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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ NOV 7 1974 ★

-----x
UNITED STATES OF AMERICA, :
-against- :
FRED C. TRUMP, et al., :
Defendants. :
-----x

TIME A.M.
P.M.

73-C-1529

United States Courthouse
Brooklyn, New York

October 24, 1974

B e f o r e :

HONORABLE EDWARD R. NEAHER, U.S.D.J.

DANIEL D. SIMON
OFFICIAL COURT REPORTER

Daniel D. Simon

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Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: FRANK E. SCHWELB, ESQ.
-and-
NORMAN GOLDBERG, ESQ.
Assistant U.S. Attorneys

ROY M. COHN, ESQ.
Attorney for Defendant

1 MR. SCHWELB: May I make a few opening remarks,
2 your Honor --

3 MR. COHN: Before he makes his opening remarks,
4 we are ready to go forward, however, there are three
5 witnesses we hope to call that couldn't be here today,
6 but I would like the conclusion of this morning's hear-
7 ing to ask your Honor to give us another date.

8 But we are ready, your Honor.

9 MR. SCHWELB: Your Honor, in relation to that,
10 as you know, we asked Mr. Cohn to answer some interroga-
11 tories. And he gave a representation here in open
12 Court that these would be the witnesses.

13 I -- He has not answered the interrogatories
14 further nor would he tell me on the telephone on Friday
15 or Thursday who the witnesses are he cares to call.

16 MR. COHN: It is very simple. The witnesses
17 whose affidavits we have attached to these very papers.

18 MR. SCHWELB: The Zisselmans?

19 MR. COHN: There are two we propose to call.
20 And the third one is a man named Dan Bronfman.

21 MR. SCHWELB: Just a few opening remarks, your
22 Honor, as you know, this matter arose when rather casually
23 and matter of factly my colleage, Mr.Cohn, filed some
24 affidavits which accused my colleagues in the Civil
25 Rights Division, Mr. Brachtel, of staging a gestapo

1 raid on the Trump office and bypassing counsel. He
2 claimed that Miss Dona Goldstein, a young and promising
3 attorney, had engaged in criminal and unethical conduct
4 which included threats to witnesses about perjuring
5 themselves, and wire tapping, or talking to people,
6 and that we wiretapped the Trump offices and we knew
7 from wiretaps that they were lying and all kinds of
8 terrible things.

9 And unlike the defense counsel we do not treat
10 this as a minor matter, but with the greatest of serious-
11 ness.

12 We determined to lay out the facts before the
13 Court in an evidenciary hearing so that the Court could
14 make up its own mind as to whether these charges had
15 any merit to them.

16 Your Honor will recall that we immediately pro-
17 pounded interrogatories and the Court signed an order
18 to show cause to get an immediate response to those
19 interrogatories.

20 We also took depositions of a couple of the pro-
21 posed witnesses. And then we went before Magistrate
22 Catoggio -- and I don't know if your Honor has been in-
23 formed about this -- and Magistrate Catoggio suggested
24 to Mr. Cohn that he withdraw this entire thing. And
25 Mr. Cohn said he wouldn't withdraw it. He would just

1 drop it from the calendar. But that would leave the
2 charges hanging over Miss Goldstein indefinitely. That
3 is not acceptable to us or not acceptable to me as
4 Miss Goldstein's supervisor.

5 I do not want one of our attorneys to be so un-
6 fairly treated. I do not want a cloud over her head
7 in her professional life -- for the remainder of her
8 life without being heard.

9 So now therefore I ask for an evidenciary hear-
10 ing and want to have it today.

11 Now, with respect to the storm trooper raid busi-
12 ness which Mr. Cohn had in his affidavit and the letter
13 from his colleague, Mr. Manley, I think we can establish
14 by the testimony of Miss Goldstein and Mr. Brachtel,
15 and by documentary proof, that this affidavit about
16 something at which neither Mr. Cohn or Mr. Manley was
17 present, that that didn't happen like anything that
18 was represented there and we will be able to show as
19 a matter of fact, to use Judge Wisdom's phrase, that
20 that count about storm troopers and gestapo raids re-
21 calls the eery atmosphere of never-never land.

22 And with respect to the allegation against Miss
23 Goldstein personally, the discovery and the depositions
24 of these two witnesses disclose a number of gross con-
25 trasts and extraordinary circumstances.

1 Mrs. Falcone in her affidavit says that two
2 attorneys intimidated her in her affidavit, abused
3 her, and on her deposition she said it was only one,
4 Miss Goldstein. A lot of conclusions were based on
5 inferences.

6 In her affidavit, for example, she said that
7 Miss Goldstein accused her of dating Mr. Trump --

8 MR. COHN: Your Honor, I hate to interrupt but
9 is this summation? If it is an evidenciary hearing
10 why don't we hear what the witnesses say without hav-
11 ing Mr. Schwelb, before they say it, tell your Honor
12 what it is --

13 MR. SCHWELB: I am outlining my proof, your Honor.

14 THE COURT: Well, he says he is outlining his
15 proof. Of course I have read the affidavit already sub-
16 mitted which I assume you are summing up?

17 MR. SCHWELB: All right, your Honor, I will
18 shorten it.

19 Now, with respect to Mr. Miranda I just wanted
20 to state that he testified on deposition that he ran
21 from Mr. Trump and said he didn't want -- that is Donald
22 Trump -- to be involved with his lousy case, and that
23 the proof -- much of his testimony was to the effect
24 that what he didn't like about Miss Goldstein was that
25 she was trying to compel him to be involved in a case he

1 didn't want to be involved with.

2 Now, both of these witnesses said pleasant good-
3 byes. Mrs. Falcone it will be shown had -- I am sorry
4 -- Miss Goldstein had coffee and cake with him at the
5 conclusion of these terrible intimidations that she
6 performed.

7 And I think it will be shown that that is not
8 the kind of conduct -- the kind of reaction you have
9 to somebody who is saying this kind of thing. That
10 wasn't all we discovered.

11 Now, your Honor, we have become accustomed in
12 this case to events and circumstances which have oc-
13 casionally made me rub my eyes in astonishment that
14 they are happening.

15 For example we had a hundred million dollar
16 counterclaim filed by defense counsel in this case --

17 MR. COHN: Excuse me. Your Honor, does this bear
18 on the contempt motion before your Honor today?

19 THE COURT: I do not think it really has a direct
20 bearing. I will give you an opportunity, Mr. Schwelb,
21 if you feel it is necessary, to sum up in these matters
22 at the end of the case.

23 MR. SCHWELB: All right.

24 THE COURT: Now, before we go any further I
25 realize that you have some witnesses available here and

1 are ready to put them on.

2 Is it still your desire, Mr. Cohn, to pursue
3 this matter on a litigated basis or are you open to
4 the suggestion made by the magistrate or have you con-
5 sidered the position that you should completely with-
6 draw these charges?

7 MR. COHN: The magistrate never suggested that
8 we completely withdraw your Honor. I think what we all
9 felt, including Mr. Schwelb, before he had fifth
10 thoughts on this, is that what we would do is put the
11 motion over until after trial, and then I thought it
12 was indicated that probably as these pre-trial things
13 have a way of doing, when the actual battle takes
14 place and that the trial is over, they usually get
15 worked out and disappear. In other words, we were not
16 going to press -- it is our motion -- and we were not
17 going to press our motion at all at this point .

18 And Judge Catoggio resolved it by saying he
19 would request that it be marked off the calendar, and
20 that he felt that that would be the way to dispose of
21 it and to get on to the facts on the trial of the case.

22 That is still our positon. We are perfectly
23 willing to have the motion marked off the calendar with-
24 out prejudice to renew it at a future time which of
25 course would not prejudice the rights of either party.

1 THE COURT: Well, that is not the way Mr.
2 Schwelb sees it. And I must say that there is some
3 good reason evidently because the charges were to have
4 this young attorney held in contempt, and from what
5 appeared on the basis of the affidavits would perhaps
6 be a rather igregious conduct.

7 So it is not quite as simple as letting it hang
8 over as a cloud or a sort of Damacles over thehead of
9 someone. And under the circumstances I think we will
10 have to go forward.

11 MR. COHN: Your Honor, I might say that the
12 motion is made in complete good faith. As a matter of
13 fact facts supportive of it become increasing in volume
14 rather than diminishing.

15 We are perfectly ready and prepared to go forward
16 on the motion on an evidenciary hearing.

17 MR. SCHWELB: Let me just say that in conclusion
18 of what I wanted to say here your Honor is that the
19 depositions disclosed that Mr. Cohn had never met Mrs.
20 Falcone until her deposition was taken.

21 THE COURT: I am aware of those facts.

22 MR. SCHWELB: AND that Mr. Trump -- the only
23 thing that they could have known about Mr. Miranda was
24 that Mr. Trump, Sr., testified that he was a liar. And
25 he was interviewed for five to ten minutes by Don Trump

1 and not at all by Mr. Cohn. That is essentially what
2 I have your Honor.

3 THE COURT: Well, all right, why don't you call
4 your first witness.

5 MR. SCHWELB: I think it is Mr. Cohn's motion
6 your Honor.

7 MR. COHN: I have no answer to make. I would
8 rather have the witnesses speak for themselves. All
9 I would do, and I know the Court has read the motion
10 papers. The substance of the motion is that a serious
11 charge was made in the complaint in this case and
12 interrogatories directed by your Honor to make those
13 charges specific as to date and location were furnished
14 I believe, in January or February of 1974.

15 At sometime thereafter Miss Goldstein came into
16 the case. And from then on it took a new turn in which
17 tactics of investigation and conduct toward witnesses
18 were pursued which constitute an abuse of the process
19 of this Court.

20 First witness we would call is Miss Goldstein.

21 D O N A G O L D S T E I N, called as a witness having been
22 first duly sworn by the Deputy Clerk testified as follows:

23 DEPUTY CLERK: What is your full name?

24 THE WITNESS: Dona Goldstein.

25 MR. SCHWELB: I think it is understood that he

is calling her as an adverse witness.

THE COURT: I suppose it would be adverse to the motion obviously.

DIRECT EXAMINATION

BY MR. COHN:

Q Miss Goldstein where are you employed?

A Department of Justice, Washington.

Q In what particular section of the Justice Department?

A I am employed in the Housing Section of the Civil Rights Division.

Q For how long a period of time have you been employed in the Housing Section of the Civil Rights Division?

A This December will be two years.

Q So that would make it December, 1972, is that right?

A Correct.

Q And did there come a time when you were assigned a case involving the Trump Management Company?

A Yes.

Q When were you assigned to the Trump case?

A May, 1974.

T1R2
DDS:QM

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2 Q Before that time had the work that -- the sub-
3 stance of the work you were assigned to do been handled by
4 another lady named Elyse Goldweber?

5 A That is correct.

6 Q In effect you took over for Miss Goldweber, is
7 that right?

8 A Yes.

9 Q May of 1974?

10 A Mr. Goldberg and myself took over.

11 Q You and Mr. Goldberg?

12 A Yes.

13 Q All right, had you had any connection with the
14 Trump case before that?

15 A No direct connection. No official connection at
16 all, but because I worked in the same office that Miss Gold-
17 weber worked in I was aware of the case.

18 Q Had you discussed it with Miss Goldweber from
19 time to time?

20 A Yes.

21 Q You had a general idea of what it was about?

22 A A general idea.

23 Q But would it be fair to say you were not into
24 the specifics very much?

25 A That is correct.

1
2 Q After you were assigned to the case in May of
3 1974 did you familiarize yourself with the legal file in the
4 case?

5 A Yes.

6 Q And did you discover that a complaint was filed
7 by the Housing Section of the Civil Rights Division charging
8 the Trumps with practicing discrimination -- practicing dis-
9 crimination with respect to units in Brooklyn and Queens?

10 A I was familiar with the case prior to that. I
11 knew the complaint and I knew the specifics of the complaint.

12 Q You knew a complaint had been filed about October
13 1973?

14 A Yes.

15 Q Did there come a time when you learned that
16 Judge Neaher had directed the Government, the Housing Section
17 of the Civil Rights Division, to answer certain interrogatories
18 propounded by the defendants?

19 A Yes.

20 Q And those interrogatories -- called for the
21 specification of various items of that charge including when,
22 where, and what location, under what circumstances it was
23 alleged by the Government that these discriminatory acts took
24 place?

25 Are you familiar with that?

1
2 A I was familiar with the interrogatories propounded
3 by the defendant, yes.

4 Q Were you familiar with the answers to the inter-
5 rogatories filed pursuant to the Court's order by the Civil
6 Rights Section?

7 A Yes.

8 Q When did you become familiar with the interroga-
9 tories and the answers thereto? Prior to May, 1974, or there-
10 after?

11 A I believe I read them prior to May and of
12 course when I became personally involved in the case I read
13 them again.

14 Q Is it fair to say that your understanding was
15 that the interrogatories propounded and the answers given were
16 for the purpose of putting the defendants on notice as to
17 that which they were being charged in this complaint?

18 A I am sorry, but could you restate that.

19 MR. COHN: Would you read the question please?

20 (Record read.)

21 MR. SCHWELB: Your Honor, I object to the form
22 of the question for the following reason: I think that
23 the trouble that the witness may be having is is he
24 asking her are these the final answers, the only thing
25 that we would refer to in the case until the end of the

1
2 case, or was this proof that we had available at that
3 time. If he would phrase his question to identify which
4 of those two alternatives he is referring to it would
5 not be objectionable.

6 MR. COHN: Of course that anticipates my next
7 few questions.

8 BY MR. COHN:

9 Q But did you have difficulty in understanding
10 the question?

11 A Yes I did. Also, Mr. Cohn, I didn't answer
12 those interrogatories.

13 Q When you took over the case --

14 MR. COHN: Withdrawn.

15 Q Your recollection is that you had read both the
16 interrogatories and the answers thereto before you took over
17 the case?

18 A Yes.

19 Q And after the case was assigned to you in May,
20 1974, you looked at them again, is that right?

21 A Yes.

22 Q Well, what was your understanding as to the
23 purpose of interrogatories and the responses thereto?

24 A My understanding of the purpose of the interroga-
25 tories, as in any case, is to -- the interrogatories asked for

1
2 the specific acts of discrimination that occurred which were
3 known to the plaintiff at the time the interrogatories were
4 answered. And I believe that is the purpose and effect of
5 the interrogatories.

6 Q And following the filing of the interrogatories
7 certain depositions took place, is that correct?

8 A That is correct.

9 Q And during what period of time did those deposi-
10 tions --

11 MR. COHN: Withdrawn.

12 Q Those depositions were all taken by your office,
13 weren't they? In other words, the defendants noticed no depo-
14 sitions. The depositions were noticed by the Civil Rights
15 Division of various officers of the defendant and various
16 employees, and a considerable number were taken over a period
17 of time. Can you give us the period of time over which these
18 depositions were taken?

19 A Well, Mr. Cohn, I believe that some depositions
20 were taking prior to my becoming involved in the case. I can't
21 tell you the exact period of time that these were taken. I
22 was present and took some depositions I believe during June and
23 July.

24 Q All right, let's take that. You were present at
25 some depositions that were taken during June and July, is that

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right?

A Yes.

O Miss Goldstein, as a result of an examination of the alleged incidents -- by the way, were there about twelve incidents of discrimination set forth in the answers to interrogatories? Does that seem about right?

A That may be correct. Frankly I haven't read the answers recently so that I am not that familiar with the exact number at the moment. If I could look at it I can tell you.

MR. SCHWELB: I wonder if I may interpose an objection as to form. By "incidents of discrimination" does he mean it is an admission of an extra judicial admission of discriminatory policy, or what does he mean?

MR. COHN: I mean numbers put on by the Civil Rights Section 1 through 12 citing specific instances under your Honor's direction of what they claim to be acts as of discrimination over a fourteen year period in the Trump office.

THE WITNESS: I do not believe that that is how the interrogatories were answered.

MR. COHN: The answers that you submitted (indicating).

1
2 BY MR. COHN:

3 Q Now, Miss Goldstein, did there come a time
4 after you reviewed the answers to the interrogatories with
5 these instances of discrimination, and I suggest to you we
6 will find in a minute they were twelve over a fourteen-year
7 period in some fourteen thousand apartment units, when you
8 examined them and when you listened to the testimony at the
9 depositions you concluded that there was no case?

10 Is that a fact?

11 A That is not a fact, Mr. Cohn. That is not any-
12 thing near it.

13 Q Did you conclude that an entirely new investiga-
14 tion was called for concerning not events charged in the com-
15 plaint but events that were taking place months after both
16 the complaint was filed and his Honor's direction that we
17 be given specifics of the charges that were made?

18 A No, Mr. Cohn, I think you are misconstruing our
19 conduct --

20 Q Please, Miss Goldstein.

21 MR. SCHWELB: Will you allow her to answer.

22 MR. COHN: I think the answer was no.

23 MR. SCHWELB: Your Honor, could Mr. Cohn be in-
24 structed to allow this witness to answer his very probing
25 questions.

THE COURT: Well, what is the state of the record, Mr. Simon, the last two questions and answers.

(Record read.)

THE COURT: All right, that is the answer.

BY MR. COHN:

Q Miss Goldstein, didn't you initiate a new investigation of the Trumps?

A No.

Q Sometime following May, 1974?

A No, what we did --

MR. COHN: No, ma'am, your lawyer will have his chance to get up if he feels I haven't covered it adequately.

But if I say did you initiate a new investigation and if you tell me the answer is no I accept that.

MR. SCHWELB: Your Honor, excuse me, but I think that she wanted to explain her answer and has the right to do so. I would appreciate Mr. Cohn being instructed not to interrupt her in the middle of answers.

THE COURT: Well, I suppose that since Miss Goldstein is in the role of an adversary witness, Mr. Cohn is entitled to conduct his direct examination as in the nature of a cross-examination.

Now, so far we really have a statement from Miss

1
2 Goldstein that she did not conclude that there was no
3 case. Right?

4 And as I understand it this last answer was no
5 she didn't conduct or consider that a new investigation
6 was necessary. Is that correct?

7 THE WITNESS: Well, what I understand Mr. Cohn's
8 question to be was did I initiate an altogether new
9 investigation. My answer was no. And I was going to
10 explain that but he didn't give me a chance.

11 BY MR. COHN:

12 Q Well, let me draw upon your words now that I
13 have them.

14 Did you conclude that in the answers furnished
15 to the interrogatories propounded by order of this Court a
16 number of the alleged twelve instances of discrimination were
17 invalid and mistaken on the part of your Section?

18 A Did I conclude that a number of instances were
19 invalid? I had understood one incident to be part of a
20 complex -- I understood one of the instances to be part of an
21 apartment complex that they no longer owned.

22 Q Do you mean that there was a mistake?

23 MR. SCHWELB: I'm trying to be helpful here but
24 there is one problem. Now one doesn't ordinarily examine
25 an attorney about his work product. And that is what

1
2 the examiner is doing. I understand she is an adversary
3 witness but at some point we have to have an end and
4 I suggest that that is now.

5 MR. COHN: I think if Mr. Schwelb did not talk
6 so much, your Honor, with great respect, we would have
7 an end.

8 THE COURT: Mr. Cohn, I would have to say I am
9 perplexed.

10 MR. COHN: May I explain your Honor? May I
11 make an offer of proof?

12 THE COURT: I didn't mind your eliciting from
13 her her connection with the case, original familiarity
14 with the case, but it seems to me that we are now going
15 into what I certainly regard as strictly lawyer's matters
16 with respect to the conduct of litigation.

17 They do not seem to me to have any relevance to
18 the issues framed by your motion.

19 MR. COHN: Well, your Honor, in the nature of
20 an offer of proof, whatever your Honor might wish, the --
21 I am going -- and if counsel bears with me I do not
22 think it will take long to get where I am going, is
23 this, there came a time when the Civil Rights Section
24 found that these twelve instances they supplied in the
25 answers to interrogatories were out the window, that

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2 there was no case, and that in certain cases they actu-
3 ally found wrong buildings which the Trumps didn't even
4 own, and at that point Miss Goldstein set upon a course
5 of conduct of using undercover agents, intimidating
6 witnesses, and trying to build an entirely new case
7 not involving these specifics. And that in the course
8 of that committed the acts which are set forth with
9 specificity in this contempt motion.

10 MR. SCHWELB: Your Honor, I move to strike sub-
11 ject if he is not able to prove it. I move to strike
12 that as not proper remarks, as inflammatory and improper
13 and scandalous.

14 THE COURT: Well, of course I merely view it as
15 a lawyer's argument, you understand, statements made
16 to the Court, you know, in an attempt to explain some-
17 thing.

18 I thought that this case was all about certain
19 charges of specific conduct in connection with either
20 the taking of depositions or preparation for the
21 taking of depositions, or examination of records. I
22 certainly didn't think that we were going into anything
23 that had pertained to the merits of the case.

24 I thought that was to be reserved for a future
25 date when we would get down to the merits of the case.

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2 What we are really considering here are the
3 merits of the charges made against this witness. And
4 I understand your desire to probe into motivation and
5 so forth. I think until we know what the real facts
6 are with respect to what did or did not take place,
7 the incidents which formed the basis for your motion,
8 we are going to get nowhere because I am lost right
9 now.

10 MR. COHN: All right, your Honor.

11 (Continued on next page.)
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1 THE COURT: I understood this to be in the nature
2 of a collateral hearing on some charges of misconduct.
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4 MR. COHN: No problem in that at all. If your
5 Honor looks up paragraphs one and six of my affidavit
6 in support of this motion I think it spells out just
7 what the allegations are.

8 Your Honor, in using the term motivation, of
9 course that is exactly what I am getting at. There
10 came a time when they felt this original complaint was
11 out the window and embarked on a series of totally im-
12 proper tactics in the guise of a pre-trial period
13 which was set forth with some specificity -- examples
14 are set forth in the papers supporting this motion be-
15 fore your Honor. And I would be very glad to turn to
16 specifics right now.

17 THE COURT: Well, I would have to have a consid-
18 erable demonstration that that was the case. My recol-
19 lection of the events here is that that occurred within
20 the regular framework of the progress of the litigation
21 that had begun.

22 Now whether that litigation has merit or not is
23 something to be determined. It may be that you would be
24 making all the statements to the Court at some point,
25 I don't know, when we have a full exposition of what the

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2 facts are with respect to the allegations of the com-
3 plaint. What we are concerned with here, as I see it,
4 are allegations made against the witnesses. And that
5 is something quite collateral, to my way of thinking,
6 and I would like to get down to some proof on that
7 score.

8 Now, I don't know exactly what your further
9 plan is with respect to Miss Goldstein but it would
10 certainly seem to me that we ought to get down to some
11 of these specifics that you said in your affidavit in
12 paragraph --

13 MR. COHN: Paragraph one and six in my affidavit,
14 your Honor, state in general terms our complaint concern-
15 ing the manner in which Miss Goldstein has been con-
16 ducting this investigation which we say is violative
17 of the rights of the defendants, of the perspective
18 witnesses, and is totally improper pre-trial procedure.

19 And I will turn to specifics right this minute
20 your Honor.

21 THE COURT: All right.

22 BY MR. COHN:

23 Q Do you know somebody named Stephanie Bush?

24 A Yes, I do.

25 Q Did you send Stephanie Bush in as an undercover

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agent into Trump buildings in July of 1974 --

A No.

Q -- in other words two months ago.

A No, I did not.

Q Did you discover that Stephanie Bush had been sent into Trump buildings as an undercover agent concealing her identity in July, 1974?

MR. SCHWELB: I object to the term "undercover agent." If you want to know about Miss Bush she is a tester for the Fair Housing Group.

Q Do you know a tester for the Fair Housing Group by the name of Stephanie Bush?

A Yes.

Q When did you meet Miss Bush?

A I believe it was in August of 1974.

Q Does she work for the Urban League?

A Yes, she does.

THE COURT: Am I mistaken? I believe that this occurred after the events which form the basis for your motion.

MR. COHN: Oh, no, I think it came before.

THE COURT: It came before?

MR. COHN: Oh yes. Specifically your Honor, I think that Miss Bush, according to my information, was

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2 contacted at the Urban League by the Civil Rights
3 Section, according to my information, in June of 1974.
4 That Miss Bush set about on her testing campaign there
5 at the beginning of July, 1974.

6 In fact it was one of the factors motivating the
7 bringing of this motion.

8 MR. SCHWELB: If your Honor please, there is not
9 one word about Miss Bush in Mr. Cohn's motion. We
10 propounded interrogatories with respect to that and
11 he didnt mention it and I move to preclude that.

12 MR. COHN: Your Honor, I do not think it is pre-
13 cludable. I think there is enough in the general alle-
14 gations where I was not required to set forth the
15 name of every witness to whom this has been done or
16 every tactic which Miss Goldstein has done.

17 Now, with reference to a motion to preclude that
18 Mr. Schwelb says -- I don't knwo what the remedy on a
19 motion to preclude is -- if it is surprise I should have
20 told him today, I do not think it is. But if he says
21 it is I am perfectly willing to pass on to something
22 else and give him an opportunity to do whatever he sees
23 fit.

24 MR. SCHWELB: Interrogatories call for all the
25 information that had to do with Miss Goldstein's conduct.

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2 He didn't list that. Miss Bush will probably be called
3 as a witness at the trial a month from now and you will
4 be able to determine in full detail what the results
5 of the testing by a black and white tester were from
6 Trump buildings, and they weren't very favorable to
7 Mr. Trump.

8 MR. COHN: You see, your Honor, that gets down
9 to the basics here. Are we trying this case based upon
10 a complaint here on your Honor's direction that we be
11 advised of the specifics or are we trying it on Miss
12 Goldstein's fashioning of a completely new investigation
13 covering not the events charged in the complaint but
14 covering events that allegedly occurred right while the
15 pre-trial on the original complaint was taking place.

16 That is one of the things which we regard as
17 extremely serious in this matter. But after we have
18 been given specificity and told what to meet and go out
19 and start doing it are and are actually in depositions
20 process, to have undercover or testing agents, or how-
21 ever they want to denominate them, sent around day after
22 day to Trump buildings trying to trap somebody into
23 saying and doing something which can have no relevancy
24 to the original charges in the complaint and the speci-
25 ficity your Honor directed we were entitled to have, I

1 think it is totally improper as a tactic and covered
2 by the purport of this motion by paragraphs one and six
3 of my affidavit, and that it is totally improper -- that
4 it constitutes totally improper conduct on the part of
5 a Government attorney in the middle of a pre-trial and
6 an existing complaint when specifics have been given
7 and a framework of issues drawn under a Court order,
8 and they are subjecting the defendants to undercover
9 agents going in and out of their buildings, lying
10 as to who they are and where they are from --

11
12 MR. SCHWELB: Your Honor, I appreciate Mr. Cohn's
13 low key presentation. But our answer to interrogatories
14 were amended to disclose the additional testimony.

15 It has nothing to do with the charges.

16 THE COURT: Perhaps I owe you an apology for
17 asking a question which has provoked so much debate.
18 I started off by saying wasn't this a recollection of
19 something happening in August after the motion and now
20 I find this motion was dated July 26, 1974.

21 MR. COHN: Yes.

22 THE COURT: So it did happen after.

23 MR. COHN: No, she just said it. I am going to
24 prove it happened weeks before this motion.

25 THE COURT: Well, her answer, as I understand it,

1
2 it this way -- I think that would be the key witnesses
3 that we should be concentrating on here. I don't know
4 what other witnesses Mr. Cohn may have. But unless
5 these pertain to events that occurred prior to making
6 this motion I will rule it all irrelevant.

7 MR. COHN: I have your Honor's ruling.

8 DIRECT EXAMINATION

9 BY MR. COHN: (CONTINUING)

10 Q Miss Goldstein to your knowledge did an under-
11 cover -- did a tester named Stephanie Bush go around to Trump
12 buildings on July 9, 1974, some weeks prior to the making of
13 this motion.

14 MR. SCHWELB: Objection as to relevancy your
15 Honor.

16 THE COURT: Well, do you know or do you not know?

17 A I am aware that a testing was conducted by the
18 New York Urban League and that that testing was conducted in
19 early July, and that the information about that testing was
20 provided to my office, to the Department, I believe sometime
21 after the events occurred.

22 Q When do you say you first learned of this
23 Stephanie Bush going around to the Trump buildings in this
24 capacity?

25 A Do you want an exact date? I don't have an exact

1
2 date.

3 Q Didn't you speak to someone in the Urban League?

4 A Oh, I met with Mrs. Betty Hoeber at the Urban
5 League. Mr. Goldberg and I met with Miss Hoeber.

6 Q When did you first meet with Miss Hoeber?

7 A I believe it was in June.

8 Q Yes. Well, you are sure it was in June, aren't
9 you, Miss Goldstein? You don't have any doubt about that,
10 do you?

11 It was before Miss Bush started marching around
12 to the Trump buildings, wasn't it?

13 A It was before testing, yes, definitely, when I
14 met Miss Hoeber.

15 Q When you told his Honor you didn't meet Miss
16 Bush until around July, you are not quite sure -- I am sorry --
17 around August and you are not quite sure but it was around
18 August, the fact is you had met Miss Bush's superiors back in
19 June, had you not?

20 MR. SCHWELB: He is misquoting the testimony.

21 MR. COHN: I will withdraw the question.

22 Q Did you meet Miss Bush's superiors in June?

23 A I met Betty Hoeber then, yes.

24 Q Who is Betty Hoeber?

25 A I don't know what her title is, but Betty Hoeber

1
2 is the director of the Open Housing Center which is an arm
3 of the New York Urban League.

4 Q Did you discuss with Betty Hoeber the sending
5 of agents around to Trump buildings?

6 A Did I discuss with her? Miss Hoeber stated that
7 she might send some testers.

8 The Urban League had provided us with some infor-
9 mation and their clients were a number of the people we have
10 listed in our interrogatories.

11 Miss Hoeber was interested in the case and indi-
12 cated that she might do some more testing. They weren't
13 agents of ours in any way.

14 Q Did you ask Mrs. Hoeber to have the testing?
15 Can you answer that yes or no?

16 A I don't believe I asked Miss Hoeber to do the
17 testing.

18 THE COURT: I was just about to ask you is it
19 far to say that some of the information involved in the
20 allegations of the complaint were predicated on informa-
21 tion supplied by the New York Urban League? Is that
22 so?

23 THE WITNESS: In the original complaint?

24 THE COURT: Well, I realize you were not in the
25 case originally. But did you learn that at any time

1
2 that the Urban League group had supplied information
3 which --

4 THE WITNESS: Yes.

5 BY MR. COHN:

6 Q Now, who initiated the meeting with Mrs. Hoeber
7 in June, you or Mrs. Hoeber?

8 A I don't recall.

9 It's part of my job we meet with representatives
10 of fair housing groups on a regular basis.

11 In fact I believe I met with Mrs. Hoeber not
12 for the purpose of discussing Trump, but to discuss another
13 project that she was doing -- that the Open Housing Center
14 was doing in New York, about a conference they were planning
15 on having, I believe -- it may not have been that conference --
16 but at another project, and it was during my meeting with her,
17 I believe, we talked about it possibly.

18 Q Did you tell Miss Hoeber inwords or in substance
19 that your Section pursuant to an order of the Court had al-
20 ready furnished answers to interrogatories setting forth the
21 acts which you claim were committed in this case, and that the
22 case was as of June, 1974, in the depositional, pre-trial
23 stage?

24 A I don't know whether the depositional stage is
25 any different than the normal discovery stage of litigation.

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Q I will take it any way you want.

A I don't recall whether I specifically told Miss Hoeber that we had answered interrogatories. It is possible that I stated that we provided -- the first answers to interrogatories were provided before I became involved in this case, and she may have known, Miss Hoeber, I have no idea.

I have no recollection of whether or not I said anything. I may have mentioned the answers to interrogatories. I have no recollection of it.

(Continued on next page.)

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Q Did you ask Miss Hober to keep quiet the fact that you had knowledge of her sending this undercover agent around in July of 1974?

A Are you talking about the tester?

Q Yes.

A Did I ask Miss Hober to keep quiet?

Q The fact that she and you had discussed the sending of this agent around?

A I may have indicated to Miss Hober that I was not asking her to do this.

Q Did you say in words or substance to Miss Hober it might not be the right time at this point to be sending agents around to the truck buildings because we have already presented our case, but if you do it on your own, that is your business and I would be very happy to receive any information that you can give us?

A I don't believe that would be a correct statement of anything that I would have said to Miss Hober.

Q Well, I don't want what you would have said. I want your recollection of what you did say.

A I didn't say to Miss Hober that we have already presented our case and it wouldn't be appropriate for me to -- because we presented our case it wouldn't be appropriate for me to do the testing. What I may very well have said

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2 to Miss Hober is that I would not initiate any testing. That
3 if the Urban League wished -- They had indicated that they
4 had a plan on testing and I said I wasn't going to initiate
5 any testing and get the Department of Justice involved in
6 any testing.

7 Q And having said that, did you receive infor-
8 mation from Miss Hober from time to time thereafter,
9 specifically in and about the middle of July concerning the
10 reports of this lady who was marching around the truck
11 buildings?

12 MR. SCHWELB: I object to the characterization.

13 MR. COHN: I will withdraw the words "marching
14 around".

15 Q (continuing) who was presenting herself at
16 various buildings involved in this case?

17 A Yes, I did. I received information from the
18 Open Housing Center. And I would like to --

19 Q Is there any difference between the Open
20 Housing Center and the Urban League?

21 A It is an arm of the Urban League.

22 Q An arm of the Urban League? It is a private
23 organization; is that correct?

24 A I have no idea. I guess it may be.

25 Q Now, just one last question on this point:

1
2 I used the word undercover agent, and you
3 corrected me and used the word tester.

4 Let me ask you this:

5 To your knowledge, when this lady, Stephanie
6 Bush, went to these Trump buildings at the beginning of July,
7 1974 and thereafter, did she identify herself as coming from
8 the Urban League?

9 A I don't believe that she did.

10 Q And in fact, the impression -- would you agree
11 -- the impression -- would you agree with me that the last
12 thing she wanted superintendents to know was that she came
13 from the Urban League?

14 MR. SCHWELB: It calls for a conclusion of
15 somebody else and a mental operation. But I think we
16 all know what testers are for.

17 THE COURT: Well, I think so. I do not see
18 how this witness can invade somebody else's state of
19 mind. All right.

20 Q To your knowledge, did Miss Bush ever tell
21 one Trump employee that she was connected with the Urban
22 League based upon any reports that you have received from
23 Miss Bush whenever you met her, or from Mrs. Hober, whenever
24 you met her, or from anyone else connected with the open
25 housing or Urban League?

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2 MR. SCHWELB: Now, your Honor, this calls for

3 a hearsay answer. Furthermore, we will stipulate and

4 we will concede and we will be happy to tell Mr. Cohn

5 that when testers go to test a building, they don't

6 identify themselves as testers because if they did,

7 the test wouldn't work and it wouldn't give a

8 representative example of the conduct they are trying

9 to determine, and in this case did determine.

10 Q Well, before --

11 MR. COHN: Strike that.

12 Q At the time you had this conversation with Miss

13 Hober, in which this testing was discussed in June of 1974,

14 did you consult with any of your superiors in the Justice

15 Department as to the propriety of this?

16 MR. SCHWELB: Objection. Work product.

17 THE COURT: I do not think it has relevance to

18 what we are trying to determine here.

19 Q Now, during this same period of time, namely

20 following your entry into this case in May of 1974 until

21 July 26th, 1974, which I would fix under his Honor's ruling

22 as the parameter of this motion, certainly, did you have

23 occasion to make up a list of former Trump employees whose

24 names were not set forth in the information supplied to us in

25 February, 1974 in answer to our interrogatories?

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A I am afraid I am confused by the question.

Q Are you really? Maybe I can restate it if you are confused.

At the time of your entry into the case, there had already been furnished to the defendants interrogatories containing specific incidents and the names of witnesses.

Do you recall that?

A Are you talking about the original answers to interrogatories?

Q I am talking about answers to interrogatories.

A Right.

Q You are clear about that?

A Yes.

Q After you came into the case, which was some months later, did you make up a list of former employees of the Trump organization which were not mentioned?

MR. SCHWELB: This is some more work product. I wish you would get to the incidents that she spoke of --

MR. COHN: I have no interest in their work product. I am getting right to the incident.

Q Did you make up such a list?

THE COURT: I will allow that question.

A We conducted a records inspection in June of

1
2 1974. At that records inspection we did make a list of
3 Trump employees, present and former, from payroll records
4 that were produced pursuant to notice of records inspection.

5 Q About when was this?

6 A In June, 1974.

7 Q Did you turn this list over to the FBI?

8 A Did I turn that list over to the FBI? No, I
9 did not.

10 Q Did you turn the information from that list
11 over to the FBI?

12 A Pursuant to information I received from that
13 list I requested, as in the normal course of our conducting
14 litigation investigation, I asked -- made this request that
15 the FBI conduct certain interviews.

16 People we request to be interviewed, some of
17 those names were furnished from the list that we secured from
18 the records inspection.

19 Q Now, would it be fair to say that the FBI
20 agents conducted these interviews under your direction?
21 Were you the person in charge of the Justice Department?

22 A No, not really.

23 Q Under whose direction did they conduct it?

24 A I may have -- some of them -- there have been --
25 there is a lot of paperwork involved. My name may be on it.

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2 Mr. Goldberg's name may be on it. All our requests are
3 reviewed and finally sent out by Mr. Schwelb or two of his
4 deputies.

5 Q Did you request the FBI to contact a lady
6 Carol Falcone?

7 A I believe I did, yes.

8 Q Do you have any doubt about that?

9 A I believe she was on the list that I sent out.
10 A number of requests were sent out.

11 Q A number of anything might have happened. All
12 I want to know is, as you are sitting in that witness chair
13 were you the one who told the FBI to interview Carol Falcone?

14 A I advised Mr. Goldberg. I believe we both --
15 I don't know which one she was on. One of us did.

16 Q Were you aware of the fact that sometime before
17 the FBI appeared, if the evidence is so going to show, at Miss
18 Falcone's home at 10 o'clock at night, you were the one who
19 told the FBI to go?

20 MR. SCHWELB: Your Honor, first of all I object
21 to that entire tone which is unnecessary, and, second,
22 the question is so confusing that I would object to
23 the form.

24 MR. COHN: I will be glad to withdraw it.

25 Q Could you tell us simply, did you tell the

1
2 FBI to go to interview Carol Falcone or did you have
3 knowledge that any of your colleagues told the FBI to go
4 to interview Carol Falcone?

5 A Either myself or my colleagues requested that
6 the FBI conduct an investigation or to interview certain
7 former employees, and Miss Falcone was one of them, Mr.
8 Cohn.

9 THE COURT: I think that has been answered.

10 MR. COHN: The answer is yes.

11 MR. SCHWELB: Your Honor, will he stop testify-
12 ing, please? The presence of the witness is highly
13 superfluous if he tells us what the answer is.

14 MR. COHN: If I could get straightforward
15 answers, your Honor --

16 THE COURT: I think the answer was straightfor-
17 ward, Mr. Cohn.

18 Q Now, did you tell the FBI that you wanted to
19 talk to Miss Falcone?

20 A What I believe I said was that after I had
21 interviewed Miss Falcone I contacted the FBI, or Mr. Goldberg
22 contacted the FBI to inform them that we had already contacted
23 Miss Falcone and it would be unnecessary for them to do so.

24 Q Do you want to give me the chronology of this?
25 Is it, as I understand from your last answer, that you told

9 1
2 the FBI not to get to Miss Falcone? That you, independently
3 of the FBI, tried to reach Miss Falcone? That you reached
4 her first and then called the FBI and said, we have located
5 her, or whatever it might be, and it is not necessary for you
6 to do anything? Is that a fair statement?

7 A I object to the phrase, "get to."

8 Q Other than the phrase, "get to"? Reach?
9 Locate? Find?

10 A We requested the FBI to interview Miss Falcone.
11 I interviewed Miss Falcone. I then contacted the FBI to
12 tell them that I had interviewed her and that it was
13 unnecessary to contact her as well.

14 Q Before you interviewed Miss Falcone, did it
15 come to your attention that FBI agents had gone to her home
16 and at hours after 9 o'clock at night?

17 A Absolutely not.

18 Q When did you first hear about this, if you
19 did?

20 A At the deposition of Miss Falcone, with reference
21 to this hearing -- prior to this hearing.

22 Q That was the first you knew that her mother,
23 her uncle, had been visited by FBI agents at hours --

24 A Absolutely.

25 MR. SCHWELB: Excuse me. It calls for

1
2 innumerable hearsay answers and I want to object to
3 it.

4 THE COURT: Well, I think we are straying again.

5 So the FBI went there and what?

6 Q So the FBI went there. You say it didn't
7 come to your attention until the deposition?

8 A That she had been visited at 10 o'clock at
9 night by any FBI agents, that is correct. Or at any time
10 at night, that is right.

11 Q Did you give to the FBI any ground rules --

12 MR. COHN: I withdraw that.

13 Q Did you have any reason to believe Miss
14 Falcone was anything other than a former Trump employee?
15 That she was involved in anything herself?

16 A No, the only information --

17 Q That's an answer.

18 Did you give the FBI general instructions on
19 what hours these witnesses should be approached?

20 A I didn't give them instructions.

21 Q You do not ever outline the parameters of
22 investigation?

23 A I outline the questions to be asked,
24 information to be received. The FBI is a very professional
25 organization and it never came to my attention that they

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ever conducted themselves unprofessionally.

And certainly it is not my business to give instructions to the FBI. That is generally done elsewhere, as I understand it.

Q Well the fact is you are saying you didn't, in this case?

A I merely sent out a request through our office.

Q With whom were you dealing in the FBI, involving Miss Falcone, specifically?

A Are you asking me who the special agent of the FBI was?

Q Yes. Would this refresh your memory? You said you contacted somebody to say you had located Miss Falcone.

A I don't recall whether I personally made the contact or whether Mr. Goldberg made the contact.

Q And do you recall who was contacted in the FBI?

A We had been working together on it. I know who in New York had been conducting the investigation and who may have been contacted, And Mr. Schwelb -- if he has no objection, I will mention it.

MR. SCHWELB: No, your Honor.

THE WITNESS: Mr. Terrence Cox.

THE COURT: He is a special agent?

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THE WITNESS: A special agent in charge of
this case, yes, sir.

THE COURT: In New York?

THE WITNESS: Yes, that is correct.

THE COURT: He was doing it or in charge of
it, is that correct?

THE WITNESS: From what I understand, that
would be correct. I don't have much contact with the
FBI.

Q Well, did you have much contact with Miss
Falcone?

A I interviewed Miss Falcone.

Q On how many occasions?

A One occasion.

Q How long did the interview last?

A About a half an hour to 45 minutes.

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Q About 30 to 45 minutes?

A About that.

Q Where did that take place?

A In her place of business, the Hero Hut.

Q That is a place where they sell hero sandwiches,
I would assume.

A Right.

Q About what time of the day was it?

A I believe I arrives at approximately quarter to
twelve.

Q Was the lunch business in progress while you
were there?

A There was some. It was not very crowded.

Q What time do you say you left there?

A I would think at the latest about 12:30.

Q Did you have occasion to discuss the perjury
laws with Miss Falcone?

A No.

Q Did you tell Miss Falcone in words or in
substance that --

MR. COHN: I withdraw that question.

Q Did you question Miss Falcone concerning her
work for the Trump organization in prior years?

A Yes.

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2 Q After she described her duties did you suggest
3 to her that she wasn't telling the full truth concerning that?

4 A I believe at one point in one specific question
5 I asked Miss Falcone to refresh her recollection, on a
6 specific point that I found it hard to believe, and would
7 she refresh her recollection.

8 Q When you use the words that you found it hard
9 to believe, did you tell her that there are perjury laws
10 which say you can go to jail for up to five years?

11 A Absolutely not.

12 Q You deny that categorically?

13 A Totally.

14 Q Now, did you ask questions dealing with
15 Miss Falcone's personal life?

16 A No. I asked her if she was married -- her age,
17 her occupation. I may have asked her whether she was
18 married. that would be the personal questions I would have
19 asked her.

20 Q Did you ask her if she dated Donald Trump
21 when she worked for the Trump Organization?

22 A Absolutely not.

23 Q Did you ask her where she could have gotten
24 the money to open the Hero Hut?

25 A I hate to be repetitious, but no.

1
2 Q I don't think it is repetitious. I think it
3 is the first time I asked that question.

4 Did you tell Miss Falcone in words or in
5 substance that there were records of phone calls that took
6 place at the Trump office and therefore you knew what she was
7 telling you was not true?

8 A No, Mr. Cohn. That would never have crossed my
9 mind.

10 Q Now, do you know somebody named Mr. Miranda?

11 A Yes.

12 Q By the way, I don't think I asked you to fix
13 the date of your interview with Miss Falcone.

14 A I believe it was Friday, August -- was it the
15 19th? I believe it was Friday, August 19th.

16 Q No, it was not August, was it?

17 A Was it July? Wait, I'm a little confused on
18 that.

19 Q I know it was July.

20 A Then it was July 19th. Then it was Friday,
21 July 19th. My dates are wrong.

22 Q Now, did you have occasion to interview a man
23 named Thomas Miranda?

24 A Yes.

25 Q Had you previously asked the FBI to locate

1
2 Mr. Miranda for you?

3 A No. We knew where Mr. Miranda was. We had
4 already spoken to him.

5 Q Did you call him?

6 A Yes, I telephoned Mr. Miranda.

7 Q Where did you telephone him?

8 A I telephoned him at his home. Where was I?

9 Q Where was he when you telephoned?

10 A At his home.

11 Q Can you remember when this was?

12 A It was most -- I believe it was Tuesday of the
13 same week of July 19th. So it would be July 16th perhaps.

14 Q About what time of the day did you phone the
15 home?

16 A Midday.

17 Q Did you have knowledge about where he was
18 working then?

19 A Yes.

20 Q Where was he working then?

21 A Well, he was a superintendent of the apartment
22 building that he lived in. This phone number, his telephone,
23 would be his working and home number from what I believe it
24 to be.

25 Q Now, was a meeting between you and Mr. Miranda

1
2 set up?

3 A Yes.

4 Q Did you go to his home?

5 A Yes, I did.

6 Q Anybody else present?

7 A His wife.

8 Q How long were you there?

9 A About two hours.

10 Q You were there about two hours?

11 A Correct.

12 Q Did you ask for another interview after you left?

13 A No.

14 Q Did you say in words or in substance to
15 Mr. Miranda that you did not feel he was giving you the
16 whole story?

17 A No, Mr. Miranda -- No, I did not. Mr. Miranda
18 was at first reluctant to speak with me. He never gave me
19 a different story. He told me he didn't want at first to
20 discuss the matter. But I never indicated to him that I
21 felt he was giving me a story that was incorrect or
22 incomplete.

23 Q Did you tell him that you didn't have to
24 discuss the matter?

25 A I indicated -- Mr. Miranda -- he told me he
didn't want to become involved in this lawsuit. That he

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was frightened.

Q Did you at that point advise him of his rights and tell him he didn't have to talk to you?

A Mr. Miranda was, from what I understood, a friendly witness --

MR. COHN: First I would like you to answer this question.

THE WITNESS: May I finish?

MR. COHN: I don't mind you finishing subject to his Honor's instruction. Will you answer my question?

THE COURT: Yes.

A Did I give Mr. Miranda his rights? No, I didn't. He, as I said, was considered to be a friendly witness. He had provided information to us.

Q After the man you thought to be a friendly witness had said that he didn't wish to talk to you, did you advise him of his rights not to talk to you?

MR. SCHWELB: Your Honor, just a minor objection, but the implication in that question is that Mr. Miranda was being charged with a crime and he wasn't. I did not want this question to be understood as being he was entitled to some Miranda warning.

THE COURT: Just because his name was Miranda.

MR. SCHWELB: I missed that. I am sorry.

Q I'm not asking you for your mental processes. I'm asking if you had told Mr. Miranda that you do not have to talk to me now if you dn't wish.

A No.

Q How much longer after he told you he didn't wish to did you remain there?

A I remained there for a few hours. Mr. Miranda talked to me and told me why he did not want to get to talk to me.

Q Did you help jog his memory --

MR. COHN: I withdraw that question. Did you help bring about a change in his position by telling him he could go to jail?

A No.

Q Did you use the word jail in talking to Mr. Miranda?

A No.

Q Did you make any threat to Mr. Miranda?

A No.

Q Did you tell him there were bigger people in the Department of Justice that he was going to have to deal with?

A No.

MR. SCHWELB: May I get that back again?

MR. COHN: May the record show I am giving

Mr. Schwelbe back his Ziesselman statements.

Q Do you know two people named Paul and Paula Ziesselman?

A Yes.

Q Did you interview them?

A Yes.

Q When?

A I believe I interviewed them after I interviewed Mr. Miranda later in the afternoon of the same day. It was during that week. Sometime during the middle of that week.

Q Where did you interview them?

A At their home.

Q Was that in Valley Stream?

A I believe it is on Long Island and I think it was Valley Stream. I would have to see their address in the phone book.

Q Did you state at or about the conclusion of the interview that you were not satisfied with Mr. Ziesselman's statement to you?

A No.

Q Did you tell him that unless he was able to furnish more information that you were going to send the FBI

agents back to them?

A No, what I said to Mr. Ziesselman was that I had requested, as I had to Miss Falcone, that the FBI contact them and interview them. And that now that I had contacted them, that I would try to get in touch with the FBI to let them know that I had seen them so that the FBI wouldn't come to see them. If by chance, I said to them, I miss the FBI and they came, not to be concerned or frightened. They were coming pursuant to a request from me for the same kind of interview that I had already conducted.

Q That was the context in which you referred to the FBI?

A That is correct.

Q You didn't say it in what we might call a threatening context?

A No.

Q And the Ziesselmans, if they so interpreted that, your testimony would be mistaken?

A Yes.

Q Did you know a man named Mr. Herbert Heller/

A Do I know a Mr. Heller? No, I believe he is a former employee that the Bureau did contact.

Q Did you make a phone call to Mr. Heller at midnight at a summer resort at which he was vacationing?

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A What?

Q Did you make a phone call?

A No.

Q Did anyone else to your knowledge?

A I have no knowledge of such phone call.

Q Is this the first you heard of such a suggestion?

A Yes, absolutely.

Q Did you ask the FBI to locate Mr. Heller for you?

A I believe Mr. Heller's name was on it -- was on one of the FBI requests that we sent out, yes, although I don't think it was on the one that I prepared because I don't have any recollection of it.

Q Did the FBI ever report back to you that they had called Mr. Heller at five minutes after midnight?

MR. SCHWELB: Your Honor, first of all, this is outside the scope of the affidavit, and, secondly, I have no idea what time he is talking about.

THE COURT: Is this pre-motion or after motion?

THE WITNESS: I have no idea.

Q When did you ask the FBI to contact Mr. Heller?

A I don't know that I have --

MR. SCHWELB: There is something before the Court, your Honor, I object to that as outside the scope of the motion. Further I think your Honor has

1 ruled that if it happened afterwards it is irrelevant.

2 MR. COHN: I would like to find out when it
3 happened.

4 THE WITNESS: I don't know.

5 Q When to your best recollection, as the person
6 in charge of this case, did you ask the FBI to locate
7 Mr. Herbert Heller?

8 A I am trying to explain the operation -- of the
9 FBI operation -- I don't know.

10 Q In the dim past I too have a knowledge of FBI
11 requests. But can you tell me your best recollection as you
12 sit on the witness stand now as to when you asked the FBI to
13 contact Mr. Herbert Heller.

14 A Well --

15 MR. SCHWELB: If you know.

16 A (Continuing) I don't know. I don't think
17 Mr. Heller was on the list that I prepared. I don't know
18 which FBI list his name was included in. It may have been
19 in June. It may have been in March. It may have been in
20 August. It might have been in September. I have no idea.

21 Q Do you know a man names Mr. John Brofman?

22 A Yes.

23 MR. SCHWELB: Your Honor, this is outside the
24 scope of the four witnesses that he talked about that
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2 we asked in the interrogatories about. I very
3 particularly wanted to know all the charges against
4 this young lady that he had. He said that is all he
5 had. I don't think he can go and meander around the
6 world, although if he does he does.

7 THE COURT: Well, now, is this something you
8 believe is antecedent to your motion?

9 MR. COHN: I will have to ask her. It is no
10 secret. I can state it in the form of a statement or
11 an offer of proof. What I have is on the basis of
12 phone calls made by people who were called either
13 by Miss Goldstein, or associates, or FBI agents, called
14 or visited --

15 THE COURT: I would say if they were called by
16 the FBI this wouldn't be helpful here. This witness
17 couldn't possibly tell. She is not vicariously
18 responsible for anything the FBI does in my judgment.

19 MR. COHN: Except for this, your HONOR, I would
20 suggest that the person -- that as your Honor well
21 knows better than any of us in this courtroom -- the
22 FBI is an investigative arm. It is not the Department
23 of Justice and it operates under programs given to it--

24 THE COURT: Well, it happens to be part of
25 the Department of Justice.

1
2 MR. COHN: Of course.

3 THE COURT: Although for many years its director
4 didn't recognize that.

5 MR. COHN: At various times, It's my part
6 thank goodness, but your Honor, whatever it might be,
7 the fact is we are going to raise the question here
8 after your Honor hears the testimony from the witnesses
9 as to whether there is any obligation on the part of
10 the person in charge of the case to see that certain
11 standards, particularly during the discovery period,
12 and dealing with employees and former employees of
13 the defendant, whether certain standards of ethicality
14 and decency are not to be observed in the course of
15 such an investigation.

16 MR. SCHWELB: We will stipulate that we asked
17 the FBI to contact these people. If he wasnts to
18 charge some FBI agent with contempt or whatever else
19 he wants to charge them with, I suggest he name them
20 and we will propound interrogatories and identify him
21 and let the FBI agent be here and not put it on
22 Miss Goldstein.

23 THE COURT: Well, I also assume again if these
24 people were in the employe of your client -- I have
25 the impression that they were former employees.

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2 THE WITNESS: Oh, yes.

3 MR. SCHWELB: We don't interview their managing
4 agent without counsel present, your Honor.

5 THE COURT: So of course, as an old-timer like
6 yourself, you are well aware that the Department of
7 Justice judicially makes use of the FBI in investiga-
8 tion of civil cases. It is not all criminal investiga-
9 tion work, although the popular notion is the G-man
10 as a crime buster. They are trained investigators
11 and the only investigators that the Department has.
12 And they do precisely such tasks as this.

13 MR. COHN: And the Urban League.

14 THE COURT: Well, it is the Attorney General's
15 responsibility to bring cases when he feels or that
16 he has information that should be brought forth and
17 also under our statute they call on the FBI for aid
18 in the necessary trial preparation. So, as I say, I
19 do not think these FBI requests are helpful here.

20 Now, so far as this Don Brofman, do you know
21 him?

22 THE WITNESS: Yes, I do. I interviewed
23 Mr. Brofman a few weeks ago.

24 MR. SCHWELB: It was after the motion.

25 THE WITNESS: After the motion. I didn't

MR. SCHWELB: Your Honor, I will reserve any further examination until our case in chief.

THE COURT: All right, you may step down.

(Witness excused.)

MR. COHN: I call Miss Falcone.

C A R O L B A L I S T R E R I , called as a witness,
having been first duly sworn by the deputy clerk of
the court, testified as follows:

DIRECT EXAMINATION

BY MR. COHN:

Q Miss Falcone, what is your full name?

A My name is Carol Balistreri. When I was with
Trump it was Carol Falcone.

Q Now, I think we know from some testimony in
the courtroom that your business is conducting a Hero shop.

A Yes.

Q Called the Hero Hut?

A Yes.

Q Where is that located?

A It is located at 253 Jericho Turnpike in
New Hyde Park.

Q Does it have a telephone?

A Yes, it does.

Q Is the phone listed with Information?

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A Yes, it is.

Q Is there any secret about it?

A No.

Q Now, did there come a time --

MR. COHN: I will withdraw that question.

Did you work for the Trumps at any time?

A Yes, I did. I worked for three and a half years.

Q What was the general nature of your duties?

A I was a clerk.

Q Now, did there come a time when you met a lawyer
named Donna Goldstein?

A Yes, I did.

Q You saw her here in Court this morning?

A Yes.

Q Before you met Donna Goldstein did it come to
your attention that somebody from somewhere wanted to see you?

A Yes.

Q What happened?

A They came to my home looking for me.

Q What time?

A About 9:00 o'clock. And I wasn't there.

Q Nine o'clock when?

A In the evening.

Q Who was that?

MR. SCHWELB: Your Honor, is this based on something somebody told her or her own knowledge? If it is not her own knowledge I would object.

Q Was this something discussed between you and Miss Goldstein when you met Miss Goldstein?

A Yes. When she came to my store I told her there were FBI agents looking for me at my home. And I told her I didn't know exactly whether there was two or one. I said there was two or one. And someone came at 10:30 at night. They said they were from the FBI, speaking to my uncle.

MR. SCHWELB: Your Honor, is this based on what her uncle told her or what she knows?

Q I am interested in what you told Miss Goldstein when you first met her.

THE COURT: I will permit the witness to testify what she told Miss Goldstein for a limited purpose with respect to state of mind.

MR. SCHWELB: The testimony that she is telling Miss Goldstein rather than what she told --

THE COURT: I am not accepting it as a part of the truth thereof. Do you understand?

MR. SCHWELB: Yes sir.

THE COURT: All right, go ahead. Is it

1
2 Mrs. Balistreri?

3 THE WITNESS: Yes.

4 Q In any event I think you just answered us that
5 you told Miss Goldstein that FBI agents had been at your house
6 and seen your uncle at 10:30 at night?

7 A Right.

8 Q On how many occasions?

9 A Twice.

10 Q Did you say anything to Miss Goldstein on how
11 you could be located?

12 A I told her they should have just called my
13 store.

14 Two gentlemen also went to my store and they
15 spoke to my husband. My husband said that it just happened
16 she is not here but she is here every day.

17 MR. SCHWELB: Is this something you related to
18 Miss Goldstein or is that something that you related
19 to the outside world?

20 THE WITNESS: He said to Miss Goldstein.

21 Q You said to Miss Goldstein?

22 A I told her how many people had been looking for
23 me.

24 THE COURT: Well, did you understand that an
25 FBI man came to your store? Is that what you are saying?

1
2 THE WITNESS: No, two gentlemen. My husband
3 didn't tell me who they were. He said two gentlemen
4 came looking for you.

5 THE COURT: You told this to Miss Goldstein?

6 THE WITNESS: Yes.

7 Q And I think you said that I am right here
8 practically every day?

9 A I told her, I said, I am here every day. They
10 keep saying they are looking for me; they are looking for me.
11 I am here.

12 She said, "Well, that's why I came to speak to
13 you."

14 Q How long did she stay?

15 A She came about 20 after 11:00 and she left
16 about 5 or 10 to 2:00, somewhere around there.

17 The only reason I remember the time is it was
18 lunch hour in the Hero shop and that is our busy time.

19 Q Was she there more than a half-hour?

20 A Definitely it was more than half an hour.

21 Q Your recollection is it was around from a
22 little before 12:00 to around 2:00 o'clock?

23 A Yes, before 12:00.

24 Q Now, did she ask you any questions about your
25 duties with the Trump Organization?

1
2 A Yes, she did. She asked me what my duties
3 were there. How long I worked. Who my friends were.

4 Q All right, let me stop you there. When she
5 asked you about how long you worked for the Trump Organization
6 did she ask you to describe your duties?

7 A Yes, she asked me to describe my duties and I
8 said -- I described them for her.

9 Q Briefly what did you describe?

10 A I said I typed, I filed, I did clerical work.
11 She said in three and a half years that is all
12 you did?

13 I said that's all I did.

14 She said I worked in other offices and during
15 three and a half years I knew more than that.

16 I said well, I am sorry, I just didn't know more
17 than that. That is all I did there. That was about it.

18 Q Was the word perjury used at any point during
19 the interview?

20 A Yes. She said to me -- she said when I said
21 this to her -- she said remember, do you know what the charge
22 is for perjury.

23 So I said no, I didn't know.

24 She said you know, she said, it is one to five
25 years.

I said oh, that's nice. You know, I didn't

1
2 know what she was trying to bring out. I said I am telling
3 you what I did there. And that was the end of it.

4 Q What you told her was the truth?

5 A That was the truth. That's what I did.

6 Q Now, you are quite clear about her talking
7 about perjury being one to five years?

8 A Yes.

9 Q Now, did she ask you any personal questions in
10 relation to your employment by Trump?

11 A Yes. She said to me how old are you.

12 I said I am 28.

13 She said do you own this place?

14 I said yes, I own this place.

15 She said a young girl like you?

16 Then I said to her, Miss Goldstein, I said, I
17 am 28, yes. I worked since I am 17 years old. I have saved
18 every penny that I made and that is how I own this place.
19 If you think in any way that I got the money from, you know,
20 Trump or anything, if that is what you are trying to say?

21 She said, no, I just wanted to know how a girl
22 could own a place like this.

23 Then she asked me about my friends, who my
24 friends were.

25 Q I want you to go into all the questions that

1
2 she asked you about different friends of yours. But I do
3 want to ask you did she ask you about any personal relation-
4 ship you had with Donald Trump?

5 A Yes. She said were you single when you worked
6 there?

7 I said yes, I wasn't married.

8 She said do you know Donald Trump?

9 I said yes, I worked for him.

10 She said did you ever go out with him?

11 I said no, I did not.

12 Did he ever ask you out?

13 I said no, he did not.

14 MR. COHN: Nothing further.

15 MR. SCHWELB: Can I have about a two-minute
16 recess?

17 THE COURT: Let's have a ten-minute recess.

18 MR. COHN: What's your pleasure about time
19 today, your Honor?

20 THE COURT: As far as there are witnesses to
21 go, except what I will do is I will probably have to
22 adjust the lunch hour because I have a matter on at
23 2:00 o'clock. That will probably take a half-hour.
24 It's a juvenile hearing.

25 MR. COHN: That would help me.

THE COURT: So we will work it out so that the lunch hour will be stretched over.

(Short recess.)

(After recess.)

C A R O L B A L I S T R E R I , called as a witness, having previously been duly sworn, resumed the stand and testified further as follows:

CROSS-EXAMINATION

BY MR. SCHWELB:

Q Miss Falcone, just for the record, you appeared at your deposition taken just a few weeks ago, did you not?

A Yes I did.

Q And you testified at the deposition?

A Yes.

Q Didn't you testify at the deposition that every word of this affidavit was your own?

A Yes, I did.

Q And that nobody helped you write it at all?

A No.

Q And that you testified that it was in your own handwriting and that nobody could -- in that case nobody could say that you just signed it, is that right?

MR. COHN: Your Honor, if it is just preliminary I don't mind. But if it is going to be on something

particular I would rather have him say were you asked this question and did you give this answer.

MR. SCHWELB: It is very summary, your Honor. Well, let me ask it differently.

MR. COHN: That is what I am worried about.

THE COURT: All right.

Q Let me ask it differently. Did you in fact write it in your own handwriting so that nobody could say you just signed it?

A Yes.

Q Now, was it also true that your best recollection of the interview with Miss Goldstein was at the time that you wrote that statement rather than at the present time?

A Yes.

Q Now, you were given an opportunity to look at your affidavit before the deposition, weren't you?

A Yes.

Q You testified that it was all true and no errors, didn't you?

A Yes.

Q And now --

MR. COHN: Of course, your Honor, if he wants to talk about the deposition I would prefer to have him say were you asked this question and did you give

1
2 this answer.

3 THE COURT: All right.

4 Q Now, in writing your affidavit, Miss Falcone,
5 did you try to be fair?

6 A Yes.

7 Q You tried not to exaggerate?

8 A I didn't exaggerate. You know, I wrote down
9 what she had said to me and what I said.

10 Q Now, I believe that you stated in your affidavit
11 that "...I was interviewed by Miss Donna Goldstein, attorney
12 for the Civil Rights Division of the Justice Department and
13 by another attorney on the morning of July 19, 1974 at my
14 place of business in connection with the civil rights suit
15 against my former employer, Trump Management."

16 Now, were you interviewed on that occasion by
17 Miss Goldstein and another attorney?

18 A No, just Miss Goldstein.

19 MR. SCHWELB: Thank you.

20 Q And now later on in your affidavit you said,
21 "...that in fact made me feel I was a criminal being held on
22 a criminal charge..." Was that only Miss Goldstein?

23 A Miss Goldstein was the only one that questioned
24 me.

25 I meant when I said it that because they came

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2 looking for me at such odd hours and that they, you know, as
3 they were all trying to reach me when I was right there at
4 my place. That is what I meant by it.

5 Q Is it your testimony that somebody other than
6 Miss Goldstein tried to make you feel like a criminal?

7 A No one treated me unfairly except I felt that
8 she did.

9 Q The others all were nice to you, were they?

10 A Very nice.

11 Q And they treated you fairly?

12 A Polite and fairly.

13 Q I think you testified today that Miss Goldstein
14 came at about a little before 12:00 o'clock and left at about
15 2:00?

16 A Yes.

17 Q In your affidavit you testified that she was
18 there three and a half hours.

19 A Approximately three, three and a half hours.

20 Q Well, in your affidavit it says, "...which
21 lasted approximately three and a half hours." That isn't
22 right, is it?

23 A Yes, it is right. It is approximately three
24 hours and maybe ten minutes, or three hours and seven minutes.

25 Q Three hours and ten minutes?

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2 A About that. From about a quarter after 11:00
3 until about a quarter after 2:00 or ten to 2:00. Around that
4 time.

5 Q Now, in your affidavit you stated that "...she
6 accused me of dating Donald Trump in front of my husband..."

7 Actually did she ask you, according to you,
8 whether you dated Donald Trump, is that right?

9 A Well, if someone said to you do you date
10 Donald Trump I guess that is accused.

11 Q You guess that is accused. And is that what
12 you mean?

13 A I assume that is what she meant.

14 Q That is your assumption.

15 A It is my assumption.

16 MR. SCHWELB: Thank you.

17 Q Now, Miss Goldstein asked you a number of
18 questions, did she not, about the racial composition of
19 different buildings?

20 A Yes.

21 Q She asked you how many blacks and how many
22 whites there were in each of them?

23 A She said what do you think the denominations
24 were. How many do you think were black and how many do you
25 think were white. And I said I didn't know.

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2 Q And you inferred from those questions, did you
3 not, that she was accusing you or Trump of discrimination?

4 A Well, if you had asked me a question like that
5 I would assume that you meant that did we have as many blacks
6 as whites. And I said I didn't know how many of which, you
7 know, were in the building.

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9 (Continued next page.)
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1 Balistreri - cross - Schwelb

2 CROSS-EXAMINATION

3 BY MR. SCHWELB (Cont'd):

4 Q And you took from that that she -- she was ac-
5 cusing you of lying about that?

6 MR. COHN: What?

7 THE WITNESS: Excuse me?

8 MR. COHN: I don't understand. You took from
9 that she was accusing you of lying?

10 MR. SCHWELB: About the racial composition of
11 the building.

12 Q Did she ask you a lot of questions about it?

13 THE COURT: Do you understand the question?

14 THE WITNESS: Excuse me. Do you want to know
15 what she said about how many blacks and how many whites?

16 MR. SCHWELB: I'll withdraw the question.

17 It was poorly phrased.

18 Q Now, at the conclusion of your discussion with
19 Miss Goldstein -- strike that, please.

20 At the beginning of your discussion, you had
21 a very friendly conversation, didn't you?

22 A Yes. I was polite to her.

23 Q She was polite to you?

24 A Yes.
25

2 Balistreri - cross - Schwelb

Q And you offered her a cup of coffee?

A Yes.

Q And she had it?

A Yes.

Q And you discussed manicures, I think?

A She was discussing manicures. She was looking at her nails and said, "I just had a manicure."

Q And you said you couldn't in your line of business?

A Yes.

Q That was the tone of conversation?

A At the beginning.

Q When you left, you said, "Goodbye"?

A I said, "Goodbye."

Q And she said "Goodbye"?

A Yes. She was in my place and I wouldn't be rude to her.

MR. SCHWELB: I have no further questions of this witness, your Honor.

THE COURT: Any redirect?

MR. COHEN: May I have just a second?

(Continued on next page.)

3 Balistreri - redirect

REDIRECT EXAMINATION

BY MR. COHN:

Q Just one. Did Miss Goldstein say anything to you on the subject of the Government having information about what went on in the Trump organization from --

MR. SCHWELB: Objection, your Honor. Beyond the scope of the direct.

MR. COHN: I think it probably is. I was wondering if I could have your Honor's permission to ask it as an omitted question. I suppose possibly Mr. --

THE COURT: We will see. I'll give you an opportunity for some recross.

MR. SCHWELB: All right.

THE COURT: Go ahead. I'll let you ask the question.

BY MR. COHN:

Q Did Miss Goldstein say anything to you about any information -- about how the Government knew what was going on in the Trump organization?

A Yes. She said to me, she said, "You told me that you answered the phone, did you?"

I said, "Yes, I answered the phone."

She said, "Did you notice when you answered the

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Balistreri - redirect

phone if anyone that was on the phone was Negro?"

I said, "I really didn't know the difference in the voices." I said, "Why?"

She said, "Because you know," she said, "There are tapes," she said, "And we can prove that every incident when a Negro would call, in the background you would say, 'Shoo, shoo,' or 'Hang up on them.'"

I said, "I never did that. I never even heard of it." And that's what she said about the tapes.

I said, "Are you saying that I did this on the tapes?"

She said, "Well, you did answer the phone."

I said, "I didn't always answer the phones."

She said, "Do you know of anyone who did this?"

I said, "I do not know anything of this. What you're trying to bring out to me?"

MR. COHN: I have nothing further.

MR. SCHWELB: I don't think any cross on that particular allegation is necessary, your Honor.

MR. COHN: Well, you --

THE COURT: You may step down.

MR. COHN: All right.

(Witness excused.)

MR. COHN: Mr. Miranda, with your Honor's

5 Miranda- direct

permission.

THOMAS MIRANDA, called as a witness,
having been first duly sworn by the Clerk of the Court,
testified as follows:

DIRECT EXAMINATION

BY MR. COHN:

Q Mr. Miranda, do you know Donna Goldstein?

A Yes.

Q You saw her here in Court this morning?

A Yes.

Q did there come a time when she came to your
home?

A Yes.

Q July of 1974?

A That's right.

Q About how long was she there?

A About one hour and a half, two hours.

Q And when she came in, did you have any discus-
sion with her about on the subject matter of whether you
wanted to talk to her or not?

A Never. She didn't mention that to me.

Q Did you tell her you did not want to be involved
in this?

A I told her I don't want to be involved in this.

6 Miranda - direct

Q Did she tell you at any time that you did not have to answer her questions?

A Never.

Q Now, did she ask you questions about discrimination in any of the Trump buildings?

A She asked questions of discrimination, yes.

Q And did she say anything to you about whether or not she was satisfied with your answers?

A In the beginning she was not satisfied with my answer, that's right.

Q What did she say to you?

A Well, she told me that -- she threatened me with the question of higher authority or jail or whatever it is.

MR. SCHWELB: I don't understand the witness, your Honor.

MR. COHN: May the answer be read, your Honor?

MR. SCHWELB: Can he go more slowly?

THE COURT: Let's hear it. Read it back.

(Question read.)

BY MR. COHN:

Q That was in connection with which answers, Mr. Miranda?

A In connection with the question I refused to

7 Miranda - direct

be cooperative in relation with this case. I don't want to be involved.

Q Did she press you to say that there had been discrimination at the Trump buildings?

A Well, precisely that -- discrimination Trump building, yes.

Q What did you tell her?

A No.

Q After you had told her there was not, did she keep pushing you on it?

A Yes.

Q About what point of the interview was the term "jail" used by her?

A Well, put it this way. Maybe in the beginning of the conversation that we have.

Q By the way, you yourself are Puerto Rican; is that correct?

A I am Puerto Rican.

Q How long did you work for the Trumps?

A Two years.

MR. COHN: I have nothing further, your Honor.

CROSS-EXAMINATION

BY MR. SCHWELB:

Q Mr. Miranda, you filed an affidavit in this

8 Miranda - cross

case earlier, did you not?

A If I file an affidavit in this case?

Q Yes.

A To whom?

Q You signed a paper which is an affidavit?

A I signed a paper when?

Q And that affidavit was written in legal terms,
wasn't it?

A Yes.

Q You don't understand the legal terms very well;
is that right?

A That's right.

Q You were given a chance to make changes but you
didn't know how to make changes on a document in legal terms;
is that right?

A I don't think so. I don't think that they even
mentioned that to me. I saw the affidavit was in good terms
and good -- looked all right and I signed it.

Q You didn't write it, did you?

A No.

Q Who write it?

A Somebody in the office.

Q What office was that?

A Trump office.

9 Miranda - cross

Q Thank you.

Now, when did you first meet Mr. Cohn?

A Mr. Cohn?

Q This gentleman here, Mr. Roy Cohn.

A Mr. Roy Cohn? I met him over here when I came first for a hearing in the lobby.

Q For the deposition; is that right?

A Deposition. Whatever you call.

Q So you had not met him when you signed your affidavit, had you?

A No.

Q Now, did you know that as a result of your affidavit, Miss Goldstein could get in ver serious trouble?

MR. COHN: Your Honor, I object to that.

Did he know with respect to his affidavit Miss Goldstein could get into serious trouble?

I don't think that's a proper question.

THE COURT: I think that objection is well taken.

MR. SCHWELB: If I understand the ground for the objection, your Honor, I could.--

THE COURT: You might inquire whether anyone explained to him why the affidavit was being asked -- sought, etc.

Q Did anybody explain to you why the affidavit

10 Miranda - cross

was being taken?

A If anybody -- well, is quite difficult to answer that question.

Q Did anybody explain it to you?

A The result of the -- the affidavit?

Q Did anybody explain to you --

A No.

Q -- What would be done with the affidavit?

A No.

Q Now, I think this -- did you go to Mr. Trump's office after Miss Goldstein came to see you?

A I don't remember if it was the same day or the following day.

Q Sometime after?

A Yes.

Q You told Mr. Trump, didn't you, you -- that Miss Goldstein had interviewed you about this case and it was his case and not your case?

A I --

Q You didn't want to be involved in his lousy case?

A That's true.

Q Now, he's a very busy man, is he not?

A Mr. Trump, yes.

Q So he spent only about five or ten minutes with

11 Miranda - cross

you; is that right?

A 15 or 20 minutes, more or less.

Q Didn't you testify that it was five or 10 minutes?

A Five, 10 minutes. I don't follow the time.

Q A short time?

A A short time.

Q Now, do you think your affidavit is a fair
summary of everything that happened between you and
Miss Goldstein?

A In this particular case I was looking for protec-
tion.

(Continued on next page.)

NC fols.

Miranda -- Cross/Schwelb

Trump
2am2
gr/nc

CROSS-EXAMINATION

BY MR. SCHWELB: (Cont.)

Q What kind of protection?

A You see, I'm a minority. I have been harassed many, many, many times in this city. And I need protection when they mention the question of -- in other words, higher authority or somebody else, I was a little scared.

Q Let me just ask you whether you put in your affidavit -- you gave a fair picture of everything that happened at your house that day?

A If I put a fair picture of everything that happened in my house?

Q Right.

Between you and Miss Goldstein.

A It's very difficult. In the first place because I didn't have it for me to -- right at the moment, the second, because it happens a long time ago.

Q All right.

Mr. Miranda, isn't it true that Miss Goldstein called you --

THECOURT: Hold it just a minute. I know the purpose of this was to give him an opportunity to read it.

MR. SCHWELB: I'm sorry, your Honor. I was

2 Miranda - cross/Schwelb

going to take it step by step but I'll withdraw it.

THE COURT: Yes.

THE WITNESS: This is all right.

Q Now, Miss Goldstein first contacted you by telephone, did she not?

A That is right.

Q And she was very polite when she set up the meeting with you, was she not?

A She was very polite.

Q And when she was at your house she wasn't rude, was she?

A Well, I was not cooperative, she was a little rude.

Q Now, Mr. Miranda, --

A She was all right.

Q You say --

A You see, she has her own purpose to be there to get some information in relation with discrimination in Trump buildings.

Q Right.

A Right? So in the position that she is, I don't mind, in other words, that she has to do her job properly. But that doesn't mean that she has to use words of higher authority or something like that.

1 3 Miranda - cross/Schwelb

2 Q The words were higher authority?

3 A Yes. Somebody higher in the Department of
4 Justice.

5 Q Let me just ask you first, isn't it true that
6 youtestified and isn't it true that you think she is a nice
7 girl?

8 A A nice girl.

9 Q She wasn't rude to you in her words?

10 A A nice girl. Doing her job.

11 Q Her job was to interview you about the Trump --

12 A Yes.

13 Q The agency?

14 A Yes.

15 Q At the end of her doing her job, she asked
16 you -- you had coffee and donuts with her, did you not?

17 A Yes, if I remember.

18 Q You had a very friendly discussion about Puerto
19 Rico and the problems of Puerto Ricans, didn't you?

20 A Yes.

21 Q And at the end of it you said good bye and she said
22 good bye and everything was very friendly?

23 A Of course.

24 Q As a matter of fact, you -- she is welcome
25 to come to your house again, isn't she?

4

Miranda - cross/Schwelb

1

2

A Anytime.

3

Q Thank you.

4

5

Now, it's true, isn't it, Mr. Miranda, that you told her that you didn't want to be involved in this case, that that's Mr. Trump's case?

6

7

A I don't want to be involved.

8

9

Q All right. She told you, did she not, that if necessary, you might have to be subpoenaed?

10

A She mentioned something about it.

11

Q All right.

12

Is that what you mean by the higher authority?

13

A No.

14

Q What do you mean by the higher authority?

15

16

A Higher authority means FBI, police. That's what I mean, higher authority.

17

18

Q She said that the FBI might interview you, is that what she said?

19

A She mentioned something like that.

20

Q Is that what you considered threatening?

21

A That's what I considered threatening.

22

Q Thank you.

23

24

25

Now, during the course of your -- of Miss Goldstein's presence at your house, did you have occasion to talk to your son?

5 Miranda - cross/Schwelb

A I called my son.

Q Now, didn't you call your son for advice as to whether to give information to her?

A Yes.

Q AND he advised you to give information to her, didn't he?

A No. In other words, she talked with my son. They have a short conversation.

Q You talked to him, too, didn't you?

A Yes, I did.

Q And wasn't the subject of your conversation with him whether you should give information?

A The subject of the conversation was in relation with that but when I took the phone after she finish, my son told me to make my own judgment. To do it or not.

Q All right.

Now, Mr. Miranda, would it be fair to say that the main problem about Miss Goldstein's visit to your house was she was trying to get you involved in the case and you didn't want to be involved in the case?

MR. COHN: Your Honor, I object to that.

MR. SCHWELB: Cross-examination, your Honor.

THE COURT: Yes, I think it is fair cross-

6

Miranda - cross/Schwelb

examination.

Do you understand the question?

THE WITNESS: Make the --

THE COURT: Read it back.

MR. SCHWELB: I'll rephrase it, your Honor.

Q You were annoyed because she was trying to get you involved in the case and you didn't want to be involved in the case; is that right?

A That is right.

Q Okay. Now, Mr. Miranda, do you know Ronald Bunn and Agnes Bunn?

A No.

Q Weren't you talking to Mr. Bunn in this courtroom today?

A Oh.

Q A black gentleman in the courtroom today?

A Yes.

Q Do you know him?

A Yes.

Q For how long have you known him?

A For two years.

Q And a nice fellow?

A Very nice fellow.

7

Miranda - cross/Schwelb

Q Truthful?

A Truthful.

Q Now, didn't you have a conversation with Mr. Bunn or with Mrs. Bunn about having to return a deposit of a black woman and tell him that you didn't want to have to return that deposit, that Mr. Trump ought to return the deposit?

A I don't recall that.

Q You don't recall it?

A No, I don't remember that. I never did it. I don't recall. I don't remember doing and talking with this guy in relation with that. I never did.

Q Now, is it that you don't recall or you didn't do it?

A I don't do it.

Q So you do recall?

A I didn't recall.

MR. COHN: He recalls he --

A In other words, everything that is in particular for the business of the --- of the company, I work. I never discuss this matter with the tenants. I consider this something that we discuss with the office or --

Q Well, do you have any -- idea of what incident I'm talking about with respect to a black woman?

8

Miranda - cross/Schwelb

MR. COHN: Your Honor, that's objected to as beyond the scope of direct examination and beyond the scope of this hearing.

THE COURT: I think it is. It is getting, moreover, into the merits of the case than the merits of this particular --

MR. SCHWELB: Here is the problem: If I may be heard briefly on that? The problem is that Mr. Miranda's testimony --

THE COURT: The problem is very apparent.

MR. SCHWELB: Pardon?

THE COURT: The problem is very apparent.

MR. SCHWELB: All right. All right, your Honor.

BY MR. SCHWELB:

Q Now, did you have --- did you meet anybody else from the Department of Justice before you met Miss Goldstein?

A First, yeah -- was another girl. I don't remember her name, no.

Q Was it Elise Goldweber?

A I think this is the name.

Q Have you seen her in the courtroom today?

A Yes.

Q Is it the young lady wearing glasses in the third

Miranda - cross/Schwelb

in the right-hand side?

A Yes.

Q All right.

When she came to your house, was she polite to you?

A Very polite.

Q And pleasant?

A Pleasant.

Q And she asked you questions, also, did she not?

A Yes.

Q And there were similar questions to the ones Miss Goldstein asked you?

A More or less.

Q And both of them asked you whether you had any information about discrimination by Trump, didn't they?

A Yes.

Q And you had a long chat with her and were friendly with her also?

A And isn't it a fact, MR. Miranda, that you told Miss Goldweber that racial markings were placed on pieces of paper attached to applications?

A No.

10 Miranda - cross/Schwelb

Q You didn't tell her that?

A No.

Q Did you tell that to Miss Goldstein?

A No.

Q Did you ever tell anybody or tell any of the Justice Department people that -- about an incident of possible discrimination with any black family?

A No.

Q Did you ever tell anybody that you had been told that the management preferred Jews?

A No.

Q Did you tell them that they wanted to keep your place white?

A No.

Q You didn't tell any of those people any of those things?

A Any of those things.

Q Now, I think you testified that the affidavit was written by somebody else?

A Yes.

Q And Miss Goldstein is welcome in your house at any time?

A Yes.

11 Miranda - cross/Schwelb

MR. SCHWELB: Thank you. No further questions.

THE WITNESS: All right.

REDIRECT EXAMINATION

BY MR. COHN:

Q About what point of the interview was the word "jail" used by Miss Goldstein, do you remember?

A Quite difficult but I think -- I believe it was in the beginning of the conversation.

Q Sometime before you telephoned your son to ask what you should do?

A Before, before.

MR. COHN: I have nothing further, your Honor.

MR. SCHWELB: I have nothing further, your Honor.

THE COURT: All right.

You may step down, Mr. Miranda.

MR. COHN: May I have just a second, please, your Honor. Your Honor, that's all we have with the exception of the testimony of Cecilman who we could not get today.

I will not call Mr. Brovman in view of Miss -- subject to confirmation of Miss Goldstein's statement that that incident took place after the date of our motion. That's it. Then we will rest. Subject to

12

Miranda - cross/Schwelb

the --

MR. SCHWELB: Could I have about a three-minute conference with Mr. Cohn?

We may be able to resolve this and unclog the calendar.

THE COURT: Yes, certainly.

(continued next page.)

GR:MM 1
T2R3

MR. SCHWELB: Your Honor, I might say that no excuse has been furnished by defendant for not producing his witnesses.

MR. COHN: I'll give a good excuse.

Mr. Schwelb has sent marshals around and I know your Honor's patience gets a little tried with all of this because it is not in the direct issue here.

Miss Falcone had the pleasure of three different sets of marshals going around at hours up to 12:20 in the morning, serving three subpoenas, two of them with incorrect dates, one of them which she had to change in longhand calling for her to be here on October 29th, next week, instead of today, when I had told -- said, and she had explained she was available on a phone call to be over in this courtroom whenever her testimony was desired.

MR. SCHWELB: This has something to do with the Zisselman's?

MR. COHN: Yes. As far as the Zisselman's are concerned, I tried to treat them with as much courtesy as I could. When your Honor had a calendar problem, I had a calendar problem, and the Court of Appeals, the date had to be changed. I contacted the Zisselman's who had switched around their programs and could not come today.

1 I said to them, "If I subpoena you, could I get
2 you?" They said "Now that you have told us that, you
3 cannot get us with a subpoena. We just can't be there.
4 We can come on a few days' notice."

5 Mr. Schwelb has made a proposal I might be able
6 to agree to.

7 We have these affidavits of the Zisselman's.
8 He apparently suggesting that we take -- I thought the
9 first affidavits and stipulate that they would so testi-
10 fy. Now I think he's having second thoughts and only
11 wants one of the affidavits, and not the other.

12 MR. SCHWELB: Your Honor --

13 MR. COHN: If his offer is both, I accept it. In
14 order to expedite and conclude this hearing, I would
15 stipulate that if the Zisselman's were here, their tes-
16 timony would be in accordance with these affidavits.

17 MR. SCHWELB: Let me take a couple of minutes on
18 that, your Honor. I never offered him anything. I
19 suggested that might be a possibility, to save some time.
20 That's all.

21 Let me study it right now and we'll determine it.

22 THE COURT: All right.

23 MR. SCHWELB: Your Honor, I will stipulate as
24 to Mr. Cohn's proposal, that Mr. and Mrs. Zisselman
25 will testify in accordance with their affidavits. They

3 1 weren't affidavits. They were signed statements.

2 MR. COHN: Should I have them marked now, your
3 Honor? Or read them in or have them marked?

4 THE COURT: You can have them marked as your
5 exhibits, if you wish.

6 MR. COHN: Thank you.

7 Paul and Paula Zisselman.

8 THE CLERK: That's Paul Zisselman marked defen-
9 dant's Exhibit A in evidence.

10 (So marked.)

11 THE CLERK: The other one is Paula Zisselman
12 marked Defendant's Exhibit B in evidence.

13 (So marked.)

14 MR. COHN: We rest, your Honor.

15 MR. SCHWELB: Your Honor, I move at this time
16 to dismiss the contempt proceedings against Miss Gold-
17 stein and against the United States, the proceedings
18 for an order against the United States, on the grounds
19 that the defendant didn't make anything approaching the
20 kind of proof required, if the Court considers the
21 credible evidence heard.

22 THE COURT: All right. May I see that? They
23 haven't been marked yet?

24 THE CLERK: Yes, your Honor.

25 THE COURT: Do you want to be heard, Mr. Cohn,

5 1 I think it's -- it's an abuse of power on the
2 part of the Government and I think it's violative of
3 the rights of a defendant, first of all, when there is
4 a case in progress, a case containing a serious charge,
5 a charge which the defendant stoutly resists.

6 When there has been an order of the Court which
7 further expands the complaint and clarifies the issue
8 by putting the defendants on notice, what they are to
9 meet, when it's a priority case for trial and after
10 those stages, when the Government -- when with the
11 knowledge and I would submit the collaboration of the
12 Government, the Urban League or any other agency, is
13 permitted to and does send in a -- and furnish informa-
14 tion to the Government periods outside the time in the
15 complaint or the particulars filed an undercover tester
16 around the Trump buildings, with a lot of attendant
17 circumstances that is improper conduct on the part of
18 a prosecutor.

19 I would ask your Honor's leave on that to sub-
20 mit a little law. IT won't take me very long because
21 I've been through that issue in another forum on dif-
22 fering circumstances recently.

23 The second phase of the motion, your Honor, is
24 this. As is apparent from the testimony before you,
25 this did not come -- we probably haven't scratched the

11 1 who sends the boys out to do the job. I think that
2 supervision and control should certainly extend to
3 telling them to call witnesses within -- this is a
4 civil rights case and these former employees are not
5 being charged with murder 1 and I think that there is
6 certainly ground rules of courtesy and hours which not
7 telling them not to go around to homes at 10:00, 11:00,
8 12:00 at night, which -- I just think that the better
9 housekeeping job can be done by the --

10 MR. SCHWELB: Is he entitled to make references
11 in this closing argument to things completely outside
12 the record, that in my judgement are not true and have
13 nothing to do with his original motion and didn't happen
14 in relation to anything he complained about?

15 MR. COHN: Your Honor --

16 MR. SCHWELB: I object.

notes flw 17 (Continued on next page.)
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1 MR. COHN: What is not in the record?

2 MR. SCHWELB: About what these FBI agents
3 went in the middle of the night.

4 THE COURT: I would have to agree with Mr. Schwelb,
5 that outside of a request by his office -- section,
6 to the FBI to conduct such a request. I find no
7 evidence in the record that anything of the nature
8 of Gestapo tactics was permitted by the FBI in doing
9 the tasks assigned to them.

10 I consider that an extraordinary charge to
11 make about an agency which, in my view, has always
12 acted in respect even of criminal, with the utmost
13 politeness and respect for the rules and laws of
14 this country.

15 MR. COHN: Let me say this, Judge Neaher.

16 As far as the FBI is concerned, nobody has been
17 a better friend of the FBI than I have. I agree
18 with you completely. I have written that publicly,
19 magazines, books, newspaper articles, and I think
20 they consider me such.

21 But I will say this to your Honor. I think
22 it is way out of line, in a civil rights' case,
23 for agents to be at potential witnesses' homes.

24 THE COURT: Well, I will have to take judicial
25 notice of the fact that the Federal Bureau of

1 2 Investigation is precisely that. It investigates
2 not only the ivolutions of the laws of the
3 United States but it acts as the investigating arm
4 of the Department of Justice in purely civil matters.
5 And this is the first time it has ever been brought
6 to my attention that anyone has charged an FBI agent
7 or agents in a civil matter with some kind of conduct
8 that could be described as storm trooper or Gestapo-
9 type conduct.

10 MR. COHN: Your Honor.

11 THE COURT: I have found no evidence in the
12 record to sustain such a charge and I think the
13 charge is utterly without foundation.

14 MR. COHN: Your Honor, we're going from A to
15 B here. The charge in this contempt proceeding is
16 not against the FBI.

17 THE COURT: I understand.

18 MR. COHN: I have never brought a charge
19 against the FBI in my life. I have personal reasons
20 why I haven't and I never would. My relationship
21 is much too close.

22 THE COURT: There is no evidence in this record.

23 MR. COHN: Fine.

24 THE COURT: Other than the making of a request
25 in regular course to the FBI, giving names of persons

1 3 the department wishes to have interviewed in connec-
2 tion with a particular matter.

3 MR. COHN: Okay.

4 THE COURT: The FBI is supposed to be well
5 trained, professional, and the assumption or presump-
6 tion would be that based upon their own schedule of
7 assignments and work to be done, they went out,
8 perhaps late in the evening, because their agents
9 are oftentimes required to work late in the evening
10 in order to get matters performed, oftentimes because
11 people aren't even approachable during the daytime
12 hours. No one at home and so forth. However,
13 whatever the time, as I say, there is nothing here
14 that in my judgment would warrant any contempt or
15 other action by this Court on the basis of the proof
16 shown here.

17 It is perfectly obvious that some former
18 employees were approached, were interviewed or
19 attempted to be interviewed. Presumably for one rea-
20 son or another, they did not turn out to be willing
21 witnesses, which is understandable in some certain situa-
22 tions such as one of this kind. But I hardly find it
23 a basis for criticizing the actions of the plaintiff's
24 attorneys.

25 I feel that nothing here would amount to any

1 4 reason why this Court should condemn them or punish
2 them or censure them for what was done here. And
3 that is my ruling in this matter, and I therefore
4 grant the Government's motion to strike this applica-
5 tion from the record.

6 MR. COHN: All right.

7 Your Honor, may I have two points?

8 THE COURT: In toto.

9 MR. COHN: May I have two points on that?

10 I'd like it -- I'd like the point clarified concerning
11 the FBI. That that allegation was not made.

12 THE COURT: Mr. Cohn, you and I don't have to
13 argue.

14 MR. COHN: Okay.

15 THE COURT: It is unnecessary, I assure you.

16 MR. COHN: Okay. Fine.

17 THE COURT: Now, what I am interested in is, the
18 progress of this case, I remember referring it to the
19 Magistrate for purposes of discovery specification.

20 Is this going along or --

21 MR. COHN: The Magistrate ruled that at that
22 time that all discovery would terminate by September 1,
23 1974.

24 He commented in making the ruling, he though
25 there had been -- a priority case under the statute
 and he thought there had probably been too much

1 5 discovery already.

2 There had been 13 depositions taken at that
3 time. He gave the Government -- we took no deposi-
4 tions. We engaged in no discovery.

5 He gave the Government a period of weeks to
6 schedule more and gave them some ground rules about
7 the facts of not calling a lot of ex-employees who
8 didn't -- couldn't understand the law behind the
9 defendants. He was more interested in what would be
10 admissible in a Courtroom and all of that.

11 After having set the ground rules, the Govern-
12 ment then noticed another bunch of depositions, I
13 think six or seven or eight, something in that number.
14 All of those except one witness who was excused by
15 the Government, sick or something, were produced by
16 us, exactly as noticed by the Government, and we
17 now have some, I believe, 20 depositions, all of
18 which have been completed and the -- and were completed
19 prior to the cut-off date of September 1st.

20 In addition thereto, Judge Catoggio ordered
21 certain records to be turned over. We had turned some
22 over once before and we turned them over again, plus
23 additional records and all of that was completed by
24 September 1, 1974.

25 The only item that could conceivably be regarded

11 New York or elsewhere?

MR. SCHWELB: Almost all of the New York,
I think.

MISS GOLDSTEIN: Yes.

MR. COHN: I'm going to ask your Honor for
two rulings here. I heard what your Honor said
about the contempt motion. I might respectfully dis-
agree, which I guess is my prerogative and I know
your Honor has the ball when it comes to making a
decision.

Be it a civil case, and let's assume a civil
case is even more than a criminal case, I have never
seen anything like this in a discovery period. I
don't think I should be met with phone calls every
day about undercover agents going around to the
buildings while I'm trying to get this case ready.

MR. SCHWELB: I object to that for the eighteenth
time, your Honor.

MR. COHN: Your Honor, they didn't -- they
didn't prepare this case before they filed the complaint.
They're doing it now and I'm paying for it.

What I'm interested in is responding to your
Honor's inquiry. Are we going to trial November 25th?
How much longer are we going to get hit by them with
new areas, new things, not mentioned in the complaint

12 and not mentioned in the interrogatories, based upon
which we have or have not taken our discovery, based
upon which 20 depositions and carloads of records
have been turned over?

When is there going to be -- when Judge Catoggio
ruled that the end came, September 1, 1974, I do not
understand why in October, 1974, this -- your Honor
having set a trial date, it is a statute requirement
in a priority case, why we're still talking about
these things.

MR. SCHWELB: Can I answer why we are, your
Honor?

THE COURT: All right.

MR. SCHWELB: I think your Honor will recall
that we had considerable difficulty in discovery.
Discovery was to be over by September the 1st. That
was a ruling that Mr. Catoggio -- Magistrate Catoggio
made.

Part of that discovery was to look at their
records which got us the names of their former
employees. We asked for them late in -- the fall of
1973. We never got them.

Now, finally, we've gotten them. For that
reason I think that your Honor would agree with us
that it is our responsibility to interview them, to

1 13 determine what facts they have. And we've inter-
2 viewed them.

3 As soon as we get information we supplement
4 our answers to interrogatories. It is our responsi-
5 bility to do it.

6 Mr. Cohn is talking about this case being in
7 a hurry, and we're delaying it, is something
8 that boggles the mind.

9 If you recall the fate of the interrogatories,
10 the fact that they didn't answer them, they didn't
11 object to them. Then after they did answer them,
12 they answered them about a page and a half.

13 I come -- I've come up here any number of time
14 to be met with a proposition that depositions can't
15 be held. Mr. Cohn is in Cohn against Cohn, Jones
16 against Jones, or whatever it is he's in. He's the
17 only attorney who can represent them.

18 With due respect, we want to move as quickly
19 as possible and we've asked to move as quickly as
20 possible, but we do discovery and get names, we have
21 a right to interview them and use them so the Court
22 can have the entire truth. And that's what we're
23 trying to do.

24 With the new information, I believe that we
25 have an excellent case when we started with admission

1 14 of discriminatory policy, with incidents about
2 seven or eight definite buildings and with statements
3 by their agents how they don't want to rent to blacks,
4 we had some former employee proof.

5 Now, as a result of discovery which often
6 happens, we've got a great deal more. We want to give
7 it to your Honor.

8 THE COURT: I understand that you want to
9 prepare your case thoroughly but I think Mr. Cohn
10 has a point about there having to be some cut-off
11 date, when he can feel confident that the matter has
12 come to an end. as far as trial preparation is con-
13 cerned. You understand?

14 MR. SCHWELB: Yes, your Honor. I think he's
15 entitled to that.

16 THE COURT: It's very unsettling to believe that
17 you're dealing with a case that is shaped like this,
18 only to find that it is now grown to something like
19 this (indicating).

20 MR. SCHWELB: You see --

21 THE COURT: At the last minute.

22 MR. SCHWELB: Your Honor, with respect, that
23 date, as to when the cut-off must come, must bear
24 some relation to when we were given our rights of
25 discovery.

15

We've moved with considerable dispatch in looking at his records.

THE COURT: The whole purpose of referring it to the Magistrate, though, was to make sure that all these matters could be ironed out and I had the impression from what you said a little while ago that these had been.

Did I misunderstand?

MR. SCHWELB: I think -- I didn't realize we were in conflict except I advised your Honor, because I think I have a responsibility, too.

We have additional interviews and we want to amend our answers to interrogatories.

THE COURT: They are not deposition matters?

MR. SCHWELB: We don't want to take their depositions. In other words, we've interviewed a number of people. A number of those people have additional evidence to what we had before.

We want to -- we have not yet disclosed that to Mr. Cohn because we only just recently got it and the reason we just got it is because we had an investigation by the FBI based on the records he gave us, I think, in August. I may be wrong.

THE COURT: August of '74?

MR. SCHWELB: Yes. And I may be wrong about

16 the date. I'm not positive. But in any event, it
takes a certain amount of time for them to interview
these people and we're move -- I give your Honor
my word that we're moving with the utmost dispatch
on it.

MR. COHN: Maybe I could clarify this.

Our position simply is going to be this.
We're trying this case based on the allegations of
the complaint, as clarified by the answers to the
interrogatories filed in answer to your Honor's
direction.

I am going to object just as strenuously
as Mr. Schwelb did when I tried to get over and your
Honor upheld him over July 26th on this contempt
motion this morning, to anything that comes after the
dates charged in the complaint in this case.

In other words, the complaint in this case
does not charge what Miss Busch from the Urban League
says someone indicated to her about a current situation
in July, 1974.

The complaint in this case charges up to
October, 1973, and that's what I am prepared to meet,
based upon the specifics, all of which relate to
events prior to the date of the filing of the complaint.
So I am going to object at the trial to the admission

17 of anything that goes beyond the charge made in this
complaint which is all we are called upon --what we
are called upon to meet in this case.

I think what Mr. Schwelb is saying to your
Honor is this. He wants to file supplemental interro-
gatories.

MR. SCHWELB: Answers to interrogatories.

MR. COHN: Answers to interrogatories, to
expand what he says he now has. So that when the day
of the trial comes, he will try to offer those in
evidence.

I don't care if he does that, if he wants to
serve me with any supplemental anything, without
delaying the trial and without taking more depositions.
God bless him, let him do it.

THE COURT: Are more depositions contemplated?

MR. SCHWELB: Not by us.

MR. COHN: No objection to that at all.

At the trial I will reserve my right to object
to the offering of any proof.

THE COURT: I would suggest in that case
that both of you pay some attention to inform the Court
on legal authority with respect to that.

MR. SCHWELB: We will do that.

THE COURT: Ordinarily I would view this as

1 18 any equity type action, where the complaint would
2 speak as of the time and injunction was to be granted,
3 if one were to be. That's not a pre-judgement.
4 I am simply saying that --

5 MR. COHN: Of course not.

6 THE COURT: It isn't like the normal situation
7 where you're dealing with the legal rights and re-
8 lations growing out of something that occurred in
9 the past, a breach of contract or that sort of thing.

10 This is a -- well, I suppose it's in a certain
11 sense civil enforcement of a statute type litigation,
12 where the claim is pattern of discrimination, and I
13 suppose to the extent that the Government proves it,
14 whether it be by evidence which was developed after
15 the complaint was filed or evidence which they had in
16 their possession before it was filed, they're talking
17 about, of course, a past pattern of discrimination.

18 But what they consider an existing pattern
19 of discrimination which is why they're asking or will
20 ask I'm sure for a form of injunctive relief.

21 So I suggest therefore that you have that in
22 mind if your going to make a point of it at the trial
23 so that I'll have the benefit of your --

24 MR. COHN: Thank you. I would have very much
25 in mind the fact that there is nothing about a civil

1 19 rights case that a -- raises it to some kind of
2 position over ordinary litigation and litigants to the
3 point that -- that I have to meet evidence up until
4 a date months after the filing of a complaint and
5 evidence of which I have not been advised and given
6 the opportunity to meet.

7 I think -- and I understand your Honor wants
8 law on that. I hope we will be able to furnish it.
9 Maybe I'm wrong. I find out every day I'm wrong on
10 things.

11 THE COURT: As I said, I prefer not to delay
12 the trial of this case. If we have to suspend the trial
13 to give you an opportunity to interview some of these
14 people, we may have to do that. I don't know.

15 MR. COHN: Could I ask your Honor -- through
16 your Honor's good offices now, when does Mr. Schwelb
17 intend to give me his -- the final statement he talked
18 about?

19 MR. SCHWELB: We certainly -- your Honor,
20 we'll certainly give them a substantial one this coming
21 week. I'd like to consult with my operating counsel
22 here as to whether the thing is over.

23 I believe that the FBI investigation is either
24 over or almost over. We have a substantial number
25 that we got in -- last four or five days, that we

1 20 want to amend.

2 We will give that to them next week. If there
3 is an --

4 THE COURT: Answers to interrogatories?

5 MR. SCHWELB: Yes. We find -- to supplement
6 the answers as the case goes along.

7 With respect to the question of the legal
8 question posed, of course, there are many cases that
9 hold that equity looks to the future and that's the
10 essence of that.

11 Just to respond to one --

12 MR. COHN: I am not prepared to argue it now.

13 MR. SCHWELB: Just to respond to one point
14 that Mr. Cohn made, Congress has said in *Trafficante*
15 against Metropolitan Life Insurance Company,
16 T-r-a-f-f-i-c-a-n-t-e against the Metropolitan Life
17 Insurance Company, 409 U. S. 205, at page 211, that
18 the right to equal housing opportunity has been ac-
19 corded the highest national priority.

20 Thank you, your Honor.

21 MR. COHN: Your Honor --

22 MR. SCHWELB: One other word about this and
23 that is, could we have our costs of this motion that
24 have just denied?

25 MR. COHN: Costs?

21 THE COURT: Well, I think I'll let it stand.

MR. COHN: The final word? I don't dispute anything that --

THE COURT: The Government never has to pay costs so I even things up by denying them costs now and then.

MR. SCHWELB: I thought this particular motion had a particular characteristic but I abide by your Honor's ruling.

MR. COHN: Your Honor asked us for law. We will furnish it to you.

In response to Mr. Schwelb's last statement, I think a charge of violation of the civil rights laws is seriously when the people against whom it is made do not violate the civil rights law and that's why it is interesting in this case that it is the defendant who has been asking for the priority trial date, not the Government.

We are ready to meet it and no matter what Mr. Schwelb wants to file next week, we're not going to ask for a minute's delay in this trial.

THE COURT: All right.

MR. SCHWELB: Thank you.

MR. COHN: Thank you. November 25th, that will be this Courtroom?

THE COURT: November 25th is still the date.

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