

# **EXHIBIT 66**

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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THE SCO GROUP, INC., a Delaware Corporation,

Plaintiff,

vs. 2:04CV00139

NOVELL, INC., a Delaware Corporation.

Defendant.

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VIDEOTAPED DEPOSITION OF MAUREEN O'GARA

Friday, March 23, 2007

11:00 a.m.

Reported by:  
Joan Urzia, RPR  
JOB NO. 192768

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| Page 2   | Page 4   |
| <p>1<br/>2<br/>3           March 23, 2007<br/>4           11:00 a.m.<br/>5           Roslyn, New York<br/>6<br/>7<br/>8           DEPOSITION of MAUREEN O'GARA, held<br/>9 at the Roslyn Claremont Hotel, 1221 Old<br/>10 Northern Boulevard, Roslyn, New York,<br/>11 Pursuant to Subpoena, before Joan Urzla, a<br/>12 Notary Public of the State of New York.<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>  | <p>1           O'Gara<br/>2           THE VIDEOGRAPHER: We are now<br/>3 on the record. This is the video<br/>4 operator speaking, Robert Calvert, of<br/>5 Esquire Deposition Services, offices<br/>6 located at 216 East 45th Street, New<br/>7 York, New York.<br/>8           Today's date is March 23, 2007.<br/>9 The time on the video monitor is 11:24<br/>10 a.m.<br/>11           We are here at the Roslyn<br/>12 Claremont Hotel, located at 1221 Old<br/>13 Northern Boulevard, Roslyn, New York<br/>14 to take the videotaped deposition of<br/>15 Maureen O'Gara in the matter of the<br/>16 SCO Group Incorporated, a Delaware<br/>17 corporation versus Novell<br/>18 Incorporated, a Delaware corporation.<br/>19           The venue of this case is the<br/>20 United States District Court for the<br/>21 District of Utah, Central Division.<br/>22 The index number is 2:04-CV-00139.<br/>23           Will counsel please voice<br/>24 identify yourselves and state whom you<br/>25 represent.</p>                                |
| Page 3   | Page 5   |
| <p>1<br/>2 APPEARANCES:<br/>3<br/>4<br/>5 DAVIS WRIGHT TREMAINE, LLP<br/>6 Attorney for The Witness<br/>7           1633 Broadway<br/>8           New York, New York 10019<br/>9 BY:   CAROLYN FOLEY, ESQ.<br/>10<br/>11<br/>12 BOIES, SCHILLER &amp; FLEXNER, LLP<br/>13 Attorneys for Plaintiff<br/>14           333 Main Street<br/>15           Armonk, New York 10504<br/>16 BY:   MAURICIO GONZALEZ, ESQ.<br/>17<br/>18<br/>19 MORRISON &amp; FOERSTER, LLP<br/>20 Attorneys for Defendant<br/>21           425 Market Street<br/>22           San Francisco, California 94105<br/>23 BY:   MICHAEL A. JACOBS, ESQ.<br/>24<br/>25 ALSO PRESENT:<br/>25       Bob Calvert, Videographer</p> | <p>1           O'Gara<br/>2           MR. GONZALEZ: Mauricio Gonzalez<br/>3 of Boies Schiller &amp; Flexner for<br/>4 plaintiffs the SCO Group.<br/>5           MR. JACOBS: Michael Jacobs from<br/>6 Morrison &amp; Foerster for defendant<br/>7 Novell.<br/>8           MS. FOLEY: Carolyn Foley from<br/>9 Davis Wright Tremaine for the witness<br/>10 Maureen O'Gara.<br/>11           Before we start, I'd just like<br/>12 to make a statement on the record,<br/>13 which is that the witness is here<br/>14 pursuant to subpoena, but she has<br/>15 notified the SCO Group, the party<br/>16 issuing the subpoena, that she is<br/>17 asserting the Reporters Privilege.<br/>18           We have been convinced that the<br/>19 Reporters Privilege has been overcome<br/>20 with regard to a certain conversation<br/>21 and that will be the inquisition or<br/>22 the inquiry today will be limited to,<br/>23 at least as far as sources will be<br/>24 limited to that conversation, and we<br/>25 will assert the privilege as to any</p> |

2 (Pages 2 to 5)

Maureen O'Gara

Page 6

1 O'Gara  
2 other, as appropriate in any other  
3 instance.  
4 MR. GONZALEZ: Thank you,  
5 Ms. Foley. We appreciate that.  
6  
7 MAUREEN O'GARA, called as a  
8 witness, having affirmed to testify  
9 truthfully before a Notary Public,  
10 was examined and testified as  
11 follows:  
12  
13 EXAMINATION BY  
14 MR. GONZALEZ:  
15 Q Good morning, Ms. O'Gara.  
16 A Good morning.  
17 Q Please let me know if I need to  
18 clarify or restate any of my questions  
19 today.  
20 A Okay.  
21 Q Is that okay?  
22 Have you ever been deposed  
23 before?  
24 A Yes.  
25 Q Have you been deposed in this

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1 O'Gara  
2 case?  
3 A No.  
4 Q So in your experience in other  
5 depositions do you have a sense of how this  
6 will proceed generally?  
7 A Yes.  
8 Q Great.  
9 What do you currently do for a  
10 living?  
11 A I'm a journalist.  
12 Q And how long have you been a  
13 journalist?  
14 A Since about 1972.  
15 Q Do you cover a certain  
16 particular industry?  
17 A Yes, I cover the computer  
18 industry.  
19 Q And how long have you been  
20 covering the computer industry?  
21 A Since 1972.  
22 Q What publication do you  
23 currently work for?  
24 A I work for a publication called  
25 Client Server News, or I should really say

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1 O'Gara  
2 that I work for a company called G2  
3 Computer intelligence which has several  
4 publications which I'm connected with, and  
5 one of them is Client Server News.  
6 Q And in 2003 what publication did  
7 you write for?  
8 A That same publication.  
9 Q Is that an on-line publication  
10 or a print, hard print?  
11 A It was at the time both print  
12 and on-line. On-line insofar as it was  
13 e-mailed to its subscribers.  
14 Q If you can think back to the  
15 early part of 2003, what subjects did you  
16 generally cover within the computer  
17 industry?  
18 A Well, we were covering, we  
19 divide the world up into operating systems.  
20 So we were following at the time NT and  
21 Linux.  
22 Q Are you aware that Novell has  
23 issued an announcement claiming that Novell  
24 and not SCO owns the UNIX copyrights?  
25 A Yes.

Page 9

1 O'Gara  
2 Q Do you recall that that  
3 announcement was first made on or around  
4 May 26, 2003?  
5 MR. JACOBS: Objection.  
6 Leading.  
7 Q You can answer the question.  
8 A Yes.  
9 Q You do have a recollection --  
10 A Yes.  
11 Q -- of that?  
12 And do you recall writing about  
13 that announcement?  
14 A Yes.  
15 Q I'd like to show you a document  
16 that will be marked as Exhibit 1080.  
17 (Whereupon, Exhibit 1080 was  
18 marked for identification.)  
19 Q It's been bate stamped at the  
20 bottom SCO 1270695 and it runs in sequence  
21 through SCO 1270700.  
22 It's a document that contains an  
23 article entitled Novell to Try to Shoot  
24 Down SCO IP claims, by Maureen O'Gara.  
25 Do you see that article within

3 (Pages 6 to 9)

Page 10

1 O'Gara  
 2 this document?  
 3 A Yes, I do.  
 4 Q Does that appear to be the  
 5 document in which we were just talking  
 6 about in which you wrote about Novell's  
 7 announcement about its alleged ownership of  
 8 UNIX copyrights?  
 9 A Yes.  
 10 Q And what is the date of the  
 11 article?  
 12 A It's dated May 28.  
 13 Q Is that consistent with your  
 14 recollection of the article and the  
 15 announcement?  
 16 A Yes.  
 17 Q Great.  
 18 Before you published this  
 19 article, did you speak with Novell?  
 20 A Yes.  
 21 Q Did you speak with someone named  
 22 Chris Stone of Novell?  
 23 A Yes.  
 24 Q And what was Mr. Stone's  
 25 position at Novell at the time?

Page 11

1 O'Gara  
 2 A I believe he was vice chairman.  
 3 Q Would it be safe to say that you  
 4 understood him to be a senior executive  
 5 under whatever title he may have had?  
 6 A Yes.  
 7 Q And what did Mr. Novell tell  
 8 you --  
 9 A Mr. Stone.  
 10 Q I'm sorry, thank you.  
 11 What did Mr. Stone tell you  
 12 about Novell's public announcement in which  
 13 it was going to assert its purported  
 14 ownership of the UNIX copyrights?  
 15 A Well, he informed me of the  
 16 substance of what this story is about, that  
 17 they were going to, what's the right word,  
 18 assert their ownership.  
 19 Q Did he say anything about the  
 20 reasons why they were issuing that  
 21 announcement on that date?  
 22 A Yes, he did.  
 23 Q And what did he say?  
 24 A He said they were doing it  
 25 because SCO's earnings were that day.

Page 12

1 O'Gara  
 2 Q And did he say anything about  
 3 the effect, the intended effect of the  
 4 announcement on that date?  
 5 A The reason that they were doing  
 6 it, as I understood it, was to confound  
 7 SCO's stock position.  
 8 Q When you say confound SCO's  
 9 stock position, can you be a little more  
 10 specific or can you clarify it in any way?  
 11 A Well, I think the object of the  
 12 game was to throw a monkey wrench into the  
 13 works.  
 14 Q And can you explain that, that  
 15 metaphor, a little further?  
 16 MS. FOLEY: I'm going to object  
 17 to the form of the question.  
 18 Do you understand?  
 19 Q Well, when you say that they  
 20 were trying to confound or throw a monkey  
 21 wrench, can you explain that?  
 22 A They were trying to upset the  
 23 stock price.  
 24 Q And when you say stock price,  
 25 whose stock price are you referring to?

Page 13

1 O'Gara  
 2 A SCO's.  
 3 Q Did Mr. Stone say anything about  
 4 harming SCO?  
 5 MR. JACOBS: Objection.  
 6 Leading.  
 7 A Do I answer that then?  
 8 Q Yes, you may.  
 9 A Logically, there wouldn't be any  
 10 other reason.  
 11 Q So you understood that to be the  
 12 intent?  
 13 A That's what I understood.  
 14 Q If we may go back to Exhibit  
 15 1080, the article that you wrote on May 28,  
 16 2003 --  
 17 A Actually, I wrote it the night  
 18 before.  
 19 Q And published it on May 28,  
 20 2003, is that accurate?  
 21 A That's accurate.  
 22 Q Thank you.  
 23 Do you recall --  
 24 A I don't get up at 8:15 in the  
 25 morning and put these things out.

Page 14

1 O'Gara

2 Q Do you know if there's any

3 reference to your conversation with

4 Mr. Stone that we've been talking about in

5 this article?

6 A Yes, I do, in the third

7 paragraph.

8 Q Okay..

9 A It begins, "The letter which -

10 Q You can go ahead and read that

11 into the record.

12 A Is that all right?

13 Q Yeah.

14 A "The letter which Novell is

15 supposed to post to its website today right

16 before SCO reports its quarterly results."

17 Q Can you continue?

18 A "Says that Novell owns the IP

19 and that SCO merely shares in certain

20 rights that it acquired from Novell by way

21 of the original SCO, the old Santa Cruz

22 operation."

23 Q And did you write that paragraph

24 as part of this article?

25 A Yes.

Page 16

1 O'Gara

2 Q Is it your practice to take

3 notes as you're talking with sources?

4 A My notes are more in the way of

5 just phrases.

6 Q Phrases that people say to you?

7 A Yeah.

8 Q So you can capture the words

9 they used?

10 A Right.

11 Q What do you recall of the exact

12 words Mr. Stone used with you in reporting

13 to you the planned announcement?

14 A I can't.

15 Q Were you on the phone?

16 A With him?

17 Q Yes.

18 A Yes.

19 Q What phone were you on?

20 A What do you mean?

21 Q Were you on a house phone, do

22 you have a cell phone?

23 A Oh, I was on a standard land

24 line.

25 Q And where was that land line

Page 15

1 O'Gara

2 Q And again, as you sit here

3 today, is it your understanding that that

4 reflects your conversation with Mr. Stone?

5 MR. JACOBS: Objection.

6 Leading.

7 Q Does that reflect your

8 conversation with Mr. Stone?

9 A Yes.

10 Q The same conversation you just

11 testified about?

12 A Yes.

13 MR. GONZALEZ: Thank you. I

14 have nothing further.

15

16 EXAMINATION BY

17 BY MR. JACOBS:

18 Q Ms. O'Gara, do you have any

19 notes of your conversation with Mr. Stone?

20 A No.

21 Q Did you have notes at one point?

22 A Perhaps.

23 Q Why do you say perhaps?

24 A Because I don't clearly

25 remember.

Page 17

1 O'Gara

2 located?

3 A In my office.

4 Q And where is that office?

5 A That office was at 323 Sea Cliff

6 Avenue in Sea Cliff.

7 Q What was the phone number you

8 were calling him from?

9 MR. GONZALEZ: Objection.

10 A Do I answer that question?

11 My telephone number was

12 516-759-7025. That's the main number.

13 But there are a number of lines on that

14 and it's a rollover kind of thing, and so

15 I would never know what line I was on,

16 whether it was an incoming call or an

17 outgoing call.

18 Q So are you saying as to this

19 conversation with Chris Stone you don't

20 recall whether it was incoming or outgoing?

21 A That's correct.

22 Q Did you have an understanding

23 where Mr. Stone was purportedly calling you

24 from during this call?

25 A I beg your pardon?

Page 18

1 O'Gara  
 2 Q Did you have an understanding  
 3 where Mr. Stone was during this phone call?  
 4 A I believe he was in the Novell  
 5 offices.  
 6 Q Just back to 323 Sea Cliff  
 7 Avenue, is that a personal office of yours  
 8 or an office of G2?  
 9 A It was G2 Computer Intelligence  
 10 was the, what do you call it, the tenant.  
 11 Q Is G2 your company?  
 12 A Yes.  
 13 Q So but the entity that -- well,  
 14 let me start over again.  
 15 Would the phone line be in the  
 16 name of Maureen O'Gara, or would it be in  
 17 the name of G2?  
 18 A G2.  
 19 Q You don't recall the exact words  
 20 Mr. Stone used. What is your best  
 21 recollection of what he said to you in the  
 22 particular conversation you were recalling  
 23 for Mr. Gonzalez?  
 24 A To best answer that question,  
 25 I'd have to explain that most business

Page 19

1 O'Gara  
 2 journalists are not that aware surprisingly  
 3 enough of the market, all right? You have  
 4 to remind yourself that there is such a  
 5 thing as the stock market, all right?  
 6 Maybe the guys at Barons are different, but  
 7 most of us aren't, you know, that's not a  
 8 hypersensitivity. And Chris drew my  
 9 attention to the fact that there was, that  
 10 SCO was supposed to report its numbers on  
 11 Wednesday, the 28th, and that's why this  
 12 phrasing in here even appears. Otherwise,  
 13 I would never have made the connection. He  
 14 was the one who drew my attention to the  
 15 fact that Novell is supposed to post to its  
 16 website today right before SCO reports its  
 17 quarterly results. That's the burden of  
 18 what he told me.  
 19 Q When you were responding to  
 20 questions from SCO's counsel, it seemed to  
 21 me you were being careful to distinguish  
 22 between what Mr. Stone said to you and what  
 23 you inferred from what he said, or what you  
 24 understood the purport to be. So with that  
 25 distinction in mind, let me follow up a

Page 20

1 O'Gara  
 2 little bit on that, on what your take away  
 3 was versus what he actually said.  
 4 MR. GONZALEZ: Objection.  
 5 Q Did he say to you anything more  
 6 than -- with respect to the issue of SCO's  
 7 announcement, did he simply draw your  
 8 attention to the fact?  
 9 A To SCO's announcement?  
 10 Q Yes.  
 11 A You mean their earnings report?  
 12 Q Correct.  
 13 A Okay.  
 14 Q Did he say anything more than  
 15 SCO is supposed to report its quarterly  
 16 results on May 28th?  
 17 A He led me to understand that the  
 18 reason that they were doing it on the 28th,  
 19 that they were posting their cease and  
 20 desist letter was because SCO was, had its  
 21 earnings report.  
 22 Q So I understand you to be saying  
 23 that he led you to understand something,  
 24 but I need to --  
 25 A He said --

Page 21

1 O'Gara  
 2 Q You're onto it. I'm trying to  
 3 figure out what you took away from it  
 4 versus what he actually said to you.  
 5 A There was no lack of clarity.  
 6 There was no lack of clarity, sir.  
 7 Q Well, then what was clear in  
 8 what he, in his words versus what you took  
 9 away from it?  
 10 A He was saying to me that the  
 11 reason that they were doing this was  
 12 because of SCO's earning report. I'm  
 13 sorry, you know, it's just, that's just the  
 14 way it is.  
 15 Q You don't have to apologize to  
 16 me. I just want your truthful testimony  
 17 under oath here so that the record is  
 18 clear.  
 19 A Right. It's not -- okay, go  
 20 ahead.  
 21 Q And so my question to you is, is  
 22 it your testimony under oath that Mr. Stone  
 23 conveyed to you in words that the reason  
 24 Novell was doing this announcement on the  
 25 date it was doing it was so it would be

Page 22

1 O'Gara  
 2 coincident with SCO's report of its  
 3 quarterly results?  
 4 MS. FOLEY: I'm going to object  
 5 to that as asked and answered, and  
 6 I'll let you answer again.  
 7 A Yes.  
 8 Q And what words or substance of  
 9 the conversation do you precisely recall  
 10 him using in order for him to convey that  
 11 as opposed to you to infer it?  
 12 MS. FOLEY: Object to the form  
 13 of the question. Asked and answered.  
 14 Q You can answer.  
 15 A I still answer?  
 16 Q Please.  
 17 A Maybe it was the laughter that I  
 18 remember most about it.  
 19 Q All right. So tell me about  
 20 that.  
 21 A Well, he basically -- I just --  
 22 maybe the right way to characterize it was  
 23 chortled.  
 24 Q And what do you recall of the  
 25 chortling?

Page 23

1 O'Gara  
 2 A That was at the end of our  
 3 conversation. It was shortly after we hung  
 4 up. I think we had been on the phone for a  
 5 little bit of time going through all of  
 6 this. He explained to me, and that's why  
 7 it appears in this story, that the  
 8 coincidence appears in this story because  
 9 he drew my attention to it.  
 10 Q And did -- so I think we have  
 11 chortling at the end of the conversation?  
 12 A Uh-huh, about that. It wasn't,  
 13 you know, like -- it was about the fact  
 14 that they were putting out their statement  
 15 on that day. That was what the laughter  
 16 was about.  
 17 Q So let me see if I've accurately  
 18 captured the back and forth over the last  
 19 few minutes.  
 20 A Okay.  
 21 Q Mr. Stone said to you, one,  
 22 we're releasing this statement about  
 23 ownership of the UNIX copyrights; two, SCO  
 24 is posting, it is reporting its quarterly  
 25 results on the same day as our

Page 24

1 O'Gara  
 2 announcement; and three, he chortled?  
 3 MS. FOLEY: Object to the form  
 4 of the question. The transcript will  
 5 speak for itself.  
 6 A I think there's a step missing  
 7 in there, sir --  
 8 Q Please.  
 9 A -- if I'm not mistaken.  
 10 Q You want me to read back what I  
 11 said?  
 12 A Why don't you.  
 13 Q Let me see if I have accurately  
 14 captured the back and forth over the last  
 15 few minutes. I'm going to redo it a little  
 16 bit better now that I can see the way I did  
 17 it. One, Mr. Stone --  
 18 A You get to improve, is that  
 19 fair?  
 20 Q Yes, and you do too. Life is  
 21 about improvement.  
 22 One, Mr. Stone said to you we  
 23 are releasing a statement about ownership  
 24 of the UNIX copyrights; two, Mr. Stone drew  
 25 your attention to the fact that SCO was

Page 25

1 O'Gara  
 2 reporting its quarterly results the next  
 3 day; and three, Mr. Stone chortled.  
 4 A Okay. There is an absence of  
 5 causality in there.  
 6 Q You've put your finger on my  
 7 question.  
 8 A All right. So there's the step  
 9 that's left out is that there was a  
 10 connection between step A and step B.  
 11 Q And my question is what did  
 12 Mr. Stone say that specifically identified  
 13 that connection as opposed to you inferring  
 14 from the --  
 15 A I'm sorry, I'm not inferring,  
 16 all right? I don't remember the exact  
 17 words, but it wasn't an inference. It was  
 18 a statement. I would only be putting words  
 19 in his mouth, I can't remember it, the  
 20 exact words, but the meaning was quite  
 21 clear.  
 22 Q Well, let me ask you this, if  
 23 you look at your --  
 24 A Article?  
 25 Q Article, thank you, on May 28,



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1 O'Gara  
 2 2003, Exhibit 1080.  
 3 A Yes.  
 4 Q It looks to me that the way you  
 5 reported it, to use the terminology you and  
 6 I have started to adopt here --  
 7 A Yes.  
 8 Q -- you reported one and two, but  
 9 not causality?  
 10 A Right.  
 11 Q Do you agree with that?  
 12 A Yes.  
 13 Q Why is that?  
 14 A I didn't know what to do with  
 15 it, quite frankly, and the story wasn't  
 16 about -- from my point of view the story  
 17 wasn't about that.  
 18 Q And why is that?  
 19 A Because I'm not a lawyer.  
 20 Q You saw no news value in a  
 21 statement to you by a Novell executive that  
 22 conveyed to you that the reason Novell was  
 23 releasing its statement on a particular  
 24 date was because SCO was reporting its  
 25 quarterly results that same date?

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1 O'Gara  
 2 A I know that that seems in  
 3 isolation like that should be really  
 4 important, okay, but there were so many  
 5 issues in this very complicated matter that  
 6 that would make a great sidebar or a  
 7 follow-up maybe, but we were talking about  
 8 something else in this story and I  
 9 thought -- I didn't know where it was all  
 10 going to go, and I've known Chris a long  
 11 time. Sometimes I get protective.  
 12 Q Did you subsequently convey to  
 13 someone at SCO that you had heard from  
 14 Chris Stone that the reason Novell had  
 15 issued its statement that day was because  
 16 SCO -- was to time it with the earnings  
 17 announcement?  
 18 A As far as I remember, and  
 19 according to the evidence in front of me  
 20 here, we were breaking this news. Okay?  
 21 In the normal course of  
 22 reporting, I went back to the other guy,  
 23 being SCO, who as far as I know didn't know  
 24 anything about this, for a statement.  
 25 During the course of my asking

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1 O'Gara  
 2 for that statement from its public  
 3 relations people, as a lever to get that  
 4 statement I repeated what Stone had said  
 5 to me.  
 6 Q What exactly did you state when  
 7 you repeated what Stone had said to you?  
 8 A Whatever his exact words were at  
 9 the time. I'm sorry.  
 10 Q Were you reading from notes?  
 11 A I don't think you had to because  
 12 it was just a sentence.  
 13 Q Your best recollection is you  
 14 had no notes?  
 15 A No, I have notes, but you know,  
 16 they're not understandable, they're not  
 17 notes like full sentences, they're not  
 18 verbatim everything. If I took shorthand,  
 19 you'd be handy to have around.  
 20 Q Do you have those shorthand  
 21 notes still?  
 22 A No, I don't do shorthand.  
 23 Q I used the word inadvisably.  
 24 You're being more precise than I am.  
 25 A Yes, yes.

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1 O'Gara  
 2 Q Do you have the notes of the  
 3 short phrases still?  
 4 A No.  
 5 Q What is your practice of the  
 6 short phrases, if you will, in terms of  
 7 whether you keep them or not?  
 8 A I throw everything out.  
 9 Q When do you do that?  
 10 A If not when the story is  
 11 written, then every week, and I've been  
 12 doing that since 1972.  
 13 Q When you conferred with the  
 14 public relations people at SCO, first of  
 15 all, were you conferring with Blake  
 16 Stowell?  
 17 A Confering? I don't confer with  
 18 the PR people. I called Blake Stowell,  
 19 yes.  
 20 Q What did you mean, why did you  
 21 object to the word confer?  
 22 A I find it difficult to use that  
 23 verb, when I'm talking about a flak, no.  
 24 You don't have conferences with PR people.  
 25 Q You called him up, you told

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1 O'Gara  
 2 him --  
 3 A From the same phone I talked to  
 4 Chris on.  
 5 Q You told him what Chris had said  
 6 to you and you asked him whether he had any  
 7 comment?  
 8 A No. I told, I said to them what  
 9 I knew, which is the substance of this  
 10 story, that the next day that they were  
 11 going to issue this cease and desist  
 12 letter, and in order to get a statement  
 13 from SCO as a lever, I threw in what Chris  
 14 had said. It wasn't as scandalous to me as  
 15 a regular business reporter than it has  
 16 become under these circumstances. Do you  
 17 understand what I mean?  
 18 Q I'm trying to figure out which  
 19 of the -- I think setting aside the  
 20 chorling for a minute, we've talked about  
 21 three components again, the fact of the  
 22 date of the planned issuance of the Novell  
 23 statement, the fact of the date of the SCO  
 24 earnings release and the causal  
 25 relationship between one and two.

Page 31

1 O'Gara  
 2 A Uh-huh.  
 3 Q And I'm trying to figure out if  
 4 you told SCO one, one and two, or one two  
 5 and three.  
 6 A If I remember my one, two and  
 7 three correctly, the answer is one, two and  
 8 three.  
 9 Q So then I'll say that in more  
 10 colloquial terms, you conveyed to Blake  
 11 Stowell that Chris Stone had said to you --  
 12 A Did I do something with your  
 13 wire? Excuse me. Sorry. I moved.  
 14 Q You conveyed to Blake Stowell  
 15 that Chris Stone had said to you that  
 16 Novell was issuing its statement in order  
 17 to time its release with SCO's report of  
 18 its earnings?  
 19 A Among the many things -- the  
 20 substance of the statement seemed to take  
 21 priority under these, in my world the  
 22 substance of the statement was the primary  
 23 fact. I was trying to get a reaction to  
 24 that.  
 25 Then when I noticed hesitancy on

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1 O'Gara  
 2 the part of Mr. Stowell to give me a  
 3 reaction to that, I pushed further and used  
 4 the expressions that Stone had said to me,  
 5 and the substance of which is that the  
 6 reason that they were doing it tomorrow was  
 7 because you're going to have your earnings  
 8 call.  
 9 Q And you're confident as you sit  
 10 here today, it's 4 years later, that you  
 11 didn't embellish on what Mr. Stone had said  
 12 to you?  
 13 A No.  
 14 Q In order to elicit comment from  
 15 Mr. Stowell?  
 16 A No, absolutely not.  
 17 Q You're not confident, or you're  
 18 confident you did not?  
 19 A I am absolutely confident that I  
 20 did not. That would be a lie.  
 21 Q Would you regard that as a  
 22 breach of your ethics as a journalist?  
 23 A Absolutely.  
 24 Q It's sort of like  
 25 cross-examining a witness when you don't

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1 O'Gara  
 2 have a basis for the cross-examination?  
 3 A Yeah, you guys can do it, but I  
 4 can't.  
 5 Q We can't either.  
 6 So with that in mind, how would  
 7 you describe your relationship with  
 8 Mr. Stowell?  
 9 A As normal.  
 10 Q What does normal mean to you?  
 11 A All press agents are wary of  
 12 somebody like me. So it's like constantly,  
 13 it's like cats, you know, or dogs sniffing  
 14 each other out constantly. You might know  
 15 that dog, but you know, you're not  
 16 absolutely, you're never friends with  
 17 that -- you know, you don't have friends,  
 18 journalists don't have friends, but you  
 19 have people that you deal with all the  
 20 time.  
 21 Q Did you have the impression that  
 22 Mr. Stowell regarded you as an ally in the  
 23 SCO --  
 24 A Never, no.  
 25 Q Did you convey to Mr. Stowell at

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1 O'Gara  
 2 any time that you took -- let me start over  
 3 again.  
 4 How did you view the SCO versus  
 5 IBM SCO versus Novell dispute as it was  
 6 brewing in the spring and summer of 2003?  
 7 A As a good story.  
 8 Q Did you believe that you were  
 9 taking a particular side in that story?  
 10 A I have no side.  
 11 Q Did you understand that people  
 12 thought you were taking sides during that  
 13 period?  
 14 A I think that my stories stand  
 15 for that. I think that -- I would refer  
 16 you to my stories. I don't see any bias in  
 17 any of my stories. It's just a completely  
 18 objective recitation of the facts.  
 19 Q So my question, though, is do  
 20 you think that there were, didn't you in  
 21 fact -- and I promise you I won't ask you a  
 22 question unless I have a basis for it --  
 23 didn't you, in fact, receive communications  
 24 from people who thought you were taking  
 25 SCO's side in the dispute?

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1 O'Gara  
 2 190.  
 3 (Whereupon, Exhibit 190 was  
 4 marked for identification.)  
 5 MR. JACOBS: 190 is an e-mail  
 6 string with the date on the top of  
 7 July 20, 2004. So it's after the  
 8 period you and I were talking about  
 9 before. It's produced by SCO at  
 10 1648756 to 759.  
 11 A Yeah. So?  
 12 Q So this is a string of messages  
 13 that you forwarded to SCO, correct?  
 14 A I don't, I don't know.  
 15 Q Well, do you see the e-mail at  
 16 the bottom of 756 from O'Gara to Blake  
 17 Stowell?  
 18 A I see from Frank somebody or  
 19 another to O'Gara.  
 20 Q And look at the bottom of the  
 21 first page.  
 22 A Then I see -- the bottom of the  
 23 first --  
 24 Q The string is in reverse order.  
 25 A Yeah, I see. I don't know what

Page 35

1 O'Gara  
 2 A If I were to say that most  
 3 people can't read, would you understand  
 4 what I was talking about?  
 5 Q I'm not asking you to defend  
 6 yourself at this point.  
 7 A I understand that.  
 8 Q I'm asking you whether, in fact,  
 9 you received those communications.  
 10 A When? What's the timing?  
 11 Q Well, let me -- I was telling  
 12 Mauricio, again, I have a rule against  
 13 asking trick questions unless I tell you  
 14 it's a trick question. So let me show you  
 15 what I'm referring to.  
 16 MR. JACOBS: We have another  
 17 deposition going on today with  
 18 Mr. Levine, so what I propose to do is  
 19 to skip to 90.  
 20 MR. GONZALEZ: Okay.  
 21 MR. JACOBS: And we'll mark this  
 22 as 90.  
 23 MR. GONZALEZ: You mean 1090.  
 24 MR. JACOBS: No, 90. We have a  
 25 different numbering. Let's mark it

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1 O'Gara  
 2 the context is.  
 3 MS. FOLEY: Just actually listen  
 4 to the question that he asked.  
 5 THE WITNESS: Sorry.  
 6 MS. FOLEY: The question again  
 7 was?  
 8 Q You forwarded an e-mail string  
 9 that you received to Mr. Stowell at SCO,  
 10 correct?  
 11 A No.  
 12 MS. FOLEY: The question is does  
 13 the document reflect that.  
 14 A I guess so.  
 15 Q Well, you don't have a  
 16 recollection?  
 17 A I don't remember it, you know, I  
 18 get lots of e-mails. So what?  
 19 Q Well, I guess my question is so  
 20 what, why did you forward this string of  
 21 e-mails from Frank Jalics, J-A-L-I-C-S, in  
 22 which he accused you of being on, in a  
 23 nutshell, on SCO's side --  
 24 A Yeah.  
 25 Q -- why did you forward that to

10 (Pages 34 to 37)

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1 O'Gara  
 2 SCO under an e-mail "I want war pay"?  
 3 MR. GONZALEZ: Objection.  
 4 A I don't remember the context of  
 5 the thing, but --  
 6 MS. FOLEY: Do you remember why  
 7 you forwarded it?  
 8 THE WITNESS: No.  
 9 Q Does it strike you as peculiar  
 10 that a journalist would forward to one of  
 11 the sides in a dispute a string of e-mails  
 12 she got from a reader?  
 13 A I don't know what the right  
 14 answer to that question is because I don't  
 15 know the context.  
 16 Q Well, what's the context here?  
 17 A I'm probably just complaining  
 18 about getting this kind of crap all, you  
 19 know, all the time.  
 20 People who can't read and don't  
 21 know what the heck is going on and got it  
 22 wrong to begin with just, you know, saying  
 23 that, you know, you think you've got it  
 24 tough, Blake, you should see it from my  
 25 side. That's no big deal.

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1 O'Gara  
 2 Q So Jalics says to you in the  
 3 July 19th e-mail --  
 4 A July 19, is that the beginning?  
 5 Q It's towards the beginning, yes.  
 6 It's on the bottom half of 758.  
 7 A July 19th, wait a second. Yeah.  
 8 About being Hillary to their Bill Clinton?  
 9 Q Yes. To be precise, he says,  
 10 "You take SCO's side like Hillary took Bill  
 11 Clinton's side when he was being accused of  
 12 fooling around with Monica."  
 13 Do you see that?  
 14 A Yes.  
 15 Q And then he goes on to explain  
 16 why he thinks you are being taken in by  
 17 SCO's story.  
 18 Do you see that?  
 19 A Yes.  
 20 Q And then you responded to him  
 21 with a clarification of what you thought  
 22 SCO was alleging in the dispute.  
 23 Do you see that?  
 24 A I don't think what they're  
 25 alleging -- all right. I see my reply,

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1 O'Gara  
 2 yes.  
 3 Q And it reads, "SCO needs AIX and  
 4 DYNEX because it is charging IBM with  
 5 copying AIX and DYNEX line for line into  
 6 Linux. It is not charging IBM with copying  
 7 UNIX line for line into Linux. It is  
 8 charging IBM with copying derivative copy  
 9 line for line into Linux.  
 10 Do you see that?  
 11 A Yes.  
 12 Q So you were trying to clarify  
 13 for him what you understood the dispute was  
 14 about?  
 15 A Isn't that what the dispute was  
 16 about at that time?  
 17 Q I'm not challenging that.  
 18 A Okay.  
 19 Q I'm just characterizing what you  
 20 were doing.  
 21 A Right, okay.  
 22 Q And then he goes on and again  
 23 sort of disputes your reporting on the case  
 24 in his July 20th e-mail, do you see that?  
 25 He says, "What makes you want to

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1 O'Gara  
 2 believe SCO when every time they show up to  
 3 a different court or to the same court on a  
 4 different day their story keeps changing?  
 5 When they filed the suits in the IBM case,  
 6 did you know it was primarily a contract  
 7 dispute and not really about contract  
 8 copyright infringement? When they filed  
 9 the suit against Auto Zone, did you realize  
 10 that it was really about them thinking that  
 11 Auto Zone might have ported some static  
 12 libraries to Linux? SCO hired some  
 13 competent lawyers that they are able to  
 14 convincibly argue that the moon is made of  
 15 green cheese, but that doesn't mean that  
 16 they have the evidence to back it up,  
 17 Frank."  
 18 Do you see that?  
 19 A Uh-huh.  
 20 MR. GONZALEZ: Objection to the  
 21 scope.  
 22 Q And then you forward that string  
 23 to Mr. Stowell and with what I took to be  
 24 kind of a humorous remark, I want war pay.  
 25 A Right.

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1 O'Gara  
 2 Q And it was humorous?  
 3 A It was intended to be.  
 4 Q I actually think it's funny, so  
 5 your intent came across.  
 6 A Okay. All right.  
 7 Q And then Stowell says back to  
 8 you, "Keep fighting the good fight."  
 9 A Right.  
 10 Q Now what did you understand him  
 11 to be saying with keep fighting the good  
 12 fight?  
 13 MS. FOLEY: If you have a  
 14 recollection of this e-mail, having  
 15 any understanding at the time.  
 16 A I would only be interpreting. I  
 17 don't, you know -- I'm assuming that he was  
 18 just saying, you know, continue doing the  
 19 kind of reporting you're used to doing,  
 20 which is objective.  
 21 Q So let me show you another  
 22 e-mail. We'll mark this as 191.  
 23 (Whereupon, Exhibit 191 was  
 24 marked for identification.)  
 25 Q This is one you would not have

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1 O'Gara  
 2 seen before, but I think it's important  
 3 that you see.  
 4 A Is this backwards too?  
 5 Q This is backwards too. So 191  
 6 is a short string in which your Client  
 7 Server News is forwarded internally at SCO.  
 8 And so if you go down to the bottom of SCO  
 9 1278156, there is your May 2, 2003 Client  
 10 Server News.  
 11 Do you see that?  
 12 A I don't know what story they're  
 13 referring to. Wait a minute. Yeah.  
 14 Q So if you look at the e-mail  
 15 highlights of what looks to be Adobe  
 16 Acrobat attachment, your e-mail highlight  
 17 says, "Against the backdrop of a thin IBM  
 18 response to SCO's billion dollar suit  
 19 against it, SCO claims it's found line for  
 20 line plagiarism of SVR5 and Linux and has  
 21 renewed its threat to pull IBM's license in  
 22 six weeks."  
 23 Do you see that?  
 24 A This indicates to me that this  
 25 is a list of headlines, and some copies of

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1 O'Gara  
 2 our e-mail distributions in the front they  
 3 have a list of the headlines. So these are  
 4 different stories. 01 is a story with that  
 5 headline, 02 is a story with that headline,  
 6 03 and 04....yeah, so what?  
 7 Q Okay.  
 8 So the lead story there is IBM  
 9 tries non-defense defense?  
 10 A Yeah.  
 11 Q Against billion dollar SCO suit?  
 12 A Yeah.  
 13 Q And you send that to your  
 14 readers, and Blake Stowell forwards it  
 15 internally under an e-mail to Darl McBride  
 16 the CEO of SCO, which says, "Once again,  
 17 Maureen is coming through for us, we owned  
 18 the entire front page."  
 19 Do you see that?  
 20 A Yeah. So what?  
 21 Q So my question to you is, was  
 22 Mr. Stowell working with you --  
 23 A No.  
 24 Q -- to get prominent coverage for  
 25 the SCO IBM lawsuit?

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1 O'Gara  
 2 A No, absolutely not. Absolutely  
 3 not. Never.  
 4 Q Was Mr. Stowell doing his job in  
 5 trying to get good PR for SCO through you?  
 6 A No.  
 7 MR. GONZALEZ: Objection. Calls  
 8 for speculation.  
 9 Q No, he wasn't doing that?  
 10 A No. Blake did not do a good  
 11 job.  
 12 Q So you put that story on the  
 13 front page, but it didn't have anything to  
 14 do with Blake Stowell doing his job?  
 15 A Absolutely not.  
 16 Q Why did you give it front page  
 17 placement?  
 18 A Probably because it was the most  
 19 interesting thing that happened that week.  
 20 Q In your judgment?  
 21 A I get to do that, yeah.  
 22 Q So by the way, this 191, we'll  
 23 jump around in time a little bit, 191 is  
 24 May 2, 2003, so this is before the story  
 25 that SCO asked you about in the beginning

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1 O'Gara  
 2 part of the deposition. This one I'm going  
 3 to show you about is back to October 2004.  
 4 So this will be 192. Do you have it?  
 5 A No, I don't.  
 6 (Whereupon, Exhibit 192 was  
 7 marked for identification.)  
 8 MR. JACOBS: Why don't you hold  
 9 192 and we'll mark another one as 193.  
 10 (Whereupon, Exhibit 193 was  
 11 marked for identification.)  
 12 Q So 193 is an e-mail string that  
 13 ends on August 11, 2003 produced by SCO  
 14 under 143593 to 595.  
 15 A Yeah.  
 16 Q And 192 is an e-mail string  
 17 ending October 22, 2004 ending under SCO  
 18 1648173 to 176. Let me ask you about 193  
 19 first.  
 20 MS. FOLEY: Have you had a  
 21 chance to look at it, 193?  
 22 A I'm sorry, I'm looking here --  
 23 oh, I'm sorry, I'll looking at 192.  
 24 Q That's all right. Take a look  
 25 at 193 now.

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1 O'Gara  
 2 A Yes.  
 3 Q So 193 is an e-mail string  
 4 between you and Stowell about a couple of  
 5 issues, but what I want to focus attention  
 6 on is the most recent two e-mails in the  
 7 string. It seems to me you're joking with  
 8 him about the subscription costs to Linux  
 9 Graham and you say I'll make you a special  
 10 price.  
 11 Do you see that?  
 12 A Uh-huh.  
 13 Q And that's on August 11, 2003,  
 14 do you see that?  
 15 A Uh-huh.  
 16 Q And then you again, I think in  
 17 humor -- I'll accept it as in humor -- you  
 18 say "you're so cute" and then you say "and  
 19 your politics are sensible and should be  
 20 rewarded." I didn't see the humor in that.  
 21 I was wondering what you meant by it.  
 22 A He's a mormon.  
 23 Q And therefore?  
 24 A It has a tendency to have like,  
 25 you know, those kindS of family values that

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1 O'Gara  
 2 we're all supposed to admire so much.  
 3 Q And that's what you meant by  
 4 politics?  
 5 A Isn't that what that is?  
 6 Q I don't know. I'm asking you.  
 7 What did you mean by politics?  
 8 A That's what I would say.  
 9 Q Family values?  
 10 A Yeah.  
 11 Q And what do you mean by it  
 12 should be rewarded?  
 13 A A lot of people are -- oh, come  
 14 on, you know, it's meaningless. There's  
 15 nothing there. It's just chatter.  
 16 Q And then he reports back, "Aaw,  
 17 shucks, I'm blushing now."  
 18 Do you see that?  
 19 A I guess that's because I said he  
 20 was cute. I call most people lamb chop.  
 21 Most guys think they're the only ones I say  
 22 it to. I've got 2000 senior executives in  
 23 the computer industry who think they're the  
 24 only ones I call lamb chop. Come on,  
 25 honey.

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1 O'Gara  
 2 Q I'm feeling left out.  
 3 A Let's deal with this. You know,  
 4 I mean, it's a dog eat dog world out there.  
 5 Q Yeah, and I think I saw all of  
 6 that except the focus on politics. That  
 7 seemed like an odd word in this context.  
 8 A I don't know. We were talking  
 9 about other kinds of things. You know, you  
 10 have to talk about other subjects with  
 11 people and he was probably telling me about  
 12 his kids and, you know, local school  
 13 election or whatever. It's --  
 14 Q So this was just chatter?  
 15 A This is just chatter. This is  
 16 southern bell kind of chit cat, you know,  
 17 just keep talking and maybe you'll get what  
 18 you want, whatever it is.  
 19 Q So then on 192, Dean Zimmerman  
 20 at SCO writes to Blake Stowell and writes,  
 21 "Am I impressed you actually got Maureen  
 22 O'Gara to say something that was, well,  
 23 nice about SCO."  
 24 Do you see that?  
 25 A Yes, I do.

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1 O'Gara  
 2 Q And Stowell says, "I just killed  
 3 her with kindness and charm."  
 4 A Yes, and I just imagine that's  
 5 chitchat too.  
 6 Q That's your interpretation?  
 7 A Yeah.  
 8 MR. JACOBS: We've been going  
 9 about an hour and 15. I'd like to  
 10 give you a break and take a quick  
 11 break. I think we can finish up by  
 12 1:00 if we take no more than a 5 or 10  
 13 minute break.  
 14 MR. GONZALEZ: You mean in total  
 15 or just your part?  
 16 (Discussion held off the  
 17 record.)  
 18 THE VIDEOGRAPHER: We are going  
 19 off the record. The time is 12:20.  
 20 (Recess taken 12:20 p.m.)  
 21 THE VIDEOGRAPHER: We are now  
 22 back on the record. The time is  
 23 12:38.  
 24 BY MR. JACOBS:  
 25 Q Ms. O'Gara, I'd like to show you

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1 O'Gara  
 2 what we'll mark as 194 and 195.  
 3 (Whereupon, Exhibits 194 and 195  
 4 were marked for identification.)  
 5 Q 194 is a copy of an article from  
 6 Linux Graham, SCO's lawyer speaks, says  
 7 nothing. Do you see that?  
 8 A Yep.  
 9 Q Is that an article you wrote?  
 10 A Yes.  
 11 Q And 195 is a declaration of Mark  
 12 Heise in the SCO v. IBM case dated November  
 13 7, 2006.  
 14 In 194 you said that you had a  
 15 conversation with Mr. Heise and that he  
 16 said that while SCO's -- you said that he  
 17 said that while SCO's claims have substance  
 18 and that it isn't proposing to go on a  
 19 fishing discovery expedition, SCO doesn't  
 20 want IBM to know what they are.  
 21 Do you see that?  
 22 A Yes, I do.  
 23 MR. GONZALEZ: Objection.  
 24 Q And then Mr. Heise submits his  
 25 declaration saying that he spoke to you on

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1 O'Gara  
 2 or around March 21, 2003 --  
 3 A Wait a second.  
 4 MS. FOLEY: Why don't you take a  
 5 moment to read Exhibit 195.  
 6 A Why don't I read 194 first.  
 7 MS. FOLEY: Okay.  
 8 MR. GONZALEZ: Just to clarify,  
 9 I want to object to the form of the  
 10 last question of Mr. Jacobs as well as  
 11 his characterization of Exhibit 194.  
 12 A Does the last paragraph of --  
 13 MS. FOLEY: Actually, have you  
 14 finished reading?  
 15 THE WITNESS: Yes.  
 16 MS. FOLEY: Then you'll answer  
 17 questions, but I'm going to state for  
 18 the record beforehand that this now  
 19 seems to be getting beyond the  
 20 articles that were given to us before  
 21 the deposition to consider for  
 22 privilege grounds.  
 23 I don't know exactly where you  
 24 intend to go or what questions you  
 25 intend to ask, and it may or may not

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1 O'Gara  
 2 raise privilege issues.  
 3 So I'm going to let you ask the  
 4 questions and then maybe either we'll  
 5 have a conversation either on or off  
 6 the record if it does start to raise  
 7 privilege issues.  
 8 Q Actually on that point, you had  
 9 communications directly or through your  
 10 counsel with counsel for SCO before the  
 11 deposition?  
 12 A Could you repeat that question?  
 13 (Record read)  
 14 A Yes.  
 15 Q You met with counsel for SCO?  
 16 A No.  
 17 Q You didn't meet in the lobby of  
 18 this hotel with counsel for SCO?  
 19 A Oh, I beg your pardon. I  
 20 thought you meant before today, I guess  
 21 the answer would be yes.  
 22 Q Did you discuss the substance of  
 23 your testimony today?  
 24 A We discussed the First Amendment  
 25 and we discussed the questions that he

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1 O'Gara  
 2 would ask me.  
 3 Q Did you discuss the answers you  
 4 would give?  
 5 A I wouldn't characterize it that  
 6 way, no.  
 7 Q What did you convey from your  
 8 side?  
 9 A What did I convey, you mean what  
 10 did I say?  
 11 Q Uh-huh.  
 12 A That it was my understanding  
 13 that we were going to talk about this story  
 14 that I wrote on May 28th, 2003 and that my  
 15 conversation with Mr. Stone was reflected  
 16 in paragraph 3.  
 17 Q Did you discuss with him the  
 18 question of whether Mr. Stone conveyed  
 19 anything more to you than was carried, that  
 20 was contained in paragraph 3 of Exhibit  
 21 1080?  
 22 THE WITNESS: Could you repeat  
 23 that, please?  
 24 (Record read)  
 25 A We discussed the meaning of

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1 O'Gara  
 2 shell with him?  
 3 A No.  
 4 Q And Mr. Stone didn't use the  
 5 word bomb shell with you?  
 6 A No.  
 7 Q Bomb shell is your  
 8 characterization today?  
 9 A Right. But that's what it was  
 10 intended to be.  
 11 Q That's the way you understood  
 12 it?  
 13 A No, that is the way the world  
 14 was supposed to understand it, because it  
 15 is a bomb shell, sir.  
 16 Q In your judgment?  
 17 A No. It's a fact. It's not a  
 18 judgment. It's a fact.  
 19 Q Has anyone else validated that  
 20 fact other than yourself?  
 21 A We wouldn't all be here if it  
 22 wasn't.  
 23 Q If you look at 194 and 195 --  
 24 A Yes.  
 25 Q Mr. Heise is a lawyer for SCO

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1 O'Gara  
 2 paragraph 3.  
 3 Q What did you tell him the  
 4 meaning was?  
 5 A Exactly what I've testified to  
 6 here today.  
 7 Q How did you -- you and I kind of  
 8 teased it out with a high degree of  
 9 specificity. What did you tell SCO's  
 10 counsel about what you meant by that  
 11 paragraph?  
 12 A I assumed we teased it out with  
 13 the same degree of specificity, if I  
 14 understand what those words mean.  
 15 My understanding is -- let me  
 16 rephrase that.  
 17 Chris Stone told me that they  
 18 were going to drop this little bomb shell  
 19 on SCO and they were going to do it on the  
 20 28th of May, because that was the day that  
 21 SCO's numbers were coming out.  
 22 Q And that's what you conveyed to  
 23 SCO's counsel in the lobby of the hotel?  
 24 A Yes.  
 25 Q You didn't use the word bomb

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1 O'Gara  
 2 and he's critiquing this article, in 195 in  
 3 his declaration he's contradicting 194,  
 4 isn't he?  
 5 MS. FOLEY: Well, are you  
 6 representing that to her?  
 7 MR. JACOBS: I'm asking her.  
 8 MS. FOLEY: Well, there's  
 9 nothing in here that connects this to  
 10 this. This refers in this affidavit  
 11 to Exhibit No. 374, I believe, and  
 12 there is no, nothing that shows that  
 13 this article that you've given as 94  
 14 is the same thing he's talking about.  
 15 MR. JACOBS: Why don't you look  
 16 at paragraph 4, just so you and I are  
 17 clear, of his declaration.  
 18 MS. FOLEY: And in paragraph 4  
 19 it say SCO lawyers speak, says  
 20 nothing.  
 21 MR. JACOBS: Right.  
 22 MS. FOLEY: So you're  
 23 representing to her that this is the  
 24 article that's referred to in here?  
 25 MR. JACOBS: Yes.



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1 O'Gara

2 Q Except paragraph 8, which is a

3 different topic as you started to note.

4 A Yeah, that's correct.

5 Q So we'll set paragraph 9 aside.

6 I'm not going to ask you any questions

7 about that.

8 So you see in paragraph 3 he

9 says, Mr. Heise says, "I spoke to Maureen

10 O'Gara on or around March 21, 2003, shortly

11 after the complaint was filed in the

12 instant action. The article is not an

13 accurate reflection of the conversation."

14 Do you see that?

15 A I do.

16 Q He says, in paragraph 4, "I

17 explained to Ms. O'Gara that I was not

18 willing to detail the body of SCO's claims

19 in evidence in a telephone conversation

20 with a journalist, which is consistent with

21 the fact that Ms. O'Gara entitled her

22 article SCO's Lawyer Speak, Says Nothing."

23 Do you see that?

24 MR. GONZALEZ: I object to the

25 scope of the question.

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1 O'Gara

2 Q And then he says, "I never

3 stated or implied in any way that I did not

4 want IBM to know what SCO's claims were."

5 Do you see that?

6 A Yes.

7 Q And you see in your article

8 where you wrote, "But doesn't want IBM to

9 know what they are"?

10 A Yes.

11 Q Who is right here, you or

12 Mr. Heise?

13 MS. FOLEY: All right. Now I

14 think that we're going to object to

15 the form of the question right now.

16 If you want to ask her what she

17 meant in the article and what she

18 believes and what she was reporting,

19 that's fine, but to ask about what the

20 source's opinion is or the correctness

21 of the source's opinion goes beyond

22 both the scope and I don't believe

23 that you've got, I don't think that

24 we've received a counter-subpoena from

25 you, have we?

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1 O'Gara

2 MR. JACOBS: Are you going to

3 instruct her?

4 MS. FOLEY: Yeah, I'm

5 instructing her not to answer.

6 MR. JACOBS: You want to get a

7 protective order and we'll come back?

8 MS. FOLEY: You don't have a

9 subpoena and I think it's beyond the

10 scope. If you want to tell me why you

11 think this is an appropriate question,

12 we can consider it, but --

13 MR. JACOBS: It goes to

14 accuracy.

15 MS. FOLEY: But you have -- what

16 do you need? You have the statement,

17 you have the sworn statement in front

18 of you. You want to ask her does she

19 believe her article is accurate, ask

20 her if she will stand by her article.

21 Q That's a good question. I think

22 it's pretty similar to what I said. Do you

23 believe your article is accurate?

24 A And my answer was going to be,

25 before you got into this discussion, I

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1 O'Gara

2 stand by my article.

3 Q So you believe that Mr. Heise

4 did, in fact, say to you that SCO does not

5 want IBM to know what the substance of

6 SCO's claims are?

7 MS. FOLEY: Are you quoting --

8 sorry, I need to catch up here.

9 Q I'm referring to 194.

10 MS. FOLEY: Which line are we

11 at? Are you reporting accurately what

12 Mr. Heise said to you?

13 THE WITNESS: I am reporting

14 accurately what Mr. Heise said to me.

15 Q And in paragraph 5, he says, "I

16 stated to Ms. O'Gara that I had received

17 numerous press inquiries regarding the

18 lawsuit and that I personally had not yet

19 spoken to IBM regarding the claims."

20 And then in 6, "I stated to

21 Ms. O'Gara that IBM's response might be to

22 file a motion to dismiss rather than

23 answering the claims, but I did not believe

24 a motion to dismiss would prevail."

25 And then in 7, "I explained to

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1 O'Gara  
 2 Ms. O'Gara that Sun Micro Systems had  
 3 purchased a different type of license that  
 4 IBM had and that SCO had concluded that Sun  
 5 Micro Systems was not in breach of that  
 6 license. I did not say that SCO was giving  
 7 Sun Micro Systems a half pass on IP  
 8 tampering. I never stated, I never said  
 9 that I had not read the other licensing  
 10 UNIX agreements."  
 11 Do you see that in this  
 12 declaration?  
 13 A I saw it.  
 14 Q And then in your article you  
 15 went on to write, "At the time, and this  
 16 was a week ago, he had spent more time  
 17 talking to us than to IBM that there had  
 18 been no contact. He figures IBM's strategy  
 19 will be to go for a dismissal on the  
 20 grounds that what he's charged IBM with so  
 21 far are, is not a cause of action and are  
 22 conclusions, not facts. He seems  
 23 relatively unperturbed at the prospect. He  
 24 also gave Sun a half pass on IP tampering  
 25 calling it 'clean as a whistle' because it

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1 O'Gara  
 2 marked for identification.)  
 3 A Why does the print keep getting  
 4 littler and littler?  
 5 MR. JACOBS: I seem to be shy a  
 6 copy of this one.  
 7 MR. GONZALEZ: Maybe I can just  
 8 look at it and give it back to you.  
 9 MR. JACOBS: Yes.  
 10 Q So this is an e-mail to you  
 11 dated May 30, 2005, Exhibit 196, produced  
 12 under SCO 1647696 to 697.  
 13 Do you see that?  
 14 A I don't see a date on it.  
 15 Q Right at the top.  
 16 A Oh, there it is, okay.  
 17 Q And the subject is, "I need you  
 18 to send a jab PJ's way."  
 19 A Okay.  
 20 Q Do you see that?  
 21 A Uh-huh.  
 22 Q Who is PJ?  
 23 A PJ is the purported author of  
 24 the Groklaw site.  
 25 Q What is the Groklaw site?

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1 O'Gara  
 2 paid all that money once upon a time for  
 3 UNIX. As for everybody else, well he  
 4 hadn't gotten around to reading their  
 5 agreements yet."  
 6 Do you see that?  
 7 A Yes.  
 8 Q And do you stand by your story?  
 9 A I stand by my story.  
 10 Q You were accurately reporting in  
 11 your story what Mr. Heise said to you?  
 12 A Yes.  
 13 Q And to the extent that his  
 14 declaration disclaims what you reported in  
 15 your story, his declaration is incorrect?  
 16 MS. FOLEY: Object to the form  
 17 of the question. I'm going to direct  
 18 the witness not to answer that  
 19 question.  
 20 Q Are you going to follow your  
 21 counsel's instruction?  
 22 A That's why she's here.  
 23 Q Now let's look at what we'll  
 24 mark as 196.  
 25 (Whereupon, Exhibit 196 was

Page 65

1 O'Gara  
 2 A It is a website that follows the  
 3 SCO case -- I should say cases maybe but.  
 4 Q Did you have a view in March of  
 5 2005 about whether PJ or the Groklaw site  
 6 was a reliable source of information on the  
 7 SCO litigation?  
 8 A Yes.  
 9 Q What was your view?  
 10 A It was not reliable.  
 11 Q And what was the basis for that?  
 12 A It is a propaganda site.  
 13 Q Propaganda in what sense?  
 14 A It's unbalanced.  
 15 Q In contrast to what you believe  
 16 you were doing?  
 17 A In contrast to what anybody is  
 18 doing.  
 19 Q But more particularly your  
 20 reporting?  
 21 A I suppose you could compare it  
 22 to my reporting.  
 23 Q And in comparison you felt you  
 24 were balanced or more balanced compared to  
 25 her reporting?

17 (Pages 62 to 65)

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1 O'Gara  
 2 A She's not reporting. That's not  
 3 reporting. Reporting has to do with facts.  
 4 She is writing a piece. It's an editorial  
 5 or editorializing.  
 6 Q And that was the view you held  
 7 in March 2005?  
 8 A Yes.  
 9 Q And then you did, in fact, write  
 10 a story about PJ or Pamela Jones, didn't  
 11 you?  
 12 A Yes.  
 13 MR. JACOBS: Let's take a look  
 14 at that. We'll mark this as 197.  
 15 (Whereupon, Exhibit 197 was  
 16 marked for identification.)  
 17 Q So in 196, Stowell says in the  
 18 subject line, "I need you to send a jab  
 19 PJ's way," and that's March 30, 2005?  
 20 A Yes.  
 21 Q And 197 is your May 9 to 13,  
 22 2005 issue of Client Server News 2000,  
 23 correct?  
 24 A Yeah.  
 25 Q And the lead story is "Who is

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1 O'Gara  
 2 Pamela Jones," correct?  
 3 A Yeah.  
 4 Q Is there a causal relationship  
 5 between Blake Stowell's e-mail to you and  
 6 the appearance of the story in Client  
 7 Server News 2000, May 9 to 13, 2005?  
 8 A No.  
 9 Q You did it independently, you  
 10 did the story on PJ --  
 11 A I have reason to do a story on  
 12 Pamela Jones that has nothing to do with  
 13 SCO.  
 14 Q Nothing to do with SCO asking  
 15 you to?  
 16 A It has nothing to do with SCO.  
 17 It's a matter of my own personal integrity.  
 18 She called it into question.  
 19 Q That's what prompted this  
 20 article?  
 21 A That's what prompted my interest  
 22 in finding out who she was, yes.  
 23 Q And in that article you said, "A  
 24 few weeks ago, I went looking for the  
 25 elusive herodin who supposedly writes the

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1 O'Gara  
 2 Groklaw about the SCO v. IBM suit."  
 3 Do you see that?  
 4 A Uh-huh.  
 5 Q What is a herodin?  
 6 A I suppose we could look it up in  
 7 the dictionary.  
 8 Q Why did you use the word?  
 9 A Because it's accurate.  
 10 Q And in what way is it accurate?  
 11 A Have you read Groklaw?  
 12 Q I'm sorry, I get to ask the  
 13 questions.  
 14 A If you read Groklaw, you would  
 15 know that herodin is the right word. There  
 16 is a difference between a good word and a  
 17 right word.  
 18 Q See if you agree with this  
 19 definition --  
 20 MR. GONZALEZ: Again. Objection  
 21 to scope.  
 22 Q Herodin, noun, a woman regarded  
 23 as scolding and vicious.  
 24 A Uh-huh.  
 25 Q Is that a definition that

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1 O'Gara  
 2 applies to your use of the word herodin?  
 3 A I think it's accurate.  
 4 Q Scolding and vicious?  
 5 A Uh-huh.  
 6 Q As you sit here today, do you  
 7 have any regrets over printing 197?  
 8 A No.  
 9 MR. GONZALEZ: Objection.  
 10 Q Do you have any regrets about  
 11 finding the identity reporting information,  
 12 personal information about Pamela Jones?  
 13 A No.  
 14 Q And again, "Who is Pamela Jones"  
 15 had nothing to do, the story on 197, your  
 16 testimony is that it had to do with Blake  
 17 Stowell's March 30, 2005 e-mail with the  
 18 subject "I need you to send a jab PJ's  
 19 way"?  
 20 A I think he defines what the jab  
 21 would be, which is something that we  
 22 ignored, you know.  
 23 Q The answer is?  
 24 A No.  
 25 Q Now let me show you a document

Page 70

1 O'Gara  
 2 that's been previously marked as a  
 3 deposition exhibit.  
 4 A I don't need a number?  
 5 Q It has one on it already. It's  
 6 part of the advanced technology we use in  
 7 this practice.  
 8 So this document 1024 is a set  
 9 of notes by Chris Stone that he took at  
 10 the, in 2003 to recount what he recalled of  
 11 his contacts about the SCO matter.  
 12 MS. FOLEY: Actually, can you  
 13 just say that again? Are you  
 14 representing to us what this is?  
 15 MR. JACOBS: Yes.  
 16 MS. FOLEY: So say it again.  
 17 MR. JACOBS: 1024 is a set of  
 18 notes by Chris Stone that he recorded  
 19 in 2003 to recount what he recalled of  
 20 his contacts about the SCO matter.  
 21 A His what about the SCO matter?  
 22 Q Contacts.  
 23 A Contacts, okay.  
 24 Q And he talks about you --  
 25 A On page 3.

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1 O'Gara  
 2 Q Right, May 27, 9 p.m.  
 3 A Yeah.  
 4 Q So just to get the chronology  
 5 right, May 28th, 2003 is the date of  
 6 Exhibit 1080, the article on the ownership  
 7 issue?  
 8 A Yeah, uh-huh.  
 9 Q And so he is recording here that  
 10 at May 27 in the evening before Maureen  
 11 O'Gara from Client Server News calls me out  
 12 at my house. She starts quizzing me about  
 13 a letter we are about to send to SCO. She  
 14 wants to know what we told the Wall Street  
 15 Journal, what is Hamachi, what we plan to  
 16 do with SCO, why it was timed on this day,  
 17 is IBM involved, et cetera. I refused to  
 18 answer any of her questions. I was quite  
 19 amazed and disturbed at how much detail she  
 20 had. She asked me if she was hot or cold.  
 21 I told her no comment and to call Gary  
 22 Schuster tomorrow. She clearly has a  
 23 source somewhere in Novell.  
 24 Do you see that?  
 25 A Uh-huh.

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1 O'Gara  
 2 Q And then on May 28th, Maureen  
 3 calls my cell phone at 6:30 a.m. She had  
 4 this from 1988. She asked if there is any  
 5 news since she is doing a story. I tell  
 6 her no comment and to call Gary Schuster.  
 7 And then May 28th Novell sends letter to  
 8 SCO challenging them to prove copyright and  
 9 patent ownership.  
 10 Do you see that?  
 11 A Yes.  
 12 Q Do you disagree with what Chris  
 13 recounted here about his contacts with you?  
 14 A Yes.  
 15 Q Can you step us through your  
 16 disagreements?  
 17 A Where do I begin?  
 18 Q Well, did you call him at 9 p.m.  
 19 on May 27th?  
 20 A I remember we spoke. It was the  
 21 evening. I don't think it was 9 p.m., but  
 22 I could be wrong about that.  
 23 Q When you -- and did you call  
 24 him?  
 25 A I don't remember.

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1 O'Gara  
 2 Q Did you begin the conversation  
 3 by asking him about a letter that Novell  
 4 planned to send to SCO?  
 5 A I don't -- no, I don't remember.  
 6 Q Did you ask him what he had told  
 7 the Wall Street Journal?  
 8 A I don't remember. I don't even  
 9 know what the context is.  
 10 Q Did you ask him about Hamachi,  
 11 with a capital H?  
 12 A It's possible. I don't know.  
 13 Q Do you recall what your interest  
 14 in something called Hamachi was?  
 15 A Hamachi is a code name.  
 16 Q For what?  
 17 A I don't remember anymore.  
 18 Q For a software project?  
 19 A Probably.  
 20 Q Did you ask him what Novell  
 21 planned to do with SCO?  
 22 A This is just  
 23 mischaracterization. That's okay.  
 24 Q Well, as you sit here today, do  
 25 you have a recollection of whether you

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1 O'Gara  
 2 asked him what Novell planned to do with  
 3 SCO?  
 4 A I think that if we go back to  
 5 the original story, it says what they  
 6 intended to do, and I got that from Stone.  
 7 Q So I take it that the best  
 8 recollection you have of your conversation  
 9 with Stone in terms of a source other than  
 10 your memory is to go to the story itself,  
 11 is that right?  
 12 A Say that again?  
 13 Q Aside from your memory, what  
 14 you're looking at as you're answering my  
 15 questions is a story, right?  
 16 A No -- you mean, are you doubting  
 17 that I remember having the conversation  
 18 with Chris and that he said that the reason  
 19 that they were sending the letter on that  
 20 day was because of the earnings, no.  
 21 Q I'm sorry, that wasn't my  
 22 question.  
 23 A Okay.  
 24 Q I said as you sit here today, do  
 25 you have a recollection of whether you

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1 O'Gara  
 2 asked him what Novell planned to do with  
 3 SCO. You said, I think, if we go back to  
 4 the original story, it says what they  
 5 intended to do, and I got that from Stone.  
 6 And I said, I take it from your answer that  
 7 the best source you have other than your  
 8 memory of what happened in that  
 9 conversation is the story itself.  
 10 A Well, that is a distillation of  
 11 that conversation, yes.  
 12 Q And it's the only distillation  
 13 you have. You don't have any other place  
 14 to go to find out what happened in that  
 15 conversation, do you?  
 16 MS. FOLEY: Beside from her  
 17 memory.  
 18 A Yes, aside from my memory, yes.  
 19 Q Okay.  
 20 Did you ask him --  
 21 A Does he --  
 22 Q Did you ask him, Ms. O'Gara, did  
 23 you ask him why the letter to Novell was  
 24 timed on this day?  
 25 A My memory, as I explained

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1 O'Gara  
 2 before, we're not in the habit of thinking  
 3 about the stock market, and it was he who  
 4 drew my attention to the fact that that  
 5 day, the day that they were going to send  
 6 the cease and desist letter was timed to  
 7 coincide with SCO's earnings release.  
 8 Q My question to you is slightly  
 9 different, which is whether he volunteered  
 10 on the topic of timing, or as he says here  
 11 in his memo, you asked him about the  
 12 timing.  
 13 A And I am testifying that he  
 14 volunteered it.  
 15 Q He volunteered --  
 16 A He volunteered the connection.  
 17 He supplied the causality. I didn't. He  
 18 did.  
 19 Q I got that.  
 20 What I'm asking you is, did you  
 21 ask him why and then he supplied the  
 22 causality, or if you don't remember  
 23 that's --  
 24 A I don't remember.  
 25 Q Okay.

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1 O'Gara  
 2 Did you ask him about whether  
 3 IBM was involved in the letter?  
 4 A I don't remember.  
 5 Q Did he refuse to answer some of  
 6 your questions?  
 7 A Everybody always refuses to  
 8 answer some of my questions.  
 9 Q And you're inferring from that  
 10 that in your conversation --  
 11 A It's possible.  
 12 Q Don't remember?  
 13 A Don't remember.  
 14 Q Did you use the expression hot  
 15 or cold as in am I hot or cold with this  
 16 story idea?  
 17 A That's not logical.  
 18 Q Is that an expression you  
 19 sometimes use?  
 20 A No.  
 21 Q So your best recollection based  
 22 on both your recollection of the  
 23 conversation and your practice is that this  
 24 is incorrect, this reference to use of hot  
 25 or cold?

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1 O'Gara  
 2 A The story is fully developed,  
 3 sir. So it's not a matter of am I hot or  
 4 cold about it. It's fully developed. So I  
 5 can't answer your question because it's not  
 6 logical.  
 7 Q The question isn't logical?  
 8 A No, it isn't because -- you  
 9 know, it was like I was on a fishing  
 10 expedition and all this really didn't  
 11 happen.  
 12 Q Forgive me, but it seems to me  
 13 that you could have elicited information  
 14 and developed a story using the expression  
 15 am I hot or cold, and my question to you  
 16 is --  
 17 A Then he would have had to have  
 18 given me the story, wouldn't he have?  
 19 Q I don't know. I'm just asking  
 20 you if in your conversation with Chris  
 21 Stone on the evening of May 28th you used  
 22 the expression am I hot or cold.  
 23 A I don't know.  
 24 Q Did he at any point say I have  
 25 no comment?

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1 O'Gara  
 2 A I don't know.  
 3 Q Did he tell you to call Gary  
 4 Schuster?  
 5 A I don't know.  
 6 Q And he says at the end of this  
 7 paragraph, "She clearly has a source  
 8 somewhere in Novell," implying that it is  
 9 not he.  
 10 So my question to you is, did  
 11 you have a source other than Chris Stone in  
 12 Novell on the topic of Novell's intention's  
 13 vis-a-vis SCO around May of 2003?  
 14 A No.  
 15 Q The next entry is May 28th,  
 16 Maureen calls my cell phone at 6:30 a.m.  
 17 A I doubt it.  
 18 Q Did you have -- and then he says  
 19 she had this, I think meaning the cell  
 20 phone number, from 1998.  
 21 Do you see that?  
 22 A Yes.  
 23 Q Is that correct?  
 24 A Yes.  
 25 Q What was 1998?

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1 O'Gara  
 2 A I don't know if it was  
 3 particularly 1998, but I've had Chris' cell  
 4 phone number for years. He was the head of  
 5 the object management group.  
 6 Q And you had developed a  
 7 reporter's relationship with him in that  
 8 capacity?  
 9 A We talked a lot.  
 10 Q Did you have -- you said you  
 11 talked a lot. I asked you if you developed  
 12 a reporter's relationship. Did you have a  
 13 reporter's source relationship with Chris  
 14 Stone dating back some years?  
 15 A He was an executive of a  
 16 consortium through which much information  
 17 passed.  
 18 Q To you?  
 19 A No, through which it passed.  
 20 I'm trying to capture as much of it as I  
 21 can, but not -- I suppose the answer to the  
 22 question is yes.  
 23 Q And the only reason I have to  
 24 ask this is to ask you whether you had a  
 25 personal friendship with Mr. Stone as

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1 O'Gara  
 2 opposed to a reporter's source  
 3 relationship.  
 4 A I had, you know, a lamb chop  
 5 relationship with him.  
 6 Q Which you've had with many  
 7 people?  
 8 A I have a rolodex full of men  
 9 with whom I've had a lamb chop  
 10 relationship, and they're all special to  
 11 me, every single one of them.  
 12 Q That's what they believe.  
 13 A God love them.  
 14 Q Did you ask him if there's any  
 15 news on the morning of May 28, did you ask  
 16 Mr. Stone if there's any news?  
 17 A Sir, I do not do mornings. I'm  
 18 a night person.  
 19 Q So your best recollection --  
 20 A Okay, that means I would have  
 21 had to stay up all night and I don't think  
 22 that -- I mean, I have spent many a night  
 23 working over this kind of stuff. It's  
 24 possible that I could have called him the  
 25 next morning to make sure that this thing

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1 O'Gara  
 2 is accurate and that they were going to  
 3 deliver it that day, which they did, okay?  
 4 Q And you don't have a  
 5 recollection of whether in the morning call  
 6 he said -  
 7 A No, I don't know that there was  
 8 a morning call.  
 9 Q Right.  
 10 A But practices -- you know, I  
 11 like to be -- the most important thing is  
 12 to be accurate, okay? And you fact check  
 13 and you double check and you make sure that  
 14 they're actually going to go ahead and do  
 15 this.  
 16 Q So you may have had a call in  
 17 the morning?  
 18 A I may have had a call.  
 19 Q And you don't recall the  
 20 substance of that discussion?  
 21 A Well, since -- it would have  
 22 been about, you know, are they going to go  
 23 ahead and do, did they do it, what's  
 24 happening here, yes, because this thing  
 25 went out at 8:00 in the morning, at least

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1 O'Gara  
 2 my copy did, somebody else's is earlier.  
 3 Q Now how long after your  
 4 conversation with Chris Stone did you have  
 5 a conversation with -- let me start over  
 6 again.  
 7 We covered this earlier, but I  
 8 want to make sure I have the facts correct.  
 9 You had a conversation with Blake Stowell  
 10 asking him for information related to the  
 11 story that appears in Exhibit 1080, the May  
 12 28 Client Server News, right?  
 13 A This, are we talking about  
 14 Novell to try and shoot down?  
 15 Q Yes.  
 16 A He's a public relations person.  
 17 It's typical to get two sides of the story.  
 18 I went to him not for -- what did you call  
 19 it, information?  
 20 Q I'm sorry, I'm just trying to  
 21 get --  
 22 A I went to him for comment.  
 23 Q Comment, terrific. You went to  
 24 Blake Stowell for comment?  
 25 A Right.

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1 O'Gara  
 2 Q You didn't go to anybody else at  
 3 SCO for comment, you went to Blake Stowell?  
 4 A Blake Stowell is the gatekeeper,  
 5 all right? And this is a formal kind of a  
 6 situation. So it's best to stick to the  
 7 rules rather than jumping ahead. To go to  
 8 him first and ask for comment, it's  
 9 possible that I brought other people into  
 10 the conversation.  
 11 Q You don't recall?  
 12 A I'm not one hundred percent on  
 13 it, so no.  
 14 Q And in the conversation with  
 15 Stowell you testified earlier that you  
 16 relayed to him what Chris Stone had told  
 17 you as part of your effort to elicit  
 18 comment from Stowell, correct?  
 19 A Say that again?  
 20 Q In the conversation with  
 21 Stowell, you testified earlier that you  
 22 relayed to him what Chris Stone had told  
 23 you as part of your effort to elicit  
 24 comment from Stowell?  
 25 A Right. It's getting

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1 O'Gara  
 2 complicated, isn't it? Yes is the answer  
 3 to that.  
 4 Q And in the conversation, in that  
 5 conversation with Stowell you told him what  
 6 we've called the causality point, correct?  
 7 MS. FOLEY: Object to the form  
 8 of the question. What do you mean by  
 9 causality point?  
 10 Q Do you understand what I mean by  
 11 that?  
 12 A Why don't we oblige the lady  
 13 and --  
 14 Q In your conversation with  
 15 Stowell, you told him that Chris Stone had  
 16 told you that Novell intentionally timed  
 17 its ownership announcement to coincide with  
 18 SCO's earnings release, correct?  
 19 A Yes.  
 20 Q Did you ever tell anyone else --  
 21 well, ever is a big question -- in the time  
 22 period in question, the end of May, early  
 23 June 2003, did you tell anyone else that  
 24 that's what Chris Stone said to you?  
 25 A I can't swear to the time frame,

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1 O'Gara  
 2 but I believe I told Darl McBride. I don't  
 3 think I had the conversation with anybody  
 4 else.  
 5 Q What were the circumstances of  
 6 your conversation with Darl McBride on this  
 7 point?  
 8 A As I remember, Blake went and  
 9 told Darl and Darl called me.  
 10 Q And Darl asked you what?  
 11 A Is this what you told Blake  
 12 Stowell.  
 13 Q And what did you say to him?  
 14 A Yes.  
 15 Q And specifically this was what,  
 16 when Darl spoke to you?  
 17 A The causality.  
 18 Q That Novell had intentionally  
 19 timed its ownership announcement to  
 20 coincide with SCO's earnings release?  
 21 A Yes.  
 22 Q So Darl McBride called you up  
 23 and you confirmed to Darl that you had told  
 24 Stowell --  
 25 A Right, and he repeated to me the

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1 O'Gara  
 2 destroyed, if it was weeks later.  
 3 Q Was it weeks later?  
 4 A I don't remember. My impression  
 5 was it was in the same time frame. As a  
 6 matter of fact, I thought it was the 28th  
 7 of May, but I could be wrong.  
 8 Q If it was the 28th of May --  
 9 A I'm sorry, the 27th of May, the  
 10 Tuesday.  
 11 Q If it was the 27th of May, you  
 12 still had your short phrase notes?  
 13 A Yeah.  
 14 Q And so when Darl McBride called  
 15 you up --  
 16 A If he did in that time, which I  
 17 think he did, but I can't swear to that.  
 18 Q And you don't remember whether  
 19 you were looking at your short phrase notes  
 20 when he called you back for a confirmation?  
 21 A It was a sentence or expression  
 22 that stuck in the mind at the time, so you  
 23 wouldn't have really actually needed the  
 24 notes, but yes, they would have been there.  
 25 Q But your best recollection is

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1 O'Gara  
 2 exact words, which I can't remember  
 3 anymore, that I had told Blake that Chris  
 4 used and Blake accurately reported that to  
 5 McBride who then came back to me to double  
 6 check.  
 7 Q When McBride came back to you to  
 8 double check, did you have your short  
 9 phrase notes?  
 10 A No, because I didn't -- no. I  
 11 mean, I remembered it then, but it's what,  
 12 3 or 4 years later now, so.  
 13 Q But your best recollection is  
 14 when Darl calls you up for conversation,  
 15 you don't go back to your short phrase  
 16 notes?  
 17 A I didn't have to. It was  
 18 only --  
 19 Q I'm just asking you yes or no.  
 20 A No.  
 21 Q Did you --  
 22 A I didn't have them.  
 23 Q Why didn't you have them at that  
 24 point?  
 25 A Because they would have been

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1 O'Gara  
 2 Darl calls you up, he's confirming exactly  
 3 what Stone says?  
 4 A Yeah.  
 5 Q You didn't go back to your notes  
 6 at that point?  
 7 A No, I didn't have to.  
 8 Q So let me just ask this, let me  
 9 see if we've got a catalog of the various  
 10 communications around what Chris Stone said  
 11 to you.  
 12 Number one, we have the article  
 13 itself, Exhibit 1080, correct?  
 14 A Yes.  
 15 Q Number two, we have your call to  
 16 Blake Stowell?  
 17 A Yes.  
 18 Q Number three, we have the call  
 19 from Darl McBride to you?  
 20 A Yes.  
 21 Q And then, of course, we have the  
 22 original call between you and Chris Stone?  
 23 A Yes.  
 24 Q Are there any other documents  
 25 notes, electronic data or oral



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1 O'Gara  
 2 communications that you can think of as you  
 3 sit here today that, in which the substance  
 4 of Chris Stone's statement to you about the  
 5 reason for the timing of Novell's ownership  
 6 announcement was set forth?  
 7 A Why don't we repeat that  
 8 question.  
 9 Q Okay.  
 10 So the question is, what are all  
 11 the places where the substance of Chris  
 12 Stone's statement to you about timing are  
 13 set forth, and the catalog is your  
 14 recollection of what Chris said to you,  
 15 your communication to Blake Stowell, the  
 16 call from Darl McBride and the substance of  
 17 Exhibit 1080, your May 28th, 2003 Client  
 18 Server News?  
 19 MR. GONZALEZ: Objection.  
 20 THE WITNESS: Why are we  
 21 objecting?  
 22 MR. GONZALEZ: One of things he  
 23 said is your recollection, and that's  
 24 different from the communication  
 25 itself. If there are catalog

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1 O'Gara  
 2 communications, it should be all  
 3 communications. That's all. It's  
 4 just a legal technicality.  
 5 A Keeping in mind that legal  
 6 technicality, the answer is no.  
 7 Q No, there's nothing else?  
 8 A There's nothing else.  
 9 Q Do you have a rule at G2 about  
 10 disclosure of any financial interests you  
 11 have in companies you report on?  
 12 A We try not to.  
 13 Q You try not to have a financial  
 14 interest?  
 15 A Right. It's not a good idea.  
 16 Q And do you, in fact, have a  
 17 financial interest today in SCO?  
 18 A No.  
 19 Q Novell?  
 20 A No.  
 21 Q IBM?  
 22 A No.  
 23 Q Did you in the late spring of  
 24 2003 have a financial interest in any of  
 25 those companies?

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1 O'Gara  
 2 A No.  
 3 Q If you had a financial interest  
 4 in a company you were reporting on, would  
 5 it be your practice to disclose that?  
 6 A It's become fashionable in the  
 7 last two years for people to do that, but I  
 8 didn't, I wouldn't and I probably wouldn't  
 9 even know if I had a financial interest  
 10 because I don't look at it, you know, it's  
 11 sort of like blind trust.  
 12 Q Is it actually a blind trust?  
 13 A No, it's not actually, but it  
 14 might as well be.  
 15 Q You don't actually know what  
 16 companies your investment --  
 17 A I have absolutely no idea, and I  
 18 have all the unopened mail to prove it, all  
 19 those statements, right, that come all the  
 20 time, they're not opened, none of them. I  
 21 have no idea.  
 22 Q Do you have any personal  
 23 relationships aside from a lamb chop  
 24 reporter's source relationship with anyone  
 25 at SCO?

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1 O'Gara  
 2 A No.  
 3 Q IBM?  
 4 A No. Can anybody have a real  
 5 relationship with IBM?  
 6 Q Novell?  
 7 A No.  
 8 MR. JACOBS: No further  
 9 questions.  
 10 MR. GONZALEZ: If you don't  
 11 mind, why don't we take a 5 minute  
 12 break, and partly because I want to  
 13 see the exhibit which I couldn't  
 14 review.  
 15 THE VIDEOGRAPHER: We're going  
 16 off the record. The time is 1:25.  
 17 (Recess taken 1:25 p.m.)  
 18 THE VIDEOGRAPHER: We are now  
 19 back on the record. The time is now  
 20 1:35.  
 21  
 22 EXAMINATION BY  
 23 MR. GONZALEZ:  
 24 Q Ms. O'Gara, I'd like to ask you  
 25 just a couple of follow up questions

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1 O'Gara  
 2 following up on the conversation you've  
 3 been having with Mr. Jacobs and --  
 4 A And it's been a charming  
 5 conversation, Mr. Jacobs.  
 6 Q And the first one is in  
 7 reference to Exhibit 1024 where --  
 8 A Wait a minute. Wait a minute.  
 9 Oh, is that the --  
 10 Q It's the alleged recap by  
 11 Mr. Stone of his contacts related to the  
 12 litigation of the case.  
 13 A Okay.  
 14 Q And do you recall that  
 15 Mr. Jacobs showed you a couple of entries  
 16 in Exhibit 1024?  
 17 A Yes.  
 18 Q That purported to be Mr. Stone's  
 19 record of his conversations with you on the  
 20 evening of May 27th and the morning of May  
 21 28th, 2003, is that correct?  
 22 A Yes.  
 23 Q And Mr. Jacobs asked you about  
 24 some of the details that Mr. Stone  
 25 apparently set forth in this recount?

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1 O'Gara  
 2 A Yes.  
 3 Q And do you recall that you did  
 4 not have any particular recollection one  
 5 way or the other about some of the details,  
 6 for example, the time of the call in the  
 7 evening, who called whom, whether or not  
 8 Mr. Stone referred you to Gary Schuster,  
 9 those sorts of details, do you recall again  
 10 not having a specific recollection one way  
 11 or the other about those details?  
 12 A Yes.  
 13 Q So my question for you is, so  
 14 how is it that you do recall the comment by  
 15 Mr. Stone that we've been focusing on,  
 16 namely the timing of Novell's announcement  
 17 with SCO's earning call?  
 18 A Because SCO made such a big deal  
 19 about it.  
 20 Q And what do you mean by SCO made  
 21 a big deal out of it?  
 22 A Well, while I called in to get a  
 23 statement from SCO, I'm used to asking the  
 24 questions and, you know, they turned around  
 25 and started grilling me after I said that

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1 O'Gara  
 2 Stone had said that, and that's what makes  
 3 it stick in my mind so vividly.  
 4 Q And when you say they started  
 5 grilling you, who are you referring to?  
 6 A As I recall, it was -- well,  
 7 Stowell, he came through the phone at me,  
 8 and I remember talking to McBride then. I  
 9 mean McBride is usually, usually stayed out  
 10 of stuff, and the fact that he had been  
 11 involved at all was unusual.  
 12 Q Just to further --  
 13 A And they wanted, you know, the  
 14 exact words and all of that, which I had at  
 15 the time, but don't have now.  
 16 Q And just to clarify, when you  
 17 say that Mr. Stowell came through the  
 18 phone, what do you mean by that? Can you  
 19 elaborate a little bit?  
 20 A How can I best describe it? You  
 21 know, it's like he sat up and took notice  
 22 and, you know, was repeatedly -- you know,  
 23 he asked me any number of times what had  
 24 exactly happened. He had more sensitivity  
 25 to the thing than I did.

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1 O'Gara  
 2 Q Did you get the impression that  
 3 he was surprised or shocked, or what would  
 4 be the adjective?  
 5 A Yeah, both of them would be, I  
 6 think, accurate.  
 7 Q Okay.  
 8 A It was their level of interest,  
 9 you know, in the thing.  
 10 Q Okay.  
 11 And do you recall speaking with  
 12 Mr. Jacobs a little while ago about this  
 13 concept of causality?  
 14 A Yes.  
 15 Q Which I think both of you were  
 16 using as a shorthand for the relationship  
 17 between the announcement by Novell and the  
 18 earnings called by SCO, is that correct?  
 19 A Yes.  
 20 Q And so my question for you is,  
 21 when you think of this concept of  
 22 causality, what do you have in mind as  
 23 being the cause and the effect as you  
 24 understood it?  
 25 A All right. To recap, my

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1 O'Gara  
 2 understanding is that -- well, let me  
 3 rephrase that. It's not my understanding.  
 4 What happened was that Novell  
 5 put out a statement saying that it owned  
 6 UNIX. If it owned UNIX, then SCO didn't  
 7 have a leg to stand on, and the reason that  
 8 they were doing it particularly on that day  
 9 was to impact the stock.  
 10 Q And when you say that Novell  
 11 wanted to make a statement that it owned  
 12 UNIX, do you mean that it wanted to make a  
 13 statement that it owned the UNIX  
 14 copyrights?  
 15 A It owned UNIX, yes, the  
 16 copyrights and owned UNIX, and that SCO  
 17 didn't.  
 18 MR. GONZALEZ: I have nothing  
 19 further. Thank you.  
 20  
 21 EXAMINATION BY  
 22 MR. JACOBS:  
 23 Q Do you have any notes of your  
 24 conversation with Mr. Stowell that you were  
 25 just recounting?

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1 O'Gara  
 2 A No.  
 3 Q How about with Mr. McBride?  
 4 A No.  
 5 Q And just to make sure the record  
 6 is clear about this, when you said this is  
 7 what happened, that's a little different  
 8 from what Mr. Stone told you, right?  
 9 A No. He told me that that was  
 10 going to happen, and I put it that way  
 11 because it is what happened.  
 12 Q You don't know what happened to  
 13 SCO's stock price?  
 14 A No.  
 15 Q You don't know whether the --  
 16 A I mean, no.  
 17 Q Around that time you don't know?  
 18 A Yeah, I have no idea.  
 19 Q You don't know whether it, in  
 20 fact, had what you understand to be the  
 21 desired effect?  
 22 A No.  
 23 Q And what Mr. Stone specifically  
 24 said was, not that Novell wanted to depress  
 25 the stock price, but that they wanted to

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1 O'Gara  
 2 time it, it was your recollection that they  
 3 wanted to time it so that it would happen  
 4 at the same time SCO reported its earnings?  
 5 MR. GONZALEZ: Objection.  
 6 Mischaracterizes her prior testimony.  
 7 A Right.  
 8 MR. JACOBS: No further  
 9 questions.  
 10 A Right, I object.  
 11 Q I'm sorry, I thought you said  
 12 right, I was right.  
 13 A No, right, I object. That's not  
 14 right.  
 15 Q Well, let's go over it again.  
 16 What is your best recollection  
 17 of what Mr. Stone specifically said about  
 18 why Novell was issuing the ownership  
 19 statement on the day it was issuing it?  
 20 A It was because it was the day  
 21 that they were bringing out their numbers.  
 22 Q Their earnings report?  
 23 A Right.  
 24 Q And that's your best  
 25 recollection of what he said to you?

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1 O'Gara  
 2 A Right.  
 3 Q And that's all he said to you on  
 4 that topic?  
 5 A And --  
 6 MR. GONZALEZ: Objection. Asked  
 7 and answered.  
 8 A The object of the game was to  
 9 impact. Sorry. There's no other logic.  
 10 Q Again, I'm trying to get this  
 11 distinction between logic and what he said.  
 12 You can have your view. I'm not fighting  
 13 your view of what the logic is. I just  
 14 need to know what your testimony is, what  
 15 Mr. Stone said.  
 16 A He led me to understand that  
 17 that was the reason.  
 18 Q What was the reason?  
 19 A To impact SCO's stock.  
 20 Q But your best recollection of  
 21 what he said is that the substance of it  
 22 was we're timing our ownership statement to  
 23 be released on the same day as SCO's  
 24 earnings announcement?  
 25 A Yes.

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1 O'Gara  
 2 MR. JACOBS: No further  
 3 questions.  
 4 MR. GONZALEZ: I have one or two  
 5 more follow-ups, if you don't mind.  
 6  
 7 EXAMINATION BY  
 8 MR. GONZALEZ:  
 9 Q Ms. Jacobs, you don't recall --  
 10 A No, I'm sorry.  
 11 Q Ms. O'Gara --  
 12 MR. JACOBS: Or lamb chop.  
 13 THE WITNESS: Right, as the case  
 14 may be.  
 15 Q Is it fair to say you don't  
 16 recall the specific words that Mr. Stone  
 17 used when he talked about the causality as  
 18 you've been saying?  
 19 A Right.  
 20 Q But is it clear in your mind  
 21 that he conveyed to you this notion of a  
 22 causality?  
 23 A Yes.  
 24 Q And specifically that he  
 25 conveyed to you that the reason for the

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1 O'Gara  
 2 timing of Novell's announcement was to  
 3 impact or as you said earlier to upset the  
 4 price of SCO's stock?  
 5 A Yes.  
 6 Q And this conversation took place  
 7 during the phone, I believe you said  
 8 earlier?  
 9 A I'm sorry?  
 10 Q This conversation took place via  
 11 the telephone?  
 12 A Yes, yes.  
 13 Q So that if he conveyed this  
 14 concept to you, it would have been done  
 15 through the words that were coming through  
 16 the telephone, not through gesture or  
 17 gesticulation?  
 18 A That's correct.  
 19 MR. GONZALEZ: I have nothing  
 20 further.  
 21 A Except that laugh.  
 22 Q Oh, well.  
 23 So to clarify, it would be  
 24 through words or through some audible sound  
 25 that he was making?

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1 O'Gara  
 2 A That is correct.  
 3 Q Including the chortle that you  
 4 testified earlier about?  
 5 A Yes.  
 6 MR. GONZALEZ: Thank you.  
 7 Nothing further.  
 8  
 9 EXAMINATION BY  
 10 MR. JACOBS:  
 11 Q And just to be clear, because  
 12 you're giving different answers to the two  
 13 of us and I have to reconcile them --  
 14 MS. FOLEY: Object to that.  
 15 Q -- he conveyed this through the  
 16 words that linked the timing of the  
 17 ownership statement to the timing of the  
 18 earnings release?  
 19 A I'm trying to listen very  
 20 carefully to what you're saying. Could you  
 21 say that again?  
 22 Q Sure.  
 23 He conveyed this through the  
 24 words that linked the timing of the  
 25 ownership statement to the timing of the

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1 O'Gara  
 2 earnings release?  
 3 A Yes, I believe the answer to  
 4 that question is yes, if I understand the  
 5 way you're using the English language.  
 6 He told me that they were  
 7 releasing it on the day. He pointed out to  
 8 me that that day was the day that they were  
 9 going to release their earnings. He drew a  
 10 line between those two events.  
 11 MR. JACOBS: Thank you.  
 12 MR. GONZALEZ: I have nothing  
 13 further.  
 14 THE VIDEOGRAPHER: This marks  
 15 the end of tape number one. We are  
 16 going off the record. The time is  
 17 1:46.  
 18 (Time noted 1:46 p.m.)  
 19  
 20  
 21 MAUREEN O'GARA  
 22 Subscribed and sworn to  
 23 before me this day  
 24 of , 2007.  
 25

1  
2           **CERTIFICATE**  
3     **STATE OF NEW YORK )**  
4           : ss  
5     **COUNTY OF NEW YORK)**  
6  
7           I, Joan Urzia, a Registered  
8     Professional Reporter and Notary  
9     Public within and for the State of New York,  
10    do hereby certify:  
11           That MAUREEN O'GARA, the  
12    witness whose deposition is hereinbefore set  
13    forth, was duly sworn by me and that such  
14    deposition is a true record of the testimony  
15    given by the witness.  
16           I further certify that I am  
17    not related to any of the parties to this  
18    action by blood or marriage, and that I am  
19    in no way interested in the outcome of this  
20    matter.  
21           IN WITNESS WHEREOF, I have  
22    hereunto set my hand this 23rd day of  
23    March 2007.  
24           \_\_\_\_\_  
25           JOAN URZIA

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