can I get that back again?

Q. Yes.

A. It appears to me that if we went to any regulatory commission to complain, or whatever, that the contract is null and void.

Q. But would you agree with me that the first sentence of this letter says: "Per your request that BellSouth clarify the intent behind

two sentences contained in the second paragraph of the proposed Attachment 15 to the Interconnection Agreement between BellSouth and IDS", and then its goes on to clarify and explain.

A. Yes.

Q. Who signed the network combination product agreement?

A. I want to -- I think it was Mike -- I'm not sure who signed it. I'm sorry.

Q. Was it you?

A. It could have been. I'm not sure.

Q. But in any event, IDS did sign the agreement; is that right?

A. Yes.

Q. So it's now your position, again, that despite the fact that you signed that agreement, the Florida Public Service Commission has jurisdiction over the network combination product agreement?

A. Based on conversations with my attorney.

Q. And I'm not asking you to disclose what your attorney told you.

A. Yes.

Q. But what is your understanding?

A. Yes.

Q. Yes, they do?
A. Yes.
Q. All right. Look on page 9, lines 11 through 16. Let's back up a little bit.
A. Okay.
Q. Look on page 8, lines 15 through 22. And the question there asked you if you questioned BellSouth regarding the apparent inability to seek enforcement with the Florida Public Service Commission of IDS' rights regarding the agreement. And your answer was, yes, I did.
Who did you speak with at BellSouth?
A. I believe Shelley Walls.
Q. How many times did you speak with her?
A. I have no idea.
Q. More than once?
A. Yes.
Q. Who was the lead negotiator for IDS?
A. I believe Michael Noshay dominated the conversations.
Q. Did you have any conversation with Shelley Walls when Mr. Noshay was not present?
A. I don't know.
Q. And you don't know if either you or Mr. Noshay signed the agreement?

A. I can't remember. I'm sorry.

Q. Let's go back to page 9, lines 11 through 16. There you state that: "The language BellSouth included regarding the Florida Public Service Commission and other regulatory bodies such as the Federal Communications Commission having no legal authority over this amendment to the Interconnection Agreement seems to IDS to be clearly unlawful effort by BellSouth to circumvent its obligations under the Telecommunications Act of 1996 and to mislead IDS in this matter."

Do you see that?

A. Yes.

Q. What is the basis of your belief that this is an unlawful effort by BellSouth to circumvent its obligations under the Act?

A. Based on conversations I had with my attorney.

Q. So she just told you that it was unlawful?

MR. MILLER: I'm am going to object and instruct the witness not to answer that question.

Q. Did you do any independent research, outside of what your attorney told you, to come to

the conclusion that this provision was an unlawful effort by BellSouth to circumvent its obligations?

A. No.

Q. How did BellSouth mislead IDS?

A. Mostly I would say, other than that, the EDI situation.

Q. Other than -- let's back up. Other than that. What does "other than that" refer to?

A. Based on conversations I had with my attorney about the statement that you just read.

Q. Maybe I'm misreading your testimony, but it seems to me that you state that the language BellSouth included regarding the Florida Public Service Commission having no legal authority -- you are saying that that is an attempt to mislead IDS; is that not correct?

A. That was one of the attempts.

Q. What facts do you rely on to make that statement?

A. Just my conversations with my attorney.

Q. Other than what your attorney told you, you have no facts whatsoever to support that allegation?

A. For that statement, no.

Q. Even though you did participate in the

negotiations?

A. Correct.

Q. Even though you did have some concerns over the provision?

A. That is correct.

Q. Even though either you or Mr. Noshay signed the agreement?

A. To the best of my knowledge, yes.

Q. Okay. Let me ask you this: How could BellSouth mislead IDS about that issue, given the fact that you had concerns about it. IDS asked for clarification about it, and you eventually signed the contract. How did BellSouth mislead you?

A. These were all conversations I had with my attorney.

Q. What factual allegation regarding this agreement did BellSouth provide to you that turned out to be incorrect?

A. Repeat that again.

Q. What factual allegation did BellSouth provide to IDS regarding the network combination agreement that turned out to be incorrect?

A. I believe that one of the primary ones was the electronic interface.

Q. And that is specifically in the network combination agreement?

A. I believe that's so.

Q. Do you know what provision that is?

A. No. I can't recall.

Q. I'm going to give you a copy of Exhibit 1 or Exhibit 2 to your direct testimony, which you claim to be the agreement.

MR. MILLER: Actually, Jim, it does say Exhibit 1.

MR. MEZA: It says KK-2, though.

MR. MILLER: It says KK-2 at the bottom, I see.

MR. LACKEY: Off the record.

(Discussion off the record.).

MR. MILLER: That's the entirety of it?

MR. MEZA: That's all I have got.

MR. MILLER: 17 of 17?

THE WITNESS: Am I supposed to read it now?

Q. Point me to the place where it talks about EDI and what you found to be misleading.

A. Number 5.

Q. Do you mind if I come over and read over your shoulder?

A. Right here.

Q. And what do you find to be misleading about that statement, and if you could give the section number?

A. I'm just going to read this, I guess. "The professional services ordered via this attachment 15 must be ordered electronically through EDI or TAG. Alternative processes for ordering the professional services other than via EDI or TAG may be mutually developed and must be agreed to by both parties."

Q. What page is that on?

A. 7 of 17.

Q. And that's provision what?

A. 51.

Q. What statement in that provision do you find to be misleading?

A. That we must go through EDI.

Q. But it also says or TAG; is that right?

A. Or TAG.

Q. What is misleading about that statement?

A. To me either one of those should be a functioning product that would work to perform this contract.

Q. So when you state on page --

A. Can I give this back to you now?

Q. You can give it back to me. All right. So the language on page 9, lines 11 through 16 where you say: The language BellSouth included regarding the Commission or the FCC having no legal authority was clearly to mislead IDS in this matter, does not refer to the language referenced in the testimony, but to the EDI or TAG electronic interface?

A. To the best of my knowledge.

Q. So your testimony is incorrect; is that what you're saying?

A. No. This particular portion of my testimony is based on conversations with my attorney, but the EDI was the other part that was not part of -- I don't know how to put it in words.

Q. Let me ask you this, in your opinion, do you feel that BellSouth mislead you in any way regarding the effect of the provision regarding the authority or the jurisdiction of the FCC or the Public Service Commission?

A. Again, that was based on conversations with my attorney.

Q. Outside of your conversations, just you

and I talking here.

A. Well, that's tough.

Q. I know.

A. I wish we were on the same side of the table here.

Q. I'm just trying to understand how BellSouth could have misled IDS, and the only response you've given me is the answer is what you discussed with your attorney, but your attorney wasn't involved when you had concerns about the provision, wasn't involved when you signed the provision. So --

A. Maybe this will help. I want to get over this. To me the most important -- let's get beyond this. The most important thing that misled us was the EDI issue.

Q. And that's not referenced on page 9, lines 11 through 16?

A. No.

Q. Okay. Did IDS ever submit conversion orders for the network combination product from November `99 to February 2000?

A. We attempted to.

Q. How many times?

A. Again, to the best of my recollection, I

know of only two times.

Q. Do you know when that was?

A. I don't know the exact time.

Q. Do you know roughly when the first time was?

A. No.

Q. Was it immediately after you signed the agreement?

A. It probably was sometime after that.

Q. When did the FCC's 319 remand order come out?

A. I believe January.

Q. If I told you early November `99, would that --

A. You probably know better than I do.

Q. Okay. What was the effect of the 319 remand order?

A. That would take a long time. Could you narrow it down?

Q. As far as the network combination agreement that IDS entered into on November 2nd of 1999, what did the FCC 319 remand order, in your opinion, do to that agreement?

A. I believe it -- I don't know what it did to that agreement. Let me help.

Q. Yes.

A. I want to get over this too.

We removed the professional service fee and the port went from market based rates to TELRIC rates in everywhere except for Tier 1 MSAs zone one on four lines or more.

Did that help?

Q. Yes. That was my fault. It was a bad question. So in other words, it became cheaper?

A. Yes.

Q. Did the fact that you knew that -- let me ask you this, when was the 319 order effective?

A. I think the implementation date is what you're referring to. I believe it would be February 17th, 2000.

Q. So BellSouth and other ILECs were required to provide this UNE product by February 17th of 2000; is that correct?

A. And others.

Q. And others. Okay. Did the fact that in two and a half, three months you would be able to get the same product cheaper than you were under the network combination agreement have any impact in your decision to only submit two orders?

A. No.

Q. Why did you only submit two orders?
A. Because those two customers or two people had their services disconnected.
Q. And you don't know when this occurred or who they were, do you?
A. They were two employees of mine.
Q. Look on page 9, lines 19 through 23. You say, in the agreement -- I presume you're referring to the network combination agreement?
A. Yes.
Q. BellSouth offered EDI and TAG as two electronic pathways to submit orders.
A. That is correct.
Q. After considering the representations made by BellSouth, IDS selected and had its employees trained on EDI on or about August of 1999. What representations are you referring to that BellSouth made?
A. They had discussed this with some of our I.S. people, the two pathways.
Q. Do you know what specific representations?
A. I don't know what the specific conversations were.
Q. Do you have a general understanding of

what BellSouth told your I.S. people?

A. That EDI was supported by Harbinger PC and that it would work.

Q. Do you know when these representations occurred?

A. No.

Q. Do you know who in IDS had these conversations with BellSouth?

A. I can't give the specific names.

Q. But they are in the I.S. Department; is that right?

A. To the best of my knowledge.

Q. Have you made any inquiries to find out who these employees were?

A. Which employees?

Q. That actually talked to BellSouth regarding TAG and EDI?

MR. MILLER: What time frame?

MR. MEZA: I don't know. Regarding his testimony on page 9, line 21, "after considering the representations made by BellSouth". I asked him when these occurred. He said he doesn't know. So the time frame is up in the air, but I presume it would be sometime in 1999.

A. Yeah. Sometime. The precise date, I don't know, but I would presume it was sometime in the summer.

Q. Okay.

A. Okay.

Q. Did you ever inquire to find out who these employees were?

A. If I remember correctly, we had a VP of operations that discussed and helped set these up.

Q. Who was that?

A. Ken.

Q. Ken?

A. I swear to God I can't remember his last name. I'm sorry.

Q. Is he still employed with IDS?

A. No. He's not.

Q. When was he relieved of his duties or terminated or left?

A. Wow? I would say this is approximately November of `99. I think. Maybe not. I don't know exactly.

Q. Why did his employment cease?

A. He wasn't performing up to my expectations.

Q. Did Ken, whatever his last name is, tell

you what BellSouth told him regarding EDI?

A. He told me -- the conversation was that EDI with Harbinger PC was the way to go and not TAG, based on these conversations.

Q. But you don't know exactly sitting here today what BellSouth told Ken?

A. No. I wasn't involved.

Q. And you don't know if, in fact, BellSouth said EDI is better than TAG?

A. No, I do not know.

Q. Why did IDS choose EDI over TAG?

A. From the conversation I had with my VP, he said that EDI using Harbinger PC was the best way to perform this type of network combinations.

Q. Did he go into any further specifics?

A. No. He was talking over my head.

Q. And the VP again is Ken?

A. Ken. Hopefully I can remember his last name before this is over and I'll give it to you.

Q. What is EDI and how is it different from TAG?

A. I have no idea.

Q. Okay. So IDS based its decision to go with EDI versus TAG solely on a conversation you had with your vice president named Ken?

MR. MEZA: Objection. Foundation.

A. Well, you lost me on that question. I'm sorry.

Q. Did IDS base its decision to go with EDI instead of TAG on anything else other than Ken's representations to you?

A. Well, he was the one that was to make that decision based on his conversations with bell.

Q. So you expected BellSouth to tell IDS which electronic interface to use?

A. No. I expected my VP of ops to discuss with Bell and pick an electronic interface that would best suit our needs.

Q. Why wasn't Ken living up to expectations in your eyes?

A. We weren't progressing operationally the way I wanted to.

Q. Did your decision to terminate Ken's employment have anything to do with his decision to select EDI over TAG?

A. No.

MR. MILLER: It's now ten minutes --

MR. LACKEY: If you need a break, just say so.

(Recess in proceedings.)

MR. MEZA: Back on the record.

Q. It's your testimony that after IDS made the decision to go with EDI you had your employees trained on EDI in August of `99; is that correct?

A. On or about.

Q. How many IDS employees took part in that training?

A. I don't know.

Q. Who would you expect to be trained?

A. People that would be involved in the conversion process, I think one of them was Mr. O'Quendo, Freddie O'Quendo. I think. I'm not sure.

Q. Who else would you expect to be involved in the conversion process?

A. I think Brad Hamilton.

Q. Anybody else that you would expect?

A. I don't know their names.

Q. Would the individual service reps who you're responsible for submitting the orders, would they be involved in the BellSouth training?

A. I don't know how the vice president of operations actually set that up at the time.

Q. Is it possible that only Mr. O'Quendo

and Mr. Hamilton participated in the training?

A. It might be possible.

Q. And that Mr. O'Quendo and Mr. Hamilton would then instruct the actual service reps how to use the system?

A. That may or may not be true.

Q. But you don't know either way?

A. No.

Q. Prior to this training on or about August of `99, did any of IDS' employees have any experience with EDI?

A. I don't know.

Q. Do you know who at BellSouth conducted the training?

A. No, I don't.

Q. Do you know who IDS contacted to obtain the training?

A. I had a conversation with Mr. Smart.

Q. And what was discussed in that conversation?

A. In this time period?

Q. Yes.

A. I believe he told me that he could squeeze -- it's going back -- a couple reps into a training class without charging.

Q. So this was free?
A. To my recollection it was.
Q. Did you participate in the training?
A. No. That would have gone over my head.
Q. Did you walk around during the training?
A. I don't believe it was even in our location.
Q. Why did IDS decide to go on with training before IDS even signed the network combination product agreement?
A. Fair question. Mr. Noshay was taking a very long time negotiating the agreement and I wanted to get going right away.
MS. HELTON: Jim, we are having a hard time hearing Mr. Kramer now.
A. Sorry.
MR. MEZA: Why don't we have the court reporter read back the last response.
(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)
Q. Was there any decision at that time or understanding that IDS may not sign the network combination product agreement?
A. Say that again.

Q. Did IDS understand in August of `99 that the agreement may not be signed?

A. We were going to sign the agreement.

Q. Just a matter of when?

A. Right.

Q. What was your expectation after the agreement would be signed as to what IDS would do?

A. Convert our resale base.

Q. The entire resale base?

A. I would believe, yes.

Q. Did you have any concerns about the complexity of using EDI or any other electronic interface?

A. No. Not at the time.

Q. On page 10, lines 13 through 18, you talk about IDS' decision to BETA-test procedures under the agreement with two IDS employees. I presume the agreement is the network combination product agreement, not UNE-P?

A. That is correct.

Q. What is your understanding of a BETA-test?

A. Within my own company?

Q. Well --

A. Or in general?

Q. In general.
A. Try it to see if it works.
Q. Do you normally have BETA-tests conducted internally with IDS?
A. Before we do anything on a mass basis.
Q. Did you inform BellSouth that you were conducting a BETA-test with the port/loop combination product?
A. I'm sorry. I'm not aware.
Q. Basically all you did was try to convert two of your own employees; is that correct?
A. That's correct.
Q. And you consider that to be a BETA-test?
A. Yes. Before we convert our entire base.
Q. And you don't know if you told BellSouth if you considered this to be a BETA-test?
A. I don't know what was said to BellSouth.
Q. But it wasn't you?
A. It wasn't me.
Q. What is the purpose of a BETA-test?
A. To make sure it worked.
Q. For just you, for just IDS?
A. Well, that was all I was concerned about.
Q. Do you know if BellSouth ever considered

the two conversions that you submitted an actual BETA-test?

A. I have no idea.

Q. Do you know if BellSouth knew that the two customers or the two orders were two IDS employees?

A. I don't know.

Q. Do you know when this BETA-test occurred?

A. Like I say, these were the two customers or two people that were disconnected. It was sometime after the agreement.

Q. Do you know -- other than the disconnects, were there any other results of the BETA-test?

A. That was enough.

Q. So what did you do after the customers were disconnected?

A. Tried to get their service reconnected.

Q. And how did you do that?

A. My operations was handling it, so I don't know exactly what happened.

Q. Do you know how long they were out of service?

A. From my conversations with one of the

people, it took a couple weeks.

Q. And what person was that?

A. Fabio Gallopi.

Q. So this person was without telephone service for a couple of weeks?

A. His wife was very upset.

Q. Did you have any discussions with BellSouth about this BETA-test or the loss of service by these two customers?

A. I think I had a conversation with Patty Knight.

Q. What did she tell you?

A. That we didn't know what we were doing.

Q. That who didn't know what they were doing?

A. IDS.

Q. And what was the cause of the disconnection?

A. I don't know why it was disconnected.

Q. How do you know BellSouth caused the service disruptions?

A. I got a letter from Gary Smart.

Q. And what did that letter say?

A. I can't tell you the whole letter. It had something to do with ADSL and he said

somewhere in the letter that it wasn't on our end, it was on Bell's end. I'm sorry. That's the best I can remember.

Q. Do you know if IDS has produced that letter?

A. To the best of my knowledge, we produced everything we were capable of producing.

Q. Other than that letter that you're referencing, do you know of any other documents that relay or pertain to this BETA-test of the two employees?

A. No.

Q. All right. So you say you contacted Patty Knight and she told you it was IDS' problem, right?

A. I think she said that it was a training issue.

Q. And did she give you any type of recommendation?

A. To order more training.

Q. And what did you think about that?

A. Okay. I'll order more training.

Q. And then on page 11, line 1 you say -- well, continuing from page 10. "She recommended that BellSouth could provide this additional

training on-site for $8,000."

A. The number I believe was actually 5,400 or 5,000. I'm sorry.

Q. So 8,000 should now be about 5,000?

A. Somewhere around there.

Q. That was just a typo or honest mistake?

A. No. What happened was, when she got there we had significantly more people than we originally contracted for. She said it would be about 8,000 and I negotiated it back down to some other number.

Q. Let me ask you this --

A. It was -- basically, it should not have been that number.

Q. I'm just asking, that was an unintentional mistake?

A. Correct.

Q. So the real number should be about $5,000?

A. Something of that nature.

Q. Do you know how many IDS employees participated in this training?

A. I believe it was in excess of ten. I can't tell you the exact number.

Q. When did IDS agree to do this training?

A. I believe it was when -- when did we have the training or when did we agree?

Q. When did you agree?

A. During the conversation that I was having with Patty Knight.

Q. She said, I'm going to provide you training in February or when -- how was this agreement? Did she say you need to talk to someone else?

A. That's going back. I talked to her. She said you, need additional training. I said, absolutely. We'll do it. I then -- I don't know who I told to set it up.

Q. So you did not talk -- well, did Patty Knight tell you to talk to someone else about setting it up?

A. No. I think I directed her or somebody to set it up after I agreed to do the training. I don't know who actually set it up.

Q. What I'm asking you is, did you tell Pat Knight, please, can you set up this training?

A. Yes.

Q. And then someone from BellSouth contacted you?

A. Not me, but somebody in my company, yes.

Q. Did you sign any agreement or anything to do this training?

A. Not that I recall. There may have been but I don't know.

Q. Let me show you a document that was produced to BellSouth by IDS and see if that refreshes your memory.

A. Yes.

Q. Can I have that for a second?

A. Yes. I remember signing this document.

Q. Now, I'm representing to you that IDS produced these documents in response to request for production number 3.

A. Okay.

Q. Subject to check, I assume you will assume that as being true?

A. I'm sure we did.

Q. This first letter is a letter from Cornelius White to you. And it says in the first paragraph: "Thank you for your request for Dottie Amerson to do a suitcasing on CLEC basic service order training."

Did you have any discussions with Dottie Amerson?

A. No.

Q. This seems to indicate that you requested her to do the training?

A. Yes. This is, again, I talked to Patty Knight, she said she would set it up. I don't -- I remember what she looked like but I never met her or talked to her, that I can remember.

Q. And the date of this letter is what?

A. January 25th.

Q. And the second page of that letter is a service quote sheet. And how much did it say the basic service order would be?

A. 5,000.

Q. And then 450?

A. For each participant.

Q. So this is the 5,000 figure that you're referring to?

A. Yes.

Q. And this is your signature?

A. Yes, it is.

Q. And you signed it on January 25th?

A. That's what it says.

Q. Of 2000?

A. Yes.

Q. What was the purpose of this training?

A. To teach us how to convert orders to

UNE-P.

Q. Through?

A. EDI.

Q. And you said approximately ten employees participated?

A. I think there were in excess of ten, I believe.

Q. How many of those employees participated in the original training in August of `99?

A. I don't know.

Q. Is it likely that some of them participated in that training?

A. I would think so.

Q. Do you know what percentage?

A. No.

Q. Is it possible that some did not participate in the training in August of 1999?

A. Yes, it is.

Q. Do you know what specific training was offered?

A. No. I wasn't involved in the training.

Q. Were you present at any of the training sessions?

A. No, I was not.

Q. Do you know what was IDS' flow-through

rate at this time, January of 2000?

A. January of 2000?

Q. Yes.

A. We couldn't convert any orders on port/loop combinations, network combinations.

Q. Let's say from retail to resale.

A. I don't know.

Q. So you don't know how many orders dropped out to manual handling because of an error caused by IDS in January of 2000?

A. No I wouldn't know.

Q. Did you ask Patty Knight to come to this training?

A. I believe she said she was going to come to the training.

Q. Did you ask her to come?

A. I believe I asked her.

Q. Why did you ask her to come to the training?

A. Believe it or not, I thought she was the trainer.

Q. Have you since found out --

A. After she came, yes.

Q. Would you have asked her to come if you knew that she wasn't a trainer?

A. I don't know what I would have done. I'm sorry.

Q. Let's look on page 11, line 6 through 9. You say that, "During the training sessions IDS' employees complained that they already knew what was being taught and the training was not helping at all except to rehash what had already been learned."

A. Yes. That's correct.

Q. Which employees told you that?

A. I believe Freddie O'Quendo, Brad Hamilton and Rafee Assisa.

Q. Can you spell --

A. I don't even want to go there.

Q. Assisa?

A. It's A-S-S-A-S-I. Something like that. That doesn't seem right either.

Q. Mr. O'Quendo, Mr. Hamilton and this new person?

A. Yes. That's all I can remember.

Q. You previously stated that you believe Mr. O'Quendo and Mr. Hamilton participated in the August `99 training?

A. I think so. I can't -- I'm not sure.

Q. And this third party, did she

participate in the August `99 training?

A. I don't know.

Q. Now, when they told you this, these three employees told you that they already knew what was being taught and training was not helping, what were they referencing?

A. I don't know. I told them to get back into the class and pay attention.

Q. So you don't know what specific portions of the training sessions were duplicative?

A. No.

Q. Do you know how long these training sessions lasted?

A. I don't know how long it lasted.

Q. Two days sound about right? Well, let me ask you this, was it more than one day?

A. I can't remember. I really can't remember. I'm sorry. I can't remember.

Q. Now, do you know if every single IDS employee that attended the February 2000 session believed that the session was duplicative of what was previously taught?

A. I don't know.

Q. So what did you do -- well, you told me that after they told you that you told them to go

back to class?

A. Right.

Q. Did that end it?

MR. LACKEY: We need to stop this deposition for just a minute.

(Discussion off the record.)

MR. MEZA: Back on the record.

Q. After you told three employees who you said told you that it was duplicative training to go back to class, what happened next?

A. I believe that I asked Ms. Knight and Ms. Rand if they could process an order through EDI for us.

Q. Were you present at any of the training sessions?

A. I did not observe any.

Q. Why would you ask Patty Knight and Pat Rand to submit an order through EDI?

A. I wanted to see if it worked.

Q. What made you believe that it didn't work?

A. My employees indicated to me that they didn't believe EDI was functional to do this.

Q. But up to the time of this training, correct me if I'm wrong, but IDS only submitted

those two orders through EDI, correct?

A. From what I understand.

Q. Had you ever met Pat Rand?

A. First time I met her.

Q. Do you know what she looks like?

A. I'm having a hard time remembering what you look like. Nice looking lady. Oldish, blondish hair, if I remember correctly. Very pleasant.

Q. Now, I believe it's your testimony that you personally asked Patty Knight and Pat Rand to submit an order through EDI. Is that correct?

A. That's correct.

Q. When did you do that?

A. Sometime during the first part of the training session.

Q. How many parts were there?

A. I don't know how many parts there were. It was during the beginning.

Q. And where did you do this?

A. I don't know if it was my office or the VP of operations' office, but it was in somebody's office.

Q. Did you call them into the office?

A. I don't remember.

Q. Would they have been in the training session at that time?

A. I believe Pat Rand was also a trainer and I asked her to put in an account and convert it.

Q. What I'm asking you is, how did you relay that -- if you were never -- if you never entered a training session and I Pat Rand was the trainer, how did you relay that message to her?

A. I think I asked them to come see me.

Q. And did both Pat Rand and Patty Knight try to submit an order or submit an order?

A. From my understanding, Pat Rand was the one.

Q. On did you see her try to do this?

A. I did not observe her.

Q. So explain to me the sequence of events. From what I understand, you asked Pat Rand and Patty Knight to come to see you wherever you were?

A. Right.

Q. You asked Pat Rand and Pat Knight to submit an order through EDI; is that correct?

A. That is correct.

Q. And what did they say?

A. Okay.
Q. Okay. Then where did they go?
A. They went with Brad Hamilton.
Q. To where?
A. I believe his office.
Q. Why did they go to his office?
A. If I remember correctly, he was -- he had the only -- gosh, I'm not computer literate -- license or whatever to be able to do a conversion on EDI.
Q. So his computer was the only computer that was EDI capable?
A. I believe so.
Q. So they had to go to his office to try to submit the order?
A. If I remember correctly.
Q. What happened next?
A. After, I believe, several hours, Pat Rand met me in the hallway and said that the -- first I asked her, how many did you do? She said, None. What's the problem? She says, it looks like the problem is on our side. I said, oh, really. And I believe she said, do you know about TAG? I said, was that better? She said, you should look into it. The best of my

recollection.

Q. Look on page 11, lines 12 through 17.

A. Uh-huh.

Q. You say, "Ms. Rand pulled me aside and told me that the problem was with BellSouth's EDI and not with the way IDS was processing the orders."

A. Right.

Q. Is it your testimony that she definitively told you that?

A. Yes.

Q. That it was BellSouth's -- that the problem was with BellSouth's EDI?

A. Again, she said, "BellSouth's side" and to me that meant BellSouth's EDI.

Q. So she didn't say with BellSouth's EDI?

A. Again, I interpreted it that way. She said, "BellSouth's side." I interpreted it as part of BellSouth.

Q. My question is, she did not say with BellSouth's EDI?

A. No. She said BellSouth.

Q. And did she say that the problem was not with the way IDS was processing orders?

A. Yes, she did.

Q. I guess I'm confused. Since you only submitted two orders, was she referring to those two attempts?

A. I think she was referring to what we were doing with Brad Hamilton and when I asked her to convert the orders.

Q. So this was in reference, in your opinion, in reference to the attempt to submit orders during the training session?

A. Yes.

Q. And then you go on to say on lines 14 through 15 that Ms. Rand stated that EDI was not supporting port/loop combinations?

A. Uh-huh.

Q. And it's your testimony that she stated that EDI was not supporting port/loop combinations?

A. That was more of a reference of a statement I made to her. I said, are you telling me that EDI does not support what we're doing? She goes, it appears that way.

Q. Okay.

A. To the best recollection that I have of my conversation.

Q. But that is not what your testimony

says?

A. She stated -- you know, we were having a conversation and it was like I asked her and she said, it looks like it's on our side. I said, you mean EDI is not doing this? And she said "It looks like EDI", from the best of my recollection, "is not supporting port/loop combinations."

Q. That's not what you told me. You told me that you posed it as a question to her and that her response was that it appears that way. So which version is it?

A. To the best of my recollection, what I put here is probably the most accurate of the conversation.

Q. Then how is it that when I asked you a question about it you gave me a different version?

A. I'm trying to remember to the best of my ability.

Q. Okay. Is it your testimony that she then said that IDS should consider TAG as a more effective solution?

A. To the best of my recollection.

Q. Now, do you have any documents or evidence to support these allegations?

A. Of the conversation? No.

Q. Of Pat Rand's attempt to submit an order through EDI.

A. Not that I know of.

Q. Did you write this testimony?

A. Did I write it personally?

Q. Yes.

A. No, I did not personally write all of this.

Q. Who did?

A. Suzanne Summerlin.

Q. Is your testimony better or is your recollection better today or when Ms. Summerline wrote this?

A. That's a hard question to answer. I'm sorry.

Q. That doesn't mean you're not supposed to answer it.

A. Huh?

Q. That doesn't mean you can't answer it.

A. I don't know. I'm doing the best that I can.

Q. I'm trying not to give you a hard time.

A. There's a lot that's been going on since this --

Q. Did you just dictate it and she typed it

or what?

MR. MILLER: Objection. Instruct him not to answer.

MR. MEZA: How is that privileged?

MR. MILLER: It's communications with counsel. You are asking him whether he dictated to her or how he got the information to her.

Q. Did Ms. Summerlin type up your testimony?

A. I have to do whatever my attorney says as far as --

Q. That is not privileged. He can tell you otherwise.

A. Yes. She did.

Q. Do you know how many drafts there were of your testimony?

A. I'm sorry?

Q. Drafts.

A. Do I know how many?

Q. Yes.

A. No. I don't know how many.

Q. Were there any drafts?

A. Yes.

Q. Did you approve this version of the

testimony?

A. This particular version of the testimony I did not see until after it was put in.

Q. After it was filed?

A. Uh-huh.

Q. Is it your testimony that Pat Rand came looking for you to tell you that EDI didn't work, or that you guys sort of met up in the hallway?

A. I can't remember. It was sort of like we met in the hallway.

Q. What do you mean when you say that, "she pulled me aside?"

A. I was walking down the hallway.

Q. Okay. BellSouth originally gave IDS two options in which to submit network combination orders, correct?

A. Correct.

Q. And those options were EDI or TAG?

A. Yes.

Q. And IDS chose EDI?

A. Yes.

Q. When did IDS realize that it wanted to use TAG instead?

MR. MILLER: Objection. Foundation.

MR. MEZA: That's fine.

A. Say that again.

Q. When did IDS decide to use TAG instead of EDI?

MR. MILLER: Same objection.

A. I'm not quite sure when operations decided to use it. I know that I decided to use it as a result of this conversation.

Q. So sometime in February -- I think it was February 5th is when the training occurred. Does that sound about right?

A. I believe after reviewing some of the documents, February 2nd.

Q. February 2nd. I'm sorry. You personally decided that IDS should use TAG instead of EDI?

A. Yes.

Q. And this was based solely on the comments of Ms. Rand?

A. No.

Q. What else was it based upon?

A. Brad Hamilton, I believe.

Q. What did he tell you?

A. That it doesn't work.

Q. And, again, you only submitted two orders through EDI at that time, correct?

A. To my knowledge.

Q. So other than the statements by Ms. Rand and the conversation you had with Brad Hamilton, were there any other reasons why you decided to go with TAG instead of EDI?

A. Yes.

Q. What?

A. I read articles in Phone Plus magazine about Mantiss CLECWARE and we had previously evaluated ROBOTAG.

Q. Did you read the article about Mantiss prior to February 2nd?

A. I can't recall.

Q. You said that the decision to go with TAG for you was made after the February 2nd training?

A. Yes.

Q. One of the reasons of going to that decision was, in addition to the comments of Ms. Rand, was this article in Phone Plus magazine, and I just want to find out when you read that article, if you know?

A. I think it was sometime in December, January.

Q. Okay. So prior to the training, IDS was

considering another electronic ordering option?

A. Yes.

Q. And that was in the December, January time frame?

A. I believe so.

Q. What information did you receive about ROBOTAG?

A. I think we had a demonstration.

Q. When was that?

A. I don't recall.

Q. Was it also in the December, January time frame?

A. It may have been.

Q. Who from BellSouth provided the demo?

A. A very nice lady. I'm sorry. I did talk to her, though.

Q. Did she come to Miami?

A. I believe so, yes.

Q. And what was involved in the presentation?

A. A demonstration.

Q. Were you impressed?

A. I wasn't in it.

Q. I weren't in it. Who was in it?

A. I think Brad Hamilton.

Q. Okay. Anybody else?
A. Yes. But I don't recall who.
Q. Did Mr. Hamilton report back to you after the demonstration?
A. Yes, he did.
Q. What did he tell you?
A. He said it wasn't that good.
Q. ROBOTAG wasn't that good, or TAG?
A. ROBOTAG.
Q. Did that dissuade you from going or from deciding to go with TAG?
A. No.
Q. At that time, when Mr. Hamilton spoke to you, did you already do some research into the Mantiss product?
A. I don't recall. I think I had read about the Mantiss product and the ROBOTAG product.
Q. Why were you looking at other ordering or interface options in December or January of 2000?
A. Because my people said that EDI wouldn't work.
Q. If that's the case, why would you agree to additional EDI training on January 25th of 2000?

A. Good question. Ms. Knight said it was a training issue.

Q. But your team was telling you that EDI didn't work?

A. That's is correct.

Q. Do you know if other CLECs have both TAG and EDI?

A. I don't know that.

Q. On page 11, lines 20 to 23 you state that you obtained information concerning ROBOTAG at a price of $60,000 and compared it to a commercial product developed by Mantiss called CLECWARE.

A. Yes.

Q. Would that be in the December `99, January 2000 time frame?

A. I'm not sure if that was afterwards. I think that may have been -- I'm trying to give my best estimate. Right around or right after the training.

Q. Okay. But there is no question that you initially inquired into ROBOTAG or Mantiss prior to the training that initially occurred?

A. Yes.

Q. Do you know who at BellSouth provided

you with the price for ROBOTAG?

A. It may have been that same person.

Q. The nice lady?

A. Yes.

Q. And you don't know when?

A. No. I think she gave me a letter or an invoice of that nature.

Q. Do you remember if you still have that document?

A. Whatever we have, we produced.

Q. Okay. Do you know when you looked at the Mantiss product?

A. I didn't look at it.

Q. Who did?

A. Brad.

Q. Okay. So at this time, which you said is likely after the training, February 2nd training, the decision was still whether to go with ROBOTAG or Mantiss, but to definitely go to TAG?

A. Yes.

Q. On page 11, line 22 you say, "After careful consideration, IDS chose to purchase the Mantiss product."

A. Yes.

Q. What consideration did you have?
A. Which one was better, Mantiss or ROBOTAG.
Q. All right. And your decision was that it was Mantiss?
A. Yes.
Q. What was the basis for that decision?
A. Brad told me that Mantiss was superior.
Q. Did you do any investigation or research yourself?
A. Me personally?
Q. Yes.
A. No.
Q. So you relied on Mr. Hamilton to tell you which product he thought was better?
A. Yes.
MR. MILLER: I don't know if this is a good breaking point, but it is noon.
MR. MEZA: You're right. Yes.
(Recess in Proceedings)
MR. MILLER: Back on the record.
THE WITNESS: Jim, can I clarify something that's kind of bothering me. When I told you that Suzanne Summerlin wrote my testimony. I just want to clarify, we spent

hours upon hours going over my testimony, going over, you know, drafts of the testimony. I don't even know how to type. So, I mean, it sounds bad.

Q. No. I understand. No problem. Are you finished?

A. Yes. It sounded bad to me. I don't even type.

Q. No. Whenever you feel you need to clarify a question or answer, please feel free to. Let me know.

IDS has produced to counsel today what apparently are documents that IDS has provided to the attorney general. I would like you just to take a quick look and let me know if IDS has produced to BellSouth pursuant to BellSouth's discovery this same information, if you know.

MR. MILLER: That's only one of the two volumes.

MR. MEZA: Correct. That's only volume two.

A. This appears to be what we gave the attorney general. Without going through page by page, but I would believe that it is.

Q. Do you know if everything that you have

produced in volume two you have produced to BellSouth pursuant to BellSouth's discovery in the first set of discovery?

A. I'm sorry. Go ahead.

Q. The information that you produced to the attorney general --

A. Correct.

Q. -- prior to today, have you previously produced that to BellSouth?

A. I would say, to the best of my knowledge, yes.

Q. In late 1999, early 2000, do you know if any other CLEC was using EDI to submit network combination conversion orders?

A. Are you saying now or then?

Q. In late 1999, early 2000.

A. At that time, I was not aware of any CLEC -- whatever you just said.

Q. Today?

A. Today, I'm, yes.

Q. Which CLECs?

A. Through these proceedings I've heard that two other CLECs were using EDI prior to me using EDI.

Q. And who are they?

A. I can remember one. Access Integrated Networks -- no.

Q. That sounds about right.

A. That's one of them.

Q. The other one you don't remember?

A. I would be guessing.

Q. Okay. The EDI BETA-test that you did sometime after signing the network combination agreement with your two employees, do you know if you received an FOC back from BellSouth on those two conversion orders?

MR. MILLER: Can you read back that question, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

MR. MILLER: Object to the form. Vague.

Q. Let me try again.

Are you familiar with the BETA-test that I was referring to?

A. Yes.

Q. Sometime after you signed the network combination product agreement?

A. Yes.

Q. You previously testified that IDS

submitted two orders to convert the accounts for two IDS employees and that failed -- well, that they resulted in disconnection of service.

A. Correct.

Q. Do you know, after submitting the conversion orders, if IDS received an FOC from BellSouth regarding those orders?

A. No, I do not.

Q. Do you know what an FOC is?

A. It's a firm order commitment.

Q. Do you know what that term or acronym represents?

A. To the best of my knowledge, it means that BellSouth has accepted the order.

Q. And it doesn't mean that the order is completed; is that correct?

A. To the best of my knowledge.

Q. If you look on page 12, lines 1 and 2. The question was, "Did BellSouth state that TAG would allow IDS to process its orders correctly?" And your answer is, "yes."

Do you know when that statement was made?

A. No. I can't tell you.

Q. Do you know if it was Pat Rand, or do

you know who made that statement?

A. That was a statement that was made to me from operational personnel.

Q. And who is that operational personnel?

A. The conversation, I believe, was -- could have been the VP of operations at the time.

Q. Who is?

A. I think that was Bud Hidgon.

Q. So Bud Hidgon told you that BellSouth said that TAG would allow IDS to process its orders correctly?

A. I believe that's how the conversation went.

Q. Did Mr. Hidgon tell you anything about any representations that BellSouth made regarding TAG versus EDI, or did he just say that TAG would work?

A. He said that TAG -- let me remember correctly here. He said that TAG was the better electronic interface to use to process orders, if I remember correctly.

Q. Was that his own personal opinion, or based on statements made by BellSouth, if you remember?

A. I believe these were conversations that

he was having both with BellSouth about the ROBOTAG --

Q. Uh-huh.

A. -- and what Brad was telling him about CLECWARE from Mantiss.

Q. Do you know for a fact that a BellSouth representative told Bud Hidgon that TAG was better than EDI?

A. I was not privy to that conversation.

Q. So that would be a no.

MR. MILLER: Asked and answered.

A. That's the best I can say.

Q. Was that the only conversation or was that the sole basis for your response on page 12, line 2?

A. Was that the sole basis -- I'm sorry.

Q. Was that the sole basis to support your response that BellSouth stated that TAG would allow IDS to process its order correctly, was your conversation with Bud Hidgon the sole basis of that statement?

A. That and Brad Hamilton.

Q. Did Mr. Hamilton have any discussions with BellSouth representatives regarding TAG?

A. I don't know.

Q. When did IDS order TAG?

A. Actually, it wasn't January. I'd like to correct that. It was February.

Q. Is this a typo, honest mistake?

A. Honest mistake.

Q. And so that in February of 2000 IDS ordered TAG. Do you know what date it was?

A. I wasn't the one that actually ordered it, so I don't know exactly when we did.

Q. Who did actually order it?

A. I don't know.

Q. Would it be Mr. Hamilton?

A. I don't know.

Q. Would you normally be involved in the decision to actually purchase or order another electronic interface?

A. Not normally, no.

Q. Who normally be involved in that decision?

A. At that time it would have been up to the vice president of operations.

Q. Who is Mr. Hidgon again?

A. Yes.

Q. How do you know it was in February, not January of 2000?

A. How do I know that?
Q. Yes.
A. After going through this -- I believe I read some documents that said we had ordered it in February, which jogged my memory that it was February.
Q. Do you still have those documents today?
A. I believe so.
Q. Do you know if IDS has produced those documents to BellSouth?
A. I believe so.
Q. Do you know what the documents are?
A. No, I don't.
Q. And when did you read the documents?
A. I don't recall exactly when I read them during these proceedings.
Q. Was it before you filed your direct testimony or after?
A. I can't remember. It could have been before.
Q. When did you have the realization that you needed to change this portion of your testimony?
A. When I read the document.
Q. Would you have filed direct testimony

with the incorrect date if you knew that it was February instead of January?

A. No. I wouldn't have filed it.

Q. Explain to me how it works when you go through CLECWARE or Mantiss when you're purchasing your interface, their software?

A. I'm sorry?

Q. Explain to me how Mantiss differs from ROBOTAG.

A. I can't answer that question. I don't process orders.

Q. Explain to me, if you can, the process that you had to go through to purchase CLECWARE from Mantiss?

A. CLECWARE.

Q. Is it CLECWARE?

A. That's what they call it. The process?

Q. Yes. What did you have to do? Who did you contact?

A. I don't know. I told my vice president of operations if MANTISS' CLECWARE was better, order it.

Q. And do you know when that occurred?

A. I would say around the same time period.

Q. Sometime in February?

A. I would think so, yes.
Q. Is there any special type of arrangement that a CLEC has to enter into with Mantiss when they purchase CLECWARE?
A. Is there any kind of arrangement?
Q. Yes. Any type of authorization or arrangement?
A. I really don't know.
Q. I'm going to show you a document titled Letter of Authorization. Have you seen that before?
A. No.
Q. Okay. Let me ask you couple questions about it.
A. Sure.
Q. Do you recognize this person's signature here?
A. It might be Issam, and I cannot pronounce his last name, Sayegh.
Q. He's an IT director?
A. Yes.
Q. And what is the date of the signature?
A. Looks like it's February 17th.
Q. Of 2000?
A. Yes.

Q. Correct me if I'm wrong, the first paragraph of the letter of authorization says: "IDS Telecom hereby authorizes Mantiss Information Corporation to act as our representative for software development and testing required to interface with BellSouth, as a Competitive Local Exchange Carrier in their region."

Would this document, which I'm going to mark Kramer Number 1, would this document help you better know when you actually entered into an agreement with Mantiss?

A. Whatever date -- I left it up to the vice president of operations and Issam. They would know better than I would.

Q. Clearly by February 17th a representative of IDS had signed an agreement that authorized Mantiss to act on behalf of IDS?

A. Yes.

Q. So the decision to purchase CLECWARE through Mantiss had to have been made prior to February 17th of 2000?

A. I would think so.

MR. MILLER: Do you want the court reporter to mark that?

MR. MEZA: Sure.

(Thereupon, Letter of Authorization was marked as Kramer Exhibit 1 for Identification.)

Q. On page 12, lines 2 to 3 you say: "However, BellSouth informed IDS that TAG could not be installed and tested until late May 2000."

Do you see that?

A. Yes.

Q. Do you know when BellSouth informed you of this?

A. They informed my operations people, I would say, sometime in February.

Q. Do you have any documents to support this claim, this allegation?

A. Not that I'm aware of.

Q. Explain to me how BellSouth installs and tests TAG? Do you understand how that works?

A. No, I don't.

Q. Did you find the May 2000 test date acceptable?

A. No, I did not.

Q. What did you do?

A. I asked them to get a better date.

Q. Who did you ask?

A. I believe I was talking to my VP of

operations.

Q. Did you have any direct conversations with Jimmy Patrick of BellSouth?

A. I believe I did.

Q. When were those?

A. Sometime in February.

Q. What was the substance of those conversations?

A. I wanted to know if he could speed it up, otherwise I would have to complain to, I believe, the Florida and Georgia commissions.

Q. All right. When did you threaten to go to the Commissions if the testing date was not moved up?

A. Sometime in February.

Q. And what was Mr. Patrick's response?

A. I'll get back to you.

Q. Then what happened next?

A. I guess he talked to my people because he came back with good news.

Q. All right. And he told you something?

A. No.

Q. He talked to somebody else?

A. Yes.

Q. What did he tell that person?

A. Best of my knowledge, he said that they could get it installed much earlier.

Q. And who is that person that Mr. Patrick talked to? Do you remember?

A. No, I don't.

Q. Look on page 12, lines 15 to 16 when you state: "Mr. Patrick notified me that BellSouth would move up the installation date for TAG to February 2000."

A. That's right.

Q. You just told me that he did not tell you, he told someone in your operations department.

A. Now I correct myself. I'm sorry. I remember now.

Q. That's incorrect?

A. Yes. He called me back. I'm sorry.

Q. So he called you back.

Is your memory better today or when you filed your testimony?

A. I'm trying the best I can.

Q. I know. I'm just asking.

A. During the process of doing this testimony we took many days, many hours to try to get as much as accurate as possible.

Q. So after reviewing your testimony, you are now going back to your testimony?

A. Yes.

Q. That he personally told you?

A. Yes.

Q. Now, Mr. Patrick told you that he could move up the installation to February. Were you satisfied with that?

A. Yes.

Q. Were there still any concerns that you had about the testing of TAG?

A. No. I didn't.

Q. The timetable that Mr. Patrick offered to you, that was acceptable?

A. He said it was the best he could do, so I would say it's fine.

Q. So on page 12, lines 17 to 19 you say: "Testing began in March and was to last eight weeks, which again was unacceptable, so I intervened to shorten the time frame and testing was completed by April 2000."

A. Yes.

Q. Is that incorrect?

A. No.

Q. I thought you just told me that

Mr. Patrick told you the best that he could do --

A. Right. I did go back to him and I said, "Can you speed it up?"

Q. And he said?

A. He said, I'll see what I can do, and he did.

Q. Did he say, I'll see what I can do, or that's the best that I can do?

A. I can't remember. It could be it's the best -- I do know that it was eight weeks. I said, okay. We talked. I said, "Could you do it any better?" He did. He did a very good job. He got it done in four weeks, not eight.

Q. Do you know what date the testing agreement required BellSouth to finish the test?

A. No, I don't.

Q. Do you know if BellSouth finished the test prior to the termination date of the testing agreement?

A. If I remember correctly, he got the testing done in less than eight weeks, from what I remember.

Q. I'm going to show you a document that I'm going to mark as Kramer 2, which is the BellSouth Telecommunications Access Gateway

Testing Agreement for IDS Telecom.

A. Okay.

Q. Have you seen that agreement before?

A. I don't remember seeing this agreement. I'm sorry.

MR. MEZA: This is the TAG Testing Agreement for IDS Telecom. This will be Kramer Number 2.

(Thereupon, BellSouth Telecommunications Access Gateway Testing Agreement for IDS Telecom was marked as Kramer Exhibit 2 for Identification.)

Q. Is that Mr. Issam, is that his signature, to the best of your knowledge?

A. Yes, it is.

Q. What is the date of his signature?

A. 3-22-00.

Q. And do you know what this basically is?

A. I would presume it's a TAG agreement.

Q. Testing agreement?

A. Okay.

Q. Would you agree with that?

A. Yes.

Q. If you need time to read through it, please feel free. I'm looking on page 13 of 16

and there's certain dates provided here when testing will be completed. Do you see that?

A. Yes.

Q. The last test is the SRT test with the start date of April 17th, 2000 and the end date of February 17th of 2000. No. I'm sorry. April 17th of 2000. Thank you.

Does this help you refresh your recollection as to when the test should have been completed?

A. I was talking to my -- that could be fine as far as I know because I didn't see this document. I was talking to Issam and the people that are in there and they were giving me information as we were going along.

Q. So to the best of your knowledge you don't have anything to refute the fact that the test was supposed to be completed on April 17th, correct?

A. Yes.

Q. Do you see this notation here?

A. Yes.

Q. It says April 6th testing completed as per Vanessa Thomas. Do you understand that BellSouth was able to finish the testing prior to

the February -- prior to April 17th?

A. My people told me that the testing was completed prior or quicker than it was supposed to have been done.

Q. So they did tell you that?

A. Yes.

Q. Do you know if April 6th was the date that it was actually completed?

A. It could have been.

Q. But you don't have any evidence to refute that date?

A. No.

Q. I'm going to show what I'm going to mark as Kramer 3, and this looks like a memo to Issam Sayegh from Kim McClendon, test manager, dated March 10th of 2000.

A. Okay.

(Thereupon, Memorandum dated 3-10-00 was marked as Kramer Exhibit 3 for Identification.)

Q. Have you ever seen this document before?

A. No.

Q. Would you agree with me that since it says, following are the steps regarding the attached Test Agreement, that this was probably

attached to the test agreement?

A. I would think so.

Q. It says: Sign the test agreement and fax all pages to Jim Patrick. Number 2: Immediately mail the entire original signed test agreement to Jimmy Patrick, and then there is a sentence here, would you agree, if we do not receive the entire original test agreement by March 25th, 2000, we will not be able to proceed with testing. Do you agree with that?

A. That's what it says.

MR. MILLER: You are asking him if that's what this document that he hasn't seen says, correct?

MR. MEZA: Yes. Thank you.

A. Yes.

Q. Do you have any reason to believe that this memo or this was not sent to IDS on March 10th of 2000?

A. No. I have no reason to believe that.

Q. And assuming that IDS did sign the agreement as stated on March 22nd, as reflected in Kramer 2, can you explain to me what was the reason for the delay in signing the test agreement?

MR. MILLER: Objection. Foundation.

A. No.

Q. Would you explain to me the reason why it took 12 days to sign the test agreement?

MR. MILLER: Same objection. Foundation.

A. No.

Q. How long after the memo was dated did IDS sign the test agreement?

A. Okay. This memo is dated March 10th, 2000 and it appears to have been signed by us on the 22nd of March.

Q. Assuming it was sent by mail, give you the benefit of the doubt, do you know why approximately 12 days expired before IDS signed the test agreement?

A. No, I don't.

Q. And it was to your benefit to get this agreement signed, correct?

A. Yes.

Q. And to begin the testing of the TAG?

A. Yes.

Q. At some point in time it is your testimony that you requested BellSouth provide you with a UNE-P contract?

A. Yes.
Q. Why was that?
A. Because, as we said, it was better, more profitable.
Q. Who did you contact at BellSouth to obtain this or to ask for this agreement?
A. I believe Beth Shiroshi.
Q. When did you ask her?
A. February, I believe. Around February 17th.
Q. Is it your testimony that you asked Ms. Shiroshi to provide you with an agreement by February 27th of 2000?
A. That's a typo. It should say 17th.
Q. So you asked her on or about the same day that you called for the agreement to produce an agreement by that day?
A. If she could give it to us, yes.
Q. Is it your testimony that you called Ms. Shiroshi on the 17th; is that correct?
A. Around then.
Q. And is it also your testimony that you requested that BellSouth provide an agreement by February 17th?
A. Yes.

Q. Could it be the same day that you called her you asked for an agreement?

A. It could be, yes.

Q. How did you remember that, or how did you know that February 27th should be February 17th?

A. Well, February 17th is always an important date because that was the date that the remand order --

Q. Prior to February 17, did you contact BellSouth and request an agreement?

A. I can't recall.

Q. What did Ms. Shiroshi tell you when you spoke on February 17th?

A. She would try to get me a document that I could sign.

Q. And that's all she said?

A. I can't recall the whole context of the conversation.

Q. So every time on page 5 when you say February 27th --

A. Page 5?

Q. Excuse me. Page 13, line 5 and on page 13, line 6 where you reference February 27th, that should be the 17th?

A. Yes. Everything was based on the February 17th date.

Q. And on page 13, line 5 the question is: "Did BellSouth comply with the February 17th, 2000 deadline?"

And your answer on line 6 is, no. Your request on February 17th for a February 17th -- for an agreement on February 17th, was that a deadline or a request?

MR. MILLER: Objection. It's mischaracterizing the witness' testimony.

Q. You can proceed.

A. It's my impression that they had to have an agreement ready by February 17th as per the order. So I asked to have the agreement ready. To me, I thought that the February 17th was kind of like a deadline.

Q. All right. I guess I'm confused again. Could you look at line 6. It says, "No, I contacted Ms. Shiroshi on February 17, 2000 to inquire with regard to the agreement."

Is that the same conversation that you are referencing on line 1, or is that a different conversation?

A. I believe it's the same conversation.

Q. And prior to February 17th, you don't recall any specific conversations you had with BellSouth requesting the UNE-P agreement?

A. I may have talked to Bill Gulas about it.

Q. Do you know when?

A. No.

Q. What did he tell you?

A. He told me that the agreement probably would be ready by February 17th.

Q. Did you have conversations with Ms. Shiroshi prior to February 17th about matters other than the UNE-P agreement?

A. I can't recall.

Q. Were you negotiating with Ms. Shiroshi at that time the Interconnection Agreement between BellSouth and IDS?

A. I can't recall.

Q. And it's your testimony that on February 17, 2000 Ms. Shiroshi acknowledged that the due date had arrived?

A. We were talking about the February 17th date for the UNE, yes.

Q. She told you BellSouth did not have an agreement ready for IDS and requested additional

time in which to do so?

A. Yes.

Q. I guess what I'm confused about, if the first time you talked to her was on February 17th and asked for an agreement on February 17th, what do you mean by on line 8 that BellSouth still did not have an agreement ready?

MR. MILLER: Objection. It's mischaracterizing the witness' earlier testimony.

A. I'm sorry. I thought they would have an agreement, a standard type of agreement on February 17th that was available.

Q. You did agree to the additional time, though, correct?

A. I believe so.

Q. And it's your testimony that BellSouth produced a two-paged document the first week in March 2000?

A. It was either -- it's right around the last day of February, first week of March.

Q. And you signed and returned the document?

A. It was a small document, if I remember correctly.

Q. Did you sign it?
A. Yes, I believe I did.
Q. And did you return it to BellSouth?
A. I believe I did.
Q. Did you keep a copy of that document?
A. I can't find it.
Q. What was the document?
A. It was a very short document referring to the UNE-P, as I can recall. I can't tell you what was in the document verbatim.
Q. Did you read it?
A. If I remember correctly, yes.
Q. Do you normally read documents before you sign them?
A. Yes.
Q. And BellSouth has asked for that document; is that right, to the best of your knowledge?
A. To the best of my knowledge, yes.
Q. And has IDS produced the document?
A. I'm not sure we could find the document.
Q. Who at IDS was responsible to respond to BellSouth's discovery request?
A. Angel.
Q. Do you know what searches he conducted

in order to comply?

A. No, I do not.

Q. Did Angel Leiro ask you if he could search your files?

MR. MILLER: In what time frame?

Q. In responding to BellSouth's discovery request?

A. I don't know if he specifically asked. I told him, "Find all the documents that you can. "

Q. Do you maintain any files in your desk or office?

A. Yes.

Q. Did you maintain a file regarding BellSouth?

A. Not personally, no.

Q. Did your secretary maintain a file?

A. Yes.

Q. Do you know if Mr. Leiro looked in that file in order to comply with discovery?

A. Yes.

Q. So according to your testimony, BellSouth produced a two-paged document. Who produced tnat on behalf of BellSouth?

A. I believe Ms. Shiroshi did.

Q. And then what happened next?

A. She said that -- she apologized, the document wasn't really acceptable. Would I be patient and she would send me a more complete document.

Q. And you say a week later she called and apologized for the delay. How do you know it was a week?

A. That was to the best of my knowledge.

Q. And why would she apologize for the delay if at the time that she called you had already executed a UNE-P agreement?

A. Because she said that the document that I had given her, the two-paged document that we had signed, wasn't sufficient and she apologized and she said she was sorry for this and she has to give me a more complete document.

Q. Did she explain to you why it was no longer acceptable?

A. I can't recall.

Q. Were you confused by that statement by Ms. Shiroshi?

A. A little bit.

Q. Were you concerned?

A. I don't think I was concerned. I wanted

to be able to process orders, which I wasn't able to, so we had a problem there and I wanted to be able to get the better pricing.

Q. Did you eventually sign another agreement?

A. Yes. I believe so.

Q. Did the agreement that you eventually signed, did that in any way modify or annul this two-page document that you signed?

A. I don't know -- I can't say that. It's just a more complete document. It was about this thick versus very thin.

Q. And do you recall any conversation you had with Ms. Shiroshi to tear up that first agreement or sign a cancellation of the agreement or anything like that?

A. I don't remember that type of conversation. I'm sorry.

Q. From January 20th to February 17th, do you recall if you ever attempted to contact Ms. Shiroshi?

A. I can't recall.

Q. Did you ask your secretary to contact Ms. Shiroshi during that time period on your behalf?

A. I could have.
Q. But you don't know if you did?
A. I can't recall.
MR. LACKEY: Can we have just a minute?
MR. MILLER: Do you need a break?
MR. LACKEY: No. We will do it right here.
(Discussion off the record.)
Q. Have you had a chance to read Ms. Shiroshi's direct and rebuttal testimony?
A. In the documentation, I've quickly glanced over it.
Q. Do you remember in her testimony that she testified that you told her during one conversation that you had been attempting to call her since January? Do you remember that portion of her testimony?
A. Now I'm drawing a blank. I can't remember.
Q. Why don't I show it to you.
A. Could you do that? That would be much better.
Q. If you can read page 4 of Ms. Shiroshi's direct, from lines 11 through 24 and then on page 5, lines 1 through 2.

A. Do I have to read it out loud?
Q. No.
A. Thank you. Okay.
Q. Do you recall if in your conversation with Ms. Shiroshi on February 17th whether you told her that you had been trying to contact her for about a month?
A. I don't remember having that type of conversation with her, no.
Q. Did she ever ask you to verify what phone number you had for her?
A. That could have been the conversation. I don't remember. I'm sorry.
Q. Did you ever tell her that you actually had not attempted to contact her, but that your secretary had been?
A. There have times I have my secretary place calls for me.
Q. Are you refuting Ms. Shiroshi's testimony, or saying that you just don't recall?
A. I just don't recall.
Q. Do you remember or do you know if Ms. Shiroshi had any conversations with your secretary, Ms. Hall, around February 17th of 2000?
A. I don't know.

Q. I want to make sure I understand. On page 5 -- excuse me. Page 4, lines 11 through 24, and page 5, lines 1 and 2, Ms. Shiroshi agrees with you that there was some type of call on February 17th, 2000?

A. Yes.

Q. She then describes a conversation that she had with you and Ms. Hall. Is it your testimony today that you are denying that conversation, or that you just don't recall?

A. I don't recall. I know I remember the conversation on February 17th.

Q. But --

A. What is the question? I'm sorry.

Q. The question is: Do you deny the description of the conversation she had with you as set forth in her direct testimony, or is your response you don't recall?

A. I don't recall.

Q. When you reviewed Ms. Shiroshi's testimony, did you ask your secretary if this had happened?

A. I don't think so.

Q. Do you know when BellSouth provided you with a copy of the UNE-P agreement?

A. The big one?
Q. Yes. The big one.
A. Sometime in middle March, early March.
Q. If Ms. Shiroshi testified that she provided you with a copy of the agreement on February 28th, would you refute that statement or deny that statement?
A. I would not deny that statement.
Q. Do you remember if you had any discussions with BellSouth regarding several issues in March of 2000, including UNE-P?
A. I'm sorry.
Q. Do you remember if you had any discussions with BellSouth in March of 2000 regarding UNE-P?
A. Yes.
Q. Do you know when those discussions were?
A. I think we did have some discussions or possibly Michael Noshay had some discussions. I'm not sure.
Q. Did you have any questions regarding UNE-P?
A. If I remember correctly, I think just on understanding the pricing structure more than anything else. I think Michael Noshay had more

conversations to that extent.

Q. If Ms. Shiroshi testified that BellSouth FedExed a revised agreement on March 22nd, would you deny that statement?

A. I wouldn't deny that statement.

Q. Would you agree with it?

A. That's probably right.

Q. Do you know when IDS executed the agreement?

A. I think, approximately, March 27th.

Q. On page 16, lines 17 through 18, you say, "By late March 2000, the agreement had yet to be provided."

MR. MILLER: I'm sorry. What page?

MR. MEZA: Page 16, line 17.

Q. Do you see that? Do you see that statement?

A. Uh-huh.

Q. You didn't deny -- when I asked if Ms. Shiroshi said she sent you an agreement on February 28th, you said you wouldn't deny that. Would you agree with her statement?

A. Yes. Well, I said I wouldn't deny it.

Q. Yes. Now I'm asking, would you agree with it?

MR. MILLER: What was her statement again?

Q. That she provided IDS with a UNE-P agreement on February 28th.

A. I mean, she could have sent it. That doesn't necessarily mean that I got it. It could have gone to Michael's office without me knowing about it.

Q. And you just agreed with me that she did produce an agreement on March 22nd?

A. She produced an agreement, according to -- that we received, yes.

Q. What do you mean by the statement, "By late March 2000 the agreement had yet to be provided?"

A. I think we were having a situation where there were things that we were negotiating and we wanted to get this thing done and finished and we wanted to get the agreement back to us and we felt that it was taking a little bit long. We wanted to get this done quickly.

Q. So when you make that statement, you are not saying that BellSouth failed to provide you with an agreement?

A. No. Just the finalized agreement.

Q. Right. And the delay in finalizing the agreement was that BellSouth and IDS were still negotiating the agreement?

A. We would make comments or wanted changes and there was a delay incorporating changes or getting agreements for some time, from what I recall. It was -- Michael Noshay was the one that was doing a lot of the negotiations on this specific agreement.

Q. Prior to late March 2000, would it be your testimony that BellSouth had in fact provided IDS with some working agreement, some type of agreement that you could negotiate from?

A. They gave us something that we could negotiate from, yes.

Q. And so when you reference in your statement the agreement had yet to be provided, you were referring to the final negotiated agreement?

A. Finalized. Yeah.

Q. Do you consider March 22nd to be late March?

A. It felt that way to me.

Q. After you sign the agreement on March 27th, did you ever ask or attempt to negotiate a

retroactive date for that agreement with BellSouth?

A. Not that I recall.

Q. Why not?

A. I didn't realize you could.

Q. On page 16, lines 17 through 20 you say: "I was again forced to threaten going to the Florida and Georgia Public Service Commissions to file a complaint to persuade BellSouth to produce an agreement for the UNE-P."

Who did you threaten or were forced to threaten?

A. I think that was in a conversation with Bill, but I can't be correct. It was Bill or the CSR -- or Mike Lepkowski, I think, at the time, or Gary Smart. I can't recall, it was either Gary Smart or Bill Gulas, to the best of my recollection.

Q. Do you remember when you informed these -- or you made that statement?

A. I can't recall.

Q. Was it prior to March 22nd?

A. It may not have been.

Q. So it's possible that it was after you received the final version of the agreement?

A. Yes. Because I didn't get the agreement, so it could have gone to Michael and I'm still thinking that we hadn't received it and I made that call. I think it was prior, but I can't be 100 percent accurate.

Q. We're in agreement that Ms. Shiroshi sent the UNE-P agreement on March 22nd and that IDS signed it on March 27th?

A. Yes.

Q. Can you explain why there was approximately five days in between the sending of the agreement and the actual execution?

A. I believe because Michael Noshay wanted to read every page.

Q. Do you know how long that took him?

A. That long.

Q. Five days?

A. Yes.

Q. So is it possible that the delay in getting a final agreement was also the result of IDS and not just BellSouth?

A. It could have been because of Michael Noshay, but, again, you know -- it could have been because of Michael Noshay. He's very, very slow. I'm sorry.

Q. Is he thorough?

A. Excruciatingly.

Q. So after every version or after every new version, would he read it?

A. I would presume so, yes.

Q. Just so I understand, is it your testimony today that your threat to go to the Commissions could have been after IDS actually received the agreement, the final version?

A. I can't recall exactly. It might or might not have been.

Q. And I guess what I'm confused about is you state that you threatened to go to the Commissions to file a complaint to persuade BellSouth to produce an agreement for the UNE-P. I believe that you testified today that BellSouth had, in fact, produced an agreement, but the parties were still negotiating. What were you so upset about?

A. How long it was taking.

Q. Did you take into consideration the delay on IDS' side?

A. No, I didn't.

Q. On page 17, lines 4 through 5 you state that by mid April 2000 BellSouth was still under

a -- excuse me. Let me back up here. I actually got optimistic. We have to go back to page 13.

A. Okay. I was getting optimistic.

Q. On page 13, line 19 and 20: "In the beginning of April 2000, IDS was prepared to process and convert our resale base to the more lucrative UNE-P model."

How was IDS prepared?

A. I believe we were putting together spreadsheets of all the accounts that we wanted to move over and our people were trained on Mantiss CLECWARE.

Q. When was that training complete?

A. I don't know.

Q. Who would know?

A. Try Brad Hamilton.

Q. Who was trained?

A. I don't know.

Q. Is it probable that Mr. Hamilton was trained?

A. I think so. I'm not sure.

Q. And then on page 13, lines 21 and 23 the question was: "Was IDS in fact able to process orders in April 2000?" And your response was, "No. Patty Knight for BellSouth told us that

IDS' employees why not properly trained and we did not know how to use the system."

A. I'm sorry is there a question.

Q. Yes. My question is: Is it your testimony that you attempted to obtain the approval of Patty Knight before submitting conversion orders?

A. I believe what I meant by this is we tried to convert orders and they wouldn't go through.

Q. What interface did you use?

A. I think we were using the CLECWARE TAG.

Q. And what happened?

A. Orders would not go through.

Q. How many did you submit?

A. I don't know.

Q. Do you know when?

A. No.

Q. Do you know what happened when you submitted them?

A. Yes. I believe they came back.

Q. Came back from where?

A. From Bell. I think they call it clarification.

Q. Clarification. Who would know how many

orders and when they were submitted?

A. Again, you may try Brad. He might know. I'm not sure.

Q. What did you do after you received -- were any orders that were submitted, did they complete?

A. Not that I know of, no.

Q. Did you get an FOC regarding any of those orders?

A. I don't think so.

Q. What did you do after receiving these clarifications on these orders?

A. I'm sorry. Say the question again.

Q. What did you do after you attempted to submit orders through TAG and you received the clarifications from BellSouth?

A. I was -- I was talking to my vice president of operations and he was talking to Patty Knight.

Q. Did you have any direct conversation with Patty Knight?

A. I was on a conference call.

Q. What did you discuss in that conference call?

A. That the orders weren't going through

again.

Q. Okay. What did Ms. Knight tell you?

A. Our people weren't properly trained.

Q. She told you in a conversation that --

A. Yes. It was a conference call.

Q. -- who was the vice president of operations that she told --

A. Bud Hidgon.

Q. And you asked her to put it in an e-mail?

A. I asked her several times to put things in e-mail format.

Q. She refused?

A. Yes.

Q. Did she give you a reason?

A. No.

Q. Do you have any request sent to her via e-mail that she respond to you back in e-mail?

A. Me personally?

Q. Yes.

A. No.

Q. Did you have any employees that sent Ms. Knight an e-mail asking her to respond via e-mail?

A. I'm not sure.

Q. Is it possible?
A. It's possible.
Q. And if there are, it's your opinion that IDS would have produced them?
A. I believe so.
Q. What was your reaction to Ms. Knight's suggestion that IDS needed more training?
A. Do I have to go there?
Q. Yes.
A. I was mad.
Q. Did she tell you why she believed IDS needed more training?
A. I didn't even go there when she said that. If I remember correctly, I stormed out of the office.
Q. If IDS was using TAG to submit these orders, would that have been the first time that IDS had actually submitted orders through TAG?
A. Using CLECWARE?
Q. Using CLECWARE.
A. I believe so.
Q. Is it possible that the first time you're using a new interface that you'll have a high rate of error?
A. Yes.

Q. And receive clarifications?
A. Yes.
Q. Did you take that in consideration in evaluating and listening to Ms. Knight's suggestion that your employees needed more training?
A. Yes.
Q. And you didn't believe that that was necessary, or that training wasn't necessary?
A. If it was, I was going to fire a lot of my employees.
Q. Why is that?
A. Because we had spent a lot of money on training already.
Q. Through Mantiss?
A. And BellSouth.
Q. But BellSouth didn't train you on Mantiss?
A. No. But I believe there's business rules, if I remember correctly.
Q. Did you have any training, or did IDS have any training specifically on TAG?
A. I don't know.
Q. But you know IDS received training on the CLECWARE?

A. I believe so.

Q. Is TAG different than the ROBOTAG or CLECWARE?

A. I think it's just an interface.

Q. So do you need to be trained on TAG?

A. Not that I know of.

Q. I don't know either. Just asking?

A. Sorry. I know how to fly a plane.

Q. We're on page 14, lines 5 through 7. The question is: "Who provided the initial improper training that Ms. Knight refers to?"

Your answer is: "All training regarding the UNE-P model was paid for by IDS and provided by BellSouth."

A. I'm sorry. What page are you --

Q. Page 14, lines 5 through 6.

A. Who provided the initial improper training. Okay.

Q. All right. If at this time IDS is no longer using EDI, but is now using TAG and CLECWARE, what training did BellSouth provide regarding TAG and CLECWARE?

MR. MILLER: Can you read back that --

MR. MEZA: Strike that. That was poorly phrased.

Q. I guess I'm trying to understand the basis of your answer that all training regarding the UNE-P model was paid for by IDS and provided by BellSouth?

A. Right.

Q. You just told me that the CLECWARE training was provided by Mantiss.

A. Yes.

Q. And you were using CLECWARE for the UNE-P model?

A. Yes.

Q. So is your statement that all training regarding the UNE-P model was paid for by IDS and provided by BellSouth correct?

A. Yes.

Q. Is that correct?

A. Well, to my understanding, in order to process orders in UNE-P all of the business rules provided for the processing of that -- the business rules from Bell UNE-P, is what Bell provided to us. I guess how to use the CLECWARE, as far as the -- that was provided by CLECWARE, but as far as the business rules on what USOCs and all of this stuff, from what I understand --

Q. Did BellSouth ever have a training

session with IDS regarding the business rules for UNE-P?

A. I believe that's what we paid for in December -- excuse me. February. I'm sorry.

Q. That's different than the training for EDI?

A. That was with Pat Rand.

Q. So Pat Rand solely did the training for EDI?

A. From what I understand.

Q. Who was in Pat Rand's training session?

A. Brad Hamilton.

Q. Were there any other employees with Pat Rand?

A. I don't know.

Q. And at the same time there is another training session going on?

A. From what I understand.

Q. Who was sponsoring that session?

A. I think you showed me her name. It could have been Dottie somebody.

Q. And what was Ms. Dottie Amerson, what was she training IDS on?

A. I believe on business rules.

Q. So your testimony on page 14, lines 6

and 7 that all training regarding the UNE-P model was paid for by IDS and provided by BellSouth, that really should be all training regarding the business rules; would you agree with me?

A. That's basically what I meant when I refer to UNE-P.

Q. But it doesn't say that.

A. I'm sorry.

Q. I just want to be sure that IDS received some training from Mantiss regarding how to input an order through CLECWARE?

A. Yes.

Q. And that would be concerning training?

A. Yes.

Q. And it's training for the UNE-P model?

A. Well, you could do resale through it too.

Q. Okay. So after Ms. Knight told you about this, that IDS needed more training, what did you do?

A. I called Bill Gulas.

Q. What was your relationship with Mr. Gulas at this time?

A. Relationship?

Q. Were you friends?

A. I met him once and I talked to him on the telephone.

Q. Why did you contact him?

A. Because I wanted to see if that was true.

Q. And what did he tell you?

A. He was talking to Freddie O'Quendo on a conference call, asked Freddie O'Quendo what USOC code we were using and saying that was the wrong USOC code and gave us another USOC code to use.

Q. When was this conversation with Mr. Gulas?

A. It was on a Friday.

Q. All right. And he provided you with the correct USOC code on that Friday?

A. Yes.

Q. Was this in April?

A. I believe so.

Q. Do you know when in April, early April, late April?

A. Possibly early April.

Q. Is it your testimony that you called Mr. Gulas or that he was already on a conference call with Freddie O'Quendo?

A. No. I called him. I had Freddie in my

office.

Q. How did you get this USOC code, the incorrect USOC code?

A. Patty Knight.

Q. When did she give you the incorrect USOC code?

A. She gave it to Freddie and my vice president of operations.

Q. When?

A. I don't know. Prior to this conversation.

Q. Did IDS normally receive USOC codes from Patty Knight?

A. I don't know.

Q. Why would Ms. Knight be in a position to give you a USOC code? Wouldn't that be in the business rules?

A. I would think so.

Q. So why would she give you a USOC code?

A. I don't know. My vice president of operations called her up. She said, this is the USOC code. We tried it. I said, what's going on? That's when I called Mr. Gulas up.

Q. Let me understand how it worked. You told me how it worked. You try to submit

orders --

A. Yes.

Q. -- through TAG. They're not working?

A. Nothing is happening, yes.

Q. You call Patty Knight up and she says, you need more training, right?

A. Well, it was -- I came in at the tail end of the conversation. Okay. I said, let's call Pat Knight up. Bud Hidgon is on the phone. It's very technical. They are going over all the processes. I know Freddie said, tell me the USOC code that we should use. She gives a USOC code and she says, that's the one that we have been using all along. Are you sure? He said, absolutely.

Q. And how did you know to use that USOC code all along?

A. I don't know. That was the end of the conversation.

Q. It's not something that you would make up, right?

A. No.

Q. It's something that BellSouth provided to you?

A. I would assume so.

Q. So then after -- so Ms. Knight didn't give you a different USOC code, she just gave you the same one that you were originally using and wasn't working?

A. From what I recall, yes.

Q. All right. On page 14, line 13 you say: "After reviewing the situation, Mr. Gulas discovered that it was not a lack of training, but rather the fact that BellSouth had given IDS the incorrect USOC that had caused problems."

What review did Mr. Gulas do? Do you know?

A. He asked us what we were doing to input the orders.

Q. Uh-huh. And what did you tell him?

A. I didn't. Freddie O'Quendo did.

Q. Were you still -- this was still the conference call that you and Freddie O'Quendo were on?

A. Yes.

Q. And what did Mr. Gulas tell you and Mr. O'Quendo in response?

A. He says, you have got the wrong USOC code and he gave Freddie another code.

Q. What did you do after receiving this new

USOC code?

A. I told Freddie to try that.

Q. And what happened?

A. Freddie came back and said it was working.

Q. Did Mr. Gulas tell you that it was his responsibility to ensure that CLECs had the proper USOC codes?

A. I didn't have that conversation with him.

Q. He didn't volunteer it to you?

A. No. It wasn't in the course of the conversation.

Q. All right. Again, on page 14, line 18 you used the term BETA-testing.

A. Yes.

Q. What exactly do you mean by that?

A. We wanted to take some orders before we do everything all at once and make sure that the orders get converted.

Q. So it's simply submitting orders with the new USOC code Gulas gave you?

A. Yes. It's an internal --

Q. How many orders did you submit?

A. I don't know.

Q. How many were successful?
A. According to Freddie, they all were successful.
Q. Did you then have a subsequent conversation with Ms. Knight?
MR. MILLER: Can we go off the record for a second?
(Discussion off the record.)
MR. MEZA: Back on, please.
Q. On page 15, lines 4 through 9. The question is: "Did BellSouth reimburse you for the unnecessary and improper training?" And your answer is, no.
Why did you feel that the training was unnecessary and improper? What training are you referring to?
A. The training on how to use the EDI.
Q. Okay. Is that it?
A. For the most part, yes.
Q. So you weren't upset, or you did not consider the training to be improper or unnecessary regarding the USOC code issue?
A. I was a little upset at Ms. Knight about that issue. I --
Q. I guess what I'm trying to understand

is, all Ms. Knight did is give you the same USOC that you were originally using, correct?

A. I don't know if she gave us that USOC code originally or not.

Q. I thought you previously testified before the break that when you called her up to find out what the problem was --

A. Right.

Q. -- she said use this USOC and you said that's the one we're using and you asked her if that's right and she said absolutely.

A. Yes.

Q. So is it your testimony that she gave you a USOC code other than what you were originally using?

A. I'm not sure. She wasn't the one that originally gave us that USOC code.

Q. I see what you're saying. Do you remember any conversations that you had with Ms. Knight where she, other than the one that you reference in your testimony, where she gave you a USOC code?

A. She wasn't talking to me.

Q. Was there anyone at IDS who may have had a conversation with Ms. Knight where she gave them

the incorrect USOC code?

A. It could be, yes.

Q. What is your understanding of what a USOC code is?

A. It's a Universal Service Order Code.

Q. What do they do?

A. Good question. I don't know.

Q. But there's a lot of them?

A. I understand there's a lot of USOC codes.

Q. And each one has a significant or a special purpose, right?

A. From what I understand.

Q. And where are they found?

A. I would think the business rules.

Q. So Ms. Knight didn't just make up the USOC codes?

A. I hope not.

Q. So getting back to the reference in your testimony of the reimbursement for unnecessary and improper training, you are referring to the EDI training by Pat Rand?

A. Yes.

Q. And is that it?

A. Well, I felt the whole thing was

basically unnecessary.

Q. Okay. Why was that?

A. I had people telling me that they had learned the business rules of this training before, even though I told them to go back in. I was hoping to find something that we weren't doing correctly and Ms. Rand was not able to convert our processing order on EDI.

Q. Let me ask you this because I'm confused. The business rules were specifically for the UNE-P product; is that correct?

A. I believe the ones that we were trained for.

Q. Do you know if they were written and in existence on February 2nd of 2000?

A. I would believe there is some document. I'm not sure.

Q. Well, if the remand order or if the effective date wasn't February 17th of 2000, do you know if the UNE-P business rules were actually effective or in existence at the time that you had your training?

MR. MILLER: Can you read that question back, please.

(Thereupon, the requested portion of the

record was read by the Court Reporter as above recorded.)

MR. MILLER: Objection. Lack of foundation and vagueness.

Q. I'll try again.

The network combination product had its own set of business rules, correct?

A. I don't know.

Q. Do you know if the UNE-P product had its own set of business rules?

A. Yes.

Q. Do you know if the UNE-P business rules were different than the network combination product business rules?

A. No, I don't.

Q. Is it possible that they were?

A. I don't know.

Q. Is it your testimony today that the training that you received on February 2nd of 2001 was for the UNE-P business rules?

A. I don't know. I see where you're going.

Q. Is it possible that the training that you received on February 2nd, the business rules that we discussed, were for the network product combination?

A. It could be.

Q. So getting back to your testimony on page 15, is it possible that the training you received and that you felt was unnecessary and improper, was for a product other than the UNE-P product?

A. I don't know.

Q. Is it possible?

A. It's possible.

Q. If you don't know what was actually involved in the training, how do you know it was unnecessary and improper?

A. Well, first of all, the EDI was the one that I was most upset about.

Q. Okay.

A. From my standpoint. All I wanted to do was have my people convert my resale base to UNEs. That was it.

Q. Okay.

A. And that didn't happen.

Q. Right. And for the business rule aspect or the business rule training, what was unnecessary and improper about that?

A. As far as I know, my people said they already knew what they were talking about as far

as training goes. They were just going over what they had done before and Ms. Rand could not convert one order.

Q. But the only other training, other than February 2nd of 2000, was in August of `99; is that correct?

A. I believe we had other training before that. I don't remember. I wasn't involved in that.

Q. Before August of `99?

A. There had been training because we were doing resale.

Q. As far as the business rules related to the network combination product, was there any other training other than the one in August of `99 that you've referenced in your testimony?

A. Not that I'm aware of.

Q. So the people who were complaining that the business rules that they were being trained on was the same as the ones that they had previously learned, had to be referring to the training session of August of `99?

A. I would think so. Again, I don't know what they trained on. I wasn't in class.

Q. In August of 1999 the FCC 319 remand

order had not come out?

A. Correct.

Q. So is it more likely than not that the training that they were referring to as duplicative was for the network combination product?

MR. MILLER: Objection. Asked and answered.

A. I don't know. I mean, I was not in the training class. You're asking me to speculate on something I don't know.

Q. Okay. On page 15, line 5 you say: "By this time, I had not paid the bill and had told Ms. Knight I felt that IDS was being extorted into paying for misinformation."

Can you explain that statement? What the basis of it is?

A. Yes. EDI didn't work.

Q. We are focusing only on EDI?

A. As far as my concern was. I couldn't get anything through EDI.

Q. Right.

A. And it didn't work.

Q. After the training on February 2nd, did IDS attempt to submit orders through EDI?

A. No.

Q. So other than the two BETA-test customers and Ms. Rand's attempt to submit an order through EDI, are you aware of any other attempts by IDS to submit an order through EDI?

A. Not that I'm aware of.

Q. You then state: "I requested to have 12 people trained instead of the initial six people and BellSouth refused to proceed with the training unless IDS agreed to pay an additional amount for the other trainees."

What is the basis of that statement?

A. Well, Ms. Knight came to me and we originally agreed upon six. There were twice as many.

Q. Do you remember the contract that we originally showed you?

A. Yes.

Q. Wasn't there a provision on there that said for each additional person would be $450?

A. Yes.

Q. Did you remind Ms. Knight of that provision?

A. No.

Q. Do you know why she was concerned that

you had more than six people there?

A. Yes.

Q. Why?

A. Because we only agreed to six.

Q. When did you agree to only have six?

A. I believe on the original conversation.

Q. But there was a provision in the contract that allowed you to add as many people as you wanted, you just paid an additional amount?

A. That's what it said.

Q. And BellSouth's response that it refused to proceed with the training unless IDS agreed to pay an additional amount for the other trainees, was that consistent with the contract?

A. Yes.

Q. On page 15, line 12 you say: "BellSouth used IDS as a test subject." What do you mean by that?

A. As far as the EDI.

Q. Well, how did BellSouth use IDS as a test subject for EDI?

A. I don't think at the time, and I still don't, that EDI worked at that time and we were using it and they were trying to make it work using us.

Q. In the next sentence you say, "I managed to negotiate the amount back down to the original 8,000." Is that figure incorrect?

A. Right.

Q. It should be what?

A. Whatever it was.

Q. 5,000?

A. No. I think they upped the bill.

Q. To reflect the additional people?

A. No. She did compromise from the 8,000 down to, I'm not sure, 5,400, 5,600. Something like that.

Q. What jogged your memory that $8,000 was incorrect?

A. You just did.

Q. Okay. The next sentence states that: "Initially I refused to pay for training that essentially delayed my ability to provision services."

How did the training delay your ability to provision services?

A. Patty Knight said that we didn't have the correct training. If she would have told me that EDI didn't work, I would have purchased TAG and all the necessary front-ends back in December.

Q. But you weren't looking at TAG in December anyway, were you?

A. Yes. But I speculated that maybe Ms. Knight was right.

Q. And you purchased TAG in February, right?

A. I believe so.

Q. And when did you submit your first order through TAG?

A. Sometime in April.

Q. Was Ms. Knight responsible for the delay from February to April?

A. No.

Q. You say on page 15, lines 11 and 12 that the training, "turned out to be a complete waste of time, money and effort for everyone involved." What do you mean by that?

A. That EDI did not work.

Q. And again, just so I understand, the training on February 2nd had two purposes, Pat Rand trained Brad Hamilton on EDI and then there was another training session for the other 11 employees that attended this session by Ms. Amerson; is that correct?

A. Best of my knowledge.

Q. Was the other training session a complete waste of time, money and effort?

A. Well, according to my people they already knew what they were being trained on.

Q. Do you know what that training session consisted of?

A. No, I do not.

Q. I hate to ask it again, but it probably had to refer back to what they learned in August of `99?

A. It may have.

Q. When did you make payment for this training session?

A. I can't recall.

Q. Was it immediately after you negotiated the price back down to approximately $5,600?

A. I'm not sure.

Q. You say on page 15, line 15 that: "Later that year, BellSouth demanded that IDS pay the bill or there would be service interruptions."

A. That is correct.

Q. Would it be fair to say that as of later in 2000 IDS still had not paid the bill for the training?

A. Yes.

Q. All right. On page 15, lines 19 to 20 you state: From mid April through late April 2000 IDS attempted to convert its resale customer base to UNE-P.

How many orders did IDS submit during that time period?

A. We were trying to take one at a time.

Q. One a day?

A. We would like to do any of them.

Q. Well, you gave a specific time period where you attempted to convert. Do you have a roundabout figure of how many orders --

A. I wanted to convert all the orders. I wouldn't have minded if they had just gotten one in.

Q. Is it your testimony today that you weren't able to convert any orders from mid April to late April 2000?

A. As I said in my testimony, what we could do with Bill with the right USOC code one day, the following, I think Monday, we could not do. Could not put an order in.

Q. Do you know how many orders each day from mid April through late April 2000 you were

attempting to convert?

A. No.

Q. Do you know how many worked?

A. None that I know of, except the one that they had to right USOC code. I think we put one -- I don't know how many it worked with on that Friday, and then later on Monday, I believe it didn't work.

Q. Okay. Who did you attempt to contact at BellSouth about the problems you were experiencing again?

A. After the first one?

Q. Yes.

A. I don't know who the VP of operations, Freddie, tried to talk to. It could have been Bill Gulas.

Q. Well, on page 15, lines 21 to 22 you say: "Unfortunately, Mr. Gulas was not available, and no one at BellSouth could provide us with an answer to the problem."

Does that lead you to believe that someone in IDS attempted to contact Mr. Gulas?

A. Yes.

Q. And what do you mean by no one at BellSouth could provide you with an answer to the

problem? Did BellSouth attempt to give you a solution?

A. From what I recall, my people came to me and said that BellSouth could not give them a reason why the order wouldn't go through.

Q. Do you know when your people reported back to you?

A. Precisely the time of day, no. I would say it was sometime on that Monday.

Q. Monday after --

A. It was a Friday, a weekend and Monday.

Q. I guess I'm confused because you prefaced this entire section of your testimony with the time period of mid April through late April.

A. Uh-huh.

Q. Is it your testimony today that the failure of the orders to convert and your attempt to contact someone at BellSouth was limited to the Monday following Friday that Bill Gulas gave you the correct USOC code?

A. There were several problems. It was one after the other, after the other.

Q. The problem of the USOC code not working, again, is that limited to the Monday

after Bill Gulas gave you the right code?

A. I believe so.

Excuse me. Do you have an antacid, by any chance?

MR. MILLER: Off the record.

(Discussion off the record.)

MR. MEZA: Back on.

Q. When were you able to finally contact Mr. Gulas?

A. I can't remember exactly the date.

Q. Was it close to the day that you experienced the trouble?

A. I don't think it was that close.

Q. Was it that same week?

A. It could have been.

Q. And according to your testimony on page 16, lines 3 through 6, Mr. Gulas gave you a "work around". What is a "work around"?

A. I don't know.

Q. And you further state: "And explained to us that BellSouth had not entered the USOC into its billing system which had effectively blocked our ability to process orders."

What effect did BellSouth's alleged failure to enter the USOC code have, according to

your understanding?

A. I don't know. I just understand that we couldn't process an order.

Q. And your statements on page 16, lines 5 through 6 that, "BellSouth had not entered the USOC into its billing system, which had effectively blocked our ability to process orders," was that based on a conversation that you had with Mr. Gulas?

A. That was based on overhearing the conversation between Bill Gulas and Freddie O'Quendo.

Q. I got confused because on line 3 you say, I was finally able to contact Mr. Gulas. I explained our problem to him. Is it your testimony that Mr. Gulas did not respond or did not provide you an explanation in that conversation?

A. No. No, he didn't.

Q. To you?

A. No. Talking to me about technical stuff would have been a waste of his time. I said, hold on here, talk to Freddie.

Q. But it was the same call?

A. Yes.

Q. You just weren't on the call?
A. He could have told me in Japanese, I would have understood it just about as well.
Q. And so Freddie O'Quendo reported to you as to what Bill Gulas said the problem was?
A. Yes.
Q. Do you have any notes or recordings of that conversation?
A. Just a conversation.
Q. Did this work around work?
A. We started to be able to process orders.
Q. When were you able to process orders?
A. Friday.
Q. Of the week of the Monday where you weren't able to process orders?
A. It could have been that same week.
Q. But it was definitely a Friday?
A. Yes. I know that much.
Q. All right. Page 16, line 8, you say, "It was now mid April 2000 and BellSouth appeared to have fixed the problem." I'm confused by your reference to mid April 2000 because on the previous page you said from mid April to late April we had problems.
A. Right.

Q. Now, you're saying in mid April we fixed it. What do you mean by the mid April time frame?

A. It's probably in that week of mid April. Monday we couldn't. Now it's a Friday, Bill gives us a work around or whatever it is that he does and now we can process orders that Friday.

Q. Okay. Do you remember how many orders you attempted to submit?

A. No.

Q. Do you remember how many were successful?

A. No.

Q. Were you having problems after the work around?

A. Sometime afterwards, yes.

Q. Do you know exactly when?

A. No.

Q. Your statement on page 16, line 10 says, "The very next week after the first problems had been solved, IDS attempted to start converting our existing customer base to UNE-P."

Would that lead you to believe that the following Monday --

A. Sometime that next week.

Q. That next week. So you got the

work around on the Friday?

A. Uh-huh.

Q. I thought you told me that there was definitely a Friday when they started to work?

A. Yes. We seemed -- to the best of my recollection, Friday it works, Monday it doesn't. Friday it works, Monday it doesn't.

Q. So it's possible that you received the work around and the orders were successfully submitted on the same day that same Friday?

A. Yes.

Q. And the following Monday you were having problems again. What were your problems that time?

A. A local service freeze was put on our resale accounts, which we actually put on, but it stopped us from -- something that Bell did stopped it from going from resale to UNE-P. They put some code, my guy said.

Q. When you say a "local PIC freeze", you're really attempting to say a local service freeze?

A. That's correct.

Q. That's just based on a misunderstanding or unintentional error?

A. Unintentional error.

Q. Did this local service freeze issue arise after Gulas gave you the work around?

A. I believe it did.

Q. On page 16, line 12 you say BellSouth had placed a local service freeze on our resale customers. Is it your testimony today that BellSouth unilaterally placed a service freeze on your accounts?

A. No. What I meant to say by that, they put a local service freeze that prevented us from moving -- I don't know the technical term, but my vice president of operations said that they put a freeze on it so that it would not move from the resale to the UNE-P.

Q. Let me obtain your understanding of what is a local service freeze. What is it?

A. It prevents another carrier from taking services without proper authorization.

Q. And what proper authorization is needed?

A. I believe like a written letter of authorization.

Q. And it's your testimony today that BellSouth -- let me ask, IDS placed the service freeze on its resale accounts?

A. I believe we did.

Q. Why would IDS do that?

A. To stop other carriers from taking our local customers.

Q. I guess I'm confused with your statement on page 16, line 12 that BellSouth placed a local service freeze. Is it your testimony today that BellSouth unilaterally placed a local service freeze on your resale customers to prevent them from converting to UNE-P?

A. That appears to be what happened.

Q. Prior to your attempt to convert UNE-P, you did not have a local service freeze?

A. Yes, we did.

Q. Well, how is it that BellSouth placed a local service freeze on the accounts that you were trying to convert when there was already a local service freeze on the accounts?

A. I don't know. It was really upsetting.

Q. Let me try again.

A. Okay.

Q. Is it your testimony today that the local service freeze that you had put on IDS' resale accounts was the problem in the conversion?

A. No.

Q. Okay. What is your understanding as to the problems associated with the local service freeze during the conversion?

A. The way my VP of operations explained it to me, and this is tough, that over the weekend BellSouth had put in some code, to paraphrase, that prevented it from allowing us to convert our resale account onto UNE-P.

Q. Is it your understanding that regardless --

Is it your understanding that with the accounts frozen by IDS that those would have been problems anyway? I mean you can't --

A. No. Why would it be? We are just going from one service to another. It's still my customer.

Q. So it's your belief in your testimony today that BellSouth over the weekend did something to place another type of freeze on your accounts?

A. Yes.

Q. Do you have any documents or evidence to support that statement or that belief?

A. Just the conversations that we were having.

Q. With who?

A. With people that my vice president of operations was having. I did read a document that we got in discovery that also related to that from BellSouth.

Q. Is it your belief that BellSouth is in the practice of unilaterally placing local service freeze on accounts?

A. In what context? I'm sorry.

Q. In general.

A. Well, they unilaterally put some type of freeze so that I could not move my resale accounts to the UNE-P.

Q. And how do you know that?

A. Because we couldn't.

Q. How do you know that they couldn't convert because of the freeze that you put on it?

A. No. Because I was talking to Mike Lepkowski and he had said that we had put something on there that would not allow that to happen. There was some coding or some computer program somebody wrote.

Q. So Mike Lepkowski at BellSouth told you that the freeze that IDS put on its accounts would not have caused the conversion problems?

A. He said, to the best of my knowledge, that BellSouth put some computer program that prevented us from moving our resale base to UNE-P. That basically froze it to resale.

Q. All right. Again, how do you know that the service freeze that you had placed on your accounts was not the cause of the problems?

A. I was overhearing several conversations between my vice president of operations with somebody at Bell. I don't know who it was that said that they put a program on to my vice president of operations, and I don't know what this means, why don't you change the coding to an F and then A, whatever that means.

Q. And this is something that you just overheard?

A. I was in his office very, very upset.

Q. Could it be possible that what that conversation was referring to was removing the freeze that you put on without a LOA or other type of authorization from the customer to allow it to convert?

A. It was a conversation that Mike Lepkowski had with me that we needed to have a LOA from each one of my resale customers that would

allow us to take the local service freeze off my customers to allow it to convert to UNE-P.

Q. My question to you is: Who placed that freeze that Mr. Lepkowski is talking about?

A. We put a local service freeze on our resale base.

Q. Okay. So I'm extremely confused, but let me --

A. Not nearly as much as I was at the time.

Q. If I'm incorrect, please let me know.

It's your testimony today that BellSouth without permission and without authorization from IDS placed an additional type of local service freeze on your resale accounts that prohibited those accounts from being converted. Yes or no?

A. It's not to say that. They put on some type of service freeze. Whatever you all did that prevented us from moving our local resale base to the UNE-Ps.

Q. Let me try it again. It is your testimony today that the local service freeze that IDS placed on its own accounts did not in any way attribute or contribute to the conversion problems?

A. Not that I'm aware of, no.

Q. All right. Then it's your testimony today that BellSouth did something, essentially, and placed a second type of freeze on the accounts that prohibited those accounts from being converted from resale to UNE-P?

A. Yes.

Q. What evidence or information do you have to support the first allegation, which is that the IDS freeze did not impact or prohibit the conversions?

A. Well, why -- only why would the freeze that I put on my service to prevent another carrier from taking a customer prevent me from moving it to UNE-P? I don't know. I can only draw that conclusion.

Q. So that's -- your presumption is that your own service freeze did not in any way affect the conversion is based solely on the lack of understanding as to how such a freeze could affect the conversion?

MR. MILLER: Objection. Foundation.

Q. I'm just trying to restate what he said.

A. No. All I know, to restate my position, we put on a service freeze so that another carrier

does not take my customer, okay. And when we tried to convert the customer, somebody said, at Bell, that they put in some kind of coding, whatever that is, that prevented me from moving my base over to UNEs and they called it a local service freeze.

Q. All right. Who within IDS was told by someone at BellSouth that BellSouth put some type of code in that prohibited the conversion of your accounts from resale to UNE-P and termed it a service freeze?

A. Who from where?

Q. Who from IDS told you.

A. Hidgon.

Q. Who at BellSouth told Bud Hidgon that?

A. I don't know.

Q. Why hasn't IDS produced Bud Hidgon in this case?

MR. MILLER: Objection. I'm going to instruct the witness not to answer on work product grounds.

Q. Would anybody other than Bud Hidgon have firsthand knowledge of this or of what you just told us?

A. Brad may have.

Q. And IDS has not produced Bud Hidgon to testify in this proceeding, has it?

A. Not to my knowledge.

Q. Is it possible that IDS' own service freeze was the cause of the problem?

MR. MILLER: Objection. Asked and answered.

Q. Okay. I'm just asking, is it possible?

A. Not according to the conversations that I was in and I overheard.

Q. Okay. What conversations are those?

A. That BellSouth put in some line code -- you understand that the week before I converted lines, resale lines to UNE-P.

Q. Okay.

A. Over the weekend, according to conversations I had, BellSouth put in some program, whatever it was, that froze the accounts to resale so that it could not be converted to UNE-P.

Q. Okay. And you don't know sitting here today how many accounts you actually converted prior to this code being put in, do you?

A. No, I don't.

Q. And do you know for a fact that those

accounts did not have a local service freeze on them?

A. I don't, no.

Q. So it's possible that this problem didn't arise because the accounts that you tried to submit orders for conversions didn't contain the local service freeze?

A. It's my understanding that Brad put a local service freeze on all our resale accounts.

Q. Does that include your own employee accounts?

A. I don't know.

Q. Do you know the laws in Florida regarding local service freeze?

A. I'm not aware of the actual reasons -- I don't know the laws.

Q. Are you aware of any laws regarding local service freeze in Florida?

A. Vaguely. I'm not an attorney. I don't --

Q. What is your understanding?

A. I think that Florida allows a local service freeze.

Q. Are there any limitations to that?

A. I have no idea.

Q. All right. We're at the weekend where BellSouth allegedly puts in this code that prevents your orders from being converted. Okay. What happened next?

A. What page are you on? I'm sorry.

Q. You know what, I'm not even referring to a page. I just want to know because I'm interested.

A. I can tell you, I was extremely irate. I'm getting a headache here.

Q. After you found Bud Hidgon had this discussion with a BellSouth person, who you can't identify, that explains that the cause of the conversion problems was the result of BellSouth placing some type of code that they referred to as a local service freeze that prevented the conversions, after you found out about that, what did you do?

A. I had a conversation with Mike Lepkowski.

Q. What did Mr. Lepkowski tell you?

A. To get a letter of authorization, if I remember correctly, from all my customers.

Q. Do you know why Mr. Lepkowski told you that?

A. No. I thought that was insane.

Q. Could it be that he was under the impression that the problem was the result of IDS' own service freeze being on the accounts?

A. I don't remember the conversation being like that, no.

Q. Was he aware of this coding or thing that was placed on the weekend?

A. Yes.

Q. What did he tell you about that?

A. He said that they don't know what they did, but they put some program in and it froze our accounts to resale.

Q. If you look on page 17, line 6 you say: "Additionally, BellSouth placed a local PIC freeze on all of our resale accounts." Given your revision today, that should be local service freeze?

A. Yes.

Q. Are you referring to the term "local service freeze" solely because Bud Higdon told you that BellSouth did something over the weekend, some coding issue that they termed a local service freeze?

A. Yes. That's kind of how it went.

Q. All right. So it's not, in your opinion, it's not the true sense of a local service freeze?

A. No. That's what I'm trying to say. It's -- you froze my resale accounts so they could not be moved over to UNE-P. You can call it a local service freeze. You can call it programming. You can call it coding.

Q. Okay. Did BellSouth give you any possible solutions to this issue?

A. I did have some heated discussions with Petra Pryor and at first they wanted us to put together all of your BTNs on a list.

Q. All right. And what was the purpose of doing that?

A. They said that they were going to -- this is according to a conversation with the VP of operations. They were going to remove whatever it is they put on each one of the accounts and they had to do it BTN by BTN.

Q. And was that satisfactory to you?

A. It wasn't exactly fast.

Q. Why?

A. Mr. Hidgon said it was not going to be exactly fast.

Q. Did you submit the BTNs?
A. I don't know.
Q. If Mike Lepkowski testified that IDS did submit BTNs and the local service freezes were removed for 67 accounts, would you refute that statement or deny that statement?
A. I wouldn't know.
Q. I'm going to show you an e-mail from you to Petra Pryor dated May 16th, 2000?
A. Yes.
Q. I'm going to mark this as Kramer 4. Are you familiar with this e-mail?
A. Yes, I'm.
Q. And in the last paragraph you say to Ms. Pryor, please freeze all accounts to IDS.
A. Yes.
Q. If Brad Hamilton freezes all of IDS' accounts, why would you have to ask BellSouth to freeze them again?
A. Because my accounts were going back to BellSouth because of the bulk ordering disaster and I wanted her to prevent BellSouth retail from taking those accounts.
Q. Wouldn't the freeze that was placed on them by IDS to begin with prevent that?

A. It didn't.

Q. How do you know that?

A. Because my vice president of operations told me that customers were going to BellSouth because BellSouth said that they could get their problems fixed within an hour.

Q. What type of freeze were you asking Ms. Pryor to put on?

A. Anything she could to stop BellSouth retail from taking these accounts.

Q. And it's your testimony today that the local service freeze that IDS uniformly or regularly places on all accounts was insufficient to stop that?

A. The local service freeze that we put on our resale accounts. I don't know what happened when we moved them to UNE-P in the bulk ordering, but I do know do BellSouth was taking my customers and I couldn't stop that.

(Thereupon, E-mail dated 5-16-00 was marked as Kramer Exhibit 4 for Identification.)

Q. Okay. On page 17, lines 11 through 18 you talk about an offer from Petra Pryor about BETA-testing the bulk ordering process. Is it your testimony that Ms. Pryor approached IDS about

the bulk ordering process as a result of the service freeze issue?

A. I think she was trying to calm me down in that conversation.

Q. When was that conversation?

A. Sometime during this situation.

Q. So it was in April of 2000?

A. Yes. It was near the end of April sometime. Mid April. Somewhere around there.

Q. And she told you that BellSouth would allow IDS to convert the base through this product and remove the freeze. What did she mean by that, if you understand, or if you know?

A. I think she was trying to calm me down because we had waited six months, approximately, to convert our resale base to a more profitable item and I was just getting ridiculously long. I mean, six months later I still haven't gotten a dime of profit out of this and I was very mad.

Q. And you agreed in April of 2000 to participate in the BETA-test for the bulk ordering process?

A. I told her that would be a good idea.

Q. And is it your testimony today that Ms. Petra Pryor's letter dated April 17th of 2000

was what was referenced in your testimony?

A. Uh-huh.

Q. Yes?

A. Yes.

Q. Is that the offer that you're talking about to BETA-test?

A. This, I'm referring to a phone call.

Q. So it was a phone call?

A. Yes.

Q. So the written request came later?

A. Came to Bud Hidgon.

Q. Okay. Let's go to page 18, line 8. In here you're talking about this April 17th letter?

A. Uh-huh.

Q. Have you read Ms. Pryor's testimony?

A. Yes, I have.

Q. Do you disagree with her contention that the letter dated April 17th was incorrectly dated?

A. Yes, I do.

Q. Why do you believe that?

A. Based on the conversations that I had with her, the conversations that I know that I believe our other employees were having to assemble the accounts for the BETA-test, we were putting accounts together for this BETA-test prior

to May.

Q. Okay. So you don't believe that this letter is actually received by IDS sometime in May of 2000 or written in May?

A. I don't believe that to be the case.

Q. Whether or not the letter was written or received in May of 2000, you knew that there was going to be a BETA-test in mid April of the LENS bulk ordering feature?

A. I think we came closer to the 20th or 21st. It's later that April.

Q. So the 20th or 21st?

A. Somewhere around there. It was getting closer to the end of April.

Q. Prior to the CLEC Inforum?

A. Prior to the CLEC Inforum.

Q. All right. You said that the conversation occurred on April 20th or 21st, right?

A. Late April. I can't tell you. That could be a weekend. I don't know what the dates are.

Q. This letter is dated April 17th, 2000 and you think that that's accurate, right?

A. Yes.

Q. So is it your testimony that the letter was written before you had the conversation with Petra?

A. No. I think you got my dates mixed up. I said we were starting to assemble items for this bulk ordering test --

Q. Okay.

A. -- sometime in later April. I had the conversations about the possible bulk ordering BETA-test during this whole local service freeze whatever we have been talking about.

Q. So that's from mid April to late April?

A. That's around mid April.

Q. So you don't see an inconsistency in the conversation with Petra and the date of the letter?

A. No.

Q. Was Ms. Pryor's conversation with you the first time that BellSouth offered to do a BETA-test with IDS regarding the bulk ordering feature?

A. Say that again. I'm sorry.

Q. Was your conversation with Petra Pryor the first time that BellSouth had discussed participating in a BETA-test with IDS regarding

the bulk ordering feature?

A. As far as I'm aware.

Q. Okay. Did Mike Lepkowski ever talk to you about this prior to this conversation with Ms. Pryor?

A. I don't remember talking to Mr. Lepkowski about it.

Q. When did you tell BellSouth that you would participate in the BETA-test?

A. I guess during the original conversation with Petra, I said it was a good idea. And then I let my vice president of operations, and I guess Brad may have been involved, and other people took it over from there.

Q. In your opinion, did you agree to the BETA-test with Ms. Pryor in that conversation?

A. It sounded like a good idea.

Q. That sounds like there was agreement?

A. Anything to speed this up, I was glad to do.

Q. As far as IDS was concerned, there was some type agreement to do a BETA-test on the LENS bulk ordering feature sometime in mid April?

A. As far as I remember, yes.

Q. Was there a written document signed in

that time period?

A. There was no -- there were no contracts or anything signed, no.

Q. On page 18, line 15 you say: "During negotiations for the BETA-test in the beginning of May 2000, BellSouth held its CLEC informational meeting."

What are you referring to regarding the BETA-test?

A. I believe we had my vice president of operations and people talk to Bell assembling the spreadsheets of accounts or whatever was supposed to be involved in bulk ordering.

Q. Every time you're referring to the vice president of operations during this time refers to Bud Hidgon?

A. Yes.

Q. Were you involved in those negotiations?

A. No.

Q. How were you aware of them?

A. I would inquire every now and then.

Q. What would you ask?

A. How's it going on?

Q. How what's going on?

A. The bulk ordering. How we doing

converting our base.

Q. Were you inquiring about the BETA-test, or were you talking about the feature?

A. I was talking about anything.

Q. It was your understanding that they first have to have some type of BETA-test?

A. Yes.

Q. Did Petra tell you why she wanted to have it BETA-tested?

A. She just said that it was a BETA-test of the bulk ordering that could help speed things along.

Q. May 2000 BellSouth held its CLEC -- I think that it's called -- inforum?

A. Something like that.

Q. Were you in attendance?

A. No I was not.

Q. According to your testimony on page 18, during that meeting senior BellSouth officials announced the availability of the LENS bulk ordering system that IDS had just agreed to test for BellSouth?

A. Yes.

Q. When you state that IDS had just agreed, are you referring to the verbal agreement with

Petra Pryor?

A. Yes.

Q. In your conversation?

A. Yes.

Q. And who or what senior BellSouth officials announced the availability of the bulk ordering system?

A. I don't know.

Q. How do know they were senior?

A. I had a conversation with Freddie and Brad Hamilton.

Q. What did they tell you?

A. Just that some AVPs and VPs had just announced the bulk ordering.

Q. And who were they?

A. They probably told me, but I don't know.

Q. Did they describe how it was announced?

A. I guess they with got up on a podium and said, guess what? If I remember correctly.

Q. They all got up?

A. I don't know. Brad Hamilton was there. I really don't know. I wasn't at the meeting.

Q. What was your response to their reporting back to you that BellSouth AVPs and VPs announced the availability of the bulk ordering

feature?

A. I said, sign up for it immediately.

Q. How do they sign up for it?

A. They don't.

Q. That's just something you used?

A. Yes.

Q. Were you in any way surprised with the fact that this announcement was made and you had just reached an agreement to BETA-test it?

A. Yes.

Q. What was your understanding as to why a BETA-test was needed or was asked to be done?

A. I don't know. I mean, obviously, to me, it was something that they just did.

Q. And it meant a test?

A. Right.

Q. They wanted to test it outright? They said, we want to test it with IDS and IDS said, yes, it sounds good?

A. Right.

Can I turn the page?

Q. Yes.

A. This is taking longer than it did to write it.

MR. MEZA: We can take the break now.

MR. MILLER: Let's take it now.

(Discussion off the record.)

MR. MEZA: Back on.

Q. Mr. Kramer, when we last broke we talked about the CLEC Inforum issue and the BETA-test agreement. Let me make sure I get this chronology correct. Sometime in mid April BellSouth first approached you about BETA-testing the bulk ordering feature; is that correct?

A. Yes.

Q. And at that time in mid April IDS, through you, gave a verbal agreement to participate in the BETA-test of the bulk ordering feature. Is that correct?

A. To the best of my knowledge, yes. Yes.

Q. And then after the verbal agreement there began a series of negotiations between BellSouth and IDS regarding the actual perimeters of the BETA-test; is that correct?

A. To the best of my knowledge.

Q. There was some negotiation going on?

A. Yes.

Q. And while the parties were negotiating sometime in early May at the CLEC Inforum, BellSouth announces that the LENS bulk ordering

feature is ready?

A. Yes.

Q. Upon hearing the statements, Mr. Hamilton and Mr. O'Quendo, that certain AVPs and VPs at the inforum told the audience that the LENS bulk ordering feature was available, did you at all contact Ms. Pryor to find out if that was accurate?

A. No.

Q. Did you contact Mr. Lepkowski to find out if the statements made at the inforum were correct, or if a mistake was made?

A. No.

Q. Did you contact anyone at BellSouth to check to see that the statements that were made at the inforum were accurate?

A. No.

Q. Do you remember when the inforum was?

A. Approximately May 2nd.

Q. 2nd or 3rd?

A. Something like that.

Q. When did IDS submit its first orders through the bulk ordering feature? Do you know?

A. I think it was that Friday.

Q. So sometime after the inforum a couple

of days passed and then on Friday you submitted some orders?

A. I believe that's the case.

Q. Why was there a delay, or why did a couple of days go by before you actually submitted the orders?

A. I guess we were waiting for Brad Hamilton and Freddie to come back from Atlanta.

Q. So they were still at the inforum?

A. Yes.

Q. So they come back to the office and you guys decide to do what? What do you decide to do upon their return to Miami?

A. Put together some accounts and see if it works.

Q. Do you remember how many accounts you initially submitted?

A. Through the course of this, I believe it's 84 accounts.

Q. Okay. On page 19, line 9 you say: "BellSouth representatives confirmed that the orders were successfully converted."

Do you see that statement?

A. Yes.

Q. Which representatives at BellSouth

confirmed that the orders were successfully converted?

A. I'm not quite sure. My senior VP of operations at the time came to me and said that they had been completed successfully.

Q. Who was the senior VP?

A. I'm sorry. My brain. The vice president.

Q. The vice president?

A. Vice president of operations.

Q. That's Hidgon?

A. Yes.

Q. Do you know who Mr. Hidgon was talking about?

A. Who he was talking about?

Q. Yes. As far as getting IDS confirmation that the orders were successfully converted?

A. You mean who he was talking to or about?

Q. Yes. Talking to. I'm sorry.

A. I believe it was Mike Lepkowski.

Q. Is that who Mr. Hidgon told you he was talking to?

A. To the best of my recollection.

Q. What did Mr. Hidgon exactly tell you as

far as what Mr. Lepkowski told him?

A. To the best of my recollection, I believe he said the orders went through fine.

Q. Okay. On page 19, lines 9 and 10 you say that the orders were successfully converted. Is it your testimony today that you opine that successfully converted is fine, or that fine equals successfully converted?

A. Define opine.

Q. Good one. Is it your testimony that Mr. Lepkowski's statements to Mr. Hidgon that the orders were fine translates into successfully converted?

A. Yes.

Q. Do you know if Mr. Lepkowski or if Mr. Hidgon actually contacted any of those 84 end users to see if there were any problems with the orders?

A. Not to my knowledge.

Q. Did IDS do any type of research or analysis to determine if the orders were, in fact, actually converted?

A. I don't know.

Q. Did you contact Mr. Lepkowski to confirm his statements to Mr. Hidgon?

A. No, I did not.
Q. Did you contact Ms. Pryor to confirm the statements from Mr. Hidgon?
A. No.
Q. Do you know when Mr. Hidgon had this conversation with Mr. Lepkowski?
A. I don't know the time.
Q. If you submitted the orders on a Friday, do you know if you received any FOCs?
A. I would -- again, I don't know. What I told you is what I told you.
Q. How long does it take after you submit an order to receive an FOC?
A. I don't know.
Q. Do you know if the conversations between Mr. Higdon and Mr. Lepkowski occurred on a weekend?
A. No. I don't think so.
Q. You don't think so. When do you think they occurred then?
A. I think it happened on Friday.
Q. On that Friday that they submitted the orders?
A. I believe so.
Q. So you felt that the 84 customers that

you submitted as a test, that the orders were successfully converted, in your opinion?

A. That's what I was led to believe.

Q. You were led to believe by Mr. Hidgon?

A. Yes.

Q. Saturday and Sunday pass and then May 8th roles around on a Monday. I believe it's a Monday.

A. I believe it is.

Q. What did IDS do on that Monday?

A. To the best of my knowledge, we started to convert our resale base.

Q. How many orders did you submit through the LENS bulk ordering system on May 8th?

A. I don't know.

Q. In your testimony on line 12 of page 19 you say: "IDS attempted to convert 1,400 business customers." Is that number still accurate?

A. I believe that's close.

Q. What makes you think that that number is not close or is not exact?

A. I think it's close.

Q. I guess what I'm asking you is, is that -- you didn't say approximately 1,400 business customers, you said, 1,400 business

customers.

A. We assembled 1,400 -- excuse me. We assembled 1,400 customers that we wanted to initially convert as quickly as possible. I don't know how many of those we put into the system.

Q. Who would know?

A. I don't know.

Q. So is your testimony that IDS attempted to convert 1,400 business customers accurate?

A. I'm sorry?

Q. I guess I'm confused about, if you say you don't know exactly how many you actually submitted orders for, how do you know that IDS attempted to convert 1,400?

A. I know that we put together 1,400 customers, to the best of my knowledge.

Q. Okay.

A. Okay. I went out of town. I don't know how many of the 1,400, if all of them got in, if most of them got in, but I know we had 1,400 that we wanted to put in. At least that's the orders I gave.

Q. All right. Now, your testimony says that you attempted to convert all 1,400. Wouldn't you agree with me on that?

A. Yes.

Q. But you're telling me today that that may not be true, that you don't know exactly how many orders were submitted?

MR. MILLER: Objection. You're mischaracterizing the witness' testimony.

Q. You can answer it.

A. Okay. No. I don't know at what point we stopped putting in lines.

Q. Okay.

A. Because of the problems.

Q. So do you have any idea of how many orders were actually submitted?

A. I was out of town at the time, so I don't know at what point they stopped or what happened.

Q. What about today?

A. I don't know. Okay.

Q. Okay. Your statement on lines 12 to 13 on page 19 states that the 1,400 business customers represent 5,500 local lines. What is the basis for that calculation?

A. That's what my people told me the 1,400 customers represented.

Q. And who told you that?

A. I forgot.

Q. Okay. Is that roughly the -- remember yesterday we talked about each business customer averages about [redacted]. Is that within the rough estimation?

A. Somewhere around there. Sorry.

Q. I know. I understand.

You state on line 15 that there were service failures to IDS customers for both local and long distance services?

A. Yes.

Q. How was it that the service failures affected long distance?

A. Well, from my understanding, it affected the hunt rollover.

Q. Okay.

A. Okay. Which some of the customers or a lot of customers could not, from what I was told, have access to lines to make long distance calls. Everything was jamming up to a lot of our customers and we were getting complaints from customers that they had problems on both ends.

Q. Okay. On line 18 you say, "the entire customer base for local telecommunications services of 1,400 hard-won business customers."

Is it your testimony today that the bulk ordering service incident created a major crisis for all 1,400 customers?

A. State the question again.

Q. All right. Let me start over. You state on page 19, lines 17 through 19, that the bulk ordering system failure "created a major crisis for IDS jeopardizing IDS' relationship with its entire customer base for local telecommunications services of 1,400 hard-won business customers". Is it your testimony today that the failure of the bulk ordering feature affected your relationship with all 1,400 customers?

A. Yes. It had an affect on all 1,400 customers.

Q. Even though sitting here today you don't know if all 1,400 customers were attempted to be converted to UNE-P?

A. Correct.

Q. How is it that if the orders weren't submitted for all 1,400, the bulk ordering feature incident affected your relationship with all 1,400?

A. Because a lot of our customers were told

by agents and sales people who were having multiple problems with customers and it just -- the rumors went around that IDS was having massive failures and everybody was screaming.

Q. Okay. What happened after you found out that the bulk ordering system did not work?

A. What happened?

Q. Yes.

A. When I found out?

Q. Yes.

A. I tried to call Duane Ackerman.

Q. When did you find out?

A. I believe it was sometime Wednesday morning.

Q. So this occurred on Monday?

A. Uh-huh.

Q. You didn't find out until Wednesday morning?

A. Correct.

Q. Look on page 19, lines 20 and 21, you say: "By the following Tuesday, not only had BellSouth failed to rectify the problem, but it was unable to determine the cause of the problem."

When you say the following Tuesday, is

that a week after?

A. No.

Q. That's the next day?

A. Yes.

Q. So the incident occurred on Monday and then you're saying Tuesday --

A. That Tuesday.

Q. That Tuesday we weren't able to rectify the problem or determine the cause?

A. Right.

Q. What did BellSouth -- if you didn't find out about this until Wednesday morning, how did you know what was going on with your sales agents regarding the fallout from the bulk ordering incident?

A. When I arrived back, I had tons of calls.

Q. And you know for a fact that all 1,400 customers the relationship with IDS was jeopardized as a result of the bulk ordering incident?

A. To the best of my knowledge, everybody knew about it.

Q. Just because they knew about it, that resulted in jeopardizing your relationship?

A. It creates a lack of confidence.

Q. Okay. Did BellSouth attempt to find a solution to the problem and get service restored for your customers?

A. I believe so.

Q. When did they do that? When?

A. When I was aware of it was Wednesday.

Q. Okay. Do you know if BellSouth had done anything on that Monday or Tuesday to try to rectify the problem?

A. Through this proceeding I have read some documents that when they knew about it, they started to work on it.

Q. Do you have any evidence or facts to refute those statements?

A. No.

Q. On page 20, lines 2 and 3 you state that: "BellSouth had identified and attempted to fix the problem on a customer by customer basis." Do you know when BellSouth identified and attempted to fix the problem on a customer by customer basis?

A. When I was made aware of it was Wednesday.

Q. That's what you're referring to, that's

the solution that you were aware of?

A. Yes.

Q. On page 20, lines 4 and 5 you say: "As a result, most of those customers started calling BellSouth for help."

Do you know how many customers lost service as a result of the bulk ordering incident?

A. In the course of this proceeding I've read some BellSouth documents.

Q. Other than the information that you have learned in this proceeding, do you have any independent, personal knowledge of how many customers lost some type of service as a result of the bulk ordering feature?

A. I don't have a precise number.

Q. Do you have a general number, an estimate?

A. Right now I can't think of one. I'm sorry. I'm getting a little fried.

Q. I understand. So you don't know how many orders were actually submitted and then you don't know how many customers whose orders were submitted experienced some type of service disruption; is that correct?

MR. MILLER: Read back the question,

please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

MR. MEZA: Okay?

MR. MILLER: No. I'll object.

MR. MEZA: You can make something up.

MR. MILLER: I think there is a lack of foundation.

Q. Okay. You can answer anyway.

A. At what time? I can tell you what I know now, or what I thought then?

Q. Let's take both. What you thought then.

A. When I got back Wednesday?

Q. Yes.

A. My people told me that we were in a crisis situation. Very confused. They told me, all of the orders had a problem.

Q. Okay. So whatever that number was, they all experienced some type of service disruption?

A. Right.

Q. At that time, did you know exactly the type of service disruptions that they were experiencing?

A. On Wednesday?
Q. Yes.
A. No. Not precisely.
Q. Today, do you know how many of those customers actually experienced some type of service disruption?
A. From what I've learned from BellSouth?
Q. Uh-huh.
A. Approximately 400-plus customers. I think. I'm -- I can't think anymore.
Q. Okay. All right. On page 20, lines 4 and 5: "Most of these customers started calling BellSouth for help." Assuming that the BellSouth number is correct, what would you consider to constitute most of those 400?
A. My vice president of operations, my customer service reps, all were telling me that the people that were calling indicated that they were all calling BellSouth for help. We couldn't do anything.
Q. Do you know how many people called?
A. No.
Q. Do you know when they called?
A. No.
Q. Do you know which customers called?

A. No.

Q. How do you know that most of these customers who experienced some type of disruption started calling BellSouth?

A. That's based on information I got from the people who were directly talking to customers.

Q. But you don't have any idea of how many customers that actually called IDS told them this?

A. No.

Q. Do you have any information or evidence to suggest that BellSouth's number of approximately 400 customers experienced some type of disruption is incorrect?

A. Not that I'm aware of.

Q. Let's just take the 400 number because that's what we have. Of the 400, do you know how many actually experienced a loss of service feature but kept dial tone?

A. You mean they kept dial tone --

Q. But lost hunting?

A. No. I'm not aware.

Q. Do you know how many customers actually lost dial tone?

A. No. I'm afraid I can't answer that.

Q. On page 20, lines 7 through 10 you say:

"Unbelievably, BellSouth blamed IDS for the service outages even though BellSouth had caused the outages."

What are you basing that statement on, what evidence or information?

A. That's what I got from my CSRs and my vice president of operations. Customers were calling in saying that precisely.

Q. Do you know how many customers called and told IDS this?

A. No, I don't.

Q. Do you know when they called?

A. During this time period.

Q. During what --

A. The outage period.

Q. And do you know which customers called?

A. No, I do not.

Q. Do you know if IDS keeps records or IDS would keep records of such calls?

A. I don't know if they're still available.

Q. They were available at one time?

A. I don't know if we had the time or the ability to take records at that time.

Q. Did anybody tell you or suggest that not every single -- well, that BellSouth did not blame

the outages on IDS for every single customer?

MR. MILLER: Can you read back that question, please.

Q. That was inartfully stated.

Let's move on.

You then state that, "To make matters worse, the customers were told that if they return to BellSouth, their service would be restored within an hour."

Again, what is the basis of that statement?

A. I thought I already answered it.

Q. I broke it up. I broke it up to where, the first question was that BellSouth blamed IDS for service outages, and now I'm asking you the second part, which is, the customers were told that if they returned to BellSouth, their service would be restored within an hour.

A. And what is the question?

Q. The question is, what is the basis for that statement?

A. I got that information from my vice president of operations and talking to several CSRs.

Q. And the vice president of operations is

Bud Higdon?

A. Right.

Q. Do you know which CSRs you conversed with?

A. No. I can't remember their names.

Q. And how would they tell you this? Would they just -- did you say, all right, everybody, during this time period, I want you to keep detailed notes on every single customer that calls and tells you one of these three things, I want you to notify me immediately?

A. No.

Q. How did they relay this information to you?

A. It was general pandemonium at the time. We couldn't take all the calls. It was a crisis situation. We had customers in the lobby that were saying this. People were screaming, I've got a customer here -- it was a very bad situation.

Q. And, again, do you have any records or documents that would support or pertain to your statements that customers were told that if they return to BellSouth, their service would be restored within an hour?

A. I don't know of any.

Q. Is Bud Higdon still employed by IDS?
A. No, he's not.
Q. When did his employment cease?
A. I think sometime in June of 2000.
Q. June of 2000. Why did his employment cease?
A. He wasn't living up to my expectations.
Q. Specifically, what wasn't he doing that you expected him to do?
A. It was just general. I'd have to go back in his file. I was just generally not happy.
Q. Were you pleased with the results of the bulk ordering feature?
A. Was I pleased with the bulk ordering feature?
Q. Yes.
A. No, I was not.
Q. Did you feel that it was Mr. Hidgon's responsibility to make sure that before you submitted orders that the feature was correct and that it was workable?
A. Say that again.
Q. Let me rephrase it. Did you fire Mr. Higdon in any way because of the bulk ordering incident?

A. No.

Q. Was there any specific incident that caused you to consider to fire Mr. Hidgon?

A. No. It was an accumulation of incidents.

Q. And none of those incidents included the bulk ordering incident?

A. I was not blaming the bulk ordering incident on Bud Hidgon.

Q. Did Mr. Higdon ever lie to you or tell you something that was untrue?

A. Not to my knowledge.

Q. Did Mr. Hidgon ever fail to follow up on certain things that you asked him to do?

A. Not to my knowledge.

Q. What was the problem with him?

A. He didn't -- I don't believe he could generally grasp local services the way I think he should as a vice president of operations.

Q. Look on page 20, lines 17 through 19, where you state in referencing a conversation you had with Mr. Ackerman's secretary --

A. I'm sorry. What lines are we on now?

Q. 17 through 19.

A. 17 through 19. Okay.

Q. You say: "All of this was happening while BellSouth's systems would not even permit IDS to submit a trouble ticket to have its customers' services restored." What do you mean by that? Can you explain that further?

A. Yes. What would you like me to say?

Q. Can you explain it a little further.

A. Yes. I was talking to her on my cell phone from my house to IDS.

Q. Right.

A. And this is trying to paraphrase what I talked to her -- I wasn't really sure of what was happening. I asked my people. They said we couldn't get a trouble ticket. We've got pandemonium going on. So I grabbed the phone, talked to Duane Ackerman and this is about what I told her.

Q. Who told you at IDS that BellSouth's system would not permit IDS to submit a trouble ticket?

A. I think I was talking to the CEO at the time.

Q. Who is that?

A. Joe Millstone.

Q. How did Mr. Millstone acquire that

information?

A. I didn't even ask him about that. It was a general emergency.

Q. On page 21, lines 7 and 8.

Do you want to stop?

A. Can we take a minute?

Q. Sure. I'm at a good time.

MR. MILLER: It is five to five. You wanted to stop at five. We might as well just stop now.

MR. MEZA: That's fine. I'd rather wait and get some better responses.

MR. MILLER: All right.

(Thereupon, the proceedings were adjourned.)

A

ability 104 19 143 2 146 8 161.10 211 18 287 18,20 293 23 294 7 340 23
able 103 23 104 11,14 106·17 110·23 112 5 148 23 183 21 208 9 239 25 241 9 251 1,1,3 262·23 280 7 290 18 293 8 294.14 295·11 295 12,15 334 8
about 103 14,15 106.7 112 17 114.6,9,18,19 115·24 119 24 120 1 124 4 126 24 135 7 136 8,14 137 7 150·5 151 11 155 18 160·9 163 10,13 164·14,19 165 1 167 2 168.19 169 2 170 1,6,24 171 15 176 10 177 10 177 11,12 178 22 179 3,21 181 10 184 16 189 6 190·9 192 11,16 193.24 195 8 196 21 197 4,10 197 18 198.15 204·15 208 23 211 16 215·10 216 9,11 217 6 218 17 224 3 226·14 227 1,4 231 14 236 11 243 15 246·4,12,22 247 3 251 11 253 7 257 8 261 12,19 271 19 277 23 282 14,23,25 291 10 294·21 295·3 303:4 308·17 309·10 312 23,23,25 314·6,13 316·9,11 317 4,7 319·2 319·3,4 322.5,8 325 14 325.15,19 329.11 330·17 331 3,4 334:12 334.23,24 335 12 345·16 346 2
above 118 18 123 11 138·3 191.21 224 16 281.2 337.4
absolute 160·17
absolutely 135 18 136:1 165 10 198 12 274 15 278 11
acceptable 233 20 236.14 250 3,19
accepted 225 14
access 101 6 109 9 117 2 117 3,4,5 125 11 224.1 237 25 238 10 331 19
according 103 21 130 9 249 22 257 11 277 2 289 3 293 16,25 306.9 306 16 310·17 319 18
account 104 10,13,18,22 104 22 109 25 111 1,3 112 2,3 119.17 207 4 300.8
accounts 225 1 262.10 297.16 298 9,25 299·16,18,24 300.12 300 20 301 8,12,24 302 7 303·14,15,22 304 3,4 305 10 306 18 306·22 307:1,5,9,11 309 4,13,16 310.5,19 311 5,15,18,20,23 312 10,13,16 314·24 314 25 318.12 324 14 324 16,19
accumulation 344 4
accuracy 105.4
accurate 120 22 132 14 211.13 235 25 260·5 315.24 323 8,16 328·18 329·9
Ackerman 333 11 345.16
Ackerman's 344·22
acknowledged 246:20
acquire 345 25
acronym 225·11
act 123 17 130 25 131 6 131 13,21 132.17,19 132 20,21,22 133·15 133 20,23 135 4,10 136.23 137.11 138 10 175·10,16 232 4,18
action 115 16 123 25 124 20,23 131 14 134 17
actions 120·13,15,17,23 121 8,12 122 5 123 5 124 2 126 6 131 15,22 134 24
activities 120 5,7 131 2
activity 112.25 134 19 135 1,5
acts 131 23
actual 103 18 109 18 112 5 124.4,7 132·22 133 20 134 9,14 143 4 143 4 144 11 155 2 190 4 194 1 260·12 307 15 322.18
actually 106·22 111 24 116.11 125 17 141 25 143 9 148 17 150 3,10 151.3,25 152.4,18 153·6,12,20 154 15 156.17 160·12,13 161 18 167.24 168.9 178 9 185 16 189 24 197 2 198.19 228 2,8 228.10,15 232 11 240.8 253 14 261 8 262·1 266 18 280 20 282·10 297·16 306 22 315.3 324 5 326 16,22 329·12 330 13 336 21 338.5 339.8,17,22
add 286 8
addition 216·19
additional 136 5,10 171.23 196.25 198 11 218.24 246 25 247 14 285 10,20 286 9,13 287 9 303 13
Additionally 309:15
address 170·3
addressed 170 4 172.13
adjourned 346 14
ADSL 195·25
advertise 113.20
affect 304:17,19 332:15
affected 331.13,14 332:13,23
affiliate 129 3
afraid 339:24
after 119.8 120 1 135.15 139·10,22 140 11 141 6,17 144·11,17,24 158:11 160 9,10 161·15 162.16 163 9 166 20 169 1 172·5 182·7,9 184 14 185 20 189·3 192 6 194 12,17 198·18 202.23 204·25 205 8 208 18 214 3,4 215 11 216 15 218 4 219 19 220.17,22 224 8,22 225.5 229·3 229 18 236.1 242:8 258·24 259·24 261:3,3 261 8 264.4,11,14 271.18 275.1,7,25 284.24 289·15 291.12 292·10,23,23 293·1 296.13,19 298:3 308.11,17 322.16 323 25 327 12 333·5 334.1
afterwards 219·17 296 15
again 102 7 110 21 113 15 114 1 119 25 120 3 123 16 130 23 131 8,24 132 15 133 2 133 18 137 5,14 138 6 138 13 140 7 141 11 141 13 149 4 161 17 172 18 173:15 177 20 180 23 181 25 187 17 191.25 200·3 209:14 209 17 215·1,24 224·18 228 22 236 19 245·18 257.2 259.7 260.23 264 2,13 265 1 276 14 281 5 283 23 288·19 289·8 291·11 292.25 297·13 299·20 302 5 303 20 311 19 316 22 327.10 332.4 341:10 342:20 343:22
against 99:5 131.14,15 131 22 134 18,20,24 135·4
agents 131·2 333 1 334:13
ago 110:18 125:3 148:11 151:10
agree 128 23 143 20 144 19 172.23 197 25 198:2,3 218 23 238 22 240 23 241 7,10 247·14 256.6,22,24 271:4 286 5 317.15 329:25
agreed 102 19 179 11 198:18 257.9 285 10 285.14 286 4,12 313 20 319.21,24
agreement 101 6 102 11 102.17 128.19,24 129 22 130.10,17,22 162.15 164:14,25 166 21 168:14 169 17 169 19,24 170 8,10,16 171 3 173:3,7,13,16,19 174 11,25 175.8 177·7 177.18,23 178·2,8 182.8,21,23,25 183 23 184 8,9 191·10,12,24 192·2,3,7,17,18,19 194·12 198:8 199·1 224.9,23 232:12,17 237·15,19 238·1,3,4,7 238:10,19,20 240:25 241 1,3,6,8,22,25 242.4,9,16,19 243 6,12

243.16,17,23 244 2,11 245 8,14,15,21 246·3,9 246.13,16,25 247 5,7 247 12,12 250 12 251.5,7,15,15 254 25 255.5 256 3,9,12,20 257 4,10,11,14,19,24 257 25 258:2,3,9,12,13 258 17,19,24 259:1,10 259 25 260·2,6,7,12,20 261 9,15,17 317·18,22 319·25 321 9 322·6,12 322·16
agreements 258.6
agrees 122 1 254 3
ahead 223 4
air 185 24
Akerman 100:6
ALEC 134·18,20 135 4
allegation 176 23 177 17 177 21 233:14 304.8
allegations 211 24
allege 143 19
alleged 143 7 293 24
allegedly 308.2
alleging 140 13 144 4
allow 122·24 225·20 226 10 227 19 301 20 302 21 303 1,2 313 11
allowed 286 8
allowing 300 7
allows 131 1 307:22
almost 146 13 149 11 162 16
along 239 15 274 14,17 319 12
already 143 14 146 12 148 5 203 5,7 204 4 218.14 250·12 267 14 272.23 282:25 289·4 299 17 341 12
Alternative 179 8
Although 107 16
always 244.7
amenable 127.4
amendment 175 7
Amerson 199·21,24 270 22 288.24
amount 163 6 285 10 286 9,13 287.2
analysis 326 21
Angel 119·12 157 25 161 16 248 24 249 3
Anne 100 16
announced 319·20 320 6 320 14,17,25
announcement 321.8
announces 322 25
annul 251 8
another 107·15 120 18 217 1 228 15 251 4 270·16 272 10 275 24 288 22 298 18 300 15 300 19 304 12,25
answer 105 4,14 118.15 119 23 126 5 130 19 132 1,3 134 4 135 17 135 25 136 3,18 140 5 140·23 156 7 174 11 175 22 181.8 212:14 212.17,19 213 3 222·10 225 21 230·10 245:6 268 12 269 2 277 13 291 20,25 305.20 330.7 337 10 339 24
answered 106·5 123:13 127.12,24 227.11 284 8 306.7 341 12
answering 125·22 126 2
answers 136 2,12,21 153 22
antacid 293 3
anti-competitive 131:15 131 23 134 19 135 1 137·20 138 11,12,17 140·3
anybody 160 4 189·18 218 1 305 22 340 24
anymore 338.10
anyone 278.24 323 14
Anyplace 127·16
anything 124.6,10 188·5 188·20 193 5 199:1 226.14 239·17 251 16 255:25 284 21 312.9 317·19 318.3 319·4 335.9 338 20
anyway 288.2 300.13 337.10
apologies 122 22
apologize 124.23 250 10
apologized 250 2,7,15
apology 124 1
apparent 174 8
apparently 222.13
appear 145 10,22
APPEARANCES 100·2
appeared 295 20
appears 144 18 145 1 148·14 172 20 210 21 211 10 222·22 242.11 299:11
applies 120 16
approached 312 25 322 8
approval 263.6
approve 213 25
approximately 141 16 186 19 201 4 242 15 256·10 260 11 289 16 313 15 323 19 328.24 338:9 339 12
April 236·21 239 5,6,18 239 23 240·1,7 261 25 262 5,24 272.17,19,19 272·20,21 288 10,12 290·3,3,18,19,25,25 292.14,15 295 20,22 295 23,24 296 1,2,4 313 7,8,9,20,25 314 13 314 18 315.8,11,14,18 315·20,23 316·8,12,12 316 13 317 23 322 7 322 11
arbitration 127 15
archive 108 19,24
archived 110 7
arise 298 3 307 5
around 141.22 191 5 197.5 219·19 230·24 243 9,21 247 20 253 24 293 18,18 295 10 296 5,14 297 1 297 9 298·3 313 9 315 13 316 13 328.7 331.6 333 3
arrangement 231:2,5,7
arrived 246 21 334 16
article 216:11,20,22
articles 132.10 137 6 216 8
aside 209·4 214:12
asked 103 14 110·6,10 110 21 112 1 125 3,8 125.24 127 11 136 8 136·13 140·8,9 144 13 146 16 148 15 150:8 150 16 152 14 174 7 177 11 185 22 202 17 202·24 205 11 206·11 207·4,10,18,22 208·20 210·5 211:3,15 227 11 233.23 243:11,15 244.2 245·15 247 5 248·16 249·8 256 19 265.9,11 272.8 275 13 278:10 284 7 306 6 321·12 344 14 345.13
asking 120·24 121 15 122 7,10,23 126.23
133·4,5 134 6 153 7,8 153 18 163 21 173 21 197 15 198 20 207 6 213 6 235.22 241 12 256 24 265 23 268 7 284.10 306 8 312.7 328 23 341·15
asks 127:20
aspect 282 21
aspects 129:18 169 7
assemble 314·24 316 5
assembled 329.2,3
assembling 318 11
assertion 146 7
Assisa 203·12,15
assistant 153 25
associated 300 2
assume 120·24 142 19 199·15,16 274 25
assuming 162 8 241 21 242 13 338 13
Atlanta 324 8
attached 165·17 172 2 240·25 241 1
attachment 173:2 179:7
attempt 140:18 176 15 210 8 212 1 258 25 284 25 285·3 291 9 292 1,18 299 12 335·2
attempted 181 23 251 20 253.15 263.5 264 14 290 4,12 291 22 296·8,20 328 17 329.8,14,24 332.18 335 18,21
attempting 117·10 252 15 291·1 297.21
attempts 176 17 210·3 285:5
attendance 319·16
attended 204 20 288 23
attention 204·8
attorney 119:11 122:9 124.19 125 24 126 4 129 14 130.8,23 131.4 131.19,25 132:4,7,16 133:3 134 11 136·16 136 21 137 1,15 138.14 171.5 173 20 173 22 175 18,25 176 10,20,21 177 16 180·15,24 181 9,9 213 11 222.14,23 223 6 307 19
attorneys 126.8 137·3
attribute 303.23
AT&T 102·12,19 103.2

audience 323 5
August 184 16 189 5 190 10 192.1 201 9,17 203:23 204·1 283 5,10 283.15,22,25 289·9
authorities 127 12,21 128.4
authority 130 16 131 12 131 22 134 23 135 4 175.7 176 14 180 6,21
authorization 101 4 118 9 119·13,15 231 6 231.10 232 2 233 2 298 19,20,22 302.21 303 12 308·22
authorized 115 16 232·18
authorizes 232 3
availability 319 20 320·6 320·25
available 167.7 247 13 291.18 323.6 340 20 340:21
Avenue 99·20 100 7
averages 331 4
AVP 151 12 154·6,8
AVPs 320.13,24 323.4
aware 163:21 167 22 169·16,22,23 193 9 223·17 233 15 283.17 285 4,6 303 25 307.15 307 17 309 7 317 2 318·20 335·7,23 336.1 339·14,21
away 191 13
A-S-S-A-S-I 203.16
a.m 99:24

B

B 101.2
back 108 5 118.15 123:7 127 7 128 10 135.16 137:24 139 5,10,20 142 6,12 145 23 146 1 146.5,11,18,18,22 147.1,15,25 148 5,18 149:5,8,10,13,15,18 150:25 151 9,14,20 152·15,22 154 5 155 7 155 13,20 156.9,10 158 11,21 159 4,6,9,15 159:18,23 160 11,15 160 22 161 16,18,21 166 18 172.18 174·4 175.2 176 7 180·1,2 189 2 190 24 191 18 197 10 198 10 204 7 205 1,7,10 218 3 221 21 224 10,12 234 17,20 235 17,18 236 2 237 2 257 19 262:1,2 263 21,22 265 18 268 23 276 4 277 9 279 19 280·5,24 282 2 287 2,25 289 9 289·16 292 7 293.7 311 20 320·24 322:3 324.8,11 334.16 336 25 337.15 341.2 343.11
bad 183 8 222 4,7 342.19
base 188 4 192:8,9 193 14 262.6 282 17 290 4 296 21 302 3 303 6,18 305·5 313 11 313 16 319:1 328:12 331 24 332 9
based 103 9 122:17,21 136 17,20 138 13 171·4 173 20 175:17 176.9 180 14,23 183 4 187:4,23 188.8 215·17 215·20 226·23 245 1 294 8,10 297 24 304 18 314 21 339 5
basic 199·21 200·11
basically 140:9 193·10 197 13 238:18 271 5 280 1 302·4
basing 340·4
basis 118 3 130·20 131 17 135.19,25 136 21 159·21 160 1 162 18 166.13 175.14 193 5 221 7 227 14,16 227 17,20 269.2 284 17 285 12 330 22 335 19,22 341:10,20
became 183 9
Becky 155 23
becomes 170 8
before 99·1 108 4 119:16 127 11,21 132·17,24 143:4,9 160·12,13 172.5 187 19 191 9 193.5,14 229 17,20 231 11 238 3 240:21 242:15 248 13 263 6 276 18 278:6 280.5 283 2,7,10 306·13 316 2 324 5 343 19
began 102.8 162.18 236 18 322 17
begin 168 24 242·21 311 25
beginning 152 22 162 16 206 19 262 5 318 5
begun 141:15
behalf 114 8 120 12,18 232:18 249 24 251 25
behavior 121 9 140 4
behind 107 16 172 25
being 107·20 148·22 167 4 199 16 203 6 204 5 283 19 284.14 289 4 303:15 304 4 306 23 308·3 309 4,5
belief 122.18 130 24 135:19,21 139·24 146 7 162.1,4,7 175 14 300·17.23 301·6
believe 102 16 103 13 104.14,25 106.20 109·11 110 18,19 112:15 113 24 119.3 119 20 123:23 124 23 127 14 128.10 130·13 130:15 131 11 135:9 141 3 142.25 146 16 146.20 148.10,11 149·7,8,23 150:20 152 11 158.19 161 16 164 21 166.16 168:15 174.13,19 177.24 178 3 182·12,24 183.14 190 23 191 6 192 10 197·2,23 198·1 201 7 202:14,17,20 203·11,21 205 11,20 205·23 206 10 207 3 208 5,13,18,23 215 11 215 21 217 5,18 222.24 226 5,12,25 229.3,8,11 233:25 234 4,11 241 17,20 243.7,9 245 25 247.16 248 2,4 249·25 251:6 260·13 261 16 262 9 263 8,21 266 5,21 267·8,19 268 1 270 3 270.24 272 18 280 12 280 16 283 7 286 6 288.7 291·7,21 293 2 296 22 298 4,21 299·1 314 20,23 315 2,5 318 10 324 3,18 325 21 326·3 327·24 328·3,4,7,9,19 333:13 335.5 344 17
believed 115 8 119 3 204 21 266 11
believes 122.1,14 123 2 141 2
bell 142:10,10 149 16,17 188 9,13 263 23 269 20,20 297 17 302 10 305 3 318 11
BellSouth 99 6 100 10 100 12 101 5 113 2 114·25 116 3 118 19 118 23 119·4 120 2 121 24,25 123·3 125 16,17,19 128 25 129 2,2,18,19,22 130 10,18 131 15,23 134·24 135 10,13,16 136.23 137.10,20 138 14 139·1,10,20,21 140 2,9,13,19 141 3,6 141·24,24 142 12 143 19 144.4,15,23 145.24 146:1,2,3,12,18 146.25,25 147:1,16 148·1,6 149.6,10 151:15,20 152·15,22 155·13,20 156.10,11 156:12,24,24,25 157 17 158·1,3,4,13,14 158.22 159·5,5,9,15,20 159 23 160:1,7,12,16 160·22 161 7,18 162 1 162.2,15 164 11,15,18 164·23 166 23 169 8 171.19 172·4,25 173.3 174 8,12 175 4,9,15 176.2,4,13 177.10,13 177·18,21 180 4,19 181 7 183 16 184·11 184 15,18 185 1,8,16 185.22 187 1,6,9 188 10 189 22 190 13 193 6,15,17,25 194 4 195 8,20 196 25 198.23 199.6 209·19 209 22 214 14 217 14 219 25 222.16 223 2,9 224 10 225.7,14,19 226.9,15,23 227.1,6,18 227·24 229.10 232 6 233 5,9,16 234 3 235 7 237·15,17,25 238:9 239:25 242:24 243 5 243·23 244.11 245 4 246 3,17,24 247 6,17 248·3,16 249 15,23,24 254:24 255:10,14 256.2 257 23 258.2,11

259 2,9 260 21 261 15 261 16,25 262 25 264 16 267 16,17 268:14,21 269 4,14,25 271 2 274 23 275 9 277.11 285:9 286 16 286 20 289 19 291 10 291 19,25 292 1,4,19 293.21 294 5 295.20 298 5,8,24 299:6,8,15 300.6,18 301 5,6,23 302.2 303 11 304 2 305 8,8,15 306 12,17 308 2,12,14 309:15,22 310:9 311 18,21,22 312:4,5,9,18 313 10 316 19,24 317 8 318 6 319 13,19,22 320:5,24 322.7,18,25 323 14 324.21,25 333.22 334:11 335 2,8,18,20 336.5,9 338.7,13,13,19 339 4 340 1,2,25 341 8 341 14,17 342:23

BellSouth's 138 9 162:19 165.11 166 12 171.6 209 5,12,13,14 209:15,16,18,21 222:16 223:2 248:23 249 6 286 11 293.24 339.11 345 2,18

Bell's 165 7 196 2

benefit 242 14,18

best 104 8 105 8 111 7 112 21.22 114:5 116 13 117 1,25 119:17 125 2 128 3 132 15 135 21,24 139:16 141 11 143 1 144 2 146 8 156 23 157 19 160 3 161 10 163.19 166 13 168 15 177 8 180 10 181 25 185 12 187 13 188 14 196 2,6 208 25 210 23 211.6,12,17,22 212.20 219:19 223 10 225 13 225 17 227 12 235 1 235:21 236 15 237:1,8 237 10 238 14 239 16 248 17,19 250 9 259.17 288:25 297.5 302 1 322 15,20 325.24 326:2 328 11 329 16 334.22

BETA-test 192.16,22 193 7,13,16,20 194 2,8 194 15 195 8 196 10 224.7,19 285 2 313:21 314.6,24,25 315 8 316 10,20,25 317 9,16 317 22 318 5,9 319:2,6 319:10 321 9,12 322 5 322 13,19

BETA-tested 319.9

BETA-testing 276 15 312 24 322 8

BETA-tests 193:3

Beth 243.7

better 130 1,4,6 160.4 164:17 167.17 182:15 187:9 208:24 212:11 212:12 221 2,15 226 19 227 7 230 21 232 11,15 233:23 235.19 237:12 243 3 251:3 252.22 346 12

between 102 12 131 3 135 12 173.3 246 16 260:11 294:11 302.9 322.17 327 15

beyond 109:21 120:21 181:15

big 255.1,2

bill 103 18,24 104.4 105 9 106.5 110:19 118 13 122.19 155 24 160 12,23 246 4 259:14,14,17 271 21 284 13 287:8 289:20 289 24 290:21 291 16 292:20 293.1 294 11 295:5 296.5

billing 103 16,18,25 104 22 105.2,3,10,11 106 18 107 5,12 109:4 109 13,18,21 110 2,7 110:13,21 112 4 293.22 294 6

Birmingham 163:13,24

bit 174:4 250 23 257:20

blah 149 7,7

blame 340:25

blamed 340 1 341 14

blaming 344 8

blank 252 18

blatantly 137.20 138:11 138.12

blocked 293.22 294 7

blondish 206 8

Bob 100.16

bodies 175:5

book 134 10,15

both 109:9 126.25 131 1 137 10 138 10 179 11 207:11 219 6 227 1 331.9,22 337 13

bothering 221:23

bottom 178:12

Brad 189 17 203 11 208 3 210 5 215 21 216:3 217 25 220:15 221.8 227 4,22 262 16 264 2 270:12 288 21 305:25 307.8 311 17 317 13 320 11,21 324 7

brain 325 7

break 103.14 127.3 188 24 252:5 278 6 321 25

breaking 221 18

brian 100 5 127.2

bring 127:2 170 7

broke 151 10 322.4 341 13,13

brought 156 20 169 20

BTN 310 20,20

BTNs 310:13 311 1,4

Bud 226.8,9 227:7,20 265 8 274.9 305:15,17 305:22 306.1 308:11 309 21 314:11 318 16 342 1 343.1 344 9

Bulecza-Banks 100 17

bulk 311:21 312.17,24 313.1,21 315:9 316:6,9 316 20 317 1,23 318.13,25 319 11,20 320:6,14,25 322 8,13 322 25 323 6,23 328.14 332:1,7,12,22 333 6 334:14,20 336 7 336 14 343 13,14,24 344 7,8

business 116 22 117:6 117 10 118:6 120:12 267 19 269:18,20,23 270 1,24 271 4 273 17 279.15 280.4,10,20 281 7,10,12,14,20,23 282 21,22 283 13,19 328 17,25,25 329 9 330.20 331 3,25 332.11

C

C 167.6

calculation 330 22

call 109:24 124:22 139 19 145 4,21 146 25 149 9 150 9,16 151 1,12 152 21 153.12 161 4 166.16 206:24 230:17 252 15 254:4 260 4 263:23 264 22,24 265 5 272 8 272:24 274:5,9 275 18 294:24 295:1 310:6,7,8 314 7,8 333:11

called 117 1 141 23 142 18 146:21 149 4 152 4,18 219 12 235:17,18 243 16,19 244:1 250 6,11 271 21 272:22,25 273:21,23 278:6 305:5 319 14 338 21,23,25 339 8 340:9,12,16

calling 336.4 338 12,18 338:19 339:4 340:8

calls 103:15 105:22 108 5 110:25 145 15 146 17,21,21 147 17 150:8,10,15 151 13,23 153 4,19 253 18 331 19 334.17 340 19 342.9,16

call-waiting 105 24,25

calm 313 3,14

came 115 21 136:18 141.21 146 18,22 147:22 148 2,21 149:13 151 20 155 13 155 20 202:23 214 6 234 20 263 21,22 274:7 276.4 285.13 292 3 314 10,11 315 10 325.4

cancel 111 1

cancellation 251 15

capable 196 7 208 12

Car 142.18 144.17,21 145.7

careful 220.23

Carolina 127:14 128.5

carrier 232:7 298 18 304 13,25

carriers 299 3

case 109 11 111 24 113:12 122 2 123 4 130:13 133 10 135 20 140 17 218:23 305 18 315 5 324 3

Casey 100:16

cause 195 17 302:7 306:5 308:13 333 23 334.9

caused 124 14 150 22 195 20 202 10 275 10 301 25 340·2 344 3
causes 123 23
cease 186 22 343 3,6
cell 345 8
Center 99·20 100 7
CEO 345 21
certain 106·17 112·2 151 13 239.1 323 4 344 14
chance 126 18 171 13 172:5 252.9 293.4
change 229·22 302·13
changed 104 9 107 14 125 7
changes 258 4,5
Chapter 133 5,7 134.8
charge 118.12
charging 105 17,23 190 25
cheaper 183 9,22
check 119 12 199 15 323 15
Cheryl 100:17
choose 187 11
chose 214 20 220 23
chronology 148 23 322 6
circumvent 175 9,16 176 2
cite 131 5,20 132·12 137 7
claim 178.8 233·14
clarification 171 22 177 12 263 24,25
clarifications 171 20 264·12,16 267 1
clarify 172 25 173 4 221 22,25 222·10
class 190·25 204 8 205 1 205·10 283·24 284.10
Clayton 100 18
clearly 123 4 175 9 180·6 232.16
CLEC 112 20 199 21 223:13,18 231.3 315.15,16 318.6 319 13 322.5,24
CLECs 169 9 219 6 223 21,23 276 7
CLECWARE 216 9 219 13 227 5 230.5,13 230·15,16,21 231 4 232:20 262:12 263·12 266 19,20 267:25 268 3,21,22 269 6,9,21 269 22 271 11
close 293.11,13 328.19 328 21,22
closer 315 10,14
code 113.1 134 7 272.9 272·10,10,15 273 2,3,6 273 16,19,22 274 12 274 12.17 275 2,24,24 276 1,22 277 22 278 4 278 14,17,22 279.1,4,5 290 21 291 5 292 21 292 24 293 1,25 297 19 300.6 305 9 306 12,23 308 2,15
codes 273.12 276 8 279 10,17
coding 301 21 302·13 305.3 309·7,23 310·8
combination 164·19,25 165 2,17 168 14 169 10,17 173.6,18 177 22 178 2 181 21 182 20 183 23 184 9 191:10,24 192 18 193 8 214 15 223·14 224·8,23 281·6,13,25 283 14 284.5
combinations 168.9 187 14 202.5,5 210.13 210 17 211 7
combined 166:12
come 108 20 118 11 139 9,20 142.12 147·21 158 21 159 6 163.13 175 25 178.24 182:10 202 12,14,16 202·18,24 207 10,19 217 17 284 1 324 8,11
comes 158 11
comment 107 13 108 8 108·16
comments 107 8,11,17 107 19 108.3,12,19,22 108 23 109 2,3 111 16 111·21 215 18 216.19 258 4
commercial 219 12
commission 99:1 128.5 128·14 130:16,21 131 12,22 134 17,23 135·4 169·20 171·2 172 21 173·17 174 10 175 5,6 176 14 180.5 180:22
commissions 234·11,13 259 8 261 8,14
commitment 142 6 225·10
communications 175 6 213 5
companies 112 24
company 110 22,23 112 7 114:17 119 16 120·18 121 21 124 8 124.10,18 125 12,13 131:3,3 142 18 192 23 198 25
company-to-company 171:15
compared 219·11
Competitive 232 7
complain 172.21 234 10
complained 203 5
complaining 283 18
complaint 99 5 118 7 125 16 140·22,24,25 259·9 261.14
complaints 114 6,9,15 114 18,19 115 3,5,7,19 115 23 116:5,7 118 20 119.9,10 120 2 125 16 331.21
complete 250.4,17 251 11 262:13 264 6 288·15 289:2
completed 144.8 147 24 147.24 148.5,22 225·16 236:21 239:2 239.10,18,23 240·3,8 325:5
complexity 192.12
complied 160 25
comply 245:4 249:1,20
compromise 287.10
computer 208.8,11,11 301 21 302:2
Comtel 125·9
concern 284·20
concerned 135 6 170·1 170 23 193·23 250·24 250 25 285 25 317·21
concerning 219 10 271 13
concerns 107 19 170 3,5 170 6 177 3,11 181.10 192·11 236 10
conclusion 120 25 176 1 304.15
conducted 190·13 193 4 248 25
conducting 193 7
conference 264:22,23 265 5 272.8,23 275.18
confidence 335·1
confidentiality 142 21
confirm 326 24 327 2
confirmation 325 16
confirmed 324 21 325.1
confused 210 1 245 18 247 3 250·21 261.12 280 10 292 12 294 13 295.21 299:5 303.7 329 11 337 18
confusing 155 7
confusion 115:24 116 2 124·15
consider 152 20 193 13 211 20 258 21 277 21 338·14 344 3
consideration 220:23 221.1 261·21 267·3
considered 193:16,25
considering 184 14 185 21 217.1
consisted 289 6
consistent 286 14
consistently 167:13
constitute 338 15
constitutes 137 10
consumer 118·8
contact 116.11 135 14 150 18 152:14 230:19 243 5 244 10 251 20 251 23 253 6,15 272 3 291 9,22 292 19 293 8 294.14 323.7,10,14 326.24 327 2
contacted 125 23 148 17 150 3,6 151 3 154 14 155.3,10,19 159 5 190·16 196 13 198.24 245.20 326 16
contain 307 6
contained 111 15 128 18 133 24 173 1
contention 163 16 314 17
context 123 12,14 244 18 301.9
continue 124 9
continuing 102 3,7 196 24
contract 118·1 121 5 122.13 168 9,23 169:7 169·18 171:7 172 22 177.13 179.24 242.25 285 16 286:8,14
contracted 197 9
contracts 318·2
contradiction 148·14
contribute 303·23
conversation 102:25

103 5,12 141 12
154 12 168.17 174:21
187 2,12,24 190:18,20
195 10 198 4 210:24
211 3,14,25 215 7
216:3 226 5,12 227 9
227 13,20 244 19
245 22,24,25 251 13
251 18 252 15 253:4,9
253 12 254 7,10,12,16
259 13 264 20 265 4
272 11 273 11 274 8
274 19 276.9,13 277 5
278 25 286 6 294 8,11
294:18 295 8,9 302 19
302 23 308 19 309:5
310 17 313 4,5 315 18
316 2,15,18,23 317 4
317:10,16 320 3,10
327 6 344 21
conversations 103 5
126.4,7 131 18,24
132 4,6 133.3 135.22
136 25 137:3,14
138 13 145:6 147.7,8
147:10,14 153 14
154:19,23 170 5 171 4
173.20 174 20 175:17
176 9,20 177:15
180:14,23,25 184 24
185.8 187 4 188.8
194:25 226 25 234 2,8
246.2,11 253:23 256:1
278 19 300 24 302 8
306.9,11,17 314:21,22
316 9 327 15
conversed 152 1 342 3
conversing 154 6
conversion 113 1 115:9
135 15 139:4,11,23
140:11 141 5 143 4,5
143 12,18,23 144 6,11
144:16,19,24 145 4,10
145:16,21,23 146.5
148.22 150 25 151 15
155:14,21 158 17,22
159:10,15,24 160:8,9
167 3 181.20 189:12
189 16 208 10 223 14
224:11 225 6 263:7
299 24 300:3 301.25
303.23 304 18,20
305 9 308.14
conversions 151 13
194.1 304 10 307 6
308 17
convert 124 21 192 8
193 10.14 200 25
202 4 207 4 210 6
225 1 262.6 263 9
280 7 282 17 283 3
290 4,12,14,18 291 1
292.18 299 12,17
300 7 301 17 302:22
303 2 305.2 313.11,16
328.12,17 329 4,9,14
329.24
converted 147:2,2 148.4
276 20 303 15 304 5
306 13,19,22 308 3
324 22 325:2,17 326.5
326:7,8,13,22 328:2
332 19
converting 146:13
166 22,24 167.14,20
296 20 299:10 319 1
convincing 117 14
COO 113 18
Cooke 164:13 168:18
Cooper 118.22 124 20
copies 161 11
copy 126:18,25 127.3,4,9
172.9,11 178 6 248.5
254 25 255 5
Cornelius 199:19
Corporation 232 4
correct 103.24 104 24,25
106 20 109 10,19
112 23 113 8 115:25
116:4 121 9 123 24
129.9 132 14 135 2
136 19 137 18 138 9
144 9,12 151 23
158 14 162.9 168:11
176 16 177 2,5 183 18
184 13 189 5 192 20
193 11,12 197 17
203 9 205 25 206 1,12
206:13 207.23,24
214 16,17 215 25
219 5 222:20 223 7
225 4,16 228 3 232 1
235 14 239 19 241 14
242 19 243 20 247.15
259:14 269 14,16
272.15 278 2 280 11
281:7 283:6 284 2
287 23 288 24 289 22
292 21 297.23 322 7,9
322 14,19 323 12
332.20 333 19 336.24
338 14 343 20
correcting 112:23
correctly 143 10 157:10
162.22 164.22 165 25
186 8 206 8 208 7,16
225.20 226 11,19,21
227 19 237 20 247 25
248.12 255 23 266 14
267 20 280:7 308 23
320 19
costs 165.7
cost-plus 166:13
counsel 172 5 213 6
222 12
couple 102:9 145:14
151 10 157:9 166 18
190:24 195 1,5 231 13
323:25 324:5
course 124:24 133 2,10
141 18 142.1 276 12
324 18 336 8
court 118 17 123 10
127:23 128 1 138.2
169:21 170:8 191 17
191 20 224:15 232:24
281 1 337.3
courts 127:12,22
CP 149:4
CPNI 135:11,24 136:24
137 9,21 138 19
139:13,22 140:2,10,14
140 19 141:4,7 143 8
143 20 144 5,15,23
146:2,4 159 20 160 2,8
crazy 149 7
created 332:2,7
creates 335:1
credit 118.13
credited 122.19
crisis 146 20 332.2,8
337 18 342:16
Cross 100:23
cross-reference 104.11
104 12,15,19
CRSs 147.10
CSR 105 11,19,25
107:15 108 6,6 109 6
111 18 259 15
CSRs 105.6 144 25
340 6 341 24 342 3
current 103:24 104 4
currently 102 13 112 20
113.6 116 21 117 15
166:12
customer 103.15,17,23
104.10,20 105.7,16
106.1,7,9 107:8,11,16
108 3,5,17,19 109 2,3
110 8,25 111.8,13,16
111.18,20,21 112 2
114 20 115 8 118 12
122:1,22 123:23 124 1
124 14 135 16 138 22
139 1,5,9,9,19 141 9
141 13,15,19.20,21,23
142 9,10,17 147 25
149 5 150 19 151 1
153 5,11,19,24 154 13
156.21 158:21 159 2
162 25 290:4 296 21
300:16 302.21 304 13
305 1,2 331:3,24 332.9
335 19,19,21,22
338 17 341.1 342 9,19
customers 105 22
106 18 112 6,20,20
114 23 117 15 118 20
119:2 124 21,22
125 22 135 14 145 2,3
145 7,20,25 146 5,11
146 17,24 147 15
148.4,18,21 149.9,14
150.4,9,17,24 151 2,13
151.14,20 152 1,3,14
152.18,20,21 153 14
154:7,14 155 9,13,18
155:20 156 9,18
157 14 158 2,12 159 3
159 9,11,14,23 160:11
160 15,22 161 17,21
162 17,21 163 3,7
166 22 184 2 194:5,10
194.17 195 9 285 3
298 7 299:4,9 302 25
303.2 308.23 312.4,18
327 25 328:18,25
329:1,3,9,16 330.21,24
331.9,17,18,21,22,25
332.3,11,14,16,18,25
333 2 334.19 335:4
336 4,6,13,22 338 5,9
338.12,25 339:3,6.8,12
339:22 340:7,9,16
341 7,16 342:17,22
345 4
customer's 103 18,24
104 6,21,22,23 105 2
105 11 107.18 109:25
110:1,2 111 2 122:19
139:4,17 142:23
158 24
cut 145:11
cycle 110 13

D

D 100:22 101 2
data 137 21 138 9,19

139·22 144 5 159.20 160 25
Dataease 109 4,5 112 4
date 133 12 168 13 183 13 186 1 200 7 228 7 230.1 231 22 232 13 233 19,23 234 13 235 8 237 14 237 18 238 16 239·5,5 240 7,11 244 8,8 245:2 246·21,23 259 1 280:19 293 10 316 15
dated 101 7,8 240 15,18 242 8,10 311 9 312 20 313 25 314 18,18 315 23
dates 239 1 315 21 316 4
day 143 13 149·13 204 16 243.16,17 244 1 247 21 290·9,21 290 24 292 8 293 11 297 10 334 3
days 204.15 235·24 242.4,15 260 11,17 324.1,5
deadline 245 5,9,17
December 216.23 217.3 217 11 218.19 219 15 270·4 287 25 288 2
decide 191.8 215:2 324 12,12
decided 215 6,6,14 216·4
deciding 218 11
decision 183·24 187 23 188 4,8,19,20 189·4 191 22 192 16 216·14 216·19 220·18 221 4,7 228:15,19 232 20
Define 326.9
definitely 220 19 295 17 297 4
definitions 128 18
definitively 209 10
delay 168 21 241 24 250 7,11 258·1,5 260 19 261 22 287·20 288·11 324:4
delayed 287 18
demanded 289 19
demo 217 14
demonstration 217 8,21 218 4
deny 254 15 255.7,8 256·4,5,19,21,23 311 6
denying 254 9
department 105 7 117.7 119 15 185 10 235 13
depends 123 16
deposition 99 14 102 3,8 126 15 205 5
describe 164 24 320·17
describes 254·7
description 101:3 254 16
desk 133 21 249 11
despite 108.11 173 16
detailed 342.9
determine 136 23 158.16 326 21 333 23 334 9
determined 102.23
developed 179 10 219 12
development 232 5
dial 339 18,19,23
dictate 212 25
dictated 213 7
died 119 19
different 107·11 108.5 166 2 187·20 211 16 245 23 268·2 270·5 275 2 281 13
differs 230 8
difficult 146.10
dime 313 19
direct 100 23 113 5 116:14,17 124 16 126.19 127 9 145.6 172 2 178 7 229 17,25 234·2 252 10,24 254 17 264·20
directed 119.12 124 19 198:17
direction 118.5
directions 124 9
directly 111 25 143·23 154:3 339 6
director 231·20
disagree 314.17
disaster 311:21
disclose 173.21
disconnect 141 25 142:1 142 12 159 11,13 166.24 167 10,13
disconnected 141 20 158 25 162.22 163 4 184 3 194:11,18 195 19
disconnection 111·15 195·18 225 3
disconnects 111 9 162 25 166·22 167 20 167 23 194.14
discovered 124·17 125 19 275 8
discovery 142.24 222.17 223 2,3 248·23 249.6 249 20 301 4
discuss 126.3 164 7 188 12 264 23
discussed 102 21,24 137 19 181 9 184 19 186 9 190·19 281 24 316·24
discussion 102 6 103 1 127 6 128:17 178 15 205 6 252·8 277 8 293 6 308:12 322.2
discussions 112·16 136 15,17,20 195 7 199 23 227 23 255 10 255 14,17,18,19 310 11
dispute 103 16 169.19
disruption 336 24 337 21 338 6 339:3,13
disruptions 195 21 337.24
dissuade 218 10
distance 99:5 105 6 128·25 331.10,13,19
division 156 25 162·2,6 162:8
divisions 135 13
divorce 128 2
divulge 126 6
Docket 99·3
document 161·6 199·5 199:10 220 9 229:24 231·9 232·9,10 237 23 239 13 240 21 241.13 244 15 247 18,23,24 248:5,7,8,10,17,20,21 249:23 250·3,5,13,14 250·17 251.9,11 280 16 301 3 317.25
documentation 155 1 252 11
documents 132:11 161:8 161 14 163 15,18,22 196 9 199 12 211 23 215 12 222:13 229·4,7 229 10,12,14 233:13 248 13 249 9 300 22 335.12 336 9 342 21
doing 125 14 138.15 150.22 195 13,15 210 5,20 211 5 212·20 235 23 258 8 275 13 280:6 283 12 310·15 318:25 343 8
dominated 174·19
done 103.10 117 22 154 24 163 19 203 1 237 13,21 240·4 257.18,21 283 2 321 12 335 8
Dottie 199 20,23 270 21 270 22
doubt 242:14
DOUGLAS 100 5,11
down 121 19 142 2 153 4,13,22 182 19 197 10 214·13 287 2 287 11 289 16 313 3 313 14
drafted 126 10
drafts 213.16,19,23 222 2
draw 304 15
drawing 252 18
dropped 202.9
Duane 333:11 345 16
due 246 20
duplicative 204:10,21 205 9 284.5
during 127:14 139 4,10 139·22 140·11 141·5 143:18,22 144:16,18 144·24 145:3,16,20,22 146.4 150.25 151 15 155 13,14,19,21 158.16,22 159 9,15,23 160:8,9 161 1 191 5 198 4 203 4 206 15,19 210:9 229·16 235 23 251·24 252.14 290 6 300:3 313 6 316 10 317 10 318 4,15 319·19 340·13,14 342.8
duties 113 13,17 186 17

E

E 100 22 101 2,2
each 104 9 124 22 149:20 200:14 279:11 285·20 290 24 302 25 310·19 331 3
earlier 126·1 235.2 247.9
early 149.24 155 14 157·8 164 22 168.20 182.13 223 12,16 255 3 272 19,21 322 24
easier 126 25
EDI 176:6 178 22 179 8 179 10,18 180·8,15 181:16 184 11,16

185 2,17 187 1,3,9,11 187.13,20.24 188 4,21 189 4,5 190·11 192 12 201 3 205 13,18,23 206.1,12 207 23 208 10,12 209 5,13,15 209·16,21 210 12,16 210 20 211 5,6 212 2 214 7,18,20 215 3,15 215 25 216 5 218:21 218 24 219·3,7 223 13 223.23,24 224.7 226.16 227 8 268 20 270 6,9 277 17 279·21 280·8 282 13 284 18 284 19,21,25 285 4,5 286 19,21,23 287 24 288 18,21
effect 180 20 182 16 293 24
effective 183 12 211 21 280 19,21
effectively 293 22 294 7
effort 163.19 175 9,15 176.2 288 16 289 2
efforts 157 19
Eidson 100 6
eight 236 18 237 10,13 237 21
eightish 141 22
either 109 25 112·4 115·13 119 12 131 6 139·8,10 146:24 149·15 150 22 158·13 174:24 177 6 179·22 190 7 203 17 247 20 259 16 268 7
electronic 177 25 180 8 184 12 188 11,13 192 12 217.1 226 20 228 16
electronically 179 7
elements 166 11
emergency 99 6 346 3
employed 116 21 186 15 343 1
employee 120 20,20 121 13,20,22 124 5,8 142.1,7,8 204.20 307 10
employees 116 15,16 184 6,16 185 14,15 186 7 189 4,7 190 10 192 17 193 11 194 6 196.11 197·21 201 4,8 203 5,10 204 4 205 8 205 22 224·9 225.2 263 1 265·22 267 5,11 270 13 288 23 314 23
employment 186 22 188 20 343 3,5
encompassed 143 17
end 117 14,24 121 12,22 122 13 123 1 129 3 196 1,2 205.3 239 5 274 8,18 313 8 315·14 326 16
ends 331 22
enforce 130:16,21 131 2
enforcement 174.9
enough 170:23 194.16
ensure 121:4,6 276 7
entails 139 15
enter 231 3 293·25
entered 130 17 162 14 182.21 207.8 232.11 293:21 294·5
entire 110 13 192 9 193 14 241 5,8 292 13 331 23 332 9
entirety 178 16
equal 117 2,3,4,5 125.11 129:1,19
equals 326 8
erased 107 15,20 108·12
erases 108 21
error 202.9 266 24 297 25 298·1
esq 100.5,5,11,11,16
essentially 287 18 304 2
estimate 219 19 336 17
estimation 154.5 160 18 331 5
evaluated 216 10
evaluating 267 4
evaporated 113·13
even 131 9 142.5 176 25 177 3,6 191 6,9 203 14 222.3,8 266 13 280 5 308 6 332 17 340 2 345 2 346 2
event 173 12
events 207 18
eventually 177 12 251 4 251 7
ever 102 21 124 12 127 11 133 5,7,14 134.7,12 156 15 181 20 186 6 193.25 206 3 240 21 251 20 253 10,14 258 25 269 25 317 3 344 10 344 13
every 119 12 150·3,6,19 204 19 244 20 260 14 261 3,3 318 14,21 340·25 341·1 342.9
everybody 333.4 334 22 342 7
everyone 127 8 288 16
everything 140·25 143 1 157 20 161.9 163 20 196 7 222:25 245 1 276 19 331 20
everywhere 183.5
evidence 163 15 211 24 240.10 300 22 304 7 335:14 339·10 340:5
exact 182 3 197 24 328.21
exactly 121·4 147 11 186·21 187.5 194·22 228 9 229:15 261:10 276 17 293.10 296.16 310 22,25 325 25 329·12 330 3 337 23
example 117 4 144 18 159 22
except 183·5 203 7 291·4
excess 197 23 201 6
Exchange 232.7
Excruciatingly 261 2
excuse 127 25 154.10 244 23 254:2 262 1 270.4 293.3 329.2
executed 166 21 250 12 256·8
execution 260·12
exhibit 101.3 126.15 172 1,3 178.6,7,10 233 3 238.11 240 19 312·21
exist 163 22
existence 126:12 280·15 280 21
existing 296 21
expect 111 19,22 113 18 117 9,11 153.11,18,21 153 23,24 154·22 155·3,23 189 10,15,18
expectation 192 6
expectations 186 24 188.15 343 7
expected 188.10,12 343 9
experience 141 8 190·11
experienced 159·11 166 22 167 9 293 12 336·23 337 21 338 5 339 3,12,17
experiencing 162 18 291 10 337 25
expired 242 15
explain 122 24 159 1 165 15 173 4 207 17 230 4,8,12 233 16 241 23 242 3 250 18 260 10 284 16 345 5,7
explained 293 20 294.15 300 4
explains 308 13
explanation 294·17
extent 110 15 133 22 149 23 256 1
extorted 284 14
extremely 303 7 308 9
eyes 188 16
e-mail 101.8 265·10,12 265 18,18,23,24 311 8 311 12 312·20

F

F 302 14
Fabio 114 2 147·9 149 6 149:25 195 3
fact 124 14 173·16 177:11 183 11,20 187.8 227.6 239.17 258.11 261 17 262 23 275 9 306 25 321.8 326 21 334 18
facts 146 6 176 18,22 335 14
factual 177:17,21
fail 344 13
failed 225 2 257·23 333 22
failing 122.5
fails 123 1
failure 292 18 293.25 332:7,12
failures 331 9,12 333 4
fair 107·24 191·11 289·23
fallout 334 14
false 117 23
familiar 144 22 224 19 311 12
far 106 7 110·5 128.4 182 20 213 12 239 12 269:22,23 282.24,25 283.13 284 20 286 19 317·2,21,24 325 16 326.1
fashion 135·13
fast 310 22,25
fault 183 8
fax 241 4

FCC 169 9 180 5,21 182 22 283 25
FCC's 182 10
feature 105 17 315 9 316 21 317.1,23 319 3 321 1 322 9,14 323 1,6 323 23 332 12,22 336·14 339 18 343 13 343 15,20
February 166 8 181 22 183.15,17 198 7 204 20 215 8,9,12,13 216 12,15 220 17 228 3,6,24 229 5,6 230 2,25 231 23 232 16,22 233 12 234 6,15 235 9 236 7 239·6 240 1 243 9,9,13 243 24 244.5,5,7,10,14 244 21,24 245 2,4,7,7 245 8,14,16,20 246.1 246 10,12,19,22 247:4 247 5,13,21 251 19 253.5,24 254 5,12 255 6 256 21 257 4 270 4 280.15,19 281 19,23 283.5 284.24 288 5,12,20
federal 131 1 175 6
FedExed 256 3
fee 102.18,23 103.6,10 165 16,22,23,24 166·4 183.3
feel 120 4,12,22 121.11 122.3 123 4 180 19 222.9,10 238 25 277.14 343 18
fees 102 12 103 3
felt 257 19 258·23 279 25 282·4 284.14 327 25
figure 126 24 200 15 287 3 290 13
figured 126:22
file 126 15 249 14,17,20 259:9 261.14 343·11
filed 99 3 140 22 214 4 229 17,25 230 3 235.20
files 249 4,11
final 258 18 259 25 260.20 261·9
finalized 257 25 258.20
finalizing 258 1
finally 293 8 294 14
find 121 9 137 7 148.16 150 9,21 151 19 152 15,19 179 2,17 185 13 186 6 216.21 233 19 248·6,21 249:9 278·7 280 6 323.7,10 333 12,17 334.11 335 2
finds 122 2
fine 129 16 151·7 214 25 236 16 239 12 326·3,7 326 7,12 346:11
finish 237.15 239·25
finished 145.11 222:6 237 17 257.18
finite 152 23
fire 124 25 267:10 343:23 344 3
fired 119·21
firm 118 6 120.11 124 25 142·6 225 10
firms 116 20 117 20
first 127.19 146 10 150 25 160 23 170·15 172 24 182 4 199·18 199 19 206 4,15 208 20 223 3 232:1 247 4,18,21 251 14 266.17,22 282.13 288 8 291 12 296·19 304·8 310·12 316·19 316 24 319 6 322.7 323 22 341.14
firsthand 305.23
five 125 3 260 11,17 346 8,8,9
fix 165.12 335.19,21
fixed 295·21 296 1 312.6
Flagler 100.13
flagrantly 124·10
flat 102 18 103.10
flaw 107·15
Floor 99·21 100·8
florida 99·1,21 100 8,13 128 13 130:15 131 11 131 14,21 132 23 134·13,17 137 12 173 17 174.9 175.4 176 13 234 11 259·8 307 13,18,22
flow-through 201 25
fly 268 8
FOC 141 19 143 10 224 10 225 6,9 264 8 327 13
FOCs 327 9
focusing 284:19
follow 121:20 122·5 123 1,22 344 13
followed 124 14
following 240 24 290 22 292 20 296.23 297.12 333 21,25
follow-up 102.9
foot 132 13
force 116 14,18
forced 259 7,11
forgot 142.3 145 13 331 1
form 114·14 137 22 140·3 224 17
formal 102 17
format 139·9 265·12
former 113 14
forth 254·17
forwarded 118 19 154·15
found 154·6 159 24 169 1 178 22 202 22 279 14 308·11,17 333.5,9
foundation 102 15 107.21 110·9 117.17 134 2 188·1 214·24 242.1,6 281·4 304·21 337.9
four 112·20,20,24 183 6 237 13 331.4
FPSC 100·15
frame 185.18,24 217 4 217.12 219 16 236 20 249 5 296 2
Freddie 189·13 203 11 272:7,8,24,25 273 7 274·11 275 16,18,24 276 2,4 277.2 291 15 294 11,23 295 4 320 10 324 8
free 191 1 222 10 238:25
freeze 297 15,20,22 298·2,6,8,11,14,17,25 299·7,9,13,16,18,23 300 3,19 301 8,12,17 301 24 302.6,20 303 1 303 4,5,14,17,21 304.3 304 9,11,17,19,25 305 6,11 306 5 307·1,7 307 9,14,18,23 308.16 309.4,16,18,21,24 310 3,7 311 15,19,24 312.7,12,15 313·2,12 316 10
freezes 311.4,17
Friday 272:13,15 291:7 292:11,20 295 13,17 296 4,6 297 1,4,6,7,10 323 24 324 1 327 8,21 327 22
fried 336 19
friends 271 25
from 102 2 109 12 118·7 118 20,22 120·2 125 16,18 128 20 129 18 130 7 132 12 132 13 135 11 136 23 138 15,21 142 20 143·16 145:7 146·24 146·25 149 1,15 151 18 153 13 154.19 156 11 157·14 158 13 166 23,24 167 14,16 167 19,20 170·15 172 4 181 21 183 4 187 12,20 194.25 195.22 196 24 198 23 199:18 202:6 206 2 207·13,18 211.6 217:14 218.10,10 224:10 225 6 226·3 227:5 230·8,14 237:21 240·15 251.19 252 24 258·6,13,15 263 22,23 264 16 269·20,24 270·10,18 271·10 273.12 275 5 279·13 282.16 287·10 288 12 290·3,18,25 292 3 295 23 297·17,18,18 298:11,14,18 299·3,10 300·7,15 301 4 302·3 302 21,25 303 12,15 303 18 304.4,5,13,13 305 4,10,12,13 308 3 308 23 311 8,22 312·10,23 316.12 317 14 324 8 327 3 331·14,18,21 334 14 338 7,7 339·5 340·6 341:22 345 9
front-ends 287:25
froze 302.4 306:18 309:12 310·5
frozen 300:12
full 140.16
functional 205 23
functioning 179·23
further 187·15 293 20 345 5,7

G

Gallopi 114:2 147 9 150.1 195.3
Gary 163:11 164.6

168 17 195 22 259:16 259 16
Gateway 101 6 237 25 238 10
gave 112 5 119:10 128 9 157:19 161 16 211 16 214 14 220 6 222 22 258 14 272 10 273 7 275:2,24 276 22 278.3 278 13,17,21,25 290:11 292 20 293 1 293 17 298 3 322.12 329:22
general 120 10 184.25 192 25 193 1 222:14 222:23 223 6 301.10 336 16 342 15 343 10 346 3
generally 343 11 344 18
gentleman 145:7
Georgia 234:11 259:8
gets 108 5 124:1 149.4 158:24 162.9
getting 121.25 164:17 258 6 260:20 262:3 279 19 282:2 308:10 313 17 315.13 325:16 331 21 336 19
give 104 9,9,17 106 6 109 25 122:10 128 6,9 129:14,19 130 11 140:7 143.1 157 19 160 17 163 20 178 6 179:3 180:1,2 185 9 187 19 196 18 212 22 219 18 242 13 243 18 250:17 265 15 273.5 273 16,19 275 2 278 1 292.1,4 310 9
given 121 21 139 13 154 2 156 14 159 22 177 10 181.8 250 14 275 9 309 16
gives 130 12 274:12 296 5
giving 239:14
glad 317 19
glanced 252 12
go 121 18 127 1 128 4 130:24 146 18 150:23 151.9 159 9,15 160:11 162 13 166 18 170:7 175 2 179:18 187 3,15 187 23 188:4 189 4 191 8 203 14 204:25 205 10 208 2,6,14 210:11 216 4,14 218:11 220 18,19 223 4 230 4,13 234:12 237 2 261 7,13 262 2 263.9,14 266.8,13 277 6 280:5 292 5 314 12 324 5 343 10
God 186 13
goes 105 1 120:20 123 17 173 4 210 21 283.1
going 117:4 123:19 126 2,14,23 132.2 142:2 143 12 148.17 149 8 172:1 175.21 178.6 179 5 190:24 191 13 192 3 198 6,10 202.14 212:23 216:18 218:10 222.1,2,23 229 3 231.9 232 9 236 2 237 23,24 239.15 240:13,13 259:7 264 25 267:10 270 17 273 22 274 10 281:21 283 1 297 18 300:14 305 19 310 16 310:18,24 311.8,11,20 312.4 315.8 318:23,24 322 21 334 13 345 15
gone 145 23 146.11 147:1,25 148:5 149:5 150 24 152.22 159:18 160:15,22 191.4 257:7 260:2
good 130:1,3 164 9,10 218 7,8 219 1 221 18 234:20 237:12 279:7 313.23 317 11,17 321 19 326 10 346 7
gosh 208 8
gotten 143 10 146 24,25 160:13 290:15 313 18
grab 149 9
grabbed 133 19 345 15
grants 131 21
grasp 344 18
great 149 23
greater 129:23 130 11
grounds 305 21
guess 134 6 145 3,21 149:4 151 11 161 4 162 24 166 11 179 5 210:1 234 19 245 18 247 3 261.12 269:1,21 277 25 292 12 299 5 317:10,12 320 18,19 324:7 328 23 329:11
guessing 224 6
Gulas 106 5 155 24 246.4 259.17 271 21 271 23 272 12,23 273 23 275 7,11,21 276.6,22 291.16,18,22 292 20 293.1,9,17 294 9,11,14,16 295 5 298 3
guy 297.19
guys 158.15 214 8 324:12

H

H 101:2
hair 206 8
half 183:21
Hall 253 24 254:8
hallway 208.19 214 8,10 214 13
Hamilton 189 17 190 1,3 203:12,18,22 208 3 210:5 215 21 216:3 217:25 218 3,13 221 14 227:22,23 228:12 262.16,19 270:12 288.21 311 17 320 11,21 323 4 324.8
handling 107:17 194 21 202 9
happen 119 18 143 12 149:22 282:20 301.21
happened 108 6 124 12 148:10 155:8 194:22 197 7 205 10 208:17 234 18 250 1 254.22 263 13,19 276:3 299:11 308.4 312:16 327 21 330:16 333:5,7
happening 149 24 150 19 155 8 274:4 345:1,13
happens 118:4
happy 343 11
Harbinger 185 2 187 3 187:13
hard 191 14 206 6 212.14,22
hard-won 331:25 332.10
hate 132.13 289.8
having 114 12 128:12 163.16 164 16 169:5 175.7 176 14 180:5 191 14 198 5 206 6 211.2 227:1 253:8 257:16 296.13 297 12 300 25 301.3 314 23 333 1,3
head 187 16 191 4
headache 308 10
heard 116.1 125 21 223 22
hearing 127 15 128.7,11 133 10 191:15 323:3
heated 310 11
heinous 123 17
held 120.17 318 6 319 13
help 148:24 181 13 182:25 183 7 232:10 239 8 319:11 336 5 338 13,19
helped 186 9
helping 203:7 204:6
helton 100:16 102:5 191 14
her 124:20 174:14 198 10,17 200:2,6,6 202.16,17,18,24 206 4 207:4,9,15,16 208:20 210 5,19 211 3,9,10 213.7,8 217:16 243 8 243 15 244 2 247 4 250:14 252.13,14,16 252.17 253 6,6,9,11,14 253 15 254 17 256 22 257 1 265 9,11,17,23 270 20 273 21 278.6 278 10 311 22 313 23 314.17,22 345.8,12,17
Hidgon 226:8,9,14 227.7 227 20 228 22 265 8 274 9 305.14,15,17,22 306.1 308:11 310:24 314 11 318.16 325:11 325 13,22,25 326:11 326 16,25 327:3,5 328.4 344.3,9,13
Hidgon's 343.18
Higdon 309:21 327 16 342 1 343 1,24 344:10
high 266 24
him 110:21 120 25 149:9 150:8,16 151 19 152:21 154:3 185:22 187 1 213 2,6 227 4 237 2 241 12 249 9 260:15 272.1,1,3,25 275:15 276.10 294 15 326:1 343:9 344.14,16 346 2
hire 120 10
hired 116 21 117 20
hires 121 16
hiring 113:19

history 105 12 106 17,18 106 18 107 18 155 2
hold 294 22
honest 197 6 228 4,5
hope 279:18
Hopefully 187 18
hoping 280 6
hour 142 14 159 7 312 6 341 9,18 342 24
hours 149 12 208:18 222 1,1 235 24
house 345 9
How's 318.23
Huh 212 18
hundred 145 3,6,14,20 145 25 147 15 148 18 151 13,14 152.9,20,25 159:8,23
hunt 331:15
hunting 339:20

I

idea 103.8,11 117.8 147:4 149:21 157 23 158:6 159 17 174 15 187 22 194 3 307 25 313.23 317 11,17 330:12 339.7
Identification 233 3 238:12 240:20 312 21
identified 335 18,20
identify 308 13
IDS 99:5,5 100.4 102 12 103.15 105.17,23 106 7,12,16 107:17 110:5,25 111 3,5,19 113 21,23 114 3,8,8,9 114:20,24 116.2,10,12 116:21 117:3,5,10,15 117 16,19,22 118.9,19 118 21 119 5,8,21 120.4,12,16,20,22 121:3,11,16,21,23,24 122.3,17 123 3,5,15 124.4 125 17 126.6 128 25 130.11,17 131 16 135 11,14,15 136 24 137:9,21 138.9 138 19 139 22 140:2 140 13,14,17,18,19,22 141 2,4,7 142 11 144:23 146 2,13 151 3 155 17 156.3 157 11 157 16,21 159.4,20 160 2,8,12 162.14,17 162 18 163 16 166 21 166 23 167 13 168 13 169 9 170 23 172:4 173.3,12 174 10,18 175 8,11 176 4,16 177 10,11,22 180 6 181 7,20 182 21 184:15 185 7 186 15 187 11,23 188 4,10 189 3,7 190 10,16 191 8,9,23 192 1,7,16 192 17 193 4,22 194 5 195 16 196 4,14 197 21,25 199 6,11 201 25 202.10 203 5 204 19 205 25 209:6 209:24 211 20 214 14 214 20,22 215 2,14 216 25 220 23 222.12 222.13,15 224 25 225 2,6,20 226 10 227 19 228 1,6 229 9 232:3,17,18 233 5 238:1,7,10 241 18,21 242.9,15 246 17,25 248 20,22 256 8 257.3 258:2,12 260 8,21 261 8,22 262 5,8,23 263 1 266:4,7,11,16,18 267 21,24 268:13,19 269:3,13 270.1,23 271 2,9,19 273 12 275 9 278:24 284:14 284:25 285.5,10 286 12,17,20 289.19 289 24 290 4,6 291 22 296 20 298 24 299 2 299:23 300 12 301.24 303 13,22 304 9 305 7 305:13,17 306.1,4 309 3 311 3,15,17,25 312 12,25 313 11 315 3 316 20,25 317 21 319.21,24 321 18,18 322 11,18 323 22 325 16 326:20 328 10,17 329 8,13 331 9 332 8,8 333:3 334.19 339.8 340 1,10 340:18,18 341 1,14 343.1 345 3,9,18,19
II 99 11
III 100 11
ILECs 183:16
Ileri 100:17
immediately 125:23,24 135:14 139 22 140:11 155 6 162 16 169:1 182 7 241 5 289.15 321.2 342 11
impact 183.23 304 9
implementation 183 13
important 181 14,15 244 8
impressed 217 22
impression 153.2 245.13 309 3
improper 143:7 268 11 268 17 277:12,15,21 279 21 282.5,12,23
improperly 140:14,19 141 3,6 143 20 144:5 144.15,23 146 2
inability 174 8
inappropriately 146 4
inartfully 341 4
Inc 99 5,6 100:12
incident 332 2,23 334.5 334.15,21 336:7 343.25 344:2,7,9
incidents 344 5,6
include 307 10
included 175 4 176.13 180:4 344 6
including 127 23 255:11
inconceivable 146 14
inconsistency 316 14
incorporating 258 5
incorrect 138.8 168.5 177:19,23 180 11 230.1 235.16 236.23 273:3,5 275.10 279.1 287:3,14 303:10 339:13
incorrectly 110:19 314:18
incredulous 149:11
independent 136 22 175 24 336.12
indicate 160 21 200:1
indicated 205 22 338 18
individual 142:11 189 20
industry 132 11 135 23
inform 193 6
information 106:22,24 107.3,5 109.12,21 111 2,3,6,20 132 11 135.12 136 24 138:22 138.25 139:2,4,7,12 140.10 141.14,18 146.4,19,20 147:6 149:1 155:24 156 4,13 162:9 171:24 213 7 217.6 219:10 222:17 223.5 232 4 239:15 304 7 336 10 339 5,10 340:5 341 22 342 13 346 1
informational 318 6
informed 164 19 233 5,9 233 11 259.19
informs 121 22
inforum 315 15,16 319 14 322 5,24 323 5 323.11,16,18,25 324 9
initial 268 10,17 285 8
initially 219 22,23 287 17 324 17 329 4
input 271 10 275.13
inputted 141 17 143 23
inquire 186 6 245 21 318:21
inquired 219:22
inquiries 185 13
inquiring 319 2
inquiry 107 18
insane 309:1
installation 235 8 236.7
installed 233.6 235.2
installs 233:16
instance 123 2 124 13,16 140.1,8 141.5 144.22
instances 137 7 144:14
instead 136 1,3 188 5 214 23 215 2,14 216 5 230:2 285 8
instruct 126 3 132.2 175 22 190:4 213 2 305.20
instructed 151.19,22
insufficient 312.13
Integrated 224 1
intend 140.17
intent 172.25
intention 150 18,21
interconnection 128.18 128:24 129:22 130:10 130 17,22 166 21 173 2 175 8 246.16
interested 165:9 308.8
interface 177 25 180 9 188 11,13 192:13 218.19 226.20 228:16 230:6 232:6 263:11 266:23 268 4
internal 125 19 276 23
internally 193 4
International 99 20 100.7
interpret 135 24
interpreted 209 17,18
interrupt 151 5

interruptions 289 21
intervened 236 20
introduced 164 1
investigation 151.11 221 9
invoice 220 7
involve 117 14
involved 116 17 134·18 139 14 153 15 181 10 181 11 187.7 189:11 189·15,22 201 21 217 19 228 14,18 282.11 283 8 288 16 317 13 318.13,18
in-house 116 10 119 11 124 19 126 4
irate 141.20 308 9
Issam 231 18 232 14 238 13 239 13 240 14
issue 122 22 177 10 181 16 196:17 219 2 277 22,24 298 2 309:23 310.10 313.2 322:5
issues 255 11
Italian 150.2
item 313·17
items 316.5
I.S 184:20 185 1,10

J

JAMES 100·11
jamming 331 20
January 182 12 200.8 200·20 202 1,2,10 216 24 217 3,11 218·19,24 219 16 228·2,25 230·2 251 19 252.16
Japanese 295 2
Jason 164 6,13 168 18
jeopardized 334 20
jeopardizing 332.8 334 25
Jesus 169:6
Jim 142.19 151.5 178:9 191·14 221 22 241 4
Jimmy 234 3 241 6
job 113.13 237 12
Joe 345 24
jogged 229·5 287·13
June 343 4,5
jurisdiction 130·21 171 2 173 18 180 21
just 102:8 113:12 114 12 117·4 118.24 120:10 121 1,15,24 122.24 124 3 127 25 130 7 131 8 133 5 147 2,10 147 13 148·20 150 8 150.23 152.19 153 17 159 2 165·24 168 7,10 175 19 176 10,20 179·5 180 25 181 6 188.24 192 4 193 22 193 22 197 6,15 205 5 212.25 216 21 221 25 222:14 223 18 226 16 235 11,22 236 25 251:11 252 4 253 20 253:21 254 10 255·23 257 9,25 260·21 261 6 268 4,7 269 6 271.9 275 2 279 16 283 1 286·9 287 15 288 19 290:15 294 2 295 1,3,9 297 24 300·14,24 302 15 304 22 305·23 306 8 308 7 313 17 319 10,21,24 320 13 320 13 321·5,9,14 333 2 334 24 339.15 342·7 343 10,11 346·10

K

keep 106:8,14,17 108.2,4 109·21 111 8 115 17 153·20 248 5 340 19 342 8
keeps 106 7 111 5 340 18
keith 99:17 100 24 148·2
Ken 186.11,12,25 187 6 187 17,18,25 188 15
Ken's 188 5,19
kept 106.22,25 107 3,6,9 108·16,23 109 2 150·13 339·18,19
kills 123 18
Kim 240 15
kind 141 13 146 19,20 148·7 221 23 231 5 245 16 305 3 309 25
KK-2 178.11,12
knew 183 11 194·4 202.25 203.5 204 4 230 1 282·25 289·4 315 7 334·23,24 335 12
Knight 195·11 196 14 198 5,15,21 200.4 202.12 205.11,17 206:11 207·11,19,22 219:1 262.25 263 6 264 19,21 265 2,23 268 11 271 18 273 4 273 13,15 274 5,9 275 1 277 5,23 278 1 278.20,25 279.16 284 14 285 13,22 287 22 288 4,11
Knight's 266 6 267:4
know 103 1,6,9 105:10 105 15 106 2,10,11,12 106 14,21,24 108 6 110·4,5,16 111.4,5,10 111 11,23 112:10,24 112:24 113 3 114:13 116 5,19,23,24 119 23 119:25 120:3,7 121:18 123 24 124 7,8,13 126 10 131 4 134.20 135 3 137 5,6,17 139·13,14,15 140 15 145 15,19 146 1 147 9 149·10,12,14,16 150.6 150:7,10,12,16 151 2 151 25 152 3,6,8,17,17 152 23 153 16,17 154.2,13,17 155 5,7,9 155 12,22,25 156.1,2 156 22 157 3,12,18,19 157 21 158.5,6,9,17,20 159·10,14,25 160 6,20 161·2,6,17,20 162:10 162:11,12 163.3,18,19 164 23 166 3 167 1,3,6 167 11,23 168 25 169 8 170·5 171 8 174 23,24 178·4 180 16 181.3 182.1,2,3 182.4,15,24 184.4,21 184 23 185 4,7,19,23 186 2,21 187 5,8,10 189·9,19,23 190 7,12 190·13,16 193 15,17 193 25 194·4,7,8,13,22 194 23 195 13,14,19 195 20 196.4,9 197 21 198.12,19 199:4 201 10,14,19,25 202·7 202 8,11 203.1 204 2,7 204 9,12,14,19,23 206 5,18,21 208.23 211 2 212:3,20 213 16 213 20,22 215.6 216·22 219 6,8,25 220 5,11 221:17 222:2 222 3,11,15,17,25 223·12 224 9 225.5,9 225 11,22,25 226 1 227.6,25 228 7,9,11,13 228 24 229 1,9,12 230.20,23 231 8 232 11,15 233 9 234·9 235·22 237 10,14,17 238:18 239.12 240 7 242 14 244 5 246 6 248 25 249 8,19 250 7 251·10 252.2 253.22 253 25 254 11,24 255 17 256 8 260 15 260 23 262.14,15,18 263 2,16,17,19,25 264 3,7 267 23,24 268 6,7,8 270·15 272 19 273.10,14,20 274 11,16,18 275 12 276 25 278:3 279 7 280 14,20 281 8,9,12 281.17,21 282:7,10,11 282 24 283:23 284 9 284 11 285 25 289 5 290 24 291 3,4,6,14 292 6 293 19 294·2 295 18 296 16 298 12 299 19 301:14,16 302.5,10,12 303·10 304 14,24 305 16 306 21,25 307 12,13 307.16 308 6,7,24 309 11 311.2,7 312:2 312 16,18 313 13 314 22 315:21 320·8,9 320:16,21,22 321·13 323·23 325 13 326 15 326·23 327 5,7,9,10,14 327·15 328 15 329·5,6 329 7,12,13,15,18,20 330.3,8,15,18 331 7 332 18 334·13,18 335 8,20 336 6,20.22 337·12,23 338 4,21,23 338 25 339·2,16,22 340·9,12,16,18,20,22 342·3,25
knowing 257 7
knowledge 104.8 105 8 108 18 110·15 111 7 112.21,22 113.5 114.4 114.5,16 116 13 117 1 117·25 119·17,21 124 17 125.2 128:3 132:15 139 16 140 16 141·4,12 144.14 155.15,18 158·24 160·3,5 166 14 168 15

177 8 180 10 185 12 196 6 216·1 223.11 225 13,17 235 1 238·14 239 16 248:18 248 19 250 9 288 25 302 1 305 23 306 3 322 15,20 326 19 328 11 329 16 334 22 336 12 344 12,15
kramer 99 17 100 24 101 3 102 1,7 112 8 126·16 127 8 191 15 232·10 233 3 237 24 238 8,11 240 14,19 241 23 311 11 312 21 322 4

L

lack 275.8 281 3 304.18 335 1 337 8
LACKEY 100 11 178.14 188 24 205 4 252·4,6
lady 206.7 217 15 220:3
language 175·3 176.12 180 3,4,7
large 141 21 150 24
last 105 12,18,24 110 3 119 22,24 170 15 186·13,25 187 18 191·18 231·19 236.18 239:4 247 21 311 14 322:4
lasted 204 13,14
late 126·14 149·24 155 13 157 7 223 12 223 16 233 6 256.12 257 14 258.10,21 272 20 290 3,19,25 292 14 295.23 315 20 316 12
later 110 14 122 2 143:13 250 6 289 19 289·23 291·7 313 18 314 10 315 11 316 8
latter 116 6
Law 100·6
laws 307 13,16,17
Lea 118 22 124 19
lead 174.18 291 21 296 22
learned 203 8 280 4 283 21 289 9 336.11 338 7
least 129 1 130:1 329·21
leave 139·20
leaving 148 22 164:13
led 328 3,4
left 149·16 158 12 162 2 186 18 232:13
legal 120 25 122.10 175:7 176·14 180 6
legally 122.9
Leiro 249 3,19
LENS 143 24 315 8 317 22 319·20 322 25 323.6 328 14
Lepkowski 259·15 301.19,23 302 24 303 4 308 20,21,24 311 3 317 3,7 323·10 325 21 326 1,15,24 327·6,16
Lepkowski's 326 11
less 130 3 142.13 152·12 152 13,16 165 7 237 21
let 108 2 114 12 119·5 120.19 138:6 143 9,22 166·18 177.9 180.18 182 25 183 11 197 12 199.5 204:15 222.11 222·15 224 18 226.18 231 13 262·1 273.24 280 9 298 16,24 299·20 303 8,10,20 317 12 322·6 332.5 343.23
letter 101 4 126 17 146:24 149 15 156 10 156 15,17,20,22,24 157 1,5,7 158:2,13 162 3 172 3,4,17,24 195 22,23,24 196 1,5,8 199 18,18 200.7,9 220 6 231 10 232.2 233·2 298 21 308.22 313 25 314.13,18 315.3,6,23 316 1,16
letters 118 22 119 13,19 157 9,11,14,16,22
let's 103.15 105 12,16 108 21 109 20 110 25 145 19 147 21 151 9 162 13 174 4 175 2 176 7 181 14 202.6 203·3 274 8 314 12 322 1 337 13 339 15 341 5
level 130·11 132 13
Levent 100.17
Lewis 100 18
license 208:9
lie 344 10
lied 115.13
life 113 14
like 104 3 123 18,19 125 9 137 8 145 7 150 2 161·4 162 10 167 25 169 9 194 10 200 5 203.16 206 5,7 208 22 211 3,4,6 214 9 222 14 228 2 231 23 240·14 245 17 251 16 287 12 290·10 298:21 309 6 317 17,18 319·15 323 21 345.6
likely 107 2,5,8 108 23 139 17 157 13 201.11 220 17 284 3
limitations 307 24
limited 292 19,25
line 127.10,18 128 17,20 128 21 130.5 131 16 135 17 168·2 185·20 196 23 203:3 220.22 227 15 244.23,24 245.3,6,19,23 247 6 256 15 262.4 275.6 276 14 284 12 286.16 289:18 294 13 295 19 296 18 298 5 299·6 306.12 309·14 314·12 318·4 324 20 328 16 331:8,23
lines 128.16 129·6 130 5 130 14 131 10 132 25 135 8 136 6,11 138.7 140.6 162 14 171 9 174 3,6 175·2 180 3 181 18 183 6 184 7 192:15 209:2 210.11 219 9 225·18 233 4 235 6 236 17 252 24 252·25 254.2,3 256.11 259 6 261 24 262.22 268 9,16 270:25 277 10 288·14 290 2 291 17 293 17 294 4 306 14,14 312.22 326 4 330·9,19,21 331.4,19 332 6 333 20 335 17 336·3 338 11 339 25 344 20,23 346:4
list 310 13
listed 162.24
listening 267 4
literate 208·8
little 127 1 174:4 250:23 257 20 277 23 336 19
345 7
living 188 15 343 7
LOA 302 20,24
lobby 342 17
local 118 8 232 7 297 15 297·20,21 298 2,6,11 298 17 299 4,6,8,13,16 299:17,23 300·2 301·7 303 1,5,13,18,21 305 5 307 1,7,9,14,18,22 308.16 309 15,17,20 309·23 310.2,7 311 4 312 12,15 316.10 330 21 331 9,24 332 9 344 18
location 191.7
logo 156.24
long 99 5 106 8,14,21 108 19 128 25 148.10 182·18 191 12 194 23 204 12,14 242·8 257.20 260 15,16 261·20 313 17 327 12 331 10,13,19
longer 118.5 250 19 268 20 321.23
look 127 10 128.16 132·17,19 135 8 137 4 147 23 174 3.6 184 7 203 3 206 7 208 25 209 2 220 13 222.15 225·18 235 6 245 19 309:14 333 20 344 20
looked 149·20 200·5 220 11 249 19
looking 149·3 206 7 214 7 218 18 238 25 288 1
looks 206 5 208·21 211 4 211 6 231:23 240 14
lose 157.5
loss 195.8 339·17
lost 145.2 188.2 336 6,13 339·20,23
lot 126 23 148 1 165:3,6 212 23 258 8 267 10 267.13 279 8,9 331·18 331.20 332 25
loud 253 1
luck 126:21
lucrative 262 7
L.L.C 99 5

M

mad 266 10 313 19
made 115:16 146·21 147:17 150 10,15

153 4,12,19 170 15 184 15,18 185 13,21 189 3 205 20 210 19 216 15 225 23 226 1,2 226.15,23 232 21 259 20 260.4 321 8 323 11,12,15 335 23
magazine 132 10 216 8 216 20
magazines 137 6
mail 241.5 242 13
maintain 249 11,14,17
major 332:2,7
majority 113 1 115 7,19
make 116 12 117 22,23 118 1 119 14 121 8 122 19 123.25 127:4 146 17 150.8,23 151 22 165 3,6 176 18 188:7 193 21 254 1 257.22 258.4 274 20 276 19 279 16 286 24 289 12 322 6 331 19 337:7 341.6 343 19
makes 328 20
Makin 100 18
making 132.18,24
managed 287 1
manager 240 15
mantiss 216 9,11 218.15 218 17 219:12,22 220 12,19,24 221 2,5,8 227 5 230 5,8,14,21 231.3 232.3,12,18,21 262 11 267 15,18 269 7 271 10
manual 202 9
many 113 17 116 5,15 116 20 133 11 146 11 150 15 151 2 152 3,18 159 10 160:15 163 3 167 23 174 14 181 24 189.7 197 21 201 8 202:8 206 17,18 208:20 213 16,20,22 235:24,24 263 15,25 276 24 277 1 285 15 286 8 290:6,13,24 291 3,6 296 7,10 306 22 324 16 328 13 329:5,12,19 330:4,12 336:6,12,21,22 338.4 338 21 339 7,17,22 340 9
March 236 18 240 16 241 9,18,22 242.10,12 247 19,21 255 3,3,11 255 14 256 3,10,12 257 10,14 258 10,21 258.22,24 259:22 260 7,8
mark 232 10,25 237 24 240 13 311 11
marked 233 3 238:11 240 19 312 20
market 183 4
marketers 116 11
marketing 113 9,25 146:16 147 9 154 9,11
Mary 100 16
mass 193 5
massive 333 3
Matsen 111 13 142 5 147 22 148 8,20 149 1 150 4
matter 175 11 180 7 192 4
matters 246 12 341 6
may 104 9 108 16 133 8 133 16,22 134:3,5 140 15 142:5 146.21 152:16 153:10 158 7 163 18,19 179:10 190 6,6 191.23 192.2 199:3 217:13 219:18 220 2 233:6,19 246.4 259 23 264 2 278 24 289:11 305 25 311:9 315 1,3,4,7 317 13 318 6 319:13 322 24 323 19 328:6,14 330 3
maybe 106 5 130 1,4 148 13 171 9 176 11 181:13 186:20 288 3
McClendon 240:15
mean 110 17 112 7 114 8,22 121 16 123 16 133 2 138:12 138 20 139 13,17 140 18 142 7 152 9 160:10 171 21 211 5 212.16,19 214.11 222 4 225 15 247 6 257 5,6,13 276 17 284 9 286 17 288 17 291 24 296:2 300 13 313:12,18 321 13 325 18 339:19 345 4
means 225:13 302:13,14
meant 170 20 209 15 263 8 271 5 298.10 321 15
meeting 149.6 164:2,8 164 21 318.7 319 19 320:22
memo 154 19 240 14 241.18 242 8,10
Memorandum 240:18
memorialization 154 23 154 25
memory 171 12 199:7 229 5 235 19 287:13
Memrorandum 101.7
mentioned 102 11 112.19 135 23
message 207 9
met 200:5 206 3,4 208 19 214 8,10 272 1
Metrix 128 12
MEZA 100 11 102 1 110 9 112 9 121 1 126 14 127 7 132:2 137 23 138 6 142 22 151 7,9 178:11,17 185:19 188 1 189 2 191.17 205:7 213 4 214 25 221:19 222 20 233:1 238 6 241 15 256.15 268 24 277 9 293 7 321:25 322.3 337 5,7 346.11
Miami 99:21 100:8,13 217 17 324.13
Michael 174.19 255:19 255:25 258 7 260 2,13 260.22,24
Michael's 257:7
mid 261 25 290:3,18.25 292 14 295 20,22,23 296.1,2,3 313 9 315 8 316:12,13 317 23 322 7,11
middle 255 3
might 104:10,14 107 10 111 17 148 23 190:2 231:18 261.10,11 264:2 346 9
Mike 173 8 259 15 301 18,23 302 23 308:19 311 3 317:3 325 21
MILLER 100.5 102.15 107:21 112 7 117:17 118 14 120 24 121.14 123 7 125:25 127 5,17 134:2 137.22,24 138.4 140 21 142 19 151 5 169.13 175 21 178.9 178 12,16,18 185 18 188:23 213 2,5 214.24 215 4 221 17,21 222 18 224 12,17 227 11 232 24 241 12 242 1,5 245 10 247 8 249 5 252 5 256 14 257 1 268.23 277 6 280 23 281 3 284 7 293 5 304 21 305 19 306 6 322 1 330.5 336 25 337 6,8 341 2 346 8,13
Millstone 345 24.25
mind 178 24
minded 290 15
mine 184:6
minute 143 25 205 5 252.4 346 6
minutes 125 3 151 10 188:23
mischaracterizing 138 4 245:11 247 9 330.6
misinformation 284 15
mislead 175 11 176.4,15 177:10,13 180 6,19
misleading 178:22 179 2 179:17,21
misled 181 7,15
misreading 176:11
misrepresented 115 13 115:14 124:18
mistake 168:7,10 197.6 197 16 228 4,5 323 12
misunderstanding 148:13 297:24
misunderstood 171 16
mixed 316 4
model 262:7 268 13 269:3,10,13 271 1,15
modifications 170:12,14
modify 251 8
Monday 290:22 291 7 292 9,10,11,20,25 295:14 296 4,23 297.6 297 7,12 328 7,8,10 333.15 334.5 335:9
money 165:3,6 267:13 288:16 289 2
month 110 14 253 7
months 105 13,18,24 109 22 110:3 119 22 119 24 145 2 183 21 313 15,18
more 103 2 111.19 116 24 152.10,10 165 3,6 174 16 183 6 196:20,22 197:8 204.16 210 18 211 20 243 3 250.4,17 251 11

255 24,25 262 6 266 7 266.12 267 5 271 19 274 6 284 3 286 1 313 16
morning 102 10 141 17 333:14,18 334 12
most 102 18,20 139 16 181 14,15 211 13 277 19 282 14 329 20 336 4 338 12,15 339 2
mostly 136 25 176 5
move 235 8 236 7 262.11 298.14 301:12 341 5
moved 234 14 310 6 312.17
moving 298 12 302:3 303:18 304:14 305:4
MSAs 183 5
much 122.25 133 13 200 10 235 2,25 252.21 295.18 303 9
multiple 333 2
must 171 16 179.7,10,18
mutually 179:10
myself 235 14

N

N 100:22 101 2
name 139 17 142:8,16 142.23 147 6 186 14 186 25 187.19 231 19 270:20
named 141 25 187 25
names 155 12,16 185 9 189 19 342.5
Nancy 111.13 142 5 147 22 148 8,20 149 1
narrow 121 19 182 19
nature 124 11 157 6 197 20 220 7
near 313 8
nearly 303.9
necessarily 257 6
necessary 267 9,9 287 25
need 188:24 198:8,11 205 4 222.9 238 24 252 5 268.5 274 6
needed 229 22 266.7,12 267 5 271 19 298.20 302.24 321 12
needs 188 14
negotiate 258.13,15,25 287 2
negotiated 103 7 197.10 258.18 289:15
negotiating 168 23 170 21 191 12 246 15 257 17 258 3 261:18 322.23
negotiation 322:21
negotiations 168.24 169:4 177 1 258.8 318 5,18 322 17
negotiator 174:18
network 138 22 164 19 164.25 165 1,17 166 12 168 9,13 169 9 169 17 173 6,18 177 22 178:1 181 21 182.20 183 23 184:9 187 14 191.9,23 192:18 202:5 214.15 223.13 224:8,22 281:6 281 13,24 283 14 284 5
Networks 224 2
never 105:5 110 5 111:25 134 9,14 154:18 200.5 207.7,7
new 168 3,22 203 18 261 4 266:23 275 25 276.22
news 234:20
next 205 10 208 17 234.18 250:1 287:1,16 296:19,24,25 308 4 334 3
nice 206:7 217 15 220.3
none 208:21 291.4 344 6
nonemployee 120 11
noon 221:18
normally 113.18 193.3 228:14,17,18 248 13 273 12
Noshay 172.13 174 19 174 22,25 177 6 191 11 255 19,25 258.7 260:13,23,24
notation 239 21
notes 150:12 152 6 153 4 153:13,16,20,25 154 15,16 155 8 295:7 342 9
Nothing 274 4
notice 111 14
noticed 147 25 160:11
notified 150 4 235 7
notify 342 11
November 168:16 169.17 181 22 182 13 182:21 186 20
null 170:8 172 22
number 102 21 104 1,6 104 10,13,16,17,18,18 104 23,23 110 1,1 116 7 126 15 132 9 139:18 150.24 152:23 155 3 160:17 178:23 179 4 197:2,11,14,18 197 24 199 13 232 10 238.8 241 4 253:11 328 18,20 336 15,16 337 20 338:14 339 11 339 15
numbers 112:5
N/k/a 99:5

O

oath 102:2
object 137 22 140:21 175 21 224:17 337 6
objection 102.15 107 21 110 9 117:17 121 14 134 2 188 1 213.2 214:24 215 4 242:1,5 245.10 247:8 281 3 284:7 304:21 305.19 306.6 330:5
obligations 175 10,16 176.2
observe 205 16 207 16
obtain 109 12 157:11 166 11 190 16 243 6 263 5 298.16
obtained 219:10
obviously 123 18 138 16 141.20 154 12 321 13
occur 158 16,21
occurred 159:25 184.4 185.5,23 194.9 215 9 219:23 230:23 315 18 327:16,20 333 15 334 5
October 172.3
off 102:5,6 127.5,6 145.11 178:14,15 205 6 252 8 277 6,8 293:5,6 303 1 322.2
offer 164.15 312.23 314.5
offered 103:2 184 11 201 20 236:13 316 19
office 141 22 146.23 148:2 206:21,22,23,24 208.5,6,14 249:12 257.7 266.15 273 1 302:17 324:11
Offices 100:6
officials 319 19 320 6
often 168 8
oh 208 22
okay 104 5 105 10 108 1 108 2 109 8 110:12,20 110 22 112.16 114 11 114 15 115 18 121 11 121 22 122:14,18 123 12,15 124 12 127 19,25 128.8 131.4 132:5 135 8 138:6,14 138 23,24 139 25 141 10,11 142 2,16 143:11 144 10 145 9 145 20 148:25 149 2 155 17 159:1 162:12 163 24 164:3,5,15 165:19 166.19 167 19 168:17 169:16 171 11 171 18 174:5 177:9 181:20 182:16 183 20 186 4,5 187 23 196 22 199:14 208 1,2 210 22 211 19 214:14 216:25 218:1 219 21 220:11 220 16 224.7 231 13 237 11 238.2,21 240:17 242 10 253.3 262 3 265:2 268 18 271 18 274 8 277 18 280 2 282:15,19 284 12 287 16 291 9 296 7 299:21 300 1 303.7 305 1 306 8,11 306 15,21 308 3 310 9 312:22 314 12 315 2 316 7 317 3 324.20 326 4 329:17,18 330.8 330:10,18,19 331 2,16 331 17,23 333 5 335 2 335 8 337.5,10,20 338 11 344 25
Oldish 206 7
once 128.2 144.5 174.16 272:1 276 19
one 99:20 100.7 103.5 105 22 108:21 116 23 116.25 119:12 124:16 124 17,22 127 25 148.11 150 3,7 156 10 171.14 176:17 177 24 179 22 183:6 188:7 189:12 194:25 204 16 207 14 216 18 221 2 222.18 224.1,4,5 228.8 252.14 255.1,2 258:7 274 13 275.3 278 10 278 16,20 279 11

282 13 283 3,15 290 8
290 9,15,21 291 4,6,12
291 19,24 292 22
300:15 302 25 310 19
326.10 336 18 340 21
342 10
ones 177 24 280:12
283 20
only 102 20 103 23
108 15 110 16 120.15
129 14 130 23 139 25
139:25 140 12 158 23
162 25 181.7 182 1
183 24 184 1 189.25
205 25 208 8,11 210:1
215:24 222 18,20
227 13 283:4 284 19
286.4,5 304:11,14
333 21
onto 300.8
on-site 197 1
operational 226.3,4
operationally 188 17
operations 186 9 189 24
194 21 206 22 215.5
226 6 228 21 230:21
232 14 233.11 234 1
235 12 264 18 265 7
273:8,21 291 14
298.13 300 4 301 3
302.9,12 310 18 312 3
317 12 318 11,15
325 4,10 338 16 340:7
341 23,25 344 19
opine 326 6,9
opinion 121 2 122:11
139 2,3 180 18 182.23
210 8 226 22 266 3
310 2 317 15 328.2
ops 188 12
optimistic 262:2,3
option 217 1
options 214 15,18
218 19
order 141.16 142 6
143:14 144 1,6 147 23
147 24 149:19 150 22
182:10,17,22 183 12
196.20,22 199 22
200 11 205 12,18
206 12 207 12,12,23
208 15 212 1 225 10
225:14,15 227:19
228:1,10,15 230:22
244.9 245 15 249 1,20
269:17 271 11 279:5
280 8,18 283 3 284 1
285 4,5 288 8 290 23
292 5 294 3 327 13
ordered 141 25 142 1,11
179 6,7 228 7,8 229 4
ordering 179:9 217:1
218 18 311:21 312:17
312 24 313 1,21 315.9
316 6,9,20 317 1,23
318 13,25 319:11,21
320 7,14,25 322 9,13
322:25 323 6,23
328 14 332.1,7,12,22
333 6 334 14,20 336 7
336:14 343 13,14,24
344 7,8
orders 113 1 181.21
183:24 184:1,12
189 21 194 5 200 25
202 4,8 206 1 209 7.24
210:2,6,9 214 16
215 25 223 14 224 11
225 1,6,7,20 226 11,20
230 11 251:1 262 24
263:7,9,14 264 1,5,9
264 12,15,25 266 17
266 18 269:18 274:1
275:14 276.18,20,21
276.24 284:25 290 6
290:13,14,18,24
292 18 293 23 294 8
295 11,12,15 296.6,7
297 9 307 6 308 3
323:22 324 2,6,22
325 1,17 326 3,5,12,18
326:21 327 8,23 328 1
328.13 329:13,21
330 4,13 332:21
336:21,22 337 19
343.20
original 201 9 241 5,8
286 6 287.2 317 10
originally 148.15 197 9
214 14 275 3 278 2,4
278 15,17 285.14,17
OSS 128:12
other 103 5,11 113 13
115 5,23 122:14
127 21 132 6 136 2
137 16,19 140 20
141.5,5 144 13,15,21
144 22,23 146 15
149:20 159 13,17
162:22 164 6 167 25
175 5 176:5,7,7,8,21
179 9 180:15 183 9,16
188 5 192 12 194.13
194 14 196 8,9 197 11
216 2,4 218 18 219.6
223 13,23 224 5
246 13 270:13 278 14
278 20 282:5 283 4,4,7
283.15,15 285 2,4,11
286 13 288 22 289 1
292:23,23 299 3
302 20 305 22 314 23
317.13 336.10
others 140 15 183 19,20
otherwise 162.24 213 14
234 10
ourselves 119 4
out 110:19 122 2 123:17
148 16 150 9,21
151 19 152 15,19
159:24 169:1 177 19
177 23 182:11 185 13
186 6 194 23 202 9,22
216:21 253 1 266 14
278:7 284 1 288.15
308 17 313 19 323:7
323 11 329 18 330 14
333 5,9,12,17 334:12
outage 340:15
outages 340:2,3 341 1,15
outlined 132:8
outright 321:17
outside 175.25 180 25
over 119:11 171 2
173:18 175 7 177 4
178 24,24 181 14
183:2 187 11,16,19
188:21 191 4 222.1,2
252 12 262.11 274.10
283:1 300:5,18 305.5
306.16 309:22 310:6
317 14 332.5
overheard 302 16
306.10
overhearing 294 10
302 8
own 124 8 192:23 193 11
226.22 281 7,10
303 22 304:17 306:4
307 10 309 4
O'KEEFE 100:5
O'Quendo 189:13,13,25
190 3 203 11,18,22
272.7,8,24 275 16,18
275:22 294.12 295.4
323:4

P

P 100:5
package 160 14
page 101 3 127 10,18,18
127 19 128 16,17,20
128 21 129 6 130 5,5
130 14 131 10 132 24
135 8 138:7 140 6
162.13 168 2 171 9
174 3,6 175:2 179 12
179 25 180 3 181 17
184 7 185:20 192 15
196 23,24 200 9 203 3
209 2 219:9 220:22
222 23,24 225 18
227 14 233 4 235 6
236 17 238 25 244 20
244 22,23,23 245.3
252 23,24 254 2,2,3
256 11,14,15 259 6
260:14 261 24 262 2,4
262 22 268 9,15,16
270 25 275.6 276 14
277 10 282 3 284 12
286 16 288 14 289.18
290 2 291:17 293.16
294 4 295:19,23
296.18 298 5 299:6
308:5,7 309:14 312 22
314.12 318 4 319 18
321 21 324 20 326 4
328 16 330 20 332 6
333:20 335 17 336 3
338 11 339:25 344 20
346 4
pages 241 4
paid 268 13 269:3,13
270:3 271 2 284 13
286 9 289:24
pandemonium 342.15
345 15
paragraph 173 1 199 20
232 2 311.14
paraphrase 300:6
345 11
paraphrasing 138 8
parity 128 19 129 9,11
129 15
part 119 6 137 2 180 15
180 16 189:7 206.15
209 18 277 19 341 16
participant 200:14
participate 176 25 191 3
201 17 204 1 313 21
317 9 322 13
participated 190:1
197 22 201 5,8,12
203 22
participating 316 25
particular 106 9 110:7
118 6,11 180 13 214 2

parties 179 11 261 18 322 23
parts 206 17,18
party 169 19 203 25
pass 328 6
passed 324 1
past 110 10
Pat 198·20 205 17 206·3 206 11 207 3,8,11,13 207 18,22,22 208 18 212.1 214 6 225·25 270 7,8,11,13 274 9 279 22 288 20
pathways 184 12,20
patient 250·4
Patrick 234.3 235 3,7 236 6,13 237·1 241 4,6
Patrick's 234 16
Patty 195 10 196 14 198:5,14 200 3 202.12 205 17 206 11 207 11 207 19 262 25 263 6 264.19,21 273.4,13 274·5 287.22
pay 102:19 103.2 124.1 204 8 285.10 286 13 287 17 289·19
paying 284 15
payment 102 12 105·12 106.17 107 2,12 289 12
payments 122 20
PC 185 2 187·3,13
pending 149 19
people 135 22 145 1 164 1 184 3,20 185·1 189 11 194 11 195 1 197·8 218 21 233·11 234.19 239.13 240:2 262:11 265:3 280 3 282 17,24 283.18 285 8,8 286 1,8 287·9 289 3 292.3,6 301 2 317.13 318 11 330 23 333 1 337 17 338:18 338 21 339 6 342 18 345 13
per 172 24 239·24 245 14
percent 260 5
percentage 102 22 103 10 201 14
perform 179 23 187 14
performing 186 23
perimeters 322 18
period 106.19 107 3,6,9 108·17,23 112.3 141:2 144 5 149 22 155 19 157 10 161 1 167 15 190·21 230·24 251 24 290 7,11 292 14 318 1 340·13,15 342 8
permission 303·12
permit 135 13 345·2,19
permitting 135 11 136 24
person 142 14 147 14,16 148.8 170 21 195 2,4 203 19 220·2 234 25 235 3 285·20 308 12
personal 121.1 129·15 130.7 132 7 141 4,8 144 14 155 15,18 226 22 336·12
personally 105·5 112·8 115:21 122·7,8 150.8 161 11 163 21 206·11 212 5,7 215 14 221:11 236.4 249.16 265·19
personnel 226 3,4
person's 231 16
persuade 259·9 261:14
pertain 196.10 342:21
Petra 310·12 311 9 312.23 313 25 316·3 316 15,23 317.11 319 8 320 1
phone 104 1 142·9 155 3 216 8,20 253 11 274·9 314 7,8 345 9,15
phrased 268.25
PIC 297 20 309·15
pick 188.13
picked 134·7,9,12,14
place 178 21 253.18 300 19
placed 298 6,8,24 299·6 299 8,15 302·6 303 3 303 13,22 304·3 309 8 309·15 311 24
places 312.13
placing 301 7 308·15
plane 268 8
pleasant 206.9
please 113·14 116 25 118 15 123 8 137 25 138 8 141·10 198 21 222.10 224 13 238.25 277 9 280 24 303.10 311 15 337·1 341·3
pleased 343 12,14
Plus 216.8,20
podium 320:18
point 178:21 221·18 242 23 330 8,15
poorly 268·24
port 183.4
portion 118·16 123 9 138·1 180 13 191.19 224:14 229·22 252:16 280 25 337 2
portions 204 9
port/loop 193 7 202 5 210:13,16 211.7
posed 136 6,11 211.9
position 171 1 173·15 273 15 304 24
possession 157.22
possibility 107 10,19 108:12 111:12
possible 111·14,17 112.14,15 147:3 148.6 149:19 189:25 190 2 201:16 235 25 259·24 260 19 266·1,2,22 281.16,22 282:3,8,9 297:8 302:18 306.4,8 307 4 310:10 316 9 329·4
possibly 121:8 146.11 255:19 272·21
practice 301.7
precise 161 22 186.1 336:15
precisely 292 8 338.3 340·8
precludes 135 10 136.23
prefaced 292.13
prepared 262.5,8
present 135 7 156.3,5 174 22 201.22 205.14
presentation 217 20
president 113.7,25 146:16 147:8 148 16 154 1,16,20 155 4 187 25 189:23 228:21 230 20 232 14 264 18 265 6 273·8,20 298.13 301.2 302·9,12 312 3 317 12 318·10,15 325 8,9,10 338 16 340·7 341.23,25 344.19
presume 121:17 184.8 185·24 186:2 192 18 238 19 261·5
presumption 304·16
pretended 134.10
prevent 138:15 299 9 304 12,13 311 22,25
prevented 298 11 300·7 302.3 303 18 305.4 308 16
prevents 298.18 308 3
previous 136 7,13 171 16 295 23
previously 108.7 123 13 127·13,21 143 18 203·21 204 22 216 9 223 8 224 25 278 5 283·20
price 219 11 220:1 289·16
pricing 251.3 255:24
primary 150 20 170 21 177·24
prior 113:16 135.14 148 22 160:22 169 16 190·9 216.12,25 219 22 223·8,23 232:21 237·18 239·25 240 1,3 244 10 246 1 246.12 258:10 259:22 260:4 273 10 299 12 306·23 314.25 315 15 315 16 317·4
privileged 213.4,13
privy 103.4 227.9
proactive 124:20
probable 262 19
probably 106 4 142.13 169·3 182 9,15 211 13 240 25 246 9 256 7 289 8 296.3 320·16
problem 110·14 115 12 148 3,3 163.1 196·14 208 21,22 209:5,13,23 222:5 251 2 278.7 291 20 292.1,24 294 15 295·5,21 299 24 306 5 307 4 309·3 333·22,24 334 9 335·3,10,19,21 337 19 344.16
problems 108·13 115 10 115 11 162.18,20,23 162 23 163 10,17 164:16 165 13 167·10 167·14 168 1 275·10 291:10 292.22 295.24 296 13,19 297.13,13 300.2,13 301:25 302:7 303 24 308·14 312 6 326·17 330·11 331.22 333:2
procedures 106 2 192:16
proceed 241 9 245 12 285·9 286 12

proceeding 306 2 335 11 336 8,11
proceedings 151 8 189 1 221 20 223 22 229·16 346 14
process 119 17 139 5,11 141 16 143 23,25 144 3,19 145 4,10,16 145 21,23 146 5 150·25 151.15 153 15 155·14,21 158 17,22 159·10,16,24 160 8,10 167 3 189 12,16 205 12 225 20 226 10 226 20 227 19 230 11 230.12,17 235 23 251 1 262.6,23 269 18 293.23 294 3,7 295 11 295 12,15 296 6 312.24 313 1,22
processes 125:19 179 8 274 11
processing 209 6,24 269 19 280·8
produce 112.12 243 16 257.10 259·9 261.15
produced 157 16,18 161 7 196 4,6 199·6,12 220·10 222 12,16 223 1,1,5,9 229 9 247.18 248 20 249 23 249·24 257 11 261.17 266 4 305 17 306 1
producing 196 7
product 115.13 164 20 164 24 165 2,17 166.4 166 8 168 3,14,22 169·2,10 173 7,18 179 23 181 21 183 17 183·22 191:10,24 192·19 193 8 218 15 218 17,17 219.12 220.12,24 221 15 224 23 280·11 281 6,9 281·14,24 282.5,6 283 14 284.6 305.21 313 11
production 199.13
professional 165 16 166 4 179 6,9 183 3
profit 313 19
profitable 243 4 313 16
program 301 22 302·2 302 11 306·18 309·12
programming 310 8
progressing 188.17
prohibit 138.14 304 9
prohibited 303 14 304·4 305 9
promise 115 15
promised 115 10
promises 115 16
pronounce 231 19
proper 119 14 276 7 298 19,20
properly 263 1 265 3
proposed 173·2
proprietary 138·22 141 14
prove 140 17.18
provide 113 14 114 20 117 19 128·25 142 23 153 24 161 10 169 9 171 19,23 177·18,22 183 17 196 25 198 6 242·24 243.12,23 257·23 268 21 291·19 291 25 294 17
provided 114 24 129·2 136 13 141 1 143 19 144.17 147 5 161 9 217 14 219 25 222·13 239:1 254.24 255 5 256.13 257 3,15 258 11,17 268 10,13 268:17 269·3,7,14,19 269·21,22 271 2 272·14 274 23
provides 129·23,23
providing 115 24
provision 129·8 131 20 169·18,22,24 170 1,7 170.13,17,19 171 7,15 171 20 176 1 177 4 178 4 179 14,16 180·20 181·11,12 285.19,23 286·7 287 18,21
provisioning 162 17 163 17
provisions 131:5 133 24 137.11,12,17
Pryor 310.12 311 9,15 312.8,23,25 316 23 317 5,16 320 1 323 7 327 2
Pryor's 313 25 314.15 316 18
public 99 1 128:13 130 15 131 11,21 134 17,23 135 3 169 20 171 1 173 17 174.9 175.4 176 13 180 22 259 8
pull 103.17 104 3,21 112 1,2
pulled 103 25 104 7 105.5 147 10 209 4 214.12
pulling 105.7
pulls 105 1
purchase 220·23 228 15 230:13 231·4 232:20
purchased 287·24 288.5
purchasing 230 5
purpose 108 8,11 162 19 193 20 200 24 279 12 310 14
purposes 135.15 288·20
pursuant 222 16 223 2
put 111 20 121 18 126·17 140·25 141:14 165.24 180:16 207·4 211.13 214 3 265 9,11 290:23 291.5 297·15 297 16,18 298 11,13 299 23 300·6 301:11 301:17,19,24 302 2,11 302.20 303.5,16 304.12,25 305.3,8 306 12,17,23 307 8 309·12 310:12,19 312:8,15 324 14 329 5 329·15,21
puts 308.2
putting 171 7 262.9 314·25 330.9
P.A 100.6
p.m 99·24

Q

quality 129.1,17
Quest 142·18 144:17,21 145:8
question 103 15,21 105 20 106.5 107·25 109 15 114:14 118 15 122 24 123.8 125 4,9 126:5 127 10 129 5 130 15 131 11 132 8 135 9 136 6,11 137 24 140·12 169 23 171 17 174 7 175 23 183·9 188 2 191 11 209·20 211 9,16 212·14 219:1 219·21 222:10 224 13 225:19 230 10 245·3 254 14,15 262.23 263 3,4 264:13 268 10 277 11 279 7 280 23 303·3 332.4 336 25 341 3,14,19,20
questioned 174 7
questions 102 9 126 2,24 136 8,13 166·18 231.13 255 21
quick 222 15
quicker 127 1 240 3
quickly 121 7 252 11 257 21 329 4
quite 215·5 325 3
quote 200.10

R

R 100 11
Rafee 203:12
Rand 205 12,18 206 3 206 11 207 3,8,11,13 207 19,22 208 19 209 4 210 12 214 6 215 18 216.2,20 225 25 270:7,8,14 279·22 280.7 283 2 288 21
random 147 11
Rand's 212.1 270:11 285 3
rate 202:1 266 24
rates 183.4,5
rather 275 9 346 11
re 99 5
reached 321.9
reaction 266.6
read 118 14,17 123 7,10 130 24 131 8 132 10 132 20,21,23 133.1,5,6 133 7,13,14,16,20,22 133.25 134 7,13,15 137 24 138 2 156.20 176 10 178.19,24 179:5 191 18,20 216 8 216 11,21 218 16 224 12,15 229·4,14,15 229·24 238 24 248 11 248 13 252 9,23 253 1 260.14 261 4 268:23 280 23 281 1 301.3 314.15 335 11 336 9 336 25 337 3 341 2
reading 133:11
ready 245 14,15 246 10 246.25 247·7 323 1
real 197 18
realization 229 21
realize 214 22 259 5
realizing 146 12
really 105 14 151 4 204 17 208.23 231 8

250 3 271 3 297 21 299 19 320 22 345 12
reason 108 15 109·20 137 23 149 18 153·17 155 6 241 17,20,24 242:3 265 15 292 5
reasonable 153·3,9,10 154 4
reasoning 171 6
reasonings 171 8
reasons 216·4,18 307 15
rebill 110·13,17
rebuttal 252.10
recall 125.13 162 21 163 5,8 170.4 178.5 199 3 216 13 217 10 218 2,16 229 15 244 12,18 246 2,14,18 248 9 250 20 251 13 251 20,22 252 3 253·4 253 20,21 254 10,11 254.18,19 258 7 259.3 259 16,21 261 10 275 5 289·14 292·3
receive 115 8 118:7 125 18 217.6 241.8 267·1 273 12 327 13
received 114·6,9,15,18 114 19 115 3,6,20 116 6 118·20,22 119:10 125 16 145·15 154·18 157 13 224 10 225 6 257 12 259 25 260 3 261·9 264 4,15 267 24 271 9 281 19 281 23 282 4 297 8 315 3,7 327 9
receiving 119 8 120·1 160·23 264 11 275 25
recently 128:7 167:15
Recess 151 8 189:1 221 20
recognize 231 16
recollection 156 23 181 25 191 2 209·1 210 23 211·6,12,22 212 12 239 9 259 18 297 6 325 24 326 2
recommendation 196 19
recommended 196 24
reconnected 194 19
record 102 5,6 105.2 111 5 118 17 123 10 127 5,6,7 138 2 151 9 178 14,15 189 2 191 20 205 6,7 221 21 224 15 252:8 277 6,8 281 1 293 5,6 322 2 337 3
recorded 118·18 123·11 138 3 191·21 224 16 281 2 337 4
recordings 152 7 153.5 153 13,20,25 155 2 295 7
records 105 5 106 8,15 110·2,7 111:3,8 112 2 112 3 150 12 153 16 340·18,19,23 342 20
rectify 333 22 334.8 335.10
refer 168:3 171 9 176 8 180.7 271 6 289 9
reference 210.7,8,18 244 24 258 16 278 21 279 19 295.22
referenced 114.16 180 7 181 17 283 16 314 1
referencing 196 9 204 6 245 23 344 21
referred 127.17 308 15
referring 126 16 137 13 138.18 140.1 156 16 161.12 162.20 183 14 184·9,17 200·16 210·2 210 4 224 20 248 8 258:18 277 16 279 21 283 21 284 4 302 19 308·6 309·20 314·7 318 8,14 319 25 335 25
refers 138 21 268 11 318 15
reflect 287 9
reflected 111 2 241.22
refresh 171·12 239 8
refreshes 199.7
refused 265 13 285 9 286 11 287·17
refute 239:17 240 11 255·6 311.5 335 15
refuting 253 19
regard 131 19 245 21
regarding 102 12 115 20 115 24 118 21 128 17 128 19 151 12 174 8 174 10 175 4 176 13 177 17,22 180 5,20,20 185·17,19 187.1 225.7 226 15 227 24 240 24 249 14 255 10,15,21 264 8 268.12,22 269·2 269.13 270 1 271 1,3 271.10 277·22 307 14 307.17 316 20,25 318 8 322 18 334.14
regardless 300 10
region 232 8
regularly 312.13
regulatory 127 12,21 128 4 131 2 172 21 175 5
rehash 203 7
reimburse 277 11
reimbursement 279 20
related 283.13 301.4
relates 140 5
relationship 271 22,24 332 8,13,23 334 19,25
relay 196 10 207 7,9 342 13
reliance 137.2
relied 136·25 221 14
Relief 99·6
relieved 186 17
rely 176.18
remand 182.10,17,22 244.9 280.18 283 25
remember 102 14 103 19 104:2 107 22 112.16 125 5,5 133 2,9 139·23 141·22 142.16 143 10 146 22 147 11 151 16,18 156 12 157 9 162 23 164 4,22 165 25 170 14 175.1 186.8,13 187·18 196 3 199 10 200 5,6 203 20 204·17,18,18 206 8,25 208 7,16 211 17 214 9 220 8 224 1,5 226 18 226 21,24 229 19 235 4,15 237 9,20,22 238 4 244:4 247.24 248 12 251 17 252.13 252 16,19 253.8,13,22 254.11 255 9,13,23 259:19 266 14 267 20 278:19 283:8 285 16 293 10 296 7,10 308 23 309·5 317 6,24 320·19 323 18 324 16 331 2 342 5
remembering 206 6
remind 102 1 285 22
remove 310 18 313 12
removed 183 3 311:5
removing 302·19
rendered 169·19
rep 103 17,23 105.1 109 6 111.20 153·19
repeat 107 25 142 14 177 20
rephrase 105 20 343 23
report 154 5 218 3
reported 148 18 156 9 292 6 295 4
reporter 118 17 123·10 138 2 191·18,20 224 15 232 25 281 1 337 3
reporting 320·24
reports 158 12 160 21 160·24
represent 330 21
representations 117.23 184 14,17,22 185·4,21 188 6 226:15
representative 104 21 227 7 232.5,17
representatives 227 24 324.21,25
represented 119.3 330 24
representing 121 23 199·11
represents 225 12
reps 116·10 145 15 153 12,24 154 14 159 2 189 20 190 4,24 338·17
request 99·6 172 25 199:12,20 244 11 245.7,9 248 23 249 7 265.17 314 10
requested 118 16 123 9 138:1 191 19 200·2 224 14 242:24 243 23 246 25 280 25 285 7 337 2
requesting 246 3
requests 142:24
required 130·10 169·8 169 15 183:17 232 6 237 15
requires 129 22
resale 129·1 162 15,18 163 17 165·13 166.23 166 25 167 14,21 192·8,9 202.6 262 6 271 16 282 17 283 12 290·4 297:16,18 298.6 298 15,25 299·9,24 300 8 301 12 302 3,4 302 25 303 6,14,18 304 5 305·10 306 14 306.19 307 9 309 13 309·16 310 5 312.16

313 16 328 12
research 132.8 136:5,10 136:22 137 4 175 24 218 14 221 9 326 20
researched 137 5
resembles 105 9
respect 126 5 132:3 142 21
respond 132 8 248 22 265 18,23 294 16
responded 125.17
responding 136 6,11 249:6
response 140:10 142.24 145:12 165 12 181 8 191 18 199 12 211:10 227.14,18 234 16 254 18 262 24 275 22 286 11 320:23
responses 346:12
responsibility 121 3,5 123 19 276 7 343 19
responsible 113 19,23 120.4,8,13,17,22 121 12 122 4,4,20 123:5,15,25 189:21 248:22 288.11
rest 119 19
restate 145 18 304 22,24
restored 335 3 341.8,18 342 24 345:4
result 215 7 260.20 308 14 309 3 313 1 334 20 336 4,7,13
resulted 225 3 334 25
results 194 14 343 12
retail 135 12 141 24,24 157 3 162:6,8 166.23 166.25 167 14,20 202:6 311.22 312.10
retroactive 259 1
return 248:3 324.13 341 7 342:23
returned 247 22 341 17
review 171 13 172 6 275 11
reviewed 161 15 254 20
reviewing 215.11 236 1 275:7
reviews 119 16
revised 256:3
revision 309.17
revisions 170:13
ridiculously 313 17
right 103 8,13,14 104 5 112 1 113 12 122 23 131 10 134 24 139:10 141 6,17 143 5 144 11 144.16,24 150 1 156 8 158 1,18 159 8 160 8 160 10 172 14,15 173 13 174.3 179 1,19 180 2 185 11 191 13 192 5 196 13,15 203 17 204.15 205 2 207.21 209 8 215 10 219 19,19 221 4,19 224:3 234:12,21 235 10 237.2 245 18 247.20 248 17 252 6 256.7 258 1 268:19 269 5 272.14 274:6,21 275:6 276 14 278:8,11 279.12 282 21 284 22 287 4 288 4,6 290 2,21 291 5 293.1 295 19,25 302 5 304:1 305:7 308:1 310 1,14 315 17 315 19,24 321 16,20 329:23 332:5 334 10 336:18 337:22 338.11 342:2,7 345 10 346.13
rights 174:10
ROBOTAG 216:10 217.7 218:8,9,17 219 10,22 220 1,19 221:3 227 2 230.9 268.2
roles 328 7
rollover 331:15
rough 160:18 331 5
roughly 182:4 331 2
roundabout 290 13
rule 282.21,22
rules 267 20 269 18,20 269:23 270 1,24 271.4 273:17 279:15 280 4 280 10,20 281:7,10,12 281.14,20,23 283 13 283.19
rumors 333 3
run 108.13 110 21
running 142.2
Ruscilli's 172.2,7

S

sales 113.11,25 116 10 116.14,17 147 8 148 16 154 1,9,10,16 154.19 156 8 158 11 333 1 334:13
same 121 14 125 4 135 5 142.20 181 4 183 22 215 4 220 2 222 17 230 24 242 5 243 15 244 1 245 22,25 270 16 275 3 278 1 283 20 293 14 294 24 295 16 297 10,10
sat 146:23
satisfactory 310 21
satisfied 165 11 236 8
Saturday 328 6
saw 157 9 159:9 172.7,7
Sayegh 231.19 240 15
saying 106:1,11,13 115 18 134:1 143 3 149:16 170:7 176.15 180.12 223 15 253 20 257 23 272 9 278 18 296 1 334 6 340 8 342.18
says 105 16,23 120 21 121.23 122 12 128:24 128.24 132 12 142:10 172.17,24 178:11,12 179 19 199.19 200:21 208 21 211 1 213 11 232.2 239 23 240:24 241:3,11,14 245:19 274 5,13 275:23 296 18 329:23
scenario 115:19 116 6 143.17,18 144.21 159:13
screaming 333 4 342.18
script 118.3 119:6 120:16,21 121:21 122.6 123 1,23 124 14 125 23 126 10,13,15
scripts 117 19
seamless 115 9
search 249.4
searches 248 25
second 127:25 173:1 199.9 200:9 277 7 304 3 341.16
secretary 249:17 251 23 253 16,17,24 254:21 344 22
section 107.13 108 9,16 128.20 131 13 132 23 133 14,23,23 134 8,12 135 23 137 12,13 138 10 179 4 292.13
sections 138.14
see 103 23 105 8 130.4 145 19 147:21,23 148:5 151 1 152 22 157 7 172.11 175 12 178 13 193 2 199:6 205 19 207 10,15,19 214 3 233 7 237 5,7 239 2,12,21 256 16,16 272 4 278 18 281 21 316 14 323 15 324 14 324 23 326 17
seeing 148 1 238 4
seek 174:8
seem 203 17
seemed 297:5
seems 149 11 175 8 176 12 200:1
seen 105 6 111 25 156 15,17 160 21 161 8 172.4 231 10 238:3 240 21 241 13
select 188 21
selected 184.15
sell 117 13 139 9
send 250:4
sending 260:11
sends 162 2
senior 113 6,16 155 4 319:19 320:5,9 325 3,6
sense 150 23 310 2
sent 110.19 119:19 156:22,25 241:18 242 13 256 20 257:5 260 7 265:17,22
sentence 172 24 241.7 287 1,16
sentences 173:1
Senterfitt 100:6
separation 128:7
September 99:3,23
sequence 207 17
series 322.17
service 99:1 103 17,23 104:21 105.1,7 106 8 111:3,13,19,20 113 21 115.12,25 117 13 118 8 121 18,25 128 5 128 13 129:17,23 130:11,16 131 12,21 134 17,23 135 3 145 15 153.12,19,24 154.14 158:24 159 2 163.17 165.16 166 4 169 20 171:2 173 17 174 9 175:5 176 14 180:22 183 3 189 20 190 4 194 19,24 195:5 195 9,21 199:21 200 10,11 225:3 259 8 279:5 289 20 297:15 297 21 298 2,6,8,11,17 298.24 299:7,8,13,16

299 18,23 300 2,15
301 7 302 6 303 1,5,13
303.17,21 304 12,17
304:25 305 6,11 306 4
307 1,7,9,14,18,23
308.16 309 4,17,21,23
310 3,7 311 4 312 12
312 15 313 2 316 10
331 9,12 332 2 335 3
336 7,13,23 337 21,24
338.6,17 339.17 340.2
341.8,15,17 342.23
services 114:21,25 115 1
139:18 141 19 159 4
162 17 165 8 179 6,9
184 3 287 19,21
298 19 331.10,25
332:10 344.18 345 4
service-related 168 1
session 204 20,21 206 16
207 2,8 210:9 270 1,11
270:17,19 283 22
288 22,23 289 1,5,13
sessions 201 23 203:4
204:10,13 205 15
set 186.9 189.24 198 13
198:18,19,21 200.4
223 3 254.17 281:7,10
setting 198 16
several 110 18 145 2,3
145 19,25 146:21
147 15 148.17 149 12
151.14 152.9,20,25
159 8,22 160 19 164 1
208 18 255 10 265 11
292:22 302:8 341 23
sharing 135:11 136 24
sheet 200 10
Shelley 174.13,22
Shiroshi 243 7,12,20
244 13 245.20 246 12
246:15,20 249:25
250 22 251.14,21,24
253 5,23 254 3 255 4
256 2,20 260.6
Shiroshi's 252:10,23
253:19 254 20
short 248.8
shorten 236 20
shoulder 178 25
show 172:1 199 5 231.9
237 23 240:13 252 20
311 8
showed 161 1 270 20
285 17
shown 105.2
side 157 4 181 4 208:22
209 14,18 211 4
261 22
sign 118 2 168 13 173:12
191:23 192:3 199:1
241:3,21 242 4,9
244 16 248 1,14 251 4
251 15 258 24 321 2,3
signature 200.18 231 16
231 22 238.14,16
signed 170 10,16 173 6,9
173 16 174 25 177 7
177 13 181 11 182:7
191:9 192.2,7 200 20
224:22 232 17 241.5
242:11,15,19 247 22
250 15 251 8,9 260:8
317 25 318 3
significant 279 11
significantly 167 17
197 8
signing 168 21,21
169:16,24 199 10
224:8 241.24
simple 122 23
simply 276 21
since 202:22 210:1
212 23 240 23 252 16
single 150.3,7,19 167 6
204 19 340:25 341 1
342 9
sitting 111 23 187 5
306.21 332 17
situation 108.25 118 10
118:12 122 3 124:3,5
125 1 143 3 176 6
257 16 275 7 313 6
337 18 342:17,19
situations 144.16
six 110 3 119 22 285 8
285.14 286.1,4,5
313 15,18
slow 260 24
small 128 9 247 24
Smart 163 11,25 168.18
190 18 195.22 259 16
259 17
software 230 6 232 5
sold 121 17
sole 227 14,16,17,20
solely 187 24 215 17
270 8 304 18 309:21
solicit 113 20 116 21
117.10 120:12
soliciting 117:5
solution 211 21 292:2
335:3 336.1
solutions 112 17,19,25
164 16 310:10
solved 296 20
some 109 20 115 11,23
116:1 120:21 123 17
126 1 133 19,24 139 9
147 7 153 22 154 12
154 22 155:1,1 158 23
160 21,25 162:21
165 16 177 3 184:19
197:10 201 11,16
215 11 218 14 229:4
242 23 254 4 255.18
255:19 258 6,12,12
271 10 276.18 280:16
297 18 300 6 301 11
301 21,21 302 2
303 16 305.3,8 306.12
306.17 308 15 309:12
309 23 310:11 317 22
319 6 320:13 322 21
324 2,14 331 17
335 11 336 9,13,23
337.21 338 5 339:3,12
346:12
somebody 112:11 121 9
122:18,21 123 18
149 17 151 22 158.3
198 17,25 234:23
270 21 301 22 302 10
305 2
somebody's 128:2
206.22
someone 156 11 158 14
198 9,15,23 235:12
291 22 292 19 305 8
something 104.2 105 8
115 14 122.13,14
123 19,23 125 22
150:2,22 157:6 161 4
162.24 195 25 197 20
203 16 221:23 234:21
258:14 274 20,23
280 6 284 11 287.11
297 17 300:19 301 20
302:15 304:2 309:22
319:15 321:5,14
323 21 337:7 344 11
sometime 145.22 164 21
182 9 185.25 186:1,2
194.12 206:15 215.8
216 23 224.8,22
230 25 233 12 234 6
234:15 255:3 288:10
292 9 296:15,24 313 6
313 9 315.3 316:8
317:23 322:7,24
323 25 333 13 343 4
somewhere 149 24
154 24 196 1 197 5
313 9 315.13 331 6
sorry 102:16 105 21
107.22,23 109:14
112 9 118 14 120:9
125 10,14,25 127 2,17
129:4 130:6 131.9
134 5,11 136.9 142 4
142:19 144:7 145 10
149.16 151:5 152 17
157:5 162:2 171:17,21
172 12 173.9 175 1
186:14 188:3 191.16
193 9 196 2 197.3
203 2 204 18 212 15
213 18 215.13 217 15
223 4 227:16 230.7
235 14,17 238.5 239:6
247 11 250 16 251 18
253 13 254.14 255 12
256 14 260:25 263 3
264 13 268 8,15 270.4
271 8 301 9 308.5
316:22 325 7,20
329:10 331:6 336:19
344.23
sort 125 9 214 8,9
sound 204 15 215.10
sounded 222 7 317 17
sounds 222 4 224 3
317 18 321 19
South 127 14 128 5
speak 174 12,14
speaks 140:22,24
special 231:2 279:12
specific 106 24 114:16
131 5 141.2 152.10
155 18,20 156:4 161:1
170 6 171 20 184:21
184 23 185 9 201 19
204:9 246:2 258:9
290 11 344 2
specifically 132:12
142.11 178 1 249 8
267 22 280 10 343 8
specifics 187 15
speculate 284.10
speculated 288 3
speech 128 6,9
speed 234 9 237 3
317 19 319:11
spell 203 13
spent 221 25 267.13
spoke 218:13 244 14
sponsoring 270 19
spreadsheet 161 3,5

spreadsheets 161 12 262 10 318 12
squeeze 190·24
SRT 239·4
standard 247 12
standpoint 282 16
stands 102 13 135 24 139 13 142 21
start 239:5 296.20 332 5
started 102 3,9 143 5 148·1,7 169·3 295 11 297 4 328 11 335 13 336 4 338:12 339 4
starting 316 5
starts 143 25 144 3
state 131.1 138 7 143 22 162·14 175 3 176.12 179·25 219 9 225 19 235.7 261·13,24 285 7 290 3 293 20 319 24 331.8 332 4,6 335.17 341.6 344·21
stated 203 21 210 12,15 211 2 227 18 241 22 341 4
statement 131.16 132:18 132.24 160 1 176 10 176.19,24 179 3,16,21 210:19 225·22 226·1,2 227:21 250 21 255 6,7 255 8 256 4,5,17,22 257 1,13,22 258 17 259 20 269 12 284 16 285 12 296·18 299·5 300·23 311 6,6 324 23 330 19 340 4 341:11 341 21
statements 132·14 148 15 216 2 226 23 294 4 323 3,11,15 326 11,25 327 3 335 15 342 22
states 129 6 134 7 287 16 330 20
stating 118 24 119 1,2 163.1
statute 131 9 134.10
statutes 131·14 132 12 132 24 134 13 137 12
steps 240 24
still 102.2 121·25 126 12 139 14 149 19 157 21 158 20 170·10 186 15 220·8,18 229·7 236 10 247 6 258 2 260·3 261 18,25 275 17,17 286 22 289·24 300 15 313 18 324.9 328 18 340 20 343 1
stop 205·4 299 3 312·9 312 14,19 346 5,9,10
stopped 126 1 297:17,17 330 9,15
stormed 266 14
Street 100·13
Strike 268 24
structural 128 6
structure 255 24
stuff 109 7 133·20 137 7 269·24 294 21
subject 199:15 286:17 286 21
submit 144·1,3,6 181·20 183 24 184.1,12 205 18 206·12 207 12 207.12,23 208·15 210 8 212 1 214 15 223·13 263 15 264 15 266 16 273 25 276 24 284 25 285·3,5 288.8 290 6 296·8 307 6 311.1,4 323 22 327 12 328:13 345.3,19
submitted 143 14 194 1 205 25 210·2 215 24 225 1 263·20 264 1,5 266 18 297 10 324 1,5 324 17 327.8,22 328·1 329 13 330·4,13 332:22 336 21,23 343.20
submitting 113 2 189·21 225:5 263 6 276 21
subsequent 277 4
subsidiary 121.24 123 3 129 2
substance 126·7 234·7
substantial 163 6 169 6
successful 277 1,3 296 11
successfully 297 9 324 22 325 1,5,17 326.5,7,8,12 328.2
sufficient 250 15
suggest 339 11 340:24
suggestion 266 7 267 5
suit 188·14
suitcasing 199 21
Suite 100 12
summaries 132 21 133:1 133 6 161:5
summary 133 19,25 154:19 161:3
summer 186.3
Summerlin 102 13 119 20 212 10 213 9 221 24
Summerline 212.12
Sunday 328.6
SunTrust 99·20 100 7
superior 221 8
supplied 114 25
supply 110:6 120 16
support 146·6 163 16 176.22 210 20 211 24 227·17 233 13 300 23 304 8 342.21
supported 185·2
supporting 210.13,16 211 7
supports 131 6
supposed 178·19 212 16 239 18 240 3 318 12
sure 117 22 119.14 121 8 122.19 123 25 127 5 133 17 142 22 146.9 173:9,11 189:14 193.21 199 17 203·24 215.5 219 17 231 15 233:1 248 21 254 1 255:20 262.21 264:3 265 25 271 9 274 14 276.19 278 16 280·17 287 11 289·17 322 6 325·3 343 19 345.12 346·7
surprised 321 7
Suzanne 119.20 212 10 221 24
swear 186·13
switch 116 12 117·16 122:2,17
switched 118.8 152 15
system 103 18,25 105 3 105 11 107.15 109 4 109:21 112 4,4 190:5 263 2 293 22 294 6 319.21 320·7 328.14 329 5 332.7 333 6 345 19
systems 109 10 162 19 345 2
S.E 99 20 100 7

T

T 101 2
table 181.5
TAG 179·8,10,19,20 180 8 184 11 185·17 187 4,9,11,21,24 188 5 188 21 208 24 211 20 214 18,23 215 2,14 216 5,15 218 8,11 219 6 220·20 225 19 226 10,16,16,18,19 227 7,18,24 228 1,7 233.5,17 235 8 236 11 238.6,19 242 21 263 12 264 15 266 16 266 18 267 22 268 2,5 268 20,22 274.3 287 24 288 1,5,9
tail 274 7
take 120:18 121 5,7 123 19 127 3 131 14 131 22 134·17,24 153 4,13 154.15 182.18 222.15 261 21 267 3 276 18 290 8 303 1 305 1 321 25 322·1 327:12 337 13 339·15 340:23 342.16 346 6
taken 152.7
taking 124·20 191:11 257·20 261:20 298 18 299·3 304 13 311 23 312:10,18 321:23
talk 124 19 163 13 167·2 192.16 198·8,14,15 217.16 291 15 294:23 312·23 317 3 318 11
talked 124 3 142·3,3 144.25 145·1,5 147 12 149 17 153 6 156 11 158·1,3,4,13 160:9 163 11 171 14 185:16 198 10 200·3,6 234·19 234:23 235 4 237 11 246·4 247 4 272 1 322·4 331·3 345 12,16
talking 151.11 181 1 187 16 233·25 239 11 239 13 246·22 264 17 264 18 272.7 278 23 282.25 294·21 301.18 303 4 314 5,13 316.11 317 6 319 3,4 325 13 325 15,18,20,23 339 6 341 23 345 8,21
talks 178 21
Tallahassee 128 10
taught 203:6 204 5,22
teach 200 25
team 219 3
tear 251:14
technical 149 5 274 10 294 21 298.12

Telecom 99 5 131 21 232 3 238 1,7,11
telecommunications 99 6 100 12 101 5 130 25 131.13 133 15 135 10 137 11 175 10 237 25 238 9 331 24 332.10
telemarket 139 8
telemarketer 117 9 122 1,12,25 123 2,6,17 123 22 124 5,13
telemarketers 113 20 114·3,7,10 115 20 117 23 118·1,2,21 119·22 120·6,14,15 121 4
telemarketer's 120 23 122 5
telemarketing 114:17 116 20 117 20 120:11 120·19 121 13,20,22 124 17,25
telephone 104 6,16,17 104 18,23 110 1 139 18 195.4 272·2
tell 110·20 116 23,25 124 20 128 11 131 9 133.12 141 8 149 13 156 21 157 2 163 12 163.25 165.1 186 25 188 10 195 12,24 197 24 198 15,20 213 13 214·7 215·22 218 6 221 14 225·24 226.14 234 25 235 11 240 5 244 13 246 8 248 9 253 14 265 2 266 11 272 6 274 11 275 15,21 276 6 308 9 308 21 309 10 315 20 317·8 319·8 320 12 325·25 337·11 340·24 342:6 344·10
telling 103·22 210·19 219·3 227 4 280.3 330 2 338 17
tells 111 18 149.3 342 10
TELRIC 166.15 183.5
ten 188 23 197 23 201 4 201 6
term 164 23 225 11 276 15 298 12 309·20
termed 129:8 305.10 309 23
terminate 188·19
terminated 125 12 186 18
termination 237 18
terms 130 17
test 233:19 237 15,18 239.4,4,9,18 240·15,25 241 1,3,5,8,24 242 4,9 242 16 286 17,21 316 6 319·21 321 15 321 17,18 328 1
tested 233 6
testified 109·16 127 11 127 13,20 153 1 224 25 252 14 255 4 256 2 261 16 278 5 311 3
testify 306 2
testifying 128.2
testimony 125 7 126 19 127 9,9 129 6 138 5 144 9 158 15 159 19 162 13 168 2 171 10 172 2,8 176 11 178·7 180 8,11,14 185 20 189:3 206 10 209·9 210 15,25 211 19 212.4,11 213 10,17 214.1,2,6 221 25 222 1 222 3 229 18,23,25 235.20,24 236 1,2 242 24 243 11,19,22 245 11 246.19 247 10 247 17 249 22 252 10 252 13,17 253 20 254 9,17,21 258·11 261.7 263·5 270 25 272·22 278.13,21 279 20 281:18 282 2 283.16 290·17,20 292 13,17 293.16 294.16 298·7,23 299.7 299 22 300:17 303 11 303 21 304 1 312·11 312·25 313.24 314 1 314.15 316.1 319.18 326 6,10 328 16 329:8 329 23 330 6 332 1,11
testing 101 6 232.6 234 13 236 11,18,20 237 14,18,21 238 1,6 238 10,20 239 2,23,25 240 2 241 10 242.21
tests 233 17
Thank 112 23 126 9 199.20 239 7 241.15 253·3
their 104:13 118 8 121.9 135 15 153 13 154·23 159 3 160 23 184 3 189 19 194 19 230 6 232.7 312 5 320 23 324 13 341.8,17 342 5 342 23
themselves 157.14
theory 107 16
thick 251 12
thin 251 12
thing 110 16 125·9 146·15 151.1 158.23 181 15 257 18 279·25 309·7
things 120·21 133·11 137 6 171 14 257 17 265 11 319 11 342:10 344·14
think 104·10,18 106 4 107 4,7 108:15 109.16 121 3,7 122:12 127 8 142.25 144 9 145 17 150·15 153.3,8 157 15 161 9 165 24 166·11 173.8 183:13 186·20 189:12,13,17 195·10 196 16,21 198:17 201:6,13 203.24 207:10 210:4 215 8 216:23 217.8,25 218.16 219 18 220 6 226:8 231:1 232:23 241 2 250·25 254 23 255 18,23,25 256.10 257 16 259·13,15 260·4 262 21 263.12 263.23 264.10 268 4 270·20 273 18 279.15 283·23 286.22 287 8 290.22 291 5 293·13 307 22 313 3,14 315 10,24 316 4 319 14 323·24 327 18 327·19,19,21 328·20 328.22 336.18 337 8 338:10,10 343 4 344 18 345·21
thinking 260·3
third 99 20 100:7 203 25
third-party 109·13,17 109·24 110 6,11 113 20 114 3,7,10 119.13 120·5,11,20 123 6 125.20
thirty-five 102.17
Thomas 239·24
thorough 261.1
though 128 10 133.1 170 24 176 25 177 3,6 178 11 217 16 247 15 280 5 332 17 340 2
thought 110·14 125 3 146:14 202 20 221.15 236 25 245 16 247 11 278·5 297 3 309 1 337·12,13 341 12
thousand 160 19
thousands 161 20
threat 261.7
threaten 234 12 259 7 259·11,12
threatened 261 13
three 105 12,18,24 109·22 119.24 165 25 166 2 183 21 204.4 205 8 342 10
through 103 17,24,25 104 5,22,23 105 2,6,10 107 23 109·3,4 128 16 128·21 129 6 130 5,14 132 9,25 135 9,22 136 7,12 140:6 143 24 145.1 147 22 150·23 162 14 171 10 174 4,6 175.3 179·8,18 180 3 181 18 184·7 192 15 201 2 203 3 205 12,18 206:1,12 207 23 209·2 210 12 212 2 215 25 222:23 223 22 229 3 230·5,13 232 21 238·24 252 24,25 254·2 256 11 259 6 261.24 263 10,14 264 15,25 266 18 267 15 268.9,16 271 11,16 274 3 277 10 284.21,25 285 4,5 288.9 290:3,25 292 5,14 293 17 294 5 312 22 313 11 322 12 323.23 324 18 326.3 328.13 332 6 335 11 339·25 344·20,24,25
ticket 345 3,14,20
Tier 183 5
time 103:14 105.3 106 19 107 3,6,9 108 17,24 133·12 135·7 139 25 140·13 140·20 141 2,18 142 4 144 5 148 11 149 22 150·20 152 24 155:5,7 155 19 157:10 161 1 161 22 164 18,24

165 20 167 4,12,15
169·11,12,13,24 182 3
182 4,18 185 18,24
189 24 190 21 191 12
191 15,22 192.14
202 1 205 24 206 4,6
207·2 212 22 215 25
217 4,12 218·13
219 16 220 16 223 17
226 6 228 20 230 24
236 20 238 24 242 23
244 20 246 16 247 1,4
247 14 249 5 250 11
251 24 258 6 259 15
266 17,22 268 19
270 16 271 23 280 21
284 13 286 22,23
288 16 289·2 290 7,8
290 11 292 8,14
294 22 296 2 297 14
303 9 316 19,24 318 1
318 14,15 322 11
325 4 327 7 330 14
337 11,23 340 13,21
340 22,23 342.8,15
345 22 346 7
times 114 23,25 121 6
160 13 174 14 181 24
182 1 253 17 265 11
timetable 236 13
title 113 15
titled 231 9
today 111.23 126·19
141 1 166 5 187 6
212 12 222:12 223 8
223 19,20 229 7
235.19 254 9 261 7,16
281 18 290·17 292:17
298 7,23 299·7,22
300 18 303 11,21
304 2 306 22 309 17
312 11 313 24 326 6
330 2,17 332.1,11,17
338 4
together 262 9 310·13
314 25 324·14 329 15
told 130·7 133 4 137.16
139 24 145 18 147 13
147 14,18,19 148 8,20
148 21 149 9 151 18
152 21 159 3,5 160 7
164 9,14 168 18
173 22 175 19,25
176 21 182 13 185·1
187 1,2,6 190 23
193·15 196·14 198 13
203 10 204 3,4,7,24,25
204 25 205 8,9 209·5
209·10 211 8,8 221 8
221.24 226 9 227 7
230 20 234 21 235 11
235 12 236 4,6,25
237 1 240·2 246 9,24
249.9 252·14 253 6
262.25 265.4,7 269·6
271 18 273 25 276 2
280·5 284 13 287 23
295.2 297.3 301·23
305 7,13,15,24 308 24
309 21 312·4 313 10
313 23 320 16 323 5
325·22 326 1 327 11
327·11 330 23,25
331 18 332 25 337.17
337 18 339·8 340 10
341 7,16 342.22
345 17,18
tone 339 18,19,23
tons 334.16
total 115·2 116 16
tough 181 2 300·5
town 329 18 330 14
trade 137·5
traffic 127 23 128 1
train 267 17
trained 184·16 189 5,10
262·11,17,20 263.1
265.3 268 5 280 12
283·19,24 285 8
288 21 289 4
trainees 285·11 286 13
trainer 202.21,25 207 3
207 9
training 189 8,22 190.1
190:9,14,17,25 191.3,5
191.9 196 16,20,22
197 1,22,25 198 2,7,11
198:18,21 199 2,22
200 2,24 201.9,12,17
201 19,21,22 202·13
202 15,19 203 4,6,23
204 1,5,10,12 205 9,14
205 24 206·16 207 1,8
210:9 215 9 216 16,25
218·24 219 2,20,23
220 17,18 262 13
266 7,12 267·6,9,14,21
267:22,24 268 11,12
268·18,21 269·2,7,12
269 25 270 5,8,11,17
270·23 271 1,3,10,13
271 15,19 274 6 275 8
277:12,14,15,17,21
279 21,22 280.4,22
281 19,22 282 3,11,22
283 1,4,7,11,15,21
284 4,10,24 285 9
286 12 287 17,20,23
288 15,20,22 289 1,5
289 13,25
translates 326·12
trial 128 2
tried 142 25 158 15
194 19 263 9 273 22
291 15 305 2 307 5
333 11
trouble 114 12 293 12
345 3,14,19
true 190 6 199·16 272.5
310·2 330·3
truthful 122.15
try 116 11 138 6 193 2
193 10 207 12,15
208 14 224.18 235 24
244 15 262 16 264 2
273.25 276 2 281 5
299 20 303 20 335 9
trying 133.13 152 19
159 21 165 12 181 6
211 17 212 22 219·18
235 21 253 6 269·1
277:25 286 24 290 8
299·17 304·22 310 4
313:3,14 345:11
Tuesday 333 21,25
334 6,7,8 335 9
turn 321.21
turned 159 4 177 18,23
288.15
twice 285:14
two 127 18 136:7,13
143.13 144.16 156.11
173.1 182:1 183 21,24
184 1,2,2,6,11,20
192.17 193 11 194 1,5
194 5,5,10,11 195 9
196 10 204 15 206.1
210 2,3 214 14 215 24
222·18,21 223.1,23
224·9,11 225·1,2 285 2
288 20
twos 127 18
two-minute 127 3
two-page 251 9
two-paged 247.18
249·23 250 14
two-week 112 3
type 108 13 124 11
135 5 154.22 155 1,1
161.2 162.22 164:14
165 16 169 4 187 14
196.18 213 9 222.3,8
231.2,6 247 12 251 17
253 8 254·4 258 12
300·19 301 11 302 20
303.13,17 304 3 305.8
308 15 312·7 317·22
319:6 326·20 336 13
336 23 337 21,24
338.5 339·3,12
typed 212·25
types 115.5 124 2
typing 109 6
typo 197.6 228 4 243 14

U

Uh-huh 109 23 122 16
209 3 210 14 214 5
227:3 256 18 275·15
292:16 297·2 314 2,14
333 16 338·8
unable 333 23
unacceptable 236.19
Unbelievably 340 1
under 102 2 108·20
131·12,13 175:10,16
183 22 192.17 261·25
309 2
underlying 114.24 115 1
115·25
understand 109·14
114 23 146 10 159 21
170 19 181 6 192:1
206 2 207·18 222.5
233 17 239·24 254 1
261 6 269 1,24 270·10
270·18 273 24 277 25
279:9,13 288.19 294 2
306 13 313 13 331 7
336 20
understanding 103 22
104.20 106 6,7,16
108 1,22 109 5 121:15
125·15 129·11,12,15
129.21,25 130 9,20,25
131 7,17 134 16,21,22
134 25 135·21 136·18
138 21 142 20 143 16
144·2 145 9 149 25
161 25 162 7 165 5,21
165 23 166.7 169 14
172 16 173 24 184 25
191.23 192 21 207 13
255·24 269·17 279 3
294:1 298 16 300·1,9
300 11 304 19 307 8
307 21 319 5 321.11
331 14

understood 114 20 170 23 295 3
UNE 183 17 246 23
UNEs 282 18 305 5
UNE-P 164 14 166 4,7 168 3,8 192.19 201 1 242·25 246 3,13 248 9 250 12 254 25 255 11 255 15,22 257·3 259 10 260 7 261 15 262·7 268 13 269·3,10 269·13,18,20 270 2 271·1,6,15 280 11,20 281 9,12,20 282 5 290 5 296·21 297 18 298 15 299 10,12 300·8 301·13 302.4 303 2 304 5,14 305·10 306.14,20 310.6 312 17 332·19
UNE-Ps 303.19
Unfortunately 119 18 291 18
Unified 112 17,19,25
uniformly 312 12
unilaterally 298.8 299:8 301 7,11
unintentional 168 7,10 197·16 297.25 298 1
United 134 7
Universal 279 5
universe 115 2
unlawful 175 9,15,20 176 1
unless 285 10 286 12
unnecessary 277 12,15 277 22 279 20 280·1 282 4,12,23
until 144 8 214 3 233 6 333.17 334 12
untrue 344 11
upped 287 8
upset 141 23 142 15 195.6 261.19 277 20 277 23 282 14 302 17
upsetting 299 19
use 104 6 109 17 114 3 117 4 118 2 124 9 132 13 136 1 137 9,21 138.9 139·3,8 140·9 143.7 168 8 188.11 190 5 214 23 215 2,6,6 215 14 226·20 263·2 263 11 269 21 272 10 274 12,16 277 17 278 9 286 20
used 136 3 140 14,19 141 3,7 143 20 144 5 144 23 146 2,4 162 19 164 23 167 4 276 15 286 17 321 5
user 121 12 122 13 123 1 129 3
users 116 11 117 15,24 121 23 326 17
using 112 25 139 6 144 15 167 12 187 13 192·12 223 13,23,24 263·12 266 16,19,20 266 23 268 20,20 269·9 272 9 274 14 275 3 278 2,10,15 286 24,25
USOC 272 8,10,10,15 273 2,3,5,12,16,19,22 274.11,12,16 275.2,10 275·23 276 1,8,22 277 22 278 1,3,9,14,17 278 22 279 1,4,9,17 290 21 291 5 292 21 292 24 293 21,25 294 6
USOCs 269·23
Usually 104·8
utilization 138.19
utilized 140 2 160:2,7
utilizing 139 1,12,21 159 20

V

Vague 224.17
Vaguely 307 19
vagueness 281 4
Vanessa 239 24
vendor 109:13,17,25 110 6,11
verbal 319 25 322 12,16
verbally 154 5
verbatim 118 3 248:10
verification 119 14
verifications 125 21
verify 105 19,25 106·1 253 10
verifying 125 20
version 131 6 211.11,16 213 25 214 2 259 25 261 3,4,9
versus 187 24 226.16 251 12
very 141 21,23,23 142 15 155 6 191 12 195 6 206 8 217·15 237 12 248 8 251 12 260 24,24 274 10 296 19 302 17,17 313 19 337 18 342 19
via 179 6,9 265 17,23
vice 113 6,24 146 16 147 8 148 16 153 25 154 16,20 155 4 187 25 189 23 228 21 230 20 232 14 264 17 265·6 273·7,20 298.13 301 2 302 9,11 312.3 317 12 318 10,14 325 7,9,10 338 16 340·7 341 22,25 344 19
vice-president 113·16
view 105 11
viewed 109 3
violates 124·10
violation 137 10 138·10
void 169 19 170·8 172 22
volume 99 11 222·20 223 1
volumes 222 19
volunteer 276 11
VP 111 12 154 9,10 156 8 158 11 186.8 187 12,17 188 12 206 22 226 6 233 25 291 14 300·4 310 17 325.3,6
VPs 320 13,24 323.5

W

W 112 25
wait 346 11
waited 313 15
waiting 141 19 324 7
walk 105.6 191.5
walking 214 13
Walls 174 13,22
want 111 19 120·8 121 18 122:25 127 3 141 14 149·10 173.8 181.13 183 2 203 14 216·21 221 25 232 24 254 1 271 9 308 7 321 18 342 8,10 346 5
wanted 153 17 155 5 188 18 191·13 205.19 214 22 234·9 250 25 251 2 257 18,19,20 258.4 260 13 262.10 272 4 276 18 282·16 286:9 290:14 310 12 311 22 319 8 321.17 329.3,21 346 9
wants 111 1
war 107 24
wasn't 153 15 170 21 181 10,11 186 23 187 7 188 15 193 18 193 19 196.1 201 21 202 25 217 23 218 7,8 228 2,8 250 3,15 251 1 267 9 275 4 276 12 278 16,23 280 19 283·8,24 285 19 310:22 320 22 343 7,8 345 12
waste 288·15 289 2 294 22
way 107.14 180 19 187 3 187 14 188 18 190 7 209 6,17,24 210 21 211 10 251 8 258.23 300·4 303 22 304 17 321.7 343 24 344.18
Wayne 100·18
Wednesday 99.23 333:13,17 334·12 335·7,24 337 15 338 1
week 247 18,21 250 6,8 293 14 295 14,16 296 3,19,24,25 306 13 334 1
weekend 292 11 300 5 300 18 306 16 308 1 309 8,22 315 21 327.17
weeks 195 1,5 236 19 237 10,13,21
welcome 160 14
well 105 16 114·14 120:10 121·17 128 14 156.3 159 19 164.15 166 3 181:2 188 2,7 192.24 193·23 196 24 198 14 204:15,24 225 2 244·7 256 23 269 17 271 16 274.7 279 25 280·18 282·13 285·13 286 20 289 3 290.11 291 17 295 3 299·15 301 11 304 11 331·14 340.25 346 9
Wellman 155 23
went 107 22 142·2 146 1 147 3,15 149·10,15,18 151 14 156 9,18 159 23 161.18,21 163 24 167 1 172·20 183 4 208 3 226 13 309 25 326 3 329 18

333 3
were 103 22 124 20 125 20,22 126 2 128·11 140 1 144 13 145.11,12,14 146.13 148 21 150·12,21 151 11 152 7,8,22 155 9,19 162 22 163 3 164 9.13,16,17 165 9 165 11,12,19 167 12 167 24 168.23 169 4,6 169·15,16,23 170·1,14 171 8 177 15 181 4 183.16,22 184.5,6,24 185 14 186 7 192 3 193 6 194 5,10,11.14 194 18,23 195.13,14 196.7 201 6,22 204 6 204 10 205 14 206 17 206 18 207 7,20 210 5 211.2 213 16,23 214 18 216 4 217 22 218.18 223 23 226 25 234 5 236 7,10 239·14 239·15 246 15,22 250:21,24 255.17 257·16,17.17 258.2,18 259.11 261 18,18 262·9,11 263 12 264 1 264 5,5 269 9 270 13 271 25 272 9 275 3,13 275.17,18 277.1,2 278·2,14 280·10,12,14 280·20 281.13,16,24 282 25 283 1.11,18,19 284.4 285 14 286.23 286 24 288·2 289 4 290 8,25 291 10 292.22 293 8 295 12 296 10,13 297.9,12,13 299 16 300:24 310 16 310·18 311·4,20 312 4 312.7 314 23,24 316 5 318 2,18,20 319·2,3,16 320 9,15 321 7 322 23 323·11,15,16 324.7,9 324:22 325 1,17 326.5 326·12,17,21 328 1,4 330 4,13 331 8,21 332 18,25 333 1 336.1 336 21,22 337 17,24 338.17,18,19 339.6 340:7,21 341.7,16 342 18,18,22 343 12 346.14
weren't 162 25 170 12 188 17 217 24 264 25 265.3 277 20 280 6 288 1 290·18 295 1,15 332.21 334·8
West 100 13
We'll 198 12
we're 149 6 161 12 210 20 260 6 268 9 278 10 308 1
we've 149 16 345 14
whatsoever 176 22
while 128 10 149 8 322 23 345 2
White 199·19
whole 128 20 195 24 244:18 279.25 316 10
wholesale 135 12
wife 195 6
willing 103 2
win 139·5 146 5
winning 135 16
wish 181 4
witness 100 23 126 9 132 3 156·3,5 175 22 178 19 221 22 245 11 247·9 305 20 330 6
witnesses 155·17
wondering 139 15
word 132·13 136:4
words 180:17 183 9
work 103·10 129:19 179 23 185·3 205.21 214 7 215·23 218 22 219.4 226 17 284 18 284·23 286·24 287 24 288 18 291 8 293 17 293 18 295 10,10 296 5,13 297 1,4,9 298 3 305 20 333.6 335 13
workable 343 21
worked 193 21 205·19 273·24,25 286 23 291 3,6
working 114 7 165:12 258 12 274 3 275 4 276.5 292.25
works 193 2 230 4 233 17 297 6,7 324 15
worse 341 7
wouldn't 134 20 143.20 153.11 155.3,23 156:5 158 5 202 11 218·21 230·3 256 5,21,23 263 9 273 16 290 15 292.5 311.7,24 329 24
Wow 186 19
write 212 4,5,7 321.24
written 153·21 280·14 298 21 314 10 315.4,6 316.2 317 25
wrong 150·22 158·14 205 25 232 1 272.9 275 23
wrote 212.13 221 24 301 22

X

X 100 22 101:2,2

Y

Yeah 186 1 258.20
year 289·19
years 110 18
yesterday 102 2,4,8,10 103 13 109 16 112 17 125 10 142.20 331.3

Z

zone 183 6
zones 165 25 166 2

$

$35,000 103 3
$450 285 20
$5,000 197 19
$5,600 289·16
$60,000 219:11
$8,000 197·1 287:13

0

010740-TP 99 3

1

1 101 4 131 10 132.9 162·14 172·3 178.7,10 183.5 196.23 225.18 232:10 233:3 245 23 252.25 254.3
1,400 328 17,25,25 329 2,3,9,14,15,19,20 329:24 330:20,23 331:25 332 3,10,13,15 332.18,22,24 334 18
10 135 8 136 6,11 171 9 192 15 196 24 296 18 326 4 339 25
10th 240 16 241 19 242.10
10-28 172 10
10:00 151 6
100 112.6 152 10 260 5
102 100 24
11 174 3 175.2 180:3 181.18 196·23 203 3 209.2 219·9 220·22 252 24 254 2 288 14 288 22 312 22
12 99 23 128 21 130 5 209 2 225 18 227·14 233 4 235 6 236 17 242 4,15 285 7 286 16 288 14 298 5 299 6 328 16 330 19
13 192 15 238 25 244 23 244 24 245 3 262 2,4 262 22 275 6 330 19
14 171 10 210 11 268 9 268 16 270 25 275 6 276 14
15 128:16,20 135 9 136 7,12 173 2 174 6 179 7 210 12 235 6 277·10 282 3 284 12 286 16 288 14 289 18 289 18 290 2 291 17 318·4 331.8
150 100 13
16 127 10,18 130.14 135 17 138 7 140 6 168 2 174 4 175 3 180:3 181 18 235.6 238 25 256.11,15 259 6 293 17 294 4 295·19 296 18 298 5 299 6
16th 311 9
17 129 6 130:5 178·18 178.18 179 13 209 2 236 17 244 10 245 20 246 20 256 11,15 259 6 261·24 309 14 312.22 332.6 344 20 344 24,25
17th 166 8 183 15,18 231 23 232 16,22 239·5,6,7,18 240:1 243 10,14,20,24 244 6 244.7,14,25 245 2,4,7 245 7,8,14,16 246 1,10 246 12,22 247·4,5,13 251 19 253 5,24 254 5 254 12 280.19 313 25 314 13,18 315 23
18 128 17 192.15 256 11 276 14 312 22 314 12 318 4 319 18 331 23
19 184 7 236 17 262:4 290:2 324.20 326 4 328 16 330 20 332.6,6 333 20 344 20,24,25
1910 100·12
1934 131 1

1996 131 13 133 15 135 10 137 11 175·11
1998 162 15 164.18 166 20 167 24
1999 167 16,19 168 16 169 14 172.3 182 22 184 17 185 25 201 17 223 12,16 283 25

2

2 101·5 127 10,18,19 178 7 225 18 227 15 233 4 237 24 238 8,11 241.4,23 252 25 254:3 335 17
2nd 168 16 169 17 182 21 215 12,13 216·12,15 220·17 280 15 281 19,23 283.5 284 24 288.20 323 19,20
20 129:6 138 7 140·6 219:9 259 6 262 4 290·2 333.20 335 17 336.3 338 11 339 25 344 20
20th 251.19 315 10,12 315 18
2000 149 24 155 14 157·7 166 8 167 16,17 167 19 181·22 183 15 183 18 200 22 202 1,2 202 10 204·20 218 20 218 25 219 16 223 12 223 16 228 6,25 231 24 232 22 233 6 233 19 235 9 236 21 239 5,6,7 240:16 241.9 241 19 242·11 243.13 245 5,20 246 20 247.19 253 24 254 5 255.11,14 256 12 257 14 258·10 261·25 262:5,24 280:15,19 283 5 289 24 290 3,19 290 25 295 20,22 311 9 313·7,20,25 315·4,7,23 318.6 319 13 343 4,5
2001 99 3,23 149.24 155 14 157 8 281·19
21 185 20 262.22 291 17 333 20 346 4
21st 315 11,12,18
22 130.14 174 6 220.22 291 17
22nd 241 22 242 12 256.3 257 10 258 21 259 22 260 7
23 184 7 219 9 262 22
233 101 4
238 101 6
24 252 24 254·2
240 101 7
25th 200 8,20 218 24 241 9
251 133 14,23 134 8
252 133 14,23
27th 243 13 244 5,21,24 256:10 258·25 260·8
28th 99·21 100·8 172·3 255 6 256 21 257 4

3

3 101 7 126.15 199 13 233 4 240 14,19 293.17 294 13 335.17
3rd 323 20
3-10-00 101.7 240 18
3-22-00 238 17
312 101 8
319 182 10,16,22 183.12 283·25
33130 100.13
33131-1714 100 8
35,000 102.14
364 131.14 132.23 133:5 133 7 134·12 137·12 137 13 138.10

4

4 101.8 128:16,20 129 6 130 5 132.9 162·14 252 23 254:2 261 24 277 10 311 11 312·21 336·3 338·11
4:55 99 24
400 338 15 339.12,15,16
400-plus 338:9
450 200·13
47 134:8

5

5 128·17,21 130 5,14 131 16 132.25 178 23 244 20,22,23 245 3 252 25 254:2,3 261 24 268:9,16 284·12 294·4 336:3 338.12
5th 215.9
5,000 197 3,4 200 12,15 287·7
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5-16-00 101 8 312 20
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500 152 12,13
51 179 15

6

6 131 10 132 24 135 8 138 7 140 6 203 3 244 24 245 6,19 268 16 270·25 293:17 294·5 309 14
6th 239·23 240·7
67 311 5

7

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7:30 141.16

8

8 171 9 174·6 247 6 295:19 314 12 346·4
8th 328.7,14
8,000 197.4,10 287:3,10
8:45 99:24
84 324·19 326.16 327 25

9

9 132 25 174 3 175 2 180 3 181 17 184·7 185 20 203 4 277 10 324 20 326·4
96 130·25
98 167.8,11
99 164 22 167 18 168·20 169 18 172 10 181·22 182.13 186 20 189·5 190·10 192:1 201:9 203·23 204 1 219·15 283 5,10,15,22 289:10

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September 16, 2001

Ms. Blanca S. Bayo
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: ***Complaint of IDS Long Distance, Inc. n/k/a IDS Telcom, L.L.C., Against BellSouth Telecommunications, Inc., and Request for Emergency Relief (Docket No. 010740-TP)***

Dear Ms. Bayo

On behalf of our client, IDS Telcom LLC, I respectfully make a claim of confidentiality pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, with respect to all enclosed deposition transcripts in the above-referenced matter. As discussed with Mary Anne Helton, IDS also will cause to be filed redacted versions of these transcripts for the public record

Please fell free to call me at 305-982-5626 if you have any questions

Very truly yours,

Brian P. Miller

Enclosures

cc: Mary Anne Helton, Esq.
James Meza, III, Esq
Suzanne Summerlin, Esq
John F. O'Sullivan, Esq

MI704928.1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 010740-TP
Filed: September 7, 2001

In re: Complaint of IDS Long Distance, Inc. n/k/a IDS Telecom, L.L.C., Against BellSouth Telecommunications, Inc., and Request for Emergency Relief

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COPY

VOLUME III

DEPOSITION

OF

KEITH KRAMER

SunTrust International Center
One S.E. Third Avenue
28th Floor
Miami, Florida

Thursday, September 13, 2001
8:40 a.m. - 3:15 p.m.

APPEARANCES

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- - - - - -

I N D E X

Witness	Direct	Cross
KEITH KRAMER	349	545

BY MR. MEZA:

Q. Good morning, Mr. Kramer.

A. Good morning, Jim.

Q. Is it your position regarding the bulk ordering incident that BellSouth intentionally released the bulk ordering feature knowing that it didn't work? Is that your position?

A. Yes. I would say that is my position.

Q. And what facts are you relying on to support that position?

A. The fact that I don't believe that it was sufficiently BETA-tested and the fact that people that I've talked to said that they knew it didn't work and had told people that it didn't work, that it was still released.

Q. And you don't believe there is any truth to the position that the release of the -- or the announcement of the bulk ordering feature at the CLEC Inforum was a result of an error or miscommunication within BellSouth. That is not possible?

A. You know, anything is possible. Okay.

Q. Okay. But are you denying that that actually happened?

A. I'm saying anything is possible.

Q. Do you have any facts to support your belief or your disbelieve of BellSouth's position that the announcement at the CLEC Inforum that the bulk ordering feature was ready, was an error and was unintentional?

A. I'm just going based on my knowledge and the facts from people that I talked to at the time.

Q. I guess specifically my question is: Do you have any facts to support your disbelieve of BellSouth's position that it was not intentional?

MR. MILLER: Object to the form.

A. Other than conversations, I don't believe so.

Q. And what conversations are those?

A. I had conversations with, you know, a specific person within Bell.

Q. And what did she tell you, or he?

A. That they attempted to tell all the proper people, okay, and they went and did it anyway.

Q. Well, let's be more specific about that. That this person attempted to tell the appropriate people what?

A. That it didn't work. It wasn't ready.

Q. Who did she tell, or he tell?

A. The conversation went specifically -- I kind of led the conversation when I was talking to this person. I said that, you mean everybody knew? Like Quinton, Petra? All the appropriate people knew? And she shook her head. So I took that to mean that she had told everybody that could be told.

Q. Do you know what Quinton Saunder's response was?

A. No. I have no knowledge of that.

Q. Do you know what Petra Pryor's response was to being informed that it didn't work?

A. No.

Q. Do you know if this person instructed someone else to tell another group at BellSouth that it didn't work?

A. No, I don't know that.

Q. And you don't know if the flow of information actually made it down to the person who announced or made the announcement at the inforum?

A. I have no personal knowledge of that.

Q. And despite that lack of knowledge, you still feel that BellSouth intentionally made the

decision to roll out this product knowing that it didn't work specifically to harm IDS?

A. I don't know if it was specifically to harm IDS.

Q. So it's your position that BellSouth rolled out the bulk ordering feature knowing that it didn't work?

A. I believe that would be my position.

Q. Can you tell me who that person is that told you that they told the appropriate people?

A. I gave that person my word that I wouldn't release that person's name.

Q. And I appreciate that position, but I will tell you that that's -- that doesn't protect you or prohibit you from disclosing that person's name in this proceeding. And if you want it to be treated as confidential, we can treat it as confidential, but I need to know that person's name. And if counsel has thoughts otherwise, then he'll tell you.

A. Okay. Can it be treated in an extremely confidential manner?

MR. LACKEY: Wait.

Q. What I mean by confidential is that it will be confidential between the parties as other

information is being treated confidential. But it doesn't prohibit the disclosure of the information within BellSouth or within IDS.

MR. O'KEEFE: Meaning that you would be able to use it beyond the purpose of this litigation.

MR. MEZA: No. Solely for the purpose of this litigation.

MR. MILLER: But not limited to attorneys only?

MR. MEZA: No. I mean, first of all, I don't believe that there's any privilege or reason for Mr. Kramer, other than giving his word to a person, for him not to disclose this information. He's alleged it. It's part of his testimony. And we have a right to know who that person is. To the extent that we can assure Mr. Kramer that this information will not be disclosed beyond BellSouth, I will give him that promise.

MR. MILLER: It's not my place to advise Mr. Kramer what to say. It's only our place to advise him not to answer the question.

THE WITNESS: So I take it that I have to

answer.

MR. MILLER: No. I was saying that my role here is to instruct you not to answer certain things, but my role isn't to say you will answer this or you must answer that question. That's BellSouth's responsibility. If they want to pursue a non-answer by you, then they have to get some sort of an order compelling the answer from the Commission. That's their responsibility, not my responsibility. That's what I'm saying.

A. [redacted]

Q. Do you know when you had this conversation with [redacted]

A. Around about July of last year.

Q. Do you know where?

A. I believe it was in Atlanta.

Q. And do you know what the purpose of the meeting was or the conversation was?

A. Twofold. One, I wanted to know if [redacted] would be available for employment, and we did discuss the bulk ordering disaster.

Q. Were you attempting to hire [redacted] for IDS or for Unified Solutions?

A. Unified Solutions.

Q. What role did you envision [redacted] in in Unified Solutions?

A. [redacted] would be like a VP role.

Q. Was Unified Solutions in existence at the time?

A. No.

Q. What did you tell [redacted] about Unified Solutions and about the employment possibility?

A. I told [redacted] I thought this might be a really great idea and it would be profitable for everybody involved.

Q. And how would it be profitable?

A. Well, I think we could get a lot of other CLECs to use Unified Solutions for conversions and possible customer service and we were brainstorming all the possibilities that could be done. We weren't actually -- we didn't actually have a business plan at the time.

Q. Did you tell [redacted] that Unified Solutions was going to use the W activity code to process conversion orders?

A. No. I didn't have that kind of conversation with [redacted]

Q. And what was [redacted] response to your

employment offer?

A. [redacted] wanted to think about it.

Q. Did [redacted] get back to you about that?

A. We had a second meeting.

Q. When was the second meeting?

A. Shortly after that.

Q. What did [redacted] tell you then?

A. That [redacted] would still be interested if we put the business together.

Q. Was there anything else discussed in that second meeting?

A. I think we reviewed the bulk ordering disaster again.

Q. And what did [redacted] tell you the second meeting regarding the bulk ordering incident?

A. Again, that [redacted] knew that it wasn't -- didn't work.

Q. What did [redacted] tell you about the bulk ordering incident in the first meeting?

A. To the best of my recollection?

Q. Yes. ?

A. That [redacted] knew it didn't work.

Q. Now, you told me earlier today that in your conversations with, now we know that it was [redacted] that you sort of took lead in the

conversation. What do you mean by that?

A. As I said, I was the one that said it and [redacted] said, yes, shook [redacted] head.

Q. So on page 23, lines 20 through 23 --

A. Say that again.

Q. Page 23 lines, 20 to 23 and going on to page 24, lines 1 through 2, when you say, "This person had informed Quinton Saunders, Petra Pryor and other BellSouth officials who were responsible for the carrier side of sales that the LENS bulk ordering product was not ready, and in this person's opinion the LENS bulk ordering system was simply not capable or powerful enough to do bulk ordering as has been represented to IDS? "

A. Uh-huh.

Q. Did [redacted] say those exact words?

A. To the best of my knowledge.

Q. Or did you say, do Quinton Saunders and Petra Pryor know about --

A. I may have.

Q. And then [redacted] just said, yes?

A. Yes. I believe that's how it went. And then [redacted] went on and said pretty much how I put it in here.

Q. And [redacted] said specifically that, "it was

not capable or powerful enough to do bulk ordering? "

A. As had been represented.

Q. To IDS?

A. I believe that's as close to what my memory can tell.

Q. Do you have any notes or recordings of that conversation?

A. No, I don't.

Q. Do you know if -- let me ask you this: What other BellSouth officials did [redacted] tell you knew about the fact that she considered the bulk ordering feature to not be ready?

A. I can't remember.

Q. But you know it was somebody other than, or in addition to Quinton Sanders and Petra Pryor?

A. I believe that to be the case.

Q. Do you know if Mr. Saunders and Ms. Pryor, after hearing this information, made the decision to roll out the product anyway?

A. I don't know if that was their decision.

Q. And on page 24, lines 2 to 5 you state: "It became painfully obvious that BellSouth, as a whole, was completely aware that the product that this person was developing was not ready, had not

been fully tested and would not work in accordance with BellSouth's representations."

Are you basing that statement solely on your conversations with [redacted]

A. At that time.

Q. Has your position changed today?

A. Through the course of this case, for lack of a better word, it tends to reinforce my position that it had not been fully tested.

Q. And your statement that BellSouth was, as a whole, completely aware that the product was not ready, what facts do you have to support that statement?

A. Then or now?

Q. Then.

A. Then. Just that conversation.

Q. And today?

A. To the best of my knowledge, it would appear that there's enough people within Bell that needed to sign off on that. From what I have been hearing, there was a significant number of people within the Bell's, I guess, wholesale or carrier group, that knew that this thing had not been fully tested.

Q. What do you mean by BellSouth as a

whole? Do you mean everybody in BellSouth knew about it?

A. As a corporation, I guess would be what I meant.

Q. But you're not saying that everyone from Quinton Saunders on down to the person who made the announcement at the inforum knew this?

A. No.

Q. Page 24, line 6 through 8, you say: "BellSouth had, nonetheless, placed the product on the market and misrepresented to the entire CLEC community, including IDS, its viability and availability without this person's sign-off."

What do you mean by the statement, "without this person's sign-off"?

A. I guess that goes to the conversation that I had the second time, that nobody -- I can't recall the exact conversation. I'm sorry. But it led me to believe that [redacted] didn't approve or sign off on it, whatever that meant.

Q. In your previous statement on page 23 you said that [redacted] was a high ranking BellSouth official, and if [redacted] didn't sign off on it --

A. Uh-hum.

Q. -- how was it still announced to be

ready?

A. I don't know.

Q. Is it possible that there was a miscommunication within BellSouth that the message wasn't sent downstream?

MR. MILLER: I'm sorry. Can you read that back, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

A. I don't know the interiors of BellSouth, so anything --

Q. Let me ask you this: As an upper management person of the telecommunications industry, assuming that [redacted] was in a comparable position to you or someone similar but still senior official, do you think if [redacted] said this product is not ready to go, that a lower level management person would still make an announcement that the product is ready?

MR. MILLER: Objection. Calls for speculation.

Q. You can answer, if you can.

A. Unless something grossly negligent happened to cause that.

Q. And what would you consider to be grossly negligent?

A. To me, just say, ah, do it anyway.

Q. So it's possible -- who would say, ah, do it anyway?

A. I have no idea. You are asking me to speculate here. I could spend two days speculating.

Q. I'm just asking you that if you were in a position and you told your team, let's say, that your product was not ready, would you expect a lower member of your team that reports to you to make the announcement anyway, essentially disobey your orders?

MR. MILLER: Same objection.

A. No.

Q. Today, after hearing several depositions and looking at all the discovery responses and BellSouth's testimony, can you rule out as a matter of fact that the announcement that the LENS bulk ordering feature was ready at the CLEC Inforum was not a result of an unintentional error and miscommunication?

MR. MILLER: Object to the form.

A. I haven't been able to read all of the

documents yet.

Q. Based upon your knowledge today, can you rule out as a matter of fact that the announcement of availability of the LENS bulk ordering feature at the CLEC Inforum was not a result of an unintentional error or miscommunication?

MR. MILLER: Object to the form.

A. You know, I haven't read enough documents to come to that kind of conclusion now.

Q. I'm asking you based upon the knowledge that you have today.

A. I would like to read more documents.

Q. Whatever you have read. Whatever you have done in this case, based upon what you know today, can you rule out as a matter of fact that the announcement at the inforum was not the result of a mistake?

MR. MILLER: Object to the form.

A. That's a difficult question to answer. You have to define mistake. You have to define -- for me to say that, okay, it's slightly irresponsible. I can't rule out anything. I think that's a possibility. Okay?

Q. Okay. What facts do you have to support your belief that BellSouth intentionally released

the product knowing that it didn't -- or that it wasn't ready to be released?

A. The only thing I can say is, from what I understand -- now or then?

Q. When you wrote this testimony.

A. At the time I wrote this testimony, okay, it appeared to me that a person that was in charge of this told other people that it was not ready. Okay. And it was still presented to the entire CLEC community. That was when I wrote this.

Q. Now, today, what other facts or beliefs support your position?

A. That a number of people that were involved in the bulk ordering, okay, and again, I'm not technical at a "go or no go" meeting on this where a number of people were involved, if I can remember the deposition, and everybody gave it a go, okay. And if I remember correctly, they knew that there was some problems in that meeting with the bulk ordering and they did a "go" anyway, from what I can recall, from depositions.

Q. Do you know if any BETA-test was conducted at the time of the "go, no go" meeting?

A. I can't recall. I do know that in the

course of the deposition, that I heard that there was a BETA-test.

Q. But you don't know if it was before or after the "go, no go" decision?

A. I can't remember.

Q. And, again, you don't know if any decision was made to go forward with the release of the bulk ordering feature after hearing [redacted] comments?

A. Again, based on what I heard at the deposition, that it was -- because Bell has this weird thing about roll-out, release and all that stuff. So I can't remember if it's a release or a roll-out, but it was a go to roll it out or release it. I mean, there are definitions there that I am not aware of.

Q. Let me ask you this: You don't know whether Petra Pryor or Quinton Saunders said, okay, [redacted] I appreciate your comments, but we are going to roll it out anyway? You don't know if that decision was made?

MR. MILLER: Object to form.

MR. MEZA: What is the problem with the question?

MR. MILLER: I think it's confusing.

Q. I don't think so. You can answer anyway.

A. I have no direct knowledge, no.

Q. At the time of your meetings with [redacted] did BellSouth already make it clear to you that the bulk ordering feature was released in error?

MR. MILLER: Which meeting with [redacted]

MR. MEZA: The meetings.

A. I had received a letter from Glenn Estell.

Q. What did that letter say?

A. It was an apology letter. It -- I forgot. It's somewhere.

Q. And did Mr. Estell say that BellSouth --

A. I believe he put in there, unintentionally.

Q. Did you have any reason to disbelieve that?

A. Not until the conversation that I had with [redacted]

Q. When you were having your conversations with [redacted] in July of 2000 or maybe even prior to that, did [redacted] tell you that [redacted] was away from

the office for an extended period of time due to an illness in [redacted] family?

A. I can't remember [redacted] making that statement.

Q. So you don't know if, at the time of the inforum or announcement made at the inforum, you don't even know if [redacted] was working or in the office or available?

A. I wasn't aware of that, no.

Q. IDS has hired Becky Wellman and Bill Gulas; is that correct?

A. Yes, it is.

Q. When did you hire Ms. Wellman?

A. The dates are killing me here. I think it was June of last year.

Q. What about Mr. Gulas?

A. I believe shortly before Ms. Wellman.

Q. Could it have been in May?

A. It could have.

Q. When did you first approach both Ms. Wellman and Mr. Gulas?

MR. MILLER: Objection. Foundation.

Q. When did you first contact them or how did you contact them?

A. I didn't contact Ms. Wellman.

Q. Okay.
A. I didn't know who she was. I talked to Bill by phone.
Q. And you raised the idea of him coming to IDS?
A. Yes.
MR. MILLER: Objection. Foundation.
Q. Did you raise the idea of him coming to IDS in that conversation?
A. Yes.
Q. When was that conversation?
A. I can't recall.
Q. Was it before the bulk ordering incident?
A. I may have given him an offer before, but right after, I know I absolutely tried to pursue him.
Q. Why was that?
A. We had had no luck with BellSouth in conversions or anything with UNE-P for over six months.
Q. And you thought his employment would do what for IDS?
A. Would be able to get us something that we couldn't get from BellSouth, as far as the

ability and knowledge to provide UNE-P service.

Q. You stated that after the bulk ordering incident you really pursued Bill Gulas?

A. To the best of my recollection.

Q. Was Mr. Gulas hesitant to leave BellSouth?

A. No.

Q. Why did you actively pursue him after the -- well, what specific actions did you take to actively pursue him?

A. Phone call.

Q. That's it?

A. I did fly him down to meet with us.

Q. Okay.

A. We had a long, extensive interview with the other owners.

Q. Did you offer Mr. Gulas any type of financial packages or incentives for him to leave BellSouth and come to IDS?

MR. MILLER: At what time?

MR. MEZA: During his attempts to pursue Mr. Gulas.

A. We discussed salary compensation and bonus programs.

Q. Is Mr. Gulas' salary or bonus

compensation contingent upon the IDS -- upon the success of IDS' complaint against BellSouth?

A. Oh, no.

Q. When you were pursuing Mr. Gulas, did you inform him that one of his job duties was to possibly become a witness in a proceeding against BellSouth?

A. No.

Q. So when you hired Mr. Gulas, it was in no way related to an eventual litigation between BellSouth and IDS?

A. No.

Q. In your discussions with Mr. Gulas, did you disclose to him the concept of United Solutions?

MR. MILLER: Objection. Not really an objection. I think you misspoke about the name of the company.

MR. MEZA: Unified Solutions. Thank you.

A. Yes. It was more his idea.

Q. And how was that? Explain to me how you raised that.

A. He said that he didn't believe any CLEC could be successful in converting lines to UNE-P

and that when they did figure out how profitable UNE-P was, that they would come screaming at people to convert their lines.

Q. Did Mr. Gulas say anything regarding the activity type W, that that would be something that Unified Solutions could use to its benefit?

A. No.

Q. When did Mr. Gulas raise the idea of the company to process conversion orders with you?

A. I can't recall the exact date.

Q. Was it before he was hired or after?

A. We had conversations about that before.

Q. Do you consider the Unified Solutions information that you have provided to me to be confidential?

A. I think that's what we discussed before, yes.

Q. I don't think we specifically discussed whether the history and background of the company is considered confidential, only [redacted] CLECs.

A. Could we make it confidential?

Q. Yes.

A. Okay.

MR. MILLER: Which are you asking about, the identity of the customers?

MR. MEZA: Just in general. Any information that he has provided to BellSouth in this deposition regarding Unified Solutions, does IDS consider that to be confidential?

MR. MILLER: You are asking every scrap of information about Unified Solutions that he's mentioned?

MR. MEZA: Yes.

Q. Unified Solutions is separately owned, though. It's not an affiliate of IDS, is it? IDS does not own Unified Solutions?

A. No.

Q. Did you ask Mr. Gulas to bring any BellSouth documents with him?

A. No.

Q. Do you know if Mr. Gulas signed some type of nondisclosure agreement before he left BellSouth?

A. Not that I'm aware of.

Q. So you don't know of any prohibition from him disclosing BellSouth internal information to IDS?

A. Not that I'm aware of.

Q. Would you have hired him even if there

was that disclosure or there was that prohibition?

A. I don't think so.

Q. So the main assets that Bill Gulas brought to IDS was the fact that he had significant knowledge about BellSouth's internal processes?

MR. MILLER: Objection. Foundation.

A. As far as how to put -- to do the UNE-P, yes.

Q. How did Ms. Wellman get hired by IDS?

A. I left that up to Mr. Gulas.

Q. Prior to retaining Mr. Gulas, did you do any background checks, check any references?

A. I ran a credit check. That's about all we do.

Q. At the time that you hired Mr. Gulas or decided that Mr. Gulas should be part of IDS, did you know of his role in the development of the UNE-P product?

A. Yes, I did.

Q. Did you know whether he was in a supervisory capacity of that product?

A. Yes, I did.

Q. And you understood pretty clearly, at that time, that there were some problems with the

UNE-P product in the ordering process, didn't you?

A. We've had nothing but problems.

Q. In spite of that fact, you still wanted to hire a person who was responsible for that product?

A. He's the only one that gave us the correct answers when we called.

Q. Would it be your opinion that if you are responsible for a project or for a product, that you would hope or that you would expect that product to work?

MR. MILLER: Can you read the question, back, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

A. Yes.

Q. And according to your testimony, up until June of 2000 it didn't work?

A. Correct.

Q. And you still wanted to hire Mr. Gulas?

A. Absolutely.

Q. On page 22, line 1 of your testimony, and it begins on page 21, line 23, the first part: "By the time BellSouth had the services

restored, IDS lost half of its customers to BellSouth."

You are referring to the bulk ordering incident with that sentence?

A. Yes. The bulk ordering disaster.

Q. Yesterday you told me that you don't know how many conversion orders were submitted. You had no personal knowledge, other than what BellSouth said, as to the number of orders that experienced some service disruption, correct?

MR. MILLER: Objection. Foundation.

A. Let me clarify that. I had no knowledge of how many customers lost their service in May. Sometime around October, Eileen Turpin gave me an approximate number of around 400, and slightly over 200 had left and gone back to BellSouth.

Q. I thought you told me yesterday that you obtained the 400 number as a result of reading information disclosed in this proceeding?

A. That was the precise number. Before that I had only known approximately.

Q. Who is Eileen Turpin?

A. She handled our I.S. at the time.

Q. How did she determine that over half of the 400 customers went back to BellSouth?

A. I don't know how she did that. I'm sorry.

Q. Do you know when they went back to BellSouth?

A. It was between May and August.

Q. Do you know the actual customers' names?

A. The phone numbers, I believe she put up a list of that.

Q. Did you produce that list to BellSouth?

A. I did in October.

Q. Of 2000?

A. Yes.

Q. Who did you produce it to?

A. I believe, to the best of my recollection, we attached that to a -- I think you called it a BAR form, if I remember correctly.

Q. And you don't know how Ms. Turpin determined that these people went back to BellSouth, do you? She never told you?

A. She said that they were no longer with us and they had gone back. I guess it was an opinion, they've gone back to BellSouth.

Q. They could have gone to another CLEC?

A. Possibly.

Q. But it's still your opinion today that

you lost half of your customers to BellSouth?

A. Half of the bulk ordering customers, yes.

Q. And that's based on Ms. Turpin's opinion?

A. And other people's opinion.

Q. Well, who else?

A. We had CSRs who were consistently -- had been handling complaints with the customers that were involved, and we were not able to supply credits that we had promised and customers were saying that if we didn't give them what they promised, they would go back.

Q. Did you ever contact those 200 customers to find out if they actually went back to BellSouth?

A. No.

Q. Did anybody at IDS ever contact those customers?

A. I have no knowledge.

Q. Even then, how do you know that all 200 went back to BellSouth?

A. The CLECs that are out there were, to the best of my knowledge, not capable of doing UNE-P. And the others were facilities-based and

they were having a hard time.

Q. Let me make sure I understand your testimony. Are you saying that you lost 200 customers to BellSouth during the two-week period after the bulk ordering incident, or that you lost 200 customers to BellSouth from May 2000 to August 2000?

A. I said approximately. I don't know the finite number. It was over half. I take over half of 400 to be over 200, so it's approximately. And it was from the May period through August period.

Q. So it was not within that two-week period after the bulk ordering incident?

A. No.

Q. Then why did you say in your testimony that by the time BellSouth had the services restored, IDS had lost half of its customers to BellSouth?

MR. MILLER: Where are you looking?

MR. MEZA: Page 21, line 23, page 22, line 1.

A. These customers, like I said, over 200 said and indicated to my people, CSRs, that if we didn't come up with credit, damage, whatever

monies for their damages, that they would be going back to BellSouth. We promised that we would do whatever it took to keep them. We could not come through with those promises.

Q. I guess I'm confused in that you said that you lost these approximately 200 customers within a three-month period, three- or four-month period from May 2000 and August 2000. In your testimony you say by the time BellSouth had services restored, IDS had lost half of its customers to BellSouth, which leads me to believe that the time period that you talk about in your testimony is the time period it took BellSouth to restore service to all 400 customers. Is that your testimony? Is your testimony incorrect?

A. I should probably clarify that these customers had intended to leave. We did what we could to keep them. We did not come through with our promises.

Q. The next sentence on page 22 is that, "The customers simply found it easier to stay with or go back with BellSouth in order to get service restored." Is it your opinion and testimony that those 200 customers found it easier to stay with or go back with BellSouth in order to

get service restored?

A. There were a number of customers that found it, yes, sir, easier to go back and get services restored than to sit with us.

Q. How many customers had this belief?

A. I can't tell you that. I don't know.

Q. Was it all 400 customers that experienced some service disruption?

A. I don't know.

Q. Did you contact any customers to find out if this was true?

A. Me personally?

Q. Yes.

A. No.

Q. Did IDS?

A. I believe we attempted to.

Q. And which customers did you contact?

A. I believe we tried to contact all the customers involved in it.

Q. And were you successful?

A. In what?

Q. In contacting them?

A. I believe we did call them.

Q. Did you take any notes or recordings of your conversations with the customers?

A. I don't remember.

Q. What type of conversation or what was actually discussed in these conversations with the customers?

A. I wasn't on those conversations. I don't know.

Q. Who was?

A. Our customer service reps.

Q. And do you know who those reps are?

A. At the time, I don't remember.

Q. How was it relayed to you, if you, personally, did not make any calls to customers who lost service, that they found it easier to stay with or go back to BellSouth?

MR. MILLER: I'm sorry. Could you read that back, please.

A. I had talked to some supervisors and people that were directly under me and I asked them what were the people saying.

Q. But, again, you don't know how many customers actually said that?

A. No.

Q. Or which customers said that?

A. No.

Q. And, again, I think you've made it clear

today that you did not lose all 200 within that period following the bulk ordering incident until service was restored?

A. No.

Q. Look on page 25, lines 11 through 13.

You say, "Their comprehensive explanation in some cases directly conflicted with the information that we paid BellSouth to provide us." I believe you are talking about Mr. Gulas and Ms. Wellman; is that correct?

A. Uh-huh.

Q. What explanations directly conflicted with the information BellSouth provided to IDS?

A. I don't know. This came from people that they were talking to.

Q. Who is"they"? People they were talking to?

A. Some of our CSRs and processors. I don't recall the names.

Q. Where did you get this statement from? This is your testimony, correct?

A. Yes.

Q. Who told you about this, that there was some type of conflict?

A. I had a number of people say what they

were telling them wasn't what they were learning or what Patty Knight had said, and they had made things a lot easier. That's the best of my knowledge.

Q. But you don't know exactly where the conflict was between BellSouth and what Mr. Gulas and Ms. Wellman said?

A. No.

Q. You heard that information solely through other people?

A. Yes.

Q. The next sentence says: "Through their planning, IDS was able to become a CLEC capable of processing orders at a rate of 1,000 or more lines per day."

A. Yes.

Q. What planning did Mr. Gulas and Ms. Wellman provide IDS?

A. He organized staff and procedures.

Q. What type of procedures?

A. I don't know. I'm not aware of the procedures he put in.

Q. How did he organize staff?

A. He set up departments.

Q. What type of departments?

A. Processing departments.
Q. And what are they? What do they do?
A. Process orders.
Q. Has IDS ever processed 1,000 orders a day?
A. Not to my knowledge.
Q. How do you know that you were capable of doing 1,000 orders a day?
A. That's what my people said.
Q. What is the most orders IDS has processed in a day?
A. To my recollection, approximately 970. We call them lines. I don't know if that means anything to you.
Q. And when you process an order, what exactly does that mean? Is that submit an order?
A. I believe that's it.
Q. So it's your testimony that IDS has submitted approximately 970 orders, conversion orders in a single day?
A. No. I'm referring to lines. I think in lines. I'm sorry.
Q. Does each line have its own conversion order, LSR?
A. No.

Q. So it's by account. Is it by account?
A. I'm talking lines. I don't know how many orders or particular customers we convert in a day.
Q. Do you know when you submit a LSR, local service request to BellSouth for a conversion, is it on a per line basis or on a per account basis?
A. I believe it's a per account, but I don't do processing. I'm sorry.
Q. And those thousand orders or thousand processing orders, is that solely UNE-P?
A. I think I'm saying lines here. You are saying order.
Q. Processing orders. You are saying you are capable of processing orders at a rate of 1,000 or more lines per day?
A. Yes. Lines.
Q. Are those UNE-P orders?
A. Yes.
Q. Look on page 26, lines 3 to 6. You state that: "We decided to find out how many orders, with the corresponding lines, we put into LENS on a daily basis for the Bell processing center to provision and then determine how many lines BellSouth's LCSC could process and convert

on a day-by-day basis."

Why did you want to find out how many orders the Bell processing center could process and determine how many lines the LCSC could process and convert in a day?

A. I'm referring in this context to the W.

Q. You are?

A. Yes.

Q. And how is that?

A. We wanted to see how the W worked through the flow-through after the BETA-test was completed.

Q. So this is after the BETA-test?

A. Uh-hum.

Q. When was the BETA-test completed?

A. Sometime in the middle of June.

Q. And when did you do this investigation or inquiry with the W?

A. Middle of June.

Q. Like immediately after?

A. Yes.

Q. What did you find out after you did this?

A. We processed accounts with the W on, I guess, an account-by-account basis, and it flowed

through fine.

Q. Did you ever determine how many lines BellSouth's LCSC could process and convert on a day-by-day basis?

A. I was more referring to lines that we were processing through the W when I talk about this.

Q. What do you mean by the last part of that sentence? Was there any determination made as to that?

A. We were just trying to determine how many lines the W could do.

Q. And what did you find out?

A. It was more dependent upon -- that we put the lines through and, you know, there were problems and there were conversions.

Q. Well, I guess I'm confused by your testimony because you say that you will determine how many lines the LCSC could process on a day-by-day basis and my question to you is: How many lines did you find out that LCSC could process and convert?

A. They gave back to us, I guess what you call, a firm order commitment on as many lines as we could put in.

Q. And how many lines did you put in?

MR. MILLER: What is the time frame here?

MR. MEZA: When he's doing this investigation that he is referring to.

A. I don't know how many lines we attempted to convert on this. I was more interested that it would flow through and that it worked.

Q. On page 26, lines 13 to 16 you say: "IDS must to this day repeatedly instruct BellSouth's employees in the proper methodology for processing these conversion orders."

What is the basis for that statement? What facts or information are you relying on?

A. Conversations I've had with Ms. Wellman.

Q. Have you been present when Ms. Wellman has had to instruct the BellSouth LCSC?

A. No.

Q. Do you know what methodology or what conversion orders she has helped instruct BellSouth's employees on?

A. No.

Q. Other than Ms. Wellman's comments, do you have any information to support the statement that IDS must repeatedly instruct BellSouth's

employees?

A. No.

Q. Do you know how many times IDS has had to instruct BellSouth's employees?

A. Not exactly.

Q. Do you have any idea?

A. No. I don't have a precise number, no.

Q. On page 26, lines 18 and 21 you say: "In addition, approximately 90 percent of these lines have some feature, such as hunt and roll over, voice mail, remote call-forwarding or some other feature that causes the order to drop out of BellSouth automated system and into a manual handling system."

What is the basis for that statement?

A. Reading it now, let me clarify that statement. What I meant is 90 percent of our accounts are [redacted] and they have features that could cause them to drop out for manual handling. Somehow it sounded better when I wrote it than how you just said it. So what I am referring to is it could cause it to drop out for manual handling.

Q. So we should put on page 19 after the word "that" and before "causes", could?

A. Yes. I mean, when I read it, it reads right to me; but when you say it, I think we should clarify it as could.

Q. So you don't know for a fact that 90 percent of your lines have all of these features, do you?

A. No. 90 percent of -- 90 percent of the accounts that we put into the UNE-P are [redacted] that could have these features that could drop out for manual handling.

Q. Let's go back to line 18. You say approximately 90 percent of these lines. Are you saying that lines should be accounts?

A. I'm referring to 90 percent of the lines that we put in are [redacted]

Q. Okay. Do you know for a fact that 90 percent of your [redacted] contain some type of feature that could cause an order to drop out?

A. Say that again.

Q. Do you know for a fact -- I think I'm still unclear as to your testimony, but let me see if I understand it correctly. You are saying that 90 percent of your lines are [redacted]

A. Yes.

Q. 10 percent are [redacted]

A. Yes.

Q. Of the 90 percent that are [redacted] lines, what percentage has some type of feature that could cause a conversion order to fall out?

A. I think what I am referring to is many of these lines may have some feature that could. I don't know exactly how many exactly, how many of these lines would have a feature that would cause it to fall out.

Q. So you don't know, or do you have any idea of a rough estimate, of a percentage of [redacted] lines that contain some type of feature that would fall out?

A. I heard a number.

Q. From who?

A. Somebody at Bell. And I can't recall, but like 30 percent was the number. And I don't know what time frame.

Q. Do you know if -- where did you get these features from?

A. Excuse me?

Q. How did you determine that the specific features mentioned in your testimony could cause an order to drop out?

A. This is general information that my people were telling me.

Q. Which people?

A. Processing people. You know, I would ask them what falls out. I can't remember.

Q. Who would be a processing person?

A. Well, the manager is Eric.

Q. Eric who?

A. Good question. I'm sorry.

Q. But do you know for a fact that hunt and roll-over, voice mail remote call forwarding caused orders to fall out?

A. No. I don't know that to be a specific fact --

Q. When you say some other feature on line 19, do you have any idea what those other features could be?

A. There are other features. I am not aware of them.

Q. Page 26, lines 21 to 23 you say: "In the manual handling system, a BellSouth employee must physically input all the information from scratch into the system so that they could flow through to completion."

What is the basis for that statement?

A. I would say conversations I had with Becky, to the best of my recollection.

Q. Do you know for a fact that when an order falls out the LCSC rep has to start from scratch?

A. Scratch was just a generalization.

Q. Okay. What do you mean by it?

A. I don't know the processes that a LCSC rep must go through to put in an order.

Q. If you don't know, then why did you include that statement in your testimony?

A. Scratch? To mean they billed it from scratch.

Q. Okay.

A. I don't know the exact processes.

Q. If you don't know, then why did you say BellSouth employee must physically input all of the information from scratch into the system?

MR. MILLER: Objection. Asked and answered.

A. I said, I conversed with Becky Wellman and this was my impression.

Q. But it could be incorrect?

A. It could be.

Q. Look on page 27, lines 10 to 13 you

say: "Many of the people working LCSC are new and not sufficiently experienced to be able to identify and resolve the problems caused by converting end-user services."

What is basis for that statement?

A. A conversation that I had with my -- with my managers.

Q. Who are they?

A. Becky and Nancy Matsen.

Q. What did Ms. Wellman tell you?

A. I'm not quite sure what she said. I'm sorry.

Q. Well, what could she have told you?

A. What I put here.

Q. Do you know when she told you that?

A. No, I can't recall.

Q. Did you know why she believed that LCSCs are new and not sufficiently experienced?

A. I guess through conversations.

Q. But you don't know for sure where she got that information?

A. No.

Q. And Nancy Matsen, do you know what she told you?

A. Same thing --

Q. Same thing?
A. Yes.
Q. On page 27, lines 12 to 13 you say: "Many LCSC representatives are not properly trained, which results in a large number of errors."
Where did you obtain that information?
A. I see the number of customers that get disconnected and have problems.
Q. So you assume that because there are a number of disconnections and problems, that the LCSC reps are not properly trained?
A. Yes.
Q. That's just your personal opinion?
A. Yes.
Q. Do you have any facts to support that?
A. Other than the number of problems I've had?
Q. Yes.
A. No.
Q. Do you know how long a LCSC rep is trained?
A. At the time I wrote this?
Q. Yes.
A. No.

Q. Do you know today?
A. I heard 10 weeks.
Q. Do you know if that's correct?
A. No, I don't.
Q. Do you know what is involved in the training?
A. No. No, I don't.
Q. Have you done any analysis or study that establishes that an untrained or an improperly trained LCSC rep will produce a large number of errors?
A. I have not done any analysis.
Q. Look on page 27, lines 16 through 19. "BellSouth's insistence in processing and converting end-user services in this fashion can only be described as grossly negligent, completely irresponsible and lacking in standard business prudence to the detriment of business retail telephone subscribers."

What do you mean by that statement?
A. The statement is that the systems that you have in place are causing my customers to lose service.
Q. Well, how is that grossly negligent?
A. I believe that BellSouth could have

created systems that would not cause some of my customers to have problems.

Q. How many customers have problems?

A. I don't have a precise number.

Q. Do you have a general idea? Let's say you have [redacted] lines.

A. Let's say we have [redacted] lines.

Q. Of those lines, how many would you say experience some type of problem?

MR. MILLER: Objection. Foundation.

MR. MEZA: What's the problem?

MR. MILLER: What is the basis for saying that [redacted] lines have had problems?

MR. MEZA: I'm using the total number of lines that he provided in the first day of deposition. He says he doesn't know. So if it's [redacted] lines, what is the percentage or how many of those lines that were converted experience some type of problem?

MR. MILLER: I guess my problem is that ignores the people that have left IDS.

MR. MEZA: That's fine.

A. There is a very large percentage. We've processed, from what I understand, [redacted] lines. [redacted] lines.

Q. Well, of those [redacted] lines that you've processed, how many, roughly, experience some type of problem?

A. It could be -- what time frame? I'm sorry.

Q. 2000.

A. Through 2000?

MR. MILLER: Objection. Foundation.

Q. You can answer.

A. You want to include the bulk ordering too?

Q. Sure. I want to know how many of your lines experienced problems. You keep saying there is a whole bunch, there is a lot, there's many, but I have not -- I have yet to hear a specific number. So I'm trying to find out how many of your customers that you have submitted conversion orders, experienced some type of service-related problem from the minute you started doing conversion orders until today.

A. To the best of my ability, I would say approximately around 50 percent.

Q. Okay. And how did you reach the conclusion that 50 percent experienced some type of problem?

A. In 2000, aside from the bulk ordering, we had multiple problems. We knew concretely that 100 percent of Memory Call was being torn down and 100 percent of remote access call-forwarding, I believe is what they call it, was being torn down.

We also had all our orders, sometime in August or September, have a problem with the Star 98 that was attached to it. And then we also, on top of that we had customers that were having disconnects, hunt roll over problems, sequencing problems and other such type services that had failures to them.

Q. That is 50 percent of [redacted]

A. It's approximately.

Q. What analysis have you done, or study, to reach the conclusion that 50 percent of the [redacted] lines, approximately 50 percent, experienced some type of service disruption?

MR. MILLER: Objection. Foundation.

A. We knew the number of customers that had voice mail and remote access call-forwarding. We knew that 100 percent of the orders in the September time had a Star 98 problem, which we had to put.

And then we knew, from talking to my managers and CSRs, that roughly 5 to 8 percent of the customers had some kind of disconnection, but some of these, certain percentages had problems with hunt sequencing and other problems. And collectively my people said that if they add everything together, they feel that approximately 50 percent of the orders we were putting in had some kind of conversion problem.

Q. Has IDS ever done any study or analysis to definitively establish the total amount of customers that experience any type of service disruption as a result of the submission of a conversion order?

A. We haven't run a definitive analysis.

Q. Can you tell me the names of those customers or the phone numbers that have experienced any type of service disruption?

A. I, personally, can't give it to you.

Q. Can anybody in IDS tell me?

A. We have some records of that.

Q. What records do you have?

A. I think they've been -- whatever records have been supplied to you already.

Q. So the records that you have produced to

me will allow me to look through them and determine the total amount of customers that have experienced some type of service disruption?

MR. MILLER: Objection.

Mischaracterizing the witness' testimony.

A. I think it will give you an idea of the problems and the magnitude of the problems that we get.

Q. What do you mean on page 27, line 17 that BellSouth is completely irresponsible?

A. I don't believe that BellSouth should have a system that allows a customer, the amount of customers that I have had experience disconnection and service problems, to have that type of system or allow that type of system not to be fixed in such a way that it would prevent the problems I've had from continuing.

Q. And the amount of customers that you are referring to is within that 50 percent group?

A. Yes.

THE WITNESS: Do you mind if we take a break?

MR. MEZA: No. That's fine

(Recess in Proceedings)

MR. MEZA: Back on the record.

Q. Mr. Kramer, can you explain to me the W Activity code, what that is and how it works?

A. I don't process orders. From what I understand, it allows IDS to do a switch as is.

Q. And what is a switch as is?

A. It converts the customer from retail or resale to we with minimal input.

Q. What is the alternative to the W activity code?

A. To the best of my knowledge, I think they call it a V.

Q. And how does the V differ from the "W"?

A. To the best my knowledge, it just takes a lot longer to input.

Q. Is IDS currently using the W activity code to submit conversion orders?

A. Yes.

Q. Has IDS submitted or used the W activity code in the past?

A. In the past?

Q. Yes.

A. From today?

Q. Yes.

A. Yes.

Q. Is IDS also using the V activity code?

A. I believe so.
Q. What percentage of orders are being used with the W?
A. I don't have a precise number.
Q. What about a rough idea?
A. A lot. Major percentage.
Q. 90 percent?
A. I don't know.
Q. 75 percent?
A. Again, I don't know.
Q. You said "a lot". I am just trying to understand what your understanding of "a lot" to mean.
A. I'd say over 50.
Q. Well, why would you still use the V, if you have the ability to use the W?
A. I don't know.
Q. Has does the W work?
A. It appears to work fine.
Q. No conversion related problems?
A. There's a lot of conversion problems. I don't believe it's related to the W.
Q. So even though you're using the W, IDS is still experiencing conversion problems today?
A. Even when we're using the V.

Q. I'm asking you, when you use the W, are you still getting conversion related problems?

A. Yes.

Q. What kinds?

A. We're still getting problems with disconnects, hunt roll over and other type services.

Q. Has the percentage of errors or -- excuse me, of conversion related problems decreased since you began using the W?

A. Actually, they increased since we were using the W.

It was a vague question. I'm sorry.

Q. No. It was the proper question and you say it increased. So how did it increase?

A. Well, it increased from, I guess, June, it increased. Conversion related problems increased. I guess especially in the months of November and December.

Q. Of what year?

A. 2000.

Q. Do you know why they increased?

A. No.

Q. When did IDS start to use or begin to use the W activity code?

A. I believe during bulk ordering process.

Q. Of your current [redacted] lines, how many of those lines did IDS obtain after June of 2000?

A. I don't know.

Q. How many lines has IDS lost since June of 2000?

A. My estimate, rough estimate would be around [redacted]

Q. Do you know how many customers IDS has lost since June of 2000?

A. I only know lines. I'm sorry.

Q. Do you know where lost lines went, to what carrier?

A. I believe most of them went to BellSouth.

Q. When you say most, do you have a specific percentage or a general percentage?

A. No.

Q. It's your opinion that it's more than 50 percent?

A. Yes.

Q. And what is the basis of that opinion?

A. BellSouth is the ILEC.

Q. Okay.

A. And most able to take them back.

Q. And that's the only information or evidence that you have to support your opinion?

MR. MILLER: Objection. Foundation.

Q. Is there any other evidence or information to support your opinion that most of your lost lines have come back to BellSouth or have gone to BellSouth?

A. I believe my people know whether it goes back to BellSouth or to another CLEC.

Q. How is that?

A. I don't know. They just tell me this.

Q. And who -- well, what people are you referring to?

A. The people in my customer service center.

Q. And who are they?

A. Managers. Again, Nancy Matsen.

Q. So if I ask Nancy Matsen the exact percentage of customers that IDS has lost and have come back to BellSouth, she could give me an answer?

A. No.

Q. Then how does she know?

A. I believe you asked me how do I know that they go back to BellSouth.

Q. Right.
A. And I said I believe we can tell, I think, what carrier it goes to.
Q. All right. But you don't know sitting here today, you don't know if that's actually the case?
A. I don't know.
Q. Does IDS have any records that would establish or show where a customer goes after leaving IDS?
A. I don't know.
Q. But you still think that there is a way in which IDS can determine?
A. Maybe.
Q. There may be. But you're not sure?
A. I'm not sure.
Q. Look on page 28, line 4 through 6. You're talking about -- the question on line 1 is: "How did IDS' customers react to these services outages?"
I presume that you're referring to the bulk ordering incident?
A. No. I'm talking about --
Q. Just in general?
A. Yes.

Q. And you say on line 4, "The first and most completely natural reaction of a customer to having his service either partially or totally disconnected is to contact BellSouth's repair or retail business office."

What is the basis of that statement?

A. Conversations I've had with my customer service reps.

Q. Do you know who those are?

A. No.

Q. Do you know when you've had those conversations?

A. Last year.

Q. What time last year?

A. Summertime and fall.

Q. Have you, personally, talked to any customer that told you that his natural reaction was to call BellSouth?

A. Yes.

Q. Which customer?

A. The one I mentioned yesterday.

Q. The [redacted]

A. Yes.

Q. Any other customer that you've talked to that specifically said, upon losing or having a

service outage, his first reaction was to call BellSouth?

A. Not that I can recall. Not that I can recall.

Q. Is this natural reaction only for conversions from BellSouth to UNE-P?

A. That's what we do mostly.

Q. Do you know how many of IDS' customers have contacted BellSouth repair or retail upon experiencing some type of service outage?

A. No.

Q. Do you know which customers have contacted BellSouth repair or retail upon experiencing a service outage?

A. No.

Q. Who would know that information?

A. The exact number?

Q. Yes.

A. I don't know.

Q. Do you know how many customers your CSR spoke to regarding a customer's reaction when they lost service?

A. No.

Q. Have you had any recent conversations with the customer service rep regarding this

issue?

A. No.

Q. On page 28, lines 6 through 10 you say: When the customer is exposed to BellSouth's customer service department, he is told that IDS ordered a disconnection of his service.

What is the basis for that statement?

A. [redacted] was my personal conversation, and also conversations with my supervisors.

Q. Your supervisors?

A. Of customer service.

Q. A supervisor to you or a supervisor that worked for you?

A. Supervisors that work for me.

Q. Which supervisors have told you that?

A. Well, the one I can recall that I've had the most conversations with was Nancy Matsen.

Q. Has IDS presented the testimony of Nancy Matsen?

A. No.

Q. Is there any reason why she would be unavailable to testify at this hearing?

A. Not that I know of.

Q. Do you know how many customers have been told by BellSouth when they contact the BellSouth

customer service department that IDS ordered a disconnection on the service?

A. No.

Q. Do you know which customers have been told this?

A. No.

Q. Do you know when they have been told this?

A. No.

Q. Does IDS have any documents or any recordings or statements that support this statement?

A. All of the ones that we have, I think we've supplied to BellSouth.

Q. Are you saying that this happens every single time an IDS customer calls BellSouth service department?

A. Back in 2000, that was our impression, yes.

Q. But you don't have any evidence to support that, do you?

A. Not to my knowledge.

Q. The next sentence reads: "A customer faced with this misrepresentation, coupled with the fact that he is without a dial tone, in many

cases for several hours a day, becomes literally incensed with IDS."

What is the basis for that statement?

A. I have seen customers in our lobby literally incensed, yelling and screaming because they are without dial tone.

Q. How many customers have you seen in your lobby?

A. Me personally?

Q. Yes.

A. I can only approximate ten.

Q. How many customers does IDS believe became incensed with IDS upon experiencing a loss of dial tone and faced with the alleged misrepresentation by BellSouth's customer service department?

A. How many?

Q. Yes.

A. I don't know.

Q. Is there any way you can find out?

A. I don't know.

Q. So you based that statement on your personal experience with the ten people in your lobby?

A. And conversations I have had with my

staff.

Q. What staff is that?

A. The staff that works the IDS in the customer service department.

Q. Can you name some specific individuals?

A. I'm not good with names.

Q. Would it be Nancy Matsen?

A. And below her.

Q. Was there a company-wide instruction that whenever you get an irate customer, immediately tell Keith Kramer?

A. No. Angel Leiro.

Q. But you have had personal conversations with at least customer service reps?

A. I've had some conversations.

Q. How many conversations have you had?

A. I can't recall.

Q. More than ten?

A. I don't know.

Q. 50?

A. I don't know.

Q. Does it happen once a day?

A. No.

Q. Once a week?

A. Not lately.

Q. Well, tell me how you become notified when this happens?

A. What happens?

Q. When the customer service reps gets an irate customer.

A. How do I know?

Q. Yes. If you don't talk to the customer, how does it come to your attention?

A. Every now and then it's brought to my attention by Nancy Matsen, or the record, whatever records that we can get, I instruct that Angel be notified.

Q. And does IDS keep any recordings or documents every time this happens?

A. Not -- we keep some.

Q. You keep some and not all?

A. I don't know.

Q. Is it your testimony that every customer that has a service disruption, calls BellSouth, becomes literally incensed with IDS?

A. That's my impression.

Q. Is that your testimony?

A. Yes. That's what I put down.

Q. Do you have any evidence, other than the conversations you've had with your staff and the

ten people you've witnessed in your lobby, to support that statement?

A. That's what I know.

Q. Okay. Look on page 28, lines 13 to 15. And you're discussing the pending service order. This means that the actual conversion to IDS has not yet been completed by BellSouth and, therefore, the customer was not legally or technically IDS' at that point.

Is it your understanding and testimony today that if an account is in PSO status, that the conversion is yet to take place?

A. That's what I understand.

Q. Do you know that for a fact?

A. This is to the best of my knowledge.

Q. Could it be that the conversion has actually taken place, but there is some other downstream error that has prevented the CRIS records to be updated?

MR. MILLER: Objection. Calls for speculation.

A. In this particular context here?

Q. Yes.

A. I don't know.

Q. Look on page 28, line 17 through 19:

"When IDS attempted to get the customer's service back up, BellSouth effectively blocked IDS from doing anything such as issuing a trouble ticket for the service outage while the order was in a PSO status."

What is the basis for that statement?

A. In conversations that I've had with Nancy, I believe. I'm not sure.

Q. Have you ever attempted to issue a trouble ticket to BellSouth?

A. Me?

Q. Yes.

A. No.

Q. No?

A. No.

Q. Do you know how many times BellSouth has effectively blocked IDS from doing anything?

A. No.

Q. Do you know how Ms. Matsen acquired this knowledge?

A. No.

Q. Can you explain to me how BellSouth would prohibit IDS from issuing a trouble ticket?

A. I don't know how that's done.

Q. Do you know for a fact that if an order

is in PSO status BellSouth will not allow IDS to issue a trouble ticket?

A. That's to the best of my knowledge.

Q. Do you know that for a fact?

A. To the best of my knowledge.

Q. To the best of your knowledge, yes? You are saying yes?

A. Yes. Uh-huh.

Q. Could you be wrong?

A. This is the best of my knowledge.

Q. I know. I'm asking you, could you be wrong?

A. As far as I know, there is nothing to lead me to believe that anything that I put in here is wrong.

Q. I'm not asking if it's wrong, but could you be wrong?

MR. MILLER: Asked and answered. Objection.

Q. I think I'm just asking for a simple answer, yes or no. Could you be wrong?

MR. MILLER: Same objection.

A. To the best of my knowledge, this is what I put in.

This is what I meant.

Q. Are you 100 percent sure that that's correct?

A. This is the best of my knowledge. I'm -- this is the best I can say. I'm sorry.

Q. I don't mean to be difficult. I just need an answer.

A. I understand.

Q. Look on page 28, line 22, to page 29, line 6. And we'll break each sentence up, but let's start with the first sentence.

MR. MILLER: I'm sorry. What line?

MR. MEZA: Page 28, line 22 through page 29, line 6.

MR. MILLER: Thank you.

Q. We will take the first sentence. "If the customer decided to call BellSouth's Retail Business Office concerning the service outage, BellSouth's customer service representatives would likely tell the customer that, "If he cancelled the conversion order and stayed with BellSouth, they could have the service restored within the hour."

What is the basis for that statement?

A. Again, I had that conversation with [redacted] and I have heard from several CSRs that when

they talked to customers, this is what our customers have said.

Q. Which CSRs?

A. Again, I don't know their names.

Q. Do you know when you had that conversation with them?

A. Last year.

Q. Do you know about what time last year?

A. I can't recall.

Q. Do you know how many customers have actually said this?

A. No, I don't.

Q. Do you know which customers they were, other than the [redacted]

A. No, I don't.

Q. Can I ask you why you put that information in quotes?

A. That's because that's what I was told from [redacted]

Q. That's a direct quote from [redacted]

A. If I recall correctly.

Q. Did you take notes or anything when you spoke to [redacted]

A. No, I didn't.

Q. Then how do you know that's exactly what

they said?

A. It's to the best of my knowledge.

Q. Who at [redacted] did you speak with?

A. I can't remember his name.

Q. But you know he absolutely said, if he canceled the conversion order and stayed with BellSouth, they could have the service restored within the hour?

A. To the best of my knowledge.

Q. Is it your testimony today that every customer that calls BellSouth, every IDS customer that calls BellSouth's Retail Business Office concerning a service outage is told by a customer service rep at BellSouth that if you cancel the conversion order and stay with BellSouth, they can have their service restored within an hour?

MR. MILLER: Can you read that back.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

MR. MILLER: Objection. It's mischaracterizing the witness' testimony.

A. What time period?

Q. In the time period you wrote this.

A. At the time period specified in here?

That was my belief.

Q. And what time period is specified in here?

A. This was probably before, I guess, the complaint was made, prior.

Q. Has your opinion now changed?

A. I have not been in contact with my CSRs or my customer service manager since I've started this, so I don't know what is happening with BellSouth when customers call.

Q. Okay. The next sentence on line 2, page 29: "And in most cases where customers chose to cancel the order, BellSouth would have the services restored within the hour, despite the fact that the LCSC represents to IDS that the earliest possible time they could have services restored is usually hours later or the next day."

What is the basis for that statement?

A. Again, conversations that I've had with my people, and that's it.

Q. What people, again, is that?

A. Again, our customer service reps that talk directly to the customers and the managers.

Q. How many times have you talked to customer service reps regarding this issue?

A. I usually talk to the manager, Nancy Matsen. I can't tell you how many times I've actually talked to a rep.

Q. How many times have you talked to Nancy Matsen about this issue?

A. We talked several times last year.

Q. Is it more than ten?

A. Yes. Significantly more.

Q. More than 20?

A. I can't tell you.

Q. Do you know exactly which customers canceled an order and had service restored within the hour?

A. I can't recall.

Q. Do you know when these instances occurred?

A. They were happening throughout the period up until I started working on this case.

Q. Give me a rough average, for every month, how many times this would happen?

A. I wouldn't know how many times each month.

Q. Who would know?

A. I don't know.

Q. Does IDS keep any records or any

recordings that could support your statement that when a customer cancels the order, BellSouth would have the services restored within the hour?

A. Whatever we have, I'm sure we've given it to you already.

Q. Is it your testimony today that when an IDS customer cancels a conversion order and that customer experiences service disruption, that BellSouth would have services restored for every customer within an hour?

A. I don't know that that would be the case.

Q. But you don't know for exactly what -- how many customers actually this took place, do you?

A. Could you make your question more clear?

Q. Do you know how many customers that canceled an order during the conversion process because of a service outage that BellSouth was able to have their service back up in an hour?

A. No, I don't.

Q. Do you know, what is the basis of your statement that the LCSC represents to IDS that the earliest possible time they could have service

restored is usually hours later or the next day?

A. Based upon conversations that I have had with my supervisors, specifically the AVP, Nancy Matsen.

Q. Have you actually talked to a LCSC rep to find out when they could have service restored?

A. No, I don't do that.

Q. Do you know if the LCSC rep tells IDS in all instances that they realize that the earliest they could have service restored is hours later or the next day?

A. I have never talked to a LCSC rep.

Q. To the best of your knowledge, do you know if in every instance the LCSC told IDS that service wouldn't be restored until hours later or the next day?

A. To the best of my knowledge.

Q. Page 29, line 9 through 12 you say: "At the time the BellSouth representatives tell the customer this, they know that IDS is powerless to affect the customer's service because it is in the pending service order status and BellSouth will not permit IDS to alter the situation."

Correct me if I'm wrong, but when you talk about at the time the BellSouth

representatives tell the customer this, when you refer to this, do you mean the previous sentence there that they have to contact IDS? Is that what you're referring to?

MR. MILLER: Object to form.

Q. Is that what you're referring to?

A. Could you clarify?

Q. What do you mean on page 29, lines 9 and 10, at the time the BellSouth representatives tell the customer this? What is this?

A. I guess I'm referring to what is above it. I believe that's the question. Right. I am referring to the lines previous to this.

Q. Right.

A. Okay.

Q. Are you referring to specifically on line 8?

A. Yes. I believe so.

Q. That they will have to contact IDS?

A. I'm sorry. I'm lost.

Q. I am trying to figure out what you mean by"this" because if you look on line 7, you say they are actually punished by BellSouth if they refuse to cancel their conversion order because they are told that they will have to contact IDS?

A. Correct.

Q. And then you proceed to say at the time the BellSouth representatives tell the customers, this --

A. That they have to contact IDS.

Q. I apologize for the inartful question, but that's what I was trying to get at.

A. That's all right.

Q. At the time that the BellSouth rep tells the customers that they have to contact IDS, you state that these reps know that IDS is powerless to affect the customer's service because it is in the pending service order status. How do you know that the BellSouth rep knows that IDS is powerless?

A. Again, talking to my AVP and, at the time, some of my service reps, but mostly through my management.

Q. And how is IDS powerless?

A. Well, from what I understand, we can't -- at the time, okay -- I don't know how it is now, okay. We had to wait until the order completed before we could do anything to fix this.

Q. Before IDS could fix it?

A. Before we could answer whatever it is

that we have to enter, a trouble ticket or whatever to help restore the services.

Q. Is it your testimony that BellSouth refused to do anything while the order is in the PSO?

A. From what I understand, from what our people told me, that they were powerless in doing anything.

Q. Is it your testimony that BellSouth -- if IDS is powerless, that means to me that BellSouth was the only entity that could cure the problem?

A. I --

MR. MILLER: Objection. Calls for speculation.

A. I would believe that to be the case, too.

Q. Is it your testimony today that if IDS is powerless, customer is out of service, that BellSouth will not do anything to help the customer retain service while that order is still in the PSO?

A. The customer does not have service.

Q. Right.

A. So he couldn't retain it.

Q. Okay. Is it your testimony today that if IDS is powerless, the customer does not have service, that BellSouth will not do anything to help that customer regain service?

A. At the time that I'm speaking of and I wrote this, we had to wait until it completed before they could do anything.

Q. Okay. Well, if that's the case, then why, on lines and 6 you said that the LCSC represents to IDS that the earliest possible time they could have services restored is usually hours later or the next day?

A. Right. This is after --

Q. If you're saying that the order -- you have to wait until the order is completed before anybody can do anything to fix the service outage, why would a LCSC rep tell you that service could be restored usually hours later or the next day?

A. I guess he's referring to how long it would take for the order to complete.

Q. But your testimony doesn't say that, does it?

A. It doesn't get that specific.

Q. So is it your testimony that as long as an order is in the PSO status, even the end user

who is without service cannot obtain service?

A. To the best of my knowledge.

MR. LACKEY: Can we stop for just a minute?

MR. MILLER: Off the record.

(Discussion off the record.)

MR. MEZA: Back on the record.

Q. Have you ever talked to a BellSouth customer service rep to find out if your statement is true that they knew when a BellSouth -- when an IDS customer calls BellSouth, that IDS is powerless to fix the problem?

A. No.

Q. On page 29, lines 12 to 15 you state that:"They know that IDS cannot have the services restored until BellSouth, itself, updates the LENS customer service records, and clears the PSO for the conversion to IDS which has effectively kept the customer from having the services restored or at a minimum permitted a trouble ticket to be opened."

On what basis can you make the statements that a BellSouth service rep knows that IDS cannot have service restored until LENS is updated and clears the PSO?

A. On the retail or wholesale side?

Q. On whatever you're referring to in this.

A. Can you repeat the question?

Q. What is the basis for your statement that a BellSouth representative knows that IDS cannot have the services restored until BellSouth updates LENS and clears the PSO?

A. That's based on conversations I had with my managers.

Q. Do you know if every BellSouth representative knows this?

A. I don't know.

Q. On page 29, lines 16 to 17 you say: "During a substantial period of time, BellSouth was not updating LENS in a timely fashion, (72 hours after conversion)."

What is the basis for that statement?

A. In November, I believe it started in November, it could have been earlier, LENS was not updating information on a timely basis.

Q. What do you consider timely?

A. I would say within 48 hours.

Q. So what is your reference to 72 hours after conversion?

A. I would think that's, you know, 72 hours. I guess I should have said 72.

Q. So it's your testimony that in November of 2000, LENS was not updating every 72 hours?

A. No.

Q. That is not your testimony?

A. It was not.

I'm sorry. State the question again.

Q. Is it your testimony that in November of 2000 LENS was not updating every 72 hours?

A. I don't understand the question. I'm sorry.

Q. You are saying during a substantial period of time BellSouth was not updating LENS in a timely fashion (72 hours after conversion)?

A. Yes. Orders. Certain orders.

Q. For how many orders?

A. I don't have that number.

Q. Who would?

A. I don't know.

Q. And during a substantial period of time, what time period are you referencing there?

A. November, December.

Q. Of 2000?

A. I believe so.

Q. How do you know that LENS was not updating?

A. We would see orders in a pending status for an extended period of time.

Q. Do you personally see these orders in a pending status?

A. I've had -- I have seen examples of it.

Q. What do you mean by examples?

A. We printed out sheets of orders that were still in pending days and weeks later after the FOC, I think it is. I am not very technical.

Q. How do you know that LENS was not updating? How do you know that?

A. I'm sorry. I'm trying to figure out that question.

Q. How do you know that LENS was not updating and that's the reason why it still showed the order in the PSO status?

A. I don't know how to answer that question. I'm sorry.

Q. Look on page 29, line 19 through 22. "BellSouth's retail division, on the other hand, despite an order having not technically completed, will refuse to assist the customer unless he cancels the order to convert and accepts whatever

current BellSouth promotion is being offered."

What is the basis for that statement?

A. Again, from what my management people have told me.

Q. Anybody other than Nancy Matsen?

A. There may have been. I just don't remember the name.

Q. Did you talk to any customer service reps?

A. I could have. I don't remember.

Q. I am confused by this statement because on page 29, line 8 and 9 you say that the representatives tell the customers that they have to contact IDS when they call, right?

A. Yes.

Q. On page 29, lines 20 to 21 you say that they will refuse to assist the customer, unless he cancels the order to convert and accepts whatever current promotion is being offered. To me there seems to be an inconsistency.

MR. MILLER: Is there a question there?

Q. Yes. Do you believe that there is an inconsistency?

A. I believe there are divisions in the retail side. I think you have a business office

and a customer service center.

Q. Okay. Which division is it, in your opinion or within your knowledge which tells the customer that they have to contact IDS?

A. I'm not really sure.

Q. Which division tells the customer that they can't help them unless they cancel the conversion order?

A. To the best -- where are you right now? I'm sorry. Before I answer the question.

Q. I am on page 29, lines 19 through 22.

A. To the best of my knowledge, it's the retail division. Business office, I think you call it.

Q. And what division, if you remember, if you know, would tell the customer that they have to contact IDS if they have service related problems?

A. I believe it might be both divisions. I'm not sure.

Q. So when you make the statement, is it possible that BellSouth's retail division could also tell the customer to contact IDS?

A. It's possible.

Q. So not every customer service rep in

BellSouth's retail division will refuse to assist the customer unless he cancels the order and converts and accepts whatever current BellSouth promotion is being offered?

MR. MILLER: Object to the form.

MR. MEZA: What is the problem with the question?

MR. MILLER: It's confusing.

A. I'm not sure.

Q. Is it possible that not every customer service rep in the retail division tells a customer that he cannot help them unless he cancels this conversion order and comes back to BellSouth?

A. I don't know.

Q. You don't know. You just told me that it is possible that the retail division also tells the IDS customer to contact IDS for service related problems?

A. Okay.

Q. All right. Now, what I'm asking, because on page 29, lines 19 to 22 there are no exceptions. You say the entire division refuses to assist the customer unless he cancels the order to convert and accepts whatever current BellSouth

promotion is being offered. And what I am asking you is, is it your testimony today that every single customer service rep in the BellSouth retail division does exactly what you say on page 29, lines 19 to 22?

MR. MILLER: Objection.

Mischaracterizing the witness' testimony.

A. I am going to stick to what I said. The retail division, I don't know every person that works there, sir.

Q. Which employees at BellSouth's retail division told an IDS customer, when they called up, that unless he cancels the order to convert and accepts whatever current BellSouth promotion is being offered, they won't help them?

A. I don't know.

Q. Do you know how many times that has occurred?

A. I don't know.

Q. Do you know how many employees are in BellSouth's retail division?

A. No, I don't.

Q. What evidence are you relying on or information to make that statement?

A. Again, I'm going off the information I

get from the people that I talk to.

Q. Nancy Matsen and who else?

A. To the best of my knowledge, my employees. I can't tell you exactly who I've talked to over the past year and a half.

Q. Do you have any records or recordings or documents that can support, relate or pertain to your statements on page 29, lines 19 to 22?

A. If we do, I'm sure we've given them to you.

Q. Just to make sure that I'm clear, it's your opinion that when a customer calls BellSouth because they're experiencing some type of service disruption and they're a IDS customer, they are told one of two things: You have to call IDS or you have to cancel your order and come back to us before I can help you?

A. In the time period before I wrote this testimony. I have no knowledge since I started with this.

Q. Up until the time that this case became your job?

A. Yeah, I know.

Q. Is that your opinion?

A. That is my opinion.

Q. And testimony?
A. Yes.
Q. Page 29, lines 22 to 23 you say,"For example, customers have been hard-sold by BellSouth customer service representatives to the Full Circle program." What do you mean by hard-sold?
A. I guess the term hard-sold means that they told them about the program.
Q. Do you know how many times a BellSouth customer service rep has told an IDS customer upon calling about the Full Circle program?
A. No, I do not.
Q. Do you know which customers have been hard-sold to the Full Circle program?
A. No, I do not.
Q. Do you know which BellSouth representatives are hard selling the Full Circle program when an IDS customer calls?
A. No, I do not.
Q. Do you know when any of these hard-sold efforts took place?
A. I believe sometime after the first of the year.
Q. 2001?

A. Yes.

Q. Does IDS keep any records or documents that could establish or show how many customers were hard-sold the Full Circle promotion?

A. I don't know.

Q. Page 30, lines 13 to 16 you state that,"BellSouth has only changed the name and introduced a new promotion called the Advantage Plus promotion in Florida." Is it your opinion and testimony today that Full Circle 2001 and Advantage Plus are the same programs?

A. It's another program.

Q. Is it the same program?

A. I am not aware if it's the same program. I can't remember.

Q. What do you mean by the fact that BellSouth has only changed the name?

A. It's another type of win-back program, I guess is what I am referring to.

Q. You are not stating Full Circle and Advantage Plus are the identical programs?

A. No. Just that they are a win-back promotion.

Q. Page 30, lines 21 to 22 you say that: "IDS for over ten years has a virtually

incident-free reputation with the Florida Public Service Commission."

What incidents has IDS had with the Public Service Commission?

A. In what time period?

Q. Prior to 1999.

A. I don't remember a one.

Q. The statement "virtually incident-free". Do you know why you used "virtually" there?

A. Because I can't remember.

Q. So you're not absolutely sure that it was incident-free?

A. Not absolutely sure.

Q. Page 31, lines 4 through 6 you say: "The simple fact of the matter is IDS does not cause any disruption of service in the overwhelming majority of the instances where a disruption occurs."

In which instances does IDS cause a disruption?

A. I'm not sure.

Q. But it's your testimony that IDS does, in fact, cause disruptions?

A. We could make mistakes.

Q. Do you know what percentage of time a disruption is the result of IDS' mistake and not BellSouth's?

A. No, I don't.

Q. Do you know who would?

A. I don't know if we keep those records.

Q. The next sentence says that "BellSouth has caused these disruptions and continues to do so on a daily basis." Is it your testimony today that BellSouth causes a disruption every day?

A. In what time period?

Q. Whatever you're referring to in your testimony.

A. In the time period before I started this case?

Q. Yes.

A. Yes.

Q. Do you have any facts or evidence to support that allegation?

A. Could you restate the previous question to make sure I heard it right? I'm sorry.

Q. Yes. I believe I said that, is it your opinion and testimony today that BellSouth causes some type of service disruption every day?

A. No. I'm sorry. I misheard.

Q. What do you mean by the statement that BellSouth has caused these disruptions and continues to do so on a daily basis?

A. On those days that we do conversions.

Q. Daily basis to me means that you do it every day. Is that --

A. Not all the time.

Q. Daily basis means something different to you?

A. Daily basis to me means when we do conversions.

Q. Page 31, lines 8 through 10: "In most instances BellSouth is misrepresenting the facts to the customer giving the impression that BellSouth has nothing to do with the disruption."

What is the basis for that statement?

A. I guess, again, when a disruption has occurred and a customer calls BellSouth, it's based on a conversation with one customer, [redacted] and conversations I have with my management people in the customer service department.

Q. And who are those people again, Nancy Matsen and the customer service reps?

A. And supervisors.

Q. What other supervisors are there?

A. Again, I don't remember their names.

Q. Do you know how many IDS customers have received a misrepresentation by BellSouth as to the cause of the disruption?

A. No, I don't.

Q. Do you know when these misrepresentations have been made?

A. I believe, to the best of my knowledge, when a customer calls BellSouth.

Q. So every single time an IDS customer calls BellSouth relating to a service issue, the BellSouth rep tells that person that IDS caused the problem?

MR. MILLER: Objection.

Mischaracterizing the witness' testimony.

A. I don't know if they use those precise words.

Q. All right. Well, then, how often does this occur?

A. When they use those precise words.

Q. When they tell the customer, your customer, that IDS caused the problem?

A. I don't know how many times they use those precise words when they talk to an IDS customer who calls with a problem.

Q. Well, how many times does BellSouth give the impression that BellSouth has nothing to do with the disruption?

A. I would say all of the time that a customer calls.

Q. But you don't know how many customers were actually -- that BellSouth actually told this to, do you?

A. I don't know how many of my customers called, no.

Q. Have you done any type of analysis or study to try to determine the exact number or just a rough estimate of the number of customers that have been told by BellSouth that BellSouth had nothing to do with the disruption?

A. Not to my knowledge.

Q. Then how do you know that all customers that call BellSouth are told this?

A. Based on the information that I've gotten from my people, that's the impression I have.

MR. LACKEY: Are we due for a break any time soon?

MR. MEZA: Ten-minute break.

(Recess in Proceedings.)

MR. MEZA: Back on the record.

Q. Page 34, lines 9 through 10, you state: "All of this resulted in BellSouth's outrageously and wrongfully stealing half of IDS' customers." What are you referring to there?

A. I'm sorry. I don't know where you are.

Q. Page 9 and 10 --

A. Page 9 and 10?

Q. Excuse me. Lines 9 and 10 on page 34.

A. I'm sorry. I think I'm referring to the bulk ordering disaster.

Q. Why do you say that BellSouth stole half of IDS' customers?

A. I believe BellSouth was responsible for the incident and should not have allowed the customers to go back to BellSouth, should have told them directly.

Q. On page 34, line 16 you say, "Our initial loss was in excess of $1 million." How was this calculated?

A. It was based on an opinion that I had gotten. And I attached that to the billing request or billing adjustment request form.

Q. Do you know what the value was for each individual line that you received from whoever

gave you the valuation?

A. I'm going from memory. I haven't seen that document in almost a year, I guess. If I remember correctly, 2,000.

Q. $2,000 per line or $2,000 per customer?

A. I believe it was per line.

Q. Of the 200 or so customers that you allegedly lost as a result of the bulk ordering incident to BellSouth, do you know how many lines that represented?

A. To the best of my memory, I think around 750.

Q. Let's do a quick calculation here.

A. Rock and roll.

Q. What evidence or information do you have to support your contention that the 200 customers represented about 750 lines?

A. If I remember correctly, we gave a spreadsheet and it was all assembled with this letter and we sent it to you in that BAR.

Q. In the BAR?

A. Is that what you call it, I hope?

Q. Billing adjustment request.

Is it your position that when you lost a customer for local service, you lost that customer

for long distance?

A. Yes.

Q. So none of the 200 customers that you allege that you lost to BellSouth did you retain as customers, as far as long distance goes?

A. I don't know. I can't answer that.

Q. Is it possible that you may have lost them for local but kept them for long distance?

A. I don't know.

Q. Which one of the witnesses would know?

A. Know what now?

Q. Know whether, of the 200 customers that IDS allegedly lost as a result of the bulk ordering incident, that they also lost long distance revenue, as well, for that customer?

A. I don't know.

Q. Look on page 35, lines 13 through 21. You are discussing a BellSouth technician appearing on the premises of a newly acquired IDS customer and the technician would tell the customer that he was there to disconnect the customer's service. What's this statement based on, what information or evidence?

A. Again, talking to my customer service reps and, I think, Angel also told me of a

specific instance or several instances. I can't recall.

Q. Explain to me how this works. What are you alleging here and describing --

A. If I remember correctly, a technician came up, I think, that was told on a service order, it says, that IDS ordered a disconnect.

Q. Do you know how many times this has allegedly occurred?

A. No.

Q. Do you know which customer this has occurred with?

A. No.

Q. Do you know which BellSouth technicians were involved?

A. No.

Q. You are basing all of your information on what Mr. Leiro told you?

A. And my assistant vice president, Nancy Matsen.

Q. Nancy Matsen?

A. And some CSR supervisors, if I remember correctly.

Q. Who are they?

A. Again, I can't remember their names.

Q. BellSouth asked IDS to produce documents that relay or pertain to this portion of your testimony. Do you know if IDS has produced all documents responsive?

A. All that I know of, we've given you.

Q. There is nothing else out there?

A. Not that I'm aware of.

Q. On page 37, lines 19 to 20 you said: "One of the main things we discovered with the LCSCs is that when IDS placed an order for port/loop conversion on the UNE-P, the orders were dropping out for manual handling."

Do you know how many orders were dropping out?

A. I'm sorry. I didn't hear what lines --

Q. 19 to 20.

A. Thank you very much. The question?

Q. Do you know how many orders dropped out?

A. No.

Q. Do you know when they dropped out?

A. No.

Q. Do you know which customers --

A. No.

Q. -- were involved?

What is the basis for that statement?

A. Conversations I've had with Becky Wellman.

Q. Do you know if the orders were dropping out because of a CLEC error or a BellSouth error?

A. I believe she told me BellSouth error.

Q. Could it be that the orders were also dropping out for a CLEC error or for IDS' error?

A. I don't believe so.

Q. Do you have any proof of that?

A. Only what Ms. Wellman tells me.

Q. BellSouth credited IDS approximately $31,000; is that correct?

A. To the best of my knowledge.

Q. Do you know what that credit was for?

A. The disruption of service by the bulk ordering.

Q. Did you tell BellSouth, after receiving the credit, that you didn't want it?

A. I did not tell them that.

Q. Okay. Did you offer to return it and say, I want more money or more credit?

A. I didn't offer to return it.

Q. Do you dispute that the $31,000 credit was calculated in accordance with the terms of the Interconnection Agreement?

A. I'm not disputing that.

Q. Page 40, lines 13 to 15 you say: "In his letter, Mr. Hemby states that BellSouth provides parity between the services that it offers to its retail customer versus our UNE customers, so we are not entitled to the delta."

Do you see that?

A. Uh-huh.

Q. I'm going to show you that letter and I'm going to ask for you to find where it says that in the letter.

Have you seen the letter before?

A. Yes.

Q. And you attached that as an exhibit to your direct testimony; is that correct?

A. Yes, it is.

Q. Can you please show me where that letter states that Mr. Hemby stated that BellSouth provides parity between the services that it offers its retail customer versus your UNE customers so IDS is not entitled to the delta as referenced on page 40, lines 13 to 15?

A. I can't find it.

Q. So that reference in your testimony is incorrect?

A. It's not in this letter.

Q. And that is Exhibit 10, right? KK-10?

A. Yes, it is.

Q. Okay. Thank you.

Page 41, lines 3 to 4 you say: "There is a huge statistical variation in service-related problems when placing accounts into resale versus putting accounts into UNE-P."

What is the statistical variation that you are referring to?

A. As far as disconnects and service problems.

Q. And what is it?

A. We don't have -- we don't have any -- hardly any -- I can't remember any problems recently that we've had converting a line, I believe, as is on a resale.

Q. Was there a study done or analysis for you to make the statement that there is a huge statistical variation?

A. Other than the fact that we have had no problems with converting resale customers recently as is versus the customers that we switch for UNE-P. I mean one is zero. One is almost 50 percent or approximately 50 percent.

Q. And what is that based on? Is that based on your personal knowledge?

A. That's based on our collective understanding at IDS.

Q. And who is involved in that collective understanding?

A. Conversations that I have had with my management people.

Q. Which includes who?

A. An AVP.

Q. Matsen or O'Quendo?

A. No. Matsen.

Q. Okay. Who else?

A. I guess Becky would know.

Q. Okay.

A. And Angelo. And supervisors, who I can't remember the names at the present time.

Q. Page 41, line 6 through 7 you state that: "We know if we convert a customer to UNE-P, we are running a 30 percent error rate."

What is the basis for that statement?

A. As I said before, we know or knew at the time that 100 percent of our customers who had voice mail and 100 percent of our customers who had remote access to call-forwarding, which is

approximately 30 percent, had to disconnect it or -- what is the term? Torn down is the proper word people use. And then we know on top of that, we know 100 percent of the -- we know that there is a significant percentage, seven to ten, based on talking with my people, disconnects and we also know those that have problems with hunt roll over sequence. And we also understand other problems that we have had. Okay.

Q. Right.

A. A variety of problems.

Q. Is this 30 percent error rate for a specific time frame, or is it every single month, 30 percent of your orders are running an error rate?

A. Consistent to the time before I got involved with this case.

Q. So every month, prior to the time that you got involved in this case, 30 percent of your conversion orders had an error rate or had an error?

A. Again, this is the best that I know. Okay? Prior to the time I've gotten involved in this case.

Q. Right. That's what I'm asking you.

A. I would say through -- because I got in this case around March. So let's say until March would be an accurate statement.

Q. Have you done or do you have any documents or evidence to support that figure?

A. What documents we have, I believe we've given them to you.

Q. Have you done any specific analysis or study, other than what you've told me, to support the 30 percent error rate figure?

A. Not that I'm aware of.

Q. So basically -- if I'm mischaracterizing your testimony let me know, but you took a series of conversion-related problems for one month where you lost 100 percent voice mail, you had the Star 98 problem, you had the hunt roll over feature problem. Do all those problems occur 100 percent of the time every single month until March of 2001?

MR. MILLER: Objection to the form.

Q. If you can answer, you can answer.

A. Not the Star 98.

Q. Does the voice mail problem, you said that 100 percent of your customers lost voice mail?

A. Memory Call.

Q. Memory Call. I'm sorry. Does that problem occur 100 percent of the time, every month?

A. Through March, I believe it did, yes.

Q. Every single customer that had voice mail lost voice mail up until March of 2001?

A. Are you referring to Memory Call?

Q. Memory Call. I'm sorry. Yes.

A. To the best of my knowledge.

Q. The hunting roll over feature?

A. Uh-huh.

Q. Every single business customer which you tried to convert to UNE-P lost that feature 100 percent of the time until March of 2001?

A. No.

Q. No. That didn't happen all the time?

A. No.

Q. How often did that happen?

A. State the question again.

Q. How often, up until March of 2001, did a customer lose the hunting rolling over feature during the conversion?

A. It's kind of a crazy question to answer.

Q. Well, if it didn't happen all the time,

when did it happen?

A. Customers, business customers.

Q. Yes.

A. Approximately 7 to 10 percent of the time is what we believe we were having problems with.

Q. So 7 percent of the time your business customers lost the hunting during the conversion problem?

A. I believe it's 7 to 10.

Q. 7 to 10 percent?

A. Yes.

Q. Do all of your business customers have the hunting feature?

A. I would say most of them do.

Q. So that's 7 to 10 percent of 100 percent of the conversions that you've submitted?

A. I said most of them. I don't know the precise percentage.

Q. Is there any way for BellSouth to look at certain IDS documents to confirm whether your statement that 30 percent of conversion orders up until March of 2001 contain some type of error?

A. I'm sure BellSouth would have those records internally because it did happen.

Q. Well, are there any documents that IDS has that would allow us to do it?

A. Well, whatever documents we have -- and I haven't reviewed them. I told them to give you everything, so you would have those.

Q. Let me show you a letter that's attached as an exhibit to your testimony. It's marked KK-11. It's a letter from Linda Atkinson to Bill Gulas.

A. What is the question?

Q. Have you seen that letter before?

A. I may have. I can't remember.

Q. But you did attach it to your testimony?

A. Yes.

Q. Do you mind if I come over here to point out the provision to you?

A. Sure.

Q. Apparently, from what I understand, according to this letter, Bill Gulas wrote a letter to Bill Trasher on August 23rd regarding service outages on 12 telephone numbers involving six IDS Telecom end users and Ms. Atkinson is responding to that letter. Would you agree with me on that?

A. Yes.

Q. On August 23, 2000 at 9:00 a.m., Becky Wellman with IDS Telecom called the BellSouth resale maintenance center with a trouble report that the following telephone numbers had been disconnected, and then she lists what I presume would be Bell telephone numbers. When the BRMC technician determined that service orders were pending on the accounts, Ms. Wellman was referred to the local carrier service center for assistance.

Would you agree with me that the accounts were in PSO status?

MR. MILLER: Objection. The document speaks for itself.

A. I don't know.

Q. At 9:45 a.m. IDS' Ms. Wellman faxed a list of the telephone numbers to the LCSC. Research in the LCSC identified that the reps failed to add the RRSO FID, which caused services to be disconnected and that all services, except for one telephone number, was restored by the close of business on August 23rd.

Do you agree with me that it says that?

A. Yes.

Q. Before I ask you any specific questions,

did you look at the exhibits attached to your testimony before they were filed?

A. I reviewed all of them.

Q. But you did review them?

A. Yes.

Q. Earlier today you told me that it was your opinion that while an order is in the PSO status and there is a service disruption, neither BellSouth nor IDS will help the customer. Do you remember that?

A. Yes.

Q. After reading this letter, would you like to change your testimony?

A. I don't know what that letter exactly refers to, so I would have a hard time changing any testimony because of that letter.

Q. Would you agree with me that something was pending on the accounts, according to this letter?

A. I believe we were having problems with the Star 98. And if I remember correctly, we thought that everything that had a Star 98 on it was creating a disconnect, so we brought it all the way up to the highest level at the LCSC and that's why your people got involved.

Q. Would you agree with me that based on this letter, you called in a report on August 23rd for 12 lines that were down and all except one of those numbers were back up that same day?

A. According to that letter.

Q. Would you agree with me that that's what the letter says?

A. Yes.

Q. And that the last of the -- or the 12th number was restored on the following day?

A. That's what the letter says.

Q. Okay. Page 43, line 18, you say: "Approximately 50 percent of IDS conversion orders were having problems."

On page 41, lines 6 and 7 you said: "We are running a 30 percent error rate."

On page 43, line 18 you say: "50 percent of conversion orders were having problems."

I see a discrepancy. Do you?

A. Yes.

Q. Which is the correct percentage?

A. In my belief, the 50 percent is the most accurate.

Q. Why is that?

A. Because that's my feeling of the number of customers, percentage-wise, that was having orders -- that were having problems.

Q. Why did you use the 30 percent error rate on page 41, line 7?

A. Because that's the only rate that I think that BellSouth could document, because the voice mail was being torn down 100 percent of the time and so was the remote access to call-forwarding.

Q. But you believe that figure to be inaccurate, correct?

A. It doesn't represent all of the problems that our customers were having during conversion.

Q. So why would you put down a figure that doesn't represent the entire universe of problems that IDS believes was happening?

A. Because that was the only figure that was 100 percent of the time. 100 percent of the orders that had Memory Call on it, during this specific time period it was being torn down and 100 percent -- of the remote access.

Q. I'm sorry. I didn't mean to interrupt you.

A. I guess so.

Q. On page 41 and the surrounding testimony you give a specific time frame or explain that this is for 100 percent of Memory Call orders. Where is that clarification in the testimony?

A. I didn't put it down.

Q. So you now believe that 50 percent of conversion orders have problems, right?

MR. MILLER: Objection.

Mischaracterizing the witness' testimony.

A. I've always believed that.

Q. Is it your opinion that you can only prove 30 percent. Is that -- I'm just trying to figure out why you would have two different numbers in there. It just doesn't make sense to me.

MR. MILLER: Wait for a question.

THE WITNESS: It doesn't make sense to him.

Q. Please explain to me why you would use two different figures to describe the percentage rate of the times that IDS would experience a problem during a conversion.

A. I've asked for documentation through some of my people, whether or not BellSouth tracks the customers that have hunt roll over problems,

okay, to get a definitive number. I was informed that BellSouth did not track that. And I haven't gotten the information on the disconnections because we did not keep accurate data on that. So we can only tell, to the best of our knowledge. Hopefully BellSouth can provide us with the proper documentation, and I think it will bear out my numbers.

Q. Which one?

A. 50 percent.

Q. If that's the case, why did you use 30 percent on line 7, page 41?

A. It's the only thing that I concretely knew, again, with Memory Call and remote access call-forwarding, because we know how many customers that we have that had Memory Call.

Q. I asked, when we were discussing page 41, line 7, how many customers experienced or comprised this 30 percent, and you said you didn't know. Do you know how many customers actually that 30 percent --

A. All of the customers that had Memory Call.

Q. During a specific time period or up until March of 2001?

A. Up until March 2001.

Q. How many customers had Memory Call?

A. I don't know. It's a percentage. So whatever the percentage is. I don't know the specific number offhand.

Q. How do you know that that percentage equals 30 percent of the total orders?

MR. MILLER: Objection. Asked and answered.

A. Again, I talked to my I.S. department and I asked them how many customers had voice mail and how many customers had remote access to call-forwarding. It's approximately 30 percent, and 100 percent of the time it was torn down.

Q. Do you have any documents to support that figure that 30 percent of your customer base has either Memory Call or remote call-forwarding?

A. What we have got, we have given to you. And I'm sure BellSouth has that type of information, too.

Q. BellSouth knows what features your customers has. That's what you're telling me?

A. I would presume so. You're supplying the features to my customers.

Q. Look on page 49, lines 13 to 16.

You say: "At least 200 accounts that we put in for conversion in December 2000 had already gone back to BellSouth during the conversion process. This was very confusing. We cannot initially determine what was happening."

How do you know that 200 accounts in December 2000 went back to BellSouth during the conversion process?

A. This was told to me by my people.

Q. Again, who are they? Does it change from your previous response, or the same people?

A. Probably the same people, yes.

Q. Do you know which customers actually went back to BellSouth?

A. I don't personally know.

Q. Do you know when the conversion orders were submitted to BellSouth?

A. Through November and December.

Q. Do you know how many of the 200 accounts the conversion orders were delayed?

A. No, I do not.

Q. Then on page 49, line 18 you state: "We discovered that BellSouth was backdating the conversion date to the PON due date, regardless of when the actual conversion was taking place."

How did you discover that?

A. That's what it appeared to be.

Q. Okay.

A. Okay. We would look at the -- I think they call it a LSR. It would show us that this was in a pending status for weeks and then when it completed, it said the customer had returned to BellSouth. That's what I was told through LENS. And then when we looked at the -- I believe it was a customer notification, CNS, what, again, Nancy Matsen showed me when she was pointing it out that the customer verification showed that the date that we were notified that the completion was done was, let's say, several weeks from when we put the PON date up. But when we looked at the LSR, if it was updated, it was converted on, I guess, the PON due date, but weeks went by. And we're looking at LENS for hundreds of customers, hundreds of orders and it kept showing pending.

Q. From that discovery you determined that BellSouth must be backdating the conversion date?

A. Well, through this process of this hearing -- that's a conclusion that I came to at the time.

Q. Okay.

A. But I believe it may be the wrong conclusion.

Q. So what is your conclusion today as to why LENS still showed the order to be in the PSO?

A. I believe, and I'm not sure because I'm not technical, that you had a CRIS problem back at that time that was not updating LENS. So even though you did convert it, the end result was the same. We still thought the customer had not been converted.

Q. Do you know in that situation where -- let's say that the conversion actually completed on the date that it was supposed to, but the customer service records weren't updated through some kink in BellSouth's process where the customer records weren't updated unless LENS showed that the orders were still in pending service. Do you know, during that time period, if IDS billed that customer?

A. No, we didn't.

Q. You did not. You waited to see the order completed in LENS before actually sending the customer a bill?

A. I believe that's the case.

Q. Every single time?

A. I believe that to be the case.

Q. All right. Page 52, lines 12 to 15 says that: "IDS found out that BellSouth was sending out letters to customers the minute BellSouth started the conversion process, explaining that BellSouth was sorry the customers have left BellSouth and they would like to win them back."

What is the basis for that statement?

A. Conversations that I've had with my, I believe, vice president Fabio Gallopi.

Q. Is that it?

A. Well, that's the person I talked to and had conversations with about this.

Q. Do you how many customers received these letters?

A. If I remember, according to him, all of the customers that we convert or were in converting status at this time, pending status --

Q. All customers for which you submitted a conversion order?

A. Yes. I believe that's what he said.

Q. And he said for a specific time period. What time period is that?

A. I believe when I had that discussion it was referring to November, December, January time

period.

Q. November, December 2000, January 2001?

A. I believe that's the case.

Q. Did it stop after January of 2001?

A. I don't know.

Q. Do you know which customers received these letters?

A. I would think all of the customers that we convert.

Q. Do you have any evidence of that, any proof that every single customer for which you submitted a conversion order received this type of letter?

A. Not that I know of.

Q. Do you know how many customers you lost as a result of this letter?

A. No, I do not.

Q. On page 53, line 2 you say: "This was happening to approximately 1,100 customers."

What was happening to 1,100 customers?

A. I guess they were getting the win-back letter.

Q. I'm asking you. It's your testimony. You tell me. I don't want you to guess.

A. Can I read it?

Q. Yes. Go ahead. Take your time.

A. I believe these were the customers that were getting the win-back letter while we still saw the customer conversion order pending in LENS.

Q. And you don't know why that order was pending, do you? You don't know if it was because the conversion failed to be completed or because the CRIS records failed to be updated?

A. It's my belief now -- based on what I heard, so I could be wrong -- that it was the CRIS.

Q. Okay. So if CRIS failed to update, that means that the conversion actually happened, it just hasn't been relayed to CRIS and then to LENS and then to you?

MR. MILLER: Objection. Foundation.

A. Yes.

Q. You can answer.

A. Can you state the question again.

Q. The question is, in that situation that we are describing where CRIS fails to update, the conversion actually happens, but the customer service record isn't updated so that you know that the customer is now yours.

A. Yes. Okay. I'm sorry.

Q. I'm asking you, is that correct, is that your understanding of the effect of the CRIS records failing to update?

A. I guess that would be correct.

Q. How did IDS determine that approximately 1,100 customers received a win-back letter while LENS showed the conversion still pending?

A. I don't know how we did this. I asked for -- I asked my I.S. people and my marketing people to tell me how many customers went back to Bell while we were still looking at LENS, okay, that said it was still pending. Okay. And this is what they told me.

Q. Did they put it to you in writing?

A. I believe we have some documentation , and I think we supplied you with whatever documentation we have on that.

Q. Tell me how many.

A. How many received these letters?

Q. No. I wanted to know how many customers went back to Bell.

A. I'm sorry.

Q. Okay. While the order was pending?

A. Before they received the first IDS bill.

Q. Let me ask you this, because you said

that you told me that this figure, 1,100 customers, refers to the number of customers that received win-back letter, while LENS showed that the conversions were still pending. Okay? And I'm asking you, how did you determine that? How did IDS determine that figure?

MR. MILLER: Objection.

Mischaracterizing the witness' testimony.

A. Okay. In my opinion, to the best of my recollection, approximately 1,100 customers got a letter and were won back to Bell while it was still pending before we were even able to send them an IDS bill. In other words, we didn't send them a bill.

Q. All right. Did you contact these 1,100 customers to see if they actually received a letter?

A. I did not personally do that.

Q. Do you know if anybody at IDS did?

A. I cannot recall.

Q. How would you determine if a customer received a bill, other than by -- how would you determine that the customer received win-back letters other than by contacting them?

A. I asked Fabio Gallopi and this is what

he told me. I guess he had somebody call them. I wasn't present and I don't know his methodology.

Q. And it's your testimony today that all 1,100 customers came back to BellSouth?

A. From what I understand, they went back to BellSouth prior to even having a bill.

Q. On page 53, lines 2 to 3 you say: "By January, 2001, IDS calculated 297 customers, representing over 1,000 lines went back to BellSouth, before they were ever converted to IDS."

Is that 297 figure derived from the 1,100 or in addition to?

A. In addition to.

Q. How did you determine the 297 customers?

A. I don't know what methodology our I.S. department used to figure that out.

Q. Who told you that?

A. My I.S. department.

Q. Which is who?

A. I believe Carrie.

Q. Do you we know Carrie's last name?

A. I would be bad if I told you.

Q. How do you know that these customers came back to BellSouth before they were ever

converted to IDS?

A. We put customers, from what I understand, into billing when the LENS completes the order, goes out of pending and is complete. Then it goes into our billing. This number of customers, to my best understanding, when it was completed, they discovered they had already gone back to BellSouth.

Q. How do you know they went back to BellSouth?

A. That's what my people told me. I don't know how or what methodology they used to find out.

Q. So you know for a fact they left IDS?

A. Yes.

Q. You don't know if they went to BellSouth or another ALEC?

A. They told me they went back to BellSouth. That's the best I can tell you.

Q. But you have no personal knowledge?

A. I have not talked to any of those people.

MR. MILLER: Off the record.

(Discussion off the record.)

MR. MEZA: Back on the record.

Q. Mr. Kramer, on page 54, lines 10 through 12 you say that, "By January 8, 2001, IDS had performed an audit. IDS determined that BellSouth had backdated every conversion they had done through November and December 2000 and charged IDS for them."

Based upon your statements earlier today that you believe that BellSouth was not backdating the conversion date, does that change your testimony in relation to what I just said?

A. Man, I tried to follow you on that one.

Q. Okay. Did IDS perform an audit?

A. Yes.

Q. What did that audit show?

A. It showed that the LSR showed, okay, that it took several weeks to convert the customer. But when it was updated, it appeared that it was converted to the PON due date. Subsequently, through this hearing, okay, we found all that CRIS wasn't updating the records. So at the time I wrote this, this is what it appeared to be.

Q. Okay. Do you have the results of that audit?

A. No.

Q. Did you keep any records or notes from the audit?

A. I think we gave you everything. I'm not aware of what we kept.

Q. So would your conclusion regarding the results of the audit change now in light of what you've heard through this proceeding?

A. I believe it would.

Q. What would it be now?

A. That you did not backdate it.

Q. Look on page 56, lines 17. You say: "35 to 45 percent of IDS' orders being submitted to BellSouth for conversion resulted in service disruption of some sort to the end user."

Okay. I'm going to go back to the question that I asked you before lunch. In one portion of your testimony you use 30 percent, another portion you use 50 percent, and now you're using between 35 and 45 percent. Which percent is it of all those three that most accurately reflects the error rate or the percentage of errors that IDS customer received or realized during the conversion process?

A. Prior to when I started on this case.

Q. Uh-huh.

Q. Did you keep any records or notes from the audit?

A. I think we gave you everything. I'm not aware of what we kept.

Q. So would your conclusion regarding the results of the audit change now in light of what you've heard through this proceeding?

A. I believe it would.

Q. What would it be now?

A. That you did not backdate it.

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A. Prior to when I started on this case.

Q. Uh-huh.

A. Approximately March, the information that I have, was accurate. It was approximately 50 percent.

Q. So 35 to 45 percent should really be 50?

A. Correct.

Q. Again, why did you say 35 to 45, instead of 50, in this instance on page 56 line 17?

A. The 30 was representative, again, of what the 100 percent of the voice mail tear-down and the remote access to call-forwarding. Voice mail I refer to as Memory Call.

Q. Uh-huh.

A. I did not include all of the other service disruptions.

Q. Okay.

A. So that is probably why I put it.

Q. The first time at 30 percent?

A. At the 30 percent.

Q. Now, I want to understand why you use 35 to 45 instead of 50.

A. Because I can only accurately know that -- we know absolutely that 100 percent of what I just said happened, okay, that the Memory Call and the remote call-forwarding.

Q. Okay.

A. All of the other features went based on the information I got from my employees.

Q. Okay.

A. That's why I came up with the 30 percent and the 50 percent, and it refers here to 35 to 45. So my best accurate figure would be 50 percent, approximately 50 percent.

Q. At the time that you wrote your testimony, the best accurate figure that you had was 50 percent, correct?

A. Yes.

Q. If that's the case, why on page 56, line 17 did you say 35 to 45 percent of IDS' orders resulted in some service disruption?

A. I probably should have maintained 50 percent.

Q. Again, what evidence or facts do you have to support the allegation that 35 to 45 percent of IDS' orders resulted in some type of service disruption?

A. I think I just answered that.

Q. I want your specific response to that question. And if you have to repeat yourself, I apologize, but --

A. Again, we believe that 100 percent of

the Memory Call and remote access to call-forwarding until March of this year, to the best of my knowledge, okay, we had 100 percent failure. And to the best of my knowledge, that was on Memory Call. Okay. That accounted for 30 percent, approximately.

Q. All right.

A. In my mind. I don't have the data. It does not include, okay, all of the other problems that we had in converting the customer. Okay. With talking to my reps, we believe that that would increase the number to 50 percent, approximately.

Q. Do you have any firsthand knowledge that either 35 percent, 45 percent or 50 percent of IDS' orders experienced some type of service disruption?

A. You mean do I know --

Q. For a fact --

A. The customers?

Q. I'm just asking, do you know for a fact that all IDS orders that had been submitted had either 35 percent were affected for service disruption, or 40 percent or 50 percent service disruption? Do you know for a fact?

MR. MILLER: Objection to the form.

A. Based on information that my employees gave me, I do not believe they were lying to me.

Q. Do you know if your employees looked at any specific orders in any specific time period to come to these figures?

A. I don't remember.

Q. Does IDS have a list of customers that experienced some type of service outage or disruption of service?

A. We may have. If we do, I believe we've given it to you.

Q. On page 56, lines 21 through 23 you have a sentence in quotes where it describes what a BellSouth representative tells the customer and it says: "Why don't you come back to BellSouth? We'll turn you on in an hour and we will match IDS' rates with a 20-percent discount and we'll will sign you up to a three-year agreement."

What is the basis for that statement?

A. Based on the provision, I believe in your Full Circle program that I was told by my employees that you were using to win-back IDS' customers. And this was told, according to my employees, during a customer call when they had a

disconnection of service.

Q. Okay. Repeat that so I can -- a customer called IDS and said: "This is what BellSouth told me." Is that what you're saying?

A. From what I have been told by my customer service reps, this is what I've been led to believe by my people, yes.

Q. And that was just one call?

A. I believe we experienced several calls.

Q. How many? More than ten?

A. I don't know.

Q. More than 50?

A. I don't know. I'm sorry.

Q. Do you remember this individual service rep's name?

A. There was several, but, no, I don't.

Q. Why did you put it in quotations?

A. I don't know the grammatical reason why we put this in quotations.

Q. But clearly you were not told this by a BellSouth representative?

MR. MILLER: Objection. Foundation.

Q. Were you told this by a BellSouth representative, this exact phrase?

A. No, I was not.

Q. Is it your testimony today that whenever an IDS customer experiences some type of service disruption during the conversion process and calls BellSouth's customer service department, that a BellSouth representative tells the customer the quotation: "Why don't you come back to BellSouth? We'll turn you on in an hour and match IDS' rates with a 20-percent discount and we'll sign you to a three-year agreement?"

A. Is that -- what time period?

Q. Whatever time period you're referring to in this testimony.

A. Yes. That was happening in the time period I was referring.

Q. Is that happening in every instance in which an IDS customer calls a BellSouth retail service center?

A. I do not know.

Q. You knew for a fact, though, that is what has occurred?

A. This is what I have been told.

Q. You don't know which BellSouth reps told your customers this, do you?

A. No, I do not.

Q. You don't have any recordings of the

conversation, do you?

A. Not to my knowledge.

Q. Do you know when these conversations may have taken place?

A. I believe during the Full Circle program.

Q. That would be after January 2001?

A. I believe that would be the case.

Q. Page 57, lines 2 to 3 you say: "BellSouth refuses to provide the services, leaving the end users basically out of business."

What is the basis of that statement?

A. The services I'm referring to here are services that are at parity with what they provide, themselves.

Q. Okay. Again, on page 57, lines 6 through 8 you state: "BellSouth refuses to provide services to a customer it knows full well is still technically its customer in order to have the customer cancel the order for a conversion to a CLEC."

What is the basis for that statement?

A. The number of problems that I've been having over the past year.

Q. Based upon those problems, it is your

testimony that BellSouth intentionally refuses to provide services to a customer in order to have the customer cancel the order for conversion to a CLEC?

A. I don't know what is behind the reasons for BellSouth not offering me the quality services I expected to get.

Q. Why did you use the word "refused"?

A. Because I think you could have done a far better job.

Q. Do you think the decision to not offer parity is an intentional decision by BellSouth?

A. I believe BellSouth has made some decisions that do not work to the best interest of CLECs as it refers to the UNE-P.

Q. And specifically, in relationship to your testimony on page 56, lines 6 through 8, is it your belief and testimony that BellSouth intentionally refuses to help a customer in order to have that customer cancel its conversion order?

A. I don't know about its intent.

Q. So that is not what you're saying on page 56, lines 6 through 8?

A. I say they refused to provide. I do not know why.

Q. Page 58, line 4 you state: "This is in spite of the fact that the business grew by 10 percent in 2000."

I presume you're talking about BellSouth?

A. Yes.

Q. What is the basis for that statement?

A. I believe I was told that by my marketing vice president of sales.

Q. Who is that?

A. Mr. Fabio Gallopi.

Q. And how did he determine that figure?

A. It's his job to know what the market is.

Q. Do you have any documents or other information that supports his statements that he told to you?

A. Personally?

Q. Yes.

A. Not that I'm aware of.

Q. So you didn't do an analysis of BellSouth's revenues to determine what its growth was for 2000?

A. Not personally.

Q. "BellSouth basically blames all the service outages that it caused my customers 100

percent on IDS."

What is the basis of that statement?

A. I have yet to see BellSouth, since the bulk ordering disaster, or even at the bulk ordering disaster, call any of my customers and tell them that they were the cause of the problem.

Q. Okay. Do you know for a fact that BellSouth is telling your customers that IDS caused your service problems?

A. To the best of my knowledge, from my employees, BellSouth has said that.

Q. And that's in every situation in which an IDS customer calls BellSouth?

A. This is what I've been led to believe.

Q. But do you know how many customers have been told that?

A. No, I do not.

Q. Do you know when?

A. No, I do not.

Q. And do you know which customers?

A. No, I do not.

Q. Page 58, lines 20 through 21. "Some customers are even getting phone calls during the actual conversion process and being offered the same discounts IDS had just offered them."

What is the basis of that statement?

A. This is what was told to me, again, by my vice president of marketing and sales.

Q. Fabio?

A. Mr. Fabio Gallopi.

Q. Do you know which customers were getting phone calls?

A. No, I do not.

Q. Do you know when?

A. They were getting phone calls. I do know that we have some affidavits about win-back phone calls.

Q. Do you know where they are or if you have produced them to BellSouth?

A. I believe some of these may have been on our complaint.

Q. Okay. Page 59, lines 5 through 6 you say: "IDS is the dominant CLEC in South Florida."

What is the basis for that statement?

A. My marketing department has told me that we have a substantial density compared to other CLECs in South Florida.

Q. Did you do any type of research or analysis personally for you to come to that conclusion?

A. I did not, personally.

Q. What is that based upon, the market analysis, or whatever term you used. I forgot what you said.

A. I'm not from that department. I want to know what our growth rate is. Of course, I haven't done this for a while.

Q. Yes.

A. And I want to know what market share we have compared to everybody else.

Q. Do you know what that is today?

A. No, I do not.

Q. Do you know what that was for March 2001?

A. I can't remember. I'm sorry.

Q. Do you know what it was when you wrote your testimony?

A. On business lines, LATA 460, I'm going to estimate -- I'd be guessing. I don't want to guess.

Q. You don't know?

A. I can't remember.

Q. Page 59, lines 10 through 11. You state: "We were converting 1,000 lines a day. This was the largest daily growth rate of any ALEC

in Florida."

Has IDS ever converted 1,000 lines a day?

A. No. This should be sold. I apologize.

Q. We sold 1,000 lines a day?

A. Yes.

Q. Is that what you're saying?

A. Yes.

Q. And what do you mean by sold? That's new to me.

A. That's, again, my marketing and vice president of sales is in charge of selling local services, and we count lines in sales.

Q. You brought in 1,000 new lines every day?

A. No, not every day. I guess every business day or --

Q. A thousand lines a day?

A. Excuse me? That's correct. We have sold, at times, 1,000 lines a day.

Q. Is that your average?

A. I can't remember what my average is.

Q. Is that like the maximum?

A. I think we have gone over that.

Q. And do you know what period this was

from?

A. I don't know, but I hope it's still going on that way.

Q. Was this the case at the time you filed your testimony?

A. I believe we were selling at times 1,000 lines a day.

Q. And what is the basis for your statement that selling 1,000 lines a day was the largest daily growth rate of any ALEC in Florida?

A. Again, my vice president of sales and marketing was very proud to make that statement.

Q. How do you obtain that information about other carriers? I would presume that they consider that proprietary and --

A. I guess on public companies it would be public knowledge.

Q. The private companies, is that something you would disclose to other members of the ALEC community?

A. I don't, but I've been asked to.

Q. And in response to BellSouth's request, have you produced that information?

A. To who?

Q. To a competitor.

A. Not that I'm aware of.

Q. Again, on page 49, lines 14 to 15 you say: "Since IDS was converting more customers than all of the other CLECs in South Florida combined, we were the primary target of the Full Circle program."

What is the basis of your statement that IDS was converting more customers than all of the other CLECs in South Florida combined?

A. Again, that was talking with my marketing people.

Q. And that's converting -- is that converting BellSouth retail to CLEC or CLEC resale to UNE-P. What do you mean by converting?

A. That's the term we use of selling customers and putting them on UNE-P.

Q. Is that to include customers you won from BellSouth and not your current customers?

A. Yes. I guess so.

Q. What I'm asking you is, that is the term as used in IDS, the term "converting"? Is that limited to accounts that you convert from IDS resale to IDS UNE-P, or does it also encompass accounts that you win from BellSouth retail and convert it to UNE-P?

A. I would probably think primarily BellSouth, but it's probably all competitors.

Q. So with this statement, you're saying that you essentially -- and correct me if I'm wrong -- win more customers than any other CLEC in Florida, or obtain more customers than any other CLEC in Florida?

A. That's what they have led me to believe.

Q. Do you have any personal knowledge of that, other than the statements from your assistant vice president?

A. No. That's his job.

Q. Because you believe that you were converting the most customers than all other CLECs in South Florida combined, you believe that BellSouth targeted IDS with the Full Circle program?

A. That appears to be so.

Q. What is the basis, or what facts or evidence do you have to support that?

A. From what I understand, you do offer a maximum discount that is exactly the same as IDS' and is not -- I don't see any other discount from another carrier there, but that's what I've been led to believe.

Q. Is IDS the only carrier in South Florida to offer a 20-percent discount?

A. I don't know.

Q. So because BellSouth matched IDS' reduction of 20 percent through its Full Circle program, is it your testimony that you believe that BellSouth was targeting IDS?

A. That, along with some of the advertising that I have seen.

Q. Specifically IDS?

A. That appears to be the case.

Q. Do you have any facts to support that belief, that BellSouth specifically was targeting IDS through its Full Circle promotion?

A. Not that I'm aware of.

Q. Again, page 59, line 18 to 19 you say: "BellSouth was responsible for 50 percent of my customers experiencing some type of service outage." 50 percent is the accurate number? I'm just checking to make sure it is.

A. I hope we aren't going to go over that again.

Q. I'm just saying --

A. To the best of my knowledge, yes.

Q. All right. Look on page 60, line 14.

"We know that well over 300 customers were under this false impression." What impression are you talking about?

MR. MILLER: I'm sorry. What line?

MR. MEZA: Page 60, line 14.

MR. MILLER: Thank you.

A. According to my marketing department, when BellSouth did their telemarketing with the Full Circle program, they had a number of customers, I was told approximately 300 that we knew of, okay, that told the telemarketing company to cancel the order and wanted to stay with Bell and keep the 20 percent. So that when they got my bill, they thought they were slammed.

Q. So these are customers that you had submitted conversion orders for?

A. Correct.

Q. And then BellSouth telemarketers called them during the conversion process?

A. I don't know if it was during the conversion process. I guess it was because they told them to cancel the order and they wanted to stay with BellSouth. So when they got my bill, they thought we slammed them.

Q. How did you determine that 300 customers

were under this false impression?

A. I think it was over 300. I was told that it was over 300.

Q. How did you determine it was over 300?

A. From my employees.

Q. Which ones?

A. I don't know.

Q. Do you know what analysis or study or investigation these unknown employees did to tell you it was over 300?

MR. MILLER: Objection. Foundation.

A. I believe that they called the customers.

Q. Do you know which customers they called?

A. No, I do not.

Q. Page 60, lines 21 and 23, again, there is another quote. "Wait a second. I told BellSouth to cancel my order to convert or switch my services back. Now I am getting a bill from IDS. I was slammed."

Is this an actual conversation that you had with a customer?

A. This is an example of the type of conversations my customer service reps were getting at the time.

Q. Is there any significance to the fact that it's in quotations?

A. Not that I know of.

Q. So it's not -- the quotations aren't there to represent an actual firsthand conversation you had with a customer?

A. Not one that I had.

Q. Do you know how many customers told your service reps this, the information in quotation marks?

A. I do not know the exact number.

Q. Do you know the dates?

A. No, I do not.

Q. Do you have any notes or recordings to reflect this conversation?

A. Not that I personally have.

Q. On page 61, lines 10 through 16 you state that: "We made hundreds of calls through our marketing department's customer relations group to determine if customers had provided some sort of authorization, other than a verbal request for BellSouth to take them back, and not a single customer that went back to BellSouth in January or February of 2001 provided any such authorization to BellSouth."

What is this marketing department's customer relations group? Where is that?

A. That's a group that the marketing department -- because I have been asking so many times to call customers to find out what problems they had, they decided to create a department to call customers to find out what problems we were having.

Q. Do you know if they implemented any type of procedure or process in which to record or write down their conversations with customers?

A. I don't know at that time.

Q. Do you know if they do today?

A. I hope so.

Q. How many actual calls did the customer relations group make?

A. No. That's -- I would not know that.

Q. How did you determine that it was hundreds of calls?

A. I was told that.

Q. By who?

A. The vice president of sales and marketing.

Q. How do you know that not a single customer that went back to BellSouth in January or

February 2001 provided any such authorization to BellSouth?

A. That's what I was told.

Q. By Fabio Gallopi?

A. That's what I was led to believe.

Q. Do you know if the marketing department's customer relations group provided Mr. Gallopi a summary or analysis of the results of their calls to the customers?

A. I do not know.

Q. So other than the statements from Mr. Gallopi, your testimony on page 61, lines 10 through 14 is not based upon any firsthand conversations with any customers?

A. No.

Q. Page 62, lines 8 through 13. "During November and December of 2000, and January and February 2001, IDS suffered customer losses due to BellSouth's OSS failures and anti-competitive activities of over 3,100 customers."

What is the basis for that calculation?

A. I believe that they have, I guess, some kind of -- I don't know what you call it. The I.S. department developed these numbers.

Q. Did you see any type of analysis or

summary?

A. I believe I did.

Q. And what did it look like?

A. It looked like we lost 3,100 customers. Looked like we lost 297 customer before they were converted to IDS.

Q. How did the I.S. department determine that figure?

A. I'm not specifically sure.

Q. Do you know which customers you actually lost?

A. I don't know their names, phone numbers or addresses.

Q. Are there any documents that would establish that?

A. I think whatever we've developed, you have already.

Q. How do you know that you lost these customers specifically because of BellSouth's OSS failures and anti-competitive activities?

A. This is based on conversations that I had with the people that told me and analyzed it.

Q. And who are they?

A. I believe it was in an executive meeting with all my executive managers. I asked them

there what they believed this to be based on, the data that they were interpreting.

Q. And where is that data?

A. I believe you have it.

Q. And you say, "Of that number, IDS knows for certain that at least it 297 went back to BellSouth during the conversion process."

Is it your testimony that the 3,100 customers went back to BellSouth?

A. That's what they told me.

Q. And not to any other CLEC?

A. Not that I'm aware of.

Q. How did they determine that?

A. I don't know how they did.

Q. Of that 3,100, 297 went back to BellSouth during the conversion process. And you state that IDS knows for certain. How do you know for certain that 297 went back to BellSouth?

A. That's what they told me.

Q. Do you have any personal knowledge as to how that figure was determined?

MR. MILLER: Other than what he's already testified to?

MR. MEZA: Yes.

A. I'm not technical on how the I.S.

department does stuff. I guess they use data from BellSouth and our internal data.

Q. I guess what I'm trying to figure out is, you have made some specific allegations as to the number of customers that you lost and that you believe came back to BellSouth, and I'm trying to figure out if any of those figures are based on anything other than what other people have told you.

A. I don't do everybody's job. I run a company, like I said, of a couple hundred-plus people, and I rely on them to do their job and tell me what they do.

Q. In your possession, do you have any documents to support or pertain to those figures that you have talked about?

A. Whatever documents that we still have, that came up with these figures, I asked and made sure, to the best of my ability, that you have copies of them so you can analyze that too. And I'm sure that BellSouth has documentation too.

Q. If the documents you provided to BellSouth do not, in fact, support or relate to the figures that you have expressed in your testimony, is it your opinion that no documents

exist in that situation?

MR. MILLER: Objection. Calls for speculation.

A. Again, the best I have done is what I have told you.

Q. Let me ask you this question: You have told me, I have asked you if there is any document in response and your response is, we have provided everything that we have. Your response is, we don't have any documents. Are you telling me that there are no documents?

A. No. I'm not telling you that. I said if we have the documents, based on what I did these numbers on, okay, then they have been supplied to BellSouth.

Q. So there's no other document out there that would support your figures and your testimony?

A. Not that I would be aware of.

Q. So you have provided us everything that you have relied upon in coming to the calculations and the figures set forth in your testimony?

A. To the best of my knowledge.

Q. Okay. On page 62, lines 13 and 14 you say: "Approximately 1,100 customers went back to

BellSouth before they received the first IDS bill."

Is it your testimony that you obtained this number from talking to your people?

A. That was based on the same information that my IDS people gave me.

Q. Okay. All right. On page 62, lines 18 through 20: "I also know that of the 3,100 customers who left, approximately 2,000 had some failure occur during the conversion process."

How do you know that?

A. This is what my people told me.

Q. So you know this information based upon what you've heard from somebody else?

A. Yes.

Q. I'm just curious. You say of the 3,100 customers, approximately 2,000 had some type of failure. That seems to be more than 50 percent, doesn't it?

A. Yes.

Q. How does that reconcile with your testimony that 50 percent --

A. These people left. We were able to keep some people.

Q. I see what you're saying.

Page 63, lines 15 to 16 you say: "The effects of these misrepresentations in such a small community like the South Florida area is insurmountable."

I'm curious as to why you believe the South Florida community is small?

A. Well, it spread like wildfire and it seemed like everybody knew or thought that we were going bankrupt.

Q. Other than that description of events, do you believe that the South Florida community is small? Do you consider South Florida to be a small community?

A. I didn't think that South Florida, okay. I thought our -- I hoped it would be so large that the statements that IDS was going bankrupt would have not been a big deal, but unfortunately I was wrong.

Q. Let me ask this: Personally, do you think that South Florida is a small community?

MR. MILLER: Objection. Asked and answered.

A. I'm going to stick with my answer.

MR. MEZA: I'm finished with direct.

MR. MILLER: Can we take a five-minute

break?

(Discussion off the record.)

MR. MEZA: Back on the record.

Q. We are now moving on to your rebuttal testimony, Mr. Kramer.

On page 4, lines 13 to 15 you say: "According to the deposition testimony of Gloria Burr, it was BellSouth's corporate strategy not to help ALECs to convert their accounts from retail or resale to UNE-P."

Do you see that?

A. Yes.

Q. And you have attached pages 99 and 100 of Ms. Burr's deposition; is that correct?

A. Yes.

Q. I'm going to show you the exhibit, Exhibit KK-14, pages 99 and 100, and why don't you read it. You have it there, don't you? Because I have highlighted it and I don't want to tip you off.

A. You don't want to tip me off.

Q. It's KK-14.

A. I'm looking. Okay.

Q. Do you see page 99?

A. Right here.

Q. Please point to me, point out to me the provision or the statement in Ms. Burrs' deposition where she states that BellSouth's corporate strategy was not to help ALEC's convert their accounts from retail or resale to UNE-P?

A. "Does BellSouth no longer want to help CLECs process their UNE-P orders?"

She says: "I can't -- I don't know. That's corporate strategy and I don't know."

"Okay. So you don't really know what the corporate strategy was back then when they offered the bulk ordering product?"

You were upset. "Object to the form of the question."

"Is that correct?"

"She testified very clearly what it was."

"No, I'm asking, wasn't it corporate strategy at that time, also?"

"THE WITNESS: At that time it was part of the corporate strategy."

Q. It was part of corporate strategy to help --

A. No. It goes back to the question, does BellSouth no longer want to help CLECs process

their UNE-P orders.

Q. Okay. Today? Is that what the question is?

A. That's what it says.

Q. Okay. And you're saying that Ms. Burr's testimony stands for the proposition that BellSouth's corporate strategy is not to help ALECs convert their accounts from retail or resale?

A. I think she said that was corporate strategy.

Q. I'm looking at your testimony and it says it was BellSouth's corporate strategy not to help CLECs, and I'm asking, is it your belief that Ms. Burr's testimony says that it was BellSouth's corporate strategy not to help a CLEC to convert their accounts from retail or resale to UNE-P?

A. Yes.

Q. All right. Page 5, lines 19 to 25 you talk about EDI. How do you know that, "At the time EDI was not fully functional and capable of converting retail or resale customers to network combination service?"

A. It didn't work.

Q. For the two orders that you submitted it

didn't work; is that correct?

A. That's correct.

Q. And to the best of your knowledge, you don't remember or know if IDS submitted any other orders through EDI; is that correct?

A. I also know that I talked to, I forgot who now, who had EDI and it didn't work and BellSouth processed their orders for them.

Q. How do you know that?

A. I talked to -- I had -- excuse me. Bill Gulas talked to the gentleman to verify that was the case.

Q. But as far as IDS was concerned, IDS only submitted two orders through EDI; is that correct?

A. I don't know how many orders we attempted. I only know of the two that failed.

Q. Okay. Page 7, lines 18 through 20. "At the time IDS was attempting to convert its resale base in late 1999 and early 2000, EDI was not set up to handle this function." Again, what is the basis for that statement?

A. It didn't work.

Q. Based upon what? How do you know it didn't work?

A. We tried it, it didn't work.

Q. To the best of your knowledge, you only tried it with those two orders?

A. No. I don't know how many. I know these two orders developed failure.

Q. Do you know if IDS submitted any other orders through EDI?

A. I don't know.

Q. Do you know if any edits or revisions were made to EDI that allows it to work today?

A. I don't know.

Q. Do you know for a fact that other CLECs are using EDI today to convert orders?

A. Only from what BellSouth has told me.

Q. Page 8, lines 4 through 7. Yes. "To my knowledge, at that time there were only two other ALECs who had network combination agreements to establish network combination services." How do you know that?

MR. MILLER: I'm sorry. Where are you, Jim?

MR. MEZA: I'm sorry. I'm going too fast. Page 8, lines 4 through 6.

A. My discussions with Bill Gulas.

Q. Did Bill Gulas tell you how he knew?

A. I didn't ask him about that.

Q. Page 10, lines 2 through 5. You state that, "Because the Interconnection Agreement with BellSouth required IDS to pay its bills in full while it was disputing an item, and Ms. Pryor permitted IDS to withhold payment, I do believe that BellSouth had agreed to the disputed amount."

Do you know which provision in the Interconnection Agreement with BellSouth required IDS to pay its bill in full?

A. I can't remember.

Q. To the best of your knowledge, do you know under the Interconnection Agreement that if IDS disputes any portion of a bill, does it have to pay that bill in full during the dispute resolution process?

A. I believe during the -- originally we had to pay the bill in full.

Q. What period of time did you have this conversation with Ms. Pryor regarding withholding payment?

A. October of 2000.

Q. At that time, had IDS and BellSouth signed a second Interconnection Agreement?

A. I don't believe so.

Q. You don't believe so. Wasn't there an agreement signed or negotiated in February of 2000?

A. I believe we had an amendment. I don't remember.

Q. There wasn't an entirely new agreement?

A. I believe we were in the process of negotiating the Interconnection Agreement, to the best of my recollection.

Q. So in October of 2000 it is your understanding that BellSouth and IDS were still under the original agreement?

A. To the best of my knowledge.

Q. Page 11, line 5 through 9 you talk about, again, your request for Ms. Rand to submit an order through EDI. Is it your testimony that -- I guess I'm confused by what you said here compared to what you said in your direct. Do you know how she tried to submit an order?

A. Yes.

Q. And how is that?

A. She instructed Brad on exactly how to put in the order.

Q. On page 11, lines 11 through 12 you

say: "Ms. Rand's testimony, which doesn't even mention the failed test, is further evidence that BellSouth is not attempting to present this commission with the whole truth."

Do you believe that BellSouth is lying in this commission proceeding?

A. I believe that the statement I put here is accurate. What I just said.

Q. So you believe BellSouth is not attempting to present the Commission with the whole truth?

A. That is what I testified to.

Q. Look on page 14, line 7. You said it is -- I'm sorry. Let me let you get there.

Line 7. "It is my understanding that the bulk ordering system is now fully functional."

What is that understanding based upon?

A. Listening to depositions.

Q. In listening to depositions you came to the conclusion that it works now?

A. That's the conclusion I came to.

Q. On page 14, lines 20 to 21: "IDS' Brad Hamilton asked whether BellSouth was sure its bulk ordering system worked."

Do you know who he asked at BellSouth?

A. No, I do not.

Q. Is that something he told you he did?

A. Yes. I believe so.

Q. Do you know when he asked BellSouth?

A. I believe it was at the CLEC Inforum.

Q. You don't know if he called Mike Lepkowski or Petra Pryor?

A. I have no knowledge.

Q. Or Linda Tate?

A. I have no knowledge of that too.

Q. Look on page 15, lines 3 to 5. You say, "I knew that BellSouth could not release a product without adequate testing and assumed that he had successfully conducted the BETA-testing without IDS."

I believe it was your testimony in your direct testimony that you believe that IDS was the only company that BellSouth approached to BETA-test the bulk ordering feature; is that correct.

MR. MILLER: Objection. Mischaracterizing the witness' earlier testimony.

A. Could you do it again.

Q. In your direct testimony, correct me if I'm wrong, did you state that IDS believed that it was the first or the only carrier which BellSouth asked to BETA-test the bulk ordering feature?

A. To the best of my recollection, I was asked to be in a bulk ordering test.

Q. We have to go back. I don't want to do this, but I just want to make sure the record is clear.

A. Let's go back to my testimony.

I think page 17.

Q. Okay.

A. I say --

MR. MILLER: Let's wait for the question.

A. I'm sorry.

Q. Do you know where in your direct testimony you reference it, because I can't find it.

A. Page 17.

Q. Lines what?

A. Lines 11, 12, 13, 14, 15.

Q. I see that.

A. 16.

Q. Upon finding out that the announcement

was made at the CLEC Inforum, you just assumed that BellSouth had found another carrier to successfully BETA-test the product with?

A. Yes.

Q. You did state in your direct testimony that you were still negotiating with BellSouth regarding the BETA-test in May of 2000?

A. Yes.

Q. And at the same time as the CLEC Inforum, correct?

A. I guess it's around that time.

Q. So you were in negotiations to BETA-test, the CLEC Inforum announcement is made and you automatically assume or you assume that BellSouth BETA-tested with someone else?

A. I wasn't the one that was doing the negotiations.

Q. Okay. You say here, "And assumed they had successfully conducted the BETA-testing without IDS".

A. Yes.

Q. So during the negotiations to BETA-test, because of the announcement being made at the inforum, you assumed that they BETA-tested with someone else?

A. Yes.

Q. Page 15 lines 13 through 15. "All of this strongly suggests that BellSouth chose to release its untested bulk ordering system on an unsuspecting group of ALECs."

What facts or evidence do you have to support your allegation that BellSouth chose to release the bulk ordering system untested?

A. Well, you released the product and it didn't work.

Q. But wasn't it already tested?

A. Yes. And it didn't work.

Q. I mean, so I'm confused by your statement that, "It released its untested bulk ordering system". It was tested, wasn't it?

A. Well, let me ask you a question -- I'm confused. I'm sorry.

Q. You've testified in your rebuttal testimony about the BETA-test with Access One.

A. So I guess BellSouth tested, BETA-tested the product and knew it didn't work and then put it on the market.

Q. I'm asking you, is that your opinion? Is that your testimony?

A. It appears to be the case.

Q. Look on page 16, lines 15 through 16. "Of the initial 1,200 conversion orders, over 400 customers were left in an out of service condition."

I thought you told me yesterday that, one, there were 1,400 conversion orders and, two, that you didn't know how many conversion orders were actually submitted?

A. Taking this information of what I've learned since my testimony.

Q. Okay. Today, do you know how many conversion orders were submitted?

A. It appears, approximately 400.

Q. Conversion orders that were submitted?

A. I don't know how many orders were actually submitted specifically. Now, what happened when you stop the processing, I don't know.

Q. What information did you learn between the filing of your direct and rebuttal that changed your opinion that 1,400 orders is now 1,200 orders?

A. I believe, based on the information that I have gotten from both BellSouth and my internal people.

Q. Do you know what specific information you received from BellSouth?

A. I can't remember at this time.

Q. Do you know what information you received from your people?

A. I can't remember at this time. I'm sorry.

Q. Is the 400 customer reference on line 16, is that -- where did that come from?

A. If I remember correctly, it came from somebody from BellSouth's testimony. I can't recall which one it is.

Q. And then on lines 17 through 19 you say: "For example, the bulk ordering disaster left most of IDS' business customers without their hunting feature."

I think we discussed today, or maybe yesterday, that you lost about half of your customers or half of your customers experienced some type of service outage, around 200?

A. No. I think I have said that over 200 customers left our service because of outages.

Q. Do you know how many actually experienced loss of hunting feature?

A. From what I understand, from the

testimony that's come from BellSouth, I guess approximately 400, if I remember correctly.

Q. And that is information you learned from BellSouth?

A. If I can recall, yes.

MR. MILLER: Read back the last two questions and answers, please.

(Thereupon, the requested portion of the record was read by the Court Reporter as above recorded.)

MR. MILLER: Thank you.

Q. Pages 17, line 1. "Approximately 750 IDS customer lines switching back to BellSouth." Is that consistent with your approximate 200 customer loss figure?

A. From what I can remember from last October, with the information that we developed that we gave BellSouth, to the best of my knowledge.

Q. Okay. On page 22, lines 10 and 11 you talk about a conversation you had with Mr. Lepkowski and you state that, "He was suggesting a solution that was unfair, dishonest and certain to cause more problems with IDS customers". Can you please explain that?

A. Yes. We don't bill a customer until we know that the conversion is complete. In the case of this, we didn't send a bill because the customer -- it could be a possibility that the customer would get a bill from BellSouth and IDS for the same time period.

Q. And what was Mr. Lepkowski proposing?

A. That it would be BellSouth's problem, not IDS, and that in that case the customers could get a credit from BellSouth.

Q. And you did not find that acceptable?

A. No, I did not.

Q. That failure of CRIS to update, was that limited to November and December 2000?

A. To the best of my knowledge.

Q. Page 23, lines 5 and 6, you state that: "Although IDS at times sold over 1,000 lines per day, it only processed as many as 968 lines in a single day." What do you mean by processing?

A. It's a term we use to convert lines from resale, retail to UNE-P.

Q. So when you say processing, that means you submit 968 orders?

A. Lines.

Q. Lines. Okay. We had this discussion

already. We don't know --

A. I can't tell you how many orders it is.

Q. On page 23, lines 17 to 23, and page 24, lines 1 to 3 you cite to the exhibits attached to IDS' complaint to support your allegation that BellSouth tells IDS end users that IDS ordered the disconnection of service. Are you familiar with any of those exhibits?

A. I reviewed them. I can't recall it right now.

Q. Which exhibits are you referring to?

A. Affidavits, I believe.

Q. The affidavits. Page 24, lines 12 to 14, you say: "BellSouth representatives, who are compensated based, at least in part, on sales volume and who have repeatedly used improper tactics to mislead IDS' customers."

How do you know how BellSouth representatives are compensated?

A. Reps such as -- I'm referring to agents and, to the best of my knowledge, agents.

Q. Like the telemarketers?

A. Could be telemarketers.

Q. What do you mean by an agent?

A. I believe you have an ASR program.

Q. What is that?
A. I don't know what that refers to.
Q. Why do you consider them agents?
A. It appears that some of my agents are some of your agents.
Q. So they are not BellSouth employees, is that what you're saying?
A. No, they're not.
Q. Because we share the ASR, whatever that is, that's how you came to determine how certain BellSouth representatives are compensated?
A. Yes.
Q. But you don't know how BellSouth's customer service reps are compensated, do you?
A. No. I would not know that.
Q. And the statement that, "They have repeatedly used improper tactics to mislead IDS customers", what are you referring to there?
A. Like, we are going out of business.
Q. Do you know how many times that has been said?
A. An awful amount of times.
Q. Do you know how many?
A. I don't have a specific number.
Q. Do you have any information other than

the information attached to your complaint to support that claim?

A. Other than discussions I had personally with my agents.

Q. Which are also BellSouth's agents?

A. Some of them are agents for you too. Some are not.

Q. And what discussions have you had? When were they?

A. Back -- I can't recall. March. February, March. Somewhere in that area.

Q. What did they tell you?

A. They said that BellSouth is calling all their customers and saying, we're going bankrupt.

Q. You heard this from who, again?

A. From my agents.

Q. And what are these agents supposed to be doing now?

A. They sell customers on IDS products.

Q. And how do they sell?

A. I don't know how they sell.

Q. Is it door to door, telephone?

A. I don't know.

Q. How did they know that BellSouth was telling people that IDS was going out of business?

A. They told me that their customers called them who are on my service.

Q. Did any customer specifically tell you that a BellSouth representative told them that IDS was going out of business?

A. I have not had direct conversation with a customer.

Q. Look on page 25, lines 16 through 23. There you're talking about the time period of January 2001 where you're investigating to find out if customers who came back to BellSouth signed a letter of authorization or agreed to be recorded. And you state on line 20 that, "None of the customers told us they had signed a letter of authorization or had agreed to be recorded for a third-party verification."

Do you have any evidence or facts or documents to support that claim that no customers told you that they signed a letter of authorization?

A. Not that I'm aware of.

Q. And you say on line 16 that you called a number of customers. Do you know how many customers IDS contacted?

A. No, I do not.

Q. Was this upon your direction?
A. I believe it was.
Q. And who did you instruct to make the calls?
A. I can't recall.
Q. Do you know how they conducted the analysis or the survey?
A. No, I do not.
Q. Then on page 25, lines 21 through 23 and page 26, lines 1 through 2 you explain how, "IDS wrote to Rick Moses of the Public Service Commission and supplied him with a list of approximately 633 former IDS customers for further investigation."

Were these customers those customers that you originally contacted?
A. I don't know.
Q. You don't know. Do you have Exhibit KK-23? I think you do.
A. Here.
Q. Yes. If you look on page 1 of 27, there is a letter I presume from Angel Leiro to Rick Moses. Do you agree with that?
A. Yes.
Q. How do you know that these customers

attached here on this spreadsheet switched back to BellSouth after the date of the original switch to IDS? How do you know that?

A. I don't know how we know that.

Q. And then Mr. Leiro states, "My experience, after speaking with several complainants, has been that BellSouth does not attempt to obtain a subsequent letter of authorization or tape-recorded authorization from customers in order to switch them back to BellSouth."

Do you know how many complainants he actually spoke with?

A. No, I do not.

Q. Look on the first page of the spreadsheet. Is there a reason why the phone numbers you only see the first five digits?

A. I don't know why.

MR. MEZA: I'm going to ask that -- it seems to be some type of error or incomplete exhibit. If we could get the complete version that has the full phone number.

MR. MILLER: Send me a letter.

MR. MEZA: I need it kind of quickly. I will send you letter. If this is the way it

is, then that is fine, but it doesn't do us much help with no phone number.

Q. Page 26, you begin a discussion on the FCC's order number 99-223. Have you ever read this order?

A. I've only read what was in Mr. Ruscilli's testimony.

Q. So on page 27, lines 10 through 22, is this straight out of Mr. Ruscilli's testimony, that quote?

A. I can't recall if it is or not. I believe this is based on conversations I had with my attorney.

Q. So if I asked you to cite for me the page or the paragraph of the FCC order on page 27, lines 5 through 8 where the FCC ruled, could you do that?

A. I couldn't recall that.

Q. Page 29, lines 4 through 9. Is it your testimony that BellSouth unnecessarily sends technicians to your customer's premises?

A. I believe that's the testimony.

Q. And why is that the case? Why do you believe that?

A. Because they've sent, according to my

customer service reps, my AVP, trucks have been rolled out to customers' premises to disconnect their service.

Q. Let's go to the bigger picture. Do you think it's unnecessary for BellSouth to roll a truck to your customer's premises?

A. I would rather they wouldn't roll a truck to disconnect my customer's service.

Q. I'm not asking you about the disconnecting. I'm just asking, to go to your customer's premises when you are converting a customer from BellSouth to IDS.

A. Only UNE-P?

Q. Just in general. I'm just asking, are you saying it's your testimony that it is unnecessary at all times for BellSouth to roll out a truck to that customer's premises?

A. No. That is not my testimony.

Q. So in some instance it may be proper for BellSouth to send a technician to your customer's house?

A. Just in general?

Q. I don't know. I'm asking you.

A. I'm not -- most of my customers are businesses.

Q. Okay.
A. There are times when it is necessary.
Q. When is it unnecessary?
A. When it is to disconnect a service for UNE-P on a conversion order.
Q. On a conversion order it's unnecessary to roll the truck?
A. Correct.
Q. And that's conversion from IDS resale to IDS UNE-P?
A. Or BellSouth retail.
Q. To IDS UNE-P?
A. Yes.
Q. I guess I'm confused because, isn't that the majority of the cases? I mean, it's going to be a conversion order. So it's appropriate to roll a truck out when your end user has service problems, is that what you're telling me?
MR. MILLER: Objection. You're mischaracterizing the witness' testimony?
A. That is not what I said.
Q. Tell me what you said, again.
A. I said it's unnecessary to roll a truck in a conversion, in a resale -- IDS resale customer or BellSouth retail customer who is being

converted to IDS. Okay?

Q. Okay.

A. To a UNE-P, it's unnecessary to roll a truck to disconnect the customer's service.

Q. Okay. Would you agree with me that there are instances and occasions where it is necessary for BellSouth to roll a truck to your customer's premises?

A. Yes. It would be.

Q. Then we understand each other.

Do you know how often BellSouth roles a truck to your customer's premises for a UNE-P conversion?

A. No, I do not.

Q. Do you know how many times it has occurred?

A. No, I do not.

Q. Do you know which customers have been advised by a BellSouth technician during the conversion process?

A. No, I do not.

Q. Do you know for a fact that every single technician that comes out on a truck roll tells the IDS customer that he is there to disconnect his service?

A. Repeat the question. I'm sorry.

Q. Do you know for a fact that every single BellSouth technician that appears at an IDS customer's premises for a conversion tells that customer that he is there to disconnect the customer's service?

MR. MILLER: Object to the form.

A. I would have no knowledge of how that is.

Q. Well, then how do you know, on page 29, lines 7 and 8, that the technicians, this is a quote, "tell the customers that they are there to disconnect the customer's service because they are switching to IDS"? How do you know that?

A. I've heard from my customer service reps and my assistant vice-presidents that they have customers who are being disconnected by BellSouth on a truck roll and the technician says that he's there to disconnect. He's got an order from IDS to disconnect the service.

Q. And you don't know who these customers are, though?

A. No, I do not.

Q. And you don't know how many times this has occurred?

A. No, I do not.

Q. On page 30 and 31 you go into detail about certain advertisements BellSouth is running.

A. Yes.

Q. Why do you believe those advertisements are anti-competitive?

A. Well, one says, if your services are disconnected by a company such as IDS, that BellSouth is more reliable and you can give the same discount as IDS.

MR. MILLER: Off the record for a second.

(Discussion off the record.)

Q. Do you think BellSouth ran these ads specifically to target IDS customers?

A. I believe IDS was the primary -- one of the primary targets.

Q. Why do you believe that?

A. Because of the number of customers we had that had been disconnected or we had service failures; the fact that you use the bridge that's in South Florida; the fact that you offer a 20 percent discount.

Q. Okay. How many disconnects has IDS

experienced for its customers?

A. I don't know. I have requested that information from BellSouth. I believe BellSouth knows exactly how many truck rolls to disconnect the customers and how many of my customers have been disconnected.

Q. But you don't know that today?

A. I don't know. Personally, I'm not aware of it.

Q. Let me ask you this: Do you agree with me that a facilities based carrier is different than a reseller as far as service goes?

MR. MILLER: Objection. Vague.

Q. What is your understanding of the difference between a reseller and a facilities based carrier?

A. A reseller resells the service of a third-party that's a vendor. Facilities has a switch and can also sell through that switch services from a third-party vendor.

Q. Okay. Do you think that this ad could be geared towards a facilities based carrier rather than a reseller?

A. The way the ad is structured, it's my impression that's it's geared towards IDS.

Q. IDS. And that's based upon there is a bridge that's in South Florida, right?

A. That is correct.

Q. And BellSouth matched the 20 percent reduction on business lines that IDS offers?

A. Uh-huh. Yes.

Q. And what's the third thing?

A. You have done tremendous disconnections to my customers.

Q. I think you have already told me that you don't know if any CLEC or ALEC in South Florida also matches your 20 percent reduction?

A. I'm not aware.

Q. Do you know if this advertisement is run anywhere in BellSouth's region?

A. I believe I've seen the ad in Georgia and Florida.

Q. Have you looked to see if it's being displayed in Kentucky?

A. I don't know.

Q. Have you looked at any other state?

A. I personally have not.

Q. Has anybody at IDS?

A. I have people looking.

MR. MEZA: Off the record.

(Discussion off the record.)

MR. MEZA: Back on the record.

Q. I want to go over one of your responses to the interrogatories, Interrogatory Number 5. And that requests that for each customers and/or line you identify the number identified in number four, which essentially asked you to give us some information about the 1,400 customers that submitted orders for the bulk ordering feature, provide us with some information like whether IDS continues to serve the customer, state the services that you provided, and if you don't provide service to them now, tell us when they left and the revenue when they left. In response to Number 5 IDS produced this document which appears to be telephone numbers, some other types of numbers, IDS active and the disconnect -- the disconnect is filled in for some and for others is blank. What I'm really interested in is this heading here. If you can tell me exactly what these numbers represent, the time period involved?

MR. MILLER: Is that your question?

MR. MEZA: Yes.

MR. MILLER: I object. No foundation.

MR. MEZA: Okay.

A. I don't know. I looked at that list too. I'd have to ask somebody.

Q. Would Angel be the appropriate person to ask this to?

A. I don't know.

Q. Just checking.

A. That's fine.

Q. Look on page 5, lines 17 and 18. They are talking about Friday afternoon, May 5th when --

A. I'm sorry. Where are we know?

Q. Page 5 -- page 5, lines 15 and 16.

MR. MILLER: Of the panel testimony, right?

Q. That's right. Thank you for clarifying that.

You state: "On the same afternoon, BellSouth issued a firm order commitment. Do you have copies of the firm order commitments for the 84 orders that you submitted?

A. I don't know.

Q. Who would know?

A. I don't know.

Q. Well, then how do you know that BellSouth issued firm order commitments?

A. This is what I was -- I believe -- I don't want to say. I can't remember right now. I'm drawing a blank. I apologize.

Q. It's just something new from your direct that I haven't seen.

A. Yes. There was a reason I put that in there and now I can't remember.

Q. You think it's possible that you still have the FOCs?

A. Might be.

MR. MEZA: I'm requesting as late file Exhibit Number 4, which I will put in writing, the firm order commitments for the 84 orders submitted on May 5th, 2000.

Look on page 6, lines 4 and 5. You say: "Prior to being introduced to Activity W, IDS was unable to convert any customers to UNE-P. Afterwards, IDS used both the Activity W and the Activity V."

What time frame are you referring to?

A. The bulk ordering before and the bulk ordering after.

Q. So you knew about the W before the bulk ordering incident?

A. No.

Q. Okay. When did you start using the W?

A. During the bulk ordering BETA-test incident.

Q. During the incident itself you used the W?

A. I'm not sure, but I think it's all part of the same thing.

Q. Okay. And it's your testimony that prior to learning about the W, you couldn't convert any customers to UNE-P?

A. Well, that's what I've been testifying to.

Q. I thought you told me yesterday, for instance, one day after Gulas sent you a work around that you were able to convert all the orders through --

A. We were able to convert some customers.

Q. So then it's not entirely true that you were unable to convert any customer UNE-P?

A. Okay.

Q. Page 7, lines 6 and 7. "To the best of my knowledge, the problems relating to the bulk ordering system were in no way caused by the use of Activity W."

How do you know that?

A. If I remember correctly, the letter Glenn Estell gave us mentioned some of the problems, and if I remember correctly we have received letters that mention where the problem was and in none of those letters did it mention the W as a cause of the problem.

Q. Okay. How did you find out about the W?

A. To the best of my knowledge, it was part of the bulk ordering process.

Q. When Becky Wellman and Bill Gulas came on board with IDS, did they have any knowledge about the W?

A. Not to my knowledge.

Q. I think on page 9, lines 19 through 21 you're describing instructions you gave to Brad Hamilton. Can you expound upon that?

A. Okay. I asked Brad Hamilton to convert a line using Activity W.

Q. Why is that?

A. Well, because the W was part of the bulk ordering process. I wanted to know if that was -- they were just eliminating everything or just multiple accounts.

Q. So you asked him to look to see if the W would work for onsies, twosies?

A. I think just one order at a time.
Q. Do you know if there were any limitations upon the use of the W for the bulk ordering feature?
A. Not to my knowledge.
Q. And what did Mr. Hamilton report back to you?
A. He said it worked fine.
Q. Page 10, line 12 you say: "BellSouth simply has never removed the W capability." What do you mean by that?
A. What I just said. What I testified to.
Q. Are you saying that BellSouth just forgot about the W?
A. No. They left the W in place.
Q. Was that an unintentional mistake, do you know?
A. Not that I know of.
Q. You think that it was intentionally left there?
MR. MILLER: Objection.
Q. Or left available?
MR. MILLER: Objection. Calls for speculation.
A. All I know is that we were trained on

it, we use it, BellSouth gave it to us.

Q. When were you trained on it?

A. During the bulk ordering process.

Q. The BETA-test?

A. I think that whole process.

Q. Do you know if the W was ever intended to be used on a per account basis for UNE-P conversions?

A. It worked on one order and during the bulk ordering BETA-test it worked on several, from what I understand.

Q. I'm asking you, do you know if the W was intended to be used in that manner?

A. I don't know.

Q. When Mr. Hamilton found out that the W worked on a single order, do you know if he contacted BellSouth?

A. I don't know.

Q. Do you know if anybody at IDS informed BellSouth that IDS was using the W activity code?

A. I do remember e-mail from Mr. O'Quendo where he refers to the W code and the voice mail box being pointed out.

Q. Did you receive a response from BellSouth?

A. I just saw his e-mail.
Q. Did you feel it was important to tell BellSouth that you were using the W on a per line basis?
A. No. They knew we were.
Q. Why is that?
A. You gave it to us.
Q. For the bulk ordering feature, correct?
A. BellSouth knew we were using it all along.
Q. How did BellSouth know IDS was using the W Activity code on a per account basis rather than on a bulk ordering basis?
A. Well, I can just go by my people telling me they had on several occasions talked to people at BellSouth and everybody seemed to be fully aware of it.
Q. Which people --
A. I don't know.
Q. You don't know. Do you know what BellSouth's business rules say about the use of the W on a per account basis?
A. At what time?
Q. Today.
A. Today?

Q. Yes.

A. I believe you can use it at your own risk.

Q. What did the business rules say in June of 2000?

A. I believe I was made aware in June -- I don't know what it said in June of 2000. I'm sorry.

Q. Whatever period you were about to tell me about.

A. I became aware in June of 2001 that it was only to be used for a CLEC to CLEC switch as is.

Q. On page 12, line 14. I don't know if that question is for you or Ms. Wellman. Can you tell me if that's a question you are responding to?

A. No. Not me.

Q. That's Becky?

A. Uh-huh.

MR. MEZA: Okay. I have no further questions.

Jason, your witness.

MR. FUDGE: We have no questions.

MR. MILLER: I only have a couple of

questions.

CROSS EXAMINATION

BY MR. MILLER:

Q. Mr. Kramer, during your deposition you have repeatedly referred to the term voice mail. Do you remember that?

A. Yes I meant Memory Call.

Q. Do you mean to use the term Memory Call each time during your deposition you've said voice mail?

A. That is correct.

Q. Let me direct your attention to page 8, lines 4 through 6 of your replacement rebuttal testimony.

A. Say the page again.

Q. Replacement rebuttal testimony, page 8, lines 4 through 6.

A. Yes.

Q. When was the first time that you became aware that the other ALECs who had network combination agreements to establish network combination services were the companies Access One and Access Integrated Networks?

A. I believe through this hearing. It could be either testimony from Bell or it could be

the depositions, if I remember correctly.

Q. BellSouth depositions?

A. The ones that we did with BellSouth.

Q. Those were the first times that you learned the identify of these customers?

A. Yes, it was.

Q. Did you first learn the identity of these two customers from Mr. Bill Gulas?

A. No.

Q. Lastly, you've testified today regarding your misunderstanding at the time of your direct testimony regarding backdating of effective dates of service. Do you remember that?

A. Yes.

Q. Did you correct that misunderstanding when you filed your replacement rebuttal testimony with the Commission?

A. I believe I did.

MR. MILLER: I have no further questions.

MR. MEZA: Okay.

MR. MEZA: No recross.

(Thereupon, the deposition was concluded)

KEITH KRAMER

Sworn to and subscribed before me this day of , 2001.

Notary Public in and for the State of Florida at Large.

CERTIFICATE OF NOTARY

STATE OF FLORIDA:

SS.

COUNTY OF DADE:

I, BEATRIZ VALDES-PRIETO, a Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported in shorthand the deposition of KEITH KRAMER, a witness called by the BellSouth Telecommunications, Inc. in the above-styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 548, inclusive, constitute a true record.

I further certify that I'm not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 17th day of September, 2001.

Beatriz Valdes-Prieto
Commission # CC 944082
Expires June 11, 2004
Bonded Thru
Atlantic Bonding Co., Inc

Notary Public State of Florida.

My Commission expires June 11, 2004.

A

ability 369:1 398:21 403:16 502:19
able 353:5 362:25 368:24 377:10 383:13 394:2 405:25 423:21 473:12 504:23 539:15 539:17
about 350:22 354:16 355:8,9 356:2,3,18 357:19 358:12 360:2 365:12 367:16 370:17 371:12,24 372:7 373:5 373:14 379:12 382:9 382:23 387:6 403:5 407:18,23 419:8 422:5 424:25 438:9,12 446:17 469:13 485:21 486:4 488:11 491:13 495:3 502:16 508:20 511:1 512:16 517:19 519:18 520:21 525:9 529:9 533:3 536:8 537:9 538:23 539:9 540:7,12 541:14 543:21 544:9,10
above 361:10 374:15 420:20 425:11 520:10
above-styled 548:9
absolutely 368:16 374:22 420:5 440:12 440:14 478:22
acceptable 521:11
accepts 432:25 433:18 435:3,25 436:14
access 399:4,22 453:25 462:9,22 464:14 465:12 478:10 480:1 517:19 545:22,23
accordance 359:1 450:24
according 374:18 458:19 460:18 461:5 469:16 481:24 495:7 506:7 528:25
account 385:1,1,7,8 415:11 542:7 543:12 543:22
accounted 480:5
accounts 386:24 389:18 390:8,9,13 452:7,8 459:8,12 460:18 466:1 466:6,19 492:22,24 506:9 507:5 508:8,17 540:23
account-by-account 386:25
accurate 455:3 461:24 464:4 478.2 479:6,9 494:19 513:8
accurately 477:20 478:21
acquired 416:19 447:19
action 548:18
actions 369:9
active 536:17
actively 369:8,10
activities 499:20 500:20
activity 355:21 371:5 402:2,9,15,18,25 404:25 538:16,19,19 539:24 540:18 542:20 543:12
actual 376:6 415:6 466:25 487:24 496:21 497:5 498:15
actually 349:24 351 20 355:18,19 377:15 381:3,21 404:11 407:5 415:17 419:11 422:3 423:14 424:5 425:23 444:7,7 464:20 466.13 468:12,22 471:13,22 473:16 500:10 518:8 518.16 519:23 527:13
ad 534:21,24 535:16
add 400:6 459:19
addition 358:16 389:9 474:13,14
addresses 500:13
adequate 514:14
adjustment 445:23 446:23
ads 533:15
Advantage 439:8,11,21
advertisement 535:14
advertisements 533:3,6
advertising 494.8
advise 353:22,24
advised 531:19
affect 424:21 426:12
affected 480:23
affidavits 488:11 522:12 522:13
affiliate 372:11
after 356.6 358:19 362:17 365:4,8 368:16 369:2,8 371:11 378:5 378:14 386:11,13,20 386:22 389:24 405:3 407:9 428:13 430:17 430:25 431:15 432:10 438:23 450:17 460:12 470:4 484:7 527:2,6 538:22 539:14
afternoon 537:9,17
Afterwards 538:18
again 356.13,16 357:5 364:15 365:6,10 381:20,25 390:20 403:10 406:17 418:24 419:4 421:19,21,22 426:16 431.8 433:3 436:25 442:17,22 443:1 447:24 448:25 454:22 456:20 464:14 465:10 466:10 467:10 471:19 478:6,8 479:17 479:25 484:16 488:2 490:11 491:11 492.2 492:10 494:16,22 496:16 503:4 509:21 512:16 514:25 524.15 530:22 545:15
against 347:5 370:2,6
agent 522:24
agents 522:20,21 523:3,4 523:5 524:4,5,6,16,17
agree 458:23 459.11,23 460:17 461:1,6 526:23 531:5 534:10
agreed 511:7 525:12,15
agreement 372:18 450:25 481:19 483:9 511:3,10,14,25 512:3,7 512:9,13
agreements 510:17 545:21
ah 362:3,4
ahead 471:1
Akerman 348:6
ALEC 475:17 489:25 491:10,19 535:11
ALECs 506:9 508:8 510:17 517:5 545:20
ALEC's 507:4
allegation 441:19 479:18 517:7 522:5
allegations 502:4
allege 447:4
alleged 353:16 412:14
allegedly 446:8 447:13 448:9
alleging 448:4
allow 401:1,15 417:1 458:2
allowed 445:15
allows 401:12 402:4 510:10
almost 446:3 452:24
along 494:8 543:10
already 366:5 400:24 423:5 466.2 475:7 500:17 501:23 517.11 522:1 535.10
alter 424:23
alternative 402:8
Although 521:17
always 463:10
amendment 512:5
amount 400:11 401:2,12 401:18 511:8 523:22
analysis 396:8,12 399:16 400:10,15 444:11 452:18 455:8 486:20 488:24 489:3 496:8 499:8,25 526.7
analyze 502:20
analyzed 500:22
and/or 536:5
Angel 413:12 414:11 447:25 526:22 537:3
Angelo 453:16
Anne 348:16
announced 351:21 360:25
announcement 349:18 350:3 351:21 360:7 361:20 362:13,20 363:3,16 367:6 515:25 516:13,23
another 351:16 376:23 406:9 439:12,18 475:17 477:18 493:24 496:17 516.2
answer 353:24 354:1,3,5 354:5,9 361:23 363:19 366:1 398:9 406:21 417:21 418:6 426:25 432:19 434:10 447:6 455:21,21 456:24 471:18 505:23
answered 393:20 417:18 465:9 479:21 505:22
answers 374:7 520:7
anti-competitive 499:19 500:20 533:7
anybody 377:18 400:20 428:16 433:5 473:19 535:23 542:19
anything 349:22,25 356:10 361:12 363:22 368:20 371:4 384:14 416:3,17 417:14 419:22 426:23 427:4,8 427:20 428:3,7,16 502:8
anyway 350:21 358:20

362:3,5,13 364:21 365:20 366:2
anywhere 535:15
apologize 426:6 479:24 490:4 538:3
apology 366:14
Apparently 458:18
appear 359:19
APPEARANCES 348:2
appeared 364:7 467:2 476:17,21
appearing 447:19
appears 403:19 493:18 494:11 517:25 518:13 523:4 532:3 536:16
appreciate 352:13 365:19
approach 367:20
approached 514:19
appropriate 350:24 351:5 352:10 530:16 537:3
approve 360:19
approximate 375:15 412:11 520:14
approximately 375:21 378:8,11 379:6 384:12 384:19 389:9 390:12 398:22 399:15,18 400:7 450:11 452:25 454:1 457:4 461:13 465:13 470:19 472:5 473:10 478:1,2 479:7 480:6,13 495:10 503:25 504 9,17 518:13 520:2,12 526:13
area 505:3 524:11
around 354:16 375:14 375:15 398:22 405:8 446:11 455:2 516:11 519:20 539:15
aside 399:1
asked 381:18 393:19 406:24 417:18 449:1 463:23 464:17 465:8 465:11 472:8,9 473:25 477:16 491:21 500:25 502:18 503:7 505:21 513:24 514:1,5 515:4,6 528:14 536:7 540:17 540:24
asking 362:6,9 363:10 371:24 372:6 404:1 417:11,16,20 435:21 436:1 454:25 470:23 472:1 473:5 480:21 492:20 498:4 507:18 508:14 517:23 529:9 529:10,14,23 542.12
ASR 522:25 523:9
assembled 446:19
assets 373:3
assist 432:24 433.17 435:1,24
assistance 459.10
assistant 448:19 493:11 532:16
assume 395:10 516:14 516:14
assumed 514:14 516:1 516:18,24
assuming 361:15
assure 353:19
Atkinson 458:8,22
Atlanta 354:18
attach 458:13
attached 376:15 399:9 445:22 451:14 458:6 460:1 506:13 522:4 524:1 527:1
attempt 527:8
attempted 350:19,23 380:16 388:6 416:1,9 509:17
attempting 354:24 509:19 513:3,10
attempts 369:21
attention 414:8,10 545:12
attorney 528:13 548:16
attorneys 353.10
audit 476:3,12,14,24 477:2,6
August 376:5 378:6,12 379:8 399:8 458:20 459:1,22 461:2
authorization 497:21,24 499:1 525:12,15,20 527:9,9
automated 389:13
automatically 516:14
availability 360:13 363:4
available 354:22 367:8 541:22
Avenue 347:20 348:7
average 422:19 490:21 490:22
AVP 424:3 426:16 453:10 529:1
aware 358:24 359:11 365:16 367:9 372:20 372:24 383:21 392:19 439:14 449:7 455:11 477:4 486:19 492:1 494:15 501:12 503:19 525.21 534:8 535.13 543:17 544:6,11 545:20
away 366:25
awful 523:22
a.m 347:24 459 1,16

B

back 356:3 361:7 374.13 375:16,25 376:3,18,21 376.22 377:13,15,22 379:2,22,25 380:3 381:14,16 387:23 390:11 401:25 405:25 406:6,9,20,25 411:18 416:2 420:17 423:21 429:7 435:13 437:16 445:1,16 461:4 466:3,7 466.14 468.6 469:7 472:10,21 473:11 474:4,5,9,25 475:8,9 475:18,25 477:15 481:16 483:6 496:19 497:22,23 498:25 501:6,9,15,18 502:6 503:25 506:3 507:11 507:24 515:7,10 520:6 520:13 524:10 525:11 527:1,10 536:2 541:6
backdate 477:10
backdated 476:4
backdating 466:23 467:21 476:8 546:12
background 371:19 373:13
bad 474:23
bankrupt 505:9,17 524:14
BAR 376:16 446:20,21
base 465:16 509:20
based 350:6 363:2,10,14 365:10 377:4 412:22 424:2 430:9 442:19 444:19 445:21 447:22 453:1,2,3 454:5 461:1 471:9 476:7 479:1 481:2,21 484:25 489:2 499:13 500:21 501:1 502:7 503:13 504:5,13 509:24 513:18 518:23 522:15 528:12 534:11 534:16,22 535:1
basically 455:12 484:11 486:24
basing 359:3 448:17
basis 385:7,7,23 386 1 386:25 387 4,20 388:13 389:15 392:25 394:5 397:12 405.22 408:6 410:7 412.3 416:6 418:23 421:18 423:23 429:22 430:5 430:18,21 433:2 441.9 442:3,5,8,10,16 449:25 453:21 469:8 481:20 484:12,22 486:7 487:2 488:1,19 491:8 492:7 493:19 499:21 509:22 542:7 543:4,12,13,22
bear 464.7
BEATRIZ 548:4
became 358:23 412:13 437:21 544:11 545:19
Becky 367:10 393:2,21 394:9 450:1 453:14 459:1 540:10 544:19
become 370:6 383:13 414:1
becomes 412:1 414:20
before 347:1 365:3 367:17 368:13,15 371:11,12,16 372:18 375:20 389:25 421:4 426:23,24,25 428:7,15 434:10 437:17,18 441:14 451:12 453:22 454.16 458:11 459:25 460:2 468:22 472:24 473:12 474:10,25 477:16 500:5 504:1 538:21,23 547:8
began 404.10
begin 404:24 528:3
begins 374:24
behind 485:5
being 351:13 353:1 399:3,5 403:2 433:1,19 435:4 436:1,15 462:8 462:21 477:12 487:24 516:23 530:25 532:17 535:18 538:16 542:23
belief 350:2 363:25 380:5 421.1 461:23 471:9 485:18 494:13 508:14
beliefs 364:12
believe 349:11,16 350:13 352:8 353:13 354:18 357:22 358:5,17 360:19 366:17 367:17 370:24 376:7,14 379:11 380:16,18,23

382:9 384:17 385 8 396:25 399:5 401.11 403:1,22 405:1,14 406:8,24 407:2 412:12 416:8 417:14 425:12 425.18 427:16 430:19 431:25 433 22,24 434:19 438:23 441.22 443:8 445:14 446:6 450:5,8 452:17 455:6 456:5 457:5,10 460:20 462:11 463:6 467.9 468:1,5,24 469:1,10,21 469:24 470:3 471:2 472:15 474:21 476:8 477:8 479:25 480:11 481:3,11,21 482:7,9 484:5,8 485:13 486:8 487:14 488:15 491.6 493:8,13,15,25 494.6 496:12 499:5,22 500:2 500:24 501:4 502:6 505:5,11 511:6,18 512:1,2,5,8 513:5,7,9 514:4,6,17,18 518:23 522:12,25 526:2 528:12,22,24 533:6,17 533:19 534:3 535:16 538.1 544:2,6 545·24 546:18

believed 394:17 463.10 501:1 515:2

believes 462:17

Bell 350:17 359·19 365:11 385:23 386.3 391:17 459:6 472:11 472:21 473·11 495:12 545:25

BellSouth 347:6 348:10 348:12 349·5,20 351:16,25 352:5 353:3 353:21 357:9 358:11 358:23 359:10,25 360:1,10,22 361:4,11 363:25 366:5,16 368:19,25 369:6,19 370:2,7,11 372:2,15,19 372:22 374:25 375:2,9 375:16,25 376:4,9,19 376:22 377:1,16,22 378:4,6,17,19 379:2,9 379:11,13,22,25 381:14 382:8,13 383:6 385:6 388:17 389:13 392:21 393:17 396:25 401:10,11 405:15,23 406:6,7,9,20,25 408:18 409 2,6,9,13 410:25,25 411:14,16 414:19 415:7 416:2,10,16,22 417:1 418:20 420:7,11 420:14,15 421:10,13 423:2,9,20 424:19,22 424:25 425:9,23 426:3 426:9,14 427:3,9,11,20 428:3 429:8,10,11,16 429:23 430:6,7,11,15 431:14 433:1 435:3,14 435:25 436:3,14 437:12 438:5,10,17 439:7,17 441:7,10,23 442:2,13,15,18 443:3,9 443:11,12 444:1,2,7,14 444:14,18 445:12,14 445:16 446:9 447:4,18 448:14 449:1 450:4,5 450:11,17 451:3,18 457:20,24 459:2 460:9 462:7 463:24 464:2,6 465:19,21 466:3,7,14 466:17,23 467:8,21 469:3,4,6,7 474:4,6,10 474:25 475:8,10,16,19 476:3,8 477:13 481:15 481:16 482:4,21,23 483·5,6,16,22 484:10 484:17 485:1,6,12,13 485:18 486:5,24 487:3 487:8,11,13 488:14 492·13,18,24 493:2,16 494:4,7,13,17 495:8,18 495:23 496:18 497:22 497:23,25 498:25 499:2 501:7,9,16,18 502:2,6,21,23 503.15 504:1 507:6,25 509:8 510:14 511:4,7,10,24 512:12 513:3,5,9,24 514:1,5,13,19 515:3 516:2,6,15 517:3,7,20 518:24 519·2 520:1,4 520:13,18 521:5,10 522:6,14,18 523:6,11 524:13,24 525:4,11 527:2,7,11 528:20 529:5,12,16,20 530:11 530:25 531:7,11,19 532:3,17 533:3,10,15 534:3,3 535:4 537:18 537:25 541:9,13 542:1 542:17,20,25 543:3,9 543:11,16 546:2,3 548:8

BellSouth's 350:2,11 354:6 359:2 362:19 373:5 385:25 387:3 388:11,21,25 389.4 396:14 408:4 410:4 412:15 418:16,18 420:12 432:22 434:22 435:1 436:11,21 441:3 445:3 468:15 483.4 486:21 491:22 499:19 500:19 506:8 507:3 508:7,13,15 519:11 521:8 523:13 524:5 535:15 543:21

Bell's 359:22

below 413:8

benefit 371:6

best 356:20 357:17 359:18 369:4 376:14 377:24 383:3 393:2 398:21 402:10,13 415:15 417:3,5,6,10,23 418:3,4 420:2,9 424:13 424:17 429:2 434:9,12 437:3 443:8 446:11 450:13 454:22 456:10 464:5 473:9 475:6,19 479:6,9 480:3,4 485:14 487:10 494:24 502:19 503:4,23 509:3 510:2 511:13 512:10,14 515:5 520:18 521:15 522:21 539:21 540:8

BETA-test 364:23 365:2 386:11,13,15 514·20 515:4 516:3,7,13,22 517:19 539:2 542:4,10

BETA-tested 349:12 516:15,24 517:20

BETA-testing 514:15 516:19

better 359:8 389:20 485:10

between 352:25 370:10 376:5 383:6 451:4,19 477:19 518:19 534:15

beyond 353:5,20

big 505:17

bigger 529:4

bill 367:10 368:3 369:3 373:3 458:8,19,20 468:23 472:24 473:13 473:14,22 474:6 495:14,23 496:19 504:2 509:10 510:24 510:25 511:11,15,16 511:19 521:1,3,5 540:10 546:8

billed 393:12 468:19

billing 445.22,23 446:23 475.3,5

bills 511:4

blames 486:24

blank 536:19 538:3

blocked 416:2,17

board 540:11

Bob 348:17

bonus 369:24,25

both 367:20 434:19 518:24 538:18

box 542:23

Brad 512:23 513:23 540:15,17

brainstorming 355.17

break 401:22 418:9 444·22,24 506:1

BRIAN 348:5

bridge 533:22 535·2

bring 372:14

BRMC 459:6

brought 373:4 414:9 460:23 490:14

Bulecza-Banks 348:18

bulk 349:4,6,18 350:4 352:6 354:23 356:12 356·15,18 357:10,12 357:13 358:1,12 362:21 363:4 364:15 364:21 365:8 366:6 368:13 369:2 375:3,5 377:2 378:5,14 382:2 398:10 399:1 405:1 407:22 445:11 446:8 447:13 450:15 487:4,4 507:12 513:16,24 514:20 515:4,6 517:4,8 517:14 519:14 536:9 538:21,21,23 539:2,22 540:9,20 541:3 542:3 542:10 543:8,13

bunch 398:14

Burr 506:8

Burrs 507:2

Burr's 506:14 508:5,15

business 355:19 356:9 389:18 390:8,15,18,24 391:3,13 396:17,18 408:5 418:17 420:12 433:25 434:13 456:13 457:2,7,13 459:22 484:11 486:2 489:18 490:17 519:15 523:19 524:25 525:5 535:5 543:21 544:4

businesses 529:25

by"this 425:22

C

calculated 445:20 450:24 474:8
calculation 446:13 499:21
calculations 503 21
call 369:11 380:23 384:13 387.24 392:11 399:3,5 402:11 408:18 409:1 418:16 421:10 433:14 434.14 437:15 444:18 446:22 456:1,2 456:8,9 462:20 463:3 464.14,16,23 465:2,17 467:5 474:1 478:11,24 480:1,5 481:25 482:8 487:5 498:5,7 499:23 545:7,8
called 374.7 376:16 436:12 439:8 444:10 459:2 461:2 482:3 495:18 496.12,14 514:7 525·1,22 548:8
calling 438:12 524:13
calls 361:21 381:12 411:16 414.19 415:20 420:11,12 427:14 429:11 437:12 438:19 442:18 443:9,11,25 444:5 482:9 483:3,16 487:13,23 488.7,10,12 497:18 498.15,19 499:9 503:2 526:4 541:23
call-forwarding 389:11 399:4,22 453:25 462:10 464:15 465:13 465:17 478:10,24 480:2
came 382:14 448:6 467:23 474:4,25 479:4 502:6,18 513:20,22 519:10 523:10 525:11 540:10
cancel 420:14 421:13 425:24 434:7 437:16 484:20 485:3,20 495:12,22 496:18
canceled 420:6 422:12 423:19
cancelled 418:19
cancels 423:2,7 432:25 433:18 435:2,13,24 436:13
capability 541:10
capable 357:13 358·1 377:24 383:13 384:7 385:15 508.21
capacity 373:22
Car 408:22 410:8 418:24 419:14,19,20,23 420:3 442:19
Carrie 474·21
carrier 357:10 359:22 405:13 407:3 459:9 493:24 494:1 515:3 516:2 534 11,16,22
carriers 491:14
Carrie's 474:22
case 358:17 359:7 363:14 407:6 422:18 423:12 427:16 428:8 437:21 441:15 454:17 454:19,24 455:2 464:11 468:24 469:1 470:3 477·24 479:12 484:8 491:4 494:11 509:12 517:25 521·2,9 528:23
cases 382:7 412:1 421:12 530:15
Casey 348:17
cause 361:25 389:19,22 390:19 391:5,9,24 397:1 440:17,20,24 443:4 487:6 520:24 540:6 548:10
caused 392:12 394:3 441:8 442:2 443:12,22 459:19 486:25 487:9 539:23
causes 389:12,25 441:10 441:23
causing 396:22
center 347:20 348:7 385:24 386:3 406:15 434:1 459:3,9 483:17
certain 354:4 400:4 431:16 457:21 501:6 501:17,18 520:24 523:10 533:3
CERTIFICATE 548:1
certify 548:6,15
change 460:13 466:10 476:9 477.6
changed 359:6 421:6 439:7,17 518:21
changing 460:15
charge 364:8 490:12
charged 476:5
check 373:13,14
checking 494:20 537:6
checks 373·13
Cheryl 348:18
chose 421.12 517:3,7
Circle 438 6,12,15,18 439:4,10,20 481:22 484:5 492.6 493·16 494.5,14 495.9
cite 522.4 528:14
claim 524:2 525·18
clarification 463:4
clarify 375:12 379:16 389:16 390:3 425:7
clarifying 537.15
Clayton 348:18
clear 366:5 381:25 423:17 437:11 515:9
clearly 373:24 482.20 507:16
clears 429:17,25 430:8
CLEC 349·19 350:3 360:12 362:21 363:5 364:10 370:24 376:23 383:13 406:9 450:4,7 484:21 485:4 488:18 492:13,13 493:5,7 501:11 508:16 514:6 516:1,9,13 535:11 544:12,12
CLECs 355:15 371:20 377:23 485:15 488:22 492:4,9 493:14 507:7 507:25 508:14 510:12
close 358:5 459:22
CNS 467:10
code 355:21 402:2,9,16 402:19,25 404:25 542:20,22 543:12
collective 453:3,5
collectively 400:6
combination 508:23 510:17,18 545:21,22
combined 492:5,9 493:15
come 363:9 369:19 371:2 378:25 379:3,18 406:6 406:20 414:8 437:16 458:15 481:6,16 483:6 488:24 519:9 520:1
comes 435:13 531:23
coming 368:4,8 503:21
comments 365:9,19 388:23
commission 347:1 354:10 440:2,4 513:4,6 513:10 526:12 546:17 548:24
commitment 387:24 537.18
commitments 537:19,25 538:13
community 360:12 364:10 491:20 505 3,6 505 11,13,20
companies 491:16,18 545:22
company 370:18 371:9 371:19 495.11 502:11 514:19 533:9
company-wide 413·9
comparable 361:16
compared 488:21 489:10 512:19
compelling 354:9
compensated 522:15,19 523·11,14
compensation 369:23 370:1
competitor 491:25
competitors 493:2
complainants 527:7,12
complaint 347:5 370:2 421:5 488:16 522:5 524:1
complaints 377:9
complete 428:20 475:4 521:2 527:21
completed 386·12,15 415:7 426:23 428:6,15 432:23 467:7 468:12 468:22 471:7 475·7
completely 358:24 359:11 396:16 401:10 408:2
completes 475:3
completion 392:24 467:13
comprehensive 382:6
comprised 464:19
concept 370:14
concerned 509:13
concerning 418:17 420:13
concluded 546:24
conclusion 363:9 398:24 399:17 467:23 468:2,3 477:5 488:25 513:21 513:22
concretely 399:2 464:13
condition 518:4
conducted 364:24 514:15 516:19 526:6
confidential 352:17,18 352:22,24,25 353:1 371:15,20,21 372:5

confirm 457:21
conflict 382:24 383:6
conflicted 382:7,12
confused 379:5 387:17 433:11 512:18 517:13 517:17 530:14
confusing 365:25 435:8 466:4
consider 362:1 371:13 372:4 430:22 491:15 505:12 523:3
considered 358:12 371:20
consistent 454:16 520:14
consistently 377:8
constitute 548:14
contact 367:23,24,25 377:14,18 380:10,17 380:18 408:4 410:25 421:7 425:3,19,25 426:5,10 433:14 434:4 434:17,23 435:18 473:15
contacted 409:9,13 525:24 526:16 542:17
contacting 380:22 473:24
contain 390:18 391:13 457:23
contention 446:16
context 386:6 415:22
contingent 370:1
continues 441:8 442:3 536:11
continuing 401:17
conversation 351:2,3 354:15,20 355:24 357:1 358:8 359:16 360:16,18 366:21 368:9,11 381:2 394:6 410:8 418:24 419:6 442:19 484:1 496:21 497:6,15 511:21 520:21 525:6
conversations 350:13,15 350:16 356:24 359:4 366:23 371:12 380:25 381:3,5 388:15 393:1 394:19 408:7,12 409:24 410:9,17 412:25 413:13,15,16 414:25 416:7 421:19 424:2 430:9 442:20 450:1 453:7 469:9,13 484:3 496:24 498:11 499:14 500:21 528:12
conversed 393:21
conversion 355:22 371:9 375:7 384:19,23 385:6 388:12,20 391:5 398:17,20 400:9,14 402:16 403:20,21,24 404:2,9,17 415:6,12,16 418:20 420:6,15 423:7 423:19 425:24 429:18 430:17,25 431:15 434:8 435.13 449:11 454:20 456.23 457:8 457:22 461 13,18 462:14 463:7,22 466:2 466:3,8,16,20,24,25 467:21 468:12 469:5 469:20 470:12 471:4,7 471:13,22 472:7 476:4 476:9 477:13,23 483.3 484:20 485:3,20 487:24 495:16,19,21 501:7,16 504:10 518:2 518:6,7,12,14 521:2 530:5,6,9,16,24 531:13 531:20 532:4
conversions 355:16 368:20 387:16 409:6 442:4,11 457:17 473.4 542:8
conversion-related 455:14
convert 371:3 385:3,25 386:5 387:3,22 388:7 432:25 433:18 435:25 436:13 453:19 456:14 468:8 469:17 470:9 476:16 492:22,25 496:18 506:9 507:4 508:8,16 509:19 510:13 521:20 538:17 539:10,15,17,19 540:17
converted 397:18 467:16 468:10 474:10 475:1 476:18 490:2 500:6 531:1
converting 370:25 394:4 396:15 452:16,22 469:18 480:10 489:24 492:3,8,12,13,14,21 493:14 508:22 529:11
converts 402:6 435:3
copies 502:20 537:19
corporate 506:8 507:4,9 507:11,18,21,22 508:7 508:10,13,16
corporation 360:3
correct 367:11 374:7,20 375:10 382:10,21 396:3 418:2 424:24 426:1 450:12 451:15 461 22 462:12 472:1,4 478.5 479:10 490:19 493.4 495:17 506:14 507:15 509:1,2,5,15 514:21 515:1 516:10 530:8 535:3 543:8 545:11 546:15
correctly 364:19 376:16 390:23 419:21 446:4 446:18 448:5,23 460:21 519:10 520:2 540:1,3 546:1
corresponding 385:22
counsel 352:19 548.16
count 490:13
COUNTY 548:3
couple 502:11 544:25
coupled 411:24
course 359:7 365:1 489:6
Court 361:9 374:15 420:19 520:9
crazy 456:24
create 498:6
created 397:1
creating 460:23
credit 373:14 378:25 450:14,18,21,23 521:10
credited 450:11
credits 377:11
CRIS 415:18 468:6 471:8,11,12,14,21 472:2 476:20 521:13
cross 348:23 545:2
CSR 409:20 448:22
CSRs 377:8 378:24 382:18 400:2 418:25 419:3 421:7
cure 427:11
curious 504:16 505:5
current 405:2 433:1,19 435:3,25 436:14 492:18
currently 402:15
customer 355:16 381:8 401:12 402:6 406:14 407:9 408:2,7,17,20,24 409:25 410:4,5,11 411:1,16,23 412:15 413:4,10,14 414:4,5,7 414:18 415:8 418:16 418:18,19 419:14 420:11,11,13 421:8,22 421:25 423:2,7,8,10 424 20 425:1,10 427:19,21,23 428:2,4 429:9,11,17,19 432.24 433:8,17 434:1,4,6,16 434:23,25 435 2,10,12 435:18,24 436:3,12 437:12,14 438:5,11,11 438:19 442:14,18,19 442:21,23 443:9,10,21 443:22,25 444.5 446:5 446:25,25 447:15,20 447:21,24 448:11 451:5,20 453.19 456:6 456:13,22 460:9 465:16 467:7,10,12 468:9,14,16,19,23 470:11 471:4,22,24 473:21,23 476:17 477:22 480:10 481:15 481:25 482:3,6 483:2,4 483:5,16 484:18,19,20 485:2,3,19,20 487:13 496:22,24 497:6,19,23 498.2,15,25 499:7,18 500:5 519:8 520:13,15 521:1,4,5 523:14 525:3 525:7 529:1,12 530:25 530:25 531:24 532:5 532:15 536:11 539:19
customers 371:25 375:1 375:13,25 376:6 377:1 377:2,9,11,14,19 378:4 378:6,18,23 379:6,11 379:14,17,21,24 380:2 380:5,7,10,17,19,25 381:4,12,21,23 385.3 395:8 396:22 397:2,3 398:17 399:10,21 400:3,12,17 401:2,13 401:18 405:9 406:19 407:19 409:8,12,20 410:24 411:4 412:4,7 412:12 419:1,2,10,13 421:10,12,23 422:11 423:14,18 426:3,10 433:13 438:4,14 439:3 443:2 444:6,9,13,17 445:4,13,16 446:7,16 447:3,5,12 449:22 451:6,21 452:22,23 453:23,24 455:24 457:2,2,8,13 462:2,14 463:25 464:16,18,20 464:22 465:2,11,12,22 465:24 466:13 467:18 469:4,6,14,17,19 470:6 470:8,15,19,20 471:2

472:6,10,20 473:2,2,10 473:16 474:4,8,15,24 475:2,6 480:20 481:8 481:24 483:23 486:25 487:5,8,15,20,23 488:6 492:3,8,16,17,18 493:5 493:6,14 494:18 495:1 495:10,15,25 496:13 496:14 497:8,20 498:5 498:7,11 499:9,14,20 500:4,10,19 501:9 502:5 503:25 504:9,17 508:22 518:3 519:15 519:19,19,22 520:25 521:9 522:17 523:18 524:14,19 525:1,11,14 525:18,23,24 526:13 526:15,15,25 527:10 529:2,24 531:18 532:12,17,21 533:16 533:20 534:1,5,5 535:9 536:5,8 538:17 539:10 539:17 546:5,8
customer's 409:21 416:1 424:21 426:12 447:22 528:21 529:6,8,11,17 529:20 531:4,8,12 532:4,6,13

D

D 348:22
DADE 548:3
daily 385:23 441:9 442:3 442:5,8,10 489:25 491:10
damage 378:25
damages 379:1
data 464:4 480:8 501:2,3 502:1,2
date 371:10 466:24,24 467:12,15,17,21 468:13 476:9,18 527:2
dates 367:14 497:12 546:12
day 383:15 384:5,8,11 384:20 385:4,16 386:5 388:10 397:15 412:1 413:22 421:17 424:1 424:11,16 428:12,18 441:10,24 442:6 461:4 461:10 489:24 490:3,5 490:15,16,17,18,20 491:7,9 521:18,19 539:14 547:9 548:20
days 362:7 432:10 442:4
day-by-day 386:1 387:4 387:20
deal 505:17
December 404:19 431:23 466:2,7,18 469:25 470:2 476:5 499:17 521:14
decided 373:17 385:21 418:16 498:6
decision 352:1 358:20,21 365:4,7,21 485:11,12
decisions 485:14
decreased 404:10
define 363:20,20
definitions 365:15
definitive 400:15 464:1
definitively 400:11
delayed 466:20
delta 451:6,21
density 488:21
denying 349:23
department 410:5 411:1 411:17 412:16 413:4 442:21 465:10 474:17 474:19 483:4 488:20 489:5 495:7 498:4,6 499:24 500:7 502:1
departments 383:24,25 384:1
department's 497:19 498:1 499:7
dependent 387:14
deposition 347:14 364:18 365:1,11 372:3 397:16 506:7,14 507:3 545:4,9 546:24 548:7 548:11
depositions 362:17 364:22 513:19,20 546:1,2
derived 474:12
describe 463:20
described 396:16
describes 481:14
describing 448:4 471:21 540:15
description 505:10
despite 351:24 421:14 432:23
detail 533:2
determination 387:9
determine 375:24 385:24 386:4 387:2,11 387:18 391:23 401:2 407:13 444:12 466:5 472:5 473:5,6,21,23 474:15 486:12,21 495:25 496:4 497:20 498:18 500:7 501:13 523:10
determined 376:18 459:7 467:20 476:3 501:21
detriment 396:18
developed 499:24 500:16 510:5 520:17
developing 358:25
development 373:18
dial 411:25 412:6,14
differ 402:12
difference 534:15
different 442:8 463:13 463:20 534:11
difficult 363:19 418:5
digits 527:17
direct 348:23 366:3 419:20 451:15 505:24 512:19 514:18 515:1 515:17 516:5 518:20 525:6 538:4 545:12 546:11
direction 526:1
directly 381:18 382:7,12 421:23 445:17
disaster 354:23 356:13 375:5 445:11 487:4,5 519:14
disbelieve 350:2,10 366:19
disclose 353:15 370:14 491:19
disclosed 353:20 375:19
disclosing 352:15 372:22
disclosure 353:2 373:1
disconnect 447:21 448:7 454:1 460:23 529:2,8 530:4 531:4,24 532:5 532:13,19,20 534:4 536:17,18
disconnected 395:9 408:4 459:5,20 532:17 533:9,21 534:6
disconnecting 529:10
disconnection 400:3 401:14 410:6 411:2 482:1 522:7
disconnections 395:11 464:3 535:8
disconnects 399:11 404:6 452:11 454:6 533:25
discount 481:18 483:8 493:22,23 494:2 533:11,24
discounts 487:25
discover 467:1
discovered 449:9 466:23 475:7
discovery 362:18 467:20
discrepancy 461:20
discuss 354:23
discussed 356:10 369:23 371:16,18 381:3 519:17
discussing 415:5 447:18 464:17
discussion 429:6 469:24 475:24 506:2 521:25 528:3 533:14 536:1
discussions 370:13 510:24 524:3,8
dishonest 520:23
disobey 362:13
displayed 535:19
dispute 450:23 511:16
disputed 511:7
disputes 511:15
disputing 451:1 511:5
disruption 375:10 380:8 399:19 400:13,18 401:3 414:19 423:8 437:14 440:17,19,21 441:2,10,24 442:15,17 443:4 444:3,15 450:15 460:8 477:14 479.14 479:20 480:17,24,25 481:10 483:3
disruptions 440:24 441:8 442:2 478:14
distance 347:5 447:1,5,8 447:15
division 432:22 434:2,6 434:13,15,22 435:1,11 435:17,23 436:4,9,12 436:21
divisions 433:24 434:19
Docket 347:3
document 446:3 459:13 462:7 503:7,16 536:15
documentation 463:23 464:7 472:15,17 502:21
documents 363:1,9,12 372:15 411:10 414:14 437:7 439:2 449:1,4 455:5,6 457:21 458:1,3 465:15 486:14 500:14 502:15,17,22,25 503:10,11,13 525:18
doing 377:24 384:8 388:4 398:19 416:3,17 427:7 516:16 524:18
dominant 488:18

done 355:18 363.14 396:8,12 399:16 400:10 416.24 444:11 452:18 455.4,8 467:13 476:4 485:9 489:7 503:4 535:8
door 524:22,22
DOUGLAS 348:5,11
down 351:20 360.6 369:13 399:3,6 414:23 454:2 461.3 462:8,15 462:21 463:5 465:14 498:11
downstream 361:5 415:18
drawing 538:3
drop 389:12,19,22 390:10,19 391:25
dropped 449:18,20
dropping 449:12,14 450:3,7
due 367:1 444:22 466:24 467:17 476:18 499:18
duly 548:10
during 369:21 378:4 405:1 423:19 430:15 431:13,21 456:23 457:8 462:14,20 463:22 464:24 466:3,7 468:18 477:23 481:25 483:3 484:5 487:23 495:19,20 499:16 501:7,16 504.10 511:16,18 516:22 531:19 539:2,4 542:3,9 545:4,9
duties 370:5

E

E 348:22
each 384:23 418:9 422:21 445:24 531:10 536:5 545:9
earlier 356:23 430:20 460:6 476:7 514:23
earliest 421:16 423:25 424:9 428:10
early 509:20
easier 379:21,24 380:3 381:13 383:3
EDI 508:20,21 509:5,7 509:14,20 510:7,10,13 512:17
edits 510:9
effect 472:2
effective 546:12
effectively 416:2,17 429:18
effects 505.2
efforts 438:22
Eidson 348:6
Eileen 375:14,22
either 408:3 465:17 480:15,23 545:25
eliminating 540:22
Emergency 347:6
employee 392:21 393:17
employees 388:11,21 389:1,4 436:11,20 437:4 479:2 481:2,4,23 481:25 487:11 496:5,9 523:6
employment 354:22 355:9 356:1 368:22
encompass 492:23
end 428:25 458:22 468:8 477:14 484:11 522:6 530:17
end-user 394:4 396:15
enough 357 13 358:1 359:19 363:8
enter 427:1
entire 360:11 364:10 435:23 462.16
entirely 512:7 539:18
entitled 451:6,21
entity 427:11
envision 355:2
equals 465:7
Eric 392:7,8
error 349:19 350:4 362:22 363:6 366:7 415:18 450:4,4,5,7,7 453:20 454:12,14,20 454:21 455:10 457:23 461:16 462:4 477:21 527:20
errors 395:6 396:11 404:8 477:22
especially 404:18
esq 348:5,5,11,11,16,16
essentially 362:13 493:4 536:7
establish 400:11 407:9 439:3 500:15 510:18 545:21
establishes 396:9
Estell 366:12,16 540:2
estimate 391:12 405:7,7 444:13 489:19
even 366:24 367:7 372:25 377:21 403:23 403:25 428:25 468:7 473:12 474:6 487:4,23 513.1
events 505:10
eventual 370:10
ever 377:14,18 384:4 387:2 400:10 416:9 429:8 474:10,25 490:2 528:4 542:6
every 372:6 411:15 414:9,14,18 420:10,11 422 19 423:9 424:14 430:11 431:4,10 434:25 435:10 436:2,9 441:10,24 442:6 443:10 454:13,18 455:18 456:3,6,13 468:25 470:11 476:4 483:15 487:12 490:14 490:16,16 531:22 532:2
everybody 351:4,7 355:12 360:1 364:18 489:10 505:8 543:16
everybody's 502:10
everyone 360:5
everything 400:7 458:5 460:22 477:3 503:9,20 540:22
evidence 406:2,4 411:20 414:24 436:23 441:18 446:15 447:23 455:5 470:10 479:17 493:20 513:2 517:6 525:17
exact 357:16 360:18 371:10 393:15 406:18 409:17 444:12 482:24 497:11
exactly 383:5 384:16 389:5 391:8,8 419:25 422:11 423:13 436:4 437:4 460:14 493:22 512:23 534:4 536:20
EXAMINATION 545:2
example 438:4 496:23 519:14
examples 432:7,8
except 459:20 461:3
exceptions 435:23
excess 445:19
excuse 391:22 404:9 445:9 490:19 509:10
executive 500:24,25
exhibit 451:14 452:2 458:7 506:16,17 526:18 527:21 538:12
exhibits 460:1 522:4,8 522:11
exist 503:1
existence 355 5
expect 362.11 374 10
expected 485.7
experience 397 9,19 398.2 400:12 401.13 412 23 463:21 527:6
experienced 375:10 380:8 394:2,18 398.13 398:18,24 399:19 400:18 401.3 464:18 480:16 481:9 482:9 519:19,24 534:1
experiences 423:8 483:2
experiencing 403:24 409:10,14 412:13 437:13 494:18
expires 548:24
explain 370:22 402:1 416:22 448:3 463:2,19 520:25 526.10
explaining 469:5
explanation 382:7
explanations 382:12
exposed 410:4
expound 540:16
expressed 502:24
extended 367.1 432:4
extensive 369:15
extent 353 18
extremely 352:21
e-mail 542:21 543:1

F

Fabio 469:10 473:25 486:11 488.4,5 499:4
faced 411:24 412:14
facilities 534:11,15,18,22
facilities-based 377:25
fact 349:11,12 358:12 362:20 363:3,15 373:4 374:3 390:4,17,21 392:10,14 393:3 411:25 415:14 416:25 417:4 421:15 439:16 440:16,24 452:21 475:14 480:19,21,25 483:19 486:2 487:7 497:1 502:23 510:12 531:22 532:2 533:22 533:23
facts 349:9 350:1,7,10 359:12 363:24 364:12 388:14 395:16 441:18 442:13 479:17 493:19 494:12 517:6 525:17
failed 459:19 471:7,8,12 509:17 513:2

failing 472.3
fails 471:21
failure 480:4 504 10,18 510:5 521:13
failures 399.13 499:19 500:20 533:22
fall 391 5,10,14 392:12 408:15
falls 392:5 393:4
false 495:2 496:1
familiar 522:7
family 367:2
far 368:25 373:8 417:13 447·5 452:11 485.10 509:13 534:12
fashion 396:15 430:16 431:15
fast 510:23
faxed 459:16
FCC 528:15,16
FCC's 528.4
feature 349:6,18 350:4 352:6 358:13 362.21 363:4 365·8 366:6 389·10,12 390:19 391:4,7,9,13 392:15 455:16 456:11,14,22 457:14 514:20 515:4 519:16,24 536.9 541:4 543:8
features 389:18 390:5,9 391:21,24 392:16,18 465:21,24 479:1
February 497·24 499:1 499:18 512:3 524·11
feel 351:25 400:7 543:2
feeling 462:1
FID 459:19
figure 371:1 425:21 432:14 455:5,10 462:11,15,18 463:13 465:16 473:1,6 474:12 474:17 479:6,9 486:12 500:8 501:21 502:3,7 520:15
figures 463:20 481:6 502:7,15,18,24 503:17 503:22
file 538:11
filed 347:3 460:2 491:4 546:16
filing 518:20
filled 536:18
financial 369:18
financially 548:17
find 377:15 380:10 385:21 386.2,22 387:13,21 398:16 412:20 424·6 429:9 451:10,23 475:12 498:5,7 515:18 521:11 525.10 540:7
finding 515:25
fine 387:1 397:22 401:23 403:19 528:1 537:7 541:8
finished 505:24
finite 378:9
firm 387:24 537:18,19 537:25 538:13
first 353:12 356:19 367:20,23 374:24 397:15 408:1 409:1 418:10,15 438:23 472:24 478:17 504:1 515:3 527:15,17 545·19 546:4,7 548:10
firsthand 480·14 497:5 499:13
five 527:17
five-minute 505·25
fix 426:23,24 428 16 429:12
fixed 401:16
Flagler 348:13
Floor 347:21 348:8
florida 347:1,21 348:8 348:13 439:9 440:1 488:18,22 490:1 491:10 492:4,9 493:6,7 493:15 494:1 505:3,6 505:11,12,14,20 533:23 535:2,12,17 547:11 548:2,6,23
flow 351.19 388.8 392:23
flowed 386:25
flow-through 386:11
fly 369:13
FOC 432:11
FOCs 538:9
follow 476:11
following 382:2 459:4 461:10
foregoing 548:12
forgot 366:15 489:3 509:6 541:14
form 350:12 362:24 363:7,18 365:22 376:16 425:5 435:5 445:23 455:20 481:1 507:13 532:7
former 526:13
forth 503:22
forward 365:7
forwarding 392:11
found 379:21,24 380:3 381:13 469:3 476:19 516.2 542.15
foundation 367:22 368:7 373:7 375:11 397:10 398:8 399:20 406:3 471:16 482:22 496:11 536:24
four 371:20 536:7
four-month 379:7
FPSC 348:15
frame 388:2 391:19 398:4 454·13 463:2 538:20
Friday 537.9
from 350:7 352:15 354:9 359:20 360:5 364:3,22 364:22 366:11,25 368:25 372:22 378:6 378:11 379:8 382:14 382:20 391:16,21 392:22 393·4,12,18 397:24 398:19 399:1 400:1 401:17 402:3,6 402:12,22 404.16 409:6 416:2,17,23 418:25 419:19,20 426:20 427·6,6 429:19 433:3 437:1 444:20 445:25 446:2 458:8,18 466:11 467:14,20 474:5,12 475:2 477:1 479:2 482:5 487:10 489:5 491:1 492:18,22 492:24 493:10,21,23 496:5,19 499:11 502:1 504:4,14 506:9 507:5 508:8,17 510:14 518:24 519:2,5,9,10,11 519:25,25 520:1,3,16 520:16 521·5,10,20 524:15,16 526:22 527:9 529:12 530:9 532:15,19 534:3,20 538:4 542:10,21,24 545:25 546:8 548:13
fudge 348.16 544:24
full 438:6,12,15,18 439:4 439:10,20 481:22 484:5,18 492:5 493:16 494:5,14 495·9 511:4 511:11,16,19 527·22
fully 359:1,9,24 508:21 513:16 543:16
function 509:21
functional 508.21 513:17
further 513:2 526.13 544·21 546·19 548·15

G

Gallopi 469:10 473:25 486.11 488 5 499:4,8 499:12
gave 352:11 364·18 374:6 375:14 387:23 446.1,18 477:3 481:3 504·6 520:18 540:2,15 542:1 543:7
geared 534:22,25
general 372:1 392:1 397:5 405:17 407:24 529:14,22
generalization 393:6
gentleman 509:11
Georgia 535:16
gets 414.4
getting 404:2,5 470:21 471:3 487:23 488:6,10 496:19,25
give 353:21 377:12 400:19 401:6 406:20 422:19 444:1 458:4 463:2 533:10 536:7
given 368:15 423:4 437:9 449:5 455:7 465:18 481:12
giving 353:14 442:14
Glenn 366:11 540:2
Gloria 506:7
go 361:18 364:16,16,19 364:21,24,24 365:4,4,7 365:14 377:13 379:22 379:25 380:3 381:14 390:11 393:9 406:25 445:16 471:1 477:15 494:21 515:7,10 529:4 529:10 533:2 536:3 543:14
goes 360:16 406:8 407:3 407:9 447:5 475:4,5 507:24 534:12
going 350:6 355:21 357:6 365:20 379:1 436:8,25 446:2 451:9 451:10 477:15 489:18 491:3 494:21 505:9,16 505:23 506:16 510:22 523:19 524:14,25 525:5 527:19 530:15
gone 375:16 376:21,22 376:23 406:7 466:3

475.7 490:24
good 349:2,3 392.9 413:6
gotten 444 20 445:22 454:23 464:3 518:24
grammatical 482:18
great 355:11
grew 486:2
grossly 361:24 362:2 396:16,24
group 351:16 359:23 401:19 497:19 498:2,3 498:16 499:7 517:5
growth 486:21 489:6,25 491:10
guess 350:9 359:22 360:3,16 376:21 379:5 386:25 387:17,23 394:19 397:20 404:16 404:18 421:4 425:11 428:19 431:2 438:8 439:19 442:17 446:3 453:14 462:25 467.16 470:21,24 472:4 474:1 489:20 490:16 491:16 492:19 495:21 499:22 502:1,3 512:18 516:11 517:20 520:1 530:14
guessing 489:19
Gulas 367:11,16,21 369:3,5,17,22,25 370:4 370:9,13 371:4,8 372:14,17 373:3,11,12 373:16,17 374:21 382:9 383:6,17 458:9 458:19 509:11 510:24 510:25 539:14 540:10 546:8

H

half 375:1,24 377:1,2 378:9,10,18 379:10 437:5 445:4,12 519:18 519:19
Hamilton 513:24 540:16 540:17 541:6 542:15
hand 432:22 548:19
handle 509:21
handled 375:23
handling 377:9 389:14 389:20,23 390:10 392:21 449:12
happen 413:22 422:20 456:17,19,25 457:1,25
happened 349:24 361:25 471:13 478:23 518:17
happening 421:9 422:17 462:17 466:5 470·19 470.20 483·13,15
happens 411:15 414:2,3 414:14 471:22
hard 378:1 438:18 460:15
hardly 452:15
hard-sold 438:4,7,8,15 438:21 439:4
harm 352:2,4
having 366:23 378:1 399:10 408:3,25 429:19 432:23 457:5 460:20 461:14,18 462:2,3,14 474:6 484:24 498:8
head 351:6 357:3
heading 536:20
hear 398:15 449:15
heard 365:1,10 383:9 391:15 396:2 418·25 441:21 471:10 477:7 504:14 524:15 532:15
hearing 358:19 359·21 362:17 365:8 410:22 467:23 476:19 545:24
help 427:2,20 428:4 434:7 435:12 436:15 437:17 460:9 485:19 506:9 507:4,6,23,25 508:7,14,16 528 2
helped 388:20
Helton 348:16
Hemby 451:3,18
her 351·6 354·24 355.2 355:10,24,25 357:3 367:2,3 413:8
hesitant 369:5
he'll 352:20
high 360:22
highest 460:24
highlighted 506:19
him 353:15,21,24 368:4 368:8,15,17 369:8,10 369:13,18 370:5,14 372:15,22,25 463:18 469:16 511:1 526:12 540:24
hire 354:24 367:13 374:4 374:21
hired 367:10 370:9 371:11 372:25 373:10 373:16
history 371:19
hope 374:10 446:22 491:2 494:21 498:14
hoped 505:15
Hopefully 464:6
hour 418.22 420:8,16 421·14 422:13 423:3 423:10,21 481:17 483:7
hours 412·1 421:17 424:1,10,15 428:11,18 430:17,23,24 431:2,4 431:10,15
house 529:21
huge 452·6,19
hundreds 467:18,18 497:18 498:19
hundred-plus 502:11
hunt 389:10 392:10 399:11 400:5 404:6 454:7 455:16 463.25
hunting 456:11,22 457:8 457:14 519:16,24

I

idea 355:11 362:6 368:4 368:8 370:21 371:8 389:6 391:12 392:16 397:5 401:6 403:5
identical 439:21
identified 459:18 536:6
identify 394:3 536·6 546:5
identity 371:25 546:7
IDS 347:5,5 348:4 352:2 352:4 353:3 354:24 357:14 358:4 360:12 367:10 368.5,9,23 369:19 370:1,2,11 372:4,11,11,23 373:4 373.10,17 375:1 377:18 378:18 379:10 380:15 382:13 383:13 383:18 384:4,10,18 388:10,25 389:3 397:21 400:10,20 402:4,15,18,25 403:23 404:24 405:3,5,9 406:19 407:8,10,13,19 409·8 410:5,18 411:1 411:10,16 412:2,12,13 413:3 414:13,20 415:6 415:9 416:1,2,17,23 417:1 420:11 421:15 422:25 423:7,24 424:8 424:14,20,23 425:3,19 425:25 426:5,10,11,14 426:19,24 427:10,18 428:2,10 429:11,11,15 429:18,24 430:6 433:14 434:4,17,23 435.18,18 436.12 437:14,15 438:11,19 439·2,25 440:3,16,20 440:23 441.2 443.2,10 443·12,22,24 445·4,13 447:13,19 448:7 449:1 449:3,10 450·7,11 451:21 453:4 457:21 458:1,22 459:2,16 460:9 461:13 462:17 463:21 468:19 469:3 472:5,24 473:6,13,19 474:8,11 475:1,14 476:2,3,5,12 477:12,22 479:13,19 480:16,22 481:8,18,23 482:3 483:2,7,16 487:1,8,13 487:25 488:18 490:2 492:3,8,21,22,23 493:16,22 494:1,4,7,10 494:14 496:20 499:18 500:6 501:5,17 504:1,6 505:16 509:4,13,13,19 510:6 511:4,6,11,15,24 512:12 513:23 514 16 514:18 515:2 516:20 519:15 520:13,24 521:5,9,17 522.5,6,6 522:17 523:17 524:19 524:25 525:4,24 526:10,13 527:3 529:12 530:9,10,12,24 531:1,24 532:3,14,19 533:9,11,16,17,25 534:25 535:1,5,23 536:10,15,17 538:17 538:18 540:11 542:19 542:20 543:11
ignores 397:21
III 347:11 348:11
ILEC 405:23
Ileri 348:17
illness 367:2
immediately 386:20 413:11
implemented 498:9
important 543:2
impression 393:22 411:18 414:21 442:14 444:2,20 495:2,2 496:1 534:25
improper 522:16 523:17
improperly 396:9
inaccurate 462:12
inartful 426:6
Inc 347:5,6 348:12 548:9
incensed 412.2,5,13

414:20
incentives 369:18
incident 349:5 356:15,19 368:14 369:3 375:4 378:5,14 382:2 407:22 445:15 446:9 447:14 538:24 539:3,4
incidents 440:3
incident-free 440:1,9,13
include 393:11 398:10 478:13 480:9 492:17
includes 453:9
including 360:12
inclusive 548:13
incomplete 527:20
inconsistency 433:20,23
incorrect 379:15 393:23 451:25
increase 404:15 480:12
increased 404:11,15,16 404:17,18,22
indicated 378:24
individual 445:25 482:14
individuals 413:5
industry 361:15
inform 370:5
information 351:20 353:1,2,16,20 358:19 371:14 372:2,7,22 375:19 382:8,13 383:9 388:14,24 392:1,22 393:18 394:21 395:7 406:1,5 409:16 419:17 430:21 436:24,25 444:19 446:15 447:23 448:17 464:3 465:20 478:1 479:2 481:2 486:15 491:13,23 497:9 504:5,13 518:9 518:19,23 519:1,4 520:3,17 523:25 524:1 534:3 536:8,10
informed 351:13 357:8 464:1 542:19
inforum 349:19 350:3 351:22 360:7 362:22 363:5,16 367:6,6 514:6 516:1,10,13,24
initial 445:19 518:2
initially 466:5
input 392:22 393:17 402:7,14
inquiry 386:18
insistence 396:14
instance 424:14 448:1 478:7 483:15 529:19 539:14
instances 422:15 424:9 440:18,20 442:13 448:1 531:6
instead 478:6,20
instruct 354:3 388:10,17 388:20,25 389:4 414:11 526:3
instructed 351:15 512:23
instruction 413:9
instructions 540:15
insurmountable 505:4
Integrated 545:23
intended 379:17 542:6 542:13
intent 485:21
intentional 350:11 485:12
intentionally 349:5 351:25 363:25 485:1 485:19 541:19
Interconnection 450:25 511:3,10,14,25 512:9
interest 485:14
interested 356:8 388:7 536:19 548:18
interiors 361:11
internal 372:22 373:5 502:2 518:24
internally 457:25
International 347:20 348:7
interpreting 501:2
interrogatories 536:4
Interrogatory 536:4
interrupt 462:23
interview 369:15
introduced 439:8 538:16
investigating 525:10
investigation 386:17 388:5 496:9 526:14
involved 355:12 364:15 364:17 377:10 380:19 396:5 448:15 449:24 453:5 454:17,19,23 460:25 536:21
involving 458:21
irate 413:10 414:5
irresponsible 363:22 396:17 401:10
issue 410:1 416:9 417:2 421:25 422:5 443:11
issued 537:18,25
issuing 416:3,23
is"they 382:16
item 511:5
LS 375:23 465:10 472:9 474:16,19 499:24 500:7 501:25

J

JAMES 348:11
January 469:25 470:2,4 474:8 476:2 484:7 497:23 498:25 499:17 525:10
Jason 348:16 544:23
Jim 349:3 510:21
job 370:5 437:22 485:10 486:13 493:12 502:10 502:12
July 354:16 366:24
June 367:15 374:19 386:16,19 404:16 405:3,5,10 544:4,6,7 544:11 548:24
just 350:6 357:21 359:16 362:3,9 372:1 387:11 389:21 393:6 395:14 402:13 403:11 406:11 407:24 417:20 418:5 429:3 433:6 435:16 437:11 439:22 444:12 463:12,14 471:14 476:10 478:23 479:21 480:21 482:8 487:25 494:20,23 504:16 513:8 515:8 516:1 529:10,14,14,22 537:6 538:4 540:22,22 541:1 541:12,13 543:1,14

K

keep 379:3,18 398:13 414:13,15,16 422:25 439:2 441:6 464:4 477:1 495:13 504:23
keith 347:17 348:24 413:11 547:6 548:7
Kentucky 535:19
kept 429:18 447:8 467:19 477:4
killing 367:14
kind 351:3 355:23 363:9 400:3,9 456:24 499:23 527:24
kinds 404:4
kink 468:15
KK-10 452:2
KK-11 458:8
KK-14 506:17,22
KK-23 526:19
knew 349:13 351:5,6 356:16,22 358:12 359:23 360:1,7 364:20 399:2,21,23 400:1 429:10 453:22 464:14 483:19 495:11 505:8 510:25 514:13 517:21 538:23 543:5,9
Knight 383:2
know 349:22 350:16 351:9,12,15,18,19 352:3,18 353:18 354:14,17,19,21 356:24 357:19 358:10 358:15,18,21 361:2,11 363:8,14 364:23,25 365:3,6,17,20 367:5,7 368:2,16 372:17,21 373:18,21 375:7 376:1 376:3,6,17 377:21 378:8 380:6,9 381:6,9 381:20 382:14 383:5 383:21 384:7,13 385:2 385:5 387:15 388:6,19 389:3 390:4,17,21 391:8,11,19,20 392:4 392:10,13 393:3,8,10 393:15,16 394:15,17 394:20,23 395:21 396:1,3,5 397:16 398:12 403:8,10,17 404:22 405:4,9,11,12 406:8,11,23,24 407:4,5 407:7,11 408:9,11 409:8,12,16,19,20 410:23,24 411:4,7 412:19,21 413:19,21 414:6,17 415:3,14,24 416:16,19,24,25 417:4 417:11,13 419:4,5,8,10 419:13,25 420:5 421:9 422:11,15,21,23,24 423:11,13,18,23 424:8 424:14,20 426:11,13 426:21 429:15 430:11 430:13 431:1,20 432:1 432:12,13,16,19 434:16 435:15,16 436:9,16,17,19,20 437:23 438:10,14,17 438:21 439:5 440:9 441:1,5,6 443:2,6,16 443:23 444:6,9,17 445:6,24 446:9 447:6,9 447:10,11,12,16 448:8 448:11,14 449:3,5,13 449:18,20,22 450:3,14 453:14,19,22 454:3,4,4

454:7,22 455:13
457 18 459:15 460:14
464:15,20,20 465:3,4,6
466:6,13,15,16,19
468:11,18 470:5,6,14
470:15 471:5,6,23
472:8,20 473:19 474:2
474:16,22,24 475:9,12
475:14,16 478:21,22
480:18,21,25 481:4
482:11,13,18 483:18
483:22 484:3 485:5,21
485:25 486:13 487:7
487:15,18,20 488:6,9
488:11,13 489:6,9,11
489:13,16,21 490:25
491.2 494:3 495:1,20
496:7,8,14 497:3,8,11
497:12 498:9,12,13,17
498:24 499:6,10,23
500:10,12,18 501:14
501:17 504:8,11,13
507:8,9,10 508:20
509:4,6,9,16,17,24
510:4,4,6,8,9,11,12,19
511:9,14 512:20 514:1
514:5,7 515:17 518:7
518:11,15,18 519:1,4
519:23 521:2 522:1,18
523:2,13,15,20,23
524:21,23,24 525:23
526:6,17,18,25 527:3,4
527:4,12,18 529:23
531:11,15,18,22 532:2
532:10,14,21,24 534:2
534:7,8 535:11,14,20
537:1,5,11,21,22,23,24
539:25 540:21 541:2
541:17,18,25 542:6,12
542:14,16,18,19
543:11,19,20,20 544:7
544:14
knowing 349:6 352:1,6
364:1
knowledge 350:6 351:11
351:23,24 357:17
359:18 363:2,10 366:3
369:1 373:5 375:8,12
377:20,24 383:4 384:6
402:10,13 411:22
415:15 416:20 417:3,5
417:6,10,23 418:3
420:2,9 424:13,17
429:2 434:3,12 437:3
437:19 443:8 444:16
450:13 453:2 456:10
464:5 475:20 480:3,4
480:14 484:2 487 10
491.17 493:9 494:24
501:20 503:23 509:3
510:2,16 511.13
512:14 514:9,11
520:19 521.15 522:21
532:8 539:22 540:8,11
540:13 541:5
known 375.21
knows 426:14 429:23
430:6,12 465:21
484:18 501:5,17 534:4
kramer 347:17 348:24
349:2 353:14,19,23
402:1 413:11 476:1
506:5 545:4 547:6
548:8

L

lack 351:24 359:8
LACKEY 348:11
352:23 429:3 444:22
lacking 396:17
large 395:5 396:10
397:23 505:16 547:11
548.6
largest 489:25 491:9
last 354:16 367:15 387:8
408:13,14 419:7,8
422:6 461:9 474:22
520:6,16
Lastly 546:10
LATA 489:18
late 509:20 538:11
lately 413:25
later 421:17 424:1,10,15
428:12,18 432:10
Law 348:6
LCSC 385:25 386:4
387:3,19,21 388:17
393:4,8 394:1 395:4,12
395:21 396:10 421:15
423:24 424:5,8,12,14
428:9,17 459:17,18
460:24
LCSCs 394:17 449:10
lead 356:25 417:14
leads 379.11
learn 518:19 546:7
learned 518:10 520:3
546:5
learning 383:1 539:9
least 413:14 466:1 501:6
522:15
leave 369:5,18 379:17
leaving 407:10 484:11
led 351:3 360:19 482:6
487:14 493:8,25 499:5
left 372:18 373.11
375:16 397:21 469.6
475:14 504:9,23 518:3
519:15,22 536:14,14
541:15,19,22
legally 415:8
Leiro 413:12 448:18
526.22 527:5
LENS 357.10,12 362:20
363:4 385:23 429:16
429:24 430:8,16,20
431:4,10,14 432:1,12
432:16 467:8,18 468:4
468:7,16,22 471:4,14
472:7,11 473:3 475:3
Lepkowski 514:8 520:22
521:7
let 358:10 361:13 365:17
375:12 378:2 389:16
390:22 455:13 458:6
472:25 503:6 505:19
513:14,14 517:16
534:10 545:12
letter 366:11,13,14
446:20 451:3,9,11,12
451:17 452:1 458:6,8
458:11,19,20,23
460:12,14,16,19 461 2
461:5,7,11 470:13,16
470:22 471:3 472:6
473:3,11,17 525:12,14
525:19 526:22 527.8
527:23,25 540:1
letters 469:4,15 470:7
472:19 473:24 540:4,5
let's 350:22 362:10
390:11 397:5,7 418:10
446:13 455:2 467:14
468:12 515:10,14
529:4
level 361:19 460:24
Levent 348:17
Lewis 348:18
light 477:6
like 351:5 355:4 363:12
378:23 386:20 391:18
460:13 469:7 490:23
500:3,4,5 502:11 505:3
505:7,8 522:22 523:19
536:10
likely 418:19
limitations 541:3
limited 353:9 492:22
521:14
Linda 354:13 359:4
365:8 366:22 458:8
514:10
line 360:9 374:23,24
378:21,22 384:23
385:7 390:11 392:15
401:9 407:17,18 408:1
415:25 418:8,9,11,12
418.13 421 11 424:18
425 17,22 432:21
433:12 445:18,25
446:5,6 452:16 453:18
461:12,17 462:5
464:12,18 466:22
470:18 478:7 479:12
486:1 494:16,25 495:4
495:5 512:15 513:13
513:15 519:8 520:12
525:13,22 536:6
540:18 541.9 543.3
544:14
lines 357:4,6,7 358:22
370:25 371.3 382.5
383:14 384:13,21,22
385:2,12,16,17,20,22
385:25 386:4 387:2,5
387:12,15,19,21,24
388:1,6,9 389:8,10,18
390:5,12,13,14,15,16
390:18,24,24 391:4,7,9
391:13 392:20 393.25
395:3 396:13 397:6,7,8
397:13,15,17,18,25,25
398:1,13 399:18 405:2
405:3,5,11,12 406:6
410:3 415:4 425:8,13
428:9 429:14 430:14
433:16 434:11 435:22
436:5 437:8 438:3
439:6,24 440:15
442:12 445:2,9 446:9
446:17 447:17 449:8
449:15 451:2,22 452:5
461:3,15 465:25 469:2
474:7,9 476:1 477:11
481:13 484:9,16
485:17,23 487:22
488:17 489:18,23,24
490:2,5,13,14,18,20
491:7,9 492:2 496:16
497:17 499:12,16
503:24 504:7 505:1
506:6 508:19 509:18
510:15,23 511:2
512:25 513:23 514:12
515:21,22 517.2 518:1
519:13 520:13,20
521:16,17,18,20,24,25
522:3,4,13 525:8 526:9

526:10 528:8,16,19 532:11 535:5 537:8,12 538:15 539:21 540:14 545:13,17
list 376:8,9 459.17 481.8 526:12 537:1
listening 513.19,20
lists 459:5
literally 412:1,5 414:20
litigation 353.6,8 370:10
lobby 412:4,8,24 415:1
local 385:5 446:25 447:8 459:9 490:12
long 347:5 369:15 395:21 428:19,24 447:1,5,8,14
longer 376:20 402:14 507:6,25
look 382:5 385:20 393:25 396:13 401:1 407:17 415:4,25 418:8 425:22 432:21 447.17 457:20 460:1 465:25 467:4 477:11 494:25 500:3 513:13 514:12 518:1 525:8 526:21 527:15 537:8 538:15 540:24
looked 467:9,15 481:4 500:4,5 535:18,21 537:1
looking 362:18 378:20 467:17 472:11 506.23 508:12 535:24
lose 382:1 396:22 456:22
losing 408:25
loss 412:13 445:19 519:24 520:15
losses 499:18
lost 375:1,13 377:1 378:3 378:5,18 379:6,10 381:13 405:5,10,12 406:6,19 409:22 425:20 446:8,24,25 447:4,7,13,14 455:15 455:24 456:7,14 457:8 470:15 500:4,5,11,18 502:5 519:18
lot 355:14 383:3 398:14 402:14 403:6,11,12,21
lower 361:18 362:12
LSR 384:24 385:5 467:5 467:15 476:15
luck 368:19
lunch 477:16
lying 481:3 513:5
L.L.C 347:5

M

made 351:20,21,25 358:19 360:6 365:7,21 367:6 381:25 383 2 387.9 421:5 443:7 485:13 497:18 502:4 502:18 510:10 516 1 516:13,23 544:6
magnitude 401:7
mail 389:11 392:11 399:22 453:24 455:15 455:23,25 456:7,7 462:8 465:11 478:9,11 542:22 545:5,10
main 373:3 449:9
maintained 479:15
maintenance 459:3
Major 403:6
majority 440:18 530:15
make 361:19 362:13 366:5 371:21 378:2 381:12 423:16 429:22 434:21 436:24 437:11 440:25 441:21 452:19 463:14,17 491:12 494:20 498:16 515:8 526:3
Makin 348:19
making 367.3
Man 476:11
management 361:14,19 426:18 433:3 442:20 453:8
manager 392:7 421:8 422:1
managers 394:7 400:2 406:17 421:23 430:10 500:25
manner 352:22 542:13
manual 389:13,19,23 390:10 392:21 449:12
many 375:7,13 380:5 381:20 385:3,21,24 386:2,4 387:2,12,19,21 387:24 388:1,6 389:3 391:6,8,8 394:1 395:4 397:3,8,18 398:2,12,14 398:16 405:2,5,9 409:8 409:20 410:24 411:25 412:7,12,17 413:16 416:16 419:10 421:24 422:2,4,20,21 423:14 423:18 431:17 436:17 436:20 438:10 439:3 443:2,23 444:1,6,9 446:9 448:8 449:13,18 464:15,18,20 465:2,11 465:12 466:19 469:14 470:15 472:10,18,19 472:20 482:10 487 15 497:8 498:4,15 509:16 510:4 518.7,11,15 519:23 521:18 522:2 523 20,23 525.23 527:12 531.15 532:24 533:25 534:4,5
March 455:2,2,18 456:5 456:7,15,21 457:23 464:25 465:1 478:1 480:2 489:13 524:10 524:11
marked 458:7
market 360:11 486:13 489:2,9 517:22
marketing 472:9 486:9 488:3,20 490:11 491:12 492:11 495:7 497:19 498:1,3,23 499:6
marks 497:10
Mary 348:16
match 481:17 483:7
matched 494:4 535:4
matches 535:12
Matsen 394:9,23 406:17 406:18 410:17,19 413:7 414:10 416:19 422:2,5 424:4 433:5 437:2 442:23 448:20 448:21 453:11,12 467:11
matter 362:20 363:3,15 440:16
maximum 490:23 493.22
may 357:20 367:18 368:15 375:13 376:5 378:6,11 379:8 391:7 407:15 433:6 447:7 458:12 468:1 481:11 484:3 488:15 516:7 529:19 537:9 538:14
maybe 366:24 407:14 519:17
mean 351:4,7 352:24 353:12 357:1 359:25 360:1,14 365:15 384:16 387:8 390:1 393:7,12 396:20 401:9 403:13 418:5 425:2,8 425.21 432:8 438:6 439:16 442:1 452:24 462:23 480:18 490:9 492:14 517:13 521:19 522:24 530:15 541:11 545.8
Meaning 353.4
means 384:13 415.6 427:10 438:8 442.5,8 442:10 471:13 521.22
meant 360:4,20 389:17 417:25 545:7
meet 369:13
meeting 354:20 356:4,5 356:11,15,19 364:16 364:20,24 366:8 500:24
meetings 366:4,10
member 362:12
members 491:19
memory 358:6 399:3 446:2,11 456:1,2,8,9 462:20 463:3 464:14 464:16,22 465:2,17 478:11,23 480:1,5 545:7,8
mention 513:2 540:4,5
mentioned 372:8 391:24 408:21 540:2
message 361:4
methodology 388:11,19 474:2,16 475:12
MEZA 348:11 349:1 353:7,12 365:23 366:10 369:21 370:19 372:1,9 378:21 388:4 397:11,14,22 401:23 401:25 418:12 429:7 435:6 444:24 445:1 475:25 495:5 501:24 505:24 506:3 510:22 527:19,24 535:25 536:2,23,25 538:11 544:21 546:21,22
Miami 347:21 348:8,13
middle 386:16,19
might 355:10 434:19 538:10
Mike 514:7
MILLER 348:5 350:12 353:9,22 354:2 361:6 361:21 362:15,24 363:7,18 365:22,25 366:8 367:22 368:7 369:20 370:16 371:24 372:6 373:7 374:12 375:11 378:20 381:15 388:2 393:19 397:10 397:12,20 398:8 399:20 401:4 406:3 415:20 417:18,22

418:11,14 420:17,21 425:5 427:14 429:5 433:21 435:5,8 436:6 443:14 455:20 459:13 463:8,16 465:8 471.16 473:7 475:23 481:1 482:22 495:4,6 496:11 501:22 503:2 505:21 505:25 510:20 514:22 515:14 520:6,11 527:23 530:19 532:7 533:12 534:13 536:22 536:24 537:13 541:21 541:23 544:25 545:3 546:19
million 445:19
mind 401:21 458:15 480:8
minimal 402:7
minimum 429·20
minute 398:19 429:4 469:4
mischaracterizing 401:5 420:22 436:7 443:15 455:12 463:9 473:8 514:23 530:20
miscommunication 349:20 361:4 362:23 363:6
misheard 441:25
mislead 522:17 523:17
misrepresentation 411:24 412:15 443:3
misrepresentations 443:7 505:2
misrepresented 360:11
misrepresenting 442:13
misspoke 370:17
mistake 363·17,20 441:2 541:16
mistakes 440:25
misunderstanding 546:11,15
money 450:21
monies 379:1
month 422:20,22 454:13 454:18 455:14,18 456:4
months 368:21 404:18
more 350:22 363:12 370:21 383:14 385:16 387:5,14 388:7 405:19 413:18 422:7,8,9 423:16 450:21,21 482:10,12 492:3,8 493:5,6 504:18 520:24 533:10
morning 349:2,3
Moses 526:11,23
most 384.10 405:14,16 405:25 406:5 408:2 410:17 421:12 442:12 457·15,18 461:23 477:20 493:14 519:15 529·24
mostly 409:7 426:17
moving 506.4
much 357:23 449:17 528:2
multiple 399:2 540:23
must 354:5 388:10,25 392:22 393:9,17 467.21

N

N 348:22
name 352:12,16,19 370:18 413:5 420.4 433:7 439:7,17 474:22 482:15
names 376:6 382:19 400·16 413:6 419:4 443:1 448:25 453:17 500:12
Nancy 394:9,23 406:17 406.18 410:17,18 413:7 414:10 416:8 422:1,4 424:3 433:5 437:2 442:22 448:19 448:21 467:10
natural 408:2,17 409:5
necessary 530:2 531:7
need 352:18 418:6 527:24
needed 359:20
negligent 361:24 362:2 396:16,24
negotiated 512:3
negotiating 512:9 516:6
negotiations 516:12,17 516:22
neither 460:8
network 508:22 510:17 510:18 545:20,21
Networks 545:23
never 376:19 424:12 541:10
new 394.1,18 439:8 490:10,14 512:7 538:4
newly 447:19
next 379:20 383:12 411:23 421:11,17 424:1,11,16 428:12,18 441:7
nobody 360:17
nondisclosure 372:18
none 447:3 525:13 540:5
nonetheless 360:10
non-answer 354:8
notary 547:10 548.1,5 548:23
notes 358:7 380:24 419:22 477:1 497:14
nothing 374:2 417:13 442:15 444:2,15 449:6
notification 467:10
notified 414:1,12 467:13
November 404:19 430:19,20 431:3,9,23 466:18 469:25 470:2 476:5 499:17 521:14
number 359:21 364:14 364:17 375:9,15,18,20 378:9 380:2 382:25 389:7 391:15,18 395.5 395:8,11,17 396:10 397:4,14 398·16 399:21 403:4 409:17 431:18 444:12,13 459:21 461:10 462:1 464:1 465:5 473:2 475:5 480:12 484:23 494:19 495:9 497:11 501:5 502:5 504:4 523:24 525:23 527.22 528:2,4 533:20 536:4,6 536:6,15 538:12
numbered 548:13
numbers 376:7 400:17 458:21 459:4,6,17 461:4 463:14 464:8 499:24 500:12 503:14 527:17 536:16,17,21
n/k/a 347:5

O

object 350:12 362:24 363:7,18 365:22 425:5 435:5 507:13 532:7 536:24
objection 361:21 362:15 367:22 368:7 370:16 370:17 373:7 375:11 393:19 397:10 398:8 399:20 401:4 406:3 415:20 417:19,22 420:21 427:14 436:6 443:14 455:20 459:13 463:8 465:8 471:16 473:7 481:1 482:22 496:11 503:2 505:21 514.22 530:19 534 13 541 21,23
obtain 395.7 405:3 429:1 491 13 493:6 527 8
obtained 375:18 504.3
obvious 358:23
occasions 531·6 543.15
occur 443:19 455:17 456·3 504:10
occurred 422:16 436:18 442:18 448:9,12 483:20 531:16 532:25
occurs 440.19
October 375:14 376:10 511:23 512:11 520:17
off 359:20 360·20,23 429·5,6 436:25 475:23 475:24 506:2,20,21 533:12,14 535:25 536:1
offer 356:1 368.15 369:17 450:20,22 485:11 493:21 494:2 533:23
offered 433:1,19 435:4 436:1,15 487:24,25 507:12
offering 485:6
offers 451:5,20 535:5
offhand 465:5
office 367·1,8 408:5 418:17 420:12 433:25 434:13
Offices 348.6
official 360:23 361:17 548:19
officials 357:9 358:11
often 443:18 456:19,21 531:11
Oh 370:3
okay 349:22,23 350:20 352:21 363:21,23,24 364:7,9,15,19 365:19 368:1 369:14 371:23 390:17 393:7,14 398:23 405:24 415:4 421:11 425:15 426:21 426:22 428:1,8 434:2 435:20 450:20 452:4 453:13,15 454:9,23 461:12 464:1 467:3,4 467:25 471:12,25 472:11,12,23 473:4,9 476:12,15,19,23 477:15 478:15,23,25 479:3 480:3,5,9,10 482.2 484:16 487:7

488:17 495:11 503.14 503:24 504.7 505:15 506:23 507.10 508:2,5 509:18 515.12 516:18 518:11 520:20 521:25 530:1 531:1,2,5 533.25 534:21 536:25 539:1,8 539:20 540:7,17 544:21 546:21
once 413:22,24
one 347:20 348:7 354:21 357:2 370.5 374:6 408:21 410:16 437:15 440:7 442:19 447:10 449:9 452:24,24 455.14 459:21 461:3 464:9 476:11 477:16 482:8 497:7 516:16 517:19 518:6 519:12 533:8,17 536:3 539:14 541:1 542:9 545:22
ones 411.13 496:6 546:3
only 353:11,23 364:3 371:20 374:6 375:21 396:16 397:25 405:11 406:1 409:5 412:11 427:11 439:7,17 450:10 462:6,18 463:11 464:5,13 478:21 494:1 509:14 509:17 510:2,14,16 514:19 515:3 521:18 527:17 528:6 529:13 544:12,25
onsies 540:25
opened 429:21
opinion 357:12 374:8 376:22,25 377:5,6 379:23 395:14 405:19 405:22 406:2,5 421:6 434:3 437:12,24,25 439:9 441:23 445:21 460:7 463:11 473:9 502:25 517:23 518:21
order 354:9 379:22,25 384:15,16,24 385:13 387:24 389:12 390:19 391:5,25 393:4,9 400:14 415:5 416.4,25 418:20 420:6,15 421:13 422:12 423:2,7 423:19 424:22 425:24 426:13,22 427:4,21 428:14,15,20,25 432:18,23,25 433:18 434:8 435:2,13,24 436:13 437:16 448:7 449:10 460:7 468:4,22 469:20 470:12 471.4,5 472:23 475:4 484:19 484:20 485:2,3,19,20 495:12,22 496:18 512:17,20,24 527:10 528:4,5,15 530:5,6,16 532:19 537:18,19,25 538:13 541:1 542:9,16
ordered 410:6 411:1 448:7 522:6
ordering 349:5,6,18 350:4 352:6 354:23 356:12,15,19 357:11 357:12,14 358:2,13 362:21 363:4 364.15 364:21 365:8 366:6 368:13 369:2 374:1 375:3,5 377:2 378:5,14 382:2 398:10 399:1 405:1 407:22 445:11 446:8 447:14 450:16 487:4,5 507:12 513:16 513:25 514:20 515.4,6 517:4,8,15 519:14 536:9 538:21,22,24 539:2,23 540.9,21 541:4 542:3,10 543:8 543:13
orders 355:22 362:14 371:9 375:7,9 383:14 384:3,4,8,10,19,20 385:3,10,11,14,15,18 385:22 386:3 388:12 388:20 392:12 398:18 398:20 399:7,23 400:8 402:3,16 403.2 431:16 431:16,17 432:3,5,9 449:11,13,18 450:3,6 454:14,20 457:22 459:7 461:14,18 462:3 462:20 463:3,7 465:7 466:16,20 467:18 468:17 477:12 479:13 479:19 480:16,22 481:5 495:16 507:7 508:1,25 509:5,8,14,16 510:3,5,7,13 518:2,6,7 518:12,14,15,21,22 521:23 522:2 536:9 537:20 538:14 539:16
organize 383:23
organized 383:19
original 512:13 527:2
originally 511:18 526:16
OSS 499:19 500:19
other 350:13 352:25 353:14 355:15 357:9 358:11,15 364:8,12 369:16 375:8 377:6 383:10 388:23 389:12 392:15,16,18 395:17 399:12 400:5 404:6 406:4 408:24 414:24 415:17 419.14 432:22 433:5 442:25 452:21 454:8 455:9 473:13,22 473:24 478:13 479:1 480 9 486:14 488:21 491:14,19 492:4,9 493:5,6,10,14,23 497:21 499:11 501:11 501:22 502:8,8 503:16 505:10 509:4 510:6,12 510:16 523:25 524:3 531:10 535:21 536:16 545:20
others 377:25 536:18
otherwise 352:19
out 352:1,6 358:20 362:19 363:3,15,22 365:14,20 371:1 377:15,23 380:11 385.21 386:2,22 387.13,21 389:12,19 389:22 390:10,19 391:5,10,14,25 392:5 392:12 393:4 398:16 412:20 424:6 425:21 427:19 429:9 432:9,14 449:6,12,14,18,20 450:4,7 458:16 463:13 464:7 467:11 469:3,4 474:17 475:4,13 484:11 498:5,7 502:3,7 503:16 507:1 515:25 518:3 523:19 524:25 525:5,11 528:9 529:2 529:16 530:17 531:23 540:7 542:15,23
outage 409:1,10,14 416:4 418:17 420:13 423:20 428:16 481:9 494:19 519:20
outages 407:20 458:21 486:25 519:22
outrageously 445:3
over 368:20 375:16,24 378:9,9,10,23 389:11 399:11 403:14 404:6 437:5 439:25 454:7 455:16 456:11,22 458:15 463:25 474:9 484:24 490:24 494:21 495:1 496 2,3,4,10 499:20 518 2 519 21 521:17 536:3
overwhelming 440.18
own 372:12 384.23 544:2
owned 372:10
owners 369:16
O'KEEFE 348:5 353:4
O'Quendo 453.11 542:21

P

P 348:5
packages 369:18
page 357:4,6,7 358:22 360:9,21 374:23,24 378:21,21 379:20 382.5 385:20 388:9 389:8,24 392:20 393:25 395:3 396:13 401:9 407:17 410:3 415:4,25 418:8,8,12,12 421:11 424:18 425:8 429:14 430:14 432:21 433:12,16 434:11 435:22 436:4 437:8 438:3 439:6,24 440:15 442:12 445:2,7,8,9,18 447:17 449:8 451:2,22 452:5 453:18 461:12 461:15,17 462:5 463.1 464:12,17 465:25 466:22 469:2 470:18 474:7 476:1 477:11 478:7 479:12 481:13 484:9,16 485:17,23 486:1 487:22 488:17 489:23 492:2 494:16 494:25 495:5 496:16 497:17 499:12,16 503:24 504:7 505:1 506:6,24 508.19 509:18 510:15,23 511:2 512:15,25 513:13,23 514:12 515:11,20 517:2 518:1 520:20 521:16 522:3,3 522:13 525:8 526:9,10 526:21 527:15 528:3,8 528:15,15,19 532.10 533:2 537:8,12,12 538:15 539:21 540:14 541:9 544:14 545:12 545:15,16
pages 506:13,17 520:12 548:13
paid 382:8

painfully 358:23
panel 537:13
paragraph 528:15
parity 451.4,19 484:14 485.12
part 353:17 373:17 374:25 387:8 507:20 507:22 522:15 539:6 540:8,20
partially 408:3
particular 385:3 415.22
parties 352:25 548:16,17
past 402:19,20 437:5 484:24
Patty 383:2
pay 511:4,11,16,19
payment 511:6,22
pending 415:5 424:22 426:13 432:3,6,10 459:8 460:18 467.6,19 468:17 469:18 471:4,6 472:7,12,23 473:4,12 475:4
people 349:13,14 350:7 350:20,24 351:6 352:10 359:19,21 364:8,14,17 371:3 376:18 378:24 381:18 381:19 382:14,16,25 383:10 384:9 392:2,3,4 394:1 397:21 400:6 406:8,12,14 412:23 415:1 421:20,21 427:7 433:3 437:1 442:21,22 444:20 453:8 454:3,6 460:25 463:24 466:9 466:11,12 472:9,10 475:11,22 482:7 492:11 500:22 502:8 502:12 504:4,6,12,23 504:24 518:25 519:5 524:25 535:24 543:14 543:15,18
people's 377:6
per 383:15 385:7,7,8,16 446:5,5,6 521:17 542:7 543:3,12,22
percent 389:9,17 390:5,7 390:7,12,14,18,24 391:1,3,18 398:22,24 399:3,4,14,17,18,23 400:2,8 401:19 403:7,9 405:20 418:1 452.25 452:25 453:20,23,24 454:1,4,12,14,19 455:10,15,17,24 456:3 456:15 457:4,7,11,16 457 16,22 461:13,16 461 18,23 462:4,8,19 462.19,22 463:3,6,12 464.10,12,19,21 465:7 465:13,14,16 477:12 477:17,18,19,19 478:3 478.4,9,17,18,22 479:4 479:5,7,7,10,13,16,19 479:25 480:3,6,12,15 480:15,15,23,24,24 486:3 487:1 494:5,17 494:19 495:13 504:18 504:22 533:24 535:4 535:12
percentage 391:4,12 397:17,23 403:2,6 404:8 405:17,17 406:19 441:1 454:5 457:19 461:22 463:20 465:3,4,6 477:21
percentages 400:4
percentage-wise 462:2
perform 476:12
performed 476 3
period 367:1 378:4,11,12 378:14 379:7,8,12,13 382:2 420:23,24,25 421:2 422:18 430:15 431:14,21,22 432:4 437:18 440:5 441:11 441:14 462:21 464:24 468:18 469:22,23 470:1 481:5 483:10,11 483:14 490:25 511:20 521:6 525:9 536:21 544:9
permit 424:23
permitted 429:20 511:6
person 350:17,23 351:4 351:15,20 352:9,11 353:15,18 357:8 358:25 360:6 361:14 361:19 364:7 374:4 392:6 436:9 443:12 469:12 537:3
personal 351:23 375:8 395:14 410:8 412:23 413.13 453:2 475:20 493:9 501:20
personally 380:12 381:12 400:19 408:16 412:9 432:5 466:15 473:18 486:17,23 488:24 489:1 497:16 505:19 524:3 534:8 535:22
person's 352:12,15,18 357:12 360:13,15
pertain 437:7 449:2 502:15
Petra 351.5,12 357:8,19 358:16 365:18 514.8
phone 368:3 369:11 376:7 400:17 487:23 488:7,10,12 500:12 527:16,22 528:2
phrase 482:24
physically 392:22 393:17
picture 529:4
place 353:22,23 396:22 415:12,17 423.14 438:22 466.25 484:4 541:15
placed 360:10 449:10
placing 452:7
plan 355:19
planning 383:13,17
please 361:7 374:13 381:16 451:17 463:19 507:1 520:7,25
Plus 439:9,11,21
point 415:9 458:15 507:1 507:1
pointed 542:23
pointing 467:11
PON 466:24 467:15,16 476:18
portion 361:8 374 14 420:18 449:2 477:17 477:18 511:15 520:8
port/loop 449:11
position 349:4,7,8,10,17 350:2,11 352:5,8,13 359:6,9 361:16 362:10 364:13 446:24
possession 502:14
possibilities 355:17
possibility 355:9 363:23 521:4
possible 349:21,22,25 355:16 361:3 362:4 421:16 423:25 428:10 434:22,24 435:10,17 447:7 538:8
possibly 370:6 376:24
powerful 357:13 358:1
powerless 424:20 426:11 426:15,19 427:7,10,19 428:2 429:12
precise 375:20 389:7 397:4 403:4 443:16,20 443:24 457:19
premises 447:19 528:21 529:2,6,11,17 531:8,12 532.4
present 388.16 453.17 474 2 513.3,10
presented 364.9 410:18
president 448:19 469:10 486:9 488:3 490:12 491:11 493:11 498:22
presume 407:21 459:5 465:23 486:4 491:14 526:22
pretty 357:23 373:24
prevent 401:16
prevented 415:18
previous 360:21 425:2 425:13 441:20 466:11
primarily 493:1
primary 492:5 533:17 533:18
printed 432:9
prior 366.24 373:12 421:5 440:6 454:18,23 474:6 477:24 538:16 539:9
private 491:18
privilege 353:13
probably 379:16 421:4 466:12 478:16 479:15 493:1,2
problem 365.23 397 9 397:11,19,20 398:3,19 398:25 399:8,24 400:9 427:12 429:12 435:6 443:13,22,25 455:16 455:17,23 456:3 457:9 463:22 468:6 487:6 521:8 540:4,6
problems 364:20 373:25 374:2 387:16 394:3 395:9,11,17 397:2,3,13 398:13 399:2,11,12 400:4,5 401:7,7,14,17 403:20,21,24 404:2,5,9 404:17 434:18 435:19 452:7,12,15,22 454:7,8 454:11 455:14,17 457:5 460:20 461:14 461:19 462:3,13,16 463:7,25 480:9 484:23 484:25 487:9 498:5,7 520:24 530:18 539:22 540:3
procedure 498:10
procedures 383:19,20,22
proceed 426:2
proceeding 352:16 370:6 375:19 477:7 513:6
Proceedings 401:24

444:25
process 355:22 371:9 374:1 384:3,15 385.25 386:3,5 387:3,19,22 402:3 405:1 423:19 466:4,8 467:22 468:15 469.5 477:23 483:3 487:24 495.19,21 498:10 501:7,16 504:10 507:7,25 511:17 512:8 531:20 540:9,21 542:3,5
processed 384:4,11 386:24 397:24 398.2 509:8 521:18
processes 373:6 393:8,15
processing 383.14 384:1 385:9,11,14,15,23 386:3 387:6 388:12 392:4,6 396:14 518:17 521:19,22
processors 382:18
produce 376:9,13 396:10 449:1
produced 400:25 449:3 488:14 491.23 536:15
product 352:1 357:11 358:20,24 359.11 360:10 361:18,20 362:11 364:1 373:19 373:22 374:1,5,9,11 507:12 514:14 516:3 517:9,21
products 524:19
profitable 355:11,13 371:1
program 438:6,9,12,15 438:19 439:12,13,15 439:18 481:22 484:6 492:6 493:17 494:6 495:9 522:25
programs 369:24 439:11 439:21
prohibit 352:15 353:2 416:23
prohibition 372:21 373:1
project 374:9
promise 353:21
promised 377:11,13 379:2
promises 379:4,19
promotion 433:1,19 435:4 436:1,14 439.4,8 439:9,23 494:14
proof 450:9 470:11
proper 350:20 388:11 404:14 454:2 464:6 529:19
properly 395:4,12
proposing 521:7
proposition 508:6
proprietary 491:15
protect 352:14
proud 491:12
prove 463:12
provide 369:1 382:8 383:18 464:6 484.10 484:15,18 485:2,24 536:10,13
provided 371:14 372:2 382:13 397:15 497:20 497:24 499:1,7 502:22 503:8,20 536:12
provides 451:4,19
provision 385:24 458:16 481:21 507:2 511:9
prudence 396:18
Pryor 357:8,19 358:16 358:19 365:18 511:5 511:21 514:8
Pryor's 351:12
PSO 415:11 416:5 417:1 427:5,22 428:25 429:17,25 430:8 432:18 459:12 460:7 468:4
public 347:1 440:1,4 491:16,17 526:11 547:10 548:5,23
punished 425:23
purpose 353:5,7 354:19
pursue 354:7 368:17 369:8,10,21
pursued 369.3
pursuing 370:4
put 356:9 357:23 366:17 373:8 376:7 383:22 385:22 387:15,25 388:1 389:24 390:8,15 393:9 394:14 399:25 414:23 417:14,24 419:16 462:15 463:5 466:2 467:14 472:14 475:2 478:16 482:17 482:19 512:24 513:7 517:21 538:6,12
putting 400:8 452:8 492:16
P.A 348:6
p.m 347:24

Q

quality 485:6
Quest 408:22 410:8 418:25 419:14,19,20 419:23 420.3 442:20
question 350:9 353:24 354:6 363.19 365.24 374:12 387:20 392.9 404:13,14 407:18 423:16 425:12 426:6 430:4 431:8,11 432:15 432:20 433:21 434:10 435:7 441:20 449:17 456:20,24 458:10 463:16 471:19,20 477:16 479:23 503:6 507:14,24 508:2 515:15 517:16 532:1 536:22 544:15,16
questions 459:25 520:7 544:22,24 545:1 546:20
quick 446.13
quickly 527:24
Quinton 351:5,9 357:8 357:18 358:16 360:6 365:18
quite 394:11
quotation 483:6 497:9
quotations 482:17,19 497:2,4
quote 419:20 496:17 528:10 532:12
quotes 419:17 481:14

R

R 348:11
raise 368:8 371:8
raised 368:4 370:23
ran 373:14 533:15
Rand 512:16
Rand's 513:1
ranking 360:22
rate 383:14 385:15 453:20 454:12,15,20 455:10 461:16 462:5,6 463:21 477:21 489:6 489:25 491:10
rates 481:18 483:7
rather 529:7 534:23 543:12
re 347:5
reach 398:23 399:17
react 407:19
reaction 408:2,17 409:1 409:5,21
read 361:6,9 362:25 363:8,12,13 374:12,15 381:15 390:1 420:17 420:19 470:25 506:18 520:6,9 528:4,6
reading 375:18 389:16 460:12 548:11
reads 390:1 411:23
ready 350 4,25 357:11 358:13,25 359:12 361:1,18,20 362:11,21 364:2,9
realize 424:9
realized 477:22
really 355.11 369:3 370:16 434:5 478:4 507:10 536:19
reason 353:14 366.19 410:21 432:17 482.18 527:16 538:6
reasons 485:5
rebuttal 506:4 517:18 518:20 545:13,16 546:16
recall 360:18 364:22,25 368:12 371:10 382:19 391:17 394:16 409:3,4 410:16 413:17 419.9 419:21 422:14 448:2 473:20 519:12 520:5 522:9 524:10 526:5 528:11,18
receive 542:24
received 366:11 443:3 445:25 469:14 470:6 470:12 472:6,19,24 473:3,16,22,23 477:22 504:1 519:2,5 540:4
receiving 450:17
recent 409:24
recently 452:16,22
Recess 401:24 444:25
recollection 356:20 369:4 376:15 384:12 393:2 473:10 512:10 515:5
reconcile 504:21
record 361:9 374:15 401:25 414:10 420:19 429:5,6,7 445:1 471:23 475:23,24,25 498:10 506:2,3 515:8 520:9 533:12,14 535:25 536:1,2 548:14
recorded 361:10 374:16 420:20 520:10 525:13 525:15
recordings 358:7 380:24 411:11 414:13 423:1 437:6 483:25 497:14
records 400:21,22,23,25

407:8 414:11 415:19 422:25 429 17 437:6 439:2 441:6 457:25 468:14,16 471:8 472:3 476:20 477:1
recross 546:22
reduction 494.5 535:5 535.12
refer 425:2 478:11
reference 430:24 451:24 515:18 519:8
referenced 451:22
references 373:13
referencing 431:22
referred 459:8 545:5
referring 375:3 384:21 386:6 387:5 388:5 389:22 390:14 391:6 401:19 406:13 407:21 425:4,6,11,13,16 428:19 430:2 439:19 441:12 445:5,10 452:10 456:8 469:25 483:11,14 484:13 522:11,20 523:18 538:20
refers 460:15 473:2 479:5 485:15 523:2 542:22
reflect 497:15
reflects 477:21
refuse 425:24 432:24 433:17 435:1
refused 427:4 485:8,24
refuses 435:23 484:10,17 485:1,19
regain 428.4
regarding 349:4 356:15 371:4 372:3 409:21,25 421:25 458:20 477:5 511:21 516:7 546:10 546:12
regardless 466:24
region 535:15
reinforce 359:8
relate 437:7 502:23
related 370:10 403:20,22 404:2,9,17 434:17 435:19 548:17
relating 443:11 539:22
relation 476:10
relations 497:19 498.2 498:16 499:7
relationship 485:16
relay 449:2
relayed 381:11 471:14
release 349:17 352:12 365:7,12,13,15 514:13 517:4,8
released 349:6,15 363:25 364:2 366.6 517.9,14
reliable 533:10
relied 503:21
Relief 347:6
rely 502:12
relying 349:9 388:14 436:23
remember 358:14 364:18,19 365:5,13 367:3 376:16 381:1,10 392:5 420:4 433:7,10 434.15 439:15 440:7 440:11 443:1 446:4,18 448:5,22,25 452:15 453:17 458:12 460:10 460:21 469:16 481:7 482:14 489:15,22 490:22 509:4 511:12 512:6 519:3,6,10 520:2 520:16 538:2,7 540:1,3 542:21 545.6 546:1,13
remote 389:11 392:11 399:4,22 453:25 462:9 462:22 464:14 465:12 465:17 478:10,24 480:1
removed 541:10
rep 393:4,9 395:21 396:10 409:25 420:14 422:3 424:5,8,12 426:9 426:14 428:17 429:9 429:23 434:25 435:11 436:3 438:11 443:12
repair 408:4 409:9,13
repeat 430:4 479:23 482:2 532:1
repeatedly 388:10,25 522:16 523:17 545:5
replacement 545:13,16 546:16
report 459:3 461:2 541:6
reported 548:7
Reporter 361:9 374:15 420:19 520:9 548:5
reports 362:12
represent 462:13,16 497:5 536:21
representations 359:2
representative 430:6,12 478:8 481:15 482:21 482:24 483:5 525:4
representatives 395:4 418:18 424:19 425:1,9 426:3 433:13 438:5,18 522:14,19 523:11
represented 357:14 358:3 446:10,17
representing 474.9
represents 421:15 423:24 428:10
reps 381:8,9 395:12 408:8 413:14 414:4 421:22,25 426:11,17 433:9 442:23 447:25 459:18 480:11 482:6 483:22 496:24 497:9 522:20 523:14 529:1 532:15
reputation 440:1
rep's 482:15
request 347:6 385:6 445:23,23 446:23 491:22 497:21 512:16
requested 361:8 374:14 420:18 520:8 534:2
requesting 538:11
requests 536:5
required 511:4,10
resale 402:7 452:7,17,22 459:3 492:13,23 506:10 507:5 508:9,17 508:22 509:19 521:21 530:9,24,24
research 459:18 488:23
reseller 534:12,15,17,23
resells 534:17
residential 390:15 391:1
resolution 511:17
resolve 394:3
responding 458:23 544:16
response 351:10,12 355:25 466:11 479:22 491:22 503:8,8,9 536:14 542:24
responses 362:18 536:3
responsibility 354:7,10 354:11
responsible 357:9 374:4 374:9 445:14 494:17
responsive 449:4
restate 441:20
restore 379:14 427:2
restored 375:1 378:18 379:10,23 380:1,4 382:3 418:21 420:7,16 421:14,17 422:12 423:3,9 424:1,6,10,15 428:11,18 429:16,19 429:24 430:7 459:21 461:10
result 349:19 362:22 363 5,16 375:18 400 13 441:2 446:8 447.13 468.8 470:16
resulted 445:3 477:13 479:14,19
results 395:5 476:23 477:6 499:8
retail 396.18 402:6 408:5 409:9,13 418:16 420:12 430:1 432:22 433:25 434:13,22 435:1,11,17 436:4,9,11 436:21 451:5,20 483:16 492:13,24 506:9 507:5 508 8,17 508:22 521:21 530:11 530:25
retain 427:21,25 447:4
retaining 373:12
return 450:20,22
returned 467:7
revenue 447:15 536:14
revenues 486:21
review 460:4
reviewed 356:12 458:4 460:3 522:9
revisions 510:9
Rick 526:11,22
right 353:17 368:16 390:2 407:1,4 425:12 425:14 426:8 427:24 428:13 433:14 434:9 435:21 441:21 443:18 452:2 454:10,25 463:7 469:2 473:15 480:7 494:25 504:7 506:25 508:19 522:10 535:2 537:14,15 538:2
risk 544:3
Rock 446:14
role 354:3,4 355:2,4 373:18
roles 531:11
roll 352:1 358:20 365:14 365:20 389:10 399:11 404:6 446:14 454:7 455:16 456:11 463:25 529:5,7,16 530:7,17,23 531:3,7,23 532:18
rolled 352:6 529:2
rolling 456:22
rolls 534:4
roll-out 365:12,14
roll-over 392:11
rough 391:12 403:5 405:7 422:19 444:13

roughly 398:2 400:2
RRSO 459:19
rule 362:19 363:3,15,22
ruled 528:16
rules 543:21 544:4
run 400:15 502:10 535:14
running 453:20 454:14 461:16 533:4
Ruscilli's 528:7,9

S

salary 369:23,25
sales 357:10 486:9 488:3 490:12,13 491:11 498:22 522:15
same 362:15 394:25 395:1 417:22 439:11 439:13,14 461:4 466:11,12 468:9 487:25 493:22 504:5 516:9 521:6 533:11 537:17 539:7
Sanders 358:16
Saunders 357:8,18 358:18 360:6 365:18
Saunder's 351:9
saw 471:4 543:1
saying 349:25 354:2,12 360:5 377:12 378:3 381:19 385:12,13,14 390:13,23 397:13 398:13 411:15 417:7 428:14 431:13 482:4 485:22 490:7 493:3 494:23 504:25 508:5 523:7 524:14 529:15 541:13
says 383:12 397:16 441:7 448:7 451:10 459:23 461:7,11 469:2 481:16 507:8 508:4,13 508:15 532:18 533:8
scrap 372:6
scratch 392:23 393:5,6 393:12,13,18
screaming 371:2 412:5
Seal 548:19
second 356:4,5,11,14 360:17 496:17 511:25 533:13
see 386:10 390:22 395:8 432:3,5 451:7 461:20 468:21 473:16 487:3 493:23 499:25 504:25 506:11,24 515:23 527:17 535:18 540:24
seemed 505:8 543:16
seems 433:20 504:18 527:20
seen 412:4,7 432:7 446:2 451:12 458:11 494:9 535:16 538:5
sell 524:19,20,21 534:19
selling 438:18 490:12 491:6,9 492:15
send 473:12,13 521:3 527:23,25 529:20
sending 468:22 469:3
sends 528:20
senior 361:17
sense 463.14,17
sent 361.5 446:20 528:25 539:14
sentence 375:4 379:20 383:12 387:9 411:23 418:9,10,15 421:11 425:2 441:7 481:14
Senterfitt 348 6
separately 372.10
September 347:3,23 399:8,24 548:20
sequence 454:8
sequencing 399:11 400:5
series 455:13
serve 536:11
service 347:1 355:16 369:1 375:10,13 379:14,23 380:1,8 381:8,13 382:3 385:6 396:23 399:19 400:12 400:18 401:3,14 406:14 408:3,8 409:1 409:10,14,22,25 410:5 410:6,11 411:1,2,17 412:15 413:4,14 414:4 414:19 415:5 416:1,4 418:17,18,21 420:7,13 420:14,16 421:8,22,25 422:12 423:8,20,21,25 424:6,10,15,21,22 426:12,13,17 427:19 427:21,23 428:3,4,16 428:17 429:1,1,9,17,23 429:24 433:8 434:1,17 434:25 435:11,18 436:3 437:13 438:5,11 440:2,4,17 441:24 442:21,23 443:11 446:25 447:22,24 448:6 450:15 452:11 458:21 459:7,9 460:8 468:14,18 471:23 477:13 478:14 479:14 479 20 480:16,23,24 481:9,10 482:1,6,14 483.2,4,17 486:25 487:9 494.18 496:24 497:9 508:23 518:3 519:20,22 522:7 523.14 525:2 526:11 529:1,3,8 530:4,17 531:4,25 532:6,13,15 532:20 533:21 534:12 534:17 536:13 546:13
services 374:25 378:17 379:10 380:4 394:4 396:15 399:12 404:7 407:20 421:14,16 423:3,9 427:2 428:11 429:15,19 430:7 451:4 451:19 459:19,20 484:10,13,14,18 485:2 485:6 490:13 496:19 510:18 533:8 534:20 536:12 545:22
service-related 398:18 452:6
set 383:24 503:22 509:20
seven 454:5
several 362:17 412:1 418:25 422:6 448:1 467:14 476:16 482:9 482:16 527:6 542:10 543:15
share 489:9 523:9
sheets 432:9
shook 351:6 357:3
shorthand 548:4,7
shortly 356:6 367:17
show 407:9 439:3 451:9 451:17 458:6 467:5 476:14 506:16
showed 432:17 467:11 467:12 468:4,17 472:7 473:3 476:15,15
showing 467:19
side 357:10 430:1 433:25
sign 359:20 360:19,23 481:19 483:8
signed 372:17 511:25 512:3 525:11,14,19
significance 497:1
significant 359:21 373:5 454:5
Significantly 422:8
signing 548:11
sign-off 360:13,15
similar 361:16
simple 417:21 440:16
simply 357:13 379:21 541 10
since 404:10,11 405 5,10 421:8 437:19 487.3 492:3 518:10
single 384:20 411:16 436:3 443:10 454:13 455:18 456:6,13 468:25 470.11 497:22 498:24 521:19 531:22 532:2 542:16
sir 380:3 436.10
sit 380:4
sitting 407:4
situation 424 23 468:11 471:20 487:12 503.1
six 368:20 458:22
slammed 495:14,24 496:20
slightly 363:21 375:15
small 505:3,6,12,13,20
sold 490:4,5,9,20 521:17
solely 353:7 359:3 383:9 385:11
solution 520:23
Solutions 354:25 355:1,3 355:5,9,15,21 370:15 370:19 371:6,13 372:4 372:7,10,12
some 354:8 364:20 372:17 373:25 375:10 380:8 381:17 382:7,18 382:24 389:10,11 390:18 391:4,7,13 392:15 397:1,9,19 398:2,18,24 399:19 400:3,4,9,21 401:3 409:10 413:5,15 414:15,16 415:17 426:17 437:13 441:24 448:22 457:23 463:24 468:15 472:15 477:14 479:14,19 480:16 481:9 483:2 485:13 487:22 488:11,15 494:8,18 497:20 499:22 502:4 504:9,17 504:24 519:20 523:4,5 524:6,7 527:20 529:19 536:7,10,16,18 539:17 540:2
somebody 358:15 391:17 474:1 504:14 519:11 537:2
Somehow 389:20
someone 351:16 361:16 516:15,25
something 361:24

368:24 371:5 442:8 460:17 491:18 514:3 538:4
sometime 375:14 386:16 399:7 438:23
somewhere 366:15 524.11
soon 444:23
sorry 360.18 361:6 376:2 381:15 384:22 385:9 392:9 394:12 398:5 404:13 405:11 418:4,11 425:20 431:8 431:12 432:14,20 434:10 441:21,25 445.6,10 449:15 456:2 456:9 462.23 469:6 471:25 472:22 482:13 489:15 495:4 510:20 510:22 513:14 515:16 517:17 519:7 532:1 537.11 544:8
sort 354:9 356:25 477:14 497:20
sounded 389:20
South 488:18,22 492:4,9 493:15 494:1 505:3,6 505:11,12,14,20 533:23 535:2,11
speak 420:3
speaking 428:5 527:6
speaks 459:14
specific 350:17,22 369:9 391:23 392:13 398:15 405:17 413:5 428:23 448:1 454:13 455:8 459:25 462:21 463:2 464:24 465:5 469:22 479:22 481:5,5 502:4 519.1 523:24
specifically 350:9 351:2 352:2,3 357:25 371:18 408:25 424:3 425:16 485:16 494:10,13 500:9,19 518:16 525:3 533:16
specified 420:25 421:2
speculate 362:7
speculating 362:8
speculation 361:22 415:21 427:15 503:3 541:24
spend 362:7
spite 374:3 486:2
spoke 409:21 419:23 527:13
spread 505:7
spreadsheet 446:19 527:1,16
SS 548:2
staff 383.19,23 413:1,2,3 414:25
standard 396:17
stands 508:6
Star 399:8,24 455:15,22 460:21,22
start 393:4 404:24 418:10 539:1
started 398:19 421:8 422:18 430:19 437:19 441:14 469:5 477:24
state 358:22 385:21 426:11 429:14 431:8 439:6 445:2 453:18 456:20 466:22 471:19 484:17 486:1 489:24 497:18 501:17 511:2 515:2 516.5 520:22 521:16 525:13 535 21 536:11 537:17 547.11 548:2,5,23
stated 369:2 451:18
statement 359:3,10,13 360:14,21 367:4 382:20 388:13,24 389:15,17 392:25 393:11 394:5 396:20 396:21 408:6 410:7 411:12 412:3,22 415:2 416:6 418:23 421:18 423:1,24 429:9 430:5 430:18 433:2,11 434:21 436:24 440:8 442:1,16 447:22 449:25 452:19 453:21 455:3 457:22 469:8 481:20 484:12,22 486:7 487:2 488:1,19 491:8,12 492:7 493:3 507:2 509:22 513:7 517:14 523:16
statements 411:11 429:23 437:8 476:7 486:15 493:10 499:11 505:16
states 451:3,18 507:3 527:5
stating 439:20
statistical 452:6,9,20
status 415:11 416:5 417:1 424:22 426.13 428:25 432:3,6,18 459:12 460:8 467:6 469:18,18
stay 379:21,25 381.14 420:15 495:12,23
stayed 418:20 420:6
stealing 445:4
stick 436:8 505:23
still 349:15 351:25 356:8 360:25 361 17,19 364:9 374:3,21 376:25 390:22 403:15,24 404:2,5 407:12 427:21 432:10,17 468:4,9,17 471:3 472:7,11,12 473:4,12 484:19 491:2 502:17 512:12 516.6 538:8
stole 445:12
stop 429:3 470:4 518:17
straight 528:9
strategy 506:8 507:4,9 507:11,19,21,22 508:7 508:11,13,16
Street 348:13
strongly 517:3
structured 534:24
study 396:8 399:16 400:10 444:12 452:18 455.9 496:8
stuff 365:13 502:1
submission 400:13
submit 384:16 385:5 402:16 512:16,20 521:23
submitted 375:7 384:19 398:17 402:18 457.17 466:17 469:19 470:12 477:12 480:22 495:16 508:25 509:4,14 510:6 518:8,12,14,16 536.9 537:20 538:14
subscribed 547:8
subscribers 396:19
subsequent 527:8
Subsequently 476:19
substantial 430:15 431:13,21 488:21
success 370:2
successful 370:25 380:20
successfully 514:15 516:3,19
suffered 499:18
sufficiently 349:12 394:2 394:18
suggesting 520:23
suggests 517:3
Suite 348:12
summary 499:8 500:1
Summertime 408.15
SunTrust 347:20 348.7
supervisor 410:12,12
supervisors 381:17 410:9,10,14,15 424.3 442:24,25 448:22 453.16
supervisory 373:22
supplied 400:24 411:14 472:16 503:15 526:12
supply 377:10
supplying 465:23
support 349:10 350:1,10 359:12 363:24 364:13 388:24 395:16 406.2,5 411:11,21 415:2 423:1 437:7 441:19 446:16 455 5,9 465.15 479 18 493:20 494:12 502:15 502:23 503:17 517:7 522:5 524:2 525:18
supports 486:15
supposed 468:13 524:17
sure 378:2 394:11,20 398:12 407:15,16 416:8 418:1 423:4 434:5,20 435:9 437:9 437:11 440:12,14,22 441:21 457:24 458:17 465:19 468:5 494:20 500:9 502:19,21 513:24 515:8 539:6
surrounding 463:1
survey 526:7
switch 402:4,5 452:23 496:18 527:2,10 534:19,19 544:12
switched 527:1
switching 520:13 532:14
sworn 547:8 548:10
system 357:12 389:13,14 392:21,23 393:18 401:12,15,15 513:16 513:25 517:4,8,15 539:23
systems 396:21 397:1
S.E 347:20 348:7

T

tactics 522:17 523:17
take 353:25 369:9 378:9 380:24 401:21 405:25 415:12 418:15 419:22 428:20 471:1 497:22 505:25
taken 415:17 484:4
takes 402:13
taking 466:25 518:9

talk 379:12 387:6 414:7 421:23 422.1 424:25 433.8 437:1 443:24 508:20 512:15 520:21
talked 349:13 350:7 368:2 381:17 408:16 408:24 419:1 421:24 422:3,4,6 424:5,12 429.8 437:5 465:10 469:12 475:21 502:16 509:6,10,11 543:15
talking 351:3 382:9,15 382:16 385:2 400:1 407:18,23 426:16 447:24 454:6 480:11 486:4 492:10 495:3 504:4 525:9 537:9
tape-recorded 527:9
target 492.5 533:16
targeted 493:16
targeting 494 7,13
targets 533:18
Tate 354:13,15 355:8,20 356:25 359:4 361:15 365:19 366:5,9,22,24 514:10
Tate's 365:9
team 362:10,12
tear-down 478:9
technical 364:16 432:11 468:6 501:25
technically 415:9 432:23 484:19
technician 447:18,20 448:5 459:7 529:20 531:19,23 532:3,18
technicians 448:14 528:21 532:11
Telecom 347:5 458:22 459:2
telecommunications 347:6 348:12 361:14 548:9
telemarketers 495:18 522:22,23
telemarketing 495:8,11
telephone 396:19 458:21 459:4,6,17,21 524:22 536:16
tell 350:18,19,23 351:1,1 351:16 352:9,14,20 355:8,20 356:7,14,18 358:6,11 366:25 380:6 394:10 400:16,20 406:11 407:2 413:11 414:1 418:19 422:2,10 424:19 425:1,9 426:3 428:17 433:13 434:16 434:23 437:4 443:21 447:20 450:17,19 464:5 470:24 472:10 472:18 475.19 487:6 496:9 502:13 510:25 522:2 524:12 525:3 530:22 532:12 536.13 536:20 543:2 544:9,16
telling 383:1 392:2 465:22 487:8 503:10 503:12 524:25 530:18 543:14
tells 424:8 426.9 434:3,6 435:11,17 443:12 450:10 481:15 483:5 522:6 531:23 532:4
ten 412:11,23 413:18 415:1 422:7 439:25 454:5 482:10
tends 359:8
Ten-minute 444:24
term 438:8 454:2 489:3 492:15,20,21 521:20 545:5,8
terms 450:24
test 513:2 515:6
tested 359:1,9,24 517:11 517:15,20
testified 501:23 507:16 513:12 517:18 541.12 546:10
testify 410:22
testifying 539:11
testimony 353:17 362:19 364:5,6 374:18,23 378:3,16 379:9,13,15 379:15,24 382:21 384:18 387:18 390:22 391.24 393:11 401:5 410:18 414:18,22 415:10 420:10,22 423:6 427:3,9,18 428:1 428:21,24 431:3,6,9 436:2,7 437:19 438:1 439:10 440:23 441:9 441:13,23 443:15 449:3 451:15,24 455:13 458:7,13 460:2 460:13,16 463:1,4,9 470:23 473:8 474:3 476:10 477:17 479:9 483:1,12 485:1,17,18 489:17 491:5 494:6 499:12 501:8 502:25 503:18,22 504:3,22 506:5,7 508.6,12,15 512:17 513:1 514:17 514:18,24 515:1,10,18 516.5 517:19,24 518:10 519:11 520:1 528:7,9,20,22 529:15 529:18 530:20 537:13 539:8 545:14,16,25 546:12,16
testing 514:14
Thank 370:19 418:14 449:17 452:4 495:6 520:11 537:15
their 354:10 358:21 371:3 375:13 379:1 382:6 383:12 419:4 420:16 423:21 425:24 443:1 448:25 495:8 498:11 499:9 500:12 502:12 506:9 507:5,7 508:1,8,17 509:8 519:15 524:14 525:1 529:3
themselves 484:15
thing 359:23 364:3 365:12 394:25 395:1 464:13 535:7 539:7
things 354:4 383:3 437:15 449:9
think 355:14 356:2,12 361:17 363:23 365:25 366:1 367:14 370:17 371:16,18 373:2 376:15 381:25 384:21 385:12 390:2,21 391:6 400:23 401:6 402:10 407:3,12 411:13 417:20 431:1 432:11 433:25 434:13 445:10 446:11 447:25 448:6 462:7 464:7 467:4 470:8 472:16 477:3 479:21 485:9,11 490:24 493:1 496:2 500:16 505:14,20 508:10 515:11 519:17 519:21 526:19 529:5 533:15 534:21 535:10 538:8 539:6 540:14 541:1,19 542:5
third 347:20 348:7 535:7
third-party 525:16 534:18,20
though 372:11 403:23 468:8 483:19 532:22
thought 355:10 368:22 375:17 460:22 468:9 495:14,24 505:8,15 518:5 539:13
thoughts 352.19
thousand 385:10,10 490:18
three 379:7 477:20
three-month 379:7
three-year 481:19 483:9
through 357:4,7 359:7 360:9 378:12 379:4,18 382:5 383.10,12 386:11 387:1,6,15 388:8 392:24 393:9 394:19 396:13 398:7 401:1 407.17 410:3 415:25 418:12 424:18 426:17 432:21 434:11 440:15 442:12 445:2 447:17 453:18 455:1 456:5 463:23 466:18 467:8,22 468:14 476:1 476:5,19 477:7 481:13 484:17 485:17,23 487:22 488:17 489:23 494:5,14 497:17,18 499:13,16 504:8 509:5 509:14,18 510:7,15,23 511:2 512:15,17,25 517:2 518:1 519:13 525:8 526:9,10 528:8 528:16,19 534:19 539:16 540:14 545:13 545:17,24
throughout 422 17
Thursday 347:23
ticket 416:3,10,23 417:2 427:1 429:20
time 350:8 355:6,19 359:5 360:17 364:6,24 366:4 367:1,5 369:20 373:16,25 374:25 375:23 378:1,17 379:9 379:12,13 381:10 388:2 391:19 395:23 398:4 399:24 408:14 411:16 414:14 419:8 420:23,24,25 421:2,16 423:25 424:19,25 425:9 426:2,9,17,21 428:5,10 430:15 431:14,21,22 432:4 437:18,21 440:5 441:1 441:11,14 442:7 443:10 444:4,23 453:17,23 454:13,16 454:18,23 455:18 456:3,15,17,25 457:5,7 460:15 462:9,19,21

463:2 464:24 465:14 467:24 468:7,18,25 469:18,22,23,25 471:1 476:21 478:17 479:8 481:5 483:10,11,13 491:4 496:25 498:12 507 19,20 508:21 509:19 510:16 511:20 511:24 516:9,11 519:3 519 6 521:6 525:9 536:21 538:20 541:1 543:23 545:9,19 546:11
timely 430:16,21,22 431:15
times 389:3 416:16 421:24 422:2,4,6,20,21 436:17 438:10 443:23 444.1 448:8 463:21 490:20 491:6 498:5 521:17 523:20,22 529:16 530:2 531:15 532:24 546:4
tip 506.19,21
today 356:23 359:6,17 362:17 363:2,11,15 364:12 376:25 382:1 396:1 398:20 402:22 403:24 407:5 415:11 420:10 423:6 427:18 428:1 436:2 439:10 441:9,23 460:6 468:3 474:3 476:7 483:1 489:11 498:13 508:2 510:10,13 518:11 519:17 534:7 543.24 543:25 546:10
together 356:9 400:7
told 349:14 351:7,8 352:10,10 355:10 356:23 362:10 364:8 375:6,17 376:19 382:23 394:13,15,24 408:17 410:5,15,25 411:5,7 419:18 420:13 424:14 425:25 427:7 433:4 435:16 436:12 437:15 438:9,11 444:7 444:14,18 445:17 447:25 448:6,18 450:5 455:9 458:4 460:6 466:9 467:8 472:13 473:1 474:1,18,23 475:11,18 481:22,24 482:4,5,20,23 483:21 483:22 486:8,16 487:16 488:2,20 495:10,11,22 496:2,17 497:8 498.20 499:3 500:22 501:10,19 502:8 503:5,7 504:12 510:14 514:3 518:5 525:1,4,14,19 535:10 539:13
tone 411:25 412:6,14
top 399:10 454:3
torn 399:3,5 454:2 462:8 462:21 465:14
total 397:14 400:11 401:2 465:7
totally 408:3
towards 534:22,25
track 464:2
tracks 463:24
trained 395:5,12,22 396:10 541:25 542:2
training 396:6
Trasher 458:20
treat 352:17
treated 352:17,21 353:1
tremendous 535:8
tried 368:16 380:18 456:14 476:11 510:1,3 512:20
trouble 416 3,10,23 417:2 427:1 429:20 459:3
truck 529:6,8,17 530:7 530:17,23 531:4,7,12 531:23 532:18 534:4
trucks 529:1
true 380:11 429:10 539:18 548:14
truth 349:16 513:4,11
try 444:12
trying 387.11 398:16 403:11 425:21 426:7 432:14 463:12 502:3,6
turn 481:17 483:7
Turpin 375:14,22 376:17
Turpin's 377:4
two 362:7 437:15 463:13 463:20 508:25 509:14 509:17 510:3,5,16 518:6 520:6 546:8
Twofold 354:21
twosies 540:25
two-week 378:4,13
type 369:17 371:5 372:18 381:2 382:24 383:20,25 390:18 391:4,13 397:9,19 398:2,18,24 399:12,19 400:12,18 401:3,15,15 404:6 409:10 437:13 439:18 441:24 444:11 457 23 465:19 470:12 479:19 480:16 481:9 483:2 488:23 494:18 496:23 498:9 499:25 504:17 519:20 527:20
types 536:16

U

Uh-huh 357:15 382:11 417:8 451:8 456:12 477:25 478:12 535:6 544:20
Uh-hum 360:24 386:14
unable 538:17 539.19
unavailable 410:22
unclear 390:22
under 381:18 495:1 496:1 511:14 512.13
understand 364:4 378:2 390:23 397:24 402:4 403:12 415:13 418:7 426:20 427:6 431:11 454:8 458:18 474:5 475:3 478:19 493:21 519:25 531:10 542.11
understanding 403:12 415:10 453:4,6 472:2 475:6 512:12 513:15 513:18 534:14
understood 373:24
UNE 451:5,20
UNE-P 368:20 369:1 370:25 371:2 373:8,19 374:1 377:25 385:11 385:18 390:8 409:6 449:11 452:8,24 453:19 456.14 485:15 492:14,16,23,25 506:10 507:5,7 508:1 508:17 521:21 529:13 530:5,10,12 531:3,12 538:18 539:10,19 542:7
unfair 520:23
unfortunately 505:18
Unified 354:25 355:1,3,5 355:8,15,20 370:19 371:6,13 372:3,7,10,12
unintentional 350:5 362:22 363:6 541:16
unintentionally 366:18
United 370:14
universe 462:16
unknown 496:9
unless 361:24 432:24 433:17 434:7 435.2,12 435 24 436:13 468:16
unnecessarily 528:20
unnecessary 529:5,16 530:3,6,23 531:3
unsuspecting 517:5
untested 517:4,8,14
until 366:21 374:19 382:2 398:20 422:18 424:15 426:22 428:6 428:15 429:16,24 430:7 437:21 455:2,18 456:7,15,21 457:23 464:25 465:1 480:2 521:1
untrained 396:9
update 471:12,21 472.3 521:13
updated 415:19 429:25 467:16 468:14,16 471:8,23 476:17
updates 429:16 430:8
updating 430:16,21 431:4,10,14 432:2,13 432:17 468:7 476:20
upper 361:13
upset 507:13
use 353:5 355:15,21 371:6 403:15,16 404:1 404:24,25 443:16,20 443:23 454:3 462:4 463:19 464:11 477:17 477:18 478:19 485:8 492:15 502:1 521:20 533:22 539:23 541:3 542:1 543:21 544:2 545:8
used 402:18 403:2 440:9 474:17 475:12 489:3 492:21 522:16 523:17 538:18 539:4 542:7,13 544:12
user 428:25 477:14 530:17
users 458:22 484:11 522:6
using 397:14 402:15,25 403:23,25 404:10,12 477:19 481:23 510:13 539:1 540:18 542:20 543:3,9,11
usually 421:17 422:1 424:1 428:11,18

V

V 402:11,12,25 403:15

403:25 538:19
vague 404:13 534 13
VALDES-PRIETO 548:4
valuation 446:1
value 445:24
variation 452:6,9,20
variety 454:11
vendor 534:18,20
verbal 497·21
verification 467:12 525:16
verify 509:11
version 527:22
versus 451:5,20 452:7,23
very 397:23 432:11 449:17 466:4 491:12 507:16
viability 360:12
vice 448:19 469:10 486:9 488:3 490:11 491:11 493:11 498:22
vice-presidents 532:16
virtually 439:25 440:8 440:10
voice 389:11 392:11 399:22 453:24 455:15 455:23,24 456:6,7 462:8 465:11 478:9,10 542:22 545:5,9
volume 347:11 522:16
VP 355:4

W

W 355:21 371:5 386:6 386:10,18,24 387:6,12 402:2,8,12,15,18 403:3 403:16,18,22,23 404:1 404:10,12,25 538:17 538:19,23 539:1,5,9,24 540:6,7,12,18,20,24 541:3,10,14,15 542:6 542:12,15,20,22 543:3 543:12,22
wait 352:23 426:22 428:6,15 463:16 496:17 515:14
waited 468:21
waived 548:12
want 352:16 354:7 386:2 398:10,12 450:18,21 470.24 478:19 479:22 489:5,9,19 506:19,21 507·6,25 515:7,8 536:3 538:2
wanted 354:21 356:2 374:3,21 386.10 472:20 495 12,22 540·21
wasn't 350·25 356·16 361:5 364:2 367:9 381:5 383:1 474:2 476:20 507:18 512:2,7 516:16 517:11,15
way 370:10 401:16 407:12 412:20 457.20 460:24 491 3 527:25 534:24 539:23
Wayne 348:19
week 413.24
weeks 396:2 432:10 467:6,14,17 476.16
weird 365:12
well 350:22 355:14 369:9 377:7 387:17 392:7 394:13 396:24 398:1 403:15 404:16 406:12 410:16 414:1 426.20 428:8 443·18 444.1 447:15 456:25 458:1,3 467:22 469:12 484:18 495:1 505:7 517.9,16 532:10 533:8 537:24 539:11 540:20 543:14
Wellman 367:10,13,17 367:21,25 373:10 382:10 383:7,18 388:15,16 393:21 394:10 450:2,10 459:2 459:8,16 540:10 544:15
Wellman's 388:23
went 350:20 351:2 357:22,23 375:25 376:3,18 377:15,22 405.12,14 466:7,14 467:17 472:10,21 474:5,9 475:9,16,18 479:1 497:23 498:25 501:6,9,15,18 503:25
were 354:24 355:17 357:9 362:9 364:14,17 366:23 370:4 373:25 375:7 376.20 377:8,10 377:10,11,23,25 378:1 380:2,20 381:18,19 382:15,16 383:1,1 384:7 387:6,11,15,16 392:2 397:18 399:10 400:8 404:11 419:13 422:17 427:7 432:10 439:4 444:7 448:15 449:11,13,24 450:3,6 457:5 459:7,12 460:2 460:20 461:3,4,14,18 462:3,14 464:17 466:17,20 467·13 468:17 469:17 470:21 471:2,3 472:11 473:4 473:11,12 474:10,25 480:23 481.3,23 482:20,23 487:6 488·6 488:10 489:24 491:6 492:5 493:13 495:1,14 496:1,24 498:7 500.5 501:2 504:23 505:8 507:13 510:10,16 512:8,12 516:6,12 518:3,6,8,12,14,15 524:9 526:15 539:15 539:17,19,23 540:22 541:2,25 542:2 543:3,5 543:9 544:9 545:22 546:4 548:12
weren't 355:18 468:14 468:16
West 348:13
we'll 418:9 481:17,18 483:7,8
we're 403:25 404:5 467:17 524:14
we've 374:2 397:23 411:14 423:4 437:9 449:5 452:16 455:6 481:11 500:16
while 416:4 427:4,21 460:7 471:3 472.6,11 472:23 473:3,11 489·7 511:5
whole 358:24 359:11 360:1 398:14 513:4,11 542:5
wholesale 359:22 430:1
wildfire 505:7
win 469:7 492.24 493:5
win-back 439:18,22 470:21 471:3 472:6 473:3,23 481:23 488:11
withhold 511:6
withholding 511:21
witness 348:23 353:25 370:6 401:5,21 420:22 436:7 443:15 463:9,17 473:8 507:20 514:23 530:20 544:23 548:8 548:10,12,19
witnessed 415:1
witnesses 447:10
won 473:11 492:17
word 352:11 353:15 359·8 389 25 454 3 485.8
words 357 16 443.17,20 443 24 473.13
work 349:7,14,15 350.25 351:13,17 352:2,7 356:17,22 359:1 374:11,19 403.18,19 410:14 485·14 508:24 509:1,7,23,25 510:1,10 517:10,12,21 539.14 540:25
worked 386:10 388:8 410:13 513:25 541:8 542:9,10,16
working 367:7 394:1 422:18
works 402:2 413:3 436:10 448.3 513:21
wouldn't 352:12 422:21 424:15 529:7
write 498:11
writing 472:14 538:13
wrong 417:9,12,15,16,17 417:21 424:24 468:1 471:10 493:5 505:18 515:2
wrongfully 445:4
wrote 364:5,6,10 389:20 395:23 420·24 428.6 437:18 458:19 476·21 479:8 489:16 526:11

X

X 348:22

Y

Yeah 437:23
year 354:16 367:15 404:20 408:13,14 419:7,8 422:6 437:5 438:24 446:3 480:2 484:24
years 439:25
yelling 412:5
yesterday 375:6,17 408:21 518:5 519:18 539:13

Z

zero 452:24

$

$1 445:19
$2,000 446:5,5
$31,000 450:12,23

0

010740-TP 347:3

1

1 357:7 374.23 378:22 407:18 520:12 522:4 526.10,21 548:13
1,000 383:14 384·4,8 385:16 474:9 489:24 490:2,5,14,20 491:6,9 521:17
1,100 470:19,20 472:6 473:1,10,15 474:4,13 503:25
1,200 518:2,22
1,400 518:6,21 536:8
10 391:1 393:25 396:2 410:3 425·9 442:12 445:2,7,8,9 452:2 457·4,10,11,16 476·1 486:2 489:23 497:17 499:12 511:2 520:20 528:8 541:9
100 399:3,4,23 418.1 453:23,24 454:4 455·15,17,24 456:3,14 457:16 462:8,19,19,22 463:3 465:14 478:9,22 479:25 480:3 486:25 506:13,17
11 382:5 489:23 512:15 512:25,25 515:22 520:20 548:24
12 395:3 424.18 429:14 458:21 461:3 469:2 476:2 512:25 515:22 522:13 541:9 544:14
12th 461:9
13 347:23 382:5 388:9 393:25 395:3 415:4 439:6 447:17 451:2,22 465.25 499:16 503:24 506:6 515·22 517:2
14 492:2 494:25 495:5 499:13 503:24 513:13 513:23 515:22 522:14 544:14
15 415:4 429:14 451:2 451:22 469:2 492:2 505:1 506:6 514:12 515:22 517:2,2 518:1 537:12
150 348:13
16 388.9 396:13 430:14 439:6 445:18 465:25 497:17 505:1 515:24 518:1,1 519:9 525:8,22 537.12
17 401.9 415·25 430:14 477·11 478:7 479:13 515:11,20 519:13 520.12 522:3 537:8
17th 548:20
18 389:8 390:11 461.12 461.17 466:22 494:16 504 7 509:18 537:8
19 389:24 392:16 396:13 415 25 432:21 434:11 435:22 436:5 437.8 449:8,16 494:16 508:19 519:13 540:14
1910 348:12
1999 440:6 509:20

2

2 357:7 358:22 421:11 470:18 474:7 484:9 511:2 526:10
2,000 446 4 504:9,17
20 357:4,6 422:9 433:16 449:8,16 487:22 494:5 495:13 504:8 509:18 513:23 525.13 533:23 535:4,12
20-percent 481:18 483:8 494:2
200 375:16 377:14,21 378:3,6,10,23 379:6,24 382:1 446:7,16 447:3 447:12 466:1,6,19 519:20,21 520:14
2000 366:24 374:19 376:11 378:6,7 379:8,8 398.6,7 399:1 404:21 405:3,6,10 411:18 431:4,10,24 459:1 466:2,7 470:2 476:5 486:3,22 499:17 509:20 511:23 512:4 512:11 516:7 521:14 538:14 544:5,7
2001 347:3,23 438:25 439:10 455:19 456:7 456:15,21 457:23 464:25 465:1 470:2,4 474:8 476:2 484:7 489:14 497:24 499:1 499:18 525:10 544.11 547:9 548:20
2004 548:24
21 374:24 378:21 389:8 392:20 433:16 439:24 447:17 481:13 487:22 496:16 513:23 526:9 540:14
22 374:23 378:21 379·20 418:8,12 432:21 434:11 435.22 436:5 437:8 438.3 439:24 520:20 528·8
23 357:4,4,6,6 360:21 374:24 378:21 392.20 438:3 459:1 481.13 496:16 521:16 522:3,3 525:8 526:9
23rd 458:20 459:22 461:2
24 357:7 358·22 360:9 522:3,13
25 382:5 508:19 525:8 526:9
26 385:20 388:9 389:8 392:20 526·10 528:3
27 393:25 395:3 396:13 401:9 526:21 528:8,15
28 407:17 410:3 415:4 415:25 418:8,12
28th 347:21 348:8
29 418:8,13 421:12 424:18 425:8 429:14 430:14 432:21 433:12 433:16 434:11 435:22 436:5 437:8 438:3 528:19 532:10
297 474:8,12,15 500:5 501:6,15,18

3

3 385:20 452:5 474:7 484:9 514:12 522:4
3,100 499:20 500:4 501:8,15 504:8,16
3:15 347:24
30 391:18 439:6,24 453:20 454:1,12,14,19 455:10 457:22 461:16 462:4 463:12 464:11 464:19,21 465:7,13,16 477:17 478:8,17,18 479:4 480:5 533:2
30,000 405:8
300 495:1,10,25 496:2,3 496:4,10
31 440:15 442:12 533:2
33130 348:13
33131-1714 348:8
34 445:2,9,18
349 348:24
35 447:17 477:12,19 478:4,6,19 479:5,13,18 480:15,23
37 449.8

4

4 407:17 408:1 440:15 452:5 486·1 506:6 510 15,23 528:19 538·12,15 545:13,17
40 451:2,22 480·24
400 375:15,18,25 378:10 379:14 380:7 518:2,13 519·8 520:2
41 452·5 453:18 461:15 462:5 463:1 464:12,18
43 461:12,17
45 477:12,19 478:4,6,20 479:6,13,18 480:15
460 489:18
48 430:23
49 465:25 466:22 492:2

5

5 358.22 400:2 488:17 508:19 511:2 512:15 514:12 521:16 528:16 536:4,15 537:8,12,12 538:15
5th 537.9 538:14
50 398:22,24 399:14,17 399:18 400:8 401:19 403:14 405:19 413:20 452:24,25 461:13,17 461:23 463:6 464:10 477.18 478:3,4,7,20 479·5,6,7,10,15 480:12 480.15,24 482:12 494:17,19 504:18,22
52 469:2
53 470:18 474:7
54 476:1
545 348:24
548 548:13
55,000 397:6,7,13,17,25 405:2
56 477:11 478:7 479:12 481:13 485:17,23
57 484:9,16
58 486:1 487:22
59 488:17 489:23 494:16

6

6 360:9 385:20 407:17 410:3 418:9,13 428:9 440:15 453:18 461:15 484:16 485:17,23 488:17 510:23 521:16 538:15 539:21 545·13 545:17

60 494:25 495:5 496.16
61 497:17 499:12
62 499.16 503.24 504:7
63 505:1
633 526:13

7

7 347:3 425:22 453:18 457:4,7,10,11,16 461:15 462:5 464:12 464:18 509:18 510:15 513:13,15 532:11 539:21,21
72 430:16,24 431:1,2,4 431:10,15
75 403 9
750 446:12,17 520:12

8

8 360:9 400:2 425:17 433:12 442:12 476:2 484:17 485:17,23 499:16 510:15,23 528:16 532:11 545:12 545:16
8:40 347:24
84 537:20 538:14
85,000 398:1 399:14,18
85,000-plus 397:24

9

9 424:18 425:8 433:12 445:2,7,8,9 512:15 528:19 540:14
9:00 459:1
9:45 459:16
90 389:9,17 390:4,7,7,12 390:14,17,24 391:3 403:7
968 521:18,23
970 384:12,19
98 399:9,24 455:16,22 460:21,22
99 506:13,17,24
99-223 528:4