

1 A. Yes.

2 Q. A \$200 claim; and that you would agree to  
3 a three-month period of AR?

4 A. Yes.

5 Q. She knew all that?

6 A. Yes.

7 Q. And she knew that, as best you remember,  
8 as early as when?

9 A. Well, it had to be by December of '02  
10 because I did put in my own personal notes for our  
11 December 26 meeting the offer of AR for three months  
12 and one count of larceny 6.

13 Q. Do you recall when she left the unit?

14 A. Middle of March of 2003.

15 Q. Would you have expected her to pass that  
16 information along to her successor?

17 A. No.

18 Q. Why not?

19 A. Because at the time that she left the unit  
20 her successor had not been named. She wouldn't know  
21 who to pass it on to.

22 Q. Other than your own file notes or other  
23 memoranda, would she have documented this anywhere  
24 in her own records?

25 A. I don't know.

1 Q. As the director and supervisor, would you  
2 have expected her to have documented what your offer  
3 was?

4 A. Separate and apart from the trial file,  
5 no.

6 Q. The earliest date that you entered it --  
7 strike that.

8 When you say "trial file," does that  
9 include the remarks in conference notes that we were  
10 looking at earlier?

11 A. Yes.

12 Q. The earliest notation that you made with  
13 regard to the offer was the second day of June of  
14 '03; is that correct?

15 A. Yes.

16 Q. Did we have that agreement on the 5th of  
17 April where you note the motions to be filed?

18 A. The offer of the AR was still on the  
19 table.

20 Q. Because contrary to your December 26 memo,  
21 you decided to leave it open, correct?

22 A. That's correct.

23 Q. That was in fairness to the defendant?

24 A. Yes.

25 Q. And your interest in judicial economy?

1           A.       At that point I don't know that you could  
2 characterize it as the interests in judicial  
3 economy, but certainly it would be in the interests  
4 of making sure that justice is done.

5           Q.       It's your testimony that you don't have  
6 any memory today when your first offer to nol pros  
7 the case with the stipulation to probable cause was;  
8 is that fair?

9           A.       No. I believe that my first -- the first  
10 time that I contemplated it and mentioned it to you  
11 was December 26 of '02 when you and I met here.

12          Q.       Do you have any memory of having that  
13 discussion outside of Judge Ward's chambers in  
14 Hartford Superior Court?

15          A.       I can't recall who specifically discussed  
16 the matter of the state entering a nolle with a  
17 stipulation to probable cause. I'm not saying it  
18 didn't happen, but I just have no recollection that  
19 it did.

20          Q.       Other than you, nobody else in your office  
21 knew that?

22          A.       That's correct.

23          Q.       That was not, based on your experience at  
24 the time, uncommon in the office, correct?

25          A.       That's correct.

1 (Leslie Deposition Exhibit 13 marked  
2 for identification.)

3 BY MR. KOGUT:

4 Q. Can you identify that document, Mr. Weber?

5 A. This is an e-mail that was sent to me from  
6 DeMattia.

7 Q. What else is on there?

8 A. Dated 10/23/03. It is also a reply from  
9 me to DeMattia.

10 Q. Do you recall the purpose of that e-mail  
11 from Mr. DeMattia?

12 A. I'm sorry?

13 Q. Do you recall the purpose of that e-mail  
14 from Mr. DeMattia?

15 A. He was going away, I believe on his  
16 honeymoon, and he was giving me some information  
17 based upon a discussion that we previously had had.

18 Q. Other than the e-mail communication, did  
19 you have any discussions with him about the status  
20 of your cases, or his going away and supervision  
21 while he was away, and those types of things?

22 A. Other than the October 20, 2003 meeting  
23 between DeMattia, Murray and myself, no.

24 Q. This is three days after that meeting,  
25 correct?

1 A. That is correct.

2 Q. Two days after the memo that you prepared?

3 A. That is correct.

4 Q. Do you know whether or not Mr. DeMattia  
5 ever showed that memo to Mr. Murray, the October 22  
6 memo?

7 A. I don't know if he did or not.

8 Q. Would you have expected him to do that?

9 A. Yes.

10 Q. Where would you have expected Mr. DeMattia  
11 to file such a document?

12 A. I really had no idea.

13 Q. Do you see the entry on the 10/23 e-mail,  
14 a message from you, 8:53 a.m. on the bottom?

15 A. I do.

16 Q. Can you tell us what that's in reference  
17 to?

18 A. Yes. I had a discussion with Keith Ryan,  
19 who at this point in time was an investigator with  
20 the Health and Human Services Office of the  
21 Inspector General. He offered to look into Weber  
22 for potential federal action, and according to the  
23 e-mail, I told him that I would pass the offer on to  
24 DeMattia, and this e-mail was doing just that.

25 Q. You're certain that that was his offer to

1 you?

2 A. Based on this document, yes.

3 Q. Do you have any independent memory? Does  
4 that refresh your memory of the discussions you had  
5 with him?

6 A. I have no independent memory of  
7 discussions with Keith, Keith Ryan, regarding that.

8 Q. But are you certain that it was his offer,  
9 or was it your request?

10 A. It was not my request.

11 Q. Did you have a position on his offer?

12 A. Not that I recall.

13 Q. Is that because you were at this point  
14 transferred or going to be transferred?

15 A. No. I think that it was because it was  
16 not my position to make the decision, so I was more  
17 acting as a conduit and leaving it up to the person  
18 who was in a position to either accept or reject  
19 that offer.

20 Q. At what point in time -- strike that.

21 (Leslie Deposition Exhibits 14 and 15  
22 marked for identification.)

23 BY MR. KOGUT:

24 Q. Can you identify those documents?

25 A. Exhibit 14 is an e-mail from myself to Bob

1 Mauer, as well as his -- I'm sorry, that was my  
2 reply to his e-mail to me dated May 8, 2003.

3 MR. RING: Which one is 14 and which  
4 is 15, the one dated 5/7 or the one 5/15?

5 A. 5/7 is Exhibit 15. Exhibit 15 is another  
6 e-mail from me to Bob Mauer dated 5/7/03, where I  
7 asked him to take another look at Weber's billings  
8 under code 99070.

9 Q. Now, I believe you testified, Mr. Leslie,  
10 that in December of '02 you had made an offer  
11 relative to a three-month AR, substituted  
12 information to a single count of a misdemeanor, and  
13 that you were amenable to my filing motions that we  
14 agreed would be dispositive; is that fair?

15 A. That is fair.

16 Q. I believe you testified that one of the  
17 reasons you agreed to do that or decided to do that  
18 was fairness to the defendant?

19 A. That's correct.

20 Q. And also in consideration of judicial  
21 economy, for lack of a better term?

22 A. That's correct.

23 Q. Would you tell me why in May, on May 7,  
24 you were telling Mr. Mauer that you were planning to  
25 charge the defendant with larceny, vendor fraud, and

1 health insurance fraud, in view of the agreements?

2 A. I can't say why.

3 Q. Were you looking to substitute the  
4 information to allege more than he was originally  
5 charged with?

6 A. That was always a possibility. I can't  
7 say that I was looking to do it.

8 Q. Were you considering retracting the  
9 agreement documented in your December 26 memo?

10 A. Not that I recall, because our agreement  
11 was that the motions would be dispositive.

12 Q. Do you know if anyone else received this  
13 message from you, anyone else in the office?

14 A. It does not have any CC's on it.

15 Q. Did you know on May 7 of 2003 that this  
16 case was not going to trial?

17 A. No, I did not.

18 Q. Isn't it true that the agreement as  
19 described by you on the 2nd of June was that if the  
20 motion is granted, the charges will be dismissed  
21 with prejudice; if not, there will be a substitute  
22 information to one count larceny 6th, defendant to  
23 apply to AR with conditions?

24 A. That was the agreement, yes.

25 Q. And wasn't that one of the reasons or



1 probably the main reason why Judge Keller agreed to  
2 hear it that way?

3 A. I don't know if that was the main reason  
4 that she agreed to hear it that way.

5 Q. Well, she did express her interest in  
6 having the hearing in lieu of a trial, didn't she?

7 A. Yes.

8 Q. That was your understanding?

9 A. Yes.

10 Q. So under what circumstances on May 7 of  
11 '03 did you believe this case would go to trial?

12 A. Well, I had to look down the road so as  
13 not to get caught flat footed. If I was successful  
14 in defending the motions, there was still no  
15 guarantee that Weber would, in fact, apply for  
16 accelerated rehabilitation. I wasn't doubting your  
17 representations, but I've seen it a number of times  
18 where the offer is conveyed, it's supposedly  
19 accepted, and then the defendant backs out. So I  
20 did have to be prepared for that eventuality. I  
21 also had to be prepared to go forward should the  
22 court not accept the proposed disposition.

23 Q. Did you believe that to be likely?

24 A. No, I did not.

25 Q. Was it your position had that taken place,

1 that you would have increased the charges against  
2 Dr. Weber?

3 A. If ultimately the matter ended up going to  
4 trial, then yes, the charges could have been  
5 increased. If we were able to work out something  
6 short of trial, then, no, I wouldn't imagine that I  
7 would be looking to increase the charges.

8 Q. Would that be fair to the defendant, if  
9 you increased his charges, in your opinion?

10 A. If we got to that point in the process, it  
11 would be fair to the defendant and the state.

12 Q. Would that have resulted in judicial  
13 economy?

14 A. Well --

15 Q. I'm sorry.

16 A. What I think you're trying to do is you're  
17 trying to use my reasons for waiving the preliminary  
18 showing aspect of the Franks hearing to other  
19 aspects of the trial.

20 Q. I'm just asking a question.

21 A. Had we gotten to the point of jury  
22 selection or a trial to the court, I wouldn't be  
23 concerned as much with judicial economy. I would be  
24 concerned about proving my case beyond a reasonable  
25 doubt.

1 Q. Would you say that you were adequately  
2 prepared for the hearing in this case?

3 A. Yes.

4 Q. It would be fair to say that you prepared  
5 state's witnesses?

6 A. Yes.

7 Q. Do you recall today who the witnesses are  
8 that you may have prepared for hearing?

9 A. I met with Inspector DiNino for a  
10 significant period of time. I met with Inspector  
11 O'Brien for also a significant period of time. I  
12 met multiple times for several hours with John  
13 McCormick. I met on at least two or three occasions  
14 with Donna Frank. I also met with Mark Comerford.  
15 I had discussions with Paul Gronback, and I met with  
16 one representative from EDS whose name I cannot  
17 recall.

18 Q. Do you recall when you began your  
19 preparation for the hearing, roughly?

20 A. I don't recall, no.

21 Q. Would it have been during the summer  
22 months, if you recall?

23 A. Well, it certainly would have been from a  
24 preliminary standpoint the time that I drafted and  
25 submitted the state's objections to your motions and

1 the memoranda of law supporting those objections.

2 When I sat down with the various witnesses I really  
3 can't give you a time frame.

4 Q. Do you agree with Mr. Sugrue's opinion  
5 that your conduct in this case was ill advised?

6 A. No, I don't.

7 Q. Do you know why he would have said that?

8 A. I do not know that.

9 Q. Do you know Mr. Sugrue at all?

10 A. I do. I would note, however, in his memo  
11 Mr. Sugrue was given background information that the  
12 trial prosecutor agreed to proceed directly to an  
13 evidentiary hearing under Franks without requiring  
14 the defendant comply with the threshold criteria, it  
15 was also his understanding the prosecutor did not  
16 stipulate to any specific facts in relation to the  
17 threshold criteria.

18 I don't know what Mr. Sugrue was told by  
19 Mr. Murray when he was asked to draft this memo, so  
20 I don't know if Tim Sugrue had the benefit of what I  
21 know, and having sat through this particular case as  
22 trial counsel.

23 Q. Mr. Murray certainly didn't have all the  
24 facts, correct?

25 A. I'm sorry?

1 Q. Mr. Murray certainly didn't have all the  
2 facts?

3 A. That's correct.

4 Q. Neither did Mr. DeMattia?

5 A. That's correct.

6 Q. Did you find, in your opinion, was  
7 Mr. McCormick credible?

8 A. No.

9 Q. Was he credible in your opinion during  
10 your preparation prior to hearing?

11 A. Yes.

12 Q. What was the difference to you?

13 A. When I was preparing him, he would answer  
14 the questions that I asked him directly. There was  
15 no evasion, there was no argumentative responses;  
16 but when he testified under examination, your  
17 examination, he was extremely evasive, very  
18 argumentative, even flippant at times with his  
19 answers, and his entire demeanor on the stand was  
20 such that he just was not believable.

21 Q. Do you believe he was being truthful?

22 MR. RING: Object to the form of the  
23 question. When?

24 Q. Do you understand the question?

25 A. My understanding of the question is you're

1 asking me if he was being truthful throughout the  
2 entire period of time that he was testifying.

3 Q. Correct.

4 A. I don't think he lied. The way he  
5 answered came across such that if I had been sitting  
6 in Judge Keller's seat, or if I had been a juror on  
7 the case, I wouldn't have believed him.

8 Q. Do you believe that he withheld  
9 information and documents from Inspector DiNino?

10 A. No.

11 Q. Do you believe that he supplied all the  
12 information that was necessary to Inspector DiNino  
13 to reach a reasoned, rational conclusion on probable  
14 cause?

15 MR. RING: Object to the form of the  
16 question.

17 Q. You can answer it if you understand it.

18 A. Yes.

19 Q. Are you familiar with the name of Reuven  
20 Rudich?

21 A. Yes.

22 Q. When did you first learn of Reuven Rudich?

23 A. Sometime during the prosecution of Weber.

24 Q. Do you recall whether it was prehearing or  
25 during the hearing?

1           A.       I don't recall specifically if it was pre  
2 or post hearing.

3           Q.       Do you recall asking Mr. Mauer sometime in  
4 May about information regarding Reuven Rudich?

5           A.       I don't recall that.

6                       (Leslie Deposition Exhibit 16 marked  
7 for identification.)

8 BY MR. KOGUT:

9           Q.       Would you take a look at that, Mr. Leslie,  
10 and tell me whether you recognize that document.

11          A.       The first document is a list of the  
12 potential witnesses that I was going to call during  
13 the course of the Franks hearing. The next three  
14 pages are my notes when I met with Inspector DiNino  
15 about what he did through the course of the  
16 investigation. The next document is my notes  
17 regarding Ken O'Brien, the co-affiant on the search  
18 and seizure warrant. The next page appears to be my  
19 notes from a meeting with a Matt Powanda, whom I  
20 believe is the EDS representative, and the last  
21 page, my notes on the internal control numbers which  
22 I can't read because they are smudged up.

23          Q.       But this is a document prepared by you,  
24 correct?

25          A.       Yes.

1 Q. These are your notes?

2 A. Yes.

3 Q. You are interviewing witnesses for a  
4 hearing, correct?

5 A. They were my notes that I used to develop  
6 a line of questioning that I would have asked them  
7 on the stand.

8 Q. With regard to Inspector DiNino, do you  
9 recall where the two of you were when you were  
10 preparing him and taking these notes?

11 MR. VECHELLO: Object to the form of  
12 the question. It's supposing some facts that  
13 there's no foundation for.

14 Q. Do you understand the question?

15 MR. VECHELLO: You can answer the  
16 question.

17 Q. If you don't understand it, I'll rephrase  
18 it.

19 A. Are you asking me what place we were at?

20 Q. Sure.

21 A. We were somewhere within the Office of the  
22 Chief State's Attorney.

23 Q. Do you have any memory of the meeting?

24 A. I remember sitting down with him, yes.

25 Q. I believe you testified that you spent



1 significant time or significant preparation with the  
2 individual witnesses, correct?

3 A. Correct.

4 Q. Approximately, as best you remember, if  
5 these notes refresh your memory, how long a period  
6 of time did you spend with Inspector DiNino?

7 A. One to two hours.

8 Q. Did you find him to be adequately  
9 prepared?

10 A. Yes.

11 Q. Do you know what role Inspector O'Brien  
12 played in the Weber investigation?

13 A. He was the co-affiant on the search and  
14 seizure affidavit.

15 Q. Do you know what he did during the course  
16 and conduct of the investigation?

17 A. He reviewed Inspector DiNino's reports, he  
18 reviewed Inspector DiNino's notes, he reviewed any  
19 other documents that were relevant to the  
20 establishment of probable cause for the search and  
21 seizure warrant. When he was satisfied that there  
22 was probable cause for the search and seizure  
23 warrant, he signed as the co-affiant with Inspector  
24 DiNino.

25 Q. Do you know whether or not he reviewed any

1 documents other than Inspector DiNino's affidavit?

2 A. I don't know what specific documents  
3 Inspector O'Brien reviewed.

4 Q. Do you know whether he conducted or took  
5 part in any witness interviews prior to forming a  
6 basis for probable cause to arrest?

7 A. To arrest?

8 Q. Strike that.

9 To search Dr. Weber's office?

10 A. Without looking at all of the inspector's  
11 report, I can't answer the question. I don't know  
12 if he was present during any of the interviews.

13 Q. If you had had that discussion with him,  
14 would it necessarily be reflected in your notes, or  
15 perhaps not?

16 A. Not necessarily.

17 (Recess: 11:40 to 11:49 a.m.)

18 (Leslie Deposition Exhibit 17 marked  
19 for identification.)

20 BY MR. KOGUT:

21 Q. Are you ready to resume, Mr. Leslie?

22 A. Yes.

23 Q. You have had an opportunity to speak to  
24 counsel?

25 A. I have.

1 Q. By the way, have you contacted any other  
2 counsel relative to this matter?

3 A. No.

4 Q. Any other counsel assigned to you by the  
5 State of Connecticut, other than Mr. Vecchelli?

6 A. Not that I'm aware of.

7 Q. If you would just take a look at Exhibit  
8 17. If you would just -- can you identify that  
9 document? You don't have to read it. Just let us  
10 know whether you've seen it before or whether you  
11 know what it is.

12 A. I know what it is.

13 Q. What is it?

14 A. The first two pages are my notes from an  
15 interview with Donna, the next three pages are notes  
16 of an interview with John McCormick, the next page  
17 are my notes of an interview of Mark Comerford, and  
18 the final page are my notes of an interview with Jim  
19 Weitrak.

20 Q. These were notes prepared by you during  
21 interviews in preparation for hearing?

22 A. That's correct.

23 Q. Did you believe that the witnesses that  
24 you interviewed, if you were to call them, were  
25 sufficiently prepared?

1 A. Yes. This was not the only time that I  
2 sat down with them.

3 Q. Do you recall how many times you would  
4 have met with Mr. McCormick?

5 A. At least four times.

6 Q. Have you had discussions with  
7 Mr. McCormick since the case was nol pros'd?

8 A. No.

9 Q. Do you recall the last conversation you  
10 had with Mr. McCormick?

11 A. I don't know what you're asking me. Are  
12 you asking the substance of the conversation, or  
13 when it took place?

14 Q. If you have any memory of the last time  
15 you had a conversation with Mr. McCormick.

16 A. I do not.

17 Q. Do you recall the last time that you were  
18 in court relative to the Weber matter?

19 A. November of 2003.

20 Q. Was that November 25? Does that sound  
21 about right?

22 A. About right.

23 Q. Prior to that do you have a memory of the  
24 last time you would have spoken to Mr. McCormick  
25 with regard to the Weber matter?

1           A.       My recollection is that it would have been  
2           sometime between October 20 of '03 and November 26  
3           or '5 of '03.   When exactly I have no specific  
4           recollection.

5           Q.       Do you recall part of Mr. McCormick's  
6           testimony relative to documents which he viewed to  
7           be attorney-client privilege?

8           A.       I do.

9           Q.       Did you agree with his assertions?

10          A.       No.

11          Q.       Why not?

12          A.       Because the state's attorney does not form  
13          a client, an attorney-client privilege.   The state's  
14          attorney represents the people, the citizens of the  
15          State of Connecticut, in a criminal prosecution.   If  
16          there is, if there's going to be attorney-client  
17          privilege, it would be formed through the Office of  
18          the Attorney General and the various state agencies.

19          Q.       Do you know if there was an assistant  
20          attorney general assigned to this matter for  
21          Mr. McCormick?

22          A.       Specifically assigned, no, I don't believe  
23          that there was.

24          Q.       Did you know early in the audit process at  
25          DSS that a Michael Cole had appeared on behalf of

1 the Attorney General's office? Do you recall that?

2 A. I know that Attorney Cole responded to a  
3 letter sent in by Weber's counsel.

4 Q. Do you recall that he was present at the  
5 exit conference?

6 A. I don't specifically recall that, no.

7 Q. Did you ever have any discussions with  
8 Mr. Cole about this matter?

9 A. No.

10 Q. Did you have discussions with John  
11 McCormick outside the courtroom after his testimony  
12 about the attorney-client privilege he raised?

13 A. I don't recall.

14 Q. But you clearly disagreed with his  
15 assertions?

16 A. I do.

17 Q. Did you ask to review the documents that  
18 he said he withheld because they were protected by  
19 attorney-client privilege?

20 A. I did not.

21 Q. Did you believe his testimony that he had  
22 withheld documents because of attorney-client  
23 privilege?

24 A. I had no reason not to.

25 Q. Do you believe it would be important to

1 know certain documents that were withheld from the  
2 defendant during the course of a criminal  
3 prosecution?

4 A. Could you rephrase the question.

5 Q. Sure. Is it important for you as a  
6 prosecutor to know if one of the state's witnesses  
7 has intentionally withheld documents?

8 A. It would be important to know what the  
9 documents were.

10 Q. Did you seek them out?

11 A. I did not.

12 Q. Did you ask him what they were?

13 A. I did not.

14 Can I ask a favor? Can you just down the  
15 blinds? I'm getting a glare and it's making it  
16 difficult.

17 (Discussion off the record.)

18 Q. Did Mr. McCormick ever express to you his  
19 view or opinion about the progress of the hearing  
20 during the course of the hearing?

21 A. He did.

22 Q. Why don't you tell us what he said as best  
23 you remember.

24 A. He believed that the hearing was going  
25 well.

1 Q. Did you tell him you disagreed with him?

2 A. I did.

3 Q. What did he say to that?

4 A. He asked me why I thought the hearing was  
5 not going well, and I believe I responded because of  
6 the way that he was testifying.

7 Q. Did you at any point discuss with him the  
8 prospects of nol pros'ing the case?

9 A. Yes.

10 Q. When did you first have that discussion,  
11 as best you remember?

12 A. I have no specific recollection of the  
13 exact date.

14 Q. Do you recall what the reason was you  
15 would have discussed it with him?

16 A. It would have been because of the way that  
17 the hearing was progressing.

18 Q. So it would be fair to say that it was in  
19 the middle of the hearing, not before the hearing?

20 A. Yes, that is true.

21 Q. Even though there had been discussions  
22 about a nol pros prior to the commencement of the  
23 hearing?

24 A. Correct.

25 Q. Would you have discussed that with him



1 during the normal course of your dealings with the  
2 department?

3 A. I might have mentioned it. I can't say  
4 that on a routine basis I would mention proposed  
5 dispositions to DSS.

6 Q. You don't need their approval, correct?

7 A. That's correct.

8 Q. But as a matter of professional courtesy,  
9 you probably would have at least discussed it or  
10 mentioned it?

11 A. Correct.

12 Q. You did have that discussion in the middle  
13 of the hearing with him?

14 A. Yes.

15 Q. Did he have a response?

16 A. He said that he believed we should go  
17 forward with the hearing.

18 Q. Did you tell him that it was your  
19 decision, and that ultimately at some point you  
20 would make that decision one way or the other?

21 A. I don't think that we had that kind of a  
22 conversation about it, no.

23 Q. Did you ever tell him it was going to be  
24 nol pros'd?

25 A. In October of '02, October 20 of '02, I

1 might have told him that my offer was to nolle the  
2 case. I don't have specific recollection that we  
3 had that discussion.

4 Q. Did Paul Murray ever tell you he was going  
5 to nol pros the case?

6 A. I received a copy of a letter that Murray  
7 wrote to you, and the bottom line was that he was  
8 going to nolle the case.

9 Q. Do you know if he ever communicated that  
10 to Mr. McCormick?

11 A. I don't know.

12 Q. Do you recall a former state employee by  
13 the name of Paul Gronback?

14 A. I recall speaking to him, yes.

15 Q. Do you recall his presence or role in the  
16 Weber investigation?

17 A. Yes.

18 Q. As best you remember, what was his role?

19 A. It was your client's claim that Paul  
20 Gronback gave him permission to bill \$200 for the  
21 facility fee using a particular code.

22 Q. Did you know the name Paul Gronback on the  
23 day of presentment?

24 A. I don't believe I did.

25 Q. Did you ask on day of presentment, did you

1 ask of me for the name that Dr. Weber claimed that  
2 his office manager spoke to at DSS?

3 A. I don't know if it was exactly that day,  
4 but it was around that period of time. I don't know  
5 if it was exactly the day that he was presented  
6 before the court.

7 Q. But you recall a conversation?

8 A. I do.

9 Q. Was that, the release of that name to you,  
10 was that part of the ultimate offer that you had  
11 made?

12 A. Of AR?

13 Q. Yes.

14 A. I don't understand the question.

15 Q. You wanted to know the name before you  
16 made any decision; isn't that fair to say?

17 A. Yes.

18 Q. You weren't about to nol pros a case based  
19 on some anonymous name or some anonymous information  
20 that Dr. Weber was claiming, correct?

21 A. That's correct.

22 Q. Before you did anything further you wanted  
23 to know who it was?

24 A. Correct.

25 Q. And at some point in the spring of '03 I

1 related that name to you, correct?

2 A. At some point you related the name to me.  
3 I don't know if it was the spring of '03 or before  
4 then or after then. I don't recall the exact time.

5 Q. Do you recall getting a copy of a, what  
6 appeared to be a handwritten note on a Rolodex sheet  
7 with Paul Gronback's name on it?

8 A. Yes.

9 Q. Do you recall when you received that?

10 A. My recollection is that it was in December  
11 of '02, when you gave me your first submission.

12 Q. That's fair. I'm not trying to cut you  
13 off, Mr. Leslie, but I have the documents. Why  
14 don't we go ahead and mark it and I'll inquire on  
15 that.

16 (Leslie Deposition Exhibit 18 marked  
17 for identification.)

18 BY MR. KOGUT:

19 Q. If you would just take a look at that,  
20 Mr. Leslie, and tell us what it is.

21 A. This is a fax from me to John McCormick  
22 consisting of two pages. The first page is the fax  
23 cover sheet, the second page is a handwritten, what  
24 appears to be a Rolodex-type card with the Medicaid  
25 telephone number on it, Weber's identification

1 number, and the name Paul "Gron," with a hyphen, and  
2 then "Back," with a phone number.

3 Q. Does this refresh your memory as to when  
4 you learned of the name of Mr. Gronback?

5 A. Well, I had said December of 2002.

6 Q. Could it have been a little prior? But  
7 certainly by December 9?

8 A. Yes.

9 Q. You took the information, and you gave it  
10 to Mr. McCormick, correct?

11 A. That's correct.

12 Q. Did you have much, other than the meetings  
13 you testified to in preparation for Mr. McCormick,  
14 did you have much contact and communication with  
15 Mr. McCormick from the time Dr. Weber was arrested  
16 to the time the hearing began?

17 A. If a question arose regarding DSS records,  
18 then certainly I would pick up the phone and I would  
19 call John, and if John wasn't the right person to  
20 talk to, he would direct me to the right person to  
21 talk to. I mean, did I have daily interaction with  
22 him regarding Weber? No, I did not.

23 Q. By the way, during the course of  
24 Mr. McCormick's testimony, was that the first time  
25 that you learned that there were documents that he

1 had that you had not seen?

2 A. Yes.

3 Q. Did you discuss that with Inspector DiNino  
4 at all?

5 A. No.

6 Q. Do you recall what Mr. McCormick's  
7 response was to this fax of yours?

8 A. I don't recall his exact response.

9 Q. Well, as best you remember, if you could  
10 just summarize what the context or what your  
11 discussion was with him about Paul Gronback.

12 A. I believe I was trying to track down Paul  
13 Gronback so that I could speak to him directly.

14 Q. Did Mr. McCormick offer any comments or  
15 opinions about this assertion that Paul Gronback had  
16 these discussions with Ms. Rivera?

17 MR. RING: I'm going to object to the  
18 form of the question. There hasn't been any  
19 testimony about any discussions, I don't believe.  
20 There's nothing in this document about a discussion.

21 Q. You understood the question, correct?

22 A. I understood the question.

23 Q. What's your answer?

24 A. I don't recall what Mr. McCormick's  
25 reaction was to my faxing over this.

1 Q. Did that surprise you?

2 A. (No response.)

3 Q. Let me withdraw the question.

4 Do you recall when you made first contact  
5 with Mr. Gronback?

6 A. I believe it was in the spring of 2003.

7 Q. Was the information that you wanted from  
8 him important in your decision to proceed?

9 A. It would have been, yes.

10 Q. Any reason why you waited so long to  
11 contact him?

12 A. Yeah. He was no longer a state employee,  
13 so I had to track him down; and secondly, I spent  
14 three months down in New Haven on an involuntary  
15 transfer, and I couldn't do any work on Medicaid  
16 fraud cases.

17 Q. Had you informed Mr. McCormick about the  
18 transfer and the fact that the case would be  
19 continued during your absence?

20 A. I don't recall specifically whether I  
21 informed John McCormick of that. I know that I  
22 informed everyone that I felt needed to be informed,  
23 including opposing counsel, court personnel.  
24 Whether DSS fell in that category I don't know.

25 Q. Did you have ultimately a conversation

1 with Mr. Gronback?

2 A. I did.

3 Q. Do you recall roughly when that would have  
4 been?

5 A. Again, spring of '03.

6 Q. Can you tell us what memory you have of  
7 that conversation?

8 A. I can. He indicated to me that during the  
9 time frame in question he was actually assigned to a  
10 specific project within DSS, so it was a very rare  
11 time that he would have direct interaction with  
12 providers.

13 He did, however, recall receiving a phone  
14 call from somebody in a provider's office that  
15 performed some type of a procedure with a laser. He  
16 didn't know the name of the person, did not recall  
17 the name of the provider, didn't recall the type of  
18 provider or the type of procedure, and the question  
19 that was posed to him, as he recalled, was what code  
20 could they use to recover for supplies and materials  
21 used in conjunction with the laser. He didn't know  
22 the answer to that question, so he asked the  
23 department's medical director. The department's  
24 medical director at that point said that they could  
25 use the 99070 code and bill for the supplies and



1 materials up to \$200 per claim.

2 Mr. Gronback then told me that he called  
3 whoever this person was and relayed that information  
4 to them, and that was the sum and substance of his  
5 conversation with me.

6 Q. Did he tell you that the first time you  
7 contacted him?

8 A. Well, the first time that I contacted him  
9 I believe I e-mailed him, but I can't recall whether  
10 it was in a reply e-mail or whether it was on the  
11 telephone with him.

12 Q. I have that. We can mark that.

13 (Leslie Deposition Exhibit 19 marked  
14 for identification.)

15 BY MR. KOGUT:

16 Q. If you would just take a look at that,  
17 Mr. Leslie. Is that familiar?

18 A. Yes.

19 Q. Is that the e-mail you were talking about?

20 A. That's his reply to me.

21 Q. Do you recall whether that was the first  
22 contact that you had with him, or was there an  
23 earlier telephone discussion?

24 A. I believe this was the first contact that  
25 I had with him. There may have been a subsequent

1 telephone contact.

2 Q. So is it your memory that from the first  
3 time you contacted Mr. Gronback he had some  
4 recollection of this discussion that he described to  
5 you?

6 A. Yes.

7 Q. You didn't need to go back and jog his  
8 memory or refer other information to him? This was  
9 his initial response?

10 A. To my e-mail.

11 Q. But was there an earlier telephone  
12 discussion where he may have said to you, I don't  
13 remember anything about this?

14 MR. RING: Object to the form of the  
15 question.

16 A. My recollection is that there was not an  
17 earlier telephone conversation.

18 Q. Was this information significant to you?

19 A. It was.

20 Q. Why so?

21 A. Well, having been given his name as the  
22 individual who supposedly gave Weber permission to  
23 bill for the \$200, he states in his e-mail that he  
24 could not have spoken with Ms. Rivera in 1992, and  
25 the earliest that it could have been was five years

1 later. He does recall having some sort of a  
2 conversation about billing for certain disposable  
3 items, and he replied back that they could bill  
4 under that certain procedure code up to a maximum of  
5 \$200.

6 So in my opinion, the assertion that Paul  
7 Gronback was the individual who gave Weber  
8 permission to bill was not true, which impacted my  
9 decision on whether to go forward with the  
10 prosecution.

11 Q. So did you believe that Ms. Rivera was  
12 being untruthful in her assertion?

13 A. I believed that the information that was  
14 provided to you from your client, that you then  
15 provided to me, was not correct. Whether there was  
16 an intent to be untruthful or not, I had not made up  
17 my mind yet.

18 Q. What changed for you from May 5, '03 until  
19 November, when you no longer believed there was  
20 probable cause to continue the prosecution?

21 A. November you showed me a copy of the  
22 remittance advice with handwritten notations on it  
23 indicating that Ms. Rivera had called DSS, had  
24 received permission to bill \$200, 099070, and  
25 without seeing the document again I don't know if

1 there was other handwritten information on there;  
2 but that, in conjunction with Ms. Rivera's  
3 testimony, and also what else transpired during the  
4 hearing, I believed that probable cause no longer  
5 existed.

6 Q. Do you recall Mr. Murray testifying that  
7 you panicked that day?

8 A. I recall him saying that.

9 Q. Do you know why he said that?

10 A. I don't.

11 Q. Do you agree with him?

12 A. No.

13 Q. Do you believe that you were conducting  
14 the hearing appropriately?

15 A. Yes.

16 Q. And that your decision at that point to  
17 not pros was appropriate?

18 A. Yes.

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

21 BY MR. KOGUT:

22 Q. Does that document look familiar to you?

23 A. It does.

24 Q. Just take a moment to look at that. Would  
25 you describe what that document is, Mr. Leslie?

1           A.       This is an e-mail that I sent to Donna  
2 Frank on May 2, 2003, and her response to my e-mail.

3           Q.       You had a series of questions for her,  
4 didn't you?

5           A.       I did.

6           Q.       Were these questions based on the  
7 submission, the motions to suppress and dismiss, or  
8 were they based on information that you learned  
9 prior to the filing?

10          A.       I'm sorry. Could you repeat the question?

11          Q.       Sure. Were these questions based on  
12 information you received from the filing of the  
13 motions to dismiss and suppress, or were they based  
14 on information that you received prior to the filing  
15 of those motions? It's dated the 2nd of May.

16          A.       I believe these questions were generated  
17 based upon materials that you supplied, not the  
18 motions to suppress or the motion to dismiss.

19          Q.       It's just coincidental that it happens to  
20 be the 2nd of May, correct?

21          A.       I don't know what the coincidence is.

22          Q.       That was the date I believe the motions  
23 were to be filed.

24          A.       Apparently it is.

25          Q.       But in any event, you were working up the

1 case and gathering the information as you needed it  
2 for the purposes of defending the motions, correct?

3 A. That's correct.

4 Q. Did you find Ms. Frank cooperative?

5 A. Very.

6 Q. During the course of these or these  
7 requests here did you learn information about the  
8 Dr. Harper audit?

9 A. Can you repeat the question, please.

10 Q. Sure. During the course of your gathering  
11 the information to prepare for the hearing did you  
12 learn of an audit performed on a Dr. Harper?

13 A. Yes, I did.

14 Q. And a Dr. Nasaduke?

15 A. Yes.

16 Q. Do you recall that those audits were  
17 actually entered into evidence during the course of  
18 the hearing, were they not? Do you recall that?

19 A. I believe they were.

20 Q. Did you learn during the course of  
21 preparing for the hearing about the 99070 code?

22 A. Did I learn what?

23 Q. About the code itself and its use.

24 A. I don't understand the question.

25 Q. Before the Dr. Weber case, before the case

1 was assigned to you, when you said it was assigned  
2 in 2002, had you ever known or heard of the code  
3 99070?

4 A. No, I had not.

5 Q. You educated yourself during the course of  
6 the investigation?

7 A. Correct.

8 Q. You learned more about it during the  
9 course of your preparation for hearing?

10 A. Correct.

11 Q. Did you learn about the use of -- strike  
12 that.

13 Did you learn about the difference between  
14 a technical and professional component for certain  
15 procedures?

16 A. Yes.

17 Q. Did you learn at some point about the use  
18 of modifiers?

19 A. Yes.

20 Q. You became familiar with modifier 26?

21 A. I don't recall specifically modifier 26.

22 Q. Do you recall the use of modifiers?

23 A. I do.

24 Q. Do you recall the fact that during this  
25 time or during the time that Dr. Weber was filing

1 claims that the EDS system did not recognize  
2 modifiers? Do you recall that?

3 A. Yes.

4 Q. Did you learn that from Mr. Powanda, or  
5 did you learn that from someone at the Department of  
6 Social Services?

7 A. I believe I learned that from Ms. Frank.

8 Q. Was that significant to you?

9 A. How so? In what connection?

10 Q. Did it impact in your decision to continue  
11 the prosecution or reach a decision to nol pros the  
12 case?

13 A. No.

14 Q. Did you learn at some point that Dr. Weber  
15 had been audited prior to this 2000 audit which led  
16 to his arrest?

17 A. Yes.

18 Q. Do you recall how many times he was  
19 audited in the past?

20 A. I believe one other time.

21 Q. That was in the period of 1997 to 1998?

22 A. I believe that was the period of time.

23 Q. Did Ms. Frank or Mr. McCormick or  
24 Mr. Comerford ever tell you that he had been audited  
25 for the period 1995 to 1996?