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A Yes.

Q When did you find out about that?

A When Ms. Anderson first came to see me, she indicated that she wanted to have no further contact with Ms. Cohen.

Q Did you discuss with anybody the possibility of transferring Ms. Anderson to another supervisor's supervision, such as Mr. Bratton?

A I may have, but it would not have been appropriate, and it would not have eliminated Ms. Cohen's supervisory responsibilities, because she was in charge of the day-to-day operation of the office.

Q Notwithstanding that it wouldn't have eliminated Ms. Cohen's contact with Ms. Anderson, it would have reduced contact with Ms. Cohen, wouldn't it?

MR. ADLERSTEIN: Objection to

form.

A Not necessarily.

Q If she had as her direct supervisor Mr. Bratton and he was reviewing her work, you don't think that would have

1
2 reduced her contact with Ms. Cohen?

3 MR. ADLERSTEIN: Object to form.

4 A No, in my view Mr. Bratton was not
5 a suitable supervisor.

6 Q Why not?

7 MR. ADLERSTEIN: Objection to
8 form.

9 A His skills set, in my estimation,
10 was such that as a supervisor of an
11 experienced staff attorney was not -- would
12 not be for the good of the office.

13 Q Why do you say that?

14 MR. ADLERSTEIN: Object to form.

15 A Mr. Bratton's skills, in my
16 estimate, were not supervisory skills.

17 Q What do you base that statement
18 on?

19 MR. ADLERSTEIN: Objection to
20 form.

21 A My experience with his work over
22 the years.

23 Q So you do not believe Mr. Bratton
24 had sufficient skills to supervise a senior
25 attorney, is that your statement?

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2 MR. ADLERSTEIN: Objection to
3 form.

4 A That's correct.

5 Q Are you aware of problems that
6 resulted when he did supervise senior
7 attorneys?

8 MR. ADLERSTEIN: Objection to
9 form.

10 A I was aware of circumstances where
11 I did not have confidence in Mr. Bratton's
12 work.

13 Q But that wasn't my question. Are
14 you aware of specific circumstances where he
15 had problems when supervising a skilled
16 senior?

17 MR. ADLERSTEIN: Objection to
18 form.

19 A Yes.

20 Q Tell me those specific instances
21 that you recall.

22 A In my assessment, Mr. Bratton's
23 judgment in the determination of evaluation
24 and determination of cases was not the best
25 and, therefore, he was not the best

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supervisor for a person handling

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sophisticated resolution type cases.

4

Q Do you know if at this time in

5

2006 Mr. Bratton was, in fact, supervising

6

senior attorneys?

7

MR. ADLERSTEIN: Objection to

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form.

9

A That may have been true.

10

Q Did you discuss with Mr. Cahill

11

transferring Ms. Anderson to Mr. Bratton's

12

supervision?

13

A No.

14

Q Mr. Cahill never brought it up?

15

A No.

16

Q Did you consider transferring Ms.

17

Anderson to the direct supervision of Mr.

18

Cahill?

19

MR. ADLERSTEIN: Objection to

20

form.

21

A No.

22

Q I assume you and Mr. Cahill did

23

not have any discussions about transferring

24

her to Mr. Cahill's direct supervision?

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MR. ADLERSTEIN: Objection to

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form.

A In my estimate, transferring Ms. Anderson to Mr. Cahill's direct supervision would not have been appropriate.

Q Did you consider it at the time?

A Yes.

MR. ADLERSTEIN: Objection to

form.

A Yes, and rejected it.

Q Did you consider transferring her to Mr. Bratton's direct supervision?

MR. ADLERSTEIN: Objection to

form.

A Yes, and rejected it.

Q When did you consider it?

A In the course of the few days after Ms. Anderson spoke with me in August.

Q Why did you believe that she should not be transferred to the direct supervision of Mr. Cahill?

MR. ADLERSTEIN: Objection to

form.

A Ms. Cohen had responsibility for the day-to-day operations of the office. As

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such, cases that Ms. Anderson was working on

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were her responsibility to be knowledgeable

4

about and to be involved in. Having Ms.

5

Anderson report directly to Mr. Cahill or to

6

Mr. Bratton was not going to achieve what Ms.

7

Anderson was asking.

8

Q Was Mr. Cahill at this time

9

supervising senior staff attorneys?

10

MR. ADLERSTEIN: I don't know.

11

Q Did you have any doubts about Mr.

12

Cahill's skill set in supervising senior

13

staff attorneys?

14

MR. ADLERSTEIN: Objection to

15

form.

16

A Mr. Cahill was a well regarded

17

chief counsel to the disciplinary committee.

18

Q Can you answer my question?

19

A No, no.

20

Q Did you discuss your conversation

21

of transferring Ms. Anderson to the

22

supervision of someone other than Ms. Cohen?

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MR. ADLERSTEIN: Objection to

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form.

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A No.

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to the detriment of complainants?

MR. ADLERSTEIN: Objection to

form.

A I understood that she told me later in the meeting regarding the H case, and that's all.

Q Did you ask her during this meeting what other cases Ms. Cohen was handling that Ms. Anderson thought was to the detriment of complainants?

MR. ADLERSTEIN: Objection to

form.

A I don't think so.

Q Did Ms. Anderson criticize any practices that the D.D.C. used in handling complainant's cases?

A Not in this meeting I don't think.

Q Were you concerned that Ms. Anderson was implicating the integrity of the D.D.C. in saying that Ms. Cohen was handling some cases to the detriment of complaints?

MR. ADLERSTEIN: Objection to

form.

A Can you repeat that for me,

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2 that.

3 Q Were you involved at all in
4 preparing Ms. Cohen's performance evaluation
5 for the period covering 2006?

6 A Ms. Cohen?

7 Q Yes.

8 A No.

9 Q Are you aware of whether there's
10 any reference to any of these incidents in
11 her performance evaluation for 2006?

12 A I do not know.

13 Q The bottom of the fourth page,
14 1457, read the last paragraph in your
15 handwriting.

16 A There's a colon. C.A. wants
17 nothing to do with S.K.C., doesn't need her
18 because of Judith's supervision.

19 Q Did you know what she meant when
20 she referred to Judith's supervision?

21 MR. ADLERSTEIN: Object to form.

22 A She had explained that -- Ms.
23 Anderson explained that she considered Ms.
24 Stein to be her supervisor.

25 Q Did Ms. Anderson explain why she

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2 wanted to have zero to do with Ms. Cohen?

3 A I don't recall.

4 Q Did she tell you that she felt
5 unsafe with Ms. Cohen after these incidents?

6 A She may have. I saw a reference
7 to that in the materials that I read
8 preparing for today, but I don't recall it
9 independently.

10 Q Just so the record is clear, you
11 don't recall independently in this meeting of
12 August 8th Ms. Anderson saying she felt
13 unsafe in the presence of Ms. Cohen, is that
14 correct?

15 A That is correct.

16 Q Is your testimony also that you
17 don't have an independent recollection of Ms.
18 Anderson saying at a subsequent time that she
19 felt unsafe in the presence of Ms. Cohen?

20 MR. ADLERSTEIN: Objection to
21 form.

22 A Her reference to that is at least
23 in one place in the materials. I may have
24 read that assertion at that time when I saw
25 that document, but I don't have an

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2 A It was the kind of conversation I
3 had with almost all of my supervisors about
4 approaches to take, specific or general,
5 toward implementing programs toward
6 supervising subordinates. You know, there
7 were some basic principles that were -- I
8 commonly invoked, and this was in that
9 context.

10 Q During the period October through
11 the end of the year, 2006, how frequently
12 were you in contact with Ms. Cohen having
13 this ongoing conversation?

14 A It was episodic. There would be
15 some time frames where I would speak with her
16 more frequently, and then there would be
17 periods of days, maybe weeks even, where I
18 wouldn't have any conversations with her at
19 all.

20 Q So sometimes would you speak to
21 her more than once a day regarding Ms.
22 Anderson?

23 A If there was a question about a
24 particular, for example, memo such as this,
25 she might call me more than once in the

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to how to deal with the situation?

A There were general principles that I would suggest to her and others.

Q What were those general principles?

A If you have an employee where you have to have a performance conversation, have other people present, and make sure that at least one of those people present is someone that the employee is comfortable with. It can be an employee of their choosing or somebody else.

Another principle would be to maintain your own log of notes about your interactions so that you can be sure about the language that you've used and the instructions that were given. They're a good guide. Follow-up and be consistent in the directions that you give.

Q You said that you imparted these general principals to other supervisors as well, is that right?

A Yes, that's true.

Q Do you recall having discussions

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knowledge?

A I have no idea.

Q Read the first one to yourself,
the one dated 11-1-06.

A It might well be.

Q Is there anyone else who you think
it could have been prepared by?

A No, I can't think of anybody else.

Q Did Ms. Cohen give you these
memos?

A If she did, I have no recollection
of them.

Q Did she give you memos similar to
these?

A I don't believe so.

Q Why do you say that?

A Because my recollection is that we
orally discussed memos that she might have
sent, or an action that she might take. I
wasn't interested in a day-to-day chronicle
of what was transpiring in the office.

Q You testified earlier that you
asked her to maintain a log of her notes, is
that right?

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A It was a suggestion as a

3

management tool that she maintain a record,

4

notes, whatever would enable her to keep in

5

line -- keep in mind the train of thought and

6

request that she was making.

7

Q What purpose did you believe such

8

notes would serve?

9

A As a management tool, they enable

10

the manager to see where you've been, to see

11

where the manager's been and where the

12

manager wants to progress to.

13

Q But in this particular instance,

14

what purpose would be served by Ms. Cohen

15

keeping a log of her notes?

16

A The purpose that I just

17

articulated.

18

Q But there was a specific incident,

19

a specific conflict that she was dealing

20

with, right?

21

MR. ADLERSTEIN: Objection to

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form.

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A Yes, there was.

24

Q The issue before you and her was

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Ms. Anderson, right?

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MR. ADLERSTEIN: Objection to

form.

A Yes.

Q So what purpose was it for her to keep a log of notes relating to Ms. Anderson?

MR. ADLERSTEIN: Objection to

form.

A As a management tool for purposes of reminding herself of the skills that she wanted to be imparting or demonstrating as a manager with an employee who is having difficulty being supervised.

Q Was the purpose of the log, in your opinion, to monitor Ms. Anderson's behavior?

MR. ADLERSTEIN: Objection to

form.

A The purpose was to monitor her own behavior as a manager.

Q Go to the second page of this log. It reads, I observed C.C.A. leaving the office through the side door at twelve-thirty P.M. I did not see her return. I knocked on her door at two fifty-five P.M. She was not

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2 recognize the document, Spokony 14?

3 A Yes.

4 Q What is that?

5 A It is a formal report that Mr.

6 Spokony prepared for the justices on the

7 liaison committee and acting presiding

8 Justice Tom.

9 Q You see the beginning of his memo
10 reads, since Ms. Anderson continues to resist

11 appropriate supervision, despite counseling

12 and other efforts to restore a proper

13 supervisor/subordinate relationship, she is

14 subject to termination.

15 Did you direct Mr. Spokony to use
16 such language in his memo to the justices?

17 MR. ADLERSTEIN: Objection to the
18 form.

19 A I did. It was a sad reluctantly
20 taken action.

21 Q More particularly, did you direct

22 Mr. Spokony to prepare a memorandum to the

23 justices recommending Ms. Anderson's

24 termination?

25 A I directed Mr. Spokony to prepare,

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you consulted with other than with Mr. Spokony?

A No.

Q Did you talk to Mr. Cahill about your determination to send a memo to the justices stating that she was subject to termination?

A No.

Q Had you spoken with Mr. Cahill at all throughout this process from October, '06 until April 12, 2007 about Ms. Anderson?

A I don't have a direct recollection of that. It may have happened.

Q Given that he was the chief counsel of the DDC, why didn't you speak to him?

MR. ADLERSTEIN: Objection to form. She said that she may have.

MR. BERANBAUM: Okay. Let me then go back.

Q If you did speak to him, how frequently did you speak to him about Ms. Anderson?

A Rarely, if ever.

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2 Q In particular, and I apologize if
3 I've asked you this, you didn't run by him
4 this memo before it was sent to the justices,
5 is that correct?

6 A That is correct.

7 Q In light of his position as chief
8 counsel, why did you rarely, if ever, discuss
9 with him the matter of Ms. Anderson?

10 MR. ADLERSTEIN: Object to form.

11 A Ms. Anderson was an employee of
12 the Appellate Division. Her appointment
13 papers were Appellate Division appointment
14 papers. The presiding justice was the
15 ultimate appointing authority and, therefore,
16 there was no reason, in my view, to discuss
17 with Mr. Cahill at any length particular
18 aspects of her employment.

19 Q Mr. Cahill had worked with
20 Ms. Anderson for a number of years by
21 this point, right?

22 A Yes.

23 Q Presumably he knew her better than
24 you knew her, correct?

25 MR. ADLERSTEIN: Objection to

1 C. O'Hagan Wolfe 176

2 this memo?

3 MR. ADLERSTEIN: Objection to
4 form.

5 A Nobody that I know.

6 Q You said that Justice Litman came
7 on board the third week of May?

8 A Yes.

9 Q Did you speak with Justice Litman
10 about the Anderson matter?

11 A I told him that there was a memo
12 regarding an employee and a supervisor at the
13 DDC.

14 Q When did you tell him that?

15 A As part of the debriefing prior to
16 my departure and his arrival.

17 Q His arrival would have been the
18 third week of May and your departure was June
19 1st?

20 A Yes.

21 Q Do you know if the justices took
22 any action relating to Ms. Anderson prior to
23 Justice Litman's arrival as the presiding
24 justice?

25 A Mr. Spokony recounted

1 C. O'Hagan Wolfe 183

2 A I don't believe so.

3 Q Were you in contact with anybody
4 about the Anderson matter prior to your
5 conversation with Justice Litman and the
6 4-12-07 memo?

7 Let me rephrase it. I think that
8 question is unnecessarily confusing.

9 Did you continue to speak with Mr.
10 Spokony about the Anderson matter between
11 4-12-07 and the time that you spoke with
12 Justice Litman?

13 A Yes, I spoke with him about the
14 Hart matter, which I mentioned. It would
15 have been likely that he would have told me
16 that he talked to some of the other judges on
17 the list about the matter.

18 If there were developments in the
19 case that I'm not thinking about now, it's
20 possible that we discussed them in passing.

21 Q Did you and Mr. Spokony talk about
22 a meeting, a scheduled meeting that Mr.
23 Spokony and Ms. Anderson were supposed to
24 have on May 23rd, 2007?

25 MR. ADLERSTEIN: Objection to the