

1 terms and conditions of employment. Are you contending  
2 that's enough to make them a perfectly clear successor?

3 MR. CASTILLO: We do have two theories here, your  
4 Honor. The first theory is, as Mr. Allison made reference  
5 to, that the purchase agreement by itself made Nexeo  
6 Solutions a perfectly clear successor by its very terms.  
7 But we also have a second theory in this case. And that  
8 second theory is that the statements that were made by  
9 Ashland's managers in their capacity as Nexeo agents, even  
10 if the offer of employment was not until February, based on  
11 the case law, well, first of all, based on the purchase  
12 agreement, Section 11.7, which required Nexeo to approve  
13 any communication made to the employees of the union prior  
14 to the statements being made --

15 ADMIN. LAW JUDGE KOCOL: Okay, you've persuaded me on  
16 that point after reading you. I'm going to reverse myself  
17 and require that Respondent provide to the General Counsel  
18 all the communications it had with regard to, what was the  
19 paragraph? 11.7?

20 MR. CASTILLO: Yes.

21 ADMIN. LAW JUDGE KOCOL: 11.7, as described in the  
22 subpoena.

23 MR. KADELA: Your Honor, we addressed some of those  
24 issues in our brief on the agency issues. And --

25 ADMIN. LAW JUDGE KOCOL: No, I'm going to require, in



1 other words I'm going to give the General Counsel a full  
2 opportunity to establish agency here, if you can, prior to  
3 that. As I sit here now, he's got an uphill battle. But  
4 maybe he can prove that. And so, I'm going to require you  
5 to turn that over so they have every opportunity to do so.

6 MR. KADELA: Could I ask this, your Honor? Then any  
7 document besides those are already turned over by Ashland  
8 because Ashland, you may not be aware of this, on Friday  
9 evening produced the records in response to that request  
10 which consist basically of everything that Nexeo would have  
11 had.

12 MR. ALLISON: I would object to that, your Honor. I  
13 think we should be able to get these documents from Nexeo.

14 We shouldn't have to rely on Ashland's judgment as to what  
15 is or what --

16 ADMIN. LAW JUDGE KOCOL: I'm going to require you to  
17 turn it over and work it out with Mr. Castillo. If they're  
18 lengthy documents he already has, you know --

19 MR. KADELA: Your Honor, first, I don't know how we  
20 could even, how long it would take us even to get those  
21 documents to the extent they exist because one thing to be  
22 appreciated here is that this was work being done at  
23 Ashland on Ashland's systems. And so, if Ashland had it,  
24 that was it. To the extent there may be things that may  
25 have been sent that somebody, in terms of Nexeo, there were

1 no Nexeo, no TPG employees on the ground working on this.  
2 I mean there was a consultant like John Hollinshead, there  
3 was a human resources consultant, Mark Udal, there were  
4 some other people involved from various like  
5 PriceWaterhouse was on board there. But in terms of TPG,  
6 they had people, anybody they had there was not involved in  
7 this aspect of it.

8 Again, April 1, Nexeo's, everybody, these people become  
9 Nexeo employees. So, we can undertake to see what we can  
10 find. The problem is going to be that during the course  
11 of, I don't know because we have to go to other people to  
12 see what they have. Now, so I'm really saying that it's  
13 going to be difficult. My assumption is that whatever  
14 Ashland had, if we had it, it would be that. But we may  
15 not even have what Ashland had.

16 MR. CASTILLO: I would just note for the record that  
17 the subpoena was provided to Mr. Kadela on March 7, about  
18 four weeks ago for this very reason so that they would have  
19 sufficient time to --

20 ADMIN. LAW JUDGE KOCOL: I'd request, Mr. Kadela, that  
21 you make your very best efforts to get those documents here  
22 as soon as possible. I know part of this problem was  
23 caused by my granting your petition to revoke in part and  
24 now I'm reversing myself. I understand that. But do your  
25 best to get those documents here as soon as possible.

1 Illinois facility, mostly communications were, at these  
2 town hall meetings were by Ashland managers who were  
3 actively speaking with bargaining unit members. In the  
4 Fairfield case, as you will find out in a month, it was  
5 more in the form of written communication with the  
6 employees. But the message was consistent at both  
7 locations.

8 And that would go to show that there was a commonality  
9 in terms of the message being streamed to employees at all  
10 the locations including Willow Springs and the Fairfield,  
11 California location. And therefore, it would corroborate  
12 testimony of our witnesses here in Chicago and I think it  
13 would be relevant to the issue of whether or not Nexeo was  
14 in fact a perfectly clear successor.

15 ADMIN. LAW JUDGE KOCOL: Do you intend, you say you  
16 intend to offer some of the Fairfield communications as  
17 part of this case?

18 MR. CASTILLO: Well, and I guess maybe this is the  
19 point where we should have this discussion about, you know,  
20 you had indicated during our conference call that you might  
21 have us file separate briefs.

22 ADMIN. LAW JUDGE KOCOL: No, I've thought that through,  
23 I've changed my mind on that also. Mr. Wilson Dell  
24 persuaded me otherwise. So, we won't brief this until I  
25 get the entire case in front of me because, as someone

1 pointed out in the conference call, all three of these  
2 cases have been consolidated. I'm not hearing them  
3 separately, I'm hearing them in a consolidated way.

4 MR. CASTILLO: And so, there would just be one decision  
5 that you will be issuing?

6 ADMIN. LAW JUDGE KOCOL: One decision.

7 MR. ALLISON: And we're on the record?

8 ADMIN. LAW JUDGE KOCOL: We're on the record.

9 MR. CASTILLO: So, then it will not be necessary for me  
10 to introduce them because they will come in in the  
11 California case.

12 ADMIN. LAW JUDGE KOCOL: Yes. All right. Any other  
13 preliminary matters? Because the only thing I have left  
14 that you've raised is my suggestion to you that I would not  
15 want to hear any, I'm going to use this date kind of  
16 arbitrary, any statements made by Ashland to employees  
17 concerning their terms and conditions prior to February  
18 20th, 2011 until you first establish agency or some  
19 tolerable showing of agency prior to that time.

20 MR. CASTILLO: Your Honor, that's going to be very  
21 difficult for us to do because the facts and the evidence  
22 we're going to rely on to show agency status and apparent  
23 authority are the communications. So, for example --

24 ADMIN. LAW JUDGE KOCOL: That, go ahead, explain that  
25 to me. I don't get that, that's what I'm having trouble

1 with.

2 MR. CASTILLO: So, for example, in mid December when  
3 Mr. Fusco who was still an Ashland HR employee tells Neil  
4 Messino I've been retained by Nexeo Solutions, I've been  
5 hired by them, you know, that shows agency status. You  
6 know, he's basically informing the union that he has the  
7 authority to act on Nexeo's behalf.

8 ADMIN. LAW JUDGE KOCOL: Now, how would, okay, let's  
9 stay with that bit. How would Nexeo know that he made that  
10 representation and, therefore, adopted it?

11 MR. CASTILLO: 11.7 of the purchase agreement  
12 required --

13 ADMIN. LAW JUDGE KOCOL: Well, I'm going to get you  
14 those documents, you'll get those documents. Any documents  
15 exchanged.

16 MR. ALLISON: No, but 11.7 required them to clear these  
17 statements through each other, so it's not a question of  
18 whether there's a paper trail or not. That was the  
19 requirement under the --

20 ADMIN. LAW JUDGE KOCOL: But Ashland breached that,  
21 let's say these breached it, then what?

22 MR. ALLISON: Well, I think under the doctrine of  
23 apparent authority, if these folks are out there saying I'm  
24 hired by Nexeo and here is what's going to happen, you're  
25 all going to get hired, we're not going to change anything,

1 that they have cloaked themselves with apparent authority.

2 ADMIN. LAW JUDGE KOCOL: No, but see, that's the  
3 problem. They can't cloak themselves. It's Respondent who  
4 has to cloak them. So, I'm not persuaded by that. So, I'm  
5 still, Mr. Castillo, I'm still going to ask that you  
6 present your case as best you can in line with what I have  
7 suggested. And that is present your entire case as you see  
8 it with regard to what you need to prove without the  
9 statements made by Ashland supervisors to the unit  
10 employees prior to February 20th.

11 And then if you still need, if you think you still need  
12 to prove up those statements, then I'll need some showing  
13 of agency other than what you've said to me today or in  
14 your various filings with me before us getting to all that  
15 litigation of what was said and putting on people, no, I  
16 didn't quite say this, and trying to resolve it through  
17 that, because I think the guts of your case is going to  
18 rise and fall on what the purchase agreement says and  
19 whether Respondent complied with it and whether the  
20 purchase agreement as agreed to makes the Respondent a  
21 perfectly clear successor who has to bargain with the union  
22 to establish what substantially comparable in the aggregate  
23 is.

24 MR. CASTILLO: Well, that's certainly one theory, that  
25 the purchase agreement made Nexeo Solutions --

1           ADMIN. LAW JUDGE KOCOL: I understand you have a  
2 different theory, but that second theory, I'm not going to  
3 go through a long litigation of people coming in and saying  
4 this is what the Ashland people said to me when at the end  
5 of the day it's all going to be hearsay.

6           MR. ALLISON: There's not going to be that much  
7 testimony, your Honor, and I think that you're not going to  
8 have the record you need to determine whether agency  
9 existed and whether these people have the authority to do  
10 it or the apparent authority to do it and whether the  
11 people relied on these statements that were made to them,  
12 all of which are elements of a perfectly clear case, and  
13 you're excluding all of that from the record. I think it's  
14 not that much and the real risk, you're not giving yourself  
15 and the Board the opportunity to see the context in which  
16 the statements were made to make a reasoned decision with  
17 respect to authority.

18           ADMIN. LAW JUDGE KOCOL: Now, there's always offers of  
19 proof that will preserve the record I think. That's where  
20 I'm leaning now, so that takes care of preliminary matters  
21 from you.

22           I know, Mr. Allison, you have a petition to revoke and  
23 I haven't had a chance to look at it. I'll look at it when  
24 we break and I'll get back to that. But any other  
25 preliminary matters from you?

1 MR. ALLISON: No, sir.

2 ADMIN. LAW JUDGE KOCOL: All right. And how about you,  
3 Mr. Kadela? Any preliminary matters from you?

4 MR. KADELA: Well, I believe, your Honor, we also filed  
5 a petition to revoke the union's subpoena. But I believe  
6 that that won't be much of an issue because my assumption  
7 is that Mr. Castillo will share all the documents that we  
8 produced in response to his subpoena with the union. But  
9 we did, and mainly the first ground being that it was  
10 duplicative that we would have to produce documents that we  
11 are providing to the General Counsel. Otherwise, it was  
12 the same grounds.

13 MR. ALLISON: I think I'm entitled to subpoena  
14 documents even though the General Counsel has subpoenaed  
15 documents.

16 ADMIN. LAW JUDGE KOCOL: All right, then. The three of  
17 you work this out. Let's go off the record.  
18 (Off the record.)

19 ADMIN. LAW JUDGE KOCOL: We're still with you, Mr.  
20 Kadela.

21 MR. KADELA: Thank you, your Honor. And again, before  
22 going on the record, we provided you with our pre-trial  
23 brief motion to file it on the agency issue. So, you now  
24 have that. That, as far as background, lays out much of  
25 what I was discussing in my opening statement in terms of

1 grant that amendment.

2 MR. KADELA: That will not change our answer.

3 MR. CASTILLO: I didn't think it would.

4 MR. KADELA: One other, if I might, your Honor?

5 ADMIN. LAW JUDGE KOCOL: Yes.

6 MR. KADELA: A preliminary matter, and I'm not sure how  
7 Mr. Castillo plans to handle this but I understand your  
8 ruling that before evidence can come on as to what an  
9 Ashland manager may have or allegedly said to bargaining  
10 unit employees regarding their future job prospects, that  
11 Mr. Castillo needs to lay a foundation for establishing  
12 that they did so as agents of Nexeo.

13 ADMIN. LAW JUDGE KOCOL: Yes, exactly.

14 MR. CASTILLO: And your Honor, not to belabor the  
15 point, but as I was mentioning earlier, we have received  
16 documents from Ashland this morning pursuant to the  
17 subpoena. But nobody here, you know, has appeared on  
18 behalf of Ashland. And if we're going to have to show  
19 that, you know, these individuals were in fact agents of  
20 Nexeo, we're going to need somebody to authenticate those  
21 documents because Mr. Kadela has already indicated that he  
22 won't stipulate to the authenticity.

23 ADMIN. LAW JUDGE KOCOL: You need to get on the phone  
24 and tell Ashland that, you know, the subpoena was for  
25 someone to show up with the documents. And I take it you

1 haven't excused them, and you tell them that you brought  
2 this to my attention and I'm asking them to supply someone,  
3 their keeper of the records, ASAP. So, you can get going  
4 on that, or work it out with them as to when you need it.

5 MR. KADELA: Your Honor, and I would also ask, and the  
6 reason I, I believe I said this the first time was that I  
7 don't know what documents he's talking about that he would  
8 want me to stipulate to. I merely made the point that in  
9 our view, unless they were communicated to employees and  
10 there is no evidence of that, then they're not relevant.  
11 Now, I'm not sure how the document gets then to the point  
12 that when Tony Kuk or Paul Fusco or Pat Cassidy said  
13 something to someone, that there's a document out there  
14 that may be authentic, that you draw the conclusion that  
15 that made them agents. I don't see a link between that. I  
16 think there's got to be a link to that.

17 ADMIN. LAW JUDGE KOCOL: But I'll have to allow Mr.  
18 Castillo to make that effort. And he may fall short but he  
19 may have something there, and I'll have to hear him out at  
20 least.

21 MR. CASTILLO: Among the documents that I've been able  
22 to review from Ashland this morning and made copies of, I  
23 have two documents dated November 8, 2010. The first  
24 document is from Robert Craycraft, president of Ashland.  
25 And it's to customers, "Dear Valued Customer," November 8,

1 a rejected exhibit file and let's put this GC 39 in that.

2 All right, let's go to 40.

3 (Whereupon General Counsel's Exhibit Number 39 was rejected  
4 and put in the rejected exhibit file.)

5 MR. CASTILLO: GC 40, if you look at question number,  
6 and this is a document that was posted on November 8, 2010  
7 on Ashland's corporate web page, "Questions and Answers for  
8 Employees." Number 4, "Will Ashland Distribution's current  
9 management team remain with the business? Yes. The  
10 current management team will transfer with the business."

11 So, there you've got, again coming from Ashland's  
12 corporate office, you know, statements indicating that the  
13 current Ashland managers are going to be moving over to  
14 Nexeo Solutions. And so, this was a document prepared for  
15 the employees who were certain to have questions about, you  
16 know, the impending sale and what it would mean for  
17 everyone including their managers. This, I don't know how  
18 much more clear you can be than the fact that from the very  
19 first day, November 8th, Ashland, with the approval of  
20 Nexeo, indicated that the current management team would be  
21 going over with the business.

22 ADMIN. LAW JUDGE KOCOL: Do you stipulate that? Was  
23 that part of the purchase agreement?

24 MR. KADELA: With respect to this document, I would  
25 submit that it probably, it is what it purports to be, a

1 document posted by Ashland that contains --

2 ADMIN. LAW JUDGE KOCOL: I think that there is no  
3 objection just to authenticity, so let's --

4 MR. KADELA: Absolutely. There is no foundation to  
5 support an agency relevance, nor is there any foundation to  
6 support a relevance towards Nexeo as being deemed to be a  
7 perfectly clear successor which of course would require  
8 some kind of agency. The fact that it says that the  
9 managers are going to transfer with the business would  
10 dovetail with our agreement that the managers became agents  
11 and supervisors of Nexeo effective April 1 when the company  
12 commenced operations, not effective November 8.

13 ADMIN. LAW JUDGE KOCOL: All right.

14 MR. CASTILLO: The other thing, your Honor, if I may?

15 ADMIN. LAW JUDGE KOCOL: Yes.

16 MR. CASTILLO: Question number 20 which is in the  
17 bottom right corner of page 1, "Does the newly independent  
18 company anticipate any changes to compensation and/or  
19 benefits? Under the terms of the agreement for at least  
20 the 18 months following closing, the newly independent  
21 company," and it continues on the upper right-hand corner,  
22 "is required to provide to each transferred employee base  
23 salary and wages that are no less favorable than those  
24 provided prior to closing, and other employee benefits that  
25 are substantially comparable in the aggregate to

1 compensation of benefits as of January 1st, 2011." That's  
2 taken directly from the purchase agreement.

3 ADMIN. LAW JUDGE KOCOL: Yes. Well, do you still want  
4 to object to this one? I think it's --

5 MR. KADELA: Yes, exactly, your Honor. I think that  
6 this would prove that employees were notified on day one  
7 that the terms and conditions of employment would change.

8 ADMIN. LAW JUDGE KOCOL: Properly notified by I assume  
9 as to what the deal would be.

10 MR. KADELA: Yes.

11 ADMIN. LAW JUDGE KOCOL: So, are you still objecting to  
12 this one?

13 MR. KADELA: Again, I don't object to its authenticity  
14 that it's a document posted by Ashland. But to the extent  
15 it's offered to prove that Ashland was acting as Nexeo's  
16 agent, I have a hard time doing that.

17 ADMIN. LAW JUDGE KOCOL: Let's see if this, but I'm  
18 going to receive into evidence General Counsel's 40 because  
19 I think this is akin to an admission against your interest,  
20 that to the extent that the supervisors are going to,  
21 you're going to present supervisors who will say something  
22 different than this --

23 (Whereupon General Counsel's Exhibit Number 40 was received  
24 into evidence.)

25 MR. CASTILLO: No. They're going to inform the

1 employees that they would all be retained including the  
2 managers and that the benefits were going to be the same in  
3 fact.

4 ADMIN. LAW JUDGE KOCOL: Okay. That they told the  
5 employees specifically what you just read? Then you have  
6 yourself covered here, then you have your case covered  
7 because you can, your entire case, if that's what they were  
8 going to tell employees, you have your case covered here if  
9 this is what they told employees.

10 MR. CASTILLO: Well, it wasn't in those terms, it was  
11 in terms that the employees could understand. And  
12 there's --

13 ADMIN. LAW JUDGE KOCOL: Well, then, now here comes the  
14 problem. This is what I raised with Mr. Allison a minute  
15 ago. And we're going to be moving on here because I've  
16 made my point, to the extent that you put on testimony that  
17 these Ashland employees put a gloss on this, then it's  
18 inconsistent with the purchase agreement and they're not  
19 going to be agents from that. They're not going to have  
20 the authority to do that. I'm not going to find that.

21 MR. CASTILLO: Well, it's a distinction --

22 ADMIN. LAW JUDGE KOCOL: I mean so far. So far.

23 MR. CASTILLO: It's a distinction without a difference.

24 ADMIN. LAW JUDGE KOCOL: Okay. Well, then if it is  
25 without a difference, then you're covered here. I've

1 received this into evidence and you now have evidence that  
2 Ashland itself quite apart from what these individual  
3 supervisors have said, but Ashland itself told the  
4 employees about this, they'd be hired and their wages would  
5 be the same for 18 months and that the benefits would be  
6 comparable in the aggregate. So, you're covered, there is  
7 your case.

8 MR. KADELA: And I wouldn't necessarily disagree, your  
9 Honor, because if the principal claim in this case is that  
10 the purchase agreement obligated Nexeo as the perfectly  
11 clear successor based upon this language, then let's brief  
12 it.

13 ADMIN. LAW JUDGE KOCOL: Now, that's what I think we're  
14 getting down to. But let's continue, this is your case.  
15 So, I've received GC 40. And I think that helps resolve a  
16 lot of the issues here, but you can go on.

17 MR. CASTILLO: Just so I understand, I'm not arguing  
18 with you, just so I understand, you believe then that GC 40  
19 establishes our case that Ashland managers were making  
20 these representations to the employees?

21 ADMIN. LAW JUDGE KOCOL: Ashland itself, I don't know  
22 about Ashland managers. But this certainly establishes  
23 that Ashland told the employees what you say it told the  
24 employees in terms of what you just read, those two  
25 paragraphs. There's no question about it. So, if that's

1 what you are seeking to prove, I think you've established  
2 through this, my acceptance of this as an authentic  
3 document issued by Ashland to its employees and Ashland  
4 told them just what it says here.

5 MR. CASTILLO: There are Board cases, your Honor, that  
6 indicate --

7 ADMIN. LAW JUDGE KOCOL: Now, the result of that is,  
8 you know, a different story.

9 MR. CASTILLO: Okay. Because there are Board cases  
10 saying that simply telling employees that they would  
11 receive comparable benefits does not put them on notice  
12 that terms and conditions of employment would be changing.

13 There are Board cases on that.

14 ADMIN. LAW JUDGE KOCOL: All right. Now, we're getting  
15 into a whole different line of cases. At the next break,  
16 supply me with that lead case, not a lot of cases but the  
17 lead case on that. Because I asked earlier whether the  
18 parties were aware of any case in point, everyone said no.

19 Now you say there was a case in point.

20 MR. CASTILLO: Let me go off the record for just a  
21 minute. I may have it right here.

22 ADMIN. LAW JUDGE KOCOL: Okay, off the record.

23 (Off the record.)

24 MR. CASTILLO: Yes, and I'm turning to GC 41, question  
25 number 6. "Will the management team have any say on the

1 employees that are slated to go with the new distribution  
2 company? Yes. The managers are aware and continue to be  
3 part of the mutually agreed upon process to determine the  
4 methodology for transferring employees to the new  
5 distribution company." The managers are aware, this was a  
6 December 6, 2010 document.

7 ADMIN. LAW JUDGE KOCOL: All right. Any objection?

8 MR. KADELA: Yes, same objections.

9 ADMIN. LAW JUDGE KOCOL: And this one is rejected and  
10 it goes in the rejected exhibit file. Please continue, Mr.  
11 Castillo.

12 (Whereupon General Counsel Exhibit Number 41 was rejected  
13 and put in the rejected exhibit file.)

14 MR. CASTILLO: What's the basis for the rejection?

15 ADMIN. LAW JUDGE KOCOL: It's rejected, I've already  
16 explained that in the first document.

17 MR. ALLISON: Without being argumentative, your Honor,  
18 doesn't this document from Ashland say that its managers  
19 are aware of the process? Isn't that Ashland telling  
20 employees that Ashland managers are able to speak with  
21 respect to this process out of the purchase agreement?

22 ADMIN. LAW JUDGE KOCOL: You can't pick and choose the  
23 words out. You have to read the entire sentence to  
24 determine the methodology for transferring employees. It  
25 doesn't say determine the terms and conditions that would

1 have any communication with any Ashland Distribution  
2 manager about the status of the company?

3 A. Yes, Paul Fusco.

4 Q. When did that conversation take place?

5 MR. KADELA: Objection.

6 ADMIN. LAW JUDGE KOCOL: What's the objection?

7 MR. KADELA: That it's irrelevant.

8 ADMIN. LAW JUDGE KOCOL: Let's get a couple more  
9 questions and then I'll hear your objection. When did it  
10 take place? When did the conversation take place?

11 THE WITNESS: November 8th.

12 Q. BY MR. CASTILLO: About what time?

13 A. 5:00 a.m.

14 Q. Did anyone else participate in that conversation?

15 A. No.

16 Q. And was this a conversation by phone or in person?

17 A. By phone. He called me.

18 Q. What was said during this conversation?

19 ADMIN. LAW JUDGE KOCOL: There's your objection?

20 MR. KADELA: Objection.

21 ADMIN. LAW JUDGE KOCOL: All right. So, the objection  
22 is going to be relevance and hearsay?

23 MR. KADELA: Yes.

24 MR. CASTILLO: And this is testimony going to how the  
25 union learned of the sale between Ashland and TPG.

1 ADMIN. LAW JUDGE KOCOL: All right. So, for that  
2 limited purpose, this is still background. I'll allow it  
3 for just that limited purpose. Please continue.

4 Q. BY MR. CASTILLO: What was said during this  
5 conversation with Mr. Fusco?

6 A. Paul Fusco informed me that the start of business day,  
7 there was going to be an announcement that TPG had  
8 purchased Ashland Distribution from Ashland, Inc. for a  
9 little bit over \$900 million. And I asked him what was  
10 going to happen to the employees or if he knew anything.

11 MR. KADELA: Objection.

12 ADMIN. LAW JUDGE KOCOL: Same objection?

13 MR. KADELA: Yes, and it's also non-responsive.

14 MR. CASTILLO: This would go to the perfectly clear  
15 successor issue as to, I don't want to put words in his  
16 mouth with him sitting right here, but whether the  
17 employees would be retained by the new company.

18 ADMIN. LAW JUDGE KOCOL: Doesn't that have to come from  
19 the new company?

20 MR. CASTILLO: As we have mentioned before, your Honor,  
21 we don't believe so. We're in disagreement as to whether  
22 or not Mr. Fusco was an agent.

23 ADMIN. LAW JUDGE KOCOL: All right. The objection is  
24 sustained as to hearsay, but I'll allow you to put it in  
25 simply as background, as part of the background

1 conversation and you can try to move on.

2 MR. CASTILLO: Well, we would like it in for the truth  
3 of the matter.

4 ADMIN. LAW JUDGE KOCOL: Clearly not, it's hearsay.

5 MR. CASTILLO: May I make an offer of proof then?

6 ADMIN. LAW JUDGE KOCOL: No, you ask him. I'm not, in  
7 other words, Mr. Castillo, I'm sorry, maybe I wasn't clear.  
8 You can ask him what was said and I'll receive it simply  
9 for what was said so that it leads up to more relevant  
10 testimony. But I'm not going to receive it for the truth  
11 of the matter asserted.

12 MR. CASTILLO: I understand that. And I just want to  
13 make the record clear, we're not waiving our right to make  
14 arguments, if this case ever gets to the Board, that Mr.  
15 Fusco was an agent or that Nexeo was a perfectly clear  
16 successor based in part on this conversation and subsequent  
17 conversations.

18 ADMIN. LAW JUDGE KOCOL: I understand that, that's why  
19 I'm allowing you to ask that question.

20 MR. CASTILLO: I'm sorry, your Honor. Thank you.

21 MR. KADELA: And to that extent, I would object further  
22 on foundational grounds. While it may be background  
23 evidence with your Honor's ruling, the ruling is such that  
24 then I would leave that evidence alone on cross, and so it  
25 becomes problematic in the event that, you know, that the

1 ruling is, were not followed. I'm not sure if I'm making  
2 myself clear on that.

3 ADMIN. LAW JUDGE KOCOL: Yes. Let's go off the record  
4 a moment.

5 (Off the record.)

6 ADMIN. LAW JUDGE KOCOL: Mr. Kadela, you've persuaded  
7 me. I won't allow this because I'm putting you in a  
8 dilemma here. You either cross examine and then you've  
9 litigated the issue, or you do nothing and if there is a  
10 reversal we all come back. So, I'm leaving you hanging too  
11 much, I don't think I'm being fair to Respondent on this  
12 one. So, the objection is sustained as to what Ashland  
13 said to this witness concerning the terms and conditions of  
14 employment.

15 MR. CASTILLO: I'd like to make an offer of proof then.

16 ADMIN. LAW JUDGE KOCOL: Yes.

17 MR. CASTILLO: If permitted to testify, Neil Messino  
18 would testify that he asked Paul Fusco during this  
19 conversation what is going to happen to the employees.  
20 Paul Fusco responded my understanding is that the buyer is  
21 going to retain all the employees.

22 ADMIN. LAW JUDGE KOCOL: The offer of proof is noted  
23 and rejected. So, please continue.

24 Q. BY MR. CASTILLO: What did you do after you hung up the  
25 phone with the Mr. Fusco?

1 A. Shortly after that, I called the union steward, Mike  
2 Jordan, and the other steward, George Sturba, and let them  
3 know about the sale.

4 Q. At what time did you make these calls?

5 A. I was still on my way to work, probably within the next  
6 15 minutes, so between 5:00 and 5:45 I made the calls.

7 Q. And what did you, which steward did you speak to first,  
8 do you recall?

9 A. Mike Jordan.

10 Q. And what was said between you and Mr. Jordan?

11 MR. KADELA: Objection.

12 ADMIN. LAW JUDGE KOCOL: Hearsay?

13 MR. KADELA: Hearsay.

14 MR. CASTILLO: Well, again this is background. We are  
15 going to have Mike Jordan testify so he'll be subject to  
16 cross examination on this as well.

17 ADMIN. LAW JUDGE KOCOL: This is classic hearsay. This  
18 is classic hearsay. Sustained. And no, let's go on.

19 MR. ALLISON: He's not testifying, your Honor, to what  
20 Mr. Jordan told him. He's testifying to what he told Mr.  
21 Jordan. I think he can testify to that. It's just  
22 conversation.

23 ADMIN. LAW JUDGE KOCOL: All right. Let's take this a  
24 step at a time. If you're offering this to show, and  
25 you'll have to tell me, Mr. Castillo, if you're offering

1 this to show subsequent conduct by the union, then it may  
2 be admissible. But if you're offering this to show what  
3 Ashland said to Mr. Messino, I'm not going to allow it.  
4 So, you have to tell me.

5 MR. CASTILLO: On this conversation, we're not using it  
6 to establish what Mr. Fusco stated during their phone  
7 conversation earlier in the day.

8 ADMIN. LAW JUDGE KOCOL: So, you're establishing it  
9 solely for the purpose of explaining subsequent conduct?

10 MR. CASTILLO: On the part of the union and the  
11 employees.

12 ADMIN. LAW JUDGE KOCOL: All right. So, for that  
13 narrow purpose, I'll allow it. But again, Mr. Castillo,  
14 you'll have to tell me what these purposes are. I can't --

15 MR. CASTILLO: I can do that.

16 ADMIN. LAW JUDGE KOCOL: All right. I appreciate that.  
17 So, let's get the answer.

18 Q. BY MR. CASTILLO: What was said between you and Mike  
19 Jordan?

20 A. I called Mike Jordan to let him know that I just got  
21 off the phone with Paul and that he informed me that the  
22 place was for sale, the sale was going to go through the  
23 end of the year or possibly at the end of the first  
24 quarter. I told him how much money he told me, over \$900  
25 million. And I told Mike that Paul stated they were going

1 to hire the employees.

2 MR. KADELA: Objection. Move to strike.

3 MR. CASTILLO: This is what was said during the  
4 conversation.

5 ADMIN. LAW JUDGE KOCOL: I believe you're not offering  
6 it for the truth of the matter asserted. You just told me  
7 you weren't.

8 MR. CASTILLO: We are not.

9 ADMIN. LAW JUDGE KOCOL: All right. So, that takes  
10 care of that. He is not even offering it at this point, so  
11 you are on the horns of no dilemma at this point.

12 MR. KADELA: Thank you.

13 ADMIN. LAW JUDGE KOCOL: So, let's continue.

14 Q. BY MR. CASTILLO: Later that day, was there any  
15 announcement regarding the sale of Ashland Distribution to  
16 TPG Capital?

17 A. Yes.

18 Q. Let me show you what's been marked as General Counsel  
19 Exhibit 3.

20 Do you recognize this document?

21 (Whereupon General Counsel's Exhibit Number 3 was marked  
22 for identification.)

23 A. Yes, I do.

24 Q. What is this document?

25 A. This is what I pulled up when I got to my office, I

1 sessions?

2 A. Yes.

3 Q. When did the parties next meet?

4 A. November 17th.

5 Q. Did you attend that bargaining session?

6 A. Yes.

7 Q. Where was this bargaining session held?

8 A. Willowbrook Holiday Inn.

9 Q. Who was present for the union besides yourself?

10 A. Rick Rowe, the business agent. George Sturba, steward.

11 Mike Jordan. And Rick Rowe, Gary Russell was not at that

12 one. Gary Russell, the contract administrator was not in

13 there.

14 Q. Who was present for Ashland Distribution?

15 A. Paul Fusco, Pat Cassidy and Tony Kuk.

16 Q. How did this bargaining session begin?

17 A. Mr. Fusco led off that day telling us about the  
18 purchase and sale of Ashland Distribution, how much it was,  
19 \$930 million, gave us some background of the company, that  
20 TPG company does not gut --

21 MR. KADELA: Your Honor, objection at this point to the  
22 extent we're going to get into statements by Mr. Fusco  
23 about terms and conditions --

24 ADMIN. LAW JUDGE KOCOL: Purchase agreement?

25 MR. KADELA: Yes.

1 MR. CASTILLO: During this conversation --

2 MR. ALLISON: Did you sustain that objection?

3 ADMIN. LAW JUDGE KOCOL: He's asking another question.

4 Is that right?

5 MR. CASTILLO: No, I'm responding.

6 MR. ALLISON: Oh, I'm sorry.

7 ADMIN. LAW JUDGE KOCOL: Okay. Then the objection is  
8 sustained to the extent that you're going to be asking the  
9 witness what Ashland representatives said concerning the  
10 conditions under which they would be offered employment by  
11 Nexeo.

12 MR. ALLISON: And could I speak to that?

13 ADMIN. LAW JUDGE KOCOL: Yes.

14 MR. ALLISON: There's another slant on that, your  
15 Honor. When you read the purchase agreement, it's clear in  
16 Section 7.5 that Ashland and Nexeo entered into this  
17 agreement to hire all the employees and keep the terms and  
18 conditions substantially comparable in the aggregate. That  
19 was, there was a consideration in that flowing back to each  
20 side, and among other things Ashland expressly in the  
21 contract, it says benefits from that are not having any  
22 severance obligations or -- obligations or anything like  
23 that. So, it seems to me that in addition to looking at  
24 Mr. Fusco as an agent, an implied agent for Nexeo, Mr.  
25 Fusco was also an agent for Ashland at this point

1 describing an agreement that Ashland is a party to. So, he  
2 has some direct standing in this in terms of his authority  
3 to describe what the understanding is between the parties.

4 ADMIN. LAW JUDGE KOCOL: If Ashland was a party to this  
5 proceeding, you're absolutely right. If they were somehow  
6 a Respondent, what they said about this would be perceived  
7 as an admission of a party opponent. But they're not, so  
8 my ruling stands.

9 MR. CASTILLO: Well, I would like to make an offer of  
10 proof then.

11 ADMIN. LAW JUDGE KOCOL: All right.

12 MR. CASTILLO: If permitted to testify, Neil Messino  
13 would testify that during the November 17th, 2010  
14 bargaining session, he asked Paul Fusco, do you have the  
15 authority to bargain on behalf of TPG? Paul Fusco  
16 responded, I am bargaining on behalf of Ashland for now,  
17 and if the sale closes, I or someone else will bargain the  
18 agreement between the union and TPG. Thereafter, Paul  
19 Fusco --

20 ADMIN. LAW JUDGE KOCOL: Hold on until I accept it now.  
21 Do you want to reconsider your objection to that portion?

22 MR. KADELA: You know --

23 ADMIN. LAW JUDGE KOCOL: Or not. I'm just asking you.

24 MR. KADELA: I think to the extent that Mr. Messino is  
25 going to testify that Mr. Fusco said that he was there

1 bargaining on behalf of Ashland, we will --

2 ADMIN. LAW JUDGE KOCOL: And may at some point in the  
3 future.

4 MR. KADELA: We will agree to the admissibility of  
5 that, yes.

6 ADMIN. LAW JUDGE KOCOL: So, you're still okay. So,  
7 ask him that question, I'll receive it with that much  
8 integrity.

9 Q. BY MR. CASTILLO: Neil, did --

10 MR. ALLISON: I'm going to object on allowing the  
11 Respondent to pick and choose which part of the  
12 conversation he wants to allow into the record and which  
13 one he doesn't. It seems to me this is a statement by Mr.  
14 Fusco about what's going to happen and either it's him or  
15 it's not him, and not clause by clause in or out depending  
16 on what Respondent may say was in the conversation.

17 ADMIN. LAW JUDGE KOCOL: No, it's not so much that,  
18 it's what may be constituted as objectionable from the  
19 Respondent's point of view. It's not coming in as the  
20 truth of the matter asserted but simply for what Ashland  
21 people who you claim are agents said about this.

22 MR. ALLISON: Well, accepting that it's in what they  
23 said at least in a single conversation, but to say, well,  
24 this sentence is in but that sentence is out and this  
25 clause is in but that phrase is out I think is an

1 inappropriate to proceed.

2 ADMIN. LAW JUDGE KOCOL: Make your entire offer of  
3 proof then. I think you're right. Let's hear your entire  
4 offer of proof and see where it gets us.

5 MR. CASTILLO: I'll start over. If permitted to  
6 testify, Neil Messino would testify that during the  
7 bargaining session on November 17th, 2010, he asked Paul  
8 Fusco, do you have the authority to bargain on behalf of  
9 TPG? Paul Fusco responded, I am bargaining on behalf of  
10 Ashland for now, and if the sale closes, I or someone else  
11 will bargain the agreement between the union and TPG. Paul  
12 Fusco also asked Mr. Messino, do you want to change the  
13 union's initial proposal? At that point, the union called  
14 a caucus.

15 Mr. Messino would testify that when the parties  
16 reconvened, he stated I don't know if I want to change my  
17 proposal. Mr. Fusco then clarified, I understand TPG  
18 reviewed all of the union contracts across the country and  
19 doesn't want too much of a change which is why I asked you.  
20 Mr. Messino would further testify that during this  
21 bargaining session he asked Mr. Fusco for a copy of the  
22 purchase agreement. Mr. Fusco agreed to provide the  
23 purchase agreement to Mr. Messino.

24 Thereafter, during this bargaining session, Mr. Messino  
25 asked what is TPG's business plan? Paul Fusco responded, I

1 understand TPG is planning on keeping the business the way  
2 it is and not gutting the operation.

3 ADMIN. LAW JUDGE KOCOL: All right. So --

4 MR. CASTILLO: And then Mr. Messino asked, does TPG's  
5 business plan include unit employees? Paul Fusco  
6 responded, that's the plan. The meeting then ended with  
7 Mr. Messino stating I'm willing to meet with TPG and  
8 Ashland representatives to make it part of the purchase  
9 agreement that they honor our negotiated contract. Fusco  
10 responded, I will get that information for you. And that  
11 completes my offer of proof.

12 MR. KADELA: I'll abide by my objection there.

13 ADMIN. LAW JUDGE KOCOL: And the objection is  
14 sustained. The offer of proof is noted and rejected.

15 Q. BY MR. CASTILLO: When was the next bargaining session  
16 scheduled to be held? The next bargaining sessions?

17 A. After November 17th, we had December 6th and 7th  
18 scheduled I believe.

19 Q. Prior to those next bargaining sessions, did you make  
20 any further efforts to obtain a copy of the purchase  
21 agreement?

22 A. Yes.

23 Q. Let me show you what's been marked as General Counsel  
24 Exhibit 4.

25 Do you recognize this document?

1 (Whereupon General Counsel Exhibit Number 4 was marked for  
2 identification.)

3 A. Yes, I do.

4 Q. What is GC 4?

5 A. This is an e-mail that I sent Paul Fusco on December  
6 3rd, 2010 at 10:21 a.m.

7 Q. Does the e-mail accurately reflect the date and time  
8 that you sent it to Mr. Fusco?

9 A. Yes.

10 Q. Now, if you direct your attention to the second  
11 sentence of this e-mail, you explain that you would like to  
12 have time to review the purchase agreement before meetings  
13 on Monday. Which meetings were you referring to?

14 A. The meetings on Monday were the 6th and 7th, Monday was  
15 the 6th.

16 Q. If you look at the last line in the e-mail, it says,  
17 "Also, any luck with getting TPG to agree to some of our  
18 suggested language?" What language are you referring to?

19 MR. KADELA: Objection?

20 ADMIN. LAW JUDGE KOCOL: Overruled, just in terms of  
21 the clarity of the record.

22 Q. BY MR. CASTILLO: Please answer.

23 A. This is the language I was looking for when I mentioned  
24 it in the November 17th meeting to him that I wanted just  
25 to see if the purchase agreement, if it wasn't in there,

1 that TPG would honor any agreements that we came to.

2 MR. CASTILLO: Move for admission of General Counsel  
3 Exhibit 4.

4 ADMIN. LAW JUDGE KOCOL: Hearing no objection, General  
5 Counsel's 4 is received.

6 (Whereupon General Counsel's Exhibit Number 4 was received  
7 into evidence.)

8 Q. BY MR. CASTILLO: Did Mr. Fusco respond to your e-mail  
9 of December 3rd?

10 A. Yes.

11 Q. And how did he respond?

12 A. On December 3rd, a little bit later in the afternoon,  
13 he called me on the phone.

14 Q. Did anyone else participate in that phone conversation?

15 A. Yes, in that day Gary Russell was in my office on  
16 another related matter that he was just on the call. He  
17 was in the room.

18 Q. And what was said between you and Mr. Fusco?

19 MR. CASTILLO: And this is not going towards the agency  
20 issue but rather the attempts with trying to obtain the  
21 purchase agreement.

22 THE WITNESS: I asked Paul, he told me that the legal  
23 department was still looking at the purchase agreement,  
24 that he hadn't gotten it yet but the legal department had  
25 it. He did not tell me which legal department, if it was

1 Q. Let me show you what's been marked as General Counsel  
2 Exhibit 8.

3 Now, at this point, I'm just going to backtrack a  
4 little bit. You stated that you received a purchase  
5 agreement from Mr. Fusco on December 10th, do you recall  
6 that?

7 A. Correct.

8 Q. Okay. And at the end of your final e-mail to him on  
9 December 10th at 3:21 p.m., this is GC 5, the last line  
10 says, "I'll let you know on Monday if I need more time."  
11 And that's referring to reviewing the purchase agreement  
12 that you had just received. Do you see that?

13 A. Yes, that's correct. That's what it's referring to.

14 Q. Now, did you eventually get back to Mr. Fusco as you  
15 had indicated in your e-mail?

16 A. Yes, Monday the 13th I called him.

17 Q. Did anyone else participate in that phone conversation?

18 A. No.

19 Q. And what was said?

20 A. I told him I needed more time because I think we had  
21 the 14th tentatively scheduled also, that we needed more  
22 time to review this. And --

23 MR. KADELA: Your Honor, I hate to object again, but  
24 Mr. Castillo's questions call for responses from a prepared  
25 witness that may well go to matters that you're already

1 indicated are not properly admissible. I would just  
2 request that if he could say did you have a conversation  
3 with Mr. Fusco and during the conversation did you discuss  
4 this, what did he say regarding that.

5 ADMIN. LAW JUDGE KOCOL: Well, no, I think that's too  
6 restrictive on him. But we're still waiting to, what is  
7 this conversation --

8 MR. CASTILLO: This will go to the agency issue, so I'm  
9 prepared to make an offer of proof if --

10 MR. ALLISON: I think the Judge may allow this without  
11 the necessity of an offer of proof --

12 ADMIN. LAW JUDGE KOCOL: All right. So, ask the  
13 question and you make the objection.

14 Q. BY MR. CASTILLO: And do you recall if anything else  
15 was discussed during this meeting with Mr. Fusco on  
16 December 13th?

17 A. Yes, in this meeting he informed me that he was hired  
18 by the new co and that's what he referred to the new  
19 company, and that the announcement would be coming later in  
20 the month, and that Pat Cassidy was hired on in the  
21 transition team and he believed Kuk would get the same  
22 offer but at that time he didn't have it yet for Kuk.

23 ADMIN. LAW JUDGE KOCOL: What was the date of this  
24 conversation?

25 THE WITNESS: December 13th.

1 ADMIN. LAW JUDGE KOCOL: Go ahead. I'm waiting for a  
2 new objection, Mr. Kadela. If there isn't any --

3 MR. KADELA: Yes. Yes, yes, your Honor. I mean it's  
4 -- but I will object to relevance anyway, hired when?  
5 There's no evidence as to when, hired as of that moment, he  
6 was going to be offered employment?

7 MR. CASTILLO: Well, he just testified that --

8 ADMIN. LAW JUDGE KOCOL: Let's --

9 MR. CASTILLO: The evidence is the testimony.

10 ADMIN. LAW JUDGE KOCOL: Tell me again, Mr. Messino,  
11 what did Mr. Fusco say?

12 THE WITNESS: He said that he was hired by the new  
13 company, that it wasn't public yet, and he even knew that  
14 the announcement would be coming at the end of the month,  
15 near the end of the month, and that Mr. Cassidy was hired  
16 on the transition team, and Kuk he believed would be hired  
17 on the transition team.

18 ADMIN. LAW JUDGE KOCOL: I'll receive that into  
19 evidence. I'm not sure what weight it will have at the end  
20 of the day but I'll receive that into evidence.

21 Q. BY MR. CASTILLO: Now, if you look at General Counsel  
22 Exhibit 5 again, in the e-mail on top of page 1, December  
23 10th at 3:21 p.m., that's where you asked for the schedules  
24 and annexes. Did Mr. Fusco ever respond to your request  
25 for these schedules?

1 exhibit file. It's rejected.

2 MR. CASTILLO: I would like to at this point amend the  
3 offer of proof, to simply change the date from November 8th  
4 to November 9th is when he saw the GC 34 posted in the  
5 break room.

6 ADMIN. LAW JUDGE KOCOL: Very well.

7 MR. CASTILLO: I'm sorry, I'm going to keep it November  
8 8th. Strike that amendment, I apologize Your Honor, I'm  
9 trying to move on down. I'd like to next; Your Honor, have  
10 Mr. Jordan testify about a separate notice that he observed  
11 posted on November 9th in the break room, regarding the  
12 town hall meetings.

13 ADMIN. LAW JUDGE KOCOL: All right, I going to rule,  
14 just so you're clear and everyone else, I'm not going to  
15 allow any testimony concerning what Ashland said to it's  
16 employees about the terms and conditions at Nexeo. At  
17 least nothing prior to 12/13/10, and as I recall that's  
18 when, there was some testimony -- Kuk and maybe Cassidy of  
19 being hired by, by Nexeo. So, I'm not going to allow  
20 anything before that for sure. And anything after that  
21 I'll have to see where we're at.

22 MR. CASTILLO: I understand, so I will just make a  
23 second offer of proof and then move on.

24 ADMIN. LAW JUDGE KOCOL: All right.

25 MR. CASTILLO: My offer of proof is that, if permitted

1 to testify, Michael Jordan, Mike Jordan would have  
2 testified that on November 9th when he arrived to work he  
3 saw a notice posted on the bulletin board in the break room  
4 above the time clock, which announced that there would be  
5 town hall meetings held on November 10th and 11th at 8 a.m.  
6 and 3 p.m. on each day. Mike Jordan would further testify,  
7 if permitted to do so, that he attended the town hall  
8 meeting at 8 o'clock on November 11th, which was held in  
9 the large conference room, that managers Tony Kuk and Pat  
10 Cassidy were present, along with 20 to 25 employees, and  
11 that during this town hall meeting Tony Kuk stated it's  
12 going to be business as usual, everyone is going to be  
13 retained and there won't be any changes except the name on  
14 the paychecks and the sign on the trucks. During this same  
15 town hall meeting Pat Cassidy stated, this is a great  
16 opportunity for us to grow, nothing should change regarding  
17 your employment, and I assume Tony Kuk and I will be  
18 retained as well. Following preliminary statements by Mr.  
19 Kuk and Mr. Cassidy there was a question and answer  
20 session, and one of the dock men, also known as a  
21 warehousemen, asked the managers if the new company going  
22 to hire all of us. Pat Cassidy replied, the new company  
23 intends on keeping everyone, it's going to keep everything  
24 status quo. Tony Kuk followed up those comments by  
25 stating, there actually isn't a new company, they don't

1 have a management team or drivers or warehouse employees.  
2 We are the new company.

3 Immediately following this November 11th town hall  
4 meeting, if permitted to testify, Michael Jordan would  
5 state that, or testify that, he lingered behind until all  
6 the other employees had left the conference room. At that  
7 point he approached Mr. Kuk and Mr. Cassidy and asked, is  
8 everything in the union contract going to stay the same.  
9 Pat Cassidy responded, as far as I'm concerned the new  
10 company is going to keep everything the same. Michael  
11 Jordan replied, good because I'm about to complete 25  
12 years, I need additional time for my pension benefits. Pat  
13 Cassidy responded, I don't think there are going to be any  
14 issues. And then Tony Kuk nodded his head in agreement and  
15 said, nothing's going to change. That completes my offer  
16 of proof.

17 ADMIN. LAW JUDGE KOCOL: All right, the offer of proof  
18 is noted and rejected. But the, just commenting on that,  
19 that it appears you would have been arguing that Nexeo  
20 allowed these representatives to tell employees something  
21 that was contrary to the very terms of the purchase  
22 agreement, is a jump, no I don't, is a jump that seems  
23 almost fantastic to me, under these circumstances. So, I'm  
24 reaffirming my ruling in that regard and we'll move on to  
25 another.

1 Q. BY MR. CASTILLO: Did you speak to any manager  
2 about the February 15th that was scheduled to take  
3 place?

4 A. Yes.

5 Q. Who did you speak with?

6 A. Tony Kuk.

7 Q. Did anyone else participate in that conversation?

8 A. Yes.

9 Q. Who?

10 A. George Sterber.

11 Q. Where, and who is George Sterber?

12 A. He is also a union steward, or was the union steward  
13 for Ashland.

14 Q. And where did this meeting with Mr. Kuk take place?

15 A. In his office again.

16 Q. What was said during your conversation with Mr. Kuk?

17 MR. KADELA: Objection.

18 ADMIN. LAW JUDGE KOCOL: What is your objection?

19 MR. KADELA: He's an Ashland manager, and it's hearsay.

20 ADMIN. LAW JUDGE KOCOL: Now this is another time where  
21 I'm going to hear the answer and then decide. So, please.  
22 answer.

23 THE WITNESS: Well, initially --

24 MR. ALLISON: I'm going to object, I don't think we  
25 have a date for this conversation. Maybe I missed it.

1 THE WITNESS: February 11th.

2 MR. KADELA: February 11th, 10th or 11th.

3 THE WITNESS: February 11th. We initially went in  
4 there to ask if Mr. Kuk, if he knew anything that was going  
5 to go on in the February 15th meeting, because George and I  
6 were excluded from the meeting. So, just kind of having a,  
7 you know, head up if he knew, knew anything. And he had  
8 just informed me that, that it was just a get to know  
9 session, the company, the new company and the union wanted  
10 to first meet, get to know each other and have their first  
11 formal introductions. And we, we were not scheduled to  
12 attend.

13 Q. BY MR. CASTILLO: Do you recall if anything else was  
14 said during that meeting on February 11th?

15 A. Yes, yes.

16 Q. What was said?

17 A. And, as I did quite often, I asked Mr. Kuk again, I  
18 said, the question I asked this time was, you know, are we  
19 going to have to reapply? Some of the drivers were, were  
20 you know, kind of throwing around an idea that we were  
21 going to have to reapply to keep our jobs, so I used that  
22 time to ask Tony, Mr. Kuk, are we going to have to reapply.

23 Q. And what was his response?

24 A. And he says, no we're not going to have to reapply.

25 And he says as a matter of fact, himself, he says I'm a

1 Nexeo employee, he says I'm already a Nexeo employee.

2 Q. And do you recall if he said anything else?

3 A. And he said Pat Cassidy is a Nexeo employee also.

4 Q. Do you recall if anything else was said during that  
5 February 11th meeting?

6 A. That the, we weren't going to have to apply and we're  
7 all going to be hired.

8 Q. Do you recall if anything else was said during that  
9 meeting?

10 A. And everything was going, I mean he always reiterated  
11 everything was going to stay the same, our terms and  
12 conditions. He was always very adamant about that.

13 Q. Did he do so on February 11th?

14 A. Yes.

15 MR. KADELA: I renew my objection and move to strike.

16 ADMIN. LAW JUDGE KOCOL: No, I'm going to allow this  
17 in. It's close enough to the, what's the date, February  
18 11th?

19 MR. CASTILLO: February 11th.

20 THE WITNESS: It was the 11th.

21 ADMIN. LAW JUDGE KOCOL: It's close enough where I'm  
22 going to allow that to stand in the record, and I'll decide  
23 later what weight I'll give that. But it's close enough,  
24 so I'll keep it in there.

25 Q. BY MR. CASTILLO: After February 15th were you offered

1 employment with the new company?

2 A. A packet came in the mail to my home, yes.

3 Q. And by that time had the company settled on a new  
4 name?

5 A. Yes.

6 Q. What was that name?

7 A. Nexeo Solutions.

8 Q. Approximately when did you receive the packet of  
9 information?

10 A. I received mine about the 21st. Everybody else seemed  
11 to be receiving theirs about the 17th.

12 Q. Why did you receive yours later?

13 A. They had my address incorrect, I had moved about four  
14 months earlier, I had my address change, it was still  
15 incorrect.

16 Q. Let me show you what's been marked as General Counsel  
17 Exhibit 35. Do you recognize what's been marked as General  
18 Counsel Exhibit 35?

19 (Whereupon General Counsel's Exhibit Number 35 was marked  
20 for identification and received into evidence.)

21 A. I do.

22 Q. If you direct your attention to pages three and four,  
23 can you explain what that document is?

24 A. Well, three is the contingent offer of employment.

25 Q. And can you tell me by looking at page three, who

1 MR. KADELA: I don't think he's made any secret that he  
2 was out in front of TPG's offices on occasion.

3 ADMIN. LAW JUDGE KOCOL: What was the objection?

4 MR. ALLISON: My objection is on relevance. I think  
5 this is attenuated from any credibility issues or anything  
6 else as to whether or not he's engaged in protected  
7 activity.

8 ADMIN. LAW JUDGE KOCOL: Yes, I agree, that's -- it's  
9 too attenuated. Sustained.

10 Q. BY MR. KADELA: Okay, fair enough. Have you been in  
11 here, I've not been able to look behind me, throughout the  
12 entire hearing?

13 A. Yes.

14 Q. And you've heard Mr. Castillo's offers of proof about  
15 what witnesses would testify in response to various  
16 questions?

17 A. Yes.

18 Q. And did you understand the nature of the issue, that  
19 there was a question of whether Ashland managers had  
20 authority to speak on behalf of Nexeo?

21 A. Yes.

22 Q. Now, when you testified on direct examination I, I  
23 heard you say at last what I wrote down was that in your  
24 meeting with Mr. Kuk on February 11, 2011, the meeting at  
25 which you'd gotten a heads up from Mr. Messino that there

1 was going to be an informational session with folks from  
2 Nexeo, that you asked what's going on and you asked if you  
3 had to reapply. And Mr. Kuk said no, in fact I'm already a  
4 Nexeo employee and so it Pat Cassidy, all the guy are going  
5 to be hired, and will have to reapply. Do you remember  
6 giving that testimony?

7 A. Yes.

8 Q. And was that testimony influenced at all by Judge  
9 Kocal's rulings or the offers of proof that you heard Mr.  
10 Castillo make?

11 A. No.

12 Q. You testified that you were directed by Mr. Messino to  
13 ask pointed questions to Mr. Kuk?

14 MR. ALLISON: Objection. I don't think that testimony  
15 ever went on the record.

16 ADMIN. LAW JUDGE KOCOL: Okay, let's see it this way,  
17 ask it, whether directly, whether he, not whether he  
18 testified but whether, ask him directly, did Mr. Messino --

19 Q. BY MR. KADELA: Did Mr. Messino ever direct you to ask  
20 pointed questions of Mr. Kuk in order to gain information?

21 A. He did.

22 Q. Okay, and these pointed questions went to hiring  
23 plans?

24 A. Yes.

25 Q. And along those lines you, I understood you to say you

1 asked Mr. Kuk repeatedly those types of questions?

2 A. I did.

3 Q. Now, did one of the things Mr. Messino asked you to do  
4 was to keep notes?

5 A. Yes.

6 Q. And on the meeting on February 11, 2011, did you take  
7 some notes?

8 A. Yes.

9 Q. I'll show you this document and see if you recognize  
10 that as the notes you took?

11 MR. ALLISON: I don't see a copy. We don't have it,  
12 this is one of the documents you gave us this morning.

13 ADMIN. LAW JUDGE KOCOL: Nevertheless, before you show  
14 him, the witness, you have to show it to other parties.  
15 So, please take it back from the witness and show it to the  
16 attorneys.

17 MR. ALLISON: Thank you.

18 ADMIN. LAW JUDGE KOCOL: Mr. Castillo?

19 MR. CASTILLO: I do want a copy of it, thank you.

20 Q. BY MR. KADELA: Have you had a chance to read that, Mr.  
21 Jordan?

22 A. Yeah, I wrote it.

23 Q. And do you also remember giving an affidavit to the  
24 NLRB?

25 A. I do.

1 Q. And that was back on April 15th, 2011?

2 A. If that was the date on there, yeah.

3 Q. Do you recognize this as, now that you recognize it, if  
4 I could direct your attention to page six, lines 15 through  
5 19 that I've highlighted there and ask you to read that to  
6 yourself?

7 A. Okay. I'm trying to see is there's a relevance --

8 ADMIN. LAW JUDGE KOCOL: No, no, so far there's no  
9 question.

10 Q. BY MR. KADELA: Okay, so let me first ask you about the  
11 notes that you took. Here's the way read them, it says  
12 what's happening --

13 ADMIN. LAW JUDGE KOCOL: Let's have the witness read  
14 it.

15 MR. KADELA: Okay.

16 ADMIN. LAW JUDGE KOCOL: What question do you want him  
17 to --

18 THE WITNESS: It was dated Friday, February 11th, and I  
19 wrote down -- Sterber, and I wrote down to Kuk what is the  
20 meeting about, Nexeo new co, meeting with the union. Want  
21 me to continue on?

22 Q. BY MR. KADELA: Yes.

23 A. And are we going to have to reapply, no, they're  
24 keeping everyone, including me and Cassidy.

25 Q. Let's take a look at your affidavit, if you can read

1 those lines?

2 A. Okay, on February 11th, 2011, Sterber and I met with  
3 Kuk in his office. I heard the new company was going to  
4 meet with the union on the 15th. I asked Kuk what the  
5 meeting was about, Kuk said it was just a meeting with the  
6 union to introduce themselves, meeting with the union to  
7 introduce themselves to the union. Obviously it was a  
8 type, must be the new company. I asked Kuk if we were  
9 going to have to reapply, Kuk said no, they're going to  
10 keep everyone including me and Cassidy.

11 Q. Does this reflect what your recollection of that  
12 conversation was?

13 A. Yes.

14 Q. And like you, Mr. Kuk became an employee of Nexeo on  
15 April 1?

16 A. I don't know that.

17 Q. What were the names on the facility up until April 1?

18 A. Ashland.

19 Q. And the names on the trucks?

20 A. Ashland.

21 Q. The names around the facility?

22 A. Same, Ashland.

23 Q. And it wasn't until April 1 that the name Nexeo went  
24 up?

25 A. I don't know how to answer this, it wasn't up for a

1 while. There's still Ashland stuff up in the facility, but  
2 I mean I understand where you're going, and I will agree.

3 Q. I think you testified earlier that one of the things  
4 going on on April 1 was they were changing the names on the  
5 trucks?

6 A. Correct.

7 Q. Now, I heard you testify that during the bargaining  
8 session on March 31 Mr. Messino asked Mr. Hollinshead if  
9 Nexeo was planning on implementing the plans or the terms  
10 laid out in Nexeo's offer letter, and that Mr. Hollinshead  
11 said yes. Do you remember that testimony?

12 A. Yes.

13 Q. Now, if you would look at Exhibit No. 35, GC Exhibit  
14 No. 35.

15 ADMIN. LAW JUDGE KOCOL: Do you need some help finding  
16 that?

17 THE WITNESS: Yeah, I don't, it's not in numerical  
18 order if it is here.

19 ADMIN. LAW JUDGE KOCOL: Off the record.  
20 (Off the record.)

21 Q. BY MR. KADELA: And Exhibit 35 consisted of two offer  
22 letters you received?

23 A. Correct.

24 Q. Have you had any other offer letters? Have you seen  
25 any other offer letters with different terms?

1 be, stay the same. The drivers would be hired and the  
2 contract would be carried on.

3 Q. After December, did the new company make any plans to  
4 meet with the Union?

5 A. Yes.

6 Q. And how did you find out about the plans to meet with  
7 the Union?

8 MR. KADELA: I'll just object to the form of the  
9 question, which company.

10 ADMIN. LAW JUDGE KOCOL: Yes, okay, let's make it  
11 clear. Sustained.

12 MR. PATTERSON: The company at the time, Your Honor,  
13 is --

14 ADMIN. LAW JUDGE KOCOL: Please rephrase the question  
15 so it's clear.

16 Q. BY MR. PATTERSON: After December did the company that  
17 you worked for make any plans to meet with the Union?

18 A. Yes.

19 Q. And how did you find out about this meeting?

20 A. On February 11th, Neil Messino called Mike Jordan,  
21 myself and says that on the 15th there was going to be a  
22 meeting with TPG and the Union, and we were instructed to  
23 find out what this meeting was going to be all about.

24 Q. Now, where did this conversation take place?

25 A. In Tony Kuk's office.

1 Q. And who was present?

2 A. Mike Jordan, Tony Kuk and myself.

3 Q. And what was said in this conversation?

4 MR. KADELA: Objection.

5 ADMIN. LAW JUDGE KOCOL: And what is the objection?

6 MR. KADELA: Hearsay.

7 ADMIN. LAW JUDGE KOCOL: Are you offering for the truth  
8 of the matter as certain?

9 MR. PATTERSON: At this time, yes, Your Honor, this is  
10 a meeting in which the Agency issue was actually discussed  
11 by the representative of Ashland.

12 ADMIN. LAW JUDGE KOCOL: So, I'll overrule it for now.  
13 I'll hear the testimony. Please answer.

14 THE WITNESS: Okay. We asked Tony Kuk what this  
15 meeting was supposed to be about and Tony told us that it  
16 was supposed to be an introduction between TPG and the  
17 Union. They wanted to introduce themselves.

18 ADMIN. LAW JUDGE KOCOL: All right. So, it's not  
19 hearsay. So, I'll allow the testimony to stand. Objection  
20 overruled.

21 Q. BY MR. PATTERSON: Did Mr. Kuk say anything about his  
22 status with the new company?

23 A. That this was the first time that we were officially  
24 notified that Tony Kuk and Pat Cassidy would be hired by  
25 the new company.

1 Q. And after this meeting, did you report back to the  
2 employees?

3 A. Yes, I did.

4 Q. And what did you inform the employees?

5 MR. KADELA: Objection.

6 ADMIN. LAW JUDGE KOCOL: What is the objection?

7 MR. KADELA: It's hearsay. It's not relevant.

8 ADMIN. LAW JUDGE KOCOL: What are you offering this  
9 for?

10 MR. PATTERSON: Again, we just established an Ashland  
11 Manager stating that he had been hired by Nexeo.

12 ADMIN. LAW JUDGE KOCOL: Just the dissemination?

13 MR. PATTERSON: The dissemination of that message to  
14 the bargaining unit.

15 MR. KADELA: Well, his testimony was not that he would  
16 be hired, that he was hired. He said he would be hired.

17 ADMIN. LAW JUDGE KOCOL: Regardless, it comes in just  
18 solely for the dissemination of the information to the  
19 Union employees.

20 MR. PATTERSON: Thank you.

21 ADMIN. LAW JUDGE KOCOL: So, go ahead and please  
22 answer, Mr. Sterba.

23 THE WITNESS: We got together with the drivers at  
24 different times and we relayed the information that Tony  
25 Kuk and Pat Cassidy were hired, and about the meeting to

1       come on February 15th and was supposed to be an  
2       introductory meeting between the Union and TPG.

3       Q.   BY MR. PATTERSON: All right. In that meeting with Mr.  
4       Kuk, was there any discussion about discussion concerning  
5       any changes to the terms and conditions of employment?

6       MR. KADELA: Objection.

7       ADMIN. LAW JUDGE KOCOL: What is the objection?

8       MR. KADELA: That Mr. to the extent he's going to  
9       repeat anything Mr. Kuk may have said about terms and  
10      conditions of employment in the future is hearsay and  
11      there's been no sufficient grounds to establish any Agency.

12      MR. PATTERSON: You've already ruled on that same  
13      objection. This is the same meeting. We're just going  
14      back.

15      ADMIN. LAW JUDGE KOCOL: Yes, this is in February,  
16      right?

17      MR. PATTERSON: Yes, this is in February right after --

18      ADMIN. LAW JUDGE KOCOL: So, by this time, Mr. Kuk is  
19      clearly an agent of Nexeo.

20      MR. KADELA: I would be curious on what basis that  
21      could be. The testimony was that Mr. Sterba said Mr. Kuk  
22      and Mr. Cassidy or that Mr. Kuk said that he and Mr.  
23      Cassidy would be hired, not that they were hired.

24      ADMIN. LAW JUDGE KOCOL: In any event, there's a  
25      sufficient nexus of this Court to establish the Agency.

1 I'm going to allow the testimony to stay on the record.

2 Are you going back to this conversation with Kuk?

3 MR. PATTERSON: Yes, yes, Your Honor.

4 ADMIN. LAW JUDGE KOCOL: All right. Any objection to  
5 that?

6 MR. KADELA: Yes, yes. Yes, I would strenuously  
7 object. I would say there's evidence that there was a  
8 statement that he would be hired. There was no testimony  
9 as to what if any authority he had been delegated or from  
10 whom he heard any of this information.

11 ADMIN. LAW JUDGE KOCOL: Now that then is overruled.  
12 So, we're back to this meeting with Kuk and the question  
13 is?

14 Q. BY MR. PATTERSON: Was there any discussion if  
15 employees would be hired in that meeting?

16 A. Yes. We were, we asked if the employees, all the  
17 drivers were going to be hired. We were to ask if they  
18 were going to have to reapply for their job and if the  
19 working conditions, their benefits, et cetera, would all  
20 stay the same. And no, we did not have to reapply. Yes,  
21 we would all be hired and yes, all our working conditions  
22 would stay the same. It would be business as usual.

23 MR. KADELA: Objection.

24 ADMIN. LAW JUDGE KOCOL: Overruled.

25 Q. BY MR. PATTERSON: Did the new company contact you with

1 any updates about your employment with the new company?

2 A. On February 21st, I received a packet in the mail  
3 stating that new terms of employment, the new company would  
4 be giving a, would be offering health, different health  
5 plans and we would not be in the 705 pension plan any more.  
6 We would be in a 401K.

7 Q. I'm giving you a copy what has been previously marked  
8 as GC's Exhibit No. 10. Do you recognize that document?

9 A. Yes.

10 Q. And what is this document?

11 A. They are extending their offer of employment to us and  
12 saying that their benefit plans would be similar to those  
13 at Ashland but not the same.

14 Q. Were these benefits being offered different from --

15 A. Yes, they would not be, they would cost us out of our  
16 pocket for the 401K, and it would cost us out of our pocket  
17 for the health insurance which, as of this point, we always  
18 had our benefits were from the Union and did not come out  
19 of our paychecks. They were part of the Union agreement.

20 Q. Now, prior to receiving this offer of employment, did  
21 Mr. Kuk ever tell you that the new company was not going to  
22 maintain your existing terms and conditions of employment?

23 A. No.

24 MR. KADELA: Objection.

25 ADMIN. LAW JUDGE KOCOL: And what is the objection?

1 MR. KADELA: The time period, I think is relevant.

2 MR. PATTERSON: Your Honor, we're beyond February at  
3 this point. We've already established Mr. Kuk plausibly as  
4 an agent here. To the extent that from the time that he  
5 mentioned that he was an agent of Ashland is what the  
6 question is going, not just --

7 ADMIN. LAW JUDGE KOCOL: Well, let's make that clear.  
8 At any time since mid-February until you received, well,  
9 that's about the same time, the next week.

10 Sir, at any time prior to receiving that letter but  
11 after Kuk indicated you would be hired by Nexeo, did he  
12 ever tell you your conditions would change?

13 THE WITNESS: No.

14 ADMIN. LAW JUDGE KOCOL: Okay.

15 Q. BY MR. PATTERSON: What did you do after you received  
16 the packet?

17 A. I called up Neil Messino immediately. Explained to him  
18 what it was and at my house, I scanned the documents and  
19 sent them out to Neil Messino immediately.

20 Q. Did you sign the letter, the offer?

21 A. No, I didn't. As per my conversation with Neil  
22 Messino, I did not. I instructed all the drivers not to  
23 sign any of the documents until we heard and got approval  
24 from the Union.

25 Q. GC 10 which you have before you, does that reflect the

1 responsive to our paragraph four of our subpoena to Nexeo  
2 which was e-mails, correspondence between Nexeo and Ashland  
3 relating to the public disclosure provision and new  
4 purchase agreement.

5 ADMIN. LAW JUDGE KOCOL: Well, please respond?

6 MR. KADELA: I can't either.

7 MR. CASTILLO: You're saying that there are no response  
8 to documents?

9 MR. KADELA: At this point, there are none. I mean,  
10 you certainly have what Ashland has which is what we got  
11 which in many respects was certainly news to us. And as I  
12 mentioned before, PWC which I call, you know, we call Price  
13 Waterhouse, we made a request for them to look through  
14 their files and send us what they have.

15 MS. RUTHERFORD: We have made a request to make sure  
16 that any consultants, and there are lots of them, that's  
17 probably why it's taking a little while. Any consultant  
18 that may have touched this matter whether they have still  
19 any e-mails that are in existence that haven't been, by  
20 document retention policies or documents are being provided  
21 to us. And we're making every effort to provide those as  
22 soon as we possibly can.

23 ADMIN. LAW JUDGE KOCOL: Mr. Kadela, I'm not going to  
24 require the General Counsel to rest his case until you're  
25 able to make the representation that you've conducted the

1 search that you're required to do and that have you turned  
2 over those documents or can represent that no such  
3 documents exist.

4 MR. KADELA: That's fair, that's certainly fair, Your  
5 Honor, and I understand we can proceed with our case with  
6 that record being left open. I think that, and also given  
7 the nature of this case, that the record is going to be  
8 opening in San Francisco in May and everything we've heard  
9 is that the documents are more relevant there but, you  
10 know, it may be that there's nothing left for Mr. Castillo  
11 here to put on. I don't know what he would intend to do  
12 with these documents.

13 MR. CASTILLO: My intention would be to use those  
14 documents to show that the Ashland managers were, in fact,  
15 authorized to speak on behalf of Nexeo Solutions and,  
16 therefore, were agents or have authority.

17 ADMIN. LAW JUDGE KOCOL: But again, Mr. Castillo, I'm  
18 not going to require you to rest until you have all the  
19 documents you're entitled to.

20 MR. CASTILLO: Thank you.

21 ADMIN. LAW JUDGE KOCOL: And if those documents cause  
22 you to introduce additional evidence, we'll take that a  
23 step at a time.

24 MR. CASTILLO: Thank you.

25 ADMIN. LAW JUDGE KOCOL: All right. So, at this point.

1 Number I ask that he refrain from doing that.

2 MR. KADELA: Well, that's fine.

3 ADMIN. LAW JUDGE KOCOL: Yes, you just have to be  
4 careful. It's almost a natural reaction.

5 MR. KADELA: Yes, I agree.

6 THE WITNESS: And for the Union, I know that Neil, Mr.  
7 Messino was there. I don't remember whether Tom was. I  
8 think Tom was there.

9 ADMIN. LAW JUDGE KOCOL: You can look at your notes.

10 THE WITNESS: Okay. Well, fairly a small group. I  
11 remember Michael Jordan coming in early in the meeting to  
12 say something to Neil and he left so. Brief meeting. It  
13 was shared courtesy and respect. I thought it was a good  
14 meeting.

15 Q. BY MR. KADELA: Do you recall how you introduced Mr.  
16 Brockson?

17 A. I don't. I mean, Brian would have been still  
18 representing Ashland, but he was representing the, you  
19 know, he knew the location and the people, et cetera, so.

20 ADMIN. LAW JUDGE KOCOL: I don't understand that.  
21 Brockson was still representing Ashland at the meeting you  
22 had with, the roll out meeting Nexeo was having?

23 THE WITNESS: It was because well, I mean, if you think  
24 about until the deal closed and there's always a chance  
25 that a deal falls through. So, until the deal literally

1 closes, there were no new Nexeo, there weren't any Nexeo  
2 employees. Now, did employees assume they might be an  
3 employee, that's fair, but there were no Newco employees  
4 until close.

5 ADMIN. LAW JUDGE KOCOL: It's your contention that he  
6 was representing Ashland there?

7 THE WITNESS: He was, I would say yes, and the reason I  
8 say that again until it's closed, if it falls through he  
9 would become, you know, if it falls through, he's still an  
10 Ashland employee so.

11 ADMIN. LAW JUDGE KOCOL: But it hadn't fallen through  
12 at that point?

13 THE WITNESS: No, it had, I mean, it was still being  
14 worked. I mean, the employees that were presumed to go to  
15 Newco were in a tenuous spot. I mean, they had to  
16 certainly try to address the Newco needs but they also  
17 couldn't burn the bridge with Ashland. So, they were in a  
18 sense straddling the fence. People like myself were  
19 unique. We were not, you know.

20 Q. BY MR. KADELA: At that meeting, did Mr. Brockson say  
21 anything?

22 A. Very little if he did.

23 Q. Okay, all right. And had you given him any authority  
24 to make any commitments --

25 A. Number

1 ADMIN. LAW JUDGE KOCOL: Respondent's 29 is received.  
2 (Whereupon Respondent's Exhibit Number 29 was received in  
3 evidence.)

4 MR. KADELA: Your Honor, if we could take a short  
5 break, I can see if I'm.

6 ADMIN. LAW JUDGE KOCOL: Yes, let's take a, why don't  
7 we take a five minute break while you prepare for cross.  
8 Off the record.

9 (Off the record.)

10 Q. BY MR. KADELA: Mr. Hollinshead, just a couple more  
11 questions. Were you aware of anyone from Ashland who was  
12 offered employment by TPG/Nexeo prior to February 17, 2011?

13 A. No, there was no one that had that offer.

14 Q. And you talked about Bob Craycraft, what was his  
15 situation?

16 A. Well, he was the head of the distribution business and  
17 though there was the assumption that he would be offered a  
18 job, even he hadn't had a job offer.

19 Q. And did he ever become a Nexeo employee?

20 A. I don't know whether he ever, I don't think so, but I  
21 don't know that for a fact.

22 MR. KADELA: Those are all the questions I have, Your  
23 Honor.

24 ADMIN. LAW JUDGE KOCOL: All right, cross?

25

CROSS EXAMINATION