

1 of the other inspectors.

2 Q. Do you have any knowledge of what funds  
3 were being used to pay you during that three-month  
4 period?

5 A. I do not.

6 Q. Did you ever learn whether or not the  
7 funds from the Medicaid fraud control unit were  
8 being used to pay you during that three-month  
9 period?

10 A. No.

11 Q. When Inspector DiNino was investigating  
12 the Weber matter, did he consult with you at some  
13 point with regard to an application for a search  
14 warrant?

15 A. He did.

16 Q. As best you remember, what was the  
17 substance of any discussions you may have had with  
18 him with regard to that?

19 A. There was a discussion regarding whether a  
20 search warrant was necessary, or whether Inspector  
21 DiNino could rely on the section in the Code of  
22 Federal Regulations which permits an employee of the  
23 Medicaid fraud control unit to review the documents  
24 and patient files of a Medicaid provider during the  
25 course of a criminal investigation.

1 Q. Did he express to you his desire to seek a  
2 search warrant?

3 A. My recollection is that he thought the  
4 better method would be to search, do the search and  
5 seizure warrant, that's correct.

6 Q. Do you know whether or not prior to that  
7 time he had in other investigations gone to review  
8 or seek copies of records from providers?

9 A. I'm sure he had. I don't know for a fact  
10 that he did, but I'm sure he had.

11 Q. Did he ask you for your advice or opinion  
12 about the search warrant, versus going to review and  
13 get copies of the records?

14 A. I think he did.

15 Q. Did you agree with his position to seek a  
16 search warrant?

17 A. I thought using the Code of Federal  
18 Regulations section would be a faster method of  
19 getting the documentation; however, it was his  
20 investigation. If he wanted to do the search  
21 warrant, then that was his choice.

22 Q. Did you express your opinion to him?

23 A. I think I did.

24 Q. Did he give you a specific reason why he  
25 preferred the search warrant method?

1 A. Not that I recall.

2 Q. When you received the Weber prosecution  
3 post arrest, do you recall what information you may  
4 have reviewed prior to arraignment of Dr. Weber?

5 A. Well, I certainly reviewed all of  
6 Inspector DiNino's inspector reports as they came  
7 in. I reviewed the affidavits regarding the search  
8 and seizure warrant, and I reviewed the affidavit  
9 supporting the arrest warrant prior to signing it,  
10 and then upon arraignment I imagine that I had again  
11 read the affidavits supporting the arrest warrant.

12 Q. On arraignment you had decided that you  
13 wished to have the case transferred to Part A; is  
14 that correct?

15 A. Most of the prosecutions, actually with  
16 the exception of three other cases, not including  
17 your client's, had all been transferred to Part A  
18 while I was at the unit. So upon arraignment it was  
19 my desire to have the matter screened for Part A.

20 Q. Prior to Dr. Weber, how many cases had you  
21 actually prosecuted in the Medicaid fraud unit?

22 A. My recollection is somewhere between five  
23 and ten cases.

24 Q. Did all the cases that you prosecuted end  
25 up with convictions or petition for AR?

1 A. Yes.

2 Q. Were any of those cases part of the three  
3 that you mentioned that stayed in Part B?

4 A. Yes.

5 Q. How many of the three were yours?

6 A. One.

7 Q. In any event, at arraignment, at my  
8 request you agreed to postpone the request to screen  
9 for Part A, correct? Do you recall that?

10 A. I recall the discussion. I don't recall  
11 whether it was at the actual arraignment.

12 Q. Well, on arraignment you didn't seek to  
13 have it screened for Part A, did you?

14 A. I cannot recall that.

15 Q. Did you ever have it screened for Part A?

16 A. No, I did not.

17 Q. Why is that?

18 A. I believe in discussions with you I agreed  
19 to keep the matter in Part B.

20 (Leslie Deposition Exhibit 6 marked  
21 for identification.)

22 BY MR. KOGUT:

23 Q. Mr. Leslie, if you would take a look at  
24 what's been marked as Exhibit 6. Does that document  
25 look familiar?

1 A. There are actually two documents on here.

2 Q. Why don't you tell us what that is, then.

3 A. The first one is a court appearance report  
4 for October 23, 2002. The second one is a court  
5 appearance report for the next court date or a  
6 subsequent court date of December 11, 2002.

7 Q. If you know, or if that refreshes your  
8 memory, would the October date be the arraignment  
9 date?

10 A. That would be his first court date in  
11 front of the judge subsequent to arrest. I think  
12 I'd call it a presentment, as opposed to an  
13 arraignment. I think arraignment has a connotation  
14 that you go in front of the judge on the next court  
15 business date because you're locked up. Mr. Weber  
16 was not locked up at the time.

17 Q. Why don't you tell us what happens on a  
18 presentment date.

19 A. Probable cause has already been found by  
20 the court in this particular case because there is a  
21 finding of probable cause when the judge signs the  
22 arrest warrant. In some cases, pro forma pleas of  
23 not guilty enter, the defendant elects either a  
24 trial by the court or a trial by jury, and in most  
25 instances the case is given a new court date.

1 Q. That would have been the first date that  
2 he was formally informed of the charges against him,  
3 correct, by the court?

4 A. Yes.

5 Q. What is your definition of arraignment?

6 A. An arraignment occurs when the defendant  
7 is locked up, in custody, because he or she cannot  
8 post a bond. At that point a judge, if it's an  
9 on-site arrest, makes a finding of probable cause.  
10 If it's not an on-site arrest, then there's already  
11 been a finding of probable cause, and counsel for  
12 the defendant, as well as the state, make a bond  
13 argument to the court.

14 Q. The next date you mentioned on that --  
15 that would have been the second formal December  
16 date; is that correct?

17 A. That's correct.

18 Q. Do you have any memory today of whether  
19 there was an appearance by you in court with regard  
20 to this matter in between those two dates, or would  
21 that have been the next court date?

22 A. It would appear that there was a court  
23 appearance date given the presentment date of  
24 November 26, 2002.

25 (Leslie Deposition Exhibit 7 marked

1 for identification.)

2 BY MR. KOGUT:

3 Q. If you could take a look at Exhibit 7,  
4 Mr. Leslie.

5 A. Yes.

6 Q. Can you identify that document?

7 A. That would be my notes on the trial file  
8 regarding the State of Connecticut versus Richard  
9 Weber.

10 Q. Do you recall all your court appearances  
11 on this?

12 A. I would recall court appearances on which  
13 substantive, which resulted in either substantive  
14 discussion or substantive action.

15 Q. You note the date of October 23, correct?

16 A. Yes.

17 Q. And then a pretrial date of 11/26?

18 A. Yes.

19 Q. Do you recall, do you have any memory what  
20 transpired on the 26th of November?

21 A. I do not.

22 Q. Do you have any memory what transpired on  
23 the December date?

24 A. I do not.

25 Q. Do you recall at some point having

1 discussions relative to motions to suppress and  
2 dismiss?

3 A. Yes.

4 Q. Do you recall based on these dates in  
5 front of you when those discussions first began?

6 A. It would appear to be April 25 of 2003.

7 Q. Do you recall the discussion you may have  
8 had on the December date relative to this matter?

9 A. Discussions with whom?

10 Q. With me.

11 A. I do not recall.

12 Q. Do you recall whether or not at that time  
13 you requested that the matter be continued because  
14 there were impending layoffs?

15 A. I don't recall whether that occurred on  
16 the December 11, 2002 date. I do recall at some  
17 point in time having discussions with you about the  
18 impending layoffs and a subsequent transfer out of  
19 the unit.

20 Q. As best you remember, what were the  
21 discussions relative to the motions to suppress and  
22 dismiss?

23 A. That you were to file your motions to  
24 suppress and a motion to dismiss. You had until May  
25 2 to do that. The state had until May 30 to



1 respond. It was placed on the jury list for June 2,  
2 2003.

3 Q. Do you recall part of that discussion also  
4 being that the matter would have to be continued for  
5 at least three months during the layoff period?

6 A. I recall discussing the impending layoffs.  
7 I don't recall any specifics regarding a three-month  
8 continuance date or a longer or shorter continuance  
9 date. I do recall discussing not only with you, but  
10 also with the attorneys representing the defendants  
11 on the other cases that I had been assigned,  
12 requesting lengthy continuances from the Hartford  
13 courts because of my transfer to GA 23.

14 Q. That was a transfer that was not at your  
15 request; is that correct?

16 A. That's correct.

17 Q. It was involuntary?

18 A. It was involuntary.

19 Q. You were for all practical purposes unable  
20 to appear in Hartford during that period?

21 A. Yes, that's correct.

22 Q. Did you know at the time how long that  
23 period would last?

24 A. I did not.

25 Q. So three months was an estimate on your

1 part?

2 A. If I made a request for three months, it  
3 would have been an estimate, but I don't recall  
4 requesting three months. I recall requesting a  
5 lengthy continuance.

6 Q. Would you have requested a continuance for  
7 a time certain, or just a general continuance?

8 A. I might have suggested 90 days or four  
9 months just as a general request, not knowing when I  
10 would be transferred back into the Medicaid unit.

11 Q. Do you recall at some point making an  
12 offer relative to the defendant applying for AR?

13 A. Yes.

14 Q. What was the offer, and as best you  
15 remember, when was it first made?

16 A. According to my notes, I first wrote it  
17 down June 2, 2003. The offer was that your motions  
18 were to be dispositive. Should you not prevail on  
19 your motions, then the state would file a substitute  
20 information charging Weber with one count of larceny  
21 in the sixth degree. Weber would then apply for and  
22 receive accelerated rehabilitation. That would be a  
23 three-month period of accelerated rehabilitation.  
24 The only conditions that I was seeking, full  
25 restitution to the state and voluntary exclusion

1 from the Medicaid program for life. That offer was  
2 made by me, and it was an offer that was open  
3 pending the ruling on a motion to dismiss and two  
4 motions to suppress.

5 Q. While it's noted on your entry of the  
6 second day of June, do you recall whether or not we  
7 had discussions about that prior to June.

8 Q. I recall having discussions with you about  
9 resolving the matter via accelerated rehabilitation.  
10 I don't recall the specifics or the specific dates,  
11 but in my opinion, accelerated rehabilitation was an  
12 appropriate method of disposing of the case.

13 (Leslie Deposition Exhibit 8 marked  
14 for identification.)

15 BY MR. KOGUT:

16 Q. I'm going to ask you to take a look at  
17 what's been marked as Exhibit 8, Mr. Leslie, and  
18 tell me whether or not you recall reviewing that  
19 document.

20 A. I recall this document.

21 Q. That was a submission I made to you post  
22 arrest, correct?

23 A. It is, but this is not the complete  
24 document.

25 Q. There were exhibits?

1 A. There were several attachments.

2 Q. Sure; and do you recall that you and I had  
3 discussions prior to arrest in a similar vein about  
4 what we believed the evidence was in this case?

5 A. I don't recall any discussions prior to  
6 the arrest.

7 Q. Do you have any memory of my faxing or  
8 sending you any documents in an attempt to convince  
9 you or Inspector DiNino not to go forward with the  
10 arrest?

11 A. I remember having discussions with you  
12 about you representing Weber and all of his  
13 employees, but I have no independent recollection of  
14 any pre-arrest discussions with you or any  
15 submissions that you may have made.

16 (Leslie Deposition Exhibit 9 marked  
17 for identification.)

18 BY MR. KOGUT:

19 Q. Take a look at that, Mr. Leslie. Does  
20 that document look familiar?

21 A. It does.

22 Q. Is that the document that you are  
23 referring to?

24 A. I'm not sure that I referred to a document  
25 in our pre-arrest talks. I said that I recalled

1 speaking with you regarding your representation of  
2 Weber and his employees.

3 Q. We had some discussions about  
4 representation pre-arrest, and I faxed you a letter  
5 of representation?

6 A. Yes.

7 Q. And I indicated to you that I advised  
8 Dr. Weber to decline the request for interview by  
9 Inspector DiNino?

10 A. Yes.

11 Q. That wasn't uncommon in your practice, was  
12 it?

13 A. No.

14 Q. In fact, it would be fair to say you  
15 expected it?

16 A. Absolutely.

17 Q. With reference to employees, do you recall  
18 what your position was or what your response was to  
19 me?

20 A. I can't recall what my response was to  
21 you, but my position is that you could only  
22 represent one individual in the office; otherwise,  
23 you would be conflicted out, and therefore if the  
24 inspectors involved in the case wished to interview  
25 any of the employees other than Dr. Weber, they

1 would not have to contact you first.

2 Q. You made that position pretty clear to me?

3 A. I can't recall whether I did or I didn't.

4 Q. Well, it's a position, it's a very common  
5 position taken by prosecutors when there are  
6 investigations of organizations or entities where  
7 counsel wishes to appear for multiple individuals;  
8 isn't that correct?

9 A. That's a fair statement.

10 Q. At times you even go so far as to petition  
11 the court to remove counsel based on that conflict;  
12 isn't that correct?

13 A. I haven't, but I know of other prosecutors  
14 who have done that.

15 Q. It's a common practice?

16 A. I wouldn't say it's a common practice.  
17 It's been done in the past. I'll give you that.

18 Q. There was a bona fide reason why you would  
19 express your position regarding conflict to me;  
20 isn't that correct?

21 A. That's correct.

22 Q. If you believed what you said about  
23 conflict and I attempted to appear for someone else  
24 or be present at an interview, you would have the  
25 option to petition to have me removed for conflict;

1 isn't that correct?

2 A. In a pre-arrest situation I don't know  
3 what the particular remedy might be, because there  
4 would be no court that would have jurisdiction. I  
5 suppose, without doing the research, I suppose a  
6 civil action might be brought to have you removed as  
7 counsel; but short of that, I really don't know  
8 what, in a pre-arrest situation, what the state's  
9 remedy might be. Post arrest, certainly if there  
10 was a conflict, we could petition the Superior Court  
11 to have you removed as counsel for a conflict of  
12 interest, but short of an arrest I'm not sure what  
13 the appropriate procedure is.

14 Q. Do you know if the arrest warrant had been  
15 signed on October 1, 2002?

16 A. I don't know the exact date that it was  
17 signed.

18 Q. Does the name Veronica Rivera sound  
19 familiar to you?

20 A. Yes.

21 Q. Who is that?

22 A. My understanding is that she is an  
23 employee of Dr. Weber.

24 Q. Do you recall today the earliest point in  
25 time you may have learned about Veronica Rivera?

1           A.       The earliest point that I can recall was  
2 prior to the arrest, when Inspector DiNino called  
3 Weber's office, and I believe that Ms. Rivera  
4 answered the phone and identified herself as an  
5 employee to Inspector DiNino. That's my earliest  
6 recollection of learning her name and her position.

7           Q.       Do you recall having any discussions with  
8 Inspector DiNino about her and about his potentially  
9 interviewing her?

10          A.       I may have. I don't recall any specific  
11 conversations specifically about Ms. Rivera.

12          Q.       Based upon your description of how the  
13 investigation took place, it wouldn't be uncommon  
14 for him not to discuss it with you because it was  
15 his investigation, correct?

16          A.       That's correct.

17          Q.       For the most part, with the exception of a  
18 legal issue or an issue of search and seizure, he  
19 would not come to you until the investigation was  
20 complete and he is seeking an arrest warrant; is  
21 that correct?

22          A.       That's correct.

23          Q.       Is it your memory that's what happened in  
24 this case?

25          A.       I don't specifically recall having a



1 conversation with him about Veronica Rivera. It may  
2 have happened, but I don't specifically recall it.  
3 Short of the discussions regarding the search and  
4 seizure warrant and my review of the affidavit, and  
5 also my review of the independent expert's  
6 conclusions regarding the medical records, Inspector  
7 DiNino pretty much did the investigation and came to  
8 me with the arrest warrant.

9 Q. Did you at any point during either  
10 discussions with Inspector DiNino or testimony  
11 during the hearing on the motions to suppress and  
12 dismiss form an opinion about Veronica Rivera's  
13 credibility?

14 A. Yes.

15 Q. What was that opinion?

16 A. I found her to be believable.

17 Q. Was it her testimony and the information  
18 that she had that formed part of the bases for your  
19 decision to want to nol pros the case?

20 A. It was her testimony, coupled with a  
21 document that you showed me on November 26, 2003,  
22 that caused me to believe that it was appropriate to  
23 nolle the case.

24 Q. When you had discussions with me about  
25 this conflict issue, which is standard, we agree,

1 right, were you considering the conflict or  
2 potential for conflict with regard to Inspector  
3 DiNino interviewing Veronica Rivera and my appearing  
4 at that interview?

5 A. Could you repeat the question.

6 Q. Sure. I'll rephrase it. It wasn't a very  
7 good one.

8 You were concerned that I not appear for  
9 either employees or other individuals with regard to  
10 Inspector DiNino's investigation other than  
11 Dr. Weber, correct?

12 A. I wouldn't characterize it as a concern  
13 that you not appear. It was my position that you  
14 had no standing to be there.

15 Q. Well, if Inspector DiNino wanted to  
16 interview one of Dr. Weber's employees and I was  
17 present, would you tell him not to go forward?

18 A. I would have told him not to go forward in  
19 your presence, yes.

20 Q. Would you expect him to have even asked  
21 you that question?

22 A. It would depend -- well, I don't know how  
23 to answer that question.

24 Q. Other than asking you about the search  
25 warrant, did he ever ask anything else about the

1 case?

2 MR. VECCELLI: Objection to the form  
3 of the question. Who is the "he"?

4 MR. KOGUT: Inspector DiNino.

5 A. He may have. I don't recall.

6 Q. When did you first learn that Inspector  
7 DiNino did not have a substantive interview with  
8 Ms. Rivera?

9 A. My recollection is that it was documented  
10 in his inspector's report.

11 Q. Do you know why?

12 A. I do not know why.

13 Q. Were you surprised to learn that he hadn't  
14 sat down with her, either in my presence or not, and  
15 have asked her questions which would have been  
16 relevant to his investigation?

17 A. No.

18 Q. You don't question his investigative  
19 tactics, correct?

20 A. That's correct.

21 Q. You have no supervision over him?

22 A. That's absolutely correct.

23 Q. Do you think in retrospect it would have  
24 aided or assisted you had he conducted an interview,  
25 substantive interview with her?

1 MS. BURKE: Object to the form of the  
2 question.

3 A. I think you're assuming that she would  
4 have voluntarily sat down with him. If she had  
5 voluntarily sat down with him and he was able to  
6 have a substantive interview with her, depending on  
7 what she said, might have influenced my decisions;  
8 but then again, it might not have.

9 Q. How would you know if she would agree to  
10 interview with Inspector DiNino if he never asked  
11 her?

12 A. I don't know that he never asked her.

13 Q. Did you ever have discussions with him  
14 about that?

15 A. I recall seeing in one of his reports that  
16 he did have a conversation with Ms. Rivera. I don't  
17 recall whether he specifically asked her to sit down  
18 and have a substantive interview.

19 (Leslie Deposition Exhibit 10 marked  
20 for identification.)

21 BY MR. KOGUT:

22 Q. If you would take a look at Exhibit 10,  
23 Mr. Leslie, and let us know whether or not you can  
24 identify that document.

25 A. I can identify this document.

1 Q. What is it?

2 A. This is a document of the notes that I  
3 prepared prior to our meeting on December 26, 2002.

4 Q. I believe you testified that you have no  
5 specific memory of my providing you with documents  
6 or information pre-arrest to try to convince you to  
7 not have Dr. Weber arrested; is that fair?

8 A. That's correct.

9 Q. Clearly post arrest there were several  
10 documents and discussions you and I had about the  
11 prospects of the continued prosecution; is that  
12 fair?

13 A. That's correct.

14 Q. One of them is represented in the December  
15 submission to you without or sans exhibits, without  
16 exhibits attached, and then you and I met on, it was  
17 the day after Christmas, wasn't it --

18 A. That's correct.

19 Q. -- in a further attempt to persuade you  
20 that the case not go forward, correct?

21 A. Yes.

22 Q. If I could refer you to the second page of  
23 that document, although they are not numbered, to  
24 the last sentence or last paragraph. Could you read  
25 that, please.

1           A.       "Offer of AR for three months on larceny 6  
2 with up front prosecution of \$200 plus remains open  
3 but only until the next court date. If the  
4 defendant does not accept the offer on the next  
5 court date the offer is withdrawn, i.e. no longer  
6 willing to reduce charge to misdemeanor for purposes  
7 of AR."

8           Q.       So does that refresh your memory at all as  
9 to when you made the first offer with regard to  
10 disposition?

11          A.       Obviously I made it before June 2 of 2003.

12          Q.       The offer, at least as described in your  
13 notes, say that it will remain open until the next  
14 court date?

15          A.       That's correct.

16          Q.       Do you know when that next court date was?

17          A.       I don't know for sure.

18          Q.       Your documents don't reflect a date, the  
19 documents in front of you?

20          A.       Which document? I've got a lot of  
21 documents in front of me.

22          Q.       The documents which reflect your notes of  
23 either court appearances or your remarks in  
24 conference notes.

25          A.       The next date after the 12/26/02 meeting

1 would be April 25 of 2003.

2 Q. It would be fair to say that there was  
3 another court date sometime in January?

4 A. I don't know.

5 Q. It would be fair to say that you would  
6 have had to notify the court that you were seeking a  
7 90-day or more continuance?

8 A. Yes, absolutely.

9 Q. Did you do it in writing?

10 A. I may have called the clerk and explained  
11 the situation. I honestly don't recall whether I  
12 appeared in court on Weber's file or on the other  
13 cases that I was prosecuting. I just don't recall.

14 Q. Based on this note, then, does the next  
15 court date mean April 25?

16 A. The next court date would have been the  
17 next contemplated court date when I drafted this.  
18 We may have had another court date in January that  
19 had to get moved until after the whole layoff  
20 situation was resolved.

21 Q. You have no memory today, though?

22 A. I have no independent recollection.

23 Q. Did you, indeed, retract the offer or no  
24 longer have a willingness to reduce the charge on  
25 April 25?

1 A. No.

2 Q. Why was that?

3 A. Well, piecing it together, because I was  
4 transferred involuntarily to GA 23 for a period of  
5 time, assuming that we had a court date sometime in  
6 January that I appeared at, I would not consider  
7 that to have been a substantive court appearance,  
8 and therefore I would have allowed the offer to  
9 remain open pending my return to the unit so that  
10 you and I could engage in further discussions on  
11 possible resolution of the matter.

12 Q. What do you mean by substantive court  
13 appearance?

14 A. Again, I'm assuming that there was a court  
15 appearance in January, and that I appeared for it,  
16 and we didn't continue it on the telephone. Had I  
17 appeared for that court appearance, I think the only  
18 discussion that would have taken place would be for  
19 me to inform the judge that I had been or would soon  
20 be transferred to New Haven, and therefore would not  
21 be able to attend court in Hartford, and therefore  
22 would ask for a long continuance.

23 Q. Was the April 25 court appearance a  
24 substantive court appearance?

25 A. It was.



1 Q. Did you no longer have a willingness to  
2 keep the offer open at that time?

3 A. No.

4 Q. Why not?

5 A. The offer remained open at that time.

6 Q. Why was that?

7 A. My recollection was that you and I had  
8 discussed your filing the motions and allowing you  
9 to have the opportunity to be heard on those  
10 motions.

11 Q. But that's not how you felt on December  
12 26, correct?

13 A. That's correct.

14 Q. What were the factors which influenced  
15 your opinion, other than my request?

16 A. It was my belief, to the best of my  
17 recollection, that I would be successful on the  
18 hearings on your motions, and therefore I had no  
19 problems with going forward on the hearings and  
20 leaving the offer open, on the table. It again was,  
21 in my opinion, the appropriate way to resolve the  
22 matter.

23 Q. Did you discuss the offer which is noted  
24 at least as early as the 26th of December to Nancy  
25 Salerno?

1 A. I believe I did.

2 Q. What was her response, if you recall?

3 A. I believe she was on board with it.

4 Q. She agreed with it?

5 A. Yes.

6 Q. Did you discuss it with Inspector DiNino?

7 A. I don't recall.

8 Q. Did you have time or opportunity to read  
9 the entire transcript of Mr. Murray?

10 A. Yes.

11 Q. Did you read the portions of his testimony  
12 which had to do with your conduct as a prosecutor  
13 and your competence?

14 A. Yes.

15 Q. Did you agree with any of it?

16 A. No.

17 Q. Do you know why he said those things?

18 A. I don't know why.

19 Q. Do you believe he was being truthful?

20 A. I don't believe that Mr. Murray had the  
21 requisite knowledge of my skills or of me in general  
22 to be able to form any type of an opinion as to my  
23 abilities as a prosecutor and my competence as a  
24 prosecutor.

25 Q. Did you ever have any discussions with

1 Mr. DeMattia about your performance?

2 A. No.

3 Q. Would it be fair to say there was a period  
4 of time prior to your transfer where Mr. DeMattia  
5 wasn't even speaking with you?

6 A. There was a period of time when he didn't  
7 seek me out, but if I had something to discuss with  
8 him, he certainly discussed it with me.

9 Q. Well, he wasn't assigning cases to you,  
10 right?

11 A. I was not being given any more work.

12 Q. So he certainly didn't need to talk to you  
13 about new cases?

14 A. That was his choice not to, yes.

15 Q. Did you ever ask him why?

16 A. I did not.

17 MR. KOGUT: Do you want to take a  
18 couple of minutes?

19 (Recess: 10:41 to 10:47 a.m.)

20 (Leslie Deposition Exhibit 11 marked  
21 for identification.)

22 BY MR. KOGUT:

23 Q. Will you just take a look at that,  
24 Mr. Leslie. Can you identify that document,  
25 Mr. Leslie?

1           A.       That's a memo that I wrote to the file  
2       dated April 16, 2002, documenting a telephone  
3       conversation that you and I had.

4           Q.       In substance, what was the purpose of you  
5       documenting that conversation?

6           A.       That was a -- I wanted to document a  
7       telephone conversation that you and I had had in  
8       February of 2002 indicating that you represented  
9       only Dr. Weber; however, during that conversation  
10      you asked me whether you could send another letter  
11      of representation indicating that you also  
12      represented all of Dr. Weber's employees. I wanted  
13      to document that I informed you that I would not  
14      commit to honoring that letter; in other words, if  
15      an interview were sought of any of Weber's  
16      employees, that you may not be contacted in order to  
17      set up that interview.

18          Q.       That was for the reasons that we described  
19      earlier, correct, or you described earlier?

20          A.       That is correct.

21          Q.       This was, do you recall whether or not  
22      this was prior to or after the search warrant was  
23      executed?

24          A.       I don't recall when the search warrant was  
25      executed.

1 Q. Were you expecting at this time Inspector  
2 DiNino to conduct interviews?

3 A. I would expect that he would do the  
4 investigation as he saw fit.

5 Q. Would that necessarily include, in your  
6 opinion, conducting interviews of relevant  
7 witnesses?

8 A. It may, depending on the type of case,  
9 yes.

10 Q. How about this case?

11 A. If Inspector DiNino had any reason to  
12 believe that a witness should be interviewed, I'm  
13 sure that he would have interviewed that particular  
14 witness.

15 Q. You know, you now know that Veronica  
16 Rivera possessed some of that information, correct?

17 MR. VECCELLI: Objection to the form  
18 of the question. It doesn't indicate at what time  
19 any knowledge was or wasn't -- you can answer the  
20 question.

21 A. I learned subsequent to the arrest that  
22 Veronica Rivera may have had some substantive  
23 information.

24 Q. Do you recall, Mr. Leslie, at some point  
25 asking me if Dr. Weber would sign a waiver of any

1 potential civil claims against the Office of the  
2 Chief State's Attorney and Department of Social  
3 Services in return for the case being nol pros'd?

4 A. No.

5 MR. RING: Objection to the form of  
6 the question. Are you testifying?

7 MR. KOGUT: No. I'm asking him a  
8 question.

9 Q. Do you understand the question?

10 A. I do.

11 Q. And your answer is no?

12 A. That's correct.

13 Q. Do you recall offering a nol pros with a  
14 waiver in October of 2003?

15 A. I never offered to nolle the case in  
16 exchange for a waiver.

17 Q. Would you tell me when the first time you  
18 offered to nol pros the case was?

19 A. We had discussions at the December 26,  
20 2002 meeting about nolle'ing the case. You are the  
21 one who brought up the idea that Weber would sign a  
22 waiver or a general release, releasing the Division  
23 of Criminal Justice and DSS from any potential civil  
24 liability.

25 At the time, the associate who was working

1 the case with you, Ryan Mihalic, was also present  
2 during that meeting. My recollection is that I  
3 indicated I did not think that that was ethical, and  
4 I asked Mr. Mihalic to get a copy of the rules of  
5 professional conduct, which he did.

6 During the course of that meeting I looked  
7 up the appropriate rule and I believed that  
8 requiring Dr. Weber to sign a general release,  
9 releasing the division from any civil liability, in  
10 exchange for a nolle would be using a criminal  
11 prosecution to gain an upper hand in a civil matter,  
12 which is prohibited by the rules of professional  
13 conduct.

14 We also had discussions in the same  
15 meeting of entering the nolle in exchange for  
16 restitution to the Department of Social Services and  
17 a stipulation by Weber that there was probable cause  
18 to search and probable cause to place him under  
19 arrest.

20 Q. What was your reason for requesting a  
21 statement from the defendant that there was probable  
22 cause to search and arrest?

23 A. The reason would be that the defendant  
24 would be precluded from bringing any type of an  
25 action against the division.

1 Q. That was a concern of yours, right?

2 A. At that point in time, no.

3 Q. Well, let's go back to January of 2003.

4 It's your testimony that you never offered a nol  
5 pros if the defendant signed a waiver, correct?

6 That's your testimony?

7 A. That's correct.

8 Q. You also never made that offer in October  
9 during the course of the hearing in Hartford  
10 Superior Court, correct?

11 A. I'm sorry. The offer of a nolle in  
12 exchange for a waiver?

13 Q. That's right.

14 A. That's correct.

15 Q. In January of 2003, did you offer the case  
16 to be nol pros'd in exchange for Dr. Weber's signed  
17 statement that there was probable cause to search  
18 and arrest?

19 A. It would not be a signed statement. I had  
20 offered or we had discussions in December of '02 a  
21 nolle, with a stipulation to probable cause, but it  
22 would not be a signed document. We would stipulate  
23 on the record that there was probable cause.

24 Q. Why were you willing to nol pros the case  
25 in December of 2002, some two and a half months



1 after the defendant's arrest?

2 A. Well, the ultimate goal was to recoup the  
3 monies that were overpaid to him by DSS, and if he  
4 were willing to stipulate to probable cause and to  
5 pay back the monies that were overpaid, it would be  
6 in the best interests of all the parties concerned  
7 to resolve the matter in that way.

8 Q. Is that why you signed the arrest warrant?

9 A. That is not why I signed the arrest  
10 warrant.

11 Q. Well, what did you mean, then, by  
12 "ultimate goal"?

13 A. Well, Weber was accused of defrauding the  
14 State of Connecticut of a certain amount of money.  
15 Part of the prosecution is to retrieve that money.  
16 If I could do that without saddling the defendant,  
17 who had gone that far without any type of criminal  
18 history, to the best of my knowledge, any run-in  
19 with the criminal justice system, and the state was  
20 made whole, there would be no need to pursue the  
21 prosecution any further.

22 Q. Why didn't you do that pre-arrest?

23 A. Because pre-arrest I was not aware of all  
24 the facts and circumstances surrounding Dr. Weber's  
25 circumstances.

1 Q. When, again, did you say you raised the  
2 first offer to nol pros?

3 A. December 26, 2002.

4 Q. What did you know on December 26, 2002  
5 that you didn't know on October 1, 2002?

6 A. Apart from the submission that you  
7 provided to me on December 6, as of the December 26  
8 date, in my opinion, the state would have still been  
9 successful in the prosecution; but a prosecutor's  
10 job is not just to prosecute for the sake of  
11 prosecuting. The prosecutor also has to look at the  
12 interests of society as a whole. Had the defendant,  
13 Weber, in this case proceeded and been found guilty,  
14 he could have faced up to 20 years in jail. He was  
15 a major provider for the Medicaid system in the  
16 Stamford area. That would have left a great number  
17 of Medicaid recipients without any eye health care,  
18 at least for a period of time until a new provider  
19 could be found for them. If I could dispose of the  
20 case short of a criminal conviction, that is  
21 certainly the best interests, in the best interests  
22 of justice, as well as in the best interests of  
23 judicial economy.

24 Q. Did you believe that upon conviction  
25 Dr. Weber would have been sentenced to 20 years in

1 jail?

2 A. No.

3 Q. Did you believe he would be sentenced to  
4 any time in jail?

5 A. No.

6 Q. But you were confident in your case?

7 A. I was.

8 Q. Why did you agree to waive a Franks  
9 hearing and proceed on motions to suppress and  
10 dismiss if you were confident in your case?

11 A. I didn't agree to waive the Franks  
12 hearing. We started the Franks hearing.

13 Q. Why did you agree to waive the preliminary  
14 hearing and agree with Judge Keller that there was  
15 sufficient finding?

16 A. There was the -- the preliminary showing?

17 Q. Yes.

18 A. The reason is twofold, and the first  
19 reason is it was my impression, and I believe your  
20 impression as well, that the court had made, already  
21 made a determination on the papers that there had  
22 been a substantial preliminary showing.

23 Secondly, Judge Keller did discuss with us  
24 that the witnesses that you had called in the first  
25 part of the Franks hearing would be the same

1 witnesses that you would call in the second part of  
2 the Franks hearing, and in the interests of judicial  
3 economy she asked whether I would be willing to  
4 stipulate that there was a substantial preliminary  
5 showing so that we would not waste the court's time.

6 I did so, being fully aware that there was  
7 an obligation on the defendant to make a substantial  
8 preliminary showing.

9 Q. We both agreed that the motions would be  
10 dispositive, correct?

11 A. Yes.

12 Q. It would be fair to say that's one of the  
13 reasons you decided or agreed to keep the offer  
14 open?

15 A. Yes.

16 (Leslie deposition Exhibit 12 marked  
17 for identification.)

18 BY MR. KOGUT:

19 Q. Have you ever seen that document,  
20 Mr. Leslie?

21 A. I don't believe I have.

22 Q. Do you want to just take a moment to read  
23 through it.

24 (Leslie Deposition Exhibit 5 remarked  
25 for identification.)

1 BY MR. KOGUT:

2 Q. Did you take a look at that?

3 A. Yes.

4 Q. You've never seen that before, correct?

5 A. I don't believe I have.

6 Q. Did you ever have any discussions with  
7 Mr. Murray about this memo?

8 A. No.

9 Q. With Mr. Sugrue?

10 A. No.

11 Q. Do you recall Mr. Murray raising these  
12 issues with you during the course of the hearing?

13 A. I do.

14 Q. Would you describe as best you remember  
15 what those conversations were and when?

16 A. The first conversation was in October of  
17 2003. After I had offered to you an unconditional  
18 nolle, you requested a recess until 2:00 p.m. to  
19 consult with your client, and I think you had some  
20 research to do. I also had some research to do, so  
21 I went back to the Rocky Hill office.

22 Subsequent to that I was told by John  
23 DeMattia not to go back to court until after we had  
24 met with Paul Murray.

25 In a meeting with Paul Murray, I was

1 instructed to withdraw the offer of a nolle. They  
2 requested or they asked me whether the court was  
3 made aware of the offer, and I said the court was  
4 aware that discussions to resolve the matter were  
5 ongoing, but was not made aware of the actual offer.

6 Mr. Murray used the exact phrase in  
7 Mr. Sugrue's memo that Weber would not have  
8 detrimentally relied upon the state's offer, and  
9 therefore the state should go ahead and withdraw the  
10 offer.

11 Q. Do you agree with his order?

12 A. No.

13 Q. I'm going to show you what had been  
14 previously marked as Exhibit 5. Can you describe  
15 that document?

16 A. It's a memo from me to John DeMattia dated  
17 October 22, 2003, which memorialized the October  
18 20th meeting between DeMattia, myself and Murray,  
19 where I was instructed to withdraw the offer of the  
20 nolle.

21 Q. Did you tell Mr. Murray at that time what  
22 your offer had been to the defendant?

23 A. I explained to him that I wanted to nolle  
24 it and why I wanted to nolle it.

25 Q. Did you explain to him what agreement

1 there was if the motions were denied?

2 A. No.

3 Q. Why not?

4 A. I was not asked that question.

5 Q. Did you think it was relevant or important  
6 to Mr. Murray's decision to know that?

7 A. No, I did not.

8 Q. Why not?

9 A. Because the way that the unit had been run  
10 since the time that I got in there is that the trial  
11 prosecutor had the discretion to do what he or she  
12 felt was the appropriate disposition of the case. I  
13 had no indication otherwise, that that policy was no  
14 longer in effect.

15 Q. Did you have any separate discussions with  
16 Mr. DeMattia about that?

17 A. About what?

18 Q. About the independence of the prosecutor  
19 to make these decisions.

20 A. No.

21 Q. Was there any written policies or  
22 guidelines to that effect?

23 A. Not that I'm aware of.

24 Q. Was your belief in your independence based  
25 upon custom and habit of the unit, or were there

1 other documents or discussions relevant to that  
2 subject that you had had prior to that?

3 A. It was based on custom and habit of the  
4 unit. When Nancy Salerno was my immediate  
5 supervisor, when she was the director of the unit,  
6 she would ask me, What are you thinking about in  
7 this case; or correspondingly, This is what I'm  
8 thinking about in my case, what do you think. So we  
9 would bounce ideas off of one another; but at no  
10 point in time did she ever come to me and say, You  
11 know, I disagree with what you're doing in this  
12 case, and you need to do something different.

13 Q. Nancy Salerno was aware of the original  
14 offer, correct?

15 A. She was.

16 Q. Was she aware of the dispositive nature of  
17 the motions?

18 A. I don't know that she was aware of that.  
19 She may have left the division prior to you and I  
20 agreeing on the dispositive nature of the motions.

21 Q. But she knew that you were willing to  
22 substitute the information to a single count, a  
23 misdemeanor count, correct?

24 A. Yes.

25 Q. That was a single count of \$200?