

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 010740-TP

Filed: September 7, 2001

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

COPY

DEPOSITION

of

ANGEL LEIRO

SunTrust International Center
One Southeast Third Avenue
28th Floor
Miami, Florida

Tuesday, September 17, 2001
5:55 p.m. - 7:25 p.m.

DOCUMENT A W/EN 101

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FPSC-COMMISSION CLERK

APPEARANCES

For IDS:

BRIAN MILLER, ESQ.
DOUGLAS O'KEEFE, ESQ.
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For BellSouth:

JAMES MEZA, III, ESQ.
BellSouth Telecommunications, Inc.
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For the FPSC:
(via telephone)

Mary Anne Helton, Esq.
Bob Casey, Staff
Clayton Lewis

- - - - -

I N D E X

Witness	Direct	Cross
ANGEL LEIRO		
(By Mr. Meza)	3	

1 THEREUPON:

2 ANGEL LEIRO,
3 a witness named in the notice heretofore filed,
4 having been first duly sworn, deposes and says as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. MEZA:

8 Q. Good evening, Mr. Leiro.

9 A. Good evening, Mr. Meza.

10 Q. Am I pronouncing your name right?

11 A. Leiro.

12 Q. My name is Jim Meza, and I represent
13 BellSouth. We are here for your deposition this
14 evening. Have you ever been deposed before?

15 A. Yes.

16 Q. In which proceedings?

17 A. Proceeding on behalf of myself.

18 Q. Was it a civil case?

19 A. Yes.

20 Q. How long ago?

21 A. I would say over a year ago was the
22 last deposition.

23 Q. Were you the plaintiff?

24 A. Yes.

25 Q. What type of case was it?

- 1 A. Contract dispute.
- 2 Q. Who was the defendant?
- 3 A. Robert Zarco.
- 4 Q. And what was the nature of the
- 5 litigation?
- 6 A. Breach of contract.
- 7 Q. Employment contract?
- 8 A. No.
- 9 Q. Can you give me just a brief
- 10 description?
- 11 A. Breach of implied covenant, fair
- 12 dealing, fraud and inducement.
- 13 Q. Has that litigation been resolved?
- 14 A. Not yet.
- 15 Q. It's still pending?
- 16 A. It's currently on appeal.
- 17 Q. Is that here in Miami?
- 18 A. 11th Circuit.
- 19 Q. Any other time that you've given a
- 20 deposition?
- 21 A. When I was 17 years old.
- 22 Q. Was that a civil proceeding as well?
- 23 A. Yes, for an accident.
- 24 Q. Were you a party in that proceeding?
- 25 A. Yes.

1 Q. Is that also in Miami?

2 A. Yes.

3 Q. Has that issue been resolved?

4 A. Yes.

5 Q. If at any time you don't understand any
6 of my questions, please let me know, and I'll be
7 sure to ask it again to help you answer.

8 A. To be thorough, I was deposed one other
9 time in a case where I'm not a party at all,
10 Natiello versus Supra.

11 Q. Can you spell it?

12 A. N-A-T-I-E-L-L-O is the name of the
13 plaintiff.

14 Q. What kind of case was that?

15 A. I'm not sure what kind of case it was.
16 I think that it's for money unpaid.

17 Q. When did you testify or when were you
18 deposed?

19 A. Two or three months ago, and then they
20 noticed it for trial recently, but I guess it's
21 been pushed up for another day.

22 Q. Is this before the commission?

23 A. No. This is a lawsuit.

24 Q. In the 11th Circuit?

25 A. The 11th Circuit.

1 Q. You bring up a good point. If at any
2 time you want to expand your answers, feel free to
3 tell me as much as you want.

4 A. I just remembered.

5 Q. Also, if at any time you need a break,
6 let me know, I'll be sure to accommodate you. And
7 I ask in responding to my question, give me a
8 verbal response so the court reporter can
9 accurately reflect your response to my questions,
10 okay?

11 A. Okay.

12 MR. O'KEEFE: Also, if you talk when
13 Jim's talking, that makes it very difficult
14 for the court reporter to get down both of
15 you.

16 MR. MEZA: Right.

17 Q. All right. How many hours are you
18 short of getting a degree at FIU?

19 A. 18.

20 Q. Any particular reason why you didn't go
21 forward in getting a degree?

22 A. I started a law firm with Mr. Zarco,
23 and my hours were very, very large.

24 Q. When you say you started a law firm, I
25 presume you weren't practicing law.

1 A. Right. Just started the business,
2 opened the doors, just never made it back.

3 Q. Is Mr. Zarco the defendant in your
4 lawsuit?

5 A. He's the defendant.

6 Q. What happened to Mobile Medical, Inc.?
7 You were co-owner and operator.

8 A. We closed the doors. My partner moved
9 to Colorado.

10 Q. Any particular reason?

11 A. Other than that he wanted to move to
12 Colorado and open up shop there and I didn't want
13 to go to Colorado, no other reason.

14 Q. And then you went to Supra; is that
15 right?

16 A. Yes.

17 Q. What did you do between Mobile Medical
18 and Supra? It looks like a three-month gap in
19 your resume.

20 A. I can't recall. Between Mobile Medical
21 and Supra there was a three month gap?

22 Q. It states Mobile Medical closed in 3-98
23 and began Supra 6-98.

24 A. I was probably doing consulting if
25 there was that much of a gap. I don't recall.

1 Q. I notice that in the summary of your
2 duties you state that you participated in
3 litigation against BellSouth?

4 A. Yes, I did.

5 Q. Do you know the dockets that you --

6 A. I don't know the docket numbers, no.

7 Q. What years were these proceedings?

8 A. The tail end of a '97 proceeding and
9 the complete '98 proceeding.

10 Q. What were your duties at Supra?

11 A. I was primarily a paralegal handling
12 regulatory affairs.

13 Q. How long were you at Supra?

14 A. Almost two years.

15 Q. Were you ever promoted?

16 A. No.

17 Q. Why did you leave?

18 A. Seek better opportunity.

19 Q. Were you asked to leave?

20 A. No, sir.

21 Q. Did you go directly from Supra to IDS?

22 A. No.

23 Q. Where did you go?

24 A. To the Basico Group.

25 Q. What is that?

1 A. That was a data local exchange carrier.

2 Q. What did you do for them?

3 A. Vice president of operations.

4 Q. How long were you in that position?

5 A. Approximately six months.

6 Q. Why did you leave the Basico Group?

7 A. The company funding that company went
8 belly-up, and I sought employment elsewhere.

9 Q. And that's when you went to IDS?

10 A. Yes.

11 Q. What is your position with IDS?

12 A. Director of regulatory affairs.

13 Q. And what are your job duties as
14 director of regulatory affairs?

15 A. To assist in the implementation and
16 development of procedures to maintain the
17 company's regulatory standing in front of the
18 Public Service Commissions in states in which we
19 do business.

20 Q. Do you primarily handle the complaints
21 that the company receives?

22 A. Primarily.

23 MR. O'KEEFE: You have to slow down.

24 Let the court reporter take down what you are
25 saying. Let him finish his sentence.

1 THE WITNESS: Okay.

2 MR. O'KEEFE: You are going -- okay.

3 THE WITNESS: Okay.

4 Q. Is there anyone else responsible for
5 responding to a commission complaint?

6 A. Yes.

7 Q. Who else?

8 A. Gilbert Leon.

9 Q. Does Mr. Leon report to you?

10 A. Yes.

11 Q. Does he ever respond to a compliant
12 without you seeing his response?

13 A. Yes.

14 Q. Is there anyone else other than you and
15 Mr. Leon that responds to commission inquiries and
16 complaints?

17 A. Currently, no.

18 Q. Since the time you've been at IDS, has
19 there been anyone else?

20 A. Since I've been there, no. To my
21 knowledge, no.

22 Q. Are you responsible for any customer
23 service reps or provisioning reps?

24 MR. O'KEEFE: Object to the form.

25 A. No, I'm not. .

1 Q. Are you responsible for maintaining the
2 business records of IDS?

3 MR. O'KEEFE: Object to the form.

4 A. Define business records.

5 Q. responsible for keeping the business
6 records that IDS generates.

7 A. I'm not sure what you mean by business
8 records.

9 Q. Okay. I'm sure we'll get to it. I'm
10 just asking you some general questions about your
11 job duties.

12 Are there any particular documents that
13 as part of your job as director of regulatory that
14 you keep in the regular course of business?

15 A. As they relate to complaints to the
16 Public Service Commission, any documents that
17 would come in in that regard and that would be
18 generated in that regard.

19 Q. What about customer complaints?

20 A. Customer complaints would come to my
21 department.

22 Q. How do they get to your department?

23 A. Fax or e-mail.

24 Q. These are directly from the customer or
25 is there a recipient at IDS who forwards it to

1 you?

2 A. They come from the Public Service
3 Commission to my office.

4 Q. What if a customer calls IDS and says
5 you guys overbilled me for call waiting the last
6 three months?

7 A. That's not our responsibility.

8 Q. What if a customer calls and says I
9 lost my service last week?

10 A. That's not my responsibility.

11 Q. What if a customer calls and says I'm
12 going back to BellSouth?

13 A. That's not my responsibility.

14 MR. O'KEEFE: Object to the form. When
15 you say what if a customer calls up and says
16 I've got a problem, whatever it was, I don't
17 know what what if means.

18 Q. Okay. If a customer calls IDS and
19 reports that he is going back to BellSouth, is
20 that something that one, you would be notified of
21 and, two, make a record of?

22 A. No and no.

23 Q. Are you responsible for any regulatory
24 matters outside of -- states outside of
25 BellSouth's region?

1 A. Not yet.

2 Q. Do you know how many states in which
3 IDS has long distance customers?

4 A. The totality of that number I would not
5 know.

6 Q. Are you responsible for those
7 regulatory requirements and responsibilities as
8 well?

9 A. Yes, as they relate to filing
10 documentation with regards to our revenues, lines,
11 et cetera. Basic and general reporting
12 requirements.

13 Q. Do you know how many states IDS has
14 long distance customers?

15 A. I don't know the totality. They've
16 been in business for 12 years.

17 Q. Are you responsible for collecting
18 documents that were responsive to BellSouth's
19 discovery request?

20 A. I was responsible for requesting those
21 documents be provided to me.

22 Q. Do you know who you requested them
23 from?

24 A. Let's see. Correction. Keith Kramer
25 asked the individuals. I'm not authorized to

1 demand those from people. I was made responsible
2 to collect them. That would be Fabio Galoppi, the
3 vice president of sales; Kerri Caudill, IT; Eric
4 Calderon, provisioning; Freddy O'Quendo. I'm not
5 sure what his title is.

6 Q. Okay.

7 A. Who else was in there? Eileen Turpin,
8 T-U-R-P-I-N, billing, I think; Nancy Madsen, vice
9 president of customer service.

10 Q. Okay.

11 A. I think that's everybody.

12 Q. Brad Hamilton?

13 A. I don't recall whether he was at that
14 one meeting where we asked.

15 Q. What about Robert Hacker?

16 A. I don't recall whether he was at that
17 meeting either.

18 Q. Tell me a little bit about this
19 meeting.

20 MR. O'KEEFE: Object to the form.

21 Q. You state that you had a meeting
22 regarding discovery; is that correct?

23 A. Yes.

24 Q. All right. When was this meeting?

25 A. Shortly after BellSouth propounded its

1 request for production and interrogatories.

2 Q. And what was the purpose of the
3 meeting?

4 MR. O'KEEFE: Wait. I'll let him state
5 the general purpose of the meeting, but I
6 want to caution you not to go beyond this
7 question because we have to be sensitive to
8 certain privileges, but you can answer the
9 question as phrased.

10 A. Can you ask the question again?

11 Q. What was the purpose of the meeting?

12 A. As I can tell, it was to designate to
13 individual people the various requests and
14 interrogatories so they can compile documents or
15 responses to those requests.

16 Q. How many meetings did IDS have
17 regarding BellSouth discovery?

18 MR. O'KEEFE: Wait, wait. Okay. You
19 can answer.

20 A. One.

21 Q. Are you a notary?

22 A. Yes.

23 Q. Do you have your direct testimony with
24 you?

25 A. Yes, sir.

1 Q. Look on page 2, lines 14 through 21.

2 A. Page 2 you said? I have two page twos.

3 Q. Second page 2. You said, I personally
4 spoke with and dealt with the customers who have
5 complained to IDS regarding their loss of
6 services, their loss of voice mail upon conversion
7 to IDS. How many customers have you personally
8 spoken with?

9 MR. O'KEEFE: Objection. Over what
10 time period?

11 MR. MEZA: Over what time period the
12 witness is referring to in his testimony.

13 A. How many?

14 Q. Yes.

15 A. I couldn't even guess. There's too
16 many.

17 Q. What time period are you referring to?

18 A. From October 26th through the present
19 or at least through the filing of the complaint.

20 Q. Is that within your normal job duties
21 to speak with customers?

22 A. If the issues -- yes, if the issues
23 escalated to within a point that the customer
24 service reps could not handle the situation and
25 the customer demanded to speak with someone else.

1 Q. Do you do this on a daily basis?

2 A. It felt like that certainly between
3 October 26th and April.

4 Q. And you have no idea roughly how many
5 customers? I just want a general idea. I don't
6 need the specific number.

7 A. Hundreds of customers.

8 Q. And do you know the general topics that
9 they would call about?

10 A. Yes.

11 Q. Can you tell me those.

12 A. Primarily what stands out mostly are
13 service disruptions during conversions from
14 BellSouth to IDS.

15 Q. When a customer calls IDS and
16 complains, let's say, about service disruption,
17 who do they first speak with?

18 A. The best of my knowledge, they would
19 speak to a customer service representative.

20 Q. And is that customer service rep
21 responsible for making some type of note or record
22 reflecting the customer's conversations, if you
23 know?

24 A. I believe so.

25 Q. And is it the general practice of IDS

1 to record a customer's comments or questions?

2 MR. O'KEEFE: Object to the form.

3 A. Record in what fashion?

4 Q. Take notes, type in, insert.

5 A. That is done. Whether it's a general
6 practice as you said --

7 Q. Right.

8 A. -- I would hope so.

9 Q. Do you know if it's done all the time
10 or do you know if the service reps are instructed
11 to make sure that they record customer comments
12 accurately and --

13 A. I don't know if they are instructed to
14 do that.

15 Q. Okay. You don't know, okay. And then
16 I think you testified that if the customer is not
17 satisfied with the customer service reps' response
18 or reasoning, they escalate it to you?

19 A. They may escalate it --

20 MR. O'KEEFE: Angel, you have to let me
21 have a chance to object.

22 Object to the form. Mischaracterizes
23 prior testimony.

24 Q. Is it your testimony that there are
25 situations in which customer complaints or

1 questions are escalated to you?

2 A. Typically after other escalations
3 within the customer service representative
4 department have been exhausted.

5 Q. And explain to me the progression.

6 A. I'm not familiar with the entire
7 progression.

8 Q. Do you get all the customer complaints
9 if they are escalated?

10 A. All complaints that come through the
11 Public Service Commission.

12 Q. The way I see it, you got some
13 complaints from the Public Service Commission, and
14 then you have internal complaints from customers
15 calling IDS. Is it your testimony that you get
16 all the Public Service complaints?

17 A. Yes.

18 Q. And you get some of the internal
19 complaints?

20 A. Yes.

21 Q. When you were talking with these
22 hundreds of customers, were you talking to them as
23 a result of the PSC complaints?

24 A. Is that the end of the question?

25 Q. It's a two-part question. I don't want

1 to get an objection to it being compound.

2 A. You are going to have to ask it again.

3 Q. When you are responding to the hundreds
4 of customers that you have identified --

5 A. Okay.

6 Q. -- or said that you've talked with --

7 A. Right.

8 Q. -- are you doing that as a result of a
9 PSC complaint?

10 A. No.

11 Q. These are customers that have been
12 escalated to you; is that correct?

13 A. They would have to have been escalated
14 to me, yes.

15 Q. If you get a PSC complaint, do you not
16 try to contact the customer?

17 A. Certainly we contact the customer for
18 every complaint that comes through the PSC.

19 Q. What percentage of the customers that
20 you have spoken with complained of a disconnect?

21 A. I could not even begin to give you a
22 percentage, sir. There's just too many.

23 Q. All right. Do you have a general
24 feeling or belief as to what was the most
25 common -- from October 26th of 2000 until -- did

1 you say April?

2 A. At least or through the complaint date.

3 Q. Okay.

4 A. The question is what is the most
5 general one?

6 Q. Yes, the most common.

7 A. I would be speculating if I gave you
8 that generalization.

9 Q. Have you ever done any type of analysis
10 or summary that could set forth the types of
11 complaints that you get and the frequency in which
12 they occur?

13 A. No, I have not.

14 Q. Do you know how many customers have
15 complained to you because they lost voice mail?

16 A. I don't know the number, I would have
17 to count the ones that I know of.

18 Q. Which documents would you look at to
19 count?

20 A. I would certainly look at the documents
21 I produced in this case and count those.

22 Q. Are there any other documents out there
23 that would support or set forth the number of
24 customers that experienced any type of
25 conversion-related problem that has not been

1 produced?

2 A. I do not know.

3 Q. Okay. Would anybody know at IDS other
4 than yourself?

5 A. Other than myself, I don't know

6 Q. But you were responsible for collecting
7 the documents; is that right?

8 A. For the various requests for
9 production.

10 Q. What did you provide a response to?
11 Which documents did you produce to your memory?

12 MR. O'KEEFE: Object to the form. Are
13 you referring to --

14 MR. MEZA: I'm asking -- that's a bad
15 question.

16 Q. Did you provide any specific documents
17 in response to BellSouth's discovery request?

18 A. Yes.

19 Q. Okay. Which documents did you produce?

20 A. Primarily customer-related issues as
21 set forth in the complaint.

22 Q. Complaints that you got from the PSC,
23 would that be information?

24 A. Those be would some, yes.

25 Q. Customer comments?

1 A. Those would be some, yes.

2 Q. How would you obtain a copy of those
3 customer comments?

4 A. I would look up the customer
5 information. There's notes. I would print those
6 notes.

7 Q. Okay. You state on page 2, second page
8 2, line, 17 and 18, that you personally obtained
9 affidavits from a number of these customers.

10 A. Uh-huh.

11 Q. Are the affidavits attached to your
12 direct testimony? Are these the affidavits that
13 you are referring to?

14 A. Those are some.

15 Q. Are there any other affidavits that you
16 are referring to?

17 A. I believe I produced most, if not all,
18 the affidavits that I have.

19 Q. I'm trying to pick out if there's
20 anything more that I should be aware of other than
21 what you attached as an exhibit to your complaint
22 and to your direct testimony and the sole
23 affidavit that was produced in response to
24 discovery. Are there any others that I should be
25 aware of?

1 MR. O'KEEFE: I object to the form to
2 the extent that it purports to state what was
3 produced in discovery.

4 MR. MEZA: Okay. That's a fair -- let
5 me try again.

6 Q. Are you aware of any other affidavits
7 that have been executed other than which IDS has
8 attached as an exhibit either to its complaint or
9 to its direct testimony?

10 A. I believe that we produced all the
11 affidavits.

12 Q. Who did you produce them to?

13 A. In this case.

14 Q. You produced them to BellSouth?

15 A. Yes.

16 Q. Is it your testimony today that you
17 have personal knowledge or that you discussed the
18 subject matter of these affidavits with every
19 customer that's attached here?

20 A. Every customer I have an affidavit
21 for --

22 Q. Yes.

23 A. -- clearly understood and authorized
24 that affidavit.

25 Q. I'm not questioning that. I'm just

1 asking you, did you have a conversation with each
2 one of these customers?

3 A. Yes.

4 Q. Who drafted these affidavits?

5 A. For the most part I did.

6 Q. How did you draft them?

7 A. How did I draft them?

8 Q. Uh-huh.

9 A. Typed them on the computer.

10 Q. Was the witness or the affiant on the
11 phone with you when you typed it?

12 A. In some cases they may have been, in
13 some cases I may have drafted it and sent it to
14 them, did the back and forth.

15 Q. Did you keep any drafts that the
16 affiants may have sent back to you?

17 A. My practice is to destroy drafts and
18 just keep the original. Less paper.

19 Q. Did the affiants ever send you changes
20 to include?

21 A. They may have. I don't recall many
22 changes that were made to the affidavits.

23 Q. How come you didn't notarize all of
24 them?

25 A. The ones that I notarized were the ones

1 that I was able to get to. Others I was not
2 available to get to.

3 Q. How did you become aware of these
4 customers?

5 A. Different ways. Some would call me
6 directly through getting my name from someone in
7 the office. Others would get to me through a
8 customer service rep.

9 Q. So a customer would say I want to write
10 an affidavit, so let me get to Mr. Leiro?

11 MR. O'KEEFE: Object to the form.

12 Misstating the testimony.

13 Q. How would a customer contact you?

14 A. If a customer contacted me, it would
15 not be for the purpose of giving an affidavit.

16 Q. Okay.

17 A. If the issue was pertinent to this case
18 or what I felt was a problem, I would request the
19 person tell me what happened, and I would ask them
20 if they would be willing to sign an affidavit to
21 that effect. If they agreed, we would proceed.
22 If not, we would drop the issue.

23 Q. Did you sign all of these -- the ones
24 for which you were the notary, did you sign all of
25 them in person?

1 A. Yes.

2 Q. So you went down to Key West and
3 executed them?

4 A. Yes.

5 Q. Do you know [REDACTED]

6 A. I met her.

7 Q. What's your definition of parity as a
8 lay person?

9 A. I explain that in my direct testimony
10 which I thought was a pretty fair and accurate
11 description. I don't want to deviate from that
12 much more than what it says.

13 Q. Sure. Feel free to refer to that.

14 A. I would -- in keeping with my direct
15 testimony, I would say that my definition of
16 parity as a lay person in this context is that
17 BellSouth is required to provide IDS operational
18 support systems.

19 MR. O'KEEFE: Slow down for the court
20 reporter.

21 A. I'm reading from my direct testimony,
22 page 4, line 4 through line 12. "My definition of
23 parity as a lay person in this context is that
24 BellSouth is required to provide IDS operational
25 support systems that process IDS's orders for new

1 customers or changes or additions to the services
2 of existing IDS customers that are equivalent in
3 all respects to those systems BellSouth utilizes
4 for its own retail customers."

5 To me, this means that if BellSouth can
6 provide installation of a certain type of
7 telecommunications service to one of its retail
8 customers in a certain time frame and at a certain
9 level of quality, it must provide installation of
10 that same type of telecommunications service to
11 IDS customers in an equivalent time frame and at
12 the same level of quality.

13 Q. Is it your testimony today that
14 BellSouth is required to provide quality of
15 service that is greater to IDS than what it
16 provides to itself?

17 A. No.

18 Q. You just want the same?

19 A. At a minimum.

20 Q. Look on page 4, line 16 and 17. You
21 state, "BellSouth has continually and consistently
22 provided IDS OSS and UNEs that are far below
23 parity." What is the basis for that statement?

24 A. My direct and personal experience with
25 the complaints of end users from the moment I

1 started working at IDS.

2 Q. How many complaints?

3 A. Define complaints.

4 Q. As you used it in answering my previous
5 question.

6 A. Complaints from the Public Service
7 Commission or complaints in general of people
8 calling in and complaining?

9 Q. Well, how many PSC complaints have you
10 responded to or become aware of?

11 A. A lot. It depends on the issues, but
12 complaints, as a general form, overall complaints,
13 hundreds of complaints.

14 Q. And these are all specifically related
15 to OSS and UNEs?

16 MR. O'KEEFE: Object to the form.

17 Mischaracterizes the statement.

18 Q. Are these hundreds of complaints
19 specifically related to OSS and UNEs?

20 A. Many of the hundreds of complaints
21 related to what I understand as being the OSS and
22 UNEs, yes.

23 Q. Well, how many?

24 A. I don't have an exact figure.

25 Q. But not all of the complaints are

1 specifically related to OSS and UNEs?

2 A. Most of the complaints were related to
3 OSS and UNEs.

4 Q. But not all, correct?

5 A. Not all.

6 Q. Do you know which customers actually
7 complain of which you have personal knowledge?

8 MR. O'KEEFE: I'm going to object. Can
9 you read back the question.

10 MR. MEZA: Which one?

11 MR. O'KEEFE: Just the last.

12 (Whereupon, the requested portion of the
13 record was read back as above recorded.)

14 MR. O'KEEFE: Are you referring to
15 complaints that he's testified to
16 regarding -- excuse me. Are you referring to
17 complaints that he's referred to in his
18 testimony that's his written direct testimony
19 or just complaints in general?

20 MR. MEZA: I'm referring to however he
21 is defining complaints.

22 MR. O'KEEFE: Today or in his direct
23 testimony?

24 MR. MEZA: Today.

25 A. And the way I understand you to be

1 asking the question is all types of complaints?

2 Q. Yes. The total universe of complaints.

3 A. Which I have had to deal with which is
4 different from direct complaints directly from the
5 PSC or complaints, quote/unquote, that come into
6 IDS that are outside of those complaints that we
7 call informal complaints.

8 Q. I want number of complaints that you
9 have personal knowledge of, and personal knowledge
10 means whatever you think it means. I don't want
11 to define it for you.

12 A. I don't have an exact figure for that.
13 There are many complaints, like I said, many
14 complaints, like I said, that I dealt with from
15 when I started working at IDS. Certainly a figure
16 can be had at the PSC with all the ones that I
17 signed off on.

18 Q. I guess I'm trying to find the basis
19 for your belief that BellSouth has continually and
20 consistently provided IDS OSS and UNEs that are
21 far below parity. What are you referring to? And
22 I don't mean to interrupt you. I'm sorry.

23 A. I understand. Of the customer-related
24 documents that we've provided in this case, I
25 believe I dealt with every one of those as well as

1 other complaints from the PSC. So I would have
2 personal knowledge of it.

3 Q. And are you relying on your personal
4 knowledge to make the statement set forth on line
5 16 and 17?

6 A. Yes.

7 Q. And so the information for which you
8 relied upon and reached that conclusion should
9 already be in BellSouth's possession?

10 A. It should be.

11 Q. All right. Look on page 4, line 21,
12 22. "I have witnessed thousands of customers
13 losing their telephone service when they choose to
14 convert their services to IDS."

15 A. Yes.

16 Q. We've been talking in hundreds so far
17 today, and now we are jumping to thousands in your
18 testimony, direct testimony. What is the basis
19 for your understanding that you witnessed
20 thousands of customers losing their telephone
21 service?

22 MR. O'KEEFE: I'm going to object to
23 the speech before the question, but why don't
24 you just respond to the question.

25 A. Personal knowledge were hundreds.

1 Witnessed what was going on on the floor were
2 thousands.

3 Q. Okay.

4 A. From the customer service floor.

5 Q. Now, explain to me how you would
6 witness this happening.

7 A. When I began working at IDS, I was
8 placed on the customer service floor.

9 Q. Right.

10 A. Out of necessity. We had no space.
11 From October 26th through April I was on the
12 customer service floor assisting customer service
13 representatives in dealing with these complaints
14 in the general sense of the word.

15 Q. Would they refer these complaints to
16 you?

17 A. No. They would ask me for my
18 assistance.

19 Q. And what assistance would you provide?

20 A. Generally it would be a verbal
21 assistance. They would tell me the problem. I
22 would try to help them in responding to the
23 customer.

24 Q. Did you ever keep a running total or
25 calculation of how many times you assisted or

1 heard about a complaint?

2 A. No. That would have been very
3 difficult to do.

4 Q. How do you know it was in the
5 thousands?

6 A. Because it was on a daily basis over a
7 period of 150 or more days, 30 plus customer
8 service representatives that I dealt with every
9 one of them. I'm not a math whiz, but I think
10 that gets up there.

11 Q. Do you have any documents that will
12 support that?

13 A. No, sir.

14 Q. Again, on page 5, line 12 through 15,
15 when you refer to thousands of instances, again,
16 are you referring to the testimony you just
17 provided regarding your experience on the floor?

18 A. Yes, sir.

19 Q. Do you have any documents to support
20 that?

21 MR. O'KEEFE: Objection. Asked and
22 answered.

23 A. No.

24 Q. Have you had any conversations with
25 these customers since they've executed the

1 affidavits?

2 A. I spoke with four of them today.

3 Q. About what?

4 A. Their availability to attend at the
5 hearing.

6 Q. What did they tell you?

7 A. Maybe.

8 Q. Do you know which four?

9 A. I can't recall. I tried calling a lot
10 of them.

11 Q. Have you reviewed Miss Batchers
12 testimony?

13 A. Yes.

14 Q. If you look on page 3, line 2,
15 rebuttal, it's your belief that you can't opine on
16 the merits because you don't know the identity of
17 the customer survey; is that correct?

18 A. Yes.

19 Q. Can you explain that a little further
20 in detail, why you think it's important to know
21 the identity of the customer?

22 A. I think I set forth that explanation in
23 the direct testimony.

24 Q. So you are relying on what you set
25 forth in the direct testimony?

1 MR. O'KEEFE: I have to go back to your
2 first question in the testimony because I was
3 trying to get to it, and I would like to
4 have -- go back and have the question read
5 because I think it doesn't accurately reflect
6 what he testified to. If you could read back
7 his first question regarding Miss Batchner's
8 testimony.

9 (Whereupon, the requested portion of the
10 record was read back as above recorded.)

11 MR. O'KEEFE: Okay.

12 Q. I just want to understand that you are
13 not providing me any additional information other
14 than what's set forth in your testimony as to why;
15 is that correct?

16 MR. O'KEEFE: Object to the form.

17 A. I think that it's explained why I would
18 need to discuss that or know the identity of the
19 customers.

20 Q. What type of follow-up questions would
21 you ask?

22 A. I would possibly ask if they understood
23 some of the questions that they were being asked
24 in the survey, if they spoke with the person who
25 gave the initial authorization.

1 Q. What do you mean by initial
2 authorization?

3 A. Miss Batcher, in her testimony, says
4 that they made an effort or that they did speak to
5 the people who gave the authorization, which to me
6 is kind of silly. If they gave an authorization,
7 how could they be slammed. So I would want to
8 know that they spoke with the person who actually
9 gave the taped authorization as opposed to some
10 other person that felt that they were slammed when
11 they had nothing to do with the authorization.
12 That would probably be two of my top questions.

13 Q. Anything else?

14 A. Possibly. I can't think of anything
15 else right now.

16 Q. Look on page 3, line 21 and page 4,
17 line 2.

18 A. Yes, sir.

19 Q. You talk about the BellSouth
20 telemarketers. Do you see that?

21 A. Yes, sir.

22 Q. Do you know for a fact that they were
23 BellSouth employees or --

24 MR. O'KEEFE: Object to the form.

25 MR. MEZA: What's the problem with that

1 question?

2 MR. O'KEEFE: I don't think he's
3 testified that they are BellSouth employees.

4 MR. MEZA: BellSouth telemarketers.

5 MR. O'KEEFE: BellSouth telemarketers
6 doesn't necessarily mean BellSouth employees.

7 Q. Do you mean those are BellSouth
8 employees?

9 A. No. I mean those are BellSouth
10 telemarketers representing themselves as
11 BellSouth.

12 Q. Do you know if the telemarketers you
13 are referring to were, in fact, employees of
14 BellSouth?

15 A. I'm not referring to the telemarketers.
16 The customers were.

17 Q. I'm asking you, do you know if the
18 telemarketers that contacted IDS's customers were
19 BellSouth employees or third-party telemarketers?

20 A. Based on BellSouth's answers to the
21 interrogatories, yes.

22 Q. And what is your understanding?

23 A. That they were BellSouth telemarketers.

24 Q. The answer to my question was, do you
25 know if they are BellSouth employees, they are

1 BellSouth employees or third-party telemarketers?

2 A. I don't know whether they are BellSouth
3 employees.

4 Q. Okay.

5 A. And I think they are telemarketers.

6 Q. Do you have, in addition to the
7 customer affidavits that you attached, do you have
8 any other affidavits or evidence to support IDS's
9 contention that the BellSouth telemarketers were
10 disparaging IDS?

11 A. I'm pretty sure I produced all the
12 affidavits regarding disparaging that were signed.

13 Q. I guess my question to you is the total
14 universe regarding customer complaints regarding
15 disparagement would be in the affidavits?

16 MR. O'KEEFE: I object to the form. I
17 think that mischaracterizes the testimony.

18 Q. Let me try it this way. Is there any
19 other evidence other than the affidavits that
20 would support IDS's belief that BellSouth
21 employees were disparaging IDS in telemarketing
22 calls?

23 MR. O'KEEFE: Objection. Calls for a
24 legal conclusion.

25 A. Yes, and I've produced those documents.

1 Q. What are those documents?

2 A. There are other documents. Best of my
3 recollection, there is a particular document from
4 a [REDACTED] - from a [REDACTED] and there are a
5 other documents, [REDACTED] for
6 instance, who said that BellSouth said that we
7 were a fraud. In other words, they are not
8 affidavits. They are other documents that I've
9 produced in this case that mention where the
10 customer related that type of a situation.

11 Q. And this is all information --

12 A. That we've provided to you.

13 Q. And the reason I'm asking is I'm making
14 sure there's nothing else out there that we don't
15 know about.

16 A. No.

17 Q. That's fine. If we look on page 4,
18 lines 10 through 12. "However, the remainder of
19 her results aren't surprising given that the
20 survey was conducted for many customers over a
21 year and a half after they switched providers."
22 What do you mean by that statement?

23 A. Well, I believe that based on her
24 findings it would be difficult for people over a
25 year and a half period of time to have remembered

1 what it is that she was asking them for.

2 Q. Is it your testimony that IDS keeps all
3 third-party verification tapes?

4 A. For the required amount of time
5 pursuant to the rules, yes.

6 Q. And what is the required amount of
7 time?

8 A. If I recall correctly, Florida is a
9 year or two.

10 Q. All right. Look on page 7, lines 1
11 through 4. "Mr. Leiro, in your role as director
12 of regulatory affairs, do you also serve as the
13 custodian of records for IDS?" Your answer is
14 yes. What specific duties do you provide IDS
15 regarding your role of custodian of records?

16 A. Prepare and file all regulatory-related
17 documentation with each state commission that we
18 do business in, the FCC regulation documents, and
19 in some cases corporate documents as they relate
20 to our certification.

21 Q. Are those the only types of documents
22 that you are responsible for keeping?

23 MR. O'KEEFE: Object to the form.

24 MR. MEZA: What's the problem with the
25 question?

1 MR. O'KEEFE: At what time and for what
2 purpose?

3 MR. MEZA: Whatever he's referring to
4 in response to the questions set forth in
5 number 1 to 3, lines 1 through 3. I asked
6 him what documents does he keep. He gave me
7 three types.

8 A. Regulatory affair.

9 Q. What I'm trying to get at, are you
10 responsible for keeping and being responsible for
11 any other types of documents other than that
12 specifically related to your regulatory position?

13 A. No, I'm not responsible other than what
14 is specifically related to my responsibilities,
15 and those would be the ones I enumerated.

16 Q. So there would be someone else that
17 would keep the financial records?

18 MR. O'KEEFE: Object to the form.

19 A. I don't keep financial records.

20 Q. Do you keep financial records?

21 A. No, sir.

22 Q. The documents that you attach to your
23 testimony -- all those -- I'm not going to
24 comment. There are a lot of pages. Were all
25 those documents produced to BellSouth? Were those

1 documents -- some documents were not produced to
2 BellSouth?

3 A. Without looking at them specifically, I
4 can't be absolutely sure, but I think we produced
5 everything --

6 Q. Okay.

7 A. -- that was produced as an exhibit.

8 Q. For those documents that were not
9 customer affidavits and not those received from
10 BellSouth, how are those documents made as part of
11 the regular practice of IDS?

12 MR. O'KEEFE: Object to the form.

13 A. I need the first part of your question
14 again.

15 Q. All right. According to your
16 testimony, there's three types of documents that
17 you produced, IDS business records, customer
18 affidavits and documents provided by BellSouth; is
19 that right?

20 A. IDS business records.

21 Q. That's what it says. What do you mean
22 by business records? I think that's a better
23 question.

24 A. In my responsibility the business
25 records are those documents that are filed on a

1 regulatory basis. As an example, FCC form Q's,
2 form F's, form 99s, things like that.

3 Q. Okay.

4 A. In Florida, telecommunication relay
5 service reporting, things like that.

6 Q. All right. How are those documents
7 made as part of the regular business practice of
8 IDS? Is there a retention period or do you keep
9 them?

10 MR. O'KEEFE: Object to the form.

11 A. I keep all documents that I'm
12 responsible for in binders.

13 Q. You keep those in the regular course of
14 business?

15 A. Yes.

16 Q. To be complete, I want to show you what
17 I believe to be the exhibits attached to your
18 testimony. I don't want to -- it's two folders of
19 documents Bates numbered IDS 1 through IDS 2401.
20 But in the copies we received, there's a gap that
21 we don't have from IDS 1208 to IDS 2180. Can you
22 identify these documents?

23 MR. MILLER: You are missing IDS 1208
24 to 2180?

25 MR. MEZA: Yes.

1 MR. MILLER: And this is the first we
2 heard of it? You could have asked before.

3 MR. MEZA: This is the first time I
4 realized it. I want to make sure that the
5 documents that are in here are what's in fact
6 been produced to BellSouth. And if it's not,
7 what documents have not been produced because
8 the documents that were originally produced
9 were not Bates numbered, and there are some
10 documents in here that were not
11 specifically --

12 MR. O'KEEFE: I don't think there's any
13 way that he will be able to testify about
14 every document that's in there and not in
15 there without going through each document
16 which we could do if we had a lot of time.

17 MR. MEZA: This is an example,
18 interrogatory 18, there's a cover sheet
19 telling you what's included.

20 MR. O'KEEFE: Uh-huh.

21 MR. MEZA: There's three sets of
22 documents that there is no -- 2180 to 2474
23 don't have that cover sheet. So it's a
24 start. Can you look at these and tell me if
25 those have been previously produced.

1 MR. O'KEEFE: The question is, does he
2 know whether these documents were previously
3 produced before his affidavit was filed, his
4 direct testimony was filed?

5 MR. MEZA: His rebuttal.

6 THE WITNESS: Before the rebuttal.

7 MR. MEZA: I don't even care when it
8 was produced as long as it's been produced.

9 MR. O'KEEFE: He wants to know whether
10 you know that those documents have been
11 produced to BellSouth other than attached to
12 your testimony, if you know?

13 A. Do you want me to look at anymore?

14 Q. Well, first of all, do you know per
15 chance -- I'm going to let you --

16 A. Okay.

17 Q. Do you know if those documents have
18 been previously produced to BellSouth?

19 A. Best of my recollection, these
20 documents were all produced to BellSouth outside
21 of my testimony.

22 Q. Let me explain to you why I'm having
23 some confusion, explain to counsel. Maybe we can
24 clear this up. But this looks like similar
25 information that was produced, but it's not in the

1 same order, and I can't seem to find it.

2 For instance, first page of what's
3 produced in interrogatory number one matches IDS
4 number 02283 February 8th, February 8th, right?
5 But as you can see forward, there is information
6 in here that's not in the same order as it is over
7 here.

8 Did you prepare these documents?

9 A. Prepare? I compiled them.

10 Q. Did you Bates number them?

11 A. No.

12 Q. Who Bates numbered them?

13 A. I believe our attorneys did.

14 Q. Did you -- and I don't want to know any
15 attorney/client privilege. Did you provide your
16 attorneys with any additional documents that were
17 not provided to BellSouth to the best of your
18 knowledge?

19 A. No, sir.

20 Q. So if I find something in here that's
21 not -- that has not been previously produced,
22 that's just an error?

23 MR. O'KEEFE: Object to the form. No
24 foundation. Calls for speculation also.

25 Q. You can answer if you want. I really

1 don't care.

2 A. All I can tell is the documents
3 produced on one end had nothing to do with how it
4 was prepared for the other end. One was in
5 response to interrogatories. The other one is
6 attachments to my testimony, so they would not
7 necessarily be in the same order.

8 Q. I guess what I'm asking you is since we
9 did not have the benefit of a Bates numbered
10 system to compare the documents to, I'm just
11 asking, do you know if they are the same?

12 A. I believe them to be the same.

13 Q. Whose idea was it to include all of
14 those documents as an exhibit to your rebuttal
15 testimony?

16 MR. O'KEEFE: I'm going to instruct the
17 witness not to answer that. It calls for
18 attorney-client and work-product privilege.

19 Q. Let me ask you this. Is it your
20 opinion in testimony today that all the documents
21 that you produced would fall into the documents
22 that you are responsible for keeping?

23 A. All the documents that I produced, no,
24 they would not fall into the category that I'm
25 responsible for keeping..

1 Q. All the documents that are attached to
2 your rebuttal testimony, would those documents be
3 the types of documents that you are responsible
4 for keeping?

5 MR. O'KEEFE: Object to the form.

6 Q. And if you want to look, you can look.
7 I've brought everything you've produced.

8 MR. O'KEEFE: Object to the form. Are
9 you referring to responsible as his role as
10 records custodian or as his role as director
11 of regulatory affairs?

12 MR. MEZA: I believe his testimony is
13 that he is a custodian of records for certain
14 types of records.

15 MR. O'KEEFE: I don't think that was
16 his testimony.

17 MR. MEZA: Only for information that
18 relates to his position as director of
19 regulatory affairs, and if that's not the
20 case I want to know,

21 MR. O'KEEFE: I don't think that's --

22 Q. Are you responsible for any other
23 documents -- let me strike that.

24 Are you responsible for documents --
25 keeping documents for departments or other parts

1 of the company that are not involved with
2 regulatory?

3 MR. O'KEEFE: Object to the form to the
4 extent it doesn't designate his role as
5 records custodian or as regulatory advisor or
6 whatever his role is.

7 Q. Let me try again. What is your
8 understanding of a records custodian?

9 A. The holder of documents that may be
10 designated as my responsibility.

11 Q. Okay.

12 A. In my capacity as a regulatory
13 director.

14 Q. What type of documents do you hold?

15 MR. O'KEEFE: Object to the form.

16 A. I already stated that.

17 Q. Well, say it again.

18 A. Documents related to the filing of
19 regulatory affairs documentation as required by
20 each state or the FCC. Any documents that I would
21 compile in my responsibilities would then fall --
22 those particular documents would fall under my
23 responsibility as the custodian of those records.
24 So I think going to that issue, I've now created
25 or compiled documents, now I'm the holder of those

1 particular documents.

2 Q. Okay. Anything else?

3 A. I think there were three. I can't
4 remember what the third one is now. Oh, the
5 corporate documents.

6 Q. Right.

7 A. The actual corporate. I separate the
8 corporate from regulatory.

9 Q. Okay.

10 A. Because they are distinct.

11 Q. Anything else?

12 A. I believe that's just about everything
13 that I'm responsible for, which encompasses quite
14 a bit.

15 Q. Is it your understanding that all of
16 the documents that were attached as an exhibit to
17 your rebuttal testimony are the types of documents
18 that you are responsible for holding?

19 A. No, I'm not responsible for those types
20 of documents unless I compile them for a specific
21 reason, and then they would be mine, those which I
22 compiled. In a general sense, those aren't
23 documents that I would be responsible for.

24 Q. Are the documents that you attached as
25 an exhibit to your rebuttal testimony documents

1 which you eventually became responsible for?

2 A. Eventually, yes.

3 Q. And when did you become responsible for
4 them?

5 A. That happened throughout the course of
6 my employment. As issues arose, I would compile,
7 now they are my documents for that limited
8 purpose.

9 Q. Okay. So everything that you have
10 produced or that you attached as an exhibit sooner
11 or later became your documents?

12 A. For the limited purpose of proving that
13 these things were happening.

14 Q. I'm going to show you IDS's response to
15 BellSouth's interrogatory number 5. Do you want
16 me to come over there so I can point it out to
17 you?

18 A. Sure.

19 Q. Have you seen this document before?

20 A. Yes. The document looks familiar, yes.

21 Q. Can you tell me what these numbers mean
22 up here to you, [REDACTED] TNs listed on the bulk
23 order?

24 A. I did not compile this document so I
25 would not feel comfortable answering any questions

1 related to what these figures are.

2 Q. Do you know who compiled the documents?

3 A. I believe it was Kerri Caudill,
4 C-A-U-D-I-L-L.

5 Q. I'll show you a document that IDS
6 produced in response to BellSouth's interrogatory
7 number 44. Have you seen that document before?

8 A. I saw it once before.

9 Q. Now, do you know -- well, how did you
10 get this document? How did IDS obtain this
11 document?

12 A. I don't know how IDS obtained the
13 document. I think Keith Kramer gave me the
14 document.

15 Q. And your role with this document was
16 simply to forward it to BellSouth? Do you have
17 any independent knowledge of how it came about?

18 A. No, sir.

19 MR. O'KEEFE: Object to the form.

20 Q. I'm going to show you a letter that I
21 think you drafted, but I don't have a signed copy.
22 Just for the record, I'm going to describe it as a
23 March 2nd e-mail from you or a letter from you to
24 Rick Moses of the PSC, and the subject is IDS loss
25 report. Have you seen this document before?

1 A. Yes, sir.

2 Q. Did you draft the cover letter?

3 A. Yes, sir.

4 Q. Did you compile this spreadsheet that
5 follows?

6 A. No, I did not.

7 Q. Who compiled the spreadsheet?

8 A. I believe it was the marketing
9 department.

10 Q. Okay.

11 A. If I recall correctly.

12 Q. Do you know if this was attached to an
13 exhibit to Mr. Kramer's rebuttal testimony?

14 A. I don't know.

15 Q. Subject to check, would you agree with
16 me that it was?

17 MR. O'KEEFE: Object to the form.

18 Strike that. Asked and answered. He said he
19 doesn't know.

20 MR. MEZA: I'm asking him subject to
21 check whether or not it was.

22 MR. O'KEEFE: And I said if he doesn't
23 know, he doesn't know.

24 Q. Do you know how the information was
25 comprised in the spreadsheet?

1 A. I don't know.

2 Q. How do you know that these customers
3 switched back to BellSouth in varying times frames
4 after the first switch to IDS? I'm referencing
5 the first paragraph, second sentence.

6 A. Part of the verification for what was
7 trying to be exhibited here was to determine that
8 these customers had left, and I was told by those
9 who compiled these documents that all these
10 customers had left IDS at the time they did this
11 document.

12 Q. Is your statement based solely on what
13 other people told you?

14 MR. O'KEEFE: Object.

15 A. Based on BellSouth's own records that
16 were verified by those individuals to determine
17 that those customers were no longer with IDS.

18 Q. What basis did you rely on or what
19 facts or evidence did you rely on to come to the
20 statement or conclusion that these customers
21 switched back to BellSouth?

22 A. The statement would have been from the
23 individuals who compiled this document.

24 Q. Right. Anything else?

25 A. Not that I can recall.

1 Q. So you didn't talk to any of these
2 customers identified in here, did you?

3 A. No, not for that purpose. I may have
4 spoke to individuals for complaints purpose, but I
5 haven't look through the whole list.

6 Q. Well, I'm asking you --

7 A. Not in conjunction with that document.

8 Q. You go on to state in paragraph two,
9 "My experience after speaking with several
10 complainants has been that BellSouth does not
11 attempt to obtain a subsequent letter of
12 authorization or tape recorded authorization from
13 the customers in order to switch them back to
14 BellSouth."

15 A. Right

16 Q. Were any of those customers that you
17 are referring to identified in that spreadsheet?

18 A. I need to see them all.

19 Q. Take your time.

20 A. Well, this is the redacted form, so I
21 can't tell.

22 Q. Well, do you know?

23 A. The full name of these people are not
24 here.

25 Q. At the time you wrote this letter, do

1 you know if it was -- that statement was based
2 upon any of the individuals identified in the
3 spreadsheet?

4 A. Not specifically. That was based on me
5 speaking with many other customers and asking them
6 that direct question.

7 Q. How many customers did you contact
8 regarding that issue?

9 MR. O'KEEFE: Object to the form. What
10 issue?

11 MR. MEZA: The issue is BellSouth did
12 not obtain a subsequent LOS or tape recorded
13 conversation.

14 A. It wasn't necessarily a contact --
15 contact, I mean in terms of my daily affairs
16 having spoken with customers and determining that
17 they were just requesting a switch back, and they
18 were switched back without any further
19 documentation from BellSouth.

20 Q. How many customers told you that?

21 A. A lot of customers told me that. I
22 couldn't even begin to tell you how many.

23 Q. When did they tell you that?

24 A. During my conversations with them on
25 the telephone. Between the period of October 26th

1 and -- well even after that letter was written.

2 Q. Do you know what ever came about as a
3 result of that letter?

4 A. I had a conversation with Mr. Moses.
5 He said he took a sample of those people and asked
6 BellSouth to provide them with the LOAs. He said
7 they did for some, and for some other ones they
8 didn't, and that they would proceed in their
9 ordinary course to find out where they had not
10 provided an LOA.

11 Q. Do you know how many customers
12 BellSouth did not obtain an LOA from?

13 A. I do not know that.

14 Q. Do you know if BellSouth subsequently
15 provided any additional information to Mr. Moses?

16 A. I don't know.

17 Q. And you only had one conversation with
18 Mr. Moses after this?

19 A. Concerning that issue?

20 Q. Yes.

21 A. I believe it was just one.

22 Q. Is it your position that BellSouth
23 never obtains an LOA?

24 MR. O'KEEFE: Object to the form.

25 MR. MEZA: What's wrong with the

1 question?

2 MR. O'KEEFE: You are mischaracterizing
3 his testimony regarding LOAs.

4 Q. I'm just asking him what his opinion
5 is.

6 A. My opinion is that up until a certain
7 point in time, certainly the writing of that
8 letter, BellSouth did not obtain an LOA from
9 customers who gave a verbal request to switch
10 their services back to them.

11 Q. And what are you basing that statement
12 on?

13 A. Today I can base that statement on the
14 fact that BellSouth now writes win back on their
15 customer CSRs where they never did that before.

16 Q. What is CSR?

17 A. Customer service record.

18 Q. How do you know that?

19 A. Because no customer service record that
20 I saw up until recently did they put win back on
21 the last page of the CSR, and now they are
22 requesting us to give them CSRs where they never
23 asked us to give them CSRs in order to convert a
24 customer back to them.

25 Q. What significance is that?

1 A. Significance is from the complaints
2 that have arisen in the recent months at the
3 Florida Public Service Commission as well as the
4 Georgia Public Service Commission that BellSouth
5 now is trying to change its practice because of
6 those complaints.

7 Q. That's just your belief, correct?

8 MR. O'KEEFE: Object to the form.

9 A. You asked my opinion.

10 Q. Yes, I'm asking your opinion. Is that
11 based upon any statement you have from BellSouth?

12 A. It's based on the documents I've seen
13 in those statements from BellSouth.

14 Q. Prior to becoming aware of what
15 BellSouth is now requesting regarding customer
16 service records, what other information did you
17 rely upon?

18 A. You turned on me. I didn't hear the
19 first part. I tried.

20 Q. Prior to becoming aware of what
21 BellSouth is now requesting on CSRs, what other
22 information did you rely upon to reach your
23 personal beliefs as to what BellSouth does?

24 MR. O'KEEFE: Object to the form. His
25 personal beliefs?

1 MR. MEZA: That's a good objection. He
2 said now he knows what BellSouth was -- or
3 that it was not getting an LOA from the
4 customers because we are doing something now
5 with the CSR that we were not doing before.

6 Q. Isn't that what you said?

7 A. That's part of what I said.

8 Q. What other information did you rely
9 upon?

10 A. Initially was the customers themselves
11 saying they would just switch their services back.
12 Subsequent would be that actual documentation
13 which led me to surmise that that was the case.

14 Q. Okay. Got you. I'll show you what has
15 been produced in response to interrogatory number
16 25. Have you previously seen this?

17 Did you prepare the spreadsheet that's
18 attached or is produced in response to
19 interrogatory 25?

20 A. No, sir, I did not.

21 Q. Do you know who did?

22 A. I believe it was Kerri Caudill.

23 Q. Do you have any personal knowledge of
24 what's been presented here?

25 A. Subject to her verification, I think

1 what they tried to show here was customers who
2 left prior to a certain period of time.

3 Q. Okay. I mean, is there anything else
4 that you know about, personal knowledge?

5 A. Not other than that.

6 Q. Okay.

7 A. She would have to tell you.

8 Q. What's her name?

9 A. Kerri Caudill?

10 Q. What's her position at IDS?

11 A. That's a good question.

12 Q. Is she still employed at the company?

13 A. Yes. I think she's the director of IT.

14 No, not IT. I'm sorry. I don't know her title.

15 I'm sorry. It escapes me at the moment.

16 Q. I'll show you what IDS produced in
17 response to POD number 11.

18 A. Yes, I'm familiar with this document.

19 Q. Was that a document that you provided
20 in response to BellSouth's discovery request?

21 A. Yes.

22 Q. Was this a document that you were in
23 possession of as custodian of records?

24 A. I became --

25 MR. O'KEEFE: Objection. Calls for a

1 legal conclusion.

2 A. I came into possession of it the way I
3 described earlier, requesting different department
4 heads to give me documents.

5 Q. So someone else provided it to you, and
6 then once you touched it, it became yours?

7 MR. O'KEEFE: Object to the form.

8 Q. Well, did someone else provide you this
9 document?

10 A. Yes.

11 Q. Prior to this litigation, did you have
12 this document in your files?

13 A. Not prior to the litigation. I didn't
14 have it in my files prior to the litigation.
15 Somebody had it in their files prior to the
16 litigation. I believe this date is August 17th
17 because I recall the original document.

18 Q. Where did you obtain this document or
19 IDS obtain this document, if you know?

20 A. I really don't know how we obtained the
21 document. This letter up here, this looks like an
22 acknowledgement that we could get through our own
23 records. It possibly was in the customer file.

24 Q. Who provided you with this document?

25 A. It may have been -- I'm thinking either

1 the file clerks or Keith. I'm not sure.

2 Q. And, again, that was in response to
3 BellSouth's discovery?

4 A. It would have been. I would have
5 requested it in response to discovery, so --

6 Q. Let me show you what IDS produced in
7 response to POD number nine.

8 A. These are --

9 MR. O'KEEFE: Wait until there's a
10 question.

11 Q. Are you familiar with those documents?

12 A. Somewhat, yes.

13 Q. Were those documents in your personal
14 possession prior to this litigation?

15 A. Yes.

16 Q. Were there any attachments included
17 with those documents that you can -- that you
18 remember?

19 MR. O'KEEFE: Object to the form. At
20 what time?

21 MR. MEZA: While they were in his
22 possession.

23 A. Attached to these respective to them, I
24 don't know.

25 Q. I'll show you a letter that was

1 produced in response to POD number 4 and an
2 attached spreadsheet. What I really need to know
3 about is the spreadsheet.

4 MR. O'KEEFE: The two-page one.

5 MR. MEZA: The latter part that's 25 or
6 so pages.

7 Q. Have you seen that spreadsheet before?

8 A. Yes.

9 Q. Was that in your personal possession
10 prior to this litigation?

11 A. Yes.

12 Q. And how did you get to obtain that
13 document?

14 A. How did I obtain it?

15 Q. Yes.

16 A. Kerri Caudill or Keith Kramer.

17 Q. It's an attachment to an October 24,
18 letter.

19 A. The fact that it says 8-10 up there,
20 it's compiled in the documents we gave you for the
21 attorney general.

22 Q. Do you know what the spreadsheet is
23 trying to depict?

24 A. I don't have personal knowledge as to
25 what this spreadsheet depicts. I was not with the

1 company in October 24th of 2000

2 Q. In general, can you tell me how many
3 documents you provided to BellSouth's discovery
4 request that were in your possession prior to
5 receiving BellSouth's request?

6 A. That I can be absolutely sure about is
7 what's in those two binders that were produced to
8 the Attorney General's Office. That's what I had
9 in my possession prior to the litigation.

10 Q. All what information was --

11 MR. O'KEEFE: Wait, wait.

12 THE WITNESS: Go ahead.

13 MR. O'KEEFE: Listen to the question
14 because the question didn't ask you about
15 what was in your possession prior to the
16 litigation.

17 THE WITNESS: Read the question back.
18 I thought that's what the exact question was.

19 Q. Prior to BellSouth issuing the
20 discovery request.

21 A. Prior to issuing the discovery request?

22 Q. Yes.

23 A. Same answer.

24 Q. Everything that was turned over to the
25 Attorney General was in your personal possession?

1 A. With the exception of that second
2 little stack. I'm talking only about the two
3 large binders.

4 Q. Right. Were any documents produced to
5 you in order to get ready for production from
6 other people in response to BellSouth's discovery
7 request?

8 MR. O'KEEFE: Object to the form.

9 A. I don't understand the question.

10 Q. In responding to BellSouth's discovery
11 request, did any other person provide you with
12 responsive documents?

13 MR. O'KEEFE: Object to the form.

14 A. Yes. Just as I answered before, those
15 individuals that you asked me to enumerate.

16 Q. They provided you with documents?

17 A. Yes.

18 Q. What percentage of the documents, if
19 you know, of the documents that were produced were
20 provided by other persons?

21 A. Relative to what was produced?

22 MR. O'KEEFE: Can you read back the
23 question?

24 (Whereupon, the requested portion of the
25 record was read back as above recorded.)

1 MR. O'KEEFE: Object to the form. I'm
2 confused.

3 Q. What percentage of documents that IDS
4 produced in response to BellSouth's discovery were
5 provided to you by somebody else?

6 A. If I had to give you a percentage, I
7 would say approximately 80 percent.

8 Q. 80 percent of the documents that you
9 produced --

10 A. I'm speculating.

11 Q. That IDS produced were given to you by
12 somebody else; is that right?

13 A. I think that's right.

14 MR. MEZA: I have no further questions.

15 DIRECT EXAMINATION

16 BY MS. HELTON:

17 Q. This is Mary Anne Helton. I'm an
18 attorney here at the Public Service Commission in
19 Tallahassee. I have a few questions for you.

20 Have you called IDS customers to ask
21 them to participate in the hearing coming this
22 Friday?

23 A. I called a few of the ones that had
24 gave affidavits today.

25 Q. Is that the only time you have called

1 customers to see if they would participate?

2 A. Yes, ma'am.

3 Q. How many did you call?

4 A. I believe I called six today.

5 Q. Are you aware that at the prehearing
6 conference last Monday the commissioner and the
7 hearing officer admonished parties not to recruit
8 participants in the hearing?

9 A. No, ma'am. I'm not aware of that.

10 Q. Do you have plans to call any other
11 customers?

12 A. Let me clarify. It was not an attempt
13 to elicit them. It was to notify them that the
14 hearing was coming up.

15 Q. What did you tell them?

16 A. That the hearing was Friday.

17 Q. And what else did you tell them besides
18 the fact that the hearing was Friday?

19 A. They asked me if I was going to require
20 for them to participate, and I said they are not
21 required to. If they wanted to participate, they
22 could.

23 Q. Do you know whether anybody else
24 associated with IDS has called the customers?

25 A. No, ma'am.

1 Q. Just you?

2 A. Yes, ma'am.

3 MS. HELTON: Okay. Thank you.

4 MR. O'KEEFE: I just need a minute,
5 Mary Anne. I think I have a couple of
6 follow-up questions.

7 (Discussion off the record)

8 MR. O'KEEFE: We have no questions.

9

10 (Thereupon, the deposition was concluded)

11

12

13

14

ANGEL LEIRO

15

16 Sworn to and subscribed before
17 me this ____ day of _____, 200__.

18

19 _____
20 Notary Public in and for
21 the State of Florida at Large.

22

23

24

25

CERTIFICATE OF NOTARY

STATE OF FLORIDA:

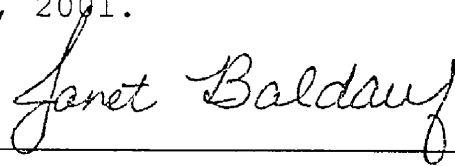
SS.

COUNTY OF DADE:

I, JANET BALDAUF, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported in shorthand the deposition of ANGEL LEIRO, a witness called by the in the above styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 71, inclusive, constitute a true record.

I further certify that I am not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 19th day of September, 2001.



JANET BALDAUF, RPR

Notary Public - State of Florida

Commission No. CC822036

Expires 3-31-2003

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