Volume 3 of 3, Part E
VIII. EXHIBITS ADMITTED
(IN NUMERICAL ORDER)

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TRANSCRIPT OF PROCEEDINGS

UNITED STATES SENATE

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IMPEACHMENT TRIAL COMMITTEE

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IMPEACHMENT OF JUDGE G. THOMAS PORTEOUS, JR.

PRE-TRIAL DEPOSITION OF JACOB AMATO

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Washington, D.C.

August 2, 2010

IMPEACHMENT OF G. THOMAS PORTEOUS, JR.

PRE-TRIAL DEPOSITION OF JACOB AMATO

CLOSED HEARING

- - -

MONDAY, AUGUST 2, 2010

United States Senate,

Impeachment Trial Committee,

Washington, D.C.

The pre-trial deposition of Jacob Amato convened at 1:04 p.m. in Room SVC-214, Senate Visitors Center, Honorable Claire McCaskill, Chairman of the committee, presiding.

Present: Senator Claire McCaskill, Chairman; Congressman Adam B. Schiff, Chairman of the Impeachment Task Force; Phillip M. Tahtakran, Counsel for Congressman Schiff; Daniel C. Schwartz, counsel for Judge Porteous; Daniel T. O'Connor, counsel for Judge Porteous; Ralph Capitelli, counsel for the witness; Harold Damelin, Special Impeachment Counsel; Rebecca Seidel, counsel for the Senate Impeachment Trial Committee; Morgan Frankel, Senate Legal Counsel; Derron Parks, Senate Impeachment Trial Committee; Erin P. Johnson, Senate Impeachment Trial Committee; Lake Dishman, Senate Impeachment Trial Committee; Trey Amato, son of witness.

SENATOR McCASKILL: We'll get started here in the matter of the impeachment of Judge G. Thomas Porteous, Jr., the Senate Impeachment Trial Committee has authorized this pretrial examination at the request of Judge Porteous. The witness at this pretrial examination is Jacob Amato. Mr. Amato, please raise your right hand for the administration of the oath.

Do you swear or affirm under the penalties of perjury that the testimony you shall give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

SENATOR McCASKILL: Before we begin the examination, would everyone please introduce themselves for the record. We'll go around the table, beginning on my immediate left.

MR. TAHTAKRAN: Phil Tahtakran, counsel to Congressman Schiff.

MR. DAMELIN: I'm Harold Damelin, I'm special impeachment counsel.

CONGRESSMAN SCHIFF: Adam Schiff, chair of the Impeachment Task Force.

MR. O'CONNOR: Dan O'Connor, counsel for Judge Porteous.

MR. SCHWARTZ: Dan Schwartz, counsel for Judge Porteous.

THE WITNESS: Jacob Amato, witness.

MR. CAPITELLI: Ralph Capitelli, counsel for Jake Amato.

MS. SEIDEL: Rebecca Seidel, counsel for the Senate Impeachment Trial Committee.

MR. FRANKEL: Morgan Frankel, Senate legal counsel.

MR. PARKS: Derron Parks with Senator McCaskill and the committee.

SENATOR McCASKILL: And I'm Senator Claire McCaskill, the chairman of the Senate Impeachment Trial Committee.

As the parties have already been informed, this examination will last up to three hours. It's my intention that counsel for the House of Representatives will have the final 20 to 30 minutes. I appreciate counsel's cooperation in the division of time. I expect to continue right through the time divided as I've described. However, Mr. Amato, if you need a break at anytime, just let your counsel know, and we will be happy to break at your convenience if you need a break.

THE WITNESS: Thank you, ma'am.

SENATOR McCASKILL: Also, unlike some depositions you may be accustomed to, I highly discourage form objections. Unless a question is confusing the witness, I will not be sustaining those objections. This is going to be a little weird for me. I've waited my whole life to rule on a hearsay objection, and I'm not going to get a chance.

MR. CAPITELLI: And I can't make one.

SENATOR McCASKILL: Yeah, you know, I've always wanted to be able to call balls and strikes on hearsay. If the court reporter is ready, then we can begin.

EXAMINATION

BY MR. SCHWARTZ:

Q. Mr. Amato, are you testifying today pursuant to immunity?

A. Yes.

Q. I've been handed a document which is an order signed by Judge Friedman in the District Court here. Is this the grant of immunity that you have received?

A. It appears to be the one that was sent to me prior to my --

MR. CAPITELLI: Yes, on his behalf, that

appears to be the immunity we're operating under in this deposition and for the trial itself.

MR. SCHWARTZ: Thank you. I would request that be entered as an exhibit. The first exhibit to this deposition.

(Amato Deposition Exhibit 1 was marked for identification.)

SENATOR McCASKILL: The exhibit will be admitted into the record.

BY MR. SCHWARTZ:

Q. Mr. Amato, what did you do to prepare for this deposition today?

A. What did I -- I met with Mr. Capitelli last Thursday for about an hour, and about half of the time was spent talking about the case and half of the time was just talking about old times and good times and things like that. Other than that, nothing.

Q. Thank you. You have previously testified or been interviewed in connection with Judge Porteous's impeachment proceeding; is that correct?

A. Yes.

Q. I would like to list some events that I'm aware of and just get your confirmation. You were interviewed before the grand jury in May of 2006; is

that correct?

A. It sounds right. I can't tell you the exact date.

Q. You did have an interview before the grand jury?

A. Right.

Q. You also gave testimony before the Fifth Circuit panel?

A. Yes.

Q. And you were deposed by the House Task Force?

A. Yes, sir.

Q. And you gave testimony before the House Judiciary Committee; is that correct?

A. Yes.

Q. Have you had any other interviews, testimony, or other statements in connection with this proceeding?

A. Not that I know of. I just -- it's been so long and talked to people, I just don't know, but I think that's basically the only statements I've given, you've outlined.

Q. Were you contacted or interviewed by anyone in connection with the nomination of Judge Porteous to the federal bench?

A. No, I was not.

Q. How did you first meet Tom Porteous?

A. Tom Porteous, when he got out of law school, was assigned to the Attorney General's office under some type of federal grant. He was assigned to the Jefferson Parish District Attorney's office as a special assistant to the Jefferson Parish District Attorney's office. At that time, I was employed by the Jefferson Parish District Attorney's office, and he was -- I was assigned to basically show him -- train him, and that's where I first met him. I imagine his first, second year out of law school. I'm a few years older than he is, so what years where -- I would roughly say 1972, roughly.

Q. Thank you. Just for the -- just for all of the people around the table, Jefferson Parish, where is it located as opposed to New Orleans?

A. Right across the river.

Q. On the western side of the river?

A. West bank -- well, east and west bank, and it runs to the Gulf of Mexico.

Q. And is the courthouse for Jefferson Parish in a city called Gretna?

A. Gretna, Louisiana, yes. It's been there

for years and years.

Q. And that is also on the west bank of the Mississippi?

A. On the west bank of Jefferson Parish.

Q. How far away from downtown New Orleans is downtown Gretna?

A. Well, it depends if you're driving or if you're a bird flying, but if you're driving, you can probably make it in ten minutes from downtown New Orleans, depending upon the traffic.

Q. And a little faster if you're a large bird?

A. Right.

Q. Thank you. Did there come a time when you and Tom Porteous formed a law firm together?

A. Yes.

Q. When was that?

A. '73, '74, something in that area.

Q. And what was -- why did you do that?

A. Why did we do it? I imagine we all had some desires to improve ourselves and to make a living. I really didn't have a practice at the time. I was basically full time in the DA's office, so Marion Edwards, Tom Porteous, and I got together and formed a firm.

Q. Who was Marion Edwards?

A. He was an assistant DA also who is now a Court of Appeals judge in Jefferson Parish.

Q. Did you and Tom Porteous continue to practice law together?

A. Yeah, we practiced law. I don't know for how many years. I mean, I can't tell you. I'm sure it was --

Q. Was it just a few years?

A. Two or three, four.

Q. Okay. And then what happened?

A. Bob Creely and I decided that we saw greener pastures, so we moved in with my brother-in-law and my sister who also were lawyers, and we practiced law together there for a while and started a partnership.

Q. You and Mr. Creely started a partnership?

A. Uh-huh.

Q. And you and Mr. Creely continued to practice law for many years?

A. Until 2005.

Q. Okay. What was your relationship with Tom Porteous after you stopped practicing law with him?

A. Just regular Tom. We never -- there was

no hostility. There was no animosity.

Q. Did you consider yourself friends?

A. Yes.

Q. Were you good friends?

A. Yes.

Q. Were your families close to each other?

A. Our families were close, but I mean, we didn't go to each other's house to eat dinner and stuff like that, but we would do stuff with our children. I don't know -- we never socialized as husband and wives, we really more socialized with the kids, taking them fishing and hunting and whatever, the circus, things like that.

Q. In fact, his children referred to you as Uncle Jake, right?

A. Some of them do. Some of them got too old, now they just call me Jake.

Q. Did you attend each other's family functions, Christmas parties and stuff?

A. No -- we had office Christmas parties that he showed up at, and there were Christmas parties for his office that we showed up at, you know. As far as a Christmas party at his house or a Christmas party at my house, no.

Q. Did you have any awareness of -- before

he became a state judge, did you have any awareness of Tom Porteous's financial situation?

A. No. Nothing, no.

Q. Did you become aware at a later point about his financial situation?

A. I'm still not aware of his financial situation.

Q. Were you aware that he was -- did you have a view as to whether he was good with money or poor in terms of his own financial health?

A. I didn't spend 24 hours a day worrying about how he spent his money.

Q. Did you spend any time worrying about how he spent his money?

A. No.

Q. When you were together as ADAs and as law partners, did you go to lunch together?

A. Sure.

Q. Frequently?

A. Yeah. Yes, we did.

Q. And did you continue to have lunch together?

A. Yes.

Q. Throughout the time that you knew him?

A. Up until this investigation started, yes,

we had lunch together.

Q. And when, in your view, did the investigation begin?

A. It seems like 20 years, but I'm sure it isn't. 2003, '4, I don't -- I really couldn't tell you.

Q. But up until that time, you had lunch together?

A. We certainly did.

Q. Was it customary for lawyers in Gretna to have lunch together?

A. Yeah. In fact, one time we had a table at a restaurant right close to the courthouse that all the judges and the lawyers would sit at the same table and eat. It was not uncommon.

Q. So you -- it was customary to have lunch with other judges?

A. Uh-huh.

Q. When Tom Porteous became a judge, a state judge, did you continue to have lunch together?

A. Uh-huh, yes, sir.

Q. How often do you think you had lunch with him during the ten years he was a state judge?

A. Twice a month, three times a month maybe. It's hard to tell. That's going back 25 years.

Q. And did you sometimes have lunch with other judges as well?

A. Yes.

Q. Were you friends with other state judges?

A. Sure.

Q. Which ones were you friends with?

A. I think all of them.

Q. Any in particular?

A. Well, let's see. Judge Petri, Judge McManus, Judge Benge, you know, just whoever -- Judge Collins, you know, two Judge Collins, I was friends with. They just -- there wasn't that many judges and there wasn't that many lawyers that you didn't get to be friends with them if you practiced law.

Q. It was just the way things worked around Gretna, around the parish?

A. I think it works everywhere like that.

Q. When you had lunch with Judge Porteous, was it just you and he or would there be other people?

A. Most of the time, it was with other people.

Q. Other judges?

A. Sometimes.

Q. Other lawyers?

A. A lot of times.

Q. Okay. Who paid for those lunches?

A. I paid for a lot of them. Other lawyers paid for some of the lunches, and I don't know who else. Sometimes somebody would pick up the tab, I wouldn't have any idea who picked up the lunch tab.

Q. In your experience, did a judge ever pay for his lunch when there was a group of you together?

A. Which judge?

Q. Any judge.

A. I'm sure we split bills for lunch over the years. I just can't be specific as to which judge I split a bill with when. I mean, there was some judges you couldn't buy lunch for, they wouldn't let you buy their lunch.

Q. What about Judge Porteous?

A. Buy him lunch?

Q. Would he buy lunch?

A. He has bought lunch, yes.

Q. Okay. But also you have bought lunch when you've had lunch with him?

A. Absolutely.

Q. Okay. And, again, that was customary,

you didn't see anything wrong with that in terms of buying lunch for judges, for example?

A. No.

Q. When Judge Porteous took the federal bench, did you continue to have lunch together with him?

A. Yes.

Q. And did you buy lunch or did he buy lunch during those times?

A. I bought lunch for him when he was a federal judge, yes, and other people bought lunch for him when he was -- we were all together and sometimes it was somebody else's turn to buy, you know.

Q. So it was pretty well -- was it pretty well known that you and Judge Porteous knew each other, were friends, had lunch together?

A. It's pretty hard not to know it in the community we live in.

Q. Because it was a small community?

A. Well, the legal community was small. The community's large.

Q. Okay. Did you and Judge Porteous ever go on any trips together?

A. Yes.

Q. What were those trips?

A. I know we went once down to Colombia when we were law partners to try to rescue a barge that was salvaged during a hurricane, which was quite an adventure. And I know we went to Mexico dove hunting once or twice. We may have gone deer hunting in Texas. We have gone duck hunting at different times, and we had a houseboat, Creely and I had a houseboat in Delacroix Island, which used to be some of the finest wetlands in the world, and we had a houseboat there, and I just couldn't see getting in the duck pond and shooting ducks, so I was in charge of cooking and making sure we had enough whiskey, I took him many times doing that.

Q. I'm sorry, you took him many times on that?

A. Duck hunting and fishing.

Q. And let me go back through each of these. You said you rescued a barge in Colombia. That's when you were both practicing together?

A. Practicing.

Q. The dove hunting in Mexico, when was that?

A. I couldn't tell you. I don't know if he was a judge or not. I don't know if he was a state

judge or not at the time. I really don't know.

Q. And deer hunting?

A. I think that was before he was a judge at all, I'm pretty sure of that. And I could be wrong. I mean, for a period of time, that was a pretty big deal to go deer hunting down at west Texas.

Q. And who paid for those outings?

A. Well, some of them were paid for by clients, you know, to go rescue a barge, they paid our way to go to that. To go fishing and hunting in Delacroix, you know, we just absorbed the cost, we were going fishing and hunting anyway, so one more guy. As far as going to Mexico, I don't know who paid for that.

Q. When you went fishing on your houseboat, did you invite -- you invited Judge Porteous and other people?

A. Sure.

Q. Did you invite other judges?

A. Yeah.

Q. And when you --

A. Yes, sir.

Q. When you invited them on your houseboat, did you ask them to pay any part of that?

A. Well, sometimes they would bring Cuban

cigars, and we would smoke some of those, sometimes somebody would bring whiskey, sometimes somebody would bring soft shell crabs, and somebody would bring stuffed crabs, you know, it's just a bunch of guys hanging out at the hunting lodge.

Q. Did Judge Porteous ever bring anything?

A. Sure.

Q. What did he bring?

A. I know he brought whiskey and he brought food on occasions, and he was the only one that helped clean up.

Q. I'm sorry, helped?

A. Clean up, after everybody got finished eating, he was the only one who would help me clean up. It was bad enough I had to cook, but to clean too.

Q. He accepted kitchen duty?

A. He accepted kitchen duties.

Q. I see. Did you ever appear before Judge Porteous when he was a state judge?

A. You know, I've thought about that, and I'm sure I have, and the only case I can remember is a case that I lost in front of him. And other than that, I have no recollection of any criminal or civil case that I can recall. I'm not saying I

didn't, you know. I think there was 16 judges over there, random allotment, very few cases of mine went before him.

Q. Did you feel that buying him lunch or taking him hunting was in any way going to affect his actions on the bench, if you had a case before him?

A. I didn't think so.

Q. Why not?

A. Just because I knew Tom, I mean, Judge Porteous. I never asked him to do anything, I never, you know -- I always thought he did the right thing irrespective of that, of taking him to lunch.

Q. What do you mean, you always thought he did the right thing, what does that mean?

A. I never thought that he was swayed to rule in my favor because we were friends or rule against somebody because they weren't his friends.

Q. How did you come to that judgment? What is the basis for that?

A. Well, I practiced law for 40 years, Mr. Schiff, and --

MR. CAPITELLI: That's not Schiff.

THE WITNESS: Oh, I'm sorry. Mr. Schwartz.

MR. SCHWARTZ: I'm Schwartz.

THE WITNESS: Schwartz, I'm sorry. After 40 years, you almost know the cases you're supposed to win and almost know the cases you're supposed to lose, and you know, I thought the cases I was supposed to win no matter who the judge was, I won. And the ones I was supposed to lose, I took it on the chin. Now there were some surprises along the way, of course, but I thought he called them as he saw them.

BY MR. SCHWARTZ:

Q. Okay. Did you feel you had received any special treatment from Judge Porteous because you were a friend?

A. Yeah, I could go in his office and have coffee, but other than -- you know, I think he gave me a continuance once because I wasn't feeling good, but other than that, I don't know of anything that stands out and says anything different.

Q. Did he have other friends that could go in his office and get coffee?

A. He had the best coffee in the courthouse, and all of the lawyers enjoyed going into his office and having coffee with him, and he was the last one to let you smoke in his chambers, so he was the hot

spot.

Q. You had mentioned you also were friends with some other judges, and you would go to lunches or dinners with other judges as well?

A. Sure, uh-huh.

Q. Did you appear before them?

A. Of course.

Q. Did you feel that that in any way affected how your matters before those judges turned out?

A. No.

Q. That's just how things were done down there?

A. Well, I wouldn't put any sinister motive on it, but, yes. Most of the judges were friends of mine before they became judges, and all of them remained friends after they became judges.

Q. Did you ever receive any appointments, like curatorships or other appointments from any of those judges?

A. I'm sure I did. I couldn't tell you how many and when and -- but of course I did get curatorships.

Q. Okay. Did you ever give any of them campaign contributions?

A. I think everybody who ran in Jefferson Parish, I gave campaign contributions to.

Q. Did you know a Judge Giacobbe?

A. Judge Giacobbe, yes.

Q. And were you good friends with him?

A. We grew up together and went to high school together and were friends.

Q. And did you litigate cases before him as well?

A. Did I litigate -- I don't remember ever trying a case in front of him. He was traffic court, I remember having, you know, DWIs that I worked something out and they pled in front of him. As far as actually trying a case in front of him, no, I don't recall. I'm not saying I didn't, I just don't recall ever trying a case in front of Judge Giacobbe.

Q. Did you ever sit ad hoc for him?

A. I did. I did, up until about a year or so -- maybe 18 months, two years ago maybe, yeah. He would call me when he needed somebody to sit and he would sit it on criminal days that he knew I had criminal experience, and he felt comfortable with me handling the cases. And I basically followed whatever he did sentencing-wise. And I never

embarrassed him in any way, or tried never to put him in any kind of awkward position.

Q. Explain what sitting ad hoc for him meant. What is that?

A. It means you go sit for a day or two while he has to go to a conference or out of town or to the doctors or whatever, and the state pays you his -- whatever they would pay him for a day, and I think it was like $340 a day to sit.

Q. So you would sit as if you were a judge?

A. A judge, yes. I would be appointed by the Supreme Court and swear an oath and file it, and I think over the last ten years, I might have done it ten times, twelve times. It just wasn't a big deal. It was more a favor to George than anything that mattered to me.

Q. George is?

A. Judge Giacobbe.

Q. Judge Giacobbe. And that was a pretty normal event?

A. He appointed a lot of people to do it.

Q. While Judge Porteous was on the state bench, did he ever ask for any money from you?

A. Not from me.

Q. Did you ever give him any money?

A. I don't think -- I don't think so.

Q. Were you aware that your partner Bob Creely was giving some money to Judge Porteous?

A. At some point in time, yes.

Q. Do you know when that started?

A. No. I don't know when it started and I don't know when I found out about it.

Q. What was the relationship -- what was your understanding of the relationship between Mr. Creely and Judge Porteous?

A. Friends, like Tom and I were, like Bob and I.

Q. Were you aware that Judge Porteous sometimes requested funds from Bob Creely?

A. At some point in time, I did, yes.

Q. When did you -- you don't know when you became aware of that?

A. No, I don't know when it started.

Q. How did you become aware of that?

A. Bob came in my office one day, and he said, Judge Porteous wants -- I think he was sending curator cases, he's been sending curator cases, and he wants some money in return. And I want you to go cash a draw check, each of us, and $500 each, and cash it and then it went to Judge Porteous.

Q. That's what Bob Creely said to you?

A. Right.

Q. Did you have any personal knowledge about that, other than what Mr. Creely told you?

A. No. I did know that there were cases coming in. I mean, there were curator cases coming in because the deputy would come to the door, here's a curator case. I mean, I wouldn't accept service, the secretary would.

Q. But you've been -- your law firm had been getting curator cases all along, correct?

A. Right, from other judges, the judges all want to give them to you.

Q. Maybe this would be a good time to explain what a curatorship is?

A. It's to represent an absent defendant. If somebody sues you for defaulting a mortgage, and they're unable to serve you after so many attempts, you then go to the court and the plaintiff would post cash for a curator to be appointed who would then, just the steps you take, you advertise, you have certified letters, you file an answer, and then when the house or property was sold, you would receive a check representing the work that you did as the curator.

Q. And who did the work in your office for curators?

A. Dianne Lamulle.

Q. Who is she?

A. She was Bob Creely's secretary.

Q. You've said that you also were assigned some curatorships. Did she handle those as well?

A. She could have or my secretary Debbie did, but I don't -- I think Diane did most, almost all of them.

Q. How were curatorships assigned?

A. By who?

Q. By anyone. They were assigned by judges, correct?

A. Yes.

Q. And did the -- how did the judge decide to whom to assign curatorships?

A. You would have to talk to a judge about that.

Q. What was your understanding?

A. Well, my original understanding was that the purpose was to help young lawyers get started, give them a little boost. And when I first started practicing law 40 years ago, what they would do is they would give curators so that they could have,

when the bar association met that it would use the funds from the curator pot to have the party. Now, who did it, when they did it, how long, I don't know. I just knew that they would have a party at the bar association, and it was free, and it was funded by curators.

Q. The judges had pretty much complete discretion about who to assign curatorships to?

A. As far as I know.

Q. That was your understanding?

A. I think that's -- yes.

Q. Were curatorships sometimes more complex? Did they sometimes require an appearance in court, for example?

A. Yes, sometimes they did require -- there were different types of curatorships, and some of them required appearances.

Q. Did that require a more experienced attorney?

A. No.

Q. Did you get any kind of those curatorships, to your knowledge?

A. Yes, and I don't know. I don't know when, but I'm sure I did get some over the years.

Q. Okay. My understanding is from what you

testified, and please correct me if I'm wrong, that you first learned that Bob Creely was making gifts to Judge Porteous when he came to you about the curatorships, is that your testimony?

A. I didn't find out that he was giving anything to him prior to these proceedings, prior to the curatorships.

Q. Okay.

A. I didn't know anything about that.

CONGRESSMAN SCHIFF: Just for clarification, counsel, you're referring to the cash?

MR. SCHWARTZ: Yes, I'm referring to gifts of cash.

THE WITNESS: That Creely gave to Judge Porteous prior to the curatorships? I had no knowledge of that.

BY MR. SCHWARTZ:

Q. Did he ever ask -- before that time, did he ask you to contribute to any cash gifts to Judge Porteous?

A. Not that I remember.

Q. Do you know why Mr. Creely gave cash gifts to Judge Porteous?

A. Do I know why? No, I don't know why

unless --

Q. Did you ask him?

A. I didn't ask him.

Q. Did he ever tell you?

A. Well, you know, obviously the judge needed money. Obviously the -- you know, he had some problems with, you know, I don't know, paying tuition, paying his house note, I don't know, something of that area, you know. That's why he needed money.

Q. Did you know independently that Judge Porteous had financial needs?

A. No.

Q. Anything you learned about that was from your partner, Mr. Creely?

A. Right.

Q. And Judge Porteous had never raised that subject with you at the time he was a state judge?

A. No.

Q. Do you know whether Bob Creely gave money to other people?

A. No.

Q. No, you don't know?

A. I don't know.

Q. When Mr. Creely came to ask you to

contribute to Judge Porteous, did you -- how did you give him money to give to Judge Porteous?

A. We would each draw a check for the curator cases that he had sent.

Q. You said for the curator cases that he had sent. Do you know that it was for that?

A. Unless Creely was lying to me. I mean, I presume that's what it was for.

Q. Now, Mr. Creely testifies that there was no connection between the curator cases --

MR. CAPITELLI: Objection to saying what someone else testified. I think the referencing of other testimony is not proper, is not a proper question.

CONGRESSMAN SCHIFF: If I could add, I don't think that's a correct characterization of Mr. Creely's testimony.

SENATOR McCASKILL: Why don't you try to rephrase the question to get at the same point, counsel.

MR. SCHWARTZ: Thank you, Senator, I appreciate that.

BY MR. SCHWARTZ:

Q. Was it your understanding that there was a connection between the money that was -- the cash

that was given to Judge Porteous and the curatorships?

A. At some point in time, yes.

Q. And how did you reach that understanding?

A. Bob Creely came in my office one day, told me that Porteous was sending curatorships, and he wanted us to, you know, give him some money back, and I told him this is going to wind up bad.

Q. I'm sorry?

A. And I told Creely it was going to wind up bad.

Q. You said that to Mr. Creely?

A. Yes.

Q. What was his response?

A. I don't know what his response was.

Q. If you thought it was going to wind up bad, why did you agree to contribute money?

A. Let's see. Two of my best friends, Bob Creely and Tom Porteous, had somehow put me in a position where I couldn't say no. I wasn't strong enough to say no. I wasn't strong enough to stop it, because to stop it, I would probably have been disbarred, Creely probably would have been disbarred, and probably Porteous would have been whatever happens to judges on the state court.

Q. But you could have just chosen not to give any money, right?

A. I could have.

Q. You've described one time that that happened. Has it happened again?

A. What, with Bob?

Q. Yes.

A. No.

Q. So it's just the one time is the only time you remember?

A. Uh-huh.

Q. How did your law firm work? Did you have -- you had a joint account that you drew from each week, am I correct in my understanding?

A. We had -- there was a professional lock operation, we had payroll accounts, escrow accounts, operating accounts, we would take a payroll check twice a month. And if we needed money, we would say Jody write a check, we need money.

Q. Jody, who is Jody?

A. Jody Ratolo, the bookkeeper.

Q. Who is the bookkeeper. And did you regularly cash checks to have cash?

A. Yeah. Yes, we did, both of us. It was usually in the same amount, usually on Thursday or

Friday.

Q. Why was it in the same amount?

A. Between Bob and I.

Q. Yes.

A. It was $500, a thousand, $1500. If he needed $1500 or whatever, I would get a check for $1500, too.

Q. So you would have almost consistently equal draws?

A. Correct.

Q. And the money that you withdrew, was that after-tax income to you, that's your money?

A. Yeah, we paid taxes on it, sure.

Q. So it's not the law firm's money at that point, it's your money?

A. It's my money.

Q. And you identified that as income and paid taxes on it?

A. I sure hope so. The CPA took care of all that.

Q. Thank you. That was your instruction and understanding?

A. Look, I'm -- I think we followed the tax code as best we could.

Q. Thank you. The money that you recall,

the one time you recall contributing money to give funds to Judge Porteous, that was -- again, that was from your personal -- those were your personal funds at that point?

A. Uh-huh.

Q. They were not law firm funds?

A. No.

CONGRESSMAN SCHIFF: I think counsel may be misapprehending what the testimony was earlier. When you referred to one time earlier, I think it was a one-time conversation, not a one-time payment.

THE WITNESS: A one-time conversation.

BY MR. SCHWARTZ:

Q. Were there other payments that you were aware of?

A. Uh-huh. Yeah.

Q. And how many of those were there?

A. Oh, I don't know. I just don't know.

Q. And those were payments that Mr. Creely came to you and asked you to contribute to money to go to Judge Porteous?

A. Correct.

Q. And what were the -- what was the reason for those payments? Was it just because Mr. Creely asked you for the money?

A. Yes.

Q. Did you -- do you know how the money was then provided to Judge Porteous?

A. As far as I know, it was cash in an envelope.

MR. DAMELIN: Could you speak up, please?

THE WITNESS: Cash in an envelope.

BY MR. SCHWARTZ:

Q. And who provided that cash in an envelope? Mr. Creely?

A. Yes.

Q. Did you ever -- while he was on the state bench, did you ever give cash in an envelope to Judge Porteous?

A. I don't remember, but I'm sure I did. I just don't remember anytime.

Q. You're sure you did?

A. Yeah.

Q. Do you recall the instance?

A. No.

Q. Do you recall how much cash?

A. No.

Q. Do you recall the circumstances?

A. No.

Q. Did a time ever occur that you're aware

of when Mr. Creely informed you that he did not want to give money to Judge Porteous anymore?

A. Yes.

Q. When was that?

A. I couldn't tell you.

Q. You don't know the time?

A. I don't know the time.

Q. What did he -- did he convey that to you?

A. Creely?

Q. Yes.

A. Yes.

Q. What did he say?

A. He said Tom's bugging the hell out of us for these curator fees, you know. I said, I don't know what to tell you, Bob, you know. I don't know how to handle it.

Q. Do you know what Mr. Creely was referring to when he said he was -- that Judge Porteous was bugging the hell out of him for the curator fees?

A. That Tom would call and tell Bob that he needed some of the curator money, you know, where are you and when can I get it?

Q. Did you participate in any of those conversations with Judge Porteous?

A. No.

Q. These were all conveyed to you by Mr. Creely?

A. Right.

Q. Did Mr. Creely, to your knowledge, continue to give money to Judge Porteous while he was on the state bench?

A. I don't know when it started and when it stopped. I mean, I really just don't know.

Q. Okay. Do you have any knowledge about how much money Mr. Creely gave Judge Porteous?

A. No. I mean, I have -- something between ten and twenty thousand dollars is the number that's been batted around, but, no, I never sat down and put a pencil to it.

Q. You said it's been batted around. Is that a number you came up with?

A. I don't know where it came from. I think they -- the number of curatorships that he sent us, and that that number seemed to be a reasonable amount.

Q. But there are no records of how much money was given to him that you know of, correct?

A. No, there's no records other than the curatorships at the courthouse would give you the number.

Q. That would give you the number of curatorships?

A. Right.

Q. But not necessarily the amount of money that was given to Judge Porteous?

A. No.

Q. I'm sorry?

A. It wouldn't give you the money to Judge Porteous.

Q. Were you upset about giving money to Judge Porteous?

A. I didn't feel comfortable with it, no, I didn't feel -- I wasn't all smiley face about it. I didn't think it was necessarily something we should be doing.

Q. But you continued to do it?

A. As I told you before, I wasn't strong enough to stop it.

Q. Do you think that giving that money to Judge Porteous in any way affected his handling of your matters or Mr. Creely's matters as a judge?

A. I don't think so.

Q. You do not think so?

A. I don't think it affected how he handled it. Now, I'm not saying he didn't give us certain

courtesies, but not as to any decisions. I mean, we went in to his court and he recognized us, and you know, we had something that was minor he would take us first or second and get us out of the courtroom and back to work, but other than that, no.

Q. And he would give those courtesies to other lawyers as well, correct?

A. Oh, absolutely. Yeah.

Q. Do you ever recall putting money in an envelope for Judge Porteous's secretary to pick up at your offices?

A. I don't recall it, but I wouldn't doubt that it didn't happen.

Q. You don't know if it happened?

A. I don't know if it happened.

Q. Did you -- when you withdrew money from your law firm, you mostly withdrew cash; is that correct?

A. No.

Q. Did you get checks as well?

A. Oh, sure. Yeah.

Q. Your --

A. We had regular payroll checks and regular, when we would make a nice fee, you know, we would write checks.

Q. Let me turn to the time he was on the federal bench, which was starting in 1994. At some point during the time he was on the bench, his son got married; is that correct?

A. Uh-huh. Yes.

Q. And did you go on a fishing trip with him a few days after that?

A. I think it was a few days before his wedding, I'm not sure.

Q. It was a few days before or after?

A. Yeah, it was in the general time frame of when the Porteous wedding was going to take place.

Q. Which is, by my notes, in June of 1999. Does that sound about right?

A. I know it was in June and I know it was in 1999.

Q. Did -- and tell us about the fishing trip.

A. Mitch Martin, who has been a long time client of mine, had a boat, and Ernie Alaria, who worked for me, we went fishing in Caminada Pass on a week night. Apparently the fish, white trout run at a certain time of the year at a certain hour as the tide changes, and we wanted to experience that, so we went fishing. And the judge and I was standing

on the front of the boat. He was pretty well lubricated, he had a --

Q. You mean he had been drinking?

A. It sure seemed he was, and he started crying, told me he couldn't afford his son's wedding, and would I help him out and lend him some money or give him some money, or arrange for him to get some money to pay for his part of the wedding. I did so within a few days after that. That's the only time he ever asked me for money.

Q. And there were no times before or after that event that he asked you for money?

A. No.

Q. This was, as I recall, a night fishing trip?

A. Yeah, when the tide changes, and I think it was like 12, 1:00, midnight, 1:00 in the morning. It's really something to see, the fish start bubbling up. If you have any interest in fishing, it's really something that hopefully comes back.

Q. Did you agree to give him money at that time?

A. Yeah. Yes, I did.

Q. Why?

A. Friendship.

Q. Did you feel sorry for him?

A. Yes.

Q. He seemed pretty emotional and distressed by all of this?

A. The most distressed I've ever seen him, yes.

Q. When you gave him the money, did you expect any quid pro quo of any kind?

A. No.

Q. At that time, you were litigating a case before him?

A. Yes.

Q. At that point, it was -- you were awaiting decision, the trial was over?

A. Yes.

Q. Did that case come to mind when you decided to agree to give him some money?

A. Yes.

Q. And what was your view of that?

A. My view of it was is that what comes first, the friendship or, you know, him being a federal judge. And I think Mr. Schiff asked me in my last testimony as to what percentage of it, and I considered 20 percent because he was a federal judge and 80 percent because he was my friend.

Q. Did you think that because he was a federal judge, giving him money would improve your chances of success before him?

A. No.

Q. Did you think it would have any impact on your chances for success before him?

A. No.

Q. Had Judge Porteous been drinking a lot that night?

A. Well, that's a tough question, but he looked like he was pretty well -- yeah, he looked like he was drinking a lot, you know.

Q. Had you been drinking as well?

A. Not to the extent that he was, but you know, I might have had one or two drinks. I'm sure I had a few drinks. Everybody's only had two drinks when they get stopped for driving. I don't know how many. I know I wasn't intoxicated.

Q. Okay. Would you have given him that money even if he wasn't a judge?

A. Probably.

Q. You would have given him that money even if he wasn't sitting on a case that you were involved in?

A. Probably.

Q. Where did the money come from to give to him?

A. I don't know if I had some cash, you know, at my house, or Creely and I split it, I don't know. That's eleven years ago. It's -- I just don't know.

Q. You don't recall?

A. I don't recall.

Q. Would you have had money around the house to pay for that much money?

A. Yeah.

Q. How did you get the money to him?

A. I think we went to lunch a couple of days later, and I gave him an envelope, I think.

Q. Do you know if that was a time that his secretary came over to pick up money from you?

A. It could well have been. I just don't know.

Q. Now, you had a case pending before Judge Porteous at that time, correct?

A. Yes.

Q. Tell us a little bit about that case. What was it about? Give us the 30-second summary.

A. It was about the Liljeberg brothers who had a hospital permit to open St. Jude's Hospital in

Kenner, who went into an agreement with Lifemark Hospital to have the pharmacy service and to build the hospital in a lease back and a building. Lifemark was solely the tenant, and they stole the building and the business from the Liljebergs. That's the 30 second version.

Q. Thank you. Which side were you representing?

A. I represented the plaintiffs, Liljebergs.

Q. And this litigation or some version of it had been going on for a while, right?

A. Yes.

Q. How long had it been going on?

A. I don't know. The Liljebergs were very litigious. So, you know, there were other cases at other times that I had nothing to do with. There were other cases going on at the same time that I did have stuff to do with, but I don't know how long it was in judgment. I don't know how long this litigation was going on.

Q. Have there been a number of judges hearing this case?

A. Yes.

Q. Do you know how it got to Judge Porteous?

A. I think one of the judges died and it was

reallotted to him.

Q. And before that, there had been other judges?

A. Yes.

Q. Do you know how many?

A. No. I think two or three, but I'm not sure.

Q. Was this -- let me -- were there other federal cases that you heard before -- that you had before Judge Porteous? That's the only one you had before him?

A. No, I had -- the office had another case in front of Judge Porteous, but I didn't have anything to do with it. It was an admiralty case.

Q. But this was the only case you had before Judge Porteous?

A. Right.

Q. Why were you brought into the case?

A. You're going to have to ask the Liljebergs.

Q. What was your understanding of why you were brought into the case?

A. I was a good lawyer. Had a good reputation at the time.

Q. Was this a kind of complex case that you

had handled before?

A. You know, I've been a trial lawyer my whole life, and I've tried innumerable cases, both in state court and Federal Court, both criminal, civil, personal injury. Yes, it was the hardest case I've ever handled, it was the hardest work I ever did on a case. And, yes, I felt confident of my ability to handle a case because of the people, other people who were involved in it. Don Richard, Doug Draper, Lenny Levenson, you know, pretty good, pretty fair size lawyers.

Q. The transaction -- I'm sorry, the dispute took place in the New Orleans area, that's where the property was?

A. Yes. Located in Kenner, Louisiana, in Jefferson Parish.

Q. Were the Liljebergs located in the New Orleans?

A. Yes, they were family pharmacists.

Q. Now, did you -- you took that case on a contingent fee basis; is that correct?

A. That's correct.

Q. Did you spend any time trying to decide whether you should take the case, evaluating it?

A. Yeah, I evaluated it before I would take

it.

Q. How long did you spend?

A. A couple months; two, three months.

Q. This was before you entered an appearance?

A. That's correct.

Q. What did you do to evaluate the case?

A. I made them show me all of the evidence they had, I made them tell me what we were going to try to prove, who we had to prove what elements, who was available to testify.

Q. And what was your analysis of the strength of the case at the time you took it?

A. I wouldn't have taken it if I thought I couldn't win it.

Q. And did that view continue through the case?

A. Through the minute I'm sitting here in front of you, Mr. Schwartz. That case was won.

Q. You think your side should have won?

A. I know my side should have won.

Q. You take -- did you take a lot of cases on a contingent fee basis?

A. At various times in my career, I did hourly work. And basically towards the end of my

career, I basically -- I took more and more contingency cases in business litigation and with personal injury, of course.

Q. Now, contingency cases are a bit of a gamble for the lawyer obviously?

A. Absolutely.

Q. And so did you become -- you became pretty adept at deciding whether you were going to win or not?

A. Absolutely.

Q. And you would only take cases that you thought you were going to win?

A. That I thought I was going to win and hope I was going to win, yes.

Q. At the time you were approached, had the case been assigned to Judge Porteous?

A. Yes.

Q. Do you think the fact that it was assigned to Judge Porteous had any impact on your analysis of the strength of the case?

A. No.

Q. No impact at all?

A. Well, the impact was is that, you know, maybe we could get a fair shake in Judge Porteous's court.

Q. Some courtrooms you might not get a fair shake?

A. Absolutely.

Q. Why did you think you could get a fair shake in Judge Porteous's court?

A. Because I've known Porteous for 30 something years, you know, knowing how he thought, knowing how he analyzed things, knowing how he would -- he would never tell you how he would rule, but you could tell, you know, like the card players, the tells, and you could tell how he was leaning before he leaned. I mean, I think that's part of the skills we get as lawyers over the years.

Q. And did you believe that that was simply because he was a fair, experienced judge or because he was your friend?

A. I think because I thought he was a fair and experienced judge.

Q. Did the fact that you and he were friends have any impact on that?

A. It didn't hurt.

Q. What does that mean?

A. Well, I mean, anybody who practices law likes to have a friendly judge to be in front of, you know. Yeah, I thought that was nice to have a

friendly judge hearing a case that I had before him.

Q. What does being a friendly judge mean?

A. Just a friend, just somebody who will listen to your arguments, listen to the evidence, rule based upon what's before him as opposed to his ideology, based upon something that, you know, what he had for breakfast, you know, the same things that go in front of everybody's human nature. He was human, he was compassionate, he was I thought brilliant, you know, I still think he's brilliant. And I thought he could cut the wheat from the chaff and render a fair decision favorable to my client based upon the evidence that we presented.

Q. Ultimately Judge Porteous issued an opinion?

A. Right. That's correct. I'm sorry.

Q. Was that opinion totally in your client's favor?

A. I think we won some, lost some. I just don't know. I haven't looked at that stuff in ten years.

Q. Do you think his opinion was generally correct?

A. I think it was more than generally correct.

Q. What do you mean?

A. I think he was absolutely correct.

Q. And then there was an appeal?

A. Yes.

Q. Did you read the Court of Appeals decision?

A. I'm sure I did. I can't quote it, but I'm sure I read it.

Q. What did you think about it?

A. I think they did an injustice to my clients.

Q. Now, I assume, like many of us around this table, and any of us who have been involved in litigation, you always think your client's right and the other side's wrong, right?

A. No, I've had some wrong clients.

Q. What about in this case?

A. No, I thought the Liljebergs -- I mean, the amount of evidence we produced, the amount of witnesses we produced, they never rebutted any of that testimony, discredited their witnesses, you know. The amount of massive theft that they did, that the tenant committed to my clients, and how they stole the hospital, you know. No. The Fifth Circuit was wrong, wrong, wrong.

Q. Now, the Fifth Circuit reversed part and vacated part and affirmed part, as I recall?

A. Something. Yeah.

Q. Do you recall that?

A. I recall that it was -- didn't -- it didn't add up to any money in my pocket, that's what I recalled.

Q. But it wasn't a complete reversal?

A. I don't think it was a complete reversal, no.

Q. Do you recall at anytime Judge Porteous made known that when the case was assigned to him, he was going to put it to trial? It was not going to see another judge?

A. Could you ask the question again, please?

Q. Yes, I'm sorry. Let me restate it. Do you recall at anytime Judge Porteous saying in the courtroom when the case was assigned to him that he intended to take it through trial, it was not going to get assigned to another judge?

A. I don't recall that. I don't deny that it might not have happened.

Q. But it's nothing you recall?

A. Nothing I recall.

Q. Okay, thank you very much. What was your

role in the trial?

A. Don Richard was lead attorney and I was second chair, and we decided how to split up witnesses, we prepared, we spent months and it seems like years getting ready for trial. We would meet on Saturdays and Sundays and nights and, you know, trial consultants, the whole nine yards.

Q. The trial date got moved back soon after you made an appearance; is that correct?

A. I don't recall.

Q. You don't recall that?

A. I don't know.

Q. Do you recall whether or not there was an original trial date set very soon after you made an appearance?

A. No, I don't recall that. I just don't know.

Q. Okay. So that was not a factor when you agreed to appear for that case? You didn't -- that was not a factor for you, the trial date?

A. No.

Q. Were you ever told that you were approached to help try this case because you were a friend of Judge Porteous's?

A. By whom and when? Where?

Q. At the time of the trial by anyone.

A. No. At the time of the trial, no.

Q. Was it -- it was suggested later?

A. Well, I'm -- I just don't --

MR. CAPITELLI: Could you clarify a little bit more?

THE WITNESS: I just don't understand. I mean, it was no secret I knew Judge Porteous, it was no secret that we were good friends, it was no secret that I practiced law, it was no secret that I tried cases. I mean, I don't know what more I can add to that.

BY MR. SCHWARTZ:

Q. Okay. But there was no specific reference at the time you were retained or went through the trial having to do with the fact that you were on the trial team because you were a friend of Judge Porteous's?

A. By whom?

Q. By anyone.

A. No, I don't recall anyone saying that to me.

Q. Thank you. Did Creely have any -- your partner, Bob Creely, have any role in the Liljeberg case?

A. Other than griped that, you know, I was spending too much time on it, no.

Q. But he had no role in it?

A. No.

Q. Did he know anything about it?

A. I guess about as much as he could catch out of the newspaper, but I don't -- I don't recall him sitting in on any strategy sessions or me sitting down and explaining to him what was going on or.

Q. So you never had a discussion with him about your role or the strength of the case or anything of that sort?

A. Not that I recall. I mean, you know, we could have talked about it, but I don't recall anything that is that specific.

Q. Okay. Soon after you made an appearance, filed an appearance in that case, the counsel for the other side, I believe Joe Mole, was that his name?

A. Yes, sir.

Q. Filed a motion to recuse?

A. Yes, sir.

Q. What did you think of that motion?

A. I thought the man did what he had to do.

MR. DAMELIN: Could you speak up? I'm sorry, sir.

THE WITNESS: I thought the man did what he had to do to protect his client. File a motion to recuse, file a motion for change of venue, file whatever you could -- you know, the kitchen sink file, you know, whatever you could do, do.

BY MR. SCHWARTZ:

Q. What was your view of the substance of the motion?

A. I think that's a question you're going to have to ask Judge Porteous as to the substance of the motion.

Q. Did you have a view of it at the time?

A. I really -- I really don't. I mean, you're talking 15 years ago. I've had three major surgeries since 15 years ago, I'm on enough medication to kill a horse. I cannot recall.

Q. Okay, I'm sorry for all of that.

A. Don't be sorry, just thank modern medicine.

Q. Okay. Had you had any discussions with Mr. Mole about your relationship with Judge Porteous prior?

A. Absolutely not.

Q. Did you have any discussion with him at any point about your relationship with Mr. Mole?

A. I never liked Joe Mole, I tried never to talk with him.

Q. So the answer to the question is, no, you did not have any discussions with him?

A. My answer no, definitely no, I did not have any discussions with Joe Mole.

Q. Thank you very much. At the time of the motion for recusal, had you given any money directly to Judge Porteous?

A. No. At the time? No.

Q. Had you gone out to lunch with Judge Porteous?

A. What, the day of the recusal, the day before?

Q. You had gone to lunch many times, right?

A. Yeah, I don't -- I'm sure we went to lunch within 30 days of the recusal hearing. I don't know.

Q. And that was disclosed in the hearings, that you were friends and had lunch together?

A. I'm pretty sure it was.

Q. How did you view the motion? Was it just another delay tactic?

A. That's basically what I thought of it. I mean, they had a hundred man law firm throwing motions at us and briefs and appeals and side issue lawsuits in state court. I mean, you know, it was a never ending saga.

Q. And representing the plaintiff, you were interested in a resolution?

A. Of course.

Q. And representing the defendant, they were interested in delaying any resolution, correct?

A. I think that's the appropriate jobs we both have.

Q. That's pretty standard stuff?

A. Nothing -- nothing new.

Q. Was there -- did Mr. Mole bring on board his side another lawyer who was a friend of Judge Porteous's?

A. Don Gardner.

Q. Don Gardner. Who is Don Gardner?

A. A lawyer who practices in Harahan who was a friend of all of us, Porteous, Creely, myself, probably half the lawyers in Jefferson Parish were friends with Don Gardner.

Q. Were you aware of the terms of Mr. Gardner's retainer agreement?

A. No, I was not.

Q. You were not aware he would get an additional $100,000 if Judge Porteous recused himself?

A. No.

Q. And what was Gardner's role during the case?

A. You're going to have to ask Mr. Gardner because I didn't see him do anything but show up.

Q. You didn't observe him taking any role in the trial?

A. No. I don't know what he did behind the scenes, just like these fine lawyers here who aren't asking questions, they're behind the scenes, but they're here.

Q. They'll get a chance to ask questions in a few minutes.

A. No, not all of them, please.

Q. At some point, you have testified before, and I don't have the exact language, but you testified at some point that you had had a conversation with Judge Porteous, and he had said something along the lines of you're going to have to prove your case?

A. That's absolutely correct, and not only

prove it to him, but sufficiently to overcome the Fifth Circuit.

Q. When did that conversation take place?

A. Early on in the litigation, early on when I was in the litigation, and we never discussed the facts of the case, we never discussed other than, this is not a gimme case, you better prove your case, and you better prove it sufficiently for me and for the Fifth Circuit.

Q. Do you know why he said that to you?

A. He was probably drunk and probably encouraged me to work harder than I was going to work otherwise, and please don't bring any BS in front of me in court.

Q. This is a judge who didn't like BS in court anyway, right?

A. It didn't take much to get him going. If you hit a nerve, he could be quite testy.

Q. What was your understanding of what he was saying to you?

A. Just what I told you. You better prove your case, and you better prove it sufficiently for not only me, but the Fifth Circuit Court of Appeals.

Q. Did you have any understanding that he had decided to rule in your favor and was just

telling you to build a good record for the Court of Appeals?

A. No. I didn't have that feeling.

Q. Why was he concerned about the Court of Appeals?

A. Apparently the Liljebergs had a long history of reversals in the Fifth Circuit Court of Appeals that I was unaware of when I signed on. Apparently they had judges recused, went to the Supreme Court, you know, just a whole bunch of litigation, and it never got past the Fifth Circuit. The Fifth Circuit, every time they would win a case, they would throw it out.

Q. Do you -- after the trial, it took about three years before there was a decision?

A. I don't know. If you say so.

Q. Your understanding it took a long time?

A. It took a while, yes.

Q. Do you have any understanding about why it took such a long time?

A. He told me that he didn't have a law clerk who could read all of the documents and all of the stuff to put a judgment together.

Q. Do you recall how you received a copy of his decision?

A. No.

Q. Was a copy brought over to your office by his secretary?

A. I don't know. I know it was a clerk copy that we got. I don't know how it got there or who brought it or whether we sent somebody to pick it up, I just don't know.

Q. It was while that case was pending that you had the fishing trip with Judge Porteous?

A. Right.

Q. In your mind, did giving him money as a result of his request at the fishing trip have any impact on the decision in the case?

A. I don't think so. I don't think it did.

Q. Did you have any intent that it would have an impact on the decision in the case?

A. No. I didn't have any intent that it have an impact on his decision.

Q. Or did you have any expectation that it would have an effect?

A. He was going to do what he was going to do no matter what anybody said, did, done. No, I had no expectations.

Q. You weren't going to influence how he came out at the end of that -- what his decision

was?

A. No, I was not by that, not by anything.

Q. During the -- let me just go back for a minute. When Judge Porteous stopped being a state court judge, did he have any more control over curatorships?

A. Not that I know of.

Q. That was just a state court issue, right?

A. Right.

Q. To your knowledge, did Mr. Creely continue to give Judge Porteous any money after he became a federal judge?

A. No.

Q. Not to your knowledge?

A. Not to my knowledge.

Q. When Judge Porteous became a federal judge, there was an investiture party?

A. Right.

Q. Did you contribute to the cost of that party?

A. We did, yes.

Q. The law firm did?

A. Yes.

Q. Did other law firms as well?

A. As far as I know.

Q. There was also a time when Judge Porteous's son was in Washington at an externship?

A. Yes.

Q. Did you contribute to that?

A. Certainly did.

Q. Did other lawyers contribute to that?

A. I don't know what other lawyers did. I really don't.

Q. How did that come about? How were you requested for money for that?

A. It wasn't by him, but I don't know -- it wasn't by him to me, but how, I don't know.

Q. There Was also a five-year anniversary party that Judge Porteous had. Do you recall that?

A. Yes.

Q. Did you contribute to that?

A. Yes.

Q. Was it by you or your law firm?

A. Law firm.

Q. And did other law firms contribute to that?

A. Not as far as I know, but I don't know everything. You know, it was a friend of ours' restaurant that it was at, and I think we got the whole bill.

MR. SCHWARTZ: Senator, if I may, I would request about a five minute break, so we can just see what other additional questions we have, and then we'll come back and finish up.

SENATOR McCASKILL: That's fine.

MR. SCHWARTZ: Five minutes.

(Recess.)

SENATOR McCASKILL: Counsel, you can go ahead and continue your questioning.

MR. SCHWARTZ: Thank you very much. I just have a few additional questions, sir.

THE WITNESS: Always do.

BY MR. SCHWARTZ:

Q. You mentioned a part of your trial team was a gentleman by the name of Levenson?

A. Yeah.

Q. Who was he and what role did he play in the trial?

A. Lenny handled some of the stuff in the Bankruptcy Court in front of Judge Braney, and he also handled the economist at trial, and helped the trial preparation and stuff. I mean, he did work.

Q. He took some witnesses?

A. Yeah.

Q. And your work during the trial, were you

handling witnesses?

A. Of course, yeah.

Q. Were you arguing motions?

A. Don Richard argued the motions. We felt it better that one lawyer was the lead lawyer, he was going to be the lead lawyer. We thought that more than one cook in the kitchen ruins the stew, so he was the lead.

Q. What about the pretrial motions, did he handle those as well?

A. Don handled those.

Q. Were those before the judge or the magistrate?

A. Some were before the magistrate, some were before the judge.

Q. Did you get any -- did your side get any special treatment from the judge in those pretrial motions?

A. Not that I know of. I don't think we won all of them, if that's what you mean.

Q. You won your share?

A. I deserved to.

Q. Were you familiar with an employee named Gary Raphael?

A. Yes.

Q. Who is Gary Raphael?

A. Gary Raphael was a friend of Judge Porteous. I think that Gary's wife and Tom's wife were very good friends, and one day I came to the office and there was Gary. Bob, how did -- what's the story on Gary? Tom asked us if we can hire him. I said, what can he do? I don't know. His wife's family is one of the biggest boat operators in south Louisiana, and we figured that by having Gary in the office, we would hopefully get some of their work.

Gary, I had absolutely no problems with Gary. Gary did everything I ever asked him to do. He was methodical and meticulous, and the stuff that you would hate to do, he would love to do, so Gary stayed with us for, I don't know, five years, four or five years.

Q. What was Mr. Creely's view of Gary Raphael?

A. I have no clue. He didn't like him, I know that. But I don't know what his view was.

Q. You didn't discuss it with him?

A. There was a bunch of things we didn't discuss, but that happened to be one of them.

MR. SCHWARTZ: Senator, those are all the questions I have for now, and I would like to turn

it over to the House to ask their cross. I would like, as we did this morning, to reserve a little bit of time at the end if there's time to do redirect.

SENATOR McCASKILL: Okay.

MR. SCHWARTZ: Thank you.

SENATOR McCASKILL: Congressman Schiff.

CONGRESSMAN SCHIFF: Thank you, Senator.

EXAMINATION

BY CONGRESSMAN SCHIFF:

Q. Mr. Amato, I want to follow up with you on the amount of the cash that was returned to Judge Porteous from the curatorships. In the testimony before the House, I asked you if the records indicated that the amount of curatorships over time approximated $40,000, would that indicate to you more accurately how much you think you would have given the judge over time between the two of you, and your answer was I would think we would give him something less than $20,000.

MR. CAPITELLI: Could I ask for a reference on the page, please?

CONGRESSMAN SCHIFF: Yes, I'm sorry, that's page 161 of the House transcript.

BY CONGRESSMAN SCHIFF:

Q. I then said, so something less than half the value of the curatorships?

And you replied yes, because we had to take out expenses, and, you know, when you get a curatorship, you put an ad in the paper and that costs so much money, and all that was deducted out before we got to a net fee.

MR. CAPITELLI: I'm sorry, we're not seeing the line. Is this on -- oh, you got it? I'm sorry, we see it now, apologize.

BY CONGRESSMAN SCHIFF:

Q. So, Mr. Amato, then, if the records indicate that the amount of the curatorships, the value was about $40,000, clearly it wouldn't be more than $40,000, right, that you and Mr. Creely would have given back to the judge?

A. No, if the curators were $40,000, he would get half of that.

Q. So that would be around $20,000?

A. Right.

Q. So something probably between ten and twenty thousand, is that fair to say?

A. Yes.

Q. And your further testimony before the House, you said that you didn't pay the judge with

checks, but, rather, with cash because that was part of the deceit; is that right?

A. I don't know if I said part of the deceit, but it was part of how it was done.

Q. Let me just see if I can find the question here.

Mr. Lundgren -- this is page 188. Well, I mean, I know you made a bad mistake, but why would you give him cash? Why would you not give him a check in accordance with the usual procedure of running a law firm?

Answer, from Mr. Amato, I have no further answer I can give, sir. I mean, we just did it that way.

Mr. Lundgren: Was it part of the deceit?

Answer: Yes.

A. Well, then, it was part of the deceit.

Q. Was that your testimony, Mr. Amato?

A. Yes.

Q. You were asked by Mr. Schwartz about taking other judges out to lunch or on hunting and fishing trips. Did you ever give any of these judges money back from any curatorships that they sent you to?

A. I didn't, no.

Q. Did you ever give them cash while they had a case under submission where you were a lawyer appearing on the case?

A. No.

Q. I'm sorry, could you speak --

A. No. No.

Q. You also mentioned that the -- providing this cash to Judge Porteous didn't influence, in your view, his handling of any case, but it did influence his handling of the curatorships, didn't it, in that he sent them to your office?

A. Yes.

Q. I take it he didn't send the curatorships to your office because you were a young lawyer trying to get established?

A. That's correct.

Q. He was sending them to your office because he was get something of the money back for it?

A. That's correct.

Q. And, in fact, in your House testimony, you were asked, wasn't this really a classic kickback scheme, and you said yes?

A. I think you asked me that question, yes.

Q. Your answer was, yes, it was a classic

kickback scheme?

A. Yes.

Q. You also mentioned earlier in answer to one of Mr. Schwartz's questions with respect to the curatorships, when Mr. Creely first came to you and told you that the judge wanted money back from the curatorships, that this was going to wind up bad. Do you recall that testimony?

A. Yes, sir.

Q. And I think you said that if it was found out that attorneys were involved in that, they could get disbarred, right?

A. Yes.

Q. Then you said something to the effect of, you don't know what happens to a judge when something like that is found out, right?

A. Yes, other than they were reported to the judiciary commission.

Q. So what you meant by that is you didn't know whether judges got disbarred, whether they got disrobed?

A. That's right.

Q. But you knew it would have an adverse consequence on the judge?

A. That's right.

Q. And I take it you would also understand that if that information came to light, it's not something that would have generally earned somebody a nomination for a federal judgeship?

A. You're correct.

Q. And during a Senate confirmation, if it came out that the judge was involved in a kickback scheme, how do you think that would affect their confirmation?

A. I don't think I'm in a position to answer that question, but I would presume that it would not be helpful.

Q. Now, in discussing the time when Judge Porteous was on the state bench and the curatorships, I think you also said that he didn't ask you for money, by that you meant he asked Creely for money?

A. Correct.

Q. But you acknowledge that you gave him money because half of the draw that was used to pay him was from you?

A. Correct.

Q. I think you also said that you were sure that you also gave money to Judge Porteous. Does that mean that you, although he didn't ask you, that

some of the times when you gave cash to the judge for the curatorships, you might have given it rather than Creely?

A. Yes.

Q. Is it also possible that the judge's secretary might have picked up the money?

A. Yes.

Q. And when you say you don't recall whether she came by to pick up an envelope one day, the reason that wouldn't stand out in your memory is there wouldn't be anything that dramatically unusual about that?

A. Well, Rhonda was a friend of ours and a friend of the secretaries in the office, and she would stop sometimes because the bridge was broken -- not broken, but there's a traffic jam on the bridge, stop and get coffee, you know, or pick up a picture, we went someplace and took some pictures, Rhonda would stop. It's not that she came every week, but seeing Rhonda in my office occasionally was not unusual.

Q. And because you were in fact making periodic cash payments to the judge, it also wouldn't have been unusual if she were the one to come by and pick it up?

A. I don't know if she picked up any, but I wouldn't doubt that she didn't -- or she did, rather.

Q. And from time to time after that initial conversation with Mr. Creely, Mr. Creely -- the initial conversation where he said the judge wanted some money from curatorships, Mr. Creely would come to you and say the judge wants more money from the curatorships?

A. No, his share of the curatorships.

Q. And then you would each take a draw and pay the judge?

A. Correct.

Q. Now, you mentioned both during testimony I think a little bit today that there were basically three reasons why you gave the judge cash after the fishing trip when he was on the federal bench and he asked you for money for the wedding on the fishing trip. I think you said one reason was friendship, one reason was you felt sorry for him, and one reason was he was a federal judge; is that correct?

A. Uh-huh. Yes, sir.

Q. And as I think you mentioned, when you broke it down, it was about 80 percent friendship and about 20 percent that he was a federal judge?

A. Right.

Q. Now, this was a case that you had put two years of work into, right?

A. At least.

Q. And during those two years, you worked almost exclusively on this case?

A. I worked a lot on this case. I had other cases that I worked on, but this was my primary case that I was working on, yes.

Q. And this was a contingent fee case, right?

A. Correct.

Q. So if you didn't prevail, you got nothing from this case?

A. That's correct.

Q. So -- and for this work, because the case itself was worth tens of millions of dollars, your firm stood to gain anywhere from $500,000 to a million dollars?

A. Probably, if we would have been a hundred percent successful.

Q. So you're on a fishing trip with the judge who's sitting in a pending case where you stand to make $500,000 to a million, and he asks you for cash; is that right?

A. That's correct.

Q. Would you have been concerned if you found that other attorneys in the case had been giving him cash under the table?

A. Would I have been concerned?

Q. Yes.

A. I don't know how I would know about it.

Q. Well, if someone told that you one of the other attorneys in the case was giving the judge cash under the table, wouldn't that concern you about the judge's partiality?

MR. CAPITELLI: If you had heard that.

THE WITNESS: If I had heard that?

CONGRESSMAN SCHIFF: Yes.

THE WITNESS: I always thought no matter who did what, he was going to do what he thought was the right thing. I mean, I just -- I don't know anything about anybody else doing anything other than what I've testified to.

BY CONGRESSMAN SCHIFF:

Q. I'm not suggesting, Mr. Amato, that anyone else was giving the judge cash, but if you had major litigation before a judge, wouldn't it concern you if one of the other parties or their lawyer was giving the judge cash under the table?

A. Of course it would concern me. But it also concerned me that somebody's marrying into the judge's family, that he practiced at the old law firm with the judge, there's 20 things that concerns you as a trial lawyer.

Q. And that's why you have a motion to recuse if the relationship is too close, right?

A. Yes.

Q. And in this case, there was a motion to recuse made by opposing counsel, and during that hearing, the judge explained how he understood the standard for the recusal motion, correct?

A. Right. I think he was -- yes.

Q. And do you recall the judge taking issue with the suggestion that he had gotten a campaign contribution from you?

A. Yes, and if you would like a short explanation --

Q. You know, I don't need a short explanation, actually, because I have limited time, but you do recall the judge taking issue with the suggestion that you had given a campaign contribution?

A. Right.

Q. And he, in fact, told the other attorneys

they should have done their homework better because this was a contribution to a general judges fund?

A. That's correct, that's the short story.

Q. And while he was making this show for the other counsel that they should have done their homework better, he didn't tell them anything about the approximately $20,000 in curator fees that you and your partner kicked back to him, did he?

A. No, he didn't tell them anything about the curatorships.

Q. Do you think that was misleading, Mr. Amato, for him to pound his chest and say I never got any campaign contributions, but failed to tell them that he got about $20,000 in cash under the table?

A. Yes.

Q. So you don't feel he was being honest during that hearing, do you?

A. I don't think he was being honest.

Q. Do you recall him saying during the recusal hearing, but don't misstate, don't come up with a document that clearly shows well in excess of $6700, with some innuendo that that means they gave the money to me. If you checked your homework, you would have found that was a Justice For All program

for all judges in Jefferson Parish. I'm sorry, I'm reading from page 156 of the House transcript. But go ahead, I don't dispute that I receive funding from lawyers.

And I asked you in light of the fact that he received thousands of dollars from you, wasn't that a misleading statement. And your answer was, probably because again, Mr. Schiff, I don't know if he was referring to the Justice For All collection or something different.

I then went on, well, if the judge was taking issue with opposing counsel for suggesting you had given him money that in fact went for a different program, at the same time, in fact, received thousands of dollars from you, wouldn't it be misleading for the Court not to reveal that, and your answer was yes?

A. I think that's what I answered.

Q. That's still your testimony today?

MR. CAPITELLI: Yes.

THE WITNESS: Yes.

BY CONGRESSMAN SCHIFF:

Q. I think both today and in your testimony before the House, you said one of the reasons that you took this Liljeberg case was that you thought

the facts were in that party's favor, and that the judge was not unfriendly to you. Do you recall that testimony?

A. I don't recall it, but I'm sure it sounds like something I would say.

Q. On page 208, I asked you, you used the word unfriendly, that you thought you had a good chance to prevail in the case because the judge was not unfriendly. Similarly you mentioned that you thought maybe one of the reasons you were brought into the case was because of the wide knowledge that you had a friendship with the judge. Part of that friendship was providing him with thousands of dollars, wasn't it?

And your answer was, I think Tom and I would have been friends no matter what, but I'm sure he appreciated our generosity or our friendship shown that way.

MR. CAPITELLI: Can you give us a line? We're missing something.

CONGRESSMAN SCHIFF: Page 208 into 209.

MR. CAPITELLI: 208 into 209, okay.

CONGRESSMAN SCHIFF: The Bottom of 208.

MR. CAPITELLI: The bottom of 208, yeah.

THE WITNESS: Okay.

BY CONGRESSMAN SCHIFF:

Q. So part of the reason you thought you would prevail is that you thought the case had merit and part was your friendship with the judge, right?

A. More so with the merit than with the friendship.

Q. But partly based on the friendship, right?

A. Of course.

Q. And part of that friendship, you testified earlier, was the fact that you had given him thousands of dollars, right?

A. Yes.

Q. And you testified earlier that you're sure he appreciated your generosity or our friendship shown that way, right?

A. Yes.

CONGRESSMAN SCHIFF: I think I'll turn it over to my co-counsel to finish up.

MR. DAMELIN: I just have a few quick questions.

EXAMINATION

BY MR. DAMELIN:

Q. Mr. Amato, just to clarify one thing, at least according to my notes, when you would be asked

some questions in connection with the recusal hearing, my notes reflect at the time of the motion to recuse, I had not given money to Judge Porteous.

That's not correct, is it? You had, in fact, given him money through the curatorship scheme, isn't that correct?

A. Where would I testify to that?

Q. I'm saying from my notes today when Mr. Schwartz was asking you questions about the recusal.

MR. CAPITELLI: I don't think my client testified that way, but I'll be glad for him to clarify it.

BY MR. DAMELIN:

Q. Just to be clear on the record, at the time of the recusal hearing, you had given Judge Porteous money, had you not?

A. From the curatorships?

Q. Correct.

A. Right.

CONGRESSMAN SCHIFF: I think, and correct me if I'm wrong, that when you said earlier that you hadn't provided money to the judge, you were referring to the money you gave on the fishing trip, that had not happened yet at the time of the recusal --

THE WITNESS: That's right. Yes.

BY MR. DAMELIN:

Q. And in connection with that recusal hearing, you have testified that you believed that the judge should have recused himself from the case; is that correct?

A. Correct.

Q. Now, while the case was pending, while the Liljeberg case was pending, after trial under advisement, did the following things, to your knowledge, take place, in your personal knowledge and involvement: In June '99, the judge made a request you to for money and which you subsequently paid him?

A. I gave him money to help with his son's wedding, yes.

Q. And during that period of time, you had frequent lunches with Judge Porteous in which almost every situation you paid?

A. I had lunch with Judge Porteous on a regular basis, as I had for 25 years, and I usually paid.

Q. You paid. But this -- while the case was under advisement?

A. Yes, sir.

Q. Okay. Also while the case was under advisement, your law firm paid for the -- a party to celebrate his five years on the bench?

A. Yes.

Q. While the case was under advisement, you made a cash contribution to support his son's externship in Washington, D.C.?

A. I don't know when that externship took place, I really don't.

Q. I think the record reflects it was in the early part of 1999. Do you remember making a contribution for the externship?

A. I do recall making a contribution to the externship. I don't recall when it was.

Q. Also while the case was under advisement, did you have conversations with Judge Porteous about the case?

A. I did, but I don't recall what they consisted of other than --

Q. That's okay. And also the money you gave Judge Porteous, in your various testimonies, you make reference to, can you give me, can you lend me, can you make it happen, the money, this was on the fishing boat, okay?

A. Right.

Q. But, in fact, you never expected to be paid back that money you gave him, did you?

A. No, but there's always hope.

Q. Okay, but you never expected it?

A. No, I never did.

MR. DAMELIN: I believe that's all the questions that I have.

SENATOR McCASKILL: Counsel?

MR. SCHWARTZ: We do have some redirect.

EXAMINATION

BY MR. SCHWARTZ:

Q. Mr. Amato, all of the information about -- that you received about the relationship between the curatorship and money given to Judge Porteous, did that all come from Mr. Creely?

A. Yes.

Q. Did you have any independent communication with Judge Porteous about that?

A. Never talked to the judge once about curator cases.

Q. So all of the information you have is from Mr. Creely?

A. Correct.

Q. You would normally -- you and Mr. Creely would normally withdraw cash from your draw accounts

at the end of each week?

A. Yeah. Yes, sir.

Q. And you would use those for whatever purpose you wanted?

A. Well, mine went usually to my wife to run the household, since she opened her first checking account last week.

Q. So it was fairly normal for you to withdraw cash?

A. Yes, that's something that we did since we were young and starving.

Q. The time of the curatorships and the relationship that Mr. Creely informed you of between the curatorships and the money that he gave to Judge Porteous, that was all during the time that he was a state judge; is that correct?

A. Yes.

Q. And that was some years before the Liljeberg case came to him as a federal judge?

A. As far as I know, yes.

Q. And during the time that he became a federal -- as -- when he became a federal judge, all through that time period, other than the fishing trip, do you know of any money that you or Mr. Creely gave to the judge?

A. No, other than -- did he -- that they asked me about the party and the externship.

MR. CAPITELLI: You're referring to the issues that Mr. Damelin brought up?

THE WITNESS: Yeah. Other than that, no.

BY MR. SCHWARTZ:

Q. But no cash money in apparent relationship to the curatorships after he became a federal judge; is that correct?

A. Not as far as I know.

Q. Just to clarify your testimony, you don't know whether Rhonda, who was -- Rhonda Danos, who was Judge Porteous's secretary, came -- picked up cash or not, is that correct, from your office?

A. I don't recall her doing it. I'm not saying she didn't do it. I just don't recall.

Q. You don't know either way?

A. I don't know either way.

Q. You mentioned that part of your reason for giving the $2000 to Judge Porteous, part of the reason was because he was a federal judge?

A. Right.

Q. Was part of the reason because he was a federal judge on your case, or just because he was a federal judge?

A. I think just because he was a federal judge.

Q. Did the fact of the case before him have any impact on your decision to give him money?

A. Negligible, no.

Q. Negligible?

A. (Witness nods head.)

Q. You've said that you would have no concern, you would have -- do you feel -- let me restate the question. I apologize.

You testified on cross that no matter what the judge did -- I'm sorry, if someone else gave the judge money, were you concerned about whether or not it would have an impact on his decisions as a judge?

A. I don't think I can answer that question, what impact what somebody else did for the judge would have.

Q. You've known him for 40 years. Do you think --

A. Close.

Q. Do you think it would have an impact on his decision?

A. I don't think it would.

Q. Why not?

A. Just because of who he is, just because I've seen him in court too many times. I've tried cases with him, I've tried cases against him, I've tried cases before him, you know. No. He usually, as far as I know, he always ruled as he thought correctly.

Q. And whether or not someone had given him money would have no impact on that decision?

A. Not that I could tell.

Q. That's your experience?

A. That's my experience.

Q. And your expectation?

A. And hopefully my expectation, yes.

Q. So when you gave him money that he requested after the fishing trip -- at the fishing trip, did you have any expectation that it would affect the decision before him?

A. No, I didn't have any expectations.

Q. Do you think it had any impact on his decision?

A. No.

Q. In fact, you gave him that money because he was a friend and he was very upset; isn't that correct?

A. Yes.

Q. It may have been a foolish decision, but not one --

A. Oh, it's a decision I'll regret until the day I die.

Q. But it's not one that you made because of the case before him?

A. No.

Q. You testified that you had taken the case in part because of the facts, in part because it was a not unfriendly judge, and you've explained what you mean by not unfriendly judge?

A. Right.

Q. Do you think your friendship with him had any impact on his decision in that case?

A. I think he ruled based upon the evidence that was in front of him, irrespective if I would have been there or not.

Q. So the answer to my question is no?

A. No.

Q. The answer to the question is no, that's correct?

A. Is no.

Q. Okay. You testified that you had had some discussions with Judge Porteous while the case was pending. Did any of those discussions deal with

the substance or merits of the case?

A. No.

Q. Did you consider them to be improper ex parte communications?

A. Yes.

Q. I'm sorry?

A. Yes.

Q. Yes, they were?

A. I considered them that. I didn't participate.

Q. I'm sorry?

A. I did not solicit any information from him while the case was going on as to how are you going to rule, what should I do, what should I not do, you know, no, I never did.

Q. But the conversations you had with him, did you consider them to be improper ex parte communications?

A. No, I did not.

Q. And why is that?

A. Well, I mean, the guy's been my friend forever, and we've done a lot of things together, and the last thing a bunch of lawyers want to do is get together and talk about the law, and that was not in the program is to talk about the Liljeberg

case.

Q. But occasionally, the Liljeberg case came up?

A. I'm sure it did. I mean, you know, but it was in passing, how you doing? Fine, you know. Getting everything ready? Yep, that kind of stuff.

Q. But in your view, those conversations were not improper?

A. No.

Q. And not ex parte communications?

A. No.

MR. SCHWARTZ: That's all the questions I have, Senator.

CONGRESSMAN SCHIFF: I just have a few.

EXAMINATION

BY CONGRESSMAN SCHIFF:

Q. Mr. Amato, you testified earlier that part of the reason you took the case was the merits and part was your friendship with the judge, those were two of the reasons why you thought you would succeed, am I right?

A. Well, yes.

Q. And you testified earlier that part of why you thought your friendship was important is that you had shown him generosity in the cash you

provided him, right?

A. I think it went more than that, but yes.

Q. And part of that generosity you showed on that fishing trip when you said you would give him the two thousand or $2500 in cash he asked for; is that correct?

A. Right.

Q. I think you testified earlier that you stood to make half a million to a million on this case, right?

A. I sure was hoping to.

Q. Spent most of two years working on it?

A. Right.

Q. And are you saying that the fact that he was the judge presiding on this case never entered into your mind when he asked you for money?

A. I think I've answered that, but it did enter my mind.

Q. So it did enter my mind?

A. Sure.

Q. So when you say 20 percent --

MR. CAPITELLI: Just to clarify, I think his answer was that it was negligible. He did say that it entered his mind even on previous questions from the counsel.

CONGRESSMAN SCHIFF: Well, let me ask the question again.

MR. CAPITELLI: Okay.

BY CONGRESSMAN SCHIFF:

Q. Are you saying when you stood to make $500,000 to a million dollars on a case under submission before this judge, when he asked you for cash, the case never entered into your mind?

A. The case entered into my mind, and -- it did. I gave it a great deal of consideration not to do it, and I wish I wouldn't have, but I did it more so out of friendship and feeling sorry for the poor broke down --

Q. More so out of friendship than out of the fact you had a $500,000 to a million riding on it?

A. I've handled a lot of cases over the years, and, yeah, that would have been a nice fee, but it wasn't going to make or break me.

Q. That wasn't my question. Did the fact that you stood to make a lot of money on this case influence your willingness to give him the $2500 or $2,000 he asked for?

A. Yes.

CONGRESSMAN SCHIFF: I have no further questions.

SENATOR McCASKILL: Okay. Thank you all very much.

(Whereupon, at 3:11 p.m., the taking of the instant deposition ceased.)

CERTIFICATE OF REPORTER

I, ANN L. BLAZEJEWSKI, RMR, CRR, the Notary Public before whom the foregoing deposition was taken, do hereby certify that the witness was duly sworn by me, that the testimony of said witness was recorded stenographically to the best of my ability and thereafter reduced to typewriting under my direction, and that the transcript is a true record of the testimony given by such witness.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2010.

_____

My Commission Expires:

October 31, 2013